

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN

BEFORE THE DEPARTMENT OF REGULATION AND LICENSING

IN THE MATTER OF A PETITION FOR
AN ADMINISTRATIVE INJUNCTION

INVOLVING	FINAL DECISION & ORDER
MARVIN D. HATCHER,	96 ACC 006
RESPONDENT	96 ACC 027
	LS9906081RAL

The parties to this action for the purposes of Wis. Stats. Sec. 227.53 are:

Marvin D. Hatcher
6313 44th Avenue
Kenosha, WI 53142-3208

Division of Business Licensure and Regulation
Accounting Examining Board
P.O. Box 8935
Madison, WI 53708-8935

Department of Regulation and Licensing
P.O. Box 8935
Madison, WI 53708-8935

Department of Regulation and Licensing
Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935

The State of Wisconsin, Department of Regulation and Licensing, having considered the stipulation agreement annexed-hereof of the parties, in resolution of the captioned-matters, make the following:

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED pursuant to jurisdiction and authority granted to the Department in sec. 440.21, Wis. Stats., and Chapter RL 3, Wis. Adm. Code, that the stipulation agreement annexed hereto, filed by Complainant's attorney, shall be and hereby is incorporated, made and ordered the Final Decision and Order of the State of Wisconsin, Department of Regulation and Licensing.

Let a copy of this Order be served on Respondent by certified mail.

Dated this 8th day of June, 1999.

Marlene Cummings

Secretary, or her designee

Department of Regulation and Licensing

STATE OF WISCONSIN

BEFORE THE DEPARTMENT OF REGULATION AND LICENSING

IN THE MATTER OF A PETITION FOR

AN ADMINISTRATIVE INJUNCTION

INVOLVING

STIPULATION

MARVIN D. HATCHER,

96 ACC 006

RESPONDENT.

96 ACC 027

Respondent Marvin D. Hatcher (Hatcher), and Complainant's attorney, Henry E. Sanders, Division of Enforcement, having reached agreement for disposition of the captioned-matters, stipulate and agree as follows:

1. Marvin D. Hatcher (Hatcher), was first granted a certificate to practice as a Certified Public Accountant (C.P.A.), in the State of Wisconsin on April 21, 1973, certificate #4197. Under the provisions of Sec. 442.04(1), Stats., A certificate is permanent unless revoked. Under the provisions of Secs. 442.03 and 442.08, Stats., the holder of a certificate may be issued a license to practice as a C.P.A. Hatcher held license #4197 which expired on December 31, 1991, and has not been renewed as of the date of this Petition. Chapter 442, Stats., requires both a certificate and a current license before practice as a C.P.A. may occur.

2. Hatcher's last address on file with the Department is 4923 60th Street, Kenosha, WI 53144, which is Hatcher's business office. The address for Marvin D. Hatcher in the current Kenosha telephone directory is 6613 44th Avenue, Kenosha, WI 53142.

a. This stipulation is dispositive of investigative complaints #96 ACC 006 and #96 ACC 027.

3. This stipulation shall be submitted to the Department of Regulation and Licensing (Department), for approval and disposition of the matters. If the terms of the stipulation are not acceptable to the Department, then the parties shall not be bound by any of the provisions of the stipulation.

4. Respondent has been advised of his right to a public hearing on each and every allegation of the Petition, but hereby freely and voluntarily waives his right to a hearing in these matters, on the condition that all provisions of this stipulation be acceptable to and approved by the Department.

a. Respondent further agrees to waive any appeals of the Department's Final Decision and Order adopting the stipulation agreement.

5. In January 1996, the Department received a complaint from Wisconsin Department of Revenue (DOR) indicating that Respondent's C.P.A.'s license had expired, but that he was advertising in and holding himself out as a C.P.A. in the Kenosha Ameritech Pages Plus, white and yellow pages telephone directory.

a. Copies of the 1996/97 telephone directory pages were attached to the subject complaint.

6. Pursuant to an investigation and the issuing of a Subpoena Duces Tecum, it was determined that advertising orders for the Kenosha telephone directories, listing Respondent in the directories under C.P.A., for both the white and yellow pages, had been billed to Respondent, for the years 09/92 through 1994 at his 5455 Sheridan Road, Kenosha, WI 53140 address.

7. Thereafter, there were communications and meeting with Respondent regarding the matters, with and by

investigator Willie Garrette, and in a meeting with Respondent on November 14, 1996, Respondent Hatcher indicated to investigator Garrette in pertinent part that, he had not performed any certified audits in 1995, had not done any C.P.A. work since his C.P.A. license expired, and that he did not place any advertisements in the upcoming 1997 Kenosha telephone directories listing him as a Certified Public Accountant.

a. Respondent was advertised in the February 1997 (1997-98) Ameritech Pages Plus, Kenosha, Wisconsin white and yellow pages as a Certified Public Accountant, indicating "personal and business taxes, audits accounting services."

8. On April 30, 1997, investigator Garrette made an unannounced investigative stop at Respondent's business office located at 5455 Sheridan Road, Kenosha, Wisconsin. A sign on the office door indicated that Respondent's business office had moved to 4923 60th Street, Kenosha, Wisconsin.

9. Investigator Garrette also observed a sign at the 5455 Sheridan Road business address on the door which read:

"LL10-Marvin D. Hatcher-C.P.A. Marvin Hatcher, Certified Public Accountant."

10. Investigator Garrette left the Sheridan Street address and proceeded to the new business address of Respondent, 4923 60th Street, Kenosha, Wisconsin, supra. Investigator Garrette personally confronted Respondent there and took a picture of Respondent standing before an office sign which read "Marvin D. Hatcher, C.P.A."

11. Investigator Garrette also confiscated from Respondent's business office, tax return documentation with Respondent's signatures as a C.P.A.; stationery and letterhead indicating that Respondent was a "C.P.A."; fax stationery with Respondent's name and "C.P.A." on them; and fax documents addressed to Respondent, C.P.A.

a. Respondent was again informed that he was in violation of laws regarding the use of the title "C.P.A.," and by holding himself out as a C.P.A.

12. On June 27, 1997, investigator Garrette again made an unannounced visit to Respondent's business office located at 4963 60th Street, Kenosha, Wisconsin, and observed that Respondent had replaced his business sign observed on April 30, 1997, supra, and had replaced it with a larger sign that read:

"Marvin D. Hatcher, C.P.A.-4923 60th Street, Kenosha, Wisconsin 53144."

13. Investigator Garrette visited an American Family Insurance office located directly across from Respondent's office, and learned that Respondent was still conducting C.P.A. related business at his office, and that he usually leaves his office every Friday at about 1:00 p.m. Investigator Garrette had visited the office after 1:00 p.m.

14. Respondent is listed in the February, 1998 (1998-99) Ameritech Pages Plus Kenosha's local white and yellow pages telephone directory as a Certified Public Accountant, and that he does "personal and business taxes, audits and accounting services," and is listed the same in the February 1999 (1999-2000) Ameritech Kenosha white and yellow pages telephone directory.

a. Respondent attempted to renew his Certified Public Accountant license in December 1996, but the application was denied because of tax liens due to delinquent taxes owed Wisconsin Department of Revenue.

15. Accordingly, based upon the above enumerated facts, Respondent has variously and continuously practiced, advertised and held himself out as a Certified Public Accountant, since the expiration of his C.P.A. certification in 1991, up to and including the present, in violation of secs. 442.03(1)(2), Wis. Stats., Licenses Required; Violated Secs. Accy 1.401(1), Wis. Adm. Code, Acts Discreditable; Violated Sec. Accy 1.402, Wis. Adm. Code. Advertised and solicited clients in a manner that is false, fraudulent, misleading or deceptive, and violated sec. Accy 1.407, Wis. Adm. Code, Communications. A Certified Public Accountant shall, when requested, respond to communications from the Board within 30 days of the mailing of such communications . . .

16. Based upon the above and in settlement of these matters, Respondent hereby consents and agrees to the special order of an Administrative Injunction, Enjoining, and Prohibiting him from engaging in conduct, practicing, advertising, and/or holding himself out as a Certified Public Accountant, until and unless he obtained the proper accounting credentials under sec. 442.03, Wis. Stats.

17. Respondent, Marvin D. Hatcher, is hereby notified that a violation of this special order may result in a forfeiture of up to \$10,000 for each offense, with each day of a continuing violation constituting a separate offense.

18. On or before the effective date of the Department's order, Respondent shall submit all professional certified public accounting licenses, Permits and registrations previously issued to him by the Department, to the attention of Michelle Neverman, P.O. Box 8935, Madison, WI 53708-8935.

19. Respondent further agrees that this stipulation agreement may be incorporated into the Department's Final Decision and Order adopting the stipulation agreement.

20. Respondent further agrees that Complainant's attorney Sanders, may appear at any closed deliberative meeting of the Department with respect to the stipulation, but that appearance is limited solely to clarification, justification, and to statements in support of the stipulation and for no other purpose.

Marvin D. Hatcher

May 11, 1999

Respondent

Date

Henry E. Sanders

May 11, 1999

Complainant's Attorney

Date