

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 :
 : FINAL DECISION AND ORDER
FORREST S. EVAVOLD, :
RESPONDENT. :

0004972

Division of Legal Services and Compliance Case No. 14 AUC 006

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

Forrest S. Evavold
432 Colby Avenue
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 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 03/27/1963), D/B/A Nordic Auction, is registered by the State of Wisconsin as an auctioneer, having registration number 1963-52, first issued on February 24, 2003 and current through December 14, 2016. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 432 Colby Avenue, Duluth, Minnesota 55804.

2. On October 30, 2007, Respondent was disciplined by the Board for violating Wis. Stat. §§ 480.18(1), (3) and 480.24(2)(b), (j) and Wis. Admin. Code § RL¹ 126.02(2). Respondent was reprimanded and ordered to pay a forfeiture of \$250.00.

3. On April 24, 2014, Respondent was disciplined by the Board for violating Wis. Admin. Code § SPS 124.02(1), (3) and (5) and Wis. Stat. §§ 480.14(3)(b) and 480.18(3). Respondent was suspended for thirty (30) days.

4. On July 8, 2014, Respondent entered into a written contract with F.R. for goods to be sold at auction. The Department reviewed this contract and found the contract failed to contain the following: (1) the seller's address; (2) a statement whether Respondent was authorized to purchase at auction; and (3) a statement of whether a buyer's fee or surcharge would be assessed and, if so, the percentage or other amount to be charged to the successful bidder.

5. The Division of Legal Services and Compliance subsequently opened Case No. 14 AUC 006 for investigation.

6. During the course of the Department's investigation, the Department reviewed numerous advertisements for Nordic Auction. The Department found the Wisconsin advertisements lacked the following: (1) a statement of terms and conditions under which the registrant would accept payment by buyers at the auction; or (2) the percentage or other amount of any buyer's fee or surcharge which is a condition of sale; and (3) the statement that the auctioneer is a "registered Wisconsin auctioneer."

7. On September 27, 2016, Respondent submitted amended contracts and advertisements to the Department that corrected the noted deficiencies.

8. 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 124.02(2), (3) and (5) by entering into a written contract with an owner or consignor of goods to be sold at auction that failed to contain:

- a. the name and address of the owner or consignor of goods;
- b. a statement indicating whether the registrant is authorized to purchase at auction; and

¹ The Wisconsin Department of Regulation and Licensing (RL) is now known as the Wisconsin Department of Safety and Professional Services (SPS).

- c. 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. By the conduct described in the Findings of Fact, Respondent violated Wis. Admin. Code §§ SPS 123.03(2), (3) and (4) by failing to include the following required terms in an auction advertisement:

- a. a statement that the auctioneer is a 'registered Wisconsin auctioneer';
- b. a statement of the terms and conditions under which the registrant will accept payment by buyers at the auction; and
- c. the percentage or other amount of any buyer's fee or surcharge which is a condition to sale.

4. As a result of the above violations, Forrest S. Evavold is subject to discipline pursuant to Wis. Stat. § 480.24(2)(j).

ORDER

1. The attached Stipulation is accepted.
2. Respondent Forrest S. Evavold is REPRIMANDED.
3. Within ninety (90) days from the date of this Order, Respondent shall pay COSTS of this matter in the amount of \$1,260.
4. The payment of costs (made payable to the Wisconsin Department of Safety and Professional Services) shall be 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 7190, Madison, WI 53707-7190
Telephone (608) 267-3817; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

5. In the event Respondent fails to timely submit payment of the costs as ordered, Respondent's license (No. 1963-52), or Respondent's right to renew his license, 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.

STATE OF WISCONSIN
BEFORE THE AUCTIONEER BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

FORREST S. EVAVOLD,
RESPONDENT.

:
:
:
:
:

STIPULATION

0004972

Division of Legal Services and Compliance Case No. 14 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.

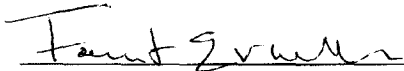
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division

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.

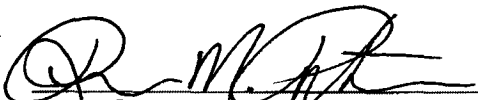
8. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.



Forrest S. Evavold, Respondent
432 Colby Ave.
Duluth, MN 55804
Registration no. 1963-52

10/03/16

Date



Renee M. Parton, Attorney
Division of Legal Services and Compliance
P.O. Box 7190
Madison, WI 53707-7190

10/06/2016

Date

RECEIVED
OCT 6 2016
DEPT. OF REVENUE
DIVISION OF LEGAL SERVICES AND COMPLIANCE