

## **Designated Person**

**By: Neil Yarborough, NCALB Board Counsel**

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

- (a) All licensed auction firms shall have at least one Board approved designated person. If a licensed auction firm does not have at least one designated person in good standing, the status of the auction firm license shall be changed to invalid.
- (b) **Only designated person(s) for an auction firm have the authority to transact business under the firm license. This includes arranging, managing, soliciting, and contracting auctions; the supervision of the auction staff; the supervision of the acceptance of consignments of items for sale at auction; the supervision of the advertising of an auction; and the supervision of the acceptance of payment and disbursement of monies for items sold at auction.**
- (c) **At least one designated person shall be on the premises of an auction firm’s auction sale location while the auction sale is conducted.**
- (d) Any auctioneer licensed under G.S. 85B may call bids for a licensed auction firm without being a designated person.
- (e) Any apprentice auctioneer licensed under G.S. 85B and supervised by the sponsor auctioneer may call bids for a licensed auction firm without being a designated person.
- (f) Individuals that hold a currently valid real estate broker license are exempt from the auction firm examination if their authority to transact business under the auction firm license is only related to real estate sales at auction.

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

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

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