

BEFORE THE WEST VIRGINIA BOARD OF ACCOUNTANCY
IN THE MATTER OF DALTON L. ANDERSON
LICENSE NO. 350

FINAL ORDER

A hearing was held on October 25, 1993, and on November 29, 1993, at the Office of the West Virginia Board of Accountancy, 812 Quarrier Street, Suite 200, Charleston, West Virginia, in accordance with W. Va. Code § 29A-5-1, et seq., for purpose of determining if disciplinary action should be taken against Dalton L. Anderson pursuant to W. Va. Code § 30-9-12(b) and Rule 22.2(e) of the Board's Legislative Rules, C.S.R. § 1-1-22. Notice of Hearing was provided to the Respondent pursuant to W. Va. Code § 29A-5-1.

Respondent having been fully notified and given the opportunity to have counsel present, did appear in person. Assistant Attorney General, Claude S. Smith, III, was present on behalf of the West Virginia Board of Accountancy. Members of the Board present were: Donald H. McIver, Jr., Jon W. Cain, Sr., David H. Rollins, H. James Province and Donald B. Nestor.

The following witnesses testified on behalf of the Complainant:

1. Jo Ann Walker

The following witnesses testified on behalf of the Respondent:

1. Dalton L. Anderson

Upon consideration of all the evidence and testimony presented at the hearing, including exhibits offered by the Complainant and the Respondent, the Board makes the following Findings of Fact and Conclusions of Law and does hereby **ORDER**.

FINDINGS OF FACT

1. The Board is a State entity created by W. Va. Code § 30-9-1, et seq., and is empowered to regulate the practice of the profession of Accountancy pursuant to W. Va. Code § 30-9-1.

2. Mr. Dalton L. Anderson (hereinafter "Mr. Anderson") had his License No. 350 issued by the West Virginia Board of Accountancy.

3. The Board, by its Executive Director, Jo Ann Walker, issued a Notice of Hearing to Dalton L. Anderson notifying him that the Board would convene a hearing on November 29, 1993, to determine if a disciplinary actions should be taken against his license to practice Accounting. See, Board Exhibit No. 3.

4. Mr. Anderson was served with such Notice of Hearing by giving it to him at the Board's last meeting on October 25, 1993. Such Notice of Hearing was signed by Ms. Walker and received and signed by Mr. Anderson on October 25, 1993, therefore accepting service of the Notice. See, Transcript, Vol. II, pp. 7 and 8.

5. Mr. Anderson performed audits of the December 31, 1989, September 30, 1988 and December 31, 1987 financial statements of Mr. Eugene Lane, d/b/a Lane Leasing Company, L&L Pipeline, Incorporated. See, Board Exhibit No. 2.

6. The Board received a complaint concerning Mr. Anderson on March 4, 1992 from Tony Lucas. See, Tr., Vol. II, p. 15, Anderson Exhibit No. 1.

7. Upon receipt of this complaint by the Board, Mr. Michael Deery of the accounting firm Toothman, Rice and Company was hired by the Board to do an independent review of the information and reports in connection with the complaint to determine if the audit reports were deficient. See, Tr., Vol. II., pp. 8, 9 and 15 and Board Exhibit Nos. 4, 5 and 6.

8. According to the report submitted to the Board by Mr. Deery, the audits prepared by Mr. Anderson contained the following deficiencies:

- A. There is no disclosure of significant accounting policies as required by Accounting Principles Board Opinion No. 22.
- B. Consolidated balance sheets and income statements are presented but there is no disclosure of the consolidation policy as required by Accounting Principles Board Opinion No. 22.
- C. There is no disclosure of the amount of the allowance for uncollectible receivables as required by Accounting Principles Board Opinion No. 12.
- D. There is no disclosure of the method used to account for investments in the land and personal dwelling, the house and lot, and the gas well as required by Accounting Principles Board Opinion No. 18.
- E. For the depreciable assets there is inconsistent disclosure of the methods used to compute depreciation as required by Accounting Principles Board Opinion Nos. 12 and 22.
- F. One of the entities in the consolidated group receives contracting income. The method of recognizing income (percentage-of-completion or completed-contract) is not disclosed as required by Accounting Research Bulletin No. 45.
- G. The balance sheets indicate there are notes payable; however, there is no disclosure of interest rates, maturities, and other terms and conditions provided in loan agreements such as assets pledged as collateral, covenants to reduce debt, maintain working capital, and restrict dividends (Accounting Principles Board Opinion No. 4). In addition there is no disclosure of the combined aggregate amount of maturities for long-term borrowings disclosed for each of the five years following the date of the latest balance sheet as required by Statement of Financial Accounting Standards No. 47.
- H. The consolidated income statements indicate a material amount of rental expense; however, there is no description of the leasing arrangements as required by Statement of Financial Accounting Standards No. 13.
- I. There is no disclosure relative to the number of shares of common stock authorized, issued and outstanding and the par or stated value per share as required by Accounting Principles Board Opinion No. 4.
- J. There is no disclosure of the changes in the separate component accounts of stockholders' equity as required by Accounting Principles Board of Opinion No. 12.

- K. There is no statement of cash flows included with December 31, 1989, financial statements as required by Statement of Financial Accounting Standards No. 95 for fiscal years ending after July 15, 1988.
- L. The September 30, 1988 and December 31, 1987, statements do not include a statement of changes in financial position as required by Accounting Principles Board Opinion No. 19.
- M. There are no disclosures relative to income taxes as required by Accounting Principles Board Opinion No. 11 and Statement of Financial Accounting Standards No. 96.
- N. The December 31, 1987, accountant's report contains the following departures from professional standards.
 - (i) Mr. Anderson's scope paragraph incorrectly reads as follows:

"I have examined the Balance Sheets for Eugene Lane d/b/a L & L Pipeline, Inc., (a corporation wholly owned by Eugene Lane), and the Consolidated Balance Sheet for the two companies as of December 31, 1987, and the accompanying statements of income for the period then ending."

Statement on Auditing Standards No. 2 requires the scope to read as follows:

"We have examined the balance sheet of X Company as of [at] December 31, 19XX, and the related statements of income, retained earnings and changes in financial position for the year then ended. Our examination was made in accordance with generally accepted auditing standards and, accordingly, included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances."

- (ii) Statement of Auditing Standards No. 2 states that an auditor's standard report consists of only two paragraphs - A statement describing the nature of the examination, usually in an opening or "scope" paragraph, and an expression of the auditor's opinion, usually in a closing or "opinion" paragraph.

Mr. Anderson has incorrectly included the following paragraph in his report.

"My examination included an inventory of all assets of significant values and a review of other balance sheet accounts to ascertain that they were properly supported. The income statement was prepaid (sic) using generally accepted accounting practices that were consistent with those of the prior year.

There were no fixed contract projects during the reported year and all work on a time and material basis had been completed at year end.

Mr. Lane has pledged to move additional working capital into the Corporate Account and The Consolidated Statement reflects the additional paid in Capital of \$50,000.00."

- (iii) Mr. Anderson's opinion paragraph does not fully comply with Statement on Auditing Standards No. 2. His opinion reads as follows:

"In my opinion, the accompanying Balance Sheets of Eugene Lane d/b/a Lane Leasing, L & L Pipeline and the Consolidated Report, fairly state the financial position as of december 31, 1987, and the accompanying income statements fairly state the results of operation for the period then ending."

The correct wording is as follows:

"In our opinion, the financial statements referred to above present fairly the financial position of X Company as of [at] December 31, 19XX, and the results of its operations and the changes in its financial position for the year then ending, in conformity with generally accepted accounting principles applied on a basis consistent with that of the preceding year.

- N. The September 30, 1988, accountant's report contains the following departures from professional standards.

- (i) The report is labeled -

"Subject: Desk review, Balance Sheet and Income Statement, L. & L. Pipeline, Inc., Lane Leasing and Consolidated Reports"

There is no such service as a "Desk Review" provided for in the professional standards.

- (ii) Mr. Anderson's scope paragraph incorrectly reads as follows:

"I have reviewed the balance sheets for Eugene Lane, doing business as Lane Leasing Company, and for L. & L. Pipeline, Inc. (a corporation wholly owned by Eugene Lane) and the consolidated balance sheets for the two companies as of September 30, 1988, and the accompanying statements of income for the period then ending."

Statement on Auditing Standards No. 2 requires the scope paragraph to read as follows:

We have examined the balance sheet of X Company as of [at] December 31, 19XX, and the related statements of income, retained earnings and changes in financial position for the year then ended. Our examination was made in accordance with generally accepted auditing standards and, accordingly, included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances."

- (iii) Statement on Auditing Standards No. 2 states that an auditor's standard report consists of only two paragraphs - A statement describing the nature of the examination, usually in an opening or "scope" paragraph, and an expression of the auditor's opinion, usually in a closing or "opinion" paragraph.

Mr Anderson has incorrectly included the following paragraphs in his report.

"My review consisted of an examination of the accounts to determine that proper charges were being recorded in accordance with generally accepted accounting principles and that they were consistent with prior years.

There were not outstanding contracts or work in progress at the end of September. All work performed through September 30 was on a fixed rate per hour worked basis and billings were rendered for work performed through that date. All vendor's invoices are being paid on a timely basis.

The Traders Bank has extended a \$250,000 letter of credit to L. & L. Pipeline, Inc. A copy is attached."

- (iv) Mr. Anderson's opinion paragraph does not fully comply with statement on Auditing Standards No. 2. His opinion reads as follows:

"In my opinion, the accompanying Balance Sheets of Eugene Lane, doing business as Lane Leasing, L. & L. Pipeline, Inc. and the consolidated report, fairly state the financial positions as of September 30, 1988, and the accompanying income statement fairly states the results of operations for the period then ending."

The correct wording is as follows:

"In our opinion, the financial statements referred to above present fairly the financial position of X Company as of [at] December 31, 19XX, and the results of its operations and the changes in its financial position for the year then ended, in conformity with generally accepted accounting principles applied on a basis consistent with that of the preceding year."

- (O) The December 31, 1989, accountant's report contains the following departures from professional standards.

- (i) The report is labeled -

"Subject: Desk Review of Consolidated Balance Sheet and Income Statement of Eugene and Nina Lane, sole owners of L. & L. Pipeline, Inc., and Lane Leasing Company"

There is no such service as a "Desk Review" provided for in the professional standards.

- (ii) The accountant's report does not comply with the Statement on Auditing Standards No. 58 which was effective for audit reports issued after January 1, 1989.

Mr. Anderson's report reads as follows:

"I have reviewed the consolidated balance sheet for Eugene and Nina Lane, sole owners of L. & L. Pipeline and Lane Leasing Company, as of December 31, 1989, and the accompanying statement of income for the period then ending.

My review consisted of an examination of the accounts to determine that proper charges were being recorded in accordance with generally accepted accounting principles and that they were consistent with prior years.

In my opinion, the accompanying consolidated Balance Sheet of Eugene and Nina Lane, sole owners of L. & L. Pipeline, Inc. and Lane Leasing Company, as of December 31, 1989, and the accompanying income statement, fairly state the results of operations for the period then ending."

Statement on Auditing Standards No. 58 mandates the following wording:

Independent Auditor's Report

"We have audited the accompanying balance sheet of X Company as of December 31, 19XX, and the related statements of income, retained earnings, and cash flows for the year then ended. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with generally accepted auditing standards. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of X Company as of j[at] December 31, 19XX, and the results of its operations and its cash flows for the year then ended in conformity with generally accepted accounting principles." See, Board Exhibit No. 4.

9. Mr. Anderson stated that the professional standards of the Accounting Principal Board Opinions did not apply to his situation. See, Tr., Vol. II, pp. 44 and 45.

10. Mr. Anderson was not familiar with the requirements for preparing a review financial statement and he was not aware of the standard paragraphs required to be included in that statement. Mr. Anderson did not read what standard paragraphs were required in an opinion letter in 1987, 1988 and in 1989. See, Tr., Vol. II, pp. 46 and 47.

11. In violation of the Board's statute and legislative rules, Mr. Anderson performed audits not in conformity with generally accepted auditing standards and accounting principles.

CONCLUSIONS OF LAW

1. West Virginia Code § 30-9-12(b) allows the Board to suspend or revoke any certificate or registration for dishonesty, fraud or gross negligence in the practice of public accounting. As indicated in the Findings of Fact, Mr. Anderson did not perform his audits in conformity with generally accepted accounting standards, such actions constituting gross negligence in the practice of public accounting in violation of W. Va. Code § 30-9-12(b).

2. 1 C.S.R. 1, Rule 22.2(e) of the Board's Legislative Rules states that an accountant may be held guilty of an act discreditable to the profession if he fails to direct attention to any material departure from generally accepted accounting principles or to disclose any material omission of generally accepted auditing procedure applicable in the circumstances. As indicated in the Findings of Fact, Mr. Anderson did not perform his audits in conformity with generally accepted accounting standards and failed to include many disclosures and required paragraphs, such actions constituting acts

discreditable to the profession of accounting in violation of 1 C.S.R. 1, Rule 22.2(e) of the Board's Legislative Rules.

3. West Virginia Code § 30-9-12(c) allows the Board to suspend or revoke any certificate or registration for the violation of a rule of professional conduct promulgated by the Board. As indicated in the finds of fact, the actions of Mr. Anderson in performing his audits violated Rule 22.2(e) of the Board's legislative rules, therefore, subjecting the license of Mr. Anderson to suspension or revocation.

ORDER

Pursuant to the provisions of W. Va. Code § 30-9-12 and after thorough deliberation on the facts presented as evidence during the hearing held on October 25, 1993 and November 29, 1993, the Board **ORDERS** that the application of Dalton L. Anderson, for renewal of his license to practice accounting, be denied and his license be revoked effective from the date of this Order. Upon revocation Mr. Anderson shall be forbidden from practicing public accountancy or public accounting. Mr. Anderson may request that the Board renew his license upon completion of the following:

1. Twenty-four (24) hours of Continuing Professional Education credits (CPE) in financial auditing specifically dealing with the examination of financial statements. The courses for the CPE credits must be sponsored by either the American Institute of Certified Public Accountants (AICPA) or the West Virginia Society of Certified Public Accountants (WVSCPA). Such twenty-four (24) hours of CPE credits shall be in addition to the hours of CPE credits normally required for renewal of licensure and shall not qualify for meeting those requirements. Prior to attendance at any of the courses, Mr. Anderson must submit to the Board information regarding the course so that the Board may determine if it is acceptable.

2. Mr. Anderson must submit documentary proof of attendance and completion of the courses to the Board before consideration for renewal by the Board.

3. Pursuant to W. Va. Code § 29A-5-4, Mr. Anderson is hereby advised of his right to appeal this decision to the Circuit Court by filing a petition within thirty (30) days after receipt of this Final Order.

It is so ORDERED.

ENTERED this 2nd day of February 1994.


JO ANN WALKER, EXECUTIVE DIRECTOR
WEST VIRGINIA BOARD OF ACCOUNTANCY