



Alabama State Board of Auctioneers ASBA NEWSLINE

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UNDER THE GAVEL:

Message from the Board Chair

Ken Garner, CAI, AARE
President, Garner Auctions, Inc.

Happy New Year! I hope this newsletter finds you well and ready to make this your best year ever in the auction industry. I'm writing this article the day after our first meeting of 2015, at which, I commended this group of board members for their dedication to the profession that we all love and their willingness to serve. Before I move forward I would like to reflect on the past year at the board. This board did an outstanding job in 2014. Over the past year we have had no problem maintaining a quorum for each of our meetings, which I give a big thank you to each of our members for their commitment to this appointed job. These board members are always there to handle the job at hand. We had four regular meetings throughout the year along with some special called committee meetings. We have committees in place for education, legislation, technology, examination and disciplinary action. Each of these committees have worked and continue to work very hard to help the board move along effectively and efficiently.

2015 looks to be a great time for the auction industry. The economy seems to be steadily getting stronger and unemployment appears to be on the decline in Alabama. The real estate market is seeing stronger movement as well as the construction and farm equipment industries. Firearms auctions have been stronger than I can ever remember. Quality antiques and estates are still a crowd pleaser as well. I look forward to this new year and wish you all a very successful and profitable year.

This year will be my last year to serve this board; wow, ten years! Time sure does seem to fly by faster and faster every year. I would like to thank the Governors of this fine state that have appointed me to serve; it has been an honor. To Keith Warren and his fine staff at Warren and Company, it has been a fantastic ride and I certainly could not have made it without you all, thanks. To our legal counsel, Dana Billingsley, the one who has always been such a pleasure to work with, thank you. ***

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NUMBER OF LICENSEES

By Hope Paulene, Executive Assistant

Total number of licensees as of January 12, 2015:

Auctioneers - #675

Apprentices - #86

Auction Companies - #100

Annual renewals are due on or before September 30th deadline. Late fees apply after this date. Licenses will be considered expired if not renewed by November 30th of each year. For further information, please call the Board office at (334) 420-7235. ***

REMEMBERING BRENDA WOOD

Brenda Semmes Wood, 65, of Montgomery, Ala., passed away on Dec. 22, 2013. J.M. Wood Auction Co. Inc. — a 40-year-old Montgomery, Ala., fixture that's now among the largest auction firms in the country — lost its beloved leader, Brenda Wood, in December, 2013.

Below is an article published in *Business Alabama* in the spring of 2013.

Brenda Wood Pushed Auction Company to Top Ranks

Brenda Wood broke into a man's world to continue forging J.M. Wood into one of the country's largest auctioneers of heavy construction machinery.



Pictured above: Brenda Wood and her kids have moved the auction company she founded with her husband to the top ranks of the industry. From left, children Kim Cox, Russ Wood and Bryant Wood with their mother, Brenda.

Photo by David Bundy

They do business from Alabama to Israel. Their customer may be a Montgomery farmer or an Arabian sheik. And their biggest business boost came from a chance meeting in a Montgomery barbershop.

The company is J.M. Wood Auction Co. Inc. — a 40-year-old Montgomery fixture that's now among the largest auction firms in the country.

A Montgomery native (and great-great-granddaughter of Confederate Admiral Raphael Semmes,) Brenda Wood had graduated from Sidney Lanier High School and earned a home economics degree at Auburn before she met her husband, the late Malcolm Wood. He had grown up in west Montgomery, selling produce door-to-door for his family farm, which raised fruit, vegetables and cattle. *(Continued on page*

REMEMBERING BRENDA WOOD*(continued from page 2)*

Brenda says that when he turned to the auction business, many of his first customers remembered him from his days of door-to-door sales as a child.

The pair met through a mutual friend and began their unique courtship. "Most of our dates were auctions he would drag me to," Brenda recalls.

In the early days of J.M. Wood, Brenda would keep the books and run the office while Malcolm would hit the road to meet contractors and farmers to see what equipment they needed for jobs and to see what they wanted to sell or trade.

"At the time it was tough to convince a man to trust you with his whole life's work when it was time for them to retire or liquidate," she remembers. "Being in the auction business, we were often dealing with people who were making some of the biggest decisions of their lives."

Their big break came in a downtown Montgomery barbershop. Malcolm was getting his hair cut, and the man in the next chair was talking to his barber about needing an auctioneer to conduct annual auctions for him. The barber said, "Well, Governor Wallace, Malcolm here is an auctioneer."

After an extensive interview process in a barber chair, Gov. Wallace hired Malcolm on the spot to conduct surplus auctions for the Alabama Department of Transportation.

From this chance meeting, J.M. Wood grew. Malcolm, Brenda, and their family would tour the Southeast, putting on machinery auctions from Texas to the Carolinas. An unexpected turn of events came about that would not only affect the company but the Wood household, as well. At an auction in Georgia in 1989, Malcolm started complaining of pains, and soon after he was diagnosed with an advanced form of colon cancer. A mere six months later, at only 46 years of age, Malcolm passed away. Brenda, just 42, was faced with one of the hardest decisions of her life. What was she to do with the company and employees who had been with them for years?

"Our employees were our extended family, then and now. I had to at least try to keep it going for them," says Brenda.

Before Malcolm passed away, he urged her to give up the auction business. But as she tells it, he knew that she was stubborn and wouldn't take his advice, so he instructed her to put \$50,000 of their life's savings into the business. He told her, "If you lose it, walk away."

Over the first 18 months after Malcolm's death, it was very hard to convince a man to let a woman handle the selling of their construction equipment.

"There were times I was not sure we were going to make it, and that original \$50,000 we set aside was running very thin. Still, the good Lord was looking out for us, and people started realizing that nothing had changed and that I would handle their business in the manner they expected."

"The construction equipment business is a man's world," she says. "The only thing I had to go on was my reputation. You have to do what you say and be prepared to back it up. When things don't go as planned, there can be no excuses, just back it up. I also had to surround myself with only people I could trust, whether it was colleagues, a few of our competitors that we had always looked up to, or close friends like Jan Beckwith, our office manager who has been with us from the early days."

*Continued on page 4*

REMEMBERING BRENDA WOOD

(continued from page 3)

Brenda made sure that her children got their education and did not feel pressured to join the family business, but three of their kids are there nonetheless — Bryant, Kim and Russ. She tells them jokingly that J.M. Wood is not a non-profit organization and that any one of the three can be replaced.

"I wouldn't replace any of them for the world," she laughs.

Today J.M. Wood is the fourth largest privately owned machinery auction company in the United States. It auctions heavy machinery at permanent facilities in Montgomery and in Columbia, S.C. and handles on-site auctions for the Alabama Department of Transportation and many other DOT and government agencies across the Southeast.

This March, the company hit a landmark, conducting the largest auction in its 40-year history — a three-day event in Montgomery with 527 sellers and 3,000 registered bidders from 42 states and 22 countries, some participating in person and some online — a sale that grossed \$42 million.

Two Montgomery auctions are planned in June.

Christina Caldwell is a freelance writer for Business Alabama. She lives in Montgomery, AL

2015 LEGISLATIVE REPORT

by Keith E. Warren, Executive Director

The Board will present legislative changes during the upcoming 2015 Regular Alabama Legislative Session. This year's legislation will address some minor changes that need to be made, for example, changing the language for a quorum of the Board, application denial procedures and disciplinary fines. The most important of these changes will be the increase in the disciplinary fines. The current fines range from a minimum of \$200 to a maximum of \$500 per violation. The Board has agreed to increase these amounts to a minimum of \$500 to a maximum of \$2,500 per violation. Currently, the maximum amount of \$500 per violation does not deter some individuals from violating the Auctioneer Law and can sometimes produce the attitude of that they will just pay the fine and proceed. We want to present the forefront that if you come to Alabama to conduct auctions then we want to abide by the Alabama Auctioneer Laws, Rules and Regulations or then there will be strict consequences. This will also apply to those individuals that open an auction business and not obtain the appropriate licenses in order to operate a legal auction business. We receive many complaints that state, "if I have to be licensed, then so should they" and the Board wants to treat everyone fairly and be able to appropriately assess fines to those that do not follow the requirements of operating as an auctioneer or operating an auction business in this state. If you have any questions pertaining to the changes included in this year's legislation, please do not hesitate to contact Keith Warren at the Board Office or your Board member. We will be glad to address any concerns you may have regarding these changes. Thank you!

CONTINUING EDUCATION PROGRAM BY THE BOARD

by Keith E. Warren, Executive Director

The Board hosted a free continuing education seminar on October 7, 2014 in Montgomery, Alabama. The seminar was quite a success and it was well attended by 52 licensees. The Board decided last year that it will provide a continuing education seminar free to its licensees every year to assist in easing the burden of this requirement and add other opportunities for this requirement to be met prior license renewal. The Board offered a great agenda with Mike James, Board Investigator, presenting information on complaints and investigations; Bryan Knox presenting information on ethics in the Auction Profession; and Stephen Proffitt presenting information on laws and regulations pertaining to UCC. All of these are very important to the auction business and will be topics you will see again in the future. Should there be any topics you feel that should be presented at a seminar, please do not hesitate to contact Mr. Pete Horton, Chair of the Continuing Education Committee or the Board Office.

The 15 Most Misunderstood Things About the UCC 2-328

Posted by [Mike Brandly, Auctioneer, CAI, AARE](#) [BLOG: <http://mikebrandlyauctioneer.wordpress.com>]

Mike Bradly states: “I’ve taught classes involving the [UCC 2-328](#) for nearly 15 years. In that time frame, I’ve talked to (and with) 1,000’s of auctioneers about the [UCC 2-328](#). I’ve noticed I keep hearing some of the same misunderstandings about the [UCC 2-328](#) consistently.”

Thus, we note here the 15 most misunderstood things about the [UCC 2-328](#). Are there merely 15 misunderstandings? Not hardly; these just appear to be the *most* common.. As I have told classes for over a decade that there is no other more important four paragraphs of auction law than the [UCC 2-328](#), and the courts in the United States place the burden of knowledge upon all auctioneers.”

1. “The [UCC 2-328](#) is federal law.”
No it’s not. The [UCC 2-328](#) is state law in 49 of the 50 states in the United States, and used in court decisions in all 50 states.
2. “We don’t have the [UCC 2-328](#) in our state.”
Yes, you do (unless you live in Louisiana, and have it only by analogy.) The [UCC 2-328](#) is not part of license law, so it doesn’t matter if your state licenses auctioneers or not.
3. “The [UCC 2-328](#) doesn’t apply to real estate auctions.”
Yes, it does. Despite the [UCC 2-328](#) being written only for “goods,” the courts nearly always apply these same rules to real estate auction cases.
4. “The [UCC 2-328](#) doesn’t apply to online auctions.”
Yes, it does. Although few such cases have made it to court, without exception those courts have ruled the [UCC 2-328](#) applies the same to online auctions as live auctions.
5. “There are more than 2 types of auctions.”
No, there aren’t. There are only 2 types: with reserve and without reserve. The [UCC 2-328](#) clearly says any auction is one type or the other.
6. “An absolute auction is not the same as a without reserve auction.”
Yes, it is. The courts have ruled universally that an absolute auction is analogous to a without reserve auction. despite the [UCC 2-328](#) using only the term without reserve.
- 7.. “I can always change the type of auction after I declare the auction open.”
No, you can’t. A without reserve auction cannot be changed to a with reserve auction; a with reserve auction could be changed to a without reserve auction, but it is ill-advised.
8. “There are ‘tie bids,’ and I can reopen the bidding.”
No, there aren’t. There is no such thing as a tie bid. The [UCC 2-328](#) says you may only reopen the bidding if a bid comes in “while the hammer is falling,” but are not obligated to do so.
9. “Our bidders are prohibited from retracting their bids.”
No, they aren’t. Your bidders can indeed retract their bids so long as they do so before the “fall of the hammer.” Your terms cannot override the [UCC 2-328](#).
10. “We can have terms that our auction is not subject to the [UCC 2-328](#).”
“No, you can’t. Terms and conditions for buyers cannot override the [UCC 2-328](#).
11. “If a bidder retracts his bid, the previous bidder is back in.”
No, he isn’t. Once a bidder is deemed the high bidder, all previous bids are void. The [UCC 2-328](#) strictly says there is no authority to unilaterally place a prior bidder back in as the high bidder.
12. “After, ‘Sold!’ I can qualify to say ‘subject to seller approval,’ or the like.”
No, you can’t. Once an auctioneer announces the word, “Sold!” or indicates the same in some other customary manner, nothing else uttered thereafter changes the status of the property from “Sold!”
13. “The seller can’t bid.”
Yes, he can. The seller can bid if the auction is a with reserve auction with disclosure, and can bid regardless of the type of auction if the auction is a forced sale. If the seller bids otherwise, the [UCC 2-328](#) dictates remedies for the high bidder.

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EXECUTIVE DIRECTOR REPORT

Keith E. Warren

I hope everyone is off to a great start for 2015! The Board had a very productive year and is working towards bringing processes and internal operations into the 21st Century! The Board created committees are working very well to assist in the work load. Many times a small group can accomplish a task or tasks at a much faster pace and these committees have definitely handled a large workload. You have a very hard working group of people serving on the Board and they have the public and professions best interest at heart at all times.

One area of licensing that continues to generate a great deal of conversation is the license requirement for auction companies. All auction companies must be licensed or registered with the Board. Auction Companies are required to be licensed by the Board (which are not solely owned by a licensed auctioneer) and must have a licensed auctioneer as a member or officer of their business, i.e. partnership, corporation, etc., in order to conduct auctions in the state. Auction Companies that are only required to be registered with the Board are those that are solely owned by a licensed Alabama Auctioneer. If the majority of the Auction Company is not owned by a licensed Alabama Auctioneer, then that company will be required to obtain a license from the Board. The registration of Auction Companies owned by a licensed Auctioneer is important in case a complaint is filed in the office regarding a company that does not have a license number on their advertising. Please do not hesitate to contact the Board office should you have any questions pertaining to the auction company license requirements.

Also, please remember that in order for the Board to investigate or begin any administrative action against any individual or any business, we must first receive a written complaint outlining all the information we need to begin the process. Anonymous complaints or complaints that are not signed will not be acted upon. We rely on your cooperation in order for us to do our job protecting the public from any illegal, unethical or unscrupulous activity in the auction profession.

Remember, the Board office is always here for you and we are glad to assist you in any way. I hope each of you have a great and prosperous 2015!! May God Bless You! ***

Rules and Regulations: Admin Code 150-X-1-.03(c) Advertisements, This rule pertains to any and all advertisements and includes billboards, Internet, television and radio advertisements, etc. Auction companies must include the name and state license number of the principal auctioneer in any and all advertisements. All auction advertisements posted on the Internet must list the name and state license number of the principal auction and any other auctioneer responsible for the auction. Internet advertisements for specific auctions with online bidding must list the name and state license number of the auction company's principal auctioneer. ***

The 15 Most Misunderstood Things About the UCC 2-328

(Continued from page 5)

14. "I can always withdraw property so long as I don't say, 'Sold!'"

No, you can't. In a without reserve auction, if a bid is received within a reasonable time, the property may not be withdrawn; only in a with reserve auction, the property can be withdrawn up until the "fall of the hammer."

15. "Bidders must always conform to certain bidding increments."

No, they don't. In a without reserve auction, minimum bidding increments are illegal. In a with reserve auction, certain minimum bidding increments are permitted.

Mike Brandy, Auctioneer, CAI, AARE has been an auctioneer and certified appraiser for over 30 years. His company's auctions are located at: [Mike Brandy, Auctioneer](#), [Keller Williams Auctions](#) and [Goodwill Columbus Car Auction](#). His Facebook page is: www.facebook.com/mbauctioneer. He serves as Adjunct Faculty at [Columbus State Community College](#) and is Executive Director of [The Ohio Auction School](#).***

ALABAMA STATE BOARD OF AUCTIONEERS

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ASBA Newsline is an official publication of the Alabama State Board of Auctioneers. This publication is intended for a wide audience to alert licensees to matters of possible procedural, legal, legislative, and regulatory interest. It should not be relied upon, nor is it intended to provide legal, insurance or accounting advice. Licensees should consult their own lawyers, insurance agents, and accountants before taking any action in response to this newsletter, as the opinions expressed herein may be completely altered by the licensees' actual facts.

NEW LICENSEES

(October 2014 to January 12, 2015)

Chad Williams	#2970	Apprentice
Tony Barnes	#2972	Apprentice
Wayne Wootten	#2972	Apprentice
Darwin Halbrooks	#5345	Auctioneer
Joe Fresolone	#5346	Auctioneer
Jimmy Singleton	#5347	Auctioneer
Mark Woodling	#5348	Auctioneer
Trevor Hall	#5349	Auctioneer
Jack Holifield	#5350	Auctioneer
Andrew Tucker	#5351	Auctioneer
Jerome Tucker, III	#5352	Auctioneer
Allen Knott	#5353	Auctioneer
Paul L. King, III	#5354	Auctioneer
Randy Svitak	#5355	Auctioneer
Pam McKissick	#5356	Auctioneer

When contacting the Board office to **file a complaint**, a written complaint is required to begin the disciplinary process and investigation. ALA. CODE § 34-4-29(b). Anonymous complaints are not accepted. ***

BOARD NEWSLETTER

Future newsletters will be sent electronically.

Please update your contact information to include your email address so that we can continue to receive the Board's newsletter.

Don't miss future updates and news about changes in Board Rules and Regulations, articles about the auction profession, educational opportunities, and much more in future issues.

Send us an email at
auctioneers@warrenandco.com

BOARD'S WEBSITE—

www.auctioneer.alabama.gov

- **On-line:** Renew your license
- **Print:** Change of Address form
- **View:** Current and proposed Rules and Regulations
- **Print:** Auction Company License Application
- **View:** Continuing Education opportunities and Providers
- **Search:** Licensed auctioneers
- **Print:** Consumer Complaint form
- **View:** Review the Rule about Advertising!
- **Print:** Continuing Education Verification form

ALABAMA STATE BOARD OF AUCTIONEERS

2015 Board Meeting Schedule
Board meets at 9:00 a.m.
2777 Zelda Road, Montgomery, AL 36106

January 20	July 21
April 21	October 20

Check the Board's web site calendar for any changes in meeting schedule

www.auctioneer.alabama.gov