

**TENNESSEE  
AUCTIONEER COMMISSION  
MINUTES**

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**DATE:** April 7, 2014

**PLACE:** Davy Crockett Tower – Conference Room 6-A  
500 James Robertson Parkway  
Nashville, Tennessee

**PRESENT:** Commission Members:  
Jeff Morris, Chairman  
Bobby Colson  
Ronnie Colyer

**ABSENT:** Howard Phillips, Vice Chairman  
Gary Cunningham

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**PRESENT:** Staff Members:  
Julie Cropp, Assistant General Counsel  
Kimberly Whaley, Accountant 3  
Judy Elmore, Regulatory Board Administrative Assistant 3

**GUESTS:** Michael Driver, Wendell Hanson, and Damon Romano

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**CALL TO ORDER:** Chairman Morris called the meeting to order at 9:31 a.m.

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**ROLL CALL:** Ms. Whaley called the roll. Three (3) of the five (5) members were present. Mr. Cunningham and Mr. Phillips were absent.

**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 April 7, 2014. This meeting has also been noticed on the tn.gov website."

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

**MINUTES:** Mr. Colson made a motion to approve the minutes of the February 3, 2014 meeting, seconded by Mr. Colyer. **MOTION CARRIED.**

## **SUNSHINE LAW PRESENTATION –**

Members of the Regulatory Board Legal Office, Michael Driver and Damon Romano, gave a presentation regarding the Sunshine Law. The presentation included the Open Records Act and Public Meeting Act and how they apply to the board members and their meetings.

## **UPDATE ON SEMINARS & NEWSLETTERS –**

Wendell Hanson gave an oral report regarding the seminars and newsletters. He advised that the next continuing education seminar provided by the Commission is scheduled for May 19, 2014 at Montgomery Bell State Park located in Burns, Tennessee. He also advised that the Spring 2014 newsletter has been mailed to all active licensees. He further advised any subject matter for upcoming newsletters or the 2015 seminars from the Commission or their staff would be welcome.

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

Ms. Cropp presented the following complaint report for the Commission's consideration:

**1. 2014000331**

License #:

First License Obtained: 3/11/80

License Expiration: 1/31/16

Type of License: Firm

History: 1

Complainant was the purchaser of a tract of land which was one of multiple land tracts sold at an auction held in 2010 by Respondent (firm). Complainant states that the tracts are to be used for agricultural use only pursuant to a Declaration of Restrictions, and Complainant states that Respondent represented the property with the wrong zoning, which caused problems for the owners of several tracts getting building permits. Complainant attached documentation, including the filed Declaration of Restrictions regarding the tract of property which was developed into multiple tracts, and which states, in pertinent part, "All tracts shall be used exclusively for single family residential and agricultural purpose only..." Further, Complainant states that, at auction, it was stated that the sellers were paying for a power line to be extended to the tracts, and Complainant questions whether Respondent should have escrowed this money to the title company, as Complainant experienced difficulty in collecting the utility money.

A response was submitted on behalf of Respondent pointing out that the restrictions state that the tracts shall be used exclusively for single family residential and agricultural purposes only. Further, Respondent states that extension of power was paid by the sellers, and Respondent did not collect any funds for the power extension nor was it represented that Respondent would collect the funds for power. Also, Respondent attached a copy of the Real Estate Sales Agreement with Complainant, in which

Respondent points to language stating that the property is subject to all instruments of record, including zoning, and the property is sold "as is" and "where is." Respondent denies the allegations against it. Based on the documentation within the file, there does not appear to be a violation by Respondent.

**Recommendation: Dismiss.**

**DECISION: Mr. Colson made a motion to accept the recommendation of legal counsel, seconded by Mr. Colyer. MOTION CARRIED.**

### **ADMINISTRATIVE REPORT – KIMBERLY WHALEY, ACCOUNTANT 3**

**Complaint Comparison Report** - Ms. Whaley presented a comparison of the complaints pending in March 2013 to those currently pending. She also advised the current performance measure for closing or referring complaints for legal action within the designated benchmark for the last eighteen (18) months is 97.67%. This measure exceeds the Department's goal of 75%.

**Budget Report** – Ms. Whaley presented a report of the revenues and expenditures to for the current fiscal year thru February 28, 2014.

**Public Automobile Auction Application Review** – Ms. Whaley presented a public automobile auction application from Dealers Auto Auction of Chattanooga, LLC for the Commission's review. After some discussion, Mr. Colson Made a motion to approve the application contingent upon proof that the principal auctioneer has completed the thirty (30) hour public automobile auctioneer course and holds a valid public automobile auctioneer license. The motion was seconded by Mr. Colyer, **MOTION CARRIED.**

The Commission requested the public automobile auction course be added to the check list of items for public automobile auction applications.

**Continuing Education Course Provider Application Review** – Ms. Whaley presented an application from the Auction School of Technology requesting approval as a continuing education course provider for the six (6) hour continuing education courses as required by the Commission. After some discussion, Mr. Colyer made a motion to table the application until the next meeting advising. Mr. Colson seconded the motion. **MOTION CARRIED.**

**Continuing Education Course Provider Application Review** – Ms. Whaley presented an application from the Ohio Auction School requesting approval as an auction school for the eighty (80) hour apprentice (auctioneer pre-licensing) curriculum as required by the Commission. After some discussion, Mr. Colson made a motion to table the application until the next meeting to allow staff to review the application and request any appropriate additional information for the Commission's consideration. The motion was seconded by Mr. Colyer. **MOTION CARRIED.**

**LEGISLATIVE UPDATE** – Ms. Whaley advised there were no current pieces of legislation to bring to the Commission's attention at this time.

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**UNFINISHED / NEW BUSINESS – JEFF MORRIS, CHAIRMAN**

Staff and Legal will review the checklists and applications related to continuing education, education providers and schools prior to the next meeting and present changes for the Commission's review and approval.

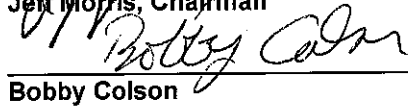
Chairman Morris advised Mr. Cunningham's term as a member of the Commission expired August 31, 2013 and there have been no updates regarding his reappointment or replacement. He requested staff to inquire as to when this matter is expected to be resolved.

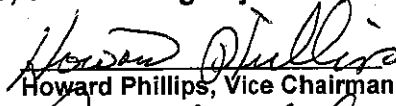
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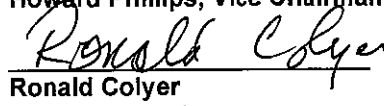
Ms. Whaley advised the Commission about the formal hearing scheduled for May.

**Being no further business to discuss, the meeting adjourned at 10:50 a.m.**

  
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Jeff Morris, Chairman

  
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Bobby Colson

  
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Howard Phillips, Vice Chairman

  
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Ronald Colyer

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Gary Cunningham