

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN

BEFORE THE AUCTIONEER BOARD

IN THE MATTER OF THE DISCIPLINARY

PROCEEDINGS AGAINST:

KENNETH W. SPRAGUE

FINAL DECISION AND ORDER

RESPONDENT

LS0102261AUC

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

Kenneth W. Sprague

7521 38th Ave.

Kenosha, WI 53142

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 Board . The Board has reviewed this Stipulation and considers it acceptable.

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

FINDINGS OF FACT

1. **Kenneth W. Sprague** ("Sprague"), date of birth 10/30/42, is licensed in the State of Wisconsin as an auctioneer having license # 52-606. This license was first granted to him on 03/01/95. Sprague's most recent address on file with the Department of Regulation and Licensing is 7521 38th Ave., Kenosha, WI 53142.
2. At all times relevant to the facts set forth below Sprague was d/b/a Weekend Auctioneers, 7521 38th Ave., Kenosha, WI 53142.
3. On January 1, 1999, Sprague's Wisconsin auctioneer's license expired and it was not renewed by him until on or about November 24, 1999. During that timeframe he continued to practice as an auctioneer as exemplified in paragraphs 4 – 5 below.
4. On or about April 5, 1999, William J. Kendrick entered into an Auction Contract with Sprague for him to conduct a public auction as Seller's agent. The auction was to take place on June 12, 1999. Terms of the contract set forth as follows, "Auctioneer shall receive, in consideration of his services, the sum of \$650.00 dollars for the first \$4,000.00 dollars of the gross sale proceeds of the auction items sold. Auctioneer shall receive 15 percent of the sum of the remainder (sic) of the auction over \$4,000.00 dollars payable forthwith after conclusion of sale by the cashier from the auction proceeds of said sale". Sprague and Mr. Kendrick signed this

contract on April 5, 1999. A copy of the Auction Contract is attached as **Exhibit 1** and is incorporated herein by reference.

5. During Mr. Kendrick's June 12, 1999, auction, cashier Bonnie Hammond, who was Sprague's employee, purchased miscellaneous items totaling \$68.00. Instead of Ms. Hammond writing a check directly to Mr. Kendrick for the items she purchased, Ms. Hammond requested that Sprague write a check to Mr. Kendrick and then deduct that amount from her earnings for that day. Three days after the auction on June 15, 1999, Sprague wrote a check to Mr. Hendrick for \$68.00. Because Sprague did not have a trust account on June 12, 1999, he was obligated to pay Kendrick the proceeds of the auction within 24 hours after the auction as required by Wis. Adm. Code sec. RL 125.02. A copy of Sprague's check #1291 payable to Mr. Kendrick dated June 15, 1999, is attached as **Exhibit 2** and in incorporated herein by reference.

6. On or about November 8, 2000, Sprague opened a trust account # 3731877031 with TCF Bank located at 7111 74th Place, Kenosha, WI.

CONCLUSIONS OF LAW

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

2. Respondent **Kenneth W. Sprague** has violated:

a. Wis. Stats. sec. 480.08(1)(a), and Wis. Stats. sec. 480.24(2)(j) by practicing as an auctioneer without having a valid Wisconsin auctioneer license between January 1, 1999, and November 24, 1999.

b. Wis. Adm. Code secs. RL 125.02 and RL 125.05, and Wis. Stats. sec. 480.24(2)(j), by failing to disburse all auction proceeds within 24 hours after the auction.

ORDER

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

IT IS FURTHER ORDERED, that Respondent **Kenneth W. Sprague**, license # 52-606, be, and hereby is, **REPRIMANDED**.

IT IS FURTHER ORDERED, that Respondent **Kenneth W. Sprague**, within nine months of the date of this Order, successfully complete the Department of Regulation and Licensing Auctioneer Education Examination given by the Division of Education, Exam & Public Information, RM 166, 1400 E. Washington Ave. Madison WI.

IT IS FURTHER ORDERED, that in the event Respondent **Kenneth W. Sprague** fails to successfully complete the examination requirements within the time and in the manner as set forth above, then and in that event, and without further notice to the Respondent **Kenneth W. Sprague**, his auctioneer's 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 Respondent **Kenneth W. Sprague**, pay partial costs of this matter in the amount of \$250.00 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 **Kenneth W. Sprague** fails to pay the \$250.00 partial costs within the time and manner as set forth above, then and in that event, and without further notice to the Respondent **Kenneth W. Sprague**, his auctioneer's license shall be suspended without further hearing and without further Order of the Board, and said suspension shall continue until the full amount of said partial costs have been paid to the Department of Regulation and Licensing and his failure to pay the costs shall be considered a violation of this Order by the Board.

IT IS FURTHER ORDERED, that file 99 AUC 029 be, and hereby is, closed.

Dated this 26th day of February, 2000.

WISCONSIN AUCTIONEER BOARD

By: Richard Lust

A member of the Board