

**TENNESSEE
AUCTIONEER COMMISSION
MINUTES**

DATE: November 2, 2009

PLACE: Andrew Johnson Tower – 2nd Floor Conference Room
710 James Robertson Parkway
Nashville, Tennessee

PRESENT: Commission Members:
Marvin Alexander, Chairman; Bobby Colson, Vice Chairman; and David Cole

PRESENT: Staff Members:
Donna Hancock, Director
Adrian Chick, Staff Attorney
Susan Lockhart, Executive Administrative Assistant
Jan Tacheny, Administrative Assistant Regulatory Board

ABSENT: Commission Members:
Kenneth Dreaden and Mary Francis Rudy

GUESTS: Rhessa Orr, , and Bill Colson

CALL TO ORDER:

Chairman Alexander called the meeting to order at 9:00 a.m. and the following business was transacted:

~~Donna Hancock called the roll. Three Commission members were present and two were absent.~~

AGENDA: Mr. Cole made a motion to adopt the agenda, seconded by Mr. Colson. **MOTION CARRIED.**

MINUTES: Mr. Cole made a motion to approve the minutes of the last meeting, seconded by Mr. Colson. **MOTION CARRIED.**

ELECTION OF OFFICERS: Mr. Cole made a motion to elect Mr. Colson as Chairman, seconded by Mr. Alexander. **MOTION CARRIED.**

Mr. Colson made a motion to elect Mr. Cole as Vice-Chairman, seconded by Mr. Alexander. **MOTION CARRIED.**

Chairman-Elect Colson presided over the remainder of the meeting.

LEGAL REPORT - ADRIAN CHICK, STAFF ATTORNEY

1. **Complaint No. 2009020711** **CRYE-LEIKE OF NASHVILLE, INC.**

Complaint: The Respondent is an auction firm that advertised an absolute auction of real property to take place on August 27, 2009. The complainant states that he could not attend the auction in person, but had instructed the auctioneer via telephone to start the bid at \$50,000, with increments of \$5,000 until the bidding reached \$100,000, at which time the complainant was to be reached by telephone for further instructions. Complainant states that he subsequently received a call from the auctioneer's wife stating that the bidding was up to \$50,000, at which time the complainant again stated that he wanted to increase the bids in increments of \$5,000. The auctioneer then took the phone, and told complainant that the seller was a good client, that the auction was poorly attended, and that he was cancelling the sale.

Response: Respondent states that the complainant did not bid on the property, although the Respondent had attempted to accommodate the complainant by telephone. However, the Respondent was unable to reach the complainant during the period of time that the auctioneer was attempting to solicit bids, and did not make contact with him until after the auction had been put on hold. The seller instructed the Respondent to cancel the auction because no bids had been made.

Complaint History: Some prior complaints.

Recommendation: Dismiss. The Respondent acted properly under direction of his client in cancelling the sale after receiving no opening bids.

MOTION: Mr. Alexander made a motion to accept Legal's recommendation, seconded by Mr. Cole.

ALL APPROVED. MOTION CARRIED.

2. **Complaint No. 2009018961** **CORNER NEST ANTIQUES**

Complaint: This complaint appears to be based upon a listing of an antique dealer's name and address on a website called auctionzip.com. The listing in question does not refer to any specific auction or otherwise indicate that the dealer is an auction firm.

Response: The Respondent states that it is an antique mall, and that it has had several auctions, but all were conducted by licensed firms.

Complaint History: None.

Recommendation: Dismiss. The online listing does not refer to any auction, and therefore does not have to list the firm license number.

MOTION: Mr. Cole made a motion to accept Legal's recommendation, seconded by Mr. Alexander.

ALL APPROVED. MOTION CARRIED.

3. Complaint No. 2009018981 MOUNTAIN TRADING COMPANY

Complaint: This complaint is also based on a listing on auctionzip.com. Unlike the previous complaint, this Respondent is listed as an auction company on the website's directory. The Respondent is not a licensed auction firm.

Response: The Respondent states that in every auction it has conducted, the advertisements have complied with Rule 0160-01-.20 ADVERTISING GUIDELINES by reflecting the Respondent's apprentice license number, sponsor license number, and Tennessee firm number.

Complaint History: None.

Recommendation: Consent order assessing civil penalty of \$250 and authorization for hearing. The listing of Respondent under the heading of "auction companies" on the website constitutes violation of TCA 62-19-102(a) which states, "It is unlawful for any person to: (1) Act as, or advertise or represent to be, an auctioneer, apprentice auctioneer, or firm without holding a valid license issued by the commission under this chapter, or prior state law..."

MOTION: Mr. Alexander made a motion to issue a consent order assessing a civil penalty of \$500 advising the business not to advertise and that they cannot apply for a gallery or firm license for six-(6) months, seconded by Mr. Cole.

ALL APPROVED. MOTION CARRIED.

4. Complaint No. 2009016161 AP AUCTIONS

Complaint: The Respondent is an auction firm that conducted an auction on August 2, 2009. The advertisement does not provide the firm name or license number.

Response: The Respondent accepts full responsibility for the oversight and states it was not intentional, but rather a failure to proof the advertisement.

Complaint History: None.

Recommendation: Consent Order assessing civil penalty of \$250 and authorization for hearing.

MOTION: Mr. Alexander made a motion to assess a civil penalty of \$100 and authorize a hearing, seconded by Mr. Cole.

ALL APPROVED. MOTION CARRIED.

5. Complaint No. 2009015001 C.B.A. Pioneer Auctions Co.

6. Complaint No. 2009015002 Lawrence McGeorge

Complaint: This complaint is based upon an advertisement for an auction of real property that lacks the firm number. Also, the auction company name listed in the advertisement is not the correct name of the firm as licensed by the commission.

Response: Respondent states the missing firm number was a result of failure to catch the mistake before flyers were sent out, and apologizes for the oversight.

Complaint History: None.

Recommendation: Consent order assessing civil penalty of \$250 against the firm for failure to provide firm number, and letter of warning against the firm for failure to provide the firm number and incorrectly listing the name of the firm.

MOTION: Mr. Alexander made a motion to accept Legal's recommendation, seconded by Mr. Cole.

ALL APPROVED. MOTION CARRIED.

7. Complaint No. 2009015131 AMERICAN WAY AUCTIONS

Complaint: The Respondent auction firm entered into an agreement with complainant to conduct a personal property auction on June 13, 2009 which included miscellaneous items of personal property. The complainant alleges that some parts of the auction were not loud enough to be heard, that property should have been "put back" if it didn't sell, that the Respondent did not furnish adequate help in setting up the auction, and that the complainant was not aware that proceeds would be held in escrow. At the request of the complainant, a partial settlement was made to the complainant on June 18, 2009. The check was delivered to the complainant by the auctioneer personally, at which time the complainant again addressed her concerns to the respondent and recorded the ensuing conversation. The recording reflects a very professional demeanor on the part of the Respondent, as an attempt was made to address each of the complainant's concerns.

Response: The Respondent provided very detailed documentation of hundreds of receipts for the merchandise sold, advertising invoices, and a settlement statement. The Respondent states that since personal checks were accepted at the sale, all proceeds were deposited into an escrow account until everything could be balanced.

Complaint History: None related.

Recommendation: Dismiss.

MOTION: Mr. Cole made a motion to accept Legal's recommendation, seconded by Mr. Alexander.

ALL APPROVED. MOTION CARRIED.

8. Complaint No. 2009015451 RICKY EZELL

Complaint: This complaint was filed anonymously and alleges that the Respondent, who operates an auction house, does not keep records, throws away property belonging to consignors, and hasn't maintained his required continuing education hours.

Response: The Respondent emphatically denies throwing away merchandise, states he has very good records for the past four years of sales, and that he is current on his CE hours. Respondent

believes the complainant may be an individual that was banned from his auction due to foul language and provocative behavior with other customers.

Complaint History: None.

Recommendation: Dismiss.

MOTION: Mr. Alexander made a motion to accept Legal's recommendation, seconded by Mr. Cole.

ALL APPROVED. MOTION CARRIED.

9. Complaint No. 2009013441 MCWILLIAMS REALTY & AUCTION

Complaint: It appears from the complaint that the Respondent had at one time conducted an auction for the complainant, and the complainant was not happy with the results. A complaint was opened based on that auction, and dismissed by the commission in 2008. The complainant alleges that the Respondent is coming into his apartment and taking things on a regular basis, and even taking the address he had written down for the commission. He believes that they are trying to poison him, and states that he wants his body autopsied if he is found dead.

Response: The Respondent denies the allegations, and does not even know the complainant's physical address.

Complaint History: None related (except the one that was dismissed).

Recommendation: Dismiss.

MOTION: Mr. Cole made a motion to accept Legal's recommendation, seconded by Mr. Cole.
ALL APPROVED. MOTION CARRIED.

10. Complaint No. 2009012591 BOB PARKS REALTY

Complaint: This complaint is based upon advertisement for the sale of real property to be conducted by sealed bids.

Response: Respondent does not believe this constitutes an auction.

Complaint History: None related.

Recommendation: Dismiss.

MOTION: Mr. Alexander made a motion to accept Legal's recommendation and authorize a letter of instruction to be sent to the Respondent advising them to include their firm number in future advertisements, seconded by Mr. Cole.

ALL APPROVED. MOTION CARRIED.

RECOMMENDATIONS FOR RULE CHANGES – ADRIAN CHICK, STAFF ATTORNEY

Mr. Chick presented a rule regarding principal auctioneers for review. A discussion ensued concerning principal auctioneers and sponsoring auctioneers. Ms. Hancock advised that she would present a chart at the next meeting listing the requirements for each type of license for the Commission to review. Mr. Chick advised that he would review the rules and present more information at the next meeting per the Commission's request regarding galleries and sponsoring auctioneers. If agreed upon at the next meeting, a rule making hearing will be scheduled.

DIRECTOR'S REPORT – DONNA HANCOCK, DIRECTOR

Ms. Hancock introduced her office's newest staff member, Jan Tacheny. She advised that Ms. Tacheny will be responsible for processing applications, renewals, and other paperwork for the Auctioneer Commission. Ms. Tacheny is attending the meeting for training purposes.

Ms. Hancock advised the Commission that Anthony Elam, an auctioneer apprentice applicant who was present at the previous meeting, had not contacted the Commission since the meeting or submitted the documentation as instructed. Mr. Chick advised that he did not perform a background check since Mr. Elam's paperwork had not been received. No further processing on the application will occur unless Mr. Elam provides the required information.

Ms. Hancock advised the Commission that there are currently forty-eight-(48) open complaints and nine-(9) have been in process for more than 180 days.

Ms. Hancock presented bimonthly and monthly meeting schedules for 2010 for consideration. The Commission decided to plan to meet monthly with the exceptions of July and September due to the holiday weekends. Further, the Commission agreed to allow the chairman to cancel meetings if he and Ms. Hancock determine that there isn't enough business to warrant the expense.

Ms. Hancock presented Charles Easler's Reciprocal Auctioneer Application for review.

MOTION: Mr. Alexander made a motion to approve the application subject to receipt of a letter of good standing from South Carolina indicating that Mr. Easler is no longer on probation, seconded by Mr. Cole.

ALL APPROVED. MOTION CARRIED.

Ms. Hancock presented Danny Keplinger's Instructor Application for review. Mr. Cole advised that he would like to attend the class scheduled for November 13, 2009 to review Mr. Keplinger's performance.

MOTION: Mr. Alexander made a motion to approve the application for the November 13, 2009 class only requesting a review of Mr. Keplinger's performance and resume for further consideration, seconded by Mr. Cole.

ALL APPROVED. MOTION CARRIED.

Ms. Hancock presented a Continuing Education Course Application from Nashville Auction School for review.

MOTION: Mr. Alexander made a motion to approve the application, seconded by Mr. Cole.

ALL APPROVED. MOTION CARRIED.

Ms. Hancock presented a letter and email from Joshua Collins requesting information regarding reverse auctions. She also provided a copy of her written response to his letter which resulted in another email from Mr. Collins. Mr. Chick suggested that he notify Mr. Collins of the appropriate procedures for requesting such information from the Commission.

MOTION: Mr. Alexander made a motion that Mr. Chick send a declatory letter to Mr. Collins on the Commission's behalf, seconded by Mr. Cole.

ALL APPROVED. MOTION CARRIED.

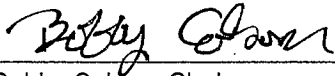
NASHVILLE AUCTION SCHOOL (NAS) – RHESSA ORR

Ms. Orr was present at the meeting but had to leave prior to giving her report. She asked Ms. Hancock to advise the Commission that, "NAS needs a letter from Chairman Colson for the next newsletter as soon as possible. She also advised that the next seminar scheduled on behalf of the Commission will be held in Germantown, Tennessee in March 2010."

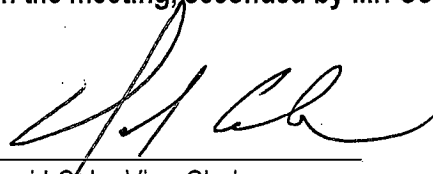
Being no further business to discuss -

MOTION: Mr. Alexander made motion to adjourn the meeting, seconded by Mr. Cole.

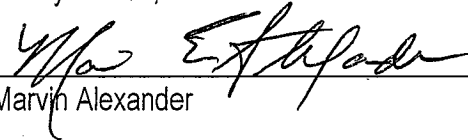
ALL APPROVED. MOTION CARRIED.



Bobby Colson, Chairman



David Cole, Vice-Chairman



Marvin Alexander

Kenneth Dreaden

Mary Francis Rudy