

BEFORE THE MARYLAND STATE BOARD OF PUBLIC ACCOUNTANCY

MARYLAND STATE BOARD OF
PUBLIC ACCOUNTANCY,

v.

Andrew Walker, CPA

Respondent

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Case no. CPAS-10-0040

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FINAL ORDER

The above-captioned case was heard before the Maryland State Board of Public Accountancy ("the Board") on August 3, 2010. The allegations against Respondent Andrew Walker, as set forth in the Board's charge letter dated June 24, 2010, were as follows:

On or about January 8, 2009, the Virginia Board of Accountancy entered Final Opinion and Order No. 2008-FO-07 revoking your Virginia CPA License. Upon notification from the Virginia Board of Accountancy of your revocation, the Maryland Board sent you numerous Notices of Complaint requesting a response from you regarding the revocation. You have failed to respond to the Maryland Board.

Based on the above facts, you are charged with violating the following laws of the State of Maryland:

Business Occupations and Professions Article, Annotated Code of Maryland, Section 2-315. Denials, reprimands, suspensions, and revocations - Grounds; license certificate.

(a)(1) Subject to the hearing provisions of §2-317 of this subtitle, the Board, on the affirmative vote of a majority of its members, may deny a license to any applicant, reprimand any licensee, or suspend or revoke a license if the applicant or licensee:

(vii) has the right to practice as a certified public accountant in another state denied, revoked, or suspended;

(xii) violates a rule of professional conduct adopted by the Board.

COMAR 09.24.01.06. Code of Professional Conduct.

I. Other Responsibilities and Practices.

(5) A licensee shall respond in writing to any communications from the Board requesting a response, within 30 days of the mailing of these communications, by registered or certified mail, to the last address furnished to the Board by the licensee.

In its charge letter, the Board informed Mr. Walker of his right to a hearing on the charges, in accordance with the Business Occupations and Professions Article ("BOP") of the *Annotated Code of Maryland*, §2-317 *et seq.*, the Maryland Administrative Procedure Act as set forth in the State Government Article of the *Annotated Code of Maryland*, Title 10, Subtitle 2, and the Board's hearing rules set forth at COMAR .09.24.01.07. Mr. Walker was also informed that should the charges be proven, he would be subject to a possible reprimand, suspension or revocation of his license, and/or the imposition of a penalty in the amount of \$5,000.00 per violation. At the August 3, 2010, hearing, Mr. Walker failed to appear. Kris King, Assistant Attorney General, presented evidence to the Board in support of the allegations.

As a preliminary matter, the Board determined that Mr. Walker had been properly notified of the proceedings. The Notice of Charges and Order for Hearing was mailed via Certified Mail and regular mail to Mr. Walker at his last three known addresses, including his address of record with the Board, 115 S. King St., P.O. Box 710, Georgetown, DE, 19947. All certified mailings were returned marked "Return to Sender, Not Deliverable as Addressed, Unable to Forward." Because Mr. Walker is currently licensed by the Board and

has an obligation to notify the Board of any change of address, and the hearing was sent to his address of record, the Board found Mr. Walker to have received notice of the hearing and proceeded in his absence.

FINDINGS OF FACT

After examining all of the evidence, including both the testimony and the documentary evidence submitted at the hearing, and having assessed the demeanor and credibility of those offering testimony, the Board makes the following findings of fact:

1) Andrew Walker has been continuously licensed by the Board as a certified public accountant under registration number 26185 since October 21, 1997. Mr. Walker's license is due to expire on February 28, 2012.

2) On February 1, 2010, the Board received correspondence from Jean Grant, the Enforcement Manager for the Virginia Board of Accountancy, notifying the Board that by Final Opinion and Order No. 2008-FO-07, dated January 8, 2009, the Virginia Board of Accountancy revoked Mr. Walker's CPA license. The revocation of Mr. Walker's Virginia CPA license was based on his failure to disclose on his August 5, 2008, Virginia CPA reciprocal application his felony conviction in 2002 of obtaining money under false pretenses, and two misdemeanor convictions in 2007 for assault and battery.

3) Upon receipt of the correspondence from the Virginia Board of Accountancy, Dennis Gring, Executive Director of the Board, on February 16, 2010, February 24, 2010, March 10, 2010, and March 26, 2010, sent to Mr. Walker, at all known addresses, via certified and regular mail, notice of the complaint filed by Ms. Grant and directed Mr.

Walker, on behalf of the Board, pursuant to COMAR 09.24.01.06(5), to respond to the complaint. The certified mail notices were all returned marked "Return to Sender, Not Deliverable as Addressed, Unable to Forward." None of the regular mail notices were returned. Mr. Walker did not respond to any of the correspondence.

DISCUSSION

Because Mr. Walker failed to appear at the hearing, the evidence and testimony presented in support of the charges was uncontroverted. It is clear that Mr. Walker violated BOP § 2-315(a)(1)(vii) by virtue of the Virginia Board of Accountancy revoking his Virginia CPA license, and violated COMAR .09.24.01.06(I)(5) by failing to respond to the Board in writing concerning the numerous Notices of Complaint . By violating this provision of the Board's Code of Professional Conduct, Mr. Walker has also violated BOP § 2-315(a)(1)(xii).

Accordingly, the sole remaining issue before the Board is what, if any, sanction it must impose against Mr. Walker under these circumstances. In addition to the authority granted by BOP §2-315(a)(1) to reprimand a licensee or suspend or revoke a license, the Board also has the authority under BOP §2-315(a)(2) to impose a penalty not exceeding \$5,000.00 per violation. In evaluating whether or nor to impose a civil monetary penalty, BOP §2-315(a)(2)(ii) provides that the Board shall consider the following factors: 1) the seriousness of the violation; 2) the harm caused by the violation; 3) the good faith of the violator; 4) any history of previous violations by the violator; and 5) any other relevant factors.

In this case, Mr. Walker has demonstrated his dishonesty by failing to disclose felony and misdemeanor convictions in his application for a Virginia CPA license, leading to the subsequent revocation of that license. The Board believes that honesty is essential to the practice of certified public accountancy. The public relies on the veracity of the independent certified public accountants whose services they engage. Mr. Walker's convictions, including a felony conviction for obtaining money under false pretenses, are extremely serious in their own right, and Mr. Walker's failure to disclose these convictions exacerbates the situation.

Additionally, Mr. Walker utterly failed in his duty to communicate with the Board. This is a fundamental obligation on the part of a Certified Public Accountant in the State of Maryland. If Mr. Walker had responded to the Board's correspondence, it is possible that the matter could have been resolved without the Board incurring the expense of conducting a formal hearing.

With respect to good faith on the part of Mr. Walker, he simply has shown none. His failure to respond to the Board or appear at the hearing and offer any explanation leaves the Board with little choice but to take immediate, decisive action to protect the public from any further harm. Although Mr. Walker has no prior disciplinary history with the Board, this factor is far outweighed by the others, and cannot preclude the imposition of sanctions by the Board.

CONCLUSIONS OF LAW

Based on the Findings of Fact, and using the specialized knowledge, training, and

experience of its members, the Maryland State Board of Public Accountancy hereby concludes as a matter of law that the Respondent, Andrew Walker, violated Business Occupations and Professions Article, Ann. Code of Maryland, Section 2-315(a)(1)(vii) and (xii) and COMAR .09.24.01.06(I)(5).

ORDER

In consideration of the Maryland State Board of Public Accountancy's Findings of Fact and Conclusions of Law in this matter, it is this 5TH day of October, 2010,

ORDERED:

1) That the license to practice certified public accountancy issued by the Board to Andrew Walker, be and hereby is **REVOKED** effective thirty (30) days from the date of this order unless the Respondent obtains a judicial stay of enforcement pursuant to Md. State Gov. Code Ann., §10-226;

2) That Andrew Walker immediately cease and desist any representation to the public, by the use of the title "licensed certified public accountant", "certified public accountant", "public accountant", or "auditor", by use of the abbreviation "CPA", by description of services, methods, or procedures, or otherwise, that he is authorized to practice certified public accountancy in Maryland;

3) That Andrew Walker immediately cease and desist offering or providing any services that amount to the "practice of certified public accountancy" as that term is defined in BOP §2-101(f);

and

4) That the records, files, and documents of the Maryland Board of Public Accountancy reflect this decision.

**MARYLAND STATE BOARD OF
PUBLIC ACCOUNTANCY**

(BOARD CHAIR'S SIGNATURE
APPEARS ON ORIGINAL ORDER)

H. Terry Hancock, CPA
Chair