

## MINUTES

### NORTH CAROLINA AUCTIONEER LICENSING BOARD

May 13, 2019

The North Carolina Auctioneer Licensing Board met on Monday, May 13, 2019 in the Fuquay-Varina Office. The meeting was called to order at 10:00 a.m. Members present were Chairman William B. Lilly, Jr. and Willie A. Johnson. Vice Chairman Gary Boyd participated by phone. Also, present were Executive Director Charles F. Diehl, Administrative Officer Becky Stewart, and Investigator Ralph Southerland.

Chairman Lilly inquired of each member if there were any known conflicts of interest or an appearance of conflicts with respect to any matters coming before the Board during this meeting. Vice Chairman Boyd recused himself from consideration of the Probable Cause recommendations due to his participation in the Probable Cause Subcommittee meeting. Other members stated there were none.

**Minutes of the meeting held on April 9, 2019 were approved as recorded on motion by Vice Chairman Boyd. Member Johnson seconded the motion, which carried unanimously.** Then Ralph Southerland provided the investigative case log update as follows: nine (9) active cases and one (1) case under appeal. Then Chairman Lilly welcomed visitor Rick Lashmit.

At this time Director Diehl reported on the Ad Violations and other Informal Investigations for the month of April.

Next the Board considered the Probable Cause Report. **Member Johnson made a motion to accept the Probable Cause Report. Chairman Lilly seconded the motion, which carried unanimously.** Prior to the motion or any discussion, Vice Chairman Boyd had recused himself from consideration of the Probable Cause Report due to his participation in the Probable Cause Subcommittee meeting.

Then Director Diehl presented the financial information concerning the individual month of April. Following review, **Vice Chairman Boyd made a motion to accept the financial information for the month of April. Member Johnson seconded the motion, which carried unanimously.**

At this time Director Diehl provided an updated report on the NCALB funded Continuing Education Programs. The final classes were held in Kinston, Jacksonville, and Durham, each of which he attended. All classes were well attended and the AANC has done a good job in preparing and managing the NCALB funded Continuing Education Program.

Then Director Diehl provided the results of the April 9, 2019 auctioneer examination, which were as follows: Fifteen (15) examinees with twelve (12) passing and three (3) failing.

Next Director Diehl presented for Consideration of Application for New Instructor of Approved Schools of Auctioneering – Southeastern School of Auctioneering – Lola Whitworth, *Computers and Computer Clerking*. **Member Johnson made a motion to accept the new instructor, Lola Whitworth - *Computers and Computer Clerking* for Southeastern School of Auctioneering. Vice Chairman Boyd seconded the motion, which carried unanimously.**

At this time Director Diehl presented a copy of the proposed Consent Agreement in the matter of Barbara Marie Cain, Case No. 19-10200-07. After review and discussion, **Member Johnson made a motion to accept the proposed Consent Agreement by which the Auctioneer License of Barbara Marie Cain is suspended for a period of thirty (30) days beginning on July 1, 2019 and continuing through July 30, 2019. The term of suspension may be fully abated to zero (0) days if the Respondent meets the following three (3) conditions prior to July 1, 2019: 1) Carefully read NCGS 85B and 21 N.C.A.C. 4B in their entirety; 2) Watch the NCALB 2018 Mandatory 2-hour Continuing Education video course on Auctioneering Law and Rules, Custodial Account Management, and Ethics; and, 3) Submit to the Commission a notarized affidavit that she has accomplished the suspension abatement conditions following the effective date of the Consent Agreement and prior to July 1, 2019. Vice Chairman Boyd seconded the motion, which carried unanimously.**

The next item on the agenda was the NCALB Recovery Fund Claim Hearing – Sandra Berg. Director Diehl provided a brief summary on this matter. **Vice Chairman Boyd made a motion to table this hearing until the June 2019 meeting. Member Johnson seconded the motion, which carried unanimously.**

Then Director Diehl presented a report regarding the draft Final Agency Decision and Order for Forrest A. Mendenhall, NCAL #210. Director Diehl provided a brief summary on this matter. Chairman Lilly and Vice Chairman Boyd recused themselves from the Mendenhall Hearing matter due to previously reported conflicts. **Chairman Lilly made a motion to go into Closed Session pursuant to G.S. 143-318.11(a)(3) for the Hearing Panel to receive advice**

**from counsel regarding matters of potential litigation.** The Board went into Closed Session at 10:38 a.m.

**Chairman Lilly moved that the Board return to Open Session.** The Board returned to Open Session at 10:50 a.m. Director Diehl reported that the Hearing Panel presiding officer requested to make a clerical change to the draft Final Agency Decision and Order. Accordingly, the Final Agency Decision and Order has been signed and reads, “IT IS THEREFORE ORDERED, ADJUDGED AND DECREED THAT the Board will take no further action as to Forrest A. Mendenhall, NCAL #210.” Director Diehl will distribute the Final Agency Decision and Order.

Next Director Diehl presented a request for continuing education waiver – Michael L. Cavin, NCAL #1685. After review Member Johnson made a motion to approve the continuing education waiver for Michael L. Cavin, NCAL #1685. Vice Chairman Boyd seconded the motion, which carried unanimously.

Then Director Diehl reported on recent developments on three bills at the General Assembly. House Bill 300, which proposes to extend the time, in certain cases, that the auctioneer has to pay the seller from 30 to 90 days if third-party authentication is required, has passed the House and is eligible for consideration in the Senate. Senate Bill 305, which was discussed at the last board meeting, deals with the moral turpitude clause in N.C.G.S 85B and other Occupational Licensing Board statutes. 85B states no person shall be licensed if within the preceding five years have been convicted of any felony or committed or been convicted of any act involving fraud or moral turpitude. The bill did not pass the Senate before the Legislative

crossover deadline date, but the language could possibly be picked up in another bill. Director Diehl contacted the bill's Sponsor to inform him that although the Board does not oppose the bill, the Board does request a change to include any felony and crimes of theft, breach of trust, or fraud. Then Director Diehl reported on House Bill 770 Freedom to Work, which would allow an individual with a criminal history, to petition a board at any time, including, before an individual starts or completes any mandatory education or training requirements, to determine whether the individual's criminal history will disqualify the individual from obtaining a license. This has passed the House and currently is in the Senate. Director Diehl will continue to monitor the bills and report to the Board as necessary.

Next Director Diehl provided a follow-up report that the public records request received from an attorney with Pacific Legal Foundation has been provided. This took a substantial amount of time to gather and provide a written response.

Then Director Diehl reported that the annual 2019 NC Occupational Licensing Board Best Practices Seminar is scheduled for May 30, 2019. Attendees from this Board will include him, Chairman Lilly, and Ann Brown, Board Counsel, if possible.

At this time the Board reviewed the applications for licensing. Then Chairman Lilly confirmed the next regular meeting is scheduled for Monday, June 10, at 10:00 a.m. in the Fuquay-Varina office.

**Member Lilly made a motion to go into Closed Session to receive advice from counsel regarding matters of potential litigation. Member Johnson seconded the motion,**

**which carried unanimously.** The Board went into Closed Session at 11:09 a.m.

Member Lilly moved to return to Open Session. The Board returned to Open Session at 11:50 a.m. **Member Johnson made a motion to accept the Application for Mendenhall School of Auctioneering as presented. Vice Chairman Boyd seconded the motion, which carried unanimously.**

Then Director Diehl presented for Consideration the Approval of Applications for Course and Sponsor Renewal for Continuing Education for the following: (a) All Star Training, Inc. – new courses: 1) *Escrow/Trust Funds*, 2) *Sealed Bid Auctions*; (b) At Home Prep – new instructor Charles Todd Thompson; (c) Auctioneers Association of North Carolina (AANC); (d) Dick Norwood Real Estate Seminars; (e) Easylr24 Online Training School, Inc; (f) Mendenhall School of Auctioneering; (g) Mitchell Community College; (h) Nashville Auction School, LLC; (i) National Auctioneers Association; (j) North Georgia School of Auctioneering; (k) Southeastern School of Auctioneering – new courses: 1) *Firearms*, Instructor David Meares, 2) *Online Clerking at Auction*, Instructor Lola Whitworth, 3) *Online Auctions*, Instructor Lola Whitworth; and, (l) Stanly Community College-Carolina Auction Academy. **Vice Chairman Boyd made a motion to approve the Applications for Course and Sponsor Renewal for Continuing Education. Member Johnson seconded the motion.** At this time a discussed was held. **Chairman Lilly moved to go into Closed Session to receive advice from counsel regarding matters of potential litigation.** The Board went into Closed Session at 12:00 noon.

**Chairman Lilly moved to return to Open Session.** The Board return to Open Session at 12:13 p.m. **Vice Chairman Boyd made a motion to table item number 11(f) described**

**above pending a resubmitted application. Member Johnson seconded the motion, which carried unanimously. Vice Chairman Boyd made a motion to approve item number 11 (a)(b)(c)(d)(e)(g)(h)(i)(j)(k), and (l) as described above. Member Johnson seconded the motion, which carried unanimously.**

**Vice Chairman Boyd made a motion to adjourn the meeting with Member Johnson seconding the motion, which carried unanimously.**

The meeting adjourned at 12:15 p.m.

Respectfully Submitted,

Becky J. Stewart  
Administrative Officer