

**BOARD DOCUMENT 07-04**

INDIANA AUCTIONEER COMMISSION  
MINUTES OF THE MEETING HELD  
WEDNESDAY, JUNE 20, 2007, 9:00 A.M.  
INDIANA PROFESSIONAL LICENSING AGENCY  
402 WEST WASHINGTON STREET, ROOM W064  
INDIANAPOLIS, INDIANA 46204

COMMISSION MEMBERS PRESENT: Jimmie Yagle, Sr., Chairman  
Douglas E. Harvey, Vice-Chairman  
Jack Fife  
Thomas Bauermeister  
Earl Cornwell

STATE OFFICIALS PRESENT: Julie Alexander, Deputy Attorney  
General

MINUTES COMPILED BY: Deborah Widemon, Director

**MINUTE NO. 07-25  
CALL TO ORDER**

The meeting was called to order at 9:20 a.m., pursuant to the public notice posted at the principal office of the Commission at least forty-eight (48) hours prior to the meeting. A copy is attached and marked as **BOARD EXHIBIT 07-04A.**

**MINUTE NO. 07-26  
ADOPTION OF THE AGENDA**

J. Fife moved to adopt the agenda. D. Harvey seconded the motion. Motion carried.

**MINUTE NO. 07-27  
ADOPTION OF THE MINUTES OF APRIL 18, 2007 COMMISSION MEETING  
AND EXECUTIVE SESSION**

J. Fife moved to approve the minutes of the April 18, 2007 Commission meeting. E. Cornwell seconded the motion. Motion carried.

**MINUTE NO. 07-28**

**DELIBERATIONS AND POSSIBLE ISSUANCE OF FINAL ORDER**

**STATE OF INDIANA V. JAMES WAYNE DRAGOO, LICENSE NO. AU09000082  
ADMINISTRATIVE CAUSE NO. IAC 07-02**

**RE: PROPOSED FINDINGS OF FACT, CONCLUSION OF LAW AND ORDER**

Jeremy Braunstein, Deputy Attorney General represented the State and requested that the Commission affirm the settlement agreement.

J. Fife moved to affirm the settlement agreement. D. Harvey seconded the motion. T. Bauermiester recused himself. Motion carried.

**STATE OF INDIANA V. DENNIS JACKSON, LICENSE NO. AU01014422  
ADMINISTRATIVE CAUSE NO. IAC 07-03**

**RE: PROPOSED FINDINGS OF FACT, CONCLUSION OF LAW AND ORDER**

Jeremy Braunstein, Deputy Attorney General represented the State and requested that the Commission affirm the settlement agreement.

J. Fife moved to affirm the settlement agreement. D. Harvey seconded the motion. E. Cornwell recused himself. Motion carried.

**STATE OF INDIANA VS. ALAN TURNER, LICENSE NO. AU01040485  
ADMINISTRATIVE CAUSE NO. IAC 07-05 - RE: NOTICE OF PROPOSED  
DEFAULT ORDER**

**STATE OF INDIANA VS. JACK OF ALL TRADES, LICENSE NO.  
AH20500012  
ADMINISTRATIVE CAUSE NO. IAC 07-06 - RE: NOTICE OF PROPOSED  
DEFAULT ORDER**

The Commission decided to combine administrative cause numbers IAC 07-05 and IAC 07-06.

A Notice of Proposed Default was issued on May 24, 2007 because Mr. Turner failed to appear and was not represented at the hearing scheduled on April 18, 2007. Mr. Turner did not respond to the Notice of Proposed Default and Mr. Braunstein requested that Mr. Turner be held in Default.

J. Fife moved to hold the Respondents in Default. E. Cornwell seconded the motion. Motion carried.

Jeremy Braunstein, Deputy Attorney General proceeded with presenting the evidence in this matter as neither respondent was present or represented.

Mr. Braunstein submitted that Mr. Turner did not include his license number on the advertisement and the name of the owner of the goods being sold at auction. He also informed the Commission that Mr. Turner was practicing without a valid license.

J. Fife moved that Mr. Turner and Jack of All Trades are in violation of all counts alleged in the complaint. D. Harvey seconded the motion. Motion carried.

J. Fife moved to suspend the auctioneer license and the auction house license with no right to petition for reinstatement for two (2) years; and impose a civil penalty of \$2,000, which must be paid before a petition for reinstatement is submitted. Respondents must also pay the cost of the proceedings and will be issued a letter of reprimand. D. Harvey seconded the motion. Motion carried.

**STATE OF INDIANA VS. JEFFERY LEAK, LICENSE NO., AU09200293 AND SUPERIOR AUCTION COMPANY, LICENSE NO AC30300086**

The Respondents were not present and were not represented by counsel. Jeremy Braunstein, Deputy Attorney General represented the State. The Respondents did not appear at the scheduled hearing on April 18, 2007 and a Notice of Proposed Default was issued for both Respondents. Neither Jeffery Leak nor Superior Auction responded to the Notice of Proposed Default. The State requested that both Respondents be held in Default.

J. Fife moved to hold the Respondents in Default. E. Cornwell seconded the motion. Motion carried.

Mr. Braunstein informed the Commission that Mr. Leak wrote several checks in payment to Glenn Marsh that was not paid by the bank because of insufficient funds. He also presented copies of checks written to Mr. Marsh marked non-sufficient in the amount of \$8,538.80. He further informed the Commission that the Small Claims Court of Perry Township entered a judgment stating that the Respondents had been indebted to Mr. Marsh in the amount of \$4,700.

Mr. Braunstein also explained to the Commission that an agreed judgment had been entered on the behalf of Mark Volgman vs. Jeff Leak by the Marion County Circuit Court.

He also introduced evidence involving three additional clients (Ruby Cooper, Kenneth Goff, and Gus Mascari) of the Respondent, which Mr. Leak had not paid over proceeds from the sale of goods.

Mr. Braunstein stated that Mr. Leak and Superior Auction are in violation of the auction statute and requested that both licenses be revoked.

J. Fife moved to permanently revoke Mr. Leak's auctioneer license and the auction company license and to issue a civil penalty of \$1,000 per count violated (10 counts for Jeff Leak and 10 counts for Superior Auction); issue a letter of reprimand that states that Mr. Leak should not be allowed to practice as an auctioneer in Indiana or any state.

D. Harvey seconded the motion. Motion carried.

**MINUTE NO. 07-29**

**GRANTING OR DENYING PETITION FOR REVIEW AND APPOINTMENT OF AN ADMINISTRATIVE LAW JUDGE**

**LOUIS EICHER**

**RE: APPEAL OF DENIAL OF AUCTIONEER LICENSE BY EXAMINATION**

Mr. Eicher submitted a timely petition of the denial of his application for an auctioneer by examination.

E. Cornwell moved to grant the petition and appoint Jack Fife as the administrative law judge. T. Bauermiester seconded the motion. Motion carried.

**MINUTE NO. 07-30**

**REVIEW OF APPLICATIONS**

**ROGER A WHISMAN**

**RE: APPLICATION FOR AUCTION COMPANY LICENSE**

The Commission reviewed the auction company application and determined that the application is not complete without the fee. J. Fife moved to deny the application. T. Bauermiester seconded the motion. Motion carried.

**MINUTE NO. 07-31**

**OLD/NEW BUSINESS**

**REQUEST FOR REIMBURSEMENT FROM THE AUCTIONEER RECOVERY FUND IN THE MATTER OF MARK VOLGMAN VS. JEFF LEAK D/B/A SUPERIOR AUCTION**

Mr. Volgman submitted an order from the Marion County Circuit Court Civil Division ordering the Indiana Auctioneer Commission to reimburse Mr. Volgman from the auctioneer recovery fund monies that were not paid over to him by Jeffrey Leak. The Commission determined that all the documentation submitted was in order and decided to grant the request. J. Fife moved to approve the disbursement from the auctioneer recovery fund. T. Bauermiester seconded the motion. Motion carried.

**INDIANA AUCTIONEERS ASSOCIATION**

**RE: CONSIDERING "INDIANA SALES TAX & TITLES" AS A CORE CONTINUING EDUCATION COURSE**

Sarah Minor was present and requested that the course, "Indiana Sales Tax and Titles" be considered a core course effective as of June 20, 2007. After considering the content of the course the Commission decided that the this course could be considered a core course.

J. Fife moved to approve Indiana Sales Tax and Titles as a core course. D. Harvey seconded the motion. Motion carried.

**REVIEW OF AUCTIONEER EXAMINATION PASS/FAIL LIST FOR MARCH 7, 2007**

The Commission reviewed and noted the pass/fail list for the May 9, 2007 examination.

**REVIEW OF PRE LICENSING PROVIDER COURSE OUTLINES**

The Chairman, Mr. Yagle requested that the commission members be prepared to discuss the course outlines that they've reviewed at the next commission meeting.

**MINUTE NO. 07-32**

**DISCUSSION**

**POTENTIAL AMENDMENTS TO IC 25-30 AND TITLE 862 OF THE INDIANA ADMINISTRATIVE CODE**

**LSA DOCUMENT #07-044 - RE: READOPTION OF AUCTIONEER RULES**

Chairman Yagle informed the Commission that it was time to readopt the auctioneer rules, which expire every seven (7) years.

Chairman Yagle continued by stating the following:

"The Commission and IPLA have reviewed the rules to be readopted and determined that the proposed rules do impose costs or requirements on small business and have considered

the costs and requirements pursuant to IC 4-22-2.5-3.1(c). The following rules impose costs and/or requirements, but there is no alternative for these rules.

- 812 IAC 1-1-13 Notice of operation or discontinuance of auction house or company by licensed auctioneer
- 812 IAC 1-1-14 Notice of operation or discontinuance of auction company by auction house licensee
- 812 IAC 1-1-16 Change of licensee address or business or trade name; notice
- 812 IAC 1-1-16.1 Change in ownership; auction house or auction company
- 812 IAC 1-1-19 Contracts; specifications; retention of original
- 812 IAC 1-1-20 Real estate sales; powers and duties of auctioneers
- 812 IAC 1-1-21 Sign on real estate to be auctioned; consent of owner
- 812 IAC 1-1-22 Summary of receipts and disbursements; submission to seller
- 812 IAC 1-1-23 Knowledge of current market conditions; duty of auctioneer
- 812 IAC 1-1-33 Contract disputes; commission without jurisdiction to settle; written contracts required
- 812 IAC 1-1-34 Auction procedure; completion of sale; sale without reserve
- 812 IAC 1-1-35 Fees charged by commission
- 812 IAC 1-1-37 Investigation of trust accounts
- 812 IAC 1-1-38 Advertising
- 812 IAC 1-1-39 Posting auction sign
- 812 IAC 1-1-40 Auctioneer; records and accounts
- 812 IAC 1-1-41 Auction company; auction house; records and accounts"

T. Bauermiester moved to proceed with submitting the final rule document to the Indiana Register. D. Harvey seconded the motion. Motion carried.

**MINUTE NO. 07-33**  
**ADJOURNMENT**

There being no further business, the meeting adjourned at 11:18 a.m.

**DATE:** \_\_\_\_\_

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**Jimmie Yagle, Chairman**

**ATTEST:**

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**Deborah Widemon, Director**