

Before the
New Hampshire Board of Auctioneers
Concord, NH 03301

In the Matter of "Roscoe Putnam"
Docket No. 19-01

DECISION AND ORDER

By: Roy W. Tilsley – Vice-Chair, Gregory J. Peverly – Secretary, Russell R. Abbott – member, and Robert P. Secord - Member.

BACKGROUND INFORMATION

Roscoe Putnam was issued an auctioneer's license, number 5034. He surrendered his license on March 25, 2019.

On March 11, 2019, the Auctioneer's Board ("Board") reviewed a complaint from George Clark alleging that Mr. Putnam violated his professional obligations under RSA 311-B as follows:

1. The Respondent failed to provide to the complainant an accounting of each lot sold at auction within 15 calendar days as required per Auc 501.02(e).
2. The Respondent failed to pay the complainant all sums due for goods sold at auction within 15 calendar days as required per Auc 501.02 (d).
3. The Respondent acted in an unprofessional manner.

The board ordered an investigation, appointing Gregory J. Walsh as investigator. Based on the investigation, this board issued a Notice of Hearing dated March 25, 2019. As stated in the Notice, the specific issue to be addressed at the disciplinary hearing was whether Mr. Putnam's actions around the sale of items by auction, violated RSA 311-B:11, II, including without limitation, RSA 311-B:11, II, (c), (d), and (f) and Auc 501.02(d), and (e).

RSA 311-B:11, II, provides in relevant part:

II. Misconduct sufficient to support disciplinary proceedings under this section shall include:

(c) Violation of the code of ethics established by the board through rulemaking in accordance with RSA 541-A;

(d) Negligent or willful acts performed in a manner inconsistent with the interests of persons relying on the expertise of the licensee;

Auc 501.02, provides in relevant part:

(d) The responsible auctioneer shall pay consignors all sums due them for goods sold at auctions conducted by said auctioneer within 15 calendar days or at some other time mutually agreed upon in writing by both parties, except as follows:



[The text in this section is extremely faint and illegible.]

(1) A subsequent written agreement signed by both parties may alter a payment schedule initially established between the parties, but a licensee who does not pay in accordance with a payment schedule which was in effect at the time payment was due shall be subject to misconduct sanctions even if the consignor later consents to a modification of the schedule;

(2) If a third party claims or disputes the ownership of the goods sold, the monies shall be placed in an escrow account, with an independent escrow agent pending resolution of the claim, and

(3) If a third party brings legal action against the auctioneer for payment to the consignor, the monies shall be placed in an escrow account with an independent escrow agent pending resolution of the claim.

(e) The responsible auctioneer shall provide to the consignor an accounting of each lot sold at auctions conducted by said auctioneer within 15 calendar days or at some other time mutually agreed upon in writing by both parties. "Lot" means the object or group of objects offered by an auctioneer for one money.

The Board held a hearing on the merits on May 6, 2019.

Gregory J. Walsh, who investigated the complaint, acted as prosecutor.

The Board deliberated in public on May 6, 2019.

FINDINGS OF FACT

The evidence did support that the Respondent took several consignments and conducted an auction on August 12, 2018. Mr. Putnam did not provide an accurate accounting for the items sold or unsold.

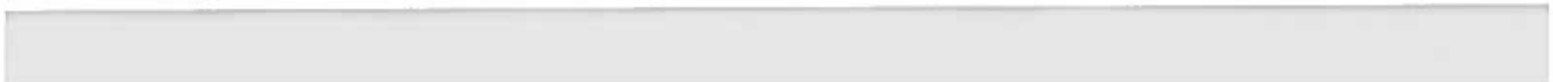
The evidence did support that the Respondent failed to pay the complainant sums due for goods sold at auction within 15 calendar days. Mr. Putnam admitted that he had not paid The Clark Estate due to personal circumstances. The Clark Estate is still owed \$9,828.27 from the sale of consignments on August 12, 2018.

Finally, the Board notes Mr. Putnam's failure to cooperate with the Board's investigation of this matter. Mr. Putnam ignored the matter until the hearing. The failure of any licensed auctioneer to respond to inquiries from this Board, to participate in a Board investigation of a Complaint, or to provide the Board with accurate contact information constitutes unprofessional conduct.

DISCUSSION AND CONCLUSIONS

The issues raised and addressed include:

1. Whether the Respondent, failing to provide to the complainant an accounting of each lot sold at auction within 15 calendar days, is in violation of RSA 311-B:11(II), including without limitation, RSA 311-B:11(II)(c), (d),(f), and Auc 501.02(e).
2. Whether the Respondent, failing to pay the complainant all sums due for goods sold at auction within 15 calendar days, is in violation of RSA 311-B:11(II), including without limitation, RSA 311-B:11(II)(c), (d),(f), and Auc 501.02(d).



3. Whether the Respondent, acted in an unprofessional manner, is in violation of RSA 311-B:11(II), including without limitation, RSA 311-B:11(II)(c), (d),(f), and Auc 501.02.

The evidence presented at the hearing demonstrates that Roscoe Putnam did not provide an accurate accounting for the items that had been sold or remained unsold. Furthermore, Mr. Putnam failed to pay the consignor, for all items that sold. Mr. Putnam failed to respond to this Board's inquiries regarding Mr. Clark's complaint.

The Board finds that the above-referenced violations constitute negligent or willful acts inconsistent with the interest of persons relying on the expertise of a licensee, and a violation of the Board's code of ethics as set forth in Auc 501.02.

THEREFORE, the New Hampshire Board of Auctioneers finds and concludes, based on the evidence presented that:

Roscoe Putnam violated RSA 311-B and Auc 501.02 as alleged in the Notice of Hearing.

THEREFORE, IT IS ORDERED, THAT, Mr. Putnam pay The Clark Estate monies due in the amount of \$9,828.27 within 30 days from the date of this order. This amount represents the amount owed by Mr. Putnam to The Clark Estate arising from the August 12, 2018 auction sale only. To the extent that The Clark Estate has other claims against Mr. Putnam arising under their business relationship, the Board has no authority to resolve those claims under the current complaint.

THEREFORE, IT IS FURTHER ORDERED, THAT, Mr. Putnam's license is revoked for a period of 5 years.

Should Mr. Putnam apply for a New Hampshire auctioneer's license following the revocation period, he will have to provide the Board with proof that the Clark Estate has been paid in full for all amounts owed to the Clark Estate which shall include any amounts ordered by this Board and any additional amounts owed pursuant to court order.

The Board notes, for the complainant's benefit, that all NH Licensed Auctioneers are required to hold a \$25,000 surety bond.

BY ORDER OF THE NEW HAMPSHIRE BOARD OF AUCTIONEERS

Dated: May 13, 2019



Kaley Dion
For the Board of Auctioneers

