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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: 9:03 a.m.

BOARD ROOM B

One Penn Center

2601 North Third Street

Harrisburg, Pennsylvania 17110

Monday, September 11, 2017

State Board of Auctioneer Examiners
September 11, 2017

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BOARD MEMBERS:

Sherman E. Hostetter Jr., Chairman
Kathryn L. Waters, Deputy Commissioner of Professional
and Occupational Affairs
Gerald A. Rader, Professional Member
Nevin B. Rentzel, Professional Member
Daniel A. Trace, Professional Member
Heather M. Troutman, Consumer Protection Agent

BUREAU PERSONNEL:

Maria Battista, Esquire, Board Counsel
Thomas Blackburn, Esquire, Senior Counsel in Charge
Terrie Kocher, Board Administrator

ALSO PRESENT:

George A. Michak, Esquire, PA Auctioneers Association

1 ***

2 State Board of Auctioneer Examiners

3 September 11, 2017

4 ***

5 The regularly scheduled meeting of the State
6 Board of Auctioneer Examiners was held on Monday,
7 September 11, 2017. Sherman E. Hostetter Jr.,
8 Chairman, called the meeting to order at 9:03 a.m.
9 Roll call was taken followed by a moment of silence.
10 A quorum was noted to be present.

11 Kathryn L. Waters, Deputy Commissioner of
12 Professional and Occupational Affairs, was not present
13 at the commencement of the meeting.

14 ***

15 Approval of Minutes of the July 10, 2017 meeting
16 [The Board discussed corrections to the Minutes.]

17 CHAIRMAN HOSTETTER:

18 I need a motion to approve, including an
19 amendment to page 12, noting the second.

20 MR. TRACE:

21 I so move.

22 CHAIRMAN HOSTETTER:

23 Okay. Dan Trace moves.

24 MR. RADER:

25 Second.

1 [Kathryn L. Waters, Deputy Commissioner, entered the
2 meeting at 9:11 a.m. and exited at 9:12 a.m.]

3 ***

4 [Pursuant to Section 708(a)(5) of the Sunshine Act,
5 the Board entered into Executive Session with Maria
6 Battista, Esquire, and Thomas Blackburn, Esquire, at
7 9:14 a.m. for the purpose of conducting quasi-judicial
8 deliberations on matters that are currently pending
9 before the Board. The Board returned to open session
10 at 9:25 a.m.]

11 ***

12 MOTIONS

13 MS. BATTISTA:

14 The Board met in Executive Session to
15 conduct quasi-judicial deliberations on
16 a matter that was scheduled for oral
17 argument this morning in the matter of a
18 Citation Issued to Charles Preston
19 Mowry; Citation No. 59313, File No. 13-
20 64-09313.

21 I took into consideration the oral
22 motion by Counsel for Mr. Mowry, Mr.
23 Michak, regarding a continuance of the
24 oral arguments to the next Board meeting
25 in November, which I believe is November

1 13, 2017. Present for those discussions
2 was the supervising Board Counsel, Mr.
3 Blackburn for that Executive Session.

4 At this time, I recommend that the
5 Board grant the oral motion of Mr.
6 Michak in the matter of the Citation
7 Issued to Charles Preston Mowry at
8 Docket No. 59313-64-16 and Citation No.
9 59313, File No. 13-64-09313, to be
10 continued to the next Board meeting.

11 CHAIRMAN HOSTETTER:

12 We have a motion?

13 MR. TRACE:

14 I'll make a motion.

15 MR. RADER:

16 Second.

17 CHAIRMAN HOSTETTER:

18 Okay. Gerald second it. Any
19 discussion? Hearing no discussion. All
20 those in favor of the motion, signify by
21 saying aye. Those opposed, same sign.

22 [The motion carried unanimously.]

23 ***

24 [Kathryn L. Waters, Deputy Commissioner, entered the
25 meeting at 9:25 a.m. and exited the meeting at 9:29

1 a.m.]

2

3 [Ms. Battista commented that based on the motion and
4 the second, the oral argument in the Mowry matter will
5 be scheduled for November 13, 2017.]

6

7 [Mr. Michak thanked the Board for their consideration
8 and the granting the motion. He noted additional
9 matters for discussion in Executive Session and
10 offered to answer Board questions regarding those
11 matters.]

12

13 [Pursuant to Section 708(a)(5) of the Sunshine Act,
14 the Board entered into Executive Session with Maria
15 Battista, Esquire, at 9:29 a.m. for the purpose of
16 conducting quasi-judicial deliberations on matters
17 that are currently pending before the Board. The
18 Board returned to open session at 9:48 a.m.]

19

20 MS. BATTISTA:

21

The Board met in Executive Session to

22

discuss the Bureau of Professional and

23

Occupational Affairs vs. Erin Groff,

24

Docket No. 0682-64-14, File No. 12-64-

25

07005. The Respondent's Counsel filled

1 out an Application for Stay/Supersedeas
2 pending judicial review.

3 [Mr. Michak answered questions from Board members on
4 the matter.]

5 ***

6 Report of Board Counsel (Continued)

7 [Maria Battista, Esquire, Board Counsel, stated Group
8 B Schools will be discussed in Executive Session and
9 Public Session. Ms. Battista also addressed
10 correspondence from the Alabama State Board of
11 Auctioneers regarding a revised reciprocal agreement.]

12 ***

13 Report of Board Chairman

14 [Chairman Hostetter distributed materials from his
15 attendance at the National Auctioneers Association
16 (NAA) Convention.]

17 ***

18 Report of Deputy Commissioner - No Report

19 ***

20 Report of Board Administrator

21 [Terrie Kocher, Board Administrator, reminded Board
22 members that the hotel tax exempt form needs to be
23 presented at time of check-in.

24 Ms. Kocher addressed Board members regarding
25 upcoming November reappointments.]

1 MR. RENTZEL

2 I'll make the motion that, in the
3 absence of Sherm Hostetter due to non-
4 reappointment, Dan would assume duties
5 as Acting Chairman and as the review of
6 reciprocal licensees.

7 MR. RADER:

8 I'll second that motion.

9 CHAIRMAN HOSTETTER:

10 Any discussion on the motion? Hearing
11 none. All those in favor of the motion,
12 signify by saying aye. Those opposed,
13 same sign.

14 [The motion carried unanimously.]

15 ***

16 [Pursuant to Section 708(a)(5) of the Sunshine Act,
17 the Board entered into Executive Session with Maria
18 Battista, Esquire, at 9:59 a.m. for the purpose of
19 conducting quasi-judicial deliberations on matters
20 about which the Board is about to vote. The Board
21 returned to open session at 10:59 a.m.]

22 ***

23 MOTIONS

24 MS. BATTISTA:

25 Based on discussions in Executive

1 Session, I recommend the Motion to Deny
2 the Application for Stay/Supersedeas
3 pending judicial review in the matter of
4 the Commonwealth of Pennsylvania Bureau
5 of Professional and Occupational Affairs
6 vs. Erin Groff; Docket No. 0682-64-14,
7 File No. 12-64-07005.

8 MR. TRACE:

9 So moved.

10 MR. RENTZEL:

11 Second.

12 CHAIRMAN HOSTETTER:

13 Okay. Any discussion on the motion?
14 Hearing none. All those in favor of the
15 motion, signify by saying aye. Those
16 opposed, same sign.

17 [The motion carried unanimously.]

18 ***

19 MS. BATTISTA:

20 The next two matters will be the
21 Adjudication and Orders for which the
22 Board discussed in Executive Session.

23 I recommend a motion to approve the
24 Adjudication and Order drafted by Board
25 Counsel as follows as it relates to the

1 in the matter of the Commonwealth of
2 Pennsylvania Bureau of Professional and
3 Occupational Affairs vs. R. A. Arner
4 Auctioneer LLC & Karen E. Arner-Moyer,
5 Respondents; Docket No. 1495-64-14, File
6 No. 14-64-07931.

7 I make a motion to approve the Final
8 Adjudication and Order with minor
9 revisions to the discussion section.

10 MR. RENTZEL:

11 So moved.

12 MR. TRACE:

13 Second.

14 CHAIRMAN HOSTETTER:

15 Any discussion on the motion? Hearing
16 none. All those in favor of the motion,
17 signify by saying aye. Those opposed,
18 same sign.

19 [The motion carried unanimously.]

20 ***

21 MS. BATTISTA:

22 I also make a motion to approve the
23 Adjudication and Order drafted by Board
24 Counsel for in the matter of the Bureau
25 of Professional and Occupational Affairs

1 the completion of something less than 20 credit hours.

2 The statute states Group B schools cannot exist
3 until the appropriate criteria is established and
4 regulations will ultimately be drafted.

5 Ms. Battista noted the existence of three schools
6 qualified as Group A schools. Section 3(e)(3)
7 explains that Group B schools have less than 20
8 credits along with a year apprenticeship. An
9 individual may sit for the exam after completing a
10 Group B course and an apprenticeship as a licensed
11 auctioneer for a period of not less than one year.

12 Mr. Hostetter will contact Reppert Auction
13 School, World Wide College of Auctioning, and Missouri
14 Auction School to obtain a course curriculum for
15 review by the Board at its November meeting.

16 Mr. Rader will draft a curriculum summary to be
17 completed in the spring.]

18 ***

19 Auction Company License/Application - Sole

20 Proprietorship

21 [Maria Battista, Esquire, Board Counsel, discussed the
22 draft auction company license application. She noted
23 the definition of legally recognized entity in the
24 statute as a partnership, association, corporation, a
25 limited liability company, or any other entity

1 recognized under the laws of this Commonwealth or any
2 other state. She also noted the definition of an
3 auction company, which changed in September. The
4 first couple words says a legally recognized entity
5 that sells or attempts to sell, etc., has to have a
6 license. So the issue with sole proprietorship is the
7 old law. The one section was repealed noting an
8 auctioneer does not need an auction company license if
9 they are a sole proprietor. Only sole proprietors
10 that do not have any other license and individuals
11 working for them for an auctioneer record have to have
12 an auction company license. There could be as many
13 employees as desired.

14 Ms. Battista explained that based on this new
15 definition, the only entity that is allowed to have an
16 auction company license is a legally recognized
17 entity, which does not include sole proprietorship.

18 Mr. Rentzel explained as an auctioneer that he is
19 the sole proprietor and does not have an auction
20 company license. His license is sufficient unless he
21 goes by auctioneers and has employees working for him.

22 Ms. Battista addressed LLC, out-of-state LLC,
23 general partnership, limited partnership, professional
24 associations, and sole proprietorship. A non-sole
25 proprietor, based on the strict reading of the

1 statute, is not a legally recognized entity.
2 The old law allowed an unlicensed auctioneer to have
3 the auction company license as an individual.

4 Mr. Blackburn reviewed the General Assembly's
5 intent. When the General Assembly was considering the
6 bill that later passed, a number of its committees
7 conducted an analysis of the bill. In their memos,
8 both the house and senate believed that the amendments
9 being proposed would eliminate all licensure of sole
10 proprietors, very clearly for licensed auctioneers,
11 but also for unlicensed auctioneers who would
12 otherwise operate an auction company as a sole
13 proprietor.

14 Mr. Blackburn stated a licensed auctioneer must
15 keep running their business as a sole proprietor.

16 A non-licensed auctioneer with a licensed auction
17 company as a sole proprietor must form an LLC,
18 corporation, or partnership. The LLC must be licensed
19 as an auction company, so that there is an entity that
20 is directly licensed by the Board.

21 Ms. Battista suggested sending a letter before
22 the next renewal period to inform any unlicensed
23 auctioneers wanting to become LLC of the need to
24 provide a certificate of an organization and a copy of
25 the operating agreement. The operating agreement

1 would identify the managing members, the percentage of
2 ownership, and the fictitious name if the fictitious
3 name is different than the LLC.

4 Ms. Battista will change the draft and take off
5 individual or owner. The law does not provide for an
6 individual owner.

7 Ms. Kocher noted the original language of the
8 draft, and the Board members decided to further review
9 the matter at its next meeting.]

10 ***

11 Alabama State Board of Auctioneers revised Reciprocal
12 Agreement

13 [Maria Battista, Esquire, Board Counsel, discussed a
14 revised reciprocal agreement with Alabama. She
15 reviewed the additions and requirements regarding
16 continuing education.]

17 MS. BATTISTA:

18 Pursuant to the review of the memorandum
19 sent from the Alabama State Board of
20 Auctioneers on June 26, 2017, following
21 up from a prior memorandum of January 3,
22 2017, and the Alabama Board wishing this
23 Board to consider its revised agreement
24 for reciprocity between the state of
25 Pennsylvania and the state of Alabama, I

1 recommend the Board agree and adopt that
2 this is okay as written and to allow the
3 Board Administrator, Terrie Kocher, to
4 sign it and send it back to the Alabama
5 Board.

6 MR. TRACE:

7 So moved.

8 MR. RADER:

9 Second.

10 CHAIRMAN HOSTETTER:

11 Hearing the motion. Any discussion?

12 Hearing none. All those in favor of the
13 motion, signify by saying aye. Those
14 opposed, same sign.

15 [The motion carried unanimously.]

16 ***

17 Miscellaneous

18 [Chairman Hostetter noted the next State Board of
19 Auctioneer Examiners meeting to be scheduled for
20 November 13, 2017.]

21 ***

22 Adjournment

23 CHAIRMAN HOSTETTER:

24 Hearing nothing else, I'll make the
25 motion to adjourn.

1 MR. RADER:

2 So moved.

3 CHAIRMAN HOSTETTER:

4 And we need a second.

5 MR. TRACE:

6 Second.

7 CHAIRMAN HOSTETTER:

8 We have a motion and a second. All
9 those in favor, signify by saying aye.

10 Those opposed, same sign?

11 [The motion carried unanimously.]

12 ***

13 [There being no further business, the State Board of
14 Auctioneer Examiners meeting adjourned at 12:31 p.m.]

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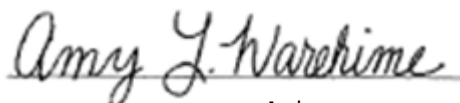
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CERTIFICATE

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 Auctioneer Examiners meeting.



Amy L. Warehime,

Minute Clerk

Sargent's Court Reporting
Service, Inc.

STATE BOARD OF AUCTIONEER EXAMINERS
REFERENCE INDEX
September 11, 2017

	TIME	AGENDA
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7	9:03	Official Call to Order
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9	9:04	Roll Call
10		
11	9:06	Approval of Minutes
12		
13	9:07	Report of Board Counsel
14		
15	9:14	Executive Session
16	9:25	Return to Open Session
17		
18	9:29	Executive Session
19	9:48	Return to Open Session
20		
21	9:54	Report of Chairman
22		
23	9:55	Report of Board Administrator
24		
25	9:59	Executive Session
26	10:59	Return to Open Session
27		
28	11:10	Motions
29		
30	12:29	Miscellaneous
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32	12:31	Adjournment
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