

**TENNESSEE  
AUCTIONEER COMMISSION  
MINUTES**

**DATE:** October 6, 2014

**PLACE:** Davy Crockett Tower – Conference Room 1-B  
500 James Robertson Parkway  
Nashville, Tennessee

**PRESENT:** Commission Members:  
Jeff Morris  
Howard Phillips  
Bobby Colson  
Ronnie Colyer  
Adam Lewis

**PRESENT:** Staff Members:  
Julie Cropp, Assistant General Counsel  
Kimberly Whaley, Director of Licensing  
Judy Elmore, Regulatory Board Administrative Assistant 3  
Jennaca Smith, Paralegal  
Denise Lawrence, Legislative Liaison

**GUESTS:** Keith C. Hanson  
Wendell Hanson  
Justin Ochs  
Patti Bladini  
James Hines

**CALL TO ORDER:** Chairman Phillips called the meeting to order at 9:05 a.m.

Ms. Whaley called the roll. All Five (5) members were present.

**NOTICE OF MEETING:** Kimberly Whaley read the following statement for the record, “This meeting’s date, time and location have been noticed on the Tennessee Auctioneer Commission’s website, included as part of this year’s meeting calendar, since August 16, 2013. Additionally, the agenda for this month’s meeting has been posted on the Tennessee Auctioneer Commission’s website since October 1, 2014. This meeting has also been noticed on the tn.gov website.”

**RULE MAKING HEARING –** See Transcript

**BOARD MEETING:**

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

**MOTION CARRIED.**

**MINUTES:** Mr. Morris made a motion to approve the minutes of the June 2, 2014 meeting, seconded by Mr. Colyer.

**MOTION CARRIED.**

**EDUCATION PROVIDER UPDATE** – Ms. Rhessa Hanson from the Nashville Auction School provided the Commission with an update. She provided the Commission with a report from the last seminar which was held on September 22, 2014 in Johnson City, Tennessee.

**LEGAL REPORT – JULIE CROPP, ASSISTANT GENERAL COUNSEL**

1. **2014011761**

License #:  
First License Obtained: 9/12/08  
License Expiration: 9/19/16  
Type of License: Firm  
History: 0

\*Respondent re-applied for licensure on or about 6/19/14\*

2. **2014017351**

License #:  
First License Obtained: 6/19/14  
License Expiration: 6/18/16  
Type of License: Auctioneer  
History: 0

3. **2014017361**

License #: Unlic.  
First License Obtained: N/A  
License Expiration: N/A  
Type of License: N/A  
History: 0

4. **2014017371**

License #: Unlic.  
First License Obtained: N/A  
License Expiration: N/A  
Type of License: N/A  
History: 0

TAC opened complaints based on information received by staff from the internet. Specifically, Respondent 1's website printout appeared to advertise a home located in Tennessee for absolute auction. At the time that the online advertisement was first printed, Respondent 1, now an actively licensed auction firm as of on or about 6/19/14, was unlicensed with the Auctioneer Commission and the Real Estate Commission.

When the complaint was first sent to Respondent 1, Respondent 1 submitted a response apologizing for the confusion and stating that the website was launched before it was supposed

to be launched, and Respondent 1 was formerly licensed in Tennessee but forgot to renew the license. As of the date of the response, Respondent 1's license had been processed and two (2) individuals (including Respondent 2) had become licensed as auctioneers.

It was later noticed that Respondent 1's website had been changed to include the names and license numbers of Respondent 1 (and its auction firm license number), Respondent 2 (and auctioneer license number), Respondent 3 (and Respondent 3's affiliate broker license number), and Respondent 4 (and Respondent 4's real estate firm license number). Complaints were then opened against Respondents 2, 3, and 4.

Respondent 3 and 4 submitted responses. Respondent 3 states that Respondent 3 was contacted by the owners of the subject property to list the subject property (although Respondent 3 is unlicensed with the Auctioneer Commission, Respondent 3 has real estate licensure). When the listing expired, Respondent 3 states that the owners decided to auction the home, and the owners met with Respondent 1. Respondent 3 states that Respondent 3 was contacted by Respondent 1 to discuss release of photographs taken by Respondent 3 of the subject property. Respondent 3 states that, during that conversation, Respondent 3 was told that Respondent 3 would be the broker of record for the sale but was told that Respondent 3 would have no responsibilities for the sale. Respondent 3 states that neither Respondent 3 nor Respondent 4 (the real estate firm where Respondent 3 is affiliated) were involved with the marketing, advertising, promotion, or activities involved with planning the auction and had no further involvement or communications with Respondent 1 regarding the auction sale. Respondents 3 and 4 state that Respondents 3 and 4 did not know that Respondents 3 and 4's names and license numbers were going to be used in the marketing materials.

Respondents 1 and 2 submitted additional responses stating that, after having several conversations with Auctioneer Commission staff and Real Estate Commission staff, Respondents 1 and 2 had believed that they were compliant and later learned that the broker and auctioneer had to be the same individual. Respondents 1 and 2 state that, upon learning that this was the case, Respondents 1 and 2 immediately took action by contacting all advertisers to immediately cease promotion of the property. Respondents 1 and 2 state that the auction has been cancelled, and Respondents 1 and 2 will no longer promote the property or auction until Respondents 1 and 2 are in compliance with Tennessee law. It appears, from a search on Respondent 1's website, that Respondents 1 and 2's statements regarding pulling the auction and advertising are true.

**Recommendation:** Letter of warning to each Respondent regarding the provisions of T.C.A. § 62-19-102.

**DECISION:** The Commission voted to authorize formal hearings for Respondent 1 and 2 with authorization to settle by Consent Order (for each) with a civil penalty of \$500 for violations of T.C.A. § 62-19-102(a)(1) and (2). As to Respondents 3 and 4, the Commission voted to send letters of instruction regarding T.C.A. § 62-19-102 advising Respondents 3 and 4 to, in the future, verify that client hires properly licensed person to conduct an auction.

\*Commissioner Morris recused himself from the vote on these matters.\*

5. 2014017721

License #:

First License Obtained: 6/29/11  
License Expiration: 6/27/15  
Type of License: Auctioneer  
History: 0

Complainant alleges that Respondent (auctioneer) is an apprentice, and Respondent's sponsor auctioneer was not present during the sale. Complainant states Respondent did not bring the items up front and they were not placed on the TV screen because it quit working, which usually generates a better price. Complainant states that Respondent did not finish selling small items before moving on and rushed through the sale. Complainant further states that Respondent began auctioning floor speakers at \$2.00 and Complainant's son called out to pull the items from the auction because they did not want to give them away, and Respondent stated later that Complainant's son was banned from Respondent's auctions. Complainant states that Respondent had an auction earlier that morning without Complainant's sponsor.

Respondent states that Respondent has a great relationship with the Complainant, who is a consigner and states, when Respondent heard Complainant was unhappy, Respondent attempted to contact Complainant but did not receive a response. Respondent states that the sponsor auctioneer was previously Respondent's sponsor, but Respondent received an auctioneer license earlier this year, and Respondent is no longer an apprentice that requires the presence of a sponsor. Respondent further states that Respondent was having trouble with the internet connection to place the items on the TV screen, so the items were held and displayed for buyers to see. Respondent states that a buyer asked about some speakers to which it was responded that the starter bid was \$2.00, but Complainant's son yelled and said they would not be sold. Respondent states that each auction brings in a varied amount of money, and Complainant feels this auction brought them less money than normal. Respondent states that Complainant brought the least amount of items to this auction, and this auction had the least amount of buyers checked in, but this auction did not bring in the least amount of money. Respondent states that Respondent spoke with Complainant after the auction about Complainant's son's behavior and Respondent stated that Complainant's son could not behave that way at a family-friendly auction. Respondent is disappointed that Complainant is unhappy with the auction but states that Respondent provided proper services.

**Recommendation: Dismiss.**

**DECISION: The Commission voted to accept the recommendation of legal counsel.**

#### **ADMINISTRATIVE REPORT – KIMBERLY WHALEY, Director of Licensing**

**Complaint Comparison Report** – Ms. Whaley advised that the current performance measure for the Tennessee Auctioneer Commission stands at 93.75% which is above the current 80% standard.

Mr. Phillips inquired about how long it takes for a matter to be presented to the Commission. Ms. Cropp and Ms. Whaley explained the standard operating procedures that are utilized by the Division.

**Testing Contract**

Ms. Whaley informed the Commission that testing contact is set to expire in June and that the Legal Department is currently preparing to issue the RPF for the contract. Legal has requested that the Commission consider pursuing a five (5) year contract instead of a three (3) year with a two year option.

Mr. Morris made a motion to pursue a five (5) year contract, seconded by Mr. Colyer.  
**MOTION CARRIED**

Mr. Phillips inquired about the apprentice log and the Commission request to see a sample of apprentice logs at the next meeting.

**Being no further business to discuss, the meeting adjourned at 12:00 p.m.**

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Howard Phillips, Chairman

*Ronald Colyer*  
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Ronald Colyer, Vice Chairman

*Bobby Colson*  
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Bobby Colson

*Jeff Morris*  
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Jeff Morris

*Adam Lewis*  
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Adam Lewis