

§ 85B-8. Prohibited acts; assessment of civil penalty; denial, suspension, or revocation of license.

(a) The following shall be grounds for the assessment of a civil penalty in accordance with G.S. 85B-3.1(b) or the denial, suspension, or revocation of an auctioneer, auctioneer apprentice, or auction firm license:

- (1) Any violation of this Chapter or any violation of a rule or regulation duly adopted by the Commission.
- (2) A continued and flagrant course of misrepresentation or making false promises, either by the licensee, an employee of the licensee, or by someone acting on behalf of and with the licensee's consent.
- (3) Any failure to account for or to pay over within a reasonable time, not to exceed 30 days, funds belonging to another which have come into the licensee's possession through an auction sale.
- (4) Any false, misleading, or untruthful advertising.
- (5) Any act of conduct in connection with a sales transaction which demonstrates bad faith or dishonesty.
- (6) Knowingly using false bidders, cappers or pullers, or knowingly making a material false statement or representation.
- (7) Commingling the funds or property of a client with the licensee's own or failing to maintain and deposit in a trust or escrow account in a federally insured depository institution or a trust institution authorized to do business in this State funds received for another person through sale at auction.
- (8) Failure to make the required contribution to the Fund.
- (9) The commission or conviction of a crime that is punishable as a felony offense under the laws of North Carolina or the laws of the jurisdiction where committed or convicted, or the commission of any act involving fraud or moral turpitude.
- (10) Failure to properly make any disclosures or to provide documents or information required by this Chapter or by the Commission.
- (11) A demonstrated lack of financial responsibility.

(b) through (d) Repealed by Session Laws 1973, c. 1195, s. 5.

(e) The Commission may investigate complaints and conduct hearings as follows:

- (1) The Commission may upon its own motion or upon the complaint in writing of any person, provided the complaint and any evidence presented with it establishes a prima facie case, hold a hearing and investigate the actions of any auctioneer, apprentice auctioneer, or auction firm, or any person who holds himself or herself out as an auctioneer or apprentice auctioneer, and shall have the power to impose a civil penalty on any licensee, suspend or revoke any license issued under the provisions of this Chapter, or to reprimand or censure any licensee. In all proceedings for the imposition of a civil penalty or the denial, suspension, or revocation of licenses, the provisions of Chapter 150B of the General Statutes including provisions relating to summary suspension shall be applicable. Any person who desires to appeal the denial of an application for any license authorized to be issued under this Chapter shall file a written appeal with the Commission not later than 30 days following notice of denial.
- (2) The Commission may, upon its own motion, summarily suspend a license when the health, safety, or welfare of the public is at risk, such as in the event of a potential loss of consigned items or potential loss of funds.

(f) A person whose license has been denied, suspended, or revoked may not apply in that person's name or in any other manner within the period during which the order of denial, suspension, or revocation is in effect, and no firm, partnership, or corporation in which any person has a substantial interest or exercises management responsibility or control may be licensed during the period. (1973, c. 552, s. 8; c. 1195, ss. 4, 5; c. 1331, s. 3; 1975, c. 648, s. 6; 1983, c. 603, s. 6; 1989, c. 732, s. 5; 1991 (Reg. Sess., 1992), c. 819, s. 21; 1999-142, s. 7; 2005-330, s. 7; 2017-25, s. 1(e).)