

**TENNESSEE  
AUCTIONEER COMMISSION  
MINUTES**

**DATE:** April 2, 2012

**PLACE:** Andrew Johnson Tower – 2<sup>nd</sup> Floor Conference Room  
710 James Robertson Parkway  
Nashville, Tennessee

**PRESENT:** Commission Members:  
Dave Cole, Chairman  
Gary Cunningham, Vice Chairman (*left early*)  
Marvin Alexander  
Bobby Colson  
Jeff Morris

**PRESENT:** Staff Members:  
Donna Hancock, Executive Director  
Julie Cropp, Assistant General Counsel  
Mark Green, Assistant General Counsel (*arrived late*)  
Susan Lockhart, Admin Services Asst. 4

**GUESTS:** Rhessa Orr, Wendell Hanson, Jerry Taylor, Judge Mary Collier

**CALL TO ORDER:** Chairman Cole called the meeting to order at 9:00 a.m. and the following business was transacted:

**ROLL CALL:** Ms. Hancock called the roll. All five (5) Commission members were present.

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

**MINUTES:** Mr. Colson made a motion to approve the minutes of the March 5, 2012 meeting, seconded by Mr. Morris. **MOTION CARRIED.** Mr. Morris then requested staff to follow up on whether or not a complaint had been filed against the auctioneer discussed during the formal hearing presented at the March meeting.

**UPDATE ON SEMINARS & NEWSLETTERS – RHESSA ORR, NASHVILLE AUCTION SCHOOL**

Ms. Orr advised the next seminar will be held at the Embassy Suites in Murfreesboro, Tennessee on May 11, 2012. She also advised this quarter's newsletter has been finalized, posted to the Commission's website and will be mailed out later this week.

**ADMINISTRATIVE REPORT – DONNA HANCOCK, EXECUTIVE DIRECTOR**

**Auctioneer Reapplication** – Ms. Hancock presented an application for James D. Smith to reapply for an auctioneer license and his request to retesting and the additional education requirements. After some discussion, Mr. Alexander made a motion to waive the additional thirty (30) hours of education and retesting upon receipt of renewal fees, late fees, and required six (6) hours of continuing education. The motion was seconded by Mr. Colson. **MOTION CARRIED.**

**Complaint Comparison Report** - Ms. Hancock presented a comparison of the complaints pending in March 2011 to those currently pending.

**NALLOA Annual Meeting – Update** – Ms. Lockhart advised travel requests for Mr. Morris and Mr. Alexander to attend the NAA Conference and NALLOA meeting have received preliminary approval by the Department of Commerce & Insurance and are awaiting approval from the Department of Finance and Administration. She presented tentative itineraries and travel information to Mr. Morris and Mr. Alexander advising she would contact them as soon as she has any more information to share.

*Mr. Mark Green joined the meeting at 9:40 a.m.*

**Policy/Clarifying Statement Regarding Principal Auctioneers** – Ms. Hancock represented an email discussed during the Commission's meeting in August 2011 regarding whether or not an auctioneer could be a principal auctioneer for more than one entity. She also presented her response to the email that resulted from the Commission's instruction at that time. She asked if the Commission would consider preparing a "clarifying statement" to post on the website and for staff to refer to when receiving similar questions. The Commission tabled the discussion until later in the meeting to allow counsel to draft language for their review.

**FORMAL HEARING PROCEDURES & OVERVIEW – JUDGE MARY COLLIER** – Judge Collier presented members with a manual regarding formal hearing procedures and other handouts for their reference. She then gave an overview and led a discussion concerning the formal hearing process.

*Mr. Colson and Ms. Cropp left the meeting at 11:00 a.m. and returned at 11:05 a.m.*

*The Commission took a break at 11:10 a.m. and reconvened at 11:25 a.m.*

#### **LEGAL REPORT – JULIE CROPP & MARK GREEN, ASSISTANT GENERAL COUNSEL**

**TN Higher Education Rule Revisions 1540-01-02-.03 and .12** – Ms. Orr and Mr. Hanson, of the Nashville Auction School, were invited to participate in this discussion by Mr. Green. Ms. Orr presented copies of Rules being considered by the TN Higher Education Commission (THEC) that would adversely affect the schools offering qualifying education programs relating to licenses issued by the Tennessee Auctioneer Commission (TAC). Mr. Green advised Ms. Orr, Mr. Hanson and himself previously met with representatives from THEC to discuss their concerns that, if passed, their Rules would directly conflict with the statutes and rules of the TAC. Mr. Green felt the meeting was unsuccessful and wanted the Commission to be aware of their concerns. Ms. Orr referenced Senate Bill 1428 advising its advancement would assist in preventing a regulatory over reach restricting the integrity of the Commission by THEC. After some discussion, Mr. Morris made a motion that Ms. Hancock draft a letter on their behalf to Lt. Governor Ron Ramsey and Senator Dolores Gresham (Chairman of the Senate Education Committee) requesting the Senate suspend the rule and allow SB1428 to be added to the Senate Education Committee's calendar. The motion was seconded by Mr. Colson. **MOTION CARRIED.**

**Presentation of the Legal Report –**

Ms. Cropp presented the following Legal Report for the Commission's consideration:

1. **2011010031**  
First License Obtained: 5/14/90  
License Expiration: 4/30/12  
Type of License: Auctioneer  
History: None

This complaint alleges that the Respondent conducted a public automobile auction without being licensed. The Respondent did not file a written response with the Commission, and this fact was presented to the Commission along with a recommendation to offer a consent order assessing a civil penalty of \$2,000.

After discussion among the legal staff, the former litigating attorney stated that he had received information that the Respondent had acted as a public automobile auctioneer for a particular firm which had multiple complaints already pending. This information was forwarded to the TAC staff, who opened a complaint. Shortly after the complaint was opened, the former litigating attorney issued a subpoena to the Respondent to appear and give testimony by deposition. The Respondent was very cooperative, appeared at the deposition, and answered all questions that were asked of Respondent to the best of Respondent's ability. It was understood between the former litigating attorney and the Respondent that Respondent's deposition would satisfy any requirement of a providing a response to the complaint. In the midst of preparing formal charges against the firm, the former litigating attorney inadvertently failed to communicate this to the TAC staff. Although it does appear that the Respondent participated in calling auctions of motor vehicles, the then-litigating attorney believes that it would be appropriate, considering Respondent's limited involvement and Respondent's cooperation, to close the complaint with a letter of warning or a similar action.

**Recommendation: Letter of warning.**

**Action Taken: Mr. Colson made a motion to accept Legal's recommendation, seconded by Mr. Cunningham. MOTION CARRIED.**

2. **2012002891**  
First License Obtained: 07/20/88  
License Expiration: 10/25/12  
Type of License: Auctioneer  
History: Two (1 open; and 1 closed w/ paid \$1000 civil penalty for unlicensed activity)

**March 2012 Meeting:**

*The department received information that Respondent conducted an auction on or about November 1, 2008, but failed to remit proceeds of approximately \$50,000.00 to the consignor. Respondent was indicted in 2010 and the case is still pending in criminal court.*

*A request for response was mailed to Respondent on February 2, 2012, but no response has been received.*

***Recommendation: Authorize formal hearing with authorization to settle by consent order of \$4,000.00 civil penalty for violation of T.C.A. § 62-19-112(b)(1)(2)(4)(12) and voluntary surrender of license.***

***Decision: Commission voted to accept recommendation.***

**New Recommendation: Authorize formal hearing in order to consolidate all matters involving Respondent.**

**Action Taken: Mr. Morris made a motion to accept Legal's recommendation, seconded by Mr. Colson. MOTION CARRIED.**

**3. 2011031681**

First License Obtained: 12/12/91

License Expiration: 12/31/12

Type of License: Firm

History: Six (5 closed w/ no action; 1 agreed citation)

***March 2012 Meeting:***

*Complaint opened by TAC due to information contained in Respondent's internet advertisement for condo auction. In said advertisement, Respondent provided an unregistered name.*

*Respondent submitted response stating that the advertisement contained the names of the licensed auction company as well as the name of Respondent's real estate company which is licensed by the state.*

***Recommendation: Authorize formal hearing with authorization to settle by consent order with civil penalty of \$500.00 for violation of T.C.A. § 62-19-113(b)(7), T.C.A. § 62-19-118(c)(2), and Rule 0160-01-.05(1).***

***Decision: Commission voted to accept the recommendation.***

Respondent telephoned, expressing confusion over violations and stating that, several years ago, Respondent was disciplined by Commission for abbreviating one of the words within the firm name. At that time, Respondent claims that it was conveyed to Respondent that, while not permissible to abbreviate words, it was permissible to list Respondent's firm names joined with an "&" as listed in the subject advertisement. Respondent offered to pay \$250 civil penalty.

**New Recommendation:** Authorize formal hearing with authorization to settle by consent order with civil penalty of \$250.00 for violation of T.C.A. § 62-19-113(b)(7), T.C.A. § 62-19-118(c)(2), and Rule 0160-01-.05(1).

*Mr. Alexander left the meeting at 12:10 a.m. and returned at 12:15 a.m.*

**Action Taken:** Mr. Morris made a motion to reject Legal's new recommendation and reaffirm the Commission's original decision of consent order with civil penalty of \$500.00. The motion was seconded by Mr. Cunningham. Mr. Alexander abstained from voting as he was out of the room during part of the discussion. **MOTION CARRIED.**

4. **2010025331**

First License Obtained: 05/20/09  
License Expiration: 05/19/13  
Type of License: Firm  
History: None

5. **2010025332**

First License Obtained: n/a  
License Expiration: n/a  
Type of License: n/a  
History: None

**November 2010 Meeting:**

**Complaint:** *The Respondent auction firm was hired by the owner of encumbered real and personal property to conduct an auction. This complaint was filed by the bank who claims a security interest in the property that was sold. The Complainant states that the second Respondent, who is president of the firm, but not an auctioneer, conducted the auction. Also, according to the Complainant, the sale resulted in proceeds of approximately \$119,000, but the Respondents have only offered \$90,000 to the bank. The Complainant alleges unlicensed conduct by the second respondent and failure to account for or remit proceeds. The Complainant also states that it has provided documents showing it has a security interest in the items sold by Respondents.*

**Response:** *The Respondent states that the second respondent was not the auctioneer, and that the auction was conducted by the firm's principal auctioneer. The Respondent further states that there was no agreement between the Respondents and the bank, and therefore the Respondents are not required to provide an accounting to the bank.*

**Complaint History:** None.

**Recommendation:** Close with litigation monitor.

**Action Taken:** Litigation monitoring agreement sent to attorney for Respondents, but was not signed or returned.

Litigation monitor agreement was not signed by Respondents. Neither party has contacted TAC to request that further action be taken on this complaint. In fact, letter was received from

Complainant stating that Respondent firm tendered check for \$15,000.00 to bank, and "the sum due to the bank...has been paid."

**New Recommendation: Dismiss.**

**Action Taken: Mr. Morris made a motion to accept Legal's recommendation, seconded by Mr. Colson. MOTION CARRIED.**

*Mr. Cunningham left the meeting at 12:15 p.m. and did not return. Therefore, he did not participate in any votes or discussions from this point forward.*

**6. 2010027891**

First License Obtained: 05/05/00  
License Expiration: 10/03/13  
Type of License: Auctioneer  
History: None

**November 2010 Meeting:**

**Complaint:** *This complaint alleges that the Respondent auctioneer, working for an auction firm, promised seller that he would receive at least his cost on items sent to auction. Items were sold below this amount, and complainant received an anonymous call from someone at the auction that the high bids were ignored.*

**Response:** *Respondent's attorney states the Respondent was only an independent contractor, and denies wrongdoing or any promises.*

**Recommendation:** *Authorize formal hearing.*

Matter was sent out for further investigation in 2011. Investigator contacted Complainant in attempt to determine if payment was ever received and requesting copies of any documents relating to the transaction. Complainant did not believe payment was ever received and heard auction company filed bankruptcy and went out of business after sale. Complainant further stated that Complainant would get back to investigator with more information. Complainant never contacted investigator, and investigator's subsequent attempts to reach Complainant were unsuccessful. Investigator also contacted Respondent seeking statement and supporting documentation, and Respondent's attorney forwarded statement and documentation indicating that Respondent was an independent contractor for auction firm who had no access to sales proceeds from any auction. After auction, Respondent states that Respondent forwarded settlement statement to seller and matter was turned over to auction firm with expectation that auction firm would forward sale proceeds to seller. In 2010, based on firm's inability to pay consignors or Respondent's commissions from auctions, Respondent states that Respondent terminated agreement with auction firm and, shortly after, auction firm closed its doors.

**New Recommendation: Dismiss.**

**Action Taken: Mr. Alexander made a motion to accept Legal's recommendation, seconded by Mr. Colson. MOTION CARRIED.**

**7. 2011028231**

First License Obtained: 03/20/09

License Expiration: 03/19/13

Type of License: Firm

History: None

***January 2012 Meeting:***

*Complaint filed by Complainant which purchased a tractor trailer at a live web auction conducted by the Respondent in which Complainant paid \$36,332 for it. The Complainant understood the truck was being purchased "as is". When he went to tile the vehicle the Department of Motor Vehicle would not issue the title because it was listed in New York state as "Salvaged." The Respondent, allegedly, told the Complainant that it was sold "as is" so it is not his problem.*

*Respondent did not answer the complaint so there is nothing in the record as to its side of the story. Consumer Affairs has issued two notices seeking a response prior to a complaint being filed with the Commission and the Respondent has refused to answer those as well.*

***Recommendation: Consent order for \$2000 under 62-19-112(1) Substantial Misrepresentation (12) for improper fraudulent, incompetent or dishonest dealings.***

***Decision: Deferred to determine other information such as what type of auction it was.***

Letter found in file from Respondent to Consumer Affairs stating that the truck was sold in "as is where is" condition, and Respondent had the original Tennessee title that had no proof or mark to show that the truck was rebuilt or salvage. Further, telephone call with Complainant yielded information that Complainant believed that the subject auction included items such as trucks and heavy equipment.

**New Recommendation: Authorize formal hearing with authorization to settle by consent order with civil penalty of \$2,000.00 for violation of T.C.A. § 62-19-128(b)(10) failure to obtain a license as a public automobile auction and T.C.A. § 62-19-128(c) failure to verify that the motor vehicle has a clean and unencumbered title by obtaining a valid motor vehicle history from the department of revenue.**

**Action Taken: Mr. Alexander made a motion to close this matter and refer to the Motor Vehicle Commission with possibility of re-opening complaint depending upon the Motor Vehicle Commission resolution. The motion was seconded by Mr. Morris. MOTION CARRIED.**

**8. 2011031961**

First License Obtained: 08/25/10

License Expiration: 8/24/12

Type of License: Apprentice

History: None

***March 2012 Meeting:***

*Complaint instituted by TAC against Respondent (apprentice auctioneer) for Respondent's failure to affiliate Respondent's license with a licensed firm within the state. Specifically, TAC received a letter in July 2011 from Respondent's former employer, returning Respondent's license and stating that Respondent is no longer employed with his firm and he is no longer Respondent's sponsor. Respondent did not respond to letters from TAC which were sent in October 2011, informing Respondent that license was no longer affiliated and instructing Respondent to contact TAC regarding any transfer or changes to Respondent's license.*

*Respondent submitted no response.*

***Recommendation: Authorize formal hearing with authorization to settle by consent order with civil penalty of \$500.00 for violation of T.C.A. § 62-19-111(g) no affiliation with a licensed firm.***

Telephone call from Respondent notifying that Respondent was no longer in the auction business and not planning to return to the business at this time. Respondent also sent e-mail confirming conversation. Respondent received notification that Respondent's apprentice license had been sent to the state. Respondent then relocated in August 2011. Due to confusion regarding the license, Respondent stated that Respondent contacted TAC by telephone, informing the individual that Respondent was not participating in auctions, had relocated and "was not going to keep my license active" due to a lack of need for auctioneers in the area in which Respondent lived. Respondent claims that the individual told Respondent that Respondent's file would be updated. Respondent states that Respondent believed Respondent had done everything necessary at that point and this was the reason for Respondent's failure to contact the Commission in writing.

***New Recommendation: Letter of instruction regarding Rule 0160-01-.24 which requires notifying the Commission in writing within sixty (60) days of occurrence of any change in information previously submitted by the licensee.***

**Action Taken: Mr. Alexander made a motion to send letter of instruction to Respondent, instructing Respondent that no further action would be taken because Respondent's license had been voluntarily surrendered and if Respondent re-applies for licensure in the future, Respondent will have to start the process from the beginning. The motion was seconded by Mr. Morris. MOTION CARRIED.**

**9. 2011032311**

First License Obtained: 12/07/04

License Expiration: 12/6/12

Type of License: Firm

History: None

Complainant was part owner of a business whose contents and inventory were sold at auction conducted by Respondent. Complainant claims that, prior to auction, Complainant was informed that Respondent was going to allow the auction client bid at the auction. Complainant also alleges that Respondent denied Complainant's request for an invitation list of prospective bidders for the auction. Further, Complainant claims that no expert as to vehicles, heavy equipment, construction, or building will be present at the auction, and Complainant claims no research or market analysis has been conducted to determine values of items which will be sold at auction. Complainant provided a compact disk containing photos of items allegedly sold at the auction as well as a video which could not be played.

Respondent states that Respondent was contacted by the company to conduct an auction to dissolve the current company ownership with the intention to later reform the company. Respondent claims that any knowledge that Respondent did not have of the inventory, machinery, or vehicles being sold at the auction could be provided by the seller, since the seller was engaged in the business, or through Respondent's research. Further, Respondent states that the items were researched prior to sale. Respondent states that Complainant called Respondent, at which point the parties spoke by phone regarding the auction. Respondent claims Respondent answered as many questions as possible, but did not want to compromise the fiduciary relationship with the client by providing information such as client lists. Respondent claims the auction was posted on Respondent's website, that the auction had over 2,700 "hits" on Auctionzip.com, that two (2) ads were placed and ran in the newspaper (Respondent provided copies of both ads), and that three (3) signs were placed regarding the auction. Respondent states that seller provided a list of similar businesses in the area and other potential interested parties, and postcards were mailed (a copy of said postcard was provided), in addition to "email blasts" announcing the auction date and details. Respondent states that there were thirty-two (32) registered bidders on the auction date. Respondent claims that it was announced at the auction that there were interested parties of the ownership who might bid on some items. Finally, Respondent states that Complainant videoed the preview as well as the auction proceedings and was not a registered bidder at the auction.

Matter was sent out for investigation. As of March 8, 2012, the Tennessee Secretary of State's website reflected that the company whose contents and inventory was sold at the subject auction was registered as an active corporation. Documentation was also gathered, including a copy of the auction agreement between the company and Respondent for the subject auction, a copy of the complete sales receipt indicating all items sold and to which bidder each item was sold, a copy of the closing statement, and a copy of the log for each bidder at the subject auction.

**Recommendation: Discuss.**

**Action Taken: Mr. Morris made a motion to dismiss the complaint, seconded by Mr. Alexander. MOTION CARRIED.**

**10. 2012005311**

First License Obtained: 05/19/91  
License Expiration: 11/30/11  
Type of License: Firm  
History: 35

Complainant's insured gave vehicles to Respondent to sell, and Respondent neither remitted money nor returned the vehicles.

The Respondent submitted no response, and certified letter containing complaint was returned "unclaimed" by Respondent.

Respondent has multiple cases which are currently authorized for a formal hearing.

**Recommendation: Authorize formal hearing in order to consolidate all matters involving Respondent.**

**Action Taken: Mr. Colson made a motion to accept Legal's recommendation, seconded by Mr. Morris. MOTION CARRIED.**

**11. 2012005281**

First License Obtained:  
License Expiration:  
Type of License: Firm/Branch/Gallery  
History: One (open)

Complainant participated in an auction held by Respondent (same Respondent as complaint number 7) by means of an online auction site utilized for internet bidders. The site included a live video/audio stream of the auction. Complainant believed that Complainant submitted the high bid for an item because the internet site flashed "sold" with the amount bid by Complainant. Complainant states that Complainant immediately contacted a representative for Respondent, who confirmed that the item sold for Complainant's bid price. Complainant's called again after a few hours and received verbal confirmation that the item was sold at Complainant's bid price. Several days later, Complainant again spoke with the representative for Respondent, who stated there had been a mistake and the item sold to someone else for a higher price than Complainant bid.

Respondent replied, stating that Complainant "chose to end over the phone bidding to bid online" through an online auction site. According to Respondent, the online auction site had technical difficulties during the auction, which resulted in the misunderstanding regarding the winning bid for the item. Respondent states that the online auction site contacted Complainant admitting fault, and further Respondent is not liable for the online auction site's malfunction.

Telephone call with Complainant yielded information that the item on which Complainant bid, a broom, is a highway broom which is driven over streets to sweep them. Complainant also stated that not only did the internet site flash "sold" across the screen after Complainant's bid, but Complainant also heard audio on the live feed state "sold" at Complainant's price. Complainant stated that attempts to obtain a copy of the recording of the live feed for the relevant section of the auction were unsuccessful, as the online auction site informed Complainant that there was a "blip" in the technology.

**Recommendation: Authorize formal hearing with authorization to settle by consent order with civil penalty of \$1,000.00 for violation of T.C.A. § 62-19-128(b)(10) failure to obtain a license as a public automobile auction.**

**Action Taken: Mr. Alexander made a motion to dismiss the complaint, seconded by Mr. Morris. MOTION CARRIED.**

**12. 2012004831**

First License Obtained: 01/25/01

License Expiration: 01/31/13

Type of License: Firm

History: None

Complainant (seller of real property) alleges that Complainant's real estate agent (realtor with Respondent firm) told Complainant that agent's boss could sell Complainant's property at one auction due to boss' investor connections and advertising. When asked what would happen if no one showed up, Complainant states that real estate agent assured that with advertising and investor connections, auction would be a success. Complainant states that "no one showed up" to auction and all of Respondent's employees were "gone in less than 30 minutes." Complainant states that a contract was never reviewed with Complainant or Complainant's sister nor was a copy provided, and Respondent "gave me misleading information about surveying my property" and Respondent's ability to sell the property after Respondent collected its fees. Complainant attached what appear to be carbon copies of three (3) checks showing that Complainant paid Respondent a total of \$12,000.00 in the month prior to the subject auction.

Respondent replied, stating that Respondent firm was never the listing agent for Complainant's property at any time prior to the subject auction. Respondent states that the real estate agent referenced in the complaint worked part-time with Respondent. Respondent denies giving assurances to Complainant regarding the amount an auction would bring and states that Respondent never heard the agent do so either. Respondent claims that Complainant selected a reserve auction, and Complainant selected the reserve amount of \$150,000. Respondent states that Respondent met with Complainant and Complainant's sister prior to the auction to review the auction process, advertising, costs, etc. Respondent states that people did show up prior to the auction to look at the property, but everyone left by auction time. Respondent claims that two offers were presented to Complainant, which were rejected. Further, Respondent claims that Respondent and Complainant reviewed the contract, and Complainant received a copy for both Complainant and Complainant's sister. Respondent expressed confusion as to Complainant's allegation of misleading information regarding surveying Complainant's property. Respondent

attached a copy of auction advertisements signed, initialed and dated by Complainant, as well as a copy of the auction contract signed by the parties. Said contract contained a provision stating that Complainant agreed to pay Respondent a non-refundable \$12,000.00, "for services to auction and market" the subject properties.

**Recommendation: Dismiss.**

**Action Taken: Mr. Colson made a motion to accept Legal's recommendation, seconded by Mr. Morris. MOTION CARRIED.**

**13. 2011020271**

First License Obtained: 06/21/94 & 03/19/10

License Expiration: 10/31/12 & 03/18/12

Type of License: Auctioneer & Public Automobile Auctioneer

History: 5 against auctioneer license (1 dismissed; 2 agreed citations; 3 consent orders totaling \$1250; & 6 month suspension); No previous complaints against public automobile auctioneer license

Complainant alleges that the firm for which Respondent is the principal auctioneer gave Complainant a worthless check for Complainant's vehicles which were sold at auction held by Respondent's firm. Additionally, Complainant alleges that Complainant has several vehicles which are inside the locked gate of Respondent's firm, which were taken there to be sold and Complainant cannot retrieve. Finally, Complainant alleges that Complainant has vehicles purchased and paid in full which Respondent's firm will not provide the titles.

Respondent submitted no response. Certified letter containing complaint was returned as "unable to forward."

There are multiple complaints against Respondent's firm which are currently authorized for formal hearing.

**Recommendation: Authorize for formal hearing.**

**Action Taken: Mr. Colson made a motion to accept Legal's recommendation, seconded by Mr. Morris. MOTION CARRIED.**

**14. 2012005261**

First License Obtained: 05/22/86

License Expiration: 02/28/13

Type of License: Firm

History: Two (1 referred to another agency & 1 closed w/ no action)

Complaint alleges that Respondent firm "knowingly allowed retail customer inside auction facility to bid and buy cars."

Respondent submitted a response, stating that complaint is fraudulent. Additionally, Respondent states that Respondent does not allow retail customers into their facility, and there are multiple security measures throughout Respondent's facility to ensure that only individuals who are registered dealers may gain admittance.

Telephone call to Complainant verified that he did not file complaint and had no knowledge of complaint. Additionally, Complainant sent e-mail confirming conversation.

**Recommendation: Dismiss.**

**Action Taken: Mr. Morris made a motion to accept Legal's recommendation, seconded by Mr. Alexander. MOTION CARRIED.**

**15. 2012005271**

First License Obtained: 05/22/86

License Expiration: 2/28/13

Type of License: Firm

History: Three (1 referred to another agency; 1 closed w/ no action; and 1 open)

Complainant alleges that a used car dealer friend informed Complainant that Complainant could go to Respondent's facility to find a car if Complainant paid an additional ten percent (10%). Complainant alleges that Complainant had to pay a seventy-five dollar (\$75.00) fee to get a "visitor badge" to enter the auction facility. Complainant feels that Complainant was treated unfairly due to the fact that Complainant paid the entry fee, but saw a sign stating that it was a dealer auction only, and Complainant saw other retail customers without visitor badges and was told these retail customers came through the back gate with individuals who had a license.

Respondent replied, stating that Respondent does not have a guest badge program and does not sell guest badges. Respondent states that Respondent's business is "solely dealer based." Respondent further states that in order to gain access, an individual must present proper identification or be able to have his or her identity confirmed. Additionally, Respondent states that it utilizes security measures to ensure that only registered dealers gain admittance.

**Recommendation: Dismiss.**

**Action Taken: Mr. Colson made a recommendation to accept Legal's recommendation, seconded by Mr. Morris. MOTION CARRIED.**

**Pending Formal Hearing Authorizations Report** – Mr. Green advised he plans to set at least two (2) formal hearings for each regularly scheduled meeting of the Commission in order to alleviate the backlog. He further advised there are currently two (2) hearings scheduled to be heard at the May 2012 meeting barring any continuances. He asked the Commission to consider allowing an Administrative Law Judge (ALJ) to hear some types of cases such as allegations of unlicensed activity as these would not require the Commission's expertise and cases heard by an ALJ would not have to coincide with board meeting dates.

**Background Checks – Report/Discussion re: Authority** – Ms. Cropp advised she researched the Commission’s authority in this matter per their request at the last meeting. She further advised she discussed the matter with Deputy Chief Counsel Wayne Pugh and they agreed a legislative change would be necessary for the Commission to require background checks as the Federal Bureau of Investigations requires statutory authority before they will grant access to their database. She stated individual background checks cost approximately forty dollars (\$40) which would require an increase in license fees to cover these costs. The Commission advised they would consider this matter in the future and Mr. Morris asked counsel to determine when the deadline for legislative proposals will be due for the next session.

**OLD BUSINESS:** Mr. Green advised he would review the language for proposal regarding a clarifying statement concerning principal auctioneers as tabled earlier in the meeting and would present his findings at the next meeting. He also advised he would consult with Ms. Cropp to prepare language for rule changes for the Commission to discuss at their next meeting.

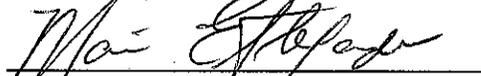
**NEW BUSINESS:** No new business was discussed.

Being no further business to discuss, the meeting adjourned at 1:10 p.m.



David Cole, Chairman

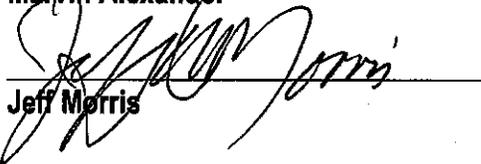
Gary Cunningham, Vice Chairman



Marvin Alexander



Bobby Colson



Jeff Morris