

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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**STATE OF WISCONSIN**

**BEFORE THE AUCTIONEER BOARD**

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**IN THE MATTER OF THE DISCIPLINARY**

**PROCEEDINGS AGAINST**

**CHARLES A. FANDRICH**

**Respondent.**

**FINAL DECISION AND ORDER**

**LS0003273AUC**

**99 AUC 015**

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The parties to this action for the purpose of Wis. Stats. sec. 227.53 are:

*Charles A. Fandrich  
224 W. Pleasant St.  
Portage, WI 53901*

*Wisconsin Auctioneer Board  
P.O. Box 8935  
Madison, WI 53708-8935*

*Department of Regulation and Licensing  
Division of Enforcement  
P.O. Box 8935  
Madison, WI 53708-8935*

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final disposition of this matter, subject to the approval of the Auctioneer Board (hereinafter "Board"). This Stipulation has been reviewed and approved by the Board.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

**FINDINGS OF FACT**

1. Charles A. Fandrich ("Fandrich"), DOB 07/21/27 is licensed in the State of Wisconsin as an auctioneer, having license # 52 297. This license was first granted to him on 3/1/95. Fandrich's most recent address on file with the Department of Regulation and Licensing is 1224 W. Pleasant St., Portage, WI 53901.
2. Fandrich conducted an auction on March 27, 1999 for Harley and Michael Grotzke in Portage, Wisconsin. The items offered for sale at the auction consisted of farm machinery, vehicles, furniture, appliances, tools, supplies, artwork and other items of personal property.
3. A complaint was filed with the Department by Robert Wilcox who attended the auction and bid on a farm tractor. Mr. Wilcox claimed that Fandrich did not explain the bidding process. Wilcox stated that Fandrich announced that he was the winning bidder on the tractor but later told him that he could not purchase the item because there was a minimum reserve on the item.
4. The advertisement for the auction did not state that the auction was an absolute auction or that there was a minimum reserve bid on the tractor. The advertisement also stated that there were five vehicles for sale. Fandrich indicated that the advertisement was incorrect and that only three vehicles were intended to be sold on the day of the action. A copy of the advertisement for the auction is attached as **Exhibit 1**.

5. Fandrich provided a copy of the auction services contract which did not contain a general description of the property to be sold at auction, any restrictions relating to conducting the auction and a statement indicating whether the registrant is authorized to purchase at the auction and whether a buyer's premium or surcharge will be assessed. A copy of the Auction Service Contract Agreement is attached as **Exhibit 2**.

6. Fandrich provided copies of the financial records for the auction to the Department for review. The financial records consisted of the clerk sheets and an adding machine tape showing the total received at the auction. No financial summary or accounting of all moneys due the owners or consignors was provided.

#### CONCLUSIONS OF LAW

30. The Wisconsin Auctioneer Board has jurisdiction to act in this matter pursuant to sec. 480.24 (1) Wis. Stats. and is authorized to enter into the attached Stipulation pursuant to sec. 227.44(5), Wis. Stats.

31. Respondent **Charles A. Fandrich** has violated:

a.) s. 480.14 (1) Wis. Stat. by failing to enter into a written contract with each owner or consignor of goods. The contract shall specify the terms and conditions upon which the auctioneer accepts the goods for sale.

b.) s. 480.14(3) (a) and (b) by failing to provide within 30 days after the auction, unless otherwise provided in the contract, an accounting of all moneys due to each owner or consignor the proceeds due from the auction.

c.) s. 480.18 (1) and (3) by failing to maintain complete and accurate records of the auction including the name and address of each owner or consignor, a description of the goods to be sold at the auction, the contracts and accounts of all money received and disbursed at or as a result of an auction.

e.) RL 123.03 (5) by failing to state in the advertisement for the auction the percentage or other amount of any buyer's premium or surcharge which is a condition of the sale.

f.) RL 124.02 (5) a statement of whether a buyer's premium or surcharge will be assessed and, if so, the percentage or other amount to be charged to the successful bidder.

g.) RL 126.02 (6) by utilizing a bidding method for the tractor which was misleading and deceptive.

#### ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that the attached Stipulation is hereby accepted.

IT IS FURTHER ORDERED, that **Charles A. Fandrich**, license No. 52 297 be, and hereby is **REPRIMANDED**.

IT IS FURTHER ORDERED, that Respondent **Charles A. Fandrich** pay a forfeiture in the amount of \$500.00 within 30 days of the date of this Order by making payment of the same to the Department of Regulation and Licensing, P.O. Box 8935, Madison, WI 53708-8935.

IT IS FURTHER ORDERED, that in the event Respondent **Charles A. Fandrich** fails to successfully complete the above requirements within the prescribed time and in the manner, then and in that event, and without further notice to the Respondent, his auctioneer license shall be suspended without further hearing and without further order of the Board, and said suspension shall continue until further order of the Board.

IT IS FURTHER ORDERED, that file 99 AUC 015 is hereby closed.

Dated this 27th day of March, 2000.

#### WISCONSIN AUCTIONEER BOARD

By: Richard O. Lust

Board Chairman

