



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

**Commission Meeting Minutes for November 16, 2020
Davy Crockett Tower**

The Tennessee Auctioneer Commission met on November 16, 2020 via a WebEx Teleconference. The following business was transacted:

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

COMMISSION MEMBERS ABSENT: Dwayne Rogers

STAFF MEMBERS PRESENT: Glenn Kopchak, Anna Matlock, Shilina Brown, Carol McGlynn, Robert Hunter, and Angela Nelson

ROLL CALL

Director Kopchak called the meeting to order at 9:01 a.m. 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 16, 2020 meeting of the Auctioneer Commission including date, time, location has been noticed on the website since November 18, 2019; additionally, this month's agenda has been posted on the website since November 6, 2020."

STATEMENT OF NECESSITY

Anna Matlock read the statement of necessity into the record. Mr. Morris made a motion to adopt the statement of necessity as written. This was seconded by Mr. Sterling. The motion carried by unanimous roll call vote.

AGENDA

Mr. Sterling made a motion to adopt the agenda as written. This was seconded by Mr. Morris. The motion carried by unanimous roll call vote.

MINUTES

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

EDUCATION REVIEW

Director Kopchak informed the Commission that the Bid Calling 101 course that was previously approved needed to be represented. An audit of the application revealed that the course does not meet the requirements for qualifying education for Bid Caller licensure under statute 62-19-111(B)(2). Director Kopchak stated that the course could still be used for continuing education purposes, but a request for a revision to the law would have to be submitted via a departmental bill to change the statute to accept this course for qualifying education. Mr. Morris made a motion to deny the Bid Calling 101 course. This was seconded by Mr. Thorpe. The motion carried by unanimous roll call vote.

Director Kopchak highlighted the Business Insurance for the Small Business Owner course submitted by the Tennessee Auctioneer Association (TAA) and inquired if they had a way to validate the attendance of licensees who utilized the online version. Ms. Baldini, TAA President, acknowledged that information regarding online tracking was not included in the application and therefore she could not provide details. Ms. Baldini suggested that the Commission could approve the course for classroom and synchronous live presentations, and that she would provide information about the online version for review later.

Mr. Sterling made a motion to approve all the remaining courses, to include the Business Insurance for the Small Business Owner course as amended for classroom and synchronous live presentation only. This was seconded by Mr. Thorpe. The motion carried by unanimous roll call vote.

November 16, 2020 - Education Report

Course Provider	Course Name	Instructor(s)	Type	Hours	Recommendation
Bid Calling Bootcamp	Bid Calling 101 (Re-present)	Junior Staggs	QE	16	Denied
All Star Training	TN Auctioneer 6 Hr Renewal (Online)	Rick Duffey	CE	6	Approved
TN Auctioneers Association (TAA)	Monster Growth System (Classroom)	Michael Burt	CE	3	Approved
TN Auctioneers Association (TAA)	Business Insurance for the Small Business Owner (Classroom, Synchronous)	Patti Baldini	CE	2	Approved
TN Auctioneers Association (TAA)	The Next Right Step (Classroom)	Joseph Mast	CE	2	Approved
TN Auctioneers Association (TAA)	Maintaining a Healthy Voice (Classroom)	Jacob Burton	CE	1	Approved
TN Auctioneers Association (TAA)	Advanced Bid Calling (Classroom)	Trey Morris	CE	1	Approved

TAA Funding Proposal

Director Kopchak reminded the Commission of the Tennessee Auctioneer Association's (TAA) request for sponsorship of the upcoming 2021 TAA conference in Nashville. The TAA requested a total of \$8,500, which Director Kopchak stated was within the Commission's budget, but they were not obligated to sponsor the entire amount. In addition, Director Kopchak informed the Commission

that the courses the Commission approved would be open to all auctioneer licensees, not just members of the TAA.

Director Kopchak turned the discussion over to Ms. Patti Baldini, TAA President, for more information regarding the conference. Ms. Baldini explained to the Commission that the goal of this conference is to provide enhanced educational opportunities to licensees at no cost to them. She then introduced Mr. Jay Cash, TAA Conference Chairman, who gave the Commission a brief synopsis of how the \$8,500 cost was calculated.

Director Kopchak asked the Commission if they had any further questions or comments before determining which course or courses they would like to sponsor. Mr. Morris inquired if this would be an annual event, and if so, would it be an annual obligation for the Commission to sponsor it. Ms. Baldini answered that ideally the TAA would like to have this conference annually and stated that they would be willing to submit a proposal each year to request funding if required. Director Kopchak confirmed that the TAA would have to submit a proposal for the Commission to review prior to any funding being granted in the future. Mr. Lowe asked if the TAA would host a conference in other locations to give greater access to those licensees who are not located in Middle Tennessee. Ms. Baldini explained they had intended to do just that, but the event restrictions implemented due to the COVID-19 pandemic resulted in being unable to do so. Ms. Baldini then expressed her desire to host a conference in East and West Tennessee in the future. Mr. Morris made a motion for the Commission to accept the proposal and sponsor all the courses being provided at the conference. This was seconded by Mr. Thorpe. The motion carried by unanimous roll call vote.

DIRECTOR'S REPORT

Budget

Director Kopchak briefed the Commission on the status of the budget for the last three (3) months of July through September. He stated that the budget is trending normally and there are no areas of concern at this time.

Newsletter

Mr. Lowe made a motion to approve the Newsletter. This was seconded by Mr. Morris. The motion carried by unanimous roll call vote.

LEGAL REPORT (*Presented by Shilina Brown*)

1. 2020054161

Opened: 8/10/2020

Renewed License 10/28/2020

Expires 12/31/2022

History: None

The Complainant is a Tennessee resident and the brother of the Respondent and the Respondent is a Tennessee licensed Auctioneer residing in Kentucky.

The Complainant alleges the Respondent is the Principal Auctioneer and the Respondent has under his employment of an unlicensed auctioneer who has been impersonating an unlicensed auctioneer since November 2019. The employee routinely attends auction calls with other brokers/agents and signs auctions without a license. The Complainant was a former employee of the Respondent and left the firm due to the unethical and illegal practices of the Respondent.

The Respondent provided a response to the complaint and stated the Complainant is the Respondent's brother. The Respondent has been a licensed auctioneer in Kentucky and Tennessee for 18 years and has conducted hundreds of auctions throughout the State of Tennessee and has never had a complaint filed against the Respondent. The alleged unlicensed employee being referred to is a real estate colleague and partner in the auction business. The employee has never impersonated or claimed to be an auctioneer. The employee has never held an auction or executed a contract for an auction. The Respondent alleges the Complainant has been suffering from some mental health issues and has threatened both physical and financial harm to the Respondent. As a result, the Respondent has to terminate the Complainant's employment with the Respondent and had to release the Complainant from the real estate brokerage firm. On July 30, 2020, a Tennessee Chancery Court has entered an Order requiring the Complainant to be evaluated for mental health issues.

This matter was sent to the Investigations Division for further investigation. The Complainant did not respond to the Investigator's inquiries and did not return any phone calls. The Investigator spoke with the Respondent and confirmed the issues with this brother. Also, the attorney for the Respondent forwarded the court documents from the proceeding in Chancery Court for the Respondent's brother.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

2. 2020079921
Opened: 10/26/2020
Unlicensed
History: None

Complainant is a Tennessee resident and the Respondent is an unlicensed auction firm.

The Complainant alleges the Respondent is operating as an unlicensed auctioneer in Tennessee. The Respondent holds an auction every Saturday at 6 pm. These auctions are advertised on Facebook. The Respondent also auctions several personal items.

This matter was investigated by the Investigations Division and confirmed there was unlicensed activity by the firm. The Respondent claims the proceeds from the auction are donated to a ministry and the auction is called by a licensed auctioneer. The licensed auctioneer's license expired in March 2020. The Respondent does not collect any salary and volunteers time to hold the auction. The Respondent also operates a flea market at this location. The Respondent is not licensed.

Recommendation: Authorize a contested case proceeding and authority to settle by Consent Order and payment of a \$1,000 civil penalty for violation of Tenn. Code Ann. 62-19-102(a)(1) (unlawful for a person to act as, advertise as, or represent to be an auctioneer without holding a valid license issued by the commission;

Commission Decision: The Commission accepted counsel's recommendation.

**3. 2020072921
Opened: 11/2/2020
Type of License: Principal Auctioneer
First Licensed: 1/24/1968
Expires: 1/31/2022
History: None**

Complainant is a Tennessee resident and the Respondent is a licensed Tennessee Principal Auctioneer.

The Complainant alleges the Respondent conducted an auction in September 2020 and the Complainant purchased an antique vanity and hinged three-sided mirror for \$90 with the winning bid. Later, the auction representative stated the item would not be sold to the Complainant and refused to honor the terms of the auction and refused to reauction the item. The Complainant also witnessed several items being reauctioned after the winner of the highest bid decided to no longer buy the item.

The Respondent failed to provide a response to the complaint.

Recommendation: Authorize contested case proceeding and assess a civil penalty of \$2,000 for violations of Tenn. Code Ann. 62-19-112(b)(2) (Pursuing a continued and flagrant course of misrepresentation or making false promises through agents or advertising or otherwise) and (12) (Any conduct of any auctioneer that demonstrates improper, fraudulent, incompetent or dishonest dealings;)

Commission Decision: The Commission elected to defer this matter to the next meeting in order for counsel to send for investigation.

CASES TO BE REPRESENTED

**4. 2018041311
5. 2018061811
6. 2018041821
7. 2018082441
8. 2019069371**

These complaints are to be closed for lack of jurisdiction.

Commission Decision: The Commission accepted counsel's recommendation.

9. 2019023971

Type of License: Unlicensed

History: None

Complainant is a former employee of Respondent. Respondent is an unlicensed organization. Complainant alleges Respondent has participated in activities that have resulted in Respondent's revocation of their 501 exempt status and is without a Tennessee tax permit.

Complainant also states that Respondent has conducted weekly Bingo games in violation of Tennessee gambling laws but has ceased since contacted by the State. Additionally, Complainant states Respondent has conducted two (2) auctions without a license. Complainant states Respondent has advertised these auctions on Facebook. Counsel reached out to Complainant following the filing of this response and Complainant explained to Counsel that Respondent is still conducting auctions frequently. This information is advertised on the side of the building, social media, and through paper flyers. Additionally, as of writing this summary Respondent still has their 501(c)(3) exemption status revoked.

Therefore, Counsel recommends a one thousand dollar (\$1,000.00) civil penalty for unlicensed activity.

Recommendation: One Thousand Dollar (\$1,000.00) civil penalty for unlicensed activity.

Decision: The Commission voted to authorize a Two Thousand Dollar (\$2,000.00) civil penalty for unlicensed activity for each of the two (2) auctions conducted without a license.

New Information: Upon further review, the Respondent falls under the charitable organization exemption even though their status had been inadvertently revoked at the time of the filing of the complaint. This was immediately corrected upon learning of the revoked status and the Respondent was unaware the exemption had been revoked by the IRS. It has been verified the Respondent currently holds a valid exemption and the 501(c)(3) status has been fully reinstated. Also, the District Attorney contacted our office prior to the auction being held to determine if a license was required and was told a license was not needed. The District Attorney contacted our office after the complaint was filed and stated the Respondent relied on the informal verbal permission obtained by the District Attorney concerning licensure prior to holding the auction and has verified there was no information or knowledge of the revoked status of the 501(c)(3) exemption.

New Recommendation: Close

New Decision: The Commission accepted counsel's recommendation.

NEW BUSINESS

There was no new business presented.

ADJOURNMENT

Mr. Thorpe made a motion to adjourn the meeting. This was seconded by Mr. Lowe. The motion carried by unanimous roll call vote. The meeting adjourned at 10:04 a.m.