

**MINUTES OF THE STATE AUCTIONEERS COMMISSION**  
**OHIO DEPARTMENT OF AGRICULTURE Seminar Room B**  
**8995 E. MAIN STREET, REYNOLDSBURG, OH 43068**  
**July 29, 2011**

**PRESENT:**

Commissioner Steve Remias  
Commissioner James Milleson  
Commissioner Lori Kiko

James Patterson, Asst. Attorney General  
Bill Hopper, Chief Legal Counsel  
Donna Brinker Potter, Auctioneer Program Manager

**Members of the Public:**

Maggie Beckmeyer, OAA  
Bill Stepp, President OAA

Meeting called to order @ 9:36am by Donna Potter. All members of the commission are present except Commissioners Schnaidt and Cain. A quorum is present.

Donna Potter asked the commissioners to review the minutes for the last meeting. Commissioner Milleson moved to approve the minutes as written. Commissioner Kiko seconded. No further discussion. Motion carried by an affirmative vote of Commissioners Kiko and Milleson. Commissioner Remias abstained.

First item on the agenda is the education fund requests. Donna Potter stated that there was a request from the OAA for the fall seminar to be held on October 20, 2011. The request states that 6 hours of RE CE will be applied for. The program is to be held at ODA and the total of the request is for \$5,500.00. Ms. Potter advised the commission that they had a remaining spending authority of approximately \$34,415 for the fiscal year. Commissioner Remias moved to approve the request as submitted. Commissioner Kiko seconded. Commissioner Milleson asked if it was open to public. Donna Potter noted that it was open to everyone. No further discussion. Motion carried by an affirmative vote of all members present.

The next item on the agenda is the Enforcement Update. Donna Potter stated that on or about July 13, Director Zehringer had requested that OBM transfer of 25% of the balance of the operating fund greater than \$300,000 to the auction recovery fund per R.C. 4707.05. She stated the amount to be transferred was \$31,840.46. She stated that the end of year balance for the auction education fund was \$249,270.10; for the operating fund \$427,361.84; and for the recovery fund \$1,078,181.65. Commissioner Kiko asked if there was a cap on the recovery fund. Jim Patterson referred to R.C. 4707.25. Commissioner Remias asked if the funds were in interest bearing accounts. Ms. Potter confirmed that they were. Ms. Potter stated that the renewal season was winding down. There were about 232 people who could still renew their licenses with the late fee prior to September 1. She stated the number of current licensees is as follows: 2,658 auctioneers, 178 apprentices, 3 special auctioneers, 203 auctioneer corporations, partnerships, and 82 auction firms for a total number of licensees at 3,124. She stated that the department had received seven complaints since the start of the fiscal year on July 1. All 7 cases are still open. Ms. Potter stated that there were a couple of recovery fund claims and asked Jim Patterson to update the commission. Mr. Patterson stated that there were 2 non-oral hearings and a judgment approved by the Director for a recovery fund payout. The judgment was currently working its way through the controlling board for approval to be paid. There were two claims processed under R.C. 4707.26 from individuals who did not have judgments. 1 claim was where an individual entered into a contract with an auctioneer to conduct a series of auctions online, in Michigan and in Ohio. The Claimant was unable to prove that any of the auctions but one occurred as a live auction in Ohio. The problem was that there was not any evidence to show that the loss occurred as a result of the auction held in the Ohio live auction. Jim stated that R.C.

4707.26 requires that the loss be associated with an act that only a licensed Ohio auctioneer may perform. The second claim was where an auctioneer agreed to pick up property and sell it at auction and he failed to pick up the property. The investigation by ODA noted various violations. The auctioneer failed to pick up the property which was located at a facility which had been sold by the claimant) and sell it at auction, which is a breach of the contract. The claimant was trying to claim the personal property value because the complainant did not want to approach the new real estate owners and ask for her property back. The facts show that the property never sold and the complainant was still the legal owner, so there were no monetary damages and without monetary damages, there could not be a payout of the fund. On another note, Mr. Patterson stated that he had talked to John Oberle regarding HB 114 and he gave him contact for BMV/the AG's office. He stated that ODA is doing whatever it can to facilitate communication but that ODA is not in any position to promote changes in the law.

Donna Potter noted that she would not be able to attend the bid calling contest this year and that she would be out 6-8 weeks for maternity leave. She stated that if the commission needed anything while she was out to contact Linda Loveridge or Gary Hill at 614-728-6240. She asked that they turn their travel reimbursements in as soon as possible so that she could process them before she went on leave. She reminded the commission that they will need to attend the annual 2 hour ethics class and that she had sent a link to the schedule to them via email. She stated that the department does not offer a class and that they needed to attend one of the seminars by the Ethics Commission. Commissioner Kiko asked if the annual was calendar year or fiscal year. Bill Hopper stated calendar. Donna Potter stated that the October meeting is scheduled for October 21. At that time, they will set the 2012 meeting schedule and elect a chair. She stated that David Schnaidt's term would be up and that she believed that he would be seeking reappointment.

Donna Potter asked for any other business before the commission, Bill Stepp from the OAA asked to update the commission regarding their progress with HB 114. He stated that they had talked with BMV and other folks and the general consensus is that HB 153 was supposed to get them back to square one. He stated that they are now concentrating on what was created for one business and they were looking to get language that would allow all auctioneers to be able to sell licensed/titled vehicles on consignment in some sort of capacity. He stated that they are taking the common sense approach and that they felt that an injunction would not be appropriate. If an injunction was obtained, that would prevent the one company from operating under the new license versus allowing everyone to sell vehicles in some capacity. Commissioner Milleson asked if they were still in conversation with Senator Widener and Rep. McGregor. Bill Stepp stated that they were and that they are sensitive to as to what can be done. They are in the process of developing a plan and then they will meet with Sen. Widener and Rep. McGregor. Commissioner Remias stated that there was a deep concern in his area over the new license requirements.

Donna Potter asked for any other business. Commissioner Kiko asked in regard to absolute auctions, what can an auctioneer do if the high bidder rescinds the bid and the back up bidder or even the high bidder then leaves before the property was declared sold? Can the auctioneer cancel the auction or do they have to start the bidding again. Bill Hopper stated that it was too hard of a question to answer without research. Commissioner Kiko stated that she was aware of a couple of auctions recently where that had happened. Donna Potter stated that they would have to look to see if there was any case law out there on it.

Bill Stepp asked what the number one complaint was. Donna Potter asked if he was asking what the number one complaint was or the most common violation. In terms of complaints, it often

revolves around unrealistic expectations of results and/or some one not understanding about auctions and how they are conducted. She cited that many of the new reality TV shows have created a false expectation of auction results or even a false sense of how auctions are supposed to be conducted. In terms of the number one violation, it continues to be contract issues and trust account issues.

Donna Potter asked for any other business. With no other business before the commission, Donna Potter asked for a motion to adjourn; Commissioner Kiko so moved. Commissioner Remias seconded. No further discussion. Motion carried. Meeting adjourned at 10:45am.

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Approved Chairman