

STATE OF SOUTH DAKOTA
DEPARTMENT OF LABOR AND REGULATION
BOARD OF ACCOUNTANCY

In the Matter of:

MARSHAL TINANT,
CERTIFIED PUBLIC ACCOUNTANT

Certificate No. 2853

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**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 South Dakota Board of Accountancy (Board) has jurisdiction of this matter pursuant to SDCL 36-20B.
2. Marshal Tinant (Tinant) is licensed as a certified public accountant (CPA) with the Board. His certificate number is 2853.
3. Tinant has a licensed firm with the Board; Empire Accounting & Financial Services. The firm permit number is 1475.
4. As a licensee and firm permit holder, Tinant is subject to the provisions of SDCL 36-20B and ARSD 20:75.
5. Pursuant to SDCL 36-20B-31 a certificate holder who performs compilation services for the public shall undergo peer review as a condition for renewal of a certificate. The review shall include verification that the certificate holder has met the competency requirements set out in professional standards for such services.
6. In accordance with ARSD 20:75:05:04 a licensee shall comply with the following standards and with any interpretations thereof by bodies designated by the Council of the American Institute of Certified Public Accountants, or by other entities having similar generally recognized authority:

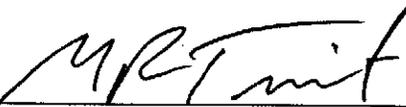
- (1) **Professional competence.** Undertake only those professional services which the licensee or the licensee's firm can reasonably expect to complete with professional competence, including compliance, where applicable, with §§ 20:75:05:07 and 20:75:05:08;
 - (2) **Due professional care.** Exercise due professional care in the performance of professional services;
 - (3) **Planning and supervision.** Adequately plan and supervise the performance of professional services; and
 - (4) **Sufficient relevant data.** Obtain sufficient relevant data to afford a reasonable basis for conclusions or recommendations in relation to professional services performed.
7. In accordance with ARSD 20:75:05:05 a licensee may not permit the licensee's name to be associated with a report on financial statements as defined by SDCL 36-20B-3 unless the licensee complied with generally accepted auditing standards or accounting and review standards as applicable.
 8. In accordance with ARSD 20:75:05:07 a licensee shall comply with professional ethical standards and conduct.
 9. On June 21, 2012, Tinant emailed the board staff with clarification questions before he planned to schedule his peer review. In the email he stated that he compiled a financial statement for a client which was subject to the A-133 audit requirements. He provided the financial statements to the firm performing the audit. Corrections were made by Tinant to the financial statements and then resubmitted to the audit firm to be included in the audit report.
 10. Through an exchange of emails with Tinant dated June 22, 2012 through July 17, 2012, Tinant explained that a compilation report was not completed but the financials were provided directly to the audit firm.

11. Tinant explained that by providing the documents to the audit firm he did not feel that constituted the issuing of the statements. He did not think that a compilation report was necessary.
12. Tinant confirmed that this was the only engagement performed which would require him to have a peer review performed for the work performed in the year ending 2011.
13. In accordance with the AICPA's professional standards AR 60.46 if the accountant performs a compilation, a report or written communication is required unless the accountant withdraws from the engagement. Tinant failed to follow this standard.
14. In accordance with the AICPA's professional standards AR 80.01 the accountant is required to comply with the provisions of the section whenever he is engaged to report on compiled financial statements or submits financial statements to a client or to third parties. Tinant failed to follow this standard.
15. In accordance with the AICPA's professional standards AR 80.16 when the accountant is engaged to report on compiled financial statements or submits financial statements that are reasonably expected to be used by a third party, the financial statements should be accompanied by a written report. Tinant failed to follow this standard.
16. The above described conduct constitutes grounds for disciplinary action in South Dakota against Tinant.
17. Tinant is aware that he may choose to be represented by legal counsel in this matter.
18. Tinant is aware of and understands the nature of these matters and has been informed of his right to counsel, notice, hearing, and appeal, and that by agreeing to and signing this Consent Agreement, he waives all procedures and proceedings before the Department to which he may be entitled under state or federal law.

19. Tinant admits that the violations described in this Consent Agreement are true and accurate, and Tinant admits to having violated South Dakota Law and Administrative Rules of South Dakota.
20. In return for Tinant's agreement to the provisions of this Consent Agreement, the Board agrees not to proceed to hearing and agrees that this Consent Agreement will constitute the final agency disposition of this matter.
21. Tinant agrees, in lieu of contesting this matter formally, to voluntarily accept the following terms and conditions for entry of this Consent Agreement:
 - a. Tinant will not compile financial statements for any clients without doing so in accordance with the standards.
 - b. When issuing financial statements and it is reasonably expected that use of the statements will be by a 3rd party, the financial statements will be accompanied by a written report.
 - c. When performing services of this nature, Tinant agrees that he will notify the board and be subject to peer review.
22. If Tinant fails to comply with the terms or conditions of this Consent Agreement, the Board may initiate formal disciplinary action against him.
23. Tinant understands that nothing in this Consent Agreement will be deemed to restrict the Board from raising facts in reference to either party outside of those set forth in this Consent Agreement, if there are other material facts related to the matters under investigation that have not been set forth or disclosed herein.
24. Tinant consents, agrees, and acknowledges that this Consent Agreement must be submitted to the Board for acceptance or rejection. In the event the Board rejects the recommendations for resolution by Consent Agreement, Tinant waives any right to claim prejudice of the Board by reason of any factual basis submitted to the Board in an effort to resolve this matter by Consent Agreement rather than by formal proceeding.

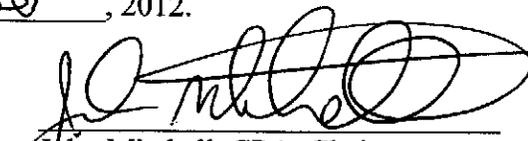
25. Tinant understands that the terms of this Consent Agreement will be public, which includes publishing a summary of the action taken on the Board's website.
26. Tinant understands that this Consent Agreement may be considered in any future licensing procedures with the Board and for the purposes of determining the appropriate sanctions in any future actions by the Board for any violations of laws or regulations of the State of South Dakota or for failing to abide by any order of the Board.
27. Tinant has read, understands, and agrees to this Consent Agreement and is freely and voluntarily signing it. This Consent Agreement contains the entire agreement between the parties relating to the matters referenced in the Consent Agreement. Tinant is not relying on any other representations of any kind, verbal or otherwise.
28. If this Consent Agreement is approved by the Board, a copy of the executed Consent Agreement will be served by first class mail to Tinant, at the address PO Box 169, St. Francis, SD 57572.

Dated this 25th day of September, 2012.



Marshall Tinant, CPA

Dated this 17 day of October, 2012.



John Mitchell, CPA, Chair
South Dakota Board of Accountancy