

# KAA Code of Ethics (Adapted from the NAA Code of Ethics)

## PREAMBLE

The auction methodology requires a level of trust between the client, customer and auction professional that often exceeds standard business relationships. Members of the Kentucky Auctioneers Association recognize this factor and are committed to providing the elements necessary to meet that level of trust. The KAA's Code of Ethics exists to encourage the thoughtful consideration of ethical standards for auction professionals in their fostering of those relationships. The Code of Ethics provides KAA Auction Professionals guidelines for their conduct in their business practices. The Code concludes with a complaint process to be followed should circumstances arise which deem them necessary. A violation of the KAA Code of Ethics shall not form the basis for civil liability nor can such a violation be used as a breach of duty of care in any civil litigation.

As with most Codes, the KAA Code of Ethics is based on core values of which the following are most reflective:

- KAA members agree to uphold the laws and regulations required by local, state and national legislative and regulatory agencies.
- KAA members are committed to ensuring their Clients and Customers receive competent and ethical services.
- KAA members recognize their fiduciary responsibility to the Client.
- KAA members owe good faith in dealings with the public.
- KAA members owe good faith in dealings with other auction professionals.

## ARTICLES VS. BUSINESS PRACTICE

The Code of Ethics is contained exclusively in the Articles below. The accompanying Business Practices are meant only to be instructive and to provide clarity. Complaints made against individuals based solely on violations of Business Practices will not form the basis of an ethics complaint that would result in an accused being subject to discipline.

## RESPONSIBILITIES TO CLIENTS AND CUSTOMERS

### ARTICLE I

Members pledge to protect and promote the interests of the client. This obligation of absolute fidelity to the Client's interest is primary, but does not relieve members of their obligation to treat all parties to the transaction fairly.

**BUSINESS PRACTICE:** Members should not promote unreasonable expectations about the outcome of an auction in the mind of a potential Client in order to secure the Client's business.

**BUSINESS PRACTICE:** Members should, to assure better service to the Client and to prevent misunderstandings, enter into written agreements or, at a minimum, clear oral agreements that set forth the specific terms and conditions of the engagement.

**BUSINESS PRACTICE:** Members should not enter into an agreement with a Client to withhold information from the public, which would prove to be unsafe, illegal, and detrimental to the public or material to making a decision to bid.

**BUSINESS PRACTICE:** Members should not make a profit on expenditures incurred for their client without their Client's prior knowledge and consent.

## ARTICLE II

Members shall not accept compensation from any party, other than the Client, even if permitted by law, without the full knowledge of all the parties to the transaction.

## ARTICLE III

Members shall disclose any potential conflict of interest to a current or potential Client.

**BUSINESS PRACTICE:** Members should not provide professional services to their client where either they, members of their immediate family, members of their firm or any entity in which they have an ownership interest or contemplates an interest, without first disclosing such interest or contemplated interest.

## ARTICLE IV

Members shall not disclose any confidential Client information without the Client's consent except as required by appropriate legal authorities.

## ARTICLE V

Members shall recognize the limitations of their expertise; then seek counsel, assistance or Client referral appropriate for the circumstances.

**BUSINESS PRACTICE:** The concept of competency extends to members who are requested or required to travel to geographic areas where they do not have recent auction experience. Members not in a position to spend the necessary time in a market area to obtain the appropriate understanding of market conditions and appropriate licensure may find affiliating with a qualified local auction professional the appropriate response to ensure a competently conducted auction.

## ARTICLE VI

Members owe the Customer the duties of honesty, integrity and fair dealings at all times.

**BUSINESS PRACTICE:** Members should provide a clear understanding of all terms and conditions of an auction. Prior to the auction, customers for real estate auctions should be provided access to a copy of the contract to be signed for the bidder's review. Following the auction, purchasers of personal property should be provided a written bill of sale and purchasers of real estate a signed copy of the contract.

**BUSINESS PRACTICE:** Members may participate as a bidder in an auction for which they have responsibility if allowed by the laws within that jurisdiction, they have obtained their Client's consent and have made adequate public disclosures.

#### ARTICLE VII

Members shall not engage in activities that constitute the unauthorized practice of law and shall recommend that legal counsel be obtained when the interests of any party to the transaction would be appropriately served.

#### ARTICLE VIII

Members shall keep monies coming into their possession in trust for other persons in a separate, special account in an appropriate financial institution.

## RESPONSIBILITIES TO THE PUBLIC

#### ARTICLE IX

Members shall avoid misrepresentation or concealment of material facts. There is an affirmative obligation to disclose adverse factors of which they have personal knowledge.

**BUSINESS PRACTICE:** Members should be careful at all times to present a true picture in their advertising and representations to the public.

**BUSINESS PRACTICE:** In order to protect the public and to avoid misunderstandings, members should create and retain for a reasonable period of time an audio, video and/or online data record of each auction conducted.

#### ARTICLE X

Members are duty bound at all times to abide by the laws and regulations, which govern the profession as well as those which, if violated, would negatively affect their ability to appropriately represent the professionalism of our industry.

## RESPONSIBILITIES TO THE PROFESSION

### ARTICLE XI

Members should never criticize a competitor using false or deceptive information.

### ARTICLE XII

Members shall not knowingly or recklessly share confidential information about colleagues or their business practices.

**BUSINESS PRACTICE:** Confidential information, including financial, policies, personnel or procedures, obtained through collaboration of a joint venture, employment or otherwise should never be revealed without the written consent of the affected member.

### ARTICLE XIII

Members shall participate in all investigations and disciplinary proceedings when requested.

**BUSINESS PRACTICE:** In order for any professional organization to earn and maintain the confidence of the constituencies it serves, it must demonstrate to them the ability to "police" its own. Members have the unique ability to observe and therefore assist in the stewardship of this trust. Members have an obligation to assist the NAA and its officers in all matters, including the investigation, censure, discipline or dismissal of members.

## *PER SE VIOLATIONS*

### ARTICLE XIV

A member's conviction of a felony involving the member acting as an auction professional, or otherwise participating in an auction, shall be deemed an automatic violation of the Code of Ethics and require no further action. The Board of Directors will determine appropriate discipline.

### ARTICLE XV

During the period a Member owes an unpaid and unsatisfied civil, criminal, or regulatory cost, damage, fine, judgment, penalty, sanction, or other amount which was awarded, entered, levied, or ordered against the Member by an agency, authority, board, bureau, commission, court, department, or other arm of government shall result in the member being in violation of the Code of Ethics and require no further action. The Board of Directors will determine appropriate discipline.

## ARTICLE XVI

During the period a member's auctioneer license is revoked by a licensing authority in any jurisdiction within the United States for misconduct, wrongdoing, or another violation that occurred in connection with the Member acting as an auction professional, or otherwise participating in an auction, shall result in a Member being deemed in violation of the Code of Ethics and requires no further action. The Board of Directors will determine appropriate discipline.

<sup>1</sup> Per Se violations are automatic violations of the Code of Ethics and require no further action. Only actions occurring after the ratification of this Code will be applicable.

## PROCEDURE FOR GRIEVANCE AGAINST THE CODE OF ETHICS

Upon receipt of a written grievance alleging that a Member has violated the Code of Ethics, the Executive Director shall consult with the KAA President and Board of Directors to ascertain if the complaint is appropriate for processing. Grievances will not generally be considered until all pending regulatory, legal or civil actions have been resolved. The complaint must allege a violation of one or more Articles of the Code. The Business Practices serve only to clarify the ethical obligations imposed by the Articles. Complaints based solely on alleged Business Practices shall not form the basis of an ethics complaint that would result in the accused being subject to discipline.

If the President and Board of Directors agree the complaint should be processed, the Executive Director shall forward a copy of the written complaint to the accused Member and request that the accused Member provide a response in writing to such charges within 30-days. Once the accused Member has forwarded his/her response, the KAA President will review the information provided to determine if the file is complete.

The KAA President may request more information from either the complainant and/or the accused Member. Once the investigation is complete, the KAA President shall forward the complaint and the written response to the Board of Directors. If a member of the Board of Directors has a conflict of interest with either the person making the complaint or the accused, the Board Member must recuse himself or herself from the process.

The Board of Directors may a) seek more information; b) find no grievance; c) make a recommendation of a grievance. The Executive Director will communicate the Board's decision to the accused Member. If the Board makes a recommendation of a grievance to the, the accused Member will be given the opportunity to come before the Board to present his/her case.

The accused Member may introduce such documentary evidence and present such testimony of witnesses, sworn by the Chairman, as the Board of Directors shall reasonably be deemed relevant to the issues. At the conclusion of the hearing, the Board of Directors, as soon as it is practically possible, but not later than two (2) weeks thereafter, shall consider the evidence and render a written opinion and decision.

The Board may a) seek more information; b) find no grievance; or

c) recommend and determine the appropriate discipline, which could include: public or private censure, suspension, or expulsion, including prohibiting them from using their professional designation for the time period they are not a member. The decision shall be conveyed to the Member by certified mail within 21 days of the completion of the Board meeting. The accuser will be notified of the Board's decision at the conclusion of the process.