

Submission of Temporary Rules

In the last issue of *The North Carolina Auctioneer*, you were updated with the recent amendments to North Carolina General Statute 85B. The primary reason for the amendments was for the North Carolina Auctioneer Board to have clear Legislative authority for submission of the temporary rules. Temporary rules are the first step in a long process of codifying permanent rules. Below are the temporary rules which became effective October 12 and 19, 2001.

21 NCAC 4B .0202 is amended with the additional subsections as follows:

...(b) License fees are as follows:...

- (11) Resident fingerprint card background check fee \$14.00
Applicants who have been continuous residents of North Carolina for the five years preceding the date of application shall only be required to have a State background check.
- (12) Non-resident fingerprint card background check fee \$38.00
Applicants who have not been continuous residents of North Carolina for the five years preceding the date of application shall be required to have both a State and Federal background check.

21 NCAC 4B .0801 is amended with the change as follows:

- (c) The sponsor may conduct the course at any location as frequently as is desired during the approval period. Approval of a sponsor to conduct a course authorizes the sponsor to conduct the course using an instructor who has been approved by the Board as a course instructor under Rule .0804 of this Subsection.

21 NCAC 4B .0802 is amended with the additional subsection as follows:

...(b) Approval to sponsor a course shall be granted to an applicant upon showing to the satisfaction of the Board that:

- (4) The applicant has at least one proposed instructor who has been approved by the Board as a course instructor under Rule .0804 of this Section.

21 NCAC 4B .0800 is amended with the addition of section .0804 as follows:
.0804 Approval of Continuing Education Instructors

(a) Approval of course instructors shall be accomplished at the time of the approval of the course sponsor. Approval of a course instructor authorizes the instructor to teach the course only for the approved course sponsor. An approved course instructor may not independently conduct a course unless the instructor has also obtained approval as a course sponsor.

(b) An entity seeking original approval as a course sponsor must provide the name, address, and qualifications of the instructors for the course on the application form prescribed by the Board. No additional application fee is required. All required information regarding the instructor's qualifications must be submitted.

(c) The instructor(s) must be truthful, honest and of high integrity as referenced in 21 NCAC 4B .0404(a)(15).

INSIDE THIS ISSUE:

Temporary Rules	1 & 2
Board/Staff Members	2
Licensing Board Activity Report	3 & 4

2001-2002 Board Meeting Dates

The Board has set the following dates and locations for its regularly scheduled meetings for the end of the 2001 year. The January through June 2002 dates below are tentative.

Date	Location
November 21	Raleigh Office
December 19	Raleigh Office
January 18	Greensboro
February 20	Raleigh Office
March 20	Raleigh Office
April 17	Raleigh Office
May 15	Raleigh Office
June 21	Orlando, FL

All Board meetings normally begin at 9:00 a.m. and are open for the most part to all licensees and the public. Certain matters, such as discussions of potential disciplinary cases to determine probable cause as well as final sanctions, if appropriate, are discussed in closed sessions. We encourage all interested persons to attend one or more of these meetings.

Although not required, you may wish to notify the staff if you plan to attend a meeting. This will assist in our planning to accommodate visitors.

Submission of Temporary Rules

(continued from page 1)

(d) The instructor(s) must be qualified under one or more of the following standards:

(1) Possession of a baccalaureate or higher degree with a major in the field of marketing, finance, or business administration.

(2) Possession of a current North Carolina auctioneer or auction firm license, three years full-time experience in auctioneering within the previous ten years, and 30 classroom hours of auction education, excluding preclicensing education, within the past three years, such education covering topics which are acceptable under Board rules for continuing education credit.

(3) Possession of a current North Carolina real estate broker license, three years active full-time experience in the real estate business within the previous ten years, and experience teaching real estate preclicensing and continuing education courses.

(4) Possession of a license to practice law in North Carolina and three years experience in law practice within the previous ten years.

(5) Possession of qualifications found by the Board to be equivalent to one or more of the standards set forth in this Rule.

(e) The Board may deny or withdraw approval of any course instructor upon finding that:

(1) The course sponsor or the instructor has made any false statements or presented false information in connection with an application for approval;

(2) The instructor has failed to meet the criteria for approval described in Paragraph (d) of this Rule or has refused or failed to comply with any other provisions of this Subchapter;

(3) The instructor has failed to demonstrate, during the teaching of courses, those effective teaching skills described in Subsection .0815 of this Section; or

(4) The instructor has provided false or incorrect information in connection with any reports a course sponsor is required to submit to the Board.

(f) If a licensee who is an approved course instructor engages in any dishonest, fraudulent or improper conduct in connection with the licensee's activities as an instructor, the licensee shall be subject to disciplinary action pursuant to G.S. 85B-8 and G.S. 85B-9.

(g) Upon the written request of the Board, an approved course instructor must submit to the Board a videotape depicting the instructor teaching the course. The videotape must have been made within 12 months of the date of submission, must be in VHS format, must include a label which clearly identifies the instructor and the date of the videotaped presentation.

(h) An approved instructor who is a licensee of the

Board shall receive continuing education credit hours for instruction at a rate of one hour for every one-half hour of approved course taught.

Due to the recent amendments to the Law and the submission of temporary rules, new Law and Rule books are being updated now. They will be mailed as soon as they are ready.

CURRENT BOARD MEMBERS

Patricia D. Worley
Princeton, NC
Chairperson

William B. Lilly
Norwood, NC
Vice Chairman

William R. Forbes, Jr.
Creswell, NC
Board Member

James W. Johnson, III
Angier, NC
Board Member

Keith J. Pierce
Winston-Salem, NC
Board Member

CURRENT STAFF MEMBERS

Robert A. Hamilton, Executive Director

Connie M. Crisman, Administrative Officer

Teresa Watson, Administrative Assistant

Ann Neisen, Secretary

Bruce E. Marshburn, Investigations Coordinator

Ronnie Stewart, Investigator

North Carolina Auctioneer Licensing Board
1001 Navaho Drive, Suite 105
Raleigh, North Carolina 27609-7318
Phone: (919) 981-5066 Fax: (919) 981-5069
Email: info@ncalb.org
Web site: www.ncalb.org

Licensing Board Activity Report

This activity report covers the period from July 2000 through June 2001. The Board met twelve times; conducted four auctioneer licensing examination sessions and gave fifteen auction firm exams; issued one hundred and fifty-six auctioneer licenses, ten apprentice auctioneer licenses and forty-four auction firm licenses; denied licensing to six auctioneers, two apprentice auctioneers, and three auction firm applicants; settled four cases which had been scheduled for hearings; and, attended the AANC convention in Greensboro and the AANC convention in Southern Pines. The Chairman of the Board and Executive Director attended the NAA convention in Cancun, Mexico and the full Board and Executive Director attended the NAA convention in Boise, Idaho.

Disciplinary Actions

A summary of the disciplinary actions is as follows:

1) **Robin S. Huff, NCAL #7097 (Stone Mountain, GA)** - Robin Huff's auctioneer license was suspended for a period of ninety days for having an advertisement which used descriptive words that connotes a governmental action that the buyers will reap some unusual bargain and the exact nature of the government action was not disclosed and for advertising items as being from an estate when the consignor of the items was not the original owner, designated representative of the owner, or a federal, state, or local department, agency or commission charged with disposing of the item(s), and consigned the item(s) directly to the advertised sale. Ms. Huff did not appeal the Suspension as allowed by law and agreed to the Board's findings of violations.

2) **Gary D. Ryther, NCAL #3898 (Lawson, MO)** - Gary Ryther paid a \$250.00 fine. This action resulted from the investigation in which the Board subsequently found that Mr. Ryther had called a bid at an unlicensed auction firm sale and had failed to provide documents or information required by the Commission. A Settlement Agreement and Consent Order were entered into between the Board and Mr. Ryther, prior to a scheduled hearing, in which he agreed to the above stipulations. Mr. Ryther admitted to the Board's findings of violations.

3) **Thomas C. Blackmon, NCAL #1341 (Little Rock, AR)** - Thomas Blackmon paid a \$500.00 fine in lieu of a one hundred and eighty day suspension of his auctioneer license for giving any false information in connection with an application for renewal of a license and for not reporting to the Board any and all administrative proceedings which were commenced against him which involve any potential revocation or suspension of, or other disciplinary action against, any auction license that he

holds in another state. Mr. Blackmon waived his right to appeal as allowed by law and agreed to the Board's findings of violations.

4) **Paul W. Capra, NCAL #6939 (Warrington, PA)** - Paul Capra paid a \$500.00 fine. This action resulted from the investigation in which the Board subsequently found that Mr. Capra had not kept a contract or agreement for two years, had allowed advertising that did not contain his North Carolina auctioneer license number, had allowed real estate to be advertised without the intention of offering the real estate for sale, and had failed to review advertising before it was published. A Settlement Agreement and Consent Order were entered into between the Board and Mr. Capra, prior to a scheduled hearing, in which he agreed to the above stipulations. Mr. Capra admitted to the Board's findings of violations.

5) **R. Danny Ervin, NCAL #1007 (Mooresville)** - Danny Ervin's auctioneer license was indefinitely suspended due to Mr. Ervin not complying with the Board's Final Agency Decision and Order that he pay a fine of \$250.00. This action resulted from the investigation of a complaint in which the Board subsequently found that Mr. Ervin had failed to have a written agreement with the owner of property to be sold at auction and had failed to deposit into, and disburse funds from, his escrow account. An Administrative Hearing was subsequently conducted before the North Carolina Auctioneer Licensing Board. Following deliberation, the Licensing Board entered a Final Agency Decision accordingly.

6) **Benjamin J. Cannon, NCAL #7112 (Myrtle Beach, SC)** - Benjamin Cannon paid a \$500.00 fine in lieu of a one hundred and eighty day suspension for not reporting to the Board any and all administrative proceedings which are commenced against him which involves any potential revocation or suspension of, or other disciplinary action against, any auction license that he holds in another state. Mr. Cannon waived his right to appeal as allowed by law and agreed to the Board's findings of violations.

7) **Delmas D. Sanders, NCAL #311 (Maysville)** - Delmas Sanders paid a \$200.00 fine in lieu of a ninety day suspension for offering to sell goods at auction in this State or performing an act for which an auction firm license is required without a currently valid license issued under Chapter 85B. Mr. Sanders waived his right to appeal as allowed by law and agreed to the Board's findings of violations.

Licensing Board Activity Report (continued)

8) **Douglas Herndon, NCAL #4513 (Mavodan)** - Douglas Herndon paid a \$100.00 fine for selling or offering to sell, goods or real estate at auction in this State without a currently valid license issued under Chapter 85B. Mr. Herndon waived his right to appeal as allowed by law and agreed to the Board's findings of violations.

9) **Teresa A. Morris-Galassi , NCAL #6816 (Atlanta, GA)** - Teresa Morris-Galassi paid a \$1,000.00 fine; she must provide the Board 15 days advance notice of any auction she conducts in North Carolina; seven days prior to publication, she must provide the Board a copy of any auction advertisement for any auction she conducts in North Carolina; and she must comply with the terms of the Deferred Prosecution Order dated April 13, 2000, until September 20, 2003. This action resulted from Ms. Morris-Galassi's continued and flagrant course of misrepresentation or making false promises; for false, misleading, or untruthful advertising; for failure to properly make any disclosures or to provide documents or information required by the Commission; for making a false statement or giving any false information in connection with an investigation by the Board or Board's designee; for committing a crime the circumstances of which substantially relate to the auctioneering profession; for engaging in unprofessional conduct; for failing to possess truth, honesty and integrity sufficient to be entitled to the high regard and confidence of the public; for failing to clearly give in all advertisements relating to an auction, the auctioneer's name and license number; for using descriptive words in advertising which connotes a governmental action without specifically disclosing, in the written advertisement in a print size equal to the descriptive word, the exact nature of the governmental action; and for permitting the auctioneer's name or license number to appear on any advertisement for an auction without reviewing the contents of the advertisement prior to its publication to ascertain its compliance with applicable Law and Rules. A Settlement Agreement and Consent Order were entered into between the Board and Ms. Morris-Galassi, prior to a scheduled hearing, in which she agreed to the above stipulations. Ms. Morris-Galassi admitted to the Board's findings of violations.

10) **Collins G. Gray, Jr., NCAL #6047 (Fayetteville)** - Collins Gray's auctioneer license was suspended for a period of ninety days. This action resulted from the investigation in which the Board subsequently found that Mr. Gray had called a bid at an unlicensed auction firm sale, he did not have a written agreement with the owners of the property sold at an auction, he did not maintain accounting records for any of the goods sold at an auction, and he did not maintain records that identified any of the purchasers of any of the goods sold at an auction. A Settlement Agreement and Consent Order were entered into between the Board and Mr. Gray, prior to a sched-

uled hearing, in which he agreed to the above stipulations. Mr. Gray admitted to the Board's findings of violations.

11) **Chad Nelson Holland, NCAL #5818 (Forest City)** - Chad Holland paid a \$100.00 fine in lieu of a ninety day suspension of his auctioneer license for calling a bid at an unlicensed auction firm sale. Chad Holland waived his right to appeal as allowed by law and agreed to the Board's findings of violations.

12) **Letters of Reprimand** - The following Letters of Reprimand were issued;

- Robert Webster Haag, NCAL #6636, (Perkasie, PA) - Failing to clearly give the auctioneer's name and license number in all advertisements relating to an auction and permitting his name or license number to appear on an advertisement for an auction without reviewing the contents of the advertisement prior to its publication to ascertain its compliance with applicable Law and Rules.
- John Reid King, NCAL #5327, (Greensboro) - Conducting an auction in this State without first having a written agreement with the owner of the property to be sold.

13) **Cautionary Letters** - During this reporting period, seven letters of caution were issued for the following reasons:

- Three letters for calling a bid at an unlicensed auction firm sale;
- One letter for selling, or offering to sell goods at auction in this State or performing an act for which an auction firm license is required without a currently valid license issued under Chapter 85B;
- One letter for failing to have a receipt or statement which was signed by the licensee and the person receiving the disbursement;
- One letter for not reviewing the contents of a buyer's informational package prior to its publication to ascertain its compliance with applicable Law and Rules;
- One letter cautioning an auctioneer over his son's involvement with an auction.