

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE AUCTIONEER BOARD

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

HARRY H. SUTHERLAND,
RESPONDENT.

:
:
: FINAL DECISION AND ORDER
:
: ORDER 0000 478

Division of Enforcement Case File No. 09 AUC 024

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

Harry H. Sutherland
N3070 Highway 89
Jefferson, WI 53549

Wisconsin Auctioneer Board
P.O. Box 8935
Madison, WI 53708-8935

Wisconsin 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 the Stipulation and considers it acceptable. Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Respondent Harry H. Sutherland is licensed in the State of Wisconsin as an Auctioneer, holding license number 2067-52. This license was first granted on January 2, 2002 and is current through December 14, 2010.
2. The most recent address on file for Mr. Sutherland with the Wisconsin Department of Regulation and Licensing (Department) is N3070 Highway 89, Jefferson, Wisconsin 53549.
3. On or about December 30, 2009, a complaint against Mr. Sutherland was received by the Department alleging unlicensed practice, contract violations, and failure to maintain a trust account. This case was subsequently opened for investigation.
4. The Department's investigation revealed that Mr. Sutherland was operating under "Sutherland Auction.com, LLC" even though this name was not registered as a trade name or auction

company at the time of the auction at issue. Sutherland Auction.com, LLC became registered as an auction company in Wisconsin (license number 383-053) on April 12, 2010.

5. The Department's investigation revealed that Mr. Sutherland's auction contract, dated November 12, 2009, failed to include:

- a. Mr. Sutherland's state registration number;
- b. A statement indicating whether the registrant was authorized to purchase at the auction;
- c. A description of the services to be provided;
- d. A statement of whether a buyer's fee or surcharge would be assessed; and
- e. The date, dates or time period during which the items would be sold at auction.

6. The Department's investigation revealed that Mr. Sutherland disbursed the proceeds of the auction to the owners six days after the auction was held via a check that was not drawn from a trust account.

7. In resolution of this matter, Respondent Harry H. Sutherland consents to the entry of the following Conclusions of Law and Order.

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. By the conduct described in paragraph 4 of the Findings of Fact, Respondent Harry H. Sutherland has violated Wis. Stat. § 480.08(1)(b) by acting as an auction company without being registered as an auction company.

3. By the conduct described in paragraph 5 of the Findings of Fact, Respondent Harry H. Sutherland has violated Wis. Admin. Code § RL 124.02 by failing to include required elements in his contract.

4. By the conduct described in paragraph 6 of the Findings of Fact, Respondent Harry H. Sutherland has violated Wis. Admin. Code § RL 125.035 and Wis. Stat. § 480.16 by failing to maintain a trust account for auction/trust funds.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. Respondent Harry H. Sutherland's license to practice as an auctioneer in the State of Wisconsin (license number 2067-52) is REPRIMANDED.

IT IS FURTHER ORDERED that:

2. Respondent Harry H. Sutherland shall pay COSTS in the amount of FIVE HUNDRED AND THIRTY FIVE DOLLARS (\$535.00) within 120 days from the date of this Order.

3. Payment of the costs shall be made 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

4. 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 payment of the costs as ordered and as set forth above, the Respondent's license (2067-52) may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with payment of the costs.

IT IS FURTHER ORDERED, that:

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

Dated this 19th day of October, 2010.

WISCONSIN AUCTIONEER BOARD

By: Pat McNamara
JK