

## AUCTIONEERS BOARD MEETING

### MINUTES

The Virginia Auctioneers Board met on July 8, 2004, at the Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia, with the following members present:

Mark T. Motley  
James H. Perkinson  
Samuel K. Updike  
Erlita Joanne Wang

Board Member Amy R. Pence was not present at the meeting.

Staff present for all or part of the meeting were:

Louise Fontaine Ware, Director  
Karen W. O'Neal, Deputy Director of Regulatory Programs  
Nick A. Christner, Deputy Director of Compliance and Investigations  
Mark N. Courtney, Executive Director  
Sharon M. Sweet, Director of Education and Examinations  
Earlyne Perkins, Legal Assistant  
Trisha L. Henshaw, Administrative Assistant

No representative from the Office of the Attorney General was present at the meeting.

Finding a quorum of the Board present, Mr. Updike, Acting Chair, called the meeting to order at 10:04 a.m.

#### Call to Order

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

#### Approval of Agenda

Mr. Updike introduced Ms. Joanne Wang and Mr. Mark Motley as the newest members of the Board. Ms. Wang is a public member, and Mr. Motley is a licensed auctioneer member of the Board.

#### Introduction of New Members

Mr. Perkinson moved to approve the minutes from the April 8, 2004, Board meeting as written. Mr. Motley seconded the motion which was unanimously approved by members: Motley, Perkinson, Updike, and Wang.

#### Approval of Minutes

Mr. Perkinson moved to approve the minutes from the May 27, 2004,

Informal Fact-Finding Conference as written. Ms. Wang seconded the motion which was unanimously approved by members: Motley, Perkinson, Updike, and Wang.

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

**Public Comment**

Mr. Perkinson moved to nominate Mr. Updike as Chair of the Board for the term beginning July 1, 2004, and ending June 30, 2005. Mr. Motley seconded the motion which was unanimously approved by members: Motley, Perkinson, Updike, and Wang.

**Election of Officers**

Mr. Motley moved to nominate Mr. Perkinson as Vice-Chair of the Board for the term beginning July 1, 2004, and ending June 30, 2005. Ms. Wang seconded the motion which was unanimously approved by members: Motley, Perkinson, Updike, and Wang.

Mr. Updike recused himself from the room and Mr. Perkinson assumed the position of Chair of the Board.

**Transfer of Chair**

In reference to **File Number 2004-01620, Harry L. Laws, Jr.**, the Board members reviewed the record of the Informal Fact-Finding Conference, which consisted of the investigative file, transcripts and exhibits, and summary and recommendation of the presiding Board member. After consideration, Mr. Motley moved to accept the violations as recommended in the Summary of the Informal Fact-Finding Conference, which included violations of 18 VAC 25-21-110 (Count 1) and 18 VAC 25-21-180.A.6 (Count 2) of the Board's February 1, 2002, regulations. Ms. Wang seconded the motion which was unanimously approved by members: Motley, Perkinson, and Wang. Ms. Perkins provided the Board members with information regarding prior violations involving Mr. Laws, which included three Final Opinions and Orders entered by the Board in 1998 for violations of a number of regulations which resulted in a five-year inoperative suspension and monetary penalties. Mr. Motley moved to adopt the sanctions as recommended in the Summary of Informal Fact-Finding Conference based upon the facts of the case, prior violations of the Board's regulations, the severity of the prior disciplinary action and the need to protect the public. The sanctions are revocation of Mr. Laws' auctioneers license for each count, as well as a monetary penalty in the amount of \$2,500 for Count 2. Ms. Wang seconded the motion which was unanimously approved by members: Motley, Perkinson, and Wang. As the presiding Board member at the Informal Fact-Finding Conference, Mr. Updike was not

**File Number 2004-01620, Harry L. Laws, Jr.**

present during the discussion or vote.

In reference to **File Number 2004-01641, Laws Auctioneers, Inc.**, the Board members reviewed the record of the Informal Fact-Finding Conference, which consisted of the investigative file, transcripts and exhibits, and summary and recommendation of the presiding Board member. After consideration, Mr. Motley moved to accept the violations as recommended in the Summary of the Informal Fact-Finding Conference, which included violations of 18 VAC 25-21-110 (Count 1); 18 VAC 25-21-180.A.6 (Count 2); and 18 VAC 25-21-160 (Count 3) of the Board's February 1, 2002, regulations. Ms. Wang seconded the motion which was unanimously approved by members: Motley, Perkinson, and Wang. As the presiding Board member at the Informal Fact-Finding Conference, Mr. Updike was not present during the discussion or vote.

**File Number 2004-01641, Laws Auctioneers, Inc. (Finding of Violation)**

In reference to **File Number 2004-02398, Laws Auctioneers, Inc.**, the Board members reviewed the record of the Informal Fact-Finding Conference, which consisted of the investigative file, transcripts and exhibits, and summary and recommendation of the presiding Board member. After consideration, Mr. Motley moved to accept the violations as recommended in the Summary of the Informal Fact-Finding Conference, which included violations of 18 VAC 25-21-180.A.6 (Count 1); 18 VAC 25-21-160 (Count 2); 18 VAC 25-21-140 (Count 3); and 18 VAC 25-21-150.C (Count 4) of the Board's February 1, 2002, regulations. Ms. Wang seconded the motion which was unanimously approved by members: Motley, Perkinson, and Wang. As the presiding Board member at the Informal Fact-Finding Conference, Mr. Updike was not present during the discussion or vote.

**File Number 2004-02398, Laws Auctioneers, Inc. (Finding of Violation)**

In reference to **File Number 2004-03081, Laws Auctioneers, Inc.**, the Board members reviewed the record of the Informal Fact-Finding Conference, which consisted of the investigative file, transcripts and exhibits, and summary and recommendation of the presiding Board member. After consideration, Mr. Motley moved to accept the violations as recommended in the Summary of the Informal Fact-Finding Conference, which included violations of 18 VAC 25-21-110.9 (Count 1) and 18 VAC 25-21-180.A.6 (Count 2) of the Board's February 1, 2002, regulations. Ms. Wang seconded the motion which was unanimously approved by members: Motley, Perkinson, and Wang. As the presiding Board member at the Informal Fact-Finding Conference, Mr. Updike was not present during the discussion or vote.

**File Number 2004-03081, Laws Auctioneers, Inc. (Finding of Violation)**

In reference to **File Number 2004-02592, Laws Auctioneers, Inc.**, the Board members reviewed the record of the Informal Fact-Finding Conference, which consisted of the investigative file, transcripts and exhibits, and summary and recommendation of the presiding Board member, as well as a letter submitted by the complainant in the matter. After consideration, Mr. Motley moved to accept the violations as recommended in the Summary of the Informal Fact-Finding Conference, which included violations of 18 VAC 25-21-180.A.6 (Count 1); 18 VAC 25-21-160 (Count 2); and 18 VAC 25-21-110.4 (Count 3) of the Board's February 1, 2002, regulations. Ms. Wang seconded the motion which was unanimously approved by members: Motley, Perkinson, and Wang. As the presiding Board member at the Informal Fact-Finding Conference, Mr. Updike was not present during the discussion or vote.

**File Number 2004-02592, Laws Auctioneers, Inc. (Finding of Violation)**

In reference to **File Number 2004-02399, Laws Auctioneers, Inc.**, the Board members reviewed the record of the Informal Fact-Finding Conference, which consisted of the investigative file, transcripts and exhibits, and summary and recommendation of the presiding Board member. After consideration, Mr. Motley moved to accept the violations as recommended in the Summary of the Informal Fact-Finding Conference, which included violations of 18 VAC 25-21-180.A.6 (Count 1); 18 VAC 25-21-160 (Count 2); 18 VAC 25-21-140 (Count 3); and 18 VAC 25-21-110.4 (Count 4) of the Board's February 1, 2002, regulations. Ms. Wang seconded the motion which was unanimously approved by members: Motley, Perkinson, and Wang. As the presiding Board member at the Informal Fact-Finding Conference, Mr. Updike was not present during the discussion or vote.

**File Number 2004-02399, Laws Auctioneers, Inc. (Finding of Violation)**

Ms. Perkins provided information regarding prior violations involving Laws Auctioneers, Inc. In April 1998, the Board entered a Final Opinion and Order against Laws Auctioneers, Inc., for violations of 18 VAC 25-21-180.A.3 and 18 VAC 25-21-180.A.5 of the Board's 1998 regulations. The sanctions imposed were monetary penalties of \$2,500.

**Prior Violations Regarding Laws Auctioneers, Inc.**

After considering the record and information pertaining to prior violations regarding **File Number 2004-01641, Laws Auctioneers, Inc.**, Mr. Motley moved to adopt the sanctions as recommended in the Summary of Informal Fact-Finding Conference based upon the facts of the case, prior violations of the Board's regulations, the severity of the prior disciplinary action and the need to protect the public. The sanctions are revocation of the firm license for Laws Auctioneers, Inc. (number 2908 000515), for each count, as well as monetary penalties in the amount of \$2,500 for each count, for a total of \$7,500. Ms. Wang

**File Number 2004-01641, Laws Auctioneers, Inc. (Finding of Sanction)**

seconded the motion which was unanimously approved by members: Motley, Perkinson, and Wang. As the presiding Board member at the Informal Fact-Finding Conference, Mr. Updike was not present during the discussion or vote.

After considering the record and information pertaining to prior violations regarding **File Number 2004-02398, Laws Auctioneers, Inc.**, Mr. Motley moved to adopt the sanctions as recommended in the Summary of Informal Fact-Finding Conference based upon the facts of the case, prior violations of the Board's regulations, the severity of the prior disciplinary action and the need to protect the public. The sanctions are revocation of the firm license for Laws Auctioneers, Inc. (number 2908 000515), for Counts 2, 3, and 4, as well as monetary penalties in the amount of \$2,500 for each count, for a total of \$10,000. Ms. Wang seconded the motion which was unanimously approved by members: Motley, Perkinson, and Wang. As the presiding Board member at the Informal Fact-Finding Conference, Mr. Updike was not present during the discussion or vote.

**File Number 2004-02398, Laws Auctioneers, Inc. (Finding of Sanction)**

After considering the record and information pertaining to prior violations regarding **File Number 2004-03081, Laws Auctioneers, Inc.**, Mr. Motley moved to adopt the sanctions as recommended in the Summary of Informal Fact-Finding Conference based upon the facts of the case, prior violations of the Board's regulations, the severity of the prior disciplinary action and the need to protect the public. The sanctions are revocation of the firm license for Laws Auctioneers, Inc. (number 2908 000515), for Count 2, as well as monetary penalties in the amount of \$2,500 for each count, for a total of \$5,000. Ms. Wang seconded the motion which was unanimously approved by members: Motley, Perkinson, and Wang. As the presiding Board member at the Informal Fact-Finding Conference, Mr. Updike was not present during the discussion or vote.

**File Number 2004-03081, Laws Auctioneers, Inc. (Finding of Sanction)**

After considering the record and information pertaining to prior violations regarding **File Number 2004-02592, Laws Auctioneers, Inc.**, Mr. Motley moved to adopt the sanctions as recommended in the Summary of Informal Fact-Finding Conference based upon the facts of the case, prior violations of the Board's regulations, the severity of the prior disciplinary action and the need to protect the public. The sanctions are revocation of the firm license for Laws Auctioneers, Inc. (number 2908 000515), for Counts 2 and 3, as well as monetary penalties in the amount of \$2,500 for Counts 1 and 3, for a total of

**File Number 2004-02592, Laws Auctioneers, Inc. (Finding of Sanction)**

\$5,000. Ms. Wang seconded the motion which was unanimously approved by members: Motley, Perkinson, and Wang. As the presiding Board member at the Informal Fact-Finding Conference, Mr. Updike was not present during the discussion or vote.

After considering the record and information pertaining to prior violations regarding **File Number 2004-02399, Laws Auctioneers, Inc.**, Mr. Motley moved to adopt the sanctions as recommended in the Summary of Informal Fact-Finding Conference based upon the facts of the case, prior violations of the Board's regulations, the severity of the prior disciplinary action and the need to protect the public. The sanctions are revocation of the firm license for Laws Auctioneers, Inc. (number 2908 000515), for Counts 3 and 4, as well as monetary penalties in the amount of \$2,500 for each count, for a total of \$10,000. Ms. Wang seconded the motion which was unanimously approved by members: Motley, Perkinson, and Wang. As the presiding Board member at the Informal Fact-Finding Conference, Mr. Updike was not present during the discussion or vote.

**File Number 2004-02399, Laws Auctioneers, Inc. (Finding of Sanction)**

Mr. Updike returned and resumed the position of Chair.

**Transfer of Chair**

Ms. Sweet spoke to the Board members regarding the recent request for proposal (RFP) for a new examination vendor. After a panel of staff and board members reviewed the information that was submitted, PSI was awarded the contract for administration of the auctioneers licensing examination. Ms. Sweet indicated that due to financial problems that Experior is having and their request to end the contract early, PSI has agreed to assume administration of the examination by the tentative date of October 1, 2004. Further, Ms. Sweet indicated that the auctioneers examination will need to be redeveloped, which will require an examination workshop consisting of staff from PSI, a Board member, and subject matter experts. Ms. Sweet asked the Board to select a Board member to participate in the workshop and approve the examination on behalf of the Board, and to provide names of possible subject matter experts. After discussion, Mr. Motley selected Mr. Updike to participate in the workshop and be able to approve the examination on behalf of the Board. Mr. Perkinson seconded the motion which was unanimously approved by members: Motley, Perkinson, Updike, and Wang.

**Updated on Exam RFP**

Ms. Ware introduced Mr. Christner as the new Deputy Director of Compliance and Investigations and provided information regarding his background.

**Introduction of Mr. Christner**

The Board members considered filing a Notice of Intended Regulatory Action (NOIRA) in order to begin the regulatory review process so that regulations may be established regarding continuing education requirements in accordance with House Bill 1022 which was passed by the General Assembly during the 2004 session. After discussion, Mr. Perkinson move to authorize staff to proceed with filing the NOIRA for consideration of continuing education regulations. Mr. Motley seconded the motion which was unanimously approved by members: Motley, Perkinson, Updike, and Wang.

**Consideration of  
NOIRA**

The Board members were provided with the Board's financial statements for April 2004 for informational purposes.

**Review Financial  
Statements**

The Board members were reminded to bring their 2005 calendars to the next meeting so that the 2005 meeting dates can be set.

**Other Business**

Mr. Courtney asked the Board members for article suggestions for the newsletter.

Mr. Courtney stated that Ms. O'Neal would be providing Board member training on Board member roles and responsibilities immediately after the meeting.

Mr. Updike requested that staff include consideration of a regulation that would require cooperation with Board agents/investigators during the course of an investigation on the list of regulatory review ideas.

Conflict of Interest forms were completed by all members present.

**Conflict of Interest  
Forms**

There being no further business, the meeting was adjourned at 11:31 a.m.

**Adjourn**

  
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Samuel K. Updike, Jr., Chair

  
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Louise Fontaine Ware, Secretary

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

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

1. Name: Samuel K. Updike, Jr. ,
2. Title: Member
3. Agency: Auctioneers Board
4. Transaction: Board Meeting on July 8, 2004
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:

Auction Regulatory Board

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

SK Updike Jr  
Signature

\_\_\_\_\_  
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 July 8, 2004
5. Nature of Personal Interest Affected by Transaction: None

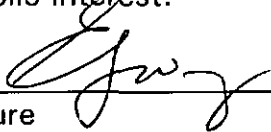
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6. I declare that:

(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

7/8/04

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 July 8, 2004
5. Nature of Personal Interest Affected by Transaction: None
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6. I declare that:

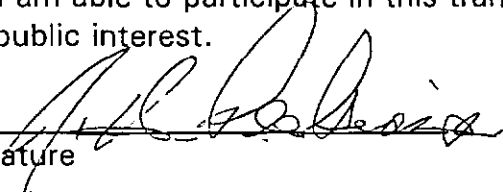
(a) I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

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

Signature

Date

 7-8-04