

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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**STATE OF WISCONSIN
BEFORE THE AUCTIONEER BOARD**

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	FINAL DECISION AND ORDER
BRUCE J. KLEIN,	:	
RESPONDENT.	:	LS0410261AUC
	:	

Division of Enforcement Case Nos. 01 AUC 021 & 03 AUC 020

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

Bruce J. Klein
1002 W. El Patio Ln.
Mequon, WI 53092

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 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. Bruce J. Klein ("Klein"), date of birth 03/12/52, is licensed in the State of Wisconsin as an auctioneer having license #52-2013. Klein's last reported address on file with the Department of Regulation and Licensing is 1002 W. El Patio Ln., Mequon WI, 53092.
2. On or about March 20, 2001, Klein filed an Application for Auctioneer Registration with the Department of Regulation and Licensing. Klein was granted a temporary auctioneer license that was valid from March 20, 2001 through May 20, 2001.
3. In completing the Application for his temporary Auctioneer Registration on March 20, 2001, Klein answered "NO" to the following question:
 - A. Have you ever been convicted of a misdemeanor or a felony, or driving while intoxicated (DWI), in this or any other state, OR are criminal charges or DWI charges currently pending against you? If YES, complete and attach form #2252.
4. Although Klein answered "NO" to question A, Klein completed form #2252 listing a disorderly conduct offense in November of 2000.

5. On or about March 22, 2001, Klein completed an Application for Auction Company Registration with the Department of Regulation and Licensing. On March 23, 2001, The Klein Company was granted Auction Company License #53-249. That license expired on January 1, 2003.
6. In completing the Application for his Auction Company Registration on March 22, 2001, Klein answered “NO” to the following question:
- A. Has the business entity or any of its business representatives ever been convicted of a misdemeanor or a felony, or driving while intoxicated (DWI), in this or any other state, OR are criminal charges or DWI charges currently pending against you? If YES, complete and attach form #2252.
7. Klein did not file form #2252 with this Application.
8. On or about September 10, 2001, Klein filed an Application for Auctioneer Registration with the Department of Regulation and Licensing for a permanent auctioneer license. This license was granted to him on September 14, 2001.
9. In completing the Application for Auctioneer Registration on September 10, 2001, Klein answered “NO” to the following question:
- A. Have you ever been convicted of a misdemeanor or a felony, or driving while intoxicated (DWI), in this or any other state, OR are criminal charges or DWI charges currently pending against you? If YES, complete and attach form #2252.
10. Klein did not file form #2252 with this Application.
11. Throughout all three Applications, Klein failed to list a misdemeanor conviction he had received on January 29, 2001, for Issue of Worthless Checks. The criminal complaint dated January 17, 2001, states that on August 10, 2000, Klein cashed a check at the Menard’s store in Oshkosh, WI in the amount of \$278.84. The check was drawn on the account of “Bruce Klein d.b.a. Great Lakes Promotions”. The check was returned to Menard’s with the notation “Insufficient Funds”. As of the date of the complaint, no restitution in any way or manner had been made by Klein to Menard’s. On January 29, 2001 Klein was convicted of Issue of Worthless Checks and was ordered to pay a fine & forfeiture of \$71.50 and court costs of \$74.00.

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12. On or about March 22, 2001, Jerry Rychtik (“Rychtik”) entered into an auction contract with Klein to conduct a public auction. The auction took place on March 29, 2001.
13. Klein’s contract with Rychtik did not include the following:
- a. a statement indicating whether the registrant is authorized to purchase at the auction;
 - b. a statement indicating which party is responsible for advertising and other expenses;
 - c. a statement about buyer’s fee or surcharge; and
 - d. a statement by the seller that he has title and right to sell all property to be sold at auction free of encumbrances and liens.
14. On February 26, 2002, the Department requested Klein’s records from the Rychtik auction. Klein did not provide the Department with complete or accurate records resulting from the auction with Rychtik.
15. Klein did not pay Rychtik the proceeds from this auction within 24 hours after the auction.
16. Klein did not give Rychtik an accounting of the moneys due him within 30 days after the auction.

17. On or about August 28, 2002, Carl Nelson (“Nelson”) entered into an auction contract with Klein to conduct a public auction. The auction was to take place on September 21, 2002. Terms of the contract included: “Seller will not pay any setup fees or tag charges” and “Auctioneers shall receive full commission for all protected items at the rate of 10% as insurance on said items, as well as full commission on any items transferred, withdrawn or sold within 60 days after the auction.”
18. The contract with Nelson did not include the following:
- a. a state auctioneer registration number;
 - b. an address for the owner of the goods;
 - c. a statement indicating whether the registrant is authorized to purchase at the auction;
 - d. a statement about buyer’s fee or surcharge.
19. The advertisement that Klein used for Nelson’s auction did not include the name of the auctioneer or the statement “registered Wisconsin auctioneer.”
20. The auction took place on September 21, 2002. Just before the auction began, Klein and Nelson agreed in writing that Klein would pay Nelson the proceeds from the auction within 15 days from the day of the auction. Klein has never paid any of the proceeds from Nelson’s auction to Nelson.
21. On December 11, 2003, the Department requested Klein’s records from the Nelson auction. Klein did not provide the Department with complete or accurate records resulting from the auction with Nelson.
22. Since the time of the Nelson auction, a dispute occurred between Nelson and Klein as to the proceeds from the auction. In an attempt to obtain compensation from Nelson, Klein produced an altered auction contract which had the terms, “Seller will not pay any setup fees or tag charges” and “Auctioneer will collect and pay all sales taxes” omitted. The altered contract also had a forged signature for Nelson.
23. According to Department records, Klein has never had a trust account.
24. Klein has informed the Department of Regulation and Licensing that neither he nor The Klein Auction Company is actively practicing as an auctioneer or an auction company due to severe illness.

CONCLUSIONS OF LAW

25. The Wisconsin Auctioneer Board has jurisdiction to act in this matter pursuant to §480.24, Wis. Stats.
26. The Wisconsin Auctioneer Board is authorized to enter into the attached Stipulation pursuant to §227.44(5), Wis. Stats.
27. Respondent Klein has violated:
- a. Sec. 480.24(2)(a), Wis. Stats., by making material misstatements as to his misdemeanor conviction for Issue of Worthless Checks on three of his Applications for a certificate: Application for Auctioneer Registration for his temporary license, Application for Auctioneer Registration for his permanent license, and Application for Auction Company Registration, as described in paragraphs 2-11 above.
 - b. Sec. 480.14(1), Wis. Stats., and §§RL 124.02(1), (3), (4), (5) and (7), Wis. Adm. Code by failing to contract properly for the auction, as described in paragraphs 13 and 18 above.
 - c. Secs. 480.18(1), (2) and (3), Wis. Stats., by failing to maintain auction records, as described in paragraphs 14 and 21 above.

d. Sec. 480.14(3)(a), Wis. Stats., by failing to provide an accounting of all moneys due the owner, as described in paragraph 16 above.

e. Secs. 480.20(1) and (2), Wis. Stats., and §§RL 123.03(1) and (2), Wis. Adm. Code by failing to include in the advertising the name of the auctioneer and a statement that the auctioneer is a 'registered Wisconsin auctioneer', as described in paragraph 19 above.

f. Sec. 480.16, Wis. Stats., and §§RL 125.035, 125.05, and 125.12, Wis. Admin. Code by failing to have a trust account and registering it with the Department, by failing to deposit trust funds within 24 hours, by failing to maintain a bookkeeping system, and failing to maintain an account summary sheet which shows the receipts, deposits, expenses and disbursements of each individual auction, as described in paragraphs 15, 20 and 23.

g. Sec. RL 126.02(5), Wis. Adm. Code by attempting to obtain compensation by fraud or deceit, as described in paragraph 22.

ORDER

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

IT IS FURTHER ORDERED, that the **Voluntary Surrender** of the Respondent's Auctioneer license #52-2013 and Auction Company License #53-0249, is accepted.

IT IS FURTHER ORDERED, that all rights and privileges heretofore granted to Respondent pursuant to Auctioneer license #52-2013 and Auction Company License #53-0249 are terminated effective on December 31st, 2004 at 11:59 P.M.

IT IS FURTHER ORDERED, that Respondent shall not be granted a credential under chapter 480 of the Wisconsin Statutes for a minimum period of three years subsequent to the date of this Order. During the three year period subsequent to the date of this Order, the denial, in whole or in part, of any application or petition by Respondent for a credential authorized under chapter 480 of the Wisconsin Statutes shall not constitute denial of a license and shall not give rise to a contested case within the meaning of sections 227.01 (3) and 227.42 of the Wisconsin Statutes.

IT IS FURTHER ORDERED, that at any time after three years subsequent to the date of this Order, the Respondent may petition the Wisconsin Auctioneer Board for reinstatement of a Wisconsin Auctioneer and Wisconsin Auction Company license. This petition will be granted if it affirmatively and unequivocally states in writing, signed under oath, the following:

1. That Respondent has not engaged in the practice of auctioneering in the State of Wisconsin during the time he has not been licensed;
2. That Respondent has not been the subject of further disciplinary action by the State of Wisconsin;
3. That Respondent is not, at the time of the filing of the Petition with the Board, a subject of a pending investigation by the Division of Enforcement of the Department of Regulation and Licensing;
4. That Respondent has never been arrested or charged with criminal activity;
5. That Respondent has never been convicted of any crime; and
6. That Respondent has completely and successfully satisfied all required continuing education required auctioneers from the date of the Voluntary Surrender of Licensure, through the date the Petition is filed with the Board.

IT IS FURTHER ORDERED, that **01 AUC 021** and **03 AUC 020** be, and hereby is closed.

Dated this 26th day of October, 2004.

WISCONSIN AUCTIONEER BOARD

Richard Lust
A member of the Board