

STATE OF SOUTH DAKOTA  
BOARD OF ACCOUNTANCY

IN THE MATTER OF THE )  
CPE AUDIT BY THE SOUTH DAKOTA )  
BOARD OF ACCOUNTANCY )  
AGAINST NICOLE A. JACOBY )

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. Nicole A. Jacoby (Jacoby) is a certified public accountant (CPA) and holder of South Dakota certificate number 2209.
3. Jacoby 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, Jacoby was sent a letter in regards to being randomly selected for a CPE audit. Jacoby was informed that the deadline for submission of the documentation to verify claimed CPE was December 1, 2010.
8. On November 29, 2010, Jacoby called Executive Director Kasin to verify compliance with the requested documents for the CPE audit. Jacoby was advised of the records being requested and the documentation to verify records. Jacoby indicated she would work on gathering the proper documentation and submit the records to the Board.

9. On December 3, 2010, Jacoby 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.

10. Jacoby submitted partial CPE documentation via email to the board on December 17, 2010.

11. On January 4, 2011, Executive Director Kasin spoke to Jacoby via phone detailing the CPE records still needed to complete the CPE audit. An email was also sent detailing the CPE records still needed to complete the CPE audit. Jacoby was asked to submit the documentation to verify the claimed CPE.

12. On January 19, 2011, Executive Director Kasin emailed Jacoby to inform her that no additional CPE documentation had been received. The documentation that had been submitted was insufficient to verify all CPE hours claimed for the 3 year period. Jacoby was asked to submit the documentation to verify claimed CPE by January 26, 2011.

13. Jacoby failed to submit verification for some of the CPE claimed during the three year period.

14. Jacoby 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 32.5 hours of CPE for the period ending June 30, 2008. She failed to provide sufficient documentation for 48 hours of CPE claimed for the period ending June 30, 2008.

15. Jacoby 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 19 hours of CPE for the period ending June 30, 2009. She failed to provide sufficient documentation for 2 hours of CPE claimed for the period ending June 30, 2009. 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.

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

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

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

19. Jacoby acknowledges that she failed the CPE audit for the three year period ending June 30, 2010, by not submitting sufficient documentation for all claimed CPE.

20. Jacoby acknowledges that this agreement constitutes an admission as to the factual allegations contained in paragraphs 7 through 19 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.

21. In exchange for the satisfactory fulfillment by Jacoby of the promises contained in paragraph 22 of this agreement, the Board agrees not to take any additional disciplinary action against Jacoby as a result of the findings contained in paragraphs 7 through 19.

22. In exchange for the promises of the Board contained in paragraph 21 of this agreement, Jacoby agrees to the following:

- a) Jacoby will have 19 hours of CPE rolled back from the period ending June 30, 2009, and 20.5 hours of CPE rolled back from the period ending June 30, 2010, into the period ending June 30, 2008. A CPE extension will be placed on her file for period ending June 30, 2008.
- b) Jacoby will have 20.5 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) Jacoby will be granted an extension to complete the 27.5 hours of CPE for the period ending June 30, 2010. The 27.5 hours must be completed within 90 days of the signed agreement by the Vice Chair.
- d) Jacoby 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) Jacoby will not be eligible for an extension to complete CPE for the next three renewal periods.
- f) Jacoby will be required to file her next three renewals before or on the deadline of August 1.
- g) Jacoby will be assessed an administrative fee in the amount of \$150. The administrative fee must be paid within 30 days of the signed agreement by the Vice Chair.

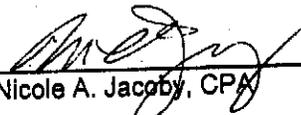
23. It is further understood and agreed that this settlement shall resolve all allegations contained within paragraphs 7 through 19 in favor of the Board and that any problems of compliance

with this agreement by Jacoby will only require the Board to establish noncompliance with the terms of the Consent Agreement.

24. Jacoby 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 Jacoby.

25. Jacoby 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. Jacoby 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, Jacoby has waived her right to an adversary hearing in this matter and the Board may to proceed as set forth in this agreement.

Dated this 2 day of August, 2011.

  
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Nicole A. Jacoby, CPA

Dated this 4 day of August, 2011.

  
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Nicole Kasin  
Executive Director  
South Dakota Board of Accountancy

Dated this 9th day of August, 2011.

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