

AUCTIONEERS BOARD MEETING

TENTATIVE Agenda

January 11, 2022, 10:00 a.m.

Department of Professional & Occupational Regulation

804-367-8514

1. Call to Order
2. Emergency Evacuation
3. Approval of Agenda
4. Approval of Minutes: September 21, 2021 Board Meeting
5. Public Comment Period*
6. Review of Files**
 - File Number 2021-00897, Phoebus Antiques and Auctions Gallery Inc CO (Terry) – Disciplinary
7. Revised Regulations
8. Licensed Population
9. Review of Financial Statements
10. Financial Disclosure Statements
11. Other Business
12. Conflict of Interest Forms / Travel Vouchers
13. Adjourn

NEXT MEETING TENTATIVELY SCHEDULED FOR April 12, 2022

* Five minute public comment, per person, with the exception of any open disciplinary or application files.

** Agenda materials made available to the public do not include disciplinary case files or application files pursuant to §54.1-108 of the Code of Virginia.

Persons desiring to participate in the meeting and requiring special accommodations or interpretative services should contact the Department at (804) 367-8510 at least ten days prior to the meeting so that suitable arrangements can be made for an appropriate accommodation. The Department fully complies with the Americans with Disabilities Act.

➤ **Call to Order**

➤ **Emergency Evacuation**

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AUCTIONEERS BOARD MEETING MINUTES

The Virginia Auctioneers Board met on September 21, 2021, at 10:00 a.m. at the Department of Professional and Occupational Regulation, 9960 Mayland Drive, Richmond, Virginia 23233.

The following members were present for all or part of the meeting:

Betty Bennett (Auctioneer)
Douglas Sinclair (Auctioneer)
Andrew Smith (Citizen Member)
Linda Terry (Auctioneer)

Angela Smith-Mackey was not present at the meeting.

Staff present for all or part of the meeting were:

Mary Broz-Vaughan, Director
Kate Nosbisch, Executive Director
Bonnie Davis, Administrative Assistant
Free Williams, Assistant Director, Adjudication
Lauren Decker, Adjudication Specialist
Ian Rose, Adjudication Specialist

Elizabeth Peay, Assistant Attorney General was not present from the Office of the Attorney General with regrets.

Mr. Sinclair, Chair, called the meeting to order at 10:00 a.m.

Call to Order – Roll Call

Mr. Sinclair advised the Board of the emergency evacuation, and Ms. Nosbisch advised the Board of the COVID-19 safety procedures.

Emergency Evacuation and COVID-19 Safety Procedures

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

Approval of Agenda

Ms. Terry moved to approve the March 30, 2021 Board meeting minutes. Ms. Bennett seconded the motion which was unanimously approved by members: Bennett, Sinclair, Smith, and Terry.

Approval of Minutes

There were no members of the public present to comment on matters other than the case files to be presented.

Public Comment Period

Ms. Terry recused her self from the meeting for discussion and deliberation of the file.

Recusal of Board Member

Ms. Nosbisch introduced Mr. Jerry Bruce, complainant from South Carolina, whom provided background information involving the case.

File Number 2020-01739, Pete J. Elliott

Regarding **File Number 2020-01739, Pete J. Elliott**, the Board members reviewed the record of the Informal Fact-Finding Conference, which consisted of the transcripts and exhibits, and the Summary of the Informal Fact-Finding Conference as well as the Presiding Officer's recommendation. Mr. Smith moved to accept the recommendation which cites the following violations of the Board's regulations: 18VAC25-21-180.5 (Count 1), 18VAC25-21-110.A.4 (Count 2), and 18VAC25-21-100.A (Count 3). Ms. Bennett seconded the motion which was unanimously approved by members: Bennett, Sinclair, and Smith.

Ms. Nosbisch indicated there were no prior disciplinary actions against Mr. Elliott.

Mr. Smith moved to accept the Summary of the Informal Fact-Finding Conference as to the sanctions and impose the following: \$50.00 for the violation contained in Count 1; \$100.00 for the violation contained in Count 2; and no sanction for the violation contained in Count 3, for a total monetary penalty of \$150.00. Ms. Bennett seconded the motion which was approved by members: Bennett, Sinclair, and Smith.

Ms. Terry returned to the meeting.

Ms. Nosbisch opened the floor for nominations for Board Chair. Ms. Bennett nominated Mr. Smith as Chair. Mr. Sinclair seconded the motion. Mr. Smith accepted the nomination. Ms. Nosbisch asked if there were any additional nominations for Board Chair. There being none, Ms. Nosbisch closed the floor for nominations. The motion was unanimously approved by: Bennett, Sinclair, Smith, and Terry. By acclamation, Mr. Smith was name Board Chair.

Ms. Nosbisch opened the floor for nominations for Board Vice Chair. Mr. Smith moved to nominate Ms. Bennett as Vice Chair. Mr. Sinclair seconded the motion. Ms. Bennett accepted the nomination. Ms. Nosbisch asked if there were any additional nominations for Board Vice Chair. There being none, Ms. Nosbisch closed the floor for nominations. The motion was unanimously approved by members: Bennett, Sinclair, Smith, and Terry. By acclamation, Ms. Bennett was named Board Vice Chair.

Ms. Nosbisch presented the 2022 meetings dates. Mr. Smith moved to adopt the following meeting dates for 2022:

January 11, 2022
April 12, 2022
July 12, 2022

Return of Board Member

Election of Chair and Vice Chair

Draft 2022 Meeting Dates

October 4, 2022

Ms. Bennett seconded the motion which was unanimously approved by members: Bennett, Sinclair, Smith, and Terry.

Mr. Sinclair provided the licensee counts as of September 1, 2021: Auctioneers 1,031 and Firms 235.

Licensed Population

Board members were provided financial statements for informational purposes.

**Review of Board
Financial Statements**

Ms. Broz-Vaughan stated that due to marijuana conviction changes in legislation, the language in the regulations needs to be adjusted to exclude misdemeanor marijuana drug convictions and this can be accomplished by an exempt regulatory action if filed within 90 days of enactment.. Mr. Stone moved that an exempt action be filed to make the necessary changes. The Board agreed by consensus.

Other Business

Conflict of Interest forms were completed by all members present.

**Conflict of Interest
Forms**

Board members participated in mandatory Conflict of Interest Act training.

**Conflict of Interests Act
Training**

There being no further business, the meeting adjourned at 11:02 a.m.

Adjourn

Douglas Sinclair, Chair

Mary Broz-Vaughan, Secretary

➤ **Public Comment**

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Project 4918 - Exempt Final**Auctioneers Board****Incorporate Changes from Marijuana Legalization****18VAC25-21-20. Licensure.**

All persons or firms as defined in § 54.1-600 of the Code of Virginia who conduct auctions or offer their services to sell at auction in the Commonwealth are required to file a licensure application and pay the specified fee to the board. Applicants for individual licensure shall meet the following requirements:

1. Be at least 18 years of age.
2. Shall not have been previously found by any regulatory board or agency to have violated any applicable regulations or laws in the course of performing auctioneer duties or been convicted or found guilty, regardless of the manner of adjudication, in any jurisdiction of the United States of a non-marijuana misdemeanor involving moral turpitude or any felony, there being no appeal pending therefrom or the time for appeal having elapsed. Any plea of nolo contendere shall be considered a conviction for purposes of this subdivision. A certified copy of a final order, decree or case decision by a court or regulatory agency with the lawful authority to issue such order shall be admissible as prima facie evidence of such conviction or discipline. Applicants for licensure who do not meet requirements set forth in this section may be approved for licensure following consideration by the board in accordance with § 54.1-204 of the Code of Virginia.
3. Successfully complete a course of study at a school of auctioneering that has obtained course approval from the board, or an equivalent course, and has passed the Virginia Licensed Auctioneer's Examination administered by the Auctioneers Board or its designee.

18VAC25-21-40. License by reciprocity.

The board may issue a license to any individual applicant holding a license in any state, territory, or possession of the United States, with whom the board has established an act of reciprocity provided the requirements and standards under which the license was issued are substantially equivalent to those established by the board. At the time of application for licensure, the applicant must be currently licensed in the state in which reciprocity is established with the Commonwealth of Virginia. The board may deny an application if the licensed auctioneer has been found guilty (i) by any regulatory board or agency to have violated any applicable regulations or laws in the course of performing auctioneering duties or (ii) by a court of any non-marijuana misdemeanor, other criminal offense, or material misrepresentation in the course of performing auctioneer duties. A certified copy of a final order, decree or case decision by a court or regulatory agency with the lawful authority to issue such order shall be admissible as prima facie evidence of such conviction or discipline.

Nonresident applicants shall also file with the board an irrevocable consent that service of process upon the director is valid and binding as the service of process upon the applicant.

18VAC25-21-50. Application.

A. All applicants seeking licensure shall submit a fully executed application with the appropriate fee or fees attached. Applicants will be notified if their application is incomplete.

Applications for licensure by examination must comply with the requirements of the board's designee as to the deadline for submission of the application to the board's designee.

B. 1. If a corporation, limited liability company, or other entity, the application shall include copies of the certificate of incorporation or certificate of organization issued by the Virginia State Corporation Commission, articles and bylaws.

2. If a foreign corporation, foreign limited liability company, or other entity, the application shall include copies of the certificate of authority to conduct business issued by the Virginia State Corporation Commission, which shall be required in lieu of the certificates as required by subdivision 1 of this subsection.

3. Any firm applicant shall not have been previously found by any regulatory board or agency to have violated any applicable regulations or laws in the course of performing auctioneer duties or been convicted or found guilty, regardless of the manner of adjudication, in any jurisdiction of the United States of a non-marijuana misdemeanor involving moral turpitude or any felony, there being no appeal pending therefrom or the time for appeal having elapsed. Any plea of nolo contendere shall be considered a conviction for purposes of this subdivision. A certified copy of a final order, decree or case decision by a court or regulatory agency with the lawful authority to issue such order shall be admissible as prima facie evidence of such conviction or discipline. Applicants for licensure

who do not meet requirements set forth in this section may be approved for licensure following consideration by the board in accordance with § 54.1-204 of the Code of Virginia.

C. All applications will be reviewed by the Auctioneers Board staff, or the board's designee, to determine eligibility for examination and licensure within 30 days of receipt at the offices of the Department of Professional and Occupational Regulation or the board's designee. However, failure to review an application within 30 days of receipt shall not imply or result in the automatic approval of the application. No applicant will be approved for licensure unless all requirements of this part of this chapter are met.

18VAC25-21-180. Discipline.

The board has the power to fine any individual or firm licensee, or to suspend or revoke any license issued under the provisions of Chapter 6 (§ 54.1-600 et seq.) of Title 54.1 of the Code of Virginia and the regulations of the board pursuant to the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) if it finds that:

1. The license was obtained, renewed or reinstated through fraud or misrepresentation;
2. The licensee has been convicted or found guilty, regardless of the manner of adjudication, in any jurisdiction of the United States of a non-marijuana misdemeanor involving moral turpitude or any felony, there being no appeal pending therefrom or the time for appeal having elapsed. Review of prior criminal convictions shall be subject to the requirements of § 54.1-204 of the Code of Virginia. A certified copy of a final order, decree or case decision by a court with the lawful authority to issue such order shall be admissible as prima facie evidence of such conviction or discipline;
3. The licensee has been found by any regulatory board, agency, or jurisdiction where licensed to have had a license or registration suspended, revoked or surrendered in connection with a disciplinary action, who has been the subject of discipline in another jurisdiction or to have violated any applicable regulations or laws in the course of performing auctioneer duties. A certified copy of a final order, decree or case decision by a court or regulatory agency with the lawful authority to issue such order shall be admissible as prima facie evidence of such conviction or discipline;
4. The licensee has not demonstrated reasonable care, judgment, or application of his knowledge and ability in the performance of auctioneering duties;
5. The licensee violated or assisted another to violate any provisions of Chapter 1 (§ 54.1-100 et seq.), 2 (§ 54.1-200 et seq.), 3 (§ 54.1-300 et seq.), or 6 of Title 54.1 of the Code of Virginia, this chapter, or combined or conspired with or acted as agent, partner, or associate for another; or
6. The licensee fails to comply, or misrepresents any information pertaining to his compliance, with any of the continuing education requirements as contained in this chapter.

Materials contained in this agenda are preliminary and subject to change. They are not to be construed as final. DRAFT Awaiting Public Comment

Licensed Population

As of December 1, 2021

Auctioneers 1,027

Auctioneer Firms 233

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**Department of Professional and Occupational Regulation
Statement of Financial Activity**

**Auctioneers Board
954170**

2020-2022 Biennium

November 2021

	November 2021 Activity	Biennium-to-Date Comparison	
		July 2018 - November 2019	July 2020 - November 2021
Cash/Revenue Balance Brought Forward			0
Revenues	2,260	67,030	59,120
Cumulative Revenues			59,120
Cost Categories:			
Board Expenditures	162	7,278	5,900
Board Administration	1,558	31,115	26,882
Administration of Exams	140	7,205	1,894
Enforcement	70	1,243	1,105
Legal Services	0	174	250
Information Systems	1,027	23,933	19,183
Facilities and Support Services	436	8,518	7,355
Agency Administration	676	14,299	12,269
Other / Transfers	0	(1)	0
Total Expenses	4,069	93,763	74,839
Transfer To/(From) Cash Reserves	(1,842)		(16,079)
Ending Cash/Revenue Balance			360

Cash Reserve Beginning Balance	116,358	0	130,596
Change in Cash Reserve	(1,842)	0	(16,079)
Ending Cash Reserve Balance	114,517	0	114,517

Number of Regulants	
Current Month	1,260
Previous Biennium-to-Date	1,394

Department of Professional and Occupational Regulation
Supporting Statement of Year-to-Date Activity
Auctioneers Board - 954170
Fiscal Year 2022

	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Fiscal YTD Charges	Planned Annual Charges	Current Balance	Projected Charges at 6/30	Projected Variance Favorable (Unfavorable)	
																	Amount	%
Board Expenditures	249	380	362	376	162	0	0	0	0	0	0	0	1,528	9,801	8,273	3,500	6,301	64.3%
Board Administration	2,353	1,595	1,525	1,517	1,558	0	0	0	0	0	0	0	8,548	24,949	16,401	18,115	6,834	27.4%
Administration of Exams	203	140	139	139	140	0	0	0	0	0	0	0	762	1,881	1,120	1,646	235	12.5%
Enforcement	97	66	69	70	70	0	0	0	0	0	0	0	372	1,059	688	795	264	24.9%
Legal Services	0	79	29	0	0	0	0	0	0	0	0	0	108	417	309	259	158	37.8%
Information Systems	676	1,817	979	1,173	1,027	0	0	0	0	0	0	0	5,673	14,522	8,849	13,084	1,438	9.9%
Facilities / Support Svcs	491	422	367	359	436	0	0	0	0	0	0	0	2,075	6,377	4,302	4,817	1,560	24.5%
Agency Administration	1,017	698	644	831	676	0	0	0	0	0	0	0	3,867	12,257	8,390	8,273	3,984	32.5%
Other / Transfers	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Charges	5,087	5,197	4,114	4,464	4,069	0	0	0	0	0	0	0	22,931	71,263	48,332	50,489	20,774	29.2%

- **Financial Disclosure Statements**
- **Other Business**
- **Conflict of Interest Forms /Travel
Vouchers**
- **Adjourn**

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