



NewsLine

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Table of Contents

Page One
Auction Commission Report
Disciplinary Action Report

Page Two
The Gallery License
Q & A: Apprentices & Sponsors

Page Three
Q & A: Apprentices & Sponsors (cont.)
Legal Reminder: App. Compensation

Page Four
Continuing Education Seminars

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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

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AUCTIONEER COMMISSION REPORT

The Auctioneer Commission offices and meeting rooms are now back in the newly remodeled Davy Crockett Tower at 500 James Robertson Parkway, and the staff is settling into their new surroundings.

The Board did not meet in June but they are scheduled to meet on Monday, July 1, 2013 at 9:00 a.m. in the first floor meeting room.

Over the past several months, the staff has been collecting their reciprocity agreements with other states for the Board to review. Currently, Tennessee is reciprocal with Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Massachusetts, Mississippi, North Carolina, Ohio, Pennsylvania, South Carolina, Texas, Virginia, West Virginia and Wisconsin. As of the May meeting, the staff had received documentation from eight (8) of the eighteen (18) states. The Board has indicated they would prefer to evaluate them all at one time, so this action was deferred from the May meeting until the July meeting to give more states an opportunity to respond the TAC request for information.

This summer, there will be three (3) Commission seats up for reappointment: Chairman Bobby Colson representing Middle TN, Commissioner Marvin Alexander, our West TN member, and our consumer member, Gary Cunningham. All these Commissioners have made significant contributions and have been working diligently to provide valuable rule revision feedback to our legal counsel, Julie Cropp as she drafts rule changes.

Be sure to watch the NewsLine for the final drafts of the proposed rule changes and please take a minute to make sure all copies of the NewsLine and the CE announcements get forwarded to any licensees who don't keep regular office hours.

We hope everyone has a wonderful and safe summer!

DISCIPLINARY ACTION REPORT

February 2013

Respondent: Manuel's Auction Co.

Violation: Unlicensed auction firm

Action: \$500 Civil Penalty

April 2013

Respondent: David Lloyd Cook, Jamestown, TN

Violation: Operating an unlicensed auction gallery

Action: \$500 Civil Penalty

THE GALLERY LICENSE

62-19-125. Gallery license.

(a) Any person who desires to own and operate an auction house, auction barn, auction gallery, or any other type of auction operating at a fixed site for the purpose of selling consigned or purchased goods at a fixed location is required to first obtain a gallery license.

Let's look at this a bit closer:

First, The law spells out the common names used for auction galleries: *“auction house, auction barn and auction gallery”* but then goes on to say *“any other type of auction operating at a fixed site”*... In other words, it doesn't matter what you call your auction business, if you own and operate it at a fixed site, you may require a gallery license.

Second, it goes on to clarify the purpose of an auction gallery: *“selling consigned or purchased goods”*... So if you take in consignments from others to sell at your fixed site auction business, or if you purchase items to sell at your fixed site auction business, then you need a gallery license.

Now let's look at a common scenario:

Bob wants to rent a vacant building on Highway 41A and set up an auction. He wants to be able to offer auction services to people entering into an assisted living facility who need to sell the furniture and household items they cannot take with them.

Bob decides to talk with potential clients to find out what services will be most beneficial to them. He learns from these discussions that some people would rather sell everything all at once - even if it means making less money. As a result, Bob decides he will sell for a client, or if they prefer, he will buy everything himself and sell it for himself.

In this case, Bob clearly requires a gallery license: he will be operating at a fixed location with the purpose of selling both consigned and purchased goods. Unfortunately, this requirement is sometimes confusing. We are frequently asked the following questions:

- *My friend is an auctioneer and he has a firm license. Can I use his firm license to operate my business?* The first sentence of this license law states: *“any person who desires to own or operate a an auction house....is required to first obtain a gallery license.”* If the auctioneer is the owner of the auction business that will be conducting the auction then his/her firm license is fine; but if the owner/operator is someone other than a licensed auctioneer then they are required to have an auction license.
- *I don't want to operate an auction gallery, I just want to have a sale in my parking lot every quarter to sell overruns and returns from one of the 'Big Box' Stores. Do I need a license.* If the items being sold are *“consigned or purchased”* then a Gallery license is required.
- *Are there any exceptions to the Gallery license requirement?* Yes: *“...If the auction house, auction barn, or auction gallery is owned and operated by a licensed auctioneer holding a valid firm license, no further license is required.”*

APPRENTICE AUCTIONEERS AND SPONSORING AUCTIONEERS

Q & A

I've been an auctioneer for over a year. Can I sponsor an apprentice? **No. In order to sponsor an apprentice auctioneer, you must be licensed for at least 2 years and be in good standing with the Commission.** [0160.1-.12(1)]

How many apprentice auctioneers can I sponsor at a time? **Three (3).** [0d160.1-.12(3)]

Can my apprentice auctioneer work for another auctioneer? **Yes, under the following conditions:**

- **The apprentice must notify the commission on the appropriate form,**
- **The sponsoring auctioneer must give written permission on the form with a notarized signature,**
- **The non-sponsoring auctioneer for whom the apprentice will be working must hold a valid**

(continued on page 3)

Apprentice Q & A (Continued)

Tennessee auctioneer license and must be in good standing,

- The non-sponsoring auctioneer for whom the apprentice will be working, shall reside in the same state as the apprentice, unless otherwise approved by the Commission,
- The non-sponsoring auctioneer shall pay all compensation for the apprentice's work directly to the sponsoring auctioneer. [Ref. 0106.1-.12(8)(a-c) and 62-19-112(3)]

What auction activities cannot be performed by my apprentice auctioneer? **An apprentice auctioneer may not:**

- Execute a contract to conduct an auction without the approval of his/her sponsor noted on the document
- Sign a closing statement
- Have an escrow or trust account in his/her name as a depository for auction proceeds
- Call bids at an auction without the presence of his/her sponsor [0106.1-.12(9)(a-c)]

What auction activities can be performed by my apprentice? **An apprentice auctioneer may:**

- Sign a contract in order to indicate he/she procured the client and the auction - but, this contract must be approved by the sponsor
- Take part in the closing and settlement proceedings of an auction, but the sponsoring auctioneer is responsible for keeping the account of and disbursing money received at the auction
- Call bids at an auction when his/her sponsor is physically present to take responsibility for all auctioning activities of the apprentice (0106-1-.12(9)(a-c))

How many points does my apprentice auctioneer need to be eligible for an auctioneer license? **1000 points.**

How does my apprentice auctioneer earn points? **An apprentice obtains points for exposure to different aspects of the auction process. The purpose of the point system is to ensure the apprentice is exposed to as many areas of the auction as possible. Points must be earned from four (4) or more of the seven (7) point categories:**

- Execution of a contract approved by the sponsor [(0601-1-.12(9)(a) and 0601-1-.12(11)]
- Advertising an Auction [0601-1-.12(11)]
- Auction Preparation [0601-1-.12(11)]
- Bid Calling [0601-1-.12(11)]
- Bid Assistance/Working the Ring for at least one (1) hour [0601-1-.12(11)]
- Clerking/Cashiering as a clerk recording sales or a cashier collecting money for at least 30% of the auction [0601-1-.12(11)]
- Participate in balancing an auction and preparing closing statements [0601-1-.12(11)]

How does my apprentice keep up with their points? **An apprentice auctioneer shall use a log to track points during the apprenticeship period. Each activity shall be acknowledged by the sponsor auctioneer with their signature and the date of the activity.** [0601-1-.12(10)]

Can my apprentice auctioneer be listed in the auction advertising? **Yes, the apprentice must conspicuously and clearly be identified as an "apprentice auctioneer" and include his/her license number and the name and license number of the sponsor auctioneer's firm.** [0601-1-.12(7)]

Can I sponsor an apprentice who lives in a different state? **No.** [0601-1-.12(11)] **All sponsor auctioneers shall reside in the same state as his/her apprentice. However, in appropriate cases and with good cause, the Commission may waive this rule.** [0601-1-.12(5)]

Legal Reminder: Grounds for Revocation or Suspension of a License

62-19-112 (b): "The commission may suspend, revoke or refuse to renew any license issued under this chapter where such license has been obtained by false or fraudulent representations, or for any of the following causes:...

(3) Accepting valuable consideration as an apprentice auctioneer for the performance of any of the acts specified in this chapter, from any person, except the licensee's employer auctioneer;..."

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Continuing Education Seminars

The Commission has wrapped up the 2013 fiscal year CE Seminars. This year, we held programs in Pigeon Forge, Wildersville and Lebanon.

Special thanks go out to Bill Gallivan of the Bureau of Alcohol, Tobacco, Firearms and Explosives and the other ATF agents from East Tennessee who assisted him with his program.

We would also like to thank John Schultz for his outstanding program on Contracts and UCC compliance.

We especially want to thank all the licensees and commissioners who attended these seminars.

The programs offered this year were selected based upon feedback from past seminar attendees. For our 2014 fiscal year programs, we are also taking our cues from your suggestions.

Tennessee auctioneer and 2012 International Auctioneer Champion, Justin Ochs will be presenting on the Care and Professional Use of the Voice and the Psychology of the Sale. We will also have another section on a business related topic, to be announced at a later date.

We will be in East TN in the fall (September or October), West TN in February, and Middle TN in May. This year we will be bringing our seminars to the Chattanooga, Savannah and Columbia areas. Please watch your newsletters for seminar specifics and watch for your reminder postcards.

Also, if you don't go into your office regularly, be sure to have your office forward these mail items to you. We don't want any licensees to miss out on some valuable information or the opportunity to attend a free and informative continuing education seminar!

