

Department of Commerce
 Professional Licensing Bureau
FILED 10/30/13 (Date)
 J.A. Acobney, Executive Director
 Board / Commission
 Signature, Executive Officer

**BEFORE THE ACCOUNTANCY EXAMINING BOARD
 OF THE STATE OF IOWA**

IN THE MATTER OF:) **Case No. 13-06**
)
James Michael Menard)
 CPA #R05300,)
) **CONSENT ORDER**
 Respondent:)

The Iowa Accountancy Examining Board ("Board") and Respondent agree as follows:

1. The Board has jurisdiction of this disciplinary matter pursuant to Iowa Code chapters 17A, 272C, and 542 (2013).
2. Respondent was issued Iowa CPA certificate number R05300 on June 15, 2009. The certificate will next expire on June 30, 2014.
3. The Board charged Respondent with failing to cooperate with a Board investigation in violation of Iowa Code sections 272C.10(3) and 542.10(1)(j), and 193A Iowa Administrative Code 14.3(7)(c). Hearing is set for October 30, 2013.
4. The Board and Respondent have agreed to fully resolve these charges through the following Consent Order rather than proceed to contested case hearing. Respondent has now fully responded to the Board's inquiries. If the matter proceeded to hearing he would provide mitigating circumstances and assure the Board of future compliance. This is a resolution of a disputed matter in which Respondent does not admit liability.
5. 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 Order. This Consent Order constitutes discipline against the Respondent, and is the final agency order in the contested case, pursuant to Iowa Code section 17A.10 and 193 Iowa Administrative Code 7.4. Respondent acknowledges that he had an opportunity to review this Consent Order with legal counsel before he signed it.
6. Respondent agrees the State's counsel may present this Order to the Board and may have ex parte communications with the Board while presenting it.
7. This Order 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.
8. This Consent Order is a public record available for inspection and copying in accordance with the requirements of Iowa Code chapter 22 (2013).

9. Failure to comply with the provisions of this Order shall be grounds for further disciplinary action pursuant to Iowa Code section 272C.3(2)(a) (2013). However, no action may be taken against Respondent for violations of these provisions without a hearing, or waiver of hearing.

10. This Order is subject to approval of the Board: (a) If the Board fails to approve this Order, 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; (b) If the Board approves this Order, it shall fully dispose of all issues in this case.

IT IS THEREFORE ORDERED:


- A. Respondent is cited for not timely responding to a Board inquiry and is warned that any future violation of like kind will result in further discipline.
- B. Respondent shall timely respond to future Board inquiries.

AGREED AND ACCEPTED:

The Respondent

The Iowa Accountancy Examining Board


James Michael Menard, CPA


By: Tom R. Thompson, CPA, Chair

10/22/13
Date

10/30/13
Date

FILED 10/24/13 (Date)

BEFORE THE ACCOUNTANCY EXAMINING BOARD
OF THE STATE OF IOWA

IA Account Ex Board

[Redacted Signature]

Signature, Executive Officer

IN THE MATTER OF:)	CASE NO. 13-06
)	
James Michael Menard)	
CPA #R05300)	
)	CONTINUANCE ORDER
RESPONDENT)	

The Iowa Accountancy Examining Board (Board) has issued a Notice of Hearing and Statement of Charges to James Michael Menard (Respondent) scheduling a hearing set for October 30, 2013, at 11 a.m. On October 22, 2013, the Assistant Attorney General representing the State requested a Motion to Continue because the Respondent has signed a consent order, which will be presented to the Board for its approval on the October 30, 2013, date. The hearing is hereby CONTINUED until further order of the Board.

Dated this 24th day of October, 2013.

[Redacted Signature]

Toni A. Bright, Executive Officer
Iowa Accountancy Examining Board
200 E. Grand, Suite 350
Des Moines, IA 50309

CC by email:

Pamela Griebel, Assistant Attorney General
Hoover Building., 2nd Floor

Heather Palmer, Administrative Law Judge

Mathew Woods, Attorney for Respondent

FILED 10/24/13 (Date)
IA. Accountancy Bd. Board

BEFORE THE ACCOUNTANCY EXAMINING BOARD
OF THE STATE OF IOWA

[Redacted]
Signature, Executive Officer

IN THE MATTER OF:)	Case No. 13-06
)	
James Michael Menard)	
CPA #R05300,)	State's Motion to Continue
)	
Respondent.)	

The State moves to continue the hearing set for October 30, 2013, as follows:

- Hearing is set for October 30, 2013. The State received a signed consent order that if acceptable to the Board will fully resolve the pending case. The State will recommend the consent order.
- It is in the interest of administrative judicial economy for the Board to take up the consent order on the date now set for hearing.
- Respondent's counsel agrees with this motion. Respondent's deadline (set at the prehearing conference) to identify witnesses and exhibits should also be continued.

WHEREFORE, the State requests that the hearing and Respondent's deadlines for identifying witnesses and exhibits be continued until further order of the Board.

Respectfully submitted,
THOMAS J. MILLER

[Redacted Signature]

PAMELA GRIEBEL
Assistant Attorney General
Administrative Law Division
Hoover Building, 2nd Fl.
Des Moines, Iowa 50319
Telephone: (515) 281-6403
Pamela.Griebel@Iowa.gov

Original to Toni Bright

Copies by email to:

Matthew Woods
ALJ Heather Palmer

Proof of Service	
The undersigned certifies that the foregoing instrument was served upon each of the persons identified as receiving a copy by delivery in the following manner on: 10/23/2013.	
<input checked="" type="checkbox"/> U.S. Mail	<input type="checkbox"/> FAX
<input type="checkbox"/> Hand Delivery	<input type="checkbox"/> Overnight Courier
<input type="checkbox"/> Federal Express	<input type="checkbox"/> Other
<input type="checkbox"/> Electronically	
Signature:	[Redacted]

BEFORE THE IOWA ACCOUNTANCY EXAMINING BOARD
OF THE STATE OF IOWA

IN THE MATTER OF:)	
)	
)	Case No. 13-06
James Michael Menard)	
CPA No. R05300)	NOTICE OF HEARING AND
)	STATEMENT OF CHARGES
)	IN A DISCIPLINARY CASE
Respondent.)	

The Iowa Accountancy Examining Board ("Board") issues this Notice of Hearing pursuant to Iowa Code sections 17A.12(2), 17A.18(3), and 542.10. Respondent James Michael Menard is a certified public accountant in Iowa. He was issued Certificate No. R05300 on December 15, 2008. the certificate is in active status and is scheduled to expire on June 30, 2014. The Board has jurisdiction of this matter pursuant to Iowa Code chapters 17A, 272C, and 542.

**A. TIME, PLACE AND NATURE OF HEARING,
AND HEARING PROCEDURES**

- Hearing.** A disciplinary contested case hearing will be held before the Board on the **30th day of October, at 10:30 o'clock, a.m.**, at 200 E. Grand, 3rd Floor Professional Licensing Conference Room, Des Moines, Iowa.
- Answer.** Within 20 days of the date you are served with this Notice you must file an answer to the charges as provided in 193 Iowa Administrative Code 7.9.
- Prehearing Conference.** A prehearing conference will be held by telephone on **October 17th, at 1:30 o'clock, p.m.**, before an Administrative Law Judge from the Iowa Department of Inspections and Appeals ("ALJ"). You are responsible for notifying the Board office of the telephone number at which you or your counsel can be reached. Board rules on prehearing conferences may be found at 193 Iowa Administrative Code 7.21.

4. **Presiding Officer.** The full Board shall serve as presiding officer at hearing, pursuant to Iowa Code section 272C.6(1) and 193 Iowa Administrative Code 7.10(1). The Board may request that an ALJ make initial rulings on prehearing matters, and be present to assist and advise the Board at hearing, as described in 193 Iowa Administrative Code 7.10(4).

5. **Hearing Procedures.** Board rules on hearing procedures may be found at 193 Iowa Administrative Code chapter 7, and 193A Iowa Administrative Code chapter 16. You have the right to respond to the charges, produce evidence on your behalf, cross-examine witnesses, and examine any documents introduced at hearing. Consult rule 193 Iowa Administrative Code 7.22 if you need to request an alternative time or date. The hearing may be open to the public or closed to the public at the discretion of the Respondent.

6. **Default.** If you fail to appear at hearing, the Board may enter a default decision or proceed with the hearing and render a decision in your absence, in accordance with Iowa Code section 17A.12(3) and 193 Iowa Administrative Code 7.27.

7. **Prosecution.** Licensee disciplinary cases are prosecuted by an Assistant Attorney General acting on behalf of the public interest (the State). Copies of all pleadings shall be filed with the Board, with copies mailed to: Assistant Attorney General Pamela Griebel, Iowa Department of Justice, Hoover Building, 2nd Fl., and Des Moines, Iowa, 50319. Phone: 515-281-6403; Fax: 515-281-7551; E-mail: pgriebe@ag.state.ia.us.

8. **Respondent's Counsel.** Copies of all pleadings filed with the Board shall be provided to: [Unknown]

9. **Settlement.** The procedural rules governing the Board's settlement process are found at 193 Iowa Administrative Code 7.42. If you are interested in pursuing settlement of this matter, please contact Assistant Attorney General Pamela Griebel.

10. **Communications.** You may not contact Board members by phone, letter, facsimile, e-mail, or in person about this Notice of Hearing and Statement of Charges. Board members may only receive information about the case when all parties have notice and an opportunity to participate, such as at the hearing or in pleadings you file with the Board office

and serve upon all parties in the case. You should direct any questions to Assistant Attorney General Pamela Griebel, or Toni Bright, the Board's Executive Officer, at 515-281-7468.

B. STATEMENT OF CHARGES AND CIRCUMSTANCES

11. The Board found probable cause to file charges on the 31st day of July, 2013.

12. The Board received a complaint in April 2013 from an Iowa municipality alleging that Respondent failed to produce an audit for years after accepting monies to pay for an audit. The Board has attempted multiple times to secure Respondent's explanation.

13. Respondent has failed to cooperate with the Board's investigation in violation of Iowa Code sections 542.10(1)(j) and 272C.10(3), and 193A IAC 14.3(7)(c).

**This Notice of Hearing and Statement of Charges is filed and issued
on the 5th day of August, 2013.**



Toni Bright, Executive Officer
Iowa Accountancy Examining Board
1920 SE Hulsizer Road
Ankeny, Iowa 50021
Phone: 515-281-7468
Fax: 515-281-7411
Toni.Bright@iowa.gov

Copies to:

Assistant Attorney General Pamela Griebel
Respondent
Department of Inspections and Appeals, assigned Administrative Law Judge