



NewsLine

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Table of Contents

Page One
Auction Commission Report

Page Two
Disciplinary Action Report/Calendar
The Great Seal of Tennessee
Legal Reminder
E-mail or Text Notifications
Legal Reminder

Page Three
Can This Item Be Sold?

Page Four
Continuing Education Seminars
What Is Intellectual Property?

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West Tennessee Expires 08/31/2014

Howard Phillips, Vice Chairman
East Tennessee Expires 08/31/2015

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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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www.tn.gov/regboards/auction

AUCTIONEER COMMISSION REPORT

The Tennessee Auctioneer Commission did not meet in December, but will reconvene in the New Year. The minutes of the October and November meetings are available online at www.tn.gov/regboards/auction.



Ronnie Colyer

The Commission welcomed Ronnie Colyer of Ten Mile to the Board in October. Colyer was appointed to replace Marvin Alexander.

Commissioner Colyer also brings a great deal to the Commission and we can all look forward to the benefit of his knowledge and expertise. Colyer is a past Tennessee Auctioneer Bid-calling Champion and is a member of both the Tennessee Auctioneers Association and the National Auctioneers Association. Colyer specializes in Farm and Estate auctions.

During the October meeting, the Commissioners made a point to recognize the contributions made by Commissioner Marvin Alexander in his many terms on the Auctioneer Commission. Alexander was appointed in November of 2004 and received reappointments in 2007 and 2010. In addition to these three terms, Alexander had served on the Commission from 1988-1997. Commissioner Alexander was a strong advocate for clearer rules and regulations and made numerous contributions to the rules revisions the Commission will be taking up in 2014.

Congratulations go out to Commissioner Bobby Colson on his reappointment to the Commission.

The November meeting brought to light the retirement of Donna Hancock who had served as Executive Director of the TAC since 2008. Mrs. Hancock had over twenty-three years working with regulatory boards in the Department of Commerce and Insurance and was instrumental in the reorganization of the TAC offices in recent years.

The Commission continues to move forward through the rulemaking process and licensees can expect to see more exciting changes coming in 2014.

Be sure to check the Calendar on page 2 for upcoming Commission meeting dates and times. All licensees are welcome to attend the meeting. Also make note of the website address change. The TAC website is kept up-to-date with information relevant to auctioneers and auction consumers.

Happy New Year and best wishes for a productive and prosperous 2014!

Disciplinary Action Report

September 2013

Respondent: Jimmy Byrd, Robbins, TN
Violation: Unlicensed Activity
Action: \$ 1000 Civil Penalty and Consent Order

October 2013

Respondent: Poor Boy Auction, Bristol, VA
Violation: Unlicensed Activity
Action: \$ 1000 Civil Penalty

Respondent: Willard Stowers, Bristol, VA
Violation: Unlicensed Activity
Action: \$ 1000 Civil Penalty

The Great Seal of the State of Tennessee

The Great Seal of the State of Tennessee appears on every issue of the TAC Newsliner.

Even though the provision for the Seal of the State of Tennessee was made in the Constitution in 1796, no action was taken until 1801 when a legislative commission was appointed to create a seal and a motto. The state motto was taken from the seal is "Agriculture and Commerce."

In 1987 the description of the seal was placed into the statutes.

The Seal depicts, by the 1987 statute the year 1796 and the Roman numeral XVI over the words, "Agriculture" and "Commerce" along with their representative images.

Calendar of Events

January 6, 2014 - Board Meeting 9:00 am (Central)
Conference Room 1-B - Davy Crockett Building
500 James Robertson Parkway - Nashville, TN

February 3, 2014 - Board Meeting 9:00 am (Central)
Conference Room 1-B - Davy Crockett Building
500 James Robertson Parkway - Nashville, TN

March 10, 2014 - CE Seminar 9:00 am (Central)
Union University-Carl Grant Event Center
1050 Union University Dr., Jackson, TN

Commission Meeting dates and times are subject to change. Please confirm the meeting schedule prior to attending.

LEGAL REMINDER:

CHILD SUPPORT & STUDENT LOANS

Under Tennessee law, professional licenses can be suspended, revoked, denied or not renewed for failing to pay child support or for default on a student loan.

T.C.A. § 56-1-312(a) states: "Upon receiving a copy of a final order ...from the Tennessee student assistance corporation..., or a guaranteed agency that has an agreement with the United States Secretary of Education,...the division of regulatory boards shall suspend, deny or revoke the license of, or take other appropriate disciplinary action against, any person who has defaulted on a repayment or service obligation under any federal family education loan program, the federal Higher Education Act of 1965, as amended, a student loan guaranteed or administered by TSAC, or any other state or federal education loan or service-conditional scholarship program."

T.C.A. §36-5-706(b) states: "The licensing authority shall notify, without undue delay, by regular mail, an obligor certified from the department under §36-5-705, that the obligor's application for the issuance, renewal or reinstatement of a license has been denied or that the obligor's current license has been suspended or revoked because the obligor's name has been certified by the department as an obligor who is not in compliance with an order of support."

Information is available on the TAC website on how to reinstate a license once payments have been made current. You can visit the site at www.tn.gov/regboards/auction for more information.

Also, Check This Out:

Licenses can now sign up to receive e-mail or text notifications from the Auctioneer Commission related to:

- ◇ New or amended statutes
- ◇ New or amended rules
- ◇ Changes to fees
- ◇ Rulemaking hearings related to fee changes
- ◇ Significant changes impacting your license
- ◇ Changes to policy

To sign up for e-mail or text notifications, visit the TAC homepage at www.tn.gov/regboards/auction. This is a fast and easy process and a great way to stay informed.

"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).

Can This Item Be Sold?

Periodically, questions arise about whether certain items can or cannot legally be sold at auction. Below is some information to help you address some of the more confusing items.

Alcohol

In 2009, a new license for the sale of alcoholic beverages was created under T.C.A.57-3-209. This law allows alcoholic beverage collectors to obtain a license to sell from their collection, with certain restrictions. Questions about selling an alcoholic beverage collection at auction were submitted to the Tennessee Attorney General. Below is a brief summary of the AG's ruling:

Q: *"May an alcoholic beverage collector, as defined in T.C.A. §57-3-209(b), who is also a licensed auctioneer, sell, at auction, collectible alcoholic beverages?"*

A: *"Yes. An alcoholic beverage collector, who is also a licensed auctioneer, may sell his or her collectible alcoholic beverages at auction, so long as the auctioneer/collector and all bidders are present in person and within sight and sound of each other while the auction is conducted."*

In summary, an auctioneer may not consign collectible alcohol into an auction; however, if the auctioneer is the owner of collectible alcoholic beverages AND obtains an alcoholic beverage collector license under T.C.A. §57-3-209(a) and (b), the auctioneer may sell all or part of his or her personal collection at a live public auction.

In addition to the above, the Tennessee Alcoholic Beverage Commission does issue a "Special Occasion License" to a "bona fide charitable or non-profit organization" or to a "bona fide political organization". This is a fairly restrictive license that is valid for a 24-hour period only. For the auction of alcoholic beverages at a benefit or political auction, the sponsor must obtain this license and comply with all other matters of law governing the sale of alcoholic beverages (e.g. age verification). Again, the sponsor must be a bona fide non-profit or political organization. For more information on this license, contact the Alcoholic Beverage Commission (ABC) website lists contact phone numbers by location and a detailed explanation of licensing requirements. The website is found at tn.gov/abc.

Firearms

Under the Gun Control Act of 1968, as amended, any person engaged in the business of dealing in firearms is required to have a Federal firearms license (FFL).

"Engaged in the business" as applied to a dealer in firearms means a person who devotes time, attention and labor to dealing in firearms as a regular course of trade or business with the principle objective of livelihood and profit through the repetitive purchase and resale of firearms. Whether an FFL is required for an auction depends upon whether the auctioneer is engaged in a firearms business.

The Bureau of Alcohol, Tobacco, Firearms and Explosives recognizes two types of auctions: consignment-type auctions and estate--type auctions.

Consignment-type Auctions: Sellers consign firearms to the auctioneer/auction company and enter into a consignment agreement giving the auctioneer the authority to sell the firearms. Additionally, ATF specifies that in a consignment-type auction, the auctioneer takes possession of the firearms in advance of the auction; firearms are inventoried, evaluated and tagged for identification; and the auctioneer has possession and control of the firearms.

Generally, an auctioneer taking firearms under consignment will require an FFL.

Estate-type Auctions: The auctioneer acts as an agent of the Executor of the estate and assists in finding buyers for the estate's firearms. The firearms are possessed by the estate, and the sale of the firearms are made by the estate.

Generally, an auctioneer engaging in estate-type auctions does not meet the definition of "engaged in the business" and does not require an FFL.

The ATF clearly states: *"An auctioneer who buys firearms for purposes of resale will ...need a license."*

Wildlife

In the United States, almost all wild birds are covered under the Migratory Bird Treaty Act. Under this act, possession and/or sale of any part of the birds (including feathers), their eggs or their nests is prohibited. Similarly, the Bald and Golden Eagle Protection Act outlaws the possession and sale of eagle feathers.

The Tennessee Wildlife Resource Agency (TWRA) enforces the Migratory Bird Treaty Act and also regulates the illegal trade in other wildlife such as domestic black bear parts. For a list of regulations governing the sale of wildlife in Tennessee visit the TWRA website at tn.gov/twra. Restrictions will also apply to the sale of taxidermy animals from estates. Only those mounts that can be proven to be 'legally taken' may be sold. Tennessee also does have permitting provisions for scientific wildlife possession and roadkill of large game, deer and bears.

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Please be sure to forward the licensees in your office their copy of the NewsLine.

What Is Intellectual Property?

Intellectual Property (IP) are those creations of the mind, primarily inventions, designs, artwork, literary works, symbols, names and images used in commerce. Intellectual Property will fall into four main types:

- ◇ **Patents** which protect products or process ,
- ◇ **Trademarks** which are the signs and symbols that distinguish goods and services in the marketplace,
- ◇ **Copyrights** which are automatic rights for any work that is literary or artistic that is written, recorded or otherwise fixed,
- ◇ **Designs** which will include the appearance of a product or a logo.

IP rights are a factor when selling trademarked items, industry patents, and product designs which may appear in a commercial liquidation sale. From time to time, an estate auction may also include intellectual property. Because Intellectual Property can be sold, it can also be stolen. Always make sure you know what you are selling and that it is your seller's property to sell.

Continuing Education Seminar Monday, March 10, 2014

**Union University
Carl Grant Event Center
1050 Union University Drive
Jackson, Tennessee**



This is not an official function of Union University

**This Seminar will cover information on Sales
Tax , Voice Care & Salesmanship**

Watch for your Notification Postcard!



Tennessee Department of Commerce and Insurance Authorization No. 335170, Revised 09/06/11. This public document was promulgated for 2900 copies per issue, at a cost of 36.2 cents per copy, paid by the Tennessee Auctioneer Commission Education and Recovery Fund.