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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: 10:38 a.m.

Held at

PENNSYLVANIA DEPARTMENT OF STATE

2601 North Third Street

One Penn Center, Board Room C

Harrisburg, Pennsylvania 17110

as well as

VIA MICROSOFT TEAMS

Monday, September 12, 2022

1 State Board of Auctioneer Examiners
2 September 12, 2022
3
4

5 BOARD MEMBERS:
6

7 Nevin B. Rentzel, Chairman, Professional Member
8 Arion R. Claggett, Acting Commissioner, Bureau of
9 Professional and Occupational Affairs
10 Sherman E. Hostetter Jr., Professional Member
11 Gerald A. Rader, Professional Member - Absent
12 Daniel A. Trace, Secretary, Professional Member
13 Christopher Dey, Deputy Attorney General, Consumer
14 Protection Division
15

16
17 BUREAU PERSONNEL:
18

19 Heather J. McCarthy, Esquire, Senior Prosecuting
20 Attorney
21 Jason E. McMurry, Esquire, Board Counsel
22 J. Karl Geschwindt, Esquire, Board Prosecution
23 Liaison
24 Terrie Kocher, Board Administrator
25 Andrew LaFratte, MPA, Executive Policy Specialist,
26 Department of State
27 Amanda Richards, Acting Fiscal Chief, Bureau of
28 Finance and Operations, Department of State
29 Michelle Witmer, Bureau of Finance and Operations,
30 Department of State
31

32 ALSO PRESENT:
33

34 Anthony Cox Jr., Esquire, Eckert Seamans, on behalf of
35 the Pennsylvania Auctioneers Association
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1 ***

2 State Board of Auctioneer Examiners

3 September 12, 2022

4 ***

5 [Pursuant to Section 708(a)(5) of the Sunshine Act, at
6 10:00 a.m. the Board entered into Executive Session
7 with Jason E. McMurry, Esquire, Board Counsel, for the
8 purpose of conducting quasi-judicial deliberations and
9 to receive legal advice on matters that are currently
10 pending before the Board. The Board returned to open
11 session at 10:30 a.m.]

12 ***

13 The regularly scheduled meeting of the State
14 Board of Auctioneer Examiners was held on Monday,
15 September 12, 2022. Nevin B. Rentzel, Chairman,
16 Professional Member, called the meeting to order at
17 10:38 a.m.

18 ***

19 Introduction of Board Members/Attendees
20 [Chairman Rentzel requested an introduction of Board
21 members and attendees.]

22 ***

23 Agenda Amendment

24 CHAIRMAN RENTZEL:

25 I would like to make a motion to amend

1 our agenda for today to add a regulatory
2 work session following our regular
3 meeting.

4 MR. TRACE:

5 Second.

6 CHAIRMAN RENTZEL:

7 Roll call vote.

8
9 Nevin Rentzel, aye; Arion Claggett, aye;
10 Sherman Hostetter, aye; Daniel Trace,
11 aye; Christopher Dey, aye.

12 [The motion carried unanimously.]

13 ***

14 Approval of minutes of the July 11, 2022 meeting

15 CHAIRMAN RENTZEL:

16 First on our regular agenda was approval
17 of the draft minutes. Does anyone have
18 any additions or corrections?

19 [The Board discussed corrections to the minutes.]

20 Is there a motion to amend and
21 accept the minutes from July 11, 2022?

22 MR. HOSTETTER:

23 So moved.

24 MR. TRACE:

25 Second.

1 MS. KOCHER:

2 Nevin Rentzel, aye; Arion Claggett, aye;
3 Sherman Hostetter, aye; Daniel Trace,
4 aye; Christopher Dey, aye.

5 [The motion carried unanimously.]

6 ***

7 Report of Prosecutorial Division

8 [J. Karl Geschwindt, Esquire, Board Prosecution
9 Liaison, presented the Consent Agreement for Case No.
10 20-64-006831.]

11 CHAIRMAN RENTZEL:

12 Is there a motion to accept the Consent
13 Agreement and Order as presented?

14 MR. TRACE:

15 So moved.

16 MR. HOSTETTER:

17 Second.

18 CHAIRMAN RENTZEL:

19 Additional comments? Roll call vote.

20

21 Nevin Rentzel, aye; Arion Claggett, aye;
22 Sherman Hostetter, aye; Daniel Trace,
23 aye; Christopher Dey, aye.

24 [The motion carried unanimously.]

25 ***

1 Report of Prosecutorial Division

2 [J. Karl Geschwindt, Esquire, Board Prosecution
3 Liaison, presented the Consent Agreement for Case No.
4 21-64-004680.]

5 CHAIRMAN RENTZEL:

6 Do I hear a motion to accept the Consent
7 Agreement?

8 MR. TRACE:

9 So moved.

10 MR. HOSTETTER:

11 Second.

12 MS. KOCHER:

13 Nevin Rentzel, aye; Arion Claggett, aye;
14 Sherman Hostetter, aye; Daniel Trace,
15 aye; Christopher Dey, aye.

16 [The motion carried unanimously.]

17 ***

18 Report of Board Counsel

19 [Jason E. McMurry, Esquire, Board Counsel, noted
20 agenda items 4 through 10 on the agenda were all
21 comments and responses regarding Act 41 licensure by
22 endorsement. He mentioned the proposed annex and
23 preamble were published as well as responses from the
24 Pennsylvania Auctioneers Association (PAA) to proposed
25 rulemaking, House of Representatives, and Independent

1 Regulatory Review Commission.

2 Mr. McMurry addressed a letter from the Senate
3 Professional Licensure Committee for the Board's
4 review. He noted the letter was sent to all boards
5 and commissions regarding the regulations and the
6 Bureau of Professional and Occupational Affairs (BPOA)
7 responded for all boards.

8 Mr. McMurry noted receiving a comment from the
9 Pennsylvania Auctioneers Association on June 15, 2022,
10 in support of the regulation but questioned the
11 residency requirement and wanted the Board to add a
12 residency requirement. He stated the Auctioneer
13 Licensing and Trading Assistant Registration Act does
14 not have a residency requirement and did not see the
15 Board having the ability to make a residency
16 requirement.

17 Anthony Cox Jr., Esquire, Eckert Seamans, on
18 behalf of the Pennsylvania Auctioneers Association,
19 stated the intent of the General Assembly is the fear
20 that licensure by endorsement is only intended for
21 people who intend to change their residency to
22 Pennsylvania and not intended for an individual who is
23 a Virginia auctioneer who plans to stay in Virginia
24 but wants to seek licensure in the Commonwealth of
25 Pennsylvania.

1 Mr. Cox explained that there is a fear that it
2 would lead to a flood of litigation for BPOA and the
3 Board if it is not explicitly stated. He further
4 explained that it is not intended for an auctioneer
5 from New York City who wants to stay in New York City
6 and decides to seek licensure by endorsement to
7 operate in Pennsylvania while still being a resident
8 of New York because the intent is to provide an
9 alternative way to seek licensure for those who intend
10 to relocate.

11 Mr. Cox asked the Board to be explicit that the
12 intent and use of the words in the Commonwealth is
13 there, so the intent is that it applies to residents
14 of the Commonwealth of Pennsylvania. He believed
15 there should be an explicit indication that there is a
16 residency requirement.

17 Chairman Rentzel commented that the Board would
18 have to decide and address that in the final annex.

19 Acting Commissioner Claggett noted that is seen
20 in other boards where individuals may live on a border
21 state and come here and want to be licensed to work in
22 Pennsylvania as well, but their license is in New
23 Jersey and work in both places.

24 Chairman Rentzel referred to the Auctioneer
25 Licensing and Trading Assistant Registration Act of

1 2016, noting that the law they were operating under
2 before the act was passed distinguished the difference
3 between in-state auctioneers and out-of-state
4 auctioneers and went away when Act 88 of 2016 passed.
5 He commented that they would have to have a residency
6 requirement for all portions if they have the
7 requirement for this portion.

8 Mr. Hostetter addressed individuals coming from
9 either a state or country, where a nurse has to
10 physically come in but an online auction company,
11 whether it is an auctioneer or trading assistant,
12 could be in Florida and book an auction in
13 Pennsylvania but never have to set foot in the state
14 because everything is online.

15 Mr. Hostetter explained that the individual
16 probably would not have an escrow account in
17 Pennsylvania, so the money is in Florida or some
18 country and how would they get it and fix the problem.

19 He commented that the Board's main job is to protect
20 the public and did not see where this does that.

21 Mr. Trace commented that the only way the Board
22 could do it with their act is if somebody complains,
23 where the Board could go after their license and cease
24 and desist.

25 Chairman Rentzel informed the Pennsylvania

1 Auctioneers Association that the Board had inhibitions
2 about the same residency requirements when this was
3 first proposed for them to adopt and did not adopt
4 until they got a response and were told that the act
5 was written that way and they are to adopt it.

6 Chairman Rentzel thanked Mr. Cox for his
7 comments, noting the Board would do their best to
8 address the issue through their regulatory authority.

9 Acting Commissioner Claggett commented that
10 licensure by endorsement was written because some
11 boards did not have licensure by endorsement at all,
12 so they had no other pathway to licensure and is why
13 it is covering all the boards under BPOA. He noted it
14 is not just for individuals who live out of the
15 country.

16 Mr. McMurry further explained that their Board
17 has a distinct path to licensure from another state
18 and Acting Commissioner Claggett was saying that other
19 boards do not have that, so from a practical
20 standpoint for this Board, all the act really did was
21 open it up to someone in another territory or country
22 because the Board already has a process with another
23 state.

24 Chairman Rentzel stated the Board would have to
25 review requirements of someone from South Africa who

1 applies through endorsement to see if the requirements
2 are similar to Pennsylvania, and if not, they are
3 unlicensed. He explained that the issue is when
4 someone is granted a license.

5 Chairman Rentzel noted that there is a difference
6 between the ability to license and the ability to
7 enforce. He stated any licensee who violates the act
8 is prosecuted. He explained that it comes down to
9 where does the ability go if there is a civil penalty
10 and they do not pay it, how would that be enforced and
11 is a separate conversation outside of the ability to
12 be licensed. He commented that the Board has multiple
13 functions and can enforce the law if there is a
14 violation.

15 Mr. Cox commented that it does not appear that
16 licensure by endorsement is meant to replace
17 reciprocity and meant to supplement reciprocity. He
18 noted the difference in some of the other professions
19 is there is a physical presence required in most of
20 the other boards. He asked what the difference is
21 between reciprocity and licensure by endorsement.

22 Chairman Rentzel informed Mr. Cox that the Board
23 would be working on regulations and recognizing what
24 states would be reciprocal, where anything not covered
25 by that would be on an individual case basis for the

1 Board to accept or reject based on the laws where they
2 are licensed compared to saying someone is from state
3 X and everyone who met those requirements gets a
4 license.

5 Acting Commissioner Claggett further explained
6 that someone from another state who is substantially
7 equivalent may be missing one item, where they cannot
8 come in by reciprocity and would try to come in under
9 Act 41, so the Board would be looking at Act 41 for
10 people from other states also.

11 Mr. McMurry informed Board members that the
12 comments would be formally addressed through the
13 preamble, and any changes would be made to the annex
14 and draft of the regulation based on the comments. He
15 noted it would be brought back to the Board for a vote
16 on the final package and then sent through the
17 process.

18 Mr. McMurry addressed the House of
19 Representatives Letter, dated July 7, where the House
20 comment was that the applicant has to provide
21 qualifications for licensure. He noted Board Counsel
22 and Board staff would research it as far as licensure
23 requirements, and that finding the information may
24 take a long time. He commented that the applicant has
25 the burden to show the Board they are licensed and did

1 not necessarily know what the change would be because
2 the applicant has to prove their licensure. He
3 informed Board members that all of the comments would
4 be answered in the final annex the Board would see and
5 vote on.

6 Mr. McMurry addressed another comment from the
7 legislature, where a section that states an applicant
8 must not have any discipline to issue a license and
9 recommended clarifying this section by formal
10 discipline and time frame.

11 Mr. McMurry commented that this would be limiting
12 the Board's ability and flexibility to either hold
13 someone accountable or not allow them to be licensed
14 or in reviewing something as a Board to find someone
15 may not be a threat to the public and would be okay to
16 license.

17 Mr. McMurry addressed the next section in the act
18 regarding provisional licensure that gives the Board
19 the authority to issue a provisional license for less
20 than a year and subsequent provisional license. He
21 commented that an individual needs to complete what is
22 asked of them by the Board to receive a provisional
23 license, and if they do not, why should they keep
24 getting multiple chances and keep coming back to the
25 Board. He mentioned that it also gives individuals an

1 incentive to complete whatever is required of them in
2 a certain time frame. He informed Board members that
3 he would be sending a letter from the Board that all
4 comments were taken into consideration.

5 Mr. McMurry referred to comments from the
6 Independent Regulatory Review Committee on July 20,
7 including equivalence in jurisdiction, noting they are
8 similar to the House comments and would be addressed
9 with the House comments.

10 Mr. McMurry noted he is dealing with the
11 Regulatory Analysis Form.

12 Mr. McMurry informed Board members of an
13 additional document for the Board's review, which
14 would be discussed in detail during the work session.]

15

16 Report of Board Chairperson

17 [Nevin B. Rentzel, Chairman, Professional Member,
18 suggested further discussion at the next Board meeting
19 regarding states recognized as being reciprocal for
20 those who are out of state and would like to get a
21 Pennsylvania license by reciprocity, so the applicant
22 can be issued a license if they met all the
23 requirements instead of each one having to go through
24 the subcommittee. He mentioned that recognizing
25 states the Board believed to be reciprocal would make

1 the process easier for administration and relax some
2 of the burden.

3 Acting Commissioner Claggett commented that the
4 list would be added to the Board's website for public
5 access once finalized.]

6 ***

7 Report of Acting Commissioner - No Report

8 ***

9 Report of Board Administrator - No Report

10 ***

11 Meeting Dates

12 [Nevin B. Rentzel, Chairman, Professional Member,
13 noted the next scheduled 2022 Board meeting date is
14 November 14. He also noted the 2023 Board meeting
15 dates.

16 Mr. Hostetter requested a breakdown of complaints
17 and prosecution status.

18 Acting Commissioner Claggett offered to make the
19 request to Board Counsel to provide the status
20 report.]

21 ***

22 Adjournment

23 CHAIRMAN RENTZEL:

24 Do I hear a motion to adjourn this
25 meeting?

1 MR. TRACE:

2 So moved.

3 MR. HOSTETTER:

4 Second.

5 CHAIRMAN RENTZEL:

6 All in favor, say aye.

7 The motion carried unanimously.]

8 ***

9 [There being no further business, the State Board of
10 Auctioneer Examiners Meeting adjourned at 11:39 a.m.]

11 ***

12 [A State Board of Auctioneer Examiners Regulatory Work
13 Session will be held immediately following the regular
14 Board meeting.]

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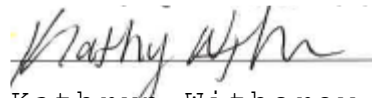
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CERTIFICATE

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 Auctioneers meeting.



Kathryn Witherow,

Minute Clerk

Sargent's Court Reporting
Service, Inc.

STATE BOARD OF AUCTIONEER EXAMINERS
REFERENCE INDEX

September 12, 2022

TIME	AGENDA
10:00	Executive Session
10:30	Return to Open Session
10:38	Official Call to Order
10:38	Introduction of Board Members/Attendees
10:40	Agenda Amendment
10:41	Approval of Minutes
10:43	Report of Board Prosecution
10:51	Report of Board Counsel
11:35	Report of Board Chairperson
11:39	Adjournment