

BEFORE THE WEST VIRGINIA BOARD OF ACCOUNTANCY

**WEST VIRGINIA BOARD
OF ACCOUNTANCY,**

Complainant,

COMPLAINT NO.: 93-5

JERRY ALAN HAWTHORNE,

Respondent.

FINAL ORDER

On the 8th day of January, 1997, the West Virginia Board of Accountancy convened for the purpose of holding a disciplinary hearing regarding certificate number 2444 issued to Jerry Alan Hawthorne. A quorum of the Board was present and was represented by counsel, Claude S. Smith, III. Mr. Hawthorne did not appear. Norman Daniels, Secretary of the Board, did not participate in the hearing or in the deliberations in this matter.

Findings of Fact

1. Jerry Alan Hawthorne holds Certificate number 2444 issued by the West Virginia board of Accountancy..
2. These proceedings were commenced pursuant to a Complaint and Notice of Hearing issued October 10, 1996.
3. Said Complaint and Notice of Hearing were served upon Respondent, Jerry Alan Hawthorne, via certified mail at an address of 210 11th Street in Huntington, West Virginia on October 24, 1996, and at an address of 8 Lakeview Drive in Milton, West Virginia on October 21, 1996, pursuant to W. Va. Code §30-1-1, *et. Seq.*

4. Jerry Alan Hawthorne last held a valid license to practice public accountancy in the State of West Virginia on June 30, 1994.

5. Jerry Alan Hawthorne held himself out to the public as a certified public accountant on October 15, 1994, by using letterhead stationary identifying himself as a Certified Public Accountant when he did not hold a valid license to do so.

6. Jerry Alan Hawthorne performed audit of the Uptowner Inns, Incorporated and its subsidiaries for the year ended June 30, 1994, with an audit report dated October 15, 1994. Said Audit was performed at a time that Jerry Alan Hawthorne did not hold a valid license to perform public accountancy within the State of West Virginia.

7. Jerry Alan Hawthorne held himself out to the public as a certified public accountant on February 4, 1995, by using letterhead stationary identifying himself as a Certified Public Accountant when he did not hold a valid license to do so.

8. Jerry Alan Hawthorne held himself out to the public as a certified public accountant on March 2, 1995, by using letterhead stationary identifying himself as a Certified Public Accountant when he did not hold a valid license to do so.

9. Jerry Alan Hawthorne performed an audit of the financial records of Westwood Acres Associates, Project No. 045-35132-PM/L8 (a limited partnership as of December 31, 1994, with an audit report dated April 7, 1995. Said Audit was performed at a time that Jerry Alan Hawthorne did not hold a valid license to perform public accountancy within the State of West Virginia.

10. Jerry Alan Hawthorne held himself out to the public as a certified public accountant on April 7, 1995, by using letterhead stationary identifying himself as a Certified Public Accountant when he did not hold a valid license to do so.

11. Jerry Alan Hawthorne held himself out to the public as a certified public accountant on September 11, 1995, by using letterhead stationary identifying himself as a Certified Public Accountant when he did not hold a valid license to do so.

Conclusions of Law

1. West Virginia Code §30-9-6 states as follows:

(a) A person who does not hold a valid license issued by the board may not claim to hold one; nor may he or she practice or offer to practice public accountancy or public accounting; nor may he or she make any other claim of licensure or approval related to the preparation of financial statements or expression of assurances thereon which is false or misleading.

(b) Except as set forth in this subsection, a person who does not hold a valid certificate issued by the board may not claim to hold one or describe himself as or assume any of the following titles or designation: Certified Public Accountant, CPA, public accountant, PA, certified accountant, CA, chartered accountant, licensed accountant, LA, registered accountant, RA, independent auditor, auditor or similar designation: Provided, That registrants under prior law may the titles public accountant or PA.

Partnerships practicing accountancy in this state may use the aforesaid designations, or practice as such, only if all the members thereof who practice in this state are so licensed.

(c) A person who does not hold a valid license issued by the board may not claim to have used "generally accepted accounting principles," "generally accepted accounting standards," "public accounting standards," "public accountancy standards," "public accountancy principles," "generally accepted auditing principles," or "generally accepted auditing standards," in connection with his preparation of any financial statement; nor may he or she use any of these terms in describing any complete or partial variation from such standards or principles or to imply complete or partial conformity with such standards or principles.

(d) A person who does not hold a valid license issued by the board may not use the words "audit," "audit report," "independent audit," "attest,"

"attestation," "examine," "examination," "opinion," or "review" in a report on a financial statement.

(e) A person who does not hold a valid license issued by the board may neither state nor imply that he or she is tested, competent, qualified, proficient in financial standards established by: (i) The American institute of certified public accountants or any agency thereof; (ii) the governmental accounting standards board or any agency thereof; (iii) the securities and exchange commissions or any agency thereof; (iv) the financial accounting standards board; or (v) any successor entity named in this subsection.

(f) No person who holds a valid license issued by the board may engage in the practice of public accounting under a professional or firm name or designation that contains a name or other than past or present partners, officers or shareholders of the firm or of a predecessor firm; nor may any such person engage in the practice of public accounting under a professional or firm name which is deceptive or misleading.

2. West Virginia Code §30-9-12(b) provides as follows:

"After notice and hearing, as provided in article one [§30-1-1, *et. Seq.*] of this chapter, the board may revoke or suspend any certificate or registration and may refuse to issue, or refuse to renew, any license, for any one or combination of the following causes:

...(b) Dishonesty, fraud or gross negligence in the practice of public accounting."

3. The Board concludes that the practice of public accounting without the license required by W. Va. Code §30-9-6, constitutes dishonesty or fraud in the practice of public accounting pursuant to W. Va. Code §30-9-12(b).

4. The Board thereby concludes that Jerry Alan Hawthorne violated W. Va. Code §30-9-12(b) on no less than seven occasions by practicing public accountancy without a valid license to do so.

5. The Board concludes that Jerry Alan Hawthorne was properly noticed of the hearing on this matter pursuant to W. Va. Code §30-1-1, *et. Seq.*

ORDER

The West Virginia Board of Accountancy hereby orders that certificate number 2444 issued to Jerry Alan Hawthorne be and is hereby revoked. Jerry Alan Hawthorne is hereby ordered to return certificate number 2444 to the offices of the West Virginia Board of Accountancy located at 812 Quarrier Street, Suite 200, Charleston, West Virginia 25301.

Dated, this the 10th day of February, 1997.



Dr. Ann Pushkin, President
West Virginia Board of Accountancy