

BEFORE THE STATE OF MARYLAND BOARD OF PUBLIC ACCOUNTANCY

BOARD OF PUBLIC
ACCOUNTANCY

v.

Agency Case No.: CPAS-2022-29

DANIEL E.J. MCKEW,
Respondent

* * * * *

SETTLEMENT AGREEMENT AND CONSENT ORDER

This matter comes before the Maryland Board of Public Accountancy ("Board") as the result of the Board conducting a random audit of Daniel E.J. McKew's ("Respondent") license renewal application, filed with the Board August 8, 2021, to determine if the Respondent met the Board's license renewal continuing professional education ("CPE") requirements. As a result of the random audit and subsequent investigation, the Board initiated a Complaint. Upon review of the matter, the Board determined that administrative charges against the Respondent were appropriate. Prior to issuance of formal administrative charges, the Board and the Respondent (jointly "Parties") have agreed to enter into this Settlement Agreement and Consent Order ("Consent Order") as full and final resolution of this matter, and agree and stipulate as follows:

1. At all times relevant to the Complaint, the Board had jurisdiction over the Respondent, who holds a license issued by the Board to practice certified public accountancy ("license") under number 01-8104, and the subject matter of this Complaint.
2. The Respondent's current license is due to expire on August 21, 2023.
3. The Code of Maryland Regulations ("COMAR") 09.24.02.03A-C provide:
 - A. An applicant for license renewal shall complete, prior to submitting an application, a minimum of 80 credit hours of qualifying continuing education in each 2-year license term.
 - B. The requirement in §A of this regulation does not apply to the first renewal of a license.
 - C. Professional Ethics.
 - (1) A minimum of 4 credit hours of the continuing education for each 2-year license term shall be in professional ethics.
 - (2) Credit hours in professional ethics in excess of 4 hours in a 2-year

license term may not be carried forward to satisfy this requirement.

(3) Credit hours in professional ethics in excess of 4 hours in a 2-year license term may be carried forward to meet the requirement of §A of this regulation.

4. On or about August 8, 2021, the Respondent filed a license renewal application with the Board for the period of July 12, 2019 through August 8, 2021, by means of the Board's online licensing system.

5. The Board's license renewal application requires an applicant to certify the accuracy of the information provided in the application. This certification states, in pertinent part:

"I hereby certify under penalty of perjury, that the information contained herein is true and correct to the best of my knowledge, information, and belief. . ."

6. On the renewal application, the Respondent certified the completion of 80 hours of CPE as of the application date. The Board approved the renewal based upon that certification.

7. When the Respondent submitted the license renewal application, the Board initiated a random audit to confirm that the Respondent had completed the CPE requirements. The Board then requested that the Respondent provide documentation for the CPEs that the Respondent had certified completing.

8. Based upon the documentation that Respondent submitted, the audit found that he had completed 4 credit hours in ethics and 27.2 hours of other qualifying CPE credits during the referenced renewal term. Respondent also had 6 carryforward credit hours, leaving a deficiency of 54 credit hours.

9. Respondent claims he has belatedly accrued 62 additional credit hours since the submission of his renewal application and has submitted satisfactory documentation thereof.

10. The Respondent agrees and acknowledges that the Respondent violated the Board's CPE requirements by certifying completion without having completed the required CPEs.

11. Based on the aforementioned facts, the Respondent admits to violating Bus. Occ. & Prof. § 2-312(a)(3)(i), 2-315(a)(1)(i) and (xii), COMAR 09.24.01.03(A) and COMAR 09.24.01.06(I)(1) which state, in pertinent part:

BUS. OCC. & PROF. §2-312 Continuing education

(a) In general. -- (3) (i) To qualify for any further renewal of a license under this subtitle, a licensee shall complete, for each 2-year license term, at least 80 hours in programs that the Board approves...

BUS. OCC. & PROF. §2-315 Denials, reprimands, suspensions, and revocations – Grounds; license certificate

(a) Grounds. -- (1) Subject to the hearing provisions of Section 2-317 of this subtitle, the Board, on the affirmative vote of a majority of its members, may deny a license to any applicant, reprimand any licensee, or suspend or revoke a license if the applicant or licensee:

(i) fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another;...

(xii) violates a rule of professional conduct adopted by the Board.

COMAR 09.24.02.03(A) Basic Requirement.

A. An applicant for license renewal shall complete, prior to submitting an application, a minimum of 80 credit hours of qualifying continuing education in each 2-year license term.

COMAR 09.24.01.06(I)(1) Other Responsibilities and Practice.

(1) A licensee may not commit any act that reflects adversely on the licensee's fitness to engage in the practice of public accountancy.

12. Pursuant to BOP § 2-315(a)(2)(i), "[i]nstead of or in addition to reprimanding a licensee or suspending or revoking a license under this subsection, the Board may impose a penalty not exceeding \$5,000 for each violation."

13. Based on the aforementioned violations, the Respondent agrees to immediately upon executing this Consent Order, pay a civil monetary penalty made payable to the "Maryland Board of Public Accountancy" in the amount of FIVE HUNDRED DOLLARS (\$500) by certified check, cashier's check, or money order.

14. The Respondent agrees that if the Respondent fails to comply with the terms of this Consent Order, the Respondent's license will immediately and automatically be suspended without a hearing on the suspension, and that the suspension will immediately and automatically be suspended without a hearing on the suspension, and that the suspension will continue until the Board determines that the Respondent has evidenced compliance with the Consent Order's terms.

15. The Respondent acknowledges and agrees that this Consent Order shall constitute a Final Order of the Board and shall be enforceable as such.

16. By entering this Consent Order the Respondent, in relation to this matter,

expressly waives the right to have charges reduced to writing, to an administrative hearing before the Board or its designee on any charges, to the making of Findings of Fact and Conclusions of Law, to any and all other proceedings before the Board or its designee on this matter, and to any rights to appeal from this Consent Order to any court of competent jurisdiction.

17. The Respondent acknowledges and agrees that the Respondent is entering this Consent Order freely, voluntarily, and after having had the opportunity to seek advice of counsel.

18. The Parties acknowledge and agree that this Consent Order will serve as the final resolution of Complaint No. CPAS-2022-29, serve as the Final Order in this matter, be a part of the Respondent's record that is maintained by the Board, and that the Board's records and publications will reflect the terms of the Consent Order.

BASED ON THESE STIPULATIONS AND AGREEMENTS, IT IS THIS ____ DAY OF ____ 2023, BY THE STATE BOARD OF PUBLIC ACCOUNTANCY HEREBY:

- I. **ORDERED**, that the Respondent violated Bus. Occ. & Prof. § 2-312(a)(3)(i), 2-315(a)(1)(i) and (xii), COMAR 09.24.01.03(A), and COMAR 09.24.01.06(I)(1); and it is further
- II. **ORDERED**, that the Respondent shall immediately upon executing this Consent Order pay a civil monetary penalty made payable to the "Maryland Board of Public Accountancy" in the amount of Five Hundred Dollars (\$500.00) by certified check, cashier's check, or money order; and it is further
- III. **ORDERED**, that if the Respondent fails to comply with the terms of this Consent Order, the Respondent's license will immediately and automatically be suspended without a hearing on the suspension, and that the suspension will continue until the Board determines that the Respondent has evidenced compliance with the Consent Order's terms; and it is further
- IV. **ORDERED**, that unless otherwise specified in this Consent Order, each provision herein shall remain in effect and enforceable as herein agreed unless the Board in writing stays, modifies, terminates, or suspends it; and it is further
- V. **ORDERED**, that this document shall constitute a Final Order of the Board, and the Board may consider this Settlement Agreement and Consent Order and the facts set forth herein in connection with, and in deciding, any subsequent action or proceeding before the Board, and that this Settlement

Agreement and Consent Order may, if relevant, be admitted into evidence in any matter before the Board, its designee, and/ or any court; and it is further

- VI. **ORDERED**, that the Board's records and publications shall reflect that the Respondent and the Board resolved this matter through this Settlement Agreement and Consent Order.

AGREED:

Signature on File

Daniel E. J. McKew, CPA
Respondent

Date

5/14/23

Signature on File ✓

JAMES E. MARSHALL, JR., CPA
Chair Maryland Board of Accountancy

Date

5/24/23