

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

IN THE MATTER OF:

**COLE TURNER,
Licensee.**

Certificate No. 2937

CONSENT AGREEMENT

**Case Nos. 104-23 (revocation of abeyance)
108-23 (new allegations)**

In consideration of the above-captioned matters and as the full and final resolution of these matters, the undersigned parties do hereby consent and agree to the following:

1. The South Dakota Department of Labor and Regulation, Board of Accountancy (Board) has jurisdiction over these matters pursuant to SDCL Chapter 36-20B.
2. ARSD 20:75:05:16 requires Board licensees to respond to communications from the Board, when requested, within 30 days after the mailing of the communication by registered or certified mail to the licensee's address on record with the Board.
3. 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".
4. COLE TURNER (TURNER) is a certified public accountant with the South Dakota Board of Accountancy (Board). TURNER has been certified since June 28, 2010 and his certificate number is 2937.
5. On October 24, 2022, the Board office mailed by certified mail a Denial of Request for CPE Extension (Denial Order) to TURNER at his address on file with the Board.
6. In the Denial Order, the Board found TURNER had violated SDCL 36-20B-40(3) and ordered the following discipline:

- a. TURNER's certificate was suspended for a period of three months, with the three months being held in abeyance for a period of one year starting October 24, 2022, conditioned on:
 - i. TURNER shall pay an administrative fine in the amount of \$250.00 to the Board Office by November 23, 2022; and
 - ii. TURNER shall have no additional violations under SDCL chapter 36-20B and ARSD article 20:75 during the period of abeyance;
 - b. TURNER's continuing professional education (CPE) three year rolling period due September 30, 2022, shall be audited; and
 - c. TURNER is prohibited from requesting any CPE extensions for a period of three years.
7. The Denial Order noted that TURNER had 30 days from the date of the order to file a written request for a hearing before the Board. The Board office did not receive any request for a hearing from TURNER and the Denial Order became final.
 8. Along with the Denial Order mailed to TURNER on October 24, 2022, the Board office also enclosed a letter which provided TURNER with details of how to comply with the required CPE audit, including that he was required to submit documentation of his CPE hours by November 23, 2022.
 9. On November 9, 2022, TURNER emailed Nicole Kasin (Kasin), executive director for the Board, requesting an update on the status of his request for an extension.
 10. That same day, Kasin responded to TURNER and noted that a "certified letter was sent to [TURNER's] preferred mailing address on October 24, 2022, and signed for on

October 28, 2022”. Kasin attached copies of the documents that had been mailed to her email response.

11. Also that same date, TURNER responded to Kasin by email, “Thanks. I’ll aggregate the requested documents.”
12. On December 14, 2022, TURNER emailed Kasin and inquired, “How do I pay my \$250 fine? Mail you a check?”
13. Kasin responded the same date by email saying, “Yes you may mail a check to our office at 301 E. 14th St. Suite 200 Sioux Falls, SD 57104.”
14. TURNER failed to pay the required administrative fine in the amount of \$250.00 to the Board Office by November 23, 2022.
15. TURNER failed to respond to the request for CPE audit documentation within 30 days (by November 23, 2022) as required by ARSD 20:75:05:16.
16. On January 10, 2023, the Board initiated a Formal Complaint against TURNER to revoke the abeyance of suspension (case file 104-23) and to address additional violations for failing to timely and fully respond to the CPE audit request (case file 108-23).
17. The above-described conduct constitutes grounds for discipline under SDCL 36-20B-40(6).
18. On January 26, 2023, TURNER through his attorney submitted to the Board documentation of his CPE hours for the CPE audit.
19. TURNER provided sufficient documentation to pass the CPE audit for credits claimed July 1, 2019 through June 30, 2022 with applicable extensions.

20. TURNER is represented in this matter by an attorney: J. Vincent Jones, Woods Fuller, 300 S Phillips Ave, Suite 300, Sioux Falls, SD 57104.
21. TURNER is aware of and understands the nature of this matter and has been informed of his right to counsel, notice, hearing, and appeal, and that by agreeing to and signing this Consent Agreement, TURNER **waives** all procedures and proceedings before the Board to which he may be entitled under state or federal law.
22. TURNER understands that by entering into this Consent Agreement, the Board is making a finding that TURNER violated the terms of the Denial Order and revocation of the abeyance of suspension is appropriate. TURNER further understands by entering into this Consent Agreement, the Board is taking formal disciplinary action against TURNER.
23. In return for TURNER's agreement to the provisions of this Consent Agreement, the Board agrees not to proceed to a formal hearing on case file 104-23 and the case file will be resolved pursuant to the terms of this Consent Agreement. The Board further agrees that case file 108-23 will be dismissed.
24. TURNER and the Board agree this Consent Agreement, if executed, will serve as the full and final Board disposition and resolution of these matters, including any appeals.
25. TURNER agrees, in lieu of further contesting this matter, that his license shall be suspended for a period of **three months** commencing on the effective date of this Consent Agreement.
26. TURNER further agrees to pay a total fine of **\$500** (which includes the \$250 fine originally ordered October 24, 2022 plus an additional \$250 fine) to the Board office within 60 days of the effective date of this Consent Agreement.

27. If TURNER fails to comply with the terms or conditions of this Consent Agreement, such failure would constitute additional grounds for disciplinary action by the Board.
28. TURNER agrees he shall remain prohibited from requesting any CPE extensions for a period of three years commencing October 24, 2022 as that was previously ordered by the Board in the Denial Order and not a condition of the abeyance of his suspension.
29. TURNER agrees and 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.
30. TURNER 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, TURNER 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.
31. TURNER 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.
32. TURNER 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.
33. TURNER 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.

TURNER is not relying on any other representations of any kind, verbal or otherwise.

34. If this Consent Agreement is approved by the Board, a copy of the executed Consent Agreement will be served upon TURNER by emailing a copy to his attorney at vince.jones@woodsfuller.com.
35. If approved by the Board, the effective date of this Consent Agreement shall be retroactive to January 30, 2023.

Dated the ____ day of January 30, 2023
(month and year)



Cole Turner
Licensee

Dated the 23 day of March 2023
(month and year)



Deidre Budahl
Board Chair