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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: 2:06 p.m.

BOARD ROOM B

One Penn Center

2601 North Third Street

Harrisburg, Pennsylvania 17110

Tuesday, January 9, 2018

1                                    State Board of Auctioneer Examiners  
2                                    January 9, 2018

3  
4 BOARD MEMBERS:

5  
6 Sherman E. Hostetter Jr., Chairman  
7 Ian J. Harlow, Commissioner of Professional and  
8 Occupational Affairs  
9 Gerald A. Rader, Professional Member - Absent  
10 Nevin B. Rentzel, Professional Member  
11 Daniel A. Trace, Professional Member  
12 Heather M. Troutman, Consumer Protection Agent  
13

14  
15 BUREAU PERSONNEL:

16  
17 Kenneth J. Suter, Esquire, Board Counsel  
18 Thomas A. Blackburn, Esquire, Senior Board Counsel  
19 Ray Michalowski, Esquire, Board Prosecution Liaison  
20 Terrie Kocher, Board Administrator  
21  
22 Kimberly A. Mattis, Director, Bureau of Finance and  
23 Operations,  
24 Julie Snyder, Deputy Director, Bureau of Finance and  
25 Operations  
26 Kimberly Adams, Division Chief, Bureau of Finance and  
27 Operations, Fiscal Management  
28

29  
30 ALSO PRESENT:

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32 George A. Michak, Esquire, PA Auctioneers Association  
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2 State Board of Auctioneer Examiners

3 January 9, 2018

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5 The regularly scheduled meeting of the State  
6 Board of Auctioneer Examiners was held on Tuesday,  
7 January 9, 2018. Sherman E. Hostetter Jr., Chairman,  
8 called the meeting to order at 2:06 p.m.

9 \*\*\*

10 Introduction of Audience

11 [Chairman Hostetter requested the introduction of the  
12 audience in attendance.]

13 \*\*\*

14 Approval of Minutes of the November 13, 2017 meeting

15 CHAIRMAN HOSTETTER:

16 Next, we have the approval of the  
17 minutes. I need a motion.

18 MR. TRACE:

19 So moved.

20 MR. RENTZEL:

21 Second.

22 CHAIRMAN HOSTETTER:

23 We have a motion and a second. Any  
24 other discussion, additions, deletions?

25 [Chairman Hostetter expressed the need to discuss sole

1 proprietorship and auction houses.]

2                   Hearing no additional discussion. All  
3                   those in favor of the motion, signify by  
4                   saying aye. Those opposed, same sign.

5 [The motion carried unanimously.]

6   \*\*\*

7 Appointment

8 Fiscal Year 2017-2018 Budget Review

9 [Kimberly A. Mattis, Director, Finance and Operations,  
10 introduced Julie Snyder, Deputy Director, Finance and  
11 Operations, and Kimberly Adams, Division Chief, Fiscal  
12 Management.

13           Ms. Mattis discussed the Board's licensee  
14 population that sets the framework for revenues and  
15 expenditures. Ms. Mattis stated the current licensee  
16 population was 2,513. She noted a slight decrease  
17 from the last three fiscal years due to auction houses  
18 no longer being a license class.

19           Ms. Mattis reviewed the different categories of  
20 revenue over a biennial period. She stated during the  
21 last renewal cycle, just under \$602,000 was brought  
22 in, and of that \$602,000, 96 percent came from  
23 renewals and applications.

24           Ms. Mattis mentioned that the last renewal fee  
25 increase of 30 percent was approved by the Board in

1 2012 and went into effect in 2015.

2 Mr. Harlow noted a licensee list setup charge  
3 that is \$71 and 0.005 cents a record.

4 Ms. Mattis discussed Board expenses as a direct  
5 expense, timesheet-based expense, and base charges.  
6 She reviewed different types of cost that are split  
7 between administration and legal. She reviewed  
8 expenses for fiscal years 2015-2016 and 2016-2017.  
9 She noted the budget for fiscal year 2017-2018 at  
10 \$433,000 and expenses as of December 26 of  
11 \$177,744.98.

12 Ms. Mattis stated that legal and enforcement  
13 investigation costs have been increasing over the  
14 years but added that the expenses were warranted. She  
15 also projected a negative remaining balance due to  
16 higher than normal expenses. Ms. Mattis suggest a  
17 plan be developed to correct the negative balance.  
18 She suggested an approval for a fee change that would  
19 go into effect with the 2021 renewals be made within  
20 the next few months.

21 Ms. Mattis explained the Professional Compliance  
22 Office receives all of the complaints, reviews all  
23 information received, and then provides the same to  
24 legal and the Bureau of Enforcement and Investigation  
25 (BEI).

1 Mr. Suter noted a number of appeals. Due to the  
2 Act 88 amendments, the Board will need to draft new  
3 regulations. Mr. Suter stated that costs money, and  
4 the costs for legal fees would not decrease and would  
5 probably remain consistent. Commissioner Harlow  
6 further explained the time and materials expense to  
7 the Board. Mr. Suter noted an increase in the number  
8 of complaints for all Boards.

9 Ms. Mattis explained an increase in PCO charges  
10 would cause a ripple effect with increased BEI  
11 expenses, legal expenses, and hearing expenses.

12 Chairman Hostetter requested a listed that the  
13 Board used to receive on a regular basis that  
14 reflected the investigations by complaint, by  
15 category, the number resolved, as well as the active  
16 cases.

17 Mr. Michalowski reviewed the enforcement costs  
18 for the Board, noting that it is not a huge licensing  
19 population, but the Board may have a fair amount of  
20 travel time with the complaints. He explained that  
21 many of the legal cases for the Board could be handled  
22 through the citation system by paralegals, rather than  
23 attorneys, at a lower cost.

24 Mr. Michalowski also suggested, as the Board  
25 transitions into the new Act and begins drafting new

1 regulations, the Board should consider updating and  
2 adding to the more cost-effective citation list.

3 Ms. Mattis mentioned that the last renewal fee  
4 increase of 30 percent from \$100 to \$130 was approved  
5 by the Board in 2012 and went into effect in 2015 for  
6 training assistants and apprentice auctioneers.

7 Auction houses, auctioneers, and auction companies  
8 were \$200 and increased to \$260.

9 Ms. Mattis noted an upcoming meeting with the  
10 Commissioner's office, legal office, and executive  
11 team to discuss future increases. Ms. Mattis will  
12 later present options to the Board for their  
13 conclusion.

14 Commissioner Harlow suggested the Board consider  
15 a fee increase to reverse the negative numbers. He  
16 also mentioned finding more efficiency with the  
17 Pennsylvania Licensing System (PALS), including  
18 transitioning to electronic-based correspondence.

19 Ms. Mattis reviewed Board member expenses for  
20 fiscal years 2015-2016 and 2016-2017. She noted the  
21 budget for fiscal year 2017-2018 was \$8,000, and  
22 expenses as of December 26, 2017, were just under  
23 \$3,000.

24 Ms. Mattis suggested implementing a plan before  
25 this time next year to structure the renewals for

1 2021.]

2

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3 Report of Board Prosecution

4 [Ray Michalowski, Esquire, Board Prosecution Liaison,  
5 discussed advertising and trading assistant  
6 complaints. Mr. Michalowski stated several licensees  
7 dropped that license after their first initial  
8 licensure. Mr. Michalowski discussed encouraging  
9 these individuals to obtain the Board's authority,  
10 which would add revenue to the Board. Licenses could  
11 be revoked and/or civil penalties imposed for  
12 prosecuted violations.

13 Mr. Michalowski stated with the regulations under  
14 the new Act to narrow down and define violations, both  
15 for the licensee population of the Board and  
16 representatives of the Board, appealable issues could  
17 be avoided in the future. He added the older version  
18 of the Act was too vague at times and open to  
19 interpretation.

20 Mr. Blackburn discussed the Drew J. Bauer matter,  
21 noting that the Bureau was successful with the State  
22 Court litigation, but there was a matter in Federal  
23 Court in the Western District of Pennsylvania.

24 Mr. Michalowski stated Wesley Rish, Esquire,  
25 handled the State Court action and was the contact



1 person for the Bauer matter. Mr. Michalowski informed  
2 the Board that Mr. Bauer has no license, and if there  
3 was any cost to be recovered, it would be the Attorney  
4 General's cost.]

5 \*\*\*

6 Report of Board Counsel

7 [Kenneth J. Suter, Esquire, Board Counsel, noted  
8 matters for discussion in Executive Session.]

9 \*\*\*

10 [Pursuant to Section 708(a)(5) of the Sunshine Act,  
11 the Board entered into executive session with Kenneth  
12 J. Suter, Esquire, and Thomas A. Blackburn, Esquire,  
13 at 2:40 p.m. for the purpose of conducting  
14 quasi-judicial deliberations on matters that are  
15 currently pending before the Board. The Board  
16 returned to open session at 2:58 p.m.]

17 \*\*\*

18 MOTIONS

19 MR. BLACKBURN:

20 While in Executive Session, the Board  
21 conducted quasi-judicial deliberations  
22 in the matter of Commonwealth of  
23 Pennsylvania Bureau of Professional and  
24 Occupational Affairs vs. Erin Groff at  
25 File No. 12-64-07005, Docket No. 0682-

1                   64-14.

2                   Based upon the discussions in  
3                   Executive Session, I recommend the  
4                   motion to approve the Adjudication and  
5                   Order drafted by Counsel to settle the  
6                   matter currently on appeal in  
7                   Commonwealth Court.

8 CHAIRMAN HOSTETTER:

9                   We need a motion.

10 MR. TRACE:

11                   I so move.

12 CHAIRMAN HOSTETTER:

13                   Second?

14 MS. TROUTMAN:

15                   Second.

16 CHAIRMAN HOSTETTER:

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

20 [The motion carried unanimously.]

21   \*\*\*

22 [Ian J. Harlow, Commissioner of Professional and  
23 Occupational Affairs, exited the meeting at 2:59 p.m.]

24   \*\*\*

25 Public Session

1 [George A. Michak, Esquire, PA Auctioneers  
2 Association, updated the Board on litigation regarding  
3 Ambrose Bauer. Mr. Michak informed that Mr. Bauer was  
4 no longer pursuing the Sherman Antitrust Act but has  
5 filed a second amended complaint. In the second  
6 amended complaint, he is challenging the licensing  
7 requirement for trading assistants and trading  
8 assistant companies, particularly the language and  
9 amendments to the Licensing Act.

10 Mr. Bauer is challenging the Act on the basis of  
11 the Equal Protection Clause and the Dormant Commerce  
12 Clause under the United States Constitution. Mr.  
13 Bauer hired Mike Brandly, an expert witness, who is  
14 apparently opining as to the constitutionality of the  
15 law.

16 Mr. Bauer claims now he is operating out of West  
17 Virginia and soon to be operating out of Ohio as well,  
18 even though he is physically present in the  
19 Commonwealth of Pennsylvania, which are some of the  
20 changes found in the second amended complaint.

21 Mr. Blackburn stated this is now a challenge to  
22 the legislation and registration requirement. He  
23 noted that there is no licensing or registration  
24 required for online auctions in either the state of  
25 Ohio or in the state of West Virginia, which is part

1 of his claim. If he can work there without being  
2 licensed, he should be able to work here.

3 Mr. Michak explained the registration fees for  
4 trading assistants under the original 2008 amendments  
5 to Act 88 was fixed at \$100 for trading assistants,  
6 and the Board could not adjust that fee.

7 Mr. Michak also noted that under the 2016  
8 amendments to Act 88 Section 5.1(c), there still is an  
9 initial \$100 registration fee, but the Board can  
10 change that fee by regulation. Mr. Michak stated  
11 trading assistants are treated the same as auctioneers  
12 and auction companies.]

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14 Report of Board Counsel

15 [Thomas A. Blackburn, Esquire, Senior Board Counsel,  
16 discussed education for the Group B Auction School  
17 programs.

18 Mr. Blackburn noted his draft for regulations  
19 implements the new law and includes Group B schools.  
20 Mr. Trace discussed two schools, World Wide and  
21 Reppert, for comparison.

22 Chairman Hostetter referred to the Daily School  
23 Curriculum for Reppert School of Auctioneering within  
24 the Ohio Mandatory Auction School Curriculum.

25 Mr. Blackburn explained the main objective is to

1 set minimum standards for a school whose graduates  
2 will be eligible to take the exam with a one-year  
3 apprenticeship. The regulation addresses graduates of  
4 other schools with at least 20 credit hours who are  
5 not required to complete an apprenticeship.

6 Mr. Rentzel agreed to set standards for those who  
7 meet those requirements to be considered Group B. Mr.  
8 Rentzel explained that under the Pennsylvania Code for  
9 the approved Group A, there are five principles to be  
10 taught. There are 20 credit hours, and each credit  
11 hour is 15 hours of instruction that amounts to 250  
12 hours of instruction, but an apprenticeship is not  
13 included.

14 With the apprenticeship, individuals must meet  
15 the requirement of 30 auctions in a year and have more  
16 than 250 hours of actual work. Mr. Rentzel reiterated  
17 the Pennsylvania Code. He also suggested adopting a  
18 curriculum with a minimum of 80 hours of classroom  
19 time and more categories.

20 Mr. Suter suggested an emphasis be placed on the  
21 certain aspects of training, as well as an equal  
22 amount of time in each category.

23 Mr. Rentzel stated the approved course of study  
24 should also reflect the same categories instead of  
25 just audience communications.

1 Mr. Suter suggested updating additional  
2 provisions and reviewing the regulations for changes  
3 more globally than just the Act 88 amendments.

4 Mr. Rentzel suggested clearly defining the  
5 differences between Group A and Group B schools. He  
6 noted that a Group A school is 20 credits. It is 250  
7 hours of classroom time and the instructor will cover  
8 the principles that a Group B school must cover. 80  
9 hours of classroom time is accepted as a minimum,  
10 along with a one-year apprenticeship. The experience  
11 of being in the field will compensate for the  
12 difference in classroom time. The same test would be  
13 offered. Mr. Rentzel commented a simple way to handle  
14 the license law as individuals willing to undergo 250  
15 hours and sit for a test should go to a Group A  
16 school. Individuals wanting to serve a one-year  
17 apprenticeship should go to a Group B school.

18 Mr. Blackburn stated one way to get licensed is  
19 to complete a 20 credit-hour program and pass the  
20 exam. Another way to get licensed is to not go to  
21 school but complete a two-year apprenticeship and pass  
22 the exam. The amended added a third way, which is a  
23 combination to complete a program that is less than 20  
24 hours and a one-year apprenticeship. Mr. Blackburn  
25 suggested that these Group B schools have at least a

1 10 credit-hour program.

2 Mr. Michak commented on the number of licensing  
3 states that rely on a Group B school as their only  
4 educational requirement and that creates an entry,  
5 either with or without an apprenticeship, depending on  
6 the state.

7 Mr. Michak suggested examining other licensing  
8 states for descriptions of their educational  
9 requirements, which might capture the Group B school.  
10 The Group A school could then be defined by expanding  
11 the time for class hours. Mr. Trace added the  
12 downfall in the states that require less class time is  
13 that they require continuing education.

14 Mr. Suter explained the process for implementing  
15 the new regulations.

16 Chairman Hostetter further discussed the  
17 categories and hours for Group A and Group B schools.  
18 Section 1 through 14 would require at least 2 hours  
19 per section with a total of 65 hours, and then the  
20 remaining sections would require 15 hours with no less  
21 than an hour per section for a total of 15 hours or  
22 more.

23 Chairman Hostetter stated using that with what  
24 Mr. Blackburn had already drafted would provide a good  
25 outline of the requirements to be expanded for the

1 Group A school. Chairman Hostetter agreed with the  
2 one year and 80 hours.

3 Mr. Blackburn referred to the existing Annex A  
4 subsection 1.11(c) regarding Group A schools. There  
5 are at least 4 hours of instruction and then adding  
6 the full list from Reppert of 14 rather than just the  
7 6. For Group B, he suggested not using the terms 10  
8 credit hours, instead stating the instruction shall  
9 consist of at least 2 hours of instruction in each of  
10 the same topics.

11 Chairman Hostetter compared A and B under each  
12 section. A were the Ohio requirement, and B were as  
13 taught by Reppert.

14 Mr. Blackburn explained the process for creating  
15 a regulatory draft.

16 Mr. Blackburn reviewed existing Section 1.24  
17 subsections (a) through (c) that outline the process  
18 for an apprentice to obtain licensure. Subsection  
19 1.24(d) clarifies that applicants completing the Group  
20 B school need to demonstrate one year of  
21 apprenticeship with 15 auctions, not the full 2 years  
22 and 30 auctions.

23 Mr. Blackburn discussed auction companies,  
24 referring to Section 1.26 amended to get rid of all  
25 the references to auction houses that will no longer



1 be licensed.

2 Mr. Blackburn addressed sole proprietorship  
3 auction companies, referring to Section 3(e.1)  
4 regarding requirements for a legally recognized entity  
5 to obtain an auction company license. Mr. Blackburn  
6 noted that Section 2 defines a legally recognized  
7 entity as a partnership, association, corporation,  
8 limited liability company, or other entity recognized  
9 under the laws of the Commonwealth or any other state.

10 Mr. Blackburn informed the Board that based upon  
11 his discussions with Counsel for the State Corporation  
12 Bureau, a sole proprietorship would not be a legally  
13 recognized entity. Mr. Blackburn stated a licensed  
14 auctioneer who operates a sole proprietorship would  
15 not be required to have an auction company license.  
16 But at the same time, a non-auctioneer cannot obtain a  
17 license as a sole proprietor auction company.

18 Mr. Blackburn further discussed auctioneer and  
19 non-auctioneers and the requirements for an auction  
20 company license.

21 Mr. Blackburn suggested including the language  
22 that as of September 18, 2016, when Act 88 became  
23 effective, that will not require the issuing of new  
24 auction company licenses to the sole proprietor but  
25 will renew existing licenses.

1 Ms. Kocher questioned whether that section was  
2 specific to unlicensed individuals. Mr. Blackburn  
3 stated that an auctioneer does not need an auction  
4 company license to operate as a sole proprietorship.  
5 Mr. Blackburn discussed adding the definition of a  
6 legally recognized entity in the statute.

7 Mr. Blackburn discussed obtaining an auction  
8 company license as a sole proprietor. Mr. Blackburn  
9 stated that an individual would have to have a  
10 partnership or LLC or corporation to get an auction  
11 company license. Chairman Hostetter added that they  
12 would have an auctioneer-of-record do any bid calling  
13 if it was required.

14 Mr. Michalowski noted grandfathering in existing  
15 nonlicensee sole proprietorships, which will fade away  
16 over time. Mr. Blackburn explained that no new  
17 licenses will be granted to an individual who has  
18 formed a sole proprietorship as an auction company.

19 Mr. Suter referred to the draft for review and  
20 discussion next month.

21 Chairman Hostetter made suggestions with regard  
22 to existing company licenses. Mr. Blackburn stated  
23 the draft will be amended for Board's review at its  
24 next meeting. The draft will also be circulated to  
25 others in the department in advance of that meeting to

1 obtain clearance before moving forward.]

2 \*\*\*

3 Report of Commissioner - No Report

4 \*\*\*

5 Report of Board Administrator

6 [Terri Kocher, Board Administrator, noted the 2018  
7 meeting dates.]

8 \*\*\*

9 For the Board's Information - No Report

10 \*\*\*

11 Report of Board Chair

12 [Chairman Hostetter noted the Bid-Calling Contest at  
13 the recent Farm Show, the current Pennsylvania  
14 Auctioneers Association Convention at the Sheraton,  
15 and the Fun Auction.]

16 \*\*\*

17 Old/New Business

18 [Chairman Hostetter requested the status of  
19 appointments.]

20 \*\*\*

21 Adjournment

22 CHAIRMAN HOSTETTER:

23 At this point, we would entertain a  
24 motion to adjourn.

25 MR. TRACE:

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So moved.

CHAIRMAN HOSTETTER:

Second. All those in favor, signify by saying aye. Those opposed, same sign.

[The motion carried unanimously.]

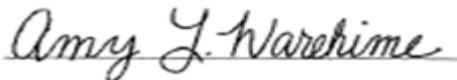
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[There being no further business, the State Board of Auctioneer Examiners Meeting adjourned at 3:49 p.m.]

\*\*\*

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.



Amy L. Warehime,

Minute Clerk

Sargent's Court Reporting  
Service, Inc.

STATE BOARD OF AUCTIONEER EXAMINERS  
REFERENCE INDEX  
January 9, 2018

	TIME	AGENDA
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6		
7	2:06	Official Call to Order
8		
9	2:06	Introduction of Audience
10		
11	2:06	Approval of Minutes
12		
13	2:07	Appointment - Fiscal Year 2017-2018
14	2:30	Budget Review
15		
16	2:31	Report of Prosecutorial Division
17		
18	2:38	Report of Board Counsel
19		
20	2:40	Executive Session
21	2:58	Return to Open Session
22		
23	2:59	Motions
24		
25	2:59	Public Session
26		
27	3:47	Report of Board Administrator
28		
29	3:47	Report of Board Chair
30		
31	3:49	Old/New Business
32		
33	3:49	Adjournment
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