

21 NCAC 04B .0602 ADVERTISING

(a) In all advertisements relating to an auction, the auctioneer's, apprentice auctioneer's, or auction firm's name and license number shall be given. If an auctioneer is working for or in conjunction with an auction firm, the relationship shall be disclosed and both license numbers shall be given. A general advertisement that does not concern a specific sale or specific sales and that does not list sale dates, times, or locations, referred to as "trolling" or "holding" advertisements, shall not be subject to any identification requirement. A licensee may advertise under a name, assumed name, trade name, or combination of names, only if written notice has been filed with the Board.

(b) Any licensee who advertises an "Estate Sale" shall disclose, in all advertisement materials, whether it is the estate of a living or deceased person. Before conducting an auction as an "estate sale," the majority of items in the sale shall come from the estate of the living or deceased person(s). Other items not related to or in an estate may be sold with an estate if disclosed at or before the time of the auction.

(c) It shall be a violation of this Rule to advertise a "Bankruptcy Sale" unless the item(s) offered for sale, whether real or personal, are from an active bankruptcy action. Before conducting an auction as a "bankruptcy sale," the majority of the items in the sale shall come from the bankruptcy of one or more parties. Other items not related to or from a bankruptcy action may be sold with items from a bankruptcy action if disclosed at or before the time of the auction.

(d) It shall be a violation of this Rule to advertise an item, either real or personal, as "Absolute" or "Without Reserve" if the item is subject to confirmation, minimum bid, or any other condition of sale. Before advertising an auction as absolute or without reserve, the majority of items in the sale shall be offered for sale absolute or without reserve. Items that are not absolute may be included in the auction provided they are designated as such in all announcements and advertisements.

(e) It shall be a violation of this Rule to advertise any auction using such descriptive words as "Urgent," "Emergency," "Distress" or any other word that connotes liquidation of assets or that the buyers will be in a position to reap some unusual bargain without disclosing, in the written advertisement in a print size equal to the descriptive word, the reason that the sale is "urgent," the nature of the "emergency," or the cause of the "distress."

(f) It shall be a violation of this Rule to advertise any auction using such descriptive words as "Seized," "Confiscated," "Forfeited," or any other word that connotes a governmental action whereby items are seized or taken by a government department, agency, or commission and released or sold or that the buyers will, for some governmental reason, be in a position to reap some unusual bargain without disclosing, in the written advertisement in a print size equal to the descriptive word, the exact nature of the government action.

(g) It shall be a violation of this Rule to advertise any items as being from an "estate" or a "bankruptcy," or from an "urgent," "emergency," "distress," "seized," "confiscated," "forfeited," or similar sale, unless the consignor of the item(s) to be sold is the original owner of the item(s), the designated representative of the owner, or a federal, state, or local department, agency, or commission charged with disposing of the item(s), and consigned the item(s) directly to the advertised sale.

(h) It shall be a violation of this Rule to:

- (1) Reference the U.C.C. or any other uniform act or federal or state law in any advertisement unless the act or law is required, by law, to be referenced;
- (2) Reference or mention any federal, state, or local department, agency, or commission in any advertisement unless required by law to do so or unless prior written approval is received from such department, agency, or commission; or
- (3) Otherwise connote in any advertisement that the auction is under the auspices of, at the direction of, or required by federal or state law or act or a federal, state, or local department, agency, or commission and that the buyers will, for some legal or governmental reason, be in a position to reap some unusual bargain.

(i) It shall be a violation of this Rule to advertise for sale items that the auctioneer/firm does not intend to offer for sale at the advertised auction.

(j) It shall be a violation of this Rule for an auctioneer or auction firm to permit its name or license number to appear on any advertisement for an auction without reviewing the contents of the advertisement prior to its publication to ascertain its compliance with G.S. 85B and this Subchapter.

(k) It shall be a violation of this Rule to advertise any auction using such descriptive words as "Contents," "Stock," "Inventory," "Liquidation," or any other word that connotes that the items to be auctioned are present on the premises of a residence, business, building, or establishment unless the items were physically present without interruption for 30 days prior to the signing of the contract or written agreement. Before conducting an auction using any of the descriptive words, the majority of the items in the sale shall be from the premises. Other items not related to or from the contents of the residence or business may be included in the auction provided they are designated as

such in all advertisements previous to the sale. The 30-day requirement shall not apply to items used in direct conjunction with the residence or business and brought to the site solely for the purpose of sale at auction.

(l) At all auctions that include a buyer's premium, the amount of the buyer's premium shall be announced at the beginning of the auction and a written notice of this information shall be displayed or distributed to the public at the auction site.

*History Note: Authority G.S. 85B-1; 85B-3.1; 85B-8(a)(4);
Eff. November 1, 1984;
Amended Eff. May 1, 2006; April 1, 2001; April 1, 1996; January 1, 1995; June 1, 1991;
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