

BEFORE THE ALABAMA STATE BOARD OF PUBLIC ACCOUNTANCY

IN THE MATTER OF THE )  
COMPLAINT AGAINST: )  
JOHN HAMILTON MCLAIN, V, CPA ) CASE NO. 10-4  
CERTIFICATE NO. 7824 )  
RESPONDENT. )

**ORDER**

COMES NOW the Alabama State Board of Public Accountancy ("the Board"), and following a full and fair hearing before the Board on November 8, 2010, makes the following Findings of Fact and Conclusions of Law in the above styled case.

**FINDINGS OF FACT**

1. Respondent is a duly Certified Public Accountant in the State of Alabama, and was so registered at all times relevant to the complaint.
2. Respondent was provided notice of the hearing by certified mail, return receipt requested, and regular first class mail to the most recent address on file with the Board.
3. The certified mail receipt was signed and returned to the Board by the U.S. Postal Service.
4. Respondent failed to attend the hearing but was represented at the hearing by his attorney of record, James A. Mick, Esq. Mr. Mick responded to questions and presented oral argument on behalf of the Respondent.
5. Documentary evidence designated as Board's Exhibits 1-10 were admitted into evidence and published to the Board.

6. The evidence presented at the hearing established that on February 11, 2009, the Circuit Court of Madison County, Alabama adjudged the Respondent guilty of two felony counts of Enticing a Child, in violation of Section 13A-6-69 of the Code of Alabama 1975; two misdemeanor counts of Unlawful Imprisonment in violation of Section 13A-6-42 of the Code of Alabama 1975; and two misdemeanor counts of Sexual Abuse in the Second Degree in violation of Section 13-6-67(a)(2) of the Code of Alabama 1975.

7. The evidence presented at the hearing established that on December 11, 2009 the Alabama Court of Criminal Appeals released a Memorandum opinion affirming the circuit court's judgment as delineated in paragraph six above.

8. The evidence presented at the hearing established that on March 5, 2010 the Supreme Court of Alabama declined to hear an appeal in the cause delineated above in paragraphs six and seven by the issuance of a Certificate of Judgment denying writ of certiorari.

9. The Board finds that Respondent's conviction of the felony offenses of Enticing a Child; misdemeanor offenses of Unlawful Imprisonment; and misdemeanor offenses of Sexual Abuse in the Second Degree, constitutes sufficient evidence that he committed acts or engaged in conduct discreditable to the public accounting profession.

#### CONCLUSIONS OF LAW

The Board finds that the facts as established at the hearing and as outlined above constitute a violation of Sections 34-1-1, et seq., Code of Alabama 1975, as follows:

1. The acts of the Respondent constitute a violation of the *Rules of Professional*

*Conduct* established by the Board, specifically, Board Rule 30-X-6-.05(1), which is a cause for revocation under Section 34-1-12(a)(4), Code of Alabama 1975.

2. The Respondent committed acts or engaged in conduct discreditable to the public accounting profession, which is a cause for revocation under Section 34-1-12(a)(11), Code of Alabama 1975.

3. The acts of the Respondent resulted in his conviction of felony offenses under the laws of the State of Alabama, which is a cause for revocation under Section 34-1-12(a)(6), Code of Alabama 1975.

#### CONCLUSION

Based on the Findings of Fact and Conclusions of Law set forth above, the Board finds that the Respondent is guilty of all charges alleged in the Board's Complaint and, thus, his Certified Public Accountant Certificate is due to be revoked on each of the charges, separately and severally.

It is therefore ORDERED, ADJUDGED and DECREED by this Board that the Certified Public Accountant Certificate and permit to practice of the Respondent be REVOKED, that Respondent is fined five thousand dollars (\$5,000.00) per violation for each of the two violations in the Board's Complaint for a total fine of ten thousand dollars (\$10,000.00), and that Respondent return the revoked Certified Public Accountant Certificate to the Board office within thirty (30) days of this Order.

DONE this 8th day of November 2010.

ALABAMA STATE BOARD OF PUBLIC ACCOUNTANCY

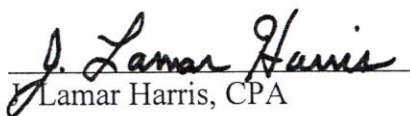
CONCUR:

MESSRS. RICHARDS, D'OLIVE,  
ODOM, PATTERSON, AND  
WRIGHT

RECUSED:

MR. SCOTT

ATTEST:

  
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J. Lamar Harris, CPA

Executive Director

November 23, 2010