

**VIRGINIA AUCTIONEERS BOARD  
INFORMAL FACT-FINDING CONFERENCES  
SEPTEMBER 23, 2004 (1:00 PM)**

The Virginia Auctioneers Board convened in Richmond, Virginia, for the purpose of holding Informal Fact-Finding Conferences pursuant to the Administrative Process Act.

Buddy Updike, Board member, presided. No other Board members were present.

Jennifer Kazzi appeared for the Department of Professional and Occupational Regulation.

The conference was recorded by Inge Snead & Associates, LTD. and the Summaries or Consent Orders are attached unless no decision was made.

Disc=Disciplinary Case  
Lic=Licensing Application  
RF=Recovery Fund Claim  
Trades=Tradesmen Application

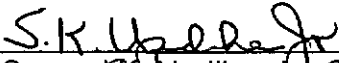
C=Complainant/Claimant  
A=Applicant  
R=Respondent/Regulant  
W=Witness  
Atty = Attorney


1. Donald Everett Sparks  
File Number 2004-00840 (Discp)

Donald Sparks – R  
Charles A. Gavin – R's Atty  
Vivian Stanley – C

The meeting adjourned at 1:45 PM.

Virginia Auctioneers Board

  
\_\_\_\_\_  
Samuel K. Updike, Jr., Chairman

  
\_\_\_\_\_  
Louise Fontaine Ware, Secretary

**IN THE  
COMMONWEALTH OF VIRGINIA  
VIRGINIA AUCTIONEERS BOARD**

Re: Donald Everette Sparks

File Number: 2004-00840  
License Number: 2905001779

**SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE**

On August 11, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Donald Everette Sparks to the address of record. The Notice included the Informal Report of Findings, which contained the facts regarding the regulatory and/or statutory issues in this matter. The certified mail was signed and received.

On September 23, 2004, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Donald Everette Sparks, Respondent; Charles Gavin, Respondent's Attorney; Vivian Stanley; Complainant; Jennifer Kazzi, Staff Member; and Samuel L. Updike, Jr., Presiding Board Member.

**RECOMMENDATION**

Based upon the evidence and the IFF, the following is recommended regarding the Counts as outlined in the Report of Findings:

Count 1: Board Regulation (Effective February 1, 2002)

Based on the record and testimony presented during the IFF, Sparks did not disburse funds to Ms. Stanley due to mitigating circumstances, possibly fraud which would void the sale. He did however contact Ms. Stanley in a timely manner to discuss the problems with the disbursement of monies because of Burke's claim. A court decision was necessary to determine fraud. At the advice of his attorney, Sparks voluntarily disbursed the funds.

Therefore, I recommend that Count 1 of this file be closed with a finding of no violation of 18 VAC 25-21-150.C.

By: \_\_\_\_\_  
Samuel L. Updike, Jr.  
Presiding Board Member

VIRGINIA AUCTIONEERS BOARD

Date: \_\_\_\_\_

**MONETARY PENALTY TERMS**

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF THE LICENSE, CERTIFICATE, OR REGISTRATION UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

VIRGINIA DEPARTMENT OF PROFESSIONAL  
AND OCCUPATIONAL REGULATION  
COMPLIANCE & INVESTIGATIONS DIVISION  
3600 WEST BROAD STREET  
RICHMOND, VIRGINIA 23230-4917

REPORT OF FINDINGS

BOARD: Virginia Auctioneers Board  
DATE: May 28, 2004

FILE NUMBER: 2004-00840  
RESPONDENT: Donald Everette Sparks  
LICENSE NUMBER: 2905001779  
EXPIRATION: September 30, 2004

SUBMITTED BY: E. Nathan Matthews  
APPROVED BY: Wayne Mozingo

COMMENTS:

Companion File Number 2004-00322 closed administratively.

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Donald Everette Sparks ("Sparks") was at all times material to this matter a licensed auctioneer in Virginia 2905001779.

Based on the analysis and/or investigation of this matter, there is probable cause to believe the respondent has committed the following violation(s) of the Code of Virginia and/or Board's regulation(s):

BACKGROUND:

On August 20, 2003, the Compliance & Investigations Division of the Department of Professional and Occupational Regulation received a written complaint from Vivian Stanley ("Stanley") regarding Donald Everette Sparks ("Sparks"). (Exh. C-1)

On August 20, 2003, the licensing records of the Virginia Auctioneers Board reveal that Donald Everette Sparks hold an individual auctioneers license number 2905001779. (Exh. I-1)

On or about June 6, 2003, Stanley entered into a Contract for Goods Consigned at Auction with Sparks listing a 1986 Mercedes 560SL automobile to be sold at public auction to the highest bidder. The terms of the contract provided that the proceeds shall be disbursed to the seller within 30 days, however not to exceed 30 days after completion of the Auctioneer's services. (Exh. C-2)

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1. Board Regulation (Effective February 1, 2002)

18 VAC 25-21-150. Escrow funds.

- C. Proceeds due from the sale of goods other than real property shall be disbursed to the owner no later than 30 days after the date of each auction.

FACTS:

On or about June 15, 2003, the 1986 Mercedes 560SL automobile was purchased at auction by Jerome Burke for \$10,500, including buyer's premium. (Exh. R-1) Burke paid for the automobile with a Cashier's Check, dated June 17, 2003, in the amount of \$10,500. (Exh. I-4 and Exh. I-5)

Sparks withheld disbursement of the proceeds to Stanley after receiving notification from the buyer that the ignition system had been "deliberately altered". (Exh. R-1 and Exh. I-4)

On or about September 22, 2003, Stanley received a proceeds check from Sparks, in the amount of \$9,600, for the sale the automobile. (Exh. I-7)

**STATE AND LOCAL GOVERNMENT  
CONFLICT OF INTEREST ACT**

TRANSACTIONAL DISCLOSURE STATEMENT  
for Officers and Employees of State Government

1. Name: Samuel L. Updike, Jr.
2. Title: Board Member
3. Agency: DPOR – Virginia Auctioneers Board
4. Transaction: Informal Fact-Finding Conferences on September 23, 2004
5. Nature of Personal Interest Affected by Transaction: \_\_\_\_\_

None

6. I declare that:

(a) I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

Auctioneers Board

(b) I am able to participate in this transaction fairly, objectively, and in the public interest.

Signature

SK Updike Jr

Date

Sept 23, 2004