

## WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN  
BEFORE THE AUCTIONEER BOARD

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IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST

MICHAEL J. BARRETT AND  
BARRETT & SONS LTD.,  
RESPONDENTS.

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FINAL DECISION AND ORDER

**0005232**

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Division of Legal Services and Compliance Case No. 15 AUC 005

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

Michael J. Barrett  
911 10<sup>th</sup> Avenue N  
Wisconsin Rapids, WI 54495

Barrett & Sons Ltd.  
4120 8<sup>th</sup> Street S  
Wisconsin Rapids, WI 54494

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 Michael J. Barrett (DOB December 27, 1959) is registered by the State of Wisconsin as an auctioneer, having registration number 369-52, first issued on March 1, 1995 and current through December 14, 2018. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 911 10<sup>th</sup> Avenue N, Wisconsin Rapids, Wisconsin 54495.

2. Respondent Barrett & Sons Ltd. is registered by the State of Wisconsin as an auction company, having registration number 63-53, first issued on March 1, 1995 and current through December 14, 2018. Respondent's most recent address on file with the Department is 4120 8<sup>th</sup> Street S, Wisconsin Rapids, Wisconsin 54494.

3. Respondent Michael J. Barrett is identified in Department records as the auctioneer in charge of Respondent Barrett & Sons Ltd.

4. On September 1, 2015, the Department received a complaint from V.L. alleging that she had not received payment from Respondents for the sale of her furnishings at auction. Division of Legal Services and Compliance Case No. 15 AUC 005 was subsequently opened for investigation.

5. On June 18, 2015, V.L. signed a contract with Respondents to sell her furnishings at an auction on June 30, 2015.

6. As of August 2015, V.L. had not received payment for her sold furnishings from Respondents, although Respondents indicated that they had mailed two checks to V.L.

7. On September 5, 2015, Respondents issued another check to V.L. for the amount of the sale proceeds less a stop payment fee on the second check.

8. In response to the Department's investigation of this matter, Respondents were unable to produce copies of the first two checks issued to V.L. or any documents showing stop payments were made on the first two checks issued to V.L.

9. During the investigation of this matter, the Department reviewed the contract between Respondents and V.L. and found the contract failed to contain the following information: (a) a statement indicating whether the registrant is authorized to purchase at the auction; (b) a description of the services to be provided and the consideration for the services; and (c) a statement of whether a buyer's fee or surcharge would be assessed.

10. During the Department's investigation of this matter, it was discovered that Respondents' website advertised two auctioneer licenses that were expired.

11. 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(3), (4) and (5) by entering into a written contract with an owner or consignee of goods to be sold at auction that failed to contain:

- a. a statement indicating whether the registrant is authorized to purchase at the auction;
- b. a description of the services to be provided and the consideration for the services; and
- 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, Respondents violated Wis. Stat. § 480.14(3)(b) by failing to pay 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. By the conduct described in the Findings of Fact, Respondents violated Wis. Stat. § 480.18(1) by failing to maintain complete and accurate records of the auction for at least two years.

5. By the conduct described in the Findings of Fact, Respondents violated Wis. Admin. Code § SPS 123.02 by advertising in a manner which is false, deceptive or misleading.

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

#### ORDER

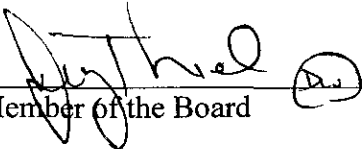
1. The attached Stipulation is accepted.
2. Respondent Michael J. Barrett is REPRIMANDED.
3. Respondent Barrett & Sons Ltd. is REPRIMANDED.
4. Within 90 days from the date of this Order, Respondent Michael J. Barrett shall pay one-third of the COSTS of this matter in the amount of \$333.00.
5. Within 90 days from the date of this Order, Respondent Barrett & Sons Ltd. shall pay one-third of the COSTS of this matter in the amount of \$333.00.
6. 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 7190, Madison, WI 53707-7190  
Telephone (608) 267-3817; Fax (608) 266-2264  
DPSMonitoring@wisconsin.gov

7. In the event Respondents fail to timely submit payment of the costs as ordered, Respondents' registrations (Nos. 369-52 and 63-53), or Respondents' right to renew their registrations, 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.

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

WISCONSIN AUCTIONEER BOARD

by:  (D)  
A Member of the Board

Date 3/21/17

STATE OF WISCONSIN  
BEFORE THE AUCTIONEER BOARD

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IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST

MICHAEL J. BARRETT AND  
BARRETT & SONS LTD.,  
RESPONDENTS.

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STIPULATION

**0005232**

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Division of Legal Services and Compliance Case No. 15 AUC 005

Respondents Michael J. Barrett and Barrett & Sons Ltd., 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. Respondents consent to the resolution of this investigation by Stipulation.

2. Respondents understand that by signing this Stipulation, Respondents voluntarily and knowingly waive the following rights:

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

3. Respondents are aware of Respondents' right to seek legal representation and have been provided an opportunity to obtain legal counsel before signing this Stipulation.

4. Respondents agree 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. Respondents waive 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 Respondents, 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. Respondents are 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 Respondents in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.



Michael J. Barrett, Respondent  
911 10<sup>th</sup> Avenue N  
Wisconsin Rapids, WI 54495  
Registration no. 369-52

3-7-17

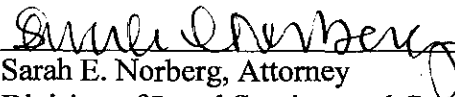
Date



Barrett & Sons Ltd., Respondent  
By: Michael J. Barrett  
4120 8<sup>th</sup> Street S  
Wisconsin Rapids, WI 54494  
Registration no. 63-53

3-7-17

Date



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

3.13.17

Date