

BEFORE THE ACCOUNTANCY EXAMINING BOARD
OF THE STATE OF IOWA

Professional Licensing Bureau
FILED 9/21/2023 (Date)
IACB
Board / Commission
Robert E. Lampe
Signature, Executive Officer

IN THE MATTER OF:

Case No. 23-06

PAUL E. HAMILTON,
CPA Certificate #R01236,

COMBINED STATEMENT OF
CHARGES, SETTLEMENT
AGREEMENT, AND FINAL ORDER

Respondent.

A. Statement of Charges

1. The Iowa Accountancy Examining Board (“Board”) has jurisdiction of this disciplinary matter pursuant to Iowa Code chapters 17A, 272C, and 542 and authority to issue this Combined Statement of Charges, Settlement Agreement, and Final Order (the “Consent Order”).

2. Respondent Paul E. Hamilton was issued Iowa CPA Certificate number R01236 on March 8, 1969. Respondent’s certificate is currently active and will next be up for renewal on June 30, 2024.

3. The Board received a complaint on Jan. 31, 2023, alleging that Mr. Hamilton, among other things, failed to properly calculate capital gains tax in a state tax return. Subsequent investigation by the board revealed that Mr. Hamilton received communication concerning the alleged miscalculation of tax but failed to act in a timely manner to address the inquiry that originated from the Iowa Department of Revenue. During an informal interview of Mr. Hamilton by the Board’s Disciplinary Committee held in this matter on July 17, 2023, Mr. Hamilton stated that he received the Department of Revenue communication, which came in the middle of tax season. Mr. Hamilton stated that he placed the letter on his desk but could not get back to it for some time because of tax season. Mr. Hamilton provided documentation during the informal hearing that he claims he sent to the Department of Revenue in May 2022, some 30 days after the deadline provided in the letter from Revenue.

4. As a result of not receiving a timely response, the Department of Revenue recalculated the tax owed and imposed penalty and interest charges on Mr. Hamilton’s client. The client then sought reimbursement from Respondent for the penalty and interest charges, which Respondent did not pay. Mr. Hamilton’s client sued Respondent for the penalty and interest charges in small claims court in Pottawattamie County in December 2022, Case No. SCSC130590. Mr. Hamilton did not file an answer to the complaint after receiving proper notice. Thereafter, the district court entered a default judgment against Mr. Hamilton. During the information interview in this matter, Mr. Hamilton asserted that he had already paid the judgment by providing the judgment amount to the local Sheriff. The Board has no proof of payment of the sum in question, and the complainant in this matter has asserted that no such payment has been received.

5. The judgment in question was not brought to the attention of the Board within 30 days as required by Iowa Admin. Code r. 193A-18.3.

6. During the informal discussion held in this matter, Mr. Hamilton noted that recent staffing losses have placed excessive pressure on his firm to meet the needs of the clientele. Apparently, the level of clientele has not been adjusted to match the capacity of available staff.

7. Based on the foregoing, the Board charges Respondent with the following:

- A. Conduct discreditable to the public accounting profession in violation of Iowa Code 542.10(1)(i) and Iowa Admin. Code r. 193A-14.3(12)(i);
- B. Failing to exercise the degree of care which is ordinarily exercised by the average practitioner acting in the same or similar circumstances in violation of Iowa Admin. Code r. 193A-14.3(2)(c);
- C. Negligence in the practice of public accounting in violation of Iowa Admin. Code r. 193A-14.3(6); and
- D. Failure to report a judgment in compliance with Board rules and in violation of Iowa Admin. Code r. 193A-14.3(9)(c).

B. Settlement Agreement and Final Order

1. Respondent admits the above-referenced allegations as set forth in the Statement of Charges.

2. Respondent has a right to a hearing on the charges, but waives Respondent's right to hearing and all attendant rights, including the right to seek judicial review, by freely and voluntarily entering into this Agreement. This Agreement constitutes discipline against Respondent, and is the final agency order in the contested case, pursuant to Iowa Code section 17A.10 and Iowa Admin. Code r. 193-7.4. Respondent acknowledges that Respondent had an opportunity to review this Agreement with legal counsel before signing it.

3. This Agreement shall be part of the permanent record of Respondent and shall be considered by the Board in determining the nature and severity of any future disciplinary action to be imposed in the event of any future violations.

4. Failure to comply with the provisions of this Agreement shall be grounds for further disciplinary action pursuant to Iowa Code section 272C.3(2)(a). However, no action may be taken against Respondent for violations of these provisions without a hearing, or waiver of hearing.

5. This Agreement shall not preclude the Board from taking appropriate action in the event the Board receives any further complaints or information against Respondent.

6. This Agreement is a public record available for inspection and copying in accordance with the requirements of Iowa Code chapter 22.

7. Respondent agrees the State's counsel may present this Agreement to the Board and may have ex parte communications with the Board while presenting it.

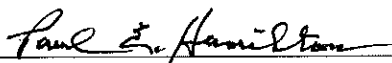
8. This Agreement is subject to approval of the Board. If the Board fails to approve this Agreement, it shall be of no force or effect on either party, and it shall not be admissible for any purpose in further proceedings in this matter. If the Board approves this Agreement, it shall fully dispose of all issues in this case.

IT IS THEREFORE ORDERED:

- A. **Reprimand.** Respondent is reprimanded for the aforementioned statutory and regulatory violations. Respondent is further cautioned against neglecting proper communication with clientele. The facts of this case make clear that Respondent should review his practice and right-size the clientele to the available staffing.
- B. **Civil Penalty.** Respondent shall pay a civil penalty of \$1,000 within 30 days from the Effective Date of this Settlement Agreement. *See Iowa Admin. Code r. 193A-16.3.*
- C. **Educational Requirement.** No later than 30 days from the Effective Date of this Settlement Agreement, Respondent shall take the course entitled “*New CPA Essentials: Ethics, Connections & Communications*,” a 14-hour course available from the American Institute of CPAs. Respondent shall provide to the Board sufficient documentation to prove that Respondent has completed the CPE hours required by this Agreement. Respondent shall refrain from reporting in any future reporting period the CPE hours required by this Settlement Agreement. If for any reason Respondent is unable to take the course, Respondent shall communicate with the Board’s executive officer, who will work with Respondent and in consultation with the Disciplinary Committee to identify a replacement course. Course replacements may be made without formal amendment of this Settlement Agreement.
- D. **Proof of Satisfaction of Judgment.** No later than 60 days from the Effective Date of this Settlement Agreement, Respondent shall provide documentary proof by way of a court filing that the judgment that arose out of small claims case number 04781 SCSC130590 has been satisfied. *See Iowa Code § 624.37.*
- E. **Additional Terms.** Respondent shall provide the Board with access to records as necessary for the Board to verify compliance with this Settlement Agreement.

AGREED AND ACCEPTED:

Respondent



August 30, 2023
Date

Iowa Accountancy Examining Board

Bradley L. Hauge
By: Brad Hauge, Chairperson, CPA

October 5, 2023
Date (the "Effective Date")