

**MINUTES OF THE STATE AUCTIONEERS COMMISSION**  
**OHIO DEPARTMENT OF AGRICULTURE Seminar Room B**  
**8995 E. MAIN STREET, REYNOLDSBURG, OH 43068**  
**March 12, 2013**

**PRESENT:**

Commissioner David Schnaidt	Michael Rodgers, Chief, Legal Counsel
Commissioner Steve Remias	Jim Patterson, Assistant Attorney General
Commissioner James Milleson	Donna Brinker Potter, Auctioneer Program Manager
Commissioner Gary Cain	
Commissioner Doug Walton	

**Members of the Public:**

David Jones, OAA	Marie Roberts, K & M School of Auctioneering
Kathy Baber, Executive Director OAA	Peter Gehres, OAA Treasurer
Michael Metersky	Dick Baker

Meeting called to order @ 9:10am by Commissioner David Schnaidt with all members of the commission present except Commissioner Jim Milleson. Commissioner Schnaidt welcomed new Commissioner Doug Walton and welcomed Gary Cain back to the commission. Chairman Schnaidt asked the commission to review the minutes from the last meeting. Commissioner Cain moved to approve the minutes as submitted. Commissioner Walton seconded. No discussion noted. Motion carried by an affirmative vote of all members present. Chairman Schnaidt stated that he wanted to express his gratitude to everyone for their flexibility on the meeting dates.

The first item on the agenda the discussion on the subcommittee for auction school via the internet was tabled until Commissioner Milleson's arrival.

The next item on the agenda is the Auction School application for approval. Donna Potter indicated that the Kentucky Auction Academy had submitted an application for the October 2012 meeting, but required information was missing. The school had since provided the missing information and the application shows that they meet the required curriculum. Gary Cain moved to approve the Kentucky Auction Academy. Chairman Schnaidt stated that they had a motion on the floor. Commissioner Remias seconded the motion. No further discussion was noted. The motion was carried by an affirmative vote of all members present.

The next item on the agenda was the auction education fund request for the OAA Spring Seminar. Donna Potter stated that the OAA was requesting \$5,650 and that it would be held at ODA. She indicated that they were seeking \$500.00 for administrative costs to cover the costs of preparing flyers, registering attendees, and facilitating the seminar. Jim Patterson stated that as submitted the administrative costs would be permissible since it is for the costs of administering the educational seminar. Commissioner Cain moved to accept the application as submitted. Commissioner Remias seconded. Chairman Schnaidt stated that the speakers looked great. He appreciated the OAA doing things to promote the profession and bringing customer standards up. He felt the seminar looked great. The motion carried by an affirmative vote of all members present.

The next item on the agenda is the Enforcement Update. Donna Potter stated that there was a recovery fund payout pending in the amount of \$2,418.23. She stated an auctioneer failed to secure his trust account checks and his girlfriend wrote checks which caused the auctioneer not be able to pay his client. The department would be going before the controlling board to seek approval for the payment. Ms. Potter further stated that all renewals had been mailed and that there were approximately 1,698 licensees due to renew prior to June 30, 2013. She stated that currently there are 3,267 active licensees. She told the commission that the

Governor had presented his biennial budget to the Statehouse. She advised them that the budget contained a reduction in the spending authority for the auction education fund. The amount was reduced to \$35,000 from \$41,000. She advised that this is not the final budget numbers and once the budget passes, she would let the commission know what the spending authority would be for the next biennium. Mike Rodgers explained the controlling board and the process for seeking a spending authority increase if the commission would find that they would need more monies in the next biennium. Ms. Potter advised the commission of the fund balances effective Feb 28, 2013. The operating fund balance was \$314,913.73; the education fund was \$240,192.45; and the recovery fund was \$1,150,265.75. Jim Patterson stated that he would like to give an overview of his position and duties with the Attorney General's Office. He stated that he represented the department in any litigation, administrative court cases, and general counsel issues. He stated that administrative law has its own separate process. The department of agriculture is required to operate under Chapter 119 of the Revised Code which lays out a specific process for disciplining or taking administrative action against a licensee.

Commissioner Jim Milleson arrived at 9:34.

Mr. Patterson indicated that the department when it receives a complaint or upon its own motion can conduct an investigation. The investigator will prepare an investigative file; he stressed that the enforcement agent does not make a decision if any action is going to be taken. Once the investigation is completed, the department reviews the file to determine if any violation of Chapter 4707 has occurred and it determines what action is appropriate. He indicated that the action could range from an informal letter of instruction to formal disciplinary action, such as, a written reprimand; a civil penalty; license suspension; or the most serious, a revocation. If the department chooses a formal action it requires a written notice and an administrative hearing before an independent hearing officer. At the hearing, both sides will have the opportunity to present evidence and call witnesses. The hearing officer will issue a report and recommendation to the Director. A licensee has the opportunity to file written objections to the hearing officer's findings. The Director will review the report and recommendation and any written objections. The Director then can adopt the findings of the hearing officer, overrule the findings, or overrule in part. The Director will then issue a Director's Order which a licensee can appeal to their county court of common pleas if they disagree with the findings. ODA is required to follow this process. Donna Potter stated that at any time after a notice of hearing letter has been issued the department can and has entered into a settlement agreement on the matter. Mr. Patterson indicated that the settlements can take on a variety of forms: continuing education; probation; or reduced fines. He stated that the settlement process can utilize different outcomes that are not restricted by statute as long as all parties agree.

Chairman Schnaidt summarized the meeting thus far for Commissioner Milleson. He stated that they had approved the KY Auction Academy, approved the OAA Spring Seminar Request and they had just finished the Enforcement Update. He stated that he would like to go back to the Auction School via the internet. Donna Potter indicated that she had put it on the agenda to determine if they wanted to go ahead and schedule a date for the subcommittee. Jim Milleson indicated that he is available March 27, April 3, 4, or 15<sup>th</sup>. Donna Potter stated that they would need at least two weeks to give proper public notice and reminded the commission that the week of the 27<sup>th</sup> was Easter week and many people may be on spring break and unavailable to attend. Peter Gehres indicated that two of the subcommittee members have auctions on Wednesdays. Commissioner Milleson stated the meeting would be April 15, 2013 at 1:00 at ODA. Donna Potter indicated that she would notify the schools and again ask for them to send a representative and she would get a public meeting notice issued.

The next item on the agenda is Michael Metersky. Mr. Metersky stated that he wanted to thank the commission for allowing him to speak to them. He indicated that he is the owner of First Site Realty, a

licensed broker, and apprentice auctioneer. He indicated that he fully believes in the auction method. In 2011, he decided to pursue an auctioneer license. He attended the Ohio Auction School. He stated that when he finished school, he still needed a sponsor. He stated that he was shocked and disappointed by the lack of interest by licensees to enter into such a relationship. Once he had a sponsor, he had little success in finding auctioneers who were willing to allow him and his sponsor to assist at auctions, so that he could complete the twelve auction requirement. He stated that he was very disappointed and almost gave up. He stated that he emailed the OAA for help. The executive director stated that she had forwarded his email to the Board of Directors and the only response was that he needed to find a new sponsor. He stated that at this point, he started calling to find a new sponsor. Everyone he talked to except one was unwilling and the other already had two apprentices. He stated that he knows others had a more positive experience, but he felt that the current law is not working as intended. He felt that the system currently keeps people from obtaining their licenses rather than assists them. He was asking the commission to revisit the issue. He asked the commission for their assistance in adding continuing education and, as well as, amending the apprenticeship process. He was asking to the OAC to act now. He stated that the law needed to be changed and it was long overdue. He stated that he would take any questions. Commissioner Milleson stated that he appreciated the thoroughness of the presentation. Chairman Schnaidt asked for any other comments or questions. Commissioner Schnaidt stated that he appreciated the comments and Mr. Metersky coming before the commission. He stated that he does not think that the apprentice language works for everyone. He stated that the industry is changing and everyone looks at it differently. He stated that his company does apprenticeships with their employees after they have worked for them for a year and for those who will continue to work for them. He stated that is how his father formed the company and that is the way they handle it. He stated that there are good and there are bad apprenticeships. He stated that they as a commission have not had a lot of feedback on the securing of sponsors. He stated that as a commission they started going through the process of continuing education and updating the apprenticeship requirements as far back as ten years ago. Commissioner Cain stated that the questions are easy, but the answer is a lot harder. Most people that he sponsors are from within his own company. Mr. Metersky stated his interest in shedding light that people need assistance in finding a reasonable path to licensure. He stated that he has experience with legislation and being before the legislature and he offered his help in any way. Chairman Schnaidt thanked Mr. Metersky again and stated that there were aspects that probably needed addressed in the near future. Chairman Schnaidt asked for any other questions or comments. Donna Potter stated that she had one. She stated that several years back, the OAA made a commitment to help people find sponsors. She asked if the OAA was still committed to this and, if they are not, she needed to know so that she would not refer individuals to them for assistance. Kathy Baber indicated that they are working on developing a list to assist their members, but that it is not a guarantee. Commissioner Cain stated that as a commission they are aware of the problem and that he was thankful for Mr. Metersky bringing the issue back to the forefront.

Chairman Schnaidt asked for any other items to be brought before the commission. Commissioner Walton asked Jim Patterson what his opinion was in regard to creating rules for online auctions. Jim Patterson stated that the department cannot make any rules regarding online auctions because there is not statutory authority for it. He stated that it would take a statutory change for the department to have jurisdiction. Donna Potter indicated back in 2005, legislation passed that would have given the department jurisdiction; however at the last minute, an emergency bill was passed removing the authority over internet sales. She stated at that time, Senator Mumper advised the OAA that he was willing to work with them and he put the ball back in their court. To the best of her knowledge, the OAA did not follow-up with Senator Mumper. She stated that if it was an issue the OAA wanted to revisit, she recommended that they talk to Sherman Hostetter in PA. It was her understanding that he was able to work with EBay to get legislation passed that would permit oversight of the internet auction companies. Chairman Schnaidt asked if they wanted to move forward on the online auction issue should it come from the commission or OAA. Peter Gehres stated the current legislative priority

of the OAA is the clean-up of the HB 14 issue. He stated that the online auction question is the primary issue that the licensees want addressed. He stated that there are two issues affecting the OAA's ability to move forward at this time: (1) time and (2) money. He stated that once the titled vehicle issue is behind them, they can turn their focus at this time it is a matter of priorities. Commissioner Cain stated that the OAA has a huge amount on their plate right now, but he does not want them to turn away from this issue. Peter Gehres stated that any one is invited to join the association and volunteer to help. Kathy Baber stated that it is currently a hot topic in Indiana and nationally.

Donna Potter stated that she forgot to mention in the update that Rep. Hill had some draft language put together to address the unlicensed bid calling champion and promotional appearances. She stated that she would forward it to the commission for their review. Jim Patterson reminded the commission that they cannot deliberate via email. He stated that the decision making process of the commission must occur in an open noticed meeting. He stated that he needed to caution them against any informal deliberations via email.

Chairman Schnaidt asked that the April meeting agenda include the verbal exam score sheet, auction school subcommittee update, apprentice requirements and continuing education. Chairman Schnaidt asked for any other business before the commission. Peter Gehres extended an invitation of the commission to the spring seminar on April 25<sup>th</sup>. He stated that the OAA intends to continue to offer the spring and fall seminars the day before the scheduled commission meetings. Chairman Schnaidt asked the commission to review current apprentice requirements and look over the previously recommended changes for the next meeting. He asked for any other comments. With no further comments or discussion, Commissioner Walton moved to adjourn the meeting. Commissioner Cain seconded. No further discussion noted. Meeting adjourned at 10:49 by an affirmative vote of all members.

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Approved Chairman