

Public Service Commission
608 East Boulevard Avenue Dept. 408
Bismarck, ND 58505-0480
701-328-4097 – phone
701-328-2410 - fax

Memo

To: Stanley Buckholz
From: Sue Richter, Licensing Division
Date: October 22, 2008
Re: Auctioneer Complaint

Sue Richter

The staff Complaint has been finalized. Although it is ready to be filed, it has not been filed. After visiting with you, I believe a resolution can be reached before the case goes any farther.

Enclosed is a copy of the Complaint with attachments. Review these documents and prepare a written response to the allegations. Your response should include an assurance about your commitment to follow the applicable laws and rules. Please provide us with your response no later than November 14, 2008.

If you have any questions, please call.

Enclosure



Public Service Commission

State of North Dakota

COMMISSIONERS

Susan E. Wefald, President
Kevin Cramer
Tony Clark

Executive Director
Illona A. Jeffcoat-Sacco

600 E. Boulevard Ave. Dept 408
Bismarck, North Dakota 58505-0480
web: www.nd.gov/psc
e-mail: ndpsc@nd.gov
TTY 800-366-6888 or 711
Fax 701-328-2410
Phone 701-328-2400

October 3, 2008

Darrell Nitschke
Director of Administration
Public Service Commission
600 E Boulevard Ave. Dept. 408
Bismarck, ND 58505-0480

RE: **Public Service Commission** *evz*
v. Stanley Buckholz, Auction Clerk
Complaint
Case No. AU-08-783

Dear Mr. Nitschke:

Enclosed for filing in the referenced case are the original and eight copies of the **Public Service Commission vs. Stanley Buckholz, Auctioneer Complaint**. This is a staff complaint against a licensed auctioneer. Under North Dakota Administrative Code Section 69-02-02-02, the Commission must determine if the complaint states a prima facie case, and if sufficient, serve a copy of the complaint on the respondent.

Thank you.

Sincerely,

Illona A. Jeffcoat-Sacco

Illona A. Jeffcoat-Sacco
General Counsel

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Public Service Commission,

Case No. AU-08-783

Complainant,

vs.

Stanley Buckholz, Auctioneer,

Respondent.

COMPLAINT

The North Dakota Public Service Commission's staff (Staff), for its complaint against Stanley Buckholz, Auctioneer, alleges and shows the following:

I

Stanley Buckholz, PO Box 152, Custer, Montana 59024, holds auctioneer license number 844 issued by the North Dakota Public Service Commission (Commission) under provisions of North Dakota Century Code Chapter 51-05.1.

II

On February 18, 2008, the Commission received a copy of an auction sale flyer which identified Stanley Buckholz as the auctioneer for two auction sales to be conducted in North Dakota, but did not identify Stanley Buckholz's auctioneer license number. (Copy is attachment no. 1.)

III

North Dakota Century Code § 51-05.1-01.1 provides in part: ". . . The name and license number must appear on all advertising of sales conducted by an auctioneer or clerk. . . ."

IV

On April 4, 2008, Sue Richter, Director of the Commission's Licensing Division, sent a letter to Stanley Buckholz advising that North Dakota Century Code § 51-01.1-

01.1 (sic) provides that *"The name and license number must appear on all advertising of sales conducted by an auctioneer or clerk."* In the letter Sue Richter informed Stanley Buckholz that in the future, he was to include his license number(s) along with his name on all advertising and his failure to comply with state law could result in a complaint. (Copy is attachment no. 2.)

V

On September 15, 2008, the Commission received a copy of an advertisement for an auction sale scheduled for October 11, 2008 in North Dakota, which does not include Stanley Buckholz's license name and does not identify Stanley Buckholz's auctioneer license number. (Copy is attachment no. 3.)

According to Commission records, North Dakota auctioneer license number 866 has been issued to Cody Buckholz, 2405 Fly Creek Road, Pompeys Pillar, Montana. The advertisement for the October 11, 2008 auction sale identifies only the name Buckholz and doesn't indicate whether the auction sale is being conducted by Stanley Buckholz or Cody Buckholz. Therefore, it is important that Stanley Buckholz identify his license name on all advertising of auction sales to be conducted in North Dakota.

VI

North Dakota Century Code § 51-05.1-03(1) provides that the Commission has the power to suspend or revoke a license when the licensee has performed one or more of the following:

- h. Violated any provisions of this chapter or chapter 41-02, 51-12 or 51-15, or rule or regulation promulgated by the commission.

VII

Stanley Buckholz violated the provisions of North Dakota Century Code § 51-05.1-01.1 by failing to disclose his license name on all advertising of sales conducted by him as an auctioneer.

VIII

Stanley Buckholz violated the provisions of North Dakota Century Code § 51-05.1-01.1 by failing to disclose his license number on all advertising of sales conducted by him as an auctioneer.

North Dakota Century Code § 28-32-21(e) requires that an answer to this complaint must be filed with the Commission within twenty days after service of the complaint, or the Commission may deem the complaint to be admitted. If Stanley Buckholz fails to answer within twenty days after service of the complaint, the Commission may enter an order in default as the facts and the law may warrant.

Wherefore, Staff seeks the following relief:

1. That Respondent be found to have violated North Dakota Century Code § 51-05.1-01.1 by failing to disclose his license name on all advertising of sales conducted by him as an auctioneer.
2. That Respondent be found to have violated North Dakota Century Code § 51-05.1-01.1 by failing to disclose his license number on all advertising of sales conducted by him as an auctioneer.
3. That the Commission impose sanctions or penalties as appropriate under the circumstances and as allowed by North Dakota Century Code § 49-07-01.1, which may include suspension or revocation of Stanley Buckholz's auctioneer license or a fine of up to \$5,000, or both.
4. For such other relief that the Commission finds just and proper.

Dated this 3rd day of October, 2008.

Illona A. Jeffcoat-Sacco (ID 03315)
Special Assistant Attorney General
North Dakota Public Service Commission
600 East Boulevard Avenue, Dept. 408
Bismarck, North Dakota 58505-0480
Phone: 701-328-2407
Fax: 701-328-2410
Counsel for Public Service Commission Staff

LARGE BUFFALO AUCTIONS

SUNDAY, FEBRUARY 17, 2008

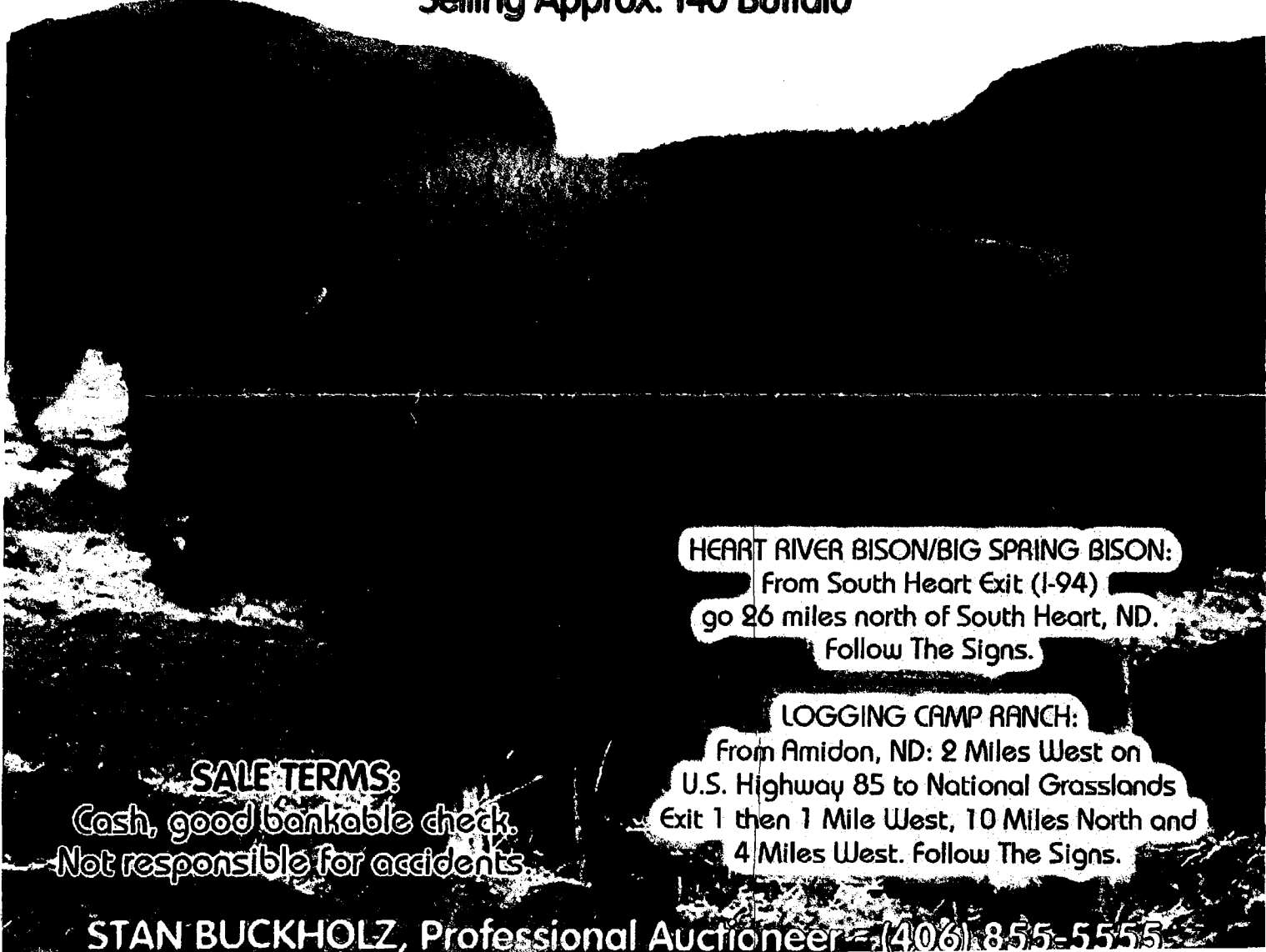
Heart River Bison and Big Spring Bison • 1:00 p.m. (MDT)

Selling Approx. 166 2005, 2006, 2007 Buffalo

MONDAY, FEBRUARY 18, 2008

7S Ranch/Logging Camp Ranch • 12:00 p.m. (MDT)

Selling Approx. 140 Buffalo



HEART RIVER BISON/BIG SPRING BISON:

From South Heart Exit (I-94)
go 26 miles north of South Heart, ND.
Follow The Signs.

LOGGING CAMP RANCH:

From Amidon, ND: 2 Miles West on
U.S. Highway 85 to National Grasslands
Exit 1 then 1 Mile West, 10 Miles North and
4 Miles West. Follow The Signs.

SALE TERMS:

Cash, good bankable check.
Not responsible for accidents

STAN BUCKHOLZ, Professional Auctioneer • (406) 855-5555



Public Service Commission

State of North Dakota

COMMISSIONERS

Susan E. Wefald, President
Kevin Cramer
Tony Clark

Executive Director
Illona A. Jeffcoat-Sacco

April 4, 2008

600 E. Boulevard Ave. Dept 408
Bismarck, North Dakota 58505-0480
web: www.nd.gov/psc
e-mail: ndpsc@nd.gov
TTY 800-366-6888 or 711
Fax 701-328-2410
Phone 701-328-2400

Stanley Buckholz
PO Box 152
Custer, MT 59024

Dear Mr. Buckholz:

I recently saw your name identified as the auctioneer on a sale flyer (see attached). This flyer did not include your auctioneer license number. Also, the flyer did not identify an auction clerk name or license number.

North Dakota Century Code Section 51-01.1-01.1 provides that "*The name and license number must appear on all advertising of sales conducted by an auctioneer or clerk.*" In the future, please include your license number(s) along with your name on all advertising.

Failure to comply with state law could result in a complaint against you. If a complaint is filed and a violation is found, sanctions can be imposed as allowed by North Dakota Century Code Section 49-07-01.1, which includes suspension or revocation of your license, probationary status of your license, and/or a fine of up to \$5,000.

If you have any questions, please call me. My number is 701-328-4097.

Sincerely,

A handwritten signature in cursive script that reads "Susan K. Richter".

Susan K. Richter, Director
Licensing Division

Attachments

51-05.1-01

SALES AND EXCHANGES

CHAPTER 51-05.1

AUCTIONEERS' AND CLERKS' LICENSES

Section	Section
51-05.1-01. Auctioneering or clerking without a license prohibited.	tion of license — Hearing on appeal.
51-05.1-01.1. Auctioneer's license — Clerk's license — Fees — Bonds.	51-05.1-04. Definitions.
51-05.1-01.2. Exemptions.	51-05.1-04.1. Written contracts.
51-05.1-02. License standards.	51-05.1-04.2. Buyer's premium.
51-05.1-02.1. Conviction not bar to licensure — Exceptions.	51-05.1-05. Handling of funds by clerk of auction sale.
51-05.1-03. Investigation — Grounds for refusal, suspension, or revoca-	51-05.1-06. License list — Repealed.
	51-05.1-07. Penalty.

51-05.1-01. Auctioneering or clerking without a license prohibited. No person may conduct a sale as an auctioneer or clerk unless licensed by the public service commission.

Source: S.L. 1975, ch. 449, § 1; 1981, ch. 497, § 1; 1983, ch. 530, § 1; 1987, ch. 588, § 2.

Cross-References.

Authority of auctioneer, see chapter 3-05.

DECISIONS UNDER PRIOR LAW

Failure to Comply with Notice Requirements.

Failure to comply with this statute as to giving of notice of sale of mortgaged property did not invalidate such sale where county treasurer and sheriff had notice of sale by agreement of mortgagor and mortgagee, and where latter officers required payment of taxes before sale was made. *Regional Agric. Credit Corp. v. Griggs County*, 73 N.D. 1, 10 N.W.2d 861 (1943).

Collateral References.

Auctions and Auctioneers ⇔ 1-13.
7 Am. Jur. 2d, Auctions and Auctioneers, §§ 1-85.

7A C.J.S. Auctions and Auctioneers, §§ 1-70.

Title to goods, as between purchaser from, and one who entrusted them to, auctioneer, 36 A.L.R.2d 1362.

Withdrawal of property from auction sale, 37 A.L.R.2d 1049.

Warranties, implied or apparent authority of auctioneer selling personal property to make, 40 A.L.R.2d 313.

Jewelry auctions, regulation and licensing of, 53 A.L.R.2d 1433.

Title, condition or quality of goods, liability of auctioneer or clerk to buyer as to, 80 A.L.R.2d 1237.

Conversion, personal liability of auctioneer to owner or mortgagee for, 96 A.L.R.2d 208.

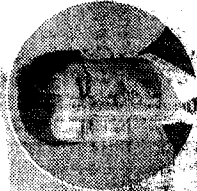
Default: liability of defaulting purchaser to owner's broker or auctioneer, 30 A.L.R.3d 1395.

Liability of auctioneer under doctrine of strict products liability, 83 A.L.R.4th 1188.

51-05.1-01.1. Auctioneer's license — Clerk's license — Fees — Bonds.

1. The initial application for an annual auctioneer's or clerk's license must be in writing, verified, and must show the name, residence, and address of the applicant. An application must be filed at least ten days prior to the first auction sale the applicant is to conduct or clerk. Application for renewal of an annual license must be on forms designated by the commission. The fee for the annual license or renewal is thirty-five dollars and must accompany the application. The name and license number must appear on all advertising or sales conducted by an auctioneer or clerk. Renewals that are no

- Purchase or Refinance
- Long Term Fixed Rates
- Real Estate Revolving Line of Credit
- FSA Guaranteed Real Estate Loans
- Rotating Mortgages • Leasing



Darion D. Sparks
888-656-6528
500 E Norway Avenue
Mitchell, SD 57301

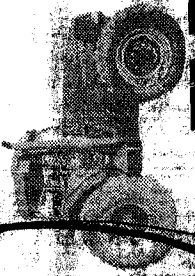
...enables us to market your farm-land or acreage at the highest dollar amount possible. We'll prove that either at auction or private sale. Free market analysis anytime/anywhere

REAL ESTATE **697**
806 HANSEN LAND & AUC. INC.
605-423-2608

172.4 ACRES Horse, Buffalo, Ramblers special paradise. 2 executive homes. Large indoor arena, office, toilet, shower, loft living viewing quarters. Excellent opportunity at Auction, October 11th, 3:00 P.M. (financing). Beautifully scenic view Killdeer Mountains. Excellent buildings, corrals, waterers, six stables, buffalo fence. Must see to appreciate. Auctioneer: **Buckwalter 406-855-5555**
BigAuctionsService.com

NEW GD

Tell them you read it in the Green Sheet.
FARM FORUM
THE GREEN SHEET



For Sale
acres of land including upland. This land is West and 5 miles in Dewey County. 1/4 & W1/2 SW 1/2 & SE 1/4 Sec. 31 1/4 Sec. 4 & E 1/4 All located East of the

15 a cell phone # based in Reno, NV

Ads - Buy and Sell

OTHER LIVESTOCK **648**
SWINE **652**

FOR SALE: Barco, York and crossed boars. Closed herd. 30+ years producing quality, healthy, breeding stock. Newly scammed group of boars available. Baran-feed pills. Call: **605-267-2747**

FOR SALE: Barco, Hampshire and Blackhead Boars and cross bred pigs. Call: **605-267-2747**

Buffalo Auction

February 17-18. All ages of choice west fish Buffalo. 12 noon both days. 50 lbs or more. Tuesday, entire day. Call: **605-267-2747**

NEW GD

*Sale 5, 2008
Farm Forum SD
Abbeville, SD
INT cell phone
Reno, NV*

*Jan 7, 2008
Farm Forum
Abbeville, SD
Reno, NV
cell phone*