

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE AUCTIONEER BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

MARK BINGHAM and
ALL AMERICAN SALES & AUCTIONS, LLC,
RESPONDENTS.

:
:
: FINAL DECISION AND ORDER
:
: ORDER 0002394
:

Division of Legal Services and Compliance¹ Case No. 12 AUC 004

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

Mark Bingham
867 Lucas Ln.
Jefferson, WI 53549

All American Sales & Auctions, LLC
867 Lucas Ln.
Jefferson, WI 53549

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

Division of Legal Services and Compliance
Department of Safety and Professional Services
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, Conclusions of Law and Order.

FINDINGS OF FACT

1. Respondent Mark Bingham (dob April 24, 1970) is licensed in the State of Wisconsin as an Auctioneer, having license number 52-2660, first issued on August 11, 2011, and current through December 14, 2014. Respondent Bingham's most recent address on file

¹ The Division of Legal Services and Compliance was formerly known as the Division of Enforcement.

with the Wisconsin Department of Safety and Professional Services (Department) is 867 Lucas Ln., Jefferson, WI 53549.

2. Respondent All American Sales & Auctions, LLC (All American) is licensed in the State of Wisconsin as an Auction Company, having license number 53-412, first issued on June 16, 2011, and current through December 14, 2014. Respondent All American's most recent address on file with the Department is 867 Lucas Ln., Jefferson, WI 53549.

3. Respondent Bingham is the owner and registered agent for Respondent All American.

4. On April 18, 2012, the Department received a complaint against Respondents and Division of Legal Services and Compliance case number 12 AUC 004 was subsequently opened.

5. On March 14, 2012, Respondents had Complainant sign a "Uniform Consignment Contract". The contract did not contain the following required items:

- a. Registrant's name, trade or business name, state registration number, business address or business telephone number.
- b. Any restrictions relating to conducting the auction and a statement indicating whether the registrant is authorized to purchase at the auction.
- c. A description of the services to be provided and the consideration for the services including which party is responsible for advertising and other expenses.
- d. 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.
- e. The date, dates, or time period during which the items will be sold at auction.

6. Respondents failed to give Complainant consignor a legible copy of the contract at the time of signing.

7. After the auction, Respondents gave Complainant a copy of the contract on which was added a commission and expenses.

8. Respondents held Complainant's proceeds for more than 24 hours after the auction but did not have a trust account.

9. In resolution of this matter, Respondent 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 the Findings of Fact, Respondents violated Wis. Admin. Code §§ SPS 124.02(1), (3), (4), (5), and (6) by failing to include the required specified items in the written contract.

3. By the conduct described in the Findings of Fact, Respondents violated Wis. Admin. Code § SPS 124.03 by failing to provide a copy of the contract to Complainant at the time of signing.

4. By the conduct described in the Findings of Fact, Respondents violated Wis. Admin. Code § SPS 125.035 by failing to maintain a trust account when they were holding auction funds for more than 24 hours.

5. As a result of the above violations, Respondents are subject to discipline pursuant to Wis. Stat. § 480.24(2)(j).

ORDER

1. The attached Stipulation is accepted.

2. Respondents Mark Bingham and All American Sales & Auctions, LLC are REPRIMANDED.

3. Within 90 days from the date of this Order, Respondent Mark Bingham shall pay COSTS of this matter in the amount of \$180.00.

4. Within 90 days from the date of this Order, Respondent All American Sales & Auctions, LLC shall pay COSTS of this matter in the amount of \$180.00.

5. Payment of costs shall be made payable to the Wisconsin Department of Safety and Professional Services and sent to the Department Monitor at the address below:

Department Monitor
Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 8935, Madison, WI 53708-8935
Telephone (608) 267-3817; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

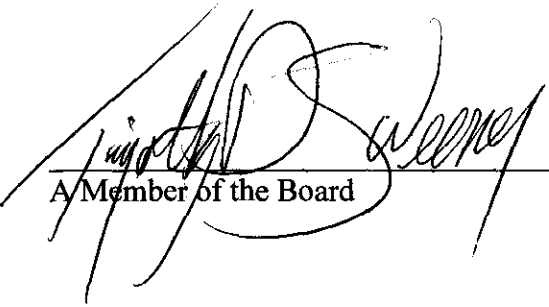
6. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondents' licenses. The Board in its discretion may in the alternative impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this

Order. In the event Respondents fail to timely submit payment of the costs as ordered, Respondents' licenses (nos. 52-2660 and 53-412) 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.

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

WISCONSIN AUCTIONEER BOARD

by:


A Member of the Board


Date