



# Alabama State Board of Auctioneers

## ASBA NEWSLINE

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## **UNDER THE GAVEL:**

### **Message from the Chair**

Ken Garner

Greetings, my fellow auctioneers and apprentices. Let me start out by saying that it is an honor and a pleasure for me to serve as Chairman of the Alabama State Board of Auctioneers. In no way do I take this position lightly. I have been part of this Board since 2006, and have had the pleasure of serving with some great leaders in our industry during that time.

We are starting off the 2013-2014 fiscal year in great shape as a Board. Vice Chair Bryant Wood, Secretary/Treasurer Bryan Knox and Mr. Mike Langford have been serving faithfully since appointed and continue to do a great job as Board members. We also have some new/old faces here this year, beginning with our Immediate Past President of The National Auctioneers Association, and no stranger to this Board, Mrs. Christie King Ray; also back again is Mr. Pete Horton. The wealth of knowledge that they bring to this Board is invaluable, to say the least. Other new members are Mr. Keith Baldwin and our consumer member, Mr. Erskine Valrie. I look forward to working with each of them.

Mr. Keith Warren, our Executive Director, and his fantastic staff continue to do an amazing job with the day to day operations of this Board, and our legal counsel, Mrs. Dana Billingsley, is always on hand to deliver the best advice in the most professional way.

I hope you will continue to support the Board's efforts to advance our industry in Alabama by protecting those on whom our industry ultimately depends – the relatives, friends and neighbors who seek our services every day. We are proud of our profession and prouder still to practice that profession in Alabama. If we can ever be of assistance to you, please don't hesitate to contact the Board.

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## **AUCTION COMPANY LICENSE**

by: Dana Billingsley, Board Counsel

Effective October 1, 2011, companies engaging in the auction business in Alabama were required to obtain an auction company license from the Board and to maintain that license through annual renewals. ALA. CODE § 34-4-20 provides: "It shall be unlawful for any person, partnership, association or corporation in any county of this state to act as an auctioneer or apprentice auctioneer, or directly or indirectly to engage or assume to engage in the auction business and act as either without first obtaining a license issued by the State Board of Auctioneers..."

ALA. CODE § 34-4-2(1) defines an "auctioneer" as any person who "by the means of or process an auction or sale at auction, offers, negotiates, or attempts to negotiate a listing contract, sale, purchase, or exchange of goods, chattels, merchandise, real or personal property or of any other commodity which may lawfully be kept or offered for sale by or at public auction." ALA. CODE § 34-4-27 further defines an "auctioneer" to include "any person selling real estate, goods, wares, merchandise, automobiles, livestock, or other things of value at public outcry." The "auction business" or "business of auctioneering" is defined in ALA. CODE § 34-4-2(6) as "the performing of any of the acts of an auctioneer or an apprentice auctioneer."

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## **THE ADMINISTRATIVE HEARING PROCESS**

**BY: DANA BILLINGSLEY, BOARD COUNSEL**

The Board may revoke or suspend licenses pursuant to the Auctioneers License Act and may also impose fines for violations of the law, rules and/or regulations of the Board by licensed and unlicensed persons in the amount of \$200 to \$500 per violation. ALA. CODE § 34-4-29 (1975 as amended). Although you may think so, not all licensing boards are empowered by the Legislature to prosecute non-licensees for violations of its licensure Act, and the Auctioneer Board takes this responsibility very seriously. An individual who allegedly violates any provision of the Act is entitled to a hearing before the Board in accordance with the Alabama Administrative Procedure Act, found at ALA. CODE § 41-22-1, *et seq.* In general, the complaint, investigative and hearing process is as follows:

A written complaint is required to begin the disciplinary process. ALA. CODE § 34-4-29(b). Anonymous complaints are not accepted because every person has a due process right to face his/her accuser, and the right to a professional license is a property right that must be safeguarded by the Board. Anyone may file a written complaint, including a Board member or another licensee. The Executive Director reviews each complaint and assigns it to the Board's investigator, who conducts an investigation as directed by the Executive Director or Board counsel. The investigation often includes, but is not limited to, interviews with the complainant, the respondent (the individual against whom the allegations have been made) and other individuals, as necessary. In the course of an investigation, and, for any cause, documents, books and records concerning an auction must be made available for inspection by the Board upon request. ALA. ADMIN. CODE r. 150-X-1-.09.

Upon completion of his investigation, the investigator files an investigative report, which is reviewed by an investigative committee, comprised of the Executive Director, Board counsel, the investigator and one Board member, in order to make a preliminary determination as to whether there is sufficient evidence to support an allegation that a violation has occurred. There is no statute of limitations on the Board's authority to pursue the investigation of old or dated complaints.

If the evidence does not support an allegation of wrongdoing, or if the complaint is otherwise resolved between the parties to the complaint, the matter will be dismissed, and the Board will take no further action. The Board notifies all complainants in writing if their complaints are closed or resolved.

The Board maintains that its complaints constitute law enforcement investigative reports under ALA. CODE § 12-21-3.1, which considers "investigative reports and related investigative material" to be privileged communications. Complaints remain the property of the Board and are protected from public disclosure unless they lead to formal charges and the institution of an administrative proceeding or they are properly subpoenaed by a court of law or other governmental agency.

If the investigative committee believes there is sufficient evidence to substantiate that a violation of the Board's law, rules or regulations has occurred, the Board will send a written notice of the charges and of the essential facts and circumstances related to the complaint to the respondent in a Notice of Hearing by certified mail or personal service at least 21 days prior to the date set for hearing. ALA. CODE §§ 41-22-12 and 34-4-29(d). If the respondent is an apprentice, the sponsor must also be notified. ALA. CODE § 34-4-29(d).

The Notice is accompanied by an explanation of the respondent's rights in the disciplinary process and a proposed Consent Order, which offers a settlement with the Board in lieu of a formal hearing. Alternatively, the Consent Order may be offered in advance of the issuance of the Notice of Hearing. The respondent may accept the Board's offer of settlement and sign the Consent Order, which resolves the complaint, or he/she may refuse to sign it and proceed to a hearing. ALA. CODE § 41-22-12(f). Hearings are held in the Board office before the entire Board at regularly scheduled, public meetings and are, therefore, also open to the public. ALA. CODE § 41-22-12(h).

Hearings are conducted by an Administrative Law Judge or "ALJ" retained by the Board, who ensures that the applicable rules of evidence are followed and maintains order. ALA. CODE § 41-22-13. The respondent is entitled and encouraged to consult with an attorney of his/her choosing concerning this proceeding. ALA. CODE § 34-4-29. Respondents have the right to be represented by counsel, subpoena their own witnesses, present evidence and cross-examine witnesses during the hearing. The Board and the ALJ may also ask questions of any witness. All witnesses testify under oath, and a record of the proceedings is preserved by a court reporter. ALA. CODE § 41-22-12. If the respondent fails to appear without first notifying the Board that he/she will be unable to be present and the reasons therefor, the hearing may proceed in the respondent's absence and essentially result in the entry of a default judgment against the respondent. ALA. CODE § 41-22-12(d).

*(continued on page 5)*

## ***Disciplinary Action by the Board***

### ***Fiscal Year 2010-2013***

**NAME:** Charles Brownlow

**DATE:** July 8, 2010

**DISPOSITION:** Respondent was found guilty of violations of §34-4-20, Code of Alabama, 1975 as amended, for conducting auctions without a license, for which he was assessed an administrative fine in the amount of \$1,500.

**NAME:** Jimmy Quenn

**DATE:** July 8, 2010

**DISPOSITION:** Respondent was found guilty of violations of §34-4-20, Code of Alabama, 1975 as amended, for conducting auctions without a license, for which he was assessed an administrative fine in the amount of \$750.

**NAME:** Cecil Wayne Riley

**DATE:** July 8, 2010

**DISPOSITION:** Respondent's Auctioneer License application was denied by the Board, in accordance with §§34-4-21(c) and 34-4-29(d), Code of Alabama, 1975 as amended.

**NAME:** James Ray Sloan, Jr.

**DATE:** July 19, 2010

**DISPOSITION:** The Board entered into a Consent Order with Respondent, in which he pled guilty to violations of §§34-4-21(c), 34-4-29(c), and 34-4-29(c)(3), (4), (9) and (10), Code of Alabama, 1975 as amended, and was assessed a fine of \$5,000.00 for failure to provide notice to the Board of civil and criminal actions against him individually and as principal for Grand View Antiques and Auction; providing false or fraudulent information upon which the issuance of his initial Apprentice Auctioneer license was based for accepting valuable consideration for acts performed as an apprentice auctioneer by persons other than his employer auctioneer; failing to account for or remit, within a reasonable time, money belonging to others that came into his possession; conduct of any auctioneer which demonstrates bad faith, dishonesty, incompetency, or untruthfulness; and improper, fraudulent or dishonest dealings on the part of an auctioneer, by accepting items on consignment which he then sold at auction, but for which he failed to remit payment. Respondent voluntarily surrendered his Auctioneer License as a result of these violations and remains ineligible for consideration for re-licensure for a period of five (5) years.

**NAME:** Rodney Settles

**DATE:** October 7, 2010

**DISPOSITION:** Respondent was found guilty of violation of §§34-4-21(c), (c)(1) and (10), Code of Alabama, 1975 as amended, was assessed a \$500 fine, and his Alabama Auctioneer License was revoked. Respondent remains ineligible for re-licensure for a period of five (5) years and is required to appear before the Board should he seek re-licensure.

**NAME:** Michael B. Stewart

**DATE:** January 7, 2011

**DISPOSITION:** Respondent was found guilty of violation of §34-4-21(c), Code of Alabama, 1975 as amended, and his application for an Alabama Auctioneer License was denied. Notwithstanding the denial of his application, Respondent is eligible to apply for licensure as an Apprentice Auctioneer, subject to certain stipulations set forth in the Board's final order.

**NAME:** Gregory D. Norred

**DATE:** February 17, 2011

**DISPOSITION:** Respondent was found guilty of violations of §34-4-21(c), 34-4-29(c)(7) and (9), Code of Alabama, 1975 as amended, and Ala. Admin. Code r. 150-X-1-.10(a). Mr. Norred paid a fine of \$2,000 and voluntarily surrendered his auctioneer license. Respondent remained eligible to apply for licensure as an apprentice auctioneer pending compliance with the further requirements set forth in the Board's final order.

**NAME:** Lewis Whitlock d/b/a Whit's Auction Company

**DATE:** January 16, 2013

**DISPOSITION:** The Board entered into a Consent Order with Respondent, in which he pled guilty to violations of §34-4-20, Code of Alabama, 1975 as amended, for conducting auctions without a license, and was assessed an administrative fine of \$2,000.

**NAME:** Conrad Green

**DATE:** January 16, 2013

**DISPOSITION:** The Board entered into a Consent Order with Respondent, in which he pled guilty to violations of §34-4-20, Code of Alabama, 1975 as amended, for conducting auctions without a license, and possession of an altered auctioneer license, and was assessed an administrative fine in the amount of \$3,000. Respondent further agreed to withdraw his pending application for an auctioneer license with the Board for failure to disclose a prior criminal history and agreed not to reapply for licensure for six months following successful completion of court-ordered probation for his convictions and until such time as his fines have been paid in full.

*(continued on page 4)*

**Disciplinary Action by the Board***(continued from page 3)***NAME:** Gregg Crow; AAA Auction and Realty, L.L.C.**DATE:** February 4, 2013**DISPOSITION:** The Board entered into a Consent Order with Respondent, in which he pled guilty to violations of §34-4-20, Code of Alabama, 1975 as amended, for conducting auctions without a license, and paid an administrative fine in the amount of \$2,500.**NAME:** Charles S. Bradley**DATE:** May 2, 2013**DISPOSITION:** The Board entered into a Consent Order with Respondent, in which he pled guilty to violations of §34-4-20, Code of Alabama, 1975 as amended, for conducting auctions without a license, and paid an administrative fine in the amount of \$2,700.**NAME:** Tom Wieck d/b/a Big Dawg Promotions, LLC**DATE:** June 17, 2013**DISPOSITION:** Respondent was found guilty of violations of §34-4-20, Code of Alabama, 1975 as amended, for conducting auctions without a license, for which he was assessed an administrative fine in the amount of \$3,000, together with the cost of the proceedings, for an additional \$3,000.**NAME:** Richard Askew; Clay County Goat and Poultry Auction, LLC**DATE:** July 12, 2013**DISPOSITION:** The Board entered into a Consent Order with Respondent, in which he pled guilty to violations of §34-4-20, Code of Alabama, 1975 as amended, for conducting auctions without a license, and paid an administrative fine of \$4,500.**NAME:** Paul White d/b/a Yellow Jacket Sales**DATE:** July 16, 2013**DISPOSITION:** The Board entered into a Consent Order with Respondent, in which he pled guilty to violations of §34-4-20, Code of Alabama, 1975 as amended, for conducting auctions without a license, and was assessed an administrative fine of \$800.\*\*\***Benefit Auctions - Fee or Free**

by Christie King Ray, CAI, BAS, AARE - Board Member

When I first became licensed as an Alabama auctioneer, I started conducting benefit auctions. It was my way to gain "mic" time that I needed to develop my chant. WOW. Knowing what I know now as a fundraising professional auctioneer, I can't believe I did this during the non-profit's biggest fundraiser of their year. When I started out, I conducted these auctions for free. As I gained more knowledge about fundraising and received the education that I needed to bring true value to my clients, I started charging a fee. I learned that the benefit/charity auctioneer is the only expense line item that is a revenue producing line item, if the event is done correctly.

There are hundreds of professional fundraising auctioneers throughout the country who conduct these auctions for a living. Your fees should be based on the services that you provide to the non-profit. They are starving for fresh ideas to keep their event fun and profitable year after year, as well as the need for a "bid caller". Most non-profits expect both consulting and auction day work. For those of you who do conduct benefit/charity auctions for free, I'd like to invite you to consider this. The band is being paid and the caterers are being paid, why would you, the vehicle who is raising the money, not charge for your services? If you want to donate it all back, that is your decision. When you do charge, I assure you, your ideas and your time will be more respected by the client. I'm not talking about a free dinner either. There are variations of fee structures that you can charge such as a flat fee, a commission or even a combination flat fee and commission. Regardless of the structure you charge, do charge a fee.

When you are conducting benefit auctions for a fee, the same licensing requirements apply as do with all our other auctioneer clients. Let's explore some of these requirements:

- **County license** - A licensed auctioneer is required to maintain a county license in each county where the auctions are conducted. There is no difference with non-profits and we are not exempted from this requirement.
- **Advertising Requirements** - Again, as licensed auctioneers, we are required to display our auction license number in advertising showing the public we are professionals and in compliance with our state regulatory requirements. While ticket sales and save the date cards may be out of our control, at a minimum, it is your responsibility to ensure your license number is displayed auction night.
- **Trust/Escrow Account** - Are you holding refundable deposits or non-refundable deposits from your benefit clients to secure an auction date? If it is a refundable deposit, this money belongs to the non-profit and must be held in a separate account from your operating account. If non-refundable, is the deposit considered "earned" money for the services you are performing at that time, or auction night? If it is earned upon receipt, your operating account should be sufficient. However, always keep money belonging to others in a separate account. I suggest you consult your legal counsel for guidance.

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## **Auction Company License**

*(continued from page 1)*

ALA. CODE § 34-4-28 states that an auctioneer's license may be issued to an individual or to a corporation, association or copartnership. The statute limits the authority to transact business under a corporate license to one officer of the corporation or association or one member of a copartnership, to be designated in the application and named in the license. Other corporate officers or copartnership members desiring to act as auctioneers in connection with the company's business are required to have individual licenses in their own names. The Board has interpreted the requirement for an auction company license under ALA. CODE § 34-4-28 as applicable to any legal entity which engages in the business of auctioneering, including, but not limited to, a limited liability company or sole proprietorship.

An auctioneer license is not required under ALA. CODE §§ 34-4-3 and -27 for auctions for which all of the proceeds are donated to charitable organizations or for "any person acting as a receiver, trustee in bankruptcy, guardian, administrator or executor or any such person acting under order of any court, ... a trustee acting under a trust agreement, deed of trust or will, ... [or] sales at auction conducted by or under the direction of any public authority or pursuant to any judicial order or decree." Other exemptions include auction sales by storage warehouses enforcing a lien on goods that have been abandoned by their owners, pursuant to ALA. CODE § 7-7-210, and persons licensed as a motor vehicle reconitioner, rebuilder or wholesaler by the Alabama Department of Revenue, so long as they do not engage in auction sales to the general public, under ALA. CODE § 40-12-392(d).

**The individual designated as the principal auctioneer in the auction company application and named in the license must be a licensed auctioneer in good standing with the Board and must be an officer or member of said auction company. Apprentice auctioneers are ineligible to satisfy these requirements.**

An auction company exclusively owned and operated by one auctioneer who is licensed by and in good standing with the Board is exempt from the requirement for an auction company license; auctioneers fitting within this exemption must still complete and file an auction company application with the Board, but are not required to remit the application or licensure fee. The Board is in the process of adopting a further change to Rule 150-X-1-.02(d), which would enable it to take disciplinary action against an auctioneer and/or auction company for failure to file a completed auction company application, regardless of whether the exemption applies. It is also in the process of adopting a rule allowing it to take action against auctioneers who cry bids for auction houses that have not obtained a license from this Board and are otherwise ineligible for an exemption.

All auctioneer and auction company license renewals must be submitted to the Board office, together with the renewal fee of \$150.00, on or before September 30, 2013, or you may renew your license online through the Board's website at [www.auctioneer.alabama.gov](http://www.auctioneer.alabama.gov). The apprentice license renewal fee is \$100.00. Late charges of \$50.00 will apply for annual renewals submitted after the September 30<sup>th</sup> deadline and between October 1<sup>st</sup> and November 30<sup>th</sup>. Licenses will be considered expired if not renewed by November 30<sup>th</sup> of each year. For further information, please call the Board office at (334) 420-7235. \*\*\*

## **The Administrative Hearing Process**

*(continued from page 2)*

When the hearing has concluded, the ALJ takes the matter under advisement and issues a written recommendation of any disciplinary action to be taken against the respondent in the form of a proposed order for the Board's consideration at its next meeting. The Board must adopt or reject the ALJ's recommendation in its entirety or revise the order as it sees fit within 30 days of receipt of the proposed order. ALA. CODE § 41-22-16. An affirmative vote of a majority of the Board is necessary to revoke or suspend a license. ALA. CODE § 34-4-30(c). Four members constitute a quorum under ALA. CODE § 34-4-52, and four members can conduct official Board business, but five members are required to revoke or suspend a license on an eight-member board. The Board then issues a final order and serves a copy of the order on the respondent by personal service or certified mail.

Respondents are entitled to appeal from an adverse order of the Board within 30 days from the date of the order to the Montgomery County Circuit Court and from there to the Alabama Court of Civil Appeals. ALA. CODE § 34-4-33. The respondent is required to file a \$200 appeal bond with the clerk of the circuit court upon appeal. The circuit court hears the case as a review of the record before the Board and only accepts new evidence or witness testimony under very limited circumstances. No trial by jury may be had. ALA. CODE § 41-22-20. The filing of the notice of appeal or the petition for judicial review does not itself stay enforcement of the Board's decision. ALA. CODE § 41-22-20(c). In the absence of an appeal, the order becomes the non-appealable, final order of the Board at the end of the 30-day period.

In the event a respondent fails to abide by the Board's order, including failure to pay any administrative fine imposed by the Board, the Board may seek enforcement of its order before any court of competent jurisdiction, including an injunction and/or a certificate of judgment, which may be recorded in the probate office of the respondent's county of residence as a lien against the respondent's personal property. ALA. CODE § 34-4-51.

The Board's final order is also a public document, and the Board may publish the findings contained in its final and consent orders in a legal notice in a newspaper of general circulation, in its newsletter, and/or on the Board's website. Disciplinary actions are also reported to licensing boards in other states and to national, accrediting agencies and may result in disciplinary action in other states if the respondent fails to report that any disciplinary action has been taken against him/her in any state. \*\*\*

## NEW BOARD MEMBERS

Governor Bentley has made several new appointments to the Board during this last year. The appointments are as follows: Mr. Valrie, Mr. Baldwin, Ms. Ray and Mr. Horton. The Board is comprised of seven licensed auctioneers (one from each congressional district) and one consumer member (from the State-at-large).

Christie King Ray, CAI, AARE, BAS started her full time career in the auction industry in 1987 when she joined her fourth generation family auction business, J. P. King Auction Company. Christie has worked in all aspects of her family business including Project Management, Executive Management, Human Resource, Licensing Manager of 250 licenses and the Finance committee. In the late 90's she discovered the world of benefit auctions, helping non profits raise money throughout Alabama. In 2006, she started focusing on benefit auctions and in 2007, opened her own company, C King Benefit Auctions. Today, Christie is President of C King Benefits and focuses on consulting with women, children, medical and animal organizations throughout Alabama and Georgia. Christie serves on the Board of Directors of J. P. King Auction Company where she is one of three principals. She holds real estate licenses in 13 states where she serves as J. P. King's broker and Auction Day Manager. During her career, she served on the Alabama State Board of Auctioneers, past President of the Alabama Auctioneer's Association and Alabama Champion Auctioneer. She was inducted into the Alabama Auctioneer's Hall of Fame in 2007 and was awarded the "Woman of Distinction Award" by the Girl Scouts of America in 2010. In 2012, she also was recognized by the City of Gadsden and was presented with "The Key to the City" for her service in the auction industry. She presently serves on the Board of Directors of the Humane Society Pet Rescue and Adoption Center, the National Auctioneers Foundation (NAF), the National Auctioneer Association's (NAA) Board of Directors and Executive committee as Immediate Past President. Christie was the first female and Alabamian to serve as President of the NAA in the association's 62 year history. Christie represents the 4th congressional district on this Board.

Pete Horton is originally from Huntsville, Alabama and grew up in the Auction Business following in the footsteps of his dad, John Horton. Pete attended Nashville Auction School in 1974 and became a licensed auctioneer and real estate sales person in Alabama at the age of 19. Pete has been married for 28 years to Myra (Meeks) Horton, CES, GRI, whom he met at an auction. They have two daughters, Sara and Melissa. Sara graduated from Alabama in 2010 with a degree in Finance. Melissa will graduate from Alabama in December 2013 with a degree in Nursing. Myra is the Auburn graduate in the family. Pete has been active in The Alabama Auctioneers Association serving as President, Secretary – Treasurer, and as a Board Member and was the Alabama State Champion Auctioneer in 1985. The Horton's reside in Gulf Shores, Alabama and are the owners of Gulf

Bay Auctions. Their hobbies include boating and fishing, walking on the beach and Alabama football. Pete is a licensed Real Estate Broker and Auctioneer in Alabama and Florida. He represents the 1st congressional district on this Board.

Erskine Valrie was appointed by Governor Bentley to serve as consumer member of this Board. Erskine is retired from Redstone Federal Credit Union, where he held the position as Loan Administration Manager in the Business Lending Department. He was previously employed with the U.S. Small Business Administration for 28 years. Erskine has more than 35 years experience with the auction industry, in liquidation and disposal of federal and other properties. He holds a Bachelor's degree in Business Administration and a Master's Degree in Urban Studies and Planning from Alabama A & M University. Erskine is married to Georgia Sharpe Valrie and they have one child. The Valrie's currently reside in Huntsville, Alabama.

Keith Baldwin is the president, owner and principal auctioneer and broker of American Auctioneers, LLC in Centre, Alabama. He represents the 3rd congressional district on this Board. Keith is a 1990 Graduate of Darlington School in Rome, Georgia, a 1994 Graduate of Kansas City Missouri Auction School, a 1995 Graduate of Tennessee Technological University and a 2009 Graduate of Certified Auctioneers Institute at Indiana University. He is a licensed Auctioneer and Real Estate Broker in Alabama, Georgia, and Tennessee. His expertise is in selling real estate and equipment at auction. He has been involved in conducting multi-million dollar auctions across the United States. Keith has also been instrumental in conducting the annual American Red Cross Super Super Benefit Auction, the National Wild Turkey Federation Benefit Auctions, the Ducks Unlimited Benefit Auctions as well as auctions for a number of other charitable organizations. He is the 1999 Alabama bid calling Grand Champion Auctioneer and is a past President and member of the Alabama Auctioneers Association, member of the National Auctioneers Association and is a past President of the Centre Lions Club. Keith is a devoted Christian and family man. Keith, his wife, Holly and their daughter, Hayden, live in Centre, Alabama and are members of the Centre First Baptist Church. He is an avid sportsman and enjoys the outdoors. Keith is honored to serve Alabama on the Board of Auctioneers. \*\*\*

### ALABAMA STATE BOARD OF AUCTIONEERS

#### 2014 Board Meeting Schedule

Board meets at 9:00 a.m.

January 21	July 15
April 15	October 14

**Check the Board's web site calendar for any changes in meeting schedule.**

## **NEW RULES AND REGULATIONS**

The Board recently approved final changes to the following Rules and Regulations: Admin Code §§ 150-X-1-.01 Definitions; 150-X-1-.02 Application For Auctioneer's License; 150-X-1-.03 Advertisements and 150-X-1-.11(e) Violations. The underlined text represents an addition to the Rule and a ~~strikethrough~~ represents deleted text.

### **150-X-1-.01. Definitions.**

(2) Auction Business or Business of Auctioneering: The sale, either directly or through agents, of real or personal property at auction or the arranging, sponsoring, managing, promoting, conducting or advertising of auctions.

(3) Auction Company: Any legal business entity, including a sole proprietorship, that engages in the business of auctioneering.

(6) Auction Without Reserve: An auction in which property put up for sale is sold to the highest bidder; where no minimum price will limit the bid; where the seller may not withdraw the property from the auction after the auctioneer calls for bids thereon, unless no bid is made within a reasonable time; and where the seller may not nullify the sale by bidding himself or through an agent. "Auction Without Reserve" is equivalent to the term "Absolute Auction." The Practice of deliberately misleading customers/buyers by marketing a property as "absolute" for the sole purpose of obtaining a pre-auction bid which is sufficient to meet or exceed the actual reserve of the seller, with the intention of either converting to a reserve auction or canceling the sale if the strategy is unsuccessful, is strictly prohibited and may be grounds for disciplinary action against the licensee.

### **150-X-1-.02 Application For Auctioneer's License.**

(d) Any auction company applying for an auctioneer license shall furnish the following information to the Board; for purposes of this rule, an auction company includes any legal entity which engages in the business of auctioneering, as defined by the Auctioneers License Act and the rules and regulations of the Board. An auction company exclusively owned and operated by an auctioneer licensed by this Board and in good standing therewith will be exempt from the requirement for a separate auctioneer license under this chapter. Licensed auctioneers fitting within this exemption must still complete and file an auction company application with the Board, but shall not be required to remit the application or licensing fee. Failure to file a completed auction company application may subject an auctioneer and/or auction company to disciplinary action by the Board, regardless of whether the exemption from a separate auctioneer license applies.

### **150-X-1-.03 Advertisements.**

(c) This rule pertains to any and all advertisements and includes billboards, Internet, television and radio advertisements, etc. Auction companies must include the name and state license number of the principal auctioneer in any and all advertisements. All auction advertisements posted on the Internet must list the name and state license number of the principal auctioneer and any other auctioneer responsible for the auction; Internet advertisements for specific auctions with online-bidding must list the name and state license number of the auction company's principal auctioneer.

~~(g) Auction houses must include the name and license number of the principal auctioneer in any and all advertisements.~~

### **150-X-1-.11 Violations.**

(e) Conducting Auction Business for Unlicensed Companies. Any individual or auction house who conducts auction business, as defined in this chapter and the Auctioneers License Act, must be properly licensed. Auction houses must name a licensed auctioneer to whom authority to transact business in the company's name is limited, as required under Section 34-4-28, Code of Ala. 1975, or require their owners or employees to become licensed auctioneers. Auctioneers who cry bids for auction houses that have not obtained a license from this Board and are otherwise ineligible for an exemption under Rule 150-X-1-.02 shall be subject to disciplinary action by this Board, as provided under its law, rules and regulations. (34-4-20, 34-4-28).

Please see the Board's website regarding other proposed changes to the Rules, e.g., Chapter 150-X-1-.10. Duties of Sponsors and Apprentices. \*\*\*

## **Benefit Auctions**

(continued from page 4)

- **Contract** - According to Alabama law, auctioneers are required to have a contract for ALL sellers. This is again no different for benefit auction sellers. These contracts must be dated, disclose the fee for services, the services you provide and the responsibilities of all parties, the names of the parties in the agreement, and an expiration date. If you are not using a contract for your benefit auctions, a good intention can become a major problem due to non-compliance with the State Licensing Board.

One thing I should point out - An auctioneer who is licensed by the State of Alabama who does not charge a fee is not subject to these requirements. But why would you not charge?

In closing, benefit auctions are a growing branch within the auction industry. We should all give back by helping others but it is acceptable to charge for your services. However, we are still responsible as licensees to adhere to the auctioneer's laws.

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**WEBSITE—NEW DESIGN! Services and forms you may obtain on the Board's website:**

***www.auctioneer.alabama.gov***

- **On-line:** Renew your license and process licensing fee
- **Print:** Change of Address form
- **View:** Current and proposed Rules and Regulations
- **Print:** Auction Company License Application
- **View:** Continuing Education opportunities and approved Providers
- **Search:** Contact information on licensed auctioneers
- **Print:** Consumer Complaint form
- **View:** Review the Rule about Advertising and listing your auctioneer license number on the ads
- **Print:** Continuing Education Verification form— your responsibility to submit.

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**BOARD NEWSLETTER**

This will be the LAST newsletter printed and mailed to licensees.

Future newsletters will be sent electronically.

Please provide your email address  
so that you can continue to receive the Board's newsletter.

Don't miss future updates and news about changes in Board Rules and Regulations,  
articles about the auction profession, educational opportunities, and much more in future issues.

Send us an email at  
auctioneers@warrenandco.com

AND

be sure to include your name and license number.

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