



**TENNESSEE AUCTIONEER COMMISSION
500 JAMES ROBERTSON PARKWAY
NASHVILLE, TENNESSEE 37243
615-741-1831**

**Commission Meeting Minutes for August 15, 2022
First Floor Conference Room 1-B
Davy Crockett Tower**

The Tennessee Auctioneer Commission met on August 15, 2022, in the first floor conference room of the Davy Crockett Tower in Nashville, Tennessee. The following business was transacted:

COMMISSION MEMBERS PRESENT: Jeff Morris, Dwayne Rogers, Ed Knight, Larry Sims, and Kimball Sterling

COMMISSION MEMBERS ABSENT: None

STAFF MEMBERS PRESENT: Roxana Gumucio, Anna Matlock, Robert Hunter

ROLL CALL

Director Gumucio called the meeting to order at 9:00 a.m. Director Gumucio took roll and established that a quorum was present.

NOTICE OF MEETING

Director Gumucio read the notice of the meeting into the record as follows: "Notice of the August 15, 2022, meeting of the Auctioneer Commission including date, time and location has been noticed on the website since August 16, 2021; additionally, this month's agenda has been posted on the website since August 3, 2022".

AGENDA

Mr. Kimball Sterling made a motion to adopt the agenda as written. This was seconded by Mr. Larry Sims. The motion passed unanimously.

MAY MINUTES

Mr. Jeff Morris made a motion to adopt the minutes from the February meeting as written. This was seconded by Mr. Kimball Sterling. The motion passed unanimously.

EDUCATION REVIEW

Director Gumucio presented the Commission with the Tennessee Auctioneers Association's (TAA) request for sponsorship per Tenn. Code Ann. § 62-19-116 of the 2022 Winter Conference CE Seminar for a total of \$7,500, which Director Gumucio stated was within the Commission's budget. In addition, Director Gumucio informed the Commission that the six (6)-hour course the Commission approved would be open to all auctioneer licensees, not just members of the TAA. The course will be

offered in Nashville. Mr. Drew Williams appeared before the Commission to expand on the course and answer questions. Mr. Jeff Morris made a motion for the Commission to accept the proposal and sponsor the six (6)-hour course being provided at the conference for the amount requested. This was seconded by Mr. Kimball Sterling. The motion passed unanimously.

Director Gumucio presented the Commission with the Nashville Auction School (NAC) request for approval of Synchronous six (6)-hour CE Seminar to be offered in all three Divisions. Mr. Dwayne Rogers motioned to approve the course. This was seconded by Mr. Jeff Morris. The motion passed unanimously.

Director Gumucio presented a request for approval of the 50-hour course for Affiliate Auctioneer Qualifying Education (QE) with the Auctioneer University. Mr. Jeff Morris motioned to approve the course. This was seconded by Mr. Kimball Sterling. The motion passed unanimously.

APPEARING BEFORE THE BOARD

Director Gumucio explained that Ms. Priscilla Bohannon planned to appear before the board regarding concerns with the Public Automobile Auctioneer requirements. Something came up and she could not participate but her request was discussed.

Ms. Anna Matlock gave the Commission history on the request and a brief recap of the Public Automobile Auction Laws, Rules, and Attorney General's (AG) opinion from 2009. Ms. Matlock explained the ambiguity with the requirements that crossover to the Motor Vehicle Commission statute.

Mr. Kimball Sterling motioned to request an AG opinion to assist this Commission moving forward. This was seconded by Mr. Jeff Morris. The motion passed unanimously.

DIRECTOR'S REPORT

Budget Report

Director Gumucio briefed the Commission on the status of the budget and reserve as of the June report. Director Gumucio concluded that the budget was trending as expected, with nothing out of the ordinary to report. Current Reserve is at 492,099. Final numbers for FY21-FY22 should be provided at the November meeting.

LEGAL

Legislative Update

Ms. Matlock explained that the Rules the Commission approved are being held back while the program waits for the Attorney General's opinion regarding Public Automobile Actions and Public Automobile Auctioneers and how those requirements can move forward.

Legal Report (*Presented by Anna Matlock*)

- 1. 2022015181**
Opened: 5/16/2022

Type of License: Principal Auctioneer
First Licensed: 1/14/2009
Expires: 9/19/2020
History: None

Complainant is a Tennessee resident. Respondent is an expired principal auctioneer. Complainant alleges Respondent is operating an unlicensed auction house and provides an Internet link and address where Respondent advertises and conducts business.

Respondent answered the complaint stating they apologize for the oversight and admit they failed to renew their license during the pandemic. Respondent further claims they never received notification of license expiration, despite holding a license for a decade. Respondent takes full responsibility and alleges they are in the process of renewing and reinstating their license. To date, Respondent has yet to renew their license. Therefore, Counsel recommends Respondent be issued a Five Hundred Dollar (\$500.00) civil penalty for unlicensed activity. However, this civil penalty shall be reduced to Two Hundred Fifty Dollars (\$250.00) should Respondent renew their license within thirty (30) days upon receipt of the issued consent order.

Recommendation: Five Hundred Dollar (\$500.00) civil penalty, to be reduced to Two Hundred Fifty Dollars (\$250.00) should Respondent secure an active license within thirty (30) days.

Commission Decision: The Commission voted to accept Counsel's recommendation.

2. **2022017961**
Opened: 5/16/2022
Type of License: Principal Auctioneer
First Licensed: 8/15/2001
Expires: 6/7/2023
History: None

Complainant is an out of state resident. Respondent is a licensed principal auctioneer. Complainant placed a bid on a piece of real estate for \$375,100 and claims they were the top bid and sent an email during bidding. Complainant alleges they requested to be notified via email if they won the bid or out bid. At the end of the bidding, Complainant states they noticed their bid was taken down and replaced with another individual with the same amount who ultimately won the auction. Complainant states the next day they were told by Respondent they attempted to call, but the number in their profile was incorrect though they emailed the day before. Complainant maintains Respondent could have easily verified the accuracy of their information via email for the correct phone number.

Respondent answered the complaint confirming an online absolute auction for the property took place. Respondent states Complainant was the highest bidder at the time; however, Complainant was not an individual Respondent was familiar with or someone who had inspected the property prior to the auction. Attempting to verify Complainant's identity, Respondent was unable to contact Complainant by phone after multiple attempts. Respondent acknowledges they now know this was due to a typographical telephone error in Complainant's profile, but at the time Respondent was concerned of a possible scam. Respondent states they had legitimate concerns as to Complainant's ability to fully execute a high bid and made the

decision to reject the bid, consistent with the previously disclosed terms and conditions for the auction. Respondent closes this complaint stating they fulfilled their fiduciary duty to their seller and acted in their client's best interest under the circumstances.

Auctions of real estate are duly licensed by the Tennessee Real Estate Commission and the Tennessee Auctioneer Commission. Therefore, any individual that auctions real estate is required to hold both a license from this Commission and a license from the Tennessee Real Estate Commission, as does Respondent. Here, Counsel believes Respondent had legitimate concerns as to Complainant's identity and the decision made concerning their bid did not violate any rules or statutes of the Commission. Respondent made attempts to verify Complainant's identity via telephone and was unable to do so while attempting to fulfill the duties owed to their client. Therefore, based on this and the information provided, Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission voted to accept Counsel's recommendation.

NEW BUSINESS

Mr. Shane McCarrell, with the Nashville Auction School, participated virtually. He provided a summary of what he sees happening in the industry regarding licensees and new business interest to offer public automobile auctions.

ADJOURNMENT

There being no new business, Mr. Kimball Sterling motioned to adjourn the meeting. This was seconded by Mr. Dwayne Rogers. The motion passed unanimously. The meeting adjourned at 9:55 am.