

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

In the Matter of:

CONSENT AGREEMENT

Donna Denker,
Licensee.

Case No. 108-24

License No. SD CPA 1141

Pursuant to South Dakota Codified Laws (SDCL) 36-1C-6 and 1-26-20, in consideration of the above-captioned matter, and as the full and final resolution of this matter, the undersigned parties do hereby consent and agree to the following:

JURISDICTION AND APPLICABLE LAW

1. The South Dakota Department of Labor and Regulation, Board of Accountancy (Board) has jurisdiction over this matter pursuant to SDCL Chapter 36-20B.
2. Board may take disciplinary action against a licensee based upon any of the grounds listed in SDCL 36-20B-40.
3. Disciplinary action may include denial, suspension, or revocation of the certificate pursuant to SDCL 36-20B-40.
4. SDCL 36-20B-27 requires a licensed certified public accountant (CPA) to complete 120 hours of continuing professional education (CPE) in each three-year renewal cycle.
5. ARSD 20:75:04:11 requires Board licensees to submit to verification of their CPE credits claimed during a reporting period, which includes cooperating with random audits.
6. ARSD 20:75:04:15 requires Board licensees to document their CPE credits.
7. SDCL 36-20B-40(3) authorizes the Board to impose discipline upon a licensee for "failure to maintain compliance with the requirements for issuance or renewal of such license".
8. SDCL 36-20B-40(6) authorizes the Board to impose discipline upon a licensee for a violation "of any provision of this chapter or rule, promulgated by the board pursuant to chapter 1-26, or violation of professional standards".

9. SDCL 36-1C-3 requires licensees to respond to a written complaint made under SDCL 36-1C-2 within 20 business days and states that failure “to respond to the complaint is grounds for disciplinary action.”

STIPULATION TO FORMAL COMPLAINT STATEMENT OF FACTS

1. Donna Denker (DENKER) is a licensee of the Board as outlined in the Formal Complaint Statement of Facts (Statement of Facts).
2. DENKER agrees and stipulates that the Statement of Facts is true and correct and shall constitute the findings of fact in this case.
3. A copy of the Formal Complaint shall be marked as **Exhibit A**, attached to the Consent Agreement, and incorporated into this agreement by reference.

CONCLUSIONS OF LAW

1. The above-described conduct constitutes grounds for discipline pursuant to SDCL 36-20B-40(3) and (6).

ORDER

1. DENKER agrees, in lieu of further contesting this matter, that her license shall be **suspended for 90 days** which shall be held in **abeyance** pending her compliance with the following conditions:
 - a. DENKER shall complete and provide proof of completion to the Board office of **100 CPE hours** within **90 days** of the effective date of this Consent Agreement. DENKER shall only receive credit for these hours toward the period ending June 30, 2023. This shall fulfill her obligation for the audit period as determined by Board policy under Board rules. This includes the Board staff rolling back hours to the prior periods. This shall serve as an extension of CPE periods ending June 30, 2021, June 30, 2022, and June 30, 2023.
 - b. DENKER shall pay a fine of **\$800** to the Board office within **30 days** of the effective date of this Consent Agreement.
 - c. DENKER shall submit proof of completion for all claimed CPE courses for each reporting year to the Board office by August 1st of each of the following years: 2024, 2025, and 2026.

- d. DENKER shall comply with all provisions of SDCL Chapter 36-20B and ARSD Article 20:75.
2. DENKER shall be ineligible for any CPE extensions for the reporting periods ending in the years: 2024, 2025, and 2026. The Board office may deny any requests for extensions based solely on this Consent Agreement.
3. Any violation of this Consent Agreement by DENKER constitutes grounds for further discipline and/or imposition of the suspension held in abeyance.

ACKNOWLEDGMENT AND WAIVER

1. DENKER is aware of and understands the nature of this matter.
2. DENKER acknowledges that she has been informed of various rights she has in this matter. These rights include, but are not limited to, the right to:
 - a. be represented by a lawyer in this matter;
 - b. receive notice of any hearing in this matter;
 - c. have a contested case hearing, as defined in SDCL 1-26-1(2). A contested case hearing includes the right of the licensee to be present at the hearing, be represented by legal counsel, introduce evidence, present testimony, call witnesses to testify, cross-examine all witnesses present, and submit argument on her own behalf; and
 - d. appeal any decision based on the contested case hearing to circuit court and the South Dakota Supreme Court, as provided by law.
3. DENKER is not represented by an attorney in this matter, is waiving her right to an attorney, and is representing herself in this matter.
4. DENKER understands that by signing this document she is agreeing that this Consent Agreement:
 - a. includes Board making a finding that DENKER violated license law;
 - b. represents Board taking disciplinary action against DENKER;
 - c. shall serve as the final resolution of this matter, including any appeal;
 - d. contains the entire agreement between the parties relating to the matters referenced in the Consent Agreement. DENKER is not relying on any other representations of any kind, verbal or otherwise;

- e. shall be a public record, as defined by SDCL 1-27-1.1, and may be published publicly by Board, including on its website;
 - f. must be submitted to Board at a public meeting for acceptance or rejection;
 - g. shall not be deemed to restrict Board from raising facts in reference to DENKER 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;
 - h. may be considered in any future licensing matters with Board and for the purposes of determining the appropriate sanctions in any future actions by Board for any violations of laws or regulations of the State of South Dakota or for failing to abide by any order or decision of Board; and
 - i. shall be effective on the date it is signed by an Board representative.
5. DENKER has read, understands, and agrees to this Consent Agreement. DENKER affirms that she is freely and voluntarily signing it.
6. If the Consent Agreement is approved by Board, DENKER agrees to waive any rights and procedures related to this matter which may be afforded her under SDCL Chapters 1-26, 36-20B, 36-1C, or any other state or Federal law.
7. If this Consent Agreement is approved by Board, a copy of the executed Consent Agreement shall be served electronically upon DENKER at her email address on file with the Board.
8. If the Board rejects this Consent Agreement, the following terms and conditions apply:
- a. DENKER waives any right to claim prejudice or to request recusal of any Board member 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.

- b. DENKER's right to a contested case hearing is reinstated, including all the substantive and procedural protections afforded to a licensee related to such a hearing under SDCL chapter 1-26.
- c. This Consent Agreement cannot be used as evidence of guilt or as an admission of wrongdoing by DENKER at any subsequent hearing.

Dated this 20 day of December.
(month and year)



Donna Denker
Licensee

Dated this 24 day of January 2024.
(month and year)



Deidre Budahl
Board Chair