

**TENNESSEE
AUCTIONEER COMMISSION
MINUTES**

DATE: June 4, 2012

PLACE: Andrew Johnson Tower – 2nd Floor Conference Room
710 James Robertson Parkway
Nashville, Tennessee

PRESENT: Commission Members:
Dave Cole, Chairman
Gary Cunningham, Vice Chairman
Marvin Alexander
Bobby Colson
Jeff Morris

PRESENT: Staff Members:
Donna Hancock, Executive Director
Julie Cropp, Assistant General Counsel
Susan Lockhart, Admin Services Asst. 4

GUESTS: Luellen Alexander and Rhessa Orr

CALL TO ORDER: Chairman Cole called the meeting to order at 9:00 a.m. and the following business was transacted:

ROLL CALL: Ms. Hancock called the roll. All five (5) Commission members were present.

AGENDA: Mr. Morris made a motion to adopt the agenda, seconded by Mr. Colson. **MOTION CARRIED.**

MINUTES: Mr. Morris made a motion to approve the minutes of the May 7, 2012 meeting, seconded by Mr. Colson. **MOTION CARRIED.**

UPDATE ON SEMINARS & NEWSLETTERS – RHESSA ORR, NASHVILLE AUCTION SCHOOL

Ms. Orr gave an oral report regarding the seminars and newsletters. She advised that the fourth quarter newsletter should go out later this month and that the seminar series wrapped up last month. She stated that the next seminar series will include the topics of ATF sales and universal commercial codes. The next seminar is tentatively scheduled for the first Friday in October 2012 in the Pigeon Forge, TN area. Negotiations for speakers and a facility are currently underway.

Mr. Colson suggested “master auctioneers” as a topic for the next newsletter as the term is often used but not recognized nor defined by the Commission.

Mr. Colson inquired about the new rules enacted by the Higher Education Commission discussed at a previous meeting. Ms. Orr advised the issues regarding the impact these rules will have on auction education providers has not been resolved and discussions are still ongoing regarding possible legislative action needed to address them.

LEGAL REPORT – JULIE CROPP, ASSISTANT GENERAL COUNSEL

Presentation of Legal Report – Ms. Cropp presented a redacted copy of an advertisement received by staff and asked the Commission to review it for potential violations. Ms. Cropp advised she presented a similar complaint against the same Respondent at the last meeting and the Commission voted to issue a Letter of Instruction. She further explained this advertisement came in around the same time but a complaint had not been opened pending the Commission's review. Mr. Alexander made a motion to issue a Letter of Instruction to the party(ies) responsible for the advertisement regarding violations determined. The motion was seconded by Mr. Colson. **MOTION CARRIED.**

Ms. Cropp then presented the following Legal Report for the Commission's consideration:

1. **2012010591**

License #: Unlic.

First License Obtained: N/A

License Expiration: N/A

Type of License: N/A

History: None

Complaint filed against Respondent, who is owner of property which was advertised to be auctioned at an "Auction by Owner." Complainant alleges that the individual who was advertising the auction and listed as the contact for questions was attempting to market the property and advertise and conduct the auction without a license.

Respondent submitted a reply stating that as soon as Respondent received notice of the Complaint, Respondent spoke with Complainant regarding Complainant's concerns. At that time, Respondent states that Respondent stopped the auction, removed the signs, and fired the individual who was attempting to sell the property. On the day that the auction was supposed to take place, Respondent informed the attendees that there would be no auction and that the property would be listed for sale by owner at a later date.

Recommendation: Dismiss.

DECISION: Mr. Colson made a motion to accept Legal's recommendation seconded by Mr. Morris. MOTION CARRIED.

2. **2012010851**

License #:

First License Obtained: 4/13/06

License Expiration: 4/12/14

Type of License: Firm

History: None

TAC opened complaint against Respondent regarding advertisement placed by Respondent for sale of property. Advertisement states that it is an "Absolute Auction" but also includes notes that some tracts are "subject to final approval" and one tract is "not part of absolute sale." Further, the ad states that the tracts are offered separately "subject to final plat on auction day" and "subject to regroup and selling as a whole."

Respondent submitted response expressing confusion over how the advertisement is incorrect. Respondent states that Respondent recognizes that the ad contained language stating that some of the tracts were "subject to approval," but this referred to the fact that the county planning commission had not met to approve subdivision of that part of the tract prior to the print date of the ads. Respondent states that the planning commission did not approve the subdivision and the group of tracts were sold as a whole. With regard to the tract that was "not part of absolute sale," Respondent states that this tract was owned by another person with a mortgage so it could not be sold at absolute auction. Because of the tract's location, Respondent claims it had to be included on the plat, and there was separate signage on the property indicating that this tract was not part of the absolute auction. Respondent states that Respondent contacted TAC for guidance on advertising this auction and was allegedly told that the main concern was including the firm number on the advertising and avoiding misrepresentations.

Recommendation: Dismiss.

*****Chairman Cole recused himself from the vote on this matter*****

DECISION: Mr. Colson made a motion to send a letter of instruction to Respondent regarding the requirements of Rule 0160-01-.19 (addressing auctions with and without reserve) and Rule 0160-01-.20 (addressing advertising requirements). The motion was seconded by Mr. Morris. MOTION CARRIED.

3. 2012010831

License #:

First License Obtained: 1/14/77

License Expiration: 5/31/13

Type of License: Firm

History: Four (all closed with no action taken)

Complaint was filed with the Tennessee Real Estate Commission (TREC) and forwarded by TREC to TAC. Complainant alleges that Respondent provided Complainant with a written contract which included reserve prices for the sale of four (4) of Complainant's rugs. Two rugs were to be sold with a reserve of \$600 and two rugs were to be sold with a reserve of \$500. Complainant states that two of the rugs were sold below the reserve price (for \$75 and \$105). Complainant alleges that one of Respondent's employees told Complainant that any loss would be made up for by the sale of the other items.

Respondent submitted response stating that Complainant has already filed complaints with TAC regarding this matter, which has already been heard by TAC and ruled upon, and enclosing minutes from that TAC meeting and asking that TAC respond to the Complainant with the previous ruling. Based on the minutes from the previous TAC meeting, it appears that this matter has already been presented and considered based on complaints opened against the two

auctioneers employed by Respondent who were involved in the subject set of facts, and there appears to be no new information contained within this subsequent complaint.

Recommendation: Dismiss.

*****Commissioner Colson recused himself from the vote on this matter*****

DECISION: Mr. Alexander made a motion to accept Legal's recommendation, seconded by Mr. Morris. MOTION CARRIED.

Proposed Rules Discussion – Ms. Cropp presented a draft of the proposed rules discussed at the previous meeting referencing changes made based on that discussion. After deliberation, mostly concerning principal auctioneers and sponsoring auctioneers, the Commission deferred further discussion to a future meeting.

ADMINISTRATIVE REPORT – DONNA HANCOCK, EXECUTIVE DIRECTOR

Complaint Comparison Report - Ms. Hancock presented a comparison of the complaints pending in June 2011 to those currently pending. She advised that Assistant General Counsel Mark Green had planned to report on pending litigation but could not attend the meeting today due to illness. She further advised that she had spoken with Litigating Attorney Adrian Chick and that the 35-40 cases he is currently handling against a respondent remain on appeal.

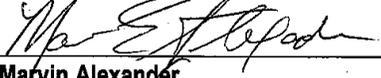
UNFINISHED / NEW BUSINESS – DAVE COLE, CHAIRMAN

Mr. Morris announced Chairman Cole was recently inducted into the Auctioneer Hall of Fame. Chairman Cole was congratulated for his achievement.

Being no further business to discuss, the meeting adjourned at 10:15 a.m.



David Cole, Chairman



Marvin Alexander



Jeff Morris



Gary Cunningham, Vice Chairman



Bobby Colson