

**STATE OF SOUTH DAKOTA  
DEPARTMENT OF LABOR & REGULATION  
BOARD OF ACCOUNTANCY**

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**IN THE MATTER OF**

**MARK A. KIROFF  
Certificate No. 2848**

**Respondent**

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

TO: Mark A. Kiroff  
5336 S. 145<sup>th</sup> St.  
Omaha, NE 68137

A license disciplinary hearing was held on October 17, 2011, before the South Dakota Board of Accountancy in Sioux Falls, South Dakota. Mr. Mark A. Kiroff, Respondent, failed to appear at the scheduled hearing. The South Dakota Board of Accountancy, Board, was represented by attorney Mr. Aaron Arnold, with witness Nicole Kasin, Executive Director of the Board. A majority of the Board was present to receive the evidence and observe the testimony of any witnesses.

Upon receiving the evidence and hearing the testimony presented, the South Dakota Board of Accountancy, by a majority vote, hereby enters the following:

**FINDINGS OF FACT:**

1. Respondent, Mark Kiroff, Certificate No. 2848, currently has an expired licensed governed by the Board;
2. Respondent was the defendant in *USA v. Kiroff*, (Case No. 4:04-cr-40031-LLP-1), in the United States District Court for the District of South Dakota (Southern Division) which was filed on March 18, 2004. On May 7, 2004, Mr. Kiroff entered a guilty plea of felony charges of bank fraud.
3. On or about October 31, 2008, Respondent submitted to the Board his application for a reciprocal license. Based on the application submitted by Respondent and the additional information provided by him, the Board issued certificate number 2848 effective 3/9/2009.

4. Respondent failed to inform the Board that he was convicted of a felony on his application for reciprocal license. On the application, when asked if he had ever been convicted of a crime other than a traffic offense, Respondent wrongfully answered "No" and signed the application stating all statements made within the application were true.
5. Respondent did not renew his certificate for year ending July 31, 2011. His certificate went into an expired status effective August 1, 2010.
6. On July 15, 2011, the State Board of Public Accountancy of Nebraska revoked Respondent's Nebraska certificate number 4577 and active permit to practice (Reg. No. 29474).
7. On or about August 19, 2011, Respondent submitted an application for active certificate renewal for the period ending July 31, 2012.
8. Respondent failed to inform the Board that he was convicted of a felony and that the State Board of Public Accountancy of Nebraska had revoked his license on his application for active certificate renewal. On the application, when asked if he had ever been convicted of a crime other than a traffic offense or had ever had a licensing board discipline him, Respondent wrongfully answered "No" to both questions and signed the application stating all statements made within the application were true.
9. To the extent any of the foregoing are improperly designated and are instead conclusions of law, they are hereby re-designated and incorporated herein as conclusions of law.

### **CONCLUSIONS OF LAW**

1. The South Dakota Board of Accountancy has jurisdiction in this matter pursuant to SDCL Ch. 1-26 and 36-20B.
2. Renewal of Certificate No. 2848 of Mark A. Kiroff may be denied subject to the provisions of SDCL 36-20B-40(1), (2) and (8).
3. Mark A. Kiroff used fraud or deceit in obtaining a license from the Board, Certificate No. 2848, in 2008 when he answered "No" when asked if he had previously been convicted of a crime and signed the application that the statements made within the application were true, a violation of SDCL 36-20B-40(1).
4. Mark A. Kiroff had his rights to practice public accountancy revoked when the State Board of Public Accountancy of Nebraska revoked his license on July 15, 2011, a violation of SDCL 36-20B-40(2).

5. Mark A. Kiroff was convicted of a felony, that being bank fraud, in the United States District Court for the District of South Dakota (Southern Division) in 2004, a violation of SDCL 36-20B-40(8).
6. To the extent any of the foregoing are improperly designated and are instead findings of fact, they are hereby re-designated and incorporated herein as findings of fact.

After reviewing the evidence, taking the findings of fact and conclusions of law into consideration, it is hereby ORDERED:

### ORDER

1. That the renewal of Certificate No. 2848 of Mark A. Kiroff be denied with the condition that he shall not reapply for licensure for a period of five years from the effective date of this Order;
2. That Mark A. Kiroff pay to the Board an administrative fine in the amount of \$500.00 by December 31, 2011; and
3. That Mark A. Kiroff shall return to the Board his South Dakota certificate, Certificate No. 2848, by December 31, 2011.

NOTICE: This is the final decision of the South Dakota Board of Accountancy. Parties are hereby advised of the right to appeal this final order to the circuit court within 30 days of receiving this decision pursuant to the authority of SDCL Chapter 1-26.

Dated this 21<sup>st</sup> day of October, 2011.

South Dakota Board of Accountancy

  
Holly L. Brunick, Chairperson