



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

**Commission Meeting Minutes for May 17, 2021
Davy Crockett Tower**

The Tennessee Auctioneer Commission met on May 17, 2021 via a WebEx Teleconference. The following business was transacted:

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

COMMISSION MEMBERS ABSENT: None

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

ROLL CALL

Director Kopchak called the meeting to order at 9:00 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 May 17, 2021 meeting of the Auctioneer Commission including date, time, and location has been noticed on the website since May 18, 2020; additionally, this month's agenda has been posted on the website since May 7, 2021."

STATEMENT OF NECESSITY

Ms. Anna Matlock read the statement of necessity into the record. Mr. Thorpe made a motion to adopt the statement of necessity as written. This was seconded by Mr. Rogers. 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.

FEBRUARY MINUTES

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

DIRECTOR'S REPORT

Budget Report

Director Kopchak briefed the Commission on the status of the budget for the last three (3) months of record, January through March. Director Kopchak highlighted that the increase in technology expenses in March was due to several system enhancements, and that there were more legal and investigation expenses during the quarter. Director Kopchak concluded that the budget was trending as expected, with nothing out of the ordinary to report.

NAA Conference

Director Kopchak informed the Commission that the annual National Auctioneer Association (NAA) Conference would be taking place July 13th through 17th in Minneapolis, Minnesota. Mr. Lowe motioned to nominate Mr. Morris to attend the conference. This was seconded by Mr. Rogers. The motion carried by unanimous roll call vote.

LEGAL REPORT (*Presented by Shilina Brown*)

1. 2021003331

Opened: 3/1/2021

Type of License: Principal Auctioneer/Affiliate Auctioneer

First Licensed: 8/9/2017

Expires: 7/14/2021

History: None

The Complainant is an anonymous Tennessee resident and the Respondent is a licensed Principal Auctioneer/Affiliate Auctioneer.

The Complainant alleges the Respondent has been auctioning real estate without a real estate license. The Complainant alleges the Respondent auctioned real estate in October 2020 and January 2, 2021. The Complainant stated the Respondent's firm only recently retained a real estate broker in 2021.

The Respondent and the Principal Broker of the firm both submitted a response to the complaint. The Complainant is the wife and mother of two employees of a competitor in the area. The Respondent stated one of the individuals who joined the competitor firm was a previous partner at the Respondent's firm and the parties had problems arise with their business relationship. The Respondent believes this is a malicious complaint and lacks merit. The Respondent's firm has always had a real estate broker within the firm. The Respondent's license was recently briefly in expired status online, however, this was quickly resolved and was an oversight by the Respondent. The Respondent did not renew the license within the renewal date. The Respondent immediately resolved the issue and does hold a valid Auctioneer license. Due to the time in expired status, the Respondent had to retest and reapply, and it was a more difficult process because of the COVID-19 pandemic. The auction referenced in the complaint did have a real estate broker handling the transaction and the contract was executed by the real estate broker. The Respondent included all details of the contract and all the necessary information about the transaction.

RECOMMENDATION: Close.

COMMISSION DECISION: The Commission voted to close this complaint and refer it to the Real Estate Commission.

2. 2021012451

Opened: 3/8/2021

Unlicensed

History: None

Complainant is a Tennessee resident and employee for the City of Franklin. The Respondent is an auctioneer firm.

The Complainant alleges the Respondent placed a massive amount of auction signs (100+) in the City of Franklin's right-of-way's on or before February 12, 2021. On February 13, 2021, the Complainant had to remove all these signs. The sign read "Forced auction to avoid bankruptcy" with a telephone number. The Complainant called the number on the signs and left a voicemail advising the auction firm to remove the signs from the right of ways. The Complainant was unable to obtain any licensure information or any other information about the Respondent but did obtain a website for the auction firm. The auction event was advertised as being held on February 15, 2021 at a nearby hotel. The Complainant alleges the Respondent is operating without a license. There was no company name or license number included on the signs as required by Rules and Regulation 0160-01-.20.

This matter was sent to the Investigations Division to obtain further information concerning this matter and the Investigator was unable to obtain any further information about the Respondent or identify the company handling the auction or the Principal Auctioneer of the auction.

The Investigator did meet with the Complainant and confirmed the allegations against the Respondent and also provided a notarized statement and photographs of the signs. The Investigator went to the hotel where the auction was held and spoke with the General Manager. The General Manager could only provide limited information without a subpoena. The General Manager provided the name of the company holding the auction. The company has a P.O. Box in Arizona and were selling high-end art, rugs, and a Lamborghini at the auction. The General Manager was told the revenue from the auction was approximately \$1.2 million. The General Manager did not attend the auction and stated employees relayed this information to him and noted this was all hearsay.

The Investigator was unsuccessful in finding identifying information about the company online. There was no auction company by the name provided by the Complainant located in the United States. The website provided by the Complainant redirects to an online auction page in Tacoma, WA. This is unrelated to the auction or the Respondent firm. The Investigator contacted the telephone number for the company and left a message requesting a return call. No return call was ever received. The phone number on the sign has been disconnected. A database information search was done through Westlaw CLEAR and there was no additional information found about the Respondent or the Respondent's Principal Auctioneer.

Legal Counsel cannot proceed in this matter against this auctioneer firm since they are no longer required to be licensed. We are unable to locate a Principal Auctioneer for the auction firm and

therefore, cannot open a complaint against the Principal Auctioneer. Legal Counsel recommends this matter be closed and flagged.

RECOMMENDATION: Closed and Flagged.

COMMISSION DECISION: The Commission accepted counsel's recommendation.

3. 2021017411

Opened: 3/22/2021

Type of License: Affiliate Auctioneer

First Licensed: 12/17/2018

Expires: 12/16/2022

History: None

The Complaint was administratively opened by the Auctioneer Commission's administrative offices. The Respondent Affiliate Auctioneer was randomly chosen for an audit of continuing education and there was a deficiency. The Respondent was e-mailed about the deficiency. The Respondent Affiliate Auctioneer has not submitted the required continuing education coursework.

The Respondent provided a response and takes full responsibility for the continuing education deficiency and stated this was a mistake and the date passed for completing the continuing education. The Respondent has paid the necessary fees for licensure and did not realize it has been two years since the continuing education was completed and did not read all the language when the fees were paid online to the Auctioneer Commission. The Respondent is apologetic about the oversight and will do what is directed by the Commission to resolve this matter. The Respondent has signed up for the necessary continuing education course.

RECOMMENDATION: Authorize a contested case proceeding for failure to meet the basic requirements of licensure with the Commission pursuant to Tenn. Rules and Reg. 0160-03-.03. (Tenn. Rules and Regs. 0160-03-.03 BASIC REQUIREMENTS. (1) All licensees must obtain six (6) hours of continuing education per renewal cycle in order to renew a license), allow the Respondent to settle this matter by executing the Consent Order and paying a civil penalty in the amount of \$500 and provide proof of completion of the continuing education.

COMMISSION DECISION: The Commission accepted counsel's recommendation of a consent order but voted to reduce the civil penalty to \$100 along with providing proof of completion of the continuing education.

4. 2021025581

Opened: 4/26/2021

Unlicensed

History: None

The Complainant is a Tennessee resident and alleges the Respondent is an unlicensed Tennessee Auctioneer. The Complainant agreed to loan the Respondent and his wife \$1,000 because they were

friends and attended high school with him and his wife. The Respondent and his wife borrowed \$1,000 with a written agreement on December 2, 2020 to pay back the amount at \$100/month with payments to begin on February 1, 2021. No payments were made until March 17, 2021 and this was because the Complainant sent the Respondent a letter of demand for repayment. The Complainant video-taped the encounter with the Respondent when the repayment of the personal loan was requested. The Respondent paid \$300, however, the Complainant asked for the full amount to be repaid because the loan was one month and seventeen days late. The Complainant was advised by the Respondent to leave the premises of the establishment. The Respondent's wife told the Complainant the full amount would be paid the following Friday and it was not paid.

The Respondent provided a full response to the complaint and apologizes for this issue. The personal loan was made directly to the Respondent and his wife. This loan was not related to the auction business and was a personal loan. The Complainant was a very good friend for over 30 years and purchased items from the Respondent's store several times a month. The Respondent has a store and sells various preowned items. The Complainant wanted to help them and offered to give them a personal loan. The Complainant even told them there was no rush in returning the entire amount. The Complainant suggested the \$100 payment per month. There was no written agreement. The Complainant also posted negative comments on social media. The Complainant even came to their business screaming, yelling, and demanding the return of all the money. The Respondent told the Complainant to leave the premises of the store and the Respondent's wife paid the Complainant the outstanding balance. The Respondent also has a vendor antique consignment store. The Respondent is not engaged in the auction business and has thought about opening an auction house and is still working out the details and determining the necessary requirements for licensure.

The Respondent is not operating as an unlicensed auctioneer and has not violated any of the laws and rules of the Auctioneer Commission and this is a contractual dispute between the parties.

RECOMMENDATION: Close.

COMMISSION DECISION: The Commission accepted counsel's recommendation.

Mr. Anthony Glandorf, Chief Counsel, took a moment to introduce Mr. Stuart Huffman and let the Commission know that Mr. Huffman would be providing the legal report in the future.

NEW BUSINESS/ADJOURNMENT

There being no new business, Mr. Morris 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 9:40 a.m.