

**TENNESSEE  
AUCTIONEER COMMISSION  
MINUTES**

**DATE:** July 6, 2009

**PLACE:** Andrew Johnson Tower – 2<sup>nd</sup> Floor Conference Room  
710 James Robertson Parkway  
Nashville, Tennessee

**PRESENT:** Commission Members:  
Marvin Alexander, Chairman  
Howard Phillips, Vice-Chairman  
Bobby Colson  
Kenneth Dreaden  
Mary Francis Rudy

**ABSENT:** Commission Members:  
Kenneth Dreaden  
Howard Phillips

**PRESENT:** Staff Members:  
Steve Majchrzak, Assistant Commissioner  
Donna Hancock, Director  
Wayne Pugh, Deputy General Counsel for Regulatory Boards  
Adrian Chick, Staff Attorney  
Susan Lockhart, Executive Administrative Assistant

**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. All Commission members were present.

**AGENDA:** Ms. Rudy made a motion the agenda as is, seconded by Mr. Dreaden. **MOTION CARRIED.**

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

## **FIRMS AND GALLERIES – MARVIN ALEXANDER, CHAIRMAN**

Chairman Alexander asked if web site had been updated to show auction firm's principal auctioneers. Ms. Hancock advised that she is working on the project with the Information Systems Section.

Chairman Alexander wanted to know if galleries must have a principal auctioneer. Ms. Hancock advised that they have to have a principal but the individual does not have to be a licensed auctioneer.

Mr. Dreaden asked if firms are required to have a principal auctioneer.

Mr. Pugh introduced himself at this time and asked to address the Commission. He advised that he has not found anything in the regulations that a gallery must have a principal auctioneer but only an auctioneer can call the sale. He further advised that they can have as many branch locations as they want. He pointed out that the Commission does not have rules that address gallery licenses so they may want to consider creating some. He suggested that they may consider creating rules to require proper business licenses or inspections before licenses are issued.

Ms. Rudy asked if a non-auctioneer can own a firm and hire someone to act as their principal. Mr. Pugh advised that they could but the rules need to be tightened because the law currently does not require that they keep a principal at all times. He advised that you must have one to be issued a license but a license cannot be suspended if a firm loses their principal auctioneer and they have another auctioneer on staff. Mr. Majchrzak stated that the section of the law that mentions suspension does not say "principal," it says "an auctioneer." Mr. Pugh reiterated that the Commission should review the statutes to see what needs to be clarified.

Ms. Hancock said that in the past the staff has changed a license to "invalid" when notified by the principal auctioneer that they are no longer with that firm. Mr. Pugh said that in these types of cases, a letter should be sent to the firm asking for an update, citing rule 0160-01-.24. Ms. Rudy inquired as to when a license would be suspended for failure to have a principal auctioneer. Mr. Pugh advised that they must follow due process to ensure that the firm has another auctioneer on staff.

Ms. Rudy asked if Mr. Pugh could get a copy of laws or rules for a similar program that the Commission could look at to get ideas for rules. Mr. Pugh advised that he would bring an example of some language they may want to consider.

Mr. Phillips asked if other division's have their own investigators. Mr. Pugh advised that the investigators for the Regulatory Boards are in a separate section within the Regulatory Boards Division and under the management of Mr. Majchrzak.

## **ADDRESS THE COMMISSION – STEVE MAJCHRZAK, ASSISTANT COMMISSIONER**

Mr. Majchrzak advised that the first course of business should be to make sure the laws match business practices and his staff will help resolve issues in any way possible. He further advised that he is aware of the Commission's concerns with some recent personnel issues and he has had conversations with Mr. Alexander and Ms. Hancock to determine what the specific areas of concern were. Ms. Hancock has worked to resolve those issues especially concerns with paperwork being processed in a timely manner for board members. He stated that he appreciates the Commission's patience and advised that a larger staff structure is being implemented to service a variety of professions including auctioneers. Ms. Rudy commented that she has seen improvement with the communications and reporting from the office within the last month and it is appreciated.

Mr. Majchrzak stated that the investigative staff is at the Commission's disposal to meet the needs relating to complaints. He further stated that he extends to the Commission that the Investigation Section can also be made available to assist in performing inspections per any rules the Commission may consider changing and that he is continuously looking for ways to improve the process for both the commissions and consumers.

Mr. Phillips asked why inspectors for the Real Estate Commission could not inspect an auctioneer's license when they are inspecting their real estate license. Mr. Majchrzak advised that we may not be able to utilize that resource because those are auditors with accounting backgrounds paid by the Real Estate Commission. He further advised that what is being inspected and how often is currently being reviewed to determine how staffing can meet those needs so it would be a good time for the Commission to consider their future needs.

#### LEGAL REPORT - ADRIAN CHICK, STAFF ATTORNEY

Mr. Chick advised that he currently has twenty-three (23) open complaints for the Auctioneer Commission on his desk (6 are in investigations; 3 are set for formal hearing; 2 appear to have formal hearings forthcoming; 1 consent order outstanding; and 3 consent orders to be sent out).

Mr. Chick further advised that he only has the following complaint for the Commission's consideration:

##### **1. L09-AUC-RBS-2009007471**

**Complaint:** This complaint was opened by staff after learning the Respondent firm did not have a principal auctioneer.

**Complaint History:** None.

**Recommendation:** Close with letter of warning regarding failure to notify Commission of change as required by Rule 0160-01-.24.

**MOTION: Mr. Phillips recused himself. Mr. Colson made motion to accept legal recommendation, seconded by Mr. Dreaden.**

**ALL APPROVED. MOTION CARRIED.**

Mr. Chick stated that he understood the Commission wanted to know how many fines had been assessed and received and there have not been any assessed this year. Mr. Alexander inquired about the consent orders the Commission votes on each meeting and Mr. Chick advised that the

respondent has the opportunity to disagree to the consent order and request a formal hearing so those are not defined as assessed fines. He advised that four consent orders have been mailed so far this year. Ms. Hancock advised that we have not assessed or received any fines since November 2008. Mr. Chick stated that he could advise the Commission on the status of open complaints and consent orders at each meeting if they preferred.

#### **DIRECTOR'S REPORT – DONNA HANCOCK**

**Complaint Report:** Ms. Hancock advised that there are currently thirty (30) open complaints on file for the Auctioneer Commission and per Mr. Chick's report twenty-three (23) of them are in Legal. Therefore, seven (7) are waiting on responses from the Respondent.

#### **Public Automobile Auction Application(s) Review:**

**Ted Russell Imports** was introduced for review and approval.

**MOTION: Mr. Phillips made motion to approve the application, seconded by Ms. Rudy.  
ALL APPROVED. MOTION CARRIED.**

**American Motor Sports** was introduced for review and approval.

**MOTION: Mr. Dreaden made motion to approve the application, seconded by Ms. Rudy.  
ALL APPROVED. MOTION CARRIED.**

#### **Education Course Provider Review:**

**Upper Cumberland Association of Realtors (UCAR)** submitted five (5) courses for review and approval.

**MOTION: Ms. Rudy made motion to ask applicant to appear at the next meeting to show relevance of material for auctioneers, seconded by Mr. Phillips.  
ALL APPROVED. MOTION CARRIED.**

**Nashville Auction School** submitted a course for review and approval.

**MOTION: Ms. Rudy made motion to approve the application, seconded by Mr. Phillips.  
ALL APPROVED. MOTION CARRIED.**

Mr. Pugh brought a copy of the laws for the Private Protective Services Licensing Section that has some language in it that the Commission may want to consider for their rules. Ms. Hancock distributed a copy to each member and it was decided that the Commission would have a work session to discuss possible rule changes and additions after the next regularly scheduled Commission meeting. Ms. Hancock advised Commission members that the red books were out-of-date so a copy of the current laws and rules would be mailed to each member for their review.

#### **NASHVILLE AUCTION SCHOOL – WENDELL HANSON**

Mr. Hanson advised that he has not received approval for the newsletter yet. Ms. Hancock advised that the wording regarding "invalid" and "principal auctioneer" was being changed by Mr. Chick and must be approved by Mr. Majchrak before it can be submitted for final approval.

Mr. Hanson advised that the seminar for east Tennessee is scheduled for September 24, 2009 from 9:00 a.m. until 4:00 p.m. at Fairfield Glade in Crossville, Tennessee. The speaker will be Randy Wells, the current President of the National Auctioneer Association. Ms. Hancock asked if these seminars are normally posted on our web site and Mr. Hanson advised yes. Mr. Phillips asked if the seminar could be listed in the next newsletter. Mr. Hanson advised that he would check to see.

Being no further business, meeting adjourned.

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Marvin Alexander, Chairman

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Mary Francis Rudy

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Howard Phillips, Vice Chairman

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Kenneth Dreaden

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Bobby Colson