

PUBLIC SESSION MINUTES
North Carolina State Board of CPA Examiners
December 19, 2007
1101 Oberlin Road
Raleigh, NC 27605

MEMBERS ATTENDING: Arthur M. Winstead, Jr., CPA, President; Michael C. Jordan, CPA, Vice President; Jordan C. Harris, Jr., Secretary-Treasurer; Jeffrey T. Barber, CPA; Norwood G. Clark, Jr., CPA; Tyrone Y. Cox, CPA; and Maria M. Lynch, Esq.

STAFF ATTENDING: Robert N. Brooks, Executive Director; J. Michael Barham, CPA, Deputy Director; Lisa R. Hearne, Manager-Communications; Ann J. Hinkle, Manager-Professional Standards; Buck Winslow, Manager-Licensing; and Noel L. Allen, Legal Counsel.

GUESTS: James T. Ahler, CEO, NCACPA; Sharon Bryson, COO, NCACPA; Stephen Metelits, President, NCSA; and Curt Lee, Legislative Liaison, NCSA.

CALL TO ORDER: President Winstead called the meeting to order at 10:03 a.m.

MINUTES: The minutes of the November 19, 2007, meeting were approved as submitted.

FINANCIAL AND BUDGETARY ITEMS: The November 2007 financial statements were accepted as submitted.

Messrs. Clark and Harris moved to approve amending the 2007-2008 budget for fixed assets by \$11,415; the budget for staff salaries by \$15,347; and the budget for part-time staff salaries by \$8,009. Motion passed with seven (7) affirmative votes.

NATIONAL ORGANIZATION ITEMS: Mr. Jordan and Ms. Lynch moved to approve the response to the AICPA Board of Examiners' *Invitation to Comment on the Uniform CPA Examination*. Motion passed.

STATE AND LOCAL ORGANIZATION ITEMS: Mr. Jordan provided an update on the work of the mobility subcommittee. He stated that he hopes to have a recommendation from the subcommittee to present at the January 2008 Board meeting.

REPORT OF THE PROFESSIONAL STANDARDS COMMITTEE: Mr. Clark moved and the Board approved the following recommendations of the Committee:

C2007649 – Donna m. Blackman – Approve the signed Consent Order (Appendix I).

C2007627 – Lynn A. Ross – Approve the signed Consent Order (Appendix II).

C2007813– Jurgen Jost - Approve the signed Consent Order (Appendix III).

C2007608 – Approve a Notice of Hearing for Mark Carter for July 21, 2008, at 10:00 a.m.
200404-016 – David C. Hinton – Approve the signed Consent Order (Appendix IV).
200509-051 – Mary Alayne Ferguson – Approve the signed Consent Order (Appendix V).
200511-063 – Frederick Charles Garges – Approve the signed Consent Order (Appendix VI).
C20071258 and C20071321 – Messrs. Cox and Harris moved to approve the Emergency Order for Revocation and Notice for Carl P. Patterson. Motion passed with seven (7) affirmative votes (Appendix VII).
C2007518 and C2007554 – Messrs. Clark and Jordan moved to approve the signed Consent Order for Beverly Ayers Wyatt. Motion passed with seven (7) affirmative votes (Appendix VIII).

REPORT OF THE PROFESSIONAL EDUCATION AND APPLICATIONS COMMITTEE:
Mr. Cox moved and the Board approved the following recommendations of the Committee:

Original Certificate Applications - The following applications were approved:

Gary L. Bode
Cortney Marie McKinney

Reciprocal Certificate Applications - The following application was approved:

Robert Keller Duggan

Temporary Permits - The following temporary permits were approved by the Executive Director and ratified by the Board:

Tracy Lynn Dickerson T4578	Courtney Dunaway Channell T4596
Lynn Massie Johnson T4579	Joe Alan Barnes T4597
Julie G. Keen T4580	Amelia Michalski T4598
Thomas James Kremer T4581	Andrew Nicholas Newman T4599
Jennifer Erin Hughes T4582	Juliana Chiu Smith T4600
Vincent R. Stephens T4583	Jeffrey Russell Lurie T4601
Linda Maynard Harlow T4592	Mary C. Richart T4602
Shelley Brooke Harper T4593	Cary Reams Luhn T4603
Thomas Kennedy T4594	Joe N. Miller T4604
Daphna Elizabeth Smith Walls T4595	

Reinstatements - The following applications for reinstatement were approved:

Christy Parker Fillingame #25307
Genia Mangum Herbert #19621
Tammy J. Roberts #24310

Reissuance of New Certificate - The following applications for reissuance of new certificates were approved:

Kevin Derrick Atkins #21374
Debra Kaye Latimore #28214

Reissuance of New Certificate and Consent Agreement - An application for reissuance of new certificate and consent agreement submitted by James Everett Gresham (#13140) was approved.

Firm Registrations - The following professional corporations, professional limited liability companies, and limited liability partnerships were approved by the Executive Director and ratified by the Board:

Atwell & Helms CPAs, PLLC
Biney & Biney, CPAs, PLLC
Amy S. Gardner, CPA, PLLC
Burkett & Barham Certified Public Accountants, P.C.
Lisa P. Gill, CPA, PC
Gwenn Colston CPA PC
Max A. Koss, CPA, P.A.
Minsk, Gould & Costellic, P.C.
Mia Morris-Morgan, CPA PLLC
James L. Payne, CPA, PC
Rachel Puckett, CPA, PLLC
Walker & Associates, CPA, PA
David N. Wurst, CPA, PA

Reclassifications - The Committee approved the following requests for retired status because the individuals are completely retired and do not receive any earned compensation for current personal services in any job whatsoever:

Penelope Thompson Gettings #17241
David Stuart Lutz #7406
John Thomas Overbey #19377
Terry Fletcher Pope #8195

CPE Matters - The Committee approved the following updated ethics courses:

"Ethics for North Carolina CPAs" by SmartPros (NASBA-approved CPE sponsor)

"North Carolina Ethics" by Accountants Education Group (NASBA-approved CPE sponsor)

"Ethics Principles and Professional Responsibilities" by NCACPA (Board-approved CPE sponsor)

Messrs. Cox and Harris moved to approve a new ethics CPE course, *"Ethics for North Carolina CPAs: The Keys to Integrity,"* by Professional Accounting Seminars, Inc. (NASBA-approved CPE sponsor). Motion passed.

Messrs Cox and Harris moved to approve a new ethics CPE course, *"Ethics for North Carolina"* by Surgent McCoy CPE, LLC (NASBA-approved CPE sponsor). Motion passed.

Letters of Warning - Staff received renewals from the following individuals which list 2006 CPE taken between January 1 and June 30, 2007, without an approved extension. Staff recommended a letter of warning for a first offense pursuant to 21 NCAC 08G .0406(b)(1). The Committee approved staff recommendation.

Hana Ickes #31452
Pamela Fleming #24719
A. Randolph Smith II #29223

Staff has recommended approval of the requests to rescind the letters of warning awarded to the individuals listed below. The Committee approved staff recommendation:

Kevin Colin #17357
Patricia Cline Fleming # 19317
Wallace Dupre Gregory #28849
Janell M. Hannah #15747
James Newman #32228

Examinations – The Committee reviewed and approved the following staff-approved applicants to sit for the Uniform CPA Examination:

Amin Ainolhayat	Adam Boatman
Farah Akbari	Trisha Bolton
Jennifer Anderson	Melissa Brady
Joshua Anderson	Colleen Brophy
Snjezana Andrews	Andrew Brown
Jibolu Ayodele	Katherine Bryan
Andrew Barker	Lien Buchanan
Kelly Barnes	Gregory Byers
Jonathan Bennett	Kevin Byrnes
James Berenson	Bret Caron
Lakeisha Betton	Todd Cooper

Andrew Davis
Bradley Davis
Dawn Dees
Glen Deligdisch
Adrienne Dillard
William Dillon
Selena Dorsett
Emily Ellis
Michael Fanelli
David Farmer
Jaime Feather
Nicole Fincher
Mark Fogle
Sammy Fong
Jennifer Ford
Meredith Gay
Caroline Geiger
Karin Gillespie
Thomas Good
Lindsay Gosnell
Rebecca Griffin
Callahan Grubbs
Daniel Haddon
Richard Hardy
Jennifer Harold
Mandi Harris
Nathanael Harrison
Elizabeth Harvie
Laura Heinlein
Christy Helton
Susan Hilliard
Cameron Hudson
Anton Hummer
Kate Hwang
Carol Iacovelli
Tifini Isom
Michael Ives
Michael Jakielski
Christopher Jandebeur
Jared Johnson
James Jones
Darren Labean

Philip Lachapelle
Andrea Leffingwell
Cara Loose
Lovette Love
Layla Manning
Eric Martin
Jeffery Mason
Shannon McAdow
Scott McCain
Katharine McCanless
Jason McKenzie
Jason McMillin
Shelby Michael
Ashley Middleton
William Mims
Ishmael Molyneaux
Bryant Morrison
Johanna Morrison
Shirley Morton
Teresa Nguyen
Russell Norris
Jacob Nunn
Kathleen O'Connor
Richard Offield
Joshua Overman
Michael Petro
Natalie Phelan
Julie Plexico
Suzanne Plunket
Meghan Pratt
Ashley Prendergast
Justin Prusiensky
Michelle Purvis
Jennifer Reilly
Jason Resch
Sue Robinson
Daniel Ruocco
Christopher Rusin
Ksenia Sargent
Roger Scott
Kavita Shankar
Whitney Shearin

Megan Simpson
Kristin Sipe
Joannis Sitaras
Harriett Smith
Mi Ja Smith
Gina Standridge
Randall Tolbert
Xin Tu

Terrell Turner
Melissa Warren
Kelly Watson
Drew Westall
Barry Williams
Elizabeth Williams
James Williams

The Committee determined and accepted the grades received for the October – November 2007 exams.

Rescind Form of Practice Statement –Amy Jo Ballantine (#28219) signed a Form of Practice Statement due to her employment. However, due to a change in the licensee’s employment, staff recommended that the statement be rescinded. The Committee approved staff recommendation.

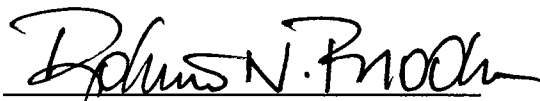
EXECUTIVE STAFF AND LEGAL COUNSEL REPORT: Mr. Barber and Ms. Lynch moved to approve an amendment to the 401(k) plan of the Board. Motion passed with seven (7) affirmative votes.

Messrs. Harris and Jordan moved to approve an additional lease agreement with the State of North Carolina: Department of Environment and Natural Resources: Clean Water Management Trust Fund for office space in the Board’s building. Motion passed with seven (7) affirmative votes.

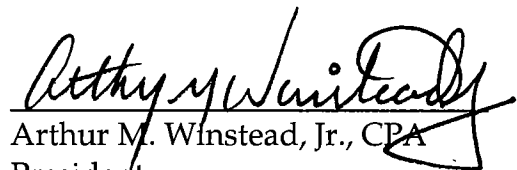
ADJOURNMENT: Messrs. Winstead and Jordan moved to adjourn the meeting at 11:25 a.m. Motion passed.

Respectfully submitted:

Attested to by:



Robert N. Brooks
Executive Director



Arthur M. Winstead, Jr., CPA
President

NORTH CAROLINA
WAKE COUNTY

BEFORE THE NORTH CAROLINA STATE BOARD OF
CERTIFIED PUBLIC ACCOUNTANT EXAMINERS
CASE #: C2007627

IN THE MATTER OF:
Donna M. Blackman #21271
Respondent

CONSENT ORDER

THIS CAUSE, coming before the Board at its offices at 1101 Oberlin Road, Raleigh, Wake County, North Carolina, with a quorum present. Pursuant to NCGS 150B-41, the Board and Respondent stipulate the following Findings:

1. Respondent is the holder of North Carolina certificate number 21271 as a Certified Public Accountant.
2. Respondent informed the Board on her 2006-2007 individual certificate renewal (renewal) that she had obtained forty-four (44) hours of continuing professional education (CPE) to meet the 2005 CPE requirement. Further, Respondent informed the Board on the renewal that she earned some of said CPE between January 1, 2006, and June 30, 2006.
3. Based on Respondent's representation that prior to June 30, 2006, she had completed a total of forty-four (44) hours of CPE which included zero (0) hours of carryforward from 2004, the Board accepted her renewal and by Board Order placed her certificate on conditional status until March 22, 2008, and fined her a civil penalty of two hundred fifty dollars (\$250.00) for her second violation of 21 NCAC 08G .0401(c) within a five year period.
4. Board staff requested, by letter, that prior to April 17, 2007, Respondent provide course listings for the CPE reported to meet her 2005 CPE requirement.
5. Respondent, on her "2005 Report of CPE for CPAs on Conditional Status" provided CPE course listings to the Board indicating forty-four (44) hours of CPE taken between January 1, 2006 and June 30, 2006. However, Respondent had failed to take a North Carolina ethics course in 2005 or before June 30, 2006, as reported that she had complied with the requirements on her renewal.

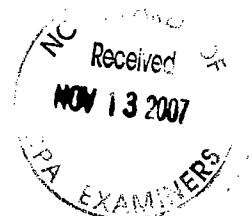
6. Respondent wishes to resolve this matter by consent and agrees that the Board staff and counsel may discuss this Consent Order with the Board *ex parte*, whether or not the Board accepts this Consent Order as written. Respondent understands and agrees that this Consent Order is subject to review and approval by the Board and is not effective until approved by the Board at a duly constituted Board Meeting.

BASED upon the foregoing, the Board makes the following Conclusions of Law:

1. Respondent is subject to the provisions of Chapter 93 of the North Carolina General Statutes (NCGS) and Title 21, Chapter 8 of the North Carolina Administrative Code (NCAC), including the Rules of Professional Ethics and Conduct promulgated and adopted therein by the Board.
2. Respondent's actions as set out above constitute violations of NCGS 93-12(8b)a, 93-12(9)c and 93-12(9)e and 21 NCAC 08J .0101(b), 08N .0202(a), .0202(b)3, .0202(b)4, and .0203(b)(1).

BASED on the foregoing and in lieu of further proceedings under 21 NCAC Chapter 8C, the Board and Respondent agree to the following Order:

1. Respondent's application for renewal is insufficient and untimely under NCGS 150-B-3(a). Hence, her certificate is automatically forfeited pursuant to NCGS 93-12(8b).
2. Respondent must return her certificate to the Board with this signed Consent Order.
3. Respondent may not apply for the reinstatement of her certificate for at least ninety (90) days from the date the Board receives Respondent's forfeited certificate and until the civil penalty required in number five (5) of this Order has been paid by Respondent.
4. Respondent may apply to return her certificate to active status by submission and approval of a reinstatement application which includes:
 - a. Application form,
 - b. Payment of the application fee,
 - c. 3 moral character affidavits, and
 - d. 40 hours of CPE in 12 months preceding the application including an eight (8) hour accountancy law course as offered by the North Carolina Association of CPAs in a group study or self-study format.



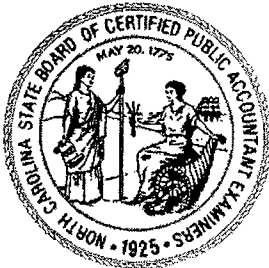
5. Respondent shall pay a one thousand dollar (\$1,000.00) civil penalty to be remitted within six months of the date this signed Order is accepted by the Board.
6. Respondent agrees that failure to timely comply with any terms of this agreement and consent order shall be deemed sufficient grounds for revocation of her license.

CONSENTED TO THIS THE 8th DAY OF November, 2007.

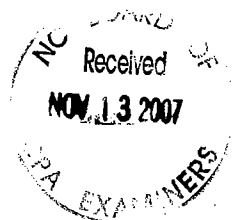
Donna M. Blackman
Respondent

APPROVED BY THE BOARD THIS THE 19 DAY OF December, 2007.

NORTH CAROLINA STATE BOARD OF CERTIFIED
PUBLIC ACCOUNTANT EXAMINERS



BY: Atty. General
President



NORTH CAROLINA
WAKE COUNTY

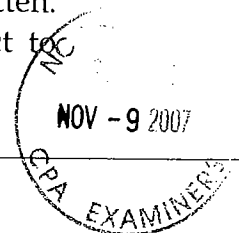
BEFORE THE NORTH CAROLINA STATE BOARD OF
CERTIFIED PUBLIC ACCOUNTANT EXAMINERS
CASE #: C2007649

IN THE MATTER OF:
Lynn A. Ross, #20455
Respondent

CONSENT ORDER

THIS CAUSE, coming before the Board at its offices at 1101 Oberlin Road, Raleigh, Wake County, North Carolina, with a quorum present. Pursuant to NCGS 150B-41, the Board and Respondent stipulate the following Findings:

1. Respondent is the holder of North Carolina certificate number 20455 as a Certified Public Accountant.
2. Respondent informed the Board on her 2006-2007 individual certificate renewal (renewal) that she had obtained forty-two (42) hours of continuing professional education (CPE) to meet the 2005 CPE requirement.
3. Based on Respondent's representation that she had completed a total of forty-two (42) hours of CPE which included ten (10) hours of carryforward from 2004, the Board accepted her renewal.
4. Respondent, in reviewing the renewal information for 2007, inquired of Board staff regarding the North Carolina ethics course requirement. Respondent could not provide a certificate of completion showing the completion of a North Carolina ethics course in 2005 or before June 30, 2006. As of June 8, 2007, she had not completed a North Carolina ethics course for her 2007- 2008 renewal.
5. Respondent, on her 2006-2007 renewal indicated she had completed a North Carolina ethics course in 2005. However, Respondent failed to take a North Carolina ethics course in 2005 or before June 30, 2006, as reported that she had complied with the requirements on her renewal.
6. Respondent wishes to resolve this matter by consent and agrees that the Board staff and counsel may discuss this Consent Order with the Board *ex parte*, whether or not the Board accepts this Consent Order as written. Respondent understands and agrees that this Consent Order is subject to



review and approval by the Board and is not effective until approved by the Board at a duly constituted Board Meeting.

BASED upon the foregoing, the Board makes the following Conclusions of Law:

1. Respondent is subject to the provisions of Chapter 93 of the North Carolina General Statutes (NCGS) and Title 21, Chapter 8 of the North Carolina Administrative Code (NCAC), including the Rules of Professional Ethics and Conduct promulgated and adopted therein by the Board.
2. Respondent's actions as set out above constitute violations of NCGS 93-12(8b)a, 93-12(9)c and 93-12(9)e and 21 NCAC 08J .0101(b), 08N .0202(a), .0202(b)3, .0202(b)4, and .0203(b)(1).

BASED on the foregoing and in lieu of further proceedings under 21 NCAC Chapter 8C, the Board and Respondent agree to the following Order:

1. Respondent's application for renewal is insufficient and untimely under NCGS 150-B-3(a). Hence, her certificate is automatically forfeited pursuant to NCGS 93-12(8b).
2. Respondent must return her certificate to the Board with this signed Consent Order.
3. Respondent may not apply for the reinstatement of her certificate for at least ninety (90) days from the date the Board receives Respondent's forfeited certificate and until the civil penalty required in number five (5) of this Order has been paid by Respondent.
4. Respondent may apply to return her certificate to active status by submission and approval of a reinstatement application which includes:
 - a. Application form,
 - b. Payment of the application fee,
 - c. 3 moral character affidavits, and
 - d. 40 hours of CPE in 12 months preceding the application including an eight (8) hour accountancy law course as offered by the North Carolina Association of CPAs in a self study format.
5. Respondent shall pay a one thousand dollar (\$1,000.00) civil penalty to be remitted within six months of the date this signed Order is accepted by the Board.

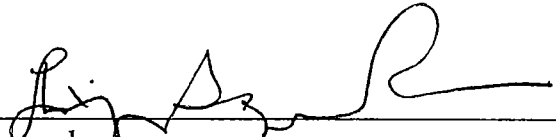


Consent Order - 3

Lynn A. Ross

6. Respondent agrees that failure to timely comply with any terms of this agreement and consent order shall be deemed sufficient grounds for revocation of her license.

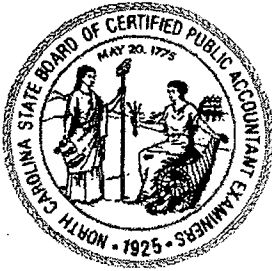
CONSENTED TO THIS THE 5th DAY OF November, 2007.

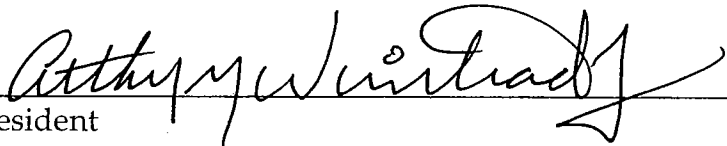


Respondent

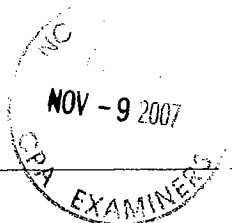
APPROVED BY THE BOARD THIS THE 19 DAY OF December, 2007.

NORTH CAROLINA STATE BOARD OF CERTIFIED
PUBLIC ACCOUNTANT EXAMINERS



BY: 

President



NORTH CAROLINA
WAKE COUNTY

BEFORE THE NORTH CAROLINA STATE BOARD OF
CERTIFIED PUBLIC ACCOUNTANT EXAMINERS
CASE #: C2007813

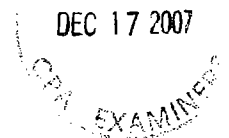
IN THE MATTER OF:
Jurgen Jost, #22729
Respondent

CONSENT ORDER

THIS CAUSE, coming before the Board at its offices at 1101 Oberlin Road, Raleigh, Wake County, North Carolina, with a quorum present. Pursuant to NCGS 150B-41, the Board and Respondent stipulate the following Findings:

1. Respondent is the holder of North Carolina certificate number 22729 as a Certified Public Accountant.
2. Respondent informed the Board on his 2006-2007 individual certificate renewal (renewal) that he had obtained forty (40) hours of continuing professional education (CPE) to meet the 2005 CPE requirement. Further, Respondent informed the Board on the renewal that he earned some of said CPE between January 1, 2006, and June 30, 2006.
3. Based on Respondent's representation that prior to June 30, 2006, he had completed a total of forty (40) hours of CPE which included zero (0) hours of carryforward from 2004, the Board accepted his renewal and placed his certificate on conditional status until December 18, 2007.
4. Board staff requested, by letter, that prior to February 1, 2007, Respondent provide course listings for the CPE reported to meet his 2005 CPE requirement.
5. Respondent, on his "2005 Report of CPE for CPAs on Conditional Status" provided CPE course listings to the Board indicating thirty-two (32) hours of CPE taken between January 1, 2006 and June 30, 2006. However, Respondent had failed to take a North Carolina ethics course in 2005 or before June 30, 2006, as reported that he had complied with the requirements on his renewal.
6. Respondent wishes to resolve this matter by consent and agrees that the Board staff and counsel may discuss this Consent Order with the Board

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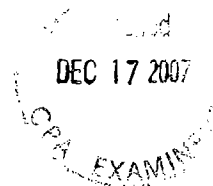
ex parte, whether or not the Board accepts this Consent Order as written. Respondent understands and agrees that this Consent Order is subject to review and approval by the Board and is not effective until approved by the Board at a duly constituted Board Meeting.

BASED upon the foregoing, the Board makes the following Conclusions of Law:

1. Respondent is subject to the provisions of Chapter 93 of the North Carolina General Statutes (NCGS) and Title 21, Chapter 8 of the North Carolina Administrative Code (NCAC), including the Rules of Professional Ethics and Conduct promulgated and adopted therein by the Board.
2. Respondent's actions as set out above constitute violations of NCGS 93-12(8b)a, 93-12(9)c and 93-12(9)e and 21 NCAC 08J .0101(b), 08N .0202(a), .0202(b)3, .0202(b)4, and .0203(b)(1).

BASED on the foregoing and in lieu of further proceedings under 21 NCAC Chapter 8C, the Board and Respondent agree to the following Order:

1. Respondent's application for renewal is insufficient and untimely under NCGS 150-B-3(a). Hence, his certificate is automatically forfeited pursuant to NCGS 93-12(8b).
2. Respondent must return his certificate to the Board with this signed Consent Order.
3. Respondent may not apply for the reinstatement of his certificate for at least ninety (90) days from the date the Board receives Respondent's forfeited certificate and until the civil penalty required in number five (5) of this Order has been paid by Respondent.
4. Respondent may apply to return his certificate to active status by submission and approval of a reinstatement application which includes:
 - a. Application form,
 - b. Payment of the application fee,
 - c. 3 moral character affidavits, and
 - d. 40 hours of CPE in 12 months preceding the application including an eight (8) hour accountancy law course as offered by the North Carolina Association of CPAs in a self study format.



Consent Order - 3
Jurgen Jost

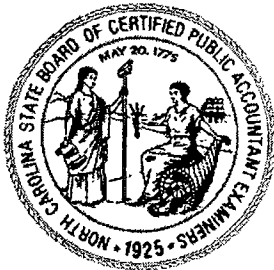
5. Respondent shall pay a one thousand dollar (\$1,000.00) civil penalty to be remitted within six months of the date this signed Order is accepted by the Board.
6. Respondent agrees that failure to timely comply with any terms of this agreement and consent order shall be deemed sufficient grounds for revocation of his license.

CONSENTED TO THIS THE 10TH DAY OF DECEMBER, 2007.

Respondent Jurgen Jost

APPROVED BY THE BOARD THIS THE 19 DAY OF December, 2007.

NORTH CAROLINA STATE BOARD OF CERTIFIED
PUBLIC ACCOUNTANT EXAMINERS



BY: Atthey Winstead
President



NORTH CAROLINA
WAKE COUNTY

BEFORE THE NORTH CAROLINA STATE BOARD OF
CERTIFIED PUBLIC ACCOUNTANT EXAMINERS

CASE #: 200404-016

IN THE MATTER OF:

David C. Hinton, #13058

David C. Hinton, CPA P.A.

Respondents

CONSENT ORDER

THIS CAUSE, coming before the Board at its offices at 1101 Oberlin Road, Raleigh, Wake County, North Carolina, with a quorum present. Pursuant to NCGS 150B-41, the Board and Respondent stipulate the following Findings:

1. Respondent David C. Hinton (hereinafter "Respondent") is the holder of North Carolina certificate number 13058 as a Certified Public Accountant.
2. Respondent David C. Hinton, CPA P.A. (hereinafter "Respondent firm") is a registered certified public accounting corporation in North Carolina.
3. Respondents prepared audits for the John A. Hyman Memorial Youth Foundation, Inc.'s Substance Abuse Project (Substance Abuse Project) for the years 2000, 2001, and 2002.
4. After receiving, in July 2006, audit working papers for the 2000, 2001, and 2002 audits, the North Carolina State Board of Certified Public Accountant Examiners (hereinafter "Board") staff conducted a review of the audit working papers and the audit reports.
5. The Board staff's review disclosed numerous errors and deficiencies in the audit working papers and the audit reports indicating that Respondent in offering services through Respondent firm failed to comply with generally accepted auditing standards (GAAS) as follows:
 - a. Due professional care was not exercised in the performance of the audit engagements (AU §230.01-.13).
 - b. There was no evidence that audit programs were adequately updated and designed for the audit engagements (AU §311.05).
 - c. There was insufficient evidential matter to support that internal controls had been assessed during the planning phase of the audits (AU §311.03).

Consent Order - 2

David C. Hinton

David C. Hinton, CPA P.A.

- d. There was no evidence to substantiate that analytical procedures were used in planning the nature, timing, and extent of audit procedures (AU §329.01-.08).
- e. Assessment of internal control did not conform to professional standards (AU §319).
- f. Audit working papers did not conform to professional standards (AU §339.01-.09).
- g. Sufficient competent evidential matter was not obtained to support management's financial statement assertions (AU §326.01-.08).
- h. Inadequate disclosures were not reported in accordance with professional standards (AU §508.41-.44).
- i. Reporting entity disclosures did not conform to generally accepted accounting principles (GAAP) and the independent auditor's report did not express a qualification for this departure from applicable standards (AU §431.03, §508.35-.42, §544.02).

- 6. Respondents wish to resolve this matter by consent and agree that the Board staff and counsel may discuss this Order with the Board *ex parte*, whether or not the Board accepts this Order as written. Respondents understand and agree that this Consent Order is subject to review and approval by the Board and is not effective until approved by the Board at a duly constituted Board Meeting.

BASED upon the foregoing, the Board makes the following Conclusions of Law:

- 1. Respondents are subject to the provisions of Chapter 93 of the North Carolina General Statutes (NCGS) and Title 21, Chapter 8 of the North Carolina Administrative Code (NCAC), including the Rules of Professional Ethics and Conduct promulgated and adopted therein by the Board.
- 2. Respondents' actions as set out above constitute violations of NCGS 93-12 (9) e and 21 NCAC 08N .0103, .0209, .0212, .0403, and .0406.

BASED on the foregoing and in lieu of further proceedings under 21 NCAC Chapter 8C, the Board and Respondents agree to the following Order:

Consent Order - 3

David C. Hinton

David C. Hinton, CPA P.A.

1. Effective February 1, 2008, Respondent's certificate is suspended for five (5) years; however said suspension is stayed and Respondent's certificate is placed on probationary status for five (5) years subject to the timely fulfillment of each of the requirements set below.
2. Effective February 1, 2008, Respondent shall not participate in, perform, or review any audit or agreed-upon procedure of any governmental unit, any component unit of a government unit or any organization that receives any government funds for five (5) years from the date this Order is approved by this Board. Respondent may petition the Board for reinstatement of the privilege to participate in, perform, and review the aforementioned audit and agreed-upon procedure services. Any request for reinstatement of said audit and agree-upon procedure privileges would include evidence of the steps taken by Respondent to assure the Board Respondent would be able to perform said audit and agreed-upon procedure services in a competent manner. A condition of said privilege, in the discretion of the Board, may be a requirement that Respondent retake and pass the audit section of the Uniform CPA Examination or its equivalent.
3. Effective February 1, 2008, Respondent shall obtain pre-issuance reviews of all other audit and agreed-upon procedures services which Respondent participates in, performs, and/or reviews until such time as the Board determines that pre-issuance review is no longer necessary. The required pre-issuance reviews shall include both a review of working papers and the report. The pre-issuance reviewer shall be approved by the Board prior to performing said reviews. Respondent shall authorize and cause the pre-issuance reviewer to provide the Board with a copy of each pre-issuance review report upon its issuance.
4. Respondent shall reimburse the Board for its administrative costs incurred as a result of monitoring Respondent's compliance with the pre-issuance review requirements.
5. Respondents shall pay, by August 1, 2008, a one thousand dollar (\$1,000.00) civil penalty for each of the three (3) deficient Substance Abuse Project audit reports for a total of three thousand dollars (\$3,000.00).
6. Respondents shall reimburse, by March 31, 2008, the Board for its administrative costs incurred in the investigation of this matter. Said administrative costs shall be remitted with the signed Consent Order.

Consent Order - 4
David C. Hinton
David C. Hinton, CPA P.A.

CONSENTED TO THIS THE 7th DAY OF December, 2007.

David C. Hinton CPA

Respondent

David C. Hinton, CPA PA by David C. Hinton CPA

Respondent Firm

APPROVED BY THE BOARD THIS THE 19 DAY OF December
2007.

NORTH CAROLINA STATE BOARD OF CERTIFIED
PUBLIC ACCOUNTANT EXAMINERS

BOARD
SEAL

BY:

Atthey W. Wintead
President

NORTH CAROLINA

BEFORE THE NORTH CAROLINA STATE BOARD OF
CERTIFIED PUBLIC ACCOUNTANT EXAMINERS

WAKE COUNTY

Case #200509-051

IN THE MATTER OF:

Mary Alayne
Ferguson, #30147

Respondent

CONSENT ORDER

THIS CAUSE, coming before the Board at its offices at 1101 Oberlin Road, Raleigh, Wake County, North Carolina, with a quorum present. Pursuant to NCGS 150B-41, the Board and Respondent stipulate the following Findings:

1. Respondent Mary Alayne Ferguson (hereinafter "Respondent Ferguson") is the holder of a certificate as a Certified Public Accountant in North Carolina, was, between May 20, 2002 and October 14, 2002, an employee of Vance Flouhouse & Garges, PLLC, a registered certified public accounting firm in North Carolina.
2. On August 8, 2002, Respondent Ferguson and Vance Flouhouse & Garges, PLLC were engaged to provide tax consulting services to the Weiss Family Trust ("Trust") which had been established for the benefit of Mildred Weiss.
3. The trust engaged Respondent Ferguson based on Respondent's representations that Respondent had expertise in the area of tax issues related to securities transactions. The Complainants have alleged that Respondent Ferguson stated that she was a CPA and that: "I am an expert, and I know everything about this field that there is to know." Respondent denies making that statement.
4. In a letter dated December 13, 2002, sent by Respondent Ferguson to one of the Complainants, Respondent Ferguson is identified on the letterhead as a "CPA." At the time, Respondent Ferguson had never been licensed as a CPA in North Carolina, although she was licensed in New York.
5. On January 17, 2003, Respondent Ferguson was issued a temporary CPA license and registration as an individual practitioner firm. In April of 2003, the Board issued a reciprocal North Carolina CPA certificate to Respondent Ferguson which was issued based on an experience affidavit from a North Carolina CPA firm, Pesta, Finnie & Associates, LLP (Pesta firm), which stated that Respondent Ferguson had been the Pesta firm's "tax manager" from May 11, 1998, through April 15, 2002.

Consent Order -
Mary Alayne Ferguson

6. According to the engagement letter of August 8, 2002, "These consulting services will include a review of pertinent Trust documents, assistance in accumulating the information necessary to determine cost basis of the securities currently held by the trust, consultation with existing Trust investment advisor and attorney regarding potential securities sales, effecting change in Trustee and other matters as requested." Included in the Trust's assets was a GE variable rate annuity. The existing Trust advisor was Paine Weber Securities. The Trust did not at that time have an attorney, though Respondent Ferguson referred Lewis and Mildred Weiss to an attorney who prepared a trust amendment and power of attorney.
7. The Complainant claims that on or about September 17, 2002 Respondent Ferguson orally stated to persons employed by Wachovia Securities that it would be "okay to begin to liquidate the Weiss Portfolio." Respondent Ferguson denies the statement. On September 20, 2002 Respondent Ferguson prepared a letter to Lewis and Mildred Weiss, who were by that time co-trustees, that said "We have prepared and enclosed a summary of the cost basis for investments held, as of July 31, 2002, by the Weiss Family Trust."
8. The summary enclosed with the letter was a document entitled "Investment Cost Basis Analysis" listing categories of assets including "coupon corporates," "common stock," "Annuities," and "Mutual Funds." Under the category "Annuities," Respondent listed the two GE Annuities with the applicable purchase dates and, in the column labeled "Cost Basis" the letters "N/A." The Complainant says that he understood "N/A" to mean that there would be no tax consequences if the Annuities were liquidated. Respondent Ferguson states that she intended N/A to convey "not applicable" as she did not believe that evaluation of the basis of the annuity to be part of her engagement, did not understand the annuity to be a security, the annuity was listed as an "insurance product" on the brokerage statement, and she did not believe there was any intent to sell the annuity.
9. On September 18 Lewis and Mildred Weiss signed documents to surrender the annuity.
10. On September 4, 2002 and again on September 18, 2002, before he sent the surrender form to GE, Lewis Weiss received communications from GE stating that the "annuity had a 'pre-TEFRA' cost basis of \$47,859.76." According to Mr. Weiss's statement on December 15, 2002 to John Apostle of GE, he "relied completely" on Ms. Debbie Adams of GE "for advice about the annuity." Lewis Weiss sent the September 4 and September 18, 2002 documents to Respondent Ferguson. Ms. Ferguson issued the September 20 report. Complainant did not contact respondent again until December 2002.

Consent Order -
Mary Alayne Ferguson

11. On or about December 5, 2002, the co-trustees learned that the surrender of the GE Annuity resulted in a substantial capital gain tax liability.
12. In a complaint the co-trustees filed with this Board on September 4, 2005, co-trustee Lewis Weiss stated, under oath, that when he confronted Respondent about the severe tax consequences of the sale, the Respondent acknowledged that she had made an error but she stated that she was sure the sale of the annuity could be "unwound. Respondent contends that she did not make this statement and claims that Complainant initially told her that Wachovia Securities was actively attempting to unwind the sale of the annuity. In a written communication at the time, Ms. Ferguson said she was confident that Wachovia Securities would be successful in getting the GE Annuity unwound.
13. Respondent Ferguson stated in a December 11, 2002 email to co-trustee Lewis Weiss:

We will take the position that there was a stepped up basis at the time of your Father's death which establishes the higher cost basis. It would be most helpful to have [GE] agree to change their records so that you Mother's tax reporting records would agree with the above....I also think it would be best to let me prepare your Mother's income tax return this year due to all of the issues involved.

14. In a December 13, 2002 email to Debbie Adams, in response to Lewis Weiss' request that Ms. Ferguson and Ms. Adams communicate, Respondent Ferguson said:

The stepped up cost basis was \$277,936. The owner of the annuity was the Weiss Family Trust, a grantor trust [at] the time of Mr. Weiss' death. The annuity was then transferred in kind to the Mildred Weiss family trust. The value of all assets transferred were stepped up to the date of death values. No death benefit was paid to Mrs. Weiss. Please let me know what additional questions you have in order to correct this reporting.

15. Citing federal tax laws, GE refused to alter its records. Respondent claims that she advised Complainant she agreed with GE's conclusion that the tax reporting documents were correct as originally prepared and there was nothing further she could do for him.

Consent Order -
Mary Alayne Ferguson

16. GE later also advised the sale could not be unwound. As, the Chief Compliance Officer for GE explained to Lewis Weiss:

Unfortunately, federal tax laws and regulations prohibit us from reversing the September sale transaction, as you have requested. Once the sale/surrender request was made and the transaction completed, we can not reverse it. Please understand that GE Financial has NOT made a business decision to decline your request for a reversal. Instead, we are following the requirements of the federal tax code. There is no discretion involved in our actions or our decision to decline your reversal request.

17. As a result of the sale of the annuity, Mildred Weiss incurred a tax liability of at least \$100,000.00 for 2002.
18. Respondent Ferguson wishes to resolve this matter by consent and agrees that the board staff and counsel may discuss this Consent Order with the board *ex parte*, whether or not the Board accepts this Consent Order as written. Respondent Ferguson understands and agrees that this Consent Order is subject to review and approval by the Board and is not effective until approved by the Board at a duly constituted board Meeting.

BASED upon the foregoing, the Board makes the following Conclusions of Law:

1. Respondent is subject to the provisions of Chapter 93 of the North Carolina General Statutes (NCGS) and Title 21, Chapter 8 of the North Carolina Administrative Code (NCAC), including the Rules of Professional Ethics and Conduct promulgated and adopted therein by the Board.
2. Respondent's actions as set out above in holding herself out as a certified public accountant in this state in connection with the services which were the subject of this complainant at a time when she did not hold a certificate issued by the Board, constitutes violations of NCGS 93-1, 93-3, 93-6, and 93 12 (9)e, and 21 NCAC 8N .0202 and 8N .0203.

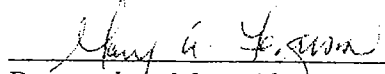
BASED on the foregoing and in lieu of further proceedings under 21 NCAC Chapter 8C, the Board and Respondent agree to the following Order:

1. Respondent is censured.
2. Respondent shall pay a one thousand dollar (\$1,000.00) civil penalty.

Consent Order -
Mary Alayne Ferguson

3. Respondent shall reimburse the Board for the administrative costs incurred in this matter.

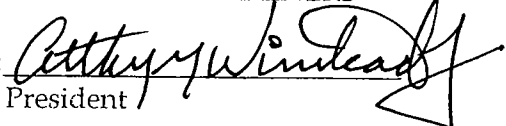
CONSENTED TO THIS THE 30 DAY OF November, 2007.



Respondent Mary Alayne
Ferguson

APPROVED BY THE BOARD THIS THE 19 DAY OF December, 2007.

NORTH CAROLINA STATE
BOARD OF CERTIFIED PUBLIC
ACCOUNTANT EXAMINERS

BY: 

President

NORTH CAROLINA
WAKE COUNTY

BEFORE THE NORTH CAROLINA STATE BOARD OF
CERTIFIED PUBLIC ACCOUNTANT EXAMINERS

Cases: #200511-063

IN THE MATTER OF:
Frederick Charles Garges, #7734
Respondent

CONSENT ORDER

THIS CAUSE, coming before the Board at its offices at 1101 Oberlin Road, Raleigh, Wake County, North Carolina, with a quorum present. Pursuant to NCCGS 150B-41, the Board and Respondents stipulate the following Findings:

1. Respondent is the holder of a certificate as a Certified Public Accountant in North Carolina.
2. Respondent is a member of Vance Mouhouse & Garges, PLLC, a registered certified public accounting professional corporation in North Carolina.
3. Respondent allowed an employee who was not licensed as a CPA in North Carolina to sign an engagement letter, using the CPA title, for tax consulting services.
4. Respondent Garges wishes to resolve this matter by consent and agrees that the Board staff and counsel may discuss this Consent Order with the Board *ex parte*, whether or not the Board accepts this Consent Order as written. Respondent understands and agrees that this Consent Order is subject to review and approval by the Board and is not effective until approved by the Board at a duly constituted Board Meeting.

BASED upon the foregoing, the Board makes the following Conclusions of Law:

1. Respondent is subject to the provisions of Chapter 93 of the North Carolina General Statutes (NCCGS) and Title 21, Chapter 8 of the North Carolina Administrative Code (NCAC), including the Rules of Professional Ethics and Conduct promulgated and adopted therein by the Board.
2. Respondent's action as set out above constitute violations of NCCGS 93-3, 93-6, and 93-12 (9)c, and 21 NCAC 8N .0103, 8N .0202(10) and 8N .0203.

