

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE AUCTIONEER BOARD

IN THE MATTER OF :
DISCIPLINARY PROCEEDINGS AGAINST :
: FINAL DECISION AND ORDER
KIM M. HANGARTNER, :
RESPONDENT. : LS0907231AUC

Division of Enforcement Case File # 08 AUC 007

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

Kim M. Hangartner
W3279 Heartland Court
Appleton, WI 54915

Auctioneer Board
P.O. Box 8935
Madison, WI 53707-8935

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

PROCEDURAL HISTORY

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 Wisconsin Auctioneer Board (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. Respondent Kim M. Hangartner is licensed in the State of Wisconsin as an auctioneer, having license # 52-2300. This license was first granted to him on 03/03/2005 and is current through 12/14/2010. The most recent address on file with the Department of Regulation and Licensing for Mr. Hangartner is W3279 Heartland Court, Appleton, WI 54915.

2. On March 7, 2008, a complaint was received by the Wisconsin Department of Regulation and Licensing (Department) alleging that Respondent Hangartner failed to include required elements in his advertising for an auction.

3. During the course of the investigation, a March 8, 2008 advertisement for an auction that was to be conducted by Kim Hangartner was reviewed by a Department investigator. The advertisement was found to be missing the following:

Payment terms for the auction and information on a buyer's fee or surcharge for the sale; and
A statement that the auctioneer is a "Registered Wisconsin auctioneer."

4. During the course of the investigation, the contract for the March 8, 2008 auction was reviewed by a Department investigator. The contract was found to be missing the following:

A general description of the property to be sold;

A statement of whether a buyer's fee or surcharge will be assessed and if so, the percentage or other amount to be charged to the successful bidder; and

A provision for reimbursement of advertising costs to the auctioneer.

CONCLUSIONS OF LAW

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

2. Respondent Kim M. Hangartner has violated:

a. Wis. Admin Code § RL 123.03 by failing to include the following in an auction advertisement:

A statement that the auctioneer is a "registered Wisconsin auctioneer;"

A statement of the terms and conditions under which the registrant will accept payment by buyers at the auction; and

A statement of whether a buyer's fee or surcharge will be assessed.

b. Wis. Stat. § 480.24(2)(b) and Wis. Stat. § 480.24(2)(d) by engaging in conduct while practicing as an auctioneer or as an auction company which evidences a lack of knowledge or ability to apply professional principles or skills and by advertising in a manner which is false, deceptive or misleading.

c. Wis. Admin Code § RL 123.02, by advertising in a manner which is false, deceptive or misleading.

d. Wis. Admin Code § RL 124.02, by failing to include the following in a written contract:

A general description of property to be sold at auction;

A description of the services to be provided and the consideration for the services which must state which party is responsible for advertising and other expenses; and

A statement of whether a buyer's fee or surcharge will be assessed and if so, the percentage or other amount to be charged to the successful bidder.

3. As a result, Kim M. Hangartner is subject to discipline pursuant to Wis. Stat. § 480.24(2).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. Respondent Kim M. Hangartner is hereby REPRIMANDED.

IT IS FURTHER ORDERED that:

2. Respondent Kim M. Hangartner shall pay COSTS in the amount of TWO HUNDRED FIFTY (\$250.00) within 60 days of the date of this Order.

3. Payment shall be made by **certified check or money order**, payable to the Wisconsin Department of Regulation and Licensing and sent to:

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

IT IS FURTHER ORDERED that:

4. Respondent Kim M. Hangartner shall complete three hours of education in contracts and advertising requirements. The education shall be pre-approved by the Department Monitor. Proof of successful completion of the education shall be sent to the Department Monitor at the above address within six months of the date of this Order and may not be used towards any continuing education requirements.

5. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent's license. The Board in its discretion may, in the alternative, impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order. In the event Respondent fails to timely submit any payment as ordered or fails to timely complete ordered education, then the Respondent's license SHALL BE SUSPENDED without further notice or hearing until Respondent has complied with the terms of this Order.

6. This Order is effective on the date of its signing.

IT IS FURTHER ORDERED that file 08 AUC 007 is hereby closed.

Dated this 21st day of July, 2009.

WISCONSIN AUCTIONEER BOARD

By: Patrick J. McNamara