Before the West Virginia Board of Accountancy

West Virginia Board of Accountancy,

Complainant,

v. **Complaint No. 2016-05**

Jeffrey E. Lewis,

Respondent.

Consent Agreement and Order

Pursuant to W. Va. Code § 30-9 *et seq.*, the West Virginia Board of Accountancy ("Board") commenced a disciplinary proceeding involving Jeffrey E. Lewis ("Respondent"), and possible unprofessional and/or criminal conduct in violation of applicable statutes or rules including, but not limited to, W. Va. Code § 30-9-20(a)(7), W. Va. Code R. § 1-1-13 *et seq.*, and the Board's Rules of Professional Conduct. Respondent was provided with written notice of the allegations against him. Now, in lieu of completing the hearing[1] of this matter, Respondent and the Board have reached an agreement as to the appropriate disposition of this matter, with consideration to necessary safeguards for protection of the public.

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 *et seq.*, and is empowered to regulate the practice of accounting in this State. *See* W. Va. Code § 30-9-1 and W. Va. Code § 30-9-4.

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[1] A disciplinary hearing in this matter began on April 4, 2017. After the Board put on its case in chief, Respondent requested a stay pending the outcome of his criminal appeal.

2. In order to carry out its regulatory duties, the Board has the authority to suspend, revoke, or otherwise discipline an individual's accounting license or practice privilege. *See* W. Va. Code § 30-9-4 and W. Va. Code § 30-9-20.

3. Respondent is a licensee of the Board and is subject to the jurisdiction and authority of the Board and applicable licensing requirements.

4. On February 3, 2015, in the Circuit Court of Greenbrier County, West Virginia, Respondent was indicted for embezzlement by a fiduciary and financial exploitation of an elderly person.

5. On or about February 17, 2016, Respondent was convicted of embezzlement by a fiduciary, a felony offense for which an element of the crime is dishonesty or fraud. *See* W. Va. Code § 61-3-20(a).

6. On March 25, 2016, the Board initiated a complaint against Respondent based upon the aforementioned information pursuant to W. Va. Code R. § 1-3-5.1.

7. On or about January 17, 2017, Respondent was sentenced to not less than one nor more than ten years of imprisonment, with all but four months of his sentence dischargeable through home incarceration.

8. Respondent's felony conviction arose from misconduct committed while serving as trustee of the JRD Testamentary Trust.

9. Respondent has been convicted of engaging in a felony involving dishonesty and/or fraud in violation of W. Va. Code § 30-9-20(a)(7).

Conclusions of Law

1. The Board has jurisdiction to take disciplinary action against Respondent;

2. Pursuant to W. Va. Code §30-9-20(a)(7), the Board may after notice and opportunity for hearing suspend, revoke, or otherwise restrict the license of Respondent to practice accountancy for the following reason:

> Conviction of a felony or any crime an element of which is dishonesty or fraud under the laws of the United States or this state, or conviction of any similar crime under the laws of any other state if the underlying act or omission involved would have constituted a crime under the laws of this state.

3. Respondent's actions as outlined above violate W. Va. Code § 30-9-20(a)(7).

Consent of Licensee

The Respondent, by affixing his signature hereto, acknowledges the following:

1. The Board has jurisdiction over the Respondent and the conduct which has precipitated this Consent Agreement and Order.

2. Respondent has been given the opportunity to consult with counsel and he executes this negotiated Consent Agreement and Order voluntarily, freely, without compulsion or duress, and he is mindful that it has legal consequences.

3. No person or entity has made any promise or given any inducement whatsoever to encourage Respondent to make this settlement other than as set forth herein.

4. Respondent acknowledges that he is aware that he may pursue this matter through appropriate administrative and/or court proceedings, and he is aware of his legal rights regarding this matter, but intelligently, knowingly, and voluntarily waives such rights.

5. Respondent expressly acknowledges that the entire agreement is contained in this Consent Agreement and Order, and that no representations, promises, or inducements have been made by or to Respondent other than as appear in this Consent Agreement and Order.

6. Respondent acknowledges that this Consent Agreement and Order is a public document available for inspection by the public in accordance with the provisions set forth in the West Virginia Freedom of Information Act (W. Va. Code § 29B-1 *et seq.*), and may be reported to other governmental agencies, professional boards or other organizations.

7. Respondent waives any defenses, including but not limited to, laches, statute of limitations, and estoppel that he may have otherwise claimed as a condition of this Consent Agreement and Order.

8. Respondent admits that his conduct violated applicable Board statutes or regulations.

9. Respondent consents to the entry of the following Order affecting his conduct as a licensed accountant in the State of West Virginia.

Order

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

1. Respondent, Jeffrey E. Lewis, hereby SURRENDERS his license to practice accountancy in West Virginia in lieu of completing the disciplinary hearing of this matter. Respondent further agrees not to seek reinstatement of said license for a period of seven years.

2. The Board does hereby ACCEPT Respondent's surrender of his license to practice accountancy in West Virginia, effective upon entry of this Consent Agreement and Order.

3. Respondent's actions of surrendering his license to practice accountancy in West Virginia and the Board's acceptance of this surrender are considered to be an admission of the

statute or rule violations as outlined within this Consent Agreement and Order, and the admission shall be reportable to the NASBA's Accountancy Licensure Database and on the Board's website.

4. Respondent hereby SURRENDERS his accounting firm permit (JE Lewis & Company) in lieu of completing the disciplinary hearing of this matter.

5. The Board does hereby ACCEPT Respondent's surrender of his accounting firm permit to practice accountancy in the state of West Virginia, effective upon entry of this Consent Agreement and Order.

6. Respondent hereby agrees to deactivate his accounting business corporation with the West Virginia Secretary of State's office.

7. Respondent shall reimburse the Board the costs of the hearing, which includes Court Reporter, Hearing Transcript, and Hearing Examiner Fee. The total is $764.25. Payment shall be made no later than 30 days from entry of this Consent Agreement and Order.

8. Respondent shall at all times cooperate with the Board, and any of its agents or employees, in the monitoring or investigation of Respondent's compliance with the terms and conditions of this Consent Agreement and Order.

9. Respondent's failure to comply with the terms and conditions of this Consent Agreement and Order hereby imposed shall be deemed a violation of this Consent Agreement and Order, and should Respondent violate any of the terms of this Consent Agreement and Order, his ability to seek reinstatement of his license in the future may be denied. In the event Respondent is denied reinstatement, Respondent may request a hearing to seek reinstatement of his license. Any such hearing shall be scheduled and conducted in accordance with the provisions of West Virginia Code § 30-1-8 and § 30-21-1 *et seq.*

10. This Consent Agreement and Order shall be interpreted in accordance with the laws of the State of West Virginia, and venue of any lawsuit filed by any party arising in whole, or in part, out of this Consent Agreement and Order shall be in the Circuit Court of Kanawha County, West Virginia; and further that in the event any part of this Consent Agreement and Order is invalidated by order of a court of competent jurisdiction or by legislative action, the remainder of this Consent Agreement and Order shall remain in binding effect.

Entered this 3rd of August, 2018.

W. Va. Board of Accountancy

Vice **President**

Inspected and Agreed to by:

Jeffrey E. Lewis
Respondent

8/2/2018
Date

James M. Cagle
Respondent's Legal Counsel

8/2/18
Date