

FILED
05-17-2023
Clerk of Circuit Court
Monroe County, WI
2023CM000189

STATE OF WISCONSIN	CIRCUIT COURT	MONROE COUNTY
STATE OF WISCONSIN	Plaintiff,	DA Case No.: 2023MO000908 Assigned DA/ADA: Kevin D. Croninger Agency Case No.: 1174143232 Court Case No.: 2023CM000 ATN: DNA taken:
vs.		CRIMINAL COMPLAINT
KENNETH J. DONAIS 7161 Bayport Avenue Sparta, WI 54656 DOB: 12/08/1965 Sex/Race: M/W Eye Color: Blue Hair Color: Blonde Height: 5 ft 11 in Weight: 235 lbs Alias: Also Known As Kenneth Joseph Donais Also Known As Kenneth Joesph Donais Also Known As Ken Donais Defendant.		<i>For Official Use</i>

The undersigned of the Monroe County Sheriff’s Department or a designee thereof, being first duly sworn, states that:

Count 1: FAIL/FILE INCOME TAX RETURN

The above-named defendant on or between April 18, 2022 and April 17, 2023, Monroe County, Wisconsin, as a person required by law make, render, sign or verify any return, did willfully fail or refuse to make a return at the time required in s. 71.03, 71.24 or 71.44 or willfully failed or refused to make deposits or payments as required by s. 71.65 (3) or willfully rendered a false or fraudulent statement required by s. 71.65 (1) and (2) or deposit report or withholding report required by s. 71.65 (3), contrary to sec. 71.83(2)(a)1 Wis. Stats., a Misdemeanor, and upon conviction may be fined not more than \$10,000 or imprisoned for not to exceed 9 months or both, together with the cost of prosecution.

Count 2: FAIL/FILE INCOME TAX RETURN

The above-named defendant on or between May 17, 2021 and May 16, 2022, Monroe County, Wisconsin, as a person required by law make, render, sign or verify any return, did willfully fail or refuse to make a return at the time required in s. 71.03, 71.24 or 71.44 or willfully failed or refused to make deposits or payments as required by s. 71.65 (3) or willfully rendered a false or fraudulent statement required by s. 71.65 (1) and (2) or deposit report or withholding report required by s. 71.65 (3), contrary to sec. 71.83(2)(a)1 Wis. Stats., a Misdemeanor, and upon conviction may be fined not more

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than \$10,000 or imprisoned for not to exceed 9 months or both, together with the cost of prosecution.

Count 3: FAIL/FILE INCOME TAX RETURN

The above-named defendant on or between July 15, 2020 and July 14, 2021, Monroe County, Wisconsin, as a person required by law make, render, sign or verify any return, did willfully fail or refuse to make a return at the time required in s. 71.03, 71.24 or 71.44 or willfully failed or refused to make deposits or payments as required by s. 71.65 (3) or willfully rendered a false or fraudulent statement required by s. 71.65 (1) and (2) or deposit report or withholding report required by s. 71.65 (3), contrary to sec. 71.83(2)(a)1 Wis. Stats., a Misdemeanor, and upon conviction may be fined not more than \$10,000 or imprisoned for not to exceed 9 months or both, together with the cost of prosecution.

PROBABLE CAUSE:

Complainant relates that he has reviewed incident reports prepared by Special Agent Steven Kosmosky of the Wisconsin Department of Revenue, a witness believed to be truthful and reliable, whose report is modified in part and quoted herein, and which indicates as follows:

INTRODUCTION

The following summarizes my investigation of Kenneth Joseph Donais (DOB 12/08/1965). The investigation showed he committed the following offenses:

- Failure to File an Individual Income Tax Return, contrary to sec. 71.83(2)(a)1, Wis. Stats., a misdemeanor. Three counts, one count each for tax years 2019, 2020, and 2021, respectively.

Section 71.03(2)(a)1, Wis. Stats., specifies that every individual domiciled in Wisconsin for the entire year with gross income above an amount set by the Wisconsin Department of Revenue (DOR) must file an individual income tax return. The filing thresholds are dependent on age and filing status. The following chart shows the parameters in effect for the years applicable to this investigation:

<u>Tax Year</u>	<u>Filing Status</u>	<u>Age</u>	<u>Minimum Gross Income</u>	<u>Return Due Date</u>
2019	Single	Under 65	\$11,560	7/15/2020*
2020	Single	Under 65	\$11,750	5/17/2021**
2021	Single	Under 65	\$11,900	4/18/2022

* The Wisconsin individual income tax due date for 2019 returns was changed to July 15, 2020 because of the COVID-19 pandemic.

**The Wisconsin individual income tax due date for 2020 returns was changed to May 17, 2021 because of the COVID-19 pandemic.

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Section 71.03 (1), Wis. Stats., specifies "gross income" from a business or farm consists of the total gross receipts without reduction for cost of goods sold, expenses, or any other amounts. Returns must be filed regardless if a tax is due or not.

Available DOR records show between 2019 and 2021, Kenneth Donais (Donais) had gross income as follows:

<u>Tax Year</u>	<u>Payee</u>	<u>Amount</u>	<u>Payer</u>	<u>Payer FEIN</u>	<u>Reporting Form</u>	<u>Type of Compensation</u>	<u>Notification Received by DOR</u>
2019	Ken Donais	\$139,196	Northland Buildings, Inc.	██████████	1099-MISC	non-employee	1/23/2020
2020	Ken Donais	\$133,735	Northland Buildings, Inc.	██████████	1099-NEC	non-employee	1/25/2021
2021	Ken Donais	\$157,384	Northland Buildings, Inc.	██████████	1099-NEC	non-employee	1/25/2022

Available Wisconsin Department of Transportation and DOR records show Donais resides at 7161 Bayport Avenue, City of Sparta, Monroe County, State of Wisconsin and has since at least 2013. As such, venue is proper in Monroe County and this case will be referred to the Monroe County District Attorney's Office.

Pursuant to sec. 939.74(1), Wis. Stats., prosecution for a misdemeanor must be commenced within three years after the commission thereof (due date of the return). Accordingly, proceedings for tax period 2019 should commence before July 15, 2023. The DOR recommends three misdemeanor counts (one each for 2019, 2020, and 2021, respectively) of ***Failure to File an Individual Income Tax Return***.

I investigated this case within the course and scope of my regular duties as a special agent in the Fraud Unit of the Office of Criminal Investigation (OCI), Wisconsin Department of Revenue (DOR). I received the lead April 3, 2020 from a confidential source.

HISTORY AND PREDICATION

On May 26, 2020, I reviewed the lead which indicated between January and November of 2019 Kenneth Donais cashed 32 checks payable to him from Northland Buildings, Incorporated. The checks totaled approximately \$129K. The reporting party thought it was odd, especially considering Donais lived over 70 miles away from where he was cashing the checks. The reporting party noted CCAP showed Donais had several unpaid judgements against him and they were concerned he was trying to avoid payment. After discussing the information with OCI Director Justin Shemanski, we decided I would investigate the situation for possible criminal tax violations as well as related offenses.

Kenneth Donais Background

Kenneth Joseph Donais was born on December 8, 1965 in Massachusetts. His social security number is ██████████ which indicates it was issued to him as a resident of Illinois. Wisconsin Department of Transportation driver's license information shows

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Donais received a Wisconsin license in June 2013, December 2013, July 2016, December 2017, and October 2022. For each of those issuances he reported his address as 7161 Bayport Avenue in Sparta, Wisconsin. Monroe County property tax records indicate the property is owned by Leah Cheryl Treu (DOB 10/13/1971). Treu has owned the property since at least 2013. Available tax information indicates Treu has also lived at the property since at least 2013. Donais and Treu have an adult daughter in common, Jennifer Lee Donais (DOB 02/08/1998).

According to DOR and Wisconsin Department of Workforce Development (DWD) information, Donais worked as a delivery driver for the Northfield Restaurant Corporation from late 2010 through early 2014. After that he worked briefly as an employee for several businesses, including, American Business Resource Corporation, Ashley Furniture Industries Incorporated, Menards Incorporated, and Express Services Incorporated. DWD information indicates Donais last worked as an employee in 2016.

Information provided to DOR by the payer showed Donais received non-employee compensation from Northland Buildings, Inc. beginning in 2015 through 2022. Available information shows Northland Buildings, Inc. constructs commercial and residential post frame metal buildings in the Midwest. Non-employee compensation is money paid to an independent contractor (self-employment income). Such income is reported to earners as well as state and federal taxing authorities on federal Form 1099-NEC or 1099-MISC.

Donais has an extensive criminal record, although most of his offenses were committed many years ago. Starting in 1984 he had a multitude of convictions for misdemeanor issuing worthless checks, felony theft, misdemeanor escape, misdemeanor fraud, and felony forgery/uttering. Donais spent time in Dodge Correctional Institution as a result. In addition to the criminal convictions, he has several traffic offenses and civil judgements against him. DOR has also filed several tax warrants (liens) against him because of his unpaid income tax balance with the department.

Tax Returns

I reviewed Donais' account in DOR's record management system (Winpas). Donais had an individual income tax account. The last Wisconsin individual income tax return DOR received from Donais was for tax year 2013. He had not filed a Wisconsin return for tax years 2014-2021. I reviewed DOR information to determine if Donais had a filing requirement for the years with the missing returns. It appeared he didn't have a filing requirement for 2014 because his income was below the filing threshold. However, for each year starting in 2015 through 2021, his gross income was well above the filing requirement.

Request to File Tax Returns

Although it is a crime for those with a requirement to not file an individual income tax return, it is common practice for DOR to attempt to resolve such issues internally

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through civil department action. Since Donais had a filing requirement for tax years 2015 through 2019, In May of 2020, I requested DOR Fraud Analyst Rhonda Loeffler to initiate the request to file process. In July of 2022, I asked Fraud Analyst Loeffler to initiate the request to file process for tax year 2020. In November of 2022, I asked Fraud Analyst Loeffler to initiate the request to file process for tax year 2021.

The request to file process generates a letter (Request to File- Individual) to the subject and requests they file a tax return for the period in question or provide an explanation why they believe they do not have to. The subject is given 30 days to reply before an income and tax estimate posts to the period. If no reply is received and an income/tax estimate posts to a period, another letter (Notice of Estimated Tax, NOET) is sent to the subject. The NOET is a bill for the estimated tax amount and the subject is asked to pay the full amount within 10 days of the notice date. The NOET explains that if the subject disagrees with the amount due, they can still file a tax return for the period or file an appeal within 60 days of receipt of the NOET. If the subject does not act, DOR takes collections efforts.

The following timeline shows some of the DOR actions taken on Donais' account for tax years 2015-2021:

- May 26, 2020- Request to File- Individual letter for tax year 2015
- May 26, 2020- Request to File- Individual letter for tax year 2016
- May 26, 2020- Request to File- Individual letter for tax year 2017
- May 26, 2020- Request to File- Individual letter for tax year 2018
- August 6, 2020- Notice of Estimated Tax letter for tax year 2015
- August 6, 2020- Notice of Estimated Tax letter for tax year 2016
- August 6, 2020- Notice of Estimated Tax letter for tax year 2017
- August 6, 2020- Notice of Estimated Tax letter for tax year 2018
- October 26, 2020- Action Required: Overdue Balance letter (combined, all periods)
- December 11, 2020- Pending Warrant Filing (lien) notice letter for tax period 2015
- December 11, 2020- Pending Warrant Filing (lien) notice letter for tax period 2018
- January 25, 2021- Warrant Notice of Filing letter for tax period 2015
- January 25, 2021- Warrant Notice of Filing letter for tax period 2018
- February 8, 2021- US Treasury Offset Program- Intent to Offset letter *
- February 12, 2021- Notice of Pending Internet Posting letter **
- May 6, 2021- Statement of Account letter
- July 1, 2021- Request to File- Individual letter for tax year 2019
- September 13, 2021- Notice of Estimated Tax letter for tax year 2019
- October 1, 2021- Statement of Account letter
- December 1, 2021- Statement of Account letter
- January 14, 2022- Pending Warrant Filing (lien) notice letter for tax period 2019
- February 28, 2022- Warrant Notice of Filing letter for tax period 2019

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- May 12, 2022- Notice of Levy letter for Altra Federal Credit Union
- June 1, 2022- Statement of Account letter
- June 8, 2022- Levy Receipt letter (Altra Federal CU, \$23.95)
- June 20, 2022- US Treasury Offset Program- Intent to Offset letter (updated amount due) *
- July 1, 2022- Statement of Account letter
- July 22, 2022- Request to File- Individual letter for tax year 2020
- October 3, 2022- Notice of Estimated Tax letter for tax year 2020
- October 31, 2022- Levy Notice letter for Altra Federal Credit Union (updated amount due)
- November 1, 2022- Statement of Account letter
- December 7, 2022- Levy Receipt letter (Altra Federal CU, \$41.87)
- December 12, 2022- Pending Warrant Filing (lien) notice letter for tax period 2016
- December 12, 2022- Pending Warrant Filing (lien) notice letter for tax period 2017
- January 3, 2023- Statement of Account letter
- January 13, 2023- Request to File- Individual letter for tax year 2021
- January 25, 2023- Letter requesting he meet me to discuss his tax situation
- January 26, 2023- Warrant Notice of Filing letter for tax period 2016
- January 26, 2023- Warrant Notice of Filing letter for tax period 2017
- February 3, 2023- Pending Warrant Filing (lien) notice letter for tax period 2020
- February 3, 2023- I conducted a telephone interview with Donais

*** The US Treasury Offset Program helps to collect debt by capturing federal tax refunds and other eligible payments.**

**** The Notice of Pending Internet Posting letter informs the subject DOR intends to post the subject's name, amount due, and the applicable tax type on the internet, as mandated by Wisconsin statute .**

According to DOR records, Donais only contacted the department twice since 2008. Most recently on February 3, 2023, in response to the letter I sent him requesting he contact me to discuss his tax situation and on July 1, 2021, when he called and spoke to former DOR Revenue Agent LaTarshra Lee from the Compliance Section. Agent Lee documented the content of the call in Winpas as follows:

" KENNETH DONAIS called and stated that he wanted to let us know that he is now working with Optima Tax service and they will submit the missing return and gave deadline of 8/15/2021 to submit, adv that he can call if more time is needed. Adv that he is missing 2004, 2015-2020. He stated that he did not work in 2019-2020 but he warehouse has 1099 income for both years issuing RTF for those years."

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DOR did record and store audio of phone calls at the time of Donais' call with Agent Lee, however those records were only maintained for a few months. As such, the audio of the call no longer exists.

Although this report focuses on tax periods starting in 2015, it should be noted that Donais didn't file on time in prior years as well. DOR initiated the request to file process for tax year 2003, 2004, 2008, 2009, and 2010.

EVIDENCE AND RESULTS OF INVESTIGATION

Administrative Subpoena to Northland Buildings, Inc.

On January 24, 2023, I sent an administrative Subpoena Duces Tecum to Northland Buildings, Inc. via USPS (**Exhibit 1**). Northland Buildings' main office is located at 2894 58th Street, Eau Claire, WI 54703. The phone number is (715) 874-4202.

On February 8, 2023, I received an email reply from Northland Buildings' Attorney Steven Anderson from the firm Ruder Ware, LLSC located in Eau Claire. The reply included three files in PDF format, one file for each year 2019, 2020, and 2021, respectively (**Exhibits 2, 3, & 4**). Each of the three files included images of the following:

- The Form 1099-MISC or 1099-NEC Northland Buildings, Inc. issued to Donais for the applicable year.

The records received showed the same amount of non-employment compensation earned for tax years

2019 (\$139,196), 2020 (\$133,735), and 2021 (\$157,384) as available DOR records.

- A spreadsheet that showed the contract number, invoice date, jobsite location, and Donais' labor total for the jobs he worked for each applicable year. The spreadsheet also detailed the expense reimbursements

Donais received from the company in each year. Attorney Anderson explained the company requested their client names be kept confidential, if possible, and as such he redacted that information from the spreadsheet. He told me if the client names were needed, he would provide the unredacted spreadsheet upon request. The spreadsheet totals for Donais' labor and bonus pay matched the non-employee compensation amounts on the 2019, 2020, and 2021 Form 1099-MISC and 1099-NEC.

- A check detail report that showed the particulars of each check Northland Buildings, Inc. made to Donais during each applicable year.

Records Authentication (Northland Buildings, Inc.)

On February 10, 2023, Attorney Steven Anderson emailed an authentication of records letter. Northland Building's, Inc. Controller Kerry Bartos certified the records provided in

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response to the subpoena were true and accurate to the best of Bartos' knowledge. See (**Exhibit 5**).

Administrative Subpoena to Nicolet National Bank

On January 25, 2023, I served an administrative Subpoena Duces Tecum, in person, on Nicolet National Bank's Michelle McKinnon (**Exhibit 6**). Attorney McKinnon works at the branch located at 111 North Washington Street, Green Bay, WI 54301. Her phone number is (920) 617-5300.

On February 16, 2023, I received a reply from Nicolet National Bank via electronic drop box. The reply contained 115 images of checks, both front and back, Northland Buildings, Inc. issued to Donais that he cashed at Nicolet National Bank between 2019 and 2021 (**Exhibit 7**).

Records Authentication (Nicolet National Bank)

The Nicolet National Bank financial records I received were authenticated as true and accurate by Stephanie Verbockel, Operations Legal Assistant with Nicolet National Bank. See the letter dated February 16, 2023 (**Exhibit 8**).

Department of Revenue Letters

As previously described in the "Request to File Tax Returns" section of this report, I have included the letters DOR sent to Donais pertaining to tax periods 2019, 2020, and 2021 as follows:

- Request to File an Individual Income Tax Return dated July 7, 2021 for tax period 2019, (**Exhibit 9**)
- Notice of Estimated Tax Amount Due dated September 16, 2021 for tax period 2019, (**Exhibit 10**)
- Request to File an Individual Income Tax Return dated July 27, 2022 for tax period 2020, (**Exhibit 11**)
- Notice of Estimated Tax Amount Due dated October 6, 2022 for tax period 2020, (**Exhibit 12**)
- Request to File an Individual Income Tax Return dated January 9, 2023 for tax period 2021, (**Exhibit 13**)

Department of Revenue Non-Filer Authentication

Per DOR policy, the Custodian of Files (appointed by the Secretary of Revenue) is responsible for providing affidavits regarding search results to determine if a subject has filed a Wisconsin tax return. Revenue Agent Supervisor Kelly Peckham is the current Custodian of Files. Supervisor Peckham provided certification that Donais has not filed a 2019, 2020, or 2021 Wisconsin income tax return, see (**Exhibit 14**).

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Residency

Available Wisconsin Department of Transportation (DOT) driver's license records show that Donais has resided at 7161 Bayport Avenue in Sparta, Wisconsin since at least 2013. His driver's license information has not shown any other address during that period. DOT vehicle license plate information confirms the same address from 2013-2022. There were no other addresses shown in the license plate information during that period.

Informational tax records show Donais began using the 7161 Bayport Avenue address in 2011. Available Monroe County property tax records show that 7161 Bayport Avenue is in the Town of Little Falls and owned by Donais' long-term girlfriend, Leah Treu, see (**Exhibit 15**).

Telephone Interview with Kenneth Donais

On Friday, February 3, 2023, at approximately 10:04 AM, I interviewed Kenneth Donais over the phone. Donais and I were the only two on the call. He called me from his cell phone, (608) 487-1969. Donais identified himself verbally and provided some information that further confirmed his identity. I audio recorded the interview using the Apple Voice Memo application (**Exhibit 16**).

Before starting questions, I explained that any information he provided was done so voluntarily and of his own free will and that he did not have to answer my questions. Donais then verified he lived at 7161 Bayport Avenue in Sparta with his girlfriend Leah Treu. Donais told me he and Leah had a daughter in common.

I asked Donais what he was doing for work and he replied, "this time of year it's little to none." He went on to say that nobody wanted to work in the cold and that he had done construction work his entire life. Donais explained he was self-employed but that he did work for others on occasion.

Donais told me he earned his GED as part of conditions of release from jail and that he never attended any colleges or had any training in the trades. He said he didn't have any training in the accounting or tax fields either.

Donais said he had some trouble [REDACTED] and that his doctors were currently testing him [REDACTED]. He denied any addiction or mental health issues. Donais said the only real trouble he had was with taxes and complained something to the effect, "Every time I tried to work for somebody, they took my check, 100%, which was that Wisconsin Work Development." Donais told me the Wisconsin Department of Workforce Development claimed he owed them approximately \$800K.

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I asked Donais if he was under the influence of any drugs, alcohol, or anything that could change his mental state. He replied, "no."

I explained that the last tax return we received from him was for tax year 2013 and asked if he was working on getting returns filed for the missing years. Donais said, "I did contact one of them places for tax issues because of some of the letters I got and there was an attorney looking into the federal stuff, but he didn't do the state stuff. So, I haven't done anything with the state stuff yet, but if it got to the point where I needed to, I was going to contact somebody about trying to represent me for the state issues."

I asked if there was anything underway to get the missing Wisconsin returns filed. Donais told me there wasn't but that the attorney that took care of his federal tax issues told him that he should get his paperwork ready because they needed to file the Wisconsin returns too. Donais said he had started trying to locate and sort the necessary paperwork.

I explained he had a balance due of approximately \$76K because of income estimates and asked him if he had any plan to address the debt. Donais said, "I would like to try to get all them filed because of course they are no where near accurate figures." He went on to tell me, "But you know you just can't do that overnight." I explained that our records showed he had only called DOR once despite the multitude of letters he had received over the span of several years. An account note indicated Donais reported he had been working with Optima Tax Service. I asked him if that was who he received help from for his federal tax issues. He said it wasn't and that he had started working with Optima, but they wanted too much money up front, so it was put on hold.

Donais then started telling me about his federal tax issues. He said the bank where he was cashing his pay checks notified the IRS of his check cashing activity and that the IRS ended up adding the amount of the cashed checks to the amounts shown on his tax forms. He said he was being taxed for twice his income as a result. Donais told me the federal tax issues were still not resolved.

I asked Donais what kind of income he had in tax years 2019, 2020, and 2021. He told me he couldn't remember but also said he sent copies of the Form 1099 to the attorney that helped him with his federal tax issues. I asked Donais if he thought the numbers on the Form 1099 were accurate. He said he thought some of them were, but he wasn't sure how the payer determined the figures and how they accounted for reimbursements for materials he purchased for jobs.

I asked Donais if he sold any assets such as machinery or equipment, received inheritance, insurance proceeds, gambling proceeds, or took out any loans during 2019, 2020, or 2021. Donais denied he received any of them. He told me for tax years 2019, 2020, and 2021, he worked as a contractor for Northland Buildings, Inc. building post frame steel buildings.

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I asked Donais if he had any bank accounts or used any financials. He said something to the effect of, "What I had for savings you guys already took, you attached it twice this year." He went on to tell me that he was an authorized user of his girlfriend's bank account so that he could cash checks but "they basically stole that one too." Donais said he did not have any other active accounts.

Donais told me he wasn't trying to "run or hide" from his Wisconsin tax problems. He said he anticipated getting them filed but said he wouldn't be able to pay what he owed and that he would also have to pay penalties, fees, and interest. I explained DOR had been requesting he get his missing returns filed for quite some time and that the first step in solving the problem was to get the missing returns filed. I explained DOR would work with him regarding the money owed and payment terms, but he had to get the returns filed first. Donais stated he had been trying to locate records and organize what he had. He admitted he had been ignoring the issue for a long time but was now trying to work at it when he had time. He told me when he was younger, he "didn't give a shit" but now it was "starting to haunt him."

ELEMENTS AND FACTS RELATED TO INTENT

The following is a summary of the facts that show Kenneth Donais violated Section 71.83(2)(a)1 of the Wisconsin Statutes:

- Kenneth Donais was required by law to file a 2019 Wisconsin income tax return. Donais was a full time Wisconsin resident, under age 65, and had gross income that far exceeded the minimum filing threshold.
- The earnings Donais received from Northland Buildings, Inc. during 2019 was gross income.
- The due date for 2019 Wisconsin income tax returns was July 15, 2020. The due date was extended from the typical April 15 date to allow people additional time to file because of the COVID-19 pandemic. As of the date of this report, Donais hasn't filed a 2019 Wisconsin income tax return.
- Donais willfully failed to file a 2019 Wisconsin income tax return. DOR sent Donais several letters requesting he file the missing return. Donais admitted he received the correspondence during an interview. During that interview, Donais didn't argue against having a filing requirement. I also advised him during that interview that he should file the missing return.
- Kenneth Donais was required by law to file a 2020 Wisconsin income tax return. Donais was a full time Wisconsin resident, under age 65, and had gross income that far exceeded the minimum filing threshold.
- The earnings Donais received from Northland Buildings, Inc. during 2020 was gross income.

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- The due date for 2020 Wisconsin income tax returns was May 17, 2021. The due date was extended from the typical April 15 date to allow people additional time to file because of the COVID-19 pandemic. As of the date of this report, Donais hasn't filed a 2020 Wisconsin income tax return.
- Donais willfully failed to file a 2020 Wisconsin income tax return. DOR sent Donais several letters requesting he file the missing return. Donais admitted he received the correspondence during an interview. During that interview, Donais didn't argue against having a filing requirement. I also advised him during that interview that he should file the missing return.
- Kenneth Donais was required by law to file a 2021 Wisconsin income tax return. Donais was a full time Wisconsin resident, under age 65, and had gross income that far exceeded the minimum filing threshold.
- The earnings Donais received from Northland Buildings, Inc. during 2021 was gross income.
- The due date for 2021 Wisconsin income tax returns was April 18, 2022. As of the date of this report, Donais hasn't filed a 2021 Wisconsin income tax return.
- Donais willfully failed to file a 2021 Wisconsin income tax return. DOR sent Donais a letter requesting he file the missing return. Donais admitted he received the correspondence during an interview. During that interview, Donais didn't argue against having a filing requirement. I also advised him during that interview that he should file the missing return.
- By cashing all his pay checks and not using financial institutions, Donais demonstrated his intent to avoid DOR collection efforts on his estimated tax debt.
- Donais clearly made enough money to have his missing tax returns prepared and to make payments toward his debt.
- Donais has been granted ample time and was given ample notice that he must file 2019, 2020, and 2021 Wisconsin income tax returns.
- Donais has demonstrated a history of not filing timely Wisconsin income tax returns going back to at least 2003.
- Donais should understand he has a filing requirement and the DOR request to file process as he has been through it many times and I explained it during my interview with him.

CONCLUSIONS AND RECOMMENDATIONS

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This investigation showed Donais has knowingly and intentionally failed to file Wisconsin income tax returns for tax years 2019, 2020, and 2021. Donais knows he has a filing requirement and knows he is required to file returns. DOR has dedicated significant resources trying to get Donais in compliance with the tax laws.

At this point, DOR has virtually exhausted available civil process means. Collections efforts will continue but if Donais continues to avoid the use of financial institutions such efforts will likely prove largely unsuccessful.

Since Donais has demonstrated a long history of not filing Wisconsin income tax returns and appears to have little regard for the Wisconsin tax laws, I believe he should be prosecuted and there is sufficient evidence to obtain a criminal conviction for the following offense:

- Failure to File an Individual Income Tax Return, contrary to sec. 71.83(2)(a), Wis. Stats., a misdemeanor, 3 counts, one for each year 2019, 2020, and 2021, respectively.

End of Report

On information and belief the above incident occurred in Monroe County, Wisconsin.

Based on the foregoing, the complainant believes this complaint to be true and correct.

Subscribed and sworn to before me on 05/16/23

Electronically Signed By:

Charles D. Bettkauser

Assistant District Attorney

State Bar #: 1084542

Electronically Signed By:

Deputy Ryan Williams # 19

Complainant