

BEFORE THE WEST VIRGINIA BOARD OF ACCOUNTANCY

WEST VIRGINIA BOARD OF
ACCOUNTANCY,

Complainant,

v.

Case No. 2009-03-07

STACEY A. PETERSON, CPA,

Respondent.

FINAL ADMINISTRATIVE ORDER

Upon review of the record in the above-styled matter, the West Virginia Board of Accountancy (hereinafter "Board") hereby **ADOPTS**, in its entirety, the Hearing Examiner's Recommended Decision, dated July 21, 2009, which is attached hereto and incorporated by reference herein. Based on the Hearing Examiner's Findings of Fact and Conclusions of Law, the Board hereby **ORDERS** as follows:

1. That the Respondent's license is **REVOKED**;
2. That the Respondent pay to the Board its administrative costs and legal fees associated with this proceeding within thirty (30) days of the entry date of this ORDER, which total Four Thousand, Eight Hundred Seventeen Dollars and Seventy Cents (\$4,817.70); and
3. That, in addition to all other requirements prescribed by law, the Respondent shall not be eligible to make application for licensure with this Board until the above costs are paid in full.

ENTERED this 12th day of August, 2009.

WEST VIRGINIA BOARD OF ACCOUNTANCY

Reed Spangler

REED SPANGLER, CPA, CVA
BOARD MEMBER

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STACEY A. PETERSON, CPA,

Respondent.

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDED ORDER

This matter comes before the undersigned Hearing Examiner Jack C. McClung for hearing by a Statement of Charges and Notice of Hearing, dated February 20, 2009, issued against the Respondent Stacey A. Peterson (hereinafter "Respondent") by the Complainant West Virginia Board of Accountancy (hereinafter "Board").

This matter came on for evidentiary hearing on March 31, 2009. The Complainant Board appeared by its counsel, Assistant Attorney General Nicole Cofer, and by James M. Sturgeon, Jr. CPA, Vice President of the Board. The Respondent appeared pro se.

During the said evidentiary hearing, the Board called as its witnesses the following: Jo Ann Walker, Executive Director of the Board; James M. Sturgeon, Jr. CPA, Vice President of the Board; Michael Noto; R. Wade Caskey; Victoria L. Caskey; and introduced five (5) exhibits, all of which were made a part of the record. Respondent testified on her own behalf and introduced five (5) exhibits, all of which were made part of the record.

All witnesses were sworn, documents were received into evidence, the hearing was recorded electronically, and a transcript prepared and distributed to the parties.

After a review of the record and exhibits admitted into evidence at the hearing of this matter, after assessing the credibility of all testimony of witnesses of record and weighing the evidence in consideration of the findings as to credibility, and after consideration of the proposed findings of fact and conclusions of law as were filed by the parties, the undersigned hearing examiner makes the following findings of fact, conclusions of law, and proposed order.

To the extent that these findings and conclusions are inconsistent with any proposed findings of fact and conclusions of law submitted by the parties, the same are rejected by the hearing examiner. Conversely, to the extent that these findings and conclusions are generally consistent with any proposed findings of fact and conclusions of law submitted by the parties, the same are accepted and adopted. To the extent that the testimony of any witness is not in accordance with these Findings and Conclusions, such testimony is not credited. Any proposed finding of fact, conclusion of law, or argument proposed or submitted by a party but omitted herein is deemed irrelevant or unnecessary to the determination of the material issues in this matter.

CREDIBILITY OF WITNESSES, TESTIMONY, AND EXHIBITS

The hearing examiner was and is satisfied that all records and documents entered as exhibits are complete, authentic and valid, and that they were entered with the proper evidentiary foundations.

The hearing examiner was and is satisfied that the witnesses brought on by the parties were credible and truthful except as noted below. Neither the demeanor of the witnesses nor the substance of any testimony suggested any inconsistency, conflict, or ulterior motive except as noted below.

FINDINGS OF FACT

1. The Complainant Board is a regulatory agency created for the purpose of regulating the practice of public accountancy in the State of West Virginia. W.Va. Code § 30-9-1 et seq.

2. Respondent Peterson is a Certified Public Accountant licensee of the Board and has

held herself out as a tax professional for a period of at least ten (10) years. As a licensee of the Board, Respondent is properly subject to the jurisdiction of the Board as to this matter.

3. On or about July 22, 2008, the Board received a complaint against Respondent filed by Dr. Michael Noto alleging that Respondent had not completed his 2007 federal taxes after being retained to do so; that she would not respond to his communications, and that he wanted copies of all personal and business records in Respondent's possession. Complainant Exhibit ("Com. Ex.") 1.

4. Upon receipt of the complaint, the Board, by its Executive Director, caused a copy of the complaint to be sent to the Respondent by certified mail, along with cover letter dated July 29, 2008, requiring a response to the complaint within thirty (30) days. Respondent received the correspondence on or about August 1. Com. Ex. 1.

5. The Board subsequently received additional complaint information from Dr. Noto on or about August 1, 2008, and on or about August 7, 2008. The Board, by its Executive Director, caused a copy of the complaint to be sent to the Respondent by certified mail, along with cover letter dated August 7, 2008, requiring a response to the complaint within thirty (30) days. Respondent received the correspondence on or about August 14, 2008. Com. Ex. 1.

6. On or about August 29, 2008, the Board received a complaint against Respondent filed by R. Wade Caskey and Victoria L. Caskey alleging that Respondent had failed to prepare for filing certain 2006 and 2007 federal income tax returns for certain corporations owned by the Caskeys after being retained to do so, and further alleging that Respondent had acted in an unprofessional manner in refusing to return to complainants certain records upon their request. The complaint described an altercation that took place between the Caskeys and Respondent at her office. Com. Ex. 1.

7. Upon receipt of the complaint, the Board, by its Executive Director, caused a copy of the complaint to be sent to the Respondent by certified mail, along, with cover letter dated September 2, 2008, requiring a response to the complaint within thirty (30) days. Respondent received the correspondence on or about September 5, 2008. Com. Ex. 2.

8. The complaints listed as the business identity and address of Respondent as "Kanawha Valley Tax And Accounting, 2001 Roxalana Road, Dunbar, WV 25064." The correspondence from the Board to Respondent was addressed to the address of Respondent, and was received by Respondent.¹ See Com. Ex. 1, 2.

9. The Board has no record of any response by Respondent to the complaints and correspondence. Transcript ("Tr.") at 13. Respondent alleged that she transmitted, or attempted to transmit, her responses to the complaints by facsimile transmission to the Board. The Board, by Executive Director Walker, denied any record of any facsimile transmission from Respondent or receipt of any response in any form from Respondent. Tr. at 17-18. Respondent was not able to provide either the original of the allegedly faxed response or a copy of any such response.² The

¹ Respondent argues in her post-hearing submission that the complaints should be "disregarded" because the Board sent its correspondence to her at her office location in Dunbar rather than to the address Respondent asserts is the address she provided to the Board for correspondence, which she asserts to be [REDACTED]. Such concerns as to the use of the said address is an issue first raised by her in her post-hearing filing. There is no evidence of record other than Respondent's assertion as to what address of hers is on file with the Board, but it is not disputed that the address used by Board was the address of Respondent's office; that it was the address used by her clients; that Respondent received the said correspondence. Any issue as to the address is therefore untimely raised and is, furthermore, mooted by the admission of Respondent that she was not prejudiced by the choice of addresses made by the Board.

² Respondent did provide, as an attachment to her post-hearing submission, a certain "Transmission Verification Report" indicating a 2-page transmission to the fax number of the Board (304-558-1325) on September 2, 2008. Since Respondent failed to retain either the original or a copy of any such response, any such document that may have existed is not available for the record. However, Respondent has had full opportunity to respond to the complaints with issuance of the

evidence by the Board of a lack of record of any response is therefore found to be more credible than the unsupported assertion by Respondent of such response. From the record of this matter, it is therefore found that Respondent did not respond to the complaints filed against her in this matter, all as alleged in Paragraph 15 of the Statement of Charges.

10. Having received no response from Respondent, the Board considered the matter at its October 2008 meeting and decided to prepare a notice to Respondent stating that her license would possibly be suspended and other action taken against her if she did not respond to the allegations in the complaints.

11. Having received no response from Respondent by its January 23, 2009, meeting, the Board decided to summarily suspend Respondent's license and hold a hearing on the Noto and Caskey complaints. It therefore caused to be prepared and served on Respondent, by personal service on or about February 20, 2009, a Statement Of Charges, an Order For Suspension Of License, and a Notice Of Hearing setting this matter for evidentiary hearing on March 31, 2009. Com. Ex. 3, 4.

12. In her post-hearing filing (at Paragraph 6), Respondent asserts that she did not receive the documents until March 17, 2009, and therefore had insufficient opportunity to respond. In support of that assertion, Respondent attached to her post-hearing submission a certain tracking record from the United States Postal Service indicating delivery of USPS Item Number 7007 0710 0003 1617 8921. Of record in this matter are the return-receipt cards for the mailing of the three (3) complaints to Respondent. The tracking number cited by Respondent in her post-hearing filing does not match any of the tracking numbers for the complaints. Evidence of record from both the

Statement Of Charges and the hearing thereon.

Executive Director of the Board as well as Respondent reflects that the Statement Of Charges, Order For Suspension Of License, and the Notice Of Hearing were not mailed to Respondent, but were served by personal service on Respondent. Tr. at 16. The tracking number document submitted by Respondent does not therefore appear to be pertinent to this matter. Moreover, Respondent admits in her post-hearing filing (at Paragraph 7) that she received "additional paperwork" (including the Order For Suspension Of License) on February 12, 2009 from the Board.. It is therefore found that Respondent received, by personal service on or about February 20, 2009, the Statement Of Charges, the Order For Suspension Of License, and the Notice Of Hearing setting this matter for evidentiary hearing on March 31, 2009. Respondent's assertion that she did not receive notice of the Board's February 2009 action until March 17, 2008, is found not to be credible.

13.. As to the complaint of Dr. Noto (Com. Ex. 1), the record reflects that Respondent had been Dr. Noto's accountant without issue for approximately five (5) years and that during that period Respondent, Dr. Noto, believed that Respondent had been engaged to, and actually did, prepare and file tax documents for his business (Kanawha Valley Foot And Ankle Associates, PLLC) including but not limited to Forms 941, 1120 and 2840.

14. Beginning in June 2008, Respondent failed to respond to Dr. Noto's letters or return his telephone calls and e-mails.

15. Dr. Noto filed his initial complaint with the Board on or about July 22, 2008, because he needed his 2007 taxes filed and wanted Respondent to return to him the paperwork required for such filing. In addition, Dr. Noto wanted Respondent " . . . to file the return which I have already paid her for." Com. Ex. 1.

16. On July 28, 2008, Dr. Noto, accompanied by Stacey Smith, went to Respondent's office to meet her, but was unable to make contact with her. Respondent later agreed to meet with

Dr. Noto and provide him with copies of the documents, but Respondent failed to appear as agreed. Dr. Noto thereafter filed a further complaint with the Board dated August 1, 2008.

17. On August 7, 2008, Internal Revenue Service ("IRS") agents visited Dr. Noto's office and informed him that since June 2008 numerous IRS Forms relating to his business had not been filed. See Com. Ex. 1. Dr. Noto testified that he was further informed by the IRS agents that they had visited the office of Respondent Stacey Peterson that morning but that she had not answered the telephone or door, and that they had visited her office in reference to Dr. Noto's tax matters because Respondent had changed his tax address to her office. The IRS agents further informed Dr. Noto that Respondent had received a minimum of 6-8 notices regarding the missing forms. Dr. Noto testified that he had no knowledge that the IRS was trying to contact him, and that Respondent had not informed him that she had received the IRS notices. Com. Ex. 1, Tr. at 49-51.

18. At the hearing of this matter, Respondent presented to Dr. Noto during cross-examination a document that she asserted was a time extension for the 2007 filing Respondent claimed to have filed on behalf of Dr. Noto. The document contained no date or signature. Dr. Noto testified that he had not seen it before. Respondent used the document in cross-examination but did not offer it as evidence during her testimony. The document is therefore not of record.

19. During redirect examination by Mr. Sturgeon, Dr. Noto testified that if Respondent had obtained a six-month extension for the filing of his 2007 tax return as she claimed, the IRS agents would not have visited him looking for the filing because it would have not been due until September 2008. Tr. at 77.

20. The complete tax records of Dr. Noto are not of record in this matter. Based on the record of this matter, it is found that Respondent has not presented credible evidence that she filed the 2007 extension for Dr. Noto as she claimed. The IRS action as to the unfiled tax forms appears

to be compelling evidence that Respondent did not file the extension as she claimed.

21. Respondent testified that she did occasionally mail in tax returns for her tax clients, and that she had no knowledge of the IRS notices that the IRS agents had informed Dr. Noto had been sent to her address prior to their visit to Dr. Noto's office except for one notice on the issue of a penalty statement. She asserted that she had contacted Dr. Noto as to any IRS notice received by her involving his tax returns. Tr. at 156-58.

22. Respondent further testified that it is unlikely that the IRS would send agents to visit Dr. Noto's place of business unless it first sent out a series of notices about the matters of concern to the IRS. Tr. at 166.

23. In making findings of fact as to the allegations relating to Dr. Noto, it is found that the testimony of Respondent as to the matters in issue lacks credibility. Respondent was engaged to provide tax form preparation and/or filing services for Dr. Noto. Such services were not provided in a satisfactory manner, as evidenced by the actions of the IRS. Respondent has simply failed to present credible evidence to refute the inference and conclusion presented by the Board that Respondent failed to provide such services in a satisfactory, professional manner. The record of this matter supports only the conclusion that Respondent did fail to file the referenced forms as she had been engaged to do by Dr. Noto, and that the referenced IRS notices were sent to her address, and information as to such notices was not provided to Dr. Noto.

24. Based on the record of this matter, it is therefore found, as alleged in Paragraphs 8 - 12 in the Statement of Charges filed in this case, that Respondent was engaged to prepare certain tax forms and returns for the year 2006 and 2007 for Dr. Noto d.b.a. Kanawha Valley Foot & Ankle Associates, PLLC. It is further found that Respondent did fail to prepare and/or file IRS Form 941 (Employers Quarterly Tax Return) for the 3rd and 4th quarters of 2007 and the 1st and 2nd quarters

of 2008, did also fail to prepare and/or file IRS Form 940 (Employers Annual Federal Unemployment Tax Return, or "FUTA"), did also fail to file Form 1120 (U.S. Corporate Income Tax Return) for the tax year 2007, did also fail to respond to or provide information to Dr. Noto as to several notices sent to Dr. Noto at the address of Respondent by the IRS in regard to the failures to file. Such notices were received by her in her capacity as tax preparer for Dr Noto d.b.a. Kanawha Valley Foot & Ankle Associates, PLLC.. Respondent did also fail and refuse to return the personal and business records to Dr. Noto or his new accountants after repeated requests for such return by Dr. Noto.

25. Dr. Noto suffered from financial and emotional hardships as a result of Respondent's acts and failures to act including being subject to IRS interest and penalties, the cost of hiring new accountants to perform the work not performed by Respondent, and the embarrassment of having IRS agents at his office during business hours, all of which as was alleged in Paragraph 13 of the Statement of Charges.

26. As to the allegations of the Statement Of Charges regarding the Caskeys, it is found that Respondent had been the accountant for the Caskeys (R.. Wade Caskey and Victoria L. Caskey) and their businesses (Spruce School Of Real Estate, Inc., and Reedsville Estates, Inc.) for approximately seven years without incident until they were notified by the IRS that their tax returns for the 2006 tax year had not been filed.

27. After receiving that notice, Mr. Caskey retained another accountant and made several unsuccessful attempts to contact Respondent to have necessary tax records returned to him or his new accountant. On or about August 27, 2008, the Caskeys went to Respondent's office to make another attempt to retrieve their documents. This visit escalated into a confrontation which caused the Dunbar police to intervene. Com. Ex. 2, Tr. at 79-80.

28. At the conclusion of the altercation, Respondent told Sgt. Elliot of the Dunbar Police Department that she would meet him the following Friday with the documents the Caskeys had requested. Respondent did not, however, turn over the documents on what she described as the "advice of counsel," the name of whom she could not recall at hearing. Tr. at 83, 172-73.

29. The Caskeys filed a complaint with the Board after the altercation in order to have their tax documents returned to them by Respondent in order to reconstruct the forms requested by the IRS. Com. Ex. 2, Tr. at 80.

30. Respondent produced unsigned copies of a 2006 personal tax return for the Caskeys, an unsigned copy of a 2006 return for Reedsville Estates, Inc., and an unsigned copy of a 2006 return for Spruce School of Real Estate, Inc., with the latter two returns bearing an unsigned cover letter dated March 15, 2007. Respondent Exhibits (Rsp. Ex.) 1 - 3. Respondent testified that she took the originals for filing (which she had signed) and a client copy to the Caskeys at their home, presented an invoice and was paid at that time, and relied on the Caskeys to mail the returns. Rsp. Ex. 5, Tr. at 148-52.

31. Mr. Caskey testified that Respondent informed him that she had e-filed the 2006 returns (Tr. at 95); that he received a "client copy" of the 2006 personal and corporate returns (Tr. at 98), but that Respondent failed to return to him the supporting documents needed by his new accountants to reconstruct the returns after he learned from the IRS that the 2006 returns had not been filed. Under cross-examination by Respondent, Mr. Caskey denied that Respondent had ever been to his residence, but stated that Respondent had been to his classroom (Tr. at 96).

32. Respondent relied on her record of client invoices and payments (Rsp. Ex. 5) to support her assertion that she delivered the original 2006 tax returns (for filing) and client copies to the Caskeys on March 15, 2007. Respondent stated that "The only confirmation I have is that they

did pay me at the time." Tr. at 150.

33. Respondent's record of invoices and payments do not, however, support the testimony of Respondent that she delivered the 2006 tax returns to the Caskeys on March 15, 2007. The record of invoices and payments indicates that the invoice for "Corporate Taxes" was dated, and paid, on April 23, 2007. There is no invoice reflecting any activity on March 15, 2007, the date that Respondent claimed to have delivered the tax returns and invoice and received payment.

34. The records do support the testimony of Mr. Caskey that he received a "client copy" of the 2006 returns after Respondent represented to him that the returns had been e-filed. Receipt of such copies and an invoice, and payment of the invoice, after the date of filing would be the expected course of business between an accountant and a client. Respondent recognized payment of an invoice for preparation of 2006 taxes on April 23, 2007, as the expected time frame when she testified as follows in answer to questioning by the hearing examiner:

EXAMINER MCCLUNG (examining Respondent's ledger: Rsp Ex. 5): Does that indicate for what years?

THE WITNESS (Respondent): Well, it has the time frame. For example, the 2006's were paid on April 23, 2007, which would have been appropriate for payment at that time. And then the 2007's were paid April of 2008.

35.. The testimony and ledger record is entirely inconsistent with and contradictory to Respondent's claim that she delivered the original (for filing by the Caskeys) and client copies of the 2006 returns as well as an invoice (which she asserts was paid at that time) to the Caskeys on March 15, 2007. In order for the ledger record to support Respondent's version of the filing of the 2006 returns, one would have to accept Respondent's delivery of the original 2006 returns to the Caskeys for filing well after the filing deadline (April 16, 2007, in that year). Such version is not credible.

On the other hand, the testimony of Respondent as to the appropriate time for invoicing the preparation of tax returns and Respondent's ledger record is entirely consistent with the testimony of Mr. Caskey that he received client copies of returns that Respondent represented to him had already been e-filed, since receipt of such copies as well as receipt (and payment) of Respondent's invoice would have been appropriate only after the filing date.

36. The ledger records of Respondent as to the 2007 returns also appear to reflect not delivery of a prepared return to the Caskeys at a time prior to the filing deadline, as alleged by Respondent, but rather appears to reflect delivery of a copy of a return already filed by Respondent with an invoice near the time of the filing deadline.

37. It is therefore found that the testimony of Respondent as to the 2006 and 2007 returns is not credible, and that the testimony of Mr. Caskey as to the returns is found to be credible.

38. It is therefore found that Respondent was engaged to prepare and file federal and state income tax returns by the Caskeys for themselves as well as their businesses, Reedsville Estates, Inc., and Spruce School of Real Estate, Inc., and that Respondent did fail to prepare and/or file the said 2006 and 2007 federal tax returns, all as was alleged in Paragraphs 4 and 5 of the Statement of Charges filed in this matter.

39. It is further found, as alleged in Paragraphs 6 and 7 of the Statement Of Charges, that the Caskeys did repeatedly request, verbally and in writing, the return of their individual and personal records that are in the possession of Respondent, that Respondent has failed to release the records to the Caskeys, and that her refusal to provide such copies resulted in the altercation between the Caskeys and Respondent on August 27, 2008, that caused the intervention of the Dunbar Police Department.

40.. The Caskeys have an estimated financial loss of One Thousand Five Hundred Dollars

(\$1,500) in payments to their new accountants to reconstruct their financial records. Tr. at 84.

41. The Caskeys have therefore suffered financially and emotionally as a result of the conduct of Respondent, as alleged in Paragraph 13 of the Statement of Charges.

42.. It is therefore found that the factual allegations as set forth in the Statement Of Charges filed in this matter should be sustained and affirmed.

CONCLUSIONS OF LAW

1. The West Virginia Board of Accountancy is the regulatory agency created for the purpose of regulating the practice of public accountancy in the State of West Virginia. W.Va. Code § 30-9-1 et seq.

2. Respondent Peterson is a Certified Public Accountant licensee of the Board and is therefore properly subject to the jurisdiction of the Board as to this matter.

3. The Statement Of Charges and Notice Of Hearing in this matter was properly issued and timely served on Respondent.

4. In order to carry out its regulatory duties under the authority granted it by the provisions of W.Va. Code § 30-9-1 et seq., and the provisions of W.Va. Code R. § 1-1-1 et seq., the Board is empowered to refuse to renew a license, suspend a license or revoke any license of a licensee upon satisfactory proof that a licensee is, in his or her professional capacity, engaged in conduct, practice or acts constituting professional negligence or a willful departure from accepted standards of professional conduct.

5. "In the performance of any professional service, a licensee . . . shall maintain objectivity and integrity, shall be free of conflicts of interest, and shall not knowingly misrepresent facts or subordinate . . . her judgement to others." W.Va. Code R. § 1-1-20.1(b).

6. Respondent's assurance to Dr. Noto that she would meet wit him personally to return

his documents and failing to show up at the designated date, time and place with seemingly no intention of doing so is a knowing misrepresentation of facts in violation of W.Va. Code R. § 1-1-20.1(b).

7. "A licensee . . . shall: (1) [u]ndertake only those professional services that the licensee . . . can reasonably expect to be completed with professional competence; (2) [e]xercise due professional care in the performance of professional services; (3) [a]dequately plan and supervise the performance of professional services; and (4) [o]btain sufficient relevant data to afford a reasonable basis for conclusions or recommendations in relation to any professional services performed." W.Va. Code R. § 1-1-20.2(a).

8. Respondent's non-completion of tax documents for Dr. Noto and the Caskeys when she was engaged to do so is a lack of due professional care in the performance of professional services in violation of W.Va. Code R. § 1-1-20.2(a).

9. Respondent's changing of Dr. Noto's address on file with the IRS to her office address without prior, proper notice to the tax payer and her not providing any notification to Dr. Noto of attempts made by the IRS to contact him regarding the status of his tax filings also constitutes a lack of due professional care in the performance of services in violation of W.Va. Code R. § 1-1-20.2(a).

10. Pursuant to the provisions of W.Va. Code § 30-9-20(a)(6), the Board has the authority to take disciplinary actions against any licensee who is in "[v]iolation of any provision of this article or any rule, including [a] violation of any professional standard or rule of professional conduct[.]"

11. The Board may take disciplinary action against a licensee who commits "[d]ishonesty, fraud [or] professional negligence in the performance of services as a licensee . . . or a willful departure from accepted standards of professional conduct applicable to licensees . . ." W.Va. Code § 30-9-20(a)(5).

12. Respondent submitted no credible evidence that she had completed for filing, timely or otherwise, any of the tax documents in question for Dr. Noto and the Caskeys. Respondent's non-completion of the tax documents when engaged to do so constitutes professional negligence in her professional capacity and is therefore a violation of the provisions of W.Va. Code § 30-9-20(a)(5).

13. Respondent's failure and refusal to return financial and other tax-related documents to Dr. Noto and the Caskeys after receiving repeated requests from both complaining parties to do so constitutes Respondent's engaging in conduct that is a willful departure from the accepted standards of professional conduct and is therefore a violation of the provisions of W.Va. Code § 30-9-20(a)(5).

14. Respondent's promising to meet with Dr. Noto and Sergeant Elliot of the Dunbar Police Department to return the referenced tax documents to the Caskeys and then intentionally not appearing as promised constitutes dishonesty and fraud and a willful departure from the accepted standards of professional conduct and is therefore a violation of the provisions of W.Va. Code § 30-9-20(a)(5).

15. Respondent's conduct as established by the record in this matter violates the laws of this State as the same pertains to the practice of public accountancy and subjects her license to disciplinary sanctions by the Board.

PROPOSED ORDER

It is recommended as to the Statement Of Charges filed against Respondent Stacey A. Peterson in this case that the allegations as stated therein be SUSTAINED in all respects and that any contest of such allegations by Respondent be DENIED.

It is further recommended that the West Virginia Board of Accountancy impose appropriate sanctions for the allegations as sustained.

RECOMMENDED THIS 21st DAY OF July, 2009.

Jack C. McClung
JACK C. MCCLUNG
HEARING EXAMINER