**MINUTES**

**NORTH CAROLINA AUCTIONEER LICENSING BOARD**

**April 10, 2023**

The North Carolina Auctioneer Licensing Board met on Monday, April 10, 2023 in the Fuquay-Varina Office. The meeting was called to order at 9:00 a.m. Members present were Chairman Buck Lattimore, Vice Chairman Dan DeVane, Willie A. Johnson, Melinda Porter, and Kyle Swicegood. Also, present were Executive Director Charles F. Diehl, Administrative Officer Becky Stewart, and Special Deputy Attorney General Anne Brown with the NC Department of Justice.

Chairman Lattimore inquired of each member if there were any known conflicts of interest or any appearance of conflicts with respect to any matters coming before the Board during this meeting. Member Swicegood recused himself from the Consideration of the Probable Cause Report for item 1, due to his participation in the Probable Cause Subcommittee meeting held on March 9, 2023. Member Johnson recused himself from the Consideration of the Probable Cause Report for items 2-7, due to his participation in a Probable Cause Subcommittee meeting held on April 6, 2023. Other members stated there were none.

**Member Johnson made a motion to approve the March 13, 2023 minutes. Member Swicegood seconded the motion, which carried unanimously.**

Director Diehl presented the financial report. **Member Swicegood made a motion to approve the financial report for the month of March. Member Porter seconded the motion, which carried unanimously.**

Director Diehl reported on the staff investigations and advertising violations for the month of March. There were seven informal investigations and one ad violation. There are three active formal complaints currently under investigation.

Director Diehl provided the results of the April 6, 2023 auctioneer examination, which were as follows: nineteen examinees with sixteen passing and three failing.

Director Diehl led a discussion on the consideration of an assessment for the Recovery Fund for the Fiscal Year 2023-2024 license period. **Vice Chairman DeVane made a motion that no assessment to the Recovery Fund take place during the Fiscal Year 2023-2024 license period. Member Swicegood seconded the motion, which carried unanimously.**

Chairman Lattimore requested a motion to go into Executive Session to receive advice from counsel concerning matters in litigation and matters of potential litigation for agenda item 8 – Review of Probable Cause Report and agenda item 9 – Consideration of Recovery Fund Claim Application for Renata Arrington in the Complaint Case 22-5707-07, Joseph Brent Hoggard/Red Barn Antiques. **Member Swicegood made a motion to go into Closed Session. Member Johnson seconded the motion, which carried unanimously.** The Board when into Closed Session at 9:15 a.m.

**Member Swicegood made a motion to return to Open Session. Vice Chairman DeVane seconded the motion, which carried unanimously.** The Board returned to Open Session at 9:31 a.m.

**Vice Chairman DeVane made a motion to accept the recommendation from the Probable Cause Report for item 1. Member Johnson seconded the motion, which carried unanimously.** Prior to the motion or any discussion, Member Swicegood had recused himself from consideration of the Probable Cause Report due to his participation in the Probable Cause Subcommittee meeting held on March 9, 2023.

**Member Swicegood made a motion to accept the recommendations from the Probable Cause Report for items 2-7. Vice Chairman DeVane seconded the motion, which carried unanimously.** Prior to the motion or any discussion, Member Johnson had recused himself from consideration of the Probable Cause Report due to his participation in the Probable Cause Subcommittee meeting held on April 6, 2023.

**Vice Chairman DeVane made a motion that the recovery fund claim be denied based on all the evidence, and that the claimant had been made whole in this matter. Member Johnson seconded the motion, which carried unanimously.**

The conference call regarding agenda item-7 Online Real Estate Auctions was held at this time. Jim Pulliam, counsel with Kilpatrick Townsend & Stockton LLP representing RI Marketplace joined the meeting by phone. Director Diehl introduced the Board and staff. Chairman Lattimore welcomed Mr. Pulliam. Mr. Pulliam reported that Lamar Fisher, auctioneer, and owner of Fisher Auction Company is also participating in the phone call.

Mr. Pulliam addressed the Board requesting the Board to find an acceptable connection with the on-line platforms that will facilitate owners’ auctioning property with NC licensed auctioneers and brokers in a dual capacity of the auctioneer/broker. They feel that different firms can and should be able to fulfill the auctioneer and broker roles without both specialties being handled by the same firm. In addition, it should be acceptable for on-line platforms to provide the website to direct potential buyers to the auctioneers and brokers and provide a data room or vault for access of documents deemed appropriate by the broker which is related to the underlying auction. Due to the evolving nature of technology, the marketplace and the complexity of real estate and its related transactions, it is essential for the owners to have the availability to market and sell their commercial real estate in the most beneficial manner.

Mr. Lamar Fisher addressed the Board, provided his credentials, and explained his involvement with RI Marketplace. He is an advisor to RI Marketplace and explains the platform bidding process to users.

Chairman Lattimore reported that the Board would consult with its legal counsel on this matter. Mr. Pulliam thanked the Board for listening to their request and offered that the Board or staff should feel free to reach out to him with any questions. Mr. Fisher conveyed the same. Chairman Lattimore thanked Mr. Pulliam and Mr. Fisher.

Chairman Lattimore requested a motion to go into Executive Session to receive advice from counsel regarding potential litigation. **Member Swicegood made a motion to go to into Closed Session. Member Porter seconded the motion, which carried unanimously.** TheBoard went into Closed Session at 10:05 a.m.

**Member Swicegood made a motion to return to Open Session. Member Porter seconded the motion, which carried unanimously.** The Board returned to Open Session at10:47 a.m. **Member Swicegood made a motion to direct staff and counsel to look into the issues presented by Mr. Pulliam and report to the Board at the next meeting. Member Johnson seconded the motion, which carried unanimously.**

Following the review and approval of applications for licensing, Chairman Lattimore confirmed the next regular meeting on May 8, 2023 at 9:00 a.m. in the Fuquay-Varina office. There is a potential for a hearing at this meeting.

**Member Swicegood made a motion to adjourn the meeting. Member Johnson seconded the motion, which carried unanimously.**

The meeting adjourned at 10:55 a.m.

Respectfully Submitted,

Becky J. Stewart

Administrative Officer