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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: 9:09 A.M.

PENNSYLVANIA DEPARTMENT OF STATE
Board Room C
One Penn Center
2601 North Third Street
Harrisburg, Pennsylvania, 17109

Monday, March 11, 2019

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State Board of Auctioneer Examiners
March 11, 2019

BOARD MEMBERS:

- Nevin B. Rentzel, Professional Member, Chairman
- Sherman E. Hostetter Jr., Professional Member
- Kalonji Johnson, Acting Commissioner of Professional
and Occupational Affairs - Absent
- Gerald A. Rader, Professional Member
- Daniel A. Trace, Professional Member, Secretary
- Heather M. Troutman, Consumer Protection Agent

BUREAU PERSONNEL:

- Kenneth Suter, Esquire, Board Counsel
- Steven Mimm, Esquire, Board Prosecution Liaison,
present on behalf of Ray Michalowski, Esquire
- Terrie Kocher, Board Administrator

ALSO PRESENT:

- George A. Michak, Esquire - Pennsylvania Auctioneers
Association

1 ***

2 State Board of Auctioneer Examiners

3 March 11, 2019

4 ***

5 The regularly scheduled meeting of the State Board
6 of Auctioneer Examiners was held on Monday, March 11,
7 2019. Chairman Rentzel called the meeting to order at
8 9:09 a.m. He called for a moment of silence. Roll
9 call was taken.

10 Heather M. Troutman, Consumer Protection Agent,
11 was not present at the start of the meeting.

12 ***

13 [Chairman Rentzel welcomed Mr. Michak to stay until
14 after Executive Session as applications and regulatory
15 language would be addressed during that time.]

16 ***

17 [Heather M. Troutman, Consumer Protection Agent,
18 entered the meeting at 9:10 a.m.]

19 ***

20 [Pursuant to Section 708(a)(5) of the Sunshine Act, at
21 9:10 a.m. the Board entered into Executive Session
22 with Kenneth Suter, Esquire, Board Counsel, for the
23 purpose of conducting quasi-judicial deliberations.
24 The Board returned to open session at 10:42 a.m.]

25 ***

1 [Chairman Rentzel noted the presence of a quorum.]

2 ***

3 Approval of Minutes of January 7, 2019 meeting.

4 CHAIRMAN RENTZEL:

5 Can I have a motion?

6 MR. HOSTETTER:

7 Second.

8 MR. TRACE:

9 Second.

10 CHAIRMAN RENTZEL:

11 Any discussion? All those in favor of
12 approving the minutes, give your consent
13 by saying aye? Opposed? Motion carries.

14 [The motion carried unanimously.]

15 ***

16 Report of Board Prosecution - No Report

17 ***

18 Report of Board Counsel

19 [Kenneth Suter, Esquire, Board Counsel, stated Items
20 2, 3, 4, 7 on the agenda were discussed during
21 Executive Session. He reported that the case of Bauer
22 v. State Board of Auctioneers was in the US District
23 Court of Western Pennsylvania.

24 Mr. Suter stated all of the aforementioned matters
25 were discussed either in quasi-judicial deliberations

1 or as litigation involving the Board.]

2 ***

3 Applications for Review

4 Auctioneer Examination Application-Hartman.

5 CHAIRMAN RENTZEL:

6 Do I hear a motion to approve Margaree
7 Hartman to sit for the exam?

8 MR. HOSTETTER:

9 So moved.

10 CHAIRMAN RENTZEL:

11 I have a motion. Do I hear a second?

12 MR. RADER:

13 Second.

14 CHAIRMAN RENTZEL:

15 Any discussion? All those in favor, give
16 their consent by saying aye? Opposed?
17 Motion carries.

18 [The motion carried unanimously.]

19 ***

20 Auctioneer Examination Application - Retake-Davis

21 CHAIRMAN RENTZEL:

22 Harry Davis, and this was in reference to
23 him retaking the auctioneer exam.

24 Do I hear a motion to approve Harry
25 Davis to sit for the exam?

1 MR. HOSTETTER:

2 So moved.

3 CHAIRMAN RENTZEL:

4 Motion. Do I hear a second?

5 MR. RADER:

6 Second.

7 CHAIRMAN RENTZEL:

8 Any discussion? All those in favor give
9 their consent by saying aye? Opposed?

10 Motion carries.

11 [The motion carried unanimously.]

12 ***

13 Apprentice Auctioneer Application - Shotts

14 CHAIRMAN RENTZEL:

15 Is there a motion for a provisional
16 denial?

17 MR. RADER:

18 Moved.

19 CHAIRMAN RENTZEL:

20 I have a motion. Do I hear a second?

21 MR. TRACE:

22 Second.

23 CHAIRMAN RENTZEL:

24 Any discussion? All those in favor give
25 their consent by saying aye? Opposed?

1 Motion carries.

2 [The motion carried unanimously.]

3 ***

4 Provisional Denial Appeal-Weiss

5 [Mr. Suter explained that the Board reviewed the
6 denial and will hear the matter before the Board as a
7 whole.]

8 ***

9 Regulations

10 Proposed Regulatory Language

11 [Kenneth Suter, Board Counsel, turned the Board's
12 attention to the regulatory language in the packet
13 provided for further discussion. He stated the
14 purpose of the language was to address applicants
15 under 3E of the Act, subsections (4) and (5). They
16 would be individuals entering into Pennsylvania who
17 want to sit for the auctioneer exam, who are licensed
18 and in good standing through another state and have
19 been so for a minimum of 2 years.

20 He stated the Board would review their
21 applications to determine their qualifications, or
22 under subsection (5), have the applicant demonstrate
23 at least two years of conducting auctioneering in a
24 state that does not require licensing.

25 He stated the purpose of the proposed language was

1 to provide, under the aforementioned subsections,
2 direction to applicants applying to sit for the exam
3 and to gather the required information. He stated
4 this would be a part of the initial review of
5 qualifications.

6 Mr. Suter requested input due to the attendees now
7 seeing an application that is under subsection (4) or
8 (5). He explained that the language would further
9 support the Act with more specifications. He outlined
10 the requirement for a minimum of 30 auctions, being
11 that 30 is the criteria for a Pennsylvania applicant,
12 and streamlining the application process.

13 Mr. Hostetter inquired whether the two year and 30
14 auction requirements were linked. He worked for a
15 company that does less than ten auctions a year, and
16 that there would be a difficulty for people in similar
17 situations who do not have the option to do 30
18 auctions within a two-year period. He repeated his
19 question, clarifying if it is 30 auctions within the
20 last two years, or two years of experience plus 30
21 auctions. Mr. Suter noted the acceptance of either by
22 the Board. He stated the language could be clarified
23 more specifically to previously worded provisions.

24 Mr. Rader stated it was not exclusive language.
25 There was further discussion regarding the matter.

1 Mr. Suter further explained that the language
2 could be changed if necessary. There was further
3 discussion about placing a time cap on the open-ended
4 time frame.

5 Chairman Rentzel appreciated the broad language
6 and did not feel there was a reason to change the
7 language. He stated the reasoning behind it was so
8 people get experience. He then proposed changing the
9 wording in the Act to match similar wording.

10 Mr. Suter explained that it was easier to change
11 the regulations during the drafting stage.

12 George Michak, Esquire, Pennsylvania Auctioneers
13 Association, stated his experience was a minimum of
14 two years and a minimum of 30 auctions. He had never
15 seen a time frame applied to the 30 auctions. He
16 agreed with Mr. Trace, stating that it had been done
17 historically that way. He recently was assigning a
18 new auctioneer of record and was pleased with the
19 Board's diligence to the matter.]

20 MR. SUTER:

21 So we would need a motion to approve this
22 language, if you're satisfied with it,
23 and we can incorporate it into the
24 omnibus 2016 Regulatory package that was
25 previously approved.

1 CHAIRMAN RENTZEL:

2 So moved.

3 MR. HOSTETTER:

4 Motion.

5 MS. TROUTMAN:

6 Second.

7 CHAIRMAN RENTZEL:

8 Second. Any discussion? All those in
9 favor of adopting, say aye. Opposed?

10 [The motion carried unanimously.]

11 ***

12 Report of Board Administrator

13 [Ms. Terrie Kocher, Board Administrator, noted that
14 applications regarding sections E(3), (4) and (5)
15 would come before the board. She further noted that
16 at some point in the future a review committee would
17 be established for that purpose.]

18 ***

19 Report of Chairman - No Report

20 ***

21 Report of Commissioner - No Report

22 ***

23 Report of the Board Administrator (Continued)

24 Renewal Update

25 [Ms. Kocher stated Kalonji Johnson was the new Acting

1 Commissioner, but had not yet been confirmed. She
2 stated Ian Harlow was the Deputy Secretary for the
3 Department of State.

4 Ms. Kocher noted a 64 percent completion rate for
5 apprentice auctioneers; an 86 percent completion rate
6 for auctioneers; 75 percent completion rate for
7 auction companies; 79 percent trading assistants; and
8 a 66 percent completion rate for trading assistant
9 companies. She stated the applicant would have to
10 submit a reactivation application if the renewal
11 submission was after April 1st. She next explained
12 the reactivation application process.

13 Compared to previous renewal periods, Ms. Kocher
14 stated the numbers were on target. She further noted
15 that there were 287 apprentices eligible for renewal,
16 1,934 auctioneers, 343 companies, 53 trading
17 assistants, and 6 trading assistant companies that are
18 eligible to renew.

19 She stated, as of March 7, 2019, the renewal
20 numbers were 183 for apprentice auctioneers, 1,648 for
21 auctioneers, 259 for companies, 41 for trading
22 assistants, and 4 for trading assistant companies.

23 A question was asked with regard to adding a fifth
24 professional member to the board, and what the
25 qualifications were for a trading assistant. She said

1 there were no specific qualifications for a trading
2 assistant that an auctioneer could not do, but must be
3 solely registered as a trading assistant.

4 Ms. Kocher had no update on appointing a fifth
5 professional member.

6 Mr. Suter received an email for a meeting to
7 discuss the issues being brought before the Board.

8 Chairman Rentzel mentioned the South Dakota
9 Wayfair and Wayfair Loss, and explained that it was a
10 taxing entity that was affecting every state by
11 charging tax on every item sold. He states there were
12 over 10,000 taxing entities, and that the seller was
13 responsible for paying the taxes. He was unsure of a
14 solution, since selling something on-site was tax
15 exempt, but when brought into a facility, sales tax
16 needs to be charged.

17 Mr. Michak stated an issue with the Wayfair Loss
18 was that it is unclear where delivery was. He stated,
19 in certain states, there are specific tax rates for
20 different counties and municipalities. He then
21 explained the difference between a shipping contract
22 and a destination contract. He explained that the
23 Wayfair case was resolved by the US Supreme Court in
24 June of 2018, which overruled the Quill case.]

25

1 Miscellaneous

2 Remaining 2019 Meeting Dates

3 [Chairman Rentzel stated the May 13th, July 8th,
4 September 9th, and November 4th meeting dates remain.]

5 ***

6 Adjournment

7 CHAIRMAN RENTZEL:

8 I have a motion to adjourn.

9 MR. TRACE:

10 Second.

11 MR. RADER:

12 Second.

13 CHAIRMAN RENTZEL:

14 Second. Discussion? All in favor, say
15 aye. Motion approved, we are adjourned.

16 There being no other business, the State Board of
17 Auctioneer Examiners Meeting adjourned at 11:18 a.m.]

18 ***

19 2019 Mandatory Security Awareness and Acceptable Use
20 Training

21 [Mandatory security awareness and acceptable use
22 training was held.]

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CERTIFICATE

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



Amber Garbinski,
Minute Clerk
Sargent's Court Reporting
Service, Inc.

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STATE BOARD OF AUCTIONEER EXAMINERS
REFERENCE INDEX
March 11, 2019

TIME	AGENDA
9:09	Official Call to Order
9:09	Introduction of Audience Members
9:10	Executive Session
10:42	Approval of Minutes
10:43	Report of Board Counsel
10:44	Applications for Review
	Proposed Regulatory Language
10:59	Report of Board Administrator
11:00	Renewal Update
10:18	Miscellaneous
11:18	Adjournment
11:19	Mandatory Security Awareness and Acceptable Use Training