

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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FILE COPY

STATE OF WISCONSIN  
BEFORE THE FUNERAL DIRECTORS EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST

JOSEPH WATKINS, JR.,  
RESPONDENT.

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FINAL DECISION  
AND ORDER

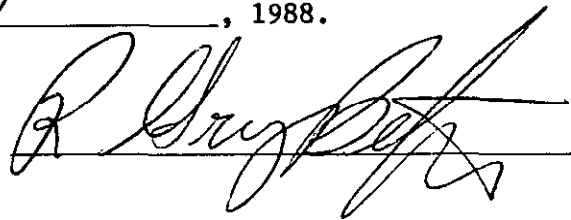
The State of Wisconsin, Funeral Directors Examining Board, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Hearing Examiner, makes the following:

ORDER

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

The rights of a party aggrieved by this Decision to petition the Board for rehearing and to petition for judicial review are set forth on the attached "Notice of Appeal Information."

Dated this 13<sup>th</sup> day of April, 1988.



GCL:lm1  
TENDAY-1745

## NOTICE OF APPEAL INFORMATION

(Notice of Rights for Rehearing or 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 Funeral Directors 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 Funeral Directors 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 Funeral Directors Examining Board.

The date of mailing of this decision is April 14, 1988.

WLD:dms  
886-490

STATE OF WISCONSIN  
BEFORE THE FUNERAL DIRECTORS EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY  
PROCEEDINGS AGAINST

JOSEPH WATKINS, JR.,  
RESPONDENT.

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:

PROPOSED DECISION

The parties to this proceeding for the purposes of Wis. Stats.  
secs. 227.52 and 227.53 are:

Joseph Watkins, Jr.  
101 East North Avenue  
Milwaukee, WI 53212

Wisconsin Funeral Directors Examining Board  
Department of Regulation and Licensing  
1400 East Washington Avenue  
P.O. Box 8935  
Madison, WI 53708-8935

Department of Regulation and Licensing  
Division of Enforcement  
1400 East Washington Avenue  
P.O. Box 8935  
Madison, WI 53708-8935

The examiner received a Stipulation submitted by the parties in the above-captioned matter. The Stipulation, a copy of which is attached hereto and incorporated herein, was executed by Joseph Watkins, Jr., the Respondent; Santo J. Ferris, the Respondent's attorney; and Gilbert C. Lubcke, the Complainant's attorney.

Based upon the Stipulation, the examiner recommends that the Wisconsin Funeral Directors Examining Board adopt as its final decision in this case the following Findings of Fact, Conclusions of Law, and Order, which are based on the terms agreed upon and stipulated to by the parties.

FINDINGS OF FACT

1. Joseph Watkins, Jr., Respondent herein, 101 East North Avenue, Milwaukee, Wisconsin 53212 is currently licensed as a funeral director in the State of Wisconsin, license #3764, said license having been granted on August 10, 1966.

2. Joseph Watkins by stipulation withdrew his Answer to the Complaint, waived his right to file a formal Answer admitting or denying the allegations of the Complaint and consented to the entry of this Proposed Decision and a Final Decision and Order adopting the terms of this Proposed Decision. Joseph Watkins further stipulated that this Proposed Decision and

the Final Decision and Order be entered pursuant to the authority of Wis. Adm. Code sec. RL 2.14 based solely upon the allegations of the Complaint and without the presentation of additional evidence.

3. Joseph Watkins conducted his business as a funeral director at the Watkins And Banks Progressive Funeral Home, 101 East North Avenue, Milwaukee, Wisconsin 53212.

4. On February 25, 1983, Rachel Williams and the Watkins And Banks Progressive Funeral Home of Milwaukee entered into an irrevocable funeral trust agreement which provided for an initial deposit in trust of \$1,500. Under the terms of the irrevocable funeral trust agreement \$1,150 was allocated for funeral home professional and staff services, use of facilities, pick-up of the remains, embalming, wake, casket, burial vault and lead automobile for the funeral. The balance of \$350 was allocated for services and merchandise provided by persons not associated with the Watkins And Banks Progressive Funeral Home including the cost of a grave plot and the opening and closing. By a supplemental agreement between Rachel Williams and the Watkins And Banks Progressive Funeral Home dated February 25, 1983, all interest and dividends on the amount deposited in the irrevocable funeral trust were allocated for payment of services, facilities and merchandise provided by the Watkins And Banks Progressive Funeral Home.

5. Rachel Williams died on January 1, 1987.

6. Following Rachel Williams' death, her family, including Inez Cade, William Cade and Elizabeth Words, contacted Respondent at the Watkins And Banks Progressive Funeral Home to make arrangements for the wake, funeral and burial.

7. Joseph Watkins, acting in his capacity as a funeral director, accepted responsibility for making the funeral arrangements for Rachel Williams on behalf of the Watkins And Banks Progressive Funeral Home.

8. The family elected as part of the funeral arrangements to purchase supplemental items which exceeded in value the amounts originally allocated and contemplated for these items in the irrevocable funeral trust agreement, including a casket costing \$847 in excess of the amount initially allocated for a casket, a cemetery lot costing \$75 in excess of the amount originally contemplated and extra death certificates in the amount of \$11.00.

9. The funeral and burial were held on January 6, 1987.

10. Joseph Watkins did not at any time prior to the final agreement on funeral arrangements between the family of Rachel Williams, Joseph Watkins and the Watkins And Banks Progressive Funeral Home, or at any time following the conclusion of discussions regarding the funeral arrangements and prior to the funeral and burial, provide the persons making the arrangements for the funeral with a written itemized disclosure listing the funeral goods and services selected, including all supplemental items requested by the persons making the arrangements, the prices to be paid for each of the goods and services selected and the total cost of funeral goods and services. This

written itemization of funeral goods and services signed by Joseph Watkins, Jr. was provided to the persons making the arrangements on January 8, 1987, after the funeral and burial had been concluded.

#### CONCLUSIONS OF LAW

1. The Wisconsin Funeral Directors Examining Board has jurisdiction in this proceeding pursuant to Wis. Stats. secs. 445.13, 227.42 and 227.44.

2. Joseph Watkins, having withdrawn his Answer to the Complaint and having elected not to file an Answer admitting or denying the allegations of the Complaint, is in default and the Funeral Directors Examining Board may make findings and enter an Order pursuant to the authority of Wis. Adm. Code sec. RL 2.14.

3. Joseph Watkins' conduct as set forth in the Findings of Fact constitutes a violation of Wis. Stats. sec. 445.13(1) and Wis. Adm. Code sec. FDE 2.15(2)(a), (b) and (d).

4. Joseph Watkins' conduct as set forth in the Findings of Fact constitutes a violation of Wis. Stats. sec. 445.13(1), 15 USC sec. 45(a)(1), 16 CFR sec. 453.2(a) and 16 CFR sec. 453.2(b)(5)(i).

#### ORDER

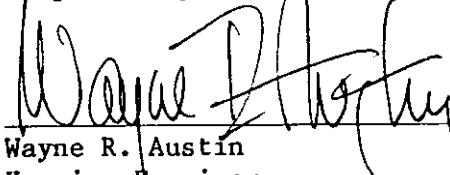
NOW, THEREFORE, IT IS ORDERED that the Stipulation of the parties is approved.

IT IS FURTHER ORDERED that Joseph Watkins, Jr., funeral directors license #3764, is hereby REPRIMANDED.

(If any term or condition of this Proposed Decision is not adopted by the Board, then no term or condition of the attached Stipulation, upon which this Proposed Decision is based, shall be binding in any manner on any party (Wis. Adm. Code sec. RL 2.12) and the matter shall be remanded to the examiner for further proceedings.)

Dated at Madison, Wisconsin, this 3<sup>rd</sup> day of March, 1988.

Respectfully submitted,



Wayne R. Austin  
Hearing Examiner

WRA:GCL:lm1  
DOEATTY-37

STATE OF WISCONSIN  
BEFORE THE FUNERAL DIRECTORS EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY  
PROCEEDINGS AGAINST

JOSEPH WATKINS, JR.,  
RESPONDENT.

STIPULATION

It is hereby stipulated between Joseph Watkins, Jr., Respondent, personally and by his attorney, Santo J. Ferris, and Gilbert C. Lubcke, attorney for Complainant, as follows:

1. Joseph Watkins, Jr., 101 East North Avenue, Milwaukee, Wisconsin 53212 is currently licensed as a funeral director in the State of Wisconsin, license #3764, said license having been granted on August 10, 1966.

2. A Complaint against Joseph Watkins dated September 21, 1987, a copy of which is attached hereto and incorporated herein, is pending before the Funeral Directors Examining Board. Joseph Watkins filed an Answer to the Complaint on November 27, 1987.

3. Joseph Watkins hereby withdraws his Answer to the Complaint, waives his right to file a formal Answer admitting or denying the allegations of the Complaint, and consents to the entry of a Proposed Decision and a Final Decision and Order, copies of which are attached hereto and incorporated herein. The Proposed Decision and the Final Decision and Order may be entered pursuant to the authority of Wis. Adm. Code sec. RL 2.14 based solely upon the allegations of the Complaint and without the presentation of additional evidence. Joseph Watkins further stipulates to the entry of an Order imposing a formal reprimand.

4. If any term or condition of this Stipulation is not accepted by both the Hearing Examiner and the Funeral Directors Examining Board, then no term of this Stipulation shall be binding in any manner on any party.

Dated: 2/29/88

Joseph Watkins Jr.  
Joseph Watkins, Jr.  
Respondent

Dated: 2/29/88

Santo J. Ferris  
Santo J. Ferris  
Attorney for Respondent

Dated: 2/19/88

Gilbert C. Lubcke  
Gilbert C. Lubcke  
Attorney for Complainant

STATE OF WISCONSIN  
BEFORE THE FUNERAL DIRECTORS EXAMINING BOARD

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IN THE MATTER OF THE DISCIPLINARY :  
PROCEEDINGS AGAINST :  
: COMPLAINT  
JOSEPH WATKINS, JR., :  
RESPONDENT. :  
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Kristine Raymond, investigator for the State of Wisconsin, Department of Regulation and Licensing, Division of Enforcement, upon information and belief, complains and alleges:

COUNT I

1. Joseph Watkins, Jr., Respondent herein, 101 East North Avenue, Milwaukee, Wisconsin 53212 is currently licensed as a funeral director in the State of Wisconsin, license #3764, said license having been granted on August 10, 1966.
2. At all times relevant to this Complaint, Respondent conducted his business as a funeral director at the Watkins And Banks Progressive Funeral Home, 101 East North Avenue, Milwaukee, Wisconsin 53212.
3. On February 25, 1983 Rachel Williams and the Watkins And Banks Progressive Funeral Home of Milwaukee entered into an irrevocable funeral trust agreement which provided for an initial deposit in trust of \$1500. Under the terms of the irrevocable funeral trust agreement \$1150 was allocated for funeral home professional and staff services, use of facilities, pick-up of the remains, embalming, wake, casket, burial vault and lead automobile for the funeral. The balance of \$350 was allocated for services and merchandise provided by persons not associated with the Watkins And Banks Progressive Funeral Home including the cost of a grave plot and the opening and closing. By a supplemental agreement between Rachel Williams and the Watkins And Banks Progressive Funeral Home dated February 25, 1983 all interest and dividends on the amount deposited in the irrevocable funeral trust were allocated for payment of services, facilities and merchandise provided by the Watkins And Banks Progressive Funeral Home.
4. Rachel Williams died on January 1, 1987.
5. Following Rachel Williams' death her family, including Inez Cade, William Cade and Elizabeth Words, contacted Respondent at the Watkins And Banks Progressive Funeral Home to make arrangements for the wake, funeral and burial.
6. Respondent, acting in his capacity as a funeral director, accepted responsibility for making the funeral arrangements for Rachel Williams on behalf of the Watkins And Banks Progressive Funeral Home.
7. The family elected as part of the funeral arrangements to purchase supplemental items which exceeded in value the amounts originally allocated and contemplated for these items in the irrevocable funeral trust agreement including a casket costing \$847 in excess of the amount initially allocated for a casket, a cemetery lot costing \$75 in excess of the amount originally contemplated and extra death certificates in the amount of \$11.00.



8. The funeral and burial were held on January 6, 1987.

9. Respondent did not at any time prior to the final agreement on funeral arrangements between the family of Rachel Williams, Respondent and the Watkins And Banks Progressive Home or at any time prior to the funeral and burial provide the persons making the arrangements for the funeral with a written disclosure showing the price of the service that the family had selected, the specific services included therein, or the price of the supplemental items requested by the persons making the arrangements.

10. After the final arrangements for the funeral had been agreed upon, Respondent did not provide the persons making the arrangements for the funeral with a copy of a written disclosure signed by Respondent showing the price of the service that the family had selected, the specific services included therein, or the price of the supplemental items requested by the family until January 8, 1987 after the funeral and burial had been concluded.

11. Respondent's conduct as herein described constituted a violation of Wis. Stats. sec. 445.13(1) and Wis. Adm. Code sec. FDE 2.15(2)(a), (b) and (d).

#### COUNT II

12. Realleges paragraph 1 of the Complaint.

13. Realleges paragraph 2 of the Complaint.

14. Realleges paragraph 3 of the Complaint.

15. Realleges paragraph 4 of the Complaint.

16. Realleges paragraph 5 of the Complaint.

17. Realleges paragraph 6 of the Complaint.

18. Realleges paragraph 7 of the Complaint.

19. Realleges paragraph 8 of the Complaint.

20. At the conclusion of the discussions regarding the funeral arrangements, Respondent did not provide each person who made the arrangements for the funeral with an itemized written statement for retention by each person who made the arrangements listing the funeral goods and funeral services selected by the persons who made the arrangements, the prices to be paid for each of them and the total cost of the goods and services selected.

21. The itemized written statement referred to in paragraph 20 of this Complaint was not provided to the persons who made the arrangements for the funeral until January 8, 1987 after the funeral and burial had been concluded.

22. Respondent's conduct as herein described constituted a violation of

Wis. Stats. sec. 445.13(1), 15 USC sec. 45(a)(1), 16 CFR sec. 453.2(a), and 16 CFR sec. 453.2(b)(5)(i).

WHEREFORE, the Complainant demands that the Board hear evidence relevant to matters recited herein, determine, and impose the discipline warranted.

Dated: September 21, 1987.

Kristine Raymond  
Kristine Raymond, Investigator  
Department of Regulation & Licensing  
Division of Enforcement  
1400 East Washington Avenue  
P.O. Box 8935  
Madison, Wisconsin 53708-8935

STATE OF WISCONSIN    )  
                              ) ss  
COUNTY OF DANE        )

Kristine Raymond, being first duly sworn on oath deposes and says that she is an investigator for the State of Wisconsin, Department of Regulation and Licensing, Division of Enforcement, and that she has read the foregoing Complaint and knows the contents thereof and that the same is true to her own knowledge, except as to those matters therein stated on information and belief and as to such matters, she believes them to be true.

Kristine Raymond  
Kristine Raymond  
State of Wisconsin  
Department of Regulation and Licensing  
Division of Enforcement  
1400 East Washington Avenue  
P.O. Box 8935  
Madison, Wisconsin 53708-8935

Subscribed and sworn to before me  
this 21st day of September, 1987.

Gilbert C. Lubcke  
Notary Public  
My Commission is permanent

Gilbert C. Lubcke  
Attorney for Complainant  
Department of Regulation and Licensing  
Division of Enforcement  
P.O. Box 8935  
Madison, Wisconsin 53708-8935

GCL:jrb  
5487

STATE OF WISCONSIN  
BEFORE THE FUNERAL DIRECTORS EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY  
PROCEEDINGS AGAINST

JOSEPH WATKINS, JR.,  
RESPONDENT.

PROPOSED DECISION

The parties to this proceeding for the purposes of Wis. Stats.  
secs. 227.52 and 227.53 are:

Joseph Watkins, Jr.  
101 East North Avenue  
Milwaukee, WI 53212

Wisconsin Funeral Directors Examining Board  
Department of Regulation and Licensing  
1400 East Washington Avenue  
P.O. Box 8935  
Madison, WI 53708-8935

Department of Regulation and Licensing  
Division of Enforcement  
1400 East Washington Avenue  
P.O. Box 8935  
Madison, WI 53708-8935

The examiner received a Stipulation submitted by the parties in the above-captioned matter. The Stipulation, a copy of which is attached hereto and incorporated herein, was executed by Joseph Watkins, Jr., the Respondent; Santo J. Ferris, the Respondent's attorney; and Gilbert C. Lubcke, the Complainant's attorney.

Based upon the Stipulation, the examiner recommends that the Wisconsin Funeral Directors Examining Board adopt as its final decision in this case the following Findings of Fact, Conclusions of Law, and Order, which are based on the terms agreed upon and stipulated to by the parties.

FINDINGS OF FACT

1. Joseph Watkins, Jr., Respondent herein, 101 East North Avenue, Milwaukee, Wisconsin 53212 is currently licensed as a funeral director in the State of Wisconsin, license #3764, said license having been granted on August 10, 1966.

2. Joseph Watkins by stipulation withdrew his Answer to the Complaint, waived his right to file a formal Answer admitting or denying the allegations of the Complaint and consented to the entry of this Proposed Decision and a Final Decision and Order adopting the terms of this Proposed Decision. Joseph Watkins further stipulated that this Proposed Decision and

the Final Decision and Order be entered pursuant to the authority of Wis. Adm. Code sec. RL 2.14 based solely upon the allegations of the Complaint and without the presentation of additional evidence.

3. Joseph Watkins conducted his business as a funeral director at the Watkins And Banks Progressive Funeral Home, 101 East North Avenue, Milwaukee, Wisconsin 53212.

4. On February 25, 1983, Rachel Williams and the Watkins And Banks Progressive Funeral Home of Milwaukee entered into an irrevocable funeral trust agreement which provided for an initial deposit in trust of \$1,500. Under the terms of the irrevocable funeral trust agreement \$1,150 was allocated for funeral home professional and staff services, use of facilities, pick-up of the remains, embalming, wake, casket, burial vault and lead automobile for the funeral. The balance of \$350 was allocated for services and merchandise provided by persons not associated with the Watkins And Banks Progressive Funeral Home including the cost of a grave plot and the opening and closing. By a supplemental agreement between Rachel Williams and the Watkins And Banks Progressive Funeral Home dated February 25, 1983, all interest and dividends on the amount deposited in the irrevocable funeral trust were allocated for payment of services, facilities and merchandise provided by the Watkins And Banks Progressive Funeral Home.

5. Rachel Williams died on January 1, 1987.

6. Following Rachel Williams' death, her family, including Inez Cade, William Cade and Elizabeth Words, contacted Respondent at the Watkins And Banks Progressive Funeral Home to make arrangements for the wake, funeral and burial.

7. Joseph Watkins, acting in his capacity as a funeral director, accepted responsibility for making the funeral arrangements for Rachel Williams on behalf of the Watkins And Banks Progressive Funeral Home.

8. The family elected as part of the funeral arrangements to purchase supplemental items which exceeded in value the amounts originally allocated and contemplated for these items in the irrevocable funeral trust agreement, including a casket costing \$847 in excess of the amount initially allocated for a casket, a cemetery lot costing \$75 in excess of the amount originally contemplated and extra death certificates in the amount of \$11.00.

9. The funeral and burial were held on January 6, 1987.

10. Joseph Watkins did not at any time prior to the final agreement on funeral arrangements between the family of Rachel Williams, Joseph Watkins and the Watkins And Banks Progressive Funeral Home, or at any time following the conclusion of discussions regarding the funeral arrangements and prior to the funeral and burial, provide the persons making the arrangements for the funeral with a written itemized disclosure listing the funeral goods and services selected, including all supplemental items requested by the persons making the arrangements, the prices to be paid for each of the goods and services selected and the total cost of funeral goods and services. This

written itemization of funeral goods and services signed by Joseph Watkins, Jr. was provided to the persons making the arrangements on January 8, 1987, after the funeral and burial had been concluded.

#### CONCLUSIONS OF LAW

1. The Wisconsin Funeral Directors Examining Board has jurisdiction in this proceeding pursuant to Wis. Stats. secs. 445.13, 227.42 and 227.44.

2. Joseph Watkins, having withdrawn his Answer to the Complaint and having elected not to file an Answer admitting or denying the allegations of the Complaint, is in default and the Funeral Directors Examining Board may make findings and enter an Order pursuant to the authority of Wis. Adm. Code sec. RL 2.14.

3. Joseph Watkins' conduct as set forth in the Findings of Fact constitutes a violation of Wis. Stats. sec. 445.13(1) and Wis. Adm. Code sec. FDE 2.15(2)(a), (b) and (d).

4. Joseph Watkins' conduct as set forth in the Findings of Fact constitutes a violation of Wis. Stats. sec. 445.13(1), 15 USC sec. 45(a)(1), 16 CFR sec. 453.2(a) and 16 CFR sec. 453.2(b)(5)(i).

#### ORDER

NOW, THEREFORE, IT IS ORDERED that the Stipulation of the parties is approved.

IT IS FURTHER ORDERED that Joseph Watkins, Jr., funeral directors license #3764, is hereby REPRIMANDED.

(If any term or condition of this Proposed Decision is not adopted by the Board, then no term or condition of the attached Stipulation, upon which this Proposed Decision is based, shall be binding in any manner on any party (Wis. Adm. Code sec. RL 2.12) and the matter shall be remanded to the examiner for further proceedings.)

Dated at Madison, Wisconsin, this \_\_\_\_\_ day of \_\_\_\_\_, 1988.

Respectfully submitted,

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Wayne R. Austin  
Hearing Examiner

WRA:GCL:lm1  
DOEATTY-37

STATE OF WISCONSIN  
BEFORE THE FUNERAL DIRECTORS EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST

FINAL DECISION  
AND ORDER

JOSEPH WATKINS, JR.,  
RESPONDENT.

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The State of Wisconsin, Funeral Directors 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, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Funeral Directors Examining Board. Let a copy of this order be served on the respondent by certified mail.

The rights of a party aggrieved by this Decision to petition the Board for rehearing and to petition for judicial review are set forth on the attached "Notice of Appeal Information."

Dated this \_\_\_\_ day of \_\_\_\_\_, 1988.

GCL:lm1  
TENDAY-1745

## NOTICE OF APPEAL INFORMATION

(Notice of Rights for Rehearing or 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

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

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 date of mailing of this decision is \_\_\_\_\_.

WLD:dms  
886-490

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 employee 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) 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. 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

after the final disposition of application or law or 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. 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) Copies 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 all parties who appeared before the agency in the proceeding in which the order sought to be reviewed was made.

(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.