

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN

BEFORE THE AUCTIONEER BOARD

IN THE MATTER OF THE DISCIPLINARY

PROCEEDINGS AGAINST:

FIRST GUARANTEE CREDIT

FINAL DECISION AND ORDER

CORPORATION,

RESPONDENT

LS0203042AUC

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

First Guarantee Credit Corporation, Auction Company License Number 53-133

785-F Rockville Pike #501

Rockville, MD 20852

Wisconsin Auctioneers Board

P.O. Box 8935

Madison, WI 53708

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. **First Guarantee Credit Corporation**, ("FGCC") is a Maryland corporation acting as an auction company licensed to practice in the State of Wisconsin. The last address on file with the Department of Regulation and Licensing for FGCC is 785-F Rockville Pike, #501, Rockville, Maryland 20852.
2. **Azam M. Kahn** is licensed as an auctioneer in the State of Wisconsin, having license number 52-927. The last address on file with the Department of Regulation and Licensing for Azam M. Kahn, is 10800 Piney Pond Drive, Great Falls, Virginia 22066.
3. Azam M. Khan is an owner, manager and corporate officer of FGCC.
4. FGCC caused to be published for auctions in Wisconsin the following advertisements that consisted of false, deceptive or misleading statements:
 - a) An advertisement appeared in the Post-Crescent, published in Appleton, Wisconsin, on March 30, 1997. The advertisement stated in large bold type, "**PUBLIC AUCTION**" and "**UNITED STATES FEDERAL GOVERNMENT**". This advertisement also stated in very small type that the merchandise was

obtained from various agency auctions and that the majority of items were from other sources and that the auction was not affiliated with any "Govt Agency" This advertisement is deceptive and misleading as it appears that the United States Government is authorizing the auction, when in fact, it had nothing to do with the auction.

b) A similar advertisement appeared in the March 26, 1997 edition of the Leader-Telegram published in Eau Claire, Wisconsin.

c) An advertisement appeared in the Wisconsin State Journal, published in Madison, Wisconsin, on February 17, 2000. The advertisement stated in large bold type, "**PUBLIC AUCTION U.S. GOVERNMENT SEIZED**" and stated three references to "U.S. Customs". In very small type the advertisement also stated "Auction is not affiliated w/ U.S. Customs." This advertisement is deceptive and misleading as it appears that the United States Government is authorizing the auction, when in fact, it had nothing to do with the auction.

d) An advertisement appeared in the Milwaukee Journal Sentinel, published in Milwaukee, Wisconsin on March 4, 2001. The advertisement stated in large bold type, "**POLICE DEPT. SEIZURE**" and stated references to "**BANKRUPTCIES, GOVERNMENT CONFISCATED GOODS, REPOSSESSIONS**". In very small print the advertisement also stated "Obtained via Police Confiscations, Unredeemed Loans, and Lost Pledges plus additions from various other sources to form majority of items." This advertisement is misleading as it appears that the auction goods consist primarily of government seized items, when in fact, most items came from other sources.

e) A second advertisement appeared in the Milwaukee Journal Sentinel, published in Milwaukee, Wisconsin on March 4, 2001. The advertisement stated in large bold type "**RELEASED POLICE CONFISCATED GOODS NOW UP FOR AUCTION**". In very small print, the advertisement also stated, "First Guarantee Credit Corp. will action (sic) off piece by piece a good selection of fine jewelry previously held and released from police confiscations, unredeemed loans, and lost pledges. A majority of other items added include: . . ." This advertisement is deceptive and misleading as it appears that the Police seized goods are the primary object of this auction, when in fact, a small percentage of the goods offered for sale at the auction were from that source.

MITIGATION

5. Respondent has agreed to make the following changes in all future advertisements that consist, in whole or part, of advertising an auction event expected to take place within the borders of the State of Wisconsin.

a) Change the nature of all future advertisements that Respondent causes to be published in the State of Wisconsin and/or in any way relate to an auction expected to take place in the State of Wisconsin so as to avoid all reference to:

A government entity;

A government agency;

Confiscated goods;

Abandoned goods;

Unclaimed goods;

Lost goods;

Police action;

Bankruptcy;

Court action or order;

and any similar entity or action that suggests that the goods to be auctioned were obtained under similar circumstances.

The advertisements published by Respondents may only use a term listed above if not less than 50% of the value of the goods to be actually offered at the specific auction are from, or due to, the entity or action that the term suggests or describes.

b) For a period of two years immediately subsequent to the date of this Order, as set forth below, Respondent shall submit to the Auctioneer Board all auction advertisements that Respondent causes to be published relating to auctions held in Wisconsin. These advertisements shall be submitted to the Auctioneer Board within ten days subsequent to the date of first publication. The Auctioneer Board will

review the submitted advertisements at its next regularly scheduled meeting. Any comments that the Board has as to advertisements shall be passed on to Respondent by the Department of Regulation and Licensing in a communication addressed to Brenda Misk at the address given below.

Respondent is not required by this provision to submit advertisements to the Board prior to their publication. However, Respondent may submit advertisements to the Board for review prior to publication, but only if Respondent does so in a manner that allows the Board to make its review prior to the scheduled auction at a regularly scheduled meeting of the Board.

c) At all times in the future, unless another individual is designated in writing and delivered to the Wisconsin Auctioneer Board, Department of Regulation and Licensing, Post Office Box 8935, Madison, Wisconsin 53708-8935, communication with Respondent for purposes of review of advertisements and for future requests for information and documents related to these cases from First Guarantee Credit Corporation shall be addressed to:

Brenda Misk. Office Manager

First Guarantee Credit Corporation

785-F Rockville Pike #501

Rockville, MD 20852

Respondent shall notify the Wisconsin Auctioneer Board immediately and in writing in the event Brenda Misk no longer is the Office Manager for the Respondent.

This notification shall include the full name, address and phone number of the person in charge of the Corporation operations and of the person giving the notice to the Wisconsin Auctioneer Board.

CONCLUSIONS OF LAW

1. The Wisconsin Auctioneers Board has jurisdiction to act in this matter pursuant to sec. 480.24, Wis. Stats.
2. The Wisconsin Auctioneers Board is authorized to enter into the attached Stipulation pursuant to sec. 227.44(5), Wis. Stats.
3. Section 480.24 of the Wisconsin Statutes states:

480.24. Disciplinary proceedings and actions.

(2) Subject to the rules promulgated under s. 440.03 (1), the board may reprimand a registrant or deny, limit, suspend or revoke a certificate under this chapter if it finds that the applicant or registrant or an auction company representative of an auction company that is an applicant or registrant has done any of the following:

* * *

(d) Advertised in a manner which is false, deceptive or misleading.

4. Section RL 123.02 of the Wisconsin Administrative Code states:

RL 123.02 False advertising.

No registrant may advertise in a manner which is false, deceptive or misleading.

5. Respondent First Guarantee Credit Corporation has violated section 480.24(2)(d) of the Wisconsin Statutes and section RL 123.02 of the Wisconsin Administrative Code.

ORDER

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

IT IS FURTHER ORDERED, that **First Guarantee Credit Corporation**, Auction Company License Number 53-133 is **REPRIMANDED**.

IT IS FURTHER ORDERED, that the license of First Guarantee Credit Corporation, Auction Company License Number 53-133, is **LIMITED in the following respects**:

Respondent First Guarantee Credit Corporation must comply with all provisions of paragraph number 5 of the above stated Findings of Fact.

PETITIONS FOR MODIFICATION OF TERMS

Respondent may petition the Board for modification of the terms of this limited license. Any such petition shall be accompanied by a written statement as to the number, date and location of publication of all advertisements relating in any way to auctions held in the State of Wisconsin and published by Respondent subsequent to the date of this Order. A copy of each advertisement must be attached to the Petition.

Denial of any petition submitted by the respondent, in whole or in part, shall not be considered a denial of a license within the meaning of Sec. 227.01(3)(a), Stats., and Respondent shall not have a right to any further hearings or proceedings on any denial, in whole or in part, of the petition for modification of the limited license.

IT IS FURTHER ORDERED, that files 98 AUC 007, 98 AUC 008, 00 AUC 007 and 01 AUC 005 be, and hereby are closed as to First Guarantee Credit Corporation and not as to any other person or entity.

Dated this 4th day of March, 2002.

WISCONSIN AUCTIONEER BOARD

By: Richard Lust

A member of the Auctioneer Board