

AUCTIONEERS BOARD MEETING MINUTES

The Virginia Auctioneers Board met on October 6, 2020, at the Department of Professional and Occupational Regulation, 9960 Mayland Drive, Richmond, Virginia, with the following members present:

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

Staff present for all or part of the meeting were:

Mary Broz-Vaughan, Director
Kate Nosbisch, Executive Director
Amy Goobic, Executive Assistant

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

Mr. Sinclair, Chair, called the meeting to order at 10:01 a.m.

Call to Order

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

Emergency Evacuation and COVID-19 Safety Procedures

Ms. Goobic provided a brief tutorial on the new tablets for board meetings, replacing the laptops.

Ms. Nosbisch thanked the Board members for attending, and expressed regrets from new Board member, Angela Smith-Mackey, as she was unable to attend.

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. Bennett moved to approve the October 18, 2019 Board meeting minutes. Mr. Smith seconded the motion which was unanimously approved by members: Bennett, Sinclair, Smith, and Terry.

Approval of Minutes

Ms. Nobsch read correspondence from the Virginia Auctioneers Association (VAA):

Public Comment Period



October 6, 2020

Virginia Auctioneer License Board/DPOR
9960 Mayland Drive
Richmond, VA 23233

Members of the Virginia Auctioneer License Board and Members of DPOR:

The Virginia Auctioneers Association (VAA) would like for the following to be addressed by the Virginia Auctioneer License Board:

1. The VAA would strongly encourage the Auctioneer Board, the Attorney General and Counsel for the Board and DPOR to consider an auction as an auction regardless of the method used to obtain bids; whether it be live, in person, online, virtual, etc.
 - a. The public (consumer) at this current time has no recourse against online auctions because the current interpretation of the Virginia Auction Law.
 - b. Jurisdiction of the actual auction. If the merchandise is in that state of Virginia, the license board should have jurisdiction. The jurisdiction should not be based on where the auctioneer is from or where the online platform is housed.
 - c. There is a higher number of online auctions being conducted than live auctions in the state. That has been accelerated with COVID19.
 - i. There are online auctions for real estate, personal property, titled vehicles, and benefit auctions. Real Estate and titled vehicles in particular are subject to regulations from other agencies requiring auctioneers license if being sold at auction and those other agencies do not distinguish between a live outcry auction and an online auction.
 - d. There four basic types of auctions. Live outcry auctions with in person bidding and a bid calling auctioneer, simulcast auctions with in person and online bidding and a bid calling auctioneer, virtual auctions with online only bidding and a bid calling auctioneer, and online only auctions with online bidding and no bid calling. If the current law is interpreted as not applying to online auctions, then where is the line drawn for virtual auctions?
 - e. "Members of the audience"- in this day and age an audience can be anywhere and certainly applies in other jurisdictions to online audiences. This needs to be revisited!

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2. The VAA feels strongly that the Rules and Regulations for auctions in the state of Virginia should be equal for all and regulated as such!
 - a. Personal statement from Josh Puffenbarger, Vice President Virginia Auctioneers Association
As a licensed auctioneer in multiple states, I would like all individuals that are conducting an auction to be treated equally with the exceptions set aside in VA code 54.1-601. From a regulatory standpoint, there should be no differences in regulations depending upon how the auction is being conducted. Online auctioneers and live auctioneers are both selling for the public, to the public, and should be regulated equally in all aspects of the law.

Josh Puffenbarger #2907003893
 - b. There are neighboring states (North Carolina and West Virginia) that regulate online auctions the same way they regulate live auctions.

In closing we would like to thank the Virginia Auctioneer license board and the DPOR for their consideration into this matter.

Sincerely,

Virginia Auctioneer Association Board of Directors

Discussion was held on the regulation of online auctions. Ms. Nosbisch reminded the members that the Board has discussed the topic many times over the last decade. Ms. Broz-Vaughan stated that the any increased regulation would be a policy issue, addressed through the legislature. Ms. Broz-Vaughan added that the threshold for approving such legislation would be high, as it would increase regulation. Ms. Peay commented that under code, the licensee must be a resident of Virginia, and added that unlicensed activity cannot be regulated.

Regarding File Number 2019-01018, Phoebus Antiques & Auction Gallery, Inc., the Board members reviewed the Consent Order as seen and agreed to by Phoebus Antiques & Auction Gallery, Inc. Mr. Smith moved to accept the Consent Order which cites the following violations of the Board's regulations: 18VAC25-21-180.4 (Count 1); 18VAC25-21-150.I (Count 2); and 18VAC25-21-150.A (Count 3). For these violations, Phoebus Antiques & Auction Gallery, Inc. agrees to pay the following monetary penalties: \$250 for the violation contained in Count 1; \$250 for the violation contained in Count 2; \$500 for the violation contained in Count 3; and \$150 in board costs, for a total monetary penalty of \$1,150. Ms. Bennett seconded the motion which was unanimously approved by members: Bennett, Sinclair, and Smith. As the presiding Board member, Ms. Terry was not present for the discussion or vote.

File Number 2019-01018, Phoebus Antiques & Auction Gallery, Inc.

Regarding File Number 2019-00644, Carroll Eugene Daniels, the Board members reviewed the Consent Order as seen and agreed to by Mr. Daniels. Mr. Smith moved to accept the Consent Order which cites the following violations of the Board's regulations: 18VAC25-21-150.J (Count 1), and 18VAC25-21-150.C (Count 2). For these violations, Mr. Daniels agrees to pay the following monetary penalties: \$250 for the violation contained in Count 1; \$250 for the violation contained in Count 2; and \$150 in board costs, for a total monetary penalty of \$650. Ms. Bennett seconded the motion which was unanimously approved by members: Bennett, Sinclair, and Smith. As the presiding Board member, Ms. Terry was not present for the discussion or vote.

File Number 2019-00644, Carroll Eugene Daniels

Ms. Nosbisch expressed regrets from Jeff Waite, Financial Services Director, and LaTonya Washington, Budget Analyst, as they were unable to attend the meeting in person to discuss the fee increase.

Fee Increases

Board members were provided information on proposed fee increases, allocation of expenses and adjustments for sufficient revenue. Ms. Nosbisch explained that no fee increase was to be made at this time, but that approval was needed for when the increase needed to be implemented. Board members reviewed three proposals for consideration: A) New application fees lower than renewal; B) New application fee and renewal fee are equal; C) New application fees higher than renewal fee.

Discussion was held on the three proposals. Ms. Terry moved to accept Proposal A, the proposal of lower fees for new application to allow the cost of entry into profession be lower. Ms. Bennett seconded the motion which was unanimously approved by members: Bennett, Sinclair, Smith and Terry.

Board members were provided financial statements for informational purposes.

**Review of Board
Financial Statements**

Mr. Sinclair provided the licensee counts as of October 1, 2020: Auctioneers 1,125 and Firms 243. Board members requested a year to year comparison of the number of licensees at the next meeting.

Licensed Population

Board members considered the following meeting dates for 2021:

- January 12
- April 26
- July 27
- October 20

**Consideration of 2021
Meeting Dates**

Mr. Sinclair requested meetings be held on Tuesdays if possible. Ms. Nosbisch stated that if board rooms are available, staff will make changes accordingly. Board members agreed by consensus.

Ms. Nosbisch suggested having the current chair and vice-chair remain in position as this was the first meeting the Board held since the election. Board members agreed by consensus.

Other Business

Board members reviewed information from the North Carolina Department of Revenue regarding animal auctioneers. Ms. Terry provided the article as a point of interest.

Conflict of Interest forms and travel vouchers were completed by all members present.

**Conflict of Interest
Forms / Travel
Vouchers**

There being no further business, the meeting adjourned at 10:42 a.m.

Adjourn

Douglas Sinclair, Chair

Mary Broz-Vaughan, Secretary