

STATE OF SOUTH DAKOTA

BOARD OF ACCOUNTANCY

IN THE MATTER OF THE	)	
COMPLAINT BY THE	)	FINDINGS OF FACT,
SOUTH DAKOTA BOARD OF	)	CONCLUSIONS OF LAW
ACCOUNTANCY AGAINST	)	AND ORDER
ROSS A. DETERMAN, CPA	)	

A hearing was held before the South Dakota Board of Accountancy on August 10, 2009. Based upon the testimony and evidence presented, the Board hereby enters the following findings of fact, conclusions of law and order.

FINDINGS OF FACT

1. Ross Determan (hereinafter "Determan") was issued individual Permit No. 2309 and firm Permit No. 953 by the South Dakota Board of Accountancy (the "Board") on July 1, 2002 and December 1, 1997, respectively.
2. Pursuant to SDCL 36-20B-36, Determan was required to undergo peer review every three years to renew his firm permit.
3. Determan had two prior peer's reviews, one of which resulted in an adverse engagement report, and the other in a modified engagement report.
4. Specifically, in July 2005, an AICPA equivalent review of Determan's firm resulted in a modified report with letter of comments for engagements year ending December 31, 2004.
5. The Board accepted the AICPA equivalent review, letter of comments, and the firm's response thereto, based on Determan's agreement to complete an accelerated system review by a qualified reviewer by June 2007,

that showed progress in implementing the corrective action recommended in the letter of comments.

6. Determan agreed to the terms of the proposed consent agreement in June 2006.

7. Determan failed to obtain an accelerated system review by June 2007.

8. Determan failed to notify the Board that he would be late in obtaining the accelerated system review by June 2007.

9. On December 11, 2007, Determan requested the Board approve an extension of time to complete the accelerated system review.

10. The Board agreed to accept a system review of Determan's firm for the year ending December 31, 2007, to be completed by June 30, 2008, in lieu of the accelerated system review previously agreed to between the parties.

11. On April 16, 2008, Determan was notified by the Board that he was required to undergo a peer review and that the deadline for submitting an application for equivalent review was June 1, 2008.

12. Determan failed to submit an application for equivalent review by June 1, 2008.

13. Determan failed to submit to the Board by June 30, 2008, a system review of his firm for engagements ending December 31, 2007.

14. A hearing was held before the Board on December 8, 2008.

15. Based on the testimony and evidence submitted at the December 8, 2008 hearing, the Board entered Findings of Fact, Conclusions of

Law and an Order on <sup>January</sup> ~~June~~ 5, 2009, finding Determan failed to comply with SDCL 36-20B-36, 36-20B-40(3), (5), (6), (7), (10), and (12), and ARSD 20:75:07.

16. The Order issued by the Board prohibited Determan and his firm from performing attest work and/or issuing reports that include audits, compilations or reviews until he petitions the Board for reinstatement of the privilege to perform attest work.

17. Determan affirmatively stated in his revised fiscal year 2009 license renewal application, submitted to the Board on December 10, 2008, that he was not performing attest work, thereby affirming that he was exempt from undergoing a peer review.

18. Determan has not petitioned the Board for reinstatement of the privilege to perform attest work.

19. Determan has not undergone peer review.

20. Determan and his firm have continued to perform attest work, without undergoing a peer review, in violation of SDCL 36-20B-61 and the Board's January 5, 2009, Order. Specifically, after the Board issued its January 5, 2009, Order prohibiting Determan and his firm from performing attest work, Determan's firm continued to issue standard compilation reports.

#### CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter pursuant to SDCL Ch. 1-26 and 36-20B.

2. That the particular statutes and rules involved are SDCL 36-20B-36, 36-20B-40(3), (5), (6), (7), (10), (12), 36-20B-61, and ARSD Chapter 20:75:07.

3. Determan has failed to comply with SDCL §§ 36-20B-36, 36-20B-40(3), (5), (6), (7), (10) and (12); 36-20B-61; and ARSD Chapter 20:75:07.

4. Determan has failed to comply with the statutory and administrative rule requirements of the Board with respect to peer review.

5. Determan has failed to comply with the Board's January 5, 2009, Order.

6. Determan's firm issued a compilation report dated February 23, 2009, that Determan knew of or should have known of, that resulted in a violation of the Board's January 5, 2009, Order.

#### ORDER

Based on the above Findings of Fact and Conclusions of Law, it is hereby ORDERED:

1. The Board assesses a \$1,000 administrative fine pursuant to SDCL 36-20B-40.

2. Mr. Determan is required to pay the recovery of costs, as set forth in the attached Affidavit.

3. The Board issues a public reprimand to Mr. Determan.

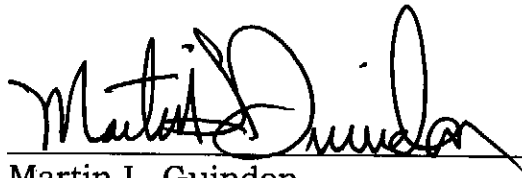
4. The Board continues to limit his scope of practice in accordance with the restrictions contained in the January 5, 2009, Order issued by the Board.

5. Mr. Determan will install a quality control system in which all financial reports including "management purposes only" reports, are to be reviewed and approved by Mr. Determan personally.

6. The Board places Mr. Determan on probation in accordance with SDCL 36-20B-40. Under the terms of Mr. Determan's probation, the Board reserves the right to do follow-up inspections of Mr. Determan's firm within 24 months of this Order.

7. In addition to and not as a subset of Mr. Determan's required continuing professional education, Mr. Determan is required to complete, within 180 days of this order, 24 hours of CPE in the area of quality control of an accounting practice, to be pre-approved by the Board.

8. The board shall receive within 30 days of this order, a signed notarized confirmation that all employees of Mr. Determan's firm received and read the order issued by the Board as a result of the hearing held on August 10, 2009.



Martin L. Guindon,  
Board Vice Chairman  
South Dakota Board of Accountancy

Signed on August 19, 2009 *MLG*