

DEFINITIONS

AARE (Accredited Auctioneer, Real Estate) The professional designation awarded by the NAA Educational Institute to qualified real estate auctioneers who meet the educational and experiential requirements of the Institute.

Absentee Bid A procedure that allows a bidder to participate in the bidding without being physically present. Absentee bids are usually handled under an established set of guidelines by the auctioneer or their representative.

Absolute Auction An auction where the property is sold to the highest qualified bidder with no limiting conditions or amount. The seller may not bid personally or through an agent. (See Auction without Reserve).

“As Is” Property is sold without any warranty as to its condition and/or fitness for a particular purpose. Buyers are solely responsible for examining and judging the properties condition. Also known as “As Is, Where Is” and “In its Present Condition.”

Auction A method of selling property in a public forum through open and competitive bidding. Also referred to as: public auction, auction sale or sale.

Auction Listing Agreement The contract executed by the auctioneer and the seller which authorizes the auctioneer to conduct the auction on behalf of the seller and sets out the terms of the agreement and the rights and the responsibilities of each party.

Auction Subject to Confirmation (See “Reserve Auction”)

Auction With Reserve An auction in which the seller or his agent reserves the right to accept or decline any and all bids. A minimum acceptable price may or may not be disclosed.

Auction Without Reserve (See “Absolute Auction”)

Auctioneer The person (or firm) whom the seller engages to direct, conduct, or be responsible for a sale by auction. This person may or may not actually call or cry the auction.

Bid A prospective buyer’s indicating or offer of a price he or she will pay to purchase property at auction. Bids are usually in increments established by the auctioneer.

Buyer’s Premium An advertised percentage of the high bid or flat fee added to the high bid to determine the total contract price to be paid by the buyer.

CAI The professional designation awarded by the NAA Educational Institute to practicing auctioneers who meet the educational and experiential standards set by the Institute.

Client The party for whom the auctioneer sells the property; it is often synonymous with “seller.”

Customer The party who attends the auction for the purpose of buying the property offered for sale.

Graduate, Personal Property Appraiser (GPPA) The professional designation awarded by the NAA Educational Institute to qualified property appraisers who meet the educational and experiential requirements. A member holding a GPPA designation must comply with standards and requirements of the Uniform Standards of Professional Appraisal Practice.

Member A member in good standing of the National Auctioneers Association.

Minimum Bid Auction An auction in which the auctioneer accepts bids at or above a disclosed price. The minimum price is always stated in the brochure and advertisements and is announced at the auction.

Reserve The minimum price that a seller is willing to accept for a property to be sold at auction. Also known as the reserve price.

Reserve Auction An auction in which the seller retains the right to establish a minimum price, to accept or decline any and all bids or to withdraw the property at any time prior to the announcement of the completion of the sale by the auctioneer. (Also known as “Auction with Reserve” and “Auction Subject to Confirmation”)

RESPONSIBILITIES TO CLIENTS AND CUSTOMERS

ARTICLE 1.

Auctioneers pledge to protect and promote the interests of the client. This obligation of absolute fidelity to the client’s interests is primary, but does not relieve Auctioneers of their obligation to treat all parties to the transaction fairly.

STANDARDS OF PRACTICE 1.1

Auctioneers must not enter into an agreement with a client to withhold information from the public that would prove to be unsafe, illegal, detrimental to the public or material to making a decision to bid.

STANDARDS OF PRACTICE 1.2

The practice of encouraging a client to market a property as “absolute” when in actuality the member has verbally promised to convert the sale to an auction with reserve, or alternatively to cancel the sale if the marketing campaign does not produce an opening bid sufficient to satisfy the intended reserve of the client, is strictly prohibited.

STANDARDS OF PRACTICE 1.3

Auctioneers must not build unreasonable expectations about the outcome of an auction in the mind of a potential client in order to secure the client’s business.

ARTICLE 2.

Auctioneers must, in conducting an auction, deal with customers in a manner exhibiting the highest standards of professionalism and respect. Auctioneers owe the customer the duties of honesty, integrity and fair dealing at all times.

STANDARD OF PRACTICE 2.1

This Article recognizes not only the legal concept of a member's dual agency responsibility to a buyer (in addition to being the agent for the seller, the auctioneer may become the agent of the buyer at the fall of the hammer in certain situations), but also the member's responsibility to act as a professional at all times. Auctioneers must conduct their business affairs so as to promote a positive image of their business and therefore the auction profession.

STANDARD OF PRACTICE 2.2

Auctioneers shall provide customers with a clear understanding of all the terms and conditions of the auction. Prior to the auction, customers for real estate auctions should be provided a copy of the contract to be signed. Following the auction, customers for personal property auctions should be provided a written bill of sale.

STANDARD OF PRACTICE 2.3

It is recognized that custom and practice may vary in the sale of different types of property as well as in different geographic areas. Therefore, this information may be provided in oral or written form. However, wherever possible, it is highly recommended that Auctioneers communicate this information in written form or at a minimum to communicate this information orally prior to the commencement of bidding.

ARTICLE 3.

Auctioneers should, to assure better service to the seller and to prevent misunderstandings, enter into written agreements or, at a minimum, clear oral agreements that set forth the specific terms and conditions of the engagement.

STANDARD OF PRACTICE 3.1

Auctioneers have an obligation to conduct their business affairs in a professional manner. Contractual requirements are to a certain extent dependent upon the type of property being sold. However, Auctioneers should develop their contract forms with this Article in mind.

STANDARD OF PRACTICE 3.2

Auctioneers should discuss all aspects of the services to be provided and include them in written form where appropriate including: duties and obligations of the parties; services provided by the member; insurance coverage relating to liability, theft and casualty loss; use of a buyer's premium, if applicable; handling of funds received and controlled by the member; sales tax, if applicable; and form of payment by buyers. Additionally, Auctioneers must provide the client with a timely, detailed written accounting of the sale, which must include information concerning the handling and timely disposition of all funds received or controlled by the member.

ARTICLE 4.

Auctioneers shall not accept compensation from any party, other than the client, even if permitted by law, without the full knowledge of all the parties to the transaction.

ARTICLE 5.

Auctioneers shall provide the highest level of competent service in those fields in which

Auctioneers are customarily engaged. This competency is attained by education, training, study, practice and experience. Competence also includes the wisdom to recognize the limitations of that knowledge and when to seek the counsel, assistance or client referral appropriate for the circumstances.

STANDARD OF PRACTICE 5.1

Auctioneers should not provide auction services in a careless or negligent manner, such as a series of errors that, considered individually, might not significantly affect the results, but which when considered in the aggregate would be detrimental to the client's interests. Auctioneers must use due diligence and due care.

STANDARD OF PRACTICE 5.2

The concept of competency also extends to Auctioneers who are requested or required to travel to geographic areas where they do not have recent auction experience. Auctioneers not in a position to spend the necessary time in a market area to obtain the appropriate understanding of market conditions, may find affiliating with a qualified local auctioneer the appropriate response to ensure a competently conducted auction.

STANDARD OF PRACTICE 5.3

Auctioneers must ascertain all pertinent facts necessary to implement a professional marketing campaign.

ARTICLE 6.

Auctioneers shall not undertake to provide professional services where either they, Auctioneers of their immediate family, Auctioneers of their firm, or any entity in which they have an ownership interest has presently or contemplates an interest, without first specifically disclosing such interest or contemplated interest.

ARTICLE 7.

Auctioneers shall not make a profit on expenditures made for their client without the client's prior knowledge and consent.

ARTICLE 8.

Auctioneers shall not engage in activities that constitutes the unauthorized practice of law and shall recommend that legal counsel be obtained when the interest of any party to the transaction would be appropriately served.

ARTICLE 9.

Auctioneers shall keep monies coming into their possession in trust for other persons such as escrows, trust funds, client's monies and other similar items in a separate special account, in an appropriate financial institution.

ARTICLE 10.

Auctioneers shall not disclose any confidential client information without the client's specific consent except as required by appropriate legal authorities.

STANDARD OF PRACTICE 10.1

As a confidential trustee of information provided by the seller or gained by Auctioneers through their relationship with the seller, Auctioneers must carefully observe the

confidential relationship in order to preserve and protect the client's trust and to maintain the public's confidence.

RESPONSIBILITIES TO THE PUBLIC

ARTICLE 11.

Auctioneers shall avoid misrepresentation or concealment of pertinent facts. There is an affirmative obligation to disclose adverse factors of which they have personal knowledge.

STANDARD OF PRACTICE 11.1

In order to protect the public and to avoid misunderstandings, Auctioneers should create and retain for a reasonable period of time an audio and/or video record of each auction conducted.

ARTICLE 12.

Auctioneers must be careful at all times to present a true picture in their advertising and representations to the public. Auctioneers shall ensure that all advertising includes the names and information necessary for the public to contact the auctioneer or firm responsible for conducting the auction.

ARTICLE 13.

Auctioneers must participate in continuing education programs and should keep informed on all matters affecting the auction industry and their areas of specialization.

STANDARD OF PRACTICE 13.1

It is essential for Auctioneers to remain abreast of matters affecting the profession so as to fulfill the expectations of the public. These expectations include the member's abilities to perform the tasks that are regularly expected, as well as those promoted by Auctioneers as specialties. This responsibility also includes leading public discourse on matters affecting the profession.

ARTICLE 14.

Auctioneers are duty bound at all times to abide by the laws and regulations which govern the profession as well as those which, if violated, would negatively affect their ability to present to the public an image of behavior that appropriately represents the professionalism of our industry.

RESPONSIBILITIES TO THE PROFESSION

ARTICLE 15.

Auctioneers should never publicly criticize a competitor using false or deceptive information. Where an opinion of a competitor's transaction is especially requested, it should be rendered in conformity with strict professional courtesy and dignity.

STANDARD OF PRACTICE 15.1

Auctioneers shall not engage in practices or take actions inconsistent with the agency of other Auctioneers. They should not seek unfair advantage over other Auctioneers and should conduct their business so as to avoid controversies with other Auctioneers.

STANDARD OF PRACTICE 15.2

Auctioneers shall not directly or indirectly solicit the affiliation of an employee or

independent contractor in the organization of other Auctioneers without the prior notice to said member