

**VERMONT SECRETARY OF STATE
OFFICE OF PROFESSIONAL REGULATION
BOARD OF PUBLIC ACCOUNTANCY**

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|--------------|--------------------|---|-------------|-----------|
| <i>In re</i> | Ronald Smith | } | Docket Nos. | AC03-0806 |
| | Smith & Co., PC RC | } | | AC04-0806 |
| License Nos. | 001-0000326 | } | | |
| | 092-0000444 | } | | |

DEFAULT ORDER

Upon the filing of a *Notice of Hearing for Default Judgment* by the Secretary of State, the Board of Public Accountancy Board heard this matter on Tuesday 22 May 2007 at the Secretary of State's office, Redstone Building, Montpelier, Vermont.

Findings of Fact

1. Respondent is subject to the regulatory authority of this Board. 3 V.S.A. §§ 129 and 129a; 26 V.S.A. Chapter 1; Board of Public Accountancy Administrative Rules and Office of Professional Regulation Administrative Rules.
2. The State filed a Specification of Charges (attached) against the Respondents Ronald C. Smith and Smith & Co. PC, RC on 19 March 2007 alleging unprofessional conduct and unlicensed practice of the profession of public Accountancy.
3. The Office of Professional Regulation ("OPR") served Respondent with notice of the charges by certified mail and first class mail to the Respondent's last known address as provided by the Respondent to OPR. The notice of charges contained instructions detailing the Respondent's legal obligation to answer the charges and explaining the consequences of failure to file a timely response. OPR served a notice of this default hearing to the Respondent by certified mail.
4. The Respondent did not answer the charges within the legally prescribed time as required by OPR Admin. Rule 3.3 or at any time thereafter.
5. Upon hearing the State's presentation and taking notice of its own file pursuant to 3 V.S.A. § 810(4), the Board finds the Respondent to be in default. The allegations contained in the State's specification of charges (copy attached) are therefore treated as proven and serve as the factual basis for the Board's order. OPR Admin. Rule 3.4; 3 V.S.A. § 809(d) and 3 V.S.A. § 814(c).

*In re Ronald C. Smith
& Smith & Co., PC*

Conclusions of Law

The Respondent received adequate and legal notice of the charges as indicated by the Board's file and the State's presentation of the case to the Board. Because the Respondent failed to answer the charges of unprofessional conduct, the Board finds the Respondent in default and will treat the State's factual allegations as established pursuant to OPR Admin. Rule 3.4. The Board concludes, in this default hearing held pursuant to 3 V.S.A. § 809(d), that the Respondent has engaged in unprofessional conduct as alleged by the State of Vermont.

Order

In accordance with the above findings of fact and conclusions of law and effective the date of the entry of this order, the Board of Public Accountancy ORDERS that any rights or privileges Respondents Ronald Smith and Respondent Smith & Co., PC may have to renew their licenses are SUSPENDED INDEFINITELY; and

The Board further ORDERS that the Respondents immediately notify in writing all persons for whom the Respondents provided any accounting service after the 30th of October 2005 that the Respondent Ronald Smith was not a Vermont licensed accountant in good standing and that the firm registration of Smith & Co. PC expired on the 12th of August 2005; and

The Board further ORDERS that the Respondents' written notification of unlicensed practice to all persons for whom the Respondents provided any accounting service occur no later than forty-five (45) days after the entry date of this Order; and

The Board further STATES that it will not entertain a petition for reinstatement from either Respondent absent evidence that the Respondents have made full disclosure of their unlicensed practice since the 30th of October 2005 to all clients for whom the Respondents provided accounting services since that date; and

The Board further WARNS the Respondents that it may consider a fine or administrative penalty imposed upon either or both of them, in accordance with 3 V.S.A. §§ 127 or 129a for any public accounting service, as defined in 1 V.S.A., Chapter 1, that either Respondent performs, or offers to perform, subsequent to the entry date of this Order.

- END -

(signature page to follow)

*In re Ronald C. Smith
& Smith & Co., PC*

Vermont Board of
Public Accountancy

By:



Pamela J. Douglass
Board Chairperson

Dated at Montpelier, Vermont: 22 May 2007

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 5/23/07

Appeal Rights

This is a final administrative determination by the Vermont Board of Public Accountancy.

A party aggrieved by a final decision of a board may appeal this decision by filing a written Notice of Appeal with the Director of the Office of Professional Regulation, Vermont Secretary of State, 26 Terrace Street, Drawer 09, Montpelier, Vermont 05609-1106 within 30 days of the entry of this order.

If an appeal is filed, the Director of the Office of Professional Regulation shall assign the case to an appellate officer. The review shall be conducted on the basis of the record created before the board. In cases of alleged irregularities in procedure before the board, not shown in the record, proof on that issue may be taken by the appellate officer. 3 V.S.A. §§ 129(d) and 130a.

**STATE OF VERMONT
SECRETARY OF STATE
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IN RE: RONALD C. SMITH)
SMITH & COMPANY, PC, RC) Docket Nos. AC03-0806
License Nos. 001-0000326) AC04-0806
092-0000444)

SPECIFICATION OF CHARGES

NOW COMES the State of Vermont, by and through its State Prosecuting Attorney Edward G. Adrian, and hereby makes the following Charges against the Respondents, Ronald C. Smith, and Smith & Company, PC, RC in the above captioned case:

Board Authority

- 1) The Vermont Board of Public Accountancy has jurisdiction to investigate and adjudicate complaints of unprofessional conduct, to license and renew licensees, pursuant to 3 V.S.A. §§ 129, 129a and 814; 26 V.S.A. §§ 54, 72a, 73, 74, 75, 76, 78 and 82 and the Rules of the Board of Public Accountancy (the "Rules") and of the Office of Professional Regulation ("OPR").
- 2) Failing to comply with provisions of federal or state statutes or rules governing the practice of the profession is unprofessional conduct. 3 V.S.A. § 129a(a)(3).
- 3) Failure to practice competently by reason of any cause on a single occasion or on multiple occasions may constitute unprofessional conduct. Failure to practice competently includes: (1) performance of unsafe or unacceptable patient or client care; or (2) failure to conform to the essential standards of acceptable and prevailing practice. 3 V.S.A. § 129a(b).
- 4) No individual person may use the title "certified public accountant", "CPA", "registered public accountant", "RPA" or "auditor" or any other title tending to indicate that he is a public accountant, unless he is licensed as a public accountant under this chapter. 26 V.S.A. § 14(b).
- 5) No firm may use the title "certified public accountant", "CPA", "registered public accountant", "RPA", "auditor" or any other title tending to indicate that it is composed of public accountants, unless the firm is registered under this chapter. 26 V.S.A. § 14(c).
- 6) As a demonstration of a firm's competence, each application for renewal under Part 8 of these rules by a firm shall be accompanied by evidence that the firm, within the three years immediately preceding the application, had been subjected to a satisfactory

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peer review conducted in accordance with a peer review program approved by the Board. Rule 10.7(B).

- 7) For purposes of this rule the peer review must cover at least one office of a firm and one attest engagement of the firm within the state of Vermont. The proof of such peer review shall be the report and any letter(s) of comment(s), responses or remedial actions and subsequent follow-ups by the licensee submitted to the individual or firm by the professional organization. Rule 10.7(E)
- 8) A licensee shall not use or participate in the use of any form of advertising having reference to the licensee's professional services which contains a false, fraudulent, misleading, deceptive or unfair statement or claim. A false, fraudulent, misleading, deceptive or unfair statement or claim includes but is not limited to a statement or claim which. . . . Contains other representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived. Rule 10.10(6).
- 9) "Attest Services" means providing the following financial statement services: any audit or other engagement to be performed with the Statements on Auditing Standards (SAS); any review of a financial statement or compilation for a financial statement to be performed in accordance with the Statement on Standards for Accounting and Review Services (SSARS); and any examination of prospective financial information to be performed in accordance with the Statements on Standards for Attestation Engagements (SSAE). The statements on standards specified in this definition shall be adopted by reference by the Board pursuant to rulemaking and shall be those developed for general application by the American Institute of Certified Public Accountants. 26 V.S.A. § 13(1).
- 10) "Practice of public accounting" means the performance or the offering to perform by a person or firm holding itself out to the public as being licensed or registered under this chapter, for a client or potential client, of one or more kinds of services involving the use of accounting or auditing skills, including the issuance of reports on financial statements, or of one or more kinds of management advisory, financial advisory or consulting services, or the preparation of tax returns or the furnishing of advice on tax matters. 26 V.S.A. § 13(7).

Statement of Facts

- A) Ronald C. Smith (the "Respondent") was licensed as a certified public accountant, holding license number 001-0000326, issued by the State of Vermont on or about January 15, 1980. The Respondent's license lapsed on August 1, 2005. The Respondent was given a temporary license which expired on October 30, 2005.

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- B) Smith & Company, PC, RC (the "Respondent Firm") was registered as an accounting firm, holding registration number 092-0000444, issued by the State of Vermont on or about April 1, 1994. The Respondent Firm's license lapsed on or about August 12, 2005.
- C) On or about August, 2005 the Respondent and the Respondent Firm requested licensure and registration renewal. In the Renewal material the Respondent indicated that he had performed attest functions from August 1, 2003 to July 31, 2005.
- D) On or about August 4, 2005 the Board informed the Respondent that in order to renew his license he was required to submit evidence of the firm's peer review in the form of an acceptance letter from AICPA/NEPR of Peer Review.
- E) On or about March 3, 2006 the Respondent and Respondent Firm were reminded that their license and registration both lapsed on July 31, 2005 and both entities were supplied with the relevant rules and laws governing the practice of the profession.
- F) On or about July 12, 2006 the Respondent and Respondent Firm were sent certified mail again reminding of the lapsed license/registration and professional obligations as well as a warning that the CPA designation cannot be utilized by unlicensed individuals.
- G) On or about October 11, 2006 the Respondent indicated to Investigator Steven Kennedy that he was unaware that his license and the Firm's registration had lapsed.
- H) On or about December 26, 2006 Investigator Kennedy visited the Respondent and Respondent Firm located in Manchester, Vermont. Outside the Respondent Firm was a sign indicating "R.C. Smith Certified Public Accountants". The Respondent indicated to Investigator Kennedy that since July, 2005 he had performed about a dozen compilation (attest) services. The Respondent and Firm's letterhead and business card contained the designation "Certified Public Accountant" and the business card also contained the designation "CPA".

Charges

By committing the above act(s), circumstance(s) and/or omission(s), the Respondent has engaged in unprofessional conduct by violating the Vermont Statutes and Rules of the Board, as enumerated above in paragraphs 2-10.

WHEREFORE, the license of Ronald C. Smith and the registration of Smith & Company, PC, RC should be revoked, suspended or otherwise disciplined.

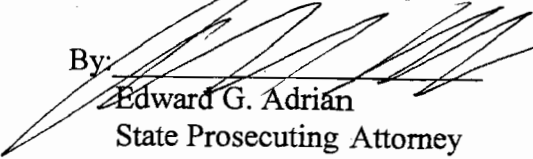
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DATED at Montpelier, Vermont this 19th day of March 2007.

STATE OF VERMONT
SECRETARY OF STATE

By: 
Edward G. Adrian
State Prosecuting Attorney

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