

Minutes
Georgia Auctioneers Commission
Monday, April 18, 2005 @10:00 A.M

Minutes Approved at June 27, 2005 Meeting

Public Hearing

A public hearing was held at 10:00 a.m. for the purpose of allowing public input into the Commission's consideration of amendments to rules posted by the Commission. There was no public comment, written or oral, regarding the proposed rule amendments.

The Georgia Auctioneers Commission held its regular meeting on April 18, 2005 at 237 Coliseum Drive, Macon, Georgia. Chairman Terry Hansford called the meeting to order at 10:10 a.m.

A quorum was established with members present being: Terry Hansford, Chairman, Charlie Gay, Cognizant Member, Mark Manley, Board Member, Roy Cates, Board Member, and Norman Echols, Board Member.

Others present were: Steve Lindsey, Executive Director, Jo Ann Lyde, Application Specialist, and Janice Ross, Board Secretary.

Mr. Manley moved to adopt the changes to Board Rule 55.1.01. Mr. Gay seconded. Motion carried

55-1-.01 Organization of Commission. Amended.

(1)The Georgia Auctioneers Commission is hereby created under the Secretary of State and Division Director, Professional Licensing Boards. The Commission shall be composed of six members, each of whom shall be appointed by the Governor, with the approval of the Secretary of State, and confirmed by the Senate. Five members of the Commission shall be licensed auctioneers who shall have been residents of this State and actively engaged in the auctioneering business for at least five years. One member shall be a resident of this State and shall have no connection whatsoever with the practice or profession of auctioneering.

(2) No person shall serve more than two consecutive years as chairman.

Mr. Manley moved to adopt the changes to Board Rule 55.5.02. Mr. Gay seconded. Motion carried

55-5-.02 Escrow Accounts. Amended.

(1) Prior to the issuance of a license, each auctioneer shall forward or shall cause to be forwarded to the Commission the following:

(a) The name of the bank and the account number of any escrow or trustee account wherein the funds of others held by the Auctioneer are maintained.

(b) An authorization permitting the examination of any escrow or trustee account by a duly authorized representative of the Commission when so directed by the Commission.

(2) All licensed auctioneers are required to deposit all proceeds from all auctions into an/a escrow/trust account(s), within forty-eight (48) hours or the next business day after collection of the funds, unless settlement is made within 24 hours.

(3) Any licensed auctioneer in Georgia who works directly for an auction company or who works directly for another licensed auctioneer who maintains an active escrow account may use that escrow account and number in all applications for licensure or renewal, provided that the escrow account is used solely for the purpose of holding funds of others in relation to auctions.

Mr. Manley moved to adopt the changes to Board Rule 55.6.01. Mr. Gay seconded. Motion carried

55-6-.01 Fees, Expiration Dates, and Late Renewals. Amended.

(1) All fees for applications for license, examinations, application and examination fee for reciprocity, wall certificates, duplicate wall certificates, renewals, late renewals, reinstatements, and all other fees which may be authorized by law shall be established by the Commission periodically as set forth on a fee schedule and may be obtained from the Commission office. Such fees must be paid directly to the Commission office.

(2) Late Renewal Fee: All licenses expire on February 28_{th} of each even numbered year. Renewals received after February 28_{th} will result in a penalty fee so long as a renewal is received by May 31st following the February 28_{th} expiration deadline. Failure to renew a license prior to June 1 following the expiration deadline will result in revocation of the license and will require a new application, reexamination, license fees and penalty fee for reinstatement of such revoked license. (See fee schedule maintained by Commission Office.)

(3) Fees for Auctioneering Schools:

All fees for applications for auctioneering schools and other licenses, renewals, late renewals, and all other fees that may be authorized by law shall be established by the Commission periodically as set forth on a fee schedule and may be obtained from the Commission office.

(a) A penalty fee as prescribed by the Commission shall be imposed for practicing as an auctioneer or operating an auctioneering company prior to being licensed by the Georgia Auctioneers Commission. (See fee schedule maintained by Commission Office.)

(4) When an application for an original license is made, the licensee shall contribute \$150.00 into the Education, Research and Recovery Fund.

(5) The Commission may require additional contributions to the Education, Research and Recovery Fund at any renewal period, provided the request is in compliance with O.C.G.A. Section 43-6-22.1.1

Mr. Manley moved to adopt the changes to Board Rule 55.8.01. Mr. Gay seconded. Motion carried.

55-8-.01 Schools. Amended.

(1) Schools of auctioneering seeking approval must provide the Commission with the following information:

(a) Completed application on a form approved by the Commission and required fee. (See fee schedule.)

(b) Submit evidence that all instructors in the school have a minimum of five years of experience in the auction profession, or in a profession directly related to the instruction material;

(c) Submit evidence of a policy requiring students to spend at least 80 credit hours, in class and 10 days in attendance, and to be completed within an 80-day calendar period for certification of graduation from the school;

(d) Submit a copy of the written examination required for certification of graduation from the school, the testing policy, and the passing score for the test; and;

(e) Submit a curriculum which contains a minimum of 80 credit hours earned in not less than ten (10) days which must include the following subjects:

1. Bid calling;
2. Georgia law, rules and regulations governing the profession of auctioneering;
3. Ethics;
4. Laws relating to bulk sales and the uniform commercial code as it relates to auctioneering;
5. Advertising;
6. Contracts; and
7. Accounting and bookkeeping procedures, and final settlements.

Other subjects that may be included in the curriculum are: antiques and furniture, art, automobiles, bankruptcy, estates, business liquidations, farm equipment, heavy machinery, jewelry, livestock, real estate, tobacco, set-up, conducting, personnel, and personal hygiene.

(2) An approved school shall notify the Commission within 30 days of any change(s) in the curriculum plan that was submitted with the application as required by paragraph (1) during the time the school is approved.

(3) An approved school which fails to comply with any requirement provided by the laws or rules, or which fails to meet the requirements provided in paragraph (1) of this rule may lose its approval by the Commission after written notice by mail to the last address on file with the Commission. The school has ten (10) days to respond to the notice. If the notice is returned "undeliverable," "unclaimed," "address unknown," or "moved, left no forwarding address," or if the school fails to respond within the ten (10) days, the school shall be deemed to waive its right to respond.

(4) All approved schools must renew Commission-approval and pay a renewal fee as prescribed by the Commission on or before February 28, of odd years beginning in 2005.

(5) Any school during the time it is approved by the Commission may use only the following language indicating its approval status in all materials or advertisements published and/or distributed on behalf of the school: "This school was approved by the Georgia Auctioneers Commission on (date) and its approval expires February 28, (year)."

Mr. Manley moved to adopt the changes to Board Rule 55.9.02. Mr. Gay seconded. Motion carried.

55-9-.02 Hour Requirement.Amended.

Renewal of a license shall not be granted unless the licensee submits satisfactory proof of at least eight (8) hours of Commission-approved Continuing Education within the previous 24 months.

Mr. Manley moved to post the changes to Board Rule 55.9.03. Mr. Gay seconded. Motion carried.

55-9-.03 Commission Approval of Continuing Education. Amended.

In the discretion of the Commission, the following types of educational activities and credits may be granted:

(a) Any seminar underwritten by the Commission or its representative (hour for hour).

(b) Any seminar sponsored by the National Auctioneers Association or any State Auctioneers Association that is acknowledged by the National Auctioneers Association (hour for hour);

(c) Courses related to the profession of auctioneering given by any certified institution of higher learning or Commission-approved auction school (hour for hour per course);

(d) Presentation of an auctioneer-related paper for a seminar or conference prepared and presented by the licensee (approval and credit determined by the Commission);

(e) Instruction at any Commission-approved seminar or auction school (course outline must be approved by the Commission);

(f) Publication of an auctioneer-related article in a Commission-recognized professional journal (approval and credit determined by the Commission);

(g) Internet, electronic or home study course. Providers of Internet, electronic or home study courses must meet the same requirements as listed in paragraphs (a), (b), and (c) above; and

(h) CE providers of any sort shall provide written proof of attendance and/or completion of CE courses to all attendees and electronic lists of attendees and/or completion to Commission in a format approved by the Commission.

Mr. Manley moved to adopt the changes to Board Rule 55.10.01. Mr. Gay seconded. Motion carried.

55-10-.01 Absolute auction

(1) No auction shall be advertised as "absolute" nor shall any advertising contain the words "absolute auction" or the word "absolute" or words with similar meaning nor shall any licensee offer or sell any property at absolute auction unless:

(a) There are no liens or encumbrances on the property, except current tax obligations, easements, or restrictions of record, in favor of any person, firm, or corporation other than the seller, or unless each and every holder of each and every lien and encumbrance, by execution of the auction listing contract, or otherwise furnishing to the auctioneer written evidence of a binding commitment there for, shall have agreed to the unqualified acceptance of the highest bid for the property, without regard to the amount of the highest bid or the identity of the high bidder; or, alternatively, that a financially responsible person, firm, or corporation, by execution of the auction listing contract or by otherwise furnishing to the auctioneer written evidence of a binding commitment therefor, shall have absolutely guaranteed the forthwith and complete discharge and satisfaction of any and all liens and encumbrances immediately after the sale or at the closing, without regard to the amount of the highest bid received, or the identity of the high bidder; and

(b) There is the bona fide intention at the time of the advertising and at the time of the auction sale, to transfer ownership of the property, regardless of the amount of the highest and last bid, to the high bidder, that intent existing without reliance on any agreement that any particular bid or bid level must be made or be reached, below which level the property would not be transferred to the high bidder; and

(c) The auction listing contract contains a binding requirement that the sale be conducted without reserve, by specific inclusion of an acknowledgment by the seller that the seller, or anyone acting upon behalf of the seller, shall not bid at the absolute auction, or otherwise participate in the bidding process.

(2) Compliance with subsection (1) of this section shall not prohibit:

(a) A secured party or other lien holder who is not the seller from bidding at an absolute auction sale, providing that such bidding does not constitute, nor is it tantamount to the direct or indirect establishment or agreement to the establishment of a reserve price on the property by the seller or by the auctioneer, or by anyone aiding or assisting, or acting upon behalf of, the seller or the auctioneer; or

(b) The inclusion of nonmisleading advertising of certain property to be sold at "absolute auction" and the nonmisleading advertising of certain property to be sold at auction with reserve, within the same advertisement, or for sale at the same date and place, providing that advertisement shall make clearly apparent through equal or appropriate emphasis, which property is being sold by each method.

(3) Any auction sale is, without requirement of announcement at any time, presumed to be with reserve unless the property are in explicit terms put up at absolute auction. An auction without reserve means an absolute auction. An auction with reserve means the property may be put up subject to the seller's confirmation or subject to a certain reserve price.

(4) (a) Except as provided in subsection (2) of this section, the seller may not bid at an absolute auction, nor may anyone bid upon his behalf. No licensee shall knowingly receive such a bid by or on behalf of the seller at an absolute auction.

(b) Bids may be made by the seller, or upon the seller's behalf, at any auction with reserve, provided that full disclosure has been made that liberty for such bidding is retained. No licensee shall knowingly receive such a bid in the absence of full disclosure.

(c) There shall be no requirement at a with reserve sale that the reserve be announced when it is attained.

Approval of Minutes:

Mr. Gay made a motion to accept the minutes of the March 7, 2004 meeting. Mr. Cates seconded the motion. Motion carried.

Adoption of Agenda:

Mr. Cates made the motion to adopt today's agenda. Mr. Gay seconded the motion. Motion carried.

Executive Session:

Ms. Gay made a motion to enter into Executive Session to deliberate on applications, complaint matters, Attorney General Report, and to receive information on applications and investigative reports. Mr. Manley seconded the motion. Motion carried by Mr. Hansford, Mr. Echols, and Mrs. Cates.

Appeals:

Mr. Walter Stiles presented his case to the Commission to appeal the Commission's denial of his application for licensure. The Commission advised him that, since he is a resident of Florida, he should apply for a non-resident auctioneer license. Mr. Stiles stated that he will reapply with a non-resident form.

Applications:

Jo Ann Lyde, Application Specialist, presented applications to the Board.

Investigative Report:

Mr. Gay presented investigative reports to the Board.

Open Session:

Mr. Hansford, Chairman, declared the meeting Open.

Applications:

Mr. Gay made a motion to approve the decisions on the auctioneer applications as presented to the Board. Mr. Cates seconded the motion. Motion carried.

Auctioneer

Mr. Gay made a motion to accept the following auctioneer applications. Mr. Manley seconded. Motion carried.

<u>License Number</u>	<u>Name</u>
AU003384	Evans, Tommie Everett
AU003385	Beasley, David Grady
AU003386	Whittington, Kevin Lee
AU003387	Brown, Joseph Kevin

Auction Company:

Mr. Gay made a motion to accept the following auction company applications. Mr. Manley seconded. Motion carried.

<u>License Number</u>	<u>Name</u>
AU-C002667	United Equipment Auctions Inc
AU-C002668	Old Clarksville Mill Art & Antique Mall
AU-C002669	East Creek Auction Company
AU-C002670	The Country Barnyard
AU-C002671	JDH Auctioneers, Inc
AU-C002672	Banks Auction
AU-C002673	L/S Auction

Auction Company – Non-Resident

<u>License Number</u>	<u>Name</u>
ACNR002322	Cash Realty of NY Inc
ACNR002323	The Counts Realty & Auction Group

Non-Resident Auctioneer:

Mr. Gay made a motion to accept the following non resident auctioneer applications. Mr. Manley seconded. Motion carried.

<u>License Number</u>	<u>Name</u>
AUNR002968	Blair, Alan Barklie
AUNR002969	Waldsmith, John S
AUNR002970	Ritchason, Dewain
AUNR002971	Karstedt, Christine
AUNR002972	Hester, C Mark
AUNR002973	Rhoads, Tom
AUNR002974	Beck, Brandon Scott
AUNR002975	Thornton, Tommie, Jr

Exempt Auction Companies

Mr. Gay made a motion to accept the following applications for Company Exemption.
Mr. Manley seconded. Motion carried.

Name

Alpha Auction Company, Inc.	Cliffords Auction	Haupt Auctions
Ambassador Auction, Inc.	Cochran-Jones Antiques	Kaolin Auction
American Auction Services	Connon Marketing Company Inc.	Kurt Earlywire Auctioneer
American Auctioneers	Country Club Antique Mall & Auction Co	L & S Auction
Antique World Auction Co.	Cowboy's Auction Barn	Lewis Auctions
Apple Valley Auction Co.	D&M Auction	Mad Auctioneering Company, Inc.
Auction Action	Dave Rossman Auction	Mark's Auction Co
Auctions by L. W. Benton Co.	De Santis Auction Co, Inc.	Merritt Auctioneering
B&B Auction	Dealer Auctions, Inc.	Murray Auction & Trading Co.
Barfield Realty & Auction	Demott Auction Co, Inc.	National Auction & Realy Co. LLC
Barnesville Auction	Douglas County Auto Auction, Inc.	Nolan Auction Co*
Brotherly Love	Dunn's Antiques, Auctions & More	Premier Auction Company
Buckman's Auction Service	Flowery Branch Auction & Antiques	Promax Auctions Inc
Cecil Passmore & Assoc. Inc	Georgia Realty Specialists & Auction Assoc.	Sandersville Auction Co
Chastain Auction	Glenn Willard Homes, Inc.	South Augusta Auction
Sylvania Auction Co. Inc	Southern States Vehicle Auction Inc	Shelly's Auction Gallery
The Slocumb Co	Southern States Auctions Inc.	Slotin Folk Art Auction
		Zenith Auction & Realty, Inc.

Investigative Reports:

AUCT050024

Mrs. Manley moved to close this complaint. Mr. Echols seconded the motion. Motion carried.

Attorney General's Report:

Mr. Echols moved to accept public consent order and payment of administrative fees from Hudson and Marshall and close the case. Mr. Gay seconded. Motion carried with Mr. Cates and Mr. Manley voting against the motion.

Mr. Manley moved to accept the consent order to license Terry Lynne Woods and close the case. Mr. Gay seconded. Motion carried.

Mr. Echols moved to accept the Attorney General's status report. Mr. Manley seconded. Motion carried.

Correspondence

Mr. Gay moved to deny Robert J. Heller's request to be licensed without attending auctioneer school or sitting for the exam based on OCGA § 43-6-11. Mr. Manley seconded. Motion carried.

Other Business:

Continuing Education

Mr. Manley moved to approve the Atlanta Academy of Auctioneers course submission for continuing education. Mr. Gay seconded. Motion carried.

Mr. Echols moved to table the Texas Workforce Commissioner approval of continuing education hours until such time as the Commission received assurance that this course is a ten day course as required in Georgia Rule and Regulations. Mr. Manley seconded. Motion carried.

Mr. Manley moved to approve the North Georgia School of Auctioneering. Mr. Echols seconded with Mr. Gay recusing himself from discussion and abstaining from the vote. Motion carried.

Adjournment:

There being no further business the meeting was adjourned at 1:50 p.m.