

**NOTICE OF
DISCIPLINARY ACTION**

**BEFORE THE ADMINISTRATOR
STATE OF WISCONSIN
DEPARTMENT OF FINANCIAL INSTITUTIONS
DIVISION OF BANKING**

TO: American Spectator Foundation Inc
1611 N Kent Street Suite 901
Arlington VA 22209
Respondent

PURPOSE

The purpose of this notice is to revoke respondent's Wisconsin charitable organization registration.

JURISDICTION and AUTHORITY

The Department of Financial Institutions, Division of Banking ("division") regulates charitable organizations in the State of Wisconsin. Chapter 202, subch. II, Stats.

Respondent is registered with the division as a charitable organization under ch. 202, subch. II, Stats., registration number 5820.

The department may reprimand a registrant or limit, suspend, revoke or restrict a registration if the department finds that an applicant, registrant, or controlling person has made a material misrepresentation or false statement in an application for registration or registration renewal or in any other information submitted to the department or in a report under s. 108.067; or violated ch. 202, Stats., or a rule promulgated under ch. 202, Stats. Section 202.06(2)(a) and (b), Stats.

In addition to or in lieu of a reprimand or limitation, suspension, revocation or restriction, the department may assess against an applicant, registrant, or controlling person a forfeiture of not more than \$1,000 for each violation. Section 202.06(3), Stats.

FINDINGS

The division finds as follows:

1. Respondent was properly served with a Notice of Hearing and Notice of Prehearing Conference ("Notice") issued by the division. **Ex. I.** Pursuant to this Notice, respondent was directed to provide an answer, and appear at a prehearing conference and hearing.
2. Respondent failed to provide an answer to the Notice and failed to appear at the prehearing conference.

3. By its failure to answer the Notice and appear at the prehearing conference, respondent is in default. As a result of the default, respondent has admitted to the matters asserted and the violations set forth in the Notice, pursuant to ss. DFI—Bkg 11.11 and 11.12, Admin. Code.

DISCIPLINARY ACTION

1. **Based on the foregoing, the division hereby revokes respondent's Wisconsin charitable organization registration.**

2. Respondent shall immediately cease any activities for which a Wisconsin charitable organization registration is necessary.

3. The provisions of this notice shall be binding upon respondent and its directors, officers, employees, agents, successors, assigns, and other persons participating in the conduct of its affairs. The provisions of the notice shall remain effective and enforceable except to the extent that, and until such time as, any provisions of this notice shall have been modified, terminated, suspended, or set aside by the division.

The effective date of this notice shall be the date it is served, and service is complete upon mailing. Secs. 227.48(1), Stats., and DFI—Bkg 11.09, Admin. Code.

Dated and mailed at Madison, Wisconsin on April 23, 2015.

By: Michael J. Mach
Michael J. Mach, Administrator
Wisconsin Department of Financial Institutions
Division of Banking
P.O. Box 7876
201 W. Washington Avenue, Suite 500
Madison, WI 53707-7876
tel. (608) 266-0451
fax (608) 267-6889

APPEAL

The procedures to appeal this notice are set forth in s. 227.42, Stats. Pursuant to s. 227.42(1), Stats., any person filing a written request with an agency for hearing shall have the right to a hearing which shall be treated as a contested case if:

- (a) A substantial interest of the person is injured in fact or threatened with injury by agency action or inaction;
- (b) There is no evidence of legislative intent that the interest is not to be protected;
- (c) The injury to the person requesting a hearing is different in kind or degree from injury to the general public caused by the agency action or inaction; and
- (d) There is a dispute of material fact.

All four criteria set for in s. 227.42(1), Stats., must be met for a person to have the right to a hearing. In particular, the attention of an individual or entity requesting a hearing is directed to the requirement to demonstrate that there is a dispute of material fact regarding the basis or bases for the action being taken by the division.

The request shall be sent to:

Michael J. Mach, Administrator
Wisconsin Department of Financial Institutions
Division of Banking
P.O. Box 7876
201 W. Washington Avenue, Suite 500
Madison, WI 53707-7876
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**NOTICE OF HEARING
and
NOTICE OF PREHEARING CONFERENCE**

**BEFORE THE ADMINISTRATOR
STATE OF WISCONSIN
DEPARTMENT OF FINANCIAL INSTITUTIONS
DIVISION OF BANKING**

TO: American Spectator Foundation Inc
1611 N Kent Street Suite 901
Arlington VA 22209
Respondent

PURPOSE

The purpose of this notice is to advise respondent that a hearing and a prehearing conference have been scheduled. The nature of the hearing is to consider whether the matters asserted below warrant the imposition of a reprimand, limitations or restrictions on respondent's registration; the suspension or revocation of respondent's registration; the assessment of forfeitures; and the issuance of a special order enjoining respondent.

PROCEEDINGS

Hearing	→	9 a.m., Thursday, April 30, 2015
Prehearing conference call	→	9 a.m., Thursday, April 23, 2015
Answer must be received by	→	4:30 p.m., Thursday, April 16, 2015

NOTICE IS HEREBY GIVEN that a hearing will be at the time and date indicated above at the State of Wisconsin, Department of Financial Institutions, 201 W. Washington Avenue, Suite 500, Madison, Wisconsin 53703, pursuant to s. 227.44, Stats.

NOTICE IS ALSO HEREBY GIVEN that the respondent is directed to appear before the hearing examiner for a prehearing conference in this matter. Such conference will be held at the time and date indicated above at the State of Wisconsin, Department of Financial Institutions, 201 W. Washington Avenue, Suite 500 Floor, Madison, Wisconsin 53703, pursuant to s. 227.44(4), Stats. Respondent represented by counsel must attend this conference unless the hearing examiner excuses respondent's appearance. In lieu of appearing in person at the prehearing, the respondent may appear via a telephone conference by telephoning the hearing examiner directly at tel. (608) 261-2311 at the time set for the prehearing conference.

The respondent is required to make answer to this notice in writing by the time and date indicated above. The answer shall be received by the Administrator of the Department of Financial Institutions – Division of Banking ("division") at the address indicated below by this time and date. Such answer must contain a specific denial of each of the numbered paragraphs and contents therein of the notice which are

controverted by the respondent, and a statement of any new matter constituting a defense or affecting the respondent's situation which the respondent wishes to have considered. Such answer must also identify those numbered paragraphs and contents therein of the notice which are not controverted by the respondent. Every numbered paragraph and contents therein of the notice not controverted in the answer shall be taken as true, but new matter in the answer shall be deemed controverted without any reply being served or filed. Secs. DFI—Bkg 11.11 and 11.12, Admin. Code.

Failure to answer this notice by the time required, telephone in for the prehearing conference call, and/or attend the hearing are all grounds for default.

Should respondent or respondent's counsel state a conflict with any scheduled proceedings, the department may require supporting documentation. Conflicts scheduled subsequent to the issuance of this notice may not be accepted. For matters regarding scheduling contact Mark Schlei, Assistant Chief Legal Counsel, Department of Financial Institutions, Office of the Secretary, tel. 608-267-1705.

Ernest Jones, Staff Attorney, Department of Financial Institutions, Division of Banking, 201 W. Washington Avenue, Suite 500, P.O. Box 7876, Madison, Wisconsin, 53707-7876 is designated the hearing examiner for this matter.

MATTERS FOR HEARING

The matters to be asserted at the hearing are as follows:

1. According to respondent's IRS form 990 filings, respondent received contributions and grants of \$1,777,949 and \$1,453,575 during 2012 and 2013, respectively.
2. Pursuant to s. 202.12(3)(b), Stats., a charitable organization that received contributions in excess of \$400,000 during its most recently completed fiscal year shall file with the division an audited financial statement for the charitable organization's most recently completed fiscal year. The audited financial statements shall be prepared in accordance with generally accepted accounting principles, include the opinion of an independent certified public accountant on the financial statement, and be filed within 6 months after the end of the charitable organization's fiscal year.
3. Respondent's fiscal year end is December 31.
4. Respondent's 2012 audited financial statements were due in the division's office by June 30, 2013. The division has not received respondent's 2012 audited financial statements.
5. Respondent's 2013 audited financial statements were due in the division's office by June 30, 2014. The division has not received respondent's 2013 audited financial statements.
6. Pursuant to s. 202.06(2)(b), Stats., the division may reprimand a registrant or deny, limit, suspend, revoke, restrict, refuse to renew, or otherwise withhold a

registration if the division finds that an applicant, registrant, or controlling person violated ch. 202, Stats., or a rule promulgated under ch. 202, Stats.

7. Respondent violated s. 202.12(3)(b), Stats., by not submitting its 2012 audited financial statements to the division by the required due date.

8. Respondent violated s. 202.12(3)(b), Stats., by not submitting its 2013 audited financial statements to the division by the required due date.

RESOLVING THE MATTER PRIOR TO HEARING

Respondent may attempt to resolve this matter by contacting the following:

Jean Plale, Director
Wisconsin Department of Financial Institutions
Division of Banking - Licensed Financial Services Bureau
P.O. Box 7876
201 W. Washington Avenue, Suite 500
Madison, WI 53707-7876
tel. (608) 266-0447
fax (608) 267-6889
e-mail jean.plale@wisconsin.gov

Merely contacting the department does not cancel scheduled proceedings in this matter. Unless the matter is resolved prior to any proceedings AND respondent is thereafter notified by the department that proceedings have been cancelled, this matter will proceed as scheduled.

JURISDICTION and AUTHORITY

The Department of Financial Institutions, Division of Banking ("division") regulates charitable organizations in the State of Wisconsin. Chapter 202, subch. II, Stats.

Respondent is registered with the division as a charitable organization under ch. 202, subch. II, Stats. The division's records indicate that applicant's address and registration number are as indicated above.

This case is a class 2 proceeding. Sec. 227.01(3), Stats.

If the department determines that an applicant for registration or registration renewal has failed to comply with any applicable requirement for renewal, or that the denial of an application for registration or registration renewal is necessary to protect the public health, safety, or welfare, the department may summarily deny the application for registration or registration renewal. If the department so denies an application for registration or registration renewal, the department shall provide the applicant with a notice of denial that states the facts or conduct giving rise to the denial and states that the applicant may, within 30 days after the date stated on the notice of denial, file a written request with the department for the department to review the denial at a hearing. Sections 202.025(3)(a)1. and 2., Stats.

The department may conduct investigations and hold hearings to determine whether any person has violated this chapter or any rule promulgated under this chapter. Section 202.06(1), Stats.

The department may reprimand a registrant or deny, limit, suspend, revoke, restrict, refuse to renew, or otherwise withhold a registration if the department finds that an applicant, registrant, or controlling person has made a material misrepresentation or false statement in an application for registration or registration renewal or in any other information submitted to the department or in a report under s. 108.067.; or violated this chapter or a rule promulgated under this chapter. Sections 202.06(2)(a) – (b), Stats.

In addition to or in lieu of a reprimand or a denial, limitation, suspension, revocation, restriction, nonrenewal, or other withholding of a registration, the department may assess against an applicant, registrant, or controlling person a forfeiture of not more than \$1,000 for each violation. Section 202.06(3), Stats.

If, after holding a public hearing, the department determines that a person has engaged in a practice or used a title without a required registration, the department may issue a special order enjoining the person from continuing the practice or use of the title. Section 202.06(6)(a), Stats.

Any person who violates a special order issued under s. 202.06(6)(a), Stats., may be required to forfeit not more than \$10,000 for each offense. Each day of continued violation constitutes a separate offense. The attorney general or any district attorney may commence an action in the name of the state to recover a forfeiture under this subdivision. Section 202.06(6)(c)1., Stats.

MISCELLANEOUS

The hearing shall be conducted in the manner specified under ss. 218.02(6), and 227.44 to 227.50, Stats., and ch. DFI—Bkg 11, Admin. Code.

Dated and mailed at Madison, Wisconsin on March 20, 2015.

By: Michael J. Mach
Michael J. Mach, Administrator
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Division of Banking
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