

STATE OF SOUTH DAKOTA
BOARD OF ACCOUNTANCY

IN THE MATTER OF THE)
CPE AUDIT BY THE SOUTH DAKOTA)
BOARD OF ACCOUNTANCY)
AGAINST MICHELLE A. FOSTVEDT)

NEGOTIATED
CONSENT AGREEMENT

The above-named parties in the interest of resolving the action between them enter into this Consent Agreement upon the terms and conditions set forth below.

1. The Board has jurisdiction of this matter pursuant to SDCL 36-20B.
2. Michelle A. Fostvedt (Fostvedt) is a certified public accountant (CPA) and holder of South Dakota certificate number 1681.
3. Fostvedt is subject to the provisions of SDCL 36-20B and ARSD 20:75.
4. Pursuant to SDCL 36-20B-27 a licensed CPA is required to complete 120 hours of continuing professional education (CPE) in each three-year renewal cycle. Pursuant to ARSD 20:75:04:07 the CPA is required to complete a minimum of 20 CPE hours in a one year renewal period.
5. Pursuant to ARSD 20:75:04:11 the CPA is subject to verification of all CPE submitted to the board. A CPA selected for a review must provide documentation to verify attendance or completion of all courses reported to the board for CPE credit.
6. Pursuant to ARSD 20:75:04:15 the CPA is required to keep documentation as acceptable evidence of completion for claimed CPE courses.
7. On October 18, 2010, Fostvedt was sent a letter in regards to being randomly selected for a CPE audit. Fostvedt was informed that the deadline for submission of the documentation to verify claimed CPE was December 1, 2010.
8. On December 3, 2010, Fostvedt was sent a second letter indicating documentation for claimed CPE had not been received for her CPE audit. The board requested her to submit the required documentation for claimed CPE within 15 days.
9. On December 23, 2010, Executive Director Kasin spoke with Fostvedt requesting she provide documentation for claimed CPE for the CPE audit. Fostvedt indicated she would make the copies of the records and mail to the office by the beginning of the next week.
10. Fostvedt submitted partial CPE documentation to the board on January 3, 2011.

11. On January 3, 2011, Executive Director Kasin spoke to Fostvedt via phone detailing the CPE records still needed to complete the CPE audit. Fostvedt was asked to submit the documentation to verify the claimed CPE by January 17, 2011.

12. On January 19, 2011, Executive Director Kasin spoke to Fostvedt to inform her that the requested documentation had not been received. Fostvedt was asked to submit the documentation to verify claimed CPE by January 26, 2011.

13. On January 26, 2010, Fostvedt submitted partial documentation to the board via email.

14. On January 26, 2010, Executive Director Kasin emailed Fostvedt to inform her that the submitted documentation was insufficient to verify all CPE hours claimed for the 3 year period. Fostvedt was asked to submit the documentation immediately to verify claimed CPE.

15. Fostvedt failed to submit verification for some of the CPE claimed during the three year period.

16. Fostvedt acknowledges that she failed to submit sufficient documentation to verify CPE courses reportedly taken in the period of July 1, 2007 to June 30, 2008. She provided documentation for 33 hours of CPE for the period ending June 30, 2008. She failed to provide documentation for 6 hours of CPE claimed for the period ending June 30, 2008.

17. Fostvedt acknowledges that she failed to submit sufficient documentation to verify CPE courses reportedly taken in the period of July 1, 2008, to June 30, 2009. She provided documentation for 25 hours of CPE for the period ending June 30, 2009. She failed to provide documentation for 10 hours of CPE claimed for the period ending June 30, 2009.

18. Fostvedt acknowledges that she failed to submit sufficient documentation to verify CPE courses reportedly taken in the period of July 1, 2009, to June 30, 2010. She provided documentation for 16 hours of CPE for the period ending June 30, 2010. She failed to provide documentation for 27 hours of CPE claimed for the period ending June 30, 2010. She failed to provide documentation to verify that she met the minimum of 20 hours of CPE each year as required in ARSD 20:75:04:07.

19. Fostvedt acknowledges that she has failed to maintain documentation for CPE as required in ARSD 20:75:04:15.

20. Fostvedt acknowledges that she failed to submit documentation to verify the 120 hours of CPE claimed for the period ending June 30, 2008.

21. Fostvedt acknowledges that she failed to submit documentation to verify the 120 hours of CPE claimed for the period ending June 30, 2009.

22. Fostvedt acknowledges that she failed to submit documentation to verify the 120 hours of CPE claimed for the period ending June 30, 2010.

23. Fostvedt acknowledges that this agreement constitutes an admission as to the factual allegations contained in paragraphs 7 through 22 and that her actions, as set forth above, constitute violations of ARSD 20:75:04:11, which requires certificate holders subject to maintain verification of all CPE submitted to the board.

24. In exchange for the satisfactory fulfillment by Fostvedt of the promises contained in paragraph 25 of this agreement, the Board agrees not to take any additional disciplinary action against Fostvedt as a result of the findings contained in paragraphs 7 through 22.

25. In exchange for the promises of the Board contained in paragraph 24 of this agreement, Fostvedt agrees to the following:

- a) Fostvedt will have 1 hour of CPE rolled back from the period ending June 30, 2009, into the period ending June 30, 2008. A second CPE extension will be placed on her file for period ending June 30, 2008.
- b) Fostvedt will have 16 hours of CPE rolled back from the period ending June 30, 2010, into the period ending June 30, 2009. A CPE extension will be placed on her file for period ending June 30, 2009.
- c) Fostvedt will be granted an extension to complete the 48 hours of CPE; 2 hours for the period ending June 30, 2009, and 46 hours for the period ending June 30, 2010. The 48 hours must be completed within 90 days of the signed agreement by the Vice Chair.
- d) Fostvedt will agree to submit proof of completion for all claimed CPE courses taken through the extension timeframe and for the next three renewal periods.
- e) Fostvedt will not be eligible for an extension to complete CPE for the next three renewal periods.
- f) Fostvedt will be required to file her next three renewals before or on the deadline of August 1.
- g) Fostvedt will be assessed an administrative fee in the amount of \$300. The administrative fee must be paid within 30 days of the signed agreement by the Vice Chair.
- h) The Board will issue a public reprimand to Ms. Fostvedt.

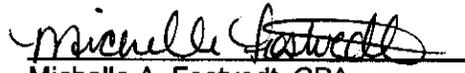
25. It is further understood and agreed that this settlement shall resolve all allegations contained within paragraphs 7 through 22 in favor of the Board and that any problems of compliance with this agreement by Fostvedt will only require the Board to establish noncompliance with the terms of the Consent Agreement.

26. Fostvedt understands that noncompliance with this Consent Agreement could result in an adversarial hearing in which the Board could revoke any certificate or permit, suspend any permit, reprimand, censure or limit the scope of her practice or place her on probation, all with or without terms, conditions or limitations, impose an

administrative fee not exceeding \$1000, require the satisfactory completion of the CPA and ethics examination, and the payment of any costs associated with this or any other proceeding involving Fostvedt.

27. Fostvedt understands that by signing this agreement she waives her right to a contested case proceeding pursuant to SDCL 1-26, wherein she has the right to be present and represented by legal counsel, call witnesses on her behalf, and that these and other due process rights will be forfeited if they are not exercised at the hearing. Fostvedt further understands that she has the right to use the Office of Hearing Examiners by giving notice to the Board of Accountancy and that any decision from such a hearing may be appealed to the circuit court and the South Dakota Supreme Court as provided by law. By signing this agreement, Fostvedt has waived her right to an adversary hearing in this matter and the Board may proceed as set forth in this agreement.

Dated this 8th day of August, 2011.


Michelle A. Fostvedt, CPA

Dated this 11 day of August, 2011.


Nicole Kasin
Executive Director
South Dakota Board of Accountancy

Dated this 21st day of September, 2011.


John Linn, Jr., CPA
Vice-Chair
South Dakota Board of Accountancy