

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

IN THE MATTER OF

**STEVEN WAGNER,
Cert. # 1298
Respondent**

CONSENT AGREEMENT

Case # 105-19

In consideration of the above matter and in lieu of the Formal Hearing currently set for March 20, 2019, the undersigned parties do hereby consent and agree to resolve this dispute by Consent Agreement.

SUMMARY

1. Steven Wagner submitted an active certificate renewal application for year ending July 31, 2018. He requested and received an administrative extension to complete required CPE for period ending June 30, 2018. Following an administrative hearing on January 16, 2019, the Board entered an order granting an extension to complete all outstanding CPE due for period ending June 30, 2018, and requiring proof of all hours due to the Board's Office by February 16, 2019. Wagner has failed to submit proof of the completed CPE.

LICENSE LAWS AND RULES

2. **SDCL 36-20B-40** Disciplinary action—Remedies available to board—Grounds.
3. **SDCL 36-20B-27** Renewal of certificate—Continuing education requirement—Exception.
4. **ARSD 20:75:03:03.** Application for renewal of certificates –Fees.
5. **ARSD 20:75:03:12.** Renewal of a South Dakota active certificate – Fees.
6. **ARSD 20:75:04:10.** Extension for completion of continuing professional education.

FACTS

7. On September 20, 2018, STEVEN WAGNER submitted an active certificate renewal application for year ending July 31, 2019.
8. On July 31, 2018, WAGNER emailed the Board Office and requested an extension to complete the required CPE for period ending June 30, 2018.

9. An administrative extension was granted by Julie Iverson, Senior Secretary, on July 31, 2018, and WAGNER was sent verification by email that 61.5 hours of CPE would be required to be completed by September 30, 2018.
10. On September 28, 2018, WAGNER sent an email to Nicole Kasin, Executive Director, requesting another extension of the 61.5 hours of CPE.
11. On October 23, 2018 the Board met to review WAGNER's request for a second CPE extension. The Board tabled the decision and requested WAGNER provided more information.
12. On December 5, 2018, the Board met again and reviewed WAGNER's request. The request was denied for lack of good cause shown.
13. The Board issued a Denial of Request for CPE Extension.
14. The Denial of Request stated WAGNER's license would be suspended for a period of three months, but held in abeyance, subject to WAGNER meeting certain requirements. Those requirements are:
 - a. Submit all CPE due by December 31, 2018;
 - b. Pay an administrative fine in the amount of \$250.00 by January 4, 2019; and
 - c. Abide by all laws and rules under SDCL chapter 36-20B and ARSD article 20:75;
15. The Denial of Request also required WAGNER to undergo a CPE audit for the three-year rolling period due on December 31, 2018 and prohibited him from requesting additional CPE extensions for three years.
16. On December 24, 2018 WAGNER requested a hearing before the Board to contest the Denial of Request. In a December 27, 2018 email, WAGNER waived the 30 day notice required by SDCL 36-20B-45.

17. On January 16, 2019, an administrative hearing was held before the Board with WAGNER. The Board withdrew the Denial of Request for CPE Extension dated December 5, 2018. The Board ordered WAGNER be granted an extension to complete all outstanding CPE due for period ending June 30, 2018, and proof of all hours were due to the Board's Office by February 16, 2019.
18. WAGNER failed to submit proof of completion of the required CPE by February 16, 2019, in violation of SDCL 36-20B-27, 36-20B-40(3) and ARSD 20:75:03:12.

LICENSEE TERMS AND CONDITIONS

19. WAGNER agrees, in lieu of contesting this matter formally, to voluntarily accept the following terms and conditions for entry of this Consent Agreement:
- a. WAGNER agrees to relinquish both his personal certificate, number 1298, and firm permit, number 1539, to the Board office by March 29, 2019;
 - b. WAGNER agrees to send letters to every client he is currently performing tax or CPA services for, informing those clients that he no longer holds a CPA certificate. Copies of the letters sent to clients must be submitted to the Board office by March 29, 2019
 - c. WAGNER agrees and understands that he will not be eligible to reinstate his personal certificate until he has completed all CPE required for renewal under SDCL chapter 36-20B and ARSD chapter 20:75:03.
 - i. WAGNER agrees and understands that nothing in this agreement may be construed to require the Board to reinstate his certificate. The Board retains all rights to make a determination regarding reinstatement according to the laws and rules in effect at the time WAGNER applies for reinstatement.

UNDERSTANDINGS

20. WAGNER understands that failure to comply with the terms of this Consent Agreement may result in the Board denying the reinstatement of his certificate.
21. WAGNER 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, WAGNER waives any right under SDCL 1-26-26, 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.
22. WAGNER 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, he waives all procedures and proceedings before the Board to which he may be entitled under state or federal law. WAGNER is aware that he may choose to be represented by legal counsel in this matter.
23. WAGNER understands that by executing this agreement, the Board is making a finding that WAGNER has violated **SDCL 36-20B-27, 36-20B-40(3) and ARSD 20:75:03:12**. WAGNER understands that by executing this agreement, disciplinary action is being taken against him.
24. In return for WAGNER's agreement to the provisions of this Consent Agreement, the Board agrees not to proceed to a formal hearing and agrees this Consent Agreement will constitute the final agency disposition of this matter.
25. WAGNER understands that the terms of this Consent Agreement will be public information.
26. WAGNER understands that nothing in this Consent Agreement will be deemed to restrict the Board from raising facts in reference to WAGNER 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.

27. WAGNER 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.
28. WAGNER has read, understands, and agrees to this Consent Agreement and is freely and voluntarily signing. This Consent Agreement contains the entire agreement between the parties relating to the matters referenced in the Consent Agreement. WAGNER is not relying on any other representations of any kind, verbal or otherwise.
29. If this Consent Agreement is approved by the Board, a copy of the executed Consent Agreement will be sent to WAGNER by electronic mail to the address swags5009@gmail.com.

I have read and understand the terms of this Consent Agreement and I understand that I am waiving my due process rights and my right to a hearing. I am voluntarily entering into this agreement.

Dated this 8th day of March, 2019.

STEVEN WAGNER, Licensee
Cert. No. 1298

This agreement is accepted by the South Dakota Board of Accountancy.

Dated this 20 day of March, 2019.

South Dakota Board of Accountancy

Chairman