

# North Carolina Auctioneer Licensing Board Newsletter

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## Board Members

- Randy B. Lee, Chairperson
- William B. Lilly, Vice Chairperson
- Clegg Grady, Board Member
- Deborah Johnson, Board Member

## NCALB Staff

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

**Welcome New Board Members:** Clegg Grady and Deborah Johnson  
Mr. Grady of Kenansville was appointed by the Governor in September 2011  
Mrs. Johnson of Kinston was appointed by the Governor in December 2011.

## Chairperson Corner

It is that time of year when we (auctioneers, firms, and designated persons) need to take a proactive stance and check our continuing education credits to determine what hours we may need or if the hours we have met the requirements of Section .0800 of the Auctioneer Rules. Please take a moment to review Section .0800 of the Auctioneer Rules (*provided below*) to prevent any lapse of your license due to requirements stated therein.

At our October 2011 meeting, the Board voted to again fund courses across the state that will allow you an opportunity to obtain your required Continuing Education credits. The funds will be drawn from the Recovery Fund account as authorized by NCGS 85B-4.1(c)(1). Therefore, we encourage each of you to take advantage of one of these classes.

It is not mandatory that the Continuing Education classes contain Law and Rules content. However, we encourage each of you to periodically review the Law and Rules and make improvements when necessary. Remember: Each action the Board has to take against a licensee could have been prevented if the licensee had taken time to review and follow the Auctioneer Law and Rules. You may obtain a copy of the Law and Rules by contacting the NCALB office or visiting the website at [ncalb.org](http://ncalb.org).

### .0801 CONTINUING EDUCATION COURSE

**(a)** To renew a license on active status, an auctioneer, apprentice auctioneer, or designated person(s) in an auction firm shall complete a Board approved course(s) consisting of the hours of instruction as established as in Paragraph (d) of this Rule and shall provide documentation of completion of the above Board approved course(s) within one year preceding license expiration.

**(1)** "Within one year preceding license expiration time period" shall be defined as from May 16 to the following May 15 in the year that the license expires.

**(2)** An auctioneer, apprentice auctioneer, or designated person(s) in an auction firm shall provide documentation on required continuing education courses to the Board by the May 15 deadline of the current renewal period.

**(3)** If the required documentation is not received by the Board by the deadline as set forth in Subparagraph (a)(2) of this Rule, the licensee shall be assessed a late fee as set forth in Subparagraph .0202(b)(10) of this Subchapter.

**(4)** The renewal shall not be processed until compliance is achieved and the required fees are received as set forth in Subparagraph .0402(b) of this Subchapter.

**(b)** The Board shall approve courses that shall be conducted by sponsors approved by the Board under this Section. The subject matter of this course shall be determined by the course sponsor subject to Paragraph (h) of this Rule. The course sponsor shall produce or acquire instructor and student materials. The course must be conducted as prescribed by the rules in this Section. At the beginning of the course, sponsors must provide licensees participating in their classes a copy of the student materials developed or acquired by the sponsor.

**(c)** The sponsor may conduct the course at any location as frequently as is desired during the approval period. Approval of a sponsor to conduct a course authorizes the sponsor to conduct the course using an instructor who has been approved by the Board as a course instructor under Rule .0804 of this Section.

**(d)** The minimum classroom hours of instruction for each year shall be six unless the Board establishes at its April monthly Board meeting fewer hours for the upcoming year pursuant to G.S. 85B-4(e1). In determining whether fewer hours may be established, the Board shall analyze the disciplinary actions and complaints against its licensees and base its decision on whether the analysis shows that a reduction in hours is justified.

**(e)** An auctioneer, an apprentice auctioneer, or a designated person(s) in an auction firm shall complete the continuing education requirements for each renewal period that their license was lapsed or suspended.

**(f)** Credit hours applied to the current renewal of a license shall not be used for future renewals.

**(g)** Excess continuing education hours may be carried forward as credits for a maximum of one renewal year.

**(h)** The Board may mandate the topic(s) for all or part of an approved course as a continuing education requirement pursuant to G.S. 85B-4(e1). In determining whether to mandate the topic for all or part of an approved course as a continuing education requirement, the Board shall analyze the disciplinary actions and complaints against its licensees and base its decision on whether the analysis shows that mandating the topic for all or part of a course is justified.

**(i)** No part of any precursing course curriculum shall count as continuing education credit hours.

**(j)** Continuing education shall not be required until the second renewal after initial licensing pursuant G.S. 85B-4(e).

## Continuing Education Courses

All auctioneers, apprentice auctioneers, and designated person(s) of an auction firm must have 4 hours of continuing education credit in order to renew their licenses. The new fiscal year starts on July 1, 2012 and ends on June 30, 2013. These 4 hours of continuing education must be in the NCALB office by May 15, 2012. You may fax (919-567-2865) or email ([info@ncalb.org](mailto:info@ncalb.org)) your CE hours. Renewal applications will be mailed to those who have satisfied the continuing education requirement toward the end of May.

Below is a list of Board approved continuing education courses. Additionally, other Board approved continuing education courses may be found at our website [www.ncalb.org](http://www.ncalb.org), including online continuing education. Real Estate CE's and any seminar/course that will benefit you in the auction profession is acceptable.

### Monday, March 19, 2012

9 am—1 pm  
Martin Community College  
1161 Kehukee Park Rd.  
Williamston, NC  
Selling Farm Equipment  
and Are You Making Money

### Monday, March 26, 2012

9 am—1 pm  
Holiday Inn  
Intersection of US Hwy 19 S & US 441 S.  
Cherokee, NC  
Financial Facts & Management Skills  
for the Auctioneer and Would I Work for Me

### Thursday, April 5, 2012

1 pm—5 pm  
Gateway Convention Center  
909 US Hwy 70 SW  
Hickory, NC  
Marketing 101 and Appraisal  
Basics for the Auctioneer

**Wednesday, April 11, 2012**

1 pm–5 pm  
Durham Public South Regional Library  
4505 S. Alston Ave.  
Durham, NC  
Appraisal Basics for the Auctioneer and  
Ethics & Professionalism

**Thursday, April 19, 2012**

12:30 pm–5:30 pm  
Fairview Moravian Church  
67550 Silas Creek Parkway  
Winston-Salem, NC  
Ethics and the Auctioneer and  
Appraisal Basics for the Auctioneer

**For Registration call (919) 876-0687**

**Practice Tips: Garris Neil Yarborough-Board Attorney**

Executive Summary

If you receive notice of a complaint from the NCALB, respond in a timely manner or you may lose your auctioneer license.

Detailed Explanation

This practice tip may seem so obvious that many of you may wonder why I bring it to your attention, but the last two license revocations the Board has instituted were for the failure to respond to a complaint. These revocations were instituted without ruling on the validity of the original complaint.

N.C. Gen. Stat. §85B-8(b)(10) states as a ground for revocation – “Failure to properly make any disclosures or to provide documents or information required by the Chapter or by the Commission.” Additionally, N.C. Gen. Stat. §85B-8(b)(1) states as a ground for revocation – “Any violation of this Chapter or any violation of a rule or regulation duly adopted by the Commission.” NCALB Regulation .0404(a)(6) (A) also authorizes revocation for “failure to completely cooperate with any investigation.”

When a complaint is lodged against you or your auction firm, our investigator will mail you a notice of the complaint, enclosing the complaint and directing you to respond by a specific date which is always at least 30 days from the date of the letter. Our investigator follows this up with a telephone call telling the licensee it is coming. Typically, if our office does not receive a written response, a follow-up communication may be sent. However, thereafter, if we receive no response, the complaint will then go to the probable cause subcommittee with only the complainant’s version of the story and whatever information the investigator can independently glean without the cooperation of the licensee. At that time, the investigator will also report the failure of the licensee to respond.

It is then very possible that the underlying complaint may not be acted upon, but a recommendation of revocation is brought forward from the probable cause subcommittee to the full Board. In the last two cases such as this, the full Board has revoked the licensee’s license based on a failure to respond. This is particularly unfortunate when there appears that the licensee may have an excellent defense for showing no violation of any auctioneer law or, at least, mitigating circumstances which would reduce the severity of the discipline imposed.

Also, please remember a licensee saying they did not get the correspondence will not usually suffice as a defense in that under section .0601(a) “All licensees shall notify the Board in writing of each change or addition of residence or business address (including mailing address) and change of trade name, assumed name, or combination of names under which the licensee conducts business related to auctions.” Under subsection (e) of .0601 it further states that, “Any change in address, business name or ownership required by these Rules shall be reported within 10 days of the occurrence of such change.” Therefore, this requirement coupled with the fact that our investigator would have previously called you to tell you the complaint was coming, will not constitute a defense and may subject you to further discipline under section .0601 [assuming your license isn’t already revoked for failure to respond.]