

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #3

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: Department of Agriculture TITLE NUMBER: _____

CITE AUTHORITY Chapter 19-2C

AMENDMENT TO AN EXISTING RULE: YES X NO _____

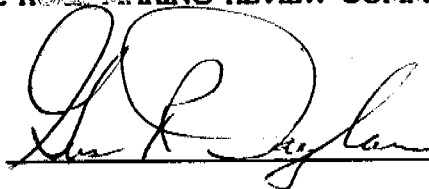
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 11B

TITLE OF RULE BEING AMENDED: Regulation Governing Auctioneers

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR THEIR REVIEW.



10-80

Rule Summary

The rules governing the licensing of auctioneers as required in Chapter 19, Article 2C, include information on application procedures, procedures for renewal of license, including guidelines for continuing education, procedures for the examination of applicants, the accreditation of auction schools and for the suspension/revocation/expiration of the supervising auctioneers license. It also sets up requirements for out-of-state residents to receive the West Virginia auctioneers license by reciprocity and the procedures and requirements for the waiver of the apprenticeship. The rule also requires certain contract inclusions and establishes the procedures for review of a complaint by the Board of Review.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Regulations Governing Auctioneers

Type of Rule: Legislative Interpretive Procedural

Agency Department of Agriculture Address 1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

1. Effect of Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-
Personal Services					
Current Expense					
Repairs and Alterations					
Equipment					
Other					

2. **Explanation of above estimates:** No additional cost to the agency will be realized. Current personnel will handle, as routine, any additional paperwork.

3. **Objectives of these rules:** To establish the procedures for issuing and administering the licensing of auctioneers and apprentice auctioneers.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

None

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of citizens.

Some additional will be incurred by licensed auctioneers as the rule requires them to participate in continuing education this will be at their expense.

C. Economic Impact on Citizens/Public at Large.

None

Date:

7-20-93

Signature of Agency Head or Authorized Representative

James R. Raylan

DATE:

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: Department of Agriculture

LEGISLATIVE RULE TITLE: Regulation Governing Auctioneers

1. Authorizing statute(s) citation Chapter 19-2C

2. a. Date filed in State Register with Notice of Hearing

April 30, 1993

b. What other notice, including advertising, did you give of the hearing?

Letter sent to all licensed auctioneers.

c. Date of Hearing(s) May 26, 1993

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached No comments received

e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

f. Name and phone number(s) of agency person(s) to contact for additional information:

Robert L. Williams, Director, Marketing and Development

Division - 558-2210.

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

b. Date of hearing: _____

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

d. Attach findings and determinations and reasons:

Attached _____

FILED

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WEST VIRGINIA LEGISLATIVE REGULATIONS
STATE DEPARTMENT OF AGRICULTURE

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Chapter 19-2C

SERIES 11B

TITLE: Regulations Governing Auctioneers

Section 1. General.

1.1 Scope - These legislative regulations establish general procedures for the licensing of auctioneers.

1.2 Authority - W. Va. Code 19-2C.

1.3 Filing Date -

1.4 Effective Date -

Section 2. Declaration Of Policy.

2.1 These regulations are for the purpose of implementing article two-c, chapter nineteen of the State Code of West Virginia pertaining to the licensing of auctioneers.

Section 3. ~~Regulations: Application.~~

3.1 ~~Applications-~~ The thirty (30) day period for action by the commisioner shall not commence until all necessary information has been submitted by the applicant.

~~3.2 Bond requirements- All property bonds shall be accompanied by a justification of surety showing that said real estate has an unencumbered assessed value of at least ten thousand dollars (\$10,000) for an auctioneer's license and five thousand dollars (\$5,000) for an apprentice auctioneer's license. Said property shall be located within the State of West Virginia and said bond shall be recorded in the office of the Clerk of the County Commisision of the county wherein the property is located. All corporate surety bonds shall be executed by a company authorized to do business in West Virginia.~~

3.2 The application shall contain such information as to allow the commissioner to determine the applicants eligibility for an auctioneer or apprentice auctioneers license and shall include a statement by two individuals testifying to the applicants character.

Section 4 Bond requirements.

4.1 The amount of bond required shall be \$5,000 for an apprentice auctioneer and \$10,000 for an auctioneer. Corporate surety bonds shall be on forms provided by the commissioner.

4.2 All corporate surety bonds shall be executed by a company authorized to do business in the State of West Virginia as determined by the Secretary of State.

Section 5 License.

~~3.3 License~~ 5.1 The license numbers issued under this Act shall be permanent, subject to annual renewal.

5.2 All licenses issued under this act shall expire on December 31 of each year unless revoked or suspended.

5.3 Licenses issued at the successful completion of the examination held in October shall be considered as licensure for the upcoming calendar year and no additional renewal fee shall be collected for that year.

Section 6 License renewal.

6.1 All materials required by the commissioner shall be submitted to the Department before a license shall be renewed. Requests which do not contain all of the necessary information shall be considered to have been submitted on the date when the first application for renewal is received.

6.2 On the next renewal date, one year after the approval of these regulations, all auctioneers must provide the commissioner with proof of completion of at least three (3) hours of continuing education within the previous year. All auctioneers shall be required to complete three (3) hours of continuing education each subsequent year in order to qualify for license renewal. All continuing education programs must be approved as to subject matter by the commissioner before credit will be granted. Requests for approval must include name of course, course provider, date of instruction, outline of course, instructor or sponsor, instructor or sponsor's address and number of hours of instruction. Curricula should be approved in advance and in the case of group instruction the instructor may provide a certified list of those completing the course. Continuing education may include, but is not limited to seminars, correspondence course, certified home study and formal course work offered through vocational programs, extension programs, colleges and universities, or certified auction schools. Auctioneers who have not conducted any auctions in the previous twelve (12) months shall be exempt from the continuing education provisions for renewal. When an auctioneer resumes conducting auctions he/she must then comply with the provisions of this section.

6.3 Apprentice auctioneers are not required to complete a continuing education program for renewal.

Section 7 Receipts.

~~3.4—Receipts—~~ 7.1 Upon demand, each auctioneer shall provide a buyer or purchaser with a receipt that includes:

~~3.4.1~~ 7.1.1 The date on which the purchase was made;

~~3.4.2~~ 7.1.2 A description of the item or lot;

~~3.4.3~~ 7.1.3 The price paid for the item or lot purchased; and

7.1.4 The name, license number and permanent address of the auctioneer. This information does not need to be provided on each receipt, but only once upon demand.

7.1.5 The auctioneer shall retain a copy of receipts so issued for his records.

~~3.4.4 The name, license number and permanent address of the auctioneer. The auctioneer shall retain a copy of receipts so issued for his records.~~

Section 8 Examination of applicants.

~~3.5—Examination of applicants—~~ 8.1 The written examination shall test the applicant's knowledge of the West Virginia Auctioneer Law, rules and regulations promulgated thereunder and other fundamentals of the auctioneering profession. ~~The oral examination shall test the auctioneer's competency in conducting an auction.~~

8.2 The oral examination shall test the auctioneer's competency in conducting an auction.

Section 9 Accredited auctioneering schools.

~~3.6—Accredited auctioneering schools—~~ 9.1 The commissioner shall annually issue a list of accredited schools.

9.2 Any school wishing to be included on the list of accredited schools shall submit to the commissioner a complete curriculum, a course schedule, list of instructors, credentials of instructors, location of school, cost and any other information deemed necessary by the commissioner for a decision on the qualifications of the school to be accredited in West Virginia.

Section 10 Suspension, revocation, expiration or termination of supervising auctioneer's license.

~~3.7 Suspension, revocation, expiration or termination of supervising auctioneer's license~~— 10.1 The suspension, revocation, expiration or termination of a supervising auctioneer's license shall automatically suspend the license of any apprentice auctioneer sponsored or employed by the suspended auctioneer. However, apprentice auctioneers may retain apprentice licenses by transferring to the employment or sponsorship of another licensed auctioneer: Provided, That the request for the transfer is made in writing and according to the procedures outlined in section six of the Act.

Section 11 Reciprocity.

~~3.8 Reciprocity~~— 11.1 Any out-of-state resident who holds a valid auctioneer's license in another state may be granted a West Virginia license: Provided, That the state in which he is licensed provides similar recognition to a licensee of this State, and that the licensing requirements of the other state are at least equal to those of the State of West Virginia. The commissioner shall annually issue a list of states with whom reciprocity has been formally approved.

Section 12 Waiver of apprenticeship.

12.1 The commissioner may, with the concurrence of the Auctioneer's Board of Review, grant a waiver of the apprenticeship requirements. For a candidate for licensure to be granted such a waiver he/she must petition the commissioner for a waiver and provide certified documentation as to the qualifications of the candidate to be an auctioneer without serving an apprenticeship. This documentation should include formal training in the profession, exceptional practical training, description of the candidate's efforts to secure sponsorship and any other information to assist the commissioner in making a ruling. Waivers will only be granted under exceptional circumstances and will not be considered as a routine matter. Under no circumstances shall a waiver be granted if it is determined that experience in the profession has been gained as a result of auctioneering which was not in compliance with the laws and regulations of the State of West Virginia or the State where the experience was gained.

Section 13 Advertising.

~~3.9 Advertising~~— 13.1 Any circular or other printed material advertising a sale shall contain the name and license number of the auctioneer conducting the sale, any apprentice auctioneer assisting with the sale, and the date, place and exact time of the auction.

Section 14 Contracts.

14.1 All contracts between an auctioneer and a seller shall meet a minimum of the following guidelines:

14.1.1 The contract shall be made in duplicate;

14.1.2 The original contract shall be retained by the auctioneer for a period of six months;

14.1.3 One copy of the contract must be furnished to each person entering into the contract;

14.2 An apprentice auctioneer may not contract directly with a client but only through his or her sponsoring auctioneer.

Section 15 Board of review.

15.1 The board of review shall meet at the call of the commissioner, to review the findings of an investigation resulting from a verified complaint received by the department or an investigation initiated by the departments own actions.

15.2 The board of review shall review these findings, all of the material related to the investigation, and any other such material deemed by the board to be appropriate and make a recommendation, in writing, to the commissioner as to the course of action for the department in the reviewed complaint. Board decisions shall be majority decisions of those members present. A quorum of two members is required for board action.

15.3 When deemed appropriate by the commissioner, the board may meet via telephone conference call, but shall only provide a recommendation after receiving and reviewing all of the material pertinent to the complaint.

15.4 A member of the staff of the department, appointed by the commissioner, shall serve as staff for the board and shall be responsible for the presentation of each complaint. The staff member shall not participate in the discussions beyond the reasonable explanation of the facts of the complaint.



FORGING A NEW ERA IN WEST VIRGINIA AGRICULTURE

Gus R. Douglass, Commissioner
Robert G. "Bob" Morris, Assistant Commissioner

MEMORANDUM

DATE: May 12, 1993
TO: Licensed Auctioneers and Apprentice Auctioneers
FROM: Gus R. Douglass, Commissioner
SUBJECT: Auctioneer Law Regulations Hearing

Please find enclosed a copy of the proposed regulations which will govern auctioneers and apprentice auctioneers.

A hearing will be held on Wednesday, May 26, 1993 at 1:00 p.m. in the John T. Johnson Conference Room of the Guthrie Center Complex, Charleston, West Virginia, which is near Sissonville.

I encourage you to review this carefully and, should you have any comments, please send them to me by May 26, 1993. You may also choose to attend and participate in the hearing. Your input is welcomed and encouraged.

GRD/rm

Attachments

Summary of Changes AUCTIONEER REGULATIONS

As a result of the comments made at the Public Hearing on May 26, 1993, several changes were made to the regulations.

All but one individual who attended the Hearing and commented, made comments relative to Section 6.2, Continuing Education. Seven spoke in degrees of opposition to continuing education, three spoke in favor of continuing education and three spoke in regard to not opposing continuing education if it were regionalized to a point where they could attend without great cost.

As a result of these comments, Section 6 was changed. The amount of continuing education was reduced from seven hours per year to three and a waiver was inserted for those who are not actually conducting auctions at this time but wish to keep an active auctioneers license.

One individual commented with regard to the record keeping provisions in Section 7 indicating that it would be difficult for each receipt requested by a purchaser to have name, address and license number of the auctioneer. Therefore, language was inserted to clarify that the auctioneer simply needs to provide the purchaser with this information if it is requested. The same individual also questioned Section 14.1.4 which required that prominent statement indicating that the auctioneer be licensed by the Department of Agriculture and bonded by the State of West Virginia. This section was removed. Comments received indicated that all auctioneers were required to list their license number in all of their advertising and that implied they were licensed and bonded in that a person could not receive a license from the Department without having that documentation. Also, that standard contracts used in the auction business do not routinely convey this information. As a result of these comments, Section 14.1.4 was stricken from the regulation.

HEARING

Auctioneer Regulations

May 26, 1993

1:00 p.m.

Assistant Commissioner Robert G. Morris - I will be the Hearing Officer for today's public meeting. Also present is Bob Williams, whom most of you know is the Director of Marketing and Development, and Regina Morgan, Administrative Aide in that Division. The Marketing and Development Division has the responsibility for the administration of the auctioneer's rules. The subject of today's hearing are the rules governing auctioneers and it is now approximately 1:00 p.m. on Wednesday, May 26, 1993. The notice of the public hearing was filed with the Secretary of State on April 26, 1993, which is 30 days in advance of the meeting today. I also have before me a news release announcing today's hearing and a letter sent, we have copies of that here in the files, to all licensed auctioneers regarding this hearing. Has everyone present signed and indicate whether you wanted to speak or not? Anybody miss that? Okay, let's lay out a few ground rules before we get started. Each person will be called on in order that you signed up here and whether you wanted to speak or not and to make remarks. Remember, our goal is to take comments regarding the proposed rule, so please confine your remarks to that rule. It is inappropriate to comment on other matters. This is a public hearing for that rule. At each speaker's conclusion, we may have comments or a question or two. We would like for you to limit your remarks to five minutes and if you desire to speak further at the finish, then we will open it back up for some comment. This hearing is being recorded and a transcript will be generated from the hearing. Let me explain a little about the process. The Department has drafted and filed with the Secretary of State this proposed rule. After the hearing, we will have 30 days to review the comments, make modifications to the rule as a result of what we hear today and the written comments that we receive. The rule will then be refiled with the Secretary of State's Office. It will then be forwarded to the Legislative Rule Making Review Committee made up of several members of the West Virginia Legislature who will review the rule, vote on it, and if they approve it, then it will be forwarded to the full Legislature for review and their approval in their next regular session. Only then, will the rule go into effect. Any questions at this point? Okay, we'll get started. Each speaker is asked to give your name and hometown to begin your remarks. The first speaker will be Ed Frazier.

Ed Frazier, Ripley, WV -I've got a few short questions. Kentucky offers a course free to anyone who is a licensed auctioneer or want to be involved in auctioneering. Is the State of West Virginia considering any such action to relieve us of paying someone? That's a legitimate question you can answer after I'm done. I'm hoping that the state will hire an instructor or at least allow us (yes your going to have to take notes), to afford us the opportunity to get free instruction here, because it is a costly thing, its an undo hardship on people who are not working auctioneers. I'm a working auctioneer myself and I don't often have time to take off to go to a seminar, but I will if it is required of me by law to

maintain my license, I will forgo making money if that's what it takes. Where's the money coming from to enforce the laws that we now have on the books because we're not enforcing them. I can state chapter and verse on instances that are not being enforced and I will after the meeting if that is required of me to give you a list of things that are not being enforced. Kentucky also offers, (I hope Kentucky and John Connors is a good man and I hope John Connors is smart) anyone licensed before 1981 is exempted from continuing education. Is that going to be the case in West Virginia? Nineteen eighty one, that's when they put their law, they exempted everyone past that. Let me read my book. . . we get. I guess the Ag Bureau generates somewhere around \$50,000 a year off of auctioneers licensings, somewhere in that area. There's right at 1,000 auctioneers in the State of West Virginia, this is not a real representative form of it but at least I made the comment before that a lot of gentlemen traveled a long way to be here. As a young auctioneer, I've only been in it since I was 12 years old but I've only been licensed for a couple three years, but I appreciate seeing the smart people come out and that's all the comments I have.

Assistant Commissioner Morris - Okay, we thank you very much. I will try to, at some time answer those questions, but the questions do not necessarily pertain to the rule that we are having the hearing on.

Ed Frazier - Continuing education?

Assistant Commissioner Morris - Except the continuing education.

Commissioner Douglass - May I inject here and ask some questions that might help clarify this some. In your asking for symposiums, I understand, your saying that these will be ongoing educational symposiums. Do you want statewide symposiums? Do you want regional symposiums?

Ed Frazier - It would have to be regional. There's people all over the state, are they going to hire an instructor that will travel around, hold a hearing every month or so, in a different region to allow access to all auctioneers. I mean, we pay a lot of money, so I thought that we might be able to afford an instructor.

Commissioner Douglass - In your comments concerning enforcement, the people that file complaints with us, are the major source of our knowledge of violations of the law. We need to hear those complaints as they come in and they are looked into. I recognize that although we do not have a full time person that is a field investigator for the Department, I would like to tell you that this is being looked at. Hopefully the monies will be available for that to be made back available for the industry, that there will be a field investigator. Some of your questions, I think, should be answered. Everyone needs to have some answers and we will answer them in more detail a little later. I think that in reference to a grandfather clause, technological conditions are changing to rapidly and the laws are changing too. This is where I see the advantage of some ongoing instruction whatever the manner of instruction. This may be addressed in one of the questions others bring up, what manner of instruction are we looking at, so this is wide open as well.

Ed Frazier - Okay, I appreciate your comment.

Assistant Commissioner Morris - Al Thompson.

Al Thompson, West Hamlin, Lincoln County - I've traveled the length and width of this state and several states doing auctions and I've met a lot of auctioneers. There's some pros and cons about the proposed law change but one that I find most present in peoples' minds is the continuing education requirements that have been proposed to the Legislature. West Virginia was the first state in the nation to advocate continuing education in the auction profession. Since then, several states have followed suite and now, as a requirement, most of them or at least one of them, fourteen hours and I don't know of any less than what we have. Gentlemen, if you are going to continue in the auction profession with the changes in the rules and the changes in technology that we have out there today and with the people that attend your auctions are more astute buyers than they were 15 or 20 years ago, smarter buyers, more educated buyers, and if you don't keep yourself abreast of at least what they know, you've done yourself and your company, and all the other auctioneers, a disservice. I strongly urge that you consider this continuing education requirement. As far as training is concerned, already there is, in fact, a free seminar that travels all over the state to any auctioneer from anywhere and it is absolutely free, that's one source of education, as a matter of fact, in June it will be in Martinsburg and it moves about the state every year in June and its free. There's all sorts of educational things that happen other than going to an auctioneer to get training. I'm sure that they would consider training as other states have done in the way of real estate or in appraising or any field so long as its a formal type training in a form of a seminar that is conducted by a recognized source. The only thing that I have found that would abet this thing amongst the people that I have talked to is the continuing education. I personally feel that it's a requirement that we, as auctioneers, cannot do without. Thank you very much.

Assistant Commissioner Morris - Bert Richmond.

Bert Richmond - I just come to listen.

Commissioner Douglass - Come on Alice.

Alice Richmond - I'll speak for myself.

Commissioner Douglass - Your on the list too, your next.

Alice Richmond - I'm next.

Commissioner Douglass - All right Alice.

Assistant Commissioner Morris - Okay Alice.

Alice Richmond - Really I think you've touched a little bit on what I had in my mind was, if we have to have continuing education, I would like to have satellite schools so we don't have to travel a great distance to attend.

Assistant Commissioner Morris - Clifford Reynolds.

Clifford Reynolds, Elizabeth, West Virginia - I was an auctioneer before you had to have license to be one and I let my license run out sometime in the 80's . . . the grandfather clause . . . at my age I don't feel like going to school. . .after new auctioneers have to be apprentice. I would like to see things stay much free enterprises . . . that's about it.

Commissioner Douglass - Maybe you are due a comment on that. The whole structure of auctioneering is by law now and that does not provide the Agriculture Commissioner any lead way or latitude in that respect. At one time, of course, if you were back in that period of time, you could have grandfathered your license and you could have gone ahead and secured a commercial auctioneer license at that time. Other than that, and of course with the recent revisions in the law, it is complicated for the Agriculture Commissioner as you could put an apprentice auctioneer in and you have to come up through that line. I'm right in the same complex situation and I continued my auctioneers license until I assumed this office again and I had to give my commercial auctioneers license up and unless I've reinstated in two years I'll be back where you are. I'll have to go before this bunch of characters here and I guess I'll ask for my license, go through the test and everything again.

Clifford Reynolds - If I was younger, I would be willing to go along with that.

Commissioner Douglass - Several of them our age are going through it and I think I can get the same age category that your in. It's not all that difficult, the test or problem. If you desire it, I would encourage you to try the test.

Assistant Commissioner Morris - Bill Self.

Bill Self - Just a couple of comments. P.T. Barnum once said that the whole world is a classroom. My grandfather once said that if you wake up one morning and you don't learn a thing that whole day you've just wasted an entire day. I can learn from these people I am with. Richard Reynolds there is a fine and excellent auctioneer and I've learned from him. Charles Jarvis, Joe King and all these guys. I learn from them every time I'm with them, I learn something and I feel that really a seven hour course would be totally a waste of time when I can have the fellowship of these gentlemen to teach me more than they are going to teach me. I feel that these gentlemen are very competent auctioneers. Anytime that I don't go to one of their sales, its a crime because we help each other. That's how we stay in business, we help each other and I feel that I'm learning from them and they're learning from me, hopefully, and I feel that continuing education is really truly a waste of time of the taxpayers money.

Assistant Commissioner Morris - Richard Reynolds.

Richard Reynolds, Palestine, WV - I've been an auctioneer since 1966 which is several years before the licensing in West Virginia. I feel that everyday that you climb on an auction block your getting a continuing education but like Mr. Thompson, I believe that you do need the personal training. If the state is going to require this, then I would go along with professional trainers instead of just seminars listening to other auctioneers. I appreciate what Bill Self says but, I believe that there is a lot of guys who make speeches at some of these seminars that really don't have the education or experience that a lot of the other guys have and I would be willing to pay. Mr. Butcher here and, I would even be willing to pay for a professional instructor like a college professor or somebody that is smarter than us. As far as taking trainable people that are on the same level as you I could probably teach them as much as they could teach me. That's all I have to say.

Assistant Commissioner Morris - Golden Casto.

Golden Casto, Buffalo, WV, Putnam County - If I live till the 12th day of November it'll be 60 years since I ___ the auctioneer law and I used to belong to the West Virginia Auctioneer Association until they got to putting people out-of-state into the offices. People out-of-state coming in taking West Virginia championship instead of letting the West Virginia people have it, I dropped out. As far as the education is concerned, I don't see where seven hours continuing education would learn me anything, period, and besides that, the only way, to have to go to school and so on and so forth and if a fellow hasn't learned something in 60 years on the auctioneering block he ain't got no business in the profession anyway. To my estimation, as Ed said a while ago, the auctioneers pay approximately \$50,000 a year for licenses, that's not counting their bond that they have to carry and whoever took that, put that in there, I don't think much of them, seven hours continuing education. Like Richard said, every time you climb in the box, if your in that block one hour, two hours or whatever, in my opinion, that is continuous education. You'll never go to no other auctioneers auction to what you will learn something from that other auctioneer. Maybe you can't learn something from that other auctioneer and you went through an auctioneer school and graduated out of auctioneer school, I had a son who wanted to be an auctioneer, I put him through an auctioneer school and I went with him and we graduated out of Knotts Auctioneer School up at Charleston in '78 and we both done real good. Ninety percent of my business is in the state of Ohio anyway and, in my opinion, if your going to have continuous education, it ought to be free and it ought to be set up maybe one month in Charleston, one month in Huntington, a day set, and give these people the chance for education if they want and I don't feel that I need anymore. That's about all I have to say.

Assistant Commissioner Morris - Arlie Drake.

Arlie Drake, Pleasants County - I've been auctioneering just a couple of years cause I'm only 21 and I'm just getting started and you'll have to excuse me if I'm a little bit slow. I'm making reference to proposal 6.2 and it says they're going to have seven hours of continuing education, all continuing education programs must be approved as to subject matter by the Commissioner before credit will be granted. One question that does come to my mind, I will mention that we have laws that we are changing each year and we need

to know. The first thing that comes to my mind is are we going to have to have that many laws its going to take me seven hours every year to read them. It says if they're going to mess with them for seven hours every year they're going to be messing with us a whole lot. Okay, and that's wrong. The idea of continuous education, I think we can all agree, that with the times that are changing, when the conditions are changing, we do need a source that will keep us informed as to what is changing, what's coming about, what we can expect. In this proposal, there is a setup where that, it says we have to have seven hours, it gives us a list of where we could get some kind of an education, it doesn't tell us in what areas we will be educated. Okay. What areas do we need education in? We have to have seven hours of studying the new laws. Do we need two hours of studying the new law on real estate? What do we need? There's no provisions made that we would have any input as to what areas we need to study. (This confined down, nothing personal.) Okay. Here where it says, to the Commissioner, the Commissioner, you see, will decide whether this chosen subject in which we chose to study is acceptable. Not that he's not qualified, but I believe that we, as auctioneers, should have some input as to what subjects we will study. Personally, I would like to say that I would like to see a means of whereby we could have some input into what the subject matter is. I think that instead of saying that we go, since we do have to submit not only our bonds but our money for our license every year, I would like to suggest that possibility that we get a transcript of the pertinent information that each and every auctioneer needs to know. Okay, pertinent information, as you get that, you must first complete that, we spoke of a correspondence course, okay we'll call it that, that's sanctioned by the Commissioner, we send it out and you complete that file or that short course whichever and return it. We do not have the problem of wondering if we can get to, like these people who would like to be here today, they can't get here, somebody decides arbitrarily to have a seminar and my mother dies, I can't get there, so six months before I can find another one. Send it to me, let me complete it, let me return it, the Commissioner has on file, a copy, that I have been notified, I have read it and with any other, I am qualified, I am updated and its okay for me to be licensed. I believe that everything that was spoken here this morning, we can't stop learning. The world changes, we have to change with it, we have to keep abreast so if we can have a method of where we will be made aware of it, we will have an opportunity to have input I think we can all come out and benefit from it. Thank you.

Assistant Commissioner Morris - Danny Woofter.

Danny Woofter, Charleston, WV - I would like to begin by following up on the previous, in the proposed rule correspondence courses is allowed. One of the first things I would like to comment upon is the predicament that the Commissioner may say he's in right now. Under the real estate license in our state code, they allow for putting your license on hold. Prior to the continuing education requirement if a person decided they didn't want to be with a particular broker for a period of time, they could put their license on hold with the State Real Estate Commission. I think that is something by rules and regulations could be a possibility. The Real Estate Commission rules or the law, I'm not sure I think it is the law, I have to go back and look to be positive which way it is but it does allow for you to go ahead and pay your fees but if you have not completed your continuing education your license are in essence put on hold at the Real Estate Commission and I think for a

situation like the Commissioner's, yes we would like to have his money and let him go ahead and pay his fee at \$50 but it would be put on hold and he could not operate, at the time that it would be a legitimate way, I think, to solve this problem to where you would have a continuation of license. (I would like to speak? I do support) I want to go over some areas most people have referenced the 6.2 on continuing education, yes I lobbied to get that approved, I'm glad its now appearing in the rules, I do understand that on the next renewal date, one year after approving these regulation, so this has to be presented to the Legislature in 1994 and so we are talking about 1995 before this could become into effect for January 1, 1995. It is some period of time from where we are at today. I would like to see an approval within this rule that would allow portions that are approved by other licensing bodies for continuing education to be automatically approved. This would, for an example, I am a licensed real estate broker and I have a requirement to complete seven hours of continued education for real estate and the majority of my auctioneering is in real estate and therefore the courses I have take in real estate may be more beneficial and the seven hours that I give up, people want to talk to get that extra education I would like for that course also to be approved here. I know of one attorney that's an auctioneer and they have several hours of continuing education required for attorney's and a lot of the things he might take and I would like to see us build that within this regulation that this could be automatic. Also, it is not in there and sometimes whenever we attend a state or national auctioneers convention there are many courses offered throughout that period and I would like to see that if you show proof that you have attended these meetings that this would also show that to be approved. Under section 7, I want to bring up, and I think the importance is that when I first read it I had a little problem with it, on rereading I see the importance where it says "Upon demand, each auctioneer shall provide a buyer or purchaser with a receipt that includes the date, the description, the price, the name and license number and permanent address of the auctioneer and the auctioneer shall retain," most auctioneers use, for lack of better terminology, Missouri Auction Form, we know which shows the individual receipt. These is what is used in most auction houses a lot. They do not contain, in all of that information, but the big statement there in 7.1 is "upon demand." I have furnished someone, I just simply grab a piece of letterhead and I write that out. I have not always maintained an extra receipt because my records are on these forms here. I guess what I'm after is, this is what the real world is as I see for the majority of operations. Most of us are not on computer and, therefore, we do not have the carbon copy receipt and the like that is mentioning here that I would request that you take a look at that particular rule. I don't have any problems making that up if someone asks it but place real importance upon that word "upon demand." The section 14, under "Contracts" and I'm not about to put anybody on the spot but it says that under the contracts here, "the contracts shall include," this is a contract between the auctioneer and the potential seller, "the contract shall include a prominent statement indicating that the auctioneer is licensed by the Department of Agriculture and bonded in favor of the State of West Virginia." Again, I'm talking real world, most of us, we go to an auction school, they give us some contracts, and we mark somebody auction firms name and we put ours on there and this bit of information is left off and about the bonding requirement to the Department of Agriculture. I personally feel that where the law requires the license number to be on all advertisements I think we are giving notice and I think the public is generally informed

without having to have this statement on there and I think that if you would ask most auctioneers to provide you with a copy of their contract and don't look real close to see whose contract this might be but that particular statement is not on there and I'm just bringing up what I feel is the real world and I would like for our rules and regulations to kind of conform to what is really happening throughout our industry at all times. I think with that last comment, I hope its for some of the guys that are not here, probably like myself who get all those little statement there but I do appreciate the comments in the past that I've heard from your Marketing people that they are even looking at the extension service as a possibility to provide the continuing education and I feel that they will be ample continuing education once this comes about in 1995 when it is approved and I do support the rules and regulations and thank you for the opportunity to make some comments.

Commissioner Douglass - Danny, just a little elaboration on the education phase that you are requesting, I guess your request is to not cancel an individuals license because maybe for some reason he did not complete the educational phase within a year but if he pays his fees and has a bond it be held until he meets the educational requirements. Is that what you are saying?

Danny Woofter - Yes, that is a part of our State Real Estate Law right now. Basically like this gentlemen here, he gave an example that he got sick and maybe his training course was on December 29 and the license renewal was January 1 but yet he has a requirement to have his bond renewed and pay his fee. If we would pick up some language from the Real Estate Law there about just basically holding his license until, he could not auctioneer but his license would be held until he finishes that requirement. Soon as that requirement is meet then he could again auctioneer. There may be someone who feels right at the time that he don't want to take continuing education but would like to, if they want to take a correspondence course real quick because they're going to do one auction for the year, they just simply put their license on hold. It gives people a chance, if there is confusion concerning the continuing education they could not legally conduct an auction until that requirement was met but I would like at it, for example, your status to where the continuity could be maintained and you may or may not want to do continuing education but your just basically saying the license is on hold. It really hasn't been issued to you, you don't have a card that says you can operate.

Commissioner Douglass - The reason I'm inquiring about this, either in a letter or somebody asked me this question and there are many auctioneers that just maintain their license and are not working at all and in that situation, the continuing education could be an option to them if they were not actively involved in auctioneering.

Danny Woofter - That's in essence what happens with the sale of a brokers license, it's just held. With the Real Estate Law your license is with a brokers license and they protect the locations which makes it a little but different than the auctioneer. I think part of the concept for some people is they just couldn't get the course completed or whatever, if they want to maintain their bond or the like or if they want to just pay the fee maybe the bond would be another area they could be exempt from by rules.

Commissioner Douglass - I don't think I could exempt that one, as I read the law, but I think that if a person is just maintaining a license, then maybe down the road we could change the law. I never did use mine commercially. You and I have done a little auctioneering together and its all been for freebies. If I wanted to continue and become active, well then I would have to come back and then work, maybe some continuing education. Okay, that's what I wanted to clarify a little bit.

Assistant Commissioner Morris - Tony Felosa

Tony Felosa - A lot of people talk about two sections, section 6.2 and section 11.1. For those of us who have worked other states, it was tough getting the license into the state, its tough anytime you try to change a license or a law. When your dealing with 14 other states that we have reciprocity with, as we speak, at least six of them are trying to get 6.2 put in their law, which is continuing education. If your going to work in other states, Ohio and Kentucky, Florida, your going to need continuing education so that your license is equal to or the same as their requirements. I'm speaking for myself and for the West Virginia Auctioneers Association when I say we solely endorse the rules as you see them in front of you. Personally, I would like to see 14 hours not 7. I carry five other designations and all of them require at least 14 hours a year. They do, however, use, some of them use the same ones, for the Real Estate License I can use the same one as I can for the Environmental Consultants License in some cases. Again, they require approval ahead of time by the Commissioners of whoever is acting in that association, presents that certification. My point is, the West Virginia Auctioneers Association does endorse this as it is written and personally I would like to see it go to 14 hours of continuing education. Some of the fellows have made good points about moving it around, doing it regionally, having the education done by professionals. Whether they be professional auctioneers or other professional people. I do feel that we need to be informed at all times, as much as we are during the convention and during our seminar that we provide in June. Changes in the laws and things that we expect to see happening on the horizon in the industry. This education that we are talking about here and my understanding is that it isn't all just auctioneering profession education, it's education, other fields that we work in, that apply to our professional endeavor. So long as the Commissioner approves it up front, my understanding is that some of those courses could be approved from other state colleges, extension offices or whatever. If you are going to be doing business in today's environment, I don't care what your business is, you'd better know what is happening in that business as well as the other ones that you touch on. As auctioneers we touch on many, many facets of the business world, not just getting up on the block and calling. With that in mind, I would like to again reenforce that we endorse this.

Assistant Commissioner Morris - Joe King.

Joe King, Weston, WV - I have not been real active in the auctioneering business in the past two years because of illness but I come from an educated family and I endorse education when it is spelled out and I don't think it is clear to me what we are really going to do. I have been fortunate to have had many antique auctions, household auctions

throughout this state and have gained valuable experience and knowledge over these last 28 to 30 years. It's what I have been doing and I can't for the life of me believe that we can go out in today's world and not learn something and not call that continuing education. If you have a formal class, something you would like for me to participate in, I also would be glad to do that. I want you to know that rules and regulations have eliminated small business. I fear the problem we are going to get into here one of these days with rules and regulations regulating people and we are going to get into testing one of these days down the road, that's what that is leading to. People who have been out of school for quite some time, we're going to be the ones left out, and I don't agree with everything that everybody does at this _____, so I think we have to retain good old honest hard working people auctioneers, give them an opportunity to make a living out there and not make a bunch of regulations that exhaust the opportunities for them to live. I think we really have to be careful Mr. Commissioner when we approach any new rules and regulations and make sure that it fits everybody and not just a few people. I just can't over stress the gratitude I've got for people in the auction business. I want to help them by good respectable work, being honest with people, I've never had a charge against me in my whole life. I just want to say that we can go out here in America and West Virginia and make a living and be auctioneers. We took the requirement to go school, I went to Glenville State College, compliments of _____ instructor at that time, went right through that, we met that requirement, we've met the requirements for the bonds, whatever is necessary. I want to go ahead with my own education but I hesitate to say, and believe that we should make it a requirement because down the road we are going to see people that's, maybe in my caliber, I don't know, maybe somebody else, they're going to be eliminated. I don't want to see this whole democracy eliminated, I don't want to see these auctioneers eliminated because of some kind of schooling or testing. I just thank you so much for the chance to speak.

Assistant Commissioner Morris - Let me ask a question for clarification. It sounds like the two of you may be saying the same thing or trying to say the same thing, that you want some improvement in the subject matter of the continuing education, is that right?

Joe King - Yes.

Assistant Commissioner Morris - Charles Jarvis.

Charles Jarvis - Thank you Mr. Assistant Commissioner, Mr. Commissioner. I, first of all, apologize to myself and my profession and to a lot of people in my profession for not knowing that this type of legislation was in the works. I would have opposed it at that stage and I think been much more successful than where we are now. I've been in the auction business over 20 years, I've sold a lot of different kind of sales and I am here to tell you that auctioneering isn't rocket science. Most auctioneers learned on the block, learned it right out there doing it, we've learned it doing it and I'm just real appalled with the notion that I'm going to be required, after being in this business for 20 years, to sit in a classroom for seven hours and hear things that may or may not pertain to how auctioneering is really done out in the real world. The only possible reason for such a law or such a requirement is to protect the public. If I really thought it was rooted in

protecting the public, I'd be a lot more acceptable to it. The real reason for this type of law, this type of regulation, proposed and supported and endorsed the organizations of auctioneers is to limit the competition, to keep people out of the business. That's not what it is about in America. We ought to have the opportunity to pursue our businesses that we've chosen and been in over 20 years without undue interference from the government and I believe that's what this is here. Most of my sales that I do and I'm not doing near the sales that I used to, at one time I sold five, six sales a week, now I do five or six a year. I can do without those very easily and may have to do without those at some point in time but when I'm hired, they call me, they ask me to come in and step in the auction box, sale cattle, sale something else, I'm paid a fee, I leave, I don't handle any money, I don't handle any paperwork, I don't do anything but conduct that sale. I may be a little different kind of auctioneer than most of you, I've done the other kind of auctioneering. I don't believe I need to be required to take a seven hour course on computerizm, computerizing my business in a years time, I don't want to computerize my business, I may never want to computerize my business but I may have to take this course on computerization just to keep this silly license. I, like a lot of you, got my license without anything other than sending in \$10 or \$15 to the Agriculture Commissioner. I've conducted sale for 20 years and never had a charge against me, never been in court, never violated an auctioneering law that's been prosecutable that I know of and, therefore, I think it is just a little bit of overkill, it's a whole lot about limiting your competition and I really, as a conservative American, have a real problem with it. Ignorance of the law is no excuse, we've heard that ever since the day we were born. If your going to require me to have seven hours of training each year and know the law, that's wrong. I've got to know the law, if I break the law I'm still guilty of it even with your seven hours of training. I see no value, I see no real value to this other than limiting competition. I just felt so strongly about this that I had to come down today and make this statement and I am prepared and will be working within the next two years to see that this continuing education language is stricken from the state law. Thank you.

Danny Woofter - I want to clarify something.

Assistant Commissioner Morris - Okay, go ahead.

Danny Woofter - I'm Danny Woofter from South Charleston. One of the things I did not make are the people representing our state association did not state whenever we were talking about lobbying, he mentioned he didn't realize that you knew this was being proposed in the Legislature. The major reason of this requirement, not only was it something we felt was a good policy but the fact that we had to move, like the real estate profession and others and have a continuing education requirement so that the State Tax Department would call us, quote in their terminology, professional because we were liable to charge tax on our commission, that whoever your working for at their sales as long as you were the auctioneer retaining a fee you were to charge 6% on your commission. There's catch 22 if you want to lobby to get rid of continuing education then at the same time I feel we're lobbying to charge tax on our commission to our clients. That's the catch 22 I do not want.

Charles Jarvis - Al will address that, I've got to go. I've got a 2:00 meeting. That's a good point but let me explain this little thing to you. In the 1992 Legislature that's just now still in session but previously, they came very close to levying a tax on professionals and that's exactly where you are putting yourself into. Doctors, lawyers, accountants, auctioneers. Very close to having to pay 5 or 6% right out of your pockets, everything you do for health care or medicaid or whatever that tax they were going to levy it for. This stuff is serious and dangerous to be playing with. On one hand you may escape the sales tax, on the other hand you may be hit with a tax that is much more dangerous, much more severe and it's just, I don't think that is a good argument. I don't think that is a pertinent argument at all because the government is going to do to us what they're going to do to us, tax wise. I agree, we shouldn't have to pay sales tax on commission, we shouldn't have to do that but we are, we are liable to. There's nothing saying they won't do it next year, there's nothing saying they won't make real estate agents pay. Secondly and finally, I am also against what I would call double dipping in this thing which would be allowing a real estate agent to claim his time to get his auctioneering license, especially a lawyer to keep an auctioneer license. In my opinion lawyer's should be required to go through the same testing, the same schooling to be an auctioneer as they are to be, rather than being just given the blanket opportunity to auctioneer. The thing we've got to remember here and keep ourselves grounded a little bit is, in the State of West Virginia a lawyer can auctioneer without a license, any private citizen can auctioneer without a license selling his own goods. I just don't see the real need to make this much bigger than it really is and it's just something that the craft that we've all learned to do and learned to love and it just bothers me that we are excluding people from having the opportunity to do that. What comes next? We do continuing education this year, what's next? Will we all have to have a pickup truck? What comes next? We've got to quite somewhere in requiring auctioneers to do this and that to keep their license. I apologize for taking so long, I've got to go.

Assistant Commissioner Morris - Bud Tressler.

Bud Tressler - I just walked in on the back end of this so I'm going to just listen.

Assistant Commissioner Morris - Okay. Is there anyone else wishing to speak to the rule?

Charles Loudon, Weston, West Virginia - People, the only thing you've got right here is process of elimination. Sit right here and listen to Woofter or Tony Felose or Mr. Thompson right over here, the only way you scare a real estate agent is mention your auctioneer. It scares them to death because we can sell real estate, we can sell anything we want to as long as we go by the law, they don't want to see us out here, they don't want to see us sell a piece of property and another thing, I would like to know who is qualified to teach us? To teach these courses, I would like to know who is qualified? Right there is Mr. Butcher, I've known him for 40 years, I can't teach him. I can't teach this gentlemen right here, he's been in the business 60 years, I've been in 20 years, now who is going to teach me? Who's going to teach you and who's going to teach you and who's going to teach Bill Self? The only people that's going to teach you is teach yourself. You go to a sell, you learn something from every place you go if you pay

attention. If you don't, then your not educated. You have to do it yourself.

Bob Butcher - Commissioner, we've been over a lot of . . .

Commissioner Douglass - Bob Butcher.

Bob Butcher - . . . together, I'm sorry Ms. Morgan. Robert Butcher, Glenville, Gilmer County. I have, lost one, five member family, everyone of us school teachers, everyone of us married a school teacher, my father was a school teacher, that's an indication, let me say quickly, of ignorance, not intelligence, for that many teachers to be in one family. Someone should have been a farmer, an engineer, a doctor or dentist. I have children, two of them, lawyers, they have no business selling without meeting the requirements of auctioneers just as me and the others in this group has done. My oldest son is quite an auctioneer, I might add. Never went a day to auction school but he paid attention to his dad. Now I'm a believer in education but Charles Jarvis was as right as he can be. If it is seven hours now, suggested by the gentlemen on the left, no personal offense, why not just get a four year degree in auctioneering. Why not appeal to the State Board of Education, State Superintendent of Schools, the Board of Regents, the Governor, the Legislature and just set up a field of auctioneering law requirements. Now the old 4-H slogan was this, "you learn to do by doing." I was taught to be an auctioneer by as fine a group of men as ever climbed on an auction block. Glen Chaffey, President of _____ School of Auctioneering, Decanter, Indiana, was considered one of the finest educators in the eastern part of the United States and without question could match any man in this great country of ours on the speakers stand as an orator. Two hundred men sat and listened to him, as I did, for one hour and ten minutes. There was a man in the crowd that would say he talked longer than 30, I never heard him say. That's how good he was, so I learned under masters but I didn't learn it all. I was a lot like a daughter I have who is a medical doctor. She had no business treating a serious patient the day she got out of medical school that had some major problem, nor does an auctioneer have all that ability immediately upon graduation. You learn to do by doing, that's the slogan of 4-H. It's good. Frankly I think Charles hit it well on the head and, Commissioner, we've been live-long friends, no personal reference to yourself, but the West Virginia Auctioneer Association can't make auctioneers. Laws and regulations are not going to make auctioneers. You know, your going to make yourself a good auctioneer. After you learn, as coaches teach football, basketball, baseball fundamentals, you get to form the medals in school but then you take them and hold them, sharpen them, practice them and become the successful auctioneer that you are mainly by your own effort. I see, as Charles Jarvis expressed and to some degree Charlie Loudon and to some degree my old former student of four months, get this, the State of West Virginia only charged \$25 _____, 21 boys in '66 and 22 boys in '67 and it only cost them \$25 to take a 4 month course in auctioneering. If you say, "you windbag you, what business did you have teaching?" Well, I've got news for those of you who ask that question. I'm certified teacher in the State of Florida, in the State of West Virginia with an A.B. degree in the field Biology and History and Political Science, I have more than had the work toward a masters degree from West Virginia University in the field mainly of history, so I can speak with a little authority about this teaching business. We didn't get through this two week crash course of auctioneering

at Glenville in '66 and '67 and we went four months. I firmly believe, Gus, if we are going to put standards, lets put some real standards. Let's just require, you know, high school graduates to enroll in college and take a course in auctioneering. I've said this to 5,000 probably but lets say 1500 to 2000, Gus Douglass is one of the most honorable public officials that not only the State of West Virginia has ever had but any other state, bar none. I've respected him from the word go when he was Commissioner Johnson's assistant, I know Mr. Johnson. Let me tell you something, if you put a layer of bureaucracy here, why go with a piddling six hours or 14 hours or 20 hours. Let's just take a four year course in auctioneering. Now, as far as the real estate business, you had better research the law a little. I worked six years, among other things in my lifetime as Circuit Clerk in Gilmer County and ran unopposed for a second term but I didn't want politics as well as Gus, I got the hell out. Now, listen to me, listen to me. We, as auctioneers, if you research the law and I had Judge Duffield, ex Senator Matthews of ___, ___ of Sutton, ___ of Weston and Charles ___ of Weston, among the states very finest were lawyers, to research the auctioneering law and the ___ even found some additional stuff that they didn't find was Buddy Hamilton, one of the three Hamilton fellows, two of them brothers in Craigsville. An auctioneer has always had the right, according to our state constitution and our federal constitution which is based on old english law, we have always had the right to sell real estate. If you keep searching you will find it. I went to ___ School of Auctioneering from which I graduated and talked to their class out there, upon request by ___ the President of the School, and I talked on the sale of real estate, I had never followed it as my main claim to what little fame I might have. I never followed real estate as is the best source of income of all but, you know, they thought enough of what I had learned about what auctioneers have the right to do in the way of selling this or that item, they thought enough to invite me out there, three different sessions of their school to talk on this subject. The lawyers trying to say it with their tongue in cheek that it's the second oldest profession in the history of mankind, the auction business. I think it is true. They used to through a spear in the ground with the red flag attached and, you know, they would say auction. One country would conquer another and they would sell the whole confounded country, the personal property, the real estate and everything else at auction. Auctioneers have many rights but lets not add another layer of bureaucracy. I have nothing against your state association of auctioneers but personally I am not crazy about attending. Commissioner and you other members of the panel, Ms. Morgan and Mr. Morris and Mr. Williams, I have no great fight with the state auctioneer association, I don't belong to it but I want to tell you something fellows, for those of you who criticize those of us who are not in it, there are good reasons. I've been around this game 40 years and Mr. Casto longer, we set up an organization here in this state, I remember Paul ___ of Clarksburg, ___ John of Weston, we invited H. G. Staats of Clendenin but he couldn't make it at the last minute, myself, maybe two of the ___ brothers in Lewis County, we all got together and we tried to get an association started but it was always something personal, everybody was wanting to use the association for their own personal gain. They weren't thinking nor did they have back then, maybe your different now, I don't know, I always thought an association whether it was the State Bar Association, State Medical Association, Association of Engineers, Association of Sanitarians, the FDA, State Educational Association, I always thought associations where supposed to really help and further each individual teacher, doctor, lawyer, dentist, whatever, auctioneer, to help them get better,

not to further your own. The age old story of the telephone pole, and if selling the earth with the ashes cremated, a desecration of the dead that doesn't do great credit I don't believe to our association. I've read that in one bulletin and then I got a letter from one member of some board or something saying in essence if you don't want to join the organization would you send some postage money and I think Mr. Mallard in Morgantown is the Treasure, I'm not sending \$30 or \$40. I don't think I've received that much postage material but let don't tell these stories even if they're true they sound like a lie. The \$16,000 was found in a box of silverware after it sold. Let me tell you something ladies and gentlemen, an auctioneer that sells a set of silverware with \$16,000 underneath it is not a true auctioneer. I don't care who he is, if he's my brother. I don't care if he's my ____, I don't give a damn who he is, he's not an auctioneer. Let me tell you what, I had a three day sale for Olin Hill, I'll give you a quick example. ____, he lives now in Grantsville, he then lived in Arbuckle. I told him I think we can sell you \$16,000 worth, we sold \$16,145 worth, I said you've got to spend around \$1,000 to get ready. Later, part of it had been ____ on his grandfather, he's 75 or 80 years old. We've got to clean this stuff up. We've got to rearrange it and I don't like to sell anything unless I've seen it at least once, and four or five times is not to much. We found \$375 not \$16,000 in a cigar box, Olin Hill got his money. Now, I think an auctioneer who sells an item in a box that's got \$16,000 in it, has not done his job as an auctioneer, if it really did happen. I don't think it happened, personally. If I am hurting anyone's feelings or anybodies friends feelings, I'm sorry, but I don't think it ever happened to start with. This doesn't look good in the state association. He's admitting to one thing, he either didn't do his job as an auctioneer by reorganizing, cleaning, polishing, looking and arranging for his sale or he's told a great big fib. I don't think any member of the association, any member teach it, Gus Douglass I'll accept you as a teacher, I'll attend your class, but, I don't believe any member even if he is qualified to do it, and is good enough to do it and there are some that are, I don't think ought to do it because of jealousy. Now, we all know that auctioneers are probably the most jealous one group of men that has even been hauled whether it was justified or not, an association, are probably the most envious, jealous ones of all. I'm quoting now a lot of ____ in National Auctioneering School does, now I'm for you, I want to be constructive, I'll help any way I can but let's get this thing on a bigger level than pettiness and smallness and little, let's just get an man of stature, get a man like Quinn Chaffey or his son and I compliment to high heavens the Auctioneers Association and Mr. Thompson over here and others who helped get it. His son, if he could even be that much of what his daddy was, was one of the best men that ever appeared in the State of West Virginia. Go out of state and get a man, I'll give \$100, I'll give \$100, but let's get a big man in there, let's not get a little 2 x 4.

Commissioner Douglass - Bob. . .

Bob Butcher - I'm sorry if I talked to loud, talked to long, I'm sorry.

Commissioner Douglass - I just want to compliment you. You haven't lost your eloquence at all, I'm sorry I've lost you for four years and now we're coming back and I can see you're still just as active and that great believer as always, Bob. The important part of this forum is that you give me options and I've got to have options to operate. Bob, I was

going to use this in finishing up, it is probably better that I make this statement right now because I don't believe in attending a meeting just for attending a meeting and I get nothing out of it, I attend too many of those right now and it's a waste of time. I don't think you, I, or whatever occupation, have the luxury of a lot of time because everyone is trying to make a living out here. If continuing education becomes a part of this legislation, rest assured it's got to be of substance. I think everybody will agree to that. As far as I'm concerned, we're not looking for fillers and if it is not something that will benefit the profession or benefit that individual so that he can increase his income, again, Gus Douglass is not interested in that at all, Bob. That has been alluded to several times here and whether how many hours, people have raised that, how many hours you need and the other states I think, Al or one of you said you though seven hours at least, we found three hours was the least hours in another state. That may come out of the record here too. I'm going to have to leave you shortly so I thought I would interject that but you open up the points here. I don't know how far I can go in classifying auctioneers. I think Charlie Jarvis brought this point out, that your almost to the point of classifying auctioneers and this one would have to be looked at and I'm not adverse to pioneering as you well know that. I'm not set in concrete anywhere and we'll look at that possibility because there's active auctioneers and there's others that are doing various types of activities and some of them have required continuing education just like here. You have a total record where in your auction that you've got a Charlie Jarvis that's selling purebred sale, he's only working the block and so your into another classification. Again, the ole boy says your recycling me here, so here I am listening to you and I'll sure try to hear what the final comment is that comes out of this hearing. Again, I apologize but I have a meeting in Wyoming County tonight and I've got to get on the road if I'm going to get down there. From a personal point of view again, I thank you for coming. Feel free to comment to the staff here and give them the full benefit of your point of view. Thank you.

Assistant Commissioner Morris - Anyone else have any. . . yes sir.

Al Thompson - I feel compelled to follow up my statement earlier. I must say that I attend to many meetings in my day, I'm not 60 years old by any means but someday I hope to be 60 years old, 70, 80 or 90 years old but I have yet to hear an orator that can qualify to even becoming close to what you are as a speaker.

Bob Butcher - Thank you.

Al Thompson - I'd like to digress to some of the things that were said with certain innuendos I suppose and I'm not rebutting anything but I'm just merely elaborating on some of the interpretations that I've made on some of the things you've said. Again, this is with my interpretation. Number 1, I've probably sold as much real estate as anybody in this room, I don't care who he is. I've probably sold as much real estate as any auctioneer you've ever heard of but that's where I choose to go but there's very few of you ever sold any more than \$3,000 household sale and I've sold either I want to tell you that. I doubt if there's very few of your who has sold as many ___ bulldozers as I have, maybe you have but you see, I go the full spectrum of the auction profession from one

end to the other and I've crossed many rivers, many rivers. As far as educators are concerned, we've had folks in here, the President/Owner of _____ Auction School, we've had appraisers from Dallas, Texas in here and I go to Dallas, Texas, and teach but now I'm 25 miles away from home and that makes me an expert in Dallas, Texas. Well, if he comes from Dallas, Texas, way off then that makes him or her an expert here, which is good, that's good. We can say what we've got, go get on an airplane and leave and leave people talking and _____ but I have yet to go to anybody's auction and I've been to some of your auctions, I know I have because I've been in Gilmer County and places when auctions are going on and I stop, and do you know why I stop? I stop to learn, I stop to learn. I'm a member of the West Virginia Auctioneer Association, I'm a member of the National Auctioneer Association and I'm a graduate of Certificated Auctioneers Institute. That's three years of hard work and 20 years of hard knocks. I've got to tell you that I've learned more in the street than I did in those schools about being an auctioneer but I learned far less on the street than I learned in those schools about what the business of auctioneering is all about. I've walked up to a many, many, many auctioneer and just in conversation ask about the bulk sales laws for instance or the uniform commercial code. Now ladies and gentlemen, that's your Bible and they didn't even know what I was talking about, didn't know this existed. This is where we are trying to come across as far as education is concerned because there is so many auctioneers out there flirting with big dollars. Me, and I'm one of us, I bet you that I get 25 phone calls a week and I'm not exaggerating one bit and I've got to write 10 letters, not a week, a month, 25 phone calls a month and I bet I write 10 letters to fellow auctioneers all over this state, apprentice auctioneers, older auctioneers that have heard me speak at such seminars or heard me speak at different places and want to know about things and I take the time to tell. I've even copied the uniform commercial code and sent it to them. I don't want to be accused of doing this for self service efforts.

Bob Butcher - I apologize to you Mr. Thompson.

Al Thompson - No problem, I don't want to ever be accused by anybody as self serving Al Thompson of Resource Market because, ladies and gentlemen, I've sacrificed many days and many hours of my time training auctioneers at no charge. By the same token, those same auctioneers have taught me something. If nothing else they taught me what a weakness was and how to capitalize on that weakness for my ownself and help them in the process of doing it. No sir, I'm not self-centered and I'm not self serving. I'm an auctioneer and I'm a damn good one and if you got any doubt about that, ask me sometime if you need some help and I'll come and help you. But this education is something that I support.

Bob Butcher - Do you think every auctioneer maintains your high standards of ethics and _____. I ask you that. You may be an exception Mr. Thompson but I've been around this group of West Virginia auctioneers too many years not to know, and I've even been threatened by members of it, Mr. we've got a law now, there's a law governing auctioneers. This was one way when we sold the beanbag, a little one that was worth probably \$15 for \$3.50, then later someone put a big one up, the little one went for \$3.50 and the big one only brought \$3.50. This man, an auctioneer from right here in

Charleston, come up and threatened me by loosing my license for selling the big beanbag for the same price of the little beanbag. Now he was going to use the WV Association and the auctioneering law to eliminate me. This is what I mean, I've had that experience with members of the association.

Assistant Commissioner Morris - Mr. Butcher, let's get back on the subject of our hearing. You gentlemen can discuss this later. We're off the rule a little bit here. Is there anyone else in the room that wishes to speak to the rule?

Brenda Frazier, Ripley - The thing about the seminar, the seminar would be one way of getting continuing education for various kinds of seminars. There are local speakers, now do those local speakers, they don't get the credit for the continuing education or are they allowed to teach themselves? If they're there for two hours out of the seven hour course then they would only be getting five hours of continuing education. And, one of the reasons that they are saying that the reason for the continuing education is to be a professional to get this tax later, now not all the people that are listed as professionals have to have continuing education. That's not a specific requirement for it, there's a lot of professions out there that are not required to charge themselves consumer sales tax and they do not require continuing education. Every time, I was at the seminar or convention when the attorney was up there talking about it like that was one of the major things so that was absolutely have to, you have to have the continuing education to keep from charging the 6% sales tax but not all the other professions in the State of West Virginia have to have the continuing education. Again, like the state, you all here right now the Agriculture Division, they don't have the time and go out and enforce the laws that stands now, now they're asking for more laws. There's going to have to be a lot more money situated through the Department, a lot more people hired, something, to totally do there format all over again because they just can't even enforce what's there now and now they're asking for more. It's going to be difficult, there will be someone answering the phone all day saying hey is this going to be acceptable. A lot of ground rules is going to have to be wrote up for what is acceptable because everybody out there is against it. All the auctioneers we have talked to, it's just a lot of people couldn't take off a day of work to come here. Not everybody is interested in the reciprocity of the other states, a lot of farmers and stuff, all the people who have had their license for years they may not even conduct auctions. Like Gus Douglass, he said he don't, he hasn't conducted an auction. Mr. Commissioner there, he isn't interested in reciprocity of the other states so maybe they can go to that other state and get their continuing education if that state requires it.

Assistant Commissioner Morris - Okay, is there anyone else that wishes to speak. Yes.

Bill Self - Yes, just one quick thing. If you think an auctioneer needs tested, then I think that's what you need to do. I think you need to push each one of us on a test and see if we need any continuing education and I'll be the first one to volunteer to take that test to see you think that I need some further education in some field. Now that would be fine. If you think I do, I'll be the first one to take that but I suggest that we have an auctioneers test to see if they do need that.

Assistant Commissioner Morris - Yes sir.

Golden Casto - You know to me, if you're going to have something in an auctioneers continuing education you ought to specify what the education is going to be. Whether it is going to be on real estate, livestock or general sales in public or whatever. If you go through an auctioneering school and you get a diploma from that school and your a certified auctioneer, be an auctioneer. Then you've got all the laws printed out right in your law book that you've got to go by. Everybody knows, somebody said if you break the law, your ignorance in breaking the law that's no exception. If you break the law your subject to whatever the law says the penalty is. So why do we need more education? If you already got a diploma from an auctioneering school, you graduated from an auctioneering school and you can't learn something, what you do is go along on different sales. Al says he's talked at different sales and he learns something every time from somebody else. That's educational but what does educational specify then. What's it going to be, what's it going to pertain to?

Assistant Commissioner Morris - Mr. Casto, I believe Mr. Drake addressed that in his remarks, did he not?

Golden Casto - As Charlie Jarvis says, the only thing it's going to do, it may make it ___ ___ it's just competition. The fellow that's got a roll of money, able to stay in, that's the only ones it's going to be. Fellows like me, 72 years old, and a lot of other fellows are younger people that are just starting in. And, the way the economy is no jobs, ___ the schools and they've got a certified certificate that they graduated out of that school, why would they need seven more hours of education every year. What's the education going to cost you? Are you going to have to go here to North Carolina or up here to Missouri to an auction school for seven hours and maybe get one hour a day and your going to spend \$500 to \$1,000 going up there to stay a week and it at going to do you a dime's worth of good.

Assistant Commissioner Morris - Okay, thank you sir. Mr. Frazier you want to. . ?

Ed Frazier - I have two points, two questions. Are we going to, looking forward to seeing our auctioneers fees raised to pay for all this? That's one. And, I don't know, I'm for continuing education, I really am, but everybody is saying the same thing, just tell me what I need and that's fine, no problem.

Assistant Commissioner Morris - Okay, there's somebody over. . . yes sir.

Louther - What I would like for you to do is look at this. You talk about continuing education and everything like this and I've heard nobody mentioned your rights yet, your constitutional rights. Nobody, your _____. Just look and see if it's not against the constitution of the United States to force us to do this. That's where we've got to look at. Were taking to much flack off everybody now. The only thing you've got to do is go up and down the road and look and see what is happening. This right here is not right. It should be your prerogative if you want to go to school. But, don't come over here and

tell me I have to go. Well, I don't have to go anywhere, I don't believe. If your going to do that let's see if it is against our constitutional rights. If we have to go to school to do this, let's do it. Like Mr. Butcher said, if we're going to go to school, let's go to school. I'm ready. But now if we don't have to, if they can pass these laws, if we have to do this, boys, it's not right. I don't care. All you've got to do is somebody comes up says you have to do this, I got to go out here and spend my money, I've got to buy my license, I've got to get my bond, I got to drive my trucks up and down the road, no, that's not right. No way. The only thing you've got to do, boys, I'm going to tell you, if you have to do it it's against the constitution of the United States, it's against your rights.

Assistant Commissioner Morris - Okay, anyone else?

Tony Felosa - I've been around this auction business all my life. I stood in this room about eight years ago and heard a hearing on whether or not we were going to change the law and there were the same comments from the same people, if we have the law we're not going to come and get our license. If we do this, if you raise it the cost of the license we're not going to do that. Your going to drive the little man out. The same folks that were sitting here talking about being driven out five years ago are talking about being driven out now. Those of you that truly love this profession and want to stay in it are going to be here no matter what. Like any other profession, if you want to do that and that's your lives choosing you'll be here and you'll adhere to those laws. Continuing education, as I see it, helps us live inside those laws. Granted, I don't like to drive down the road 55 miles per hour, we've got ___ slab out here from Clarksburg to Parkersburg and I've got to drive that 55 miles per hour and I don't like it but the law says I have to so I live within that law. I can't quit driving there no more than I can quit going and paying my fee every year to keep my license and getting my bond every year to get my license. I don't like doing that but I have to do that because that's what the law requires. I don't know where it's going to stop but I know one thing, when this world stops changing then we all had better get on. The world is not going to stop changing, guys. I mean, it's hard for me to accept change, the older I get the harder it is to accept change. I couldn't accept it when I was 16. It's a lot harder every year. But, this education, granted some of you like working within 15 miles of home and you might not want to go anywhere else, that's great. Work there but when you're there working at least live within the law and do what's right, at least know what it is. Some people here complain about the Association and I've been in that Association for 21 years and I've never seen them at a meeting. Two meetings a year we have and I've never seen them. I've held every office in that Association, never seen them there. Granted, they've got reasons for not being there. I personally have never done anything to hurt any auctioneer and I've spent a lot of hours to help every auctioneer and I don't mind helping and I hardly ever charge another auctioneer when I help him. What I'm saying to you is, if your going to fight this law, have a good reason to fight it but don't do it because you're opposed to change. Our industry is changing just like every other industry out there is changing and the more that industry changes, the more we need to know about that change. The Department of Agriculture, in my opinion, has an obligation to provide us with every law that affects us. Everything that is out there that comes before the legislature that makes a change we need to know in a timely fashion they've been

admirable in their attempts to do that. I suggest that you continue the work your doing and you look at this law very closely. I think that we've all pretty much said the same thing. I don't think anyone in here is adamantly opposed to education, they just want to know what it is, what they're required to do and how many hours and where. I hope you can wrap it up with that.

Bob Butcher - One additional thing, we all love Gus Douglass, I told Gus and one of his assistants, Earl Kelly, this many years ago when there was a move on by one of the state's great auctioneers, old Jimbo McCutcheon in Parkersburg, Wood County, if you please, and he can do it well, big and round. He probably, in volume of sales, is one of the big auctioneers in the eastern part of the United States, million dollar sales not to uncommon for him. When he was a member of the legislature because of a death in Wood County of the active, elected Legislator, he joined hands with Mr. Teets of Preston County, couldn't wait to get a new auctioneering law, the old laws were under the jurisdiction of 55 counties, I talked with Gus, I talked with ___ Nelson of the Nelson family fame here in Charleston, I talked with other big wheels in state government. I said, "Now listen, you're going to get a lion by the tail, you mean to tell me one state office or department can replace 55 county courts who have jurisdiction under the present law." Can you replace 55 sheriffs officers, 55 state troopers offices from the enforcement side of your auctioneering laws? Are you going to raise the licensing fee from \$5.00 for rural people to as little as \$5.00 to no more than \$25.00 in towns less than 3,000? Are you going to require a bond that will cost, in my case \$100.00 ever since I've been an auctioneer but I got a letter from somewhere in Alabama they'll give me three years for \$150.00 and I think the association is responsible for that, more power to them, great, wonderful. But, boys, you're going to get a lion by the tale. I said we have probably 350, 400 auctioneers in West Virginia now, this is back in the 60s. Now it's raised to 500 then 700 or 800 and now I'm told is in the neighborhood of 1,000. Now gentlemen look, \$100 for 1,000 auctioneers for a bond, that's \$100,000. It's going out-of-state in most cases. You know the license fees \$50,000 it will raise. The legislature can't wait to put it right to the group that gets prosperous and auctioneers can be prosperous if they'll work at it, so that's all in the past. We've got to live with the present and I will go along with education but let's do it in a way, if it's individuals, men of stature, men that everybody's got a tolerance in, go to college. I don't know whether home study type courses count as credit or not. Do they Mr. Morris?

Assistant Commissioner Morris - Under the rules, you can apply to the Commissioner for any course and he'll make that rule.

Bob Butcher - That would be a great source for a lot of people. ___ course. There's nothing wrong with going Civil War history, particularly if you're selling a firearm that does back to that date, particularly military, or drum. I've sold it all or GAR _____. He knew about Civil War history in the state . . . now, I want to be helpful. I don't want to tear down, I want to help build up but I don't know, fellows. You've got a lot of work ahead of you and it looks like, Mr. Morris, it's on your Department's shoulders instead of the 55 county government.

Assistant Commissioner Morris - That's true and we're doing what, we're trying to do what the law tells us and that's the reason for this hearing. Well, we're required to do it. Alright, anyone else? Yes?

Drake - First I would like to say thank you for the opportunity to attend the meeting, to speak and listen. Second, I would like to question or ask you a question. We got a notification of the meeting, we've had an opportunity to make our input and it's my understanding that after you correlate all this testament, this accumulative information you will submit then to the legislative body your proposal to the, and ask ____ of the law. I would ask that we did, as individuals, take the time to come in to, and those that wrote to you to make a comment on it, is it possible that prior to or that would coincide with your submission to the legislative body, can we have a copy of what your proposal actually is? What I'm really wanting to know is, I've spent my time and I've taken your time to come here today to give you my ideas about your proposal. First I'd like to know the end result and second, maybe not necessarily second, I would like to know what I have accomplished and I will know that when I see what your proposal is to the legislature. Okay. And also, this year, to me is our first line of defense, if in fact it could be or our first line of offense depending on whether you are pro or con to this. When it goes to legislative body, if we know in advance before it gets there that will be our second line of defense and that will prepare me to go with you not only to support you when you submit it or, there again, you and I may ____.

Assistant Commissioner Morris - If you'd like, if the group would like or if the whole group doesn't want to do and you want copies of what transpired in the proceedings today we will be happy to furnish those with you. We will be happy to furnish you with copies of what we submit to the legislature.

Ed Frazier - One quick question and I image it will help somebody here.

Assistant Commissioner Morris - Excuse me just a minute. Can we, we can get addresses for everybody here?

Bob Williams - Everybody who is a licensed auctioneer we have.

Regina Morgan - There are two people we need.

Ed Frazier - Is today considered continuing education?

Assistant Commissioner Morris - It is for me.

Ed Frazier - It was a question I wanted to ask. I'm learned a ton today. There's knowledge in this room.

Assistant Commissioner Morris - I was very serious. I have too. If there aren't any other comments, we have some written comments. Okay, you'd better hurry we're about to wrap this up.

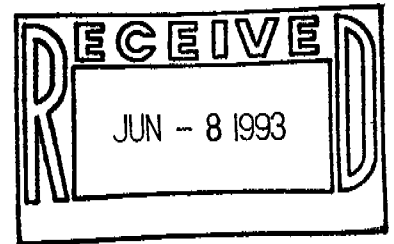
Bob Could - I'm not an auctioneer I'm an attorney but I come with my friend Bud Tressler today because I was interested in some of the rules regarding reciprocity and continuing legal education and seeing when the _____. The legal profession has COE. We have to, attorneys, take 24 hours per year of continuing legal education which is somewhat expensive because you've got to take all these different seminars and tuition may \$125 or something for seven hours worth and have to do that three or four times a year but it's not all that serious. You all probably deal with attorneys in all of your relative professions and you probably don't feel a whole lot more comfortable just knowing that somebody is taking 24 hours of continuing legal education. You will judge your attorney by how they do for you and how they've done for other people and what you know about them in the community and their ethics and so forth but you're not going to be feeling so much more comfortable or some much uncomfortable depending on whether they took continuing education in an area that may not even relate to the actual business of the profession. Like you said, the Civil War history is relevance in the auctioneering profession which it is, it is not relevant to the guy that's selling horses or the guy who's selling _____. It may or may not have anything to do with it. And, because in the legal profession is now required in West Virginia we all have to go through it. Many other states though including New York and the District of Columbia and many others, where there is a more active legal community in many cases it's not mandatory. If you want to take continuing education to improve your professional skills, to be able to tell your clients that you've taken certain courses you can go ahead and do that but it's not required, there's no bureaucracy there's no forms to fill out, it's your option if you want to do it. Education works best when it's voluntary. When you can decide, yes there is something I would like to learn then it's fine but if your getting to the end of the 12 month cycle and you haven't done your seven hours yet and your just going to take the next course that comes along just so you can fulfil your requirements, your not learning much and your just wasting your time and your doing it to spend money to go ahead and be able to file a form that says you've done it for the sake of having done it and I just wanted to share that with you. As an attorney, I guess I have the ability to engage in your profession, I would never do it. I would always leave it to a professional. I would rather have someone, even if they didn't have any formal education at all other than their experience and education in the auctioneering business, I would rather rely on that person and not do it based on whether they took a seven hour course. In the legal profession in West Virginia it has become sort of, not very serious to continue legal education. In fact, what they do is during football weekends at Morgantown they schedule all the continuing legal education so that people can up and go to the football game but on Friday night, take their seven hour or eight hour course and then they can write their whole trip off, including their football tickets, off their taxes and they do it. Of course that comes for the continuing legal education includes what football game you want to attend and how many tickets that you need. So, that's what it has become, it's become sort of a money thing that everybody has to do it, they collect those fees. I don't know, some of them are not provided by the state or by the Bar Association they're provided by independent firms but now your giving money to somebody to tell you something you don't really want to know because the state now says you've got to do it. I just wanted to share that with you if you all are not familiar with what's happening in that particular profession because there's plenty good lawyers that probably never need any continuing education they just get better by what they're doing

and I'm sure it is very much the same in your field. Thank you.

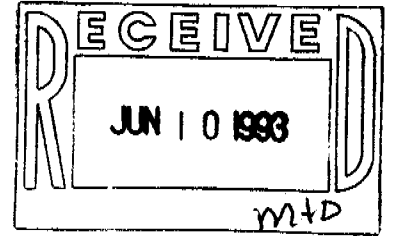
Assistant Commissioner Morris - Your welcome. I've received some written comments regarding this rule and these will be entered into the documentation and they will be considered with equal weight as the comments that have been made here in person and I need to read those into the, not the entire letter just who they're from and the name of the person. The West Virginia Auctioneers Association, Carlyle Millard, Executive Director, they basically support the continuing education. Hagedorn & Associates, Auctioneers and Appraisals, of Triadelphia, they support the continuing education and suggest it should be six hours instead of seven since most colleges are set up on three hour courses. In addition, from Melvin H. Dove, Rt. 1, Oak Hill, strongly objects to section 6 and objects to the continuing education. Denver L. Rosier, Sr., License 95 of St. George, opposed to section 6.2 that's the continuing education. That's the four letters we have for the record. I'll give those to you, Bob. There's one other thing. The record will remain open for two weeks from today if you have additional comments to get to us. I'll hold that two weeks. In 30 days, we have to have things put together and ready to go. So, I really appreciate your input and I thank you for coming and have a safe trip home.

Eina
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F/I
*f:lc
GO

Jack Sanders
HC 75 Box 33
New Creek, WV 26743



June 7, 1993



The Honorable Gus Douglass
Commissioner
WV Department of Agriculture
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

Re: Proposed Auctioneer Law Regulations
Specifically: Section 6 Paragraph 2

Dear Commissioner,

Several days ago we spoke about the above referenced Section 6 Paragraph 2 of the proposed Auctioneer Law Regulations. At that time I voiced my objections to this section on the following grounds:

1. Those who only conduct a minimum number of auctions, i.e. no more that 6, would be unnecessarily burden with attending such classes or seminars when we are not "full time" auctioneers.
2. The financial burden that along with license and bond fees would prohibit some from taking these courses.
3. Persons who are older, i.e. past the age of 50 years, would most likely not want to "fool with" taking courses; thus, these person, who have been in the "business" for a number of years, would be forced to quit.
4. Some simply may not have the time to travel to and attend the courses.
5. This regulation would eliminate any number of persons who just simply enjoy being an auctioneer as a hobby. Why should they be deprived of this? Auctioneers are not doctors or lawyers.

Mr. Commissioner, before making such a regulation please give consideration as its true value. Will the disadvantages out weigh the advantages? Will it hurt more than it helps?

Sincerely

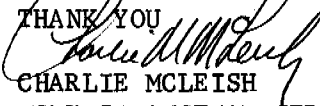
Jack
Jack (John A.) Sanders
WV # 55

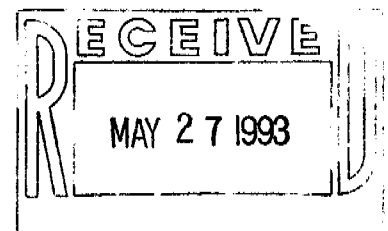
May 25, 1993

WEST VIRGINIA DEPARTMENT OF AGRICULTURE

SUBJECT: AUCTIONEER LAW REQUIREMENTS

IN YOUR HEARINGS ON NEW RULES UNDER RULE 6.2 CONTINUING
EDUCATION, DOES 7 HOURS TAKEN IN THE STATE OF OHIO
APPLY OR DOES AN AUCTIONEER HAVE TO ATTEND A SESSION
IN THE STATE OF WEST VIRGINIA, AS I AM LICENSED IN BOTH
STATES, AND OCASSIONALLY ATTEND OHIO SEMINARS AND SOMETIMES
ATTEND WEST VIRGINIA SEMINARS SPONSORED BY THE AUCTIONEERS
ASSOCIATION IN EACH STATE. ALTHOUGH THE NEW RULE IS GOOD
IT IS VERY VAGUE AND DOES NOT SET WHICH AREAS OF EDUCATION
WILL FULFILL THE EDUCATION REQUIREMENTS BUT SEEM TO BE ON
A CASE BY CASE BASIS AND MUST BE APPROVED BY THE COMMISSIONER.
WE HAVE AVAILABLE PARKERSBURG COMMUNITY COLLEGE AND WASHINGTON
STATE COLLEGE AT MARIETTA WHICH ARE VERY CONVENIENT TO ATTEND
IF A GUIDE LINE IS ISSUED AS TO COURSES THAT WOULD BE
ACCEPTABLE FOR CREDIT TOWARD CONTINUING EDUCATION.

THANK YOU

CHARLIE MCLEISH
MCLEISH AUCTION SERVICE
RT 8 BOX 173
MARIETTA, OH 45750
W VA LICENSE 643





W. Va. Auctioneers Association

413 HIGH ST., BRIDGEPORT, WV 26330
PHONE 304-842-2946

May 21, 1993

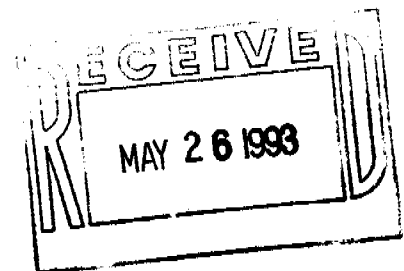
W.V. Department of Agriculture
Mr. Gus R. Douglas, Commissioner of Agriculture
State Capitol
1900 Kanawha Blvd.
East Charleston, WV 25305

Dear Mr. Gus R. Douglas:

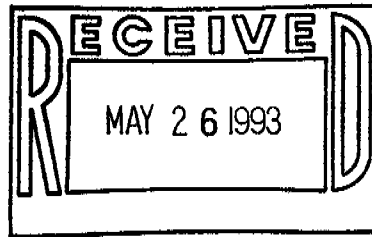
The West Virginia Auctioneer Association is in support of the continuing education requirements. Any Auctioneer, who is not in support of the continuing education requirements, does not realize that continuing education is the only thing designating them as professionals and preventing them from paying sales tax on their commissions. Once Auctioneers are aware of this, I'm sure you will have 110% of their support.

Sincerely Yours,

Carlyle Millard, CAI
Executive Director



HAGEDORN & ASSOCIATES



AUCTIONEERS & APPRAISERS
LICENSED & BONDED IN WV & OHIO
173 NATIONAL ROAD
P. O. BOX 217
TRIADDELPHIA, WV 26059-0217
(304) 547-5066

May 24, 1993

West Virginia Department
of Agriculture
State Capitol
1900 Kanawha Blvd., East
Charleston, WV 25305
Attention: Gus R. Douglass, Commissioner

Dear Mr. Douglass,

I received your memorandum the other day, and I finally had a chance to review it. I know you'll probably receive this letter after the hearing, but you wanted my input.

Under Section 6.2 you are proposing seven hours of continuing education in order to renew our licenses, and I believe this is a great idea, if handled correctly. I attended one of the West Virginia Auctioneers' Association programs in Dallas Pike, WV (on the Pa. Border), and I was not impressed. We were lectured on how to sell real property, ethics, the law, and general selling techniques. Today, auctioneers can not sell real property without a real estate license (I believe), therefore this portion was useless to me and most of the auctioneers I know. The portion on ethics was alright, except ethics are not learned, they are a way of life. The portion on the law was okay, but the law is useless without a legal interpretation, as we found out with the tax commissioner. The final portion on general selling was great, if you were unethical. Our speaker spoke on how to bid commissions at a low rate and still make money. On the surface this sounds fine, but his method was very shady. He first said we wanted to set-up an advertising budget, but the least costly thing was the advertising itself. Within this budget he added the cost of the pre-sale labor, cost of his secretary to type-up flyers and answer the phone, the auction labor, and the post-sale clean-up. And I thought an advertising budget contained only advertising cost, silly me!

Please set up our continuing education through our community colleges, state colleges and universities; I believe, we (the

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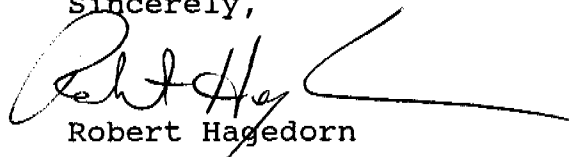
Page 2

auctioneers) will get a greater choice of courses and better instruction. Also, I think your renewal number of hours should be six(6), since most college courses are three hours each.

To continue this thought, why shouldn't apprentice auctioneers be required to continue their education. They are in the process of learning the business, your learning doesn't stop just because you are an apprentice.

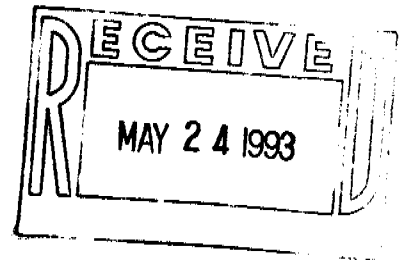
Finally, I feel at a great disadvantage, since I am from the northern panhandle; in order to participate in most functions, it seems I must drive two, three or four hours. I would have like to have attended this meeting and other meetings, but I find it hard for me to leave my office for a day to attend a two or three hour meeting. The same problem will exist with Agriculture Dept. sponsored classes and WVAA sponsored classes.

Sincerely,

A handwritten signature in cursive script, appearing to read "Robert Hagedorn", with a long horizontal flourish extending to the right.

Robert Hagedorn

P.S. Like any law, these are just words. They will not stop the unethical or dishonest auctioneer from not following them or twisting them to meet his/her advantage.



WV Department of Agriculture
1900 Kanawa Boulevard, East
Charleston, WV 25305-01992
Gus R. Douglass - Commissioner

Regarding: Auctioneer Law Regulations

For the record, I am very much opposed to Section 6-6.2, the Continued Education Section. I feel if this section is implemented, it will greatly increase the already overloaded cost to all auctioneers.

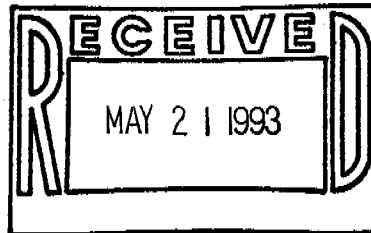
Commissioner, as you know, we are already paying \$100.00 per year license and bond and \$15.00 state license. We pay \$15.00 per year to almost all municipalities for city license if we do one auction in their city limits. Also, many municipalities charge .50 to .75 per hundred gross of the sale B&O tax.

The cost for home study courses or to attend seminars could be unreasonably high for most auctioneers - many of us traveling hundreds of miles, motels, meals and etc. to attend seminars to obtain yearly license renewal status for a profession that each applicant must have already proved to the Commission's satisfaction to be competent to conduct an auction - Section 8-8.2.

Sincerely,

Denver L. Rosier Sr.

Denver L. Rosier, Sr., Lic. #95
Rt. 2, Box 101-B
St. George, WV 26290



May 19. 1993

Gus R. Douglas, Commissioner
WV Dept. of Agriculture
1900 Kanawha Boulevard, East
Charleston, WV 25303-0192

Dear Mr. Douglas,

I am writing regarding your memorandum of the proposed regulations which will govern auctioneers to strongly object to Section 6, License renewal.

No Auctioneer or any other private business owner should be forced to continue education in his occupation should he chose not to. Governments are going too far with the Big Brother attitude.

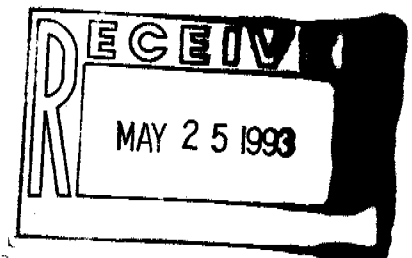
It is true that a lot of auctioneers' businesses aren't doing well, but would more education improve it? Maybe, maybe not. At any rate government should not force auctioneers to aid any school or association's profits.

Attending, conducting or being connected with an auction is an education, more so than listening to a seminar speaker for hours, who may not know of what he is speaking.

Sincerely,

A handwritten signature in cursive script that reads "Melvin H. Dove".

Melvin H. Dove
Rt. 1 Box 46B
Oak Hill, WV 25901





* N O T I C E *