



KENTUCKY BOARD OF AUCTIONEERS FALL NEWSLETTER 2015



Kentucky Board of Auctioneers

“Where All Kentucky Auctions Begin”

DIRECT FROM THE DIRECTOR



Kenneth Hill
KBA Executive Director

Anyone who reads various newsletters knows that many of the contributing writers often mention that they cannot believe the time has passed so quickly since the last issue. I try to avoid this habit, but I must say, "I cannot believe Christmas is less than a month away"! This has been a fast-paced, exciting year, and it is passing quickly. 2015 has been a whirlwind, during which we moved into a new office, in a new town. House Bill 148 was signed into legislation, and we renewed almost all our existing licensees, as well as adding a few new ones along the way. No year is perfect, but there have certainly been more "up" days than "down" days. 2016 will have a tough time competing with this year.

I have noticed that due to the slowly declining weather conditions, fewer outdoor auctions are being scheduled, but the indoor and online auctions are booming. With all the technological changes in recent years, the traditional auction "season" has been greatly extended, as online bidders are often driven to the computer screen by inclement weather. However they are conducted, Auctions remain a rare mix of entertainment, excitement, and consumerism. Simply buying an item will never compare to "winning" it in an auction.

You folks know that better than anyone, and you know how to always make it bigger, better, and more interesting. Keep up the great work.

The Board Office will be closed December 24th and 25th for observance of Christmas, and again on December 31st and January 1st for the New Year. Except for those days, we will maintain our regular office hours throughout the holiday period. Our doors will be open to you Monday through Friday from 8:30 A.M. until 4:30 P.M. We look forward to your

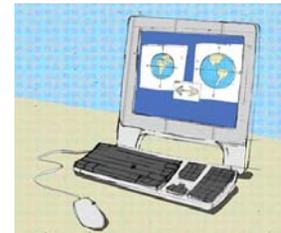
visit, email, or telephone call.

I wish everyone a Merry Christmas, and a blessed and joyful holiday season. May it be filled with the comforting laughter of friends and family.



Continuing Education Reminder

Around this time of year we begin receiving calls from Licensees, wanting to know if their CE is up-to-date. We understand that it can become confusing, especially for folks who hold several licenses,. Since our licenses all expire on June 30 of each year, very few licensees have obtained CE. Most CE providers will not begin holding live classes until the late Winter, or early Spring 2016. Most licensees don't begin thinking of CE in earnest until a bit closer to renewal time.



At least two of our CE Providers have submitted courses for approval that meet the requirements of our Board, and those of the Real Estate Commission. These classes will fulfill the requirements of both Boards, and Licensees will need only to attend a single six (6) hour class. Watch for advertisements from individual providers.

We remind everyone that this is the final year of the Core Course phase-in. Licensees, whose birth month is October, November, or December must take the Core Course prior to June 30, 2016.

Please Note! Beginning on July 01, 2016 licensees with twenty-five (25) years of continuous licensure will be exempt from the Core Course requirement. **This DOES NOT mean that Licensees are exempt from CE. The exemption only applies to the Core Course requirement, and six (6) hours of CE will still be required of every Licensee, licensed AFTER January 01, 1980. The only full beneficiaries of this change will be those with at least 25 years of continuous licensure, who obtained their license prior to January 01, 1980. This group will return to complete CE exemption.**

What is Santa going to bring You?

What Auction Licensee wouldn't want a nice display license for the wall of their office, or den. We have sold hundreds of these, and folks love them. We print the 11"X14" document on quality parchment paper. Each one gets individually printed and hand stamped with a gold seal. There is no expiration date, so they are timeless.

YOU DO NOT HAVE TO BE A LICENSEE TO ORDER THESE FOR FRIENDS OR FAMILY MEMBERS! The perfect gift for the auction professional can be purchased by friends, family members, and co-workers.

The cost is \$25, which also covers shipping and handling.

If you would like that extra-special gift, we still have less than ten (Yes, <10!) of the individually signed and numbers first editions. Only 50 of those were printed, and once these are gone there will be no more. The cost is \$50, including shipping and handling.

Give us a call today to order. (270) 360-0736. Or download an [Order Form](#), and send your check or money order.



Valid only in conjunction with issued license.

YOUR BOARD

Merry Christmas from your Kentucky Board of Auctioneers! Randy Bush, Joe Gribbins, Glenn Birdwhistell, Steve Lewis, and Clarence Yancey.



Changing Terms

By: Ken Hill



How many times have you been at an auction, and at some point heard the Auctioneer say, "Alright folks, now we have ourselves an absolute auction", or words to that effect? How many times have you said it yourself? Is it a good idea?

Even with all the modern changes in auctioneering, the absolute auction remains the "Holy Grail" of auctions. Why? Because even novice auction-goers recognize the terminology, and know that the last bid is going to win the big prize, and the next bid could be the last bid. While some auctioneers shy away from the word "absolute", because of the extra baggage the word brings with it, others embrace the term, and prefer to use it 100% of the time. Many auctioneers fall somewhere in the middle, and use absolute auctions for the most deserving properties, or the most agreeable seller-clients.

There is even a minority third group of Auctioneers and sellers that want to reap the benefits of an absolute auction without the inherent risks associated with this "all-or-nothing" method. Because of that, a good portion of KRS Chapter 330 is dedicated to absolute auctions, and the Board has dealt harshly with these offenders. But, there is one more method of "having it both ways", that many law-abiding auctioneers venture into, often without giving it a second thought. This happens when the auctioneer reaches that magical point where the reserve has been met, the seller is nodding and smiling up toward the podium, and everyone is happy, because success has been achieved, and the rewards will be coming soon! But wait! We don't want it to end now, we are just getting started! What could possibly make this any better, or convince another bidder to enter the fray? Simple - let them know that the last bid is really going to win! And, what better way to do that than to say, "alright folks, we now have an absolute auction!"

As an Auctioneer, what have you just done by making this statement from the podium? Well, you have, in that short statement, accomplished a great many things; none of them good from a legal standpoint.

- First, you have arbitrarily, and unilaterally adjusted the terms and conditions of a contract without consulting with your seller-client, and without making the necessary written changes. Rarely a good idea, and always illegal!
- Next, you have taken away your seller-client's right of final approval that comes with all reserve auctions. Unless a pre-approved reserve is written into the contract, and it rarely is, all reserve auctions permit the seller, based upon the terms of the listing contract, to have the final word. That final word is usually "Sold!", but not always. The final approval is often little more than a nod and a smile, but it is, or at least it was, the seller's to make.
- Finally, you have just brought the entire auction under the requirements of KRS 330.220, and should the auction result in a complaint, proof of compliance to those requirements will be requested by Board Investigators.
- Where is the written evidence that a financially responsible entity guaranteed the

complete discharge of any and all liens?

- Did the seller sign a binding requirement that the auction would be conducted without reserve, and stated their understanding that they, nor anyone acting upon their behalf, may bid or otherwise participate in the bidding process?
- What about the bidders? Up to the point at which the reserve auction was converted to an absolute auction, did any prohibited bidders participate? Do you even know? Could any of the bids leading up the final bid have been placed in "bad faith", which could permit the buyer to avoid the sale or take the real or personal property at the price of the last good faith bid as stated in KRS 330.220(6)(a)?

With all the potential issues facing Auctioneers today, don't create problems where none existed. Leaving the word "absolute" out of this scenario is just good common sense. If your seller has agreed to allow an announcement when the reserve has been reached, then feel free to make a statement. Otherwise, keep on calling for bids and conducting business as usual.

From the Chairman

J. Randall Bush, KBA Chairman



Another year is closing as we approach the Holiday of all Holidays. 2015 has been a good year for our Board, and for auctions in general. I appreciate the support we have received from so many places throughout this year. Passing the new legislation and turning the needle in a new direction would not have been possible without the hard work of a lot of folks, both seen and unseen. Please know that your efforts did not go unnoticed. Have a safe and blessed Christmas Season.

As always, I appreciate the opportunity to serve you. - Randy

Keeping More of Your Hard Earned Money

By: Ken Hill

As the title implies, most of us would like to find more ways to hang onto our hard earned money. As I said often during the CE classes I taught, I can't teach you anything to help you make more money, but I can teach you how to stay away from trouble, and in turn help you keep the money you have already earned. Here are a few tips:

1. Read KRS Chapter 330 often. You cannot follow the rules unless you know what they are. Knowing the basic rules can help save you much time and money. Fines and Legal costs can add up in a



hurry.

2. Seek a second opinion when in doubt. We all reach the point when we are not 100% certain we are on the right track. This is probably a great time to call someone with more experience, or give us a call at the Board Office. If there is an answer, we will be glad to help you find it. Wrong moves can be costly, indeed.
3. Be careful what you promise. You can have "As Is" printed on your business shirts if you want to, but what you say in prior advertising and during the auction is much more important. This can be especially important if you are working with others outside your agency. When the owner of that luxury home finally tires of having it endlessly listed for private treaty sale, and decides to move to auction, be careful what the real estate broker is advertising. Most will continue to advertise the property, which is fine if you approve the content and place your name in the advertisement, but once this happens, you have accepted responsibility for everything advertised. If the real estate sales associate failed to properly measure the square footage, or thought there was four bathrooms instead of three, it will be YOUR problem. Trust, but verify is a good rule of thumb when YOUR money is on the line.
4. Dare to compare. Are you using the most economical advertising company? Sign company? Tent rental company? Are you giving away food concession rights when other vendors would pay for the chance to set-up at your auctions? In today's market these things can vary greatly, as can the quality of the job. Most large companies are constantly looking at ways to reduce costs. The companies you do business with should expect you to do the same, and they should be willing to compete for your business every single time. Doing business locally is a great idea, but you should know exactly what it is costing you. Paying a little more can be seen as a goodwill gesture for your local economy. Paying a lot more is just a poor business decision.
5. Don't procrastinate. Problems rarely go away on their own. If interest and late fees are accruing, take action! Every July I see Auctioneers renewing their licenses, and paying late fees. Licenses renewed on June 30 cost \$155.00 if the Licensee has attended the proper CE class. On the following day, July 1st, that same license will cost \$280.00, or \$580.00 to renew without continuing education. And by the way, that \$580.00 license looks no different in a frame, or on the card in your wallet.
6. It is most often the little things. Handle them as they arise, and they will most always cost less.

Licensure On The Rise

With the reduction of pre-license education from eighty (80) hours to twelve (12) hours, interest in auctioneering has risen steadily since the new law went into effect. As of the November examinations we are up twenty percent (20%) for the year. That is even more impressive when one considers that we did not offer exams in July due to the fact that no CE provider had developed the required education classes. So, in only four months we are up 20% for the entire year.

If you have potential Apprentice Auctioneer candidates in your office, please encourage them to obtain the required twelve (12) hours, and get those applications turned in soon. Wintertime is a perfect time to get this accomplished. We currently offer



examinations once monthly, but we will gladly add more exam dates if necessary. Before taking the exam, prospective licensees will need to take the Core Course, (Yes, the same one every Licensee has taken.) and the Kentucky Auction Basics course. There is no requirement that the classes be taken at the same time, or even from the same provider. Some applicants have taken one in a live classroom setting, and the other from an online provider. Any combination is acceptable, and since both the Core Course and Auction Basics Course are accepted as regular continuing education for Licensees, you can take those future Apprentices along to your next CE class. You will both get credit. After taking the two six hour classes, applicants should visit the [EXAM PAGE](#) of our website, where they can print an exam application and study guide. We look forward to seeing new people entering the auction field, and bringing new ideas along with them.

The Most Frequently Asked Questions

Q: Can I take a few guns on consignment?

A: Not unless you have a Federal Firearms License.

Q: Why did I receive the newsletter twice in my email?

A: To increase readership, we have begun re-sending the newsletter within a couple days of the initial release. We realize everyone is busy, and our inboxes fill up quickly, so to keep the newsletter near the top, we release it twice. If you notice a second copy, just disregard it. We don't make any changes or updates to the second release.



WE ARE OPEN MONDAY - FRIDAY, FROM 8:30 A.M. - 4:30 P.M.



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Compliance Division
Officer Larry Mahoney
Officer Dennis Benningfield



Our Compliance Officers are conducting inspections of auctions across the Commonwealth. We remind Auction House Operators that all "principally involved" owners of the Auction House must be licensed. Simply put, if someone is accepting consignments, negotiating contracts, or making major decisions that affect consumers, they need a license.



DISCIPLINARY ACTIONS

We are pleased to announce that no disciplinary action has been taken against a Licensee since the release of the Summer Newsletter.

Numbered complaints are down over 50% this year. As of December 01, 2015, we have only had seven (7) formal complaints filed. Of those, almost half have been dismissed for failing to establish a prima facie case.

It appears our educational efforts, combined with the hard work of Licensees, is paying dividends in consumer protection. We hope this trend continues.

"Like" us on Facebook at
[Kentucky Board of Auctioneers](#)

Our new Facebook Page will provide us with a means of instant communication with Licensees and Consumers. We will post regular updates, and respond to questions and comments.



THE LAST WORD...

"Try not to become a man of success, but rather try to become a man of value."
- Albert Einstein

[VISIT OUR WEBSITE](#)

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