



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

**Commission Meeting Minutes for February 28, 2022
First Floor Conference Room 1-B
Davy Crockett Tower**

The Tennessee Auctioneer Commission met on February 28, 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: Glenn Kopchak, Anna Matlock, Robert Hunter, and Angela Nelson

ROLL CALL

Director Kopchak called the meeting to order at 9:01 a.m. Director Kopchak took roll and established that a quorum was present. Director Kopchak also took an opportunity to introduce the newest members of the Commission, Ed Knight and Larry Sims.

NOTICE OF MEETING

Director Kopchak read the notice of the meeting into the record as follows: "Notice of the February 28, 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 February 18, 2022."

AGENDA

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

NOVEMBER MINUTES

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

ROBERT'S RULES OF ORDER

Mr. Sterling motioned to agree and adhere to Robert's Rules of Order to conduct meetings. This was seconded by Mr. Morris. The motion passed unanimously.

EDUCATION REVIEW

Director Kopchak let the Commission know that they did not have any courses needing approval, but they did have a batch of new instructors from Nashville Auction School (NAS) who would be presented for approval. Director Kopchak then turned it over to Mr. Shane McCarrell, a member of the new ownership team at NAS. Mr. McCarrell introduced himself to the board and then provided a brief background of each of the new instructors: Shane McCarrell, Wayne Wootten, Jason Deel, and Natalie Deel. Mr. Morris motioned to approve these individuals as instructors. This was seconded by Mr. Sims. The motion passed unanimously.

DIRECTOR'S REPORT

Budget Report

Director Kopchak briefed the Commission on the status of both the reserves and the budget for the last two (2) months of record, October and November. Director Kopchak explained that even though the budget was in a deficit for these months, it was not uncommon for this time of the year. Director Kopchak concluded that the budget was trending as expected, with nothing out of the ordinary to report.

NAA Conference

Director Kopchak informed the Commission that the annual National Auctioneer Association (NAA) conference would be taking place on July 26-30 in San Diego, CA and that the Commission could send up to two (2) members. Mr. Sterling motioned for Mr. Morris and Mr. Knight to attend the conference. This was seconded by Mr. Rogers. The motion passed unanimously.

Election of Officers

Director Kopchak informed the Commission that they would elect a new Chairman due to Mr. Lowe's appointment coming to an end. Mr. Morris motioned to elect Mr. Sterling as the new Chairman and Mr. Sterling motioned to elect Mr. Morris as the new Vice Chair. Mr. Rogers motioned to accept both of those motions and to elect Mr. Sterling as the Chair and Mr. Morris as the Vice Chair. This was seconded by Mr. Sterling. The motion passed unanimously.

LEGAL REPORT (*Presented by Anna Matlock*)

1. 2021074431

Opened: 11/22/2021

Type of License: Principal Auctioneer

First Licensed: 9/21/2000

Expires: 7/24/2023

History: None

This matter was administratively opened. Respondent is a licensee. Respondent was chosen in a random continuing education audit by the Program for the previous quarter. On October 13, 2021, Respondent was mailed a letter and received an email regarding the continuing education deficiency. Respondent did not respond. This complaint was then opened on November 16, 2021.

On November 18, 2021, Respondent answered the complaint providing a certificate of completion of their continuing education. Respondent stated the provider should have provided an email with the certificate as the continuing education was completed but had now requested the report to be sent again.

This matter was referred to the Legal Division on November 22, 2021. On November 29, 2021, the Program informed Counsel Respondent provided verification of their completed continuing education. As the Commission received a verification of Respondent's continuing education prior to renewal of their license, Counsel recommends that this matter be dismissed with no action.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

2. 2021076871

Opened: 1/10/2022

Unlicensed

History: None

Complainant is anonymous. Respondent is an unlicensed individual. Complainant alleges that Respondent does not have an auctioneer license and provides an address of Respondent's alleged auction house.

The owner of Complainant's alleged auction house answered the complaint. Respondent states their business is insured and has tax identification numbers through their county and city. Respondent further alleges Complainant is a patron that was angry following a request to be silent during a moment of silence for the passing of another patron. Counsel spoke to Respondent and informed Respondent that a license is necessary.

After reviewing the complaint and response, it appears that Respondent is operating without a license. Presently, Respondent does not employ a principal auctioneer as described in Tenn. Code Ann. § 62-19-101(10), which is required by Tenn. Code Ann. § 62-13-102 for activities that are considered "auction(s)" by Tenn. Code Ann. § 62-19-101(2). Counsel consulted with the Assistant Director to aid Respondent in what is needed and required to meet licensure qualifications. Therefore, Counsel recommends Respondent be assessed a Five Hundred Dollar (\$500.00) civil penalty for unlicensed activity.

Recommendation: Five Hundred Dollar (\$500.00) Civil Penalty.

Commission Decision: The Commission accepted counsel's recommendation and voted to add language to the Consent Order that the Respondent become licensed or become associated with a licensed Principal Auctioneer.

3. 2022001711

Opened: 2/14/2022

Unlicensed

History: None

Complainant is a licensee. Respondent is an unlicensed individual. Complainant alleges that an out of state company hired them to only call bids at an auction. After a contract was signed, Complainant discovered that Respondent was unlicensed. Complainant alleges Respondent has used their name and license number without their permission on advertisements. Complainant further claims Respondent is acting as an auctioneer without a license and wants their name cleared of any wrongdoing. Complainant submits to evidence to support their advertising claim.

Respondent answered the complaint stating this appears to be a contractual issue. Respondent provides they work for the company at issue and prior to accepting a Tennessee property for an auction, they reviewed the rules and regulations. Respondent stated they confirmed a need for a licensed auctioneer that calls bids and also holds a license with the Real Estate Commission. Respondent states the Complainant prior to the auction had conversations about worries related to the rules and how money related to the auction was to be handled. Respondent states the auction never took place.

Based on the information provided by the Complainant and the Respondent, Counsel finds insufficient evidence to support a violation of any specific statutes or rules. It appears the matter between Complainant and Respondent is more of a contractual issue, which is outside of the Commission's jurisdiction. Furthermore, Complainant provided no proof of the advertisements in question and the auction did not take place. Therefore, Counsel recommends this complaint be dismissed with no action.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

Legislative Update

Ms. Matlock presented two (2) bills to the Commission that are currently before the legislature. The first bill was SB2325/HB2267 which would exempt licensed Auctioneers from the definition of "marketplace facilitator" for the purposes of sale and use taxes. The second bill was SB2394/HB2864 which would permit the boards to have a combination of in-person participation, as well as virtual participation.

Ms. Matlock also informed the Commission that there would be a rulemaking hearing at the next meeting on May 16, 2022.

NEW BUSINESS

Director Kopchak took a moment to recognize the service of Mr. Randy Lowe and Mr. John Thorpe to the Auctioneer Commission. He then presented each of them with a plaque of appreciation.

ADJOURNMENT

There being no other business, Mr. Knight made a motion to adjourn the meeting. This was seconded by Mr. Sims. The motion carried unanimously. The meeting adjourned at 10:06 a.m.