

City Solicitor Response

Case #19-0039-I

CITY OF BALTIMORE

BRANDON M. SCOTT
Mayor



DEPARTMENT OF LAW
JAMES L. SHEA
100 N. HOLLIDAY STREET
SUITE 101, CITY HALL
BALTIMORE, MD 21202

September 13, 2021

Isabel Mercedes Cumming, Inspector General
Office of the Inspector General for Baltimore City
City Hall, Suite 635
100 N. Holliday Street
Baltimore, MD 21202

Re: Response to Report of the Office of Inspector General in Case # 19-0039-I

Dear Inspector General Cumming:

The City Solicitor, in consultation with the Mayor and the City Administrator, responds to your report in Case # 19-0039-I. We believe that the expeditious resolution of the litigation against the former City auctioneer [REDACTED] was in the City's best interests and we concur with your findings that that the City should take measures to mitigate the risk of loss of revenue during the City's auctions process.

Reviewed below are some of the City's considerations in settling the litigation against [REDACTED] as well as proposed measures to mitigate the risks identified by your Office and to address the insufficiencies in the internal controls and oversight of the City's auction process.

Settlement [REDACTED]

The Law Department's Litigation and Collections Divisions pursued civil causes of action in the Circuit Court for Baltimore City to obtain judgments against [REDACTED] for auction proceeds owed the City. However, [REDACTED] threatened to declare bankruptcy in the Bankruptcy Court for the Eastern District of Virginia. Due to [REDACTED] age, the fact that [REDACTED] is not a Maryland resident, and that [REDACTED] owns [REDACTED] property as a tenant by the entirety, [REDACTED] assets are exempt from attachment by non-joint creditors under Virginia law. Additionally, the City was unable to revoke [REDACTED] license because the Auction Advisory Board lacked a quorum, and its sole member had a decades-long relationship as employer, mentor and business partners.

The City settled the litigation to obtain the regulatory remedies that it could not otherwise impose. [REDACTED] agreed not to conduct or attempt to conduct any auction sales in the City for 15 years. They forfeited the appointment by the Mayor, the auctioneer's license and the right to apply for or seek an appointment and an auctioneer's license for 15 years. The City also collected \$25,000, the amount of the Auctioneer's License Bond.

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Suggested Remedial Actions to Strengthen City Auction Process

As stated in your report, the City has a history of issues with the receipt of auction proceeds held by the auctioneer. To mitigate the risk of loss of these City revenues, we propose the following remedial measures:

1. First and foremost, the City must improve oversight and monitoring of auction contracts issued by the Bureau of Purchases within Finance. This includes ensuring that each City auctioneer maintains a separate trustee account for the City's funds, confirming the collection of cash receipts vis-à-vis the auctioneer, reconciling the amount of proceeds after each auction, and reporting regularly on the balances held in auctioneer trustee account. The City's auction process is now held online, which should make oversight efforts easier.
2. The City must reconstitute the Auction Advisory Board with new qualified board members appointed by the Mayor and confirmed by the City Council. CHARTER ART. IV, § 6(a); ART. 2, § 1-1(a).
3. Legislation must be enacted to amend the City Code to increase the amount of the surety bond posted annually for an auctioneer's license to \$500,000 to protect the City and the public against the risk of loss of auction proceeds by auctioneers. ART. 2, § 1-9.

We will work with other agencies to put in place policies and procedures to protect the City from further misconduct. Thank you for the opportunity to respond to your report in Case # 19-0039-I.

Sincerely,

A handwritten signature in blue ink that reads "James L. Shea".

James L. Shea, Esq.
City Solicitor