

BEFORE THE WEST VIRGINIA BOARD OF ACCOUNTANCY

**WEST VIRGINIA BOARD OF
ACCOUNTANCY,**
Complainant,

v.

Case No. 2010-19

MICHAEL W. HENDERSON, C.P.A.,
Respondent.

CONSENT AGREEMENT AND ORDER

After due investigation of information received regarding possible statutory and rule violations, the West Virginia Board of Accountancy ("Board") determined that there was probable cause to believe that Michael W. Henderson ("Respondent") has exhibited unprofessional and unethical conduct in the practice of accountancy, in violation of the provisions of W. Va. Code § 30-9-1 *et seq.* and the Rules of the Board, 1 C.S.R. § 1 *et seq.* The Respondent was provided with written notice of the allegations against him pursuant to the rules of the Board and the laws of this State. Now, in lieu of hearing, the parties agree to entry of the following Order in disposition of this matter.

FINDINGS OF FACT

The Board adopts the following findings in this matter:

1. The Board is a state entity created by W. Va. Code § 30-9-1 *et seq.*, and is a regulatory board created for the purpose of regulating the practice of accounting. W. Va. Code § 30-9-1.

2. In order to carry out its regulatory duties, the Board is empowered to suspend, revoke or otherwise discipline an individual's license or practice privilege because of authority granted to it by W. Va. Code § 30-9-20.

3. That Michael W. Henderson is a licensee of the Board and is subject to the license requirements of said Board.

4. That on or about April 1, 2010, the Board received a written complaint from an organization complaining that the Respondent represented himself as a licensed CPA in the state of Kansas in 2009 and that the Respondent had contracted with this organization to perform audit work in the year 2009.

5. That upon investigation by the Board it was discovered that the Respondent's certificate to practice accountancy in the state of Kansas had been suspended since December 7, 2006, for failing to complete a peer review.

6. That an attempt by the Respondent to have the certificate reinstated was denied on July 16, 2009, and the Kansas Board of Accountancy instituted an investigation into the unauthorized practice of accountancy based upon testimony given at the reinstatement hearing.

7. That the Kansas Board of Accountancy revoked the Respondent's certificate to practice accountancy on April 8, 2010.

8. That Respondent has asserted that the Kansas licensing issues arose from a misunderstanding of Kansas licensing requirements and that Respondent's actions were not intentional.

9. That the Board's assigned Complaint Committee did review all the information obtained during the investigation and based upon that review, did make a recommendation to the Board for a finding of probable cause.

10. That the Board did meet and made a finding of probable cause for a violation of W. Va. Code § 30-9-20(a)(2) and W. Va. Code R. § 1-1-13.1.b.

CONCLUSIONS OF LAW

1. That the Board has jurisdiction to take disciplinary action against Respondent.

2. That based upon the allegations set out above in the *Findings of Fact* section, the Board is authorized to suspend, revoke or otherwise restrict the license of the Respondent to practice accountancy, pursuant to W. Va. Code § 30-9-20.

3. That the Respondent's actions as outlined above, including the revocation of his license by the Kansas Board of Accountancy, violate W. Va. Code § 30-9-20(a)(2) and W. Va. Code R. § 1-1-13.1.b.

CONSENT OF LICENSEE

I, Michael W. Henderson, by affixing my signature hereto, acknowledge the following:

1. That I have had the opportunity to consult with counsel and execute this Consent Agreement voluntarily, freely, without compulsion or duress and mindful that it has legal consequences.

2. That no person or entity has made any promise or given any inducement whatsoever to encourage me to make this settlement other than as set forth herein.

3. That I acknowledge that I am aware that I may pursue this matter through appropriate administrative and/or court proceedings, and I am aware of my legal rights, including my right to a hearing pursuant to W. Va. Code § 30-1-8(e), regarding this matter, but intelligently, knowingly and voluntarily waive such rights.

4. That, for purposes of this action Case No. 2010-19, I waive any defenses including, but not limited to, laches, statute of limitations, and estoppel, that I may have otherwise claimed as a condition of this agreement.

5. That I admit that my actions which resulted in the revocation of my certificate to practice certified public accountancy in Kansas constitutes grounds for disciplinary action under the statute and rules of the Board.

The Respondent, Michael W. Henderson, by affixing his signature hereon, agrees to the following:

ORDER

On the basis of the foregoing, the Board does hereby ORDER and DECREE that:

1. Respondent, Michael W. Henderson, is hereby REPRIMANDED for his actions in the instant matter.

2. Respondent shall complete eight (8) hours of Board approved continuing education requirement at live presentations during the reporting year of 2011.

3. Respondent shall reimburse the Board for all of the administrative and legal expenses incurred by the Board in the investigation and disposition of this case in the amount of \$2,371.58.

This full amount is due upon the entry of this *Order*, and shall accompany the returned signed *Order* from the Respondent.

4. The Board is bound by agreement and by law to report the results of all disciplinary actions, including the instant matter, for posting in the NASBA's Accountancy License Database on the Board's website.

5. That this document is a public record as defined in W. Va. Code § 29B-1-2(4).

6. This *Consent Agreement and Order* constitutes the entire agreement between parties.

WEST VIRGINIA BOARD OF ACCOUNTANCY

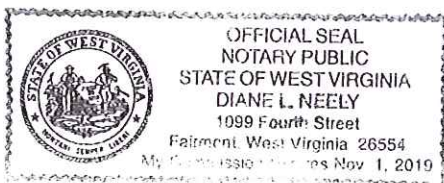
by: *Harold B. Davis*
HAROLD B. DAVIS
PRESIDENT

Entered: 3/1/11
DATE

Agreed to by: *Michael W. Henderson*
Michael W. Henderson, Respondent

Sworn and subscribed before me this 21 day of Feb, 2011.
My Commission expires: 1 Nov 2019

Diane Neely
Notary Public



Daniel A. Earl
Daniel A. Earl, Esquire
Counsel for the Respondent