

AUCTIONEERS BOARD MEETING MINUTES

The Virginia Auctioneers Board met on January 21, 2015, at the Department of Professional and Occupational Regulation, 9960 Mayland Drive, Richmond, Virginia, with the following members present:

William M. Farmer
Larry Linkous
Michael S. Phillips (arrived at 10:10 am)
Linda Terry

Board member Travis Lee was not present at the meeting.

Board staff present for all or part of the meeting were:

Kathleen R. Nosbisch, Executive Director
Marian Brooks, Board Administrator
Amy Goobic, Administrative Assistant

Agency staff present for all or part of the meeting were:

Jay W. DeBoer Director
Nick Christner, Deputy Director, Regulatory Programs and Compliance
Mark N. Courtney, Senior Director, Regulatory and Public Affairs
Bonnie Rhea-Adams, Director, Complaint Analysis Resolution
Michelle Couch, Legal Analyst

Elizabeth Peay, Assistant Attorney General was present from the Office of the Attorney General.

Ms. Brooks, called the meeting to order at 10:02 a.m. and explained that the Board would need to elect officers during the meeting and asked Board member Larry Linkous to serve as Chair until such time.

Call to Order

Ms. Brooks advised the Board of the emergency evacuation procedures.

Emergency Evacuation Procedures

Mr. Linkous welcomed and introduced new Board members Linda Terry and William Farmer. Staff members and Board members introduced themselves.

Welcome & Introduction of New Board Members

Ms. Brooks recognized agency staff members in the audience and asked them to introduce themselves: Nick Christner, Deputy Director, Regulatory Programs and Compliance; Bonnie Rhea-Adams, Director, Complaint Analysis Resolution; and Michelle Couch, Legal Analyst.

Mr. Linkous recognized and welcomed audience members Bill Bryant and

George Daniel, former Board members in attendance for presentation of resolutions from the Board.

Mr. Farmer nominated Mr. Linkous as Chair. Ms. Terry seconded the motion which was unanimously approved by members: Farmer, Linkous, and Terry.

Election of Officers

Ms. Terry nominated Mr. Farmer as Vice-Chair. Mr. Linkous seconded the motion which was unanimously approved by members: Farmer, Linkous, and Terry.

Mr. Farmer moved to approve the agenda. Ms. Terry seconded the motion which was unanimously approved by members: Farmer, Linkous, and Terry.

Approval of Agenda

Mr. Farmer moved to approve the July 23, 2014 Board meeting minutes. Ms. Terry seconded the motion which was unanimously approved by members: Farmer, Linkous, and Terry.

Approval of Minutes

Public Comment Period – There were no public comments.

Public Comment Period

Mr. Phillips joined the meeting at 10:10 a.m.

Arrival of Mr. Phillips

Regarding **File Number 2014-02704, Whitman L. Sink**, Board members reviewed the Consent Order as seen and agreed to by Mr. Sink. Mr. Farmer moved to accept the Consent Order which cites the following violations of the Board's regulations: 18VAC25-21-110.A.1.a (Count 1); 18VAC25-21-110.A.4 (Count 2); 18VAC25-21-110.A.8 (Count 3); 18VAC25-21-150.F (Count 4); 18VAC25-21-150.D (Count 5); and 18VAC25-21-180.4 (Count 6). For these violations, Mr. Sink agrees to the following sanctions: \$250 for the violation contained in Count 1; \$250 for the violation contained in Count 2; \$100 for the violation contained in Count 3; \$250 for the violation contained in Count 4; \$250 for the violation contained in Count 5; \$500 for the violation contained in Count 6, and \$150.00 in Board costs, for a total monetary penalty of \$1,750. Ms. Terry seconded the motion which was unanimously approved by members: Farmer, Linkous, Phillips and Terry. Former Board member William C. Bryant was the presiding officer.

File Number 2014-02704, Whitman L. Sink

Mr. Linkous welcomed and introduced new Board member Michael Phillips.

Introduction of Mr. Phillips

Regarding **File Number 2015-00320, Richard K. Schley t/a KD Auctions**, Board members reviewed the Consent Order as seen and agreed to by Mr. Schley. Ms. Terry moved to accept the Consent Order which cites the following violation of the Board's regulations: 18VAC25-21-100.B (Count 1). For this violation, Mr. Schley agrees to the following

File Number 2015-00320, Richard K Schley t/a KD Auctions

sanctions: \$2,500 for the violation contained in Count 1, and \$150 in Board costs, for a total monetary penalty of \$2,650. In addition, for violation of Count 1, Schley agrees to revocation of his license. The Board shall waive \$2,300 of the monetary penalty and license revocation for Count 1 provided Schley reports his current business and/or trade name to the Board, in writing, within thirty (30) days of the effective date of this Order. Ms. Brooks informed the Board that Mr. Schley had provided the required information; therefore the monetary penalty would be reduced to \$200; and \$150 in Board costs for a total monetary penalty of \$350 and no revocation of his license. Mr. Phillips seconded the motion which was unanimously approved by members: Linkous, Phillips and Terry. As the presiding board member, Mr. Farmer and was not present for the discussion or vote.

Mr. Linkous thanked former Board members Bill Bryant and George Daniel for their service and read the following resolutions to Mr. Bryant and Mr. Daniel:

**Presentation of
Resolutions to William
C. Bryant III and
George A. Daniel**

William C. Bryant III

WHEREAS, William C. Bryant, did faithfully and diligently serve as a member of the Auctioneers Board from 2008 to 2014;

WHEREAS, William C. Bryant, did devote generously of his time, talent and leadership to the Board;

WHEREAS, William C. Bryant, did endeavor at all times to render decisions with fairness and good judgment in the best interest of the citizens of the Commonwealth and the profession; and

WHEREAS, the Auctioneers Board wishes to acknowledge its gratitude for devoted service of a person who is held in high esteem by the members of the Board and the citizens of the Commonwealth;

NOW THEREFORE BE IT RESOLVED, by the Auctioneers Board this twenty-first day of January 2015, that William C. Bryant, be given all honors and respect due him for his outstanding service to the Commonwealth and its citizens; and

BE IT FURTHER RESOLVED, that this Resolution be presented to him and be made a part of the official minutes of the Board so that all may know of the high regard in which he is held by this Board.

George A. Daniel

WHEREAS, George A. Daniel, did faithfully and diligently serve as a member of the Auctioneers Board from 2008 to 2014;

WHEREAS, George A. Daniel, did devote generously of his time, talent and leadership to the Board;

WHEREAS, George A. Daniel, did endeavor at all times to render decisions with fairness and good judgment in the best interest of the citizens of the Commonwealth and the profession; and

WHEREAS, the Auctioneers Board wishes to acknowledge its gratitude for devoted service of a person who is held in high esteem by the members of the Board and the citizens of the Commonwealth;

NOW THEREFORE BE IT RESOLVED, by the Auctioneers Board this twenty-first day of January 2015, that George A. Daniel, be given all honors and respect due him for his outstanding service to the Commonwealth and its citizens; and

BE IT FURTHER RESOLVED, that this Resolution be presented to him and be made a part of the official minutes of the Board so that all may know of the high regard in which he is held by this Board.

The resolutions were accepted by consensus and presented to Mr. Bryant and Mr. Daniel.

Ms. Brooks informed the Board that the regulatory package was currently in the Governor's office for review and approval. The Final Stage was posted on Town Hall July 17; the AG review was completed July 21; the Department of Planning and Budget review was completed August 4; and the Secretary of the Commerce and Trade's review was completed August 27.

Regulatory Update

Board members were provided a comprehensive report of enforcement activity for informational purposes. Ms. Rhea-Adams provided a brief explanation on the complaint process. Discussion was held on the role Board members play in the complaint and investigations process, reviewing cases, acting as subject Matter Experts, and the resources they may used when asked to review a disciplinary case. Ms. Brooks informed the Board members, that since the Auctioneers board only has five members, the agency often uses former Board members to review cases, which lessens potential conflicts.

**Review of Compliance
and Investigations
Division Activity**

Board members were provided financial statements for informational purposes. Ms. Nobsch provided a brief explanation the financial statements and the Callahan Act, which determines the funding levels of the Board and the need to increase or decrease licensing fees.

**Review of Board
Financial Statements**

Discussion was held on the decline in the number of regulants, which may be attributed to the increase in internet auctions. Further discussion was held on regulating internet auctions. Ms. Nobsch explained that the

Board's regulations are silent on internet auctions, as they would be very difficult to regulate. Ms. Nosbisch explained that if a complaint is made pertaining to an internet auction, it would have to rise to a violation of the Board's regulations. The Complaint Analysis and Resolution (CAR) Section would determine if any regulations were violated and which Board it would fall under. Ms. Peay stated that any complaint and determination would be considered on a case by case basis.

Board members and staff discussed online real estate auctions and whether a license was required. Mr. DeBoer stated that if a prohibition cannot be found, it is deemed to be permitted.

Ms. Brooks reported that Ergometrics is the new exam vendor beginning January 1. Ms. Brooks also asked board members to review the roster making sure their contact information was correct.

Other Business

Conflict of Interest forms were completed by all members present.

**Conflict of Interest
Forms**

The meeting was adjourned at 11:03 a.m.

Adjourn

Larry Linkous, Chair

Jay W. DeBoer, Secretary