

BEFORE THE WEST VIRGINIA BOARD OF ACCOUNTANCY

WEST VIRGINIA BOARD OF ACCOUNTANCY,

Complainant,

v.

Case No. 2024-03

**FREDDIE M. BOONE, JR., License No. WV000756,
and Blake & Boone AC, Permit No. F0001,**

Respondents.

FINAL ORDER

Pursuant to W. Va. Code §§ 30-9-4 and 30-9-20, the West Virginia Board of Accountancy (“Board”) hereby ADOPTS and incorporates by reference, in its entirety, the *Hearing Examiner’s Recommended Findings of Fact, Conclusions of Law, and Recommended Decision* issued by Hearing Examiner Janis I. Reynolds on January 21, 2025, as the Board’s Findings of Fact and Conclusion of Law in this matter. A copy of the *Hearing Examiner’s Recommended Findings of Fact, Conclusions of Law, and Recommended Decision* is attached to this Final Order.

This matter proceeded to hearing on September 19, 2024, at the Board’s office in Charleston, West Virginia, before Hearing Examiner Janis I. Reynolds. The Board appeared by Assistant Attorney General, Joanne M. Vella, and its Executive Director, Kristi A. Justice. Respondent, Freddie M. Boone, Jr., failed to appear in person or otherwise, despite being duly notified of the hearing in this matter. The Board presented testimony and other evidence at the hearing, and then submitted its Proposed Findings of Fact and Conclusions of Law to the Hearing Examiner on November 15, 2024.

Based on the evidence of record, the Board has shown by a preponderance of the evidence that Respondents Freddie M. Boone, Jr. and Blake & Boone AC violated the Board's governing statutes and rules by demonstrating unethical and unprofessional conduct in the course of practicing as a Certified Public Account and serving as an Accounting Firm, as all more fully described in the attached *Hearing Examiner's Recommended Findings of Fact, Conclusions of Law, and Recommended Decision*.

NOW, THEREFORE, in consideration of the foregoing, the Board does hereby ORDER and DECREE as follows:

1. Freddie M. Boone, Jr.'s license, License No. WV000756, is hereby REVOKED.
2. Blake & Boone, AC's permit, Permit No. F0001, is hereby REVOKED.
3. Freddie M. Boone, Jr. shall surrender his physical license and wall certificate to the Board immediately upon entry of this Order.
4. Freddie M. Boone, Jr. shall remove and cease using the title "certified public accountant," the abbreviation "CPA," or any other title, word, combination of letters, abbreviation, sign, card or device, in whatever medium, that may lead a reasonable person to believe that he is a certified public accountant.
5. Blake & Boone, AC shall remove and cease using the title "certified public accounting firm (accounting corporation)," the abbreviation "CPA," or any other title, word, combination of letters, abbreviation, sign, card or device, in whatever medium, that may lead a reasonable person to believe that this is a certified public accounting firm (accounting corporation).

6. Freddie M. Boone, Jr. shall reimburse the Board the reasonable and necessary expenses incurred in its investigation and disposition of this matter, which expenses total \$1606.15.

7. This document is a public record as defined in W. Va. Code § 29B-1-2.

ENTERED this, the 21st day of February, 2025.

WEST VIRGINIA BOARD OF ACCOUNTANCY

By: Barry L. Burgess CPA
Barry L. Burgess, CPA, President

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and Blake and Boone AC, Permit No. F0001,
Respondents.**

HEARING EXAMINER'S RECOMMENDED FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDED DECISION

PROCEDURAL HISTORY

This matter came on for hearing on September 19, 2024, at the West Virginia Board of Accountancy's ("Board") office located at 405 Capitol Street, Charleston, West Virginia 25303, pursuant to a Notice of Hearing and Statement of Charges, both dated July 30, 2024.

At hearing, the Board was represented by Assistant Attorney General Joanne Vella and the Board's Executive Director Kristi Justice. The Board presented the testimony of Ms. Justice. The Board sent Freddie M. Boone, Jr. ("Respondent") a Notice of Hearing and Statement of Charges by certified and regular mail signed for on August 8, 2024. Exs. 1 & 2. Respondent did not appear at hearing nor did he ask for a continuance. This matter became mature for decision upon receipt of the Board's Proposed Findings of Fact and Conclusions of Law on November 15, 2024.

ISSUES

The issue is whether the Board has proven the violations of law and rules alleged in the Statement of Charges by a preponderance of the evidence. In West Virginia, if an

accounting firm or an of an individual CPA is performing attest or compilation services, the firm or individual is required to be enrolled in a Peer Review Program and submit documentation of same. After a detailed review of the entire record, including testimony and documentary evidence, and in accordance with W. VA. CODE § 30-9-4, the undersigned Hearing Examiner makes the following Recommended Findings of Fact and Conclusions of Law. The credibility of the witness was assessed, the exhibits were reviewed, and the proposed Findings of Fact and Conclusions of Law timely submitted by the Board were reviewed and considered.

RECOMMENDED FINDINGS OF FACT¹

1. Respondent is a licensee of the Board issued License Number WV 000756 and his firm Blake and Boone AC, holds Permit No. F0001. Bd. Exh. 2.

2. In West Virginia, an accounting firm or individual performing attest and compilation services is required to provide documentation that they are enrolled in a Peer Review Program. Trans. at 11.

3. In June 28, 2022, the Board received information from the American Institute of CPA's ["AICPA"]. This information contained a "List of Firms Whose Enrollment in the AICPA Peer Review Program Has Been Dropped." This list included Blake and Boone Accounting Corporation. Bd. Exh. 3.

4. On July 5, 2022, Ms. Justice sent "a letter of inquiry" to Respondent regarding the firm's participation in the AICPA Peer Review Program. Respondent was directed,

¹Usually, the Undersigned Hearing Examiner separates the List of Exhibits from the Findings of Fact. But, in this case, the evidence submitted in documentary form and supported by testimony is essentially the Findings of Fact. Thus, they are intertwined in this Decision.

within ten days, to provide a copy of his last peer review, and an explanation regarding his failure to cooperate with the Peer Review Program. Respondent was to advise the Board if he was continuing to offer attest or compilation services, and the date the last attest, audit or compilation he had performed. Other data was also requested. Bd. Exh. 4.

5. The Certificate of Service was signed for on July 11, 2022. Bd. Exh. 5.

6. On October 3, 2022, a second letter was sent to Respondent that "served as a second inquiry letter." Respondent was again given ten days to respond. Bd. Exh. 6.

7. This second Certificate of Service was signed for on October 11, 2022. Bd. Exh. 7.

8. On May 4, 2023, third letter was sent to Respondent as a follow-up to the two letters of inquiry, and again he was directed to provide proof of enrollment in a Peer Review Program. Bd. Exh. 8.

9. This Certificate of Service was signed May 10, 2023. Bd. Exh. 9.

10. On May 31, 2023, Respondent sent the Board an email stating he had submitted reinstatement forms to PRIMA (Peer Review Integrated Management Application) on May 17, 2023. Bd. Exh. 10.

11. On June 6, 2023, the Board emailed Respondent stating a review of the PRIMA website revealed he was not currently enrolled in a Peer Review Program. Bd. Exh. 11.

12. On June 12, 2023, the Board received a copy of a letter to Respondent from Paul Pierson, Senior Director of Peer Review and Professional Standards with Peer Review Alliance. This is the agency which administers Peer Review Program for various states, including West Virginia. Mr. Pierson stated Respondent's firm was now reenrolled

in an AICPA Peer Review Program. He also reported all data for Respondent's next peer review was to be submitted by August 31, 2023. Bd. Exh. 12; Tr. at 27.

13. On August 15, 2023, Ms. Justice emailed Respondent noting that, while he submitted his license renewal application on July 25, 2023, the Board had not received his renewal fee. Additionally, she noted the Board had not received the firm's permit renewal application and fee. She attached this form to the email. Bd. Exh. 13.

14. On August 16, 2023, Ms. Justice sent an email to Mike Corley, who works at the Boone firm, attaching his Individual CPA license. She attached a copy of the August 15, 2023 email as well. Bd. Exh. 14.

15. On October 20, 2023, the Board received a Notification from AICPA that Respondent's firm was dropped from the Peer Review Program. Bd. Exh. 15.

16. On November 6, 2023, Ms. Justice sent "a letter of inquiry" to Respondent regarding his participation in an AICPA Peer Review Program. A response was requested within ten days, and the required information was identified. UPS tracking was attached, indicating delivery on November 8, 2023. Bd. Exh. 16.

17. On January 3, 2024, Ms. Justice again emailed Respondent stating she was following up on his firm's enrollment in the Peer Review Program. She noted the AICPA website indicated his firm was not enrolled, and she requested an update from Respondent. Bd. Exh. 17.

18. On January 8, 2024, Ms. Justice received a reply from Respondent stating, "We applied for reinstatement but have not received anything yet. I will contact PRIMA today to find out what the story is." Bd. Exh. 17.

19. On January 17, 2024, Ms. Justice again emailed Respondent requesting an update on the firm's enrollment in the Peer Review Program. She noted the Complainant Review Committee would be meeting on January 19, 2024. Bd. Exh. 18.

20. On February 14, 2024, Ms. Justice wrote a letter to Respondent noting the Board met on January 26, 2024, and based on information received, believed Blake & Boone, AC "may be performing Attest and/or Compilation Services without maintaining enrollment in a peer review program." As noted previously, enrollment in a Peer Review Program is required in West Virginia to perform these services. She also informed Respondent the Board "voted to open a formal Complaint (Case Number 2024-03) against your license to seek disciplinary action." Respondent was directed to file a written response to the Board within thirty days and included a list of the type of information needed. This letter also included a copy of the Board's Complaint. Bd. Exh. 19.

21. Certified mail receipt indicated this letter was received on February 23, 2024, and signed for by Mike Corley. Bd. Exh. 20.

22. On February 29, 2024, Respondent responded to the Board's email of January 3, 2024 email. He reported, "I received and paid a \$250 invoice for reinstatement in Peer Review Alliance." He also sought clarification about what period the Peer Review should cover. Bd. Exh. 21.

23. On April 26, 2024, the Board, upon recommendation of the Complaint Committee, found probable cause to believe that Respondent had violated one or more of provisions of West Virginia §§ 30-9-20(a)(3), (5), (6), & (9) and West Virginia Rules §§ 1-1-13.1.c., e., f., & i.

24. On May 3, 2024, Barry L. Burgess, Board President, issued a Subpoena Dues Tecum to Respondent “commanding” him to “prepare and produce true copies of all engagement letters, representation letters, and all issued financial statements to clients for the time period beginning July 1, 2022 to present.” This material “must be forwarded to the West Virginia Board of Accountancy . . . within 15 days of receipt of this subpoena.” Bd. Exh. 22.

25. This subpoena was received and signed for by Mike Corley on May 13, 2024. Bd. Exh. 23.

26. Respondent did not respond to this subpoena. Bd. Exh. 1.

27. In an August 12, 2024 email to Respondent, Ms. Justice noted the Respondent stated his firm “did perform attest or compilation services in West Virginia” but was not enrolled in a Peer Review Program, as this issue was “in progress.” This answer was insufficient since, “All Firms must submit documentation of current enrollment in a Peer Review Program that meets the Board requirements” to perform this type of work. Accordingly, Respondent was informed his “firm[’s] permit and authorization . . . will remain in ‘Pending Status’ until our office receives documentation of enrollment in a Peer Review Program.” Bd. Exh. 24.

28. On August 1, 2024, the Board sent a Notice of Hearing and Statement of Charges (dated July 30, 2024) to Respondent at his address listed with the Board. The attached Certificate of Service was signed for on August 8, 2024. Bd. Exh. 2

29. The hearing was held on September 19, 2024, but Respondent did not attend and did not request a continuance.

30. Blake and Boone are not currently enrolled in a Peer Review Program. An accounting firm in West Virginia may not perform attest or compilation services unless they are enrolled in a Peer Review Program. As Blake and Boone are not currently enrolled in a Peer Review Program, they are not allowed to perform "Attest and Compilation services," but reported that they had done so. See Finding of Fact 27.

31. Although documentation was requested by the Board at many different times, Respondent never received the requested data and/or documentation.

Consistent with the above Recommended Findings of Fact, the Undersigned Hearing Examiner recommends the following Conclusions of Law.

RECOMMENDED CONCLUSIONS OF LAW

1. The West Virginia Board of Accountancy ("Board") is a statutorily created regulatory body whose purpose is "to protect the public interest in receiving accurate and reliable financial information and assurance." Regulation of licensure is an important part of the Board's duties. See W. VA. CODE §§ 30-9-1 *et seq.*

2. The West Virginia Legislature has declared that "[t]he fundamental purpose of licensure and registration is to protect the public, and any license, registration, certification or other authorization to practice issued pursuant to this chapter is a revocable privilege." W. VA. CODE § 30-1-1a.

3. Every Chapter 30 board, including the West Virginia Board of Accountancy, may suspend or revoke the license of any person who has been convicted of a felony or who has been found to have engaged in conduct, practices or acts constituting professional negligence or a willful departure from accepted standards of professional conduct Each board may also assess administrative costs.

W. VA. CODE §§ 30-1-8(a) & 30-9-4(4).

4. In order to carry out its regulatory duties, the Board has the power to hold hearings and to suspend, revoke, or otherwise discipline an accountant's license pursuant to the authority granted by W. VA. CODE §§ 30-9-4(4 & 6) & 30-9-20 and W. Va. Code R §§ 1-1-13, 1-2-3, & 1-3-4.

5. Respondent is licensed by the Board, holding License No. WV000756. Blake and Boone AC hold Permit Number F001. As a licensee of the Board, Respondent is subjected to the license requirements and to the rules, regulations, statutes, and policies governing the practice of accounting in the State of West Virginia. Additionally, Respondent held an active Firm Permit with Authorization to perform Attest and Compilation Services.

6. The Board issued a timely Notice of Hearing and Statement of Charges on July 30, 2024, which were sent to Respondent by certified and regular mail in accordance with W. VA. CODE § 29A-5-1 and W. VA. CODE R § 1-2-3.8.

7. Pursuant to W. VA. CODE § 29A-5-2 (a) in administrative cases:

The rules of evidence as applied in civil cases in the circuit courts of this state shall be followed. When necessary to ascertain facts not reasonably susceptible of proof under those rules, evidence not admissible thereunder may be admitted, except where precluded by statute, if it is type commonly relied upon by reasonably prudent men in the conduct of their affairs. . .

See also W. VA. CODE R 1-2-3.10(c).

8. The Board may designate a Hearing Examiner to conduct hearings. W. VA. CODE R §§ 1-2-3.10(j) & 1-2-6.1. The undersigned Hearing Examiner is a licensed attorney and was so designated in this case by the Board.

9. "The general rule, unless altered by statute, is that in an administrative proceeding the required degree of proof is a preponderance of the evidence. 2 Am. Jur.

2d Administrative Law § 392; Cf., *Harper v. State Workmen's Compensation Commissioner*, 234 S. E. 2d 779 (W. Va. 1977)." *Jordan v. Roberts*, 161 W. Va. 750, 755, 246 S. E. 2d 259, 262 (1978). A "preponderance of the evidence" means the greater weight of the evidence, "even in the slightest degree." *McCullough v. Clark*, 106 S.E. 61, 70 (W. Va. 1921).

10. In disciplinary actions, the Board has the burden of proof. W. VA. CODE R § 1-2-3.10 (m).

11. Credibility is determined by the Hearing Examiner in administrative cases, based upon thorough evaluation of witness testimony. See *Darby v. Kanawha County Bd. of Educ.*, 227 W. Va. 525, 711 S.E.2d 595 (2011). The Hearing Examiner is uniquely situated to make such determinations, and such determinations are binding unless patently without basis in the record. *Martin v. Randolph County Bd. of Educ.*, 195 W. Va. 297, 304, 465 S.E.2d 399, 406 (1965). Credibility determinations may be based upon many factors, including the following: the general demeanor and comportment of the witness at hearing; the bias or interest of the witness; the consistency or inconsistency of the statements of the witness; the witness' ability and acuteness to observe; the memory of the witness; the reputation for honesty of the witness; and other factors which tend to cause the trier of fact to believe or disbelieve the testimony of the witness. See *Franklin D. Cleckley, Handbook on Evidence for W. Va. Lawyers*, § 607.02(1)(b) (5th Ed. 2012).

12. The undersigned Hearing Examiner finds the testimony of Ms. Justice to be credible and reliable. Her testimony was consistent with and supported by documentary evidence.

13. "In addition to any other sanctions imposed, the board shall require a licensee . . . to pay the costs of the proceeding." W. VA. CODE § 30-9-22(d).

14. The Board asserts Respondent has violated W. VA. CODE §§ 30-9-20 (a)(3), (5), (6), & (9) and W. Va. Code R §§ 1-1-13.1 c., e., f., & i. (The Rules have nearly identical wording as the Code sections.)

15. W. VA. CODE § 30-9-20 (a) states the Board may take disciplinary action if the licensee is found guilty, after hearing, of any of the following listed actions.

(3) Failure by any licensee to maintain compliance with requirements for issuance or renewal of a license or to timely notify the board as required under section eighteen of this article;

...

(5) Dishonesty, fraud, professional negligence in the performance of services as a licensee or substantial equivalency practitioner or in the filing or failure to file the licensee's or substantial equivalency practitioner's own income tax returns, or a willful departure from accepted standards of professional conduct applicable to licensees and substantial equivalency practitioners;

(6) Violation of any provision of this article or any rule, including the violation of any professional standard or rule of professional conduct; and

...

(9) Any conduct adversely reflecting upon the licensee's or substantial equivalency practitioner's fitness to perform professional services.

16. The Board has met its burden of proof by a preponderance of the evidence and demonstrated Respondent violated each of the above listed Code Sections. Respondent; 1) **repeatedly** did not respond to numerous requests for essential information; 2) **repeatedly** provided inaccurate or untrue information to the Board; 3) practiced in an area that required enrollment in a Peer Review Program when he was not enrolled, thus; engaged in, at the least, professional negligence; and 4) his repeated behaviors called into question his fitness to perform the required professional services.

17. W. VA. CODE § 30-9-20 (a) states, “[t]he Board may refuse to issue, refuse to renew, suspend, revoke or limit any licensee . . . who, after hearing, has been adjudged by the Board as unqualified” for the reasons listed in this section.

18. Accordingly, the Board has good cause to proceed with disciplinary action against Respondent’s license.

19. Pursuant to W. VA. CODE § 30-9-22(d), these Conclusions of Law “shall” require Respondent to pay the costs of these proceedings.

RECOMMENDED DECISION

Based upon the foregoing Recommended Findings of Fact and Conclusions of Law, the Hearing Examiner **RESPECTFULLY RECOMMENDS and FINDS** that the West Virginia Board of Accountancy has proven the allegations identified in the Notice of Hearing and Statement of Charges dated July 30, 2024. Respondent’s behavior and actions violated the West Virginia Code and the Board’s Rules as set forth herein. **FURTHER**, the undersigned recommends the West Virginia Board of Accountancy determine what disciplinary action should be taken against Respondent’s license and assess the costs owed by Respondent for these proceedings.

Pursuant to W. VA. CODE R 1-2-6.3, the Board may adopt, modify, or reject any findings of fact and conclusions of law recommended by the Hearing Examiner.

DATED: January 21, 2025

A handwritten signature in cursive script, reading "Janis I. Reynolds", written over a horizontal line.

Janis I. Reynolds
Hearing Examiner
WV State Bar No. 4363

