

Minutes  
Georgia Auctioneers Commission  
Monday, March 7, 2005 @10:00 A.M

**Minutes Approved at April 18, 2005 Meeting**

The Georgia Auctioneers Commission held its regular meeting on March 7, 2005 at 237 Coliseum Drive, Macon, Georgia. Chairman Terry Hansford called the meeting to order at 10:05 a.m.

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

Others present were: Steve Lindsey, Executive Director, Kathleen O'Neal, Director of Legal Services, Ken Woods, Supervisor of Enforcement Section, Robert Renjel, Board Attorney, Jo Ann Lyde, Application Specialist, and Janice Ross, Board Secretary.

**Approval of Minutes:**

Mr. Gay made a motion to accept the minutes of the December 20, 2004 meeting. Mr. Manley seconded the motion. Motion carried.

**Adoption of Agenda:**

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

**Rule Amendments:**

- Mrs. O'Neal reported that the following rules have been revised:
  - 55.1.01
  - 55.5.02
  - 55.6.01
  - 55.8.01
  - 55.9.02
  - 55.9.03
  - 55.10.01

- Mr. Manley moved to post 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 ~~Joint Secretary, State Examining Boards~~ 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 post 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 post the changes to Board Rule 55.6.01. Mr. Gay seconded. Motion carried

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

~~Applications and license fees of the Georgia Auctioneers Commission are established as follows:~~

~~(a) Applications/Examination fee. Each application for auctioneer examination must be accompanied by a \$100.00 applications/examination fee.~~

~~(b) License Fees. Fees for initial licensure and biennial renewal are listed below:~~

~~1. Auctioneer License Fee (a) Even Years \$200.00 (b) Odd Years \$100.00 (The above fees are to be remitted only after passing examination.)~~  
~~2. Auctioneer License Renewal Fee \$200.00 3. Corporation or Partnership License Fee \$200.00 4. Branch Office \$200.00 (each branch) 5. Nonresident Auctioneer (without examination) \$200.00 6. Reinstatement fee after March 31 will require a \$100 penalty fee plus a license fee.~~

(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) (e) Penalty fee. Late Renewal Fee:~~ All licenses expire on ~~December 31~~ February 28 of each ~~odd~~ even numbered year. Renewals received after ~~December 31st~~ February 28th will result in a penalty fee of ~~\$100.00~~ so long as a renewal is received by May 31<sup>st</sup> following the February 28<sup>th</sup> expiration deadline. ~~within three (3) months (by March 31).~~ Failure to renew a license prior to June 1 following the expiration deadline. ~~April 1st~~ will result in revocation of the license and will require a new application, reexamination, license fees and ~~\$100.00~~ penalty fee for reinstatement of such revoked license. (See fee schedule maintained by Commission Office.)

~~(3) (d) Fees for Auctioneering Schools:~~

~~1. Fee for Application for Auctioneering School \$195.00 2. Fee for Auctioneering School Renewal \$100.00~~ 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.

~~(e) (a)~~ A penalty fee of ~~\$250.00~~ 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) (f)~~ When an application for an original license is made, the licensee shall contribute \$150.00 into the Education, Research and Recovery Fund.

~~(5) (g)~~ 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 post 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 an application on a form approved by the Commission and required fee. (See fee schedule.) ~~submit a fee in an amount provided by rule;~~

(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, ~~of credit~~ and 10 days ~~of~~ in attendance, and to be completed within a 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;  
~~Auctioneers statute and rules and regulations,~~

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 ~~which~~ 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) ~~information required in 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, December 31, of odd years beginning in ~~1994~~ 2005.

(5) Any school during the time it is approved by the Commission may use only the following language indicating its ~~their~~ 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, December 31, (year)."

- Mr. Manley moved to post 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, ~~in class~~, 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);~~and~~

(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 post the changes to Board Rule 55.10.01. Mr. Gay seconded. Motion carried with Mr. Echols voting against the motion.

#### **55-10-.01 Absolute Auction**

~~(1) No auction may be advertised, promoted, or announced as absolute or as an absolute auction unless all items sold or offered for sale at the auction are conveyed to the high bidder without reservation and without any competing bids of any type by the owner or an agent of the owner of the property.~~

~~(2) If some items at an auction are sold or offered for sale as absolute and some are sold or offered for sale with reserve, then any advertisements, promotions, or announcements either must not use the words "absolute," "absolute auction," or similar words, or must clearly specify that some items are to be sold at absolute and some items are to be sold with reserve. Further, with regards to such an auction, any advertisement, promotion, or announcement which uses the term "absolute" or similar term must also use with equal prominence the terms "with reserve" or "with reservation."~~

#### **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.

### **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. Jones

### **Applications:**

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

### **Investigative Report:**

Mr. Ken Woods of the Enforcement Section presented investigative reports to the Board.

**Open Session:**

Mr. Hansford, Chairman, declared the meeting Open.

**Applications:**

Mr. Gay made a motion to accept the auctioneer applications as presented to the Board.  
Ms. Jones seconded the motion. Motion carried.

**Auctioneer**

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

<b><u>License Number</u></b>	<b><u>Applicant's Name</u></b>
AU003367	Banks, William Sam
AU003368	Minchew, William Paul
AU003369	Jones, Janon Jean
AU003370	Iodice, Peter R
AU003371	Hegwood, Timothy Lynn
AU003372	Tise, Timothy Eugene
AU003373	Smith, John Winston
AU003374	Miller, Donald G, Jr.
AU003375	White, Aulton Harvey
AU003376	Hall, Jodina Rene
AU003377	Herndon, Robert Edward
AU003378	Collins, Daniel Lucas
AU003379	Woodward, Johnny L, Jr.
AU003380	Evans, Christopher Lee
AU003381	Howington, William Mark
AU003382	Patton, Clerence Ronald, Jr.
AU003383	Holland, Jeff David

**Auction Company:**

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

<b><u>License Number</u></b>	<b><u>Company Name</u></b>
AU-C002663	Barfield Properties Inc
AU-C002664	Country Club Antique Mall & Auction Co
AU-C002665	Denny WilBanks Realty & Auction Company
AU-C002666	R & S Sales/ Lovejoy Auction

**Auction Company – Non-Resident**

<b><u>License Number</u></b>	<b><u>Company Name</u></b>
ACNR002321	Yoder & Frey Auctioneers



**Non-Resident Auctioneer:**

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

<b><u>License Number</u></b>	<b><u>Applicant's Name</u></b>
AUNR002958	Smith, Robert A
AUNR002959	Ball, Paul Edwin
AUNR002960	Bryant, William C, III
AUNR002961	Kemmer, James Pit
AUNR002962	Raber, Alva, Jr.
AUNR002963	Perry, Herbert Lewis
AUNR002964	Cunningham, Raymond F
AUNR002965	Holbrook, Jack D
AUNR002966	Wilkes, Richard Edwin, Jr.
AUNR002967	McGinness, James Johnston

**Exempt Auction Companies**

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

<b><u>License Number</u></b>	<b><u>Company Name</u></b>
EXEMPT	Cash Realty of NY Inc
EXEMPT	Christenson-Elms Auction Company Inc
EXEMPT	Clements Antiques
EXEMPT	Granger Auction Company
EXEMPT	J & J Auctions
EXEMPT	Jimmy's Auction Inc
EXEMPT	Lucky R Auction
EXEMPT	Ritchason Auctioneers, Inc
EXEMPT	Vanover Auctions
EXEMPT	West Ga's Bargain & Auction

**Investigative Reports:**

**AUCT050022.**

Mr. Manley moved to fine the company \$250, flag the file and close the case. Mr. Gay seconded the motion. Motion carried.

**AUCT040002**

Ms. Jones moved to close the case. Mr. Echols seconded the motion. Motion carried.

**AUCT040040**

Mr. Echols moved to close the case. Mr. Manley seconded the motion. Motion carried.

**AUCT050015**

Mr. Manley moved close the case. Mr. Echols seconded the motion. Motion carried

**Attorney General's Report:**

Mr. Manley moved to accept the consent order and fine to license LS Auction. Mr. Gay seconded. Motion carried.

Mr. Manley moved to accept the consent order and fine to license Robin Deland. Mr. Gay seconded. Motion carried.

**Other Business:**

**Continuing Education**

Mr. Manley moved to table approval of the Atlanta Academy of Auctioneer course until the Commission receives a course outline. 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 a course outline which should include 4 hours of Georgia Rule and Regulations. Mr. Manley seconded. Motion carried.

**Senate Bill 124**

Mollie Fleeman, Division Director of the Professional Licensing Boards Division, addressed the Commission on Senate Bill 124. Mr. Manley moved to send a letter from the Auctioneer Commission encouraging the Senate not to pass the bill without funding. Ms. Jones seconded. Motion carried unanimously.

**Adjournment:**

There being no further business the meeting was adjourned at 2:30 p.m.