

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE AUCTIONEER BOARD

IN THE MATTER OF	:	
DISCIPLINARY PROCEEDINGS AGAINST	:	
	:	
BAHRKE AUCTION & REAL ESTATE, INC.	:	FINAL DECISION AND ORDER
AND JEFFREY T. BAHRKE,	:	
RESPONDENTS.	:	ORDER 0000 325

Division of Enforcement Case File Numbers 06 AUC 029 and 07 AUC 011

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

Bahrke Auction & Real Estate, Inc.
7707 Highway V
Gillett, WI 54124

Jeffrey T. Bahrke
7707 Highway V
Gillett, WI 54124

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

Wisconsin 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 Bahrke Auction & Real Estate, Inc. is licensed in the state of Wisconsin as an Auction Company, having license number 53-80. This license was first granted

to Bahrke Auction & Real Estate, Inc. on 03/01/1995 and is current through 12/14/2010. The most recent address on file with the Department of Regulation and Licensing for Bahrke Auction & Real Estate, Inc. is 7707 Highway V, Gillett, WI 54124.

2. Respondent Jeffrey T. Bahrke is licensed in the state of Wisconsin as an Auctioneer, having license number 52-578. This license was first granted to him on 03/01/1995 and is current through 12/14/2010. The most recent address on file with the Department of Regulation and Licensing for Jeffrey T. Bahrke is 7707 Highway V, Gillett, WI 54124.

3. In 2006, the Wisconsin Department of Regulation and Licensing (Department) performed a routine audit of Jeffrey T. Bahrke and Bahrke Auction & Real Estate, Inc. The audit revealed the following violations:

- Jeffrey T. Bahrke's auctioneer license (number 52-578) was expired from January 10, 2001 through October 8, 2006. The dates of some of his contracts reviewed as part of the audit show at least four contracts during the period of license expiration;
- The license for Bahrke Auction & Real Estate, Inc. (number 53-80) was expired from January 10, 2001 through January 9, 2008; and
- The auction contract being used was missing the registration number, business address, a statement indicating whether auctioneer can purchase at auction, and whether a buyer's fee is charged or not.

4. On June 11, 2007, a complaint was received by the Department alleging that Respondent Jeffrey T. Bahrke failed to deliver part of an item that was purchased at a Bahrke auction. The complainant indicated that he purchased an item at a Bahrke auction on April 22, 2007. The complainant indicated that a part of the purchased item was mistakenly left behind and when he contacted Mr. Bahrke to obtain the item, Mr. Bahrke told him he was unable to locate the part. Mr. Bahrke contends that after an item is sold, it is the buyer's responsibility to protect their purchase.

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

- Registrant's name, trade or business name, state registration number, and business address and business telephone number;
- A statement indicating whether the registrant is authorized to purchase at auction;
- A written description of services provided by the registrant;
- A statement of who was responsible for advertising and other expenses; and
- A statement of whether a buyer's fee or surcharge would be assessed, and if so, the percentage or other amount to be charged to the successful bidder.

6. During the course of the investigation, the advertising for the auction was reviewed. The advertising showed that Mr. Bahrke was conducting business under "Bahrke Auction and Real Estate, Inc." That license was in expired status from January 10, 2001 through January 9, 2008.

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. Respondents Jeffrey T. Bahrke and Bahrke Auction & Real Estate, Inc. have violated:

a. Wis. Stat. § 480.08(1), by acting as an auction company and auctioneer in the state of Wisconsin without being registered as an auction company and auctioneer.

b. Wis. Stat. § 480.24(2)(b) 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.

c. Wis. Stat. § 480.24(2)(j) and Wis. Admin Code § RL 124.02, by failing to include the following in a written contract:

- Registrant's name, trade or business name, state registration number, business address and business telephone number;
- A statement indicating whether the registrant is authorized to purchase at the auction;
- A description of the services to be provided and 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 of the violations noted in the Conclusions of Law, Jeffrey T. Bahrke and Bahrke Auction & Real Estate, Inc. are subject to discipline pursuant to Wis. Stat. § 480.24(2).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. Respondents Jeffrey T. Bahrke and Bahrke Auction & Real Estate, Inc. are hereby REPRIMANDED.

IT IS FURTHER ORDERED that:

2. Respondent Jeffrey T. Bahrke shall pay a FORFEITURE in the amount of TWO HUNDRED FIFTY DOLLARS (\$250.00) within 90 days of the date of this Order and shall pay COSTS in the amount of TWO HUNDRED FIFTY DOLLARS (\$250.00) within 90 days of the date of this Order.

3. Respondent Bahrke Auction & Real Estate, Inc shall pay a FORFEITURE in the amount of TWO HUNDRED FIFTY DOLLARS (\$250.00) within 90 days of the date of this Order and shall pay COSTS in the amount of TWO HUNDRED FIFTY DOLLARS (\$250.00) within 90 days of the date of this Order.

4. 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
Telephone (608) 267-3817, Fax (608) 266-2264

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 Respondents' licenses. 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 Respondents fail to timely submit payment of the costs and forfeitures as ordered and as set forth above, the Respondents' licenses (numbers 53-80 and 52-578) may, in the discretion of the board or its designee, be SUSPENDED, without further notice or hearing, until Respondents have complied with payment of the costs and forfeitures.

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

IT IS FURTHER ORDERED that files 06 AUC 029 and 07 AUC 011 are hereby closed.

Dated this 20 day of July, 2010.

WISCONSIN AUCTIONEER BOARD

By: 