

STATE OF MINNESOTA
BOARD OF ACCOUNTANCY

In the Matter of the Suspended Certified
Public Accountant Certificate of Ronak
Shah and the Suspended Certified Public
Accountant Firm Permit of Shah &
Company, Ltd.

**ORDER GRANTING
SUMMARY DISPOSITION**

The above-entitled matter came before the Minnesota Board of Accountancy on December 8, 2022.

On September 9, 2022, Administrative Law Judge James LaFave (ALJ) recommended granting the Complaint Committee's motion for summary disposition against Respondents Ronak Shah and Shah & Company, Ltd. The ALJ's report is attached and incorporated by reference. On September 27, the Board notified the parties of their right to file arguments and exceptions pursuant to Minn. Stat. § 14.61, subd. 1 (2020). On November 4, the Committee filed a written argument and a proposed order. Respondents did not submit any written arguments or exceptions to the ALJ's report and, instead, requested oral argument before the Board. The Board then heard oral argument on December 8.

Based on all the facts, records, and proceedings herein, the Board makes the following:

FINDINGS OF FACT

1. The Board adopts as its own factual findings the "Factual Background" in the ALJ's report.
2. In addition to the other regulatory history listed in the ALJ's report, in 2011, the Board censured and reprimanded Shah & Company's president and sole owner and imposed a

\$1,075 civil penalty because he failed to timely comply with the Board's continuing professional education requirements.

3. Respondents' respective authorities were most recently suspended for two years between March 11, 2020, through March 10, 2022. On that date, the status of their authorities changed from suspended to expired; nevertheless, before their suspensions had terminated, on November 8, 2021, the Committee commenced a contested case proceeding against Respondents for misconduct that occurred during their suspensions.

4. Any conclusions of law from the ALJ's report that should properly be termed findings of fact are hereby adopted as such.

CONCLUSIONS OF LAW

1. The Board adopts as its own conclusions of law the conclusions of law in the ALJ's report.

2. This action against Respondents' authorities, formally commenced on November 8, 2021, is timely. Minn. Stat. § 326A.08, subd. 10 (2020).

3. Any findings of fact from the ALJ's report that should properly be termed conclusions of law are hereby adopted as such.

4. This order is in the public interest.

ORDER

Pursuant to Minn. Stat. § 326A.08, subsd. 5(a), 10, Ronak Shah's certified public accountant certificate and Shah & Company's certified public accountant firm permit are revoked.

Pursuant to Minn. Stat. § 326A.08, subd. 7(a), Ronak Shah and Shah & Company, jointly and severally, shall pay a \$5,000 civil penalty to the State of Minnesota.

Pursuant to Minn. Stat. § 16D.17(1) (2020), Respondents are notified that this shall become a final civil penalty unless they request a hearing from the Board on the civil penalty within thirty days. Pursuant to Minn. Stat. § 16D.17(2), Respondents are notified that when the civil penalty becomes final, the Board may file and enforce the civil penalty in the same manner as a district court judgment against them without further notice or additional proceedings. Respondents are notified that simple interest computed in accordance with Minn. Stat. § 16D.13 (2020), shall begin to accrue on the civil penalty thirty days after the date of this order.

Dated: 12/08/2022

MINNESOTA
BOARD OF ACCOUNTANCY


GODSON SEWATH
FOR:

Charles Selcer, Chair

MEMORANDUM

Summary disposition is appropriate because there are no genuine issues of material fact and the Committee is entitled to judgment as a matter of law. The central issue before the Board thus is the appropriate discipline to impose against Respondents in this case.

The Committee requested the revocation of Ronak Shah's certified public accountant certificate and Shah & Company's certified public accountant firm permit, plus a \$10,000 penalty against Respondents. In contrast, Respondents argue that any misconduct they committed was merely "inadvertent and unintentional" and that they removed the "CPA" designation from most of their business documents after they were suspended in March 2020. Respondents further blame the Board for not giving them "specific guidelines to let us know what does and does not constitute a violation," while at the same time claiming that changing their email server domain to comply with the law would be cost prohibitive. Respondents also represent that, other than the server, they promptly cured ongoing issues upon receiving notice from the Committee. Finally, in a May 29, 2022 email to the ALJ, Respondents indicated that they have been working through difficult personal matters that they would like to remain private.¹

Respondents have a troubling regulatory history spanning a decade that has already resulted in multiple suspensions and fines. Unfortunately, these prior disciplinary actions seemingly have not deterred Respondents from committing future violations. While the Board appreciates that Respondents at least made some attempts in 2020 to remove the "CPA" designation from various documents after their authorities were suspended, their efforts were

¹ The Board has reviewed this email and does not consider it to be particularly probative in relation to the timing or the substance of the violations in this case. Moreover, this email was submitted to the ALJ solely as an attempt to justify why they provided an untimely written response to the Committee's summary disposition motion despite deadlines established in the applicable rules and the ALJ's scheduling order.

obviously inadequate and demonstrate a disturbing pattern of poor professional judgment and inability to comply with the law. Indeed, within a matter of months after they were suspended, Respondents repeatedly and improperly held themselves out to the public as being authorized to perform activities requiring a certified public accountant certificate and a certified public accountant firm permit. Moreover, instead of accepting responsibility for this undeniable misconduct, Respondents engaged in misdirection by claiming that their client filed the complaint against them with the Board only to avoid paying for services rendered and blaming the Board for not providing more specific guidelines on prohibited conduct after they were suspended.

The Board agrees with the Committee that Respondents' authorities should be revoked. The Board does not take this action lightly. Nevertheless, it sees no reasonable alternative because Respondents have repeatedly violated the law and disregarded the consequences of their misconduct. In this case, within a few months and despite their ongoing suspensions, Respondents once again violated the law and the Board's order by unlawfully holding out as a CPA and CPA firm. The suspension of their authorities obviously did not deter future violations or otherwise sufficiently motivate Respondents to comply with the law. Respondents' inability to comply with the Board's suspension order, combined with their history of past violations, leads the Board to conclude that they do not have the capacity to act in a competent and professional manner. The Board thus revokes Shah's CPA certificate and Shah & Company's firm permit.²

² While Respondents have an ability to seek reinstatement of their revoked authorities pursuant to Minn. Stat. § 326A.09, the Board cautions them to develop a demonstrated record of compliance and modified behavior to offset their egregious and extensive regulatory history before submitting such a discretionary request to the Board. Furthermore, any such petition should also establish that Shah's personal matters are and have been appropriately managed.

Civil Penalties

More than a revocation is required, however, because Respondents harmed the public interest by falsely holding themselves out as a CPA and CPA firm in violation of the Board's suspension order. The record establishes a minimum of seven distinct violations by Shah (two letters, three claims of "Ronak R. Shah, CPA," and two uses of the domain containing "CPA") and four violations by Shah & Company (two letters and two uses of the domain). As such, pursuant to Minn. Stat. § 326A.08, subd. 7(a) (2020), the Board has the authority to impose a maximum penalty of \$35,000 against Shah and \$20,000 against Shah & Company.

The factors the Board must consider when assessing fines are set forth in Minn. Stat. § 14.045, subd. 3(a)-(b) (2020). Factors weighing against Respondents include their long history of violations, the short time elapsed since their last violations, and the number of current and previous violations. Factors weighing in Respondents' favor include the lack of direct evidence to establish willful intent—as opposed to negligence, incompetence, or indifference—or economic benefit from their violations. Finally, while Respondents are repeat offenders, they keep finding new ways to violate the law.

The Board previously imposed a three-year suspension and a \$4,000 fine against Ronak Shah, a censure and reprimand and a \$1,075 fine against Shah & Company's owner, and most recently a two-year suspension and a \$4,000 fine against Respondents. This disciplinary history represents a pattern of poor judgment by Respondents involving circumstances seeking to gain a financial advantage. The same can be said for unlawfully holding themselves out as a CPA and CPA firm. Furthermore, Respondents simply have not demonstrated acceptance of responsibility for their current or past violations.

Based on these considerations, and to deter future misconduct and protect the public interest, the Board imposes a \$5,000 civil penalty, jointly and severally, against Respondents.

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE BOARD OF ACCOUNTANCY

In the Matter of the Suspended Certified
Public Accountant Certificate of Ronak
Shah

**RECOMMENDED ORDER ON THE
BORAD OF ACCOUNTANCY'S MOTION
FOR SUMMARY DISPOSITION**

&

the Suspended Certified Accountant
Firm Permit of Shah & Company, Ltd.

This matter came before Administrative Law Judge James E. LaFave upon the Minnesota Board of Accountancy's Motion for Summary Disposition (Motion).

Allen Cook Barr, Assistant Attorney General, represents the Complaint Committee (Committee) of the Minnesota Board of Accountancy (Board). Ronak Shah (Shah) represents himself and Shah & Company, Ltd. (SCL), without counsel (collectively Respondents).

On April 20, 2022, the Committee moved for summary disposition. Shah and SCL did not file a response. A hearing on the Motion was held on May 31, 2022. The Motion record closed that day at the conclusion of the hearing.

Based on the record and for the reasons set forth in the accompanying Memorandum, the Administrative Law Judge makes the following:

RECOMENDATION AND ORDER

IT IS RESPECTFULLY RECOMMENDED that:

1. The Committee's Motion for Summary Disposition be **GRANTED**.
2. That the Board impose discipline on the Respondents' licenses.

IT IS HEREBY ORDERED THAT:

All further proceedings in this matter are **CANCELLED**.

Dated: September 8, 2022


JAMES E. LAFAVE
Administrative Law Judge

NOTICE

This Report is a recommendation, not a final decision. The Board of Accountancy 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 (2022), the Board shall not make a final decision until this Report has been made available to the parties to the proceeding for at least ten calendar days. The parties may file exceptions to this Report and the Board must consider the exceptions in making a final decision. Parties should contact the Executive Director of the Minnesota 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.

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 Administrative Law Judge of the date the record closes. 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 (2022). In order to comply with this statute, the Board must then return the record to the Administrative Law Judge within ten working days to allow the Judge to determine the discipline to be imposed.

Under Minn. Stat. § 14.62, subd. 1 (2022), the Board 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.

MEMORANDUM

I. Factual Background

Shah held a certified public accountant (CPA) certificate.¹ In 2011, the Board suspended his certificate for three years after he misappropriated funds from an

¹ Declaration (Decl.) of Doreen Johnson at ¶ 2.

organization that he chaired.² Following the suspension, Shah's certificate was reinstated, but the certificate was suspended again in 2020.³

SCL possesses a suspended CPA firm permit.⁴ In March 2020, the Board suspended Shah's certificate and SCL's permit for two years after they refused to return a client's tax returns in an attempt to leverage additional payments or future work.⁵ The Minnesota Court of Appeals affirmed the suspension.⁶

While their licenses were suspended, Respondents held themselves out as licensed to perform services that require a CPA certificate and CPA firm permit.⁷ For example:

- In July 2020, Respondents sent an engagement letter to a client in which they stated that they offered audit, review, and compilation services.⁸
- Respondents sent a conflict-of-interest letter regarding the July 2020 engagement letter to the same client, stating they were required to abide by the Code of Professional Standards of the American Institute of CPAs.⁹
- In at least three emails sent in October of 2020 and January of 2021, Shah referred to himself as "Ronak R. Shah, CPA."¹⁰
- After their suspension and through at least January 2021, Respondents continued to use the email domain "shahltidcpa.com" when communicating with clients.¹¹

In February 2021, the Board received a complaint regarding Respondents.¹² The complaint included emails between the complainant and Shah.¹³ The Board's investigator contacted the complainant and obtained a copy of the engagement letter (Ex. 4A) and the conflict-of-interest letter (Ex. 4B).¹⁴ Shah confirmed that the email, the engagement letter and the conflict-of-interest letter were authentic in a meeting with the Board's Complaint Committee in October 2021.¹⁵

² *Id.* at Exhibit (Ex.) 1.

³ *Id.* at Ex. 2.

⁴ *Id.* at ¶ 2.

⁵ *Id.* at Ex. 2; see also *Beeuwsaert v. Shah & Co. Ltd.*, No. A18-0527, 2019 WL 1006974 (Minn. Ct. App. Mar. 4, 2019) (affirming claims made by clients against SCL).

⁶ *In re Shah & Co., Ltd.*, A20-0588, 2021 WL 416408 (Minn. Ct. App. Feb. 8, 2021).

⁷ See Johnson Decl. at Exs. 3A, 3B, 4A, 4B, 5A, and 5B.

⁸ Johnson Decl. at Ex. 4A.

⁹ *Id.* at 4B.

¹⁰ *Id.* at Exs. 3A and 5A.

¹¹ *Id.* at Exs. 3A, 5A, and 5B.

¹² *Id.* at ¶ 4.

¹³ *Id.*

¹⁴ *Id.* at ¶ 5.

¹⁵ *Id.*

II. Legal Standards for Summary Disposition

Summary disposition is the administrative law equivalent of summary judgment.ⁱ A motion for summary disposition shall be granted when there is no genuine issue regarding any material fact, and the moving party is entitled to judgment as a matter of law.¹⁶ The Office of Administrative Hearings follows the summary judgment standards developed in the state district courts when considering motions for summary disposition.¹⁷

The function of the Administrative Law Judge on a motion for summary disposition, like a trial court's function on a motion for summary judgment, is not to decide issues of fact, but to determine whether genuine factual issues exist.¹⁸ In other words, the Administrative Law Judge does not weigh the evidence; instead, the judge views the facts and evidence in a light most favorable to the non-moving party.¹⁹

The moving party has the initial burden to show the absence of any genuine issue regarding any material fact.²⁰ A fact is material if its resolution will affect the outcome of the case.²¹ If the moving party meets this initial burden, the non-moving party must show the existence of any genuine issue of any material fact.²² A genuine issue is not a "sham or frivolous" one and it cannot rest upon mere allegations or denials.²³ Instead, a genuine issue requires identification of specific facts that require a hearing to resolve.²⁴ Summary disposition is only proper when there are no fact issues which require a hearing to resolve.²⁵

III. Analysis

Only CPAs and CPA firms may perform or offer to perform audit, review, or compilation services.²⁶ Individuals who do not hold a valid CPA certificate cannot use the title "certified public accountant," the abbreviation "CPA" or anything else that would indicate to the public that the person is a CPA.²⁷ Similarly, firms that do not hold a valid CPA firm permit cannot use the title "certified public accountants," the abbreviation "CPAs" or anything else that would indicate that the firm is a CPA firm.²⁸

¹⁶ See *Sauter v. Sauter*, 70 N.W.2d 351, 353 (Minn. 1955); *Louwagie v. Witco Chemical Corp.*, 378 N.W.2d 63, 66 (Minn. Ct. App. 1985).

¹⁷ See Minn. R. 1400.6600 (2021).

¹⁸ *DLH, Inc. v. Russ*, 566 N.W.2d 60, 70 (Minn. 1997).

¹⁹ *Ostendorf v. Kenyon*, 347 N.W.2d 834, 836 (Minn. Ct. App. 1984).

²⁰ *Thiele v. Stich*, 425 N.W.2d 580, 583 (Minn. 1988).

²¹ *O'Malley v. Ulland Bros.*, 549 N.W.2d 889, 892 (Minn. 1996).

²² *Thiele*, 425 N.W.2d at 583.

²³ *Highland Chateau, Inc. v. Minn. Dep't of Pub. Welfare*, 356 N.W.2d 804, 808 (Minn. Ct. App. 1984).

²⁴ See Minn. R. Civ. P. 56.05.

²⁵ See *Sauter*, 70 N.W.2d at 353.

²⁶ Minn. Stat. § 326A.10(a) (2022) (stating only licensees may perform or offer to perform attest or compilation services); see also Minn. Stat. § 326A.01, subd. 2 (2022) (defining attest services as including audits and reviews).

²⁷ Minn. Stat. § 326A.10(c) (2022).

²⁸ *Id.* at .10(d) (2022).

Here, Shah referred to himself as “Ronak R. Shah, CPA” while his license was suspended²⁹ He sent emails using this title in his signature block in October 2020 (seven months into his two-year suspension) and in January 2021 (ten months into the two-year suspension). Respondents also continued using the email domain “shahitdcpa” for over ten months after their licenses had been suspended.³⁰ This constitutes using the CPA abbreviation despite being unlicensed.

In July 2020, Shah sent an engagement letter, – on SCL letterhead – which stated “[w]e provide clients with levels of service higher than accounting, taxation, and business advisory services, such as *audit, review and compilation services.*”³¹ As only a CPA or a CPA firm can perform those services, the statement would lead one to believe that Respondents were CPAs.

Also, in July 2020, SCL provided the same client with a conflict-of-interest letter. The letter stated that Respondents were bound by the Professional Standards of the American Institute of Certified Public Accountants and the Minnesota State Board of Accountancy.³² Such a claim would reasonably lead one to believe that the author was a CPA. Shah signed the conflict-of-interest letter as “Ronak R. Shah, CPA.”³³

Shah claimed he did not intend to violate the law.³⁴ Shah stated that when writing emails, he never looks at his signature block.³⁵ He was unaware that he was using the CPA designation in his emails.³⁶ Shah also stated that as soon as he was made aware of this infraction, he changed his signature block.³⁷ He also argued that changing the email server domain would be cost prohibitive.³⁸

Finally, as to the engagement letter and the conflict-of-interest letter and waiver form, Shah maintains that these were “stock forms.”³⁹ He stated he was unaware that the quoted passages were present.⁴⁰ For these reasons, Shah argues that the Motion should be denied. Respondents’ arguments are unavailing.

Minnesota law strictly prohibits the use of the title “certified public accountant,” the abbreviation “CPA,” or any other device that would indicate the person is a certified public accountant when one is not.⁴¹ It does not matter if the use is intentional. Similarly, firms are prohibited from using “certified public accountants,” the abbreviation “CPAs,” or any other designation or device that would indicate the person is a CPA firm in its title

²⁹ Johnson Decl. at Exs. 3A, 5A.

³⁰ *Id.* at Exs. 3A, 5A, and 5B.

³¹ *Id.* at Ex. 4A (emphasis added).

³² *Id.* at 4B.

³³ *Id.*

³⁴ Digital Recording of Motion Hearing (May 31, 2022) (on file with the Minn. Office of Admin. Hearings).

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ Minn. Stat. § 326A.10(c).

if it has not complied with Minn. Stat. § 326A.05 (2022). The statute does not require intent.

IV. Conclusion

The unrebutted evidence is that Respondents offered to perform services that required a CPA certificate or a CPA firm permit. Respondent Shah also repeatedly used the initials "CPA" in emails after his certificate had been suspended. The Committee's motion is therefore **GRANTED**.

J. E. L.
