

**PROCEEDINGS BEFORE THE
WASHINGTON STATE
BOARD OF ACCOUNTANCY**

In the matter of:

Tsz Wah (Martin) Fok, CPA
License No. 24093

Respondent.

NO. ACB-1408

FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND DEFAULT ORDER

1 INTRODUCTION

THIS MATTER, arises out of the Statement of Charges issued by the Executive Director of the Washington State Board of Accountancy (hereinafter Board) on October 29, 2014. The Statement of Charges alleged that Tsz Wah (Martin) Fok, CPA (hereinafter Respondent) violated the provisions of RCW 18.04. Respondent has failed to answer or otherwise respond to the Statement of Charges.

THIS MATTER having come before the Board upon the motion of Richard C. Sweeney, Executive Director; Respondent having failed to answer or otherwise respond to the Statement of Charges; the Board having reviewed the records herein, and being advised in the premises, makes the following:

2 FINDINGS OF FACT

2.1 At all times material hereto, Tsz Wah (Martin) Fok, the Respondent herein, held an individual Certified Public Accountant (CPA) certificate and individual license to practice as a CPA in the state of Washington, license number 24093.

- 2.2 At all times material hereto, the Respondent was a member of the Certified General Accountants Association of British Columbia (CGA-BC). Respondent was admitted to membership in CGA-BC on February 28, 2005, and resigned on May 29, 2014.
- 2.3 The Respondent failed to cooperate with investigation by Board staff by not responding to inquiries requesting a response.
- 2.4 On August 25, 2014, CGA-BC issued an order finding that the Respondent breached numerous code provisions of CGA-BC. The Respondent was barred from reinstatement, ordered to pay the maximum fine of \$10,000, and to pay \$7,611.66 for investigation and hearing costs.
- 2.5 The Executive Director found that the foregoing actions of the Respondent created an immediate danger to the public safety and welfare, requiring the issuance of an Emergency Temporary Order to Cease and Desist from the practice of public accounting in the state of Washington, and/or representing himself as a CPA. The Executive Director issued an Emergency Temporary Cease and Desist Order on October 20, 2014. No response was received.
- 2.6 On October 29, 2014, a Statement of Charges was issued to the Respondent. No response was received.

3 CONCLUSIONS OF LAW

From the foregoing Findings of Fact, the Board makes the following Conclusions of Law.

- 3.1 The Washington State Board of Accountancy has jurisdiction over Respondent and the subject matter of the case. RCW 18.04.295; RCW 18.04.305.

- 3.2 Service is completed when mail is properly stamped, addressed, and deposited in the United States mail to the last known address of the licensee. RCW 34.05.010(19).
- 3.3 Based on the above Findings of Fact, and Conclusions of Law, Respondent has been served with the Statement of Charges, Answer to Statement of Charges, and Notice of Opportunity to Defend.
- 3.4 The failure of Respondent to file a request for a hearing in this matter within the time limit established by statute or agency rule constitutes a default, resulting in the loss of Respondent's right to a hearing. The Board is legally entitled to proceed to resolve the matter without further notice to, or hearing for, the benefit of Respondent, except that a copy of this order shall be served upon Respondent. RCW 34.05.440.
- 3.5 A disciplinary order by a foreign jurisdiction regulatory body, as set out in Findings of Fact 2.4, constitutes cause for Board sanction under RCW 18.04.295 and WAC 4-30-142(6)(b).
- 3.6 Failure to respond to Board communications constitutes cause for Board sanction under RCW 18.04.295, WAC 4-30-034 and WAC 4-30-142(13)(b) and (c).
- 3.7 Such conduct constitutes grounds for Board discipline under RCW 18.04.295 and chapter 18.04 RCW. (See Appendix A for reproduction of the statute and rules.)

4 **FINAL ORDER**

Based upon the above Findings of Fact and Conclusions of Law, the Board hereby makes the following Order:

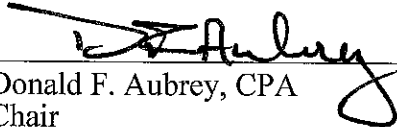
- 4.1 Respondent's CPA certificate and individual license to practice public accounting are hereby REVOKED. Respondent shall return the original certificate (wall document) to the Board within

90 days of the date the Board accepts this order, or within 90 days of payment of the fine and reimbursement of legal and investigative costs.

- 4.2 Pays a \$30,000 fine to the Board within 90 days of the date the Board accepts this Order.
- 4.3 Reimburses the Board \$1,000 for legal and investigative costs within 90 days of the date the Board accepts this Order.
- 4.4 Respondent is prohibited from using the designation "CPA" or "certified public accountant" or hold out as a "CPA" or "certified public accountant" as a Washington State licensee.
- 4.4 Any and all costs involved in complying with this order shall be borne by Respondent.

DATED this 30th day of January 2015.

WASHINGTON STATE BOARD OF ACCOUNTANCY



Donald F. Aubrey, CPA
Chair

**PROCEEDINGS BEFORE THE
WASHINGTON STATE
BOARD OF ACCOUNTANCY**

In the matter of:

Tsz Wah (Martin) Fok, CPA
License No. 28970

Respondent.

No. ACB-1408

APPENDIX A

RCW 18.04.295 Actions against CPA license. The board shall have the power to: Revoke, suspend, or refuse to issue, renew, or reinstate a license or certificate; impose a fine in an amount not to exceed thirty thousand dollars plus the board's investigative and legal costs in bringing charges against a certified public accountant, a certificate holder, a licensee, a licensed firm, an applicant, a non-CPA violating the provisions of RCW 18.04.345, or a nonlicensee holding an ownership interest in a licensed firm; may impose full restitution to injured parties; may impose conditions precedent to renewal of a certificate or a license; or may prohibit a nonlicensee from holding an ownership interest in a licensed firm, for any of the following causes . . . :

(2) Dishonesty, fraud, or negligence while representing oneself as a nonlicensee owner holding an ownership interest in a licensed firm, a licensee, or a certificate holder . . .

(4) A violation of a rule of professional conduct promulgated by the board under the authority granted by this chapter;

(9) Failure to cooperate with the board by:

(a) Failure to furnish any papers or documents requested or ordered by the board;

(b) Failure to furnish in writing a full and complete explanation covering the matter contained in the complaint filed with the board or the inquiry of the board . . . [2004 c 159 § 4; 2003 c 290 § 3; 2001 c 294 § 14; 2000 c 171 § 1; 1992 c 103 § 11; 1986 c 295 § 11; 1983 c 234 § 12.]

RCW 18.04.345 Prohibited practices.

(7) No individual with an office in this state may sign, affix, or associate his or her name or any trade or assumed name used by the individual in his or her business to any report prescribed by professional standards unless the individual holds a license to practice under RCW 18.04.105 and 18.04.215, a firm holds a license under RCW 18.04.195, and all of the individual's offices in this state are registered under RCW 18.04.205.

(8) No individual licensed in another state may sign, affix, or associate a firm name to any report prescribed by professional standards, or associate a firm name in conjunction with the title certified public accountant, unless the individual:

(a) Qualifies for the practice privileges authorized by RCW 18.04.350(2); or

(b) Is licensed under RCW 18.04.105 and 18.04.215, and all of the individual's offices in this state are maintained and registered under RCW 18.04.205.

(9) No individual, partnership, limited liability company, or corporation not holding a license to practice under RCW 18.04.105 and 18.04.215, or firm not licensed under RCW 18.04.195 or firm not registering all of the firm's offices in this state under RCW 18.04.205, or not qualified for the practice privileges authorized by RCW 18.04.350(2), may hold himself, herself, or itself out to the public as an "auditor" with or without any other description or designation by use of such word on any sign, card, letterhead, or in any advertisement or directory.

4-30-032 Do I need to notify the board if I change my address?

Yes. All individuals licensed in this state, CPA-Inactive certificate holders, CPA firms licensed in this state, individuals registered with the board as resident nonlicensee firm owners, and applicants must notify the board in writing within thirty days of any change of address. Firms licensed in this state must notify the board of any opening, closing, or relocation of the main office or a branch office in this state.

[Statutory Authority: RCW 18.04.055(16). WSR 10-24-009, recodified as § 4-30-032, filed 11/18/10, effective 12/19/10; WSR 08-18-016, § 4-25-550, filed 8/25/08, effective 9/25/08; WSR 05-01-137, § 4-25-550, filed 12/16/04, effective 1/31/05; WSR 01-22-036, § 4-25-550, filed 10/30/01, effective 12/1/01. Statutory Authority: RCW 18.04.055. WSR 98-12-023, § 4-25-550, filed 5/27/98, effective 6/27/98; WSR 93-12-073, § 4-25-550, filed 5/27/93, effective 7/1/93.]

4-30-034 Must I respond to inquiries from the board?

Yes. All licensees, including out-of-state individuals exercising practice privileges in this state under RCW 18.04.350(2) and out-of-state firms permitted to offer or render certain professional services in this state under the condition prescribed in RCW 18.04.195 (1)(b), CPA-Inactive certificate holders, nonlicensee firm owners, and applicants must respond, in writing, to board communications requesting a response. Your response must be made within twenty days of the date the board's communication is posted in the U.S. mail. Communications from the board to you are directed to the last address you furnished the board.

[Statutory Authority: RCW 18.04.055(16). WSR 10-24-009, amended and recodified as § 4-30-034, filed 11/18/10, effective 12/19/10; WSR 08-18-016, § 4-25-551, filed 8/25/08, effective 9/25/08; WSR 05-01-137, § 4-25-551, filed 12/16/04, effective 1/31/05; WSR 01-22-036, § 4-25-551, filed 10/30/01, effective 12/1/01. Statutory Authority: RCW 18.04.055. WSR 98-12-047, § 4-25-551, filed 5/29/98, effective 6/29/98; WSR 93-12-072, § 4-25-551, filed 5/27/93, effective 7/1/93.]

WAC 4-30-142 What are the bases for the board to impose discipline?

RCW 18.04.055, 18.04.295, 18.04.305, and 18.04.350 authorize the board to revoke, suspend, refuse to issue, renew, or reinstate an individual or firm license, CPA-Inactive certificate, the right to exercise practice privileges in this state, or registration as a resident nonlicensee firm owner; impose a fine not to exceed thirty thousand dollars; recover investigative and legal costs; impose full restitution to injured parties; impose remedial sanctions; impose conditions precedent to renew; or prohibit a resident nonlicensee from holding an ownership interest in a firm licensed in this state for the specific acts listed below.

The following are specific examples of prohibited acts that constitute grounds for discipline under RCW 18.04.295, 18.04.305, and 18.04.350. The board does not intend this listing to be all inclusive.

- (1) Fraud or deceit in applying for the CPA examination, obtaining a license, registering as a resident nonlicensee firm owner, or in any filings with the board.
- (2) Fraud or deceit in renewing or requesting reinstatement of a license, CPA-Inactive certificate, registration as a resident nonlicensee firm owner.
- (3) Cheating on the CPA exam.

(4) Making a false or misleading statement in support of another person's application or request to:

- (a) Take the national uniform CPA examination;
- (b) Obtain a license or registration required by the act or board;
- (c) Reinstate or modify the terms of a revoked or suspended license, certificate, or registration as a resident nonlicensee firm owner in this state;
- (d) Reinstate revoked or suspended practice privileges of an individual or firm licensed in another state.

(5) Dishonesty, fraud, or negligence while representing oneself as a licensee, CPA-Inactive certificate holder, or a resident nonlicensee firm owner including but not limited to:

- (a) Practicing public accounting in Washington state prior to obtaining a license required by RCW 18.04.215 or 18.04.195;
- (b) Offering or rendering public accounting services in this state by an out-of-state individual or firm not qualified for practice privileges under RCW 18.04.195 or 18.04.350(2);
- (c) Making misleading, deceptive, or untrue representations;
- (d) Engaging in acts of fiscal dishonesty;
- (e) Purposefully, knowingly, or negligently failing to file a report or record, or filing a false report or record, required by local, state, or federal law;
- (f) Unlawfully selling unregistered securities;
- (g) Unlawfully acting as an unregistered securities salesperson or broker-dealer;
- (h) Discharging a trustee's duties in a negligent manner or breaching one's fiduciary duties;

or

(i) Withdrawing or liquidating, as fees earned, funds received by a licensee, CPA-Inactive certificate holder, or a resident nonlicensee firm owner from a client as a deposit or retainer when the client contests the amount of fees earned, until such time as the dispute is resolved.

(6) The following shall be prima facie evidence that a licensee, as defined in WAC 4-30-010, CPA-Inactive certificate holder, a nonlicensee firm owner, or the employees of such persons has engaged in dishonesty, fraud, or negligence while representing oneself as a licensee, as defined in WAC 4-30-010, CPA-Inactive certificate holder, a nonlicensee firm owner, or an employee of such persons:

(a) An order of a court of competent jurisdiction finding that the person or persons committed an act of negligence, fraud, or dishonesty or other act reflecting adversely on the person's fitness to represent himself, herself, or itself as a licensee, as defined in WAC 4-30-010, CPA-Inactive certificate holder, or a nonlicensee firm owner;

(b) An order of a federal, state, local or foreign jurisdiction regulatory body, or a PCAOB, finding that the licensee, as defined in WAC 4-30-010, CPA-Inactive certificate holder, or nonlicensee firm owner, or employee of such persons committed an act of negligence, fraud, or dishonesty or other act reflecting adversely on the person's fitness to represent himself, herself, or itself as a licensee, as defined in WAC 4-30-010, a CPA-Inactive certificate holder, or a nonlicensee firm owner;

(c) Cancellation, revocation, suspension, or refusal to renew the right to practice as a licensee, certificate holder, or a nonlicensee firm owner by any other state for any cause other than failure to pay a fee or to meet the requirements of continuing education in the other state; or

(d) Suspension or revocation of the right to practice before any state agency, federal agency, or the PCAOB.

(7) Sanctions and orders entered by a nongovernmental professionally related standard-setting body for violation of ethical or technical standards in the practice of public accounting by a licensee, CPA-Inactive certificate holder, or nonlicensee firm owner;

(8) Any state or federal criminal conviction or commission of any act constituting a crime under the laws of this state, or of another state, or of the United States.

(9) A conflict of interest such as:

(a) Self dealing as a trustee, including, but not limited to:

(i) Investing trust funds in entities controlled by or related to the trustee;

(ii) Borrowing from trust funds, with or without disclosure; and

(iii) Employing persons related to the trustee or entities in which the trust has a beneficial interest to provide services to the trust (unless specifically authorized by the trust creation document).

(b) Borrowing funds from a client unless the client is in the business of making loans of the type obtained by the licensee, as defined in WAC 4-30-010, CPA-Inactive certificate holder, or nonlicensee firm owner and the loan terms are not more favorable than loans extended to other persons of similar credit worthiness.

(10) A violation of the Public Accountancy Act or failure to comply with a board rule contained in Title 4 WAC, by a licensee, defined in WAC 4-30-010, CPA-Inactive certificate holder, or employees of such persons of this state or a licensee of another substantially equivalent state qualified for practice privileges, including but not limited to:

(a) An out-of-state individual exercising the practice privileges authorized by RCW 18.04.350(2) when not qualified;

(b) Submission of an application for firm license on behalf of a firm licensed in another state and required to obtain a license under RCW 18.04.195 (1)(a)(iii) by an out-of-state individual not qualified under RCW 18.04.350(2) or authorized by the firm to make such application;

(c) Failure of an out-of-state individual exercising the practice privileges authorized under RCW 18.04.350(2) to cease offering or performing professional services in this state, individually or on behalf of a firm, when the license from the state of the out-of-state individual's principal place of business is no longer valid;

(d) Failure of an out-of-state individual exercising the practice privileges authorized under RCW 18.04.350(2) to cease offering or performing specific professional services in this state, individually or on behalf of a firm, when the license from the state of the out-of-state individual's principal place of business has been restricted from performing those specific services;

(e) Failure of a firm not licensed in this state to cease offering or performing professional services in this state through one or more out-of-state individuals whose license from the state of those individuals' principal place(s) of business is (are) no longer valid or is (are) otherwise restricted from performing the specific engagement services;

(f) Failure of a licensed firm to comply with the ownership requirements of RCW 18.04.195 within a reasonable time period, as determined by the board;

(g) Failure of a firm licensed in this state or another state to comply with the board's quality assurance program requirements, when applicable.

(11) Violation of one or more of the rules of professional conduct included in Title 4 WAC.

(12) Concealing another's violation of the Public Accountancy Act or board rules.

(13) Failure to cooperate with the board by failing to:

(a) Furnish any papers or documents requested or ordered to produce by the board;

(b) Furnish in writing a full and complete explanation related to a complaint as requested by the board;

(c) Respond to an inquiry of the board;

(d) Respond to subpoenas issued by the board, whether or not the recipient of the subpoena is the accused in the proceeding.

(14) Failure to comply with an order of the board.

(15) Adjudication of a licensee, as defined by WAC 4-30-010, CPA-Inactive certificate holder, or a nonlicensee firm owner as mentally incompetent is prima facie evidence that the person lacks the professional competence required by the rules of professional conduct.

(16) Failure of a licensee, as defined by WAC 4-30-010, CPA-Inactive certificate holder, nonlicensee firm owner, or out-of-state person exercising practice privileges authorized by RCW 18.04.195 and 18.04.350 to timely notify the board, in the manner prescribed by the board, of any of the following:

(a) A sanction, order, suspension, revocation, or modification of a license, certificate, permit or practice rights by the SEC, PCAOB, IRS, or another state board of accountancy for any cause other than failure to pay a professional license fee by the due date or failure to meet the continuing professional education requirements of another state board of accountancy;

(b) Charges filed by the SEC, IRS, PCAOB, another state board of accountancy, or a federal or state taxing, insurance or securities regulatory body that the licensee, CPA-Inactive certificate holder, or nonlicensee firm owner committed a prohibited act that would be a violation of board ethical or technical standards;

(c) Sanctions or orders entered against such persons by a nongovernmental professionally related standard-setting body for violation of ethical or technical standards in the practice of public accounting by a licensee, CPA-Inactive certificate holder, or nonlicensee firm owner. [Statutory Authority: RCW 18.04.055(16), 18.04.195 (11)(d), 18.04.295, 18.04.305, 18.04.350(2), 11-07-070, § 4-30-142, filed 3/22/11, effective 4/22/11; 10-24-009, amended and recodified as § 4-30-142, filed 11/18/10, effective 12/19/10; 08-18-016, § 4-25-910, filed 8/25/08, effective 9/25/08. Statutory Authority: RCW 18.04.055(16), 18.04.295, and 18.04.305. 05-01-137, § 4-25-910, filed 12/16/04, effective 1/31/05; 03-24-033, § 4-25-910, filed 11/25/03, effective 12/31/03. Statutory Authority: RCW 18.04.055(11), 18.04.295, and 18.04.305. 02-04-064, § 4-25-910, filed 1/31/02, effective 3/15/02; 00-11-078, § 4-25-910, filed 5/15/00, effective 6/30/00. Statutory Authority: RCW 18.04.055 and 18.04.295, 94-23-070, § 4-25-910, filed 11/15/94, effective 12/16/94.]