

North Carolina Auctioneer Licensing Board Newsletter

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Board Members

- Daniel H. DeVane, Chairperson
- Randy B. Lee, Vice Chairperson
- Gary Boyd, Board Member
- Moses Gallion, Board Member
- Deborah Johnson, Board Member

NCALB Staff

- Teresa L. Watson, Executive Director
- Becky J. Stewart, Administrative Officer
- Barbara Phillips, Secretary
- Ralph Southerland, Investigator
- Garris Neil Yarborough, Legal Counsel to Board



108 Ber Creek Drive
Fuquay Varina, NC 27526
Phone: (919) 567-2844
Fax: (919) 567-2865
www.ncalb.org
Email: info@ncalb.org

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Statistics-Active Licenses:	
Auctioneer Licenses:	1812
Apprentice Licenses	11
Auction Firm Licenses:	396

Welcome: Gary Boyd, a licensed auctioneer, was appointed to the Board by the Governor July 2014.

Chairperson Corner

I would like to thank all auctioneers and real estate brokers for working with the board and staff in completing the continuing education. I realize there was some concerns about the 1 hour mandate to review the NC General Statutes and the NC Administrative Rules that govern the auction profession as well as the 1 hour dedicated to ethics training. However, the Board felt both of these updates were needed to eliminate some of the complaints that have been brought to the Board. If these updates keep one auctioneer from getting in trouble, it will be worth the time.

The Board has received concerns about the manner in which tag sales are conducted. It appears some tag sales are accepting offers or asking for offers on items for sale. This could be considered as operations like an auction. Our investigator has looked into this matter to be sure the tag sale companies are not using auction practices. I have had the opportunity to attend a couple of estate tag sales recently and did not see any issues that I thought were infringing on the auction profession. However, I felt an auction would have been a better way to sell the estate. There is no substitute for the "auction chant".

Our board meetings are open and anyone is welcome to attend. If you have information that you would like to share with the board, please feel free to contact us.

Sincerely,
Daniel H. DeVane

Practice Tip: Garris Neil Yarborough, Board Attorney

Designated Person

Often times individually licensed auctioneers serve as the "Designated Person" for auction firms with which they are not regularly employed or have an ownership interest. Without close supervision and on-going contact, this can cause major problems for the individual auctioneer and the auction firm. Section .0606 of the North Carolina Auctioneer Licensing Board's Administrative Regulations provides:

(a) All licensed auction firms shall have at least one Board approved designated person. If a licensed auction firm does not have at least one designated person in good standing, the status of the auction firm license shall be changed to invalid.

(b) **Only designated person(s) for an auction firm have the authority to transact business under the firm license. This includes arranging, managing, soliciting, and contracting auctions; the supervision of the auction staff; the supervision of the acceptance of consignments of items for sale at auction; the supervision of the advertising of an auction; and the supervision of the acceptance of payment and disbursement of monies for items sold at auction.**

(c) At least one designated person shall be on the premises of an auction firm's auction sale location while the auction sale is conducted.

(d) Any auctioneer licensed under G.S. 85B may call bids for a licensed auction firm without being a designated person.

(e) Any apprentice auctioneer licensed under G.S. 85B and supervised by the sponsor auctioneer may call bids for a licensed auction firm without being a designated person.

(f) Individuals that hold a currently valid real estate broker license are exempt from the auction firm examination if their authority to transact business under the auction firm license is only related to real estate sales at auction.

Practice Tip Continued

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As you can tell under subsections (b) and (c), the designated person has very specific responsibilities for the daily management and operation of an auction firm which cannot be performed by remote control. If an individually licensed auctioneer is serving as a designated person for an auction house, he or she needs to be directly involved in its day-to-day activities because only the designated person can perform certain activities for the auction firm.

I initially address this issue to the individually licensed auctioneers who may find themselves in trouble because of some activity occurring within the auction firm for which they may be unaware. As designated persons, if there is a problem with the auction firm in which the individually licensed auctioneer is serving as the designated person, it can also have an extremely negative impact on the individual license of that auctioneer. This, of course, is in addition to what might happen to the auction firm license. (All of the above holds true for non-auctioneer designated persons as to their ability to continue to serve as a designated person for that auction firm or another one.)

Although absolutely legal and authorized, it is a tricky situation for an auctioneer to serve as the designated person for an auction firm that he or she does not own or otherwise control. If you place yourself in this position, you need to take particular caution, every day, to make sure your “boss” doesn’t get you and your auctioneer license in trouble.