

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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**STATE OF WISCONSIN
BEFORE THE ACCOUNTING EXAMINING BOARD**

IN RE DISCIPLINARY PROCEEDINGS :
AGAINST :
 : **FINAL DECISION AND ORDER**
GERALD R. MATSCHE and GERALD :
MATSCHE C.P.A., : **LS0605042ACC**
 :
RESPONDENTS. :

Division of Enforcement Case No. 03 ACC 008

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

Gerald R. Matsche
N89W16790 Appleton Avenue
Menominee Falls, WI 53051

Gerald Matsche, C.P.A.
N89W16790 Appleton Avenue
Menominee Falls, WI 53051

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

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

The parties in these matters agree to the terms and conditions of the attached Stipulation as the final decision of the matter, subject to the approval of the Accounting Examining Board. The Board has reviewed the Stipulation agreement annexed to this Final Decision and Order, and considers it acceptable. Accordingly, the Board adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Respondent Gerald R. Matsche (“Matsche”), whose last known address of record with the Department of Regulation and Licensing (“Department”) is N89W16790 Appleton Avenue, Menominee Falls, Wisconsin 53051, and whose date of birth is September 23, 1947, possesses a certificate and a license to practice as a certified public accountant in the state of Wisconsin (#1-4377). The certificate and license were first granted on December 8, 1973, and will expire on December 14, 2007.

2. Respondent Gerald Matsche, C.P.A. (“sole proprietorship”), whose last known address of record with the Department is N89W16790 Appleton Avenue, Menominee Falls, Wisconsin 53051, is an accounting firm that is organized as a sole proprietorship, owned in its entirety by Matsche, and operating under a license to practice as an accounting firm in the state of Wisconsin (#3-1072). The license was first granted on December 29, 2005, and will expire on December 15, 2007.

3. Prior to the licensure of the sole proprietorship, Matsche did business under Gerald Matsche S.C. (“service corporation”), which was an accounting firm organized as a service corporation, owned in its entirety at all times relevant to this matter by Matsche, and operated under a license to practice as an accounting firm in the state of Wisconsin (#3-4377). The license was first granted on August 8, 1981, and was placed in inactive status on December 29, 2005.

Count I: Licenses Expired or in Tax Hold Status (Both Respondents)

4. On December 31, 1999, Matsche’s license to practice as a certified public accountant expired. On January 11, 2000, Matsche’s license was formally changed from active status to expired status. On December 11, 2003, Matsche license was restored to active status.

5. From January 1, 2000 to December 11, 2003, Matsche continued to practice as a certified public accountant, and continued to hold himself out to the public as a certified public accountant.

6. On April 25, 2000, the service corporation's license status was removed from active status due to a notification of tax delinquency received by the Department from the Department of Revenue ("DOR"). The license was restored to active status on January 28, 2004.

7. From April 25, 2000, until January 28, 2004, the service corporation continued to operate as an accounting firm, and continued to hold itself out to the public as an accounting firm.

8. Per Wis. Stat. § 442.03, "No person may lawfully practice in this state as a certified public accountant either in the person's own name, under an assumed name, or as a member of a firm... unless the person and firm have complied with all of the provisions of this chapter, including licensure.

9. Per Wis. Stat. § 442.08(2), "The department shall issue a license to a firm that submits an application..."

10. Per Wis. Stat. § 442.12, "...the examining board may do any of the following: (2) Revoke, limit or suspend... or officially reprimand the holder, if it finds that the holder has violated this chapter or any duly promulgated standard or rule of practice... (or) (3) In the case of a firm, revoke, limit or suspend the license of the firm, or reprimand it, if it is found that any member of the firm has been guilty of any act or omission as would be cause for revoking, limiting, or suspending a certificate or licensure to the person as an individual or for reprimanding the person."

Count II: Acts Discreditable Concerning Payment of Business Taxes (Both Respondents)

11. On October 12, 1999, "DOR" initiated proceedings against Matsche and the service corporation in Waukesha County Circuit Court Case No. 1999TW4539 seeking payment of delinquent taxes. DOR alleged that Matsche and/or the service corporation owed the state taxes in the amount of \$1,066.46. A judgment was granted to DOR in the amount of \$1,066.46. The amount due was paid in full by July 18, 2000, following garnishment of the firm's bank account.

12. On October 2, 2000, the Department of Workforce Development ("DWD") initiated proceedings against the service corporation in Waukesha County Circuit Court Case No. 2000WC059. DWD alleged that the service corporation owed the state worker's compensation remittances in the amount of \$767.50. A judgment was granted to DWD in the amount of \$767.50. To date, the service corporation has not paid the judgment.

13. Per Wis. Admin. Code § Accy 1.401(1), "No person licensed to practice as a certified public accountant... shall commit an act discreditable to the profession.

CONCLUSIONS OF LAW

1. The Wisconsin Accounting Examining Board has jurisdiction to act in these matters pursuant to Wis. Stat. § 442.12.

2. The Wisconsin Accounting Examining Board has authority to enter into this stipulated resolution of this matter pursuant to Wis. Stat. § 227.44(5).

3. By continuing to practice as a certified public accountant without a valid license, as described above in paragraphs 4-5, GERALD R. MATSCHE violated Wis. Stat. § 442.03, thereby subjecting himself to discipline pursuant to Wis. Stat. § 442.12(2), and subjecting his current sole proprietorship accounting firm, GERALD MATSCHE C.P.A. to discipline per Wis. Stat. § 442.12(3).

4. By doing business as Gerald Matsche S.C., without a valid accounting firm license, as described above in paragraphs 6-7, GERALD R. MATSCHE violated Wis. Stat. §§ 442.08(2) and 442.03, thereby subjecting himself to discipline per Wis. Stat. § 442.12(2), and subjecting his current sole proprietorship accounting firm, GERALD MATSCHE C.P.A. to discipline per Wis. Stat. § 442.12(3).

5. By repeatedly failing to remit unemployment compensation and other personal or corporate tax payments, as described above in paragraphs 11-12, Respondent GERALD R. MATSCHE has committed an act discreditable to the profession, contrary to Wis. Admin. Code § Accy 1.401(1), thereby subjecting himself to discipline per Wis. Stat. § 442.12(2), and subjecting his current sole proprietorship accounting firm, GERALD MATSCHE C.P.A. to discipline per Wis. Stat. § 442.12(3).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The license of Respondent GERALD R. MATSCHE to practice as a certified public accountant in the state of Wisconsin (#1-4377) be, and hereby is, REPRIMANDED.
2. The license of Respondent GERALD MATSCHE C.P.A. to practice as an accounting firm in the state of Wisconsin (#3-1072) be, and hereby is, REPRIMANDED.

IT IS FURTHER ORDERED that:

3. Respondent GERALD R. MATSCHE shall pay partial costs of this investigation in the amount of one thousand-five hundred (\$1,500.00) dollars by December 1, 2006.
4. Respondent GERALD R. MATSCHE shall take no less than twenty (20) hours of continuing education, to include at least four (4) hours on the subject of ethics, for which proof of completion shall be submitted to the Department Monitor by no later than September 1, 2006.
5. All payments and proof of completion of education required by this order to be submitted to the Department M shall be mailed, faxed or delivered to:

Department Monitor
Division of Enforcement
Department of Regulation and Licensing
P.O. Box 8935, Madison, WI 53708-8935
Telephone (608) 261-7904, Fax (608) 266-2264

6. Case numbers 03 ACC 008 is hereby closed.
7. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and well and may result in a summary suspension of Respondent Gerald R. Matsche's license (#1-4377). The Accounting Examining B its sole discretion may in the alternative impose additional conditions and limitations or other additional discipline for a violation of the terms of this Order. In the event that Respondent Gerald R. Matsche fails to timely submit any payment of costs or proo education as set forth above, his license (#1-4377) SHALL BE SUSPENDED, without further notice or hearing, until Responc complied with the terms of this Order.
8. This Order is effective on the date of its signing.

ACCOUNTING EXAMINING BOARD

By: Thomas J. Kilkenny
A Member of the Board

5/4/06
Date

**STATE OF WISCONSIN
BEFORE THE ACCOUNTING EXAMINING BOARD**

IN RE DISCIPLINARY PROCEEDINGS :
AGAINST :
 : **STIPULATION**
GERALD R. MATSCHE and :
GERALD MATSCHE C.P.A. : **LS** _____
 :
RESPONDENTS. :

Division of Enforcement Case No. 03 ACC 008

It is hereby stipulated and agreed, by and between Gerald R. Matsche, Respondent, on his own behalf and on behalf of Gerald Matsche C.P.A., Respondent; and Mark A. Herman, attorney for Complainant, State of Wisconsin, Department of Regulation and Licensing, Division of Enforcement, as follows:

1. This Stipulation resolves a pending investigation of Respondents' licensures by the Division of Enforcement (03 ACC 008). Respondents consent to the resolution of this investigation by stipulation and without the issuance of a formal complaint.
2. Respondents understand that by signing this Stipulation they voluntarily and knowingly waives their rights, including: the right to a hearing on the allegations against them, at which time the state has the burden of proving those allegations preponderance of the evidence; the right to confront and cross-examine the witnesses against them; the right to call witnesses on their behalf and to compel their attendance by subpoena; the right to testify themselves; the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision; the right to petition for rehearing; and all other applicable rights afforded to them under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and any other provisions of state or federal law.
3. Respondents have been provided with the opportunity to obtain legal counsel prior to signing this Stipulation.
4. Respondents agree to the adoption of the attached Final Decision and Order by the Accounting Examining Board (Board). The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondents waive all rights to any appeal of the Board's order, if adopted in the form as attached.
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division of Enforcement for further proceedings. In the event that this Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.
6. The parties to this Stipulation agree that the attorney or other agent for the Division of Enforcement and any member of the Accounting Examining Board ever assigned as an advisor in this investigation may appear before the Board, without the presence of Respondents or their attorney, for purposes of speaking in support of this agreement and answering questions that any person may have in connection with the Board's deliberations on the Stipulation. Additionally, any such Board advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order.
7. Respondents are informed that should the Board adopt this Stipulation, the Board's final decision and order is a public record and will be published in accordance with standard Department procedure.
8. The Division of Enforcement joins Respondents in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.

GERALD R. MATSCHE

Respondent, on his own behalf and on
behalf of Gerald Matsche C.P.A., Respondent
N89W16790 Appleton Avenue
Menominee Falls, WI 53051

Date

MARK A. HERMAN

Attorney, Division of Enforcement
1400 East Washington Avenue
Madison, WI 53708-8935

Date

[Case No. 03 ACC 008; Reprimand; Education; Costs \$1,500.]