

STATE BOARD OF
Auctioneer Examiners
NEWSLETTER

FALL 2006



COMMONWEALTH
OF PENNSYLVANIA

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Secretary of the Commonwealth

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*Commissioner,
Bureau of Professional and
Occupational Affairs*

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Bureau of Professional and
Occupational Affairs*

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Role of the Commissioner on the Board

by **Basil Merenda, BPOA Commissioner**

The Bureau of Professional and Occupational Affairs (BPOA) touches the lives of millions of Pennsylvanians each day. We protect the health, safety and welfare of the public from fraudulent and unethical practitioners by administering professional licensing to physicians and cosmetologists to accountants and funeral directors. In addition, the bureau provides administrative and legal support to 27 professional and occupational licensing boards and commissions.

As a commissioner of the BPOA, I am responsible for administering the commonwealth's licensing boards, sitting as a voting member on disciplinary cases and policy matters for 25 of the 27 boards and signing all licenses issued by the BPOA.

My administrative duties include working with the deputy commissioner to make "the trains run on time." In BPOA's case, it means making sure license renewals, applications and inquiries are properly handled by our staff. It also involves making sure that where appropriate, reciprocal licenses requested from out-of-state individuals are properly reviewed. BPOA is also required to conduct reviews of education programs for some boards.

My duties as a voting member on 25 of the 27 licensing boards are the same duties and obligations that the professional and public members have as part of their service on our licensure boards. I act as a judge, along with the other board members, on disciplinary hearings. I participate with the other board members in the drafting and enactment of regulations, rules and other policy initiatives. In addition, I have the responsibility of coordinating policy matters of all 27 boards for Governor Edward G. Rendell.

I truly believe the most important thing I can do for you is to provide you with professional service – and that is my goal.

When Governor Rendell appointed and nominated me BPOA commissioner, he told me to make BPOA and the commonwealth's 27 licensing boards more accessible, responsive and accountable to the legislature, the licensees and the public we are sworn to protect. My pledge to you is that I, as commissioner, am working to carry out Governor Rendell's charge with intelligence, vigor and effectiveness. If I can be of any assistance, please do not hesitate to reach out and contact my office at any time.

Personal Property Appraisals

by **R.J. Reimold, Professional Member**

Personal property appraisals have always been a source of extra income for auctioneers. If you are providing personal property appraisals, and you have never heard of USPAP, "BEWARE." USPAP stands for Uniform Standards of Professional Appraisal Practice.

Although an auctioneer performing personal property appraisal services is not obligated to comply with USPAP under the Auctioneer and Auction Licensing Act, 63 P.S. §734, *et seq.*, or the board's regulations, 49 Pa. Code § 1.1, *et seq.*, the auctioneer may choose to comply with USPAP by agreement with a consignor. An auctioneer performing services as a personal property appraiser must clearly explain his/her role in performing this service. If you represent yourself as an "appraiser," you should probably comply with USPAP.

If you have never heard of USPAP, "BEWARE"

The USPAP ethics rule places an obligation on auctioneers providing valuation services not to mislead the intended users of the valuation service about the capacity in which the auctioneer is acting. This could be accomplished by clear communication as to the scope of valuation services that will be provided or by entering into a written contract. Auctioneers should also perform these services in an independent, impartial, objective and ethical manner.

An auctioneer engaging in real estate appraisal activities must be certified by the State Board of Certified Real Estate Appraisers. Certified real estate appraisers must perform real estate appraisals in accordance with the USPAP as promulgated and adopted by the Appraisal Standards Board (ASB) of the Appraisal Foundation, 49 Pa. Code § 36.51.

The public values an auctioneer's expertise and personal property appraisal services. Auctioneers are expected to perform these services in an ethical and competent manner.

Auction Contracts

by *Kenyon B. Brown, Professional Member*

Auctioneer disciplinary action by the board often involves auctioneers selling without a written contract. The Auctioneer and Auction Licensing Act states in Section 734.17(a), “Prior to conducting an auction sale, an auctioneer shall enter into a written contract, in duplicate, with the owner or consignor of the property to be sold, containing the terms and conditions upon which the licensee agrees to conduct the auction sale.” The dictionary defines a contract as an agreement between two or more persons or parties to do or not to do something, especially an agreement **that is legally enforceable**.

The law provides no guidance on the wording of an auction contract. We must apply suitable business and ethical clauses. Because auctioneers cover a wide sales spectrum, no universal contract can suffice. Preprinted contracts are available from various suppliers. However, these may contain clauses not applicable to your auctions. Well written contracts clarify the seller’s and auctioneer’s expectations, which in turn translates into fair business methods and mutual understanding. A clear contract is advantageous to seller and auctioneer alike.

Premise auctions, auction houses, markets, autos, industrial, business, real estate, and other categories require varied treatments. Each auctioneer or firm should tailor contracts accordingly. Keep in mind that at all times **you have an obligation to the public**. Our auction profession requires fair and equitable business principles. Contracts should address any areas where a seller and auctioneer can avoid misunderstanding.

All of this is indeed a challenge as you attempt to provide a brief and simply-worded contract to the seller. Sellers are intimidated by lengthy legalese. Part of the success of your contract is your presentation of the terms and conditions of the contract to the seller.

As auctioneers, we have varied problems. Analyze your past problems and observations or those of your competitors as a method to accomplish a better contract. Real estate sales contracts are not covered in this article.

Contract clauses may include:

1. Name(s), addresses and phone numbers of seller(s); auctioneer address and auctioneer license number.
2. Auction location and date or alternate date of auction.
3. General terminology of items selling.
4. Seller’s expenses, i.e., commission, advertising, labor, hauling, clerical and any special charges.
5. Absolute or reserves.
6. Clarify any buyer’s premium if used.
7. Good title and/or liens and encumbrances.
8. All legal ownership signatures.
9. Possible retention of funds for unresolved or unknown legal problems that may arise.
10. Insurance questions on possible hazards.
11. Handling damage, public damage or theft.
12. Time and method of payment. Handling of records and receipts. Escrow of funds.
13. Any items withdrawn or sold after contracting the auction.
14. No bidding by owner or designee to inflate prices.
15. Clarify buyer’s terms and conditions if they affect the seller.
16. Lotting or individual sale of multiple items.
17. Limited clerical descriptions on a small ticket.
18. You are an agent to sell not a principal.
19. Recent considerations...selected Internet offerings.
20. Address any post auction problems.
21. Auctioneer’s area of responsibility and services.
22. Blank lines for additional conditions.

When is an Auction an Auction?

An auction or sale at auction is defined in section 2 of the Auctioneer and Auction Licensing Act, Act of December 22, 1983 (P.L. 327, No. 85) *as amended*, 63 P.S. § 734 *et seq.*, as an offer to sell property by an auctioneer or apprentice auctioneer to the members of an audience congregated for the purpose of making bids for the purchase of the property in an effort by the auctioneer or apprentice auctioneer to advance the amount of the bids to obtain the highest or most favorable offer. 63 P.S. § 734.2.

The Auctioneer Act also defines an “auction company” as a company which, as part of its business, arranges, manages, sponsors, advertises or carries out auctions. 63 P.S. § 734.2. There are various types of auctions currently being conducted within the State of Pennsylvania – such as live auctions, silent auctions, sealed bid auctions, Internet (online) auctions, telephone auctions, drop-off style auctions, on-site auctions, auction house auctions, rented facility auctions, and auctions in some combination of the above-mentioned types. One of the fastest-growing types of auctions is online auctions.

Today, many people congregate on Web sites through their computers to buy and sell property. But when is an online auction an auction as defined in the Auctioneer Act? Here are some factors to consider: location (storefront or place to drop off items within the Commonwealth of Pennsylvania); handling items belonging to others (manage, advertise, photograph, store, display, etc.); offer to sell items to the public; and method of sale (competitive bid process). When an individual offers items of others for sale through an auction (a competitive bid process), he or she is holding herself out to the public as engaged in the business of auctioneering as defined in the Auctioneer Act, and should be

licensed.

Any online business with a physical presence in Pennsylvania that takes in consignments from third parties and places them online with the intent that they be auctioned, must be licensed as an auction company. These businesses are holding themselves out as being engaged in the business of selling property at auction – they “arrange” and “manage,” as well as “advertise,” auctions of property belonging to others, and they also represent that goods they take in are put up for competitive bid online. Any person or entity in the business of auctioneering in Pennsylvania must be licensed accordingly, unless specifically excluded by the act.

Why is this so important to Pennsylvania? The Federal Bureau of Investigation (FBI) reported that in 2005, the FBI Internet Crime Complaint Center processed 6,603 Internet-related complaints from Pennsylvania. Of the 6,603 complaints, auction fraud was the most reported offense, comprising 63.5% of the total complaints.¹ The board has a duty to take action against licensed auctioneers who knowingly make substantial misrepresentations, false promises of a character likely to influence, persuade or induce, and licensees that engage in misleading or untruthful advertising, or commit any act or conduct in connection with a sales transaction, which demonstrates incompetency, bad faith or dishonesty. 63 P.S. § 734.20. The unlicensed practice of auctioneering also carries both criminal and civil penalties. 63 P.S. § 734.29.

Persons engaged in the business of auctioneering should inquire about obtaining an appropriate auction license. Reports of unlicensed activity should be forwarded to the Professional Compliance Office of the Bureau of Professional and Occupational Affairs.

¹ www.ic3.gov/media/annualreports.aspx

How a Regulation is Adopted

by Joyce McKeever, Deputy Chief Counsel,
Department of State

Each year, licensing boards and commissions in the bureau propose and adopt numerous regulations and amendments to current regulations. Some regulations, such as fees for examinations and renewals, are required by statute. In other instances, boards make changes to long-standing policy or wish to enact new standards of professional conduct for licensees.

Whether a new regulation is necessary, or changes to old regulations are made, all proposed rulemaking of the boards must be adopted under the law procedures spelled out in the Commonwealth Documents Law, the Commonwealth Attorneys Act and the Regulatory Review Act.

The Commonwealth Documents Law requires the board or commission that wishes to enact a new rule to publish a proposal in the *Pennsylvania Bulletin*, the official publication of important documents for all Commonwealth agencies. The proposal announces the intention of the agency and explains to the public why the regulation is necessary or benefits the public. The public can comment or object to the board's proposal for a period of 30 days after publication. Thereafter, the board can propose a final rulemaking, which is also published in the *Pennsylvania Bulletin*.

The Regulatory Review Act requires the board or commission to submit the proposal to the state House and Senate standing committees which have oversight over all licensing boards in the bureau and the Independent Regulatory Review Commission (IRRC). The board proposal is submitted to the regulatory reviewers at the time it is published in the *Pennsylvania Bulletin*. The public comments which the board or commission receives are also sent to the committees and the IRRC. In turn, the committees or IRRC submit comments to the board and/or the commission.

Licensing boards and commissions must consider public, legislative and IRRC comments when a final regulation is proposed. An agency has two years from the close of the public comment period to submit a final-form regulation. The final-form regulation is again submitted to the House and Senate standing committees and to IRRC. The committees and IRRC review the board's final rulemaking. That

review results in an action to either approve or disapprove the regulation. The committees have 20 days within which to act to disapprove a regulation. When they do so, IRRC is notified. Thereafter, IRRC meets to consider the final rulemaking. IRRC may disapprove or approve the regulation, irrespective of the action taken by the legislative committees. If IRRC approves the regulation, publication of the final regulation is authorized.

If IRRC disapproves a proposed final regulation, disapproval bars publication in the *Pennsylvania Bulletin*. The board or commission then has a seven-day period in which it may notify the state House and Senate committees and IRRC that it intends to proceed with final rulemaking, notwithstanding the disapproval. If a board or commission decides to resubmit final rulemaking, it may do so within 40 days of IRRC's original disapproval.

The licensing board or commission, as with any state agency, can submit the regulation without any changes or it can make revisions to its proposal and submit a revised regulation which is intended to address the concerns raised in the disapproval. When no changes are made to final form regulation, the committees have 14 days to report a concurrent resolution. A resolution would bar publication unless the governor successfully (without override) vetoes the resolution.

If a board or commission decides to review the final rulemaking, the revisions are considered again by the House and Senate committees and IRRC. If both approve the changes, publication of the final regulation is then authorized. If either of the committees or IRRC disapprove the revised regulation, either of the legislative committees may within 14 days report a concurrent resolution barring publication. If the resolution is not reported, the House or Senate fails to adopt, or the governor successfully vetoes the resolution, the regulation may be published in the *Pennsylvania Bulletin* as final.

Under the Commonwealth Attorneys Act, the attorney general must approve all regulations before they are final. Once a regulation is published, it becomes law.

Special License Required for Out of State Auctioneers

Needed if Conducting Auctions in Pennsylvania

An individual authorized to engage in auctioneering in another state must apply for a special license for each auction conducted in Pennsylvania, if that individual does not possess a current Pennsylvania auctioneer's license.

Application for the special license must be made 20 days in advance of the sale and must include the name and address of the cosigner or owner of all the items to be sold. Applications are subject to approval by the board and shall include proof of authority to engage in auctioneering in the other state. A separate application, separate bond and fee must be submitted for each auction and for each auctioneer conducting the auction.

In addition, all out of state auction companies and auction houses employing Pennsylvania auctioneers to conduct auctions in Pennsylvania need to be sure the auctioneers are properly licensed by the board.

States That Have Reciprocal Agreements with PA

The board has entered into reciprocal agreements with:

Alabama, Florida, Georgia, Indiana, Kentucky, Louisiana, North Carolina, Ohio, Rhode Island, South Carolina, Tennessee, Virginia and West Virginia

The Right-to-Know Act and Home Addresses

The Bureau of Professional and Occupational Affairs is sensitive to its licensees' concerns about personal privacy. However, the Pennsylvania Right-to-Know Act, 65 P.S. § 66.1, mandates release of information contained in a "public record" stored by that agency if a member of the public requests it.

The bureau wants you to know that it will take all reasonable steps to safeguard personal information contained in your licensure records. We realize that many of you use your home address on the licensure records maintained by the bureau. However, given the uncertainty over what the Right-to-Know Act requires, neither the bureau nor the board that issues your license can guarantee the confidentiality of the address shown on your licensing record. Therefore, we recommend that, if you have a personal security concern, you might want to consider what many of our licensees have already done: use a business address or box number as the official address on licensure records.

Also, with the arrival of the License 2000 computer system, you may indicate to the board an address for release to the public that may be different from your home address.

To further protect your privacy and identity, the bureau will only accept a request to change a licensee's address if it is submitted in writing and includes the licensee's social security number, license number and the old and new addresses.

Reactivation Procedure

ATTENTION AUCTIONEER LICENSEES ON INACTIVE STATUS

Under Section 3 of the Auctioneer and Auction Licensing Act, an auctioneer licensee may only remain inactive for a seven-year period from the date that the license was placed in escrow, expired or inactive status. After that date, a license may only be reactivated once the licensee passes the Pennsylvania Auctioneer Examination. Please note the following:

- Ø The board is unable to notify licensees that the seven year period is about to expire. Therefore, the board encourages you to monitor this period. You may check the status of your license online at www.mylicense.state.pa.us.
- Ø Because this seven-year reactivation period is a

statutory requirement, the board does not have the authority to extend the seven year period.

- Ø Application to take the examination must be received by the examination service contracted by the board to conduct the examination.
- Ø Currently the board maintains a contract with Professional Credential Services, Inc. to administer this examination. Applicants may contact them at:

Professional Credential Services, Inc.
Suite 700
Nashville, TN 37219-8699
1-877-887-9727

2006 Auctioneer Board Licensees

Apprentice Auctioneer	259
Auctioneer	2,085
Licensed Auction Company	124
Licensed Auction House	116
Registered Auction Company	95
Registered Auction House	118

REMINDER TO ALL LICENSEES

The Auctioneer and Auction Licensing Act requires that a licensee file with the State Board of Auctioneer Examiners a bond in the amount of \$5,000.

The bond must be provided by a bonding company authorized to transact business in Pennsylvania.

It is the responsibility of the licensee to maintain a current bond at all times that the licensee is engaged in the practice of auctioneering.

Frequently Asked Questions

1. How do I become licensed as an auctioneer in the Commonwealth of PA?

In order to qualify for an auctioneer license, you must first complete one of the following:

- Ø Serve an apprenticeship as a licensed apprentice auctioneer for a period of not less than two years in the employ of a qualified auctioneer and participate for compensation in no less than 30 auctions; OR
- Ø Successfully complete a prescribed course of study in auctioneering of at least 20 credit hours at a school approved by the board. A credit hour of instruction is defined as 15 standard hours of instruction, each of which is composed of 50 minutes. (Note: Harrisburg Area Community College and Reading Area Community College are the only two schools approved by the board at this time); OR
- Ø Apply through reciprocity from a state in which we have a reciprocal agreement (See question 6). To apply through reciprocity, you must reside in one the reciprocity states. If you do not reside in a reciprocity state, you can apply through the Non-Resident Exam. **Reciprocity applicants, providing they meet all board licensing requirements, are not required to take the Pennsylvania Auctioneer Exam;** OR
- Ø Apply through a Non-Resident Exam Application. Apply to sit for the Pennsylvania Auctioneer Exam by providing certification of your current auctioneer license in another state. If your state of residence does not issue licenses, provide a detailed resume showing that you have been established in the business of auctioneering for at least two years.

After successful completion of one of the above (except reciprocity), you will be eligible to be scheduled for the auctioneer examination. When you pass the examination, you are eligible for an auctioneer license.

2. How do I become licensed as an apprentice auctioneer?

To qualify for an apprentice auctioneer license, a person must be sponsored and employed for compensation by a qualified auctioneer who employs no more than one other apprentice auctioneer. The auctioneer who sponsors and employs an apprentice auctioneer shall directly supervise the apprentice while the apprentice is conducting an auction or a

sale at auction. The sponsoring auctioneer may provide for substitute supervision of the apprentice for a particular auction if the sponsoring auctioneer is unavailable, if the substitute supervisor is a qualified auctioneer who provides direct supervision.

If the apprentice auctioneer changes sponsors, an application to change sponsors shall be filed with the Board Office within 10 days after terminating the sponsorship. An apprentice auctioneer license is invalid when there is no sponsoring auctioneer and credit does not accrue during that time period.

PLEASE NOTE:

- Ø A non-resident auctioneer (auctioneer licensed obtained through reciprocity) is not a qualified auctioneer for the purposes of sponsoring or employing an apprentice auctioneer.
- Ø A non-resident auctioneer or apprentice auctioneer is only permitted to sell at auction in this commonwealth whatever property the laws of his state permit non-resident auctioneers and apprentice auctioneers to sell at auction.

3. What is a special license and under what circumstances can it be granted?

An auctioneer who is authorized to engage in auctioneering in another state shall be issued a special license for each auction conducted in Pennsylvania. An application for a special license must be made 20 days in advance of the sale and must include the name and address of the consignor or owner of all items to be sold.

A separate application, separate bond and fee must be submitted for each auction and for each auctioneer conducting the auction. A special license is for one auction only.

4. What is an auction company?

A company which, as part of its business, arranges, manages, sponsors, advertises or carries out auctions.

5. What is an auction house?

An established place of business, including but not limited to an auction barn, a sale barn and a sale pavilion, where two or more auctions are held within any 12-month period and where representations are regularly made that property is sold at

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Frequently Asked Questions

Continued from previous page

auction. The term does not include premises where isolated sales are conducted by an auctioneer or apprentice auctioneer and which are used primarily for purposes other than auctions or sales at auction.

6. What states does the Pennsylvania State Board of Auctioneer Examiners have reciprocity to obtain licensure?

Alabama	Louisiana	Tennessee
Florida	North Carolina	Virginia
Georgia	Ohio	West Virginia
Indiana	Rhode Island	
Kentucky	South Carolina	

7. Can I apply for a reciprocal license if I have moved to Pennsylvania?

No. The movement from another state or jurisdiction to domicile in this commonwealth eliminates the possibility of reciprocal licensing. If you now reside in Pennsylvania, you must qualify for a license under the same requirements that are applicable to residents of Pennsylvania (See question 1 above).

8. Am I required to secure a bond in order to become licensed?

Yes. An auctioneer, apprentice auctioneer, auction company or auction house license shall not be granted until the applicant has filed an approved bond payable to the commonwealth in the amount of \$5,000. The bond shall be executed by a surety company authorized by the laws of this commonwealth to transact business in Pennsylvania.

9. Can an auctioneer, apprentice auctioneer, runner or other employee bid and buy at auction?

The Auctioneer and Auction Licensing Act, at 63 P.S. § 734.20(a)(13), strictly prohibits any auctioneer or apprentice auctioneer from bidding and buying for himself at any auction he is conducting. The purpose of this provision is self-evident. It is a conflict of interest for an auctioneer, who is the seller's agent, to also be the buyer at the auction which he is conducting.

10. Are there any exemptions to the licensing requirement?

Yes - Section 3. (h) - Auctioneer and Auction Licensing Act states:

Sales exempt from license requirements. – The requirement to obtain a license under this Act does not apply to sales at auction in the following circumstances.

- Ø To a specified single sale per year conducted by the owner of property if the owner is not engaged in the business of selling the property and if the property is owned by the person in an individual capacity.
- Ø To a sale conducted by or on behalf of a charitable organization if the person conducting the sale receives no compensation therefore.
- Ø To a sale conducted by or on behalf of a person appointed by judicial order or decree.
- Ø To a sale conducted in the settlement of any decedent's estate.
- Ø To a sale conducted by or under the direction of any public authority.
- Ø To any sale required by law to be at auction.

11. Are there any other licenses required to perform auctions in Pennsylvania?

No. No political subdivision of this Commonwealth has the authority to levy or collect any license tax or fee upon or from an auctioneer or apprentice auctioneer licensed under the Auctioneer and Auction Licensing Act. Nor shall they be licensed by any political subdivision in order to carry on the business of auctioneer or to conduct a sale at auction.

12. When do the Pennsylvania auction profession licenses renew?

All auctioneer, apprentice auctioneer, licensed auction company, licensed auction house, registered auction company and registered auction house licenses renew on a biennial period. All licenses expire on February 28 of each odd-numbered year. Once renewed, the licenses are valid for two years.

Change of Name and Address Reminder

To ensure receipt of renewal notices or important information from the board, licensees must contact the board office with any changes in name or address. Name changes require a copy of a court order, marriage certificate, divorce decree or other official document.

Please send changes to:
 State Board of Auctioneer Examiners
 P.O. Box 2649
 Harrisburg, PA 17105-2649
 or email at:
ST-AUCTIONEER@state.pa.us

Professional Tips for Auctioneers

by *Carmen L. Rivera, Esquire*

Records of Sales

Section 16 of the Auctioneer Law requires that every auctioneer, after the receipt or acceptance by him or her of any property for sale at auction, maintain a written record, which shall contain the following information:

- (1) The name and address of the person who employed the auctioneer to conduct the sale at auction and of the owner, the owner's authorized agent or consignee of the property to be sold at auction.
- (2) A copy of the written contract authorizing the sale at auction containing the terms and conditions of the auctioneer's employment or a copy of the receiving invoice.
- (3) A written record of the sale at auction.

The written records shall be kept on file in the office of the auctioneer for a period of at least two years and, if the auctioneer is notified of a complaint against him, the records shall be maintained by the auctioneer until the complaint is finally resolved.

Contracts

Prior to conducting an auction sale, an auctioneer must enter into a written contract, in duplicate, with the owner of the property. The contract shall contain the terms and conditions upon which the licensee agrees to conduct the auction sale. 63 P.S. § 734.17.

Inspection of Records of Sales

The Auctioneer's records of sales shall be open at all reasonable times for inspection by the Board. 63 P.S. § 734.16.

Escrow Account

An auctioneer must establish and maintain an escrow account. 63 P.S. § 734.20. An auctioneer must immediately deposit monies, received from the sale of property belonging to others, in an escrow account, until the transaction involved is terminated, at which time the auctioneer shall account for the full amount received. 63 P.S. § 734.20.

Apprentice Auctioneers & Sponsors

An auctioneer may not employ more than two apprentice auctioneers. The auctioneer who sponsors and employs an apprentice auctioneer shall directly supervise the apprentice while the apprentice is conducting an auction or a sale at auction. 49 Pa. Code § 1.31.

The apprentice auctioneer must notify the board of a change in sponsor by letter within 10 days after terminating the sponsorship.

49 Pa. Code § 1.22.

This section also provides that the sponsoring auctioneer named in the license shall notify the board within 10 days of a change in status of the apprentice that would affect the ability of the apprentice to complete the apprenticeship. 49 Pa. Code § 1.22.

The change of sponsor or employment by any licensed apprentice auctioneer without notice to the board shall automatically cancel the license issued to the apprentice auctioneer. 63 P.S. § 734.18(b).

Advertisement

An advertisement or notice of sale must include the name and license number of the auctioneer, auction house or auction company conducting the sale. 63 P.S. § 734.17.

Display of Licenses

Auctioneers and apprentice auctioneers must prominently display their license certificate in their office and a copy of the current renewal card. The license and renewal card must be presented on demand to any person at all sales at action conducted by the licensee. 63 P.S. § 734.18.

Real Estate Auctions

Section 304 the Real Estate Licensing and Registration Act (RELRA), 63 P.S. § 455.304, specifically exempts auctioneers licensed under the Auctioneer and Auction Licensing Act from obtaining a real estate license in order to sell real estate ONLY while performing authorized duties at any bona fide auction. In 2000, the commission disciplined an auctioneer, in the matter of the *Bureau of Professional and Occupational Affairs v. Scott Younkin*, who sold property outside of the auction. The question in the case was "What is a bona fide auction of real estate property?" The answer, affirmed by Commonwealth Court,

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Disciplinary Actions

The following is a listing of formal disciplinary or corrective measures taken by the board from January 1, 2005 through December 31, 2005. Each entry includes the name of the respondent, the respondent's address with the board, as well as the licenses and registrations that were suspended or revoked; the sanction imposed; a brief description of the basis for the disciplinary or corrective measure; and, the effective date.

Every effort has been made to ensure that the following information is correct. However, these actions and their effective dates should not be relied upon without verification from the board office. Official confirmation of the current status of a license or registration can be obtained by writing to the State Board of Auctioneer Examiners, P.O. Box 2649, Harrisburg, PA 17105-2649.

It should be noted that the names of persons listed below may be similar to the names of persons who have not had disciplinary or corrective measures taken against them.

Marlin Art, Inc., license no. **AY-001969**, of Deer Park, NY, was ordered to pay a \$1,000 civil penalty. Marlin Art, Inc. conducted auctions in the Commonwealth of Pennsylvania without a valid auction company license. (03-7-05)

Richard P. Murry, license no. **AU-000649-L**, of Mechanicsburg, Cumberland County, was publicly reprimanded and ordered to pay a \$600 civil penalty. Murry engaged in conduct which demonstrated incompetency, bad faith or dishonesty in connection with a sales transaction. (05-09-05)

William R. Chenoweth, license no. **AU-002921-L**, of New Cumberland, Cumberland County, had his auctioneer license revoked, based upon his failure to maintain a written record of sales made at auction. (10-07-05)

Professional Tips

Continued from previous page

requires that: (1) The auctioneer must offer to sell a property and (2) members of an audience must be congregated for the specific purpose of making bids.

Real Estate & Reciprocity

A nonresident auctioneer or apprentice auctioneer licensed by reciprocity in Pennsylvania is only permitted to sell at auction in Pennsylvania whatever property the laws of his state permit Pennsylvania auctioneers and apprentice auctioneers to sell at auction in that state. 63 P.S. § 734.12(a)(2). **Thus, if a real estate license is required in your state to sell real estate, you are not permitted to sell real estate at auction in Pennsylvania under the authority granted by your reciprocal auctioneer license without a Pennsylvania real estate license.**

Unethical or Unlicensed Activity

If you believe the practice or service provided by a licensed professional to be unethical, below an acceptable standard or out of the scope of the profession; or if you are aware of unlicensed practice, please call the Bureau of Professional and Occupational Affairs complaints hotline:

In Pennsylvania: 1-800-822-2113
Out of State: 1-717-783-4854

A complaint form is available on the Department of State's Web site:

www.dos.state.pa.us

P E N N S Y L V A N I A

State Board of
AUCTIONEER EXAMINERS

P.O. Box 2649
Harrisburg, PA 17105-2649

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DOS - BPOA

Board Members

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Labaska, Bucks County

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Harrisburg, Dauphin County

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