STATE OF WISCONSIN
BEFORE THE ACCOUNTING EXAMINING BOARD

FILE COPY

IN THE MATTER OF THE DISCIPLINARY PROCEEDINGS AGAINST	:	FINAL DECISION AND ORDER ADOPTION STIPULATION
WESLEY JUNG	:	90 ACC 044
A/K/A & D/B/A WESLEY W. JUNG, JR.	:	89 ACC 026
RESPONDENT.	:	89 ACC 017

The parties to this action for the purpose of Wis. Stats., sec. 227.53 are:

Wesley Jung
P.O. Box 1041
Sheboygan, WI 53082-1041

Wesley Jung
Rt. 1
N6326 Hillside Road
Sheboygan Falls, WI 53085

Accounting Examining Board
P.O. Box 8935
Madison, WI 53708-8935

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

The State of Wisconsin, Accountant Examining Board, having considered the Stipulation agreement annexed hereto of the parties, in resolution of the captioned matter, makes.the following:

Order

NOW THEREFORE, it is hereby ordered pursuant to jurisdiction and authority granted to the Board in Chapter 442, Wis. Stats., and sec. RL 2.12, 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, Accounting Examining Board.

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

Dated this 22nd day of ~~November~~ January, ~~1992~~ 1993.

Joe Rosbach
Signature

HES:djm
DOEATTY-2294

FILE COPY

STATE OF WISCONSIN
BEFORE THE ACCOUNTING EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY PROCEEDINGS AGAINST	:	STIPULATION
WESLEY JUNG	:	90 ACC 044
A/K/A & D/B/A WESLEY W. JUNG, JR.	:	89 ACC 026
RESPONDENT	:	89 ACC 017

Respondent Wesley Jung, A/K/A & D/B/A Wesley W. Jung, Jr., and complainant's attorney, Henry E. Sanders, Division of Enforcement, having reached agreement for disposition of the captioned-matter, stipulate and agree as follows:

1. This Stipulation shall be submitted to the Accounting Examining Board (Board) for approval and the disposition of the matter. If the terms of the Stipulation are not acceptable to the Board, then the parties shall not be bounded by any of the Provisions of the Stipulation.

2. Respondent has been advised of his right to a public hearing on each and every allegation of the complaint, but hereby, freely and voluntarily waive his right to a hearing in this matter on the condition that all Provisions of this Stipulation be acceptable to and approved by the Board.

a. Respondent further agree to waive any appeal of the Board's Final Decision and Order adopting the Stipulation agreement.

3. Respondent Wesley Jung, (Jung), (DOB: 05/26/26), with addresses of P.O. Box 1041, 712 Erie Avenue, Sheboygan, Wisconsin 53081, 507 South 8th Street, Sheboygan, Wisconsin 53082, and Rt. 1, N6326 Hillside Road, Sheboygan Falls, Wisconsin 53085, was initially licensed as a certified public accountant on about September 29, 1952 (license #1743).

4. In 1971, in The Eastern District of Wisconsin, United States District Court, Jung was convicted for failing to file personal income tax returns for the years 1965-68, Exhibit "A" in pertinent part.

a. Jung pled guilty to one (1) count of failing to file an income tax return for the 1967 year, with the remaining counts dismissed, and Respondent was ordered to serve thirty (30) days in the Ozaukee County Jail.

5. Pursuant to the above mentioned 1971 criminal conviction, the Accounting Examining Board (Board) initiated disciplinary proceedings against Respondent (Case #71 ACC 04), which resulted in a Board decision and order on about June 30, 1971, in which the Board accepted Respondent's offer to voluntarily surrender his certificate and licenses to practice CPA for an indefinite period of time.

a. On about January 8, 1972, the Board reinstated Respondent's certificate and/or licenses to practice CPA in the State of Wisconsin.

6. Thereafter, on about March 5, 1981, Respondent pled guilty to two (2) misdemeanor counts of failure to file corporate income tax returns, as charged in a two (2) count indictment in violation of the Internal Revenue Code, in the United States District Court, Eastern District of Wisconsin, and accordingly, was convicted, Exhibit "A" supra.

7. Pursuant to Respondent's 1981 above enumerated conviction, by the Accounting Examining Board Final Decision and Order dated September 25, 1981, Respondent's certificate and license to practice CPA was revoked, Exhibit "A," supra.

8. Subsequently, and variously, Respondent petitioned the Board for reinstatement as a CPA. Ultimately, by letter dated June 10, 1985 to Respondent from the Board, Exhibit "B," Jung was informed that the Board voted to approve his reinstatement as a CPA. The Board advised that:

> "to obtain a license to practice for the remainder of 1985, you must send a letter to the following address indicating that you wish to renew your CPA license, giving your name, address and phone number, and enclosing a check for $60.00."

9. Apparently - but not positively, due to a departmental mixup, Respondent's father Wesley W. Jung, Sr., (License #0882), renewal application was submitted to Respondent, with Respondent being issued his father's license and or certificate of registration renewal; which were continually renewed until about October-November 1989, when the department received notification that Wesley W. Jung, Sr., had expired, and that apparently Respondent was practicing CPA under his deceased father's licensure or registration number. See Exhibit "C," Original Death Certificate of Wesley W. Jung, Sr., with a date of death of April 30, 1986.

10. When Respondent attempted to renew under Wesley Jung, Sr., CPA license number in February 1990, Exhibits "D-D1," Respondent's check and/or money order was returned to him with a letter informing him that the money was being returned because he had renewed under his father's license, and that he should contact the Accounting Examining Board to find out how to renew under his own license.

11. Thereafter, Respondent never contacted the Department regarding relicensure and Wesley Jung, Sr., (deceased) licensure status is reflected in Departmental records as having expired on December 31, 1989. Respondent Wesley Jung, has not been properly licensed since about January 1, 1978, and has not been licensed under any circumstances as a CPA since December 31, 1989.

12. Respondent Jung has consistently been advertised and held out as a Certified Public Accountant in the Sheboygan/Sheboygan Falls White/Yellow Pages Telephone Directory since 1988 through the present (August 1992).

13. Preceding December 31, 1989 - when Wesley W. Jung, Sr., license expired and before Respondent Jung attempted renewal, supra, on about April 11, 1989, a two (2) count criminal Indictment was filed against Respondent by the U.S. Attorney's Office, charging him with filing false corporation income tax returns, Exhibits "E-E1," in case number 89 CR 58.

14. Thereafter, Respondent and a United States Attorney for the Eastern District of Wisconsin, entered into a plea agreement, Exhibit "E2," in which Respondent agreed to plead guilty to count 1 of the indictment, with count 2 of the indictment being dismissed.

15. On about September 26, 1989, in case number 89 CR 58, in the United States Federal District Court, Eastern District of Wisconsin, the Honorable Judge Thomas J. Curran presiding, the judge rendered a Judgement in a Criminal Case, Exhibit "E3," finding Respondent guilty pursuant to his plea of guilty to one (1) count of filing false corporate income tax returns in violation of Title 26, U.S.C. sec. 7206(1), as charged in court 1 of the indictment.

16. By virtue of the acts and conviction enumerated supra in the Federal indictment, plea agreement, and Judgement in a criminal case, Respondent has engaged in acts discreditable to the profession contrary to sec. ACCY 1.401(2)(b), (bm), Wis. Adm. Code, convictions of crimes substantially relating to the practice of accounting, and failing to notify the Board in relating to the practice of accounting, and failing to notify the Board in writing or otherwise within sixty (60) day after being convicted of a crime.

17. By advertising and holding himself out as a CPA since at least February 1990, when he was informed that he was licensed under his father's license number, up to the present, Respondent has violated sec. 442.03(1), Stats., license required.

18. Based upon the above and in settlement of this matter, Respondent Jung hereby consents, accepts and agrees to voluntarily surrender his Certificate to practice as a Certified Public Accountant.

19. Respondent is to surrender his certificate to the Department along with an executed copy of this Stipulation, with the understanding that the formal surrender will take effect on the date of signing by the Board or Board designee, a Final Decision and Order adopting the Stipulation agreement.

20. Respondent agrees that this Stipulation agreement may be incorporated into the Board's Final Decision and Order adopting the Stipulation agreement.

21. Respondent and Complainant's attorney agree that Complainant Attorney Sanders may appear at any closed-deliberative meeting of this Board with respect to this Stipulation, but that appearance is limited solely to clarification, justification, and to statements of the Stipulation and for no other purpose.

Wesley Jung

Wesley Jung
A/K/A & D/B/A Wesley W. Jung, Jr.

December 10, 1992

Date

Henry E. Sanders

Henry E. Sanders
Complainant Attorney

12/15/92
Date

HES:djm
DOEATTY-2295

1701

STATE OF WISCONSIN
BEFORE THE ACCOUNTING EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY PROCEEDINGS AGAINST WESLEY JUNG, JR., RESPONDENT	:	FINAL DECISION AND ORDER

The State of Wisconsin, Accounting Examining Board, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Hearing Examiner, makes the following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Hearing Examiner, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Accounting Examining Board. Let a copy of this order be served on the respondent by certified mail.

Dated this 25 day of September, 1981.

017-552

ACCT.

JG, WESLEY, JR.

'81 -- The Accounting Examining Board has Revoked ie license to practice as a CPA. The Board ound that Jung had violated the Board's administrative code when he was convicted by the US District Count for the Eastern District of Wis. of two misdemeanor counts of failure to file corporate income tax returns in violation of the U.S. Internal Revenue Code.

Exhibit "A"

SEP 28 1981

STATE OF WISCONSIN
BEFORE THE ACCOUNTING EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY PROCEEDINGS AGAINST WESLEY JUNG, JR., RESPONDENT	: : : : :	PROPOSED DECISION

The parties to this proceeding for the purposes of Wis. Stats. sec. 227.16 are:

Wesley Jung, Jr.
712 Erie Avenue
Sheboygan, Wisconsin 53081

Accounting Examining Board
1400 East Washington Avenue, Room 290
P. O. Box 8936
Madison, Wisconsin 53708

A Notice of Hearing and Complaint were filed in the above-captioned matter on May 12, 1981. No Answer was filed by, or on behalf of, the respondent, Wesley Jung, Jr.

A hearing was held on July 29, 1981 commencing at 9:30 a.m. in Room 291, 1400 East Washington Avenue, Madison, Wisconsin. Appearing for the complainant was Attorney Michael J. Berndt, Department of Regulation and Licensing, Division of Enforcement. The respondent was not present nor was anyone present representing him.

Based upon the evidence in the record and the Complaint filed herein, the Hearing Examiner recommends that the Accounting Examining Board adopt as its final decision the following Findings of Fact, Conclusion of Law, and Order..

FINDINGS OF FACT

1. Wesley Jung, Jr. (Jung), at all times relevant to this proceeding held a certificate as a certified public accountant, #1743, which was issued on September 29, 1952.

2. Jung's last reported address to the Accounting Examining Board is 712 Erie Avenue, Sheboygan, Wisconsin 53081.

3 Service of the Notice of Hearing and Complaint in this matter was made on Jung by certified mail at 712 Erie Avenue, Sheboygan, Wisconsin 53081, on May 29, 1981. No Answer to the Complaint was filed by Jung.

4. On March 5, 1981, Jung was convicted in the United States District Court for the Eastern District of Wisconsin, pursuant to a plea of guilty, upon two (2) misdemeanor counts of failure to file corporate income tax returns, as charged in a two (2) count Indictment, in violation of the Internal Revenue Code, 26 U.S.C. s. 7203.

SEP 28 1981

5. The Indictment charged that during the fiscal years ending August 31, 1976 and August 31, 1977, Jung was the Corporate Vice-President of Vandertie Cold Storage, Inc., a corporation not expressly exempt from tax, with its principle place of business at Green Bay, Wisconsin, and by reason of such facts Jung was required by law, after the close of each fiscal year and on or before November 15th of that year, for and on behalf of the corporation to make an income tax return to the Internal Revenue Service stating specifically the items of the corporation's gross income of $278,718.00 for the fiscal year ending August 31, 1976, and $276,561.00 for the fiscal year ending August 31, 1977, and the deductions and credits allowed by law for each year, and well-knowing all of the foregoing facts, did willfully and knowingly fail to make said returns, in violation of 26 U.S.C. s. 7203.

6. The maximum penalty for conviction for each of the counts is a fine of $10,000.00 or one year of imprisonment, or both.

7. Following conviction, Jung was placed on probation on March 5, 1981, for a period of three (3) years with the conditions that Jung obey all local, state and federal laws, that Jung comply with the rules and regulations of the probation office, and that Jung pay a fine in the amount of $3,000.00 on each of the two (2) counts for a total fine of $6,000.00.

8. The minutes of the Accounting Examining Board for the April 9, 1981 meeting reflect the fact that the board reviewed the circumstances and nature of the acts resulting in Jung's convictions, found the convictions to be professionally related and related to good moral character, and found that the convictions should be bases for bringing formal charges and subsequent board action, all pursuant to section Accy 1.401(2)(b)3. of the Wisconsin Administrative Code.

9. Jung's certificate as a certified public accountant has been previously suspended by the Accounting Examining Board upon the following facts and circumstances:

a. Jung was convicted in 1971 in the United States District Court for the Eastern District of Wisconsin of failure to file a tax return for the fiscal year 1967, thereby failing to report $126,239.00 in gross income, and was sentenced to serve 30 days in jail and pay a fine of $2,000.00;

b. Following conviction, Jung offered to surrender his certificate as a certified public accountant to the Wisconsin Accounting Examining Board and agreed to a suspension of his registration for an indefinite period of time, but not less than three months;

c. By letter dated June 30, 1971, the Accounting Examining Board accepted said certificate and suspended Jung indefinitely;

d. On January 8, 1972, the Wisconsin Accounting Examining Board voted to reinstate Jung's certificate and registration to practice as a certified public accountant, effective that date.

EXHIBIT "A" SEP 2 5 1981

CONCLUSIONS OF LAW

1. The Accounting Examining Board has jurisdiction in this proceeding pursuant to Wis. Stats. sec. 442.12(1).

2. Jung did not file an Answer to the Complaint as required by Wis. Adm. Code sec. RL 2.09, and is therefore in default pursuant to Wis. Adm. Code sec. RL 2.14.

3. The circumstances of the convictions, as described in paragraphs 4 and 5 of the Findings of Fact, are substantially related to the activities engaged in by a certified public accountant.

4. The convictions of failure to file corporate income tax returns in violation of 26 U.S.C. s. 7203, as described in paragraph 4 of the Findings of Fact, constitutes a violation of Wis. Adm. Code sec. Accy 1.401(2)(b)2. and Wis. Adm. Code sec. Accy 1.401(2)(b)3., thereby authorizing the Accounting Examining Board to take disciplinary action pursuant to Wis. Stats. sec. 442.12(1).

ORDER

NOW, THEREFORE, IT IS ORDERED that the certificate to practice as a certified public accountant (#1743) of WESLEY JUNG, JR., shall be and hereby is REVOKED.

OPINION

Wesley Jung, Jr. has been previously suspended by the Accounting Examining Board for conduct substantially equivalent to that found here; that is, the failure to file tax returns.

The fact that Jung has been disciplined previously by the board for similar serious improprieties, requires that a substantial discipline be imposed. As stated by the Wisconsin Supreme Court:

> "The fact that the defendant was once before disciplined for unprofessional conduct...is clearly a fact not to be disregarded in determining the appropriate disposition of the proceeding...the apprehension as to protecting the public interest is heightened by the repeater aspect of this proceeding. This is a factor that may, in fact must, be taken into consideration." State v. MacIntyre, 41 Wis. 2d 481, 484 (1969).

The prior disciplinary proceeding against Jung should have deterred him from engaging in the conduct found in this case. It did not. Accordingly, a revocation is warranted and necessary.

Dated at Madison, Wisconsin this 18th day of August, 1981.

Respectfully submitted,

Donald R. Rittel
Hearing Examiner

093-415

Exhibit "A"

SEP 28 1981

June 10, 1985

Mr. Wesley Jung, Jr.
Rt. 1, Hillsdale Rd.
Sheboygan Falls, WI 53081

Dear Mr. Jung:

At its meeting on May 31, 1985, the Accounting Examining Board considered your petition for the reinstatement of your Certified Public Accountant certificate and the additional information presented by you and your attorney at that meeting. After deliberation, the Board voted to approve the reinstatement of your Certified Public Accountant certificate.

To obtain a license to practice for the remainder of 1985, you must send a letter to the following address indicating that you wish to renew your CPA license, giving your name, address and license number, and enclosing a check for $60.00:

Renewal Section
Department of Regulation & Licensing
P.O. Box 8935
Madison, WI 53708

Upon receipt of your letter and check your license will be renewed and a license card mailed to you.

Sincerely,

ACCOUNTING EXAMINING BOARD

Michelle Serto, Chair

MS:SKE:rjt
370-846

cc: Attorney Wilford W. Elliott

Exhibit "B"

LOCAL FILE NUMBER 266 **ORIGINAL CERTIFICATE OF DEATH** STATE DEATH NO. 513

DECEDENT

1. NAME: First Wesley Middle Winter Last JUNG
2. SEX: [X] M [ ] F
3. DATE OF DEATH (Month Day Year): April 30, 1986
4. RACE: white
5a. AGE-Last Birthday: 86
5b. UNDER 1 YEAR: Mos. Days
5c. UNDER 1 DAY: Hours Mins.
6. DATE OF BIRTH (Month Day Year): August 12, 1899
7a. COUNTY OF DEATH: Sheboygan
7b. INSIDE CITY OR VILLAGE LIMITS: [X] Yes [ ] No
7c. CITY, VILLAGE OR TOWNSHIP OF DEATH: Sheboygan
7d. HOSPITAL OR OTHER INSTITUTION: [ ] Hospital [ ] Nursing home [ ] Other inst. 2016 No. 5th St.
7e. IF HOSP OR INST: [ ] DOA [ ] OP/Emer Rm [ ] Inpatient
8. STATE OF BIRTH: Wisconsin
9. CITIZEN OF WHAT COUNTRY: U.S.A.
10. MARITAL STATUS: [ ] 1 Married [ ] 2 Separated [ ] 3 Divorced [ ] 4 Never Married [X] 5 Widowed
11. SURVIVING SPOUSE: n/a
12. WAS DECEDENT EVER IN U.S. ARMED FORCES? [X] Yes [ ] No
13. SOCIAL SECURITY NUMBER: 388-12-4781
14a. USUAL OCCUPATION: accountant (ret'd)
14b. KIND OF BUSINESS OR INDUSTRY: public accounting

PARENTS

15a. RESIDENCE-STATE: Wisconsin
15b. COUNTY: Sheboygan
15c. CITY, VILLAGE OR TOWNSHIP OF RESIDENCE: Sheboygan
15d. INSIDE CITY OR VILLAGE LIMITS: [X] Yes [ ] No
15e. STREET AND NUMBER: 2016 No. 5th St.
16. FATHER-NAME: First Jacob Middle Last Jung
17. MOTHER-MAIDEN NAME: First Louisa Middle Last Winter
18a. INFORMANT-NAME (Type or Print): Wesley Jung
18b. MAILING ADDRESS: Rt. 1, Hillside Rd. Sheboygan Falls, WI 53085

DISPOSITION

19a. [ ] 1 Burial [X] 3 Entombment [ ] 2 Cremation [ ] 4 Removal
19b. CEMETERY OR CREMATORY-NAME: Garden Terrace Mausoleum
19c. LOCATION: Sheboygan WI
20a. FUNERAL SERVICE LICENSEE Or Person Acting As Such: Signature ▶ J Michael Lippert
20b. NAME OF FACILITY: Nickel-Lippert Funeral Home
20c. Funeral Director Lic. No.: 4549
20d. ADDRESS OF FACILITY: 1132 Superior Ave. Sheboygan WI 53081
20e. DATE SIGNED BY FUNERAL SERVICE LICENSEE: May 1, 1986

CERTIFICATION

21a. To the best of my knowledge, death occurred at the time, date and place and due to the cause(s) stated. Signature and Title ▶
21b. DATE SIGNED (Month Day Year)
21c. HOUR OF DEATH
21d. NAME OF ATTENDING PHYSICIAN IF OTHER THAN CERTIFIER (Type or Print)

To be Completed by CERTIFYING PHYSICIAN Only

22a. On the basis of examination and/or investigation, in my opinion death occurred at the time, date and place and due to the cause(s) stated. Signature and Title ▶ Robert A. Sertich Deputy Coroner
22b. DATE SIGNED (Month Day Year): MAY 1 1986
22c. HOUR OF DEATH: 2:00 A M
22d. PRONOUNCED DEAD (Month Day Year): April 30 1986
22e. PRONOUNCED DEAD (Hour): 10:00 A M

To be Completed by MEDICAL EXAMINER or CORONER Only

23. NAME AND ADDRESS OF CERTIFIER (PHYSICIAN, MEDICAL EXAMINER OR CORONER) (Type or Print): Robert A. Sertich Deputy Coroner Box 95 Sheboygan Falls Wisconsin 53085

CAUSE

24. PART I — Conditions if any which give rise to immediate cause stating the underlying cause last — (ENTER ONLY ONE CAUSE PER LINE FOR (a), (b), AND (c).)
(a) IMMEDIATE CAUSE: Cardiac Arrest — Interval between onset and death: Minutes
DUE TO, OR AS A CONSEQUENCE OF:
(b) Acceleratre Arteriosclerotic Coronary Artery Disease — Interval between onset and death: Years
DUE TO, OR AS A CONSEQUENCE OF:
(c) — Interval between onset and death:

PART II — OTHER SIGNIFICANT CONDITIONS-Conditions contributing to death but not related to cause given in PART I (a)

25. AUTOPSY: [ ] Yes [X] No
27. WAS MEDICAL EXAMINER OR CORONER NOTIFIED? [X] Yes [ ] No

INJURY

28a. [ ] 1. Accident [ ] 2. Suicide [ ] 3. Homicide [ ] 4. Undet. [ ] 5. Pend. Invest
28b. DATE OF INJURY (Month Day Year)
28c. HOUR OF INJURY
28d. DESCRIBE HOW INJURY OCCURRED
29a. INJURY AT WORK: [ ] Yes [ ] No
29b. PLACE OF INJURY-At home, farm, street, factory, office building, etc. (Specify)
29c. LOCATION Street or R.F.D. No. City or village State

REGISTRAR

24a. Signature ▶ Solomon Belinky
24b. DATE RECEIVED BY REGISTRAR (Month Day Year): MAY 01 1986

STATE OF WISCONSIN
SHEBOYGAN COUNTY
REGISTER'S OFFICE

I, DARLENE J. NAVIS, REGISTER OF DEEDS, IN AND FOR SAID COUNTY AND STATE, DO HEREBY CERTIFY THAT THIS PHOTOGRAPH IS A TRUE COPY OF THE RECORD OF A CERTAIN DEATH CERTIFICATE RECORDED IN THIS OFFICE IN VOLUME 119 OF DEATHS ON PAGE 513.

WITNESS MY HAND AND OFFICIAL SEAL THIS 5th DAY OF January A.D. 1990.

Darlene J. Navis
DARLENE J. NAVIS, REGISTER OF DEEDS
SHEBOYGAN COUNTY

WARNING: IT IS ILLEGAL TO DUPLICATE THIS RECORD

Exhibit "C"

State of Wisconsin

DEPARTMENT OF REGULATION AND LICENSING
COMMITTED TO EQUAL OPPORTUNITY IN EMPLOYMENT AND LICENSING

RENEWAL APPLICATION

DUE DATE	AMOUNT DUE
12/31/89	43-00
IF PAYMENT IS RECEIVED AFTER 12/31/89	ADD $5.00 PENALTY FOR LATE RENEWAL
IF PAYMENT IS RECEIVED AFTER 01/29/90	ADD $25.00 PENALTY FOR LATE RENEWAL

SEE REVERSE SIDE

SE NO 100008821

TYPE CERTIFIED PUBLIC ACCOUNTANT

:T NOTICE

EASE PRINT Y CHANGES

NAME

STREET

CITY

STATE

ZIP

PLEASE MAKE CHECK PAYABLE AND MAIL WITH NOTICE IN ENCLOSED ENVELOPE TO STATE OF WISCONSIN DEPARTMENT OF REGULATION AND LICENSING DRAWER 610, MILWAUKEE WISCONSIN 53293

DO NOT WRITE BELOW THIS LINE. FOR OFFICE USE ONLY

WESLEY W JUNG
P-O-BOX 1041
507 S 8TH ST
SHEBOYGAN WI 53082

FEB 0 5 1990

00100008821000430000068005

Exhibit "D"

Rec'd 2/5/90

WESLEY JUNG, CPA
507 S. 8TH ST.
P. O. BOX 1041
SHEBOYGAN, WI 53082-1041

COMMUNITY BANK
Sheboygan, WI 53082-1409

1814

January 31, 1989

79-1261/759

PAY Sixty-eight dollars and no cents - - - - - - - - - - - - - - - - - DOLLARS $ 68.00

TO THE ORDER OF

STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING

Wesley Jung

⑈001814⑈ ⑆075912615⑆ ⑈100⑉976⑈

DELUXE CHECK PRINTERS

Exhibit "D1"

Recd 2/15/90 DK

CRIMINAL DOCKET U.S. DISTRICT COURT

PO ☐	757	02	5708
Misd. ☐			5708
Felony ☒	District	Off	Judge/Magistr

Assigned / Transferred

☐ WRIT ☐ JUVENILE ☐ ALIAS

OFFENSE ON INDEX CARD

U.S. vs.

89-CR 58

JUNG, WESLEY

Mo.	Day	Yr	Docket No.	Def.
4	11	89	0058	01

No. of Def's 1 ● U.S. MAG CASE NO ▶

I. CHARGES

U.S. TITLE/SECTION	OFFENSES CHARGED	ORIGINAL COUNTS	DISM NG	GUILTY NOLO
26:7206(1)	Filed Corporation Income Tax Return which was false cts. 1 & 2	2		

SUPERSEDING COUNTS

II. KEY DATE

INTERVAL ONE	END ONE AND/OR BEGIN TWO (OR RESTART PERIOD TO TRIAL)		END INTERVAL TWO
KEY DATE: EARLIEST OF — ☐ arrest ☐ sum'ns ☐ custody ☐ appears—on complaint	KEY DATE: 4-11-89 APPLICABLE — ☒ Indictment filed/unsealed ☐ consent to Magr. trial on complaint ☐ Information ☐ Felony-W/waiver	KEY DATE: 5-12-89 — a) ☒ 1st appears on pending charge /R40; b) ☐ Receive file R20/21; c) ☐ Supsdg ☐ Ind ☐ Inf; d) ☐ Order New trial; e) ☐ Remand; f) ☐ G/P Withdrawn	KEY DATE: 7-17-89 APPLICABLE — ☐ Dismissal; ☒ Plea guilty ☒ After N.G. ☐ After nolo; ☐ Nolo; ☐ Trial (voir dire) began; ☐ Jury ☐ N.J.

1st appears with or waives counsel	ARRAIGNMENT	1st Trial Ended	RE-TRIAL	2nd Trial Began	DISPOSITION DATE	SENTENCE DATE	☐ PTO Nolle ☐ Pros	FINAL CHARGES DISMISSED ☐ on S.T. grounds ☐ W.P. ☐ WOP	on def motion / on gov't motion
					7-17-89	9-26-89			

III. MAGISTRATE

		DATE	INITIAL/NO
Search Warrant	Issued		
	Return		
Summons	Issued		
	Served		
Arrest Warrant Issued			
COMPLAINT ▶			

INITIAL APPEARANCE DATE ▶ — INITIAL/NO

PRELIMINARY EXAMINATION OR ☐ REMOVAL HEARING — Date Scheduled ▶ / Date Held ▶

☐ WAIVED ☐ NOT WAIVED ☐ INTERVENING INDICTMENT — Tape Number

OUTCOME: ☐ DISMISSED ☐ HELD FOR GJ OR OTHER PROCEEDING IN THIS DISTRICT ☐ HELD FOR GJ OR OTHER PROCEEDING IN DISTRICT BELOW

Date of Arrest — OFFENSE (In Complaint)

Show last names and suffix numbers of other defendants on same indictment/information

RULE 20 21 40 In Out

IV. NAMES & ADDRESSES OF ATTORNEYS, SURETIES, ETC.

ATTORNEYS

U.S. Attorney or Asst.

Stephen J. Liccione, AUSA

Defense 1 ☐ CJA 2 ☒ Ret. 3 ☐ Waived. 4 ☐ Self. 5 ☐ Non / Other 6 ☐ PD. 7 ☐ CD

Earl Charlton
Charlton Bldg
840 N. 3rd Street, Rm. 500
Milwaukee, WI 53203
(414) 272-2855

RECEIVED
DEC 12 1989
Dept. of Regulation & Licensing
Division of Enforcement

BAIL ● RELEASE

PRE-INDICTMENT

Release Date

☐ Bail Denied ☐ Fugitive ☐ Pers. Rec. ☐ PSA

AMOUNT SET $

Date Set

☐ Bail Not Made

Date Bond Made

Conditions: ☐ 10% Dep. ☐ Surety Bnd ☐ Collateral ☐ 3rd Prty ☐ Other

POST-INDICTMENT

Release Date

☐ Bail Denied ☐ Fugitive ☐ Pers Rec ☐ PSA

AMOUNT SET $

Date Set

☐ Bail Not Made

Date Bond Made

Conditions: ☐ 10% Dep ☐ Surety Bnd ☐ Collateral ☐ 3rd Prty ☐ Other

APPEALS FEE PAYMENTS

FINE AND RESTITUTION PAYMENTS

☐ Docket Entries Begin On Reverse Side

DATE	RECEIPT NUMBER	CD NUMBER	DATE	RECEIPT NUMBER	CD NUMBER

Exhibit "E"

DATE	DOCUMENT NO	89 | 0058 | 01 — MASTER DOCKET - MULTIPLE DEFENDANT CASE / PROCEEDINGS DOCKET FOR SINGLE DEFENDANT — PAGE ___ OF ___	VI EXCLUDABLE DELAY Start Date / End Date	Ltr Code	Total Days
		(OPTIONAL) Show last names of defendants **V. PROCEEDINGS**			
.1-89	1	Indictment.			
.3-89	2	Summons issued f/deft's appearance on 4-28-89 at 9:30 a.m. rm. 282. Summons returned unexec'd 4-28-89.			
-89	3	Notice f/arraignment and plea for 5-12-89 at 10:00 a.m. rm. 498.			
28-89	4	**HEARING (RLB)** arraignment and plea. Deft not present. Govt wish to hold matter in abeyance.			
2-89	5	**HEARING (AEG)** arraignment and plea. Deft entered plea of N/G. STD: 7-21-89. FPT: 6-21-89 at 8:30 a.m. JURY TRIAL: 7-17-89 at 9:30 a.m. TRIAL EST: 1½ weeks. BRIEFING: 5-22-89, 6-1-89 & 6-6-89. BOND: O/R w/travel restricted to state of Wisconsin.			
2-89	6	Appearance bond in the amount of O/R.			
2-89	7	**ORDER (AEG)** setting conditions of release.			
6/89		No motions filed case file transferred to HOn. Thomas J. Curran.			
-89	8	MARGINAL ORDER(AEG) granting deft permission to visit his son at 115 Elm St., Rocky Hill, Conn. (602) 529-2292 from 6/8/89 to 6/12/89.			
)-89	9	Plea agreement.	6-27-89	7	22
7-89	10	HEARING (TJC) Final Pretrial. 1 week for trial. Possible plea agreement. FPT or Change of Plea rescheduled to 7/17/89 at 9:00 a.m. Voir Dire and Jury instruction 4 days before trial. 1 alternate. Bond cot'd as set.	7-17-89		
/89	11	~~HEARING (TJC) Change of~~ Plea. Plea of guilty was entered to Ct. 1. Adjudge guilty. PSR ordered 9/14/89. Sentencing sch for 9/26/89 at 4:00 p.m. Bond cont'd as set.			
5-89	12	Psychiatric report of deft. **(sealed)**			
'6-89	13	**HEARING (TJC)** sentencing. **SENT:** Ct. 1 - 2 yrs impr, with the condition that the first six mons be served in a jail-type facility pursuant to work release. Sentence is stayed until there is a vacancy. Balance of sentence is suspended and the deft is placed on probation for a period of three yrs. Deft is to cooperate with the IRS in payment of all back taxes, penalties and interest., perform 300 hours of community service work at the direction of Probation dept. **FINED:** $5,000.00, to be paid prior to the expiration of sentence. Deft to obey all the rules and regulations of the probation dept and any further violation of the tax code will result in a probation revocation.			
'6-89	14	JUDGMENT (TJC) in a criminal case. EOD 10-2-89			
·4-89	15	Transcript of proceedings held on 9-26-89.			

LETTER CODE

For identifying periods of excludable delay under 18 USC 3161 (h) (F) (Continuances)

A Examination or hearing for mental/physical competency (18 USC 4244) ((1) (A))

B NARA exam USC 2902(b) ((1)

C State/Fed proceedings on other charges ((1) (C)

D Interlocutory appeal ((1)(E))

E Proxy motion, from thing to hearing or to a prompt disposition ((1)(F))

F Transfer from district per FRC 20.21 or 40 or Rule 6a ((1)(G)

G Proceedings or advisement, not exceed 30 days after all necessary suspension filed and hearing completed ((1)

H Mental, psychiatric arrangements, pretrial, competency, Deportation, extradition ((1))

I Delayed of prosecution (per 28 2902) ((1)(H))

J Transportation from another district to/from treatment or hospitalization in 10 days or to ((1)(H))

K Consideration of Court of proposed plea agreement

L Prosecution deferred by mutual agreement ((2))

M Unavailability, incompetence or constitutional inability ((3)(A)

N Period of mental incompetence of defendant to stand trial ((4))

O Period of NARA commitment/treatment ((5))

P Interlocutory appeal and/or other charges ((6))

R Deft awaiting trial of co-defendant as severance has been granted ((

T Continuances granted per (h) one "T" clause - that one of the following sections: (Rule T4) or (prior support of continuance ((8)(A,E

T1 Failure to act would stop for proceedings or result in miscarriage of justice ((8)(

T2 Case unusual/complex ((8)(B =))

T3 Indictment/arrest can't be in 30 days ((8)

T4 Continuance to obtain or retain counsel or reasonable time prepare ((8)(B)

U Time up to guilty plea 316

W Grand Jury or time extended - govt. 3161 (h)

CONTINUED TO PAGE ___

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF WISCONSIN

I hereby certify that this is a true and correct copy of the original now remaining of record in my office.
U.S. District Court, Eastern Dist. of Wis.
JEFFRON B. NEDILSKY, Clerk
DATED: 12/11/89
By M. [illegible] Deputy

UNITED STATES OF AMERICA,

Plaintiff,

v.

WESLEY JUNG,

Defendant.

Case No. 89-CR-50

[26 U.S.C. § 7206(1)]

INDICTMENT

COUNT ONE

THE GRAND JURY CHARGES THAT:

On or about the 23rd day of April, 1983, at Sheboygan, in the State and Eastern District of Wisconsin,

WESLEY JUNG,

defendant herein, a resident of Sheboygan Falls, Wisconsin, did willfully make and subscribe a U.S. Corporation Income Tax Return for Jung Realty Company for the fiscal year ending September 30, 1982, that was made under the penalties of perjury and was filed with the Internal Revenue Service, which said corporate income tax return he did not believe to be true and correct as to every material matter in that the said corporate income tax return reported total income in the amount of $27,480.00 whereas, he then and there well knew and believed, Jung Realty Company received income from the disposition of real property in addition to that heretofore stated.

All in violation of Title 26, United States Code, § 7206(1).

Exhibit "E1"

DEC 12 1989

Dept. of Revenue Licensing

FORM OBD-183
MAR 83

☆ U.S. GPO: 1988-202-041/84933

COUNT TWO

THE GRAND JURY FURTHER CHARGES THAT:

On or about the 15th day of December, 1983, at Sheboygan, in the State and Eastern District of Wisconsin,

WESLEY JUNG,

defendant herein, a resident of Sheboygan Falls, Wisconsin, did willfully make and subscribe a U.S. Corporation Income Tax Return for Jung Realty Company for the fiscal year ending September 30, 1983, that was made under the penalties of perjury and was filed with the Internal Revenue Service, which said corporate income tax return he did not believe to be true and correct as to every material matter in that the said corporate income tax return reported total income in the amount of $6,279.00 whereas, he then and there well knew and believed, Jung Realty Company received income from the disposition of real property in addition to that heretofore stated.

All in violation of Title 26, United States Code, § 7206(1).

A TRUE BILL:

FOREMAN

Date: 4-11-89

JOHN E. FRYATT
United States Attorney

FORM OBD 183
MAR 83

© U.S. GPO: 1988-202-041/64933

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Licensing

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

WESLEY JUNG,

Defendant.

'89 JUN 30 A9:59

SOFF

Case No. 89-CR-58

PLEA AGREEMENT

U.S. District Court Eastern Dist. of Wis. I hereby certify that this is a true and correct copy of the original now remaining of record in my office. SOFRON B. NEDILSKY, Clerk DATED: 12/11/89 By Deputy

The United States of America by and through John E. Fryatt, United States Attorney for the Eastern District of Wisconsin, and Stephen J. Liccione, Assistant United States Attorney for said district, and the defendant, Wesley Jung, individually and by his attorney, Earl A. Charlton, pursuant to Fed.R.Crim.P. 11, hereby enter into the following plea agreement:

1. The defendant acknowledges that he has been charged in a two-count Indictment heretofore filed in this matter, which alleges violations of Title 26, United States Code, § 7206(1).

2. As part of this agreement the defendant voluntarily agrees to enter a plea of guilty to Count 1 of the Indictment. The defendant also will acknowledge and accept responsibility for the acts charged in Count 2 of the indictment.

3.(a) As set forth in the Indictment, Count 1 charges as follows:

On or about the 23rd day of April, 1983, at Sheboygan, in the State and Eastern District of Wisconsin,

WESLEY JUNG,

defendant herein, a resident of Sheboygan Falls, Wisconsin, did willfully make

Exhibit "E2"

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FORM OBD-183 MAR 83

☆ U.S. GPO: 1988-202-041/84933

and subscribe a U.S. Corporation Income Tax Return for Jung Realty Company for the fiscal year ending September 30, 1982, that was made under the penalties of perjury and was filed with the Internal Revenue Service, which said corporate income tax return he did not believe to be true and correct as to every material matter in that the said corporate income tax return reported total income in the amount of $27,480.00 whereas, he then and there well knew and believed, Jung Realty Company received income from the disposition of real property in addition to that heretofore stated.

All in violation of Title 26, United States Code, § 7206(1).

3.(b) As set forth in the Indictment, Count 2 charges as follows:

On or about the 15th day of December, 1983, at Sheboygan, in the State and Eastern District of Wisconsin,

WESLEY JUNG,

defendant herein, a resident of Sheboygan Falls, Wisconsin, did willfully make and subscribe a U.S. Corporation Income Tax Return for Jung Realty Company for the fiscal year ending September 30, 1983, that was made under the penalties of perjury and was filed with the Internal Revenue Service, which said corporate income tax return he did not believe to be true and correct as to every material matter in that the said corporate income tax return reported total income in the amount of $6,279.00 whereas, he then and there well knew and believed, Jung Realty Company received income from the disposition of real property in addition to that heretofore stated.

All in violation of Title 26, United States Code, § 7206(1).

4. In executing this agreement, the defendant and his counsel acknowledge and understand that the offense in Counts 1 to which the defend-

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Licensing

ant will enter a plea of guilty carries a maximum penalty of up to three years in prison, a fine of up to $100,000, or both.

5. In executing this agreement, the defendant and his attorney further acknowledge and understand that to establish violations of Title 26, United States Code, § 7206(1) the government must prove each of the following propositions beyond a reasonable doubt:

> First, that the defendant knowingly caused a corporate income tax return to be filed and that the defendant signed the return;
>
> Second, that the corporate tax return was false as to a material matter; and
>
> Third, that when the defendant caused the corporate tax return to be filed and signed it he did not believe the return to be true and correct as to the material matter charged in the indictment.

6. In executing this agreement and entering a plea of guilty to Count 1 of the Indictment, the defendant acknowledges that he is, in fact, guilty as charged.

7. In entering this agreement and pleading guilty to Count 1 of the Indictment, the defendant further acknowledges and understands that in so doing he surrenders certain rights which include:

> a. If defendant persisted in a plea of not guilty to the charge against him, he would have the right to a public and speedy trial. The trial could be either a jury trial or a trial by the judge sitting without a jury. The defendant has a right to a jury trial. However, in order that the trial be conducted by the judge sitting without a jury, the defendant, the government and the judge all must agree that the trial be conducted by the judge without a jury.
>
> b. If the trial is a jury trial, the jury would be composed of twelve laypersons selected at random. The defendant and his attorney would have a say in who the jurors would be by removing prospective jurors for cause where actual bias or other disqualification is shown, or without cause by exercising so-called peremptory challenges.

Exhibit "EE"

RE D
DEC 1 2 1989

The jury would have to agree unanimously before it could return a verdict of either guilty or not guilty. The jury would be instructed that defendant is presumed innocent, and that it could not convict him unless, after hearing all the evidence, it was persuaded of defendant's guilt beyond a reasonable doubt, and that it was to consider each count of the Indictment separately.

c. If the trial is held by the judge without a jury, the judge would find the facts and determine, after hearing all the evidence, and considering each count separately, whether or not he was persuaded of defendant's guilt beyond a reasonable doubt.

d. At a trial, whether by a jury or a judge, the government would be required to present its witnesses and other evidence against the defendant. The defendant would be able to examine them. In turn, defendant could present witnesses and other evidence in his own behalf. If the witness for the defendant would not appear voluntarily, he could require their attendance through the subpoena power of the court.

e. At a trial, defendant would have a privilege against self-incrimination so that he could decline to testify, and no inference of guilt could be drawn from his refusal to testify. If defendant desired to do so, he could testify in his own behalf.

8. Defendant acknowledges and understands that by pleading guilty he is waiving all the rights set forth in the prior paragraph. In executing this agreement, defendant further acknowledges the fact that his attorney has explained these rights to him and the consequences of his waiver of those rights.

9. Defendant understands that the United States Attorney's Office will fully apprise the district court and the United States Probation office of the nature, scope and extent of defendant's conduct giving rise to the charges against him including all matters in aggravation and mitigation relevant to the issue of sentencing.

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10. In executing this agreement, the defendant acknowledges and understands that pending review of the presentence report to be completed by the Probation Department, the United States Attorney reserves the right to comment at sentencing with respect to defendant's conduct giving rise to the charge, including the right to make a specific recommendation as to the type and quantum of sentence to be imposed by the court. The United States Attorney reserves the right to be heard with respect to any post-sentence motions and/or requests including but not necessarily limited to any Rule 35 motion for a reduction of sentence.

11. Defendant further acknowledges and understands that the government reserves the right to correct factual misstatements, if any, made at the time of sentencing.

12. The defendant further acknowledges and understands that the sentencing judge is neither a party to nor bound by this agreement and may impose any sentence authorized by law and at sentence is free to impose the maximum penalties set forth in paragraph 4 above; defendant further acknowledges and understands that he may not move to withdraw his guilty pleas solely as a result of the sentence imposed by the court.

13. In executing this agreement, defendant and his attorney acknowledge that no threats, promises, representations or other inducements have been made, nor agreements reached, other than those set forth in this agreement to induce the defendant to plead guilty to the charge set forth in Count 1 of the Indictment.

14. The defendant acknowledges and understands that this plea agreement shall be filed and become part of the record in this case.

Exhibit "E2"

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June 27, 1989
Date

Wesley Jung
WESLEY JUNG
Defendant

6/29/89
Date

Earl A. Charlton
EARL A. CHARLTON
Attorney for Defendant

6-30-89
Date

John E. Fryatt
JOHN E. FRYATT
United States Attorney

May 31, 1989
Date

Stephen J. Liccione
STEPHEN J. LICCIONE
Assistant United States Attorney

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Dept. of Registration & Licensing
Division of Enforcement

AO 245 (Rev 8/87) Judgment in a Criminal Case

United States District Court

EASTERN DISTRICT OF WISCONSIN

I hereby certify that this is a true and correct copy of the original on file in my office and remaining of record in my office.
U.S. District Court
Eastern Dist. of Wis.
SOFRON B. NEDILSKY, Clerk
DATED: 12/1/89
By: Deputy Clerk

UNITED STATES OF AMERICA

V.

JUDGMENT IN A CRIMINAL CASE

Case Number: 89-CR-58

WESLEY JUNG
Route 1, Hillside Road
Sheboygan Falls, WI 53085

(Name and Address of Defendant)

Mark Schoenfeld
Attorney for Defendant

THE DEFENDANT ENTERED A PLEA OF:

[☒ guilty ☐ nolo contendere] as to count(s) one, ~~and~~
~~☐ not guilty as to count(s)~~

THERE WAS A:
[☒ finding ☐ verdict] of guilty as to count(s) one

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Division of Enforcement

~~THERE WAS A:~~
~~[☐ finding ☐ verdict] of not guilty as to count(s)~~
~~☐ judgment of acquittal as to count(s)~~
~~The defendant is acquitted and discharged as to this/these count(s).~~

THE DEFENDANT IS CONVICTED OF THE OFFENSE(S) OF: filing false corporate income tax returns in violation of Title 26, U.S.C. §7206(1) as charged in count one of the Indictment.

IT IS THE JUDGMENT OF THIS COURT THAT: defendant is committed to the custody of the Attorney General of the United States or his authorized representative for imprisonment for a term of two (2) years, with the conditions that the first six (6) months be served in a jail-type facility pursuant to work release. Sentence is stayed until there is a vacancy. Balance of sentence is suspended and the defendant is placed on probation for a period of three (3) years. As a special condition of Probation the defendant is to: (1) cooperate with the IRS in payment of all back taxes, penalties and interest. (2) Perform 300 hours of community service work at the direction of Probation Department. (3) Pay a fine in the amount of $5,000.00. To be paid prior to the expiration of sentence. (4) Obey all the Rules and Regulations of the Probation Department. (5) Any further violation of the tax code will result in a Probation Revocation.

EXHIBIT "E3"

In addition to any conditions of probation imposed above, IT IS ORDERED that the conditions of probation set out on the reverse of this judgment are imposed.

CONDITIONS OF PROBATION

Where probation has been ordered the defendant shall:

(1) refrain from violation of any law (federal, state, and local) and get in touch immediately with your probation officer if arrested or questioned by a law-enforcement officer;
(2) associate only with law-abiding persons and maintain reasonable hours;
(3) work regularly at a lawful occupation and support your legal dependents, if any, to the best of your ability. (When out of work notify your probation officer at once, and consult him prior to job changes);
(4) not leave the judicial district without permission of the probation officer;
(5) notify your probation officer immediately of any changes in your place of residence;
(6) follow the probation officer's instructions and report as directed.

The court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within the maximum probation period of 5 years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

~~IT IS FURTHER ORDERED that the defendant shall pay a total special assessment of $ _____ pursuant to Title 18, U.S.C. Section 3013 for count(s) _____ as follows:~~

IT IS FURTHER ORDERED THAT count~~s~~ two ~~are~~ is DISMISSED on the motion of the United States.

IT IS FURTHER ORDERED that the defendant shall pay to the United States attorney for this district any amount imposed as a fine, restitution or special assessment. The defendant shall pay to the clerk of the court any amount imposed as a cost of prosecution. Until all fines, restitution, special assessments and costs are fully paid, the defendant shall immediately notify the United States attorney for this district of any change in name and address.

IT IS FURTHER ORDERED that the clerk of the court deliver a certified copy of this judgment to the United States marshal of this district.

☐ ~~The Court orders commitment to the custody of the Attorney General and recommends:~~

September 26, 1989
Date of Imposition of Sentence

Signature of Judicial Officer

Thomas J. Curran
United States District Judge
Name and Title of Judicial Officer

Sept 29, 1989
Date

RETURN

I have executed this Judgment as follows:

_____

_____

_____

Defendant delivered on _____ to _____ at
Date

_____, the institution designated by the Attorney General, with a certified copy of this Judgment in a Criminal Case.

_____
United States Marshal

By _____
Deputy Marshal

NOTICE OF APPEAL INFORMATION

(Notice of Rights for Rehearing r Judicial Review, the times allowed for each, and the identification of the party to be named as respondent)

The following notice is served on you as part of the final decision:

1. Rehearing.

Any person aggrieved by this order may petition for a rehearing within 20 days of the service of this decision, as provided in section 227.49 of the Wisconsin Statutes, a copy of which is attached. The 20 day period commences the day after personal service or mailing of this decision. (The date of mailing of this decision is shown below.) The petition for rehearing should be filed with the State of Wisconsin Accounting Examining Board.

A petition for rehearing is not a prerequisite for appeal directly to circuit court through a petition for judicial review.

2. Judicial Review.

Any person aggrieved by this decision has a right to petition for judicial review of this decision as provided in section 227.53 of the Wisconsin Statutes, a copy of which is attached. The petition should be filed in circuit court and served upon the State of Wisconsin Accounting Examining Board

within 30 days of service of this decision if there has been no petition for rehearing, or within 30 days of service of the order finally disposing of the petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30 day period commences the day after personal service or mailing of the decision or order, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing of this decision is shown below.) A petition for judicial review should be served upon, and name as the respondent, the following: the State of Wisconsin Accounting Examining Board.

The date of mailing of this decision is February, 5, 1993.

227.49 Petitions for rehearing in contested cases. (1) A petition for rehearing shall not be a prerequisite for appeal or review. Any person aggrieved by a final order may, within 20 days after service of the order, file a written petition for rehearing which shall specify in detail the grounds for the relief sought and supporting authorities. An agency may order a rehearing on its own motion within 20 days after service of a final order. This subsection does not apply to s. 17.025 (3) (e). No agency is required to conduct more than one rehearing based on a petition for rehearing filed under this subsection in any contested case.

(2) The filing of a petition for rehearing shall not suspend or delay the effective date of the order, and the order shall take effect on the date fixed by the agency and shall continue in effect unless the petition is granted or until the order is superseded, modified, or set aside as provided by law.

(3) Rehearing will be granted only on the basis of:

(a) Some material error of law.

(b) Some material error of fact.

(c) The discovery of new evidence sufficiently strong to reverse or modify the order, and which could not have been previously discovered by due diligence.

(4) Copies of petitions for rehearing shall be served on all parties of record. Parties may file replies to the petition.

(5) The agency may order a rehearing or enter an order with reference to the petition without a hearing, and shall dispose of the petition within 30 days after it is filed. If the agency does not enter an order disposing of the petition within the 30-day period, the petition shall be deemed to have been denied as of the expiration of the 30-day period.

(6) Upon granting a rehearing, the agency shall set the matter for further proceedings as soon as practicable. Proceedings upon rehearing shall conform as nearly may be to the proceedings in an original hearing except as the agency may otherwise direct. If in the agency's judgment, after such rehearing it appears that the original decision, order or determination is in any respect unlawful or unreasonable, the agency may reverse, change, modify or suspend the same accordingly. Any decision, order or determination made after such rehearing reversing, changing, modifying or suspending the original determination shall have the same force and effect as an original decision, order or determination.

227.52 Judicial review; decisions reviewable. Administrative decisions which adversely affect the substantial interests of any person, whether by action or inaction, whether affirmative or negative in form, are subject to review as provided in this chapter, except for the decisions of the department of revenue other than decisions relating to alcohol beverage permits issued under ch. 125, decisions of the department of employe trust funds, the commissioner of banking, the commissioner of credit unions, the commissioner of savings and loan, the board of state canvassers and those decisions of the department of industry, labor and human relations which are subject to review, prior to any judicial review, by the labor and industry review commission, and except as otherwise provided by law.

227.53 Parties and proceedings for review. (1) Except as otherwise specifically provided by law, any person aggrieved by a decision specified in s. 227.52 shall be entitled to judicial review thereof as provided in this chapter.

(a) 1. Proceedings for review shall be instituted by serving a petition therefor personally or by certified mail upon the agency or one of its officials, and filing the petition in the office of the clerk of the circuit court for the county where the judicial review proceedings are to be held. If the agency whose decision is sought to be reviewed is the tax appeals commission, the banking review board or the consumer credit review board, the credit union review board or the savings and loan review board, the petition shall be served upon both the agency whose decision is sought to be reviewed and the corresponding named respondent, as specified under par. (b) 1 to 4.

2. Unless a rehearing is requested under s. 227.49, petitions for review under this paragraph shall be served and filed within 30 days after the service of the decision of the agency upon all parties under s. 227.48. If a rehearing is requested under s. 227.49, any party desiring judicial review shall serve and file a petition for review within 30 days after service of the order finally disposing of the application for rehearing, or within 30 days after the final disposition by operation of law of any such application for rehearing. The 30-day period for serving and filing a petition under this paragraph commences on the day after personal service or mailing of the decision by the agency.

3. If the petitioner is a resident, the proceedings shall be held in the circuit court for the county where the petitioner resides, except that if the petitioner is an agency, the proceedings shall be in the circuit court for the county where the respondent resides and except as provided in ss. 77.59 (6) (b), 182.70 (6) and 182.71 (5) (g). The proceedings shall be in the circuit court for Dane county if the petitioner is a nonresident. If all parties stipulate and the court to which the parties desire to transfer the proceedings agrees, the proceedings may be held in the county designated by the parties. If 2 or more petitions for review of the same decision are filed in different counties, the circuit judge for the county in which a petition for review of the decision was first filed shall determine the venue for judicial review of the decision, and shall order transfer or consolidation where appropriate.

(b) The petition shall state the nature of the petitioner's interest, the facts showing that petitioner is a person aggrieved by the decision, and the grounds specified in s. 227.57 upon which petitioner contends that the decision should be reversed or modified. The petition may be amended, by leave of court, though the time for serving the same has expired. The petition shall be entitled in the name of the person serving it as petitioner and the name of the agency whose decision is sought to be reviewed as respondent, except that in petitions for review of decisions of the following agencies, the latter agency specified shall be the named respondent:

1. The tax appeals commission, the department of revenue

2. The banking review board or the consumer credit review board, the commissioner of banking.

3. The credit union review board, the commissioner of credit unions.

4. The savings and loan review board, the commissioner of savings and loan, except if the petitioner is the commissioner of savings and loan, the prevailing parties before the savings and loan review board shall be the named respondents.

(c) A copy of the petition shall be served personally or by certified mail or, when service is timely admitted in writing, by first class mail, not later than 30 days after the institution of the proceeding, upon each party who appeared before the agency in the proceeding in which the decision sought to be reviewed was made or upon the party's attorney of record. A court may not dismiss the proceeding for review solely because of a failure to serve a copy of the petition upon a party or the party's attorney of record unless the petitioner fails to serve a person listed as a party for purposes of review in the agency's decision under s. 227.47 or the person's attorney of record.

(d) The agency (except in the case of the tax appeals commission and the banking review board, the consumer credit review board, the credit union review board, and the savings and loan review board) and all parties to the proceeding before it, shall have the right to participate in the proceedings for review. The court may permit other interested persons to intervene. Any person petitioning the court to intervene shall serve a copy of the petition on each party who appeared before the agency and any additional parties to the judicial review at least 5 days prior to the date set for hearing on the petition.

(2) Every person served with the petition for review as provided in this section and who desires to participate in the proceedings for review thereby instituted shall serve upon the petitioner, within 20 days after service of the petition upon such person, a notice of appearance clearly stating the person's position with reference to each material allegation in the petition and to the affirmance, vacation or modification of the order or decision under review. Such notice, other than by the named respondent, shall also be served on the named respondent and the attorney general, and shall be filed, together with proof of required service thereof, with the clerk of the reviewing court within 10 days after such service. Service of all subsequent papers or notices in such proceeding need be made only upon the petitioner and such other persons as have served and filed the notice as provided in this subsection or have been permitted to intervene in said proceeding, as parties thereto, by order of the reviewing court.