



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

**Commission Meeting Minutes for November 14, 2022
First Floor Conference Room 1-B
Davy Crockett Tower**

The Tennessee Auctioneer Commission met on November 14, 2022, in the first floor conference room of the Davy Crockett Tower in Nashville, Tennessee. The following business was transacted:

COMMISSION MEMBERS PRESENT: Jeff Morris- Virtual on TEAMS, Dwayne Rogers, Ed Knight, Larry Sims, and Kimball Sterling

COMMISSION MEMBERS ABSENT: None

STAFF MEMBERS PRESENT: Roxana Gumucio, Anna Matlock, Robert Hunter

ROLL CALL

Director Gumucio called the meeting to order at 9:00 a.m. Director Gumucio took roll and established that a quorum was present.

NOTICE OF MEETING

Director Gumucio read the notice of the meeting into the record as follows: "Notice of the November 14, 2022, meeting of the Auctioneer Commission including date, time and location has been noticed on the website since August 16, 2021; additionally, this month's agenda has been posted on the website since November 8, 2022".

AGENDA

Mr. Kimball Sterling made a motion to adopt the agenda as written. This was seconded by Mr. Larry Sims. The motion passed unanimously.

AUGUST MINUTES

Mr. Kimball Sterling made a motion to adopt the minutes from the August meeting as written. This was seconded by Mr. Larry Sims . The motion passed unanimously.

EDUCATION REVIEW

Director Gumucio presented the Commission with the application from Missouri Auction School for a 50-hour course for affiliate auctioneer qualified education as well as the application for continuing education. This school was previously approved to offer both types of education. They failed to renew these courses when the office conducted an audit to update providers and courses . Mr.

Kimball Sterling made a motion for the Commission to approve the QE and CE education as presented. This was seconded by Mr. Dwayne Rogers. The motion passed unanimously.

DIRECTOR'S REPORT

Budget Report

Director Gumucio presented the FY21-22 financial information. The Auctioneer Commission finished the year with an additional surplus of \$29,055. This leaves the reserve balance at \$494,010.

Fall Newsletter

Director Gumucio presented the Fall 2022 newsletter. Mr. Ed Knight made a motion for the Commission to approve the newsletter for release to licensee's and post to the Commissions website. This was seconded by Mr. Larry Sims. The motion passed unanimously.

LEGAL REPORT (*Presented by Anna Matlock*)

1. 2022024191

Opened: 7/25/2022

Unlicensed 2180296

History: None

This matter was referred from the Division of Consumer Affairs with the Office of the Attorney General. Complainant is a Tennessee resident. Respondent is an unlicensed individual. Complainant states as the executor of their parent's estate, they signed an agreement with Respondent to sell certain items for Four Thousand Five Hundred Dollars (\$4,500.00). Complainant states Respondent is past due, and the agreement has not been fulfilled, but all items have been sold and a balance remains of Five Thousand Three Hundred Dollars (\$5,300.00). Complainant states at the time of the agreement they were unaware that Respondent did not hold a license with the Commission and believes they are holding auctions within the state and in a neighboring state. Complainant provides a copy of the signed agreement, pictures of Respondent's social media page, and an address of Respondent's location.

Respondent did not submit a response. Based upon the information provided by Complainant, the physical storefront located for Respondent is in Missouri which is across state lines and outside the jurisdiction of the Commission. The other portion of Respondent's operation appears to deal with matters that also fall outside of the Commission's jurisdiction. Since Respondent's storefront is located in Missouri, Counsel researched for a possible referral, but found that Missouri does not regulate auctions. The Commission does not intervene in the collection of unpaid debts. Therefore, Counsel recommends this matter be closed and flagged. Should any future matters related Respondent occur in Tennessee, this will allow the Commission to revisit this complaint in the future.

Recommendation: Close and flag.

Commission Decision: Concur

2. 2022033561

Opened: 10/3/2022

Type of License: Principal Auctioneer

First Licensed: 7/19/2013

Expires: 5/24/2024

History: None

This matter was administratively opened. Respondent is a licensee. Administrative staff selected Respondent in a random continuing education audit for the previous quarter. When contacted, Respondent stated they missed completing their continuing education prior to renewal and submitted a letter regarding the circumstances for consideration. Respondent states they are behind the last two (2) years for their continuing education because their spouse was diagnosed with cancer and they both have suffered with COVID-19 twice. Now that their spouse is recuperating, Respondent states they are in the process of completing their outstanding continuing education and sincerely apologize.

During the August 16, 2021, meeting the Commission voted that administrative staff would send an agreed order and citation for One Hundred Dollars (\$100.00) and close the complaint. Respondent was issued an Agreed Citation on August 12, 2022, with a requirement of a response within thirty (30) days. To date, Respondent has yet to respond. Therefore, Counsel recommends, Respondent be assessed a Two Hundred Dollar (\$200.00) civil penalty.

Recommendation: Two Hundred Dollar (\$200.00) civil penalty.

Commission Decision: Concur

3. 2022037721

Opened: 10/3/2022

Type of License: Principal Auctioneer

First Licensed: 5/7/2015

Expires: 5/6/2023

History: None

This matter was referred from the Division of Consumer Affairs from the Office of the Attorney General. Complainant is a Tennessee resident. Respondent is a principal auctioneer. Complainant states they attended an auction at a Tennessee city and purchased a signed proof by a prominent artist. Complainant states when they returned home, they researched the certificate and learned the individual that signed it had been convicted for knowingly certifying fraudulent artwork. Following this, Complainant states they left a message demanding a provenance or they would dispute the charge. In a phone call, Complainant states they were told the paperwork could not be provided, but the painting was legitimate. Complainant later returned the painting and received a refund.

Respondent answered the complaint stating they are doing their utmost to do everything they can to keep their customers happy and to continue working in the competitive auction business as online auctions are replacing live auctions. Respondent states Complainant received an immediate refund upon request when most auction companies would have stated all sales are final. Respondent denies knowing the individual that signed the proof for the painting. However, Respondent states they do encourage all customers and their experts to view and inspect all items and research the certificates on their phones during the viewing period before the auction states so they can decide that they want to bid on. Respondent closes by stating they will make a more concerted effort to see that the certificates are properly documented on artwork in the future.

Here, it does not appear that Respondent is in violation of a particular rule or statute. However, Respondent is in violation of advertising violations for the auction. Tenn. Comp. R. & Regs. 0160-01-.05(1) states that all advertising of an auction sale must be made in the name and license number of the licensee who shall bear responsibility of the sale to the seller, general public and auctioneer commission. Additionally, Tenn. Comp. R. & Regs. 0160-01-.05(2) shall include the name of the principal or public automobile auctioneer and the principal or public automobile shall attend all auction sales. Therefore, Counsel recommends that Respondent be assessed a Two Hundred Fifty Dollar (\$250.00) civil penalty. Additionally, Counsel recommends that an administrative complaint be opened against the unlicensed entity associated with Respondent operating the auction for investigation of potential unlicensed activity.

Recommendation: Two Hundred Fifty Dollar (\$250.00) civil penalty and administratively open a complaint against the unlicensed entity.

Commission Decision: Concur

Legislative Update

Ms. Matlock provided an update on request from the Attorney General's regarding Public Automobile Actions and Public Automobile Auctioneers.

ADJOURNMENT

There being no new business, Mr. Dwayne Rogers made a motion to adjourn the meeting. This was seconded by Mr. Larry Sims. The motion passed unanimously. The meeting adjourned at 9:30 am.