

# Auctioneer Examiners

## NEWSLETTER

Spring 2005

*Inside:*



Commonwealth of Pennsylvania

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Auctioning of Firearms 2-3

License Renewal 05-07 3

NAA's International  
Conference and Show 4

Board Meeting Dates 5

Who Can Legally Bid  
and Buy at Auction  
in Pennsylvania? 6

Disciplinary Actions 7

Board telephone: (717) 783-3397

E-mail: [ST-AUCTIONEER@state.pa.us](mailto:ST-AUCTIONEER@state.pa.us)

## Auctioning of Firearms

Questions have been posed regarding the auctioning of firearms. Specifically, under what conditions an auctioneer would be required to have a Federal Firearms License (FFL) as a dealer in firearms and a state license to sell firearms. *Whether or not an auctioneer needs to have a license to sell firearms depends upon if the auctioneer has possession and control of the firearms.*

*In Estate Auctions* the firearms belong to and are possessed by the owner or the executor of the estate. The auctioneer is acting as an agent for the owner or executor by assisting in the finding of buyers for the firearms. The estate is considered the seller of the firearms. Possession and control of the firearms is maintained by the owner or executor of the estate at all times. Under these circumstances the auctioneer does not meet the definition of engaging in business as a dealer in firearms. They do not have possession and control of the firearms and, generally, would not need to have a license to sell firearms.

There are no requirements regarding the sale of antique firearms. Firearms that are classified as antiques do not have to be taken to a licensed dealer and may be handed over at the estate auction to the purchaser.

The same is true for long gun sales as long as 1) the owner/executor of the estate is available to turn over the firearm, 2) the auctioneer did not take possession of the weapon(s), and 3) the purchaser is a PA resident. Auctioneers are cautioned to advise the property owner that even though a background check is not required for transferring long guns in

this scenario, individuals may not transfer the long guns to a prohibited person.

***In Pennsylvania the private transfer of handguns between PA residents must take place at the premises of a licensed firearm dealer.*** The owner or executor of the estate and the purchaser must complete all necessary forms at the premises of a licensed firearm dealer. Also, a background check must be completed for each purchaser. If the potential purchaser is not a PA resident, the transfer must be coordinated through a Federal Firearms Licensee in the buyer's state of resident.

In a situation where an auctioneer that is NOT a licensed firearm dealer is assisting an estate to dispose of firearms and the estate maintains control and possession of the firearms, the firearms could be sold at a place other than the estate. However, the owner/executor of the estate must maintain control and possession of the firearms at all times. At any point in this process if the owner/executor of the estate is not present, it is understood that the auctioneer has taken possession of the firearms. If the auctioneer takes possession or control of the firearms at any time, the auctioneer would need to have both a federal and state license to sell firearms and the auction would have to be conducted at the auctioneer's place of business or at lawful gun show or meet.

*In Consignment Auctions* the auctioneer has possession and control of the firearms and, generally, is acting as a dealer in firearms and would need to have both a federal and state

### 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.

## Auctioning of Firearms...con't

license to sell firearms. These firearms are generally inventoried, evaluated and tagged for identification. The firearms belong to individuals who have entered into a consignment agreement with the auctioneer, giving the auctioneer the authority to sell the firearms. An auctioneer who buys firearms for purposes of resale is acting as a dealer of firearms. He has possession and control of these firearms and would need to have a license to sell firearms.

Questions have also been asked about where firearm auctions can be held by auctioneers who are licensed firearm dealers.

In consignment auctions where the auctioneer has possession and control of the firearms, the actual sale and delivery of the firearms may only take place at the address as listed on the dealer's FFL and state license, or at a lawful gun show or meet. *(The federal definition of a lawful gun show or meet is: an event sponsored by any national, state, or local organization devoted to the collection or sporting use of firearms or by an organization that sponsors functions devoted to the collection or sporting use of firearms in the community.)*

Under State law, licensed firearm dealers may not display firearms at an auction site away from the licensed premises. The display of firearms as well as the actual sale and delivery of the firearm can only take place at the dealer's licensed premises. The exception would be if an auctioneer who is licensed obtained a sponsor that would qualify the auction as a lawful gun show or meet as defined above.

Gun buyers who are not Pennsylvania residents must make arrangements to have any handguns purchased shipped to a licensed firearm dealer in their state of residence. Long guns (rifles or shotguns) purchased by out of state residents could be transferred through a Pennsylvania licensed dealer if the purchaser's home state allows their citizens to purchase long guns out of state. If the purchaser's home state doesn't allow their citizens to purchase long guns out of state, the long guns would have to be transferred to a dealer in the purchaser's home state.

*To apply for a Federal Firearm's License contact your local ATF office. To apply for a state license to sell firearms in Pennsylvania, application must be made in the county where your business is located at the County Sheriff's Office or the Chief of Police of a City of the first class (Philadelphia).*

Questions concerning the information contained in this article or regarding any other firearm any other firearm related issue, may be directed to the Firearms Division of the Pennsylvania State Police at 717-783-5598 or 717-783-5504.

## License Renewal 2005-2007

Auctioneer licenses recently renewed for the biennial period March 1, 2005 through February 28, 2007.

If you have an expired license and plan to continue practicing but did not renew your Auctioneer, Apprentice Auctioneer, Auction House, Auction Company, Registered Auction House or Registered Auction Company, please contact the Board at 717-783-3397 to obtain a reactivation application.

Please note: You will need to submit a current, \$5,000 Bond payable to the Commonwealth of Pennsylvania prior to the issuance of the license.

# NAA's International Conference and Show Pittsburgh July 18-23

by Sherman Hostetter, Jr., CAI, AARE, CES, GPPA

This is a unique educational opportunity for all Pennsylvania licensed Auctioneers. The National Auctioneers Association's conference and show is coming to the David L. Lawrence Convention Center in spectacular downtown Pittsburgh, PA from July 18 to July 23, 2005.

Expand your mind by attending educational seminars, build your biography by enrolling in a designation program, gain insight by networking with auctioneers from throughout the United States and Canada, display your talents by entering the International Auctioneer Championship and the NAA Marketing Competition, or compete in the golf outing or fishing contests. The whole family will enjoy the Opening Night Event on the Gateway Clipper fleet, and wandering through numerous vendor booths where you can experience the latest and greatest in technology. And, if you are so inclined, you can assist the Pennsylvania Auctioneers Association as a conference and show host. The list of possibilities goes on and on.

I have discovered that the best way for me to invest in my company and its future growth is to invest in my personal education. The more knowledge and experience I have, the better service I can provide to my clients and customers, and the more auctions I am able to successfully conduct. I apply the same principle to my auction staff and employees.

The new catchy slogan for the NAA is "Only at Auction," and this July we can say "Only in Pittsburgh." Don't miss out –

*Plan to attend the 56th International  
Auctioneers Conference and Show in  
Pittsburgh, Pennsylvania July 18-23, 2005*

**Thursday, July 14 - Sunday, July 17**  
Pre Conference Education, Designation Courses

**Monday, July 18**  
Fishing Tournament  
Golf Championship  
Shooting Academy  
Designation Courses  
Certificate Programs

**Tuesday, July 19**  
Registration and Information Booth  
Designation Courses  
Certificate Programs  
Technology Summit  
Train the Trainer – Special Seminar Event  
Opening Night Event

**Wednesday, July 20**  
Gavel Award and NAA Marketing  
Competition Recipient's Breakfast  
Roundtable Discussions  
Opening Session  
Auxiliary Luncheon and Fun Auction  
First-Timers Luncheon/Orientation  
Certificate Programs  
Education Seminars  
Kids Corner Program  
NAA Fun Auction and Buffet

**Thursday, July 21**  
CAI Celebration Breakfast  
Auction School Officials Breakfast  
NAA Annual Business Meeting  
and Election  
Awards Luncheon  
Certificate Programs  
Education Seminars  
Auxiliary Seminar and Annual Meeting  
NALLOA Education and Meeting  
Roundtable Discussions  
Women Auctioneers Fellowship  
and Dinner  
Teen Mixer

**Friday, July 22**  
International Auctioneer Championship  
Certificate Programs  
Education Seminars  
Kids Corner Program

**Saturday, July 23**  
State of the Industry Breakfast and Forum  
Certificate Programs  
Education Seminars  
Lunch of Champions (IAC Champions)  
NAF's Children's Auction  
Kids Corner Program  
President's Gala  
NAF Hall of Fame/Diamond  
Gavel Honoree Reception



National Auctioneers Association, 8880 Ballentine, Overland Park, Kansas 66214

## 2005 Board Meeting Dates

Scheduled Dates	Tentative Dates*
January 12	February 7
March 7	April 4
May 9	June 6
July 19	August 8
September 12	October 3
November 14	December 5
*Tentative Dates (Board Meeting Scheduled ONLY if Required)	

### Change of Name or 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**

## Who Can Legally Bid and Buy at Auction in Pennsylvania

by Sherman Hostetter, Board Member

Who can legally bid and buy at auction in Pennsylvania? Lately, there has been a lot of discussion surrounding this topic – including during the State Board of Auctioneer Examiners (Board) meetings. I believe there is a two-fold answer that specifically addresses the confusion. One is a legal answer and found in the auction license law (the little white booklet – titled Auctioneer and Auction Licensing Act (Act), 63 P.S. §734.1 *et seq*) and the related regulations, referenced in the green booklet titled Commonwealth of Pennsylvania, Pennsylvania Code, Title 49. Professional & Vocational Standards, 49 Pa. Code 1.1 - 1.41. The other is a “policy” answer and should be a matter of your company policy.

Section 20(a) of the Act sets forth the authority of the Board to investigate licensees and the ability of the Board to impose discipline up to and including fines and permanent revocation of a license if the licensee is found guilty of conduct which is violative of the Act. Section 20(a) further lists 14 acts prohibited under the Act. Number 13 on the list of prohibited conduct reads; “For any licensed auctioneer or apprentice auctioneer to bid and buy for himself at any auction he is conducting.” (I know it reads he, but means he and she - any licensed auctioneer.) Legally the only persons that cannot bid at the auction are the auctioneer/s and the apprentice auctioneer/s.

Moving on to company policy, it is definitely not cut and dried. As auctioneers, we deal with misperceptions and wrong assumptions everyday in the auction business. In general, sellers will want more than the item is worth and buyers, on the other hand, want to buy as cheaply as possible. There we are stuck in the middle (as an agent for the seller) trying to treat all parties to the transac-

tion in a fair and equitable manner. Even though it may be legal for your staff, employees and even family members to bid and buy at the auction, do you want to do so? Sometimes it may be to your own detriment.

We all deal with the part time help issue. The reason someone will often help out at the auction is for the “action” and a chance to buy an item while working. It may be misperceived by the audience that: the person in your organization who is bidding may have inside information on that item; that you are “protecting” the item for the seller; or, that you may be trying to “run up” the price on a buyer because you know how much they want that item. The list goes on and on. Ironically, although the auction process works on competition, most buyers do not want competition on the item they are interested in. Competition on someone else’s item is good, but not on their item. Competition is even less acceptable by the buyers when the competition is from one of the auctioneer’s employees.

My first suggestion is to not permit your staff, employees and family to bid at your auctions. The ethical considerations of auctioneers under the Act are a high priority. Further, we auctioneers are the first line of protection of the public against illegal conduct. Even an appearance of impropriety can reflect poorly on the entire profession. However, if you are going to permit bidding by your employees at your auctions, I suggest disclosing it in your auction terms and conditions, both oral and written, as well as instituting a company policy on how those bids will be handled. A little forethought and advance preparation may save a lot of time and headaches later.

## Disciplinary Actions

The following is a listing of formal disciplinary or corrective measures taken by the board from January 1, 2004 through December 31, 2004. 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.

**Paul W. Capra**, license number **AU-002944-L**, of Warminster, Bucks County was assessed a public reprimand and \$500.00 civil penalty because he had disciplinary action taken against him by the proper licensing authority of another state. (7-12-04).

**Azam Khan**, license number **AU-002842-R**, of Harrisburg, Dauphin County, was assessed a civil penalty of \$250 based upon disciplinary action taken against his license by the proper licensing authority of another state. (7-16-04)

### 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 at:

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

A complaint form is available on the Department of State's internet site:  
**[www.dos.state.pa.us](http://www.dos.state.pa.us)**

### 2005 Auctioneer Board Licensees

<b>Apprentice Auctioneer</b>	<b>282</b>
<b>Auctioneer</b>	<b>2159</b>
<b>Licensed Auction Company</b>	<b>131</b>
<b>Licensed Auction House</b>	<b>112</b>
<b>Registered Auction Company</b>	<b>126</b>
<b>Registered Auction House</b>	<b>145</b>
<b>TOTAL</b>	<b>2955</b>

State Board of  
**Auctioneer Examiners**

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

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*Board Administrator*

**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.