

1979 WL 43552 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

August 30, 1979

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

Dear Col. Pechilis:

You have requested an opinion concerning the liability of an auction house in the event that stolen property is sold by an auctioneer at that auction house. The law in this State is not clear as to the liability of an auction house in that situation, just as it is not clear as to the liability of the auctioneer. (See attached letter dated May 22, 1979.) However, if the auctioneer would be held liable to the rightful owner of the property, it is also possible that the auction house would be held liable to the auctioneer, in the absence of an agreement to the contrary. In like manner, any dealer who delivered stolen merchandise to the auction house for sale there would likely be liable to the auction house, in the absence of an agreement to the contrary.

The above discussion relates to an auctioneer's liability to the rightful owner of the stolen property. It is also possible that an auctioneer or auction house could be liable to the buyer of the stolen property if that property is later recovered by the rightful owner. Such liability to the buyer could most likely be avoided if the auctioneer discloses his principal and avoids warranting to the buyer that the title to the property is good. 7 Am.Jur.2d, 'Auctions and Auctioneers, § 65, 66.

You also asked whether a person would be exempted from the auctioneers' licensing requirement under [§ 40-6-20\(1\), Code of Laws of South Carolina](#), 1976, if that person acquired young hogs for the purpose of raising them and thereafter selling them at auction. The above cited statute exempts such a person from the licensing requirement, unless that person originally acquired the hogs for the purpose of resale at auction. If it was that person's purpose, in buying those hogs, to sell them later at auction, then he would be required to obtain an auctioneer's license.

Sincerely yours,

David C. Eckstrom
State Attorney

1979 WL 43552 (S.C.A.G.)

End of Document

© 2017 Thomson Reuters. No claim to original U.S. Government Works.