



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

**Commission Meeting Minutes for May 16, 2022
First Floor Conference Room 1-B
Davy Crockett Tower**

The Tennessee Auctioneer Commission met on May 16, 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

ROLL CALL

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

NOTICE OF MEETING

Director Kopchak read the notice of the meeting into the record as follows: "Notice of the May 16, 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 May 9, 2022".

AGENDA

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

FEBRUARY MINUTES

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

RULEMAKING HEARING

The Rulemaking Hearing began at 9:03 am and ended at 9:58 am. A transcript of the proceeding will be made available upon receipt from the court reporter present.

EDUCATION REVIEW

Director Kopchak presented the Tennessee Auctioneers Association (TAA) 2022 Spring Conference CE Seminar six (6)-hour course. Mr. Morris motioned to approve the course. This was seconded by Mr. Sterling. The motion passed unanimously.

Director Kopchak presented the Tennessee Auctioneers Association's (TAA) request for sponsorship per Tenn. Code Ann. § 62-19-116 of the 2022 Spring Conference CE Seminar for a total of \$4,000, which Director Kopchak stated was within the Commission's budget. In addition, Director Kopchak 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 the following cities to capture all three (3) grand divisions: Jackson, Murfreesboro, and Knoxville. Mr. 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. Knight. The motion passed unanimously.

MEETING DATES 2023

Director Kopchak presented the scheduled meeting dates for 2023. These dates are February 27th, May 15th, August 21st, and November 20th. Mr. Morris made a motion to accept these meeting dates. This was seconded by Mr. Sterling. The motion passed unanimously.

DIRECTOR'S REPORT

Budget Report

Director Kopchak briefed the Commission on the status of the budget for the last four (4) months of record, December thru March. Director Kopchak concluded that the budget was trending as expected, with nothing out of the ordinary to report.

LEGAL REPORT (*Presented by Anna Matlock*)

- 2022004841**
Opened: 2/22/2022
Type of License: Principal Auctioneer
First Licensed: 10/30/2009
Expires: 10/29/2023
History: None

This matter was administratively opened. Respondent is a licensee. Administrative staff selected Respondent in a random continuing education audit for the previous quarter. When contacted, Respondent answered they had not completed their continuing education and requested information on what to do. Following instructions, a member of administrative staff informed Respondent of a forthcoming complaint and civil penalty amount. This complaint was then opened on February 8, 2022.

On February 18, 2022, Respondent answered the complaint providing a certificate of completion of their continuing education. This matter was referred to the Legal Division on February 22, 2022. During the August 16, 2021, meeting the Commission voted that administrative staff would send an

agreed order and citation for One Hundred Dollars (\$100.00) and close the complaint. Therefore, Counsel recommends, Respondent be assessed a One Hundred Dollar (\$100.00) Agreed Citation and this matter be dismissed.

Recommendation: One Hundred Dollar (\$100.00) Agreed Citation.

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

2. 2022008191
Opened: 3/14/2022
Type of License: Principal Auctioneer
First Licensed: 3/1/1990
Expires: 4/17/2023
History: None

Complainant is a Tennessee resident. Respondent is a principal auctioneer. Complainant states Respondent came to their home uninvited for the purpose of auctioning farm equipment. Complainant alleges Respondent was not interested in the farming equipment, but the 300+ acres. Respondent left Complainant with a contract to read and review. Complainant states as they were grieving a loss, when Respondent and others returned weeks later, they were depressed, anxious, and overwhelmed and felt pressured to sign Respondent's contract. Complainant provides after signature Respondent began tearing down barns, fences, and other areas without their consent. Complainant later decided not to sell and had their attorney contact Respondent. Complainant states later they contacted police when Respondent continued bulldoze buildings after Complainant requested Respondent stop. The parties went through mediation and apparently did not resolve the matter. Complainant closes stating they believe Respondent paid another individual to convince Complainant to sell and that Respondent's license expired in April of 2021 and was not renewed until August 11, 2021. Complainant also states Respondent misrepresented themselves by stating this was an "absolute/no reserve auction."

Respondent answered the complaint stating they were contacted back in March 2021 about conducting an auction for Complainant. In May of 2021, Respondent states they came to an agreement with Complainant and a contract was signed to liquidate the farm and equipment that the Complainant inherited. Respondent states their company worked to clean up the property and then Complainant stopped the clean up and called the police. Respondent also states how they cleaned up mobile homes that were quarantined by the State and worked with another company to safely do this. Respondent alleges a family moved in with Complainant and convinced Complainant not to sell when previously Complainant had no hesitations. Respondent stated the auction was scheduled for November of 2021 but then sought legal counsel after being told not to return to Complainant's property.

Based on the information provided in the complaint, Counsel researched Respondent's license status during the relevant time period. Respondent's license expired on April 18, 2021 and remained expired through August 10, 2021. During this time period, Respondent entered into a contract, "Auction Contract of Employment", with Complainant that was signed on May 3, 2021. Respondent has also provided various receipts of other tasks completed related to Complainant's property. However, these

tasks are related to matters outside of the Commission's jurisdiction, this also applies to Complainant's potential breach of contract or contact with local law enforcement. Counsel finds no evidence to support Complainant's assertion that Respondent misrepresented themselves as no auction took place and Complainant provides no supporting evidence. However, Respondent's license was expired for four (4) months. As one of the contracts was signed during this time period, Counsel recommends Respondent be assessed a Two Hundred Fifty Dollar (\$250.00) civil penalty for unlicensed activity.

Recommendation: Two Hundred Fifty Dollar (\$250.00) civil penalty.

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

3. **2022008281**
Opened: 3/21/2022
Type of License: Principal Auctioneer
First Licensed: 11/12/2013
Expires: 11/11/2023
History: None

This matter was administratively opened. Respondent is a licensee. Administrative staff selected Respondent in a random continuing education audit for the previous quarter. Respondent failed to respond to the notice. This complaint was then opened on March 1, 2022.

On March 15, 2022, Respondent answered the complaint stating the communication seemed suspicious and wanted to make sure this was not a phishing scam. Respondent stated they renewed their license in 2019 and 2021 and are unable to find their last continuing education documentation and not sure if it was during the right timeframe. Respondent states they will contact administrative staff related to checking their continuing education. This matter was referred to the Legal Division on March 21, 2022. During the August 16, 2021, meeting the Commission voted that administrative staff would send an agreed order and citation for One Hundred Dollars (\$100.00) and close the complaint. Therefore, Counsel recommends, Respondent be assessed a One Hundred Dollar (\$100.00) Agreed Citation and this matter be dismissed.

Recommendation: One Hundred Dollar (\$100.00) Agreed Citation.

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

4. **2022008241**
Opened: 4/11/2022
Type of License: Principal Auctioneer
First Licensed: 3/18/2010
Expires: 12/28/2023
History: None

This matter was administratively opened. Respondent is a licensee. Administrative staff selected Respondent in a random continuing education audit for the previous quarter. Respondent failed to respond to the notice. This complaint was then opened on March 1, 2022.

On April 6, 2022, Respondent answered the complaint stating they have had health issues related to their spine from an automobile accident and are undergoing complications from infection. Respondent states they can now complete their continuing education if needed but have not been able to work for several months and have provided a list of their medications. This matter was referred to the Legal Division on April 11, 2022. During the August 16, 2021, meeting the Commission voted that administrative staff would send an agreed order and citation for One Hundred Dollars (\$100.00) and close the complaint. Therefore, Counsel recommends, Respondent be assessed a One Hundred Dollar (\$100.00) Agreed Citation and this matter be dismissed.

Recommendation: One Hundred Dollar (\$100.00) Agreed Citation.

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

5. **2022016811**
 Opened: 5/2/2022
 Type of License: Principal Auctioneer
 First Licensed: 4/8/2010
 Expires: 4/10/2024
 History: None

This matter was administratively opened. Respondent is a licensee. Administrative staff selected Respondent in a random continuing education audit for the previous quarter. When contacted, Respondent answered they had not completed their continuing education and after this completed their eight (8) hours which Respondent submitted and is attached to their file. This complaint was then opened on April 27, 2022.

This matter was referred to the Legal Division on May 2, 2022. During the August 16, 2021, meeting the Commission voted that administrative staff would send an agreed order and citation for One Hundred Dollars (\$100.00) and close the complaint. Therefore, Counsel recommends, Respondent be assessed a One Hundred Dollar (\$100.00) Agreed Citation and this matter be dismissed.

Recommendation: One Hundred Dollar (\$100.00) Agreed Citation.

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

6. **2022017401**
 Opened: 5/2/2022
 Type of License: Principal Auctioneer
 First Licensed: 2/19/2004
 Expires: 2/29/2024
 History: None

This matter was administratively opened. Respondent is a licensee. Administrative staff selected Respondent in a random continuing education audit for the previous quarter. When contacted, Respondent answered they had not completed their continuing education and were misinformed that they were no longer required to complete continuing education. Respondent then requested information on what to do complete their education. This complaint was then opened on April 29, 2022.

This matter was referred to the Legal Division on May 2, 2022. During the August 16, 2021, meeting the Commission voted that administrative staff would send an agreed order and citation for One Hundred Dollars (\$100.00) and close the complaint. Therefore, Counsel recommends, Respondent be assessed a One Hundred Dollar (\$100.00) Agreed Citation and this matter be dismissed.

Recommendation: One Hundred Dollar (\$100.00) Agreed Citation.

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

Legislative Update

Ms. Matlock provided the following update: "On May 3rd, Judge Eli Richardson issued a permanent injunction barring the Commission, its agents, employees, attorneys, and all persons in active concert or participation from applying Tennessee's auctioneer laws related to sales and transactions via auction conducted by electronic exchange. Electronic exchange is understood to mean the same as its non-statutory definition of "online auction." This bar and permanent injunction applied immediately and is in effect right now." Ms. Matlock further indicated that the Attorney General's Office was seeking to appeal for which the Commission was in consensus.

Ms. Matlock also briefly summarized Public Chapter 783 which passed into law and has been effective since April 8th, which generally provides an exemption for auctioneers from sales tax on items at auction. Shane McCarrell, representative of Tennessee Auctioneers Association, also provided a brief update regarding this provision.

ADJOURNMENT

There being no new business, Mr. Sims made a motion to adjourn the meeting. This was seconded by Mr. Knight. The motion passed unanimously. The meeting adjourned at 10:30 am.