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BOARD OF PUBLIC ACCOUNTANCY

BOARD OF PUBLIC ACCOUNTANCY * BEFORE THE MARYLAND BOARD OF

v. * PUBLIC ACCOUNTANCY

STUART JAY STATLAND, *
Respondent * CASE NO.: CPAS 2017-23

* * * * *

CONSENT ORDER

This matter comes before the Maryland Board of Public Accountancy (the "Board") as a result of a complaint filed by the Board against Stuart Jay Statland (the "Respondent"), a licensed certified public accountant. Norbert Fenwick, the Board's CPE Auditor ("Auditor"), conducted an audit of the CPE courses claimed by the Respondent in his license renewal application that was filed with the Board on or about May 10, 2016. Upon a review of the complaint, the Board determined that administrative charges against the Respondent were appropriate. Prior to the issuance of a Statement of Charges and Order for Hearing in this matter, the Board and the Respondent agreed to enter into this Consent Order as the final settlement of Complaint No. CPAS 2017-23. The parties enter into this Consent Order as a full and final resolution of this matter, with terms as follows:

THE PARTIES AGREE AND STIPULATE:

1. At all times relevant to the matters set forth in this Consent Order, the Respondent was licensed by the Board as a certified public accountant ("CPA") and/or the Board had jurisdiction over the subject matter.

2. The Respondent became licensed as a CPA on or about September 14, 1984 (License Registration No. 01-10823).

3. On or about May 10, 2016, the Respondent filed a license renewal application with the Board for the period May 11, 2016 through June 30, 2018 by means of the Board's online licensing system.

4. On the renewal application, the Respondent claimed 75 hours of CPE credit and 5 hours of Ethics that was earned 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. Following the Respondent's submission of the license renewal application and payment of the license renewal fee, the Respondent was advised that the application was selected for a

random audit of the CPE credits that were reported.

7. On or about May 10, 2016, the Board sent an e-mail to the Respondent advising that the license renewal application was selected for a random audit and that supporting documents for the CPE hours claimed were required to be received by the Board not later than June 9, 2016.

8. On or about May 10, 2016, the Respondent replied by email to notify the Board that, due to unusual work circumstances during a difficult bankruptcy emergence, it was "...impossible ...to document [his] CPE for the last couple of years...." He later indicated that the deficiency was in the loss of the required paperwork.

9. On or about May 26, 2016, Norbert Fenwick, the Board's CPE Auditor ("Auditor") sent the Respondent a letter reminding the Respondent of the regulatory requirement of Code of Maryland Regulations ("COMAR") 09.24.02.05B that he keep the documentation of his credit hours for four years from the application date. The letter requested the documentation be provided to the Board.

10. On or about June 8, 2016, the Respondent sent a letter to the Auditor stating that because of his inability to document his CPE, he would, in response to a suggested remedy stated by the Auditor, go into inactive status. The Respondent understood and admitted that the hours he could document by attempted reconstruction of records were not the full number of hours previously claimed in his renewal application certification. The Respondent claimed that he was providing documentation to support 49 hours of CPE. The documentation provided included emails and registrations but did not include course completion certificates for all of the hours claimed.

11. On or about June 15, 2016, the Auditor sent a letter to the Respondent acknowledging receipt of the June 8th letter and requesting additional information.

12. On or about June 27, 2016, the Respondent sent the Auditor a letter that provided some additional explanations and course descriptions.

13. On or about July 7, 2016, the Auditor sent the Respondent a letter explaining that based on the documentation provided through that date, the Respondent had substantiated 7.5 hours of CPE (including 1.5 hours of MCLE Accepted CPE in Ethics) for the renewal on May 10, 2016 and 33 hours of CPE (including 6 hours of MCLE Accepted CPE in Ethics) for the license granted on June 3, 2014. He was warned about potential disciplinary action if he was unable to substantiate the rest of his CPE.

14. On or about July 19, 2016, the Respondent sent the Auditor a letter agreeing that he had failed to document to 80 CPE hours but "disagree[ing] with the statement in the NOTE that [he] failed to meet [his] CPE requirements to take CPE courses." Additional certificates and course descriptions were attached.

15. On or about August 2, 2016, the Auditor sent the Respondent a letter explaining that he had reviewed the documentation provided and determined that the Respondent was able to substantiate the following hours, less than the hours claimed, for each of the two periods reviewed:

| Audit Period | CPE Claimed by Respondent | CPE Substantiated |
|---------------------|---------------------------|-------------------|
| Audit for 5/10/2016 | | |
| • Ethics | 5 | 1.5 |
| • Other | 75 | 25 |
| TOTAL | 80 | [26.5]* |
| Audit for 6/3/2014 | | |
| • Ethics | 4 | 6 |
| • Other | 94 | 26 |
| TOTAL | 98 | 32** |

* While the letter provided the total as 28.5, this appears to be an error as the total should be 26.5 as reflected here.

**While a previous correspondence had stated that 33 hours were substantiated, the difference does not impact the unavailability of carryover for the 2016 renewal.

16. The Board's audit review of the documentation submitted by the Respondent as well as a review of the Board's own records established the following:

a. The Respondent did not claim any hours for the 6/30/12 license; he did have sufficient carry forward hours for this license but no available carry forward to the 2014 license; and

b. the Respondent could not substantiate even the 80 required hours for the 6/3/2014 license. Therefore, because of insufficient record submission, he did not have any carry forward hours eligible to be applied for the 5/10/2016 license; and

c. the Respondent was 53.5 additional CPE hours short (including 2.5 hours short in Ethics) of meeting the documentary requirements at the time the license renewal application was filed on May 10, 2016.

17. The Respondent could not document that he had completed the required 80 hours needed for renewal.

18. The Respondent acknowledges that he violated COMAR 09.24.02.05 and the statute it supports. Accordingly, he did not meet the CPE requirements to renew the license at the time the renewal application was filed with the Board on May 10, 2016.

19. Based on the aforementioned facts, the Respondent acknowledges that he cannot prove compliance with Business Occupations and Professions Art. (BOP), §§ 2-312(a)(3), Ann. Code of Maryland, and Code of Maryland Regulations (COMAR) 09.24.02.03 (A) and (C), which state, in pertinent part:

§ 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.

(ii) If a licensee completes more than 80 hours during a 2-year license term, the Board shall credit the excess hours to the requirements for the following term.

* * *

09.24.02.03 Basic Requirement.

A. An applicant for license renewal shall complete, prior to submitting an application, a minimum of 80 credit hours of qualifying continuing education in each 2-year license term.

B. The requirement in §A of this regulation does not apply to the first renewal of a license.

C. Professional Ethics.

(1) A minimum of 4 credit hours of the continuing education for each 2-year license term shall be in professional ethics.

(2) Credit hours in professional ethics in excess of 4 hours in a 2-year license term may not be carried forward to satisfy this requirement.

(3) Credit hours in professional ethics in excess of 4 hours in a 2-year license term may be carried forward to meet the requirement of §A of this regulation.

D. Except as provided in §C of this regulation, qualifying credit hours in excess of the 80 credit hours required for a 2-year license term, up to a maximum of 80 credit hours, may be carried forward to apply to the following 2-year license term.

E. Qualifying credit hours reported in a license renewal application in excess of the 80 credit hour requirement in §A of this regulation may only be carried forward to apply to the following 2-year license term.

F. The Board shall allow a maximum of 80 credit hours of qualifying continuing education earned in the initial license term to be carried forward if the credit hours are properly reported on the first renewal application.

20. Based on the aforementioned violations, the Respondent agrees to pay a civil penalty to the Board in the amount of \$3,000.00, within 90 days of the date of this Consent Order.

21. The Respondent agrees to the imposition of a reprimand against his Maryland CPA license based on his violations.

22. The Respondent agrees that he must complete fifty three and a half (53.5) hours of CPE credits, including two and a half (2.5) hours in Ethics, before he would be eligible to return to active status or renew his license. The Respondent understands that those fifty three and a half (53.5) hours are in addition to and not including the remedial Ethics hours required by paragraph 23 of this Order. The Respondent also understands that those fifty three and a half (53.5) hours are to bring him into compliance with his last renewal period and cannot be counted as his CPE hours for his new renewal period. If the Respondent's license is not already in inactive status at the time of this Consent Order, the Respondent further agrees to affirmatively make his license inactive until these hours are completed and documentation is provided to the Board. The Respondent agrees that this CPE must be completed within 90 days of the date of this Consent Order.

23. The Respondent agrees to complete eight (8) hours of CPE credits in Ethics, which shall be accounting ethics and not legal ethics, within 90 days of the date of this Consent Order. These credits shall be in addition to, and shall not count toward the fulfillment of, the normal CPE requirements. These credits must also be in addition to the credits required by paragraph 22 of this order.

24. The Respondent shall abide by the provisions of the Maryland Public Accountancy Act, BOP § 2-101, *et. seq.* and COMAR 09.24.01, *et. seq.*

25. 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, any and all further proceedings before the Board to which the Respondent may otherwise be entitled in this matter, and any rights to appeal from this Order.

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

BASED ON THESE STIPULATIONS, IT IS, THIS 17th DAY OF April, 2017, BY THE BOARD OF PUBLIC ACCOUNTANCY:

ORDERED that the Respondent has violated BOP, §2-312(a)(3) and COMAR 09.24.02.03(A) and (C) and 09.24.02.05;

AND IT IS FURTHER ORDERED that the Respondent is, hereby, **reprimanded**;

AND IT IS FURTHER ORDERED that the Respondent shall pay a **civil penalty in the amount of \$3,000.00** to the Board for his violations, which amount is payable within 90 days of the date of this Consent Order;

AND IT IS FURTHER ORDERED that the Respondent shall **complete fifty three and a half (53.5) CPE credits, including two and a half (2.5) CPE credits in Ethics**, within 90 days as set forth in Paragraph 22 of this Consent Order, and before he will be eligible to return to active status or renew his license;

AND IT IS FURTHER ORDERED that the Respondent shall **complete eight (8) additional CPE credits in Ethics, financial not legal Ethics**, within 90 days as set forth in Paragraph 23 of this Consent Order;

AND IT IS FURTHER ORDERED that the additional CPE credit hours completed to satisfy the requirements of paragraphs 22 and 23 of this Consent Order shall not be eligible to be claimed in connection with the Respondent's next license renewal application;

AND IT IS FURTHER ORDERED that, if the Respondent fails to comply with the terms of this Consent Order, including the failure to make a required payment or complete additional CPE credits, the Respondent's license shall be immediately and automatically suspended until such time as compliance occurs;

AND IT IS FURTHER ORDERED that the Respondent shall submit documentation supporting the CPE credit hours claimed in connection with the Respondent's next renewal application upon the request of the Board;

AND IT IS FURTHER ORDERED that this matter shall be resolved in accordance with the terms of this Consent Order, and that the same shall be reflected among the records of the Board

(RESPONDENT'S SIGNATURE APPEARS ON ORIGINAL DOCUMENT)

Stuart Jay Statland

(BOARD CHAIR'S SIGNATURE APPEARS ON ORIGINAL DOCUMENT)

Arthur E. Flach, CPA
Chairperson

3-22-2017
Date