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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

F I N A L M I N U T E S

MEETING OF:

STATE BOARD OF AUCTIONEER EXAMINERS

TIME: 9:00 a.m.

BOARD ROOM B

One Penn Center

2601 North Third Street

Harrisburg, Pennsylvania 17110

Monday, January 7, 2019

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State Board of Auctioneer Examiners
January 7, 2019

BOARD MEMBERS:

Sherman E. Hostetter Jr., Chairman
Katelin Lambert, Designee of the Commissioner of
Professional and Occupational Affairs
Gerald A. Rader, Secretary, Professional Member
Nevin B. Rentzel, Professional Member
Daniel A. Trace, Professional Member
Heather M. Troutman, Consumer Protection Agent

BUREAU PERSONNEL:

Kenneth J. Suter, Esquire, Board Counsel
Cynthia K. Montgomery, Esquire, Deputy Chief Counsel
Ray Michalowski, Esquire, Board Prosecution Liaison
Terrie Kocher, Board Administrator

1 ***

2 State Board of Auctioneer Examiners

3 January 7, 2019

4 ***

5 The regularly scheduled meeting of the State
6 Board of Auctioneer Examiners was held on Monday,
7 January 7, 2019. Sherman E. Hostetter Jr., Chairman,
8 called the meeting to order at 9 a.m.

9 ***

10 Introduction of Audience

11 [Chairman Hostetter asked for a moment of silence. He
12 also requested the introduction of the audience in
13 attendance.]

14 ***

15 Approval of Minutes of the July 9, 2018 meeting

16 CHAIRMAN HOSTETTER:

17 Anybody have any questions on the
18 minutes, any additions or deletions?

19 [The Board discussed the minutes.]

20 CHAIRMAN HOSTETTER:

21 Any other discussion?

22 MR. RADER:

23 I make a motion to approve the minutes.

24 CHAIRMAN HOSTETTER:

25 We have a motion.

1 MR. TRACE:

2 Second.

3 CHAIRMAN HOSTETTER:

4 Any discussion? Hearing no discussion.

5 All those in favor, signify by saying

6 aye. Opposed, same sign.

7 [The motion carried unanimously.]

8 ***

9 Report of Board Counsel

10 [Kenneth J. Suter, Esquire, Board Counsel, noted
11 matters for discussion during Executive Session.

12 Mr. Suter also noted the Pennsylvania Auctioneers
13 Association (PAA) Response to Request of Input for
14 Regulatory Annexes. He sent regulatory packages to
15 PAA and other stakeholders regarding the fee
16 increases, Act 88 amendments to update the regulations
17 with the Board's current act, and civil penalties for
18 the citation process.

19 Mr. Suter addressed § 43b.12a Schedule of Civil
20 Penalties, where PAA commented that violations of
21 individuals and companies operating without a license
22 should be the same penalty fee as both can do the same
23 activities related to operations and consumer
24 services.

25 Mr. Suter explained that the regulation charges

1 just individuals on the citation schedule. He
2 mentioned that the Board agreed to a civil penalty of
3 \$500 for the first offense for individuals operating
4 an unlicensed auction company and \$1,000 for
5 individuals engaging in unlicensed auctioneering
6 activities. He also commented that individuals could
7 be doing both and be charged with a citation for both
8 offenses.

9 Mr. Suter addressed §§ 734.3(a) and 734.20(a)(9),
10 individual engaging in unlicensed auctioneering
11 activities, which is \$1,000 for the first offense and
12 then formal action for the second offense. He also
13 addressed §§ 734.3(a)(1) and 734.20(a)(9), an
14 unlicensed individual operating as an unlicensed
15 auction company, where the first offense is \$500,
16 second offense is \$1,000, and the third would be
17 formal action.

18 Mr. Suter discussed license renewal, noting that
19 those who do not renew their license would pay \$50 per
20 month lapsed, not to exceed \$1,000. He commented that
21 PAA may not have understood that the regulation only
22 applies to individuals.

23 Mr. Rader noted that PAA's position is whether it
24 is an unlicensed individual or a company, the fee
25 should be the same. Mr. Rentzel commented that PAA

1 proposed mirroring the fees to an auctioneer, where
2 the first offense would be \$1,000 and the second
3 offense would be formal action.

4 Mr. Suter explained the citation process.

5 Mr. Rader agreed with making the citation the
6 same if they are unlicensed.

7 Mr. Suter noted the Board agreed, just like an
8 individual, the first offense for an unlicensed
9 company is \$1,000, and the second offense would be
10 formal action.]

11 CHAIRMAN HOSTETTER:

12 Is there a motion to change the citation
13 schedule for individuals to be the same
14 as a company?

15 MR. RENTZEL:

16 So moved.

17 MR. TRACE:

18 Second.

19 CHAIRMAN HOSTETTER:

20 Motion and a second. Discussion?

21 [Mr. Suter clarified §§ 734.3(a)(1) and 734.20(a)(9),
22 an unlicensed individual operating as an unlicensed
23 auction company in this Commonwealth. He stated that
24 the first offense would be \$1,000. The second offense
25 would be formal action, which would make it consistent

1 with the second one on the schedule. An individual
2 engaging in unlicensed auctioneering activities in
3 this Commonwealth, the first offense becomes \$1,000
4 and the second offense becomes formal action.]

5 CHAIRMAN HOSTETTER:

6 Any other discussion? Is everybody okay
7 with what the motion is? Hearing no
8 discussion. All those in favor, signify
9 by saying aye. Those opposed, same
10 sign.

11 [The motion carried unanimously.]

12 ***

13 [Mr. Suter noted PAA's request to delete the 4th and
14 8th listed "Descriptions of Penalties," where an
15 auction house license no longer exists and would fall
16 under auction company regulations, is already deleted
17 in brackets.

18 Mr. Suter noted PAA's request to delete the 6th
19 and 7th listed "Descriptions of Penalties," where
20 registration no longer exists and would fall under
21 auction company license regulations, is already
22 deleted in brackets.

23 Mr. Suter addressed § 1.41 Schedule of Fees,
24 where PAA states that trading assistants and trading
25 assistant company fees should be the same as

1 auctioneer and auction company fees.

2 Mr. Suter noted that this would be a policy
3 decision. He stated that fees are made consistent
4 with the actual costs. He stated that the amount of
5 work involved to process an application is part of the
6 calculation to arrive at the application fee. He
7 stated that there is more discretion with renewal
8 fees, because the Board needs to make the budget work.

9 Mr. Suter discussed fee increases, noting that
10 legislature provided the \$100 application fee for the
11 trading assistant and the trading assistant company in
12 the act that was passed in 2016 and he recommended not
13 deviating a whole lot from that.

14 Chairman Hostetter noted the importance of
15 balancing the budget, questioning the cost to the
16 Board and the worth to the individual to be a trading
17 assistant.

18 Mr. Suter stated the fee must get through the
19 Independent Regulatory Review Commission (IRRC).

20 Ms. Kocher commented that the renewal fee was
21 currently what the legislature suggested at \$100.

22 Chairman Hostetter stated that raising the
23 trading assistant and trading assistant company to
24 \$200 doubles the fee and brings the Board a little
25 more money.

1 Mr. Suter commented that the \$200 trading
2 assistant and trading assistant company fee would be
3 approximately half of the auctioneer renewal fee of
4 \$390. He stated PAA requested that the renewal fee be
5 comparable to the auctioneer fee, and by raising it to
6 \$200, it would be approximately half of the auctioneer
7 fee.

8 Ms. Montgomery commented that the Boards usually
9 raise their biennial renewal fees by the same
10 percentage. If auctioneers were being doubled, the
11 trading assistant's fee should be doubled as well.]

12 CHAIRMAN HOSTETTER:

13 Is there a motion that the trading
14 assistant and trading assistant company
15 renewal fee be \$195?

16 MR. RENTZEL:

17 I make the motion.

18 CHAIRMAN HOSTETTER:

19 Do we have a second to that?

20 MR. RADER:

21 I'll second that.

22 CHAIRMAN HOSTETTER:

23 We got a motion and a second. Any other
24 discussion? Hearing none. All those in
25 favor of the motion, signify by saying

1 aye. Those opposed, same sign.

2 [The motion carried unanimously.]

3 ***

4 Report of Board Prosecution

5 [Ray Michalowski, Esquire, Board Prosecution Liaison,
6 stated more cases are closed at the end of the year
7 than opened. He commented that getting Act 48 through
8 was critical because the Board has many citation
9 cases.]

10 Mr. Michalowski informed the Board of the
11 reorganization of Prosecutorial Division. He
12 discussed his work along with Mr. Mimm. He noted
13 smaller compact teams for every Board, where all are
14 involved with the exchanging of files. He explained
15 that cases would be reviewed by the team before being
16 presented to the Board, which decreases legal and
17 Bureau of Enforcement and Investigation (BEI) costs.]

18 ***

19 [Pursuant to Section 708(a)(5) of the Sunshine Act,
20 the Board entered into Executive Session with Kenneth
21 J. Suter, Esquire, Board Counsel, at 9:49 a.m. for the
22 purpose of conducting quasi-judicial deliberations on
23 matters that are currently pending before the Board.
24 The Board returned to open session at 11:53 a.m.]

25 ***

1 [Katelin Lambert, Designee of the Commissioner of
2 Professional and Occupational Affairs, entered the
3 meeting.]

4 ***

5 MOTIONS

6 MR. SUTER:

7 The purpose of the Executive Session was
8 for quasi-judicial matters and for
9 litigation that the Board is currently
10 involved in. Included among the
11 quasi-judicial deliberations were items
12 2, 3, and 4 on the Board's agenda.

13 Based upon the Executive Session, I
14 understand that the Board would propose
15 a motion to approve the Application of
16 No. 2 on the agenda, Daniel E. Raleigh.

17 We need a sponsor of that motion
18 and a second.

19 MR. RADER:

20 So moved.

21 CHAIRMAN HOSTETTER:

22 We have a motion.

23 MR. TRACE:

24 Second.

25 CHAIRMAN HOSTETTER:

1 Any discussion on that motion? Hearing
2 none. All those in favor of the motion,
3 signify by saying aye. Those opposed,
4 same sign.

5 [The motion carried unanimously.]

6 ***

7 MR. SUTER:

8 The next item that there is a motion on,
9 based upon Executive Session, is Item
10 No. 3. It is the Application for
11 Licensure of Larry Ellis Cooper.

12 I understand that the Board's
13 motion will be to issue a provisional
14 denial of this application for
15 licensure.

16 CHAIRMAN HOSTETTER:

17 We need a motion.

18 MS. TROUTMAN:

19 So moved.

20 CHAIRMAN HOSTETTER:

21 We need a second.

22 MR. RENTZEL:

23 Second.

24 CHAIRMAN HOSTETTER:

25 Everybody understand what the motion is?

1 Everybody okay with that? Any
2 discussion on the motion? All those in
3 favor of the motion, signify by saying
4 aye. Those opposed, same sign.

5 [The motion carried unanimously.]

6 ***

7 MR. SUTER:

8 The next item that there is a motion on,
9 based upon Executive Session, is Item
10 No. 3. It is the Application for
11 Licensure of David Weiss.

12 I understand that the Board wishes
13 to issue a provisional denial of this
14 application.

15 CHAIRMAN HOSTETTER:

16 We need a motion.

17 MR. TRACE:

18 So moved.

19 CHAIRMAN HOSTETTER:

20 Second?

21 MR. RADER:

22 Second.

23 CHAIRMAN HOSTETTER:

24 We have a motion and a second. Any
25 discussion on the motion? Everybody is

1 comfortable with what the motion is?
2 Any discussion? Hearing none. All
3 those in favor, signify by saying aye.
4 Those opposed, same sign.

5 [The motion carried unanimously.]

6 ***

7 [Gerald A. Rader, Secretary, Professional Member,
8 exited the meeting at 12:02 p.m. for recusal
9 purposes.]

10 ***

11 MR. SUTER:

12 The minutes will reflect that Mr. Rader
13 was not part of the Executive Session
14 discussion on No. 8 on the agenda, which
15 is Potential Delegation to a Hearing
16 Examiner; File No. 17-64-12494, Ian J.
17 Gilmore.

18 I understand, based upon
19 discussions in Executive Session, that
20 the Board will entertain a motion to
21 delegate this matter to a Hearing
22 Examiner.

23 CHAIRMAN HOSTETTER:

24 We need a motion.

25 MR. RENTZEL:

1 I make such a motion.

2 CHAIRMAN HOSTETTER:

3 Second?

4 MR. TRACE:

5 Second.

6 CHAIRMAN HOSTETTER:

7 Does everybody understand what the
8 motion is? Are you okay with it? Any
9 discussion on the motion? Hearing none.
10 All those in favor of the motion,
11 signify by saying aye. Those opposed,
12 same sign.

13 [The motion carried. Mr. Rader recused himself from
14 deliberations and voting on the motion.]

15 ***

16 [Gerald A. Rader, Secretary, Professional Member,
17 reentered the meeting at 12:03 p.m.]

18 ***

19 2019 Election of Officers

20 MR. SUTER:

21 The next item on the agenda is Item No.
22 9, which is the election of officers for
23 2019.

24 CHAIRMAN HOSTETTER:

25 This is for the officers. I might as

1 well go ahead and put the motion on the
2 table. The motion is to have Nevin
3 Rentzel as Chairman and Dan Trace as
4 Secretary.

5 Are there any other motions?

6 MR. SUTER:

7 Was there a second to that?

8 MR. RADER:

9 There is now, second.

10 MR. SUTER:

11 Are there any other nominations for
12 either Secretary or Chair?

13 Does anybody want to make a motion
14 that nominations be closed?

15 MR. RADER:

16 So moved.

17 MR. SUTER:

18 Is there a second to that?

19 MS. TROUTMAN:

20 Second.

21 MR. SUTER:

22 All those in favor of Nevin being the
23 Chair for 2019 and Dan as Secretary,
24 signify by saying aye. Opposed?
25 Abstentions?

1 [The motion carried unanimously]

2

3 Report of Board Chairman

4 [Sherman E. Hostetter Jr., Chairman, discussed his
5 attendance at the National Auctioneers Association
6 Conference and Show in Florida. He noted a
7 presentation from the National Auctioneer License Law
8 Officials Association (NALLOA). He referred to a
9 conference call in February, commenting that Ms.
10 Kocher should represent the Board and participate in
11 the call.

12 Chairman Hostetter discussed membership issues
13 with many associations. He discussed third-party
14 reciprocity.

15 Chairman Hostetter addressed online auctions,
16 noting South Dakota vs. Wayfair, Inc., where states
17 may charge tax on purchases made from out-of-state
18 sellers. He noted the difficulty in getting the
19 correct amount of tax to all of the taxing entities.

20 Chairman Hostetter noted the review of the
21 delivery location, which means if an auction was in
22 Pennsylvania, Pennsylvania would collect the tax. He
23 discussed the difficulty for individuals, who are
24 handling the items, to collect that tax, stating there
25 could be 100 different buyers in 30 different states.

1 Chairman Hostetter discussed responsibility and
2 liability. He stated for an online auction, the way
3 his terms and conditions read, the product does become
4 the buyer's possession but is still under the auction
5 company, so where is the fine line of responsibility
6 and liability.

7 Mr. Rentzel commented that this was not addressed
8 by the courts as an auction issue. He stated the
9 issue concerned people buying online. He explained
10 that states that do not have a hub for Amazon or
11 somewhere else noted that the state of the buyer of
12 the goods should collect the tax, instead of the state
13 where the warehouse is located. All will be affected
14 due to the court decision.

15 Ms. Kocher addressed license renewals, noting
16 that she was recently provided with testing
17 information to actually test the renewals in the
18 Pennsylvania Licensing System (PALS) but has not
19 received a date as to when renewals will be
20 distributed. She requested a pre-renewal email blast
21 to provide information regarding renewal fees and
22 login, which was not approved. She was also awaiting
23 approval to distribute information on the website.
24 She noted that extensions have not yet been suggested
25 and never have been since being with the Board.

1 Mr. Suter stated the Board has done everything in
2 terms of the applications to go into the system and
3 that it is currently an information technology (IT)
4 issue.

5 Mr. Trace noted concerns with contracts not being
6 good legally if a license is not good.

7 Ms. Kocher commented that the developer of PALS
8 has many more applications for the Auctioneer Board to
9 finish, but that the Auctioneer Board is not the only
10 Board having issues. She provided information that
11 will be needed upfront in order to renew, including
12 the ability to use the same passwords as the old
13 system. She also indicated that the information would
14 be provided via email and possibly a paper notice.]

15 ***

16 OFF-RECORD DISCUSSION

17 ***

18 Report of Board Administrator - Proposed 2020 Meeting
19 Dates

20 [Terri Kocher, Board Administrator, noted proposed
21 2020 meeting dates for the Board's review.]

22 ***

23 Report of Commissioner - No Report

24 ***

25 [Sherman E. Hostetter Jr., Chairman, thanked Mr. Trace

1 and Ms. Kocher for the hard work.

2 Chairman Hostetter also thanked the Board for
3 their confidence in placing in him as Chairman, noting
4 that the Board was now in good hands with Mr. Rentzel
5 and Mr. Trace.]

6 ***

7 CHAIRMAN HOSTETTER:

8 Do we have a motion for proposed 2020
9 meeting dates?

10 MR. TRACE:

11 So moved.

12 MS. TROUTMAN:

13 Second.

14 CHAIRMAN HOSTETTER:

15 Everybody okay with the motion? Motion
16 and second. Any discussion? Hearing
17 none. All those in favor, signify by
18 saying aye. Anybody opposed?

19 [The motion carried unanimously]

20 ***

21 Adjournment

22 CHAIRMAN HOSTETTER:

23 Motion to adjourn?

24 MS. TROUTMAN:

25 So moved.

1 MR. TRACE:

2 Second.

3 CHAIRMAN HOSTETTER:

4 All in favor?

5 [The motion carried unanimously.]

6 ***

7 [There being no further business, the State Board of
8 Auctioneer Examiners Meeting adjourned at 12:33 p.m.]

9 ***

10

11

CERTIFICATE

12

13 I hereby certify that the foregoing summary
14 minutes of the State Board of Auctioneer Examiners
15 meeting, was reduced to writing by me or under my
16 supervision, and that the minutes accurately summarize
17 the substance of the State Board of Auctioneers
18 meeting.

19

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21



22

Amber Garbinski,

23

Minute Clerk

24

Sargent's Court Reporting

25

Service, Inc.

26

STATE BOARD OF AUCTIONEER EXAMINERS
REFERENCE INDEX

January 7, 2019

TIME	AGENDA
9:00	Official Call to Order
9:02	Introduction of Audience
9:03	Approval of Minutes
9:04	Report of Board Counsel
9:45	Report of Board Prosecution
9:49	Executive Session
11:53	Return to Open Session
11:53	Motions
12:06	Report of Board Chairman
12:13	Report of Board Administrator
12:33	Adjournment

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