



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

**Board Meeting Minutes for August 12, 2019  
First Floor Conference Room 1-B  
Davy Crockett Tower**

The Tennessee Auctioneer Commission met on August 12, 2019 in the first floor conference room of Davy Crockett Tower in Nashville, Tennessee. Mr. Thorpe called the meeting to order at 10:00 a.m. and the following business was transacted:

**BOARD MEMBERS PRESENT:** Jeff Morris, John Thorpe, Ronald Colyer, Randy Lowe,

**BOARD MEMBERS ABSENT:** Adam Lewis

**STAFF MEMBERS PRESENT:** Roxana Gumucio, Glenn Kopchak, Anna Matlock, Robert Hunter, Angela Nelson

**ROLL CALL**

Chairman Thorpe called the meeting to order at 10:00 am, and Director Kopchak took roll call.

**NOTICE OF MEETING**

Director Kopchak read the notice of the meeting into the record as follows: "Notice of the August 12, 2019 meeting of the Auctioneer Commission was posted to the website on August 5, 2019."

**AGENDA**

Mr. Morris made a motion to adopt the agenda as written, which was seconded by Mr. Colyer. The motion carried by unanimous vote.

**MINUTES**

Mr. Morris made a motion to adopt the minutes from the May 20, 2019 meeting as written. Mr. Lowe seconded. The motion carried by unanimous vote.

**APPEARING BEFORE THE BOARD**

***Tennessee Auctioneers Association, New Laws***

Mr. Bobby Colson and Mr. David Allen were in attendance at the meeting; however, they did not speak in front of the commission.

## EDUCATION REVIEW

Director Kopchak briefed the commission on the rule regarding continuing education programs, giving them the option to continue reviewing the education report as a full commission, or appointing an individual or a committee to make the determinations and then present them to the commission as a whole. The commission agreed that they would like to continue reviewing submissions for education all together.

### ***North Georgia School of Auctioneering***

The commission reviewed the materials submitted by the North Georgia School of Auctioneering for continuing education and determined that 6 CE hours would be approved, as Tennessee residents have no need for the 2 CE hours about Georgia auction law. Mr. Lowe made a motion to approve the course for 6 CE hours and Mr. Colyer seconded. The motion carried by unanimous vote.

### ***Nashville Auction School***

Ms. Rhessa Hanson, Executive Director of the Nashville Auction School, appeared before the commission at the request of Mr. Morris. She briefed the commission on the courses that they have submitted for review and explained in detail the reasons for the revisions and updates to some of the courses. The commission discussed the courses and Mr. Morris made a motion to approve all 8 courses submitted. Mr. Colyer seconded and the motion carried by unanimous vote.

### ***Tennessee Auctioneers Association***

The commission was already very familiar with the educational content provided by the Tennessee Auctioneers Association at their convention, and Mr. Morris made a motion to approve the 2019 Winter Convention for 6 CE hours. Mr. Colyer seconded and the motion carried by unanimous vote.

### ***Bid Calling Bootcamp***

The commission discussed the 2 courses that were submitted. Mr. Lowe made a motion to approve the 2 courses. Mr. Colyer seconded and the motion carried by unanimous vote.

## August 12, 2019 - Education Report

Course Provider	Course Name	Instructor(s)	Type	Hours	Recommendation
North Georgia School of Auctioneering	Selling Real Estate at Auction	Charlie Gay	CE	6	Approved
Nashville Auction School	Basic and Fundamentals of Auctioneering	Wendell Hanson, Rhessa Hanson, David Hart, James Lane, Rex Bicknell, et al	QE	51.5	Approved
Nashville Auction School	16 Hour Bid Caller Certification	Wendell Hanson, Rhessa Hanson, James Lane, Rex Bicknell, Lee Amonett	QE	16	Approved
Nashville Auction School	22 Hour Principal Auctioneer Gap Course	Wendell Hanson, Rhessa Hanson, James Lane, Lee Amonett, et al	QE	22	Approved
Nashville Auction School	8 Hour Principal Auctioneer Gap Course	Wendell Hanson, Rhessa Hanson	QE	8	Approved
Nashville Auction School	15 Hour Public Automobile Auctioneer	Wendell Hanson, Rhessa Hanson	QE	15	Approved

Nashville Auction School	Auctioneering 101 (Revised)	Wendell Hanson, Rhessa Hanson, David Hart, James Lane, Rex Bicknell, et al	QE	85	Approved
Nashville Auction School	2019 Law Update & Review	Wendell Hanson	CE	2	Approved
Nashville Auction School	Ethics and Escrow	Wendell Hanson, Rhessa Hanson	CE	4	Approved
Tennessee Auctioneers Association	2019 TAA Winter Convention	Trey Morris, Peter Gehres	CE	6	Approved
Bid Calling Bootcamp	Bid Calling 101	Junior Staggs	QE	16	Approved
Bid Calling Bootcamp	Online Auctions 101	Junior Staggs	CE	3	Approved

## DIRECTOR'S REPORT

### ***Budget***

Director Kopchak gave a quick review of the budget information from the last board meeting in May. He then explained that the budget from April to June has currently seen an increase in expenditures due to updates in technology, as well as changes in law that have increased legal fees. He concluded that despite these costs, the budget is trending normally.

### ***Reciprocal Renewals Continuing Education***

Director Kopchak read the rule regarding reciprocal licenses to the commission in order to get their opinion on whether those applicants seeking a reciprocal license from out of state should be required to complete the Tennessee mandated continuing education when their home state does not require it. Mr. Morris suggested that if the commission is requiring those residents of Tennessee to complete the education in order to do business here, then those from out of state should do the same. Mr. Thorpe stated his agreement with Mr. Morris' opinion, and the rest of the commission concurred. Director Kopchak acknowledged their clarification and stated that they would use that interpretation moving forward.

### ***Gallery Transition Discussion***

Director Kopchak discussed the repeal of the gallery licenses and the impact it is having on those former licensees. Mr. Morris explained that the repeal without some grandfathering provision was not what the Auctioneer Law Task Force originally intended and that it will require some additional legislation in order to correct the situation. Ms. Matlock confirmed that the gallery license repeal is currently in full effect, and any former licensees who intend to engage in auctioneer activity must obtain the appropriate license.

## **LEGAL REPORT (Presented by Anna Matlock)**

1. 2019037261 – "Respondent Firm"  
Type of License: Firm, 07/27/2018 – 07/26/2020  
History: None

Complaints 2019037261, 2019037281, 2019037301, 2019037331, and 2019037361 are related.

Complainant is a Tennessee resident. Respondent Firm is a licensed auctioneer firm. Broadly, Complainant alleges that Respondent Firm and Respondents 1, 2, 3, and 4 were hired to conduct an auction of cars and farm equipment, but ultimately did not abide by their contractual obligations and defrauded Complainant out of the proceeds.

Complainant states they were contacted by Respondent 1 and Respondent 2 of Respondent Firm to discuss auctioning their cars and farm equipment. Complainant met with Respondent 1 and Respondent 2 on October 22, 2018. Complainant alleges Respondent 2 added an additional phrase to the contract in the advertising section to cover up to five thousand dollars (\$5,000.00). Complainant states they did not initial this portion since they disagreed.

Complainant details several promises Respondent Firm failed to keep including posting certain signs, failure to bring certain signs and parking attendants, and alleges that extensive damage was done to their yard and neighbor's yard. Complainant also alleges that Respondent Firm agreed to set up a display of the automotive parts a week prior to the sale. Complainant states Respondent Firm did not arrive until the evening before the auction.

Complainant states Respondent 1 suggested Respondent 4 call the auction because they knew race car parts. Complainant states, however, they were unaware Respondent 4 was not a principal auctioneer. Furthermore, Complainant alleges Respondent 1 was expired during their auction and was expired from November 3, 2018 – December 4, 2018, which Counsel has confirmed is not the case. Complainant also alleges Respondent Firm subcontracted their auction to Respondent 3 and Respondent 4. Complainant states Respondent Firm claimed Respondent 3 was a licensed automobile auctioneer, but he was just a general auctioneer. Complainant then states Respondent 1 ended the auction after one hour. Complainant states Respondent Firm informed them on November 27, 2018 they were keeping the total proceeds from the auction and has defrauded Complainant out of any and all money proceeds from the auction.

Complainant also provides a report of Respondent Firm, Respondent 1, and Respondent 2 of property accumulated and alleges, without evidence, Respondent Firm has perpetuated a fraud against their unknowing clients. Complainant concludes by stating they were lied to, misrepresented, and defrauded by Respondent Firm and Respondents 1, 2, 3, and 4.

Respondent 2 answered on behalf of Respondent Firm. Respondent 2 states they and Respondent 1 were contacted by Complainant to assist with disposal of Complainant's drag car, car parts, farm machinery, and tool collection. On October 22, 2018, Respondents 2 and 1 evaluated Complainant's property, fee schedule, advertisement, and a date. Respondent 2 states two (2) copies of the contract were signed on October 22, 2018, and the contract states Respondent Firm is owed a minimum of five thousand dollars (\$5,000.00). Respondent 2 also refutes several comments made by Complainant concerning advertising promises and the timeline presented.

Respondent 2 states that the clerk supplied for the auction has clerked over one hundred (100) auctions in the last five (5) years. Respondent 2 also states that Respondent 3 and Respondent 4 were hired to work for Respondent Firm. Respondent 4 began the auction after the terms and conditions were read and few items were sold as Complainant wanted higher bids. Respondent 2

and Respondent 1 decided to sell some of the drag cars because of the registered bidder's dissatisfaction of the way the bids were denied. Respondent 2 states Respondent 4 began auctioning the drag cars and Complainant's friend was responsible for starting and describing the cars. Respondent 2 states no cars were sold. Respondent 2 states that little interest was shown for the items at the auction for the prices requested by Complainant. Respondent 2 states that allowing the consigner to sell items after the auction slows down is a method Respondent Firm uses regularly.

Respondent 2 states that they regret Complainant's expectations were unrealistic, could not be met and the area for parking was disturbed. Respondent 2 states this area was chosen and approved by Complainant with no input from Respondent Firm. Respondent 2 states that Respondent Firm in good faith signed these contracts guaranteeing five thousand dollars (\$5,000.00) to cover expenses and labor for setting up the auction.

Based on the information provided by Complainant and Respondents, Counsel does not find any violations of the statutes or rules. According to the contract provided by Complainant, the contract states a minimum of five thousand dollars (\$5,000.00) is to be remitted to Respondent Firm. The Commission does not have jurisdiction over contractual disputes, only conduct specific to the Auctioneer statutes and rules. Therefore, Counsel recommends that this matter be dismissed.

**Recommendation: Dismiss.**

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

2. 2019037281 – "Respondent 1"  
Type of License: Auctioneer, 10/09/2014 – 11/02/2020  
History: None

Complainant is the same from 2019037261. Respondent 1 is a licensed auctioneer. Respondent 1 did not provide a response outside of the response provided in the related complaint.

**Recommendation: Dismiss.**

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

3. 2019037301 – "Respondent 2"  
Type of License: Auctioneer, 10/09/2014 – 11/02/2020  
History: None

Complainant is the same from 2019037261. Respondent 2 is a licensed auctioneer. Respondent 2 wrote the response in the related complaint.

**Recommendation: Dismiss.**

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

4. 2019037331 – “Respondent 3”  
Type of License: Auctioneer, 10/24/2014 – 10/23/2020  
History: None

Complainant is the same from 2019037261. Respondent 3 is a licensed auctioneer. Respondent provided an additional response stating they never had knowledge of any wrong doing or intent to do wrong to any client. Respondent 3 also states they would never risk their reputation as a business owner or auctioneer to be involved in improper dealings. Respondent 3 states that Respondent Firm and Respondents 1, 2, and 4 all did their best to make the auction the best it could be.

**Recommendation: Dismiss.**

**Decision: The Commission voted to accept Counsel’s recommendation.**

5. 2019037361 – “Respondent 4”  
Type of License: Affiliate (Apprentice) Auctioneer, 08/14/2017 – 08/13/2021  
History: None

Complainant is the same from 2019037261. Respondent 4 is a licensed affiliate auctioneer. Respondent 4 did not provide a response outside of the response provided in the related complaint.

**Recommendation: Dismiss.**

**Decision: The Commission voted to accept Counsel’s recommendation.**

6. 2019022181  
Type of License: Firm, 09/10/2015 - 09/09/2019  
History: None

Complainant is anonymous. Respondent is a licensed auctioneer. Complainant states Respondent is engaging in unlicensed activities. Complainant provides information for an upcoming auction on March 22, 2019. Specifically, Complainant states there is no licensed auctioneer, no firm or gallery licenses, no approved signing, false advertising, and Respondent is collecting sales tax without a pay number. Complainant provides no evidence to support their statements.

Respondent answered the complaint, because they are indeed licensed with the Commission. Respondent states they vacated their previous location on March 1, 2019 and all signage and licenses were removed on March 2, 2019. Respondent states the facts are to their knowledge, true, but the wrong Respondent has been listed and the complaint needs to be directed to the names provided by Respondent. Counsel has confirmed Respondent is located at a different address.

Counsel recommends this matter be dismissed against Respondent. However, Counsel also recommends administratively opening complaints for alleged unlicensed activity to individuals provided by Respondent.

**Recommendation: Dismiss and administratively open a complaint against the unlicensed individuals listed by Respondent.**

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

7. 2019047931

Type of License: Firm, 02/21/2012 – 12/06/2019

History: 2018061061 Letter of Warning, 2018061251 Letter of Warning

Complainant is a Tennessee resident. Respondent is a licensed auctioneer firm. Complainant alleges that on May 24, 2019, Respondent advertised an "illegal bingo playing." Complainant states that they have been to previous auctions at the location and bingo was in the process at each auction for as far back as 2018. Complainant provided a screenshot of Respondent advertising the auction bingo at 5:00 p.m. on May 24, 2019 at the auction.

Respondent answered the complaint stating they spoke to the Complainant whom Respondent stated denied submitting this complaint. Respondent states they were contracted by another firm/company to conduct the auction at 7:00 p.m. and the additional firm/company requested bingo to be added to the advertisement. Respondent adamantly states they were not involved with the bingo, that the other firm/company held the bingo prior to Respondent's arrival. Respondent states they have since returned to their auction company and are no longer contracting to work for the other firm/company. Counsel spoke to Respondent to confirm these details and obtain contact information for Complainant.

Counsel was unable to contact Complainant. Based on the information provided by Respondent and the lack of communication with Complainant, Counsel recommends that this matter be dismissed.

**Recommendation: Dismiss.**

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

8. 2019036521

Type of License: Unlicensed

History: None

Complainant is a licensed auctioneer firm. Respondent is an unlicensed individual. Complainant alleges that on March 26, 2019, Complainant received a mailing stating an auction is to be held on May 4, 2019 at 1:00 p.m. at a location in Tennessee. Complainant states the mailing did not contain a Tennessee license number or Tennessee firm license number. Complainant states this is in violation of the advertising rules and unlicensed activity.

Respondent did not answer the complaint. Based upon internal research, it appears that Respondent's license has been revoked or suspended in several jurisdictions. Furthermore, Counsel contacted the location to confirm an auction was held on that date at the location listed in the complaint. Counsel recommends a One Thousand Dollar (\$1,000.00) civil penalty for unlicensed activity.

**Recommendation: One Thousand Dollar (\$1,000.00) civil penalty for unlicensed activity.**

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

9. 2019023971  
Type of License: Unlicensed  
History: None

Complainant is a former employee of Respondent. Respondent is an unlicensed organization. Complainant alleges Respondent has participated in activities that have resulted in Respondent's revocation of their 501 exempt status and is without a Tennessee tax permit.

Complainant also states that Respondent has conducted weekly Bingo games in violation of Tennessee gambling laws, but has ceased since contacted by the State. Additionally, Complainant states Respondent has conducted two (2) auctions without a license. Complainant states Respondent has advertised these auctions on Facebook. Counsel reached out to Complainant following the filing of this response and Complainant explained to Counsel that Respondent is still conducting auctions frequently. This information is advertised on the side of the building, social media, and through paper flyers. Additionally, as of writing this summary Respondent still has their 501 exemption status revoked.

Respondent does not appear to fall into any of the exemptions provided in the statutes. Therefore, Counsel recommends a one thousand dollar (\$1,000.00) civil penalty for unlicensed activity.

**Recommendation: One Thousand Dollar (\$1,000.00) civil penalty for unlicensed activity.**

**Decision: The Commission voted to authorize a Two Thousand Dollar (\$2,000.00) civil penalty for unlicensed activity for each of the two (2) auctions conducted without a license.**

***\*The board took a 5 minute break and reconvened at 10:57 a.m.\****

### ***Rulemaking***

Ms. Matlock reviewed the rules that have changed due to the passage of HB797. These chapter 0160-01 and 0160-03 rules included all the provisions of the new law passed on July 1<sup>st</sup> such as the reduction in qualifying education now required for each license type, the introduction of a new bid caller license, a reduction in the time required to remain an affiliate, updates due to the repeal of gallery/firm licenses, the usage of the term "Affiliate" in lieu of "Apprentice", etc.. After her briefing, she requested that the commission approve the scheduling of a rule making hearing. Mr. Morris made the motion, Mr. Lowe seconded and the motion passed unanimously. Ms. Matlock also



requested that a roll call vote take place in order to move forward with the changes to the rules that were presented. Mr. Morris made the motion to approve the rule changes as written and Mr. Colyer seconded. The motion passed by unanimous roll call vote.

## **NEW BUSINESS**

Director Kopchak reminded the commission that they have the authority to approve qualifying and continuing education and clarify what constitutes the criteria for that education. He stated that there is an issue that has come up regarding the licensing requirement of 16 hours of qualifying education in basic fundamentals. It is possible those that have already completed the 80+ hour courses will lack hours specific to basic fundamentals. Director Kopchak stated that the commission has the authority to determine what qualifies as basic fundamentals and as a result, can review applicant transcripts to ensure that coursework they have already taken qualifies as basic fundamentals. Mr. Lowe made a motion to approve that if the applicant has already completed the 80+ hours of education, then they meet the 16 hour basic fundamental training requirement. Mr. Morris seconded and the motion passed unanimously. Director Kopchak added that the task could be delegated to administration, with the commission having advisory capacity. Mr. Lowe made motion to grant authority to the administration for qualifications review. Mr. Colyer seconded and the motion passed unanimously.

Ms. Matlock requested that the commission circle back to the education report for clarification. She stated that some of the courses from Nashville Auction School are over what the law dictates as the minimum required hours and therefore could be viewed as asking licensees to do more than what the statute requires. Ms. Rhessa Hanson, Executive Director of Nashville Auction School, addressed the issue, stating that the school has evaluated their curriculum to cover the minimum, while still touching on topics of interest and avoiding gaps in instruction. Ms. Matlock stated that approach was fine, but it needed to be made clear to licensees that 50 hours is the minimum, and the additional hours are not required.

Ms. Rhessa Hansen, Executive Director of Nashville Auction School, asked the commission about clarifying the difference between the terms 'basic fundamentals' and 'fundamentals' in the rules, especially in the section about auction schools. Ms. Hanson expressed concern that interpretation of those terms could vary across different states, and would create confusion. Mr. Morris stated that the commission would need to see the language before they could provide clarification, and Ms. Matlock interjected that terms cannot be defined by rule per statute, and therefore a statutory change would need to take place to further define what the term 'basic fundamentals' means.

Director Kopchak presented Mr. Colyer a plaque in recognition of his service to the commission as this would be his last meeting. Members of the commission offered their gratitude to Mr. Colyer.

## **ADJOURNMENT**

Mr. Morris made a motion to adjourn the meeting. This was seconded by Mr. Colyer. The motion carried by unanimous vote. The meeting adjourned at 11:38 a.m.