

STATE OF MINNESOTA  
BOARD OF ACCOUNTANCY

In the Matter of the Certified Public  
Accountant Certificate of Jeana Lautigar

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW,  
AND ORDER**

The above-entitled matter came before the Minnesota Board of Accountancy on December 6, 2023.

On October 12, 2023, Administrative Law Judge Jessica A. Palmer-Denig recommended the Board impose discipline against Respondent Jeana Lautigar after she defaulted by failing to appear at a prehearing conference. On November 8, the Board notified the parties of their right to file arguments and exceptions pursuant to Minn. Stat. § 14.61, subd. 1 (2022). On November 21, the Board's Complaint Committee filed its arguments and exceptions. Lautigar did not submit any arguments or exceptions to the Board.

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

**FINDINGS OF FACT**

1. The Board adopts and incorporates as its own the Findings of Fact in the ALJ's recommendation.
2. Lautigar's position is not substantially justified.
3. Any conclusions of law from the ALJ's recommendation that should properly be termed findings of fact are hereby adopted as such.

## **CONCLUSIONS OF LAW**

1. The Board adopts and incorporates as its own the Conclusions of Law in the ALJ's recommendation.
2. Lautigar violated Minn. Stat. § 326A.10(c) (2022) and Minn. R. 1105.5600, subp. 1(C)(1) (2021) by advertising as a CPA after her CPA certificate expired.
3. Lautigar violated Minn. R. 1105.2500(A) (2021) by failing to submit a CPA certificate renewal application before her certificate expired.
4. Any findings of fact from the ALJ's recommendation that should properly be termed conclusions of law are hereby adopted as such.
5. This order is in the public interest.

## **ORDER**

Pursuant to Minn. Stat. § 326A.08, subd. 5(a) (2022), Lautigar is censured and reprimanded.

Pursuant to Minn. Stat. § 326A.08, subd. 7(a) (2022), Lautigar shall pay a \$500 civil penalty to the State of Minnesota.

Pursuant to Minn. Stat. § 326A.08, subd. 7(b), Lautigar shall reimburse the Board for the cost of all services provided by the Office of Administrative Hearings.

Pursuant to Minn. Stat. § 16D.17(1) (2022), Lautigar is notified that this shall become a final civil penalty unless Lautigar requests a hearing from the Board on the civil penalty within thirty days. Pursuant to Minn. Stat. § 16D.17(2) (2022), Lautigar is 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 Lautigar without further notice or additional proceedings. Lautigar

is notified that simple interest computed in accordance with Minn. Stat. § 16D.13 (2022), shall begin to accrue on the civil penalty thirty days after the date of this order.

Dated: 12/06/2023

MINNESOTA BOARD OF  
ACCOUNTANCY



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Godson Sowah  
Secretary/Treasurer

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

In the Matter of the Certified Public  
Accountant Certificate of Jeana Lautigar

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW,  
AND RECOMMENDATION  
UPON DEFAULT**

This matter is pending before Administrative Law Judge Jessica A. Palmer-Denig upon a motion for issuance of a recommendation of default. The record in this matter closed on October 4, 2023.

Allen C. Barr, Assistant Attorney General, appears on behalf of the Minnesota Board of Accountancy (Board) Complaint Committee (Committee). There has been no appearance by, or on behalf of, Jeana Lautigar (Respondent).

**STATEMENT OF THE ISSUE**

Did Respondent advertise herself as a Certified Public Accountant (CPA) after her certification expired because she failed to renew it as provided in the Board's rules, in violation of Minn. Stat. § 326A.10(c) (2022), Minn. R. 1105.2500(C)(4)(c), 1105.5600(1)(C)(1) (2023).<sup>1</sup>

**SUMMARY OF RECOMMENDATION**

The Administrative Law Judge concludes that Respondent is in default and recommends that the allegations in the Notice and Order, attached hereto as Attachment A, be accepted as true and deemed proven.

Based on the evidence in the hearing record, the Administrative Law Judge makes the following:

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<sup>1</sup> The Administrative Law Judge has slightly restated the issue presented in the Committee's Notice and Order for Prehearing Conference (Notice and Order) to clarify the violations at issue, as explained in the accompanying Memorandum. See Notice and Order at 2.

## FINDINGS OF FACT

1. On August 16, 2023, the Committee mailed the Notice and Order to Respondent at her last known address.<sup>2</sup>

2. The Notice and Order advised Respondent that a prehearing conference would be held by telephone on September 20, 2023, at 9:30 a.m.<sup>3</sup> The Notice and Order provided the correct telephone number and conference code required to access the prehearing telephone conference call.<sup>4</sup>

3. In accordance with Minn. R. 1400.5700 (2023), the Notice and Order included a copy of a Notice of Appearance form and stated that “any party intending to participate as a party in this proceeding must file a Notice of Appearance form and return it to the Administrative Law Judge within twenty days of the date of service of this notice and order. A copy must be served on the Committee’s attorney.”<sup>5</sup>

4. Respondent did not file a Notice of Appearance in this matter.

5. As required by Minn. R. 1400.6000 (2023), the Notice and Order includes the following statement:

Your failure to appear at the prehearing conference, settlement conference, or the hearing, or failure to comply with any order of the Administrative Law Judge, may result in a finding that Respondent is in default, that the Committee’s allegations contained in the Statement of Charges may be accepted as true, and that Respondent may be subject to discipline by the Board, including revocation, suspension, censure, or the imposition of civil penalties.

6. Respondent did not appear at the prehearing conference on September 20, 2023, and no one appeared on Respondent’s behalf.<sup>6</sup>

7. Respondent did not communicate with the Office of Administrative Hearings prior to the prehearing conference to alert the Administrative Law Judge that she would be unable to appear.

8. Respondent’s failure to appear at the prehearing conference was without consent of the Administrative Law Judge.

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<sup>2</sup> See Attachment A at Affidavit of Service of Brenda Hanson (Aug. 16, 2023).

<sup>3</sup> *Id.* at 1.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.* at 3.

<sup>6</sup> Prehearing Conference Digital Recording (Sept. 20, 2023) (on file with the Minn. Office Admin. Hearings).

9. After convening the prehearing conference, the Administrative Law Judge called Respondent at her telephone number on file with the Board.<sup>7</sup> The Administrative Law Judge left a voicemail message at that number, but even after waiting additional time, Respondent did not call in to the prehearing conference.<sup>8</sup>

10. The Committee moved for issuance of a recommendation on default, and the Administrative Law Judge took the motion under advisement.<sup>9</sup>

11. On September 21, 2023, the Administrative Law Judge issued an Order to Show Cause requiring Respondent to contact the Office of Administrative Hearings to explain her failure to appear for the prehearing conference.<sup>10</sup> Respondent was directed to contact this tribunal no later than October 4, 2023.<sup>11</sup>

12. The Order to Show Cause advised Respondent that:

Under Minn. R. 1400.6000 (2023), a default occurs when a party fails to appear without the prior consent of the judge at a prehearing conference, or fails to comply with any interlocutory order. Upon default, the allegations in the notice of and order for hearing may be taken as true or deemed proven without further evidence. The failure to comply with this Order may considered a default.<sup>12</sup>

13. The Order to Show Cause was served upon Respondent by U.S. Mail at her address on file with the Office of Administrative Hearings, and the mailing also included resources for pro se parties.<sup>13</sup>

14. The mailing containing the Order to Show Cause was not returned as undeliverable.

15. Respondent failed to contact the Office of Administrative Hearings by October 4, 2023, as directed in the Order to Show Cause. To date, Respondent has not contacted the Office of Administrative Hearings.

16. Respondent is in default as a result of her failure to appear at the prehearing conference.

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<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> Order to Show Cause (Sept. 21, 2023).

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> Letter to Respondent from Majeste Phillip (Sept. 21, 2023).

17. Respondent is in default as a result of her failure to contact the Office of Administrative Hearings as directed in the Order to Show Cause.

18. Pursuant to Minn. R. 1400.6000, the allegations contained in the Notice and Order are taken as true, deemed proven without further evidence, and incorporated by reference into these Findings of Fact.

Based on the Findings of Fact, the Administrative Law Judge makes the following:

### **CONCLUSIONS OF LAW**

1. The Board and the Administrative Law Judge have jurisdiction in this matter pursuant to Minn. Stat. §§ 14.50, 214.10, 326A.08 (2022).

2. Respondent received timely and proper notice of the prehearing conference in this matter when the Committee sent the Notice and Order to her last known address.

3. The Committee has complied with all relevant procedural requirements of statute and rule.

4. Under Minn. R. 1400.6000, Respondent is in default because she failed to appear at the scheduled prehearing conference and due to her failure to comply with an interlocutory order issued by the Administrative Law Judge.

5. Under Minn. R. 1400.6000, when a party defaults by failing to appear at a prehearing conference without the prior consent of the judge, or fails to comply with an interlocutory order issued by the judge, the allegations and the issues set out in the notice and order for hearing may be taken as true and deemed proven. The Administrative Law Judge therefore deems the allegations to be true.

6. Under Minn. Stat. § 326A.08, subd. 5, the Board may impose discipline upon a person who is certified by the Board and who has engaged in conduct that violates the rules or law applicable to the regulated party.

7. The Board has grounds to take disciplinary action against Respondent's certification based upon the allegations set forth in the Notice and Order.

8. An order by the Board taking disciplinary action against Respondent's certification is in the public interest.

Based upon the foregoing Conclusions of Law, and as explained further in the accompanying Memorandum, the Administrative Law Judge makes the following:

## RECOMMENDATION

The Board should take reasonable and appropriate disciplinary action against the certification of Respondent Jeana Lautigar.

Dated: October 12, 2023

  
JESSICA A. PALMER-DENIG  
Administrative Law Judge

Reported: Default

## NOTICE

This Report is a recommendation, not a final decision. The Board will make the final decision after a review of the record. The Board may adopt, reject, or modify the Findings of Fact, Conclusions, and Recommendation. 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

Based upon the record and the Committee's motion for issuance of a default recommendation, the Administrative Law Judge has found Respondent in default, accepted the allegations in the Notice and Order as true and proven, and recommended that the Board impose discipline upon Respondent's certification. The Administrative Law Judge includes this Memorandum with her recommendation to clarify an issue regarding the claims articulated by the Committee in the Notice and Order.

The Notice and Order presents two issues for consideration. In Count I, the Committee identifies the issue as whether Respondent violated Minn. Stat. § 326A.10(c) and Minn. R. 1105.5600(1)(C)(1), by advertising herself as a CPA after her certification expired. In Count II, the Committee frames the issue as whether Respondent violated Minn. R. 1105.2500(A) (2023) by failing to submit a renewal application for her certification prior to the expiration date. The second of these charges presents a subtle issue that the Administrative Law Judge determines requires further discussion.

Minn. R. 1105.2500(A)-(B) (2023) provide instructions as to the manner, deadlines, and content of initial applications for certification and applications for renewal. Regarding renewal applications, a late-filed application must be accompanied by a delinquency fee, and if the application for renewal is filed more than two years late, the rule requires payment of a reinstatement fee.<sup>14</sup> These rules establish an administrative fee structure for handling late-filed renewal applications that does not specifically contemplate disciplinary action for a late-filed renewal, at least not within the initial two-year period after a renewal application is due.<sup>15</sup> Another provision of the rule, Minn. R. 1100.2500(C)(4)(c), more clearly addresses the renewal requirement in connection with the use of the CPA title, stating in mandatory terms that: "Licensees shall renew their certificates with a status of 'active' if they . . . use the titles certified public accountant or CPA without 'inactive' adjacent to the title."

The allegations in the Notice and Order show that the Committee pursued disciplinary action, not merely because Respondent has not renewed her certification, but because she continued holding herself out to the public as a CPA after her certification expired. By framing the failure to file a renewal application under Minn. R. 1105.2500(A) as a disciplinary violation, the Notice and Order suggests that the Board might take disciplinary action against any certified person who files their request for renewal after the deadline, regardless of whether the person is still engaging in regulated activities. The fact that the rule establishes an administrative fee structure for late-filed renewals suggests that is likely not how the Board intends to proceed.

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<sup>14</sup> Minn. R. 1100.2500(A).

<sup>15</sup> This case was commenced within two years after Respondent failed to timely renew her certification. See Notice and Order at 2.

The Administrative Law Judge respectfully suggests that the Board reframe the issue, as stated above, to make clear that discipline is imposed because Respondent advertised herself as a CPA after her certification expired, in violation of Minn. Stat. § 326A.10(c), Minn. R. 1105.2500(C)(4)(c), 1105.5600(1)(C)(1). This issue falls squarely within the four corners of the Notice and Order and, therefore, does not implicate a due process concern regarding the notice provided to Respondent. This reframing also avoids the suggestion that the Board views disciplinary action as appropriate for any person who fails to timely renew a certification, even if the person is no longer acting or holding themselves out to the public as a CPA.

**J. P. D.**