

STATE OF MAINE
BOARD OF ACCOUNTANCY

In re:) DECISION
Vanessa J. Hardy) AND ORDER
Complaint # 2007-ACC-3429)

On May 28, 2008, the Maine Board of Accountancy ("the Board") conducted a hearing under the authority of 32 M.R.S.A. § 12274 and 10 M.R.S.A. § 8003(5-A) to determine: 1) whether Vanessa J. Hardy committed a disciplinary violation of 32 M.R.S.A. § 12273(1)(F) by not obtaining the continuing professional education required under 32 M.R.S.A. § 12251(5) and Board Rules, Chapter 5, Section 6; or 2) whether Vanessa J. Hardy committed a disciplinary violation of 32 M.R.S.A. § 12273(1)(A) by committing fraud or deceit in obtaining her permit when falsely certifying completion of the continue education requirements.

The hearing was held at the Maine Department of Professional and Financial Regulation, 122 Northern Avenue, Gardiner, Maine. Board members present and participating were: Peter L. Chandler, Board Chair; Tracy Harding; Robert Jackson; and William Murphy. Assistant Attorney General Robert C. Perkins represented the State in presenting the evidence on the allegations.

Vanessa J. Hardy appeared by telephone from Bermuda and was not represented by counsel.

ISSUE PRESENTED

This matter was brought by the State pursuant to 5 M.R.S.A. § 9051 et seq. to: 1) determine if Ms. Hardy violated 32 M.R.S.A. § 12273(1)(F) by not obtaining the continuing professional education required by 32 M.R.S.A. § 12251(5) and Board Rules, Chapter 5, Section 6; and 2) determine whether Vanessa J. Hardy violated 32 M.R.S.A. § 12273(1)(A) by committing fraud or deceit in obtaining her permit by falsely certifying completion of the continue education requirements.

FINDINGS OF FACT

1. State's Exhibits 1 through 9 were admitted into evidence.
2. Ms. Hardy filed an application to renew her permit dated August 24, 2006. On that application, she checked off that she had met the terms of the continuing education requirement, which appear on the backside of the application form. Based on the representation on the renewal application, the application was granted.
3. By letter dated October 31, 2006, Ms. Hardy received notice that she was being audited for compliance with the continuing education requirement and that she was to submit documentation of her continuing education to the

Board. When she did not respond, a second notice of audit went out on January 4, 2007.

4. On February 2007, she provided her summary of continuing professional education. That summary demonstrated that she had received 21 hours of live CPE that met the requirements for the subject matter required under Board Rules, Chapter 5, Section 7(C)(4)(a). She also submitted 4 hours for additional education, but provided no certificate or documentation of completion of that. Finally, she also submitted 30 hours for study she did to successfully pass the ARE 144 examination concerning Reinsurance Principles and Practices. Ms. Hardy testified that she purchased the textbooks that are used in a course to prepare for taking the ARE 144 examination, but that she did not enroll in the course. She separately enrolled to take the examination and studied for that examination out of the same textbooks used in the course. Her study of those books was on her own and did not require registration for a program of self-study, nor did it include any sort of examination or other evidence of satisfactory completion of the study program. She argued that passing the examination, which she did, should serve as evidence of her self-study.

5. Ms. Hardy's documentation in response to the audit did not include documentation of having completed 4 hours of continuing education and professional ethics as required by Board Rules, Chapter 5, Section 6(B). The

Board's audit letter had reminded Ms. Hardy that demonstrating 4 hours of CPE and professional ethics every 3 years was part of the continuing education requirement and part of the documentation that was required in connection with the audit. At the hearing, Ms. Hardy did not provide any documentation of having completed this requirement. The Board gave her until July 18, 2008 to submit any additional documentation that she had complied with the ethics requirements. However, she failed to document to the Board's satisfaction having completed the 4 hours of ethics within the 3 year licensing cycle ending on September 30, 2006.

CONCLUSIONS OF LAW

1. Having reviewed the evidence, the Board finds that, Ms. Hardy did not commit fraud or deceit in the application process and, therefore, dismisses that count.

RECORD VOTE

Peter L. Chandler	Affirmed
Tracy Harding	Affirmed
Robert Jackson	Affirmed
William Murphy	Abstained

2. Having reviewed the evidence, the Board found that Ms. Hardy did technically commit a violation by failing to take her ARE 144 preparation study in a format that would meet Board Rules, Chapter 5, Section 7(A)(1)(c),

which states that "Such programs must require registration and provide evidence of satisfactory completion". The subject matter that she studied certainly would have qualified for credit had she taken it in a format acceptable under the rules. The Board also finds that Ms. Hardy failed to complete the 4 hours of ethics requirement within the preceding 3 years.

RECORD VOTE

Peter L. Chandler	Affirmed
Tracy Harding	Affirmed
Robert Jackson	Affirmed
William Murphy	Opposed

As a sanction for the above violations, the Board issues a WARNING and requires that Ms. Hardy document taking 4 hours of CPE in ethics in accordance with the Board's Rules and document that to the Board no later than September 30, 2008. The Board does not impose a harsher sanction in this matter because it considers the violation relating to the self-study component to have been more of a technical violation since the information gained in studying for the examination was clearly substantial and could have been structured in such a manner for her to obtain credit.

RECORD VOTE

Peter L. Chandler	Affirmed
Tracy Harding	Affirmed
Robert Jackson	Affirmed
William Murphy	Affirmed

DATED: 8/5/08



PETER L. CHANDLER, Chairperson
Maine Board of Accountancy
35 State House Station
Augusta, ME 04333-0035

APPEAL RIGHTS

Any party to this proceeding may seek judicial review of this Decision, to the extent such review is permitted by law, by filing a Petition for Review in Superior Court pursuant to 5 M.R.S.A. §§ 11001, et seq. within thirty (30) days after receipt of notice of this Decision. Any other person who is aggrieved by this Decision may seek judicial review in like manner by filing a Petition for Review in Superior Court within forty (40) days after the date of this Decision.