

BOARD OF PUBLIC ACCOUNTANCY *

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v.

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CASE NO.: CPAS 11-0013

HERBERT STANFORD COHEN, *

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Respondent *

* * * * *

CONSENT ORDER

This matter comes before the Maryland Board of Public Accountancy (“Board”) as a result of a complaint filed by Norbert Fenwick, the Board’s continuing professional education consultant against Herbert Stanford Cohen (“Respondent”), a licensed certified public accountant. Mr. Fenwick conducted an audit of the continuing professional education courses claimed by the Respondent in the Respondent’s license renewal application that was filed with the Board on December 27, 2009. Upon a review of the complaint, the Board has determined that administrative charges against the Respondent should be held. In an effort to resolve this matter without a formal hearing, the Respondent and the Board have agreed to enter into this Consent Order as the final settlement of this matter.

THE PARTIES AGREE AND STIPULATE:

1. At all times relevant to the matters set forth in this Consent Order, the Board had jurisdiction over the subject matter and the Respondent.
2. The Respondent became licensed as a certified public accountant (License No. 2963) on January 18, 2006.
3. On December 27, 2008, the Respondent filed a license renewal application with the Board for the period December 27, 2009 through January 18, 2012.
4. The Respondent claimed in the renewal application that he earned eighty (80) hours of continuing professional education credit hours during the previous license term.
5. The Board’s license renewal application requires an applicant to certify to the accuracy of the information contained in the application. This certification states, in pertinent part:

"I hereby certify, under penalty of perjury, that the information contained herein is true and correct to the best of my knowledge, information, and belief..."

6 On August 12, 2010, Mr. Fenwick advised the Respondent that the Respondent was deficient 11 hours of continuing professional education hours.

7. On August 25, 2010, the Respondent provided documentation for 11 hours of continuing professional education that the Respondent received for attending an educational conference sponsored by the American Insolvency and Restructuring Advisors on June though 4, 2010

8. September 9, 2010, the audit determined that Respondent could not provide documentation of the requisite continuing professional education hours at the time the Respondent filed a renewal application on December 27, 2009.

9. Based on the aforementioned facts, the Respondent acknowledges that he has violated Business Occupations and Professions Article Regulation Article §§2-312(a) (2) and (3) Annotated Code of Maryland; and Code of Maryland Regulations COMAR 09.24.02.02 A and COMAR 09.24.02.04 A. and B., which state:

§ 2-312. Continuing education.

(a) *In general.* - (1) The Board shall adopt regulations that set, in accordance with this section, continuing education requirements as a condition to the renewal of licenses under this subtitle.

(2) A continuing education requirement does not apply to the first renewal of a license.

(3) (i) To qualify for any further renewal of a license under this subtitle, a licensee shall complete, for each 2-year license term, at least 80 hours in programs that the Board approves

09.24.02.02 Basic Requirement.

A. The applicant shall complete a minimum of 80 hours of acceptable continuing education in each 2-year license term after initial renewal.

B. A minimum of 4 hours of the continuing education for each 2-year license term shall be in professional ethics with no carry forward provision for excess hours.

09.24.02.04 Controls and Reporting

A. Applicants for license renewal shall provide a certification of compliance with renewal requirements, under Business Occupations and Professions Article, §§2-311 and 2-312, Annotated Code of Maryland, under penalty of perjury, in an appropriate form specified by the Board. The following minimum documentation for qualification shall be retained by the licensee for 4 years from the date of renewal:

- (1) Sponsoring organization;
- (2) Location of course;
- (3) Title of program;
- (4) Topical outline of the course;
- (5) Description of content;
- (6) Dates attended;
- (7) Hours claimed; and
- (8) Information which reflects the expertise of the instructor in the subject matter.

B. The Board, at its discretion, may verify the information and documentation supporting the certification of continuing education credit reported under Regulation .02C of this chapter or §A of this regulation. Upon request, the licensee shall submit to the Board, or its designee, copies of the original documentation supporting the certification provided under §A of this regulation.

10. Based on the aforementioned violations, the Respondent agrees to pay to the Board a civil penalty of \$800.00 upon the Respondent's execution of this Consent Order.

11. The Respondent agrees to complete an additional four (4) hours of continuing professional education in professional ethics.

13. The Respondent agrees that he will provide documentation of the completion of the continuing professional education hours set forth in this consent agreement not later than 90 days after the execution of this agreement.

14. The Respondent agrees that the hours the Respondent completes in fulfillment of the conditions set forth in this Consent Agreement may not be claimed in his next renewal application.

15. The Respondent agrees to submit documentation of the continuing professional education hours claimed in the Respondent's next license renewal application upon the request of the Board.

16. The Respondent shall abide by the provisions of the Maryland Public Accountancy Act, § 2-101 et. seq., Business Occupations and Professions Article, Annotated Code of Maryland, and COMAR 09.24.01, et. seq.

16. The Respondent, by entering into this Consent Order, expressly waives the right to have the pending allegations by the Board reduced to written charges, the right to an administrative hearing on the charges and the making of Findings of Fact and Conclusions of Law, and any and all further proceedings before the Board to which the Respondent may be entitled to in this matter, and any rights to appeal from this Order.

17. The Respondent enters into this Consent Order freely, knowingly and voluntarily.

26th ~~11~~ 7th ~~11~~
BASED ON THESE STIPULATIONS, IT IS, THIS 26th DAY OF OCTOBER, 2010 BY THE BOARD OF PUBLIC ACCOUNTANCY:

ORDERED that the Respondent has violated Business Occupations and Professions Article Regulation Article §§2-312(a) (2) and (3) Annotated Code of Maryland; and Code of Maryland Regulations COMAR 09.24.02.02 (A) and COMAR 09.24.02.04 A. and B.; and it is further

ORDERED that the Respondent is, hereby, reprimanded;

ORDERED that the Respondent be assessed a civil penalty of \$800.00 for the violation, which amount is payable to the Board in four monthly payments of \$200, payable on the fifteenth (15th) day of the months of October, November, and December 2010; and January 2011, upon the Respondent's execution of this Consent Order and Settlement Agreement, and it is further

ORDERED, that in the event the Respondent fails to remit payment to the Board the amount due on the fifteenth (15th) day of the month as agreed to in this Consent Order, the Respondent's license shall be suspended until full payment of the remaining balance is received by the Board; and it is further

ORDERED, that the Respondent comply with the requirements set forth in Stipulations 10 through 15 regarding the completion and reporting of continuing professional education credits to the Board.

ORDERED that the Board's records and publications reflect the violations, the reprimand and the civil penalty of \$800.00 imposed on the Respondent.

(RESPONDENT'S SIGNATURE
APPEARS ON ORIGINAL ORDER)

Herbert Stanford Cohen

10/11/10

Date

(BOARD CHAIR'S SIGNATURE
APPEARS ON ORIGINAL ORDER)

H. Terry Hancock
Chairman