

**STATE OF MINNESOTA
BOARD OF ACCOUNTANCY**

In the Matter of the CPA Certificate of

**STIPULATION AND
CONSENT ORDER**

Thomas Michael Day
CPA Certificate No. 30903

Board File No. 2023-001

STIPULATION

Thomas Day ("Respondent") and the Minnesota Board of Accountancy's Complaint Committee stipulate that, subject to Board's review and discretionary approval, the Board may issue a consent order that imposes the following sanctions:

A. Respondent's CPA certificate, No. 30903, is CENSURED and REPRIMANDED pursuant to Minn. Stat. § 326A.08 (2022).

B. Respondent shall pay to the Board a CIVIL PENALTY of Five Hundred Dollars (\$500). Respondent shall submit a civil penalty of \$500 by check to the Board within sixty (60) days of the Board's approval of this Stipulation and Consent Order.

C. Respondent shall remain law abiding and comply with all statutes and rules within the Board's jurisdiction. *See* Minn. Stat. ch. 326A (2022) and Minn. R. ch. 1105 (2021).

D. Respondent shall report in writing within ten days any and all violations of this stipulation and consent order to the Board's Executive Director.

Respondent and the Committee enter into this stipulation based on the following findings of fact, conclusions of law, and other stipulated provisions:

Findings of Fact

1. The Board issued Respondent a CPA certificate on May 16, 2018.
2. Respondent renewed his certificate online for 2023 on December 22, 2022.
3. With his 2023 renewal, Respondent reported that his Fiscal Year 2022 continuing professional educational (CPE) hours were earned on time and answered yes to the affirmation that states: "I certify that I have completed the following CPE hours and such hours comply with the 1-year and rolling 3-year CPE requirements contained in Minnesota Rules 1105.3000 and 1105.3100."
4. Despite Respondent certifying that his CPE hours were complete and earned on time, Respondent was not in compliance with the Fiscal Year 2022 CPE requirements and needed to report carryback hours.
5. Respondent reported his Fiscal Year 2022 carryback hours online before submitting the certificates and the noncompliance fee to the Board office.
6. Respondent's Fiscal Year 2022 carryback hours and noncompliance fee were received by the Board on January 3, 2023.
7. Respondent's online renewal was refunded back to his credit card on January 10, 2023, and his status was changed to Not Current Active with a December 31, 2022 expiration.
8. The Board received Respondent's renewal and issued the license on January 23, 2023.

Conclusion of Law

1. The Board has authority to license and regulate certified public accountants and to take disciplinary action as appropriate. Minn. Stat. ch. 326A (2022).
2. Respondent violated Minn. Stat. 326A.08 subd. 5(a)(1), (5), (8) and (10) (2022) and Minn. R. 1105.3000(A), 1105.5600, subp. 1(A) and (C)(5), and 1105.7800(A) and (B) (2021).
3. This stipulation and consent order is in the public interest.

Other Stipulated Provisions

1. This stipulation and consent order must be approved by the Board to become effective.
2. Respondent agrees that the Committee may move the Board *ex parte*, with or without advance notice to the Respondent, to approve this stipulation and consent order. Respondent understands that the Board may either approve the stipulation and consent order or not approve it. This stipulation and the files, records, and proceedings associated with this matter may be reviewed by the Board in its consideration of the Committee's motion.
3. If approved by the Board, this stipulation and consent order shall be classified as public data. Minn. Stat. § 13.41, subd. 5 (2022).
4. If the Board does not approve this stipulation and consent order, then the matter remains unresolved and the Committee may either seek to negotiate a revised stipulation and consent order with Respondent to present to the Board or issue an order commencing a contested-case hearing before an Administrative Law Judge at the Office of Administrative

Hearings. See Minn. Stat. §§ 14.57–.62, 214.10, subd. 2 (2022) (describing administrative hearing process).

5. Respondent agrees that if this case comes before the Board again after it reviews and discusses this stipulation and consent order, Respondent waives any claim that the Board was prejudiced by its review and discussion of this stipulation and consent order and any records relating to it.

6. Respondent acknowledges that they were advised by the Committee of their right to a contested-case hearing in this matter before an Administrative Law Judge, to file exceptions and make argument to the Board after the hearing, and to seek judicial review from any adverse decision rendered by the Board. Respondent hereby expressly waives those rights. Respondent was further advised by the Committee of their right to be represented by counsel and that they knowingly waive that right.

7. Respondent has read, understands, and agrees to this stipulation and has voluntarily signed it. It is expressly understood that this stipulation contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise. If approved by the Board, a copy of the final stipulation and consent order shall be served personally or by first class mail on Respondent. The Board's order shall be effective when it is signed by the Chair of the Board or the Chair's designee.

8. Pursuant to Minn. Stat. § 16D.13 (2022), any civil penalty imposed by this stipulation and consent order shall begin to accrue simple interest in accordance with that section thirty days after the civil penalty is due. Pursuant to Minn. Stat. § 16D.17 (2022), thirty days after any civil penalty imposed by this stipulation and consent order is due, the Board may

file and enforce any unpaid portion of the civil penalty as a judgment against Respondent in district court without further notice or additional proceedings.

Thomas Michael Day
Thomas Michael Day, CPA

STATE OF Minnesota

COUNTY OF Dennepin

This instrument was acknowledged before me on Aug 1 by Thomas Michael Day.



Heather Lysne
(Signature of notary officer)

My commission expires: 1/31/2025

COMPLAINT COMMITTEE

Charles Mcelroy
CHARLES MCELROY, CPA
Chair

Dated: August 10, 2023

CONSENT ORDER

Upon consideration of this stipulation and consent order, and based upon all the files, records, and proceedings herein, all terms of the stipulation and consent order are approved. Accordingly, the Board hereby ADOPTS the stipulation and issues the ORDER described above.

Dated: August 16, 2023

STATE OF MINNESOTA
BOARD OF ACCOUNTANCY
Amenda Gorzini
[Signature] CPA FOR!
CHARLES SELCER, CPA
Board Chair