

**STATE OF MINNESOTA
BOARD OF ACCOUNTANCY**

OAH Docket No. 16-0100-30214

In the Matter of Roger H. Goetz, Jr.
CPA Certificate No. 21507

**FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND ORDER**

The above-entitled matter came on for a prehearing conference before Administrative Law Judge Manuel J. Cervantes (“ALJ”) on January 17, 2013, at the Office of Administrative Hearings in St. Paul, Minnesota. Michele M. Owen, Assistant Attorney General, 1800 Bremer Tower, 445 Minnesota Street, St. Paul, Minnesota, 55101, appeared on behalf of the Complaint Committee of the Minnesota Board of Accountancy (“Board”). Respondent Roger H. Goetz, Jr. (“Respondent”) did not appear at the prehearing conference, nor did he contact the ALJ or the Committee to seek a continuance or request any other relief.

On January 23, 2013, the ALJ received the Committee’s motion for default pursuant to Minn. R. 1400.6000. No response to the motion was received from Respondent, even though he was sent a copy to his last known address. On February 12, 2013, the ALJ issued Findings of Fact, Conclusions, and Recommendation Upon Default (“Report”).

On February 15, 2013, the Board notified the parties of their opportunity to file exceptions and present argument pursuant to Minn. Stat. § 14.61. The Board received the Committee’s submission dated March 22, 2013. Respondent did not file any written exceptions or argument to the Report with the Board.

On April 19, 2013, the matter was heard, considered and decided by the Board. Christopher M. Kaisershot, Assistant Attorney General, 1800 Bremer Tower, 445 Minnesota Street, St. Paul, Minnesota, 55101, advised the Board. Michele M. Owen, Assistant Attorney

General, appeared in person on behalf of the Committee. Respondent appeared telephonically due to inclement weather.

Based on all the files, records, and proceedings herein, the Board hereby issues the following Findings of Fact, Conclusions of Law, and Order:

STATEMENT OF THE ISSUES

The issues in this contested case proceeding were whether the Board should discipline Respondent because:

1. Respondent violated a statute or rule the Board is empowered to enforce, in violation of Minn. Stat. § 326A.08, subd. 5(a)(1);
2. Respondent engaged in conduct or acts that are fraudulent, deceptive or dishonest which reflect adversely on his ability or fitness to provide professional services, in violation of Minn. Stat. § 326A.08, subd. 5(a)(2);
3. Respondent engaged in conduct or acts that are negligent or otherwise in violation of the standards established by Board rule, where the conduct or acts relate to providing professional services, in violation of Minn. Stat. § 326A.08, subd. 5(a)(3);
4. Respondent engaged in conduct reflecting adversely upon his fitness to perform services, in violation of Minn. Stat. § 326A.08, subd. 5(a)(10); and Minn. R. 1105.5600, subp. 1.D(2);
5. Respondent failed to respond to communications from the Board, in violation of Minn. R. 1105.1200;
6. Respondent failed to appear before the Board's Complaint Committee upon its request, in violation of Minn. R. 1105.1300; and
7. Respondent's conduct constituted grounds justifying the Board to take disciplinary action against Respondent.

FINDINGS OF FACT

1. The Board hereby adopts and incorporates as its own the Findings in the Report, which is attached hereto and incorporated by reference.

2. On December 10, 2012, the Complaint Committee served a Notice of and Order for Hearing and Prehearing Conference upon Respondent.

3. Respondent failed to file a Notice of Appearance with the ALJ, failed to appear at the prehearing conference scheduled on January 17, 2013, and failed to request that the prehearing conference be continued. Respondent is in default in this proceeding.

4. Pursuant to Minn. R. 1400.6000 (2011), the allegations in the Notice of and Order for Hearing and Prehearing Conference are hereby taken as true.

5. During the argument, Respondent did not dispute any the events that occurred before the ALJ. In addition, other than requesting that the matter remain private, Respondent did not contest the Committee's proposed discipline.

6. Any Findings of Fact which should properly be termed Conclusions are hereby adopted as such.

Based on the foregoing Findings of Fact, the Board makes the following:

CONCLUSIONS

1. The Board hereby adopts and incorporates as its own the Conclusions in the Report.

2. The Board has jurisdiction over this matter pursuant to Minn. Stat. §§ 14.50, 214.10, and 326A.08 (2012).

3. The Board gave Respondent timely and proper notice in this matter and has complied with all relevant substantive and procedural requirements of law and rules.

4. Respondent violated Minn. Stat. §§ 326A.08, subs. 5(a)(1), 5(a)(2), 5(a)(3), and 5(a)(10); and Minn. R. 1105.1200, 1105.1300, and 1105.5600, subp. 1D(2).

5. Minn. Stat. ch. 326A and Minn. R. ch. 1105 provide that a violation of any of the aforesaid statutes and rules by a CPA certificate holder constitutes grounds for disciplinary action.

6. Any Conclusion herein which should properly be termed Findings of Fact are hereby adopted as such.

7. The following Order is in the public interest.

Based on the foregoing Findings of Fact and Conclusions, the Board makes the following:

ORDER

1. IT IS HEREBY ORDERED that Respondent's certified public accountant certificate is **REVOKED**.

2. IT IS FURTHER ORDERED that Respondent shall pay a **CIVIL PENALTY** of Four Thousand Dollars (\$4,000) to the Board within sixty (60) days of the date of this Order.

3. This Order is public as a matter of law. Minn. Stat. §§ 13.41, subd. 5, and 326A.08, subd. 2 (2012).

Dated this 19th day of April, 2013.

**STATE OF MINNESOTA
BOARD OF ACCOUNTANCY**



KATHLEEN K. MOONEY, CPA
Chair, Minnesota Board of Accountancy

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE MINNESOTA BOARD OF ACCOUNTANCY

In the Matter of Roger H. Goetz, Jr.,
CPA Certificate No. 21507, Board File
No. 2012-229

**FINDINGS OF FACT,
CONCLUSIONS AND
RECOMMENDATION
UPON DEFAULT**

This matter came on before Administrative Law Judge (ALJ) Manuel J. Cervantes for a Prehearing Conference on January 17, 2013 at the Office of Administrative Hearings in St. Paul, Minnesota. The Prehearing Conference was held pursuant to a Notice and Order for Hearing and Prehearing Conference, dated December 11, 2012.

Michelle M. Owen, Assistant Attorney General, appeared on behalf of the Department of the Board of Accountancy. There was no appearance by or on behalf of Roger H. Goetz (Respondent).

On January 23, 2013, the Administrative Law Judge received the Complaint Committee's request for default judgment, pursuant to Minn. R. 1400.6000. Respondent was also sent a copy of the letter to his last known address. The hearing record closed on February 11, 2013, ten working days after receipt of the Complaint Committee's letter requesting a default judgment.

STATEMENT OF THE ISSUES

1. Did Respondent violate a statute or rule the Board is empowered to enforce, in violation of Minn. Stat. § 326A.08, subd. 5(a)(1)?
2. Did Respondent engage in conduct or acts that are fraudulent, deceptive or dishonest which reflect adversely on his ability or fitness to provide professional services, in violation of Minn. Stat. § 326A.08, subd. 5(a)(2)?
3. Did Respondent engage in conduct or acts that are negligent or otherwise in violation of the standards established by Board rule, where the conduct or acts relate to providing professional services, in violation of Minn. Stat. § 326A.08, subd. 5(a)(3)?
4. Did Respondent engage in conduct reflecting adversely upon his fitness to perform services, in violation of Minn. Stat. § 326A.08(a)(10); and Minn. R. 1105.5600, subp. 1.D(2)?
5. Did Respondent fail to respond to communications from the Board, in violation of Minn. R. 1105.1200?

6. Did Respondent fail to appear before the Board's Complaint Committee upon its request, in violation of Minn. R. 1105.1300?

7. Does Respondent's conduct constitute grounds justifying the Board to take disciplinary action against Respondent?

The ALJ concludes that Respondent is in default and recommends that Default Judgment be **GRANTED**. The ALJ further recommends that the allegations in the Notice and Order for Prehearing Conference be accepted as true and deemed proven.

Based on the proceedings herein, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. The Board issued a CPA license to Respondent on January 1, 1980. Respondent currently holds an active CPA certificate, number 21507.

2. Complainant hired Respondent to prepare the final individual income tax returns, the fiduciary income tax return and estate tax return on behalf of the estate of his deceased father (the estate). Complainant is one of the Personal Representatives of the estate.

3. Respondent failed to provide the 2009 individual Federal and State tax returns to Complainant until after August 2011, at which time he mailed the forms to Complainant for signature and mailing.

4. On December 23, 2009, Respondent requested that Complainant wire \$115,000 to DeRaad and Goetz, LLC's trust account at Round Bank in Waseca for Respondent to pay the estimated estate taxes owed by the estate to the Minnesota Department of Revenue (the Department).

5. On December 28, 2011, the Department notified Complainant that it had not received an estate tax return or payment from the estate on behalf of the trust.

6. On April 20, 2012, Respondent sent a letter to Complainant stating that he had submitted the estate's tax return along with check number 3027 in the amount of \$116,637 to the Department for payment of the estate taxes.

7. Complainant filed an estate tax return and submitted payment in the amount of \$137,775.46 to the Department (on behalf of the estate), on May 5, 2012.

8. On May 21, 2012, the Department confirmed that it received the May 5, 2012 filing of the estate tax return and the tax payment, but that it had not received check number 3027, in the amount of \$116,637, from Respondent.

9. Respondent failed to file the estate tax return and pay the estimated estate taxes (\$115,000) to the Department on behalf of the estate.

10. Respondent failed to provide any evidence that the Department cashed check number 3027 in the amount of \$116,637, or any accounting as to the whereabouts of those monies.

11. The estate paid the Department \$12,830.07 in penalties and \$9,128.97 in interest because Respondent failed to file the estate tax return and pay the estimated estate taxes.

12. On December 11, 2012, the Complaint Committee served Respondent with a Notice and Order for Hearing and Prehearing Conference which scheduled a prehearing conference for January 17, 2013. The Notice advised Respondent that he would be held in default if he failed to attend the prehearing conference.

13. The Respondent did not appear at the Prehearing Conference, nor did he contact the ALJ, the Office of Attorney General, or the Complaint Committee to seek a continuance or request any other relief.

14. The Notice and Order for Prehearing Conference and Hearing contained the following information:

Respondent's failure to appear at the prehearing conference, or the hearing, may result in a finding that Respondent is in default, that the Complaint Committee's allegations contained in this Notice and Order may be accepted as true, and its proposed action may be upheld.

15. Because Respondent failed to appear the Prehearing Conference, he is in default.

16. Pursuant to Minn. R. 1400.6000, the allegations contained in the Notice and Order for Hearing and Order for Prehearing Conference are taken as true and incorporated by reference into these Findings of Fact.

Based on the Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS

1. The Administrative Law Judge and the Board have jurisdiction in this matter pursuant to Minn. Stat. §§ 14.50, 214.10 and 326A.08.

2. The Respondent was given timely and proper notice of the Prehearing Conference in this matter.

3. The Board has complied with all legal and procedural requirements.

4. Under Minn. R. 1400.6000, the Respondent is in default because of his failure to appear at the Prehearing Conference.

5. When a party defaults, the allegations and the issues set out in the Notice and Order for Prehearing Conference and Hearing may be accepted as true and

deemed proven. The Administrative Law Judge therefore deems the allegations to be true.

Based on the Conclusions, the Administrative Law Judge makes the following:

RECOMMENDATION

IT IS RECOMMENDED that the Board take appropriate disciplinary action against the Respondent's Minnesota Certified Public Accountant Certificate.

NOTICE

This report is a recommendation, not a final decision. The Board will make the final decision after a review of the record. The Board may adopt, reject or modify the Findings of Fact, Conclusions, and Recommendations. Under Minn. Stat. § 14.61, the final decision of the Board shall not be made until this Report has been made available to the parties to the proceeding for at least ten days. An opportunity must be afforded to each party adversely affected by this Report to file exceptions and present argument to the Board. Parties should contact Doreen Johnson Frost, Executive Director, Board of Accountancy, Suite 125, 85 East Seventh Place, St. Paul, MN 55101, (telephone 651-296-7938) to learn the procedure for filing exceptions or presenting argument.

If the Board fails to issue a final decision within 90 days of the close of the record, this report will constitute the final agency decision under Minn. Stat. § 14.62, subd. 2a. In order to comply with this statute, the Board must then return the record to the Administrative Law Judge within 10 working days to allow the Judge to determine the discipline to be imposed. The record closes upon the filing of exceptions to the report and the presentation of argument to the Board, or upon the expiration of the deadline for doing so. The Board must notify the parties and the Administrative Law Judge of the date on which the record closes.

Under Minn. Stat. § 14.62, subd. 1, the agency is required to serve its final decision upon each party and the Administrative Law Judge by first class mail or as otherwise provided by law.

Dated: February 12, 2013



Manuel J. Cervantes
Administrative Law Judge

Reported: Default

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
ADMINISTRATIVE LAW SECTION
P. O. BOX 64620
ST. PAUL, MN 55164-0620

CERTIFICATE OF SERVICE

Case Title: <i>In the Matter of Roger H. Goetz, Jr., CPA Certificate No. 21507, Board File No. 2012-229</i>	OAH Docket No. 16-0100-30214
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Mary Osborn certifies that on Tuesday, February 12, 2013, she served a true and correct copy of the attached Findings of Fact, Conclusions and Recommendation Upon Default; by placing it in the United States mail with postage prepaid or courier service, addressed to the following individuals:

Doreen Johnson Frost Executive Director MN Board of Accountancy 85 E. 7th Place, Suite 125 St. Paul, MN 55101	Michele M. Owen Assistant Attorney General 445 Minnesota St, Ste 1800 Saint Paul, MN 55101
Roger H. Goetz, Jr. DeRaad and Goetz 212 – 15th Ave NE, Ste 1040 Waseca, MN 56093	

Susan Schleisman

