

## WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN  
BEFORE THE ACCOUNTING EXAMINING BOARD

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IN RE DISCIPLINARY PROCEEDINGS	:	
AGAINST	:	
	:	FINAL DECISION AND ORDER
GARY R. WOLLACK, DIANE K.	:	
WOLLACK, and WOLLACK &	:	LS <u>0802051 ACC</u>
WOLLACK, C.P.A.s S.C.	:	
	:	
RESPONDENTS.	:	

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Division of Enforcement Case No.s 05 ACC 005, 05 ACC 012, 05 ACC 015 and 07 ACC 008

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

Gary R. Wollack  
816 Elizabeth Street  
Waunakee, WI 53597

Diane K. Wollack  
816 Elizabeth Street  
Waunakee, WI 53597

Wollack & Wollack C.P.A.s S.C.  
P.O. Box 275  
Waunakee, WI 53597

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(s), 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 Gary R. Wollack ("Mr. Wollack"), whose last known address of record with the Department of Regulation and Licensing ("Department") is 816 Elizabeth Street, Waunakee, Wisconsin 53597, and whose date of birth is November 1, 1954, possesses a certificate and a license to practice as a certified public accountant in the state of Wisconsin (#1-10207). The certificate and license were first granted on August 18, 1986, and will expire on December 14, 2007.

2. Respondent Diane K. Wollack ("Ms. Wollack"), whose last known address of record with the Department is 816 Elizabeth Street, Waunakee, Wisconsin 53597, and whose date of birth is September 20, 1949, possesses a certificate and a license to practice as a certified public accountant in the state of Wisconsin (#1-11273). The certificate and license were first granted on July 29, 1988, and will expire on December 14, 2007.

3. Respondent Wollack & Wollack, C.P.A.s, S.C. ("W&W"), whose last known address of record with the Department is P.O. Box 275, Waunakee, Wisconsin 53597, possesses a license to practice as an accounting firm in the state of Wisconsin (#3-1135). The certificate and license were first granted on June 8, 2007, and will expire on December 14, 2007.

### Count I: Firm Not Licensed (All Respondents)

4. Mr. Wollack and Ms. Wollack incorporated their accounting business as W&W with the State of Wisconsin, Department of Financial Institutions, beginning March 6, 2001, but neither applied for nor obtained a license as an accounting firm until 2007.

5. 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.

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

### Count II: Retention of Client Records and Failure to Exercise Professional Care (Mr. Wollack)

7. J.B. was a client of Mr. Wollack, having his business income tax, business sales tax, and personal taxes prepared by Mr. Wollack. Mr. Wollack failed to file personal income tax returns in 2002 and 2003, business tax returns for J.B. from 2001 through 2003, and sales tax returns for various quarters from 2001 through 2003. Wages for J.B. were garnished due to unpaid sales taxes. Additionally, J.B., both personally and through a subsequent accountant employed by him, made numerous requests to Mr. Wollack for records. However, Mr. Wollack did not timely return client records to J.B.

8. J.E. was a client of Mr. Wollack, having his and his wife's taxes prepared by Mr. Wollack. Mr. Wollack failed to provide timely tax services to J.E. for 2004, and also failed to advise regarding penalties and interest associated with a request for extension.

9. K.K. was a client of Wollack & Wollack, C.P.A.s, S.C., having her corporate and personal tax returns prepared by Mr. Wollack. From December 2004 until at least June 2005 Mr. Wollack failed to provide copies of client records related to K.K.'s 2003 corporate income taxes, despite repeated requests for same. K.K. asked Mr. Wollack to address with the United States Internal Revenue Service ("IRS") a matter concerning a Notice of Intent to Levy. However, when K.K. contacted the IRS she found that there was no record of contacts between Mr. Wollack and the IRS concerning her case.

10. K.K. further alleged that W&W failed to timely pay bills for her business, as agreed to, although the truth of those allegations is not determined by this Order.

11. Per Wis. Admin. Code § Accy 1.201(1)(b), "A certified public accountant or public accountant shall exercise due professional care in the performance of an engagement."

12. Per Wis. Admin. Code § Accy 1.401(2), "Interpretations of s. Accy 1.401(1), not intended to be all-inclusive, are as follows: (a) Retention of client records after a demand is made for them is an act discreditable to the profession in violation of s. Accy. 1.401."

#### Aggravating Factor

13. Mr. Wollack has previously been suspended by the Board for retention of client records and other issues in Division of Enforcement Case No.s 90 ACC 007, 91 ACC 027 and 92 ACC 002.

#### 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 doing business as Wollack & Wollack, C.P.A.s, S.C., without a valid accounting firm license, as described above in paragraphs 3-4, Respondents GARY R. WOLLACK, DIANE K. WOLLACK, and WOLLACK & WOLLACK C.P.A.s, S.C. have each violated Wis. Stat. §§ 442.08(2) and 442.03, thereby subjecting themselves to discipline per Wis. Stat. § 442.12(2).

4. By failing to timely file tax returns on behalf of clients, and by failing to timely contact the United States Internal Revenue Service, as described above in paragraphs 7-9, Respondent GARY R. WOLLACK has failed to exercise due professional care in the

in the performance of an engagement on four or more occasions, contrary to Wis. Admin. Code § Accy 1.201(1)(b), thereby subjecting himself to discipline per Wis. Stat. § 442.12(2).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The license and certification of Respondent GARY R. WOLLACK to practice as a certified public accountant in the state of Wisconsin (#1-10207) shall be, and hereby are, SUSPENDED for a period of SIX MONTHS, beginning on January 1, 2008. Respondent GARY R. WOLLACK shall submit all indicia of licensure to the Department Monitor on or before January 1, 2008, to be returned upon completion of the term of the suspension.

2. The license and certification of Respondent DIANE K. WOLLACK to practice as a certified public accountant in the state of Wisconsin (#1-11273) shall be, and hereby are, REPRIMANDED.

3. The license of WOLLACK & WOLLACK C.P.A.s S.C. (#3-1135) to practice as an Accounting Firm shall be, and hereby is, LIMITED as follows: (a) Respondent WOLLACK & WOLLACK C.P.A.s S.C. (or any successor organization) shall not practice or advertise under any other name than "Wollack & Wollack, Accountants, S.C.," unless first obtaining the written consent of the Board's monitoring liaison, and is further specifically prohibited from holding itself out to the public as an Accounting Firm with members who are certified public accountants, except that Respondents DIANE K. WOLLACK, GARY R. WOLLACK, and any other member of the firm may individually represent to the public that he or she is individually a certified public accountant, so long as his or her license is currently in good standing; (b) all advertising ordered or renewed by or on behalf of Wollack & Wollack C.P.A.s S.C. (to be known as Wollack & Wollack, Accountants, S.C.), on or after the date of signing of this Order, shall comply with sub-paragraph (a) of this paragraph, and specifically is prohibited from using or containing the designation "C.P.A.(s)" or the title "Certified Public Accountant(s);" and (c) This limitation shall be in effect for a period of FOUR YEARS, beginning the date of signing of this Order.

IT IS FURTHER ORDERED that:

4. Respondents shall be held jointly and severally liable for the payment of costs in these matters, in the amount of \$4,250.00, which shall be due in full 18 months from the date of signing of this Order.

5. All payments and submissions required by this order to be submitted to the Department Monitor 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 05 ACC 005, 05 ACC 012, 05 ACC 015 and 07 ACC 008 are hereby closed.

7. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of the license and/or certification of the Respondents. The Accounting Examining Board in its sole discretion may in the alternative impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order. In the event that Respondents fail to timely submit any payment of costs as set forth above, their licenses and certifications (#1-11273, #1-10207, and #3-1135) SHALL BE SUSPENDED, without further notice or hearing, until Respondent(s) has/have complied with the terms of this Order.

8. This Order is effective on the date of its signing.

ACCOUNTING EXAMINING BOARD

By: Thomas J. Eitken (TW)  
A Member of the Board

2/5/08  
Date



6. 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.

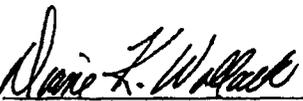
7. The parties to this Stipulation agree that the attorney or other agent for the Division of Enforcement and any member of the Board ever assigned as an advisor in this investigation may appear before the Board, with or without the presence of Respondents or their attorney, for purposes of speaking 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.

8. 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.

9. The Division of Enforcement joins Respondents in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.

  
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**GARY R. WOLLACK**, Respondent  
On his Own Behalf and on Behalf of  
Wollack & Wollack C.P.A.s S.C.  
Respondent  
816 Elizabeth Street  
Waunakee, WI 53597

12/13/07  
Date

  
\_\_\_\_\_  
**DIANE K. WOLLACK**, Respondent  
On her Own Behalf and on Behalf of  
Wollack & Wollack C.P.A.s S.C.  
Respondent  
816 Elizabeth Street  
Waunakee, WI 53597

12/12/07  
Date



**FRANK C. SUTHERLAND**

Lathrop & Clark, LLP  
As Attorneys for Respondents  
740 Regent Street Suite 400  
P.O. Box 1507  
Madison, WI 53701-1507

12/7/07  
Date



**MARK A. HERMAN**

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

12/13/07  
Date

[Case No.s 05 ACC 005, 05 ACC 012, 05 ACC 015 and 07 ACC 008; Suspension; Limitation;  
Costs \$4,250.]