



**TENNESSEE AUCTIONEER COMMISSION
500 JAMES ROBERTSON PARKWAY
NASHVILLE, TENNESSEE 37243
615-741-1831**

**Commission Meeting Minutes for November 18, 2019
First Floor Conference Room 1-B
Davy Crockett Tower**

The Tennessee Auctioneer Commission met on November 18, 2019 in the first floor conference room of Davy Crockett Tower in Nashville, Tennessee. Chairman Thorpe called the meeting to order at 9:00 a.m. and the following business was transacted:

COMMISSION MEMBERS PRESENT: Jeff Morris, John Thorpe, Randy Lowe, Kimball Sterling

COMMISSION MEMBERS ABSENT: Adam Lewis

STAFF MEMBERS PRESENT: Glenn Kopchak, Anna Matlock, Kristen Downey, Erica Smith, Robert Hunter

ROLL CALL

Chairman Thorpe called the meeting to order at 9:00 a.m. Chairman Thorpe took a moment to introduce the newest member of the Commission, Mr. Kimball Sterling. Director Kopchak took roll and established that a quorum was present.

NOTICE OF MEETING

Director Kopchak read the notice of the meeting into the record as follows: "Notice of the November 18, 2019 meeting of the Auctioneer Commission was posted to the website on November 8, 2019."

AGENDA

Director Kopchak requested that the Commission add the review of the newsletter to the agenda under New Business. Mr. Morris made a motion to adopt the agenda as amended to include the newsletter review. This was seconded by Mr. Lowe. The motion carried by unanimous voice vote.

MINUTES

Mr. Morris made a motion to adopt the minutes from the August meeting as written. This was seconded by Mr. Sterling. The motion carried by unanimous voice vote.

EDUCATION REVIEW

Director Kopchak presented the Commission with the continuing education seminars submitted by Dustin B. Rogers. Mr. Morris motioned to approve the three (3) seminar courses. This was seconded by Mr. Lowe. The motion carried by unanimous voice vote.

Director Kopchak informed the Commission that the two (2) courses submitted by the Nashville Auction School were courses that had been previously approved for the classroom, but are now being presented as online courses. Mr. Lowe motioned to approve the two (2) online courses. This was seconded by Mr. Morris. The motion carried by unanimous voice vote.

Director Kopchak informed the Commission that the Online Auctions 101 course submitted by Bid Calling Bootcamp was approved at the last meeting for three (3) continuing education hours, when it was actually a six (6) hour course. This was due to a typographical error on the course approval application. Mr. Lowe motioned to approve the course for six (6) continuing education hours. This was seconded by Mr. Morris. The motion carried by unanimous voice vote.

November 18, 2019 - Education Report

Course Provider	Course Name	Instructor(s)	Type	Hours	Recommendation
Dustin B. Rogers	Unleashing Your Inner Champion	Dustin B. Rogers	CE	1	Approved
Dustin B. Rogers	Inside the World of Equipment Auctions	Dustin B. Rogers	CE	2	Approved
Dustin B. Rogers	Estate & Financial Planning for Auctioneers	Aaron J. Carmack	CE	3	Approved
Nashville Auction School	Online - 2019 Law Update & Review	Wendell Hanson	CE	2	Approved
Nashville Auction School	Online - Law & Contracts	Wendell Hanson, Rhessa Hanson	CE	3	Approved
Bid Calling Bootcamp	Online Auctions 101	Junior Staggs	CE	6	Approved

DIRECTOR'S REPORT

Budget

Director Kopchak gave a quick review of the budget information from the last Commission meeting in August which included information through the end of fiscal year 2019. Mr. Morris inquired about the impact of recent law changes on the budget. Director Kopchak responded that currently the revenue has not increased due to the establishment of the Bid Caller license, however, in time this could shift as more in the industry become aware of its existence. Director Kopchak then briefly explained the budget status for the months of July through September, noting expenses and revenues in more detail for the benefit of the Commission's new member, Mr. Sterling. Director Kopchak concluded that the budget is trending normally.

Meeting Dates

Director Kopchak presented the meeting dates for 2020 to the Commission. Mr. Morris made a motion to approve the scheduled dates. This was seconded by Mr. Lowe. The motion carried by unanimous voice vote.

LEGAL REPORT (Presented by Kristen Downey and Erica Smith)

Kristen Downey

1. 2019065941

Type of License: Principal Auctioneer, 7/14/1987 – 1/31/2020

History: None

Complainant is anonymous. Respondent is a licensed auctioneer.

Complainant alleges that Respondent is engaging in unlicensed activity. Respondent attached a newspaper advertisement for an auction in which Respondent is listed as the auctioneer.

Respondent answered the Complaint stating that Respondent is licensed and provided information from the commission's website to prove that Respondent is licensed.

Counsel verified this information and determined that Respondent is licensed and the Complaint should be dismissed.

Recommendation: Dismiss.

Decision: The Commission voted to accept Counsel's recommendation.

2. 2019066941

Type of License: Principal Auctioneer, 7/1/1989 – 11/30/2019

History: None

Complainant is a Tennessee resident. Respondent is a licensed auctioneer.

Complainant alleges that Complainant negotiated to buy equipment from Respondent for \$700,000 with a \$140,000 down payment and \$10,000 as a buyer's premium, which would go to Respondent. Complainant alleges that Complainant wired \$150,000 to Respondent to hold in escrow until the closing of the real property which was scheduled for November 2018. Complainant learned that Respondent converted escrow funds to her own use. As a result, the closing did not go through. Complainant alleges that the Respondent acknowledged converting the escrow funds. Complainant alleges that Respondent offered to reimburse Complainant from the sale of real property owned by a limited liability company in which Respondent was ostensibly a member. Complainant agreed to this; however, Respondent appears to have sold the real property to another party and has not reimbursed Complainant. Complainant also attached a copy of Respondent's indictment for theft over \$60,000 which was issued in Tennessee.

Respondent alleges that the transaction was not an auction and does not involve a property located in the State of Tennessee. Respondent alleges that it is a complaint that does not fall under the Tennessee Auctioneer Commission's jurisdiction. Respondent alleges that the property is located in Indiana and is not an auctions sale.

Complainant filed a rebuttal via Complainant's counsel. Complainant states that the Commission does have disciplinary authority over licensees regardless of where the property that is the subject of the transaction is located. Complainant further states that the primary issue addressed in the Complaint is Respondent's wrongful conversion of Complainant's funds from Respondent's trust account located in Tennessee. Complainant alleges that Respondent violate T.C.A. § 62-19-112(B)(2), (4), and (12).

Counsel reviewed the documents attached to the Complaint by Complainant's counsel. It appears that the sale was not an auction, but rather a real estate transaction. Additionally, the real estate contract was entered into for the sale of a property located in Indiana. While this transaction does not appear to be an auction, it does involve the conduct of a licensed Tennessee Auctioneer and therefore falls within the jurisdiction of the Commission.

Recommendation: Discuss.

Decision: The Commission voted to put this case in litigation monitoring and refer it to the Real Estate Commission.

3. 2019069371

Type of License: Unlicensed

History: None

Complainant is a licensed auctioneer. Respondent is unlicensed Georgia resident.

Complainant alleges that Respondent is engaging in unlicensed activity. Complainant alleges that a firm license and licensee number is provided on the advertisement, but cannot be found as a registered licensee. Complainant alleges that the Respondent has conducted multiple fraudulent actions in the past in other states using other individuals' names.

The complaint was sent to Respondent on August 20, 2019. The complaint was sent back as "not deliverable." Counsel sent an email to Respondent with information regarding the complaint and informing the Respondent of their opportunity to respond. To date, counsel has not received a response from Respondent. Counsel conducted an independent investigation and Respondent does not appear to be licensed in Tennessee.

Recommendation: Civil penalty of \$1,000 for unlicensed activity. Respondent is unlicensed and under no duty to respond.

Decision: The Commission voted to accept Counsel's recommendation.

4. 2019070821

Type of License: Unlicensed

History: None

Complainant is an anonymous individual. Respondent is an unlicensed individual. This complaint was opened administratively based on information from the August 12th meeting.

Complainant alleges that Respondent was engaging in unlicensed activity.

Respondent filed a response stating that they have never acted as or performed as an auctioneer. Respondent states that they are a seller at several auctions. Respondent states that the only role they play at the auction is to bring merchandise to setup in the building to sell. Respondent states that they also pray over the auction at the beginning of each auction.

Counsel conducted an independent investigation. It appears that Respondent is a seller of antiques and furniture.

Recommendation: Dismiss.

Decision: The Commission voted to accept Counsel's recommendation.

5. 2019070801

Type of License: Unlicensed

History: None

This complaint was opened administratively. Complainant is anonymous. Respondent is an unlicensed individual.

The complaint alleges that Respondent was conducting business as an auctioneer without a license.

A response was filed on behalf of the auctioneer firm stating that the Respondent is not involved with any auctions held by their firm. The response stated that their auctions always have a licensed auctioneer.

Counsel conducted an independent investigation. It does not appear that Respondent is a licensed auctioneer. Respondent did not provide a response and is under no duty to respond as Respondent is unlicensed.

Recommendation: Dismiss. Without further information to substantiate Complainant's complaint counsel recommends dismissal.

Decision: The Commission voted to accept Counsel's recommendation.

6. 2019076791

Type of License: Principal Auctioneer, 1/4/1982 – 9/23/2021

History: None

Complainant is a Tennessee resident. Respondent is a licensed auctioneer.

Complainant alleges that Respondent placed for sale signs on their land with an asking price of 4,000 per acre. The sellers were Complainant's neighbor. Another neighbor purchased some of the acres of the fifteen available for 4,000 an acre. The neighbor was then refunded one third of the money after the deal closed. The neighbor was told by Respondent that this was how it had to be. Complainant alleges that Respondent also sold 127 acres of land on Complainant's road without listing it on the MLS. Complainant states that they had no chance to purchase the land, which sold for \$1,100 an acre to a developer. Complainant states that their privacy and property value are badly damaged by the Respondent's underhanded dealings. Complainant further alleges that Respondent's license is expired.

Respondent alleges that their buyers and seller involved in the transaction were pleased. Respondent states that the property was sold and then one-third of the money was given back to the buyer because the buyer was also a one-third heir to the property that was sold. The buyer was given the buyer's one-third of the income received as were each of the other heirs. The buyer now owns the property outright as the other heirs had no desire to own the property. Respondent alleges that all parties involved were in agreement with this arrangement. Respondent further states that the Complainant's allegations that a property sold by Respondent was not listed on the MLS is inaccurate. Respondent states that the property was actually listed on the MLS on 4/26/19 (Respondent provided a listing number). Respondent also states that there was signage with the agency name and phone number placed on the property and all appropriate procedures were followed. Respondent admits that their license is expired but states that this information is irrelevant as the property was sold outright and not auctioned. Respondent states that due to health reasons involving the office coordinator, Respondent's license had lapsed but the issue has been resolved.

Complainant filed a rebuttal stating that Respondent is not being honest in their response. Complainant alleges that Respondent told the buyer that they were required to purchase the entire property to be paid back. Complainant further states that Respondent cannot sell real estate with only an auctioneer license that was expired when the transaction took place. Complainant alleges that the Respondent's auctioneer license expired in February; however, they held an auction in March. Complainant attached a supporting document showing that the Respondent held an auction in March.

Recommendation: \$1,000 civil penalty for unlicensed activity.

Decision: The Commission voted to dismiss this complaint and refer it to the Real Estate Commission.

7. 2019077511

Type of License: Unlicensed

History: None

The complaint was filed anonymously by a licensed auctioneer. The Respondent is an unlicensed individual.

Complainant alleges that Respondent conducted a benefit/fundraising auction on September 12, 2019. Complainant alleges that the auction/event was contracted and conducted by two unlicensed individuals. The Complainant alleges that the company is owned by an out of state resident. Complainant alleges that the auction/event had a licensed Tennessee auctioneer who was paid by Respondent.

Respondent filed a response stating that they have been in business since 2007 and licensed in several other jurisdictions. Respondent states that one of their apprentice auctioneers conducted the auction at the request of a client. Respondent admits that their firm is not licensed in Tennessee; however, Respondent states that their apprentice auctioneer was practicing on a volunteer basis. Respondent admits that the firm received compensation for the auction fundraising consultation. Respondent states that they were initially hired to provide fundraising consultation for their client's event in late April. Their client then inquired about using Respondent for future events. Respondent states that they were very busy for the dates that their client inquired about so they asked their apprentice if the apprentice would be available. Respondent states that they have never reached out to a Tennessee client to solicit business as they are not licensed in Tennessee. Respondent states that they plan to obtain a Tennessee license in the future. Respondent states that the complaint was filed by a former employee who did not leave their company on good terms.

Counsel conducted an independent investigation. It appears that the auction was a charitable auction; however, Respondent did not receive compensation for their auctioneer services. The apprentice auctioneer performed the service pro bono for a charity. Since the Respondent did not receive proceeds for the auction they fall within the exemption provided in Rule 0160-01-.17.

Recommendation: Dismiss.

Decision: The Commission voted to accept Counsel's recommendation.

8. 2019077811

Type of License: Affiliate Auctioneer, 12/11/2000 – 12/31/2020

History: None

Complainant is a Tennessee resident. Respondent is a licensed auctioneer.

Complainant alleges that they purchased two (2) mowers at an auction on September 14, 2019. Prior to purchasing the mowers, Respondent contacted the company to get a preview of the condition of the mowers. The company advised that they could find out the condition and update Complainant. Complainant was later advised via text that they "run and cut grass as they should." Complainant states that they bid on the mowers aggressively. Complainant won the bid. Complainant states that they called the following Monday to let Respondent know that Complainant's shippers asked Complainant to personally verify the running condition and would like to come in to do so. The auctioneer on call responded "you bought them I don't care what condition they're in! You bought them and you're going to pay for them! These are cheap mowers and might run but that's it!" Complainant states that the Respondent misrepresented the condition of the mowers. Complainant also states that Respondent relied on an auction gallery number to advertise, which is no longer in use. Complainant states that Respondent never advertised any auctioneer

number in any of the advertisements Complainant saw. Complainant states that they contacted the owner and asked about the auctioneer number. Respondent retorted "I'm not going to give you the auctioneer numbers, that's none of your business!" Complainant attached a copy of the advertisement and copies of text messages indicating that the mowers run and cut grass as they should.

Respondent filed a response stating that they dispute the Complainant's allegations as they do not nor have they sold any mowers online or through any other avenue. Respondent states that they do not know Complainant.

Counsel conducted an independent investigation. It does not appear that Respondent is at all associated with the auctioneer firm identified by Complainant.

Recommendation: Dismiss.

Decision: The Commission voted to accept Counsel's recommendation.

9. 2019083611

Type of License: Firm, 3/19/1986 – 1/31/2021

History: 2014 Consent Order with \$4,000 Civil Penalty for violation of Tenn. Code Ann. 62-19-112(b)(12), "Any conduct of any auctioneer that demonstrates improper, fraudulent, incompetent or dishonest dealings." \$1,000 per license held by Respondent.

Complainant is a Tennessee resident. Respondent is a licensed auctioneer firm.

Complainant alleges that Respondent falsely advertised a tractor for auction. Complainant states that on August 10, 2019, Respondent held an auction and one of the items was a tractor that Respondent stated "works and operates." (Complainant attached the advertisement). Complainant states that they bid online so prior to bidding they inquired as to whether the tractor was running. The Respondent confirmed that it was. Complainant bid and won the tractor and arranged for pick-up on August 12, 2019. When Complainant got the tractor home they noticed that the gauges were not working and it lacked power. The tractor would not go into gear or move forward or backward. Complainant states that they called Respondent and Respondent laughed and stated that it was the Complainant's problem and that the tractor worked fine when it was used on the lot. Complainant contacted a mechanic who informed them that they had been sold a tractor with a faulty clutch/transmission among other issues.

Respondent filed a response stating that they held a business liquidation auction on August 10, 2019. The auction was advertised on their website and the auction was online where they were advertising a tractor with loader and backhoe. Respondent alleges that Complainant spoke with the cashier after purchasing the tractor online and agreed to come in on the following Monday to pick up the tractor. Complainant arrived to pick up the tractor and Complainant stated that they did not know how to drive the tractor. An employee went to get a mechanic to start the tractor and to show Complainant how to start and operate it. Respondent alleges that the mechanic moved the tractor backward and forward. The mechanic operated the front bucket and backhoe then drove the tractor onto Complainant's trailer. Respondent alleges that after the tractor was put on the trailer,

Complainant asked the employee what their recourse would be if they did not like the tractor. The employee explained that it was an auction and the items are sold as is. The employee stated that they would be glad to sell the tractor for Complainant in another auction if they did not like it. Respondent alleges that Complainant admitted that they did not contact the dealer or do any research on the item. Respondent alleges that Complainant called on Monday night and wanted a refund and for Respondent to pick up the tractor. Complainant alleged that they had the tractor in the field and it would not move. Respondent states that they offered to resell the tractor at the next auction for farm equipment and suggested to Complainant that they get a mechanic to assist them. Respondent states that Complainant called multiple times and had his senator send Respondent a letter requesting that Respondent pick up the tractor and refund Complainant the money. Respondent stated that they informed Complainant that they did not falsely advertise the equipment. Respondent attached the invoice from the auction, the letter sent to them from the senator, and the online description of the equipment.

Counsel reviewed the documents uploaded by both parties. In the documents it states that "the purchaser understands that the auctioneer has not driven or operated any of the equipment being sold and purchaser is buying as is and accepts all liability for the operation of item(s) purchased and agrees to hold auctioneer harmless for claim resulting from the use of item(s) purchased. We do not guarantee the odometer readings or any hour readings on any items." In addition, both parties admit that the tractor was working when Complainant came to pick it up.

Recommendation: Dismiss.

Decision: The Commission voted to accept Counsel's recommendation.

10. 2019086471

Type of License: Principal Auctioneer, 6/2/1992 – 7/31/2020

History: None

Complainant is Tennessee resident. Respondent is a licensed auctioneer.

Complainant states that they attended an auction on 10/19/19 and bid on a property. Complainant alleges that the auction advertisement stated that the information provided at the auction would take precedence over any advertising so when the property was up for auction the Respondent did not set a reserve for the property before taking bids. Complainant alleges that they put a bid in for \$100,000 and Respondent refused to take the bid. Complainant alleges that Respondent stopped the auction and stated that they would not lose any money on the property. Complainant alleges that the Respondent wrongfully advertised the auction.

Respondent filed a response stating that they stated at the auction that if the reserve is met then it will become an absolute sale. Respondent alleges that during the bidding, Complainant bid \$100,000 at which point the Respondent informed Complainant that they were too far apart and that they would need a bid of at least \$175,000.00 to start. Complainant responded that they had \$100,000 to start the bid. The Respondent then turned to the auctioneer and told them to start the bidding at \$175,000. Respondent states that shortly thereafter they stopped the bidding and started

to sell personal property. Respondent states that they later looked at the advertisement and discovered that it stated that the auction was an absolute auction, which was a mistake made by the printing company. Respondent states that there was a brochure box attached to the sign with the sale flyers that did say that "auction" rather than "absolute auction." Respondent states that they make sure to put on the sale flyers that sale day announcements take precedence over all advertising. Respondent uploaded copies of the advertisement.

Complainant filed a rebuttal, which were just pictures of the advertisement.

Counsel reviewed the documents attached by both parties. It appears that the advertisement does indicate that the auction was an "absolute auction" which is misleading. Counsel understands that this was an error on the part of the printing company; however, it is the Respondent's responsibility to review the advertisements and make sure they are accurate in their **representation**.

Recommendation: Letter of Instruction regarding Tenn. Comp. R. & Regs. 0160-01-.20(3).

Decision: The Commission voted to accept Counsel's recommendation.

Erica Smith

Re-Present

11. 2017071851

First License Obtained: Unlicensed

History: None

Complainant alleges Respondent is conducting weekly auctions on Fridays based on their Facebook posts/advertisements stating such, and states they do not have a gallery or firm license. The Complainant provided a screenshot of a post on Respondent's Facebook page stating that a consignment auction would take place on November 16, 2017 at 6 pm and provided a picture showing arcade games and that there was still space available of anyone was interested in consigning with Respondent for this auction. Screenshots also included posts advertising a toy auction on November 3, 2017, as well as an onsite furniture warehouse auction and a grocery auction on November 4, 2017. The posts also stated there would be no bidder fees, no reserves, and that cash, credit and approved checks would be accepted and items were guaranteed to work or money back. There was also a free raffle ticket offered to win a \$50 gift certificate to be awarded at the end of the night at the November 3, 2017 auction. Details were given about the location and the items that would be offered to include case lots of different items, and pallets of Halloween costumes. The post also mentioned the auctions would be conducted by a named auctioneer and listed the name of the auctioneer firm he worked for, and provided a license number which is active in our system.

This complaint was sent out to an investigator on November 1, 2017. The investigator went to the location where the auction was to be held on November 3, 2017 and upon the investigator's arrival, an auction was in process. The investigator confirms that the licensed auctioneer referred to above was in the process of conducting the auction, but states that Respondent does not have a firm license. Respondent's "operator" spoke with the investigator and confirmed that Respondent does

not have a license and explained that he had been discussing the possibility of the licensed auctioneer transferring his firm license to Respondent's location or that he would apply for a firm license, and further stated he has been in contact with the Commission to learn what he needs to do to comply with the licensing requirements. Respondent's operator also told the investigator that Respondent had been operating at that location for a couple of months.

Counsel finds clear evidence through the investigator's report and findings, as well as the admissions of the Respondent's operator, that Respondent is engaged in unlicensed activity by allowing a licensed auctioneer to conduct auctions at their location without obtaining a firm license. Counsel recommends offering the Respondent two options as outlined below in the recommendation, both options including a civil penalty but offering a lower civil penalty if the Respondent applies and obtains a firm license within the time specified by the Commission. Counsel has researched past Consent Orders and located a Consent Order that offered similar options in a similar situation where a Respondent was engaged in unlicensed activity but wanted to get licensed.

Recommendation: Discuss the authorization of a Consent Order offering Respondent two options: either paying a civil penalty in the amount of \$3,000 for unlicensed activity in violation of TCA § 62-19-102 or paying a civil penalty in the amount of \$1,000 and requiring Respondent to apply for and obtain a firm license within a certain amount of time from the date the Consent Order is entered, such timeframe to be decided by the Commission.

Decision: The Commission voted to accept Counsel's recommendation and requires the Respondent to apply for an auctioneer firm license within 60 days of entering into the Consent Order if Respondent chooses the second option to pay a \$1,000 civil penalty and obtain an auctioneer firm license; the Commission also approves opening an administrative complaint against the licensed auctioneer in this matter.

New Information: Since this matter was originally presented, the law has changed and auctioneer firm and gallery licenses are no longer required. Counsel therefore recommends dismissing this complaint and feels it would be a waste of state resources to pursue this matter further.

New Recommendation: Dismiss.

New Decision: The Commission voted to accept Counsel's recommendation.

12. 2017080371

Type of License: Unlicensed

History: None

Complainant wishes to remain anonymous and alleges Respondent is holding auctions at their business location in Tennessee without a gallery/firm license.

An investigator was sent to Respondent's business location where Complainant alleges auctions are being held every Saturday night at 6 p.m. On December 23, 2017, the investigator found the location to have a sign posted out front identifying the location as Respondent's business name, and saw an additional photo of signage on a window advertising the same name. The investigator observed a

man at a podium calling out and accepting bids from the crowd on the auctioned merchandise. The investigator then met Respondent's owners who confirmed they did not have a gallery/firm license but stated they didn't think they needed one because the man conducting the auctions has an active auctioneer license and owns his own auctioneer company with an active gallery license, both active through 2019 and originating in 1992. The investigator's report concludes that the investigation into this matter and the discoveries made indicate the complaint filed accusing the Respondent of unlicensed activity appears to be a valid concern as Respondent is in violation of licensing requirements for not properly possessing the required license (Gallery License) to hold auctions on a regular basis at the location.

Counsel recommends issuing a civil penalty of \$ 1,000 for violation of Tenn. Code Ann. § 62-19-102(a)(1), which states that it is unlawful for any person to act as or advertise or represent to be an auctioneer, apprentice auctioneer or firm without holding a valid license issued by the commission. Counsel also recommends opening a complaint against the licensee who is conducting the auctions at the Respondent's location because his license is not associated with Respondent per the licensing records.

Recommendation: Consent Order assessing a civil penalty of \$ 1,000 for violation of Tenn. Code Ann. § 62-19-102(a)(1) and opening a complaint against the licensee who is conducting the auctions at the Respondent's location.

Decision: The Commission voted to accept Counsel's recommendation.

New Information: Since this matter was originally presented, the law has changed and auctioneer firm and gallery licenses are no longer required. Counsel therefore recommends dismissing this complaint and feels it would be a waste of state resources to pursue this matter further.

New Recommendation: Dismiss.

New Decision: The Commission voted to accept Counsel's recommendation.

13. 2018010711

First License Obtained: 4/8/2013

License Expiration: 4/7/2017

Type of License: Firm - Expired

History: None

Complainant alleges Respondent sold Complainant's merchandise at auction and paid Complainant with two bad checks dated June 10 and June 23, 2017. Complainant provides copies of the correspondence where he has tried to discuss this with Respondent as well as copies of the checks, and thus far, Respondent has not responded to Complainant.

Respondent was sent a copy of this complaint by certified and regular mail, as well as by email on February 20, 2018, and again by email on March 23, 2018 and April 27, 2018. The emails were delivered to the email Respondent provided when he was licensed but no response has been received to the mail or emails. Respondent's license expired on April 7, 2017.

Counsel recommends issuing a civil penalty of \$1,000 for violation of Tenn. Code Ann. § 62-19-102(a)(1), which states that it is unlawful for any person to act as or advertise or represent to be an auctioneer, apprentice auctioneer or firm without holding a valid license issued by the commission and a \$1,000 civil penalty for violation of Tenn. Code Ann. §62-19-112(b)(4) for failing to remit or account for money coming into licensee's possession.

Recommendation: Consent Order assessing a civil penalty of \$ 2,000 for violations of Tenn. Code Ann. § 62-19-102(a)(1) and Tenn. Code Ann. §62-19-112(b)(4).

Decision: The Commission voted to accept Counsel's recommendation.

New Information: Since the original presentation of this complaint, Counsel has exhausted all efforts to locate the Respondent and its owner. Counsel has run a background check on the owner and tried to serve the Consent Order on numerous occasions to numerous addresses but has been unsuccessful. Counsel believes the owner has moved out of the state and/or is no longer working in the industry. Considering this is the only complaint ever opened against Respondent, the firm/gallery license expired in 2017 and no new issues have arisen, Respondent cannot be served or located without further investigation and expense, Counsel recommends dismissing this complaint.

New Recommendation: Dismiss.

New Decision: The Commission voted to accept Counsel's recommendation.

Redline Rules Edit

Ms. Matlock presented to the Commission a rule change that was recommended by the Attorney General's office to strike TCA § 0160-01-.12(4) which requires all sponsoring principal or public automobile auctioneers to reside in the same state as their affiliate auctioneers. This is no longer a requirement per the rest of the statute and therefore should be removed for consistency purposes. Ms. Matlock stated that a vote was not required, and that it will be further discussed during the rule making hearing in February.

NEW BUSINESS

Director Kopchak pointed out a few updates that needed to be made to the newsletter, including minor edits and the addition of Mr. Sterling's name to the list of Commission members. Mr. Morris made a motion to approve the newsletter with the edits discussed. This was seconded by Chairman Thorpe. The motion carried by unanimous voice vote.

ADJOURNMENT

Mr. Lowe made a motion to adjourn the meeting. This was seconded by Mr. Morris. The motion carried by unanimous voice vote. The meeting adjourned at 10:30 a.m.