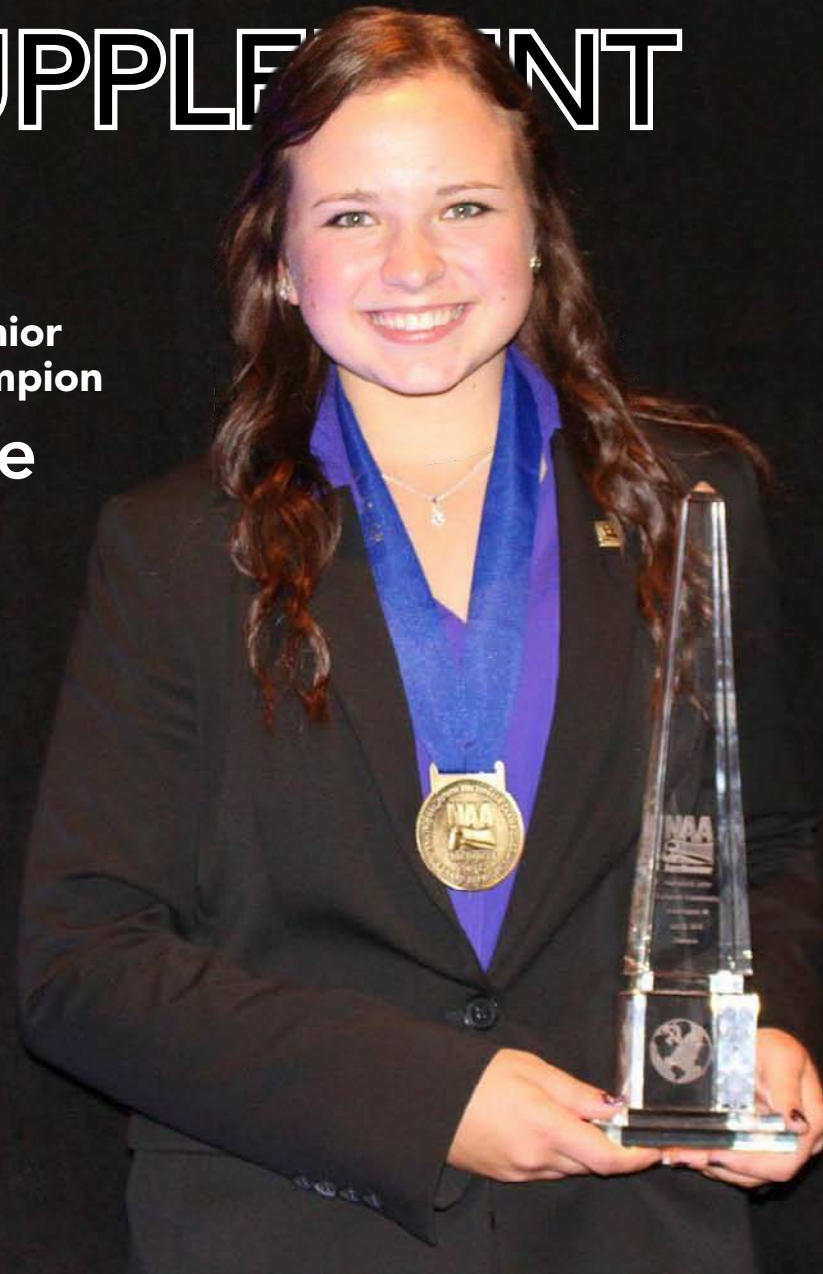


MSAASUPPLEMENT

2016 International Junior
Auctioneer Champion
Brooke Gillespie



MSAASUPPLEMENT

August 2016 | Issue 95



Welcome

Thanks for taking the time to read the official web publication of the Minnesota State Auctioneers Association. We take pride in our association and are excited to provide this supplement, to assist our members in gaining a greater understanding of their benefits, and the auctioneering profession as a whole.

Viewing Instructions

If some sections have print that is too small for you to read easily, go up into your VIEW menu at the top of your screen and scroll down to ZOOM, or even click on the "View at Full Screen/Full Screen Mode" option in the VIEW menu. You can also print the document if you wish.

Contents

6 IT'S A FAMILY TRADITION

Having Fun and Making a Difference

Col. Frank Imholte

7 AUCTIONEER NON-COMPETE CLAUSE

Understanding Independent Contractor Status

Mike Brandly, CAI, AARE

9 MSAA SUMMER PICNIC

Recap

10 NEGOTIATING TIP:



Cornered by a Question

John Hamilton, DREI



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Announcements

MCAA Member for State Senate:

MCAA member Willa Dailey is running for the Minnesota State Senate Seat District 19. District 19 includes portions of Blue Earth and Nicollet Counties. She is running against an attorney that is well funded. It would be just great if we had an auctioneer in the Legislature to protect and speak up for issues that from time to time may affect the auctioneer profession in Minnesota.

Support from the MCAA and members would be appreciated. You can support Willa with a contribution of \$25, \$50, \$75, \$100 or more. Include a note with your support check and wish her success in November.

Support checks can be mailed to:

Willa Dailey for Senate
 304 Belgrade Avenue
 North Mankato, MN 56003
 507-625-7653

Auctioneers Beware:

This came from Gary Hotovec today; please beware:

At our auction last night a young lady between 30-35 years old bought over \$500 worth of merchandise and didn't pay for it. She had short blonde/light brown hair and wore a green t-shirt reading "you couldn't handle me even with instructions." She registered under the name of:

Erin Renee Rosenow
 22188 144th Circle
 Rogers, MN
 BOGUS phone # of 763-298-4571

If I remember right, I saw just for a second a dark-haired young guy loading the merchandise in a black pickup. She bought - he loaded.

The Sheriff reported the driver's license is stolen as well.

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MCAASUPPLEMENT

August 2016 | Issue 95



Wisconsin CE:

We have received confirmation from Southeast Technical College in Red Wing that Classroom 123 is available on Friday, August 26th. If you are in need of Continuing Education to renew your Wisconsin auctioneer license, we invite you to join other Minnesotans for one, two, three, or four courses. Each course gives three (3) credits and you need twelve (12) by December 15th in order to renew.

Registration will begin at 7 AM, the first course is at 7:30 and continuous throughout the day with a short break for lunch. The fee is \$179 and it can be paid at the door by check, cash, or money order. Sorry, we do not take credit cards. Please register by return email or give us a call.

Thank you. We look forward to seeing you and other professional auctioneers in Red Wing.

MSAA Members at the NAA C&S

The MSAA was represented well in Grand Rapids, MI. MSAA member Jack Hines was inducted into the NAA Hall of Fame, and Brooke Gillespie won the title of International Junior Auctioneer Champion. Below is a picture of some of the MSAA members in attendance. A great time was had by all.



MSAA Auxiliary:

It was great to see all those who could make it to the community center. We had wonderful speakers and lots to think about that we could use in our businesses today. The Auxiliary had a good meeting; we are still looking for a theme for the cookbook. If anyone has ideas feel free to email me. We are looking for more Auxiliary pictures and hot dish recipes so if you have any to share, please send them to: anita@aasnessauctioneers.com.

Also, a reminder that we have the MSAA/Auxiliary Scholarship and the Rick Berens scholarship waiting for applicants. The deadline is November 1, 2016.

Please let people know you can find the forms in the MSAA magazine and here in the supplement. Applicants can send their application for scholarships to Vita Schultz. If applying for the Rick Berens Scholarship, please send those applications to Sara Fahey.

Have a great rest of the summer!

Beth Thompson, President of Auxiliary

For MSAA/Auxiliary Scholarship send to:

Vita Schultz
32215 111 1/2 Street
Princeton, MN 55371

Rick Berens Scholarship send to:

Sara Fahey
661 E Forest St.
Belle Plaine, MN 56011

Announcements?

Do you have an announcement or thank you to pass along to our membership? This space is reserved for items of note each month for our membership to know. If you have any announcement to post, please send them to Frank Imholte. frank@solditatauction.com



It's a Family Tradition

Having Fun and Making a Difference



Col. Frank Imholte
Executive Vice President, MSAA
Contact 

For many of our membership, when you think of the Gillespie name you think of family. The first time I met Scott, I remember him introducing me to his parents. They came with to support Scott in the Minnesota Auctioneer contest. There was something special about that support. It was an honor to meet Paul and Marilyn and get to know Scott. Over the years their family helped many people as they were helped. It's a farming thing - neighbors helping neighbors. One of the people Scott's brother, Curt, helped was the Bellamy Brothers. In 2013 they had a concert at the farm and Scott invited Peg and I to join in on the fun. We missed it and I regretted it.

I was told that Scott's dad, Paul, was the type of man to look you in the eye and always tell you the truth. Marilyn shared with us that they had some hard times in the eighties and had to start over. The fall of the first concert, Paul passed away and went to farm for the Lord. It changed much for their family and Marilyn misses Paul every day. I am happy that Curt, Brady, Brooke, Scott, and Erin keep Marilyn busy and involved. I am most proud that with Brooke's help, Marilyn sold her first item with me on stage last January. It was the highlight of the fun auction for me!

Now it turns out that the Bellamy Brothers are in the area and another celebration is in order. On August 5, Peg and I, along with a dozen auctioneers and 2,500 close friends of the Gillespie family, gathered together to celebrate. They joined with Monson Trucking who was celebrating 65 years in business for a party to end all parties. The town of Johnson (Pop. 29!) grew to over 3,000. The work to put on a party

like this was amazing. There was an area for kids with inflatables, a slide, and a sand pile with hidden coins. There was an area for soda pop, water, and beer. The shed was cleaned, a stage built, and a meal provided. A first class event with an auction to boot! They chose "Tie a Yellow Ribbon" for veterans as their charity and through the generosity of donors and folks at the event, raised over \$23,000 for the charity.

Marilyn, Scott, Curt, Brady, and Brooke... thank you for allowing us to be part of your event and to feel like family, too.

Col Frank

P.S. We parked our Wing by the old shop and when we left the lights on, we saw shop tools, presses, and misc. hidden away like the stuff you find under your kid's bed when you tell them to clean their room (according to Scott). Another week of clean up and organizing after the event!



Auctioneer Non-compete Clause

Understanding Independent Contractor Status

Mike Brandly, CAI, AARE

Contact 



Roy Smith, Auctioneer has asked Aaron Davis to help him with his every-Friday produce auction in South Carolina. Roy is the regular auctioneer for this three hour event, but during the spring and fall, his farming operation requires he find a replacement for some Friday auctions.

Aaron graduated from auction school four years ago, and has agreed to be the auctioneer when Roy is unavailable, and work the ring otherwise. Roy has included in their agreement a non-compete clause.

This non-compete provision basically says that Aaron cannot serve as the primary auctioneer for this produce auction absent Roy, and also that Aaron cannot start a produce auction of his own, nor work any other produce auction within 500 miles upon termination or resignation from Roy's produce auction for a period of 18 months.

Today, we discuss two issues regarding Roy's non-compete clause:

1. Basic non-compete clauses in regard to employment contrasted with independent contractor status.
2. What about Aaron interfering Roy's relationship with the produce auction? We look at "tortious interference."

In regard to basic non-compete clauses, the most material issue in our analysis is whether or not Aaron's agreement with Roy is an

independent contractor agreement or an employee agreement. Here's the highlights of this distinction:

- If Aaron has been hired (contracted) as an independent contractor, it's quite likely any non-compete provision is unenforceable.
- If Aaron has been hired as an employee, then this non-compete clause may or may not be enforceable and will depend on the specifics of such agreement.

The essence of an independent contractor status (outside of the special treatment of real estate licensees) is that the person is independent of the so-called hiring party and works to benefit themselves while fulfilling the requests of the other party.

On the contrary, the essence of employment is the employee is part of (and acts for the benefit of) the employer — in other words loyal to the employer. The employee is employed under certain conditions set out by the employer, as agreed to by the employee.

As such, an independent contractor inherently competes if he desires; he's independent of restrictions about not competing. Employees



on the other hand might be held to a non-compete clause, but it's likely difficult to enforce by the employer.

The major issues in enforcing a non-compete clause in an employment agreement include if some sort of compensation was granted in exchange for the clause, and if the clause itself is reasonable.

Compensation might be in the form of actual money and/or benefits (higher salary, stock options, car, club membership) and would be contrasted with other like employees to see if similar benefits were afforded those employees with the right to compete.

Reasonableness addresses several issues, including evaluating the restriction itself. For example, is the restriction overly broad geographically (all across the United States)? Does it harm the local economy or local consumers? Is it for an extended period of time (years)?

Our other issue is with the lack of a non-compete clause or the unenforceable of such, an employer or contractor might suggest tortious interference which is a claim for damages against someone who has wrongfully interfered with the claimant's contractual or business relationship.

For example, did Aaron approach the produce auction owner and suggest or imply that he would be a better auctioneer than Roy? Or, did Aaron take any action to jeopardize Roy's job performance (even the perception thereof) thus making his own appear better?

A valid claim of tortious interference would typically follow the flow of:

- A valid contractual agreement between the claimant and a third party
- The defendant having knowledge of this arrangement
- The defendant improperly, willfully, and intentionally interferes with the contract
- The claimant suffers damage

Tortious interference is a difficult claim to prove, and in addition to the above must contain clear motive on the part of the defendant. Lacking motive, such claims are almost always dismissed.

If you are an auctioneer and you wish to keep your staff from competing — the first steps are to employ them and compensate them for a [reasonable] non-compete stipulation; otherwise (and despite those aforementioned efforts), a claim desiring compensatory damages for competing against you will be very difficult to substantiate.

Mike Brandy, Auctioneer, CAI, 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 of Business, Executive Director of The Ohio Auction School and Faculty at the Certified Auctioneers Institute held at Indiana University.



MSAA Summer Picnic

Recap



On Monday, August 1st, MSAA members gathered in Rogers, MN for the annual summer picnic/bi-annual business meeting. This year, the morning had many small topics for members to enjoy. A panel of seasoned members - Gary Hotovec, John Goelz, and Wayne Pike - was moderated by Scott Gillespie. They each gave heartfelt, humorous, and insightful stories and remarks from their distinguished careers.

Russ Hilk followed and delivered a few marketing nuggets and talked about trends in our industry. Dave Christian talked about his auction experiences including what led him to the business. He reminded us why we love what we do and provided us with plenty of laughs. We were also joined by representatives from the Star Tribune, who presented their new Google Adwords program which is a marketing opportunity for our respective businesses.

During our townhall meeting we discussed our publications as well as contingency planning for the Executive Vice President role. Our lobbyist, Vic Moore, gave a positive report from his team's efforts at the Capitol and Isaac Schultz talked about his experiences working for the House Majority leader.

After a lunch we had a productive bi-annual meeting. For complete information, please read the printed magazine this fall as it will have the complete minutes. While we met we also had a live auction, raising a total of \$2000 from items donated by members. Thank you to all who donated.

Remember to mark your calendars for the winter Conference and Show which will take place on January 19-21 at the DoubleTree Minneapolis West, 1500 Park Pl Blvd, Minneapolis, MN 55416. We encourage you to make your reservations well in advance. The reservation number is 952-542-8600. Use these options after you dial: 1, 1, *. When prompted, give them the Group Code UCA.



Negotiating Tip: *Cornered by a Question*

John Hamilton, DREI
www.GoodNegotiator.com
Contact 



I've never conducted a negotiating seminar where I was the best negotiator in the room. Proof of that came during a recent presentation at Indiana University for the Certified Auctioneers Institute (CAI). The experience reminded me that one always has to be on guard because there are good negotiators everywhere.

On a class break a young fellow asked me for the price on my book. I shared it was \$25. His flinch indicated he had been paying attention during my program and we shared a laugh.

He then posed a question that caught me off guard. He asked, "What kind of discount can you provide if I bought them in quantity?" I felt compelled to respond immediately and I shared that if he bought 15 or more I'd sell them for \$18 each.

I'll never forget his next comment. "So it's obvious that you'll still be making a profit when selling them for \$18 each." I felt somewhat disarmed. After a short pause I recovered slightly to say, "But I'd have to have payment for all 15 books at one time from one person." He said that could work and he promptly went to his fellow classmates asking if anyone wanted in on his quantity discount.

I have to add that he found the 15, collected funds from each, and made the bulk purchase. That resulted in a win-win. I sold a lot of books. They received a good discount. And yes, I made a profit on each book sale.

I've reflected often on his technique, his question, "**What kind of discount can you provide if I bought them in quantity?**"

Do you realize how often we can use that question?

Do you also realize that, more often than not, you'll learn about a lower price that someone would be willing to accept?

Now you're probably not going to meet their quantity requirement, but **you will find out about a lower price at which they'll still be making a profit.**

Now that information can be useful as you KEEP Negotiating.



MSAA Membership Application

Our Association is an organization of licensed auctioneers. With the support of its membership, the association works to promote the auction profession. We are governed by an annually-elected president, vice-president, secretary/treasurer, and nine board members. These board members serve in revolving three year terms. All past officers and directors comprise an advisory committee.

Membership Benefits

- Multiple educational seminars on topics pertinent to auctioneering, marketing, appraising, government regulations, small business growth & management, and cultural enrichment
- Complimentary subscription to The Minnesota Auctioneer, the official membership publication with news and informative articles from around the state
- Combined legislative influence as membership grows
- Policing body to maintain ethical practice and thus reputation for the industry as a whole in our state
- Mentoring and problem solving with other auctioneers
- Voting privileges in annual business meeting
- Permission to use the MSAA logo in advertising and compete in marketing competitions
- Updated directory of all MSAA members

Any auctioneer with a current license is welcome to join. New applicants become members by submitting a completed membership application (right) with proper payment.

Members must pledge to be faithful to all buyers and sellers. Members are also expected to show loyalty to the organization by actively participating in state activities and events.

Annual Dues Only \$100

(Include dues check for \$100 in envelope with this application.)

- New Membership
- Membership Renewal
- Membership Reinstatement

Name: _____

Company Name: _____

Address: _____

City: _____ State: ____ Zip Code: _____

County: _____ MN License Number: _____

Email: _____

Work Phone: _____

Home Phone: _____

Cell Phone: _____

Signature of Applicant: _____

Auxiliary Dues - \$5.00

Spouse Name: _____

Spouse Email Address: _____

Membership is from January 1 to December 31. Members who join after October 1 will receive membership for the remainder of the current year and the entire following year. All members are expected to act in a professional manner and conduct an ethical business.

Questions? Call Toll Free! 800-440-9398

To submit this form, fill out then print a copy and attach any extra requirements.

Return with payment to:

Minnesota State Auctioneers Association

c/o Frank Imholte, Executive Vice President
8160 County Road 138, St. Cloud, MN 56301



MSAASUPPLEMENT

August 2016 | Issue 95



MSAA Hall of Fame Nomination

Nominations must be postmarked no later than July 1 of the year preceding the presentation of the Hall of Fame Award. Mail nomination to:

Lowell Gilbertson, Hall of Fame Committee.

Name of Nominee: _____

Residence Address: _____

Phone: _____

Business Information:

Name of Firm: _____

Position: _____

Number of Associates or Partners in Business: _____

Business Address: _____

Phone: _____

Personal and Family Information:

Name of Spouse: _____

Does spouse participate in the Auction profession? Yes No

If yes, explain: _____

Is spouse a member of the MSAA Auxiliary? Yes No

Give names and ages of children: _____

General Professional Information:

How long has the Nominee been involved in the auction business?

What percentage of the Nominee's time is actively spent in the auction business?

How long has the Nominee been a member of the MSAA?

Has the Nominee specialized in any particular field of Auctioneering?

List educational background of the Nominee. (Include offices held, current and past):

1) _____

2) _____

3) _____

List regular auctions conducted, if any, and/or special individual auctions conducted which have brought attention and credit to the profession of auctioneering.

1) _____

2) _____

List at least three individuals who have worked with the Nominee or who have knowledge of the Nominee's worthiness of being considered for this award, whom the Hall of Fame Committee may contact:

1) _____

2) _____

3) _____

Previous recipients of the MSAA Hall of Fame Award have established some general qualifications which they feel each Nominee should possess or have shown. Please reflect your personal assessment of the Nominee with respect to: HONESTY, HIGH ETHICAL STANDARDS, WILLINGNESS TO SHARE WITH OTHERS, STANDING IN HIS OR HER COMMUNITY, AND MASS CONTRIBUTIONS TO THE AUCTION PROFESSION.

Narration: (Attach separate sheet.)

Submitted by: _____

Address: _____

Phone: _____

To submit this form, fill out then print a copy and attach any extra requirements.

Return to:

Frank Imholte, MSAA Hall of Fame Committee
8160 Co Rd 138, St. Cloud, MN 56301



MSAA Auxiliary Hall of Fame Nomination

Qualifications for Nominees:

- Spouse must be a member in good standing in the MSAA (or past member if widowed).
- A member of the MSAA Auxiliary with recent or previous active participation.
- Participation in a related business to the auctioneering profession.
- Active in community, church, charitable or volunteer organizations.

Name: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Phone: _____

Name of Spouse: _____

Business Name: _____

Business Address: _____

City: _____ State: _____ Zip Code: _____

Business Phone: _____

(Attach separate sheets if necessary.)

Auxiliary Participation:

- 1) _____
- 2) _____
- 3) _____
- 4) _____
- 5) _____

Community Activities:

- 1) _____
- 2) _____
- 3) _____
- 4) _____
- 5) _____

Personal Comments: (Attach separate sheet.)

Please include as much detail as possible on all areas. Nominations must be postmarked no later than August 1 of the year preceding the presentation of the Hall of Fame Award.

To submit this form, fill out then print a copy and attach any extra requirements.

Return to:

Deb Ediger, Committee Chairperson
218 W. Main, Belle Plaine, MN 56011
952.873.2292 or 952.873.6972



Annual Scholarship Application

**Scholarships for \$1500 each (subject to change) from the
MSAA and MSAA Auxiliary
Deadline: November 1**

Date: _____

Name _____ Age: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Telephone: _____ Date of Birth: _____

Relationship to ACTIVE MSAA or Auxiliary Member:

Child Grandchild Niece Nephew Auctioneer Spouse

An Active Member means he/she should attend MSAA Conferences/ Meetings on a regular basis and be interested/involved in promoting the MSAA/Auxiliary auction profession. Must be a member of the MSAA or Auxiliary for three consecutive years.

Name of Relative: _____

Address: _____

City: _____ State: _____ Zip Code: _____

NOTE: Only one scholarship per candidate. If unsuccessful in your application one year, please reapply.

High School Graduated from: _____ Year: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Name of College or University of enrollment: _____

Address: _____

City: _____ State: _____ Zip Code: _____

CHECKLIST

1. Scholastic Information – GPA: _____

(If senior in high school or current college full-time student. Need not be official.)

2. Honors or Community Involvement:

(List any or all school, community, club, sports and academic activities)

a) _____

b) _____

c) _____

d) _____

e) _____

3. ESSAY: Be unique and creative! Please state what you've learned from your experience in the auction profession and what you would do with the scholarship funds. The essay needs to be completed without including any names or business names that would identify the applicant or their active MSAA member. **(This is important because the Scholarship Committee is presented the essay with this information removed so the identity of the applicant is not revealed to them. The Committee is judging the content of the essay while avoiding any prejudice by the inclusion of names.)** Please complete on a separate page, sign and ATTACH ESSAY TO THIS APPLICATION FORM.

4. Please attach a copy of the letter of acceptance or proof of enrollment in your school of higher education.

5. Current letter of recommendation is required for ALL scholarship applicants.

Absolute Deadline – Must be postmarked by November 1

Relative of winner will be notified before the annual convention. Winner and MSAA Auxiliary member relative are encouraged to attend the Saturday evening President's Banquet at the annual Minnesota State Auctioneers Association Conference and Show.

To submit this form, fill out then print a copy and attach any extra requirements.

Return to:

Sara Fahey, Committee Chairperson
661 E. Forest St. Belle Plaine, MN 56011, 952-873-2682

Scholarship Committee: Conny Rime (chair), LuAnna Finnilla, Anita Aasness



MSAASUPPLEMENT

August 2016 | Issue 95



Rick Berens Scholarship Application

Funds available will be determined from the proceeds of the Rick Berens Scholarship Fund.

Deadline: November 1

Date: _____

Name _____ Age: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Telephone: _____ Date of Birth: _____

Relationship to ACTIVE MSAA or Auxiliary Member:

- Child Grandchild Niece Nephew Auctioneer Spouse
 Employee

An Active Member means he/she should attend MSAA Conventions on a regular basis and be interested/involved in promoting the MSAA/Auxiliary auction profession. Must be a member of the MSAA or Auxiliary for three (3) consecutive years.

Name of Relative: _____

Address: _____

City: _____ State: _____ Zip Code: _____

NOTE: Only one scholarship per candidate. If unsuccessful in your application one year, please re-apply. If no qualified recipients apply, there will not be a Rick Berens Scholarship award that year.

Name of College or University of enrollment: _____

Address: _____

City: _____ State: _____ Zip Code: _____

CHECKLIST

1. Complete and attach the Official Applicant Form.
2. Submit Essay: Be unique and creative! Please state what you've learned from your experience in the auction profession and/or what you would do with the scholarship funds. Please complete on separate page, sign, and ATTACH ESSAY TO THIS APPLICATION FORM.
3. Attach a letter of recommendation from a current, active MSAA member. This is required for ALL scholarship applicants.
4. Use this scholarship toward tuition at an auction school.

Absolute Deadline – Must be postmarked by November 1

Relative of winner will be notified before the annual convention. Winner and MSAA/Auxiliary member are encouraged to attend the Saturday Night President's Banquet at the Annual Minnesota State Auctioneers Association Conference and Show.

To submit this form, fill out then print a copy and attach any extra requirements.

Return to:

Rick Berens Scholarship
 c/o Sara Fahey
 661 E. Forest Street
 Belle Plaine, MN 56011

Scholarship Committee: Renee Berens and Anita Aasness



MSAASUPPLEMENT

August 2016 | Issue 95

