

## **AUCTIONEERS BOARD MEETING**

### **MINUTES**

The Virginia Auctioneers Board met on October 6, 2005, at the Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia, with the following members present.

G. Thomas Garten  
Mark Motley  
James H Perkinson  
Erlita Joanne Wang

Board member Amy Pence was not present for the meeting

Staff present for all or part of the meeting were:

Louise Fontaine Ware, Director  
Brian Hannigan, Chief Deputy Director  
Karen W. O'Neal, Deputy Director of Licensing and Regulation Division  
Mark N. Courtney, Executive Director  
Marian H Brooks, Board Administrator  
Doug Schroder, Director of Adjudication  
Liz Hayes, Director of Fair Housing  
Kera Woodard, Legal Assistant  
Michelle Gowen, Administrative Assistant

Eric A. Gregory, Assistant Attorney General, was present for a portion of the meeting as a representative from the Office of the Attorney General.

Finding a quorum of the Board present, Mr. Perkinson, Vice-Chair, called the meeting to order at 10.08 a.m.

#### **Call to Order**

Mr Perkinson introduced new Board member, G Thomas "Tommy" Garten, and welcomed him to the Board. Louise Fontaine Ware introduced the new Chief Deputy Director of the Department, Brian Hannigan. Ms. Brooks introduced the new Legal Assistant, Kera Woodard, and Eric Gregory, representative from the Office of the Attorney General.

#### **Welcome and Introduction of New Board Member and Staff**

Mr. Motley moved to approve the agenda as written. Ms. Wang seconded the motion which was unanimously approved by members Garten, Motley, Perkinson, and Wang.

#### **Approval of Agenda**

Mr. Motley moved to approve the minutes from the July 7, 2005, Board meeting as amended. Ms. Wang seconded the motion which was unanimously approved by members: Garten, Motley, Perkinson, and Wang.

**Approval of Minutes**

Mr. Motley nominated J. Hartwell Perkinson as Chair for the term of July 1, 2005 to June 30, 2006. Ms Wang seconded the motion which was unanimously approved by members: Garten, Motley, Perkinson and Wang.

**Election of Officers**

Ms. Wang nominated Mark Motley as Vice-Chair for the term of July 1, 2005 to June 30, 2006. Mr. Garten seconded the motion which was unanimously approved by members: Garten, Motley, Perkinson, and Wang.

**Public Comment Period** – No comments were made to the Board members.

**Public Comment**

Mr. Perkinson turned over the position of Chair to Mr Motley and recused himself from the meeting.

**Transfer of Chair**

Regarding **File Number 2005-01940, Frank E. Bolton**, the Board members reviewed the Consent Order as seen and agreed to by Mr. Bolton. Ms. Wang moved to accept the Consent Order which cites a violation of 10 VAC 25-21-110 of the Board's 2002 regulations. For this violation Mr. Bolton agrees to pay a fine in the amount of \$100.00 as well as Board costs of \$100.00, for a total monetary penalty of \$200.00. Mr. Garten seconded the motion which was unanimously approved by members: Garten, Motley, and Wang. As the reviewing Board member, Mr. Perkinson was not present for the discussion or vote.

**File Number 2005-01940, Frank E. Bolton**

Mr. Perkinson returned to the meeting and resumed the position of Chair.

**Transfer of Chair**

Regarding **File Number 2005-02537, Lynn Howell Sheckler**, the Board members reviewed the Consent Order as seen and agreed to by Ms. Sheckler. Mr. Motley moved to accept the Consent Order which cites the following violations of the Board's 2002 regulations: 18 VAC 25-21-140 (Count 1); 18 VAC 25-21-150.C (Count 2); 18 VAC 25-21-150.C (Count 3); 18 VAC 25-21-150.E (Count 4); and 18 VAC 25-21-160 (Count 5). Further, the Consent Order imposes the following sanctions. \$100.00 for the violation contained in Count 1; \$100 00 for the violation

**File Number 2005-02537, Lynn Howell Sheckler**

contained in Count 2; \$100.00 for the violation contained in Count 3; \$100.00 for the violation contained in Count 4; \$100.00 for the violation contained in Count 5; as well as \$150 00 in Board costs for a total monetary penalty of \$650.00. Ms Sheckler also agrees to a 2 (two) year probation period of her license During this time Ms Sheckler agrees to (i) periodic inspections; (ii) comply with the rules and regulations of the Virginia Auctioneers Board; and (iii) not to be convicted in any state or city of any felony, misdemeanor, or federal, state or local ordinance. Ms. Wang seconded the motion which was unanimously approved by members: Garten, Motley, Perkinson, and Wang.

Regarding File Number 2005-01291, David M. Quinn, the Board members reviewed the Consent Order as seen and agreed to by Mr. Quinn. Mr. Motley moved to accept the Consent Order which cites a violation of 18 VAC 25-21-180.A.4 of the Board's 2002 regulations. For this violation Mr. Quinn agrees to pay a fine in the amount of \$250.00, as well as Board costs in the amount of \$150.00, for a total monetary penalty of \$400 00. Ms. Wang seconded the motion which was unanimously approved by members: Garten, Motley, Perkinson, and Wang.

**File Number 2005-01291, David M. Quinn**

At 10:23 a.m., Mr. Motley moved that the meeting be recessed and that the Board immediately reconvene in closed meeting for the purpose of deliberation on disciplinary cases resulting from Informal or Formal Hearings in order to reach a decision as permitted by §2.2-3711.A.15 of the Code of Virginia and for the purpose of consultation with legal counsel and/or briefings by staff members pertaining to actual or probable litigation as permitted by § 2.2-3711.A.7 of the *Code of Virginia*. The following non-members were in attendance to reasonably aid in the consideration of the topic: Eric Gregory as Counsel to the Board and Mark Courtney due to his intimate knowledge of the case and past action of the Board. This motion is made with respect to the matter(s) identified as agenda item(s) 11 Discussion of Litigation Regarding File Numbers 2003-00435, Randy's Auction Gallery, and 2003-00439, Randy Andrew Fiel. Mr. Garten seconded the motion which was unanimously approved by members. Garten, Motley, Perkinson, and Wang.

**Closed Meeting**

At 10:36 a.m., Mr. Garten moved to adjourn the closed meeting and immediately reconvene in open meeting. Ms. Wang seconded the motion which was unanimously approved by members: Garten, Motley, Perkinson, and Wang.

**Open Meeting**

WHEREAS, the Auctioneers Board has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provision of the Virginia Freedom of Information Act; and

**Certification of Closed Meeting**

WHEREAS, §2.2-3712 of the Code of Virginia requires a certification by this Auctioneers Board that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Auctioneers Board hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Auctioneers Board

VOTE: 4-0-1

AYES: Garten, Motley, Perkinson, and Wang

NAYS: 0

ABSENT: Pence

Ms. Brooks updated the Board members on the status of the continuing education regulations

**Update on Status of Continuing Education Requirements**

Ms. Brooks informed the Board members that staff had mailed letters to Arkansas, Massachusetts, Mississippi, New Hampshire, and Wisconsin requesting that they enter into reciprocal agreements with Virginia. Wisconsin, Massachusetts, and New Hampshire have responded to our request and staff will begin a review of the regulations and statutes from those states.

**Update Regarding Reciprocal Agreements**

Mr. Motley moved to approve the following meeting dates for 2006 as amended:

**Set 2006 Meeting Dates**

Thursday, January 12, 2006

Thursday, April 13, 2006

Thursday, July 6, 2006

Thursday, October 5, 2006.

Ms. Wang seconded the motion which was unanimously approved by members: Garten, Motley, Perkinson, and Wang.

Mr. Motley moved to adopt the following resolution for service for Samuel K. "Buddy" Updike, Jr , which was presented to Mr. Updike by Mr. Perkinson.

**Consideration of Resolution**

**Samuel K. "Buddy" Updike, Jr.**

WHEREAS, Samuel K. "Buddy" Updike, Jr., did faithfully and diligently serve as a member of the Auctioneers Board from 1997 to 2005;

WHEREAS, Samuel K. "Buddy" Updike, Jr., did devote generously of his time, talent and leadership to the Board;

WHEREAS, Samuel K. "Buddy" Updike, Jr., 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 sixth day of October 2005, that Samuel K. "Buddy" Updike, Jr., 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

Mr. Garten seconded the motion which was unanimously approved by members: Garten, Motley, Perkinson, and Wang.

The Board members were provided with the August 2005 financial statements for informational purposes.

**Review Financial Statements**

The Board members took a break from 10 58 a m to 11:06 a.m.

**Break**

Ms. O'Neal provided the Board members with training on the roles and responsibilities of members of the Board.

**Board Member Training**

The Board members took a break from 11:48 a.m. to 11:55 a.m.

Break

Doug Schroder and Liz Hayes then provided the Board members with an overview of the Compliance and Investigations Division and their responsibilities.

Board Member  
Training (Continued)

Ms. Brooks informed the Board members that a Notice of Intended Regulatory Action (NOIRA) for the general review of the regulations has been filed as requested by the Board at the last meeting.

Other Business

Ms. Brooks updated the Board members that staff has been preparing the 2005 edition of *Auction Digest* and it will be e-mailed to them for review and for any additions they feel are necessary

Mr. Courtney provided the Board members with information from the meeting minutes from the October 9, 2003, meeting where the Board approved the use of staff to preside at application Informal Fact-Finding Conferences (IFF) and inquired whether the Board would consider using former Board members to preside at IFFs. After discussion, Mr. Motley moved that former Board members be used to preside over Informal Fact-Finding Conferences. Mr. Garten seconded the motion which was unanimously approved by members: Garten, Motley, Perkinson, and Wang.


Mr. Courtney stated to the Board that Ms. Pence called and wanted him to give them her sincere apologies that she was unable to attend the Board meeting.


Conflict of Interest forms were completed by all members present.

Conflict of Interest  
Forms

There being no further business, the meeting was adjourned at 12:39 p.m.

Adjourn

  
J. Haftwell Perkinson, Chair

  
Louise Fontaine Ware, Secretary

**STATE AND LOCAL GOVERNMENT  
CONFLICT OF INTEREST ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT  
for Officers and Employees of State Government**

1. Name: James H. Perkinson
2. Title: Member
3. Agency: Auctioneers Board
4. Transaction: Board Meeting on October 6, 2005
5. Nature of Personal Interest Affected by Transaction: \_\_\_\_\_

6. I declare that:

(a) I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

\_\_\_\_\_

(b) I am able to participate in this transaction fairly, objectively, and in the public interest.

  
Signature

  
Date

**STATE AND LOCAL GOVERNMENT  
CONFLICT OF INTEREST ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT  
for Officers and Employees of State Government**

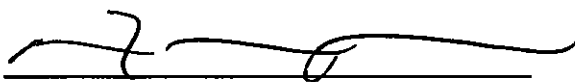
1. Name: Mark T. Motley
2. Title: Member
3. Agency: Auctioneers Board
4. Transaction: Board Meeting on October 6, 2005
5. Nature of Personal Interest Affected by Transaction: \_\_\_\_\_

*NONE*

6. I declare that:

(a) I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

(b) I am able to participate in this transaction fairly, objectively, and in the public interest.



Signature

*10/6/05*

Date



**STATE AND LOCAL GOVERNMENT  
CONFLICT OF INTEREST ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT  
for Officers and Employees of State Government**

1. Name: Erlita Joanne Wang
2. Title: Member
3. Agency: Auctioneers Board
4. Transaction: Board Meeting on October 6, 2005
5. Nature of Personal Interest Affected by Transaction: \_\_\_\_\_

*NONE*

6. I declare that:

(a) I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

(b) am able to participate in this transaction fairly, objectively, and in the public interest.

Signature

*E. Wang*

Date

*10/06/2005*

**STATE AND LOCAL GOVERNMENT  
CONFLICT OF INTEREST ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT  
for Officers and Employees of State Government**

1. Name: George Thomas Garten
2. Title: Member
3. Agency: Auctioneers Board
4. Transaction: Board Meeting on October 6, 2005
5. Nature of Personal Interest Affected by Transaction: \_\_\_\_\_

*None*

6. I declare that:

(a) I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

(b) I am able to participate in this transaction fairly, objectively, and in the public interest.

*G. Thomas Garten*  
\_\_\_\_\_  
Signature

*10-6-05*  
\_\_\_\_\_  
Date