

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

GARY M. HINES,
RESPONDENT.

:
:
:
: FINAL DECISION AND ORDER
:
: ORDER 0002946
:

Division of Legal Services and Compliance Case No. 13 AUC 015

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

Gary M. Hines
709 Pleasant Avenue
Balsam Lake, WI 54810

Wisconsin Auctioneer Board
P.O. Box 8366
Madison, WI 53708-8366

Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190
Madison, WI 53707-7190

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 Gary M. Hines (dob January 29, 1951) is registered in the State of Wisconsin as an Auctioneer, having registration number 325-052, first issued on March 1, 1995, and current through December 14, 2014. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 709 Pleasant Avenue, Balsam Lake, WI 54810.
2. On September 11, 2013, the Department conducted an audit of Respondent's trust account. In part, the audit revealed the following:

- a. Respondent failed to withdraw commissions and fees from the trust account within 30 days after the sale of goods at an auction;
 - b. Respondent commingled personal funds with trust funds in the trust account;
 - c. Respondent failed to maintain account summary sheets (ledgers) for each individual auction.
 - d. Respondent failed to reconcile the trust account in writing each month;
 - e. Respondent failed to validate the reconciled bank statements, account summary sheets, and check registry.
3. Since the Department audit, Respondent has taken action to become compliant with Wis. Admin. Code ch. SPS 125.
 4. 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, Respondent violated Wis. Admin. Code § SPS 125.09 by failing to withdraw commissions and fees within 30 days after the sale of goods at an auction.
3. By the conduct described in the Findings of Fact, Respondent violated Wis. Admin. Code § SPS 125.10(1) by commingling personal and/or company funds with trust funds in a trust account.
4. By the conduct described in the Findings of Fact, Respondent violated Wis. Admin. Code § SPS 125.12(4) by failing to maintain account summary sheets as separate components of the bookkeeping system.
5. By the conduct described in the Findings of Fact, Respondent violated Wis. Admin. Code § SPS 125.12(2) by failing to reconcile the trust account in writing each month.
6. By the conduct described in the Findings of Fact, Respondent violated Wis. Admin. Code § SPS 125.12(3) by failing to validate the reconciled bank statements, account summary sheets, and check registry.
7. As a result of the above violations, Respondent is subject to discipline pursuant to Wis. Stat. § 480.24(2)(j).

ORDER

1. The attached Stipulation is accepted.
2. Respondent Gary M. Hines is REPRIMANDED.
3. Within 90 days from the date of this Order, Respondent shall pay a FORFEITURE in the amount of \$750.00 and COSTS of this matter in the amount of \$400.00.
4. Payments shall be made payable to the Wisconsin Department of Safety and Professional Services and sent by Respondent 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 7190, Madison, WI 53707-7190
Telephone (608) 267-3817; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

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 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 forfeiture and costs as ordered, Respondent's license (no. 325-052) 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 forfeiture and costs.

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

WISCONSIN AUCTIONEER BOARD

by:

Timothy Sweeney
A Member of the Board *JS*

1/14/14
Date

STATE OF WISCONSIN
BEFORE THE AUCTIONEER BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

GARY M. HINES,
RESPONDENT.

STIPULATION

ORDER 0002946

Division of Legal Services and Compliance Case No. 13 AUC 015

Respondent Gary M. Hines and the Division of Legal Services and Compliance, Department of Safety and Professional Services stipulate as follows:

1. This Stipulation is entered into as a result of a pending investigation by the Division of Legal Services and Compliance. Respondent consents to the resolution of this investigation by Stipulation.

2. Respondent understands that by signing this Stipulation, Respondent voluntarily and knowingly waives the following rights:

- the right to a hearing on the allegations against Respondent, 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 Respondent;
- the right to call witnesses on Respondent's behalf and to compel their attendance by subpoena;
- the right to testify on Respondent's own behalf;
- 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 Respondent under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and other provisions of state or federal law.

3. Respondent is aware of Respondent's right to seek legal representation and has been provided an opportunity to obtain legal counsel before signing this Stipulation.

4. Respondent agrees to the adoption of the attached Final Decision and Order by the Wisconsin Auctioneer Board (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.

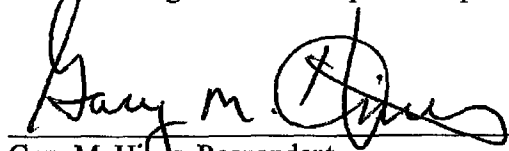
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division

of Legal Services and Compliance for further proceedings. In the event that the 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 the consideration of this attempted resolution.

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

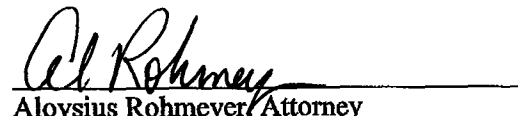
7. Respondent is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

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



Gary M. Hines, Respondent
709 Pleasant Avenue
Balsam Lake, WI 54810
License no. 325-052

12/17/13
Date



Aloysius Rohmeyer, Attorney
Division of Legal Services and Compliance
P.O. Box 7190
Madison, WI 53707-7190

12/17/13
Date