

STATE OF WISCONSIN
TAX APPEALS COMMISSION

**ANTHONY L. HAASE and
KELLY McKINSTRY-HAASE**
7709 Greenwood Road
Verona, WI 53593-9747,

DOCKET NO. 03-I-246

Petitioners,

vs.

RULING AND ORDER

WISCONSIN DEPARTMENT OF REVENUE
P.O. Box 8907
Madison, WI 53708-8907,

Respondent.

This matter comes before the Commission on an oral motion by respondent, Wisconsin Department of Revenue ("Department"), to dismiss the petition for review. Petitioners appear *pro se*. The Department appears by Attorney Donald J. Goldsworthy.

Based upon the record in this matter, the Commission hereby finds, rules, and orders as follows:

On August 29, 2003, petitioners filed a petition for review with the Commission.

By notice dated October 16, 2003, the Commission set a telephone scheduling conference in this matter for December 18, 2003. The December 18, 2003 telephone conference was held, at which Anthony L. Haase appeared for petitioners and Attorney Donald J. Goldsworthy appeared for the Department.

On December 19, 2003, a Scheduling Order Memorandum was issued setting the next telephone status conference for January 9, 2004. The Memorandum also stated:

Other matters resolved:

Petitioners stated that they have retained counsel. Assuming counsel files a written notice of appearance, petitioners' counsel may request a new time and date for the above scheduled status conference.

On December 22, 2003, the Commission issued a Revised Scheduling Order Memorandum that corrected the date of the next telephone status conference to January 12, 2004.

At the request of Attorney Goldsworthy, a Notice was issued on January 12, 2004 rescheduling the telephone status conference to March 8, 2004. At the request of Mr. Haase, a Notice was issued on March 2, 2004 rescheduling the telephone status conference to March 25, 2004.

The March 25, 2004 telephone conference was held, at which Mr. Haase appeared for petitioners and Attorney Goldsworthy appeared for the Department.

On March 26, 2004, the Commission issued a Scheduling Order Memorandum setting the next telephone status conference for May 10, 2004.

The May 10, 2004 telephone conference was held, at which Mr. Haase appeared for petitioners and Attorney Goldsworthy appeared. On May 10, 2004, a Scheduling Order Memorandum was issued that stated:

Other matters resolved:

The parties reported that they had reached an agreement settling this matter and that a written stipulation will follow.

If a fully executed written stipulation disposing of this matter is not filed within 30 days, the Commission shall set a new status conference.

On June 18, 2004, Attorney Goldsworthy sent petitioners a letter that stated, in part:

. . . I would appreciate your signing and returning the stipulation that I sent to you on May 12, 2004.

If the stipulation is not filed, the Commission will reschedule the case.

On July 9, 2004, Attorney Goldsworthy sent petitioners a letter which stated, in part:

On July 7, 2004, I received a copy of the Stipulation signed by Mr. Haase only. . . . In order to conclude this matter, Mrs. Haase should sign the enclosed copy of the Stipulation and return the papers to me in the enclosed self-addressed, pre-paid envelope which is included for your convenience.

On September 3, 2004, Attorney Goldsworthy again sent petitioners a letter, which stated:

On July 7, 2004, I received a copy of the Stipulation signed by Mr. Haase only. On July 9, 2004, I sent a photocopy of the Stipulation with Mr. Haase's signature to you. Please return the Stipulation with Mrs. Haase's signature to me.

If I do not receive the signed Stipulation within fifteen days of the date of this letter, I will request that the Commission schedule another conference in this case.

On September 23, 2004, the Commission issued a Notice setting a telephone status conference on November 3, 2004. The Notice further stated:

That if petitioner Kelly McKinstry-Haase signs and returns to Attorney Goldsworthy the Stipulation enclosed with his letter to petitioners dated July 9, 2004, Attorney Goldsworthy should forward the Stipulation to the Commission. The November 3, 2004

telephone conference will then not be necessary, and the matter will be dismissed.

The November 3, 2004 telephone status conference was held, at which petitioners did not appear and Attorney Goldsworthy appeared for the Department.

On November 4, 2004, a Status Conference Memorandum and Order was issued setting a telephone status conference for November 30, 2004. The Memorandum also stated:

Other matters discussed:

Attorney Goldsworthy represented that he still has not received the stipulation signed by both petitioners. He further inquired as to whether the Commission would entertain a motion to dismiss, and Commissioner Nashold stated that petitioners would be provided one more opportunity to appear in this case or have their petition dismissed.

IT IS ORDERED

Petitioners shall return the stipulation signed by both parties to Attorney Goldsworthy prior to the next scheduled conference or appear at the conference to explain why they have not done so. If they fail to return the stipulation or appear at the November 30, 2004 conference, their petition for review will be dismissed.

The November 30, 2004 telephone status conference was held, at which petitioners did not appear and Attorney Goldsworthy appeared for the Department. At the conference, Attorney Goldsworthy made an oral motion to dismiss the petition.

RULING

Since August of 2003, when this appeal was filed, the Department has made numerous attempts to resolve the matter with petitioners. According to the correspondence in the Commission's file, the parties have agreed to a settlement. A stipulation for settlement has been signed by Mr. Haase but not by Mrs. Haase, in spite

of the Department's best efforts to obtain her signature. Without her signature, a stipulation cannot be filed.

The Commission has afforded petitioners several opportunities to discuss their case during telephone conferences. For the past six months, petitioners have not responded to either the Commission or the Department regarding their appeal. Their inaction constitutes both a violation of Commission orders and a failure to prosecute their appeal. Therefore, the Commission will dismiss the petition for review pursuant to §§ 802.10(7) and 805.03 of the Wisconsin Statutes.

ORDER

The petition for review is dismissed.¹

Dated at Madison, Wisconsin, this 6th day of December, 2004.

WISCONSIN TAX APPEALS COMMISSION

Jennifer E. Nashold, Commissioner

ATTACHMENT: "NOTICE OF APPEAL INFORMATION"

¹ This Ruling and Order is issued by a single Commissioner under the authority provided by Wis. Stat. § 73.01(4)(em)2, as created by 2003 Wisconsin Act 33, § 1614d.