

**TENNESSEE
AUCTIONEER COMMISSION
MINUTES**

DATE: April 6, 2009

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

PRESENT: Commission Members:
Marvin Alexander, Chairman
Howard Phillips
Bobby Colson
Mary Francis Rudy

ABSENT: Commission Members:
Kenneth Dreaden

PRESENT: Staff Members:
Donna Hancock, Director
Adrian Chick, Staff Attorney
Sheila Piper, Administrative Assistant

CALL TO ORDER:

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

Formal Hearing for Jerry Davis. Mr. Davis was not present. Formal was still conducted by Administrative Judge Tom Stovall.

AGENDA: Ms. Rudy made motion to adopt agenda as is. Seconded by Howard Phillips. **MOTION CARRIED.**

LEGAL REPORT---ADRIAN CHICK, STAFF ATTORNEY

1. Complaint No. L08-AUC-RBS-2008003741

Complaint: This complaint alleges that the respondent has been conducting auctions every two weeks using someone else's firm number. The complaint also alleges that the person calling out bids is not a licensed auctioneer.

Response: An investigation revealed that during the months of February, March, April and May of 2008 about five (5) to seven (7) auctions were conducted at the respondent's location. The auctions were conducted by two licensed auctioneers. It appears that five of the auctions were conducted by one auctioneer, and the other two auctions by a second auctioneer. The respondent did not have a gallery license for the location where the auctions took place.

Complaint History: None.

Recommendation: Consent Order assessing a civil penalty of \$750 against the unlicensed owners of the gallery for each of the seven auctions, for a total civil penalty of \$5,250.00, and authorization for a hearing.

MOTION: Howard Phillips to accept legal recommendation, seconded by Bobby Colson. ALL APPROVED. MOTION CARRIED.

2. L09-AUC-RBS-2009003981

Complaint: The Respondent is an auction firm duly licensed by the Tennessee Auctioneer Commission that is owned and operated by an auctioneer who is also duly licensed by the Tennessee Auctioneer Commission.

The Complainant is a retailer of motorcycles and other motor vehicles located in Louisiana. The Respondent solicited Complainant for the purpose of convincing Complainant to send units to be auctioned by Respondent. The respondent offered to send a trailer to pick up units from complainant's place of business and sale them at an upcoming auction. The Complainant sent a list of possible inventory to respondent which included the complainant's cost. The respondent represented to complainant that bidding is started at an amount that ensures the units are sold for close to dealer's invoice, and stated that the respondent has never had a situation in which anyone has lost significant amounts of money. The complainant finally agreed to send \$67,000 in inventory, which was sold by respondent at auction on February 7, 2009 for \$26,000. Most, if not all, of the units sold by respondent were motor vehicles, the sale of which requires a motor vehicle dealer license issued by the Motor Vehicle Commission. Respondent was not licensed as a motor vehicle dealer.

Response: A response has not yet been received, and is not yet past due from the respondent.

Complaint History: numerous.

Recommendation: Legal requests approval of the commission to file formal charges against the respondent.

MOTION: Bobby Colson to accept legal recommendation to file formal charges. Seconded by Howard Phillips. ALL APPROVED. MOTION CARRIED.

3. L09-AUC-RBS-2009004271

Complaint: The Respondent is an auction firm duly licensed by the Tennessee Auctioneer Commission that is owned and operated by an auctioneer who is also duly licensed by the Tennessee Auctioneer Commission.

The Complainant is a retailer of motorcycles and other motor vehicles located in Texas. The Respondent solicited the Complainant and offered to pick up units and offer them for sale at an upcoming auction. The Respondent agreed that it would not start bidding, or would sale, units for less than the MSO less rebates. The agreed upon figure for sixty (60) units sent to Respondent was \$385,000. The units were sold at auction for \$238,000.

Response: A response was received stating that a settlement had been reached between the parties.

Complaint History: numerous.

Recommendation: Legal requests approval of the commission to file formal charges against the respondent.

MOTION: Bobby Colson to accept legal recommendation to file formal charges. Seconded by Howard Phillips. ALL APPROVED . MOTION CARRIED.

4. L09-AUC-RBS-_____

Complaint: The following information was provided by the Motor Vehicle Commission:

Complaint No. 2007064611 - The Respondent conducted an auction of motor vehicles on June 16, 2007 without being licensed as a motor vehicle dealer by the MVC.

Complaint No. 2007084831 - The Respondent conducted an auction of motor vehicles on October 20, 2007 without being licensed as a motor vehicle dealer by the MVC.

Complaint No. 2008011921 - The Respondent conducted an auction of motor vehicles on March 1, 2008 without being licensed as a motor vehicle dealer by the MVC.

Complaint No. 2008016741 - The Respondent conducted an auction of motor vehicles without being licensed as a motor vehicle dealer by the MVC.

Complaint No. 2008019721 - The Respondent conducted an auction of motor vehicles on September 6, 2008 without being licensed as a motor vehicle dealer by the MVC.

Complaint No. 2008021971 - The Respondent conducted an auction of motor vehicles on October 4, 2008 without being licensed as a motor vehicle dealer by the MVC.

Complaint No. 2008026391 - The Respondent conducted an auction of motor vehicles without being licensed as a motor vehicle dealer by the MVC.

Complaint No. 2009003011 - The Respondent conducted an auction of motor vehicles on February 7, 2009 without being licensed as a motor vehicle dealer by the MVC.

Complaint No. 2009004111 - The Respondent conducted an auction of motor vehicles without being licensed as a motor vehicle dealer by the MVC.

Response: Overall, the Respondent has been uncooperative in providing a response and has failed to provide information requested from the MVC's legal counsel and investigators.

Complaint History: numerous. The Respondent has received several correspondences from legal counsel, including a Letter of Warning issued October 20, 2007.

Recommendation: Legal requests approval of the commission to file formal charges against the respondent based on the above MVC complaints and any other related conduct which demonstrates a violation of TCA 62-19-112(b)(13).

MOTION: Marvin Alexander to not open a complaint. Seconded by Bobby Colson.

ALL APPROVED. MOTION CARRIED.

Rhessa Orr of the Nashville Auction School discussed the TAC Seminar and newsletter.

DIRECTOR'S REPORT: Open complaint report numbers were

Being no further business, meeting adjourned.

Marvin Alexander, Chairman

Mary Francis Rudy

Howard Phillips, Vice Chairman

Kenneth Dreaden

Bobby Colson