

**COMMONWEALTH OF KENTUCKY
KENTUCKY BOARD OF CHIROPRACTIC EXAMINERS
BOARD ACTION NO. 10-011
ADMINISTRATIVE ACTION NO. 10-KBCE-0287**

KENTUCKY BOARD OF CHIROPRACTIC EXAMINERS

COMPLAINANT

vs.

**FINDINGS OF FACT, CONCLUSIONS OF LAW
FINAL ORDER AND NOTICE OF APPEAL RIGHTS**

RICHARD G. GILBERT, D.C.

RESPONDENT

* * * * *

On January 18, 2011, the Kentucky Board of Chiropractic Examiners ("Board") conducted the administrative hearing of this action. The Board was represented by Assistant Attorney General Michael West, and the Respondent, Richard G. Gilbert, who was not present, was represented by the Hon. Michael R. Hurter. The case was heard by Board members Mark Woodward, D.C., Terri Byers-Abston, D.C., Rodney Casada, D.C., and Michael Seibert, D.C. Board member Frank Hideg, D.C., was not present for the hearing. The Hon. Stuart W. Cobb, Hearing Officer in the Office of the Attorney General, Administrative Hearings Branch, served as the Hearing Officer.

After considering the exhibits and the stipulations filed by the parties, the Board finds the Respondent guilty of the charges brought against him. As a result, the Board publicly reprimands the Respondent, suspends his license, places conditions on the reinstatement of his license, places probationary conditions on his license following its reinstatement, fines the Respondent five hundred dollars (\$500) and requires him to reimburse the Board for its expenses for these disciplinary proceedings. In support of its decision, the Board submits the following findings of fact, conclusions of law, final order and notice of appeal rights.

FINDINGS OF FACT

1. On May 14, 2010, the United States District Court, Western District of Kentucky, found Richard G. Gilbert guilty in Count 1 of a violation of 26 USC 7201 for tax evasion, and it also found Richard G. Gilbert guilty in Count 2 of a violation of 26 USC 7212(a), for attempting to interfere with the administration of the Internal Revenue Service Laws.

2. Richard G. Gilbert was sentenced to serve 37 months as to Count 1, and 36 months as to Count 2, to be served concurrently, for a total term of 37 months imprisonment.

3. Richard G. Gilbert was also sentenced to serve a two year term of supervised release as to Count 1, and a one year term of supervised release as to Count 2, to be served concurrently, for a total term of two years supervised release.

CONCLUSIONS OF LAW

4. Pursuant to KRS Chapter 312, the Board has the jurisdiction to bring this action.

5. Pursuant to KRS 312.150(3), the administrative hearing in this case was conducted in accordance with the provisions of KRS Chapter 13B.

6. The Board has met its burden pursuant to KRS 13B.090(7) of proving the charges against Richard G. Gilbert by the preponderance of the evidence.

7. The violations of which Richard G. Gilbert was convicted are felonies.

8. Conviction of a felony constitutes a violation of KRS 312.150(1)(c) for which the Board can proscribe the sanctions set forth in KRS 312.163 against Richard G. Gilbert's license.

FINAL ORDER

Based upon the foregoing findings of fact and conclusions of law, the Board finds

Richard G. Gilbert guilty of violating KRS 312.150(1)(c) and orders the following:

1. The Board hereby PUBLICLY REPRIMANDS Richard G. Gilbert for committing felony tax evasion and felony attempted interference with the administration of the Internal Revenue Service laws.

2. The Board hereby SUSPENDS Richard G. Gilbert's license to engage in the practice of Chiropractic medicine until such time as the Board approves his application to reinstate his license.

3. The Board hereby FINES Richard G. Gilbert \$250 for the commission of felony tax evasion and the Board FINES Richard G. Gilbert \$250 for commission of felony attempted interference with the administration of the Internal Revenue Service laws, for a total fine of \$500.

4. Richard G. Gilbert shall reimburse the Board for the costs of these disciplinary proceedings, the total sum of which shall be forwarded to him after it has been calculated by the Board's Executive Officer and has been approved by the Board.

5. After Richard G. Gilbert is released from confinement with the United States Bureau of Prisons, he may file an application to have his license reinstated upon the following terms and conditions:

- a. With his application to reinstate his license, Richard G. Gilbert shall submit proof that he has completed 36 hours of continuing education since his release from confinement. Included in the continuing education shall be an ethics and boundaries course provided by the National Board of Chiropractic Examiners, and two hours of Kentucky Jurisprudence provided by the Board, and
- b. With his application to reinstate his license, Richard G. Gilbert shall pay all fees

due and owing to the Board, including the fee to apply for reinstatement of his license, he shall pay the \$500 fine required by this Final Order, and he shall pay the sum due for the costs of this disciplinary proceeding.

6. After the Board has reinstated Richard G. Gilbert's license to practice, the Board hereby ORDERS that his license shall be on probation for a period of two years. During the probationary period, Richard G. Gilbert shall meet the following terms and conditions:

- a. He shall comply with the terms and conditions of his supervised release from the custody of the United States Bureau of Prisons, and
- b. He shall provide the Board with a compliance report from his United States probation officer every six months that he remains on supervised release, and
- c. He shall not violate the conditions of his supervised release or commit another felony.
- d. If Richard G. Gilbert fails to comply with the terms of his supervised release or is convicted of another felony during his probationary period with the Board, his license shall be automatically revoked.

NOTICE OF EXCEPTION AND APPEAL RIGHTS

This Final Order may be appealed pursuant to KRS 13B.140(1), which states:

All final orders of an agency shall be subject to judicial review in accordance with the provisions of this chapter. A party shall institute an appeal by filing a petition in the Circuit Court of venue, as provided in the agency's enabling statutes, within 30 days after the final order of the agency is mailed or delivered by personal service. If venue for appeal is not stated in the enabling statutes, a party may appeal to Franklin Circuit Court or the Circuit Court of the county in which the appealing party resides or operates a place of business. Copies of the petition shall be served by the petitioner

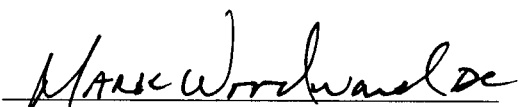
upon the agency and all parties of record. The petition shall include the names and addresses of all parties to the proceeding and the agency involved, and a statement of the grounds on which the review is requested. The petition shall be accompanied by a copy of the Final Order.

Pursuant to KRS 312.160(1):

Any person whose license has been revoked or suspended shall have the right to appeal to the Franklin Circuit Court in accordance with KRS Chapter 13B.

Pursuant to KRS 23A.010(4), "such review [by the Circuit Court] shall not constitute and appeal but an original action." Some courts have interpreted this language to mean that a summons also be served upon filing an appeal in circuit court.

SO ORDERED this 21st day of January, 2011.



Dr. Mark Woodward, D.C.
Chairman,
Kentucky Board of Chiropractic Examiners

CERTIFICATE OF SERVICE

I hereby certify that the original of this FINDS OF FACT, CONCLUSIONS OF LAW, FINAL ORDER and NOTICE OF APPEAL RIGHTS was mailed this 21st day of January, 2011, by first-class, postage prepaid, to:

KARALEE OLDENKAMP DC
KY BD OF CHIROPRACTIC EXAMINERS
PO BOX 183
GLASGOW KY 42142-0183

for filing; and, by first-class, postage prepaid, to:

MICHAEL R. HURTER, ESQ.
1167 TURKEY FOOT ROAD
UNIT 37
LEXINGTON, KY. 40502

and,

MICHAEL WEST
CIVIL & ENVIRONMENTAL LAW DIVISION
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