

TAA QUARTERLY

Volume II, Issue 2

April 2014

TENNESSEE AUCTIONEERS ASSOCIATION



Inside This Issue:

From the President	1
Upcoming Events	1
List of 2014 Board of Directors	2
About TAA Quarterly	2
By-Law Changes	3
Steve Proffitt	3-5
Mule Day Awards	6

Upcoming Events

Summer Convention

June 8-9, 2014

Chattanooga, TN

NAA Convention

July 8-12, 2014 in

Louisville, KY

Winter Convention

Nov. 30-Dec 1, 2014

Nashville, TN

This newsletter is published by the Tennessee Auctioneers Association as a service to its members and supporters in the auctioneering industry. Suggestions are welcome for articles in future editions.

Message From The President...

DEMOCRACY, ALIVE AND WELL

The Merriam-Webster Dictionary defines democracy as:

- A form of government in which people choose leaders by voting
- A country ruled by democracy
- An organization or situation in which everyone is treated equally and has equal rights

With regards to the current election cycle, the United States is in what is referred to as midterm elections, (i.e. near the midpoint of the four-year presidential term). Although midterms are not presidential elections, they are no less important to our form of government. Be it races for governor, senate, congress, state legislature, or local races such as mayor, judge, sheriff, city council or school board, voting gives every individual the opportunity to express their wishes for whom they feel will best represent them.

I bring this up because of the third part of the definition of democracy, “an organization or situation in which everyone is treated equally and has equal rights”. During this June’s meeting in Chattanooga, we, as individual members of the association will be voting to make significant changes to our bylaws. Whether you agree or not with the proposed changes, this is your opportunity voice your opinion. I would simply encourage each and every one of you to attend this summer’s meeting and cast your vote, because this is democracy.

Yours Truly,

Marcus D. Gravitt, CAI, AARE, GPPA

President

Summer Convention

June 8-9, 2014

Plan to join us June 8-9, 2014 in Chattanooga. This is one week later than we normally have our event, but it will be the week of Chattanooga’s Riverbend Festival. Come early and spend time at the festival, then join us for the convention. Please visit our website, www.tnauctioneers.com, for registration.

Located at DoubleTree Hotel

407 Chestnut St

Chattanooga, TN 37402

(423) 756-5150

\$99 Rate | Reserve by May 2, 2014

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PUBLICATION DATES

Articles and ad deadlines:

FEBRUARY 1 APRIL 1
AUGUST 1 NOV. 1

Any and all TAA members are encouraged to send information on past or coming events they have conducted or news articles that would be of interest to other members. Please send profiles of members that you feel deserve to be highlighted in our publication.

SAVE THE DATE

Summer Convention
June 8-9, 2014

Plan to join us June 8-9, 2014 in Chattanooga. This is one week later than we normally have our event, but it will be the week of Chattanooga's Riverbend Festival. Come early and spend time at the festival, then join us for the convention. There are lots of things that you and your family can enjoy and participate in at the TAA Summer Convention at the same time. For photos and information from 2013 events, go to <http://www.riverbendfestival.com/>.

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BY-LAW CHANGE RECOMMENDATION

Items with the line thru will be deleted and the underlined is language to be added or changed to be voted on during the membership meeting, June 8, 2014

ARTICLE III – BOARD OF DIRECTORS

Section 5. (a) The President of the Association shall automatically become Chairman of the Board of Directors.

Section 5. (b) The ~~President-elect~~ Vice President of the Association shall automatically become Vice-chairman of the board of Directors and preside in the absence of the Chairman.

ARTICLE IV – OFFICERS AND DUTIES

Section 1. The Officers of the Association shall be President, Vice President ~~President-Elect, Vice-President East, Vice President Middle, Vice President West,~~ and a Secretary/Treasurer. The Office of President, Vice President and Secretary Treasurer of the Association shall be at large. ~~rotate among the three grand division of Tennessee, East, Middle and West, with the Board of Directors determining the boundaries of the region.~~ The officers shall be elected by and from the membership for a term of one year beginning at the time they are duly sworn at the annual convention until their successor is duly sworn to take their place at the following annual convention.

STEVE PROFFITT

A SCARY THOUGHT

It has happened to you. Every auctioneer has been victimized. It is a scary thought that you might be hit again.

“I know the auction starts in 30 minutes, but my family wants me to remove the tall-case clock from the sale.”

“Remove” – one of the most fearful words an auctioneer can hear. The thought of an auction lot being withdrawn from an auction by a seller blazes fear into the hearts of auctioneers, and especially if it is an important one that has been advertised and is expected to attract keen interest from bidders.

Unhappy bidders

When a seller removes a significant piece from an auction, bidders are going to be unhappy. They want the chance to buy it. The more desirable the lot is the sharper the thorn of bidder displeasure will be. Some bidders travel long distances to bid for certain items they want. While they can accept being outbid

by a competitor, these bidders often react angrily when denied the opportunity to bid at all because the seller withdrew the piece from the auction.

When bidders get upset, auctioneers get upset. There are two reasons for this.

First, agitated bidders will direct their anger at “the face” of the auction – the auctioneer. The fact that it was the seller, and not the auctioneer, who removed the lot(s) will not immunize the auctioneer from being targeted.

Second, removal is a pocketbook issue for auctioneers. What cannot be sold will generate no selling commission and that hits auctioneers where it hurts most ... in their wallets!

Contract terms

Some auctioneers try to counter the threat of removal by inserting terms in their contracts with sellers that preclude withdrawal. This tactic has almost no value beyond bluff. This is because auctioneers don't give sellers orders – they take orders from sell-

STEVE PROFFITT

ers.

Auctioneers are agents who work under the direction and control of sellers. The property in question belongs to the seller and whether to sell it is the seller's decision. Trying to force your "boss" to do what he or she does not want to do is not only unwise, it can trigger a lot of animosity and even retaliatory claims against the auctioneer.

Commission demands

Likewise, an auctioneer's demand that a seller pay the auctioneer a commission on a removed lot is usually hollow. Auction contracts do not often include a term to address such a situation and trying to do so could be very challenging since some formula would have to be devised to value a removed item in order to calculate a commission owed for it. An auctioneer couldn't leave an item's value to speculation and carry the day in a court of law. Additionally, auctioneers must recognize that any commission gained from threatening or bullying a seller would be far offset by the hard feelings that would inevitably result.

Eight steps

Auctioneers have a legitimate interest in trying to maintain the integrity of their auctions by keeping advertised pieces in these events. There are many waffling sellers and grabby relatives who would pick a sale to pieces before it is ever held, given free rein to do so. Considering this, what can auctioneers do about the removal issue? Here are eight steps that can eliminate or reduce this threat.

First, an auctioneer cannot just sign anyone to an auction contract and expect a successful sale. Many prospective sellers are unsuited for auction due to issues with their personalities, assets, circumstances, or expectations. Auctioneers should carefully screen each prospect to weed out those who would be more trouble than worth.

Second, when a seller removes an auction lot from an auction, it is indicative of indecision and uncertainty about the auction process. Auctioneers should carefully educate their sellers on all aspects of auctions. Auction marketing is a unique form of selling that is foreign to many people. It is an auctioneer's duty to explain what he/she does, how this is done, how the process benefits the seller, and what the

seller can reasonably expect from the auction.

Third, some auctioneers push sellers too hard towards auction. Salesmanship is important, but it is more important to determine that a prospect genuinely wants to sell at auction. This is particularly true for a seller who is new to auctions, as well as those dealing with difficult circumstances (i.e., death in family, financial stress, business failure, health problems, need to downsize, divorce, etc.). An auction is not suitable for every seller, every asset, and every circumstance.

Fourth, some auctioneers fail to explain the importance of the marketing plan to their sellers. Such a seller then lacks an understanding of why it is important to the success of the auction that no advertised piece be withdrawn.

Fifth, auctioneers make a mistake when they do not identify sellers who have items with unique emotional value or family attachment. The idea of selling at auction is stress-filled for some sellers and there are frequently powerful forces working behind the scenes that may pull a seller away from an auction.

Sixth, auctioneers ask for trouble when they do not directly address the removal issue with their sellers. This should be done when the auctioneer first meets with a prospect to discuss an auction, and again when the auction contract is signed. Some auctioneers do not raise the issue for fear that might encourage the very result they want to avoid. However, it is far better to broach the issue and reach a clear understanding with a seller in advance of advertising an auction, as opposed to being unexpectedly hit with removal just before the bidding starts.

Seventh, auctioneers also err when they fail to stay in close contact with their sellers during the auction cycle. This spans the time from execution of the auction contract through final settlement of the sales made. Failure to communicate regularly with a seller can create silence that is a fertile ground from which anxiety and doubt can spring and flourish. These vines can flower into the decision to remove items from an auction for fear their perceived value will not be realized during bidding.

Eighth, notwithstanding the difficulty of valuing a removed item to allow for a commission calculation to be made, as noted above, there is a different approach that an auctioneer can take. This course will be most effective if limited as described.

STEVE PROFFITT

One alternative would apply to lots on which the seller had established “reserve” amounts. The auction contract could provide that the seller would pay the auctioneer a commission calculated on the respective reserve amount for each lot removed.

The other option would involve designating one or several “star” lots for commission protection. These would be lots that have high appeal to bidders and represent substantial, anticipated commissions for the auctioneer – particularly if they weighed heavily in the auctioneer’s decision to undertake the auction. The auction contract could identify these lots and assign an amount for “liquidated damages” for the removal of each such lot from the auction. Below is a sample contract provision for this. [Note: Seek the advice of your attorney before using this strategy or contract term.]

Postponement, Cancellation, or Withdrawal.

Seller will not postpone or cancel the Auction, or withdraw any of the Property. Should Seller breach this Agreement by postponing or canceling the Auction, or withdrawing any of the Property, for any

reason not caused by Auctioneer, Seller will immediately pay Auctioneer a reasonable sum to advertise notice of the postponement, cancellation, or withdrawal. Seller further agrees that any postponement or cancellation of the Auction, or withdrawal of any of the Property, would adversely affect Auctioneer’s business and cause Auctioneer to suffer damages that would be impracticable or impossible to ascertain. After due consideration of all relevant factors, the Parties agree that, in such instance, fair and reasonable compensation for Auctioneer would be for Seller to immediately pay Auctioneer liquidated damages, as set out in the schedule of subject lots below. These liquidated damages are an integral part of the Parties’ dealings and this Agreement and constitute reasonable damages for Auctioneer and are not a penalty against Seller.

[A schedule listing the subject lots and corresponding amount of liquidated damages for each one should immediately follow.]

Conclusion

Auctioneers should occupy the role of trusted professionals with sellers. Sellers are influenced by uncertainty and fear, as well as by the advice (wanted or not) which they receive from spouses, children, relatives, friends, co-workers, neighbors, acquaintances, and other advisors. Lawyers, physicians, and other professionals know this and handle their clients accordingly. Auctioneers should do the same.

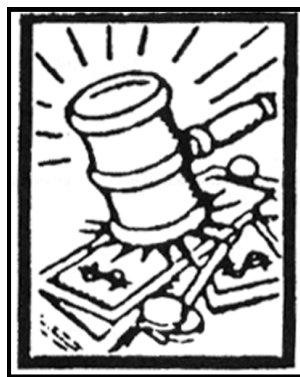
A seller will recognize an auctioneer as a professional when the auctioneer shows sincere interest in the seller, exercises sound judgment, and maintains the close contact that the seller’s confidence requires. Where this relationship exists, the threat of lot removal will be vastly reduced.

Steve Proffitt is general counsel of J. P. King Auction Company, Inc. (www.jpking.com) in Gadsden, AL. He is also an auctioneer and instructor at Mendenhall School of Auctioneering in High Point, NC. This information does not represent legal advice or the formation of an attorney-client relationship and readers should seek the advice of their own attorneys on all legal issues. Mr. Proffitt may be contacted by email at sproffitt@jpking.com.

John Stephen Proffitt III
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2014 Mule Day Auctioneer Contest Results

The 2014 Mule Day Auctioneer Contest was held April 4th at the Tennessee Producers Livestock Sale Barn in Columbia, TN. The contest is sponsored by the Columbia Breakfast Rotary Club and supports their college scholarship program and community projects. This year 16 auctioneers came from Tennessee, Kentucky, Alabama and Iowa to see who could claim the Grand Champion Buckle along with \$300.00. This also marked the first time a lady entered the contest. J. R. Jernigan from Murfreesboro, TN took her turn on the block and did an outstanding job.

The 2013 Champion Jacob Massey returned to auction and got the crowd excited when he auctioned a Charlie Daniel's autographed fiddle. He worked really hard making the fiddle bring (in) \$675.00. The fiddle was donated to the Rotary Club by Crye-Like Auctioneers.

The judges for this year's contest were Rhedona Rose (Executive Vice President Tennessee Farm Bureau), Ed Harlan (Tennessee Department of Agriculture), Judge Bobby Sands (Maury County General Sessions Court) and Mark Sullivan (Owner of Sullivan Cattle Company in Dickson, TN). They knew from the start their job was not going to be an easy one.

The quality of the auctioneers was outstanding. After the first go round the following five were called back for the finals; J. T. Shouse from Santa Fe, TN, David Whitaker from Ames, Iowa, Trey Morris from Mayfield, KY, Junior Staggs from Puryear, TN and Larry Pigue from Lewisburg, TN. When the final results were given to Contest Chairman Eddie Ables, less than 100 points separated 1st and 5th place. Trey Morris was named Grand Champion and

David Whitaker was Reserve Champion. The other three places were Junior Staggs (3rd), J. T. Shouse (4th) and Larry Pigue (5th).

The other auctioneers entering the contest were:

Tommy Bailey, Spring Hill, TN
Brent Croom, Dyer, TN
Daniel Culps, Ardmore, TN
Heath Curfman, Hohenwald, TN
Jonathan Hickerson, Columbia, TN
J. R. Jernigan, Murfreesboro, TN
Daniel Patterson, Florence, AL
Ed Stallings, Knoxville, TN
David Roberts, Lewisburg, TN
John Thorpe, Fayetteville, TN
Russ Uselton, Shelbyville, TN

The attendance had the Tennessee Livestock Producers Sale Barn full with standing room only.

Chairman Eddie Ables (Columbia Breakfast Rotary Club) said he was very, very pleased with the number of entries and the professionalism shown by all the auctioneers. He only sees the contest getting bigger and better. He said the committee is already looking at what they can do to improve the contest and get more Tennessee Auctioneers interested in entering the contest. He expressed his thanks to all the auctioneers, judges, sponsors and people attending the contest.

Mark your calendar for the first Friday in April 2015 and we will do it again.

Submitted By Eddie Ables



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