

## WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN  
BEFORE THE DENTISTRY EXAMINING BOARD

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|                                 |   |                |
|---------------------------------|---|----------------|
| IN THE MATTER OF DISCIPLINARY   | : |                |
| PROCEEDINGS AGAINST             | : | FINAL DECISION |
|                                 | : | AND ORDER      |
| FREDERICK G. KRIEMELMEYER, DDS, | : | LS0801182DEN   |
| RESPONDENT.                     | : |                |

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Division of Enforcement Case No. 07DEN026

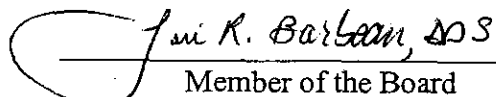
The State of Wisconsin, Dentistry Examining Board, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, makes the following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Dentistry Examining Board.

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

Dated this 2 day of July, 2008.

  
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 Member of the Board  
 Dentistry Examining Board

STATE OF WISCONSIN  
BEFORE THE DENTISTRY EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY :  
PROCEEDINGS AGAINST :

FREDERICK G. KRIEMELMEYER, D.D.S., :  
RESPONDENT. :

**PROPOSED FINAL  
DECISION AND ORDER**

LS #0801182DEN

(Division of Enforcement Case No. 07 DEN 026)

PARTIES

The parties to this action for the purposes of Wis. Stat. § 227.01(3)(b), are:

Frederick G. Kriemelmeyer, DDS  
Federal Medical Center  
Reg. No. & Qtrs. 06417-090  
PMB 4000  
Rochester, MN 55903-4000

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

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

PROCEDURAL HISTORY

A hearing in the above-captioned matter was held on April 9, 2008 before Administrative Law Judge Colleen M. Baird. The Division of Enforcement appeared by Attorney James E. Polewski. The Respondent, Frederick G. Kriemelmeyer, did not appear nor did anyone appear on his behalf. The Complaint and Notice of Hearing was served upon the Respondent on January 18, 2008, as shown by the proof of service and certified mail receipts. Prior to the scheduling of the hearing, the Complainant filed a motion for default on February 11, 2008, on the basis that the Respondent failed

to file a timely Answer to the Complaint<sup>1</sup>. A motion hearing was held on April 9, 2008. The Respondent was served notice of the hearing and provided an opportunity to appear by telephone. The Respondent indicated through his counselor at the federal correctional facility where he is currently incarcerated that he would prefer to rely upon his written submissions.

Based upon on the evidence submitted in this case, the Administrative Law Judge recommends that the Wisconsin Dentistry Examining Board adopt as its Final Decision and Order in this matter the following Findings of Fact, Conclusions of Law and Order.

#### FINDINGS OF FACT

1. Frederick G. Kriemelmeyer, D.D.S. ("Respondent") was born on March 18, 1949, and is licensed to practice dentistry in the state of Wisconsin pursuant to license number 5001378. This license was first granted on July 19, 1974.

2. Respondent's most recent address on file with the Wisconsin Dentistry Examining Board is 127 S. Sixth Street, La Crosse, Wisconsin 54601.

3. At all times relevant to this proceeding, Respondent was working as a dentist at La Crosse, Wisconsin.

4. On August 15, 2007, Respondent was convicted of four counts of fraud and false statements in violation of 26 U.S.C. § 7206(1), after a three-day trial before the Honorable Barbara Crabb, United States District Judge for the Western District of Wisconsin.

5. The basis for the conviction was Respondent's failure to report approximately \$380,857.00 of gross receipts from his practice of dentistry on his federal tax returns for tax years 2000, 2002, 2003, and 2004.

#### CONCLUSIONS OF LAW

1. The Dentistry Examining Board has jurisdiction over this matter pursuant to Wis. Stat. § 447.07.
2. The Respondent, by the conduct described in the above factual findings has violated Wisconsin Administrative Code § DE 5.02(15) and Wis. Stat. §§ 447.07(3)(a) and (e).

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<sup>1</sup> The Respondent submitted his first response titled *Caveat and Notice of the Fraud by the Affidavit of the Claimant* bearing his signature dated January 25, 2008, and bearing the signatures of witnesses dated January 27, 2008. The Respondent submitted a second document after the Division of Enforcement filed its Notice of Motion for Default; this document arrived in an envelope postmarked February 5, 2008, from Jacksonville, Texas, with the return address "House of Israel." This second document was delivered to the Department on February 7, 2008, and although arguably timely received, the document was non-responsive to the allegations.

### ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that the license of Respondent, Frederick G. Kriemelmeyer, D.D.S., (lic. # 5001378) to practice dentistry in the state of Wisconsin is hereby REVOKED.

IT IS FURTHERED ORDERED that the full costs of this proceeding shall be assessed against the Respondent.

### OPINION

Although the essential facts involved in this matter were not disputed, the Respondent's pleadings were difficult to decipher, to say the least. What can be gleaned is that the Respondent is a tax protestor and that he has been protesting the authority of the United States federal government and the Internal Revenue Service (IRS) for several years. The Respondent contends that he is not subject to the federal tax system because the IRS is unconstitutional; he is also generally dissatisfied with the federal government, the government of the state of Wisconsin and anyone who works for either the state or federal government.

On November 19, 2007, after a three day in federal district court, the Respondent was convicted of four counts of Fraud and False Statements, Class E felonies, in violation of federal law, 26 U.S.C. § 7206(1), for underreporting and misstating his taxable income. The basis for the conviction was the Respondent's failure to report approximately \$360,000.00 of gross receipts from his practice of dentistry on his federal income tax reports for tax years 2000, 2002, 2003 and 2004. The Respondent is currently serving a prison term of thirty-six (36) months in a federal correctional facility in Minnesota and was additionally ordered to pay restitution in the amount of \$135,337.00 and costs and fines in the amount of \$8,429.97 for his violation of the federal income reporting laws.

The press release from the United States Attorney's Office, issued after the Respondent's conviction, indicates that the Respondent had decided since 1998 that he was not subject to the income tax laws of the United States. It was further reported that the Respondent had engaged in various schemes to avoid paying his taxes. (Ex. 3) The article also indicates that the Respondent's prison sentence was increased because he obstructed the investigation prior to being indicted and because he lied under oath. The federal court judge indicated that the Respondent was greedy and was only concerned with keeping as much money as he could; she called his legal arguments frivolous and ludicrous.

### MOTION FOR DEFAULT

The Complainant filed a motion for default judgment on the basis that the Respondent's submissions in this proceeding fail to constitute a timely and proper Answer to the Complaint pursuant to Wis. Admin. Code § RL 2.09. The first submission by the Respondent, dated January 25, 2008, was incomprehensible due to the odd syntax and verbiage. A portion of the Respondent's submission stated as follows:

1. *For this Caveat and Notice of the Fraud is with this Affidavit by the Frederick-George: Kriemelmeyer, herein-after Claimant, under the penalty of the law. For this Frederick-George, with the knowledge of the Correct-Sentence-Structure-Communication-Syntax of the English language is with the claim of the ongoing-fraudulent-conveyance of the language in the paper-work by the STATE OF WISCONSIN, DENTISTRY EXAMINING BOARD (sic) and James E. Polewski and Colleen M. Baird, with the date, February 1, 2008 (correct copy enclosed)*
2. *For the use of the fraudulent-conveyance of the language is with the void-factual-communication and with the void-factual-comprehension by this Claimant in the violation of the Title 18 U.-S.-C.-S.1001.*
3. *For the use of the Nom de Guerre/Strawman-title is with the fraud of the fictional-creation of the artificial-person for the fraudulent-claim of the authority over the real-man Frederick-George: Kriemelmeyer.*
4. *For the Claimant, Frederick-George: Kriemelmeyer is with the damage by the fraud and conspiracy against the title 18, U.-S.-C.-S. 241, and 242, and 1341, and 1951 and 1961 by the "STATE OF WISCONSIN, DENTISTRY EXAMINING BOARD."*
5. *For the purpose of the Caveat, Notice and Demand is with the chance for the correction of the fraudulent conveyance of the language-papers by the "STATE OF WISCONSIN, DENTISTRY EXAMINING BOARD (In the nature of Demur) for the thirty (30) days is with the limit for the correction of the paperwork with the avoidance of the fault by the "STATE OF WISCONSIN, DENTISTRY EXAMINING BOARD." For this Claimant/ Affiant, Frederick-George: Kriemelmeyer is with the offer of the amending of this Affidavit with the showing of the error in his comprehension of any fact.*

In addition to the statements above, the Respondent attached a copy of the Notice of Hearing and Complaint, dated January 18, 2008, which he had marked with a numerical coding system for what he described as "corrections of the fraudulent conveyance of the language." The numerical code listed "0" for conjunctions, "1" for adverbs, "2" for verbs, "3" for adjectives, "4" for pronouns, "5" for prepositions," and continued through to number "9" for other elements of grammar. The corresponding number appeared above each word in the notice.

The second written submission by the Respondent, dated February 5, 2008, and received by the Administrative Law Judge Department on February 7, 2008, stated as follows:

*GREETINGS: 1) I am in receipt of Notice informing me of the above captioned action. I hereby make my timely response by my written answer to the allegations of the purported "Complaint."*

*Please be advised that I do not have an attorney to present me, and that I am unrepresented. However, I have given my Power of Attorney to Mr. Robert James Fox to handle certain legal and business matters for me due to my current false imprisonment by the federal government due to treasonous acts of insolent, constitutionally disobedient, nonproductive, useless, paper-shuffling, predatory, parasitic, federal government public servant usurpers, and quisling, pettifogger, shyster U.S. Attorneys, all liars, thieves, and traitors for filthy lucre.*

- 3) *I have examined the purported "Complaint" and find it insulting and outrageous, frivolous, and completely without merit, and failing to state a cause of action upon which the relief sought (whatever that is) can be granted. Who is the real party in interest? Who is the real damaged party? What is the NATURE AND CAUSE of the accusations? How does it apply to me? What legitimate or compelling public interest does it serve?*
- 4) *In my examination of the law and administrative code cited in the purported "Complaint" I find only the grounds upon which I can be proceeded against in my capacity as an American man, and a properly trained and experienced, duly licensed dentist of long standing, is for some specific dental-related matter, said to be " Unprofessional Conduct" upon a properly-verified complaint by a real damaged party, such as one of my patients, or on a properly verified complaint by some competent, duly authorized government officer for my alleged failure to be in compliance with one of the provisions as DE 5.02.*

The Respondent asserted that he has violated no law, nor been lawfully convicted of a crime, that he is a victim of sham legal proceedings, and that he is totally innocent. The Respondent further asserted that those who brought charges against him were doing so selectively, vindictively, maliciously in collusion, conspiracy and retaliation for his wholly honorable and righteous stand for American Liberty and Freedom in the face of massive government corruption, fraud and tyranny. The Respondent referred to, as proof of his complete innocence and "illustrating good faith reliance on irrefutable, credible information," two videotapes, "*The Truth Behind the Income Tax*" produced by the Save-A-Patriot Fellowship and the "*From Freedom to Fascism*" from a Hollywood movie producer.

The Respondent claimed that at length in his diatribe, which totaled 25 pages, that only he knows the real truth, that he understands the illegality of the federal tax code and that those who go against him are unpatriotic liars, traitors and thieves pursuing a communist/socialist agenda of fascism and absolute totalitarian despotism. The Respondent's statements include the following which appeared in his third written submission in bold upper case lettering:

**WAKE UP MY FELLOW AMERICANS! EDUCATE YOURSELVES AND ENFORCE THE CONSTITUTION ON YOUR INSOLENT, DISOBEDIENT PUBLIC SERVANT USURPERS OF YOUR INHERENT POLITICAL POWER OVER THEM! WE, THE PEOPLE ARE**

**THE BOSS! LET'S REGAIN CONTROL OVER THESE LIARS, TRAITORS AND THEIVES, NOW BEFORE IT IS TOO LATE!**

The third written submission by the Respondent signed and dated on March 25, 2008, was similar to the first submission and stated as follows:

*For this Caveat and Notice of Fraud is with this Affidavit by the Frederick-George: Kriemelmeyer, hereinafter claimant, under the penalty of the law.*

*1. For this Frederick-George: Kriemelmeyer with the knowledge of the Correct-Sentence-Structure-Communication-Syntax of the English language is with the claim of the ongoing-fraudulent-conveyance of the language in the paper-work by the STATE OF WISCONSIN, DENTISTRY EXAMINING BOARD (sic) and James E. Polewski and Colleen M. Baird, with the date, February 1, 2008 (correct copy enclosed)*

*2. For the use of the fraudulent-conveyance of the language is with the void-factual-communication and with the void-factual-comprehension by this Claimant in the violation of the Title 18 U.-S.-C.-S.1001.*

*3. For the claimant is with the damage by the fraud and conspiracy against the Title 18, u.-S.-C.-S. 241-242-1341-1951-1961 by the Vassalees.*

*4. For this Affidavit is with the standing of the evidence of fraud by the failure of the Vasaalees' absent-counter-Affidavit.*

*5. For this Claimant/Affiant is with the offer of the amending of this Affidavit with the showing of the error in his comprehension of any fact.*

Again, the third written submission from the Respondent was accompanied by a copy of a letter which had been sent by Attorney Polewski to the undersigned Administrative Law Judge, dated February 1, 2008. The Respondent marked the letter with a numerical coding for grammatical corrections similar to his previous submissions. The administrative rules which govern Class 2 disciplinary hearings require that the person against whom a disciplinary proceeding has been commenced and who is named as a Respondent in a complaint must file an answer that states in short and plain terms the defenses to each cause asserted. The rules also require that the Respondent shall file an answer that admit or deny the allegations in the formal Complaint. The rules provide that denials shall fairly meet the substance of the allegations denied and shall be specific to each designated allegation. Wis. Admin. Code RL 2.09(1). The Respondent's submissions do not meet these requirements.

Moreover, if a Respondent fails to answer as required by RL 2.09, disciplinary authority may make findings and enter an order on the basis of the complaint and other evidence, which is deemed



admitted. Wis. Admin. Code RL 2.14. Allegations in a complaint are admitted when not denied. Wis. Admin. Code RL 2.09(3). Accordingly, it is appropriate for the Dentistry Examining Board to determine that because the Respondent has failed to file a proper answer, the conduct alleged in the complaint may be deemed admitted as true and establish the basis upon which professional discipline may be imposed against the Respondent's license.

Given both the unusual content and form of the Respondent's written submissions, it is difficult to characterize these documents as a responsive Answer to the Complaint pursuant to Wis. Admin. Code RL 2.09. The Respondent's written submissions are nonsensical and are written in an odd grammatical syntax.<sup>2</sup> Although not known for certain, the writing appears to be obstructive and intended as disrespectful to a governmental authority. To construe these dilatory, obstructive, frivolous and nonsensical materials as any form of legitimate participation and cooperation with a professional disciplinary hearing would be wrong as a matter of law and public policy. Clearly, the Respondent's submissions fail to comply with the administrative rule governing answers to disciplinary complaints. By default, the allegations in the Complaint are effectively admitted; findings and an order may be entered on the basis of those allegations.

#### DISCIPLINARY RECOMMENDATION

The remaining question to be determined in this proceeding is the appropriate level of discipline. The Division of Enforcement has requested that the Respondent's license be revoked. This Administrative Law Judge concurs with and recommends that the Dentistry Examining Board revoke the Respondent's license to practice dentistry. There is no evidence in the record that anything short of revocation would achieve the goals of professional discipline. *State v. Aldrich*, 71 Wis. 2d 206, 209 (1976). As shown by the Respondent's written submissions in this proceeding, he is not remorseful of his conduct, he is not interested in being rehabilitated, and he has given every indication that he would not obey the laws regarding the payment of taxes if he were to practice as a dentist.

It is a legal obligation of the United States, and the state of Wisconsin, that a citizen shall pay taxes on the income that they earn. It is also a professional obligation of every person who is given a professional license in the state of Wisconsin to obey the law, including the law requiring the payment of the taxes. This is shown by the public policy statement of the legislature when it enacted a specific law which prohibits a person who is liable for delinquent taxes from renewing their license through the Department. Wis. Stat. § 440.12. By his conduct, the Respondent has shown that he has no intent to obey the law regarding income taxation and has little respect for the federal government agency which administers the tax laws of this country.

The Standards of Conduct relating to the practice of dentistry provides that is unprofessional conduct by a dentist to violate any law or to be convicted of a crime the circumstances of which substantially relate to the practice of a dentist. Chapter DE 5.02(15). The failure of a dentist to pay taxes on the income which is earned as a dentist are circumstances substantially related to the practice of dentistry. The determination of whether the circumstances of an applicant's convictions

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<sup>2</sup> David Wynn Miller, a Milwaukee conspiracist advocates for the use of punctuation such as the colon as the key to liberty, as well as other unusual theories supporting antigovernment rhetoric.

are substantially related to the circumstances of the practice of an occupation or profession was addressed by the Wisconsin Supreme Court in County of Milwaukee v. LIRC, 139 Wis.2d 805 (1987), 407 N.W. 2d 908, which sets forth a definitive explanation of the concept, as follows:

Assessing whether the tendencies and inclinations to behave in a certain way in a particular context are likely to reappear later in a related context, based on the traits revealed, is the purpose of the test. What is important is not the factual details related to such things as the hour of the day the offense was committed, the clothes worn during the crime, whether a knife or a gun was used, whether there was one victim or a dozen or whether the robber wanted money to buy drugs or to raise bail money for a friend. All of these could fit the broad interpretation of "circumstances." However, they are entirely irrelevant to the proper "circumstances" inquiry required under the statute. *It is the circumstances which foster criminal activity that are important, e.g; the opportunity for criminal behavior, the reaction to responsibility, or the character traits of the person.* (Emphasis added.)

The Respondent's conviction for underreporting the gross receipts from his dental practice in order to evade paying taxes demonstrates dishonesty, untrustworthiness and unlawfulness. The public must have the confidence in those who are licensed as health care professional; they are expected to abide by the law, particularly as to the business aspects of their profession. The Respondent's conduct relative to the financial aspects of his dentistry practice does not reflect well on his overall character and reaction to responsibility. The Respondent's submissions in this proceeding suggest that if given an opportunity to earn income as a dentist, the Respondent would engage in the same behavior. Given all of the circumstances, the revocation of the Respondent's dentistry license is the most appropriate measure to safeguard the public and to deter the Respondent and others from engaging in similar conduct.

#### Costs of the Proceeding

In addition, there remains the question of whether the costs of the proceeding should be imposed against the Respondent. The Division of Enforcement has requested that the Dentistry Examining Board impose the full costs of the proceeding against the Respondent. An examining board may assess all or part of the costs of a disciplinary proceeding, pursuant to Wis. Stat. § 440.22 (2), which in relevant part provides:

In any disciplinary proceeding against a holder of a credential in which the department or an examining board, affiliated credentialing board or board in the department orders suspension, limitation or revocation of the credential or reprimands the holder, the department, examining board, affiliated credentialing board or board may, in addition to imposing discipline, assess all or part of the costs of the proceeding against the holder. Costs assessed under this subsection are payable to the department.

The presence of the word "may" in the statute is a clear indication that the decision whether to assess the costs of this disciplinary proceeding against the Respondent is a discretionary

decision on the part of the Dentistry Board, and that this discretion extends to the decision whether to assess the full costs or only a portion of the costs.

The determination of whether the full costs of the proceeding should be assessed against a credential holder can be based upon several factors,<sup>3</sup> which include the following:

1. The number of counts charged, contested and proven;
2. The nature and seriousness of the misconduct;
3. The level of discipline sought by the parties;
4. The Respondent's cooperation with the disciplinary process;
5. Prior discipline, if any;
6. The fact that the Department of Regulation and Licensing is a "program revenue" agency, whose operating costs are funded by the revenue received from licensees, and the fairness of imposing the costs of disciplining a few members of the profession on the vast majority of the licensees who have not engaged in misconduct; and
7. Any other relevant circumstances.

Applying the factors enumerated above, it is appropriate and reasonable to assess the full costs of the proceeding against the Respondent. First, the Complaint was charged with violating Wis. Admin. Code § DE 5.02(15) and Wis. Stat. §§ 447.07(3)(a) and (e) by having violated a law the circumstances of which substantially relate to the practice of a dentist. The Respondent was convicted of four counts of Class E felonies, pursuant to 26 U.S.C. § 7206(1) for failure to accurately report the gross receipts from his practice of dentistry on his federal tax returns. The violation charged was proven in its entirety. The Judgment of Criminal Conviction in United States of America v. Frederick George Kriemelmeyer, Case No. 07-CR-C-01, United States District Court, Western District of Wisconsin, is irrefutable proof that the Respondent was adjudicated guilty of a law which substantially relates to the practice of dentistry.

Second, the nature of the Respondent's misconduct is serious. This is reflected in the level of the penalty imposed by the federal court; the Respondent was sentenced to a prison term in a federal facility with an order to pay substantial restitution and other assessments. In fact, his criminal sentence was enhanced by the court due to his obstruction of the investigation and lying under oath during the trial. The seriousness of the misconduct is also reflected by the level of discipline requested by the Division of Enforcement – the revocation of the Respondent's dentistry license - the most severe level of discipline that a credentialing authority may impose.

Finally, the record in this proceeding shows that the Respondent's cooperation with the disciplinary process was extremely poor. The content and tenor of the Respondent's written submissions were obstreperous, contemptuous and virtually nonsensical. The Respondent refused to appear by telephone at the hearing, after considerable effort was undertaken to afford him such an opportunity. The Respondent's written submissions were clearly not in compliance with the administrative rules for answers in Class 2 disciplinary matters. By his actions, the Respondent has been deemed to have defaulted in this proceeding by failing to file a proper answer. Even if it was determined that the Respondent did not default, the evidence submitted by the Division of

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<sup>3</sup> These factors have been identified by the Wisconsin Supreme Court in its disciplinary proceedings against disciplined attorneys in determining the assessment of costs. See Supreme Court Rule 22.24(1m)

Enforcement was more than adequate to meet the burden of proof and sustain the charges in the Complaint. Accordingly, the Respondent should be held fully responsible for his actions in this proceeding and accountable for the full costs associated with this proceeding.

Based upon the totality of the evidence presented and made part of this administrative hearing record, and for all of the reasons set forth herein, the Administrative Law Judge recommends that the Dentistry Examining Board adopt as its final decision in this matter, the proposed Findings of Fact, Conclusions of Law and Order as set forth herein.

Dated this 12<sup>th</sup> day of June, 2008.

Respectfully Submitted,



Colleen M. Baird  
Administrative Law Judge  
Department of Regulation and Licensing  
1400 East Washington Avenue  
P.O. Box 8935  
Madison, Wisconsin 53708