

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**
WILLIAM H. BETTHAUSER :
 : **LS0605151AUC**
RESPONDENT. :

Division of Enforcement Case No. 04 AUC 014, 05 AUC 005 and 05 AUC 016

The parties to this action for the purposes of Wis. Stat. § 227.53 are:

William H. Betthausen
985 Alfred Street
Brookfield, WI 53005

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 decision of the matter, subject to the approval of the Auctioneer Board (“Board”). The Board has reviewed the Stipulation agreement annexed to this Final Decision and Order, and considers it acceptable. Accordingly, the Board adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. William H. Betthausen (“Respondent”), whose date of birth is 05/25/1965, and whose last address of record with the Department of Regulation and Licensing (“Department”) was 985 Alfred Street, Brookfield, WI 53005, was duly licensed as an auctioneer in the state of Wisconsin (52-1849). The license was first granted on 04/05/2001. The license expired on 12/31/2004. The Division of Enforcement last had contact with Respondent at 464 U.S. Hwy 45, Birnamwood, WI 54414.

05 AUC 005

2. On November 4, 2004, W.H. signed a contract with Respondent. Per the agreement, Respondent was to sell goods owned by W.H. at auction by the end of 2004. W.H. reports seeing his goods for sale at an auction conducted by Respondent at the American Serb Hall, located at 5101 West Oklahoma Avenue, Milwaukee, WI 53219.

3. From January 1, 2005, to May 1, 2005, W.H. contacted Respondent via his cell phone number, and in person. During these communications W.H. requested his share of the proceeds of the sale, and his unsold personal goods. From May 18, 2005, to December 21, 2005, the Division of Enforcement made several attempts to contact Respondent. To date, Respondent has provided no accounting of the proceeds from the sale of W.H.'s goods, and offered no information regarding the location of W.H.'s unsold goods, if any.

4. Per Wis. Stat. § 480.24(2), "... the board may reprimand a registrant, or deny, limit, suspend or revoke a certificate under this chapter if it finds the applicant or registrant... has done any of the following: (j) Violated this chapter or any rule promulgated under this chapter."

5. Per Wis. Stat. § 480.14(3), "Unless otherwise provided by the terms of a contract described under sub. (1), within 30 days after the sale of goods or real estate at auction, the auctioneer who conducts the auction shall do all of the following: (a) Provide to each owner or consignor of goods or real estate that was sold or attempted to be sold at the auction an accounting of all monies due the owner or consignor..."

6. Per Wis. Stat. § 480.24(2), "... the board may reprimand a registrant, or deny, limit, suspend or revoke a certificate under this chapter if it finds the applicant or registrant... has done any of the following: (b) Engaged in conduct while practicing as an auctioneer... which evidences a lack of knowledge or ability to apply professional principles or skills."

05 AUC 016

7. On November 4, 2004, Respondent entered into a contract with E.T. to sell good described simply at "personal property" at an auction to be held at "auctioneer's location," and received the goods for sale.

8. Some of E.T.'s goods were sold at auction by another auctioneer at the American Serb Hall in December of 2004, and some of her goods were sold at auction by another auctioneer in January of 2005.

9. Between January 2005, and September 16, 2005, E.T. contacted Respondent by telephone on numerous occasions. Between November 15, 2005 and December 21, 2005, the Division of Enforcement attempted to contact Respondent regarding this matter, and other related matters. To date, Respondent has provided no accounting of the proceeds from the sale of W.H.'s goods, and offered no information regarding the location of W.H.'s unsold goods, if any.

CONCLUSIONS OF LAW

1. The Wisconsin Auctioneer Board has jurisdiction to act in these matters pursuant to Wis. Stat. § 480.24.

2. The Wisconsin Auctioneer Board has authority to enter into this stipulated resolution of this matter pursuant to Wis. Stat. § 227.44(5).

3. By accepting goods from W.H. and E.T., and by failing to account for their goods or the proceeds from the sales of those goods for a period of more than thirty (30) days, Respondent has violated Wis. Stat. § 480.14(3)(a), thereby subjecting himself to discipline per Wis. Stat. § 480.24(2)(j).

4. By repeatedly failing to respond to inquiries from W.H., E.T. and the Division of Enforcement, Respondent has engaged in conduct while practicing as an auctioneer which evidences a lack of knowledge or ability to apply professional principles or skills, thereby subjecting himself to discipline per Wis. Stat. § 480.24(2)(b).

5. By entering into a written contract with E.T. which described the goods to be sold simply as "personal property," Respondent has violated Wis. Admin. Code § RL 124.02(3), which requires a contract to contain a "general description of the property to be sold at auction," thereby subjecting himself to discipline per Wis. Admin. Code § RL 126.02(2) and Wis. Stat. § 480.24(2)(b).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. The license of **William H. Betthausen** to practice as an auctioneer in the state of Wisconsin (#52-1849) is hereby SUSPENDED for a period of six months from the date of signing of this Order. The suspension shall be in full force and effect, and the suspension period shall run, whether Respondent has or has not renewed his license prior to the period of suspension, or does or does not renew the license during the period of suspension. No practice which requires licensure as an auctioneer is permitted during the period of the suspension.

IT IS HEREBY FURTHER ORDERED THAT:

2. The license of **William H. Betthausen** to practice as an auctioneer in the state of Wisconsin (#52-1849) is hereby PERMANENTLY LIMITED as follows: Respondent shall be permitted to call auctions for a licensed auction company, or as an employee of a licensed auction company, but shall not otherwise be permitted by the licensed auction company to have contact, direct or indirect, with any member of the public in any manner, including, but not limited to, the following: entering into contracts with members of the general public for the sale of goods at auction; receiving goods from members of the general public; receiving funds from the sale of goods at auction; depositing funds into a trust account; or issuing funds from a trust account to any member of the general public. **William H. Betthausen** may petition the Board for removal of this permanent limitation no sooner than five (5) years from the date of the signing of this Order, and shall at the time of the petition make a submission to the Board showing that removal of the limitation poses no danger to the welfare of the public. The Board may in its sole discretion determine whether or not to remove the limitation.

3. **William H. Betthausen** shall supply a copy of this Order to any licensed auction company that employs him or otherwise utilizes him to call any auction.

4. Respondent **William H. Betthausen** shall pay partial costs of this investigation in the amount of one thousand six hundred (\$1,600.00) dollars by December 15, 2007.

5. All payments and submissions required by this Order shall be mailed or hand delivered to the Department of Regulation and Licensing as follows:

Department Monitor
Department of Regulation and Licensing
Division of Enforcement
1400 East Washington Ave.
P.O. Box 8935
Madison, WI 53708-8935

6. 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 **William H. Betthausen's** license (#52-1849). The Real Estate Board in its sole 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 that Respondent **William H. Betthausen** fails to timely submit payment of costs his license (#52-1849) SHALL BE SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order.

7. This Order shall be effective on the date of its signing.

8. Division of Enforcement Case No. 04 AUC 014 is hereby CLOSED under prosecutorial discretion code P7.

9. Division of Enforcement Case No.s 05 AUC 005 and 05 AUC 016 are hereby CLOSED.

By: Patrick J. McNamara
A Member of the Board

10-24-2006
Date

**STATE OF WISCONSIN
BEFORE THE AUCTIONEER BOARD**

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :
 : **STIPULATION**
WILLIAM H. BETTHAUSER :
 : **LS** _____
RESPONDENT. :

Division of Enforcement Case No. 04 AUC 014, 05 AUC 005 and 05 AUC 016

It is hereby stipulated and agreed, by and between William H. Betthausser, Respondent; and Mark A. Herman, attorney for Complainant, State of Wisconsin, Department of Regulation and Licensing, Division of Enforcement, as follows:

1. This Stipulation is entered into as a result of pending investigations of Respondent's licensure by the Division of Enforcement (Case No.s 04 AUC 014, 05 AUC 005 and 05 AUC 016). Respondent consents to the resolution of these investigations and the resulting formal complaint by stipulation.

2. Respondent understands that by signing this Stipulation he voluntarily and knowingly waives his rights, including: the right to a hearing on the allegations against him, at which time the State has the burden of proving those allegations by a preponderance of the evidence; the right to confront and cross-examine the witnesses against him; the right to call witnesses on his behalf and to compel their attendance by subpoena; the right to testify himself; the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision; the right to petition for rehearing; and all other applicable rights afforded to him under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, and the Wisconsin Administrative Code.

3. Respondent has been provided with the opportunity to obtain the advice of legal counsel prior to signing this stipulation.

4. Respondent agrees to the adoption of the attached Final Decision and Order by the Auctioneer Board. The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Board's order, if adopted in the form as attached.

5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall be returned to the Division of Enforcement for further proceedings. In the event that this Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by consideration of this attempted resolution.

6. The parties to this Stipulation agree that the attorney or other agent for the Division of Enforcement and any member of the Auctioneer Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of the Respondent or his attorney, for purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with the Board's deliberations on the Stipulation. Additionally, any such Board advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order.

7. Respondent is informed that should the Board adopt this Stipulation the Board's final decision and order is a public record and will be published in accordance with standard Department procedure.

8. The Division of Enforcement joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.

WILLIAM H. BETTHAUSER

Respondent
985 Alfred Street
Brookfield, WI 53005

Date

MARK A. HERMAN

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

Date

[04 AUC 014, 05 AUC 005 and 05 AUC 016: Suspension; Limitation; \$1600 Costs.]