

MAINE BOARD OF ACCOUNTANCY

IN RE: Valerie Alex) DECISION-DISCIPLINARY ACTION
Complaint # 2011-ACC-7872)

I. PROCEDURAL HISTORY

Pursuant to the authority found in 32 M.R.S.A. § 12273-A, 10 M.R.S. § 8003-A, *et seq.*, 10 M.R.S. § 8003(5-A), and 5 M.R.S. § 9051, *et seq.* the Maine Board of Accountancy (Board) met in public session at the Board's offices located in Gardiner, Maine on June 28, 2012 at 8:30 a.m. The purpose of the meeting was to conduct an adjudicatory hearing to decide whether grounds exist for the Board to take disciplinary action against Valerie Alex's license or certificate as a Certified Public Accountant. A quorum of the Board was in attendance during all stages of the proceedings. Participating and voting Board members were Board Chairman Peter Chandler, C.P.A., Tracy Harding, C.P.A., and Mike Nickerson, C.P.A. Valerie Alex was neither present nor represented by legal counsel. Robert C. Perkins, Ass't. Attorney General, presented the State's case. James E. Smith, Esq. served as Presiding Officer.

The Board convened the hearing and preliminarily determined that there were no conflicts of interest among the Board members that would cause any to recuse from the proceeding. Subsequently, State's exhibits 1-9 were admitted into the Record as were the Board's Rules and statutes. The Board then found that Valerie Alex had been served with the Notice of this hearing by first class mail on or about May 29, 2012. Following the State's opening statement and the taking of testimony and closing argument, the Board deliberated and made the following findings of fact by a preponderance of the credible evidence regarding the allegations in the Notice of Hearing.

II. FINDINGS OF FACT

1. Valerie Alex, West Rockport, Maine, was first licensed in the State of Maine as a certified public accountant on October 19, 1992. Her most recent license expired on September 30, 2010.

2. Valerie Alex also held an accountancy firm license since December 9, 2008, which expired on December 31, 2009. No renewal forms have been received for either license.

3. Ms. Alex has been the subject of previous board disciplinary actions. She signed a consent agreement with the Board effective December 14, 2005 and admitted therein, among other things, that:

(A) she “failed to promptly and adequately perform the work that she understood she had agreed to undertake for the client;”

(B) she failed to clearly arrive at, and confirm with a client, an adequate understanding of the scope of the services that she had agreed to provide to the client which resulted in an apparent misunderstanding between her and the client concerning responsibility for his quarterly tax filings;

(C) Ms. Alex also failed to promptly return all documents to the client upon his request at the termination of the relationship.

4. As a result of these consent agreement violations, she was issued a warning and ordered to pay a civil penalty of \$1,000.

5. Subsequently, another complaint was brought against Valerie Alex and adjudicated by the Board.

6. That complaint resulted in a Board decision and order dated February 7, 2012 in which:

(A) Valerie Alex was issued a Reprimand for three violations.

(B) Valerie Alex was ordered to pay a civil penalty of \$1,500 for each violation, totaling \$4,500.

7. The above violations were ordered as a result of:

(A) Ms. Alex’s failure to file the federal and Maine 2008 income tax returns for Benjamin C. Allen.

(B) Ms. Alex’s failure to contact the IRS to attempt to resolve the issue of whether Mr. Allen would have to pay interest or penalties for late filing of the returns after she agreed to do so on or about April 6, 2011, and after receiving a power of attorney from Mr. Allen shortly thereafter to handle the matter.

(C) Ms. Alex’s failure to produce documents requested in a letter to her from Assistant Attorney General Robert C. Perkins dated August 8, 2011.

8. Subsequently, the Board received a complaint against Valerie Alex filed by Cheryl Hersom, Board Administrator, for continuing to act in a capacity requiring a license after the expiration of

that license. More specifically, the allegation, proved by the State through the testimony of Ms. Hersom, was that:

(A) Ms. Alex continued to maintain an office at 2970 Camden Road (Route 90) in Warren, Maine with a sign identifying the location as "Valerie Alex, CPA."

(B) Ms. Alex offered her services to the public through a website address of www.valeriealexcpa.com. The website, *inter alia*, referred to Valerie Alex as a certified public accountant and clearly advertised that Ms. Alex's business involved the preparation of tax returns and/or a complete business audit. The website additionally extended her greetings to the public of "Welcome to Valerie Alex, Certified Public Accountants!" and also included the following language, "At Valerie Alex, Certified Public Accountants, we know you want a CPA firm that takes enough time to provide the quality work and personal service you deserve..." The website was updated after the nonrenewal of her licenses.

(C) The Board, in addition to the above findings, further found that Ms. Alex had failed to timely pay the fine in the amount of \$4,500 imposed by the Board in its February 7, 2012 decision and order. No payment has been made regarding that sanction as of the date of this hearing.

9. On February 7, 2012, Cathy Neumann, complaint coordinator for the Office of Professional and Occupational Regulation, forwarded a letter by certified and first class mail to Valerie Alex with an enclosed copy of the February 7, 2012 Board decision and order. The correspondence informed Ms. Alex that the \$4,500 fine was due within 30 days of her receipt of the letter.

10. Ms. Alex did not sign for the certified letter but did not return the first class mailing.

11. Ms. Neumann sent a second letter dated March 12, 2012 to Ms. Alex informing her that she had not paid the fine as ordered by the Board and that her license had expired. Therefore, she was informed that she was ineligible for re-licensure due to her noncompliance with the decision and order. The second letter further stated that regardless of whether Ms. Alex applied for re-licensure in the future, "you must take care of this outstanding obligation...We may also refer this matter to the Attorney General for enforcement. I urge you to take care of this matter immediately."

12. As of the June 28, 2012 date of the hearing in this matter, no response to this letter has been received from Ms. Alex.

III.

CONCLUSIONS OF LAW

The Board voted 3-0 that Valerie Alex violated the provisions of:

1. 10 M.R.S.A. Section 8003 (5-A)(A)(7) for "continuing to act in a capacity requiring a license after the expiration of that license," and related provisions 32 M.R.S.A. Sections 12275 (3)¹ & (8)² and 32 M.R.S.A. Section 12277.³
2. 10 M.R.S.A. Section 8003 (5-A)(A)(9), "failure to comply with an order of the Board."

IV.

SANCTIONS

The Board expressed its concerns that not only has Ms. Alex failed to respond to any Board correspondence or make payment of the previously ordered fine, but she has been without a license since September 30, 2010 and her firm has been without a license since December 31, 2009, yet she continues to hold herself and her firm out to the public as licensed.

Therefore, the Board's administrative staff is hereby ordered to forward this decision to the federal and state tax authorities for their information and action. The matter shall also be referred to the State Attorney General's Office.

The Board, based on the above findings of fact and the present day flaunting by Valerie Alex of her unlicensed practice and her unresponsiveness to the Board's several communications, orders by a vote of 3-0 that:

1. Valerie Alex shall pay a **fine** of \$1,500 for both violations for a total of **\$3,000**. The fines are to be paid within 30 days of receipt of this Decision and Order and are in addition to any and all outstanding fines and costs ordered to be paid by Ms. Alex to the Treasurer, State of Maine and Board. Payment shall be by check or money order made payable to the Treasurer, State of Maine

¹ 3. Use of title. A firm may not assume or use the title or designation "certified public accountant," the abbreviation "CPA" or any other title, designation, words, letters, abbreviation, sign, card or device indicating that the firm is composed of certified public accountants, unless:

A. The firm holds a valid license issued under section 12252; and [2007, c. 402, Pt. Z, §24 (AMD).]

B. A simple majority of all partners, officers, shareholders, members or managers of the firm are certified public accountants licensed in a state

² 8. Unauthorized practice. No person holding a certificate may engage in the practice of public accountancy, unless that person also holds a valid license issued under this chapter

³ A person who violates section 12275 is subject to the provisions of Title 10, section 8003-C. [2007, c. 402, Pt. Z, §26 (RPR).]

and mailed to Cathy Neumann, Complaint Coordinator, Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, 35 State House Station, Augusta, Maine 04333-0035.

2. Ms. Alex's certificate authorizing her to act as a **certified public accountant is hereby REVOKED** and she is further ordered to forthwith surrender the certificate to the Board.

The Board further orders Ms. Alex to forthwith cease and desist any and all advertising both as a certified public accountant and an accounting firm. The sign outside Ms. Alex's office at 2970 Camden Road (Route 90) in Warren, Maine identifying the location as "Valerie Alex, CPA" and her website with an address of www.valeriealexcpa.com. shall be removed forthwith.

SO ORDERED.

Dated: 9/19/2012



Peter Chandler, Chairman
Maine Board of Accountancy

V. **APPEAL RIGHTS**

Pursuant to the provisions of 5 M.R.S. Sec. 10051.3 and 10 M.R.S. Sec. 8003(5)(G) and (5-A)(G), any party that appeals this Decision and Order must file a Petition for Review in the Maine District Court having jurisdiction within 30 days of receipt of this Order.

The petition shall specify the person seeking review, the manner in which they are aggrieved and the final agency action which they wish reviewed. It shall also contain a concise statement as to the nature of the action or inaction to be reviewed, the grounds upon which relief is sought and a demand for relief. Copies of the Petition for Review shall be served by Certified Mail, Return Receipt Requested upon the Maine Board of Accountancy, all parties to the agency proceedings and the Attorney General.