

**MINUTES OF THE STATE AUCTIONEERS COMMISSION**  
**OHIO DEPARTMENT OF AGRICULTURE Seminar Room B**  
**8995 E. MAIN STREET, REYNOLDSBURG, OH 43068**  
**October 29, 2010**

**PRESENT:**

Commissioner James Milleson	James Patterson, Asst. Attorney General
Commissioner Gary Cain	Bill Hopper, Chief Legal Counsel
Commissioner David Schnaidt	Donna Brinker Potter, Auctioneer Program Manager
Commissioner Lori Kiko	
Commissioner Steve Remias	

**Members of the Public:**

Maggie Beckmeyer OAA  
Bill Stepp, OAA

Meeting called to order @ 9:34am by Chairman Schnaidt. All members of the commission are present.

Chairman Schnaidt asked the commission if they had a moment to review the minutes of the July 23, 2010 meeting. Commissioner Cain moved to approve the minutes as written. Commissioner Kiko seconded. No further discussion noted. Commissioner Remias abstained from voting. Motion carried by an affirmative vote of all remaining members.

Chairman Schnaidt asked the commission if they had a moment to review the minutes of the September 10, 2010. Commissioner Cain moved to approve the minutes as written. Commissioner Milleson seconded. Chairman Schnaidt abstained from voting. Motion carried by an affirmative vote of all remaining members.

The next item on the agenda is the election of a chair. Commissioner Cain moved to retain Commissioner Schnaidt as Chairman. Commissioner Kiko seconded. There was no further discussion regarding nominations. Chairman Schnaidt thanked everyone for their good will. Motion carried by an affirmative vote of all members.

The next item on the agenda is the setting of the 2011 calendar. The commission confirmed the 2011 meeting dates as January 14, April 22, July 22, and October 21, 2011. Commissioner Kiko asked when Easter fell this year. It was decided to move the April meeting to April 29 due to Easter falling on April 24. Commissioner Remias moved to approve January 14, April 29, July 22 and October 21 as the dates for the 2011 commission meetings. Commissioner Kiko seconded.

Next item on the agenda is the apprentice language. Chairman Schnaidt inquired of the OAA and some of the member dissatisfaction. Maggie Beckmeyer stated that she had emailed everyone the new language and they had not had any feedback. Bill Stepp stated that the board was remaining neutral. Commissioner Cain moved to move forward with the language as submitted. Commissioner Milleson seconded. Chairman Schnaidt asked if everyone felt the needs were addressed. Commissioner Kiko stated that for the most part it was good but she did not agree in entirety. Chairman Schnaidt stated that it was his hope that is a step in the right direction. Commissioner Cain stated that it won't solve all problems but that he did not wish to loosen the requirements too much. Chairman Schnaidt agreed that they did not want to lose the integrity of the language. Motion carried with an affirmative vote of all members.

The next item on the agenda is the Auction Education Fund. Chairman Schnaidt asked about the Summer Seminar. Commissioner Cain stated the speaker was bringing new technology that they all have to do. Bill Stepp stated that it was important to be on the cutting edge. Commissioner Cain stated that the Federal Firearms law is not rocket science but everyone wants to try and get around it. He stated that basically one individual's casual sale in the state—you can do. Consignments of more than one person are not permissible without a FFL. He stated that every time some one would ask a question, it was an attempt to get around the law. Maggie Beckmeyer stated that she was glad to have Bill Schmarr come and speak. Chairman Schnaidt said it was the best thing he ever did was to get his FFL.

The commission took a break at 10:05 and resumed on the record at 10:19.

Chairman Schnaidt asked if there was any additional feedback regarding the seminar. No other discussion noted. The commission reviewed the 2011 Winter Educational Seminar request from the OAA. Commissioner Kiko stated that it looked like a good program and moved to approve \$11,400 which eliminated the postage and handling for the mailing. Commissioner Remias seconded. Motion carried by an affirmative vote of all members.

The next item on the agenda is the Enforcement Update. Jim Patterson updated the commission on a recent hearing where the department proposed disciplinary action of an auctioneer who had instructed an employee to bid to a specific bid level at an auction that was advertised as sells to the highest bidder. The bid level was equal to the amount of the reserve with the seller. The auctioneer failed to disclose would be bidding at the auction. The property sold for \$22,000. The seller did not close on the property. The department received a complaint from the back up bidder at the auction. The department proceeded with an enforcement case for two major issues of violations of 4707. The first reason was for false representation in advertising. The auctioneer's contract with the seller was for a reserve auction and the auction was conducted as a reserve auction but advertised as an absolute auction. The second reason was for bid rigging. The auctioneer had conspired with an employee to bid up to the undisclosed reserve. Everyone who attended the auction felt that the employee was a bonafide bidder when in fact was not. Mr. Patterson referred to case law in regard to the violations. *JC Cody v. Stalter*, the appellate court found that the advertising of "sells to the highest bidder" denoted an auction with out reserve. And the second case which dealt with if there is false representation in ad could it be cured by making an announcement the day of the sale. *Schwartz v. Capital Savings & Loan*. The Franklin County Court of Appeals found that a person responding to an ad for an auction had a right to rely on the information in the ad as correct. The court found that the only option is to either cancel the sale or hold it as advertised. The department held a hearing and the hearing officer found that the auctioneer was in violation. The case is now on appeal with the Mahoning County Court of Appeals.

The next item on the agenda is Other Business. Chairman Schnaidt stated that he had recently had an issue with an online bidder. He stated that he had talked with Donna Potter at the department and was told that the department lacked jurisdiction over online auctions. He felt that may be an issue that continues.

Chairman Schnaidt asked for any other business. With no other business before the commission, Chairman Schnaidt asked for a motion to adjourn; Commissioner Cain so moved. Commissioner Remias seconded. No further discussion. Motion carried. Meeting adjourned at 11:36am.

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Approved Chairman