

**INDIANA AUCTIONEER COMMISSION**

**Minutes**

**JUNE 8, 2021 AT 8:00a.m.**

**\*\*TO BE HELD THROUGH TELEPHONIC AND VIDEO CONFERENCING\*\***

**JOIN VIA TELEPHONE AT: 1-240-454-0887**

**MEETING CODE: 610915440**

**OR JOIN BY VIDEO AT: <https://IndianaEnhanced.Webex.com/join/PLAWebex>**

Members present: John Kruse, Jimmy Yagle, Jack Lawson, Pete Shawver

State officials: Toby Snell, Dinena Moore, Claire Dyer

DAG's: Kiely Keesler, Amy Osborne, Ian Mathew, Hilary Egan

Court Reporter: Lindy Meyer

- I. CALL TO ORDER AND ESTABLISHMENT OF QUORUM 8:02 a.m.**
- II. ADOPTION OF THE AGENDA Motion made to approve agenda JY/JL 4-0-0**
- III. ADOPTION OF THE MINUTES motion made to approve minutes JL/PS 4-0-0**
- IV. REPORT FROM THE OFFICE OF THE ATTORNEY GENERAL**

**Report was given by Amy Osborne OAG**

**V. DELIBERATIONS AND POSSIBLE ISSUANCE OF FINAL ORDERS**

**A. In the matter of: Mike Bickers, AU09200189**

Cause Number: **2015 IAC 0003**

Probation Withdrawal

Bickers did not appear. Motion was made of proposed dismissal. Motion was made by JY/PS 4-0-0

Bickers does appear per his Hearing Notice stated 9:00 instead of 8:00

Commission withdrawal's first motion hears case.

Kiely Keesler appears on behalf of the State

Mr Bickers does not have counsel and waives that right

Mr Bickers give opening statement and would like to be removed from probation. He has paid fines and completed extra CE that was required.

State gives opening statement.

Mr Bickers states who he took courses sent them to the state he feels he has complied with all requirements.

State calls Mr Bickers

State calls Toby Snell

Closing statement given by respondent

Closing statement given by state.

These proceeding are now concluded. Commission deliberates.

JK makes motion to accept the request to be removed from probation seconded by PS  
Motion carries 4-0-0.

## VI. ADMINISTRATIVE HEARING

### A. **Bradley Puckett, AU19600142 and Wilbur Puckett, AU01040485**

Cause Number **2020 IAC 0001**

Administrative Complaint

Bradley Puckett and Wilbur Puckett appear and Amy Osborne for the state appears

Witnesses: Cindy Spears, Richard Yount, Marie Bedford, Julie Manton

State makes opening statements from Complaint

Wilbur Puckett makes opening statement

Wilbur Puckett states everyone has been paid and may not have been done in a timely manner. Been auctioneering for 40 years and does not feel they have ever cheated anyone.

Bradley Puckett declines to opening statement

State calls **Julie Manton**. Julie had a contract with Wilbur and Bradley Puckett to take care of father's estate, personal property and car. Julie was the personal representative for the estate.

**Exhibit A** introduced by state and admitted. No objection by commission or respondents.

Julie learned that the vehicle was sold thru a dealership. It was sold 09/2016. A month after the signed contract. Julie contacted the respondents after finding this out. She wrote letters and physically went to their place of business and at the time stated they were out of town. Located the auction location but no one was there. Julie tried messaging someone as well to find out what was going on with no response.

**States Exhibit B** introduced by state and admitted. No objection by commission or respondents

Letter was sent to Bradley Puckett letting him know they filed a complaint with the AG's office

Date on the letter is 11/3/2017 sent to respondents.

Julie sent a letter in hopes to resolve the issues. Julie did receive a response from Wilbur Puckett. Wilbur Puckett sent a letter to Ms. Manton but did not receive a response from Bradley Puckett

**States Exhibit C** introduced by state and admitted. No objection by commission or respondents. the letter from Wilbur Puckett to Ms. Manton stated he had health issues and it was not his intent to withhold funds. The letter was dated 11/20/2017. Wilbur Puckett stated he was in the hospital and admits some things had not been taken care of and included the settlement statement and check for the items sold. Wilbur Puckett

only charged commission.

**States Exhibit D** introduced by state and admitted. No objection by commission or respondents. Date of settlement agreement between Wilbur Puckett and Ms Manton was 11/20/2017 and the date on the check was 11/20/2017. The name on the account holder was Wilbur Puckett Auctioneer. The check does not indicate that it is a trust account. The amount was for \$10232.00. Ms. Manton states the amount was not the amount agreed upon. Respondents took 25% but the contract was to be 10%. Ms. Manton contacted the respondents and stated they miscalculated on the percentage of the car sale and that she was still owed money.

**States Exhibit E** introduced by state and admitted. No objection by commission or respondents. Letter to Mr Puckett stating they took more percentage out then what was agreed upon in the contract.

**States Exhibit F** introduced by state and admitted. No objection by commission or respondents. Received check changing the percentage from 25% to 10%. The amount changed to \$1875.00 additional for sale of car. Name of account holder was Wilbur Puckett. The check was dated for 12/12/2017 and there was no indication that the check was from a trust account.

No further questions for the witness from the state.

No questions from respondents for the witness.

Commission John asks witness if she received the funds that were due to her and she states she did. No more questions from the commission members.

State calls **Richard Yount**. Mr Yount states respondents were to sell his parents estate and hired the respondents to conduct an auction. The respondents stated they could sell the property online. There were certain items that were sold online. On October 2015 the respondents came to take everything out of the house and auctioned and have everything auctioned by June 2016. The auction did not take place until October 2016. Mr. Yount did not receive payment until 2017 and the last auction was held was in June 2017 and it was five months later before receiving the funds from that auction.

**States Exhibit G** introduced by state and admitted. No objection by commission or respondents. Complaint was filed by Mr. Yount with the AG's office.

Complaint was filed because he did not feel they did what they said they would do when conducting the online auction.

No questions from respondents for Mr. Yount Johns asks Mr. Yount if he has been paid and he states no they did not stick with the agreement. He did receive the proceeds for the items that were sold.

No questions from Commission member for Mr. Yount

State calls **Marie Beckert** OAG Case Analyst.

Ms. Beckert received 4 complaints on the respondents and investigated it. Documents received cancelled checks and signature cards to open bank accounts

**States Exhibit H** introduced by state and admitted. No objection by commission or respondent. Cancelled checks drawn on Wilbur Puckett's account from First Merchants.

Page one the name of the account owner is Wilbur Puckett. Check was written to Mr.

Yount and the check was signed by respondent Wilbur Puckett on 11/20/2017. No indication that the check came from a trust account. The second check was made to Helen Bennett Estate signed by Wilbur Puckett on 11/30/2017 and there was no indication that the check came from a trust account.

**States Exhibit I** introduced by state and admitted. No objection by commission or respondent. Certification of business records, signature card with First Merchants Bank. Page two of the exhibit is a signature card for Merchants National Bank with Wilbur Puckett and Mrs. Puckett containing both signatures on it. The account is a checking account and there is no indication that the account is a trust account.

**States Exhibit J** introduced by state and admitted. No objection by commission or respondent Bradley Puckett. Subpoena was submitted to Wells Fargo to obtain a copy of the cancelled check drawn on Bradley Puckett. Name on the check is Bradley Puckett dated July 3, 2018. No indication that the check is from a trust account.

**States Exhibit K** introduced by state and admitted. No objection by commission or respondents. Business declaration records from Wells Fargo and Consumer application. The consumer account application with Bradley Puckett's name on it shows the purpose of this account is for personal/household. No indication that the account is a trust account

No questions for witness from Respondents or commission members

State calls Cynthia Spears. Ms Spears hired them to sell her late husband's baseball collection plus other household items

**States Exhibit L** introduced by state and admitted. No objection by commission or respondents. Ms Spears signed a contract with the respondents to sell items such as glass ware and baseball cards and they were to be auctioned off on 12/04/2016. Ms. Spears did not receive payment within 30 days and contacted respondents on 01/5/2017 by phone. Ms Spears stated the respondents told her they sent a check by priority mail. Ms Spears states she did not receive the check and called them back on 01/13/2017, 01/19/2017 and 01/20/2017. Ms Spears states she talked with Bradley Puckett every time and he stated he did not have a tracking number for her. Ms Spears hired legal counsel to take action on 02/09/2017.

**States Exhibit M** introduced by state and admitted. No objection by commission or respondents. Letters were sent to Bradley Puckett on 02/27/2017 03/06/2017 04/04/2017 04/08/2017 04/09/2017 from Ms Spears attorney to obtain the money due to her and return the items that did not sell.

**States Exhibit N** introduced by state and admitted. No objection by commission or respondents Checks and summary statement from the auction held. The check was in the amount of \$500.00. This was for reimbursing part of the attorney fees from the account holder Wilbur Puckett. No indication it is a trust account. The second check was for \$5908.40 with the account name William L Puckett Auctioneer for the full settlement. There was no indication it was a trust account. Ms Spears received checks and was advised by her attorney to bring them to him. Bradley Puckett delivered checks in person 03/24/2017. There were items not sold and those items were not returned and they were taken to Florida and Ms Spears did not ask them to do that. Some of the items were sold in Florida and some were sold on EBAY and Ms. Spears asked for copies of the transactions and months later received the transactions of the auctions but not the ones from EBAY. She did receive payment for some items and

checks were turned into her attorney. Ms Spears finally gave up on getting the unsold items back.

No questions from respondents. John asks witness if there are outstanding items and fees that she never received Ms. Spears states yes and finally just gave up due to it being too stressful. No more questions from commission

Respondents called to testify with response. Bradley Puckett comments on the last statement from Ms Spears stating he never sold anything on EBAY and does not do EBAY. On the items that were not returned he states he did return items and paid all attorney fees as they saw fit. Ms Spears signed an affidavit stating they would not testify any further for the items that were sold. Bradley Puckett also states from other witness about a check that was written, and they were not a part of the Bennett Estate and not part of the auction. It was a personal deal that they had and did not want them sold at an auction and there would not have been a check written from a trust account. Bradley has no more statements.

States asks if they have a trust account and Bradley Puckett stated no as he does not handle any financials for the company and there is a trust account that is used for all real estate transactions. Commission member John asks Bradley about the personal Wells Fargo check and Bradley stated it had nothing to do with the auction in question. Coins were never part of the contract and they were to be sold privately and were not ran thru the auction. Commission member John asks Bradley if he feels he has settled with the Bennett Estate and Bradley states yes. Commission member John asks in regard to the Spears auction. Spears feels she is still owed money. Bradley states they do not believe they owe her anything further and her items were brought back to her and payment was made. Bradley stated he paid all attorney fees and paid exactly what she wanted to settle which was around \$7700.00 and sent them the payment. Bradley paid all legal fees. Bradley sold baseball cards and did not attempt to sell any other items. Commission member Yagle asks Bradley in regard to Spears check was mailed by priority mail. Bradley stated he does not recall sending the check priority, but it was sent. Online sales sometimes hold up payment as they did have some non-paying customers and that was the cause for delay.

Commission member Yagle asks in regards of the several phones calls in January and February and why he did not return the calls. Bradley stated since Ms Spears had an attorney, she would not respond, and he had to deal with her attorney directly and she would not accept anything directly from him. Commissioner Yagle asked who they do online sales thru and Bradley stated Invaluable Live Auctioneers and phone bids. On this particular sale, he contacted previous customers and left phone bids on some items and it was difficult to collect the money but did collect all funds.

Commissioner Yagle asks if they have ever been disciplined before and Bradley stated no and Wilbur stated he did 13 years ago with the commission.

No more questions from the commission for Bradley Puckett.

State has no additional questions for Bradley. Wilbur states he has been in this business for 40 years and has wrote checks from this account since then. He was not aware that the account needed to state a trust account. He has not cheated anyone out of their money and he only use's this account for his auctions.

Wilbur does not feel they could have satisfied Ms. Spears no matter what. He feels they tried to do their best. No more questions from State

Commissioner Jack Lawson asks about the two checking accounts. Wilbur states one is for personal property and the second one is an operating account to pay off customers. One with his wife's name on it is a separate business account. Commission member Yagle asks if he has attended any Continuing Education classes and Wilbur state's he has completed his required 16 hours of Continuing Education. Commission member Yagle asks if he has attended classes on Escrow accounts and Wilbur stated he does not recall.

No more questions from commission.

State rests

Respondents rest

Closing statements by state

Closing statement by Wilbur

Closing statement by Bradley

These proceeding are now concluded. Commission deliberates.

Count 1-10 Motion made by JY to find both respondents in violation of the first 10 counts And Wilbur in violation of count 11 and Bradley in violation of count 12. Seconded by PS JY retracts first motion

JY makes Motion 1-10 Wilbur and Bradley are in violation seconded by PS motion carries 4-0-0

JL makes motion count 11 Wilbur is not in violation seconded by JK motion fails 2-2-0 further discussion on count 11.

No new motion made initial motion stands 2-2-0 motion fails on Count 11

JY makes motion on count 12 Bradley is not in violation seconded by PS Motion carries 4-0-0

PS makes motion that both Bradley and Wilbur are to be issued letters of reprimand and Place both license on probation. They are to both complete 2 hours of Continuing Education in Trust Accounts and 2 hours of Continuing Education in Auctioneer License Law. They are both to submit quarterly reports showing Designation of a trust account for auction clients, record of transactions made within that designated trust account and documentation showing funds being issued 30 days following transactions completed during the probationary period. A fine of \$1000.00 each, cost of proceedings and \$5.00 fee for the Health Records and Personal Identifying Information Protection Trust Fund. JLseconds motion. Motion carries 3-1-0

## **B. Lowderman Auction and Real Estate**

**Monte Lowderman, Cody Lowderman, Jack Lowderman**

Cause Number 2020 IAC 0004

Administrative Complaint (**CONTINUED**)

**C. Lester Paul Jones AU10600121/Star Light Auctions AC31400024**

Cause Number **2021 IAC 0002**

Administrative Complaint

Mr Jones present

Amy Osborne for State.

Witnesses: Mikayla Moore OAG

State makes opening statement Failure to remit items in an auction.

Respondent makes opening statement and feels he has followed the laws.

State calls Mikayla Moore conducted investigation in this matter.

**State Exhibits A** presented and admitted no objection from commission or respondent  
Complainant rented a truck and states his tables were gone and was told a guy from Chicago  
took them and they called auctioneer and states he did not know anything about the tables.  
Mr Jones denied it was his responsibility to watch over these items once they have been  
purchased.

**States Exhibit B** presented and admitted no objection from commission or respondent. Letter  
from respondent to the OAG's office.

State rests

Respondent states he does not have witness's but did state he has done over 780 auctions. He  
announces winning bidder. Mr Jones stated that the he announces to all winning bidders that they  
once they obtain possession, they are able to load their items up but cannot leave premises until  
the bill is paid and they are responsible for their items. Respondent rests

State asks if respondent has anything in place to make sure items do no get stolen. Respondent  
states he leaves it to the buyer to be responsible for what they purchase. After purchase is  
completed he is not responsible for the item.

Respondent rests.

State gives closing statement

Respondent gives closing statement

These proceeding are now concluded. Commission deliberates

Motion was made not in violation on any count JL/JK motion carries 4-0-0

**D. John Freeman AU11500009**

Cause Number **2021 IAC 0003**

Administrative Complaint

Ian Mathew for the State

John Freeman present without counsel

Witness: Mikayla Moore and John Freeman

States gives opening statement

Respondent gives opening statement

States calls Mikayla Moore investigator with the OAG

States Exhibit A presented and admitted no objection from commission or respondent

States Exhibit B presented and admitted no objection from commission or respondent

States Exhibit C presented and admitted no objection from commission or respondent

Items auctioned online

Respondent has no questions for the state's witness

Commission member Yagle asks if this is an online auction only. Respondent states yes.

Commission members have no further questions for the witness

State calls Mr Freeman

Worked for Auction62.com from 2013-2020. Duties were to help facilitate and build the website, do pickups and help gain customers. Company did the online auction thru a software. He placed items on the site to sell. Met Mrs. Harrington in 2016. Executed a written contract. In 2018 Mrs. Harrington approached again to have furniture auctioned. Roughly 20-25 pieces of furniture. Mr Freeman stated that Mrs. Harrington said her stuff needs to go as she is downsizing and to please get it out of her house. All of her items were auctioned off. Mr Freeman and Mrs. Harrington did not execute a written contract for the items.

State rests

Respondent does not have any witness

Respondent presents case.

Mrs Harrington came back and asked Mr Freeman to sell items for her. She pointed out everything she wanted gone. They would have to hire a moving company and gave a price and they would pay initially and take off the final value of the sale. Paid her and took almost no commission. he was an employee and never advertised himself as the auctioneer.

Commission asks if the company only does online or live as well. Response from Mr Freeman stating online auctions only

Commission asks if the owner of the company has an auctioneer license. Mr Freeman states he does not think so.

Commission asks if the owner has an auctioneer company license. Mr Freeman stated he does not think so.

Respondent rests

State gives closing statement

Respondent gives closing statement

These proceeding are now concluded. Commission deliberates



JK made motion that respondent is in violation for not having an auction contract second by PS motion carries 4-0-0

Motion was made by PS to issue a letter of reprimand, \$5.00 fee for the Health Records and Personal Identifying Information Protection Trust Fund. seconded by JL  
Motion Carries 4-0-0

## **VII. PRE-LICENSING/CONTINUING EDUCATIONS SPONSORSHIP REVIEW**

### 1. Florida Auctioneer Academy

John will review and will place on next meeting agenda for decision

## **VIII. OLD / NEW BUSINESS**

1. Rule Draft Discussion 812 IAC 2-4-1(repeal or rule change)  
TABLED for next meeting. Send Commission members draft copy of rules.
2. Commission discussed the operation of online auctions. Unanimous consent by the commissioners that any and all auctions being conducted online may only be operated by a properly licensed Indiana Auctioneer. Anyone acting in this capacity without an Indiana Auctioneers license is subject to cease-and-desist order process, and any and all disciplinary action.
3. Request from Mississippi to obtain Reciprocity with Indiana  
Does not meet the hour requirement request Denied. Due to the minimum of 80 hours of pre licensing
4. Schedule Executive Session for Exam Review  
Tabled

## **IX. ADJOURNMENT 2:38 P.M. motion made JY seconded By PS Motion Carries 4-0-0**

Next Scheduled Meeting:  
August 3, 2021 at 8:00 a.m.



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John Kruse, Chair