

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

F I N A L M I N U T E S

MEETING OF:

STATE BOARD OF AUCTIONEER EXAMINERS

TIME: 10:30 a.m.

Held at

PENNSYLVANIA DEPARTMENT OF STATE

2601 North Third Street

One Penn Center, Board Room C

Harrisburg, Pennsylvania 17110

as well as

VIA MICROSOFT TEAMS

Monday, September 11, 2023

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51

State Board of Auctioneer Examiners
September 11, 2023

BOARD MEMBERS:

Nevin B. Rentzel, AU, Chairman, Professional Member
Arion R. Claggett, Acting Commissioner, Bureau of Professional and Occupational Affairs
Sherman E. Hostetter Jr., AU, Professional Member
Gerald A. Rader, AU, Professional Member
Daniel A. Trace, AU, Secretary, Professional Member
Hayley Dull, Consumer Protection Agent, Office of Attorney General

BUREAU PERSONNEL:

Shawn J. Jayman, Esquire, Board Counsel
Jason E. McMurry, Esquire, Board Counsel
J. Karl Geschwindt, Esquire, Board Prosecution Liaison
Marc Farrell, Esquire, Regulatory Counsel, Office of Chief Counsel, Department of State
Andrew LaFratte, MPA, Deputy Policy Director, Department of State
Terrie Kocher, Board Administrator
Michael McDonald, Policy Director, Department of State

ALSO PRESENT:

Jessica Kemmerer, Government Affairs, Pennsylvania Auctioneers Association
Cordier Auctions & Appraisals
Victoria Lantz

1 ***

2 State Board of Auctioneer Examiners

3 September 11, 2023

4 ***

5 [Pursuant to Section 708(a)(5) of the Sunshine Act,
6 at 9:00 a.m. the Board entered into Executive Session
7 with Shawn J. Jayman, Esquire, Board Counsel, and
8 Jason E. McMurry, Esquire, Board Counsel, for the
9 purpose of conducting quasi-judicial deliberations
10 and to receive legal advice on matters that are
11 currently pending before the Board. The Board
12 returned to open session at 10:30 a.m.]

13 ***

14 The regularly scheduled meeting of the State
15 Board of Auctioneer Examiners was held on Monday,
16 September 11, 2023. Nevin B. Rentzel, Chairman,
17 Professional Member, called the meeting to order at
18 10:30 a.m.

19 ***

20 Roll Call of Board Members

21 [Nevin B. Rentzel, Chairman, Professional Member,
22 requested a roll call of Board members.]

23 ***

24 Introduction of Attendees

25 [Terrie Kocher, Board Administrator, provided an

1 introduction of attendees.]

2 ***

3 Approval of minutes of the May 8, 2023 meeting

4 CHAIRMAN RENTZEL:

5 The minutes from our last meeting from
6 May 8 have been distributed. Do I hear
7 any questions or comments?

8 MR. HOSTETTER:

9 Motion to accept.

10 MR. TRACE:

11 Second.

12 MS. KOCHER:

13 Nevin Rentzel, yes; Arion Claggett,
14 aye; Sherman Hostetter, aye; Gerald
15 Rader, aye; Daniel Trace, aye; Hayley
16 Dull, abstain.

17 [The motion carried. Hayley Dull abstained from
18 voting on the motion.]

19 ***

20 Report of Board Prosecution

21 [J. Karl Geschwindt, Esquire, Acting Senior
22 Prosecutor and Board Prosecution Liaison, had nothing
23 to report for the month of September.]

24 ***

25 Report of Board Counsel

1 [Jason E. McMurry, Esquire, Board Counsel, welcomed
2 Shawn Jayman and informed Board members that he would
3 be their new Board Counsel.]

4 ***

5 Report of Board Counsel - Applications

6 MR. MCMURRY:

7 Item 4 is the Application for Licensure
8 by Reciprocity for Ms. Tontz.

9 Pursuant to discussions in
10 Executive Session, it's my
11 understanding the Board has voted to
12 table review of that Application at
13 this time and would be getting some
14 information back from Ms. Tontz in the
15 form of the examination.

16 Terrie is going to reach out to the
17 applicant to relay that information.

18 ***

19 MR. MCMURRY:

20 Item 3 on the agenda is Citation No.
21 54603. Prior to the meeting today, the
22 Board met in Executive Session to
23 discuss quasi-judicial deliberations
24 and to receive advice from legal
25 counsel pursuant to the Sunshine Act

1 and, in doing so, discussed the matter
2 on the agenda at item 3.

3 At this time, I would look for a
4 motion to direct Board Counsel to draft
5 an order commensurate with those
6 discussions in Executive Session.

7 MR. RADER:

8 So moved.

9 MR. TRACE:

10 Second.

11 MS. KOCHER:

12 Nevin Rentzel, aye; Arion Claggett,
13 aye; Sherman Hostetter, recuse; Gerald
14 Rader, aye; Daniel Trace, aye; Hayley
15 Dull, aye.

16 [The motion carried. Sherman Hostetter recused
17 himself from deliberations and voting on the motion.]

18 ***

19 Report of Board Counsel - Regulations

20 [Jason E. McMurry, Esquire, Board Counsel, stated the
21 purpose of the Act 88 regulations. The Practice Act
22 was amended and a new regulation package was needed
23 to revise the regulations and add language to be able
24 to apply the amendments from the Practice Act.

25 Mr. McMurry referred to the annex for the

1 educational requirements under approved course of
2 study at § 1.11, which breaks down requirements for a
3 Group A and Group B schools. He noted Group A school
4 pieces of study to be at least 20 credit hours with 1
5 credit hour being defined as 15 standard hours of
6 instruction.

7 Mr. McMurry noted Group B is comprised of 80
8 standard hours, including the same subject matter.

9 Mr. Hostetter requested an explanation concerning
10 § 1.1(e), where credit for a course that is not
11 included will be considered by the Board on an
12 individual basis.

13 Mr. McMurry explained that the language would
14 read, completed the course of study in auctioneering
15 in other states approved by that state's auctioneer
16 license but may request the Board to review the
17 applicant's transcript to determine whether the
18 applicant's course of study substantially meets the
19 requirements of (c) or (c.1) as applicable above,
20 which is (a) or (b).

21 Mr. McMurry informed Board members that the
22 regulation could be drafted if there were no major
23 changes or brought back to the Board for final
24 review.

25 Mr. McMurry asked whether Board members had any

1 questions concerning § 1.24 regarding apprentices. He
2 noted it originally was an application for auctioneer
3 license for individuals. He noted changing the
4 titling and adding other pieces to make it applicable
5 to the changes made above for the education.

6 Mr. McMurry addressed § 1.25, noting a License
7 for Partnerships, Associations, and Corporations is
8 how it is going to be newly titled.

9 Mr. Hostetter asked what or who they are
10 licensing when it says partnerships, associations,
11 and corporations. He asked how to go about inserting
12 an individual to hold accountable if something goes
13 wrong.

14 Mr. Hostetter noted that it later reads that the
15 Board will not issue a new auction company license to
16 a sole proprietor, meaning they do not have to have
17 an auction company and are going to run their company
18 from their sole proprietorship. He asked how that
19 verbiage works in this section where they are saying
20 they are licensing a partnership, association, or
21 corporation.

22 Chairman Rentzel explained that this is for
23 someone who is either part of a partnership or an LLC
24 or unlicensed. He mentioned that someone who is not
25 an auctioneer who wants to have an auction company

1 ought to have an auctioneer-of-record to be able to
2 conduct business after they form the auction company.

3 Mr. Hostetter asked how they hold somebody
4 responsible for § 1.25, which is partnership,
5 association, and corporation.

6 Ms. Kocher referred to page 8 in the white book,
7 where every auction company shall designate an
8 auctioneer record. She commented that they define a
9 legally recognized entity as a partnership,
10 association, corporation, limited liability company,
11 or other entity recognized under the laws of the
12 commonwealth and asked whether § 1.25 should mirror
13 the language of what they would recognize as a legal
14 entity.

15 Ms. Kocher noted that they have licenses for
16 partnerships, associations, or corporations but asked
17 whether they should be including limited liability
18 companies in that language as well.

19 Mr. McMurry explained that it is the reason it is
20 on there but comments did not appear on his saved
21 version.

22 Mr. Hostetter asked whether it could be
23 referenced in that section so somebody seeing this
24 would know what they have to do.

25 Mr. McMurry noted he would add another section at

1 the beginning. He noted § 1.25 needs to site to the
2 law section at section 3 of the act.

3 Mr. Hostetter referred to page 9 under section 3,
4 where it reads, designation of auctioneer-of-record
5 and deleted by amendment. He asked whether that was
6 deleted in a specific area because section 2 on page
7 8 reads, every auction company shall designate an
8 auctioneer-of-record.

9 Mr. McMurry explained that when the act was
10 revised that they rewrote it and did their own clean
11 up. He noted it is in a different area but deleted
12 from (g).

13 Mr. McMurry asked whether there are any issues
14 with the way § 1.25 reads. He noted other laws have
15 changed and referred to Act 53 concerning criminal
16 convictions. He stated everything is referenced in
17 the actual act itself that deals with crimes related
18 to the profession and did not think they needed to
19 change much from an Act 53 standpoint.

20 Chairman Rentzel asked whether Act 53 adjusts any
21 timelines because it is currently five years.

22 Mr. McMurry stated the five-year piece is
23 referenced in section 20 subsection (4), within five
24 years prior to the issuance of the license. He noted
25 it is taking different sections and putting them in

1 together to try to explain to applicants applying for
2 these types of licenses what the board will consider.

3 Mr. Hostetter asked whether the Board could go
4 past five years.

5 Mr. McMurry stated the act itself states five
6 years prior to the issuance of license, noting the
7 Board may refuse, but it dovetails with Act 53. He
8 mentioned that there are ongoing discussions about
9 Act 53 and the section mirrors the language of the
10 statute and making it broader would be in conjunction
11 with Act 53 language. He noted the Board could hold
12 off because more changes may be coming depending on
13 other discussions and how things are being handled
14 under Act 53.

15 Mr. McMurry reminded everyone that the
16 regulations are not being handled on an individual
17 board basis but as an organizational Bureau of
18 Professional and Occupational Affairs (BPOA) basis on
19 behalf of all the boards. He noted it to be the same
20 as in the regulations except for changing the
21 heading.

22 Mr. McMurry commented that he did not see the
23 need to change anything at the current time. He
24 noted the main crux of the Act 88 amendments were to
25 flush out the education piece as people are taking

1 different courses in different schools in different
2 parts of the country. He recommended removing § 1.25
3 out of the package and just leaving it as it is
4 stated in the regulations until there is more
5 clarity, and Board members agreed.

6 Mr. McMurry referred to § 1.26 regarding the
7 application for auction house and auction company
8 licenses. He noted the removal of auction house and
9 removal of references to auction house. He mentioned
10 including language to express that it is effective
11 with the act. He noted everything in brackets would
12 be removed and anything underlined would be replaced,
13 and Board members agreed.

14 Chairman Rentzel asked Ms. Kocher whether she saw
15 any problems with anything done so far because she
16 administered a lot of the changes, and Ms. Kocher did
17 not see any problems.

18 Mr. McMurry noted having a new section, § 1.27
19 regarding an auctioneer special license. He referred
20 to (g.1) regarding a special license to conduct an
21 auction in the Practice Act. He mentioned the first
22 sentence to be conflicting that reads, an auctioneer
23 or auction company authorized to engage in
24 auctioneering in another state. He noted somebody is
25 coming to Pennsylvania from another and auctioneering

1 here, where the word "in" should say "from," and the
2 Board agreed.

3 Mr. McMurry revised the proposed language from
4 previous counsel but left the highlights from
5 previous counsel where the Board may have had some
6 questions. He requested the Board to review the
7 information.

8 Mr. Rader explained that they are submitting
9 their license number, and everything in yellow must
10 be provided if they do not have a license somewhere
11 else.

12 Mr. Hostetter referred to § 1.27(2) and suggested
13 the addition of the word "approved" for it to read,
14 successfully completing the approved course of study.

15 Ms. Kocher noted the special license fee
16 decreased from \$200 and is currently \$120.

17 Mr. McMurry addressed § 1.51 regarding change of
18 name or address and service number process to be done
19 within 10 days as compared to 30 days.

20 Ms. Kocher explained that those are everyday
21 changes and are done online now.

22 Mr. Hostetter suggested changing it to 30 days to
23 make it more reasonable.

24 Ms. Kocher noted that the law allows 30 calendar
25 days for anyone changing their auctioneer-of-record.

1 Mr. McMurry referred to (c), noting a blank
2 number of days for someone to cease operation and
3 asked if there was a time frame.

4 Ms. Kocher stated that the question does not come
5 up often and they are told to do it as soon as they
6 know if they are going out of business or if they
7 know who the new owner is going to be, where the new
8 owner would have to send a new application if they
9 are not a sole proprietor. She mentioned that she
10 was not sure whether they could do a company inactive
11 or out of business online because there are some
12 functions in the Pennsylvania Licensing System (PALS)
13 that may not work.

14 Mr. Rader commented that 30 days would be enough
15 time to get everything settled down and complete the
16 process, and Board members agreed.

17 Acting Commissioner Claggett referred to (b),
18 notify the Board in writing within 10 days, noting it
19 is now an online application and the language "in
20 writing" is no longer necessary.

21 Mr. Hostetter asked whether the Board should add
22 the language "online" or take everything out and have
23 the individual contact the Board.

24 Mr. McMurry commented that there was no need to
25 add regulations if there is no need for them or need

1 of enforcement. He noted it sounds like there is
2 already a process in place. He mentioned that a lot
3 of stuff was drafted before that process was in place
4 and would be addressed in the operational guidance of
5 BPOA.

6 Ms. Kocher explained the online process, where
7 anyone who calls the administrative office would be
8 directed to their online site to log into their PALS
9 account to make changes and upload the required
10 information. She noted they would indicate the
11 changes on the application and then the instructions
12 would talk about the bond.

13 Ms. Kocher noted that a company would also have
14 the option to change the auctioneer-of-record and
15 would be one additional change an auction company
16 could do that would be different than an individual
17 license.

18 Acting Commissioner Claggett referred to Mr.
19 McMurry's comment as to whether the Board actually
20 needs it since there is already a process in place to
21 go online to change it, so why would they need to
22 notify the Board if they are going online anyway.

23 Mr. McMurry mentioned that the purpose of the
24 section was to make sure that the information they
25 have in house is current and accurate for the public

1 and Board. He noted the other piece to this is the
2 actual enforcement provisions where someone cannot
3 operate without a valid bond. He mentioned that it
4 seems like all of the boards through the
5 administration through BPOA have been covered now
6 from a notification standpoint and was not sure if
7 anything is needed.

8 Acting Commissioner Claggett suggested adding it
9 to the renewal notices.

10 Ms. Dull stated the Bureau of Corporations and
11 Charitable Organizations (BCCO) has a statement that
12 reads, failure to update us does not preclude you
13 from notifications, such as correspondence from the
14 board. She suggested leaving it as a notice, where
15 it would be their responsibility to update the Board
16 of any changes made to their address, name, etc.,
17 which could be more of a disclaimer.

18 Mr. McMurry suggested removing § 1.51 completely
19 and working with Ms. Kocher and all the boards and
20 move forward with generalized information. He
21 believed it would create more of an issue trying to
22 enforce and explain it.

23 Mr. McMurry explained that the purpose of
24 regulations is for the Board to speak and clarify the
25 Practice Act and believed this may have come from a

1 Board discussion concerning a problem that does not
2 exist anymore because of the online registration.

3 Mr. McMurry informed Board members that he would
4 bring the changed version back for review and Board
5 approval, along with the preamble.

6 Acting Commissioner Claggett commented that
7 notifications could be placed on the Board's website
8 and sent through an email blast throughout the year
9 and during the renewal period.

10 Mr. McMurry noted the Board would be moving
11 forward with § 1.11 regarding the course of study,
12 leaving § 1.24 for the auctioneer license as it
13 stands, removing § 1.51, and cleaning up § 1.26. He
14 noted § 1.25 would be left in there. He also noted
15 the new one would be § 1.27 regarding the special
16 license.]

17 ***

18 Report of Acting Commissioner - No Report

19 ***

20 Report of Board Chairperson

21 [Nevin B. Rentzel, Chairman, Professional Member,
22 informed everyone that Mr. Trace's Board member term
23 had been renewed, but three other professional
24 members were still pending.]

25 ***

1 Appointment - Introduction

2 [Michael McDonald, Policy Director, Department of
3 State, introduced himself and provided a brief
4 history of his personal and professional background.

5 He informed everyone that the policy office works
6 with all of the department's program areas, including
7 all of the boards and commissions set the policy
8 agenda and perform research and analysis function.

9 Mr. McDonald noted that they work closely with
10 Board Counsel to review and draft regulations and
11 implement new policies and research the impact. He
12 stated their role is to serve as a resource for the
13 Board and other individuals in the department serving
14 the citizens of Pennsylvania.

15 Mr. McDonald mentioned that he also works closely
16 with Acting Commissioner Claggett and counsel and
17 encouraged Board members to reach out to him or
18 Deputy Policy Director Andrew LaFratte as a resource
19 for any questions or concerns.

20 Mr. McDonald thanked Board members for their
21 service to the licensees and citizens of the
22 Commonwealth of Pennsylvania.]

23 ***

24 Miscellaneous - Board Member Terms

25 [Arion R. Claggett, Acting Commissioner, Bureau of

1 Professional and Occupational Affairs, requested
2 Board members whose term ends soon to also provide
3 him with any information, so he could circle back
4 with the governor's office.]

5 ***

6 Miscellaneous - Trading Assistants

7 [Sherman E. Hostetter Jr., Professional Member, asked
8 how to get a trading assistant and asked whether they
9 could get somebody who in an auctioneer but online.

10 Mr. McMurry explained that the act created a new
11 class of business entity called trading assistant and
12 trading assistant company that are able to do
13 auctions but only in an online capacity, which
14 created a position on the Board for that class of
15 license.

16 Mr. Hostetter requested information concerning
17 what a trading assistant can and cannot do.

18 Ms. Kocher explained that trading assistants are
19 defined in section 2 of the law, noting the Board is
20 not allowed to issue advisory opinions but does refer
21 individuals to that section.

22 Mr. McMurry noted Ms. Kocher to be correct, where
23 the legal department cannot give advisory opinions.
24 He stated any violations that may have occurred are
25 up to the Bureau of Enforcement and Investigation

1 (BEI) and prosecution folks to sort out.]

2 ***

3 Report of Board Administrator - No Report

4 ***

5 [Sherman E. Hostetter Jr., Professional Member, noted
6 the National Auctioneer Association's Conference &
7 Show would be held July ~~23-24~~ 22-27, 2024, in
8 Pittsburgh.

9 Mr. Hostetter expressed concern with rumors of
10 some type of regulation toward auctioneers concerning
11 being allowed to only have five cars consigned into
12 an auction. He mentioned that he has a consignment
13 auction about two to four times a year for equipment
14 and vehicles.

15 Mr. Rader commented that there are regulations
16 but would be a matter of clarifying whether someone
17 owns the car or not or auctioning cars that need
18 signed over.

19 Mr. McMurry commented that the dealership owns
20 the car and is selling their own property and assumed
21 that the vehicle folks may be trying to crack down on
22 people selling cars without a license.

23 Mr. Hostetter also mentioned needing some type of
24 a service mechanism like a dealer would typically do
25 when selling a car.

1 Mr. Rader clarified that Mr. Hostetter would be
2 liquidating a fleet for a company and not taking
3 possession of those and buying and selling cars.

4 Mr. Hostetter thanked Mr. McMurry for the
5 excellent job he has done for the Board and welcomed
6 Mr. Jayman.]

7 ***

8 [Nevin B. Rentzel, Chairman, Professional Member,
9 noted the next scheduled Board meeting date is
10 Monday, November 13.]

11 ***

12 Adjournment

13 CHAIRMAN RENTZEL:

14 Do I hear a motion to adjourn?

15 MR. HOSTETTER:

16 So moved.

17 MR. RADER:

18 Second.

19 CHAIRMAN RENTZEL:

20 Thank you all for being here.

21 ***

22 [There being no further business, the State Board of
23 Auctioneer Examiners Meeting adjourned at 11:55 a.m.]

24 ***

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

CERTIFICATE

I hereby certify that the foregoing summary minutes of the State Board of Auctioneer Examiners meeting, was reduced to writing by me or under my supervision, and that the minutes accurately summarize the substance of the State Board of Auctioneers meeting.



Victoria Lantz,

Minute Clerk

Sargent's Court Reporting
Service, Inc.

STATE BOARD OF AUCTIONEER EXAMINERS
REFERENCE INDEX

September 11, 2023

| TIME | AGENDA |
|-------|-------------------------------------------------------------------------|
| 9:00 | Executive Session |
| 10:30 | Return to Open Session |
| 10:30 | Official Call to Order |
| 10:30 | Roll Call of Board Members |
| 10:31 | Introduction of Attendees |
| 10:31 | Approval of Minutes |
| 10:32 | Report of Board Counsel |
| 11:38 | Report of Board Chairperson |
| 11:39 | Appointment - Michael McDonald, Policy Director, Department of State |
| 11:41 | Miscellaneous |
| 11:55 | Adjournment |