

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

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**IN THE MATTER OF:**

**YOLANDA THEOPHILUS,  
Licensee.**

**Certificate No. 3082**

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW,  
AND DECISION**

**Case No. 112-23  
OHE Case No. DLR 23-002**

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An administrative hearing was held by video conference before the Board of Accountancy (Board) on August 25, 2023. Hearing Examiner Ryan Darling from the Office of Hearing Examiners presided over the hearing. Gerald McCabe, senior staff attorney, appeared and represented the Board office. Nicole Kasin, executive director, appeared and testified as a witness for the Board office. Yolanda Theophilus, licensee, appeared and represented herself. Amber Mulder, special assistant attorney general, appeared and advised the Board.

Based on the evidence presented at the hearing, the Board makes the following:

**FINDINGS OF FACT**

1. YOLANDA THEOPHILUS (THEOPHILUS) is a certified public accountant (CPA) with the Board. THEOPHILUS has been certified since May 15, 2013 and her certificate number is 3082.
2. As a licensee of the Board, THEOPHILUS is required to report her continuing professional education (CPE) to the Board in accordance with Board requirements.
3. For the period commencing July 1, 2019 through June 30, 2020, THEOPHILUS reported 47 CPE hours.
4. For the period commencing July 1, 2020 through June 30, 2021, THEOPHILUS reported 89 CPE hours.
5. For the period commencing July 1, 2021 through June 30, 2022, THEOPHILUS reported 33.5 CPE hours.
6. On September 19, 2022, the Board office mailed to THEOPHILUS a letter notifying her that she was selected for a CPE audit for the three-year renewal period commencing July 1, 2019 through June 30, 2022. The letter informed THEOPHILUS that her deadline to submit documentation to verify her claimed CPE was October 31, 2022.

7. THEOPHILUS responded to the audit request and provided various documentation to the Board office both before and after the October 31, 2022 deadline.
8. THEOPHILUS provided documentation for some of the CPE she had reported and additional CPE she had not reported.
9. At the conclusion of the audit, the Board office determined that THEOPHILUS had provided significant documentation for courses which do not meet the requirements to qualify as CPE.
10. On March 1, 2023, the Board office issued a letter explaining the results of the CPE audit for the three-year period ending June 30, 2022. The Board office removed from the list of documented CPE hours those from multiple courses from various providers which did not meet the criteria under ARSD 20:75:04:05 because the providers were not on the NASBA registry as a self-study provider. The results were as follows:
  - a. For the period commencing July 1, 2019 through June 30, 2020, THEOPHILUS provided documentation for 0 CPE hours.
  - b. For the period commencing July 1, 2020 through June 30, 2021, THEOPHILUS provided documentation for 4 CPE hours.
  - c. For the period commencing July 1, 2021 through June 30, 2022, THEOPHILUS provided documentation for 103 CPE hours.
11. Based on the information provided by THEOPHILUS, THEOPHILUS appropriately documented:
  - a. No CPE hours for the reporting year ending June 30, 2020,
  - b. 4 CPE hours for the reporting year ending June 30, 2021, and
  - c. 103 CPE hours for the reporting year ending June 30, 2022.
12. For the three-year period ending June 30, 2020, THEOPHILUS has 108.5 CPE hours of the required 120 CPE hours.
13. For the three-year period ending June 30, 2021, THEOPHILUS has 77.5 CPE hours of the required 120 CPE hours.
14. For the three-year period ending June 30, 2022, THEOPHILUS has 107 CPE hours of the required 120 CPE hours.

Based on the above findings of fact, the Board makes the following:

### **CONCLUSIONS OF LAW**

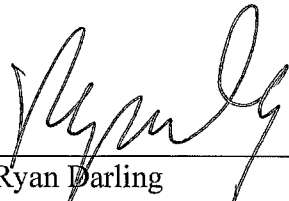
1. The South Dakota Department of Labor and Regulation, Board of Accountancy (Board) has jurisdiction over this matter pursuant to SDCL Chapter 36-20B.
2. ARSD 20:75:04:11 requires Board licensees to submit verification of their continuing professional education (CPE) credits claimed during a reporting period, which includes cooperating with random audits.
3. ARSD 20:75:04:14 and 20:75:04:15 require Board licensees to document their CPE credits.
4. ARSD 20:75:04:05 requires self-study CPE to be documented appropriately and the program sponsor “must be approved by NASBA's National Registry of Continuing Professional Education Sponsors or NASBA's Quality Assurance Service”.
5. SDCL 36-20B-27 requires a licensed CPA to complete 120 hours of continuing professional education (CPE) in each three-year renewal cycle.
6. 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”.
7. 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”.

Based on the above conclusions of law, the Board makes the following:

### **DECISION**

1. The CPA certificate of THEOPHILUS shall be **SUSPENDED** for 90 days which shall be held in abeyance pending compliance with the other requirements of this decision.
2. THEOPHILUS shall fulfill her CPE obligation for the audit period as determined by Board policy under the Board’s rules. This would include the Board staff rolling back hours to the prior period. THEOPHILUS shall complete 67 CPE hours to fulfill this requirement within 90 days.
3. THEOPHILUS shall pay a fine of **\$250** to the Board office within 90 days.
4. THEOPHILUS shall be subject to CPE audits for the next three reporting periods, including the period which just ended on June 30, 2023.

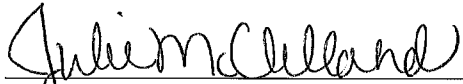
Dated the 13 day of October 2023.

  
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Ryan Darling  
Hearing Examiner

**NOTICE:** This is the final decision in this matter unless you appeal. You may appeal directly to circuit court within 30 days after the date of this decision. SDCL 36-20B-50 and 1-26-31.

## CERTIFICATE OF SERVICE

I certify that on October 13, 2023, at Pierre, South Dakota, a true and correct copy of the Findings of Fact, Conclusions of Law and Decision in the above-entitled matter was sent via U.S. Mail or E-Mail to each party listed below.



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