

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

April 27, 2012

PRESENT:

Commissioner Steve Remias	James Patterson, Asst. Attorney General
Commissioner James Milleson	Michael Rodgers, Interim Chief Legal Counsel
Commissioner Lori Kiko	Donna Brinker Potter, Auctioneer Program Manager
Commissioner Gary Cain	

Members of the Public:

Maggie Beckmeyer, OAA	Marie Roberts, K & M School of Auctioneering
Jeff Harvey, President OAA	Richard Baker
Peter Gehres, OAA Treasurer	

Meeting called to order @ 9:33am by Donna Potter. All members of the commission are present except Chairman Schnaidt.

Donna Potter asked the commission to take a moment to review the minutes from the last meeting. Commissioner Cain made a motion to approve the minutes as submitted. Commissioner Kiko seconded. No further discussion noted. Motion carried by an affirmative vote of all members present.

Donna Potter introduced Michael Rodgers, Interim Chief Legal Counsel. Jim Patterson stated that Michael Rodgers had been staff counsel with ODA prior to the appointment and that he was familiar with ODA and the Auction Program.

First item on the agenda is the education fund request. The request is for \$6,400.00 for the Summer Seminar. The speakers are Mike Brandy, who will be discussing auction verdicts from around the country; Attorney Tom Baldwin will be discussing Mineral Rights; and Jim Milleson and Mike Chadsey will be discussing fracking. Commissioner Kiko moved to approve the request. Commissioner Cain seconded. No further discussion noted. Motion carried by an affirmative vote by all present.

The next item on the agenda is the Enforcement Update. Donna Potter announced recent changes in the Senior Staff of the Department.

Director:	David Daniels
Asst. Director:	Howard Wise
Deputy Director:	Michael Bailey
Deputy Director:	Janelle Meade
Legislative Liaison(s):	Erin Honnold
	George McNab
Director of Communications:	Erica Pitchford
Director of Human Resources:	Tricia Orahood
Interim Chief Legal Counsel:	Michael Rodgers
Interim Chief Office of Business Management:	Cathy Dodson
Assistant Chief of Enforcement:	Hal Miller

Donna Potter advised the commission of the fund balances. The current balance for the operating fund is \$348,360.14; the balance for the education fund is \$250,370.55 with a remaining spending authority of \$13,659.30; and the auction recovery fund balance is \$1,106,950.12. Ms. Potter further stated that renewal

season was underway. The program had received 537 auctioneer applications out of 2775 due to renew; 13 Apprentice Applications out of 220 due to renew; 1 of 2 Special Auctioneers due to renew; 10 of 91 Auction Firms due to renew; and 35 of 218 auctioneer corporations due to renew. She stated that they have until June 30 to renew and avoid a late fee. After 7/1/2012, they can renew with a \$100.00 late fee and after 9/1, they must reapply as if initial licensure.

Donna Potter gave a breakdown of the 63 complaints received since July 2011:

- Active Investigations: 5
- Letters of Instruction: 36
- No Violation/insufficient evidence: 6
- Complaint withdrawn: 1
- Voluntary Compliance: 9
- Referral for Criminal Prosecution: 1
- Settlement Agreements: 7
- Pending Hearings: 1
- Notice of Hearing letters: 10

Main Issues:

- Untimely remittance of funds
- No contracts
- Aiding unlicensed activity
- Theft, improper dishonest dealings
- Trust account violations
- UCC violations—declaring a no sale after hammer drops
- Failure to maintain proof of financial responsibility.

Ms. Potter noted that there has been increased issues with unlicensed brokers advertising auction services and an increase in number of complaints regarding internet auctions which were referred to Attorney General Consumer Protection Division due to lack of jurisdiction by the department. Ms. Potter stated that in the upcoming OAA Buckeye magazine she has written an article regarding the sale of real estate at auction. Jim Patterson stated that the department had also been dealing with the legal requirements for licensed auto dealers who are conducting auctions to the public. He cited that there seems to be some confusion regarding the fact that they need to hold both an auctioneer license and a license through BMV. He also stated that the improper handling of funds continues to be an issue with compliance. Often an auctioneer does have a trust account but does not properly handle the funds and commingles the client monies with the business monies or they have failed to have a separate trust account. He stated that the commingling issue lays the ground work for other problems such as failure to timely remit monies due and the failure to properly account for proceeds. He stated that the trust account violations are something that the department takes very seriously when considering penalties. Mr. Patterson also stated that as a matter of housekeeping, his office has moved to downtown. He stressed that his duties had not changed just the physical location of his office. He stated he is now with his section at the Attorney General's Office which will facilitate communication between the other attorneys representing the other licensing agencies.

Ms. Potter stated that she had begun to receive letters of interest in the commissioner position that will open up in October. She stated that if someone is interested in the position, they need to apply via the Governor's web page. Anyone interested in sending a letter of support for an individual would need to send it to the Governor and courtesy copy the Director.

Donna Potter asked for any other business before the commission. Commissioner Kiko indicated that she would like to hear an update on HB 114 from the OAA. Jeff Harvey stated that he and John Oberle, the OAA's attorney, had met with the BMV and had a productive meeting. He stated that they are approaching the issue from a non-competitive advantage and consumer protection approach. He said they are looking to other states to see how this issue is handled there. He stated that they are trying to clear the issue up for the long term rather than just finding a short term fix. He said they are dealing with a 30 day window before the summer recess and that they would keep ODA and the OAC in loop. Commissioner Cain thanked Mr. Harvey for keeping them informed. The next item of new business before the commission is brought by Marie Roberts of the K&M School of Auctioneering. She is asking the commission to consider permitting video conferencing as a part of the school classroom. She cited that due to work schedules, distance, and economics many individuals are unable to attend auction school far from their homes. She is looking into providing a portion of the class work via the internet and video conferencing. Commissioner Kiko stated that this is a progressive proactive way of doing business. Commissioner Remias stated that many universities have gone to this approach due to the economy. Jim Patterson stated that he did not think that webinars were specifically addressed when the school curriculum requirements were adopted. He stated that the Ohio Administrative Code specifically refers to class room hours and would seem to contemplate a physical classroom. Peter Gehres questioned how it would be inspected/monitored. Commissioner Kiko asked that it be placed on the agenda for the next commission meeting and she asked Ms. Roberts to look at the administrative code and to make recommendations as to how it could be changed and to report on the benefits of such a change for the July meeting. Commissioner Milleson asked Maggie Beckmyer how the Hall of Fame interview process had gone. Ms. Beckmyer indicated that it was completed and that a copy was forwarded to OAA. Peter Gehres stated that the Michigan Governor was looking at eliminating the Michigan Auction Commission due to a lack of funding.

With no other business before the commission meeting adjourned at 10:29am with a motion from Commissioner Cain and a second from Commissioner Kiko.

Approved Chairman