

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

FORREST S. EVAVOLD,
RESPONDENT.

:
:
:
: FINAL DECISION AND ORDER
:
: **0003172**
:

Division of Legal Services and Compliance Case No. 13 AUC 006

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

Forrest S. Evavold
432 Colby Ave.
Duluth, MN 55804

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 Forrest S. Evavold (dob March 27, 1963), d/b/a Nordic Auction, is registered in the State of Wisconsin as an Auctioneer, having certificate number 1963-052, first issued on February 24, 2003, and current through December 14, 2014. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 432 Colby Ave., Duluth, MN 55804.

2. On October 30, 2007, Respondent was disciplined by the Board for violating Wis. Stat. § 480.18(1)(3) [sic] and 480.24 (2)(b)(j) and Wis. Admin. Code § RL 126.02(2). Respondent was reprimanded and ordered to pay a forfeiture and costs.

3. On April 8, 2013, the Department received a complaint from Laura Ericksen, the personal representative of the Estate of Leslie Ericksen. Ms. Ericksen's complaint states that she entered into a contract with Respondent on July 21, 2012, to conduct an auction of her father's estate on August 4, 2012.

4. The contract between Ms. Ericksen and Respondent states that proceeds from the auction will be paid immediately following the auction. Respondent gave Ms. Ericksen a check for \$4,938.38 following the auction, however, on August 22, 2012, Ms. Ericksen's bank refused the check for insufficient funds.

5. On September 4, 2012, Ms. Ericksen wrote Respondent a letter requesting payment for the auction proceeds, but she received no response.

6. On October 5, 2012, Ms. Ericksen's attorney, Glenn Cunningham, wrote a letter to Respondent requesting payment for the auction proceeds. On or after October 17, 2012, Respondent sent Ms. Ericksen a cashier's check for the auction proceeds.

7. On April 25, 2013, July 26, 2013 and August 13, 2013, the Department sent Respondents requests for information pertaining to Ms. Ericksen's complaint. Respondent failed to respond to the Department's requests.

8. A review of the contract between Respondent and Ms. Ericksen shows that it does not contain the following information: (1) Respondent's state registration number; (2) Ms. Ericksen's address; (3) a general description of the property to be sold at auction; (4) a statement of whether Respondent is authorized to purchase at the auction; and (5) a statement of whether a buyer's fee or surcharge will be assessed.

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. Respondent violated Wis. Admin. Code §§ SPS 124.02(1) (3) and (5) by entering into a written contract with an owner or consignor of goods to be sold at auction that does not contain:

- a. the registrant's state registration number;
- b. the address of the owner or consignor;
- c. a general description of the property to be sold at auction or a statement indicating whether the registrant is authorized to purchase at the auction; and

- 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.
3. Respondent violated Wis. Stat. § 480.14(3)(b) by failing to pay to the owner or consignor of goods that were sold at auction all moneys due the owner or consignor within 30 days after the sale of goods at auction.
4. Respondent violated Wis. Stat. § 480.18(3) by failing to make records available for inspection and copying by the Department.
5. As a result of the above violations, Respondent is subject to discipline pursuant to Wis. Stat. §§ 480.24(2)(b) and (j).

ORDER

1. The attached Stipulation is accepted.
2. The Auctioneer Registration of Respondent Forrest S. Evavold (certificate number 1963-052) is hereby SUSPENDED for a period of 30 days, beginning seven (7) days after the date of this Order.
3. Respondent Forrest S. Evavold shall, within 90 days after the date of this Order, pay COSTS of this matter in the amount of \$336.00.
4. Payment of costs 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 costs as ordered, Respondent's license (no. 1963-052) 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 costs.

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

WISCONSIN AUCTIONEER BOARD

by: Timothy Sweeney
A Member of the Board

4/24/14
Date

STATE OF WISCONSIN
BEFORE THE AUCTIONEER BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

FORREST S. EVAVOLD,
RESPONDENT.

STIPULATION

0003172

Division of Legal Services and Compliance Case No. 13 AUC 006

Respondent Forrest S. Evavold 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.

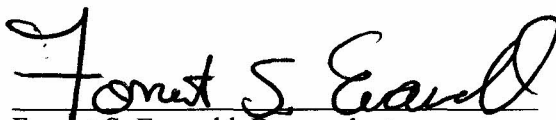
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division

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.

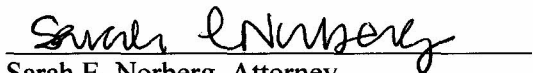
7. Respondent is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

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.



Forrest S. Evavold, Respondent
432 Colby Ave.
Duluth, MN 55804
License No. 1963-052

3-22-14
Date



Sarah E. Norberg, Attorney
Division of Legal Services and Compliance
P.O. Box 7190
Madison, WI 53707-7190

4.1.14
Date