

IT'S THE LAW

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From time to time certain issues are brought before the North Carolina Auctioneer Licensing Board which previously were assumed to be common knowledge or were issues that were never previously addressed. The following items are a little of both.

Bonds vs. Auctioneer Recovery Fund

Licensed Auctioneers in the State of North Carolina are not required to purchase and/or maintain a bond with their auctioneer license. In this case, a bond is defined as an insurance agreement pledging surety for financial loss caused to another by the act or default of a third person or by some contingency over which the third person may have no control. Instead applicants for auctioneer, apprentice auctioneer, and/or auction firm licenses must contribute to the Auctioneer Recovery Fund. The purpose of the Auctioneer Recovery Fund as stated in the Auctioneers Law is so that “an aggrieved person who has suffered a monetary loss as a direct result of the conversion of funds or property or other fraudulent act or conduct by a licensed auctioneer, apprentice auctioneer, or auction firm shall be eligible to seek compensation from the Fund...”

If a licensee has in fact purchased a bond along with being covered by the Auctioneer Recovery Fund, then it is proper to use the word “bonded” within any advertising. If the licensee has not purchased a bond then any reference in advertising to the word “bonded” is in fact as referenced in N.C.G.S. 85B-8(a)(4), “false, misleading, or untruthful advertising.”

Auctioning Auto Accessories

It has come to the Auctioneer Licensing Board’s attention that auto accessories and auto parts are sometimes offered for sale at auctions of motor vehicles in this State. N.C.G.S. 85B-2(a)(7) states that the Auctioneers Law shall apply to all auctions held in this State except the “Sale at auction of automobiles conducted under the provisions of G.S. 20-77, or sale at auction of motor vehicles by a motor vehicle dealer licensed under Article 12, Chapter 20 of the General Statutes.” Auto accessories and auto parts such as tires, wheels, bumpers, radios, etc. are

not defined as motor vehicles; it is personal property. Any sale at auction in this State which includes auto accessories and auto parts is not an exempt sale.

Auctioning Tack

In a similar situation, tack is sometimes offered for sale at auction of livestock. “Tack” is the common term for stable gear, including saddles, bridles, blankets, and grooming and feeding accessories. N.C.G.S. 85B-2(a)(5) states that the Auctioneers Law shall apply to all auctions held in this State except the “Sale of livestock at a public livestock market authorized and regulated by the Commissioner of Agriculture.” N.C.G.S. 85B-2(a)(8) states that the Auctioneers Law shall apply to all auctions held in this State except the “Sale at auction of a particular breed of livestock conducted by an auctioneer who specializes in the sale of that breed when such sale is conducted under the auspices of a livestock trade association, provided that the sale is regulated by the Packers and Stockyards Act and the auctioneer is required to be bonded by the United States Department of Agriculture.”

Tack is not defined as livestock; it is personal property. Any sale at auction in this State which includes tack is not an exempt sale.

Non-licensed auctioneers are reminded that N.C.G.S. 85B-4(a) states that “No person who is not exempt under G.S. 85B-2, shall sell, or offer to sell, goods or real estate at auction in this State or perform any act for which an auction firm license is required unless the person holds a currently valid license issued under this Chapter.”