

**BEFORE THE STATE OF MARYLAND BOARD OF PUBLIC ACCOUNTANCY**

**BOARD OF PUBLIC ACCOUNTANCY**

v.

**CHARLES E. POSEY, CPA**

*Respondent*

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**Agency Case No.: CPAS-17-0079-B**

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**SETTLEMENT AGREEMENT AND CONSENT ORDER**

The Maryland Board of Public Accountancy (“Board”) initiated a Complaint in this matter as a result of the Public Company Accounting Oversight Board (“PCAOB”) entering an Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions (“PCAOB Order”) against Charles E. Posey, CPA (“Respondent”) on or about March 29, 2017. Upon review and a subsequent investigation, the Board determined that administrative charges against the Respondent were appropriate. On or about May 2, 2018, the Board issued a Notice of Charges and Order for Hearing alleging that the Respondent violated the Maryland Public Accountancy Act (“Act”), codified at Business Occupations and Professions Article (“BOP”), Annotated Code of Maryland §§ 2-101, *et seq.*, and related regulations. To resolve this matter without a contested case hearing, the Board and the Respondent (collectively “Parties”) are entering this Settlement Agreement and Consent Order (“Consent Order”), and hereby agree and stipulate as follows:

1. At all times relevant to the matters set forth herein, the Respondent held a license issued by the Board to practice certified public accountancy in this State (“license”), and the Board had jurisdiction over all subject matter relevant to this Complaint.
2. On or about December 1, 1981 the Respondent obtained a license from the Board to practice certified public accountancy in this State under Registration No. 4672, and said license is next scheduled to expire on November 10, 2019.
3. On or about March 29, 2017, the PCAOB issued an order imposing sanctions against the Respondent for violating PCAOB rules and related auditing standards in connection with an audit of a registered broker-dealer client. (PCAOB Release No. 105-2017-018). Through the PCAOB Order, the PCAOB censured the Respondent and required him to pay a \$2,500 civil monetary penalty.
4. The PCAOB determined that the Respondent’s violative conduct occurred in connection with a 2015 audit of a registered broker-dealer client, McDuffie/Morris Financial Group, Inc. (“McDuffie/Morris”). The PCAOB determined that the Respondent, as the engagement partner, and his firm, Korwek & Company, PA (“firm”), prepared McDuffie/Morris’s financial statements and supporting schedules for the year ended April 30, 2015, which were filed with the Securities and Exchange Commission. By preparing those financial statements and supporting schedules, and as a result of other

services provided by the Respondent and the firm to McDuffie/Morris, the PCAOB determined that the Respondent's auditor independence was impaired.

5. In his May 2, 2017 response to the Board regarding the Complaint, the Respondent indicated that the PCAOB had granted the firm's request to withdraw from the PCAOB, and that consequently the Respondent will not perform audits of broker-dealers with the firm or as an individual working for another firm.
6. Based on the above described facts, the Respondent acknowledges and admits that his actions were in violation of BOP § 2-315(a)(1)(xi) as alleged in the Board's Notice of Charges and Order for Hearing.
7. As a result of his violation, the Respondent agrees to the following sanctions:
  - a. The Respondent shall pay a TWO THOUSAND DOLLAR (\$2,000) civil monetary penalty to the Board by certified check, cashier's check, or money order within thirty (30) days of the date of this Consent Order; and
  - b. The Board shall issue a reprimand against the Respondent as the holder of a license issued by the Board to practice certified public accountancy in this State.
8. The Respondent acknowledges and agrees that if he fails to comply with the requirements provided in this Consent Order regarding the payment of the civil monetary penalty, the Respondent's license to practice certified public accountancy in the State shall be immediately and automatically suspended by the Board until such time as compliance occurs.
9. The Respondent acknowledges and agrees that in all future relevant activities he will abide by the provisions of the Maryland Public Accountancy Act and applicable regulations.
10. The Respondent acknowledges and agrees that this Consent Order shall constitute a Final Order of the Board and shall be enforceable as such.
11. The Respondent acknowledges and agrees that by entering into this Consent Order, he is expressly waiving the right to an administrative hearing on the charges with any procedures attendant thereto, the right to any and all further proceedings before the Board to which he may otherwise be entitled in this matter, and to any rights to appeal from this Consent Order.
12. The Respondent acknowledges and agrees that he is entering into this Consent Order freely, knowingly, and voluntarily and after having had the opportunity to seek advice of counsel.
13. The Parties acknowledge and agree that this Consent Order will serve as the final resolution of Complaint No. CPAS-17-0079-B, serve as the Final Order in this matter, be

a part of the Respondent's licensing record that is maintained by the Board, and that the Board's records and publications will reflect the terms of the Consent Order.

BASED ON THESE STIPULATIONS AND AGREEMENTS, IT IS THIS 9<sup>th</sup> DAY OF August, 2018, BY THE STATE BOARD OF PUBLIC ACCOUNTANCY HEREBY:

- I. **ORDERED** that the Respondent violated BOP § 2-315(a)(1)(xi); and it is further
- II. **ORDERED** that the Respondent shall pay a TWO THOUSAND DOLLAR (\$2,000) civil monetary penalty to the Board by certified check, cashier's check, or money order within thirty (30) days of the date of this Consent Order; and it is further
- III. **ORDERED** that a reprimand is issued against the Respondent as the holder of a license to practice certified public accountancy in this State (Registration No. 4672); and it is further
- IV. **ORDERED** that if the Respondent fails to comply with the requirements in this Consent Order regarding the payment of the civil monetary penalty, then the Respondent's license to practice certified public accountancy in this State shall be immediately and automatically suspended by the Board without a hearing on the suspension, and the suspension will continue until compliance occurs; and it is further
- V. **ORDERED** that unless otherwise specified in this Consent Order, each provision herein shall remain in effect and enforceable as herein agreed unless the Board in writing stays, modifies, terminates, or suspends it; and it is further
- VI. **ORDERED** that this document shall constitute a Final Order of the Board, and the Board may consider this Settlement Agreement and Consent Order and the facts set forth herein in connection with, and in deciding, any subsequent action or proceeding before the Board, and that this Settlement Agreement and Consent Order may, if relevant, be admitted into evidence in any matter before the Board, its designee, and/or any court; and it is further
- VII. **ORDERED** that the Board's records and publications shall reflect that the Respondent and the Board resolved this matter through this Settlement Agreement and Consent Order.

**SIGNATURE ON**

**ORIGINAL DOCUMENT**

Charles E. Posey, CPA, Respondent

Date

7/12/18

**SIGNATURE ON**

**ORIGINAL DOCUMENT**

Arthur E. Flach, CPA, Chair  
Maryland Board of Public Accountancy

Date

8/9/18