

STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
BOARD OF ACCOUNTANCY

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DEPARTMENT OF BUSINESS AND
PROFESSIONAL REGULATION, BOARD OF ACCOUNTANCY

DIVISION OF
ADMINISTRATIVE
HEARINGS

01-2597PL

Petitioner,

CASE NOS. 97-14107
97-11682

JDP-CLOS

vs.

ROBERT JARKOW,

Final Order No. BPR-2002-01724 Date: 5-17-02
FILED
Department of Business and Professional Regulation
AGENCY CLERK
Sarah Wachman, Agency Clerk

Respondent.

FINAL ORDER

By:

Brandon M. Nichols

THIS CAUSE came on to be heard before the Board of Accountancy (Board) on April 19, 2002, in Tampa pursuant to a Recommended Order entered by Administrative Law Judge J. D. Parrish on December 4, 2001. After reviewing the entire record, including the transcript and the exhibits, the Board hereby accepts the Recommended Findings of Fact, Conclusions of Law and Penalty as proposed by the ALJ. The Respondent has filed Exceptions which are rejected as set forth below.

RULINGS ON EXCEPTIONS

The Board rejects the Exceptions filed by Respondent. The exceptions are largely in the form of challenges to rulings by the ALJ's in her proposed findings of fact and conclusions on the issue of laches and on the issue of Respondent's failure to return the actual depreciation schedule which he prepared and which was used to prepare Form 4562 on the complainant's tax return. The Board accepts the ALJ's analysis on both issues with the following addition.

The Respondent's position on the return of records question seems to be that,

since the information on the Form 4562 essentially tracks the information actually found on the depreciation schedule which he had prepared, no violation of Rule 61H1-23.002 had occurred. However, the fact that the information was the same is simply happenstance. Plainly, the material which a taxpayer or preparer enters on tax forms may or may not completely reflect the worksheet analysis which underlies the final numbers. It is for this reason that the Rule requires that a CPA, if he prepared the tax return, must return the records of his work which would be needed to reconcile the work to the tax return. Otherwise a taxpayer would have to recapitulate all of the material contained in such papers and schedules in order to explain the information contained on the tax forms.

To the extent that Respondent's exceptions are presented as mitigation the Board has considered them in that light and accepts the ALJ's recommended penalty insofar as it is well within the Board's penalty guidelines.

FINAL DISPOSITION AND PENALTY

Wherefore Respondent's license to practice public accountancy in the State of Florida is hereby placed on PROBATION for a period of ONE YEAR under the following terms and conditions:

1. Respondent shall not violate any of the law or rules governing the practice of public accountancy
2. Respondent shall, within 30 days, submit to the Board the name and resume of a CPA who shall agree, at Respondent's expense, to submit quarterly reports regarding his practice to the Board. Upon the Board approving the CPA who shall be

responsible for filing the quarterly reports the initial report shall be due 90 days thereafter.

In addition, Respondent is FINED \$1000.00, said fine to be due and owing within 30 days of the entry of this Order.

DONE and ORDERED this 9th day of May, 2002, by the Board of Accountancy.


BYRON E. SHINN
CHAIRMAN

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the forgoing Final Order has been sent by U. S. Mail to Charles Tunncliff, Esquire, Department of Business and Professional Regulation, Northwood Centre, 1940 North Monroe Street, Suite 60, Tallahassee, FL 32399-0750 and Victor K. Rones, Esquire, Law Offices of Rones & Navarro, 16105 Northeast 18th Avenue, North Miami Beach, Florida 33162, on this 17th day of may, 2002.


Brandon M. Nichols