

BEFORE THE WEST VIRGINIA BOARD OF ACCOUNTANCY

WEST VIRGINIA BOARD OF
ACCOUNTANCY,

Complainant,



v.

Case No. 2013-01

THOMAS A. DAVIS, C.P.A.,

Respondent.

AMENDED CONSENT AGREEMENT AND ORDER

After the Respondent failed to comply with the *Consent Agreement and Order* entered on January 11, 2013, the West Virginia Board of Accountancy (“Board”) found that Thomas A. Davis, (“Respondent”) was in violation of said *Consent Agreement and Order* (“*Consent*”). As such, and pursuant to item numbered six under the Order section of said *Consent*, the Respondent’s license was suspended by *Order* entered on July 25, 2013. 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 amended Order in disposition of this matter.

FINDINGS OF FACT

The Board adopts and incorporates the findings of fact as adopted in the previous *Consent Agreement and Order* entered on January 11, 2013, and the Board adopts the following findings in this matter:

1. That the Respondent submitted an application to perform attestation services in violation of item numbered 1.c. in the Order section of the *Consent*. Respondent had until June 30, 2013, in which to file said application, and the Respondent filed the application on July 16, 2013.

2. That the Respondent when he filed his late application failed to answer question numbered 1 in Section II. The question was in regards to any discipline that the Respondent may have received in the state of West Virginia and any other jurisdiction.

3. That the Respondent paid his fine in violation of item numbered 3 of the *Consent*. Payment of the fine was due no later than June 30, 2013, and his payment was not received until July 16, 2013.

4. That the Respondent when filing his “Annual CPA Certificate or PA Registration” answered questions numbered 5 and 7 falsely by stating that he had not received any discipline by any jurisdiction, including the state of West Virginia, or found to have violated any rules or statutes of any jurisdiction, including the state of West Virginia.

5. That the “Annual CPA Certificate or PA Registration” was signed by the Respondent on July 2, 2013, “under penalties of perjury and false swearing, that the information. . .submitted is true and accurate to the best of my knowledge. Making a false statement may subject the certificate or registration holder to disciplinary action. . . .”

6. That the Board did find that the Respondent violated the *Consent*.

CONCLUSIONS OF LAW

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

2. That based upon the allegations of unprofessional or unethical conduct 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 “Annual CPA Certificate or PA Registration Renewal” which was signed by the Respondent on July 2, 2013, stated that “[b]y signing and dating this form below, I do certify, under penalties of perjury and false swearing, that the information I have submitted is true and correct to the best of my knowledge. Making a false statement may subject the certificate or registration holder to disciplinary action including, but not limited to, revocation or suspension of the certificate or registration.”

4. That the Respondent’s actions as outlined above violated the terms of the *Consent Agreement and Order* entered on January 11, 2013.

CONSENT OF LICENSEE

I, Thomas A. Davis, 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 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 were unprofessional and unethical and a violation of the *Consent Agreement and Order* entered into on January 11, 2013, and the statute and rules of the Board.

The Respondent, Thomas A. Davis, 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 is hereby ORDERED to cease from performing any type of attestation services until he is approved by the Board to perform such services. In order to obtain approval by the Board the Respondent shall complete the following:
 - a. Respondent shall re-file and complete another application for an authorization from this Board pursuant to the Board's statute and rules; however, the Board will waive the filing fee on this application only. Respondent shall answer all the questions as listed on the application.
 - b. Respondent shall take and sit for the *Professional Ethics: AICPA's Comprehensive Course* examination and successfully pass this examination prior to any authorization being awarded by this Board.

2. Respondent shall obtain a peer review approved by the Board no later than eighteen months from the date the authorization to perform attestation services is issued which shall include the following:
 - a. Peer review will be based upon any attestation work completed within eighteen months at an accelerated rate;
 - b. Peer review will have access to the Findings of this Board;
 - c. Peer review shall report to the Board the results of said review;
 - d. The cost of this peer review shall be the responsibility of the Respondent.

3. Respondent shall be on a probationary period of three years which shall include the following terms and conditions:
 - a. Respondent shall submit quarterly status reports two weeks in advance of all of the Board's regularly scheduled meetings. These quarterly reports shall address the Respondent's status of compliance with the provisions of this Consent Order and, in addition, include a listing of all the work subject to governing attestation standards the Respondent has performed during the last quarter, including the name of the client, type of service rendered, the period covered by the work and the date of issuance of any final report. Moreover, the Respondent shall report all investigations, censures, reprimands, admonishments, denials, revocations or suspensions regarding any licenses, permits, certificates or memberships that may have changed since the last renewal application of his CPA license with this Board and his authorization application with this Board. This reporting shall also include any criminal convictions from any jurisdiction.

- b. At the end of the three year probationary period, the Board reserves the right to extend the probationary period.
4. Regardless of the status of the Respondent's application for an authorization, the *Professional Ethics: AICPA's Comprehensive Course* examination shall be taken and successfully completed no later than December 31, 2013, as a requirement of this *Amended Consent Order and Agreement*.
5. 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. The full amount is due within six (6) months upon the entry of this *Amended Consent Agreement and Order*.
6. The Board is bound by agreement and by law to report the results of all disciplinary actions, including this *Amended Consent Order and Agreement*, for posting in the NASBA's Accountancy License Database and on the Board's website.
7. Respondent shall abide by all the governing rules and statutes of the Board, and should the Respondent violate any of the Board's rules and statutes or fail to complete any of the terms of this Consent Agreement and Order, the Respondent's license to practice accountancy in the State of West Virginia shall be SUSPENDED, effective immediately, until such time that a hearing can be scheduled to hear the matter.
8. That this document is a public record as defined in W. Va. Code § 29B-1-2(4).
9. This *Amended Consent Agreement and Order* constitutes the entire agreement between the parties.

WEST VIRGINIA BOARD OF ACCOUNTANCY

by: David Hill
David Hill, President

Entered: 8/21/13

Agreed to by: Thomas A. Davis
Thomas A. Davis, Respondent

Sworn and subscribed before me this 14th day of August, 2013.
My Commission expires: Sept 21, 2022

Ellen J. Davis
Notary Public

