

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

RANDY R. REINECK,
RESPONDENT.

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FINAL DECISION AND ORDER

0005234

Division of Legal Services and Compliance Case No. 15 AUC 008

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

Randy R. Reineck
N3780 County Road K
Granton, WI 54436

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 Randy R. Reineck (DOB 03/13/1950) is registered by the State of Wisconsin as an auctioneer, having registration number 594-52, first issued on March 1, 1995 and current through December 14, 2016. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is N3780 County Road K, Granton, Wisconsin 54436.

2. Respondent is the owner and auctioneer in charge of Double R Horse Company & Auction Service LLC.

3. On November 11, 2015, an auditor with the Department audited Respondent's auctioneer business. The audit revealed the following:

- a. On April 8, 2015, Double R Horse Company & Auction Service LLC entered into a written contract with A.S. for goods to be sold at auction. The Department reviewed this contract and found the contract failed to contain the following information: (1) the registrant's address and phone number; (2) a general description of the property to be sold at auction; (3) a statement whether Respondent was authorized to purchase at auction; and (4) 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;
- b. Respondent's newspaper advertisement failed to contain the words "Registered Wisconsin Auctioneer";
- c. Respondent maintained three trust accounts at Citizens State Bank of Loyal in Loyal, Wisconsin, with account numbers ending in -38, -85 and -08;
- d. Respondent was keeping a check register that did not consistently include the date or the payee;
- e. Respondent did not timely remove his commission from the business trust accounts;
- f. Respondent failed to reconcile the trust accounts each month;
- g. Respondent failed to maintain an account summary sheet showing the receipts, deposits, expenses and disbursements for each individual auction.
- h. Respondent could not perform a validation of his trust accounts because he was not maintaining account summary sheets for each individual auction; and

4. The Division of Legal Services and Compliance subsequently opened Case No. 15 AUC 008 for investigation.

5. On November 2, 2016, Respondent submitted amended contracts and advertisements to the Department that corrected the noted deficiencies. Respondent also provided his accounting records for October 2016 and the Department's auditor found that Respondent is now in compliance.

6. On November 2, 2016, Respondent notified the Department that the trust account ending in -38 was closed on November 1, 2016.

7. 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(1), (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 Respondent's business address and business telephone number,
- b. a general description of the property to be sold at auction, any restrictions relating to conducting the auction and a statement indicating whether the registrant is authorized to purchase at auction, 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, Respondent violated Wis. Admin. Code § SPS 123.03(2) by failing to include a statement that Respondent is a 'registered Wisconsin auctioneer' in any advertisements.

4. By the conduct described in the Findings of Fact, Respondent violated Wis. Admin. Code § SPS 125.10(1) by commingling the auctioneer's personal funds which are not trust funds in a trust account.

5. By the conduct described in the Findings of Fact, Respondent violated Wis. Admin. Code § SPS 125.12(1) by failing to maintain a record regarding a trust account, called a check register, which shall show the date, the payee, the number of the check, share draft or draft and the amount.

6. 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 unless there has been no activity during the month.

7. By the conduct described in the Findings of Fact, Respondent violated Wis. Admin. Code § SPS 125.12(3) by failing to review the reconciled bank statement ending balance, the account summary sheets and the check register to ensure that all of the records are accurate and in agreement as of the date the trust account statement has been reconciled.

8. By the conduct described in the Findings of Fact, Respondent violated Wis. Admin. Code § SPS 125.12(4) by failing to maintain a record regarding a trust account, called an account summary sheet, which shows the receipts, deposits, expenses and disbursements as they affect each individual auction.

9. As a result of the above violations, Randy R. Reineck is subject to discipline pursuant to Wis. Stat. § 480.24(2)(j).

ORDER

1. The attached Stipulation is accepted.
2. Respondent Randy R. Reineck is REPRIMANDED.
3. Within 90 days from the date of this Order, Respondent shall pay COSTS of this matter in the amount of \$561.
4. 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
DSPSMonitoring@wisconsin.gov

5. In the event Respondent fails to timely submit payment of the costs as ordered, Respondent's registration (No. 594-52), or Respondent's right to renew his registration, 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:


A Member of the Board

Date

3/21/17

STATE OF WISCONSIN
BEFORE THE AUCTIONEER BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

RANDY R. REINECK,
RESPONDENT.

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STIPULATION

0005234

Division of Legal Services and Compliance Case No. 15 AUC 008

Respondent Randy R. Reineck 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.



Randy R. Reineck, Respondent
N3780 County Road K
Granton, WI 54436
Registration no. 594-52

1-16-17
Date



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

1/17/2017
Date