

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE ACCOUNTING EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	FINAL DECISION AND ORDER
FREDERICK J. SITZBERGER AND	:	
SITZBERGER & CO., S.C.,	:	
RESPONDENTS.	:	ORDER 0007106

Division of Legal Services and Compliance Case No. 18 ACC 002

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

Frederick J. Sitzberger
Delafield, WI 53018

Sitzberger & Co., S.C.
Brookfield, WI 53045

Wisconsin Accounting 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 Accounting 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 Frederick J. Sitzberger (Birth Year 1953), is certified and licensed by the State of Wisconsin as a certified public accountant, having certification and license number 7117-1, first issued on June 3, 1981 and current through December

14, 2021. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is in Delafield, Wisconsin 53018.

2. Respondent Sitzberger & Co., S.C. is licensed by the State of Wisconsin as an accounting firm, having license number 739-3, first issued on January 21, 1994 and current through December 14, 2021. Respondent's most recent address on file with the Department is in Brookfield, Wisconsin 53045.

3. Respondent Sitzberger is the responsible licensee for Respondent Sitzberger & Co., S.C.

4. In 2018, the Department received complaints alleging that Respondents had sent inappropriate invoices. Division of Legal Services and Compliance (Division) Case Number 18 ACC 002 was subsequently opened for investigation.

5. On November 13, 2019, a representative for Respondents stated that Respondents increased the hourly billing rate of employee J.P.B. , who had just joined Respondent Sitzberger & Co. from another accounting firm, to \$200 on December 8, 2017, and that J.P.B.'s clients from his former firm were not notified of the increased billing rate.

6. On invoice number 76467, Respondents incorrectly charged their client C.H.I. an hourly billing rate of \$200 for work performed by employee J.P.B. prior to December 8, 2017.

7. On invoice number 76477, Respondents incorrectly charged their client W.A. an hourly billing rate of \$200 for work performed by employee J.P.B. prior to December 8, 2017.

8. On invoice number 76476, Respondents charged their client W.I.S. \$1,102.50 on December 7, 2017, for a similar service that was performed the month prior for \$340.

9. On invoice number 80716, Respondents completed work and billed former client J.W.T. for work performed on April 6, 2018. J.W.T. was no longer a client of Respondents at that time.

10. On invoice numbers 75870, 75884, and 76566, Respondents completed work and billed former client M. for work performed on January 26, 2018, January 31, 2018, and February 5, 2018. M. was no longer a client of Respondents at that time.

11. On invoice number 98976, Respondents incorrectly charged their clients J.H. and K.H. for work. The billing error was immediately corrected upon notification by the Department.

12. On invoice number 76426, Respondents overcharged their client K.2.M. The billing error was immediately corrected upon notification by the Department.

13. On invoice number 80690, Respondents overcharged their client W.H.T. The billing error was immediately corrected upon notification by the Department.

14. In resolution of this matter, Respondents consent to the entry of the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

1. The Wisconsin Accounting Examining Board has jurisdiction to act in this matter pursuant to Wis. Stat. § 442.12, 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, Respondents Frederick J. Sitzberger and Sitzberger & Co., S.C. violated Wis. Admin. Code § Accy 1.201(1)(b) by failing to exercise due professional care in the performance of an engagement.

3. As a result of the above violations, Respondents Frederick J. Sitzberger and Sitzberger & Co., S.C. are subject to discipline pursuant to Wis. Stat. § 442.12(1)(b), (c).

ORDER

1. The attached Stipulation is accepted.

2. Respondent Frederick J. Sitzberger is REPRIMANDED.

3. Respondent Sitzberger & Co., S.C.'s accounting firm license (no. 739-3) is LIMITED as follows:

a. Respondent shall submit a written request for pre-approval of a Wisconsin certified public accountant to the Department Monitor at the address below. The Board approved Wisconsin CPA (hereinafter Auditor) will be responsible for the audit of Respondent's bookkeeping practices as described below.

b. At 90-day intervals, for a period of one year from the date of this Order, Respondent shall submit quarterly bookkeeping reports to the Auditor. Each report shall include:

i. A list of all business conducted by Sitzberger & Co., S.C. for the period under review,

- ii. The quarterly list shall indicate invoice number, type of services provided, and fee assessed.
 - c. The Auditor may select five (5) invoices at random from each report to audit.
 - d. Within ten (10) business days after the Auditor informs Respondent of any invoice selected for review, Respondent shall submit the appropriate materials determined by the Auditor for review.
 - e. Respondent shall promptly reply to any questions the Auditor may have concerning any of Respondent's submissions within ten (10) business days of the request by the Auditor.
 - f. Respondent shall submit reports prepared by the Auditor detailing the findings of his/her review to the Department Monitor at the address below, every ninety (90) days..
 - g. The Board or its designee shall review the submissions to determine if they are minimally satisfactory. If the submissions are found not to be minimally satisfactory by the Board or its designee, additional requests may be made for the Board or its designee's review.
 - h. After four (4) minimally satisfactory reports have been approved by the Board or its designee, Respondent shall be eligible to petition the Board for removal of this limitation. The Board may grant or deny the petition(s), in its discretion, or may modify this Order as it sees fit. A denial of such petition(s) for modification or termination shall not be deemed a denial of a license under Wis. Stat. § 227.42, or Wis. Admin. Code ch. SPS 1, and shall not be subject to any right to further hearing or appeal.
4. Respondents shall be responsible for all costs of complying with the terms of this Order.
5. Respondent Frederick J. Sitzberger shall, within 90 days after the date of this Order, pay the COSTS of this matter in the amount of \$5,358.
6. Submission of reports and payment of costs (made payable to the Wisconsin Department of Safety and Professional Services) shall be sent by Respondents 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

This information may also be submitted online via DSPS' Monitoring Case Management System at:

<https://dspsmonitoring.wi.gov>

9. In the event Respondents violate any term of this Order, Respondents' credentials (numbers 7117-1 and 739-3), or Respondents' right to renew their credentials, may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondents have complied with the terms of the Order. The Board may, in addition and/or in the alternative refer any violation of this Order to the Division of Legal Services and Compliance for further investigation and action.

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

WISCONSIN ACCOUNTING EXAMINING BOARD

by: 
A Member of the Board

2 December 2020
Date

STATE OF WISCONSIN
BEFORE THE ACCOUNTING EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

FREDERICK J. SITZBERGER AND
SITZBERGER & CO., S.C.,
RESPONDENTS.

:
:
:
:
:
:

STIPULATION

ORDER 0007106

Division of Legal Services and Compliance Case No. 18 ACC 002

Respondents Frederick J. Sitzberger and Sitzberger & Co., S.C. 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. Respondents consent to the resolution of this investigation by Stipulation.

2. Respondents understand that by signing this Stipulation, Respondents voluntarily and knowingly waive the following rights:

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

3. Respondents are aware of Respondents' right to seek legal representation and have been provided an opportunity to obtain legal counsel before signing this Stipulation. Respondents are represented by Attorney William E. Hughes of Husch Blackwell LLP.

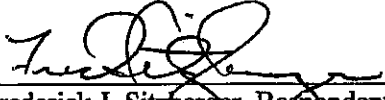
4. Respondents agree to the adoption of the attached Final Decision and Order by the Wisconsin Accounting Examining Board (Board). The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondents 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 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 Respondents, 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. 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.

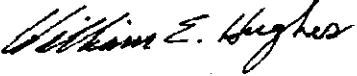
8. The Division of Legal Services and Compliance joins Respondents in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.


Frederick J. Sitzberger, Respondent
Delafield, WI 53018
Credential No. 7117-1

10/12/20
Date


Sitzberger & Co., S.C., Respondent
By: Frederick J. Sitzberger, Responsible Licensee
Brookfield, WI 53045
Credential No. 739-3

10/12/20
Date


William E. Hughes, Attorney for Respondents
Husch Blackwell LLP
555 East Wells Street, Suite 1900
Milwaukee, WI 53202

10/12/20
Date

Renee M. Parton

Renee M. Parton, Attorney
Division of Legal Services and Compliance
P.O. Box 7190
Madison, WI 53707-7190

10/15/2020

Date