

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



## Wisconsin Department of Regulation & Licensing Access to the Public Records of the Reports of Decisions

This Reports of Decisions document was retrieved from the Wisconsin Department of Regulation & Licensing website. These records are open to public view under Wisconsin's Open Records law, sections 19.31-19.39 Wisconsin Statutes.

### Please read this agreement prior to viewing the Decision:

- The Reports of Decisions is designed to contain copies of all orders issued by credentialing authorities within the Department of Regulation and Licensing from November, 1998 to the present. In addition, many but not all orders for the time period between 1977 and November, 1998 are posted. Not all orders issued by a credentialing authority constitute a formal disciplinary action.
- Reports of Decisions contains information as it exists at a specific point in time in the Department of Regulation and Licensing data base. Because this data base changes constantly, the Department is not responsible for subsequent entries that update, correct or delete data. The Department is not responsible for notifying prior requesters of updates, modifications, corrections or deletions. All users have the responsibility to determine whether information obtained from this site is still accurate, current and complete.
- There may be discrepancies between the online copies and the original document. Original documents should be consulted as the definitive representation of the order's content. Copies of original orders may be obtained by mailing requests to the Department of Regulation and Licensing, PO Box 8935, Madison, WI 53708-8935. The Department charges copying fees. *All requests must cite the case number, the date of the order, and respondent's name as it appears on the order.*
- Reported decisions may have an appeal pending, and discipline may be stayed during the appeal. Information about the current status of a credential issued by the Department of Regulation and Licensing is shown on the Department's Web Site under "License Lookup." The status of an appeal may be found on court access websites at: <http://ccap.courts.state.wi.us/InternetCourtAccess> and <http://www.courts.state.wi.us/wscqa>.
- Records not open to public inspection by statute are not contained on this website.

**By viewing this document, you have read the above and agree to the use of the Reports of Decisions subject to the above terms, and that you understand the limitations of this on-line database.**

**Correcting information on the DRL website:** An individual who believes that information on the website is inaccurate may contact the webmaster at [web@drl.state.wi.gov](mailto:web@drl.state.wi.gov)

STATE OF WISCONSIN  
BEFORE THE ACCOUNTING EXAMINING BOARD

IN THE MATTER OF THE	:	
DISCIPLINARY PROCEEDINGS	:	
AGAINST	:	FINAL DECISION AND ORDER
	:	
ROBERT E. JAQUES, CPA,	:	Case # LS0903189ACC
RESPONDENT.	:	

Division of Enforcement Cases ## 05 ACC 008 and 05 ACC 025

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

Robert E. Jaques, CPA  
11040 W. Bluemound Rd. #102  
Wauwatosa, WI 53226

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

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

**PROCEDURAL HISTORY**

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the Accounting Examining Board (Board). The Board has reviewed the attached Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

**FINDINGS OF FACT**

1. Robert E. Jaques, CPA (DOB 06/11/1949), is duly licensed as a certified public accountant in the state of Wisconsin (license # 5649-001). This license was first granted on April 21, 1978, and is current through December 14, 2009.
2. Respondent's most recent address on file with the Department of Regulation and Licensing is 11040 W. Bluemound Rd #102, Wauwatosa, WI 53226.
3. Respondent handles tax filings for various clients. He handled payroll filings until 2006.
4. As part of handling payroll and tax filings for his clients, Respondent maintained a single account (hereafter Client Payroll Account) in which to deposit client payments for payroll and taxes.
5. Client payments for payroll and taxes were commingled in the Client Payroll Account.
6. Respondent's Client Payroll Account has not been reviewed by an independent party.
7. Respondent regularly collected more than the payroll amount from clients in order to cover his fee, the costs of maintaining the Client Payroll Account (including bank service charges), and payment shortfalls from clients.
8. Around June 1995, Respondent orally agreed to handle payroll and tax filings for Medical Rehabilitation Resources SC (MRR), which was owned and operated by Dr. LB. There is no letter of engagement.
9. Respondent also prepared personal tax returns for Dr. LB and her husband CM.

10. Respondent did not file required tax documents for MRR on a timely basis for at least 1997 through 2003.
11. Respondent presented Dr. LB with a proposed payroll expense list and required Dr. LB to pay that amount to him. Respondent deposited payments into the Client Payroll Account and would then issue payroll checks from the account.
12. Respondent's attorney has estimated the amount of Dr. LB's funds reserved by Respondent as approximately \$11,000. The reserve amount exceeded the payroll amounts to be withheld for tax payments.
13. Dr. LB transferred her accounting business to a succeeding preparer, who reviewed Dr. LB's books and tax filings. The succeeding preparer confirmed that Respondent filed some of Dr. LB's required returns but billed Dr. LB for all returns that had been required.
14. Respondent returned all reserve funds to Dr. LB within 60 days after she transferred her accounting business.
15. Respondent prepared payroll and tax filings for CM's business, MKS Corporation (MKS), from about 1992 to November or December in 2001.
16. Respondent presented MKS with a proposed payroll expense list and required MKS to pay that amount to him. Respondent deposited payments into the Client Payroll Account and would then issue payroll checks from the account.
17. The reserve amounts from MKS exceeded the payroll amounts to be withheld for tax payments.
18. MKS was issued an Intent to Levy by the Internal Revenue Service (IRS) for a 1995 return. Respondent had been given a Power of Attorney by the corporation's president and CEO to represent MKS in matters with the IRS.
19. There is no evidence that Respondent addressed the Intent to Levy issued to MKS. No levy was ever filed.

## CONCLUSIONS OF LAW

1. The Board has jurisdiction to act in this matter pursuant to Wis. Stat. § 442.12 (1).
2. The Board is authorized to enter into the attached Stipulation and Order pursuant to Wis. Stats. § 227.44 (5).
3. Wis. Administrative Code § Accy 1.201 (1) (b) requires certified public accountants to exercise due professional care in the performance of an engagement.
4. By failing to file tax documents on a timely basis for MRR, Respondent has failed to exercise due professional care in the performance of an engagement.
5. Wis. Administrative Code § Accy 1.401 (1) provides that no person licensed as a certified public accountant may commit an act discreditable to the profession.
6. Wis. Administrative Code § Accy 1.401 (2) (g) states that the deliberate receipt and retention of a fee from a client for services not performed when the client has been given reason to believe that there should be performance is an act discreditable to the profession.
7. By accepting a fee for filing all appropriate tax returns for Dr. LB, CM, MRR and MKS and then failing to file some returns, Respondent has committed an act discreditable to the profession.
8. Wis. Stat. § 442.12 (1) (b) provides that the Board may revoke, limit or suspend for a definite period any certificate, license or practice privilege, or officially reprimand the holder, if it finds that the holder has violated Chapter 442 or any duly promulgated standard or rule of practice.

## ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. The license of Robert E. Jaques to practice as a Certified Public Accountant in the State of Wisconsin is hereby **REPRIMANDED**.
2. Respondent Robert E. Jaques shall successfully complete eighteen hours of continuing education in ethics and in handling taxes by June 1, 2010. Respondent shall obtain pre-approval of one or more courses from the Board or its designated agent **before** he takes the courses in fulfillment of this requirement. Respondent shall submit to the Department Monitor proof of successful completion in the form of verification from the institution providing the education.
3. Respondent Robert E. Jaques shall pay partial costs of **TWO THOUSAND FIVE HUNDRED** dollars (\$2500.00). Payment shall be submitted on the following payment schedule:

Date	Amount
July 15, 2009	\$312.50
October 15, 2009	\$312.50
January 15, 2010	\$312.50
April 15, 2010	\$312.50
July 15, 2010	\$312.50
October 15, 2010	\$312.50
January 15, 2011	\$312.50
April 15, 2011	\$312.50

The full amount of the costs may be paid at any time prior to each due date for payment.

4. Payment shall be made payable to the Wisconsin Department of Regulation and Licensing, and mailed to:

Department Monitor  
Division of Enforcement  
Department of Regulation and Licensing  
P. O. Box 8935  
Madison, WI 53708-8935  
Telephone (608) 267-3817  
FAX (608) 266-2264

5. **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 Respondent's license. The Board in its 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 Respondent fails to pay costs as ordered, or fails to comply with the ordered continuing education, Respondent's license (#5649-001) SHALL BE SUSPENDED, without further notice or hearing until Respondent has complied with the terms of this Order.**
6. Division of Enforcement cases ## 05 ACC 008 and 05 ACC 025 are hereby closed.
7. This Order is effective on the date of its signing.

By: Thomas J. Kilkenney  
A Member of the Board

3/18/09  
Date

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

IN THE MATTER OF	:	
THE DISCIPLINARY PROCEEDINGS	:	
AGAINST	:	
	:	STIPULATION
ROBERT E. JAQUES, CPA,	:	Case # LS 09 _____ ACC
RESPONDENT.	:	

Division of Enforcement Cases ## 05 ACC 008 and 05 ACC 025

It is hereby stipulated between Robert E. Jaques, and by his attorney, Eugene Bykhovsky, and Claudia Berry Miran, for the Department of Regulation and Licensing, Division of Enforcement, as follows:

1. This Stipulation is entered into as a result of a pending investigation by the Division of Enforcement (05 ACC 008 and 05 ACC 025). Respondent consents to resolution of this investigation by stipulation and without the issuance of a formal complaint.
2. Respondent understands that by signing this Stipulation he voluntarily and knowingly waives his rights, including:
  - The right to a hearing on the allegations against him, at which time the state has the burden of proving those allegations by a preponderance of the evidence.
  - The right to confront and cross examine the witnesses against him.
  - The right to call witnesses on his behalf and to compel their attendance by subpoena.
  - The right to testify himself.
  - 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.
  - All other applicable rights afforded to him 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. Respondent has obtained the advice of legal counsel prior to signing this Stipulation.
4. Respondent agrees 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. Respondent waives 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 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 consideration of this attempted resolution.
6. The parties to the 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 in open or closed session without the presence of the Respondent or his attorney, for purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with the Board's deliberations on the Stipulation. Additionally, any such advisor may vote on whether the Board should accept the stipulation and issue the attached Final

Decision and Order.

7. Respondent is 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 of Regulation and Licensing procedures.
8. The Division of Enforcement joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order

---

Robert E. Jaques, CPA

---

Date

11040 W. Bluemound Road #102

Wauwatosa, WI 53226

---

Eugene Bykhovsky, Attorney

---

Date

Machulak, Robertson & Sodos, S.C.

1733 North Farwell Avenue

Milwaukee, WI 53202-1805

---

Claudia Berry Miran, Attorney

---

Date

State Bar #1015184

Division of Enforcement

Department of Regulation and Licensing

1400 East Washington Avenue

P. O. Box 8935

Madison, WI 53708-8935

