



The NonPaying Bidder

The Risks of Taking Bad Advice

Michigan Auctioneer & Ringman Championship

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January 26-28, 2022 * Mt. Pleasant, Michigan

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MAA Annual Conference

January 26-28, 2022 * Mt. Pleasant, MI



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Michigan Auctioneers Conference

January 26-28, 2022 * Mt Pleasant, Michigan



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Trade Show

Michigan Ringman Championship

Presidents Gala & Awards

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- Gwyn Besner, "So, You Want to Sell Real Estate at Auction in Michigan?"
- "Surviving an Economic Downturn. What Happens After the Pandemic" Sid Miedema, Bill Sheridan, Rick Montgomery, John Bippus
- Rich Schur "Risks Surround You – Be Prepared"

- Kirk Witcher "Betting on Yourself for Success"
- Ben Whiting "Communication Skills Foundation"
- MAA Annual Meeting & Elections
- Wade Leist "Creating a Sustainable Revenue Stream Through Charity Auctions"
- George Michak "Legal Issues Affecting Today's Auctioneers"

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Hotel Reservations & Location Information: Mt Pleasant Comfort Inn & Suites, 2424 South Mission, Mt. Pleasant, Michigan 48858, Phone: (989) 772-4000 * www.mtpcomfortinn.com. **Guest Room Rates:** Single or Double Hotel Rooms \$107.00. All rooms are plus applicable taxes. Rollaway beds are \$25 per night. For Reservations, Call (989) 772-4000 and identify yourself with the Michigan Auctioneers Association. **Room Block Cutoff:** January 10, 2022, **Parking:** Complimentary Outdoor Self Parking. *Please make your reservations early! **Airports:** MBS International Airport (MBS), Saginaw (45 Miles), Capital City Region International Airport (LAN), Lansing, (60 Miles), Bishop International Airport, (FNT) Flint (Approx 1 1/2 hours), Detroit Metropolitan Wayne County Airport (DTW), Detroit (Approx 2 hours).

Welcome to the Michigan Auctioneers Conference!



Dear MAA Members, family, and friends,

We are excited to be back in person in Mount Pleasant and to see you all face to face again this year! The board has been busy completing the goals we set in February in preparation for the 2022 Winter conference. The dates for this year's conference are January 26-28, 2022. We will once again be looking forward to the networking, educational opportunities, the auctioneer and ringman championships, marketing awards, and the Hall of Fame induction.

This year's conference schedule will be different from previous years. This year we will be having the Presidents Banquet on Thursday night and the Michigan Auctioneer Championship, Ringman Championship, and Fun Auction on Friday night. We have a great lineup of speakers and classes this year and hope you can find something to help you grow personally and professionally. This year's conference highlights include Ben Whiting speaking on "Connecting like a Mind Reader" and "Communication Skills Breakout Session". We are excited to have Ben joining us this year. He comes highly recommended and is a great presenter and will have something you can take away to help you connect and communicate with your clients! Kirk Witcher will be presenting on "Betting on yourself for Success". Wade Leist will be "Sharing his Secrets on Benefit Auctions", Rich Schur- "Risks Surround you- Be Prepared". George Michak will be joining us again and will be talking about "Bidder Terms and Conditions", "Title, Possession, and Risk of Loss", and "Buyer premium litigation". We will also have a great panel including Rick Montgomery, John Bippus, Bill Sheridan, and Sid Miedema and they will talk about "How to Prepare for an Economic Downturn".

We are accepting sponsorships at many different levels and anything you can do to help is greatly appreciated! Be sure to register for the conference, sign up for the competitions, and bring your items for the fun auction and marketing competition. We are excited to see everyone again this year and look forward to another great conference!

Jordan Miedema
MAA Vice President

Trade Show!

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The Non-Paying Bidder and the Risk of Relying on Bad Advice

By George A. Michak, Esq.



Mark Twain famously observed that – "It ain't what you don't know that gets you into trouble. It's what you know for sure that just ain't so." These cautionary words are as relevant today as when first penned, and should be considered before accepting – and acting on – auction law advice that just might not be so. An example of the kind of risky advice that just might get you into trouble is the assertion – made, repeatedly, on social media and in blog posts – that if you encounter a non-paying bidder you should just re-sell the lot and move on, perhaps getting more money for your seller (and you) the second time around while retaining the right to sue your non-paying bidder for damages if there is a significant decrease in the hammer price when the lot is re-sold. While that may appear to be sound practical advice, in reality, the simple, uninformed, answer is not always the best – and may very well put the auctioneer at risk.

I was discussing this very issue recently, and – before I could get to the risky part – an auctioneer described how he had been bitten in this scenario. The auctioneer volunteered that he sold a car for \$10,000 at auction, and, when the winning bidder didn't pay (and refused to communicate with the auctioneer), the auctioneer re-sold the vehicle. Good news – the car brought \$15,000 at the second auction. Both the seller and the auctioneer were happy . . . until the non-paying bidder sued the auctioneer to recover the \$5,000 swing in the price – and won! And, that's the risky part. You see – unless you provide otherwise in your Bidder Terms and Conditions (which this auctioneer hadn't) – under the Uniform Commercial Code (Section 2-328 and Section 2-106) title will ordinarily pass with the fall of the hammer. Therefore, even though the winning bidder turned out to be a non-paying bidder, that non-paying bidder owned the car. While the auctioneer had a possessory lien against the vehicle for the purchase price, it is typically necessary to give notice prior to selling property to execute on such a lien, and, while you may be able to pursue the non-paying bidder for any deficiency, you will normally be required to account for any surplus (if there is one). Moreover, you may lose your (or your original seller's) right to recover a deficiency from the non-paying bidder if you fail to provide the proper notices before the lot is re-sold. In this particular case, the court found that when the auctioneer re-sold the car he was selling the non-paying bidder's property, and that the non-paying bidder was entitled to damages above the original purchase price. An additional complicating issue is that, when the auctioneer sold property belonging to the non-paying bidder, he did so without a contract with the non-paying bidder – who, now, became the seller. This could also be a real problem in a licensing state that requires a written contract between the seller and the auctioneer.

As with many auction-related issues, your ability to re-sell a lot won by a non-paying bidder without putting yourself and your seller in jeopardy may be controlled by what you have in writing – specifically, in this regard, your Bidder Terms and Conditions. There are a number of ways to skin this cat, and to protect both the auctioneer and the seller. You could provide in your Bidder Terms and Conditions that title only passes when payment clears (this may make more practical sense at an online auction than a live auction where you want to put the risk of loss, immediately, on the buyer who is present; however, even at a live auction, you could provide that risk of loss passes with possession but that title passes only on payment). You could also provide that, if payment is not made within a stated period of time, the lot (and any interest in the lot) is abandoned back to the original seller or to the auctioneer (this may also make sense if a winning bidder fails to pick-up a lot after paying for it). Bear in mind that, while you can always argue abandonment, your life may be easier if you can point to the Bidder Terms and Conditions.

In any event, it is not good advice, nor is it good practice, to simply re-sell property (even if not paid for) unless you know who actually owns it as a matter of law, and unless you have a legal right to do so.

This is for discussion purposes only and is not intended to be legal advice. No attorney-client relationship is established, or intended, between the author and anyone reading this article. If you have any questions regarding the issues discussed, you should seek advice regarding your specific situation from a qualified attorney.



Michigan Auctioneer Championship Friday, January 28, 2022 Mt. Pleasant, Michigan

Join us for the most exciting part of the MAA's Annual Conference! The Michigan Auctioneer Championship is the biggest and best competition in Michigan where Auctioneers gather to show off their bid calling skills and compete in a friendly competition with their peers. Contestants will compete in the preliminary round by auctioning two items. The top competitors who proceed to the finals will not only auction more specialty items, but they will go through an interview portion. At the end of the evening, the 2022 Michigan Auctioneer Champion will be announced!

For more info go to www.FindMichiganAuctions.com

Show off your Skills! Enter the Marketing Competition!

Entry Forms are available in the Conference Insert and online at FindMichiganAuctions.com

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Events Can Help Your Google Rankings

by Jim Mariano, Product Manager, Constant Contact

You did it. You just pulled off the best event you've ever had. There was a ton of buzz in the room, everyone left happy, and now you wish you could share your success with the world. If only there was a way ...

Well there is, and it's simple! You can ask your attendees to give your business and/or event an online review.

It's becoming more and more evident that online reviews are playing an increasing factor in search results. The art of getting your business to the top of a Google search is known as SEO (search engine optimization). The benefits of SEO are pretty simple: When you get to the top of a search engine result page (also known as a SERP), it means more eyeballs on your brand, which leads to more business.



Reviews can help

We know without a doubt that Google is trying to get into the online review space with their attempted purchase of Yelp, and more recently, with their actual purchase of Zagat, the restaurant review company.

The concept makes sense. What better way for Google to rank things than based on actual user experiences, right? Google not only factors how favorable a business' reviews are, but how many reviews exist on a business.

Of course, if all you have is one lonely 5-star review that your spouse wrote about you, it won't send you soaring to the top of Google.

Encourage attendees to review your event

So ask your attendees (either during or after your event) to share their experience online. "If you loved this event, go on Yelp and share your experience, or write a review on our Google Places page." Make it easy for attendees; include links in your post-event communications that lead to your Yelp page, Google Places page, Angie's List account, or anywhere else your audience can be heard.

If you don't have a Yelp page or a Google Places listing, you can ask people to mention your event if they have a blog. Or, at the very least, ask for a "Like" on Facebook or a follow on Twitter.

The key takeaway is that if you have a successful event, you should do everything possible to capture the positivity and get it online. Don't let the buzz around your event die as soon as the event is over. The impact of online reviews can be felt for months or years after an event is over.

Hello! I'm Jim, the Product Manager for Constant Contact. My blog posts normally cover new features and product enhancements. Be sure to check in often as we are constantly working on creating a great event tool! Follow me personally on Twitter @Jim_Mariano. Thanks! Reprinted with permission from Constant Contact: <https://blogs.constantcontact.com/events-can-help-your-google-rankings/?list=true&type=Webinar&webinaronly=1&fp=1>

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Let Your Feet Do The Talking *by John Hamilton*



We'll make this short because with this technique, you will either buy in or check out.

Americans have a real problem breaking off negotiations when the going gets tough or close to an impasse. Our foreign counter parts don't hesitate to just walk away. We, on the other hand, tend to cave and agree to whatever is on the table.

Good negotiators know that walking away (breaking off negotiations) sends a powerful and impacting message that our opponent can't ignore. By breaking things off and departing we instill the 'fear of loss' in our opponent and can have them wishing they would have been more conciliatory or accommodating.

Americans too often feel that this tactic is too confrontational and too time consuming. Walking away and planning to come back later to resume the bargaining is beneath them as

a strategy.

Meanwhile the rest of the world does this naturally and enjoys the benefits of this tactic. Even when our opponents think we are just walking away as a show, it still has positive impact. Put this technique to a test this week.

Before your next negotiating encounter, plan well and bargain hard. When you think your opponent won't give any more, excuse yourself. You can even act dejected, mention something about needing to re-evaluate this entire situation and depart.

Always remain courteous even to the point of shaking their hand and voice appreciation for their time. Whether you return in an hour, a day or even weeks later your opponent will get the right inference or message.

Good negotiators go into to each negotiation with a plan, a fall back position, to walk away if they don't get the terms and conditions they want. They are prepared to let their feet do their talking!

KEEP Negotiating.

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Auctions: Too slow? Too fast? Order? Sequence?

by Mike Brandy, The Ohio Auction School



Some live auctioneers sell 3 items a minute. Some live auctioneers sell 2 items a minute. Some live auctioneers sell 1 item a minute. Probably any of the above is fine, but time is money, and bidders only have so much of both.

At least in the live auction business, there is the well-founded theory that the quicker an auctioneer goes — to an extent — the more money is raised. <https://mikebrandlyauctioneer.wordpress.com/2010/01/08/the-speed-of-an-auction/>.

What about an online auction? Can such be too slow or too fast? It seems so. For example, for a 500-lot online auction, selling all 500 at the same moment would likely be too fast, and spacing these out so that one sells every 5 minutes would be too slow.

It would seem to us — again “generally” — that as the price of the subject lots increases (and the similarity of the lots increases,) the time between each might rightly increase as well. Selling \$1 boxed lots with 15 seconds between might be acceptable, while selling \$25,000 cars with 2 minutes between might be fine as well.

Auctions of any type must consider if buyers are likely to be interested in just one item and/or multiple items. For instance, a consumer might only want one car, whereas a dealer might want any of several cars. More time to consider multiple purchases suggests a bit more time between items.

In addition to time in between, there's the “order of sale.” There is considerable reason to sell the higher-priced items early and the lower-priced items later in any auction. If for no other reason than bidders tend to hold onto their money for higher-priced items, therefore not bidding on prior lower-cost items.

Too, if higher-priced lots are sold early, then those unsuccessful bidders can now spend that remaining money on lower-priced lots. As such, selling property from low to high (prices) reduces seller proceeds, and selling property high to low (prices) increases seller proceeds.

The order also matters if certain lots work with — or attach — to other items. Selling a combine, corn head, grain head as 3 lots would strategically suggest that selling the combine first allows the combine-buyer to then buy the needed corn or grain-head while allowing anyone else to buy the desired header as well.

In summary, the time between lots matters, as well as the order of lots and the sequence of certain lots. Given this, it seems clear experienced and knowledgeable auctioneers earn more money for their sellers by understanding the subtleties of auction marketing and presentation.

Mike Brandy, Auctioneer, CAI, CAS, AARE has been an auctioneer and certified appraiser for over 30 years. His company's auctions are located at: Mike Brandy, Auctioneer, RES Auction Services and Goodwill Columbus Car Auction. He serves as Distinguished Faculty at Hondros College, Executive Director of The Ohio Auction School, an Instructor at the National Auctioneers Association's Designation Academy and America's Auction Academy. He is faculty at the Certified Auctioneers Institute held at Indiana University and is approved by the The Supreme Court of Ohio for attorney education.

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The owner was hoping to get \$15,000 for this 1917 Case Steam Engine. It Sold at Auction for \$25,900! #AuctionsWork!



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Leonardo da Vinci's painting, "Saviour of the World," sold for \$450,312,500 at Christie's Auction House in November.



The price, which includes a buyer's premium, makes it "the most expensive painting ever sold at auction."

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1960 Baby Blue Chevrolet Corvette – Numbers Matching, Nut & Bolt Restoration, Hard & Soft Top, 283-245hp, (2) Four Barrels, 4 Spd. Owner was selling at no reserve, but was hoping for \$45,000-\$50,000. Sold for \$60,000 at Live Auction!



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Michigan Auctioneer Municipal License Guide!

The MAA has gone to great effort to provide you with a comprehensive guide for local auction regulations in Michigan. This is a huge document detailing nearly 800 pages of local regulation and licensure in Michigan pertaining to the Auction Industry! This Guide is **ONLY** Available to Members of the Michigan Auctioneers Association! To get the most recent copy, go to the MAA Website at FindMichiganAuctions.com, log into members only, and download the guide from the Legislative section. Not a Member? Join Today!

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