



NewsLine

The Official Publication of the Tennessee Auctioneers Commission Volume XLVII—Fall 2014

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Department, Members & Staff

Bill Haslam, Governor

Julie Mix McPeak, Commissioner C & I

Howard Phillips, Chairman
East Tennessee

Ronald Colyer, Vice Chairman
At-Large Member

Adam Lewis
Consumer Member

Jeff Morris
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Bobby Colson
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Mona Wynne, Licensing Technician

Mission Statement

The Mission of the Tennessee Auctioneers Commission is to protect the public and licensees by monitoring the auctioneer profession through licensure and regulation

State of Tennessee
Department of Commerce & Insurance
500 James Robertson Parkway
Nashville, Tennessee 37243-1152
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www.tn.gov/regboards/auction

BE THE FIRST TO KNOW: NOTIFY

A couple of years ago, an initiative came out of Governor Bill Haslam's office to develop and implement an enhanced communication system designed to communicate with citizens, constituents, agencies and licensees.

Last year, the Tennessee Department of Commerce and Insurance, that oversees the Auctioneer Commission and other licensing and regulatory boards, was among the first state department to embrace this form of communication that has since become known as 'Notify'.

Licensees registered with Notify, no longer have to wait until they get into the office to pick up a newsletter or to find out important information that may affect their license. Information is delivered directly to the licensee by either email or text.

Notify is a registration-based application that generates notifications on:

- ◇ New or Amended Statutes - New or Updated Rules
- ◇ Changes to Fees
- ◇ Rulemaking Hearings
- ◇ Significant Changes Impacting Your License
- ◇ Changes to Policies

The Auctioneer Commission also uses Notify to let you know when the NewsLine is posted on the website and sends a link to access the newsletter.

Now is an excellent time to register for Notify and encourage everyone in your office - auctioneers and staff alike - to register. The Commission has been working hard to draft some important rule updates and revisions which will be published for review and comment soon. Registration with Notify will allow you to be in-the-know on these upcoming rule changes as they are published. You will also be able to receive a timely notification of the upcoming Rulemaking Hearing.

Registration is fast and easy! You can access the Notify app through the Commission website or at tn.gov/notify-app/sign_up.html. Enter your contact information, select the boards from which you wish to receive notifications, and then decide if you prefer to receive your notifications by email and/or text.

"The Tennessee Department of Commerce and Insurance is committed to principals of equal opportunity, equal access, and affirmative action." Contact the EEO Coordinator or ADA Coordinator at 615-741-2177(TDD).

Unlawful Rebates

* Referral Fees - Finders Fees - Birddog Fees*

Rule 0160-1-.02 Unlawful Rebates. *It shall be unlawful for any person licensed under the provision of this act to rebate any part of his commission to any person or persons not holding real estate license or apprentice auctioneer license or auctioneer license.*

The rules clearly indicate that an auctioneer or auction company cannot pay a fee for an auction referral to anyone who does not hold a valid Tennessee real estate, auctioneer or apprentice auctioneer license.

Let's clarify further with some examples:

Scenario 1: *The owner of TAC Auction Company posts on a social media site that she will pay her friends or family members a finders fee for every auction lead she puts under contract. The owner's brother, Fred, refers his neighbor to TAC Auction Company when the neighbor mentions he needs to sell his parent's estate. TAC Auction Company pays Fred \$ 100 for the referral.*

In this Scenario, unless Fred holds a real estate, auctioneer or apprentice auctioneer license, TAC Auction Company has clearly violated 0160-1-.02.

Scenario 2: *The owner of TAC Auction Company contracts with a telemarketing firm to solicit auction sellers for the Company for a fee.*

Unless the telemarketing firm uses licensed (real estate, auctioneer or apprentice auctioneer) telemarketers, TAC Auction Company has violated of Rule 0160-1-.02 **and** the telemarketing firm has violated **T.C.A. 62-19-102. License requirement.**

Scenario 3: *The owner of TAC Auction Company hires an unlicensed (real estate, auctioneer, or apprentice auctioneer) sales representative to solicit new business for the company for a salary plus bonus.*

In this scenario, TAC Auction Company violates Rule 0601-1-.02 and T.C.A. 62-19-102 (and possibly other sections) by employing an unlicensed sales representative to contract business for the company. It doesn't matter that the rep is paid salary, commission, bonus or any combination.

Scenario 4: *The principal auctioneer/owner of East TN Auction Co. refers an estate auction in West TN to TAC Auction Company, for which he is compensated 25% of the contracted auction commission.*

In this case, neither TAC Auction Company nor East TN Auction Co. have violated any laws or rules.

Whether you call it a referral fee, a finder's fee, a bird-dog fee, a commission, a bonus or a salary; it is unlawful for an auctioneer or auction firm to compensate anyone without a real estate, auctioneer or apprentice auctioneer license for auction referrals. It is also unlawful for anyone without an apprentice license or auctioneer license to solicit auctions, negotiate or attempt to negotiate an auction listing contract.

Disciplinary Action Report

May 2014

Respondent: Clyde Earl Hall, Jr.
Auction Company
Knoxville, TN

Violation: Advertising Violation
Rule 0160-01-05

Rulemaking Hearing

The Tennessee Auctioneer Commission would like to remind all licensees that a Rulemaking Hearing will be held in on Monday, October 6, 2014, at 9:00 a.m. at:

Conference Room 1-B
Davy Crockett Towers
500 James Robertson Parkway
Nashville, TN 37243

The proposed Rule changes were published in the Summer Edition of the NewsLine and are available online at tn.gov/regboards/auctions. Questions about these changes may be addressed to:

Julie.Cropp@tn.gov

Commission Calendar

October 6, 2014 - Rulemaking Hearing
9:00 a.m.

November 3, 2014 - Board Meeting
9:00 a.m.

December 1, 2014 - Board Meeting
9:00 a.m.

DID YOU KNOW:

The Tennessee Department of Commerce and Insurance is on Facebook and Twitter.



ONLINE SALES & USE TAX EXEMPTION CERTIFICATE VERIFICATION

Sales tax exemptions can be confusing, but it is important to note that sales tax exemption certificates must be presented and copy retained in the auction file.

Auction companies and auction houses frequently have to deal with buyers wishing to purchase tax free, either to resale, because they are representing a non-profit, or because they have an Agricultural Exemption. Historically, there was no easy way to check if an exemption certificate was valid. No more!

The Tennessee Department of Revenue now has an online site dedicated to verification of valid of resale certificates, non-profit exemptions or agricultural exemption certificates. This site is accessible at all times except for scheduled updates from 7:00 pm on Sunday evening until 5:00 am on Monday morning.

To access the site, visit:

tdorbt.tn.govresaleaccountverification/1024.aspx

While we are talking about sales tax, we want to commend Billy Trout with the Department of Revenue who provided three great seminars on sales and use tax issues facing auctioneers for the 2013/2014 program year. Trout brought valuable and necessary information tempered with his humble sense of humor and approachability to the podium for these seminars. Attendees gave excellent ratings and reviews.

For those who did not attend these seminars, the following are some key changes to the Department of Revenue:

- ◇ Sales and Use Tax Returns are now filed electronically and paid by Electronic Funds Transfer (EFT).
- ◇ 2014 is a transition year on Business Tax filings, which must also be filed electronically.

If you have any questions regarding how changes in the Department of Revenue might affect your auction business, contact the Tennessee Department of Revenue or visit your local field office. Contact information can be found at **tn.gov/revenue**.

SELLING IVORY at AUCTION

Earlier this year, the U.S. Fish & Wildlife Service (FWS) issued Director's Order No. 210 addressing the sale of ivory in the United States. Efforts to restrict the sale of ivory are in response to the rapid increases of illegal ivory poaching and trafficking concerns.

Federal regulations have historically allowed for the sale of ivory in the United States provided it met the qualification of antique ivory; however, in light of the FWS Director's Order 210 the International Fund for Animal Welfare released a report in late August 2014 directly targeting the sale of ivory at auction with numerous claims that live and online auctions have become both knowing and accidental accomplices in the illegal ivory trades.

The National Auctioneers Association published information regarding the Director's Order No. 210 in April 2014 and in light of the IFAW Report has followed up with correspondence with FWS Director, Daniel Ashe. Tennessee Senator Lamar Alexander joined legislation in July 2014 to address the over-regulation of ivory sales. However, at this time, the enforcement of FWS Director's Order No. 210 has begun and auction houses across the country are being targeted.

Of utmost consideration in these undercover investigations is determining that any ivory sold, either as a collectible art, carving or musical instrument asset be accompanied by a valid CITES certificate and additional proof that the item has not been transferred for financial gain since February 25, 2014.

For more information visit the FWS website at fws.gov.

Legal Reminders

Rule 0160-01-.24 Notification of Change of Information states:

"Within sixty (60) days of occurrence, a licensee shall notify the Commission in writing of any change in information previously submitted by the licensee to the Commission. Such information includes but is not limited to the licensee's business address, auction escrow account data and the employment, termination or resignation of any apprentice."

Please keep your contact information current.

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Tennessee Auctioneers Commission
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Please be sure to forward a copy of the NewsLine to licensees in your firm.

To receive email or text alerts from the Tennessee Auctioneer Commission
go to the direct link at www.tn.gov/notify-app/sign_up

Check out the new Pick Tennessee Mobile App!

The Pick Tennessee mobile app helps you live local on the go! Use this easy app to find the farms, farmers markets, foods and fun closest to you, wherever you are. Search by item (for example, "apples"), by region of the state, or by season. Pick Tennessee will get you where you're going through direct GPS mapping.

This free mobile app keeps track of your favorites and links you to seasonal recipes, handy tips and fun facts as well as the full Pick Tennessee Products website, PickTnProducts.org. Some of the great farm direct and local items you can find on this app include local fruits and vegetables, wineries, greenhouses and plant nurseries, Christmas tree farms, plus local honey. You can find the farms where they're produced, or the markets where they're sold.

Pick Tennessee Products is the longstanding statewide campaign by the Tennessee Department of Agriculture to connect customers to locally grown or made products and farm-related activities. The completely free service currently lists about 2,000 farmers with about 10,000 items. The app can be downloaded through the App Store or Google Play.



**THE TENNESSEE AUCTIONEER
COMMISSION HAS A NEW
CONSUMER MEMBER**

***Welcome Commissioner Adam Lewis
From Cleveland, Tennessee***

