

WEST VIRGINIA BOARD OF ACCOUNTANCY

IN THE MATTER OF:

West Virginia Board of Accountancy
(a State of West Virginia Licensing Board)

v.

Paul T. Bucy, holding License #0567
(a Licensed Certified Public Accountant)

DECISION AND ORDER

Pursuant to a Notice of Administrative Hearing issued on March 29, 1990, by Mrs. William S. Walker, Jr., Executive Secretary to the West Virginia Board of Accountancy, this matter came for hearing before the West Virginia Board of Accountancy (hereinafter "the Board") at 9:30 a.m. on May 2, 1990, at Room 200, 200 Civic Center Drive, Charleston, West Virginia. The presiding hearing officer was Willard H. Erwin, Jr., Special Examiner, of Charleston, West Virginia. In attendance were members of the West Virginia Board of Accountancy, Kathy G. Eddy, President, Brenda T. Acken, Cleve M. Meador, Donald Nestor, Charles R. Sigman, and Gary L. Swingle (constituting all of the Board Members). The West Virginia Board of Accountancy, was represented by Landon R. Brown, Assistant Attorney General. The licensee, Paul T. Bucy, failed to appear in person or by a representative. Public Notice of this hearing was filed with the Office of the Secretary of State, on March 29, 1990.

The West Virginia Board of Accountancy is expressly given the duty and responsibility of administering and enforcing the law

relating to the licensure and practice of public accounting in this state. The Board is the duly constituted governmental agency, pursuant to Chapter 30, Article 9, Section 1, et seq., of the West Virginia Code of 1931, as amended, empowered to conduct hearings upon charges calling for the discipline of a licensee. The decision by this regulatory agency, subject to the Administrative Procedures Act, W. Va. Code § 29A, et seq., to use a hearing officer does not delegate the authority of the Board to reach a decision on the matter.

The specific issue before the West Virginia Board of Accountancy is to determine whether or not the Board, as provided for at W. Va. Code § 30-9-1, et seq., should suspend, revoke or otherwise discipline licensee no. 0567, Paul T. Bucy, for acting in an unprofessional manner in a report, deed, or otherwise, whether expressed or implied, that failed to conform with recognized, accepted and professional standards of a West Virginia licensed certified public accountant.

The hearing was set to be heard at 9:30 a.m., May 2, 1990. In order to allow the licensee, Paul T. Bucy, # 0567, adequate time to be present the hearing was not called to order until 9:45 a.m. The examiner, Willard H. Erwin, Jr., made an audible inquiry to ascertain if Paul T. Bucy, or a representative, was present in the hearing room and hearing no response the hearing was formally commenced.

Counsel for the Board of Accountancy, Landon R. Brown, then presented for consideration several documents to support

disciplinary action against Licensee Bucy pursuant to West Virginia State Code 30-9-1, et seq and existing Rules promulgated by the Board. Evidence was presented to indicate and assure that Paul T. Bucy had received due notice of the hearing and the specific allegations that he had acted in an unprofessional manner and failing to conform with recognized acceptable standards in issuance of financial statements.

FINDINGS OF FACT

1. Paul T. Bucy, holds Certified Public Accountant Certificate No. 0567, issued by the West Virginia Board of Accountancy.

2. Licensee, Paul T. Bucy, holder of the License # 0567, issued by the West Virginia Board of Accountancy, did receive full disclosure of the allegations upon which this action was predicated. (Tr Exhibit #3 & October 9, 1989, correspondence with complaint attached)

3. Licensee, Paul T. Bucy, holder of the License # 0567, issued by the West Virginia Board of Accountancy, failed to appear at the May 2, 1990, hearing of which he received due notice and full disclosure of the allegations. (Tr Exhibit 1)

4. The West Virginia Board of Accountancy, pursuant to W. Va. Code § 30-9-1, et seq. is empowered to conduct disciplinary action regarding a licensee.

5. The West Virginia Board of Accountancy is empowered to conduct disciplinary actions regarding a Licensee in accordance

with existing Board Regulations and West Virginia Code 30-9-1 et seq.

6. Licensee, Paul T. Bucy, failed to follow recognized and acceptable reporting standards in the issuance of a financial statement to be relied upon by third parties.

7. Based on a review of the Accountant's Report dated June 1, 1989, issued by Paul T. Bucy, it is determined that the specific reporting standards not followed were:

- (a) Auditor's report failed to follow "Statements on Auditing Standards #58 dated April, 1988" for reports issued on or after January 1, 1989. (American Institute of CPA (AICPA)).
- (b) Report states that the Company is in the mineral exploration stage and no income statement is shown. The statement discloses contracts receivable with accumulated depreciation which would generally indicate a revenue activity.
- (c) Contracts Receivable of \$39,475,000.00 appear. Note 2 indicates these arise from anticipated future royalty payments. See Accounting Research Bulletin No. 43, 6/58 and Financial Accounting Standards Board (FASB) Accounting Concepts No. 6, 12/85.
- (d) Report states an investment of \$7,500.00 in securities with no note as to aggregate cost and market value with identification of which is the carrying amount.
- (e) Report reflects net fixed assets of \$81,608. There are no footnote disclosures relative to fixed assets. (APB #12, 5a) Method or methods used in computing depreciation not disclosed (APB #12, §5d)
- (f) Report reflects a lease obligation of \$218,750 - no footnote disclosure. Also disclosed is a capital lease obligation for an office building---nothing appearing as an asset for this item.
- (g) The owner's equity does not show disclosure of the separate component accounts to stockholders' equity or the number of shares of equity securities.
- (h) No footnotes regarding significant accounting policies.

CONCLUSIONS OF LAW

1. After notice and hearing, as provided by W. Va. Code § 30-1-1, et seq., the West Virginia Board of Accountancy pursuant to W. Va. Code § 30-9-1, et seq., is empowered to levy sanctions regarding a licensee for violation of governing, West Virginia Statutes, Professional Standards, Board Rules and Regulations.

2. It is the determination of this Board that the foregoing Findings of Fact are sufficient to warrant concluding that this licensee is in violation of W. Va. Code § 30-9-1, et seq. Specifically, licensee is in violation of recognized and accepted rules of professional conduct. See W. Va. Code § 30-9-12(c). Licensee #0567, Paul T. Bucy, acted in an unprofessional manner in a report, deed and or otherwise which failed to confirm with recognized, accepted and professional standards of a West Virginia Licensed Certified Public Accountant.

ORDER

On the basis of the foregoing, the West Virginia Board of Accountancy (hereinafter "the Board") hereby orders that License No. 0567, issued to Paul T. Bucy, 5006 Frederick Drive, Charleston, West Virginia 25313, be and is hereby **SUSPENDED** for the period of one (1) year. Suspension is effective July 1, 1990, through June 30, 1991, to be followed by a probationary period. Said probationary period is not automatic.

During said suspension period, the following conditions shall be met:

1. Paul T. Bucy shall not violate the provisions of W. Va. Code 30-9-1, et seq, as amended.

2. Paul T. Bucy shall submit or have submitted to the Board evidence of his participation in and completion of a continuing education program with 40 hours of continuing accounting education during the calendar year of 1990. Said program must be approved by the Board.

3. The Board further orders that in addition to the forty (40) hours CPE required for all licensees of the Board for the year 1990 that Mr. Bucy shall secure an additional 20 hours by June 30, 1991, making a total of sixty (60) hours of CPE during the suspension period. The Board stipulates that thirty-two (32) of the sixty (60) hours must include twenty-four (24) hours of accounting and auditing, eight (8) hours of financial statement disclosure and eight (8) hours of which must pertain to professional responsibility. The remaining credit hours may be accumulated in accordance with the standard continuing education criteria for approved credit courses.

4. Paul T. Bucy shall submit his CPE reporting form with sufficient documentation to satisfy Board members that he has successfully completed the sixty (60) hours of CPE required by June 30, 1991.

5. Paul T. Bucy, Licensee #0567, shall obtain a peer review of his practice by a firm approved by this Board. Such review will

be conducted in accordance with the guideline(s) of the Private Companies Practice Section of the American Institute of Certified Public Accountants. The peer review report must be completed and submitted to the Board prior to the reinstatement of his licensee. The expense of the peer review will be borne by Paul T. Bucy.

6. Paul T. Bucy, holder of Certified Public Accountant Certificate No. 0567 shall not under any circumstances misrepresent his licensure status.

7. Paul T. Bucy shall report to the Board any change in address, current telephone number, and any change in his place of employment.

8. Paul T. Bucy shall not practice public accountancy or accounting during the suspension period of July 1, 1990, and June 30, 1991. Code 30-9-2 states:

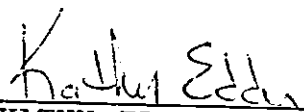
"Practice" of public accountancy or "public accounting" means: (i) The giving of an assurance, in a report or otherwise, whether expressly or implicitly; or (ii) in the case of a person holding himself out as a certificate holder, the performance of or offering to perform any service involving the use of accounting or auditing skills, including, but not limited to, management advisory or consulting services, the preparation of tax returns, the rendering of tax services, the keeping of books of account and related accounting records and the preparation of financial statements without the expression of an assurance: Provided, That an employee giving assurances to or performing such services for an employer shall not be deemed to be practicing public accountancy.

Following the suspension period, ending June 30, 1991, Paul T. Bucy, Certificate No. 0567, shall petition to appear before the Board and submit satisfactory evidence that he is presently able

to safely engage in the practice of public accounting. Upon the majority vote of the Board in favor of such, Paul T. Bucy may be granted a probationary license for a time period to be determined by the then voting Board Members.

Until such time as Paul T. Bucy is granted a license, he is not to practice public accountancy or accounting in the State of West Virginia.

Entered this 26th day of June, 1990.


KATHY EDDY, President of the Board