

**TENNESSEE  
AUCTIONEER COMMISSION  
MINUTES**

**DATE:** May 5, 2014

**PLACE:** Davy Crockett Tower – Conference Room 1-B  
500 James Robertson Parkway  
Nashville, Tennessee

**PRESENT:** Commission Members:  
Jeff Morris, Chairman  
Howard Phillips, Vice Chairman  
Bobby Colson  
Ronnie Colyer

**ABSENT:** Gary Cunningham

**PRESENT:** Staff Members:  
Julie Cropp, Assistant General Counsel  
Robyn Ryan, Assistant General Counsel  
Kimberly Whaley, Accountant 3  
Susan Lockhart, Administrative Services Assistant 4

**GUESTS:** Wendell Hanson and Jennaca Smith

**CALL TO ORDER:** Chairman Morris called the meeting to order at 9:02 a.m.

Ms. Whaley called the roll. Four (4) of the five (5) members were present. Mr. Cunningham was absent.

**The Auctioneer Commission Meeting went into recess while the following Formal Hearing was conducted:**

Formal Hearing for docket #12.31-125154A – T.A.C. v. Kent Calvin Ward and Crow's Nest Auction House. Conducted and presided over by Administrative Law Judge Steve Darnell.

***Break: The hearing concluded at 9:15 a.m., a copy of the court reporter's transcript will be requested for record keeping purposes. The Commission took a break and reconvened at 9:30 a.m. to conduct the following business (note Ms. Ryan did not return immediately following break):***

**ROLL CALL:** Ms. Whaley called the roll. Four (4) of the five (5) members were present. Mr. Cunningham was absent.

**NOTICE OF MEETING:** Kimberly Whaley read the following statement for the record, "This meeting's date, time and location have been noticed on the Tennessee Auctioneer Commission's website, included as part of this year's meeting calendar, since August

16, 2013. Additionally, the agenda for this month's meeting has been posted on the Tennessee Auctioneer Commission's website since April 30, 2014. This meeting has also been noticed on the tn.gov website."

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

*Ms. Ryan returned to the meeting at 9:35 a.m.*

**MINUTES:** Mr. Colson made a motion to approve the minutes of the April 7, 2014 meeting, seconded by Mr. Phillips. **MOTION CARRIED.**

**EDUCATION PROVIDER UPDATE** – Mr. Hanson advised he did not have an update to present at this time. (*Update was given later in the meeting under new business*)

#### **LEGAL REPORT – JULIE CROPP, ASSISTANT GENERAL COUNSEL**

**Presentation of Legal Report - Ms. Cropp presented the following complaint report for the Commission's consideration:**

1. **2012011211**  
License #:  
First License Obtained: N/A  
License Expiration: N/A  
Type of License: N/A  
History: None
2. **2012012401**  
License #:  
First License Obtained: 11/23/76  
License Expiration: 7/16/14  
Type of License: Auctioneer  
History: None
3. **2012012402**  
License #:  
First License Obtained: 7/16/10  
License Expiration: 7/15/14  
Type of License: Firm  
History: None
4. **2012025891**  
License #:  
First License Obtained: 2/11/11  
License Expiration: 2/10/13  
Type of License: Apprentice Auctioneer  
History: None

**5. 2012025901**

License #:

First License Obtained: 2/23/11

License Expiration: 2/22/13

Type of License: Apprentice Auctioneer

History: None

***August 2012 Meeting:***

*TAC opened complaint based on copy of newspaper advertisement received which advertises an auction of antiques, furniture, home décor, etc., which lists the name of an unlicensed entity (Respondent 1). Based on information in newspaper advertisement referencing an auctionzip ad, which contained the license number of Respondent 2 (auctioneer) and the name of Respondent 3 (auction firm), complaints were opened against these Respondents.*

*Response was received stating that Respondent 3 was unaware that Respondent 1 (a separate business) needed a separate license since Respondent 1 mostly auctioning its own property. Respondent 3 states that Respondent 1 has ceased any consignment auctions until the complaint is resolved and they are instructed on how to comply. Regarding the newspaper advertisement's lack of including the firm name and license number of Respondent 3, Respondent 3 states that this was an inadvertent error on the part of the newspaper which has been addressed (and a letter from the newspaper was included confirming this). A telephone call with the owner of Respondent 3 firm confirmed that Respondent 1 is a separate business owned by one of Respondent 3's apprentice auctioneers. The apprentice has closed Respondent 1 business, and plans to obtain a gallery license before engaging in activity of this kind in the future.*

***Recommendation:*** *As to Respondent 1, letter of warning regarding T.C.A. § 62-19-125's gallery license requirement. As to Respondents 2 and 3, letter of warning regarding Rule 0160-01-.20(1)'s requirement that auction advertisements must contain the name and license number of the auction firm or gallery responsible for holding the sale.*

***DECISION:*** *The Commission voted to defer this matter in order to send it out for investigation to determine how many auctions Respondent 1 did and whether Respondent 2 properly sponsored all auctions.*

***December 2012 Meeting:***

*An investigator was sent to obtain additional information regarding this matter. The investigator's report indicates that the investigator spoke with and obtained an affidavit from the owner of Respondent 3 firm, who stated that an apprentice auctioneer with the firm owned Respondent 1. The owner stated that Respondent 1 held approximately eight (8) auctions consisting of household goods, furniture and antiques. Respondent 2 (the principal auctioneer for Respondent 1 firm) was present and supervised at all auctions. Further, the owner of Respondent 3 states that Respondent 1 has held no additional auctions after being notified of this complaint. The investigator also interviewed the apprentice owner of Respondent 1 and requested copies of listings of items sold, bid sheets, and invoices from the eight (8) auctions held by Respondent 1. According to the investigator, the apprentice owner of Respondent 1 promised to provide copies of the documents, which were in storage. The investigator made multiple unsuccessful attempts to obtain the documentation.*

### **ADMINISTRATIVE REPORT – KIMBERLY WHALEY, ACCOUNTANT 3**

**Complaint Comparison Report** - Ms. Whaley presented a comparison of the complaints pending in May 2013 to those currently pending. She also advised the current performance measure for closing or referring complaints for legal action within the designated benchmark for the last eighteen (18) months is 97.37%. This measure exceeds the Department's goal of 75%.

*Mr. Colson left the meeting at 10:08 a.m. and returned at 10:10 a.m.*

*Ms. Ryan left the meeting at 10:14 a.m.*

**Budget Report** – Ms. Whaley presented a report of the revenues and expenditures for the current fiscal year thru March 30, 2014. Chairman Morris inquired about the current balance of the Education and Recovery account and Ms. Whaley advised she would get that information to present at the next Commission meeting.

**Continuing Education Course Provider Application Review** – Ms. Whaley presented an application from the Nashville Auction School requesting approval for a three (3) hour continuing education course titled "Kick it Up: There's an App for That." After some discussion, Mr. Colson made a motion to approve the application, seconded by Mr. Phillips. **MOTION CARRIED.**

**Continuing Education Course Provider Application Review** – Ms. Whaley represented an application from the Auction School of Technology requesting approval for a six (6) hour continuing education course titled "Auctioneering in the 21<sup>st</sup> Century" that was tabled at the Commission's last meeting. After some discussion, Mr. Phillips made a motion to deny the application for lack of information regarding the course materials and its presentation to students. Mr. Colyer seconded the motion. **MOTION CARRIED.**

*Ms. Ryan returned to the meeting at 10:38 a.m.*

**Continuing Education Course Provider Application Review** – Ms. Whaley presented an application from the Tennessee Auctioneer Association requesting approval for a three (3) hour continuing education course titled "TAA Spring CE." After some discussion, Mr. Colson made a motion to approve the application, seconded by Mr. Colyer. **MOTION CARRIED.**

**Continuing Education Course Provider Application Review** – Ms. Whaley advised the application previously tabled by the Commission upon their request for additional information from the Ohio Auction School would be deferred until the next meeting contingent upon the receipt of the information requested

**80 Hour Course Application Form Review/Discussion** – Ms. Whaley advised staff is in the process of reviewing the Auctioneer Commission's current process for course approvals and the requirements for such courses. As part of this review, she advised

the current application forms are being revised to ensure compliance with the requirements and are easier for applicants to understand. She then presented a revised draft of an application for an education course provider to apply for approval to offer the eighty (80) hour initial education course required for apprentice auctioneer applicants. After some discussion, Mr. Colson made a motion to approve the form. The motion was seconded by Mr. Colyer. **MOTION CARRIED.**

**Apprentice Auctioneer Question Review/Discussion** – Ms. Whaley presented a waiver request from Wendell Hanson to sponsor an apprentice auctioneer who resides in a state that does not require licensure and therefore may not apply for reciprocity. After some discussion, Mr. Phillips made a motion to approve the waiver request pursuant to T.A.C. Rule 0160-01-.12. The motion was seconded by Mr. Colyer. **MOTION CARRIED.**

**LEGISLATIVE UPDATE** – Ms. Whaley advised the legislative session is closed and there were no pieces of legislation passed that would affect the Auctioneer Commission.


**UNFINISHED / NEW BUSINESS – JEFF MORRIS, CHAIRMAN**

**Education Provider Update** - Mr. Hanson advised he received information for the Education Provider Update and gave an oral report. He advised the next seminar will be held on May 19, 2014 from 9:00 a.m. until 4:00 p.m. at Montgomery Bell State Park in Burns, Tennessee. He further advised Rhessa Orr Hanson is working with Ms. Whaley to draft an article for the next newsletter regarding the "Notify" sign-up and email notification process for the Auctioneer Commission.

**NAA/NALLOA Conference**- Ms. Whaley advised the National Auctioneer Association's (NAA) annual conference, during which the National Auctioneer License Law Officials Association's (NALLOA) annual business meeting will take place, is scheduled for July 8-12, 2014 in Louisville, Kentucky. Mr. Colyer made a motion to submit travel requests for Chairman Morris and Mr. Colson to represent the Commission at the conference. Mr. Colson seconded the motion. **MOTION CARRIED.**

**Being no further business to discuss, the meeting adjourned at 11:05 a.m.**

  
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Jeff Morris, Chairman

  
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Howard Phillips, Vice Chairman

  
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Bobby Colson

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