

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE DENTISTRY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY :
PROCEEDINGS AGAINST :
 : FINAL DECISION AND ORDER
EUGENE A. DARKOW, D.D.S., :
RESPONDENT. :

0004692

Division of Legal Services and Compliance Case No. 15 DEN 015

The parties to this action for the purpose of Wis. Stat. § 227.53 are:

Eugene A. Darkow, D.D.S.
114 Haylett St.
Neenah, WI 54956

Wisconsin Dentistry Examining Board
P.O. Box 8366
Madison, WI 53708-8366

Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190
Madison, WI 53707-7190

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

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. Respondent Eugene A. Darkow, D.D.S., (dob November 20, 1956) is licensed to practice dentistry in the state of Wisconsin, having license number 3205-15, first issued on September 7, 1983 and current through September 30, 2017. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 114 Haylett Street, Neenah, Wisconsin 54956.

2. At all times relevant to this proceeding, Respondent was self-employed as a dentist and the president and sole owner of a dental clinic (Clinic) located in Neenah, Wisconsin.

3. Respondent filed federal income tax returns for the years 2008-2011 jointly with his wife, on which Respondent reported his salary, rental income, income from his dental practice, and his wife's income, as well as their corresponding tax obligations.

4. Respondent accurately reported substantial tax obligations for 2008-2011, but he did not pay the majority of the taxes he owed for those years.

5. Respondent filed each of the tax returns in October of the year following the tax year in question, but he was required to pay the taxes on or before April 15th of that year.

6. On June 1, 2015, Respondent pled guilty to two (2) counts of willfully failing to pay federal income taxes in violation of 26 U.S.C. § 7203 and entered into a plea agreement with the United States District Court Eastern District of Wisconsin. As a condition of probation on the criminal conviction, Respondent is required to pay restitution in the amount of \$557,813.93.

7. Willfully failing to pay federal income taxes in violation of 26 U.S.C. § 7203 is a crime the circumstances of which substantially relate to the practice of dentistry in that Respondent is responsible for reporting and paying federal income taxes on the income derived from the practice of dentistry.

8. Willfully failing to pay income taxes is a violation of a law substantially related to the practice of dentistry, in that the State of Wisconsin deems failure to pay taxes due to the State to disqualify a dentist from continued licensure, pursuant to Wis. Stat. § 440.12.

9. In resolution of this matter, Respondent consents to the entry of the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

1. The Wisconsin Dentistry Examining Board has jurisdiction to act in this matter pursuant to Wis. Stat. § 447.07, and is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).

2. By the conduct described in the Findings of Fact, Eugene A. Darkow, D.D.S., engaged in unprofessional conduct as defined in Wis. Admin. Code § DE 5.02(20), by violating a law substantially related to the practice of dentistry.

3. As a result of the above conduct, Eugene A. Darkow, D.D.S., is subject to discipline pursuant to Wis. Stat. § 447.07(3)(a), (e), and (f).

ORDER

1. The attached Stipulation is accepted.
2. Eugene A. Darkow, D.D.S., (license number 3205-15) is REPRIMANDED.
3. The license to practice dentistry in the state of Wisconsin issued to Eugene A. Darkow, D.D.S., (license number 3205-15) is LIMITED as follows:
 - a. Respondent shall comply with all terms of probation set out in United States District Court Eastern District of Wisconsin Case No. 14-CR-250.
 - b. Respondent shall provide his federal probation agent with a copy of this Order.
 - c. For the duration of probation, Respondent shall arrange for his federal probation agent to send to the Department Monitor monthly reports indicating whether or not Respondent is in full compliance with the terms of probation.
 - d. Within 90 days from the date of this Order, Respondent must take and pass the dentistry ethics examination.
4. Within 90 days from the date of this Order, Respondent shall pay COSTS of this matter in the amount of \$200.00.
5. Any reports and payment of costs (made payable to the Wisconsin Department of Safety and Professional Services) shall be sent by Respondent to the Department Monitor at the address below:

Department Monitor
Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190, Madison, WI 53707-7190
Telephone (608) 267-3817; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

6. 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 for a violation of any of the terms of this Order. In the event Respondent fails to maintain full compliance with the terms of probation, fails to timely submit monthly reports, or fails to timely submit payment of the costs as ordered, Respondent's license (no. 3205-15) may, in the discretion of the Board or its designee, be SUSPENDED, without

further notice or hearing, until Respondent has complied with payment of the costs and provided proof of compliance with the terms of probation.

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

WISCONSIN DENTISTRY EXAMINING BOARD

by: 
A Member of the Board

5/4/16
Date

STATE OF WISCONSIN
BEFORE THE DENTISTRY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

EUGENE A. DARKOW, D.D.S.,
RESPONDENT.

:
:
:
:
:

STIPULATION

0004692

Division of Legal Services and Compliance Case No. 15 DEN 015

Respondent Eugene A. Darkow, D.D.S., and the Division of Legal Services and Compliance, Department of Safety and Professional Services stipulate as follows:

1. This Stipulation is entered into as a result of a pending investigation by the Division of Legal Services and Compliance. Respondent consents to the resolution of this investigation by Stipulation.

2. Respondent understands that by signing this Stipulation, Respondent voluntarily and knowingly waives the following rights:

- the right to a hearing on the allegations against Respondent, 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 Respondent;
- the right to call witnesses on Respondent's behalf and to compel their attendance by subpoena;
- the right to testify on Respondent's own behalf;
- 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 Respondent under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and other provisions of state or federal law.

3. Respondent is aware of Respondent's right to seek legal representation and has been provided an opportunity to obtain legal counsel before signing this Stipulation. Respondent is represented by Thomas Wilmouth.

4. Respondent agrees to the adoption of the attached Final Decision and Order by the Wisconsin Dentistry 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 then be returned to the Division of Legal Services and Compliance for further proceedings. In the event that the 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 Legal Services and Compliance 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 Respondent or Respondent's attorney, for purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with deliberations on the Stipulation. Additionally, any such advisor may vote on whether the Board should accept this 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 procedure.

8. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.

Eugene A. Darkow DDS
Eugene A. Darkow, D.D.S., Respondent
114 Haylett St.
Neenah, WI 54956
License no. 3205-15

3/31/16
Date

CD, WR
Thomas Wilmouth, Attorney for Respondent
P.O. Box 217
Hazelhurst, WI 54531

4/7/16
Date

James E. Polewski
James E. Polewski, Attorney
Department of Safety and Professional Services
Division of Legal Services and Compliance
P.O. Box 7190
Madison, WI 53707-7190

March 10, 2016
Date