

Common Advertising Mistakes  
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In the fall issue of *The Buckeye*, I wrote an article that addressed the common enforcement concerns. In that article, I touched upon advertisements. As a part of my job duties, I conduct random ad checks each month; in this article, I would like to discuss common advertising mistakes I see.

Section 4707.22 of the Ohio Revised Code specifically addresses advertisements. The most common advertising error I see is the failure to list the licensed auctioneer's name or registered name in the advertisement. Additionally, if an apprentice auctioneer is going to be bid calling, the apprentice's name and the sponsor's name must both appear in the ad in equal prominence. All apprentices licensed after January 1, 2007 must provide copies of their advertisements, along with signed slips from their sponsor, as proof of their twelve sales needed to complete their auctioneer license application.

An increasing area of concern is the incorrect advertising of an absolute auction. In Ohio, all auctions are with reserve unless otherwise stated. The courts have found and it is the department's position that "sells to the highest bidder", "no minimums" and "no reserves" are absolute auctions. As such, when you advertise an absolute auction, under provisions in R.C. 4707.22(C), you must use the word "absolute" in your advertisement and you cannot use a phrase that means absolute in lieu of the term "absolute". The department has had inquiries from licensees who expressed concern that the auction public may not know or understand the term "absolute" and they have asked if they could use the phrase "Absolute Auction; everything sells to the highest bidder". The department has stated that as long as the term "absolute" is used, it would be acceptable. Please note in order to advertise an absolute auction, you must have a contract with your seller that clearly identifies the auction as an absolute, and the definition of an absolute auction, as found in R.C. 4707.01, must be included in the contract. If you have questions regarding absolute auctions, you should review R.C. 4707.023 and R.C. 4707.22. If you advertise an auction as an absolute auction, you must conduct the auction as an absolute auction. Failure to conduct an auction as advertised may result in disciplinary action.

Another common error is the use of the phrase "licensed and bonded by the State of Ohio". It is not required under Ohio law to put in your ads that you are licensed by the department and bonded in favor of the State of Ohio; it is required to be in the contract not the advertisement. The other area of concern is the use of the phrase "bonded in favor of the State"; you should only use this phrase if you are covered under a surety bond. If you are in the recovery fund, you should refer to the recovery fund.

The final area of concern is the advertisement of estate auctions. An estate auction is the auctioning of the property of a deceased person. You must contract directly with the executor or administrator and must include the county probate court and court case number in the advertisement. If the court has not assigned a case number, do not advertise the court case number as "to be determined". If the court case number is not available at the time of advertising, do not use "estate auction", rather refer to it as a "public auction".

If you have questions regarding whether or not you are in compliance with Ohio law, please seek legal advice from your legal counsel.