

1979 WL 43014 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 22, 1979

*1 Col. George P. Pechilis
S.C. Auctioneers' Commission
915 Main Street
Columbia, South Carolina 29201

Dear Col. Pechilis:

You requested an opinion concerning the liability of an auctioneer if he should unknowingly sell at auction stolen merchandise consigned to him for sale. Although the law on that question is not settled in this state, there is a strong likelihood that the auctioneer would be liable for civil damages to the rightful owner.

The law in most states is that, in general, an auctioneer who sells property on behalf of a principal having no title thereto is personally liable to the true owner for conversion, regardless of whether he had notice of the true owner's title, or whether he acted in good faith. 68 Am.Jur. 'Auctions and Auctioneers,' § 68. If such a case should ever arise in this state, our supreme court would very likely apply the above law as followed in the majority of the states. Therefore, an auctioneer should attempt to satisfy himself that the merchandise he sells is not stolen. Otherwise, he may be liable to the rightful owner for the proceeds of the sale.

In that event the auctioneer would have a legal claim against the party who consigned the stolen merchandise to him. However, practically speaking, it may be difficult later to find that person.

Sincerely yours,

David C. Eckstrom
State Attorney

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