

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

In the Matter of the Certified Public  
Accountant (CPA) Certificate and/or  
Licenses to Practice Public Accounting of:

Charles McSwain, CPA  
License No. 04164

Respondent.

1398 CCS  
No. ACB-1360

STIPULATED FINDINGS OF FACT,  
CONCLUSIONS OF LAW,  
AND AGREED ORDER

For the purpose of resolving the claims asserted against Charles McSwain (Respondent), the Washington State Board of Accountancy (Board) and Respondent enter into the following Stipulated Findings of Fact, Conclusions of Law, and Agreed Order (Agreed Order):

**I. STIPULATED FINDINGS OF FACT**

**Section 1.1 Procedural Facts**

- 1.1.1 Charles McSwain, Respondent herein, holds a Certified Public Accountant (CPA) certificate and individual license (No. 04164) to practice as a CPA in the state of Washington. Respondent is also an owner of the CPA firm, McSwain & Company, PS (No. 3651).
- 1.1.2 On September 8, 2014, the Board issued a Statement of Charges, and a Notice of Opportunity to Defend to Respondent alleging violations of Chapter 18.04 RCW, Rule 4-30 WAC.
- 1.1.3 Respondent understands that he has the right to defend against the charges by demanding a hearing and presenting evidence on his own behalf and he voluntarily waives that right and all other rights which may be accorded by the Administrative Procedures Act,

Stipulated Findings of Fact, Conclusions of Law, and Agreed Order

Charles McSwain

chapter 34.05 RCW, and the laws of Washington, including the right to petition the courts for judicial review.

- 1.1.4 Respondent wishes to expedite the resolution of this matter by means of this Stipulated Findings of Fact, Conclusions of Law, and Agreed Order.
- 1.1.5 Respondent understands that the terms of this Stipulated Findings of Fact, Conclusions of Law, and Agreed Order are not binding unless approved and fully executed by the Board.
- 1.1.6 Should this Stipulated Findings of Fact, Conclusions of Law, and Agreed Order be rejected by the Board and the case ultimately goes to hearing, Respondent waives any objection to the participation of any members of the Board at a hearing on this matter, other than the consulting Board member in this proceeding.

### **Section 1.2. Substantive Facts**

- 1.2.1 Respondent's CPA license provides him with unique qualifications to act as a fiduciary and trustee.
- 1.2.2 The Board received information regarding Respondent's activities addressed in a 2010 Settlement Agreement and Release between Respondent and a charitable foundation ("Settlement Agreement").
- 1.2.3 As part of the investigation of this information, Board staff visited Respondent's attorney's office in January 2013; to review the confidential Settlement Agreement.

### **II. CONCLUSIONS OF LAW**

- 2.1 The Board has jurisdiction over Respondent and the subject matter of this proceeding.
- 2.2 The Settlement Agreement suggests facts, which if proven at a hearing, would constitute evidence of violations of WAC 4-30-040, WAC 4-30-142 (9) (a), and one or more of the rules of professional conduct.

- 2.3 The Settlement Agreement suggests facts, which if proven at a hearing, would provide the basis for the Board to impose discipline under RCW 18.04.295 and 18.04.345.

### III. AGREED ORDER

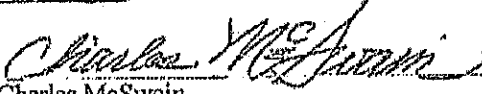
Based on the preceding Stipulated Findings of Fact and Conclusions of Law, the Board and Respondent agree to the following ORDER:

- 3.1 Respondent consents to the entry of this Agreed Order and waives any right to a hearing on the statement of charges.
- 3.2 Respondent agrees never again to act as a fiduciary trustee of a trust in a professional capacity.
- 3.3 Respondent agrees not to hold funds in any fiduciary capacity for a period of three (3) years from the effective date of this Order.
- 3.4 The Respondent will immediately retire his CPA license upon final approval and execution of this Stipulated Findings of Fact and Conclusions of Law and Agreed Order. Retirement of the Respondent's CPA License will not impact his ability to apply as a non-CPA firm owner in accordance with the provisions of WAC 4-30-116. The Board agrees that Respondent meets the requirements under RCW 18.04.105(1)(a) and, providing he otherwise complies with the remaining requirements of WAC 4-30-116, may be a non-licensed CPA firm owner after retirement of his license.
- 3.5 Respondent agrees not to apply for renewal of his CPA license out of retirement for a period of three (3) years.
- 3.6 After this three (3) year period, Respondent is eligible to renew his CPA license out of retirement in accordance with the requirements of WAC 4-30-122.

- 3.7 Respondent agrees he will not apply for a license as a CPA in the State of Washington, or any other jurisdiction or within any other state, during the ongoing three (3) year period described in paragraph 3.4.
- 3.8 Respondent agrees to pay \$2,500 to cover the investigative, legal and administrative costs associated with this case and Agreed Order.
- 3.9 Respondent agrees that all public records requests in any way connected to this case have been duly and timely satisfied.
- 3.10 At the execution of this Agreed Order by the Parties, the Director of Investigations will withdraw the Statement of Charges and the Board will not publish the terms of this Stipulated Findings of Fact, Conclusions of Law, and Agreed Order.

I, Charles McSwain, certify that I have read this Stipulated Findings of Fact, Conclusions of Law and Agreed Order in its entirety. I fully understand and agree to all of it, and understand that it may be presented to the Board without my appearance. If the Board accepts the Stipulated Findings of Fact, Conclusions of Law, and Agreed Order, I understand that I will receive a signed copy.

DATED this 25<sup>th</sup> day of MARCH, 2015.

  
Charles McSwain  
Respondent

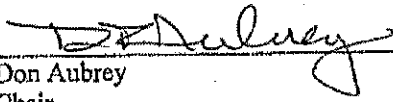
The Board accepts and enters this Stipulated Findings of Fact, Conclusions of Law and Agreed Order.

DATED this 30<sup>th</sup> day of March, 2015.

Stipulated Findings of Fact, Conclusions of Law, and Agreed Order

Charles McSwain

WASHINGTON STATE  
BOARD OF ACCOUNTANCY

  
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Don Aubrey  
Chair