

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

BELLE CITY RESALE, LLC,
RESPONDENT.

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:
:
:
:

FINAL DECISION AND ORDER

0003495

Division of Legal Services and Compliance Case No. 13 AUC 002

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

Belle City Resale, LLC
3801 Douglas Avenue
Racine, WI 53402

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 Belle City Resale, LLC is registered in the State of Wisconsin as an Auction Company, having certificate number 414-53, first issued on July 19, 2011, and current through December 14, 2014. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 3801 Douglas Avenue, Racine, WI 53402.

2. On January 14, 2013, the Department received a complaint from D.G. regarding business dealings he had with Respondent for the sale of various household items.

3. D.G. entered into two contracts with Respondent, dated November 15, 2011 and November 30, 2011, for the sale of his items.

4. Both contracts between D.G. and Respondent state that proceeds from the auction will be paid by the 15th day of the month following the sale of the item.

5. On or about December 14-15, 2011, Respondent sold some of D.G.'s items at auction.

6. Respondent paid D.G. for the sale of his items as follows: (1) a check dated December 20, 2011 in the amount of \$55.00, drawn off Respondent's trust account; (2) a check dated December 28, 2011 in the amount of \$12.00, drawn off Respondent's business account; and (3) a check dated February 22, 2012 in the amount of \$250.00, drawn off Respondent's business account.

7. A review of the contracts between Respondent and D.G. show that they do not contain the following information: (1) Respondent's state registration number; (2) a statement indicating whether the registrant is authorized to purchase at the auction; (3) a description of the services to be provided and the consideration for the services; (4) a statement of whether a buyer's fee or surcharge will be assessed; (5) the date, dates or time period during which the items will be sold at auction; and (6) a statement by the seller that he or she has title and right to sell all property to be sold at auction free of encumbrances and liens.

8. A review of Department records indicates that Respondent failed to register its trust account with the Department.

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) and (3)-(7) 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. 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;

- 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; and
- f. a statement by the seller that he or she has title and right to sell all property to be sold at auction free of encumbrances and liens.

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. § 480.16 and Wis. Admin. Code § SPS 125.08(1) by failing to provide the Department with the name and number of every trust account maintained by the auction company and the name of the depository institution in which the auction company holds each trust account.

5. As a result of the above violations, Respondent is subject to discipline pursuant to Wis. Stat. §§ 480.24(2)(b) and (j) and 480.26(2).

ORDER

- 1. The attached Stipulation is accepted.
- 2. Respondent Belle City Resale, LLC is REPRIMANDED.
- 3. Within 90 days of the date of this Order, Respondent Belle City Resale, LLC shall pay a FORFEITURE in the amount of \$1,000.00 and costs of this matter in the amount of \$667.00.
- 4. Payment of forfeiture and 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 forfeiture and/or costs as ordered, Respondent's license (no. 414-53) 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/or costs.

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

WISCONSIN AUCTIONEER BOARD

by: Timothy Sweeney
A Member of the Board

10/22/14
Date

STATE OF WISCONSIN
BEFORE THE AUCTIONEER BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

BELLE CITY RESALE, LLC,
RESPONDENT.

STIPULATION

0003495

Division of Legal Services and Compliance Case No. 13 AUC 002

Respondent Belle City Resale, LLC 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.

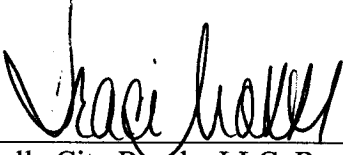
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not
be bound by the contents of this Stipulation, and the matter shall then be returned to the Division

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.

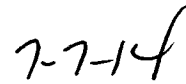
6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent, for purposes 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.

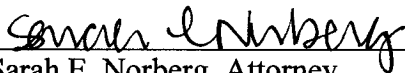
8. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.



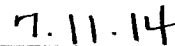
Belle City Resale, LLC, Respondent
By: Traci Mottl
3801 Douglas Avenue
Racine, WI 53402
License no. 414-53



Date



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



Date