

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE BOARD OF ACCOUNTANCY

In the Matter of
John Peters & Associates, Ltd.
Firm License No. 01118

**FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND
RECOMMENDATION**

The above-entitled matter came on for a prehearing conference before Administrative Law Judge (ALJ) Beverly Jones Heydinger at 10:15 a.m. on December 4, 2000, at 125 Golden Rule Building, 85 East Seventh Place, St. Paul, Minnesota 55101. The record closed on December 20, 2000, upon receipt of a letter from the Board.

Bobby J. Champion, Assistant Attorney General, 525 Park Street, Suite 200, St. Paul, Minnesota 55103-2106, appeared on behalf of the Board of Accountancy ("the Board"). There was no appearance by or on behalf of John Peters & Associates, Ltd., the Respondent.

NOTICE

This Report is a recommendation, not a final decision. The Board will make a final decision after a review of the record. The Board may adopt, reject, or modify the Findings of Fact, Conclusions, and Recommendations contained herein. The final decision of the Board shall not be made until this Report has been made available to the parties to the proceeding for at least ten days.^[1] An opportunity must be afforded to each party adversely affected by this Report to file exceptions and to present argument to the Board. Parties should contact Dennis J. Poppenhagen, Executive Secretary, Minnesota Board of Accountancy, 125 Golden Rule Building, 85 East Seventh Place, St. Paul, Minnesota, 55101, telephone (612) 296-7937, to ascertain the procedure for filing exceptions or presenting argument.

STATEMENT OF ISSUES

The issues in this contested case proceeding are whether the Respondent:

1. Violated a statute or rule the Board is empowered to enforce, in violation of Minn. Stat. §326.229, subd. 4(a)(1);
2. Failed to renew its firm license, in violation of Minn. Stat. §326.20 and Minn. R. 1100.3200 and 1100.3300;
3. Committed an act discreditable to the profession, in violation of Minn. R. 1100.4300;

4. Engaged in the practice of public accountancy without an annual active firm license, in violation of Minn. Stat. §326.211;
5. Held itself out as a licensed firm without holding an active firm license, in violation of Minn. Stat. §326.211;
6. Failed to maintain an annual license and pay the appropriate fee, in violation of Minn. Stat. §326.20;
7. Failed to appear before the Board, in violation of Minn. R. 1100.1200;
8. Failed to respond to communications from the Board, in violation of Minn. R. 1100.0600;

And whether Respondent's conduct constitutes grounds for justifying the Board to condition, limit, suspend or revoke its license.

Based upon all of the proceedings herein, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. The Notice of and Order for Prehearing Conference and Hearing in this matter was served upon the Respondent, John Peters & Associates, Ltd., at its last known address, 20935 Swenson Drive, Suite 475, Waukesha, Wisconsin 53186, by first class mail, on October 20, 2000. The notice was returned by the Post Office.

2. The Notice of and Order for Prehearing Conference and Hearing mailed to the Respondent included the following notice after the sentence notifying Respondent of the time and location of the Prehearing Conference:

Respondent is hereby urged to attend. Respondent's failure to do so may prejudice Respondent rights in this and any subsequent proceedings in this matter, may result in the allegations contained herein being taken as true, and may be the basis for the revocation, suspension, or any other disciplinary action taken against Respondent's firm license.

3. The Respondent did not file any Notice of Appearance with the Administrative Law Judge or make any prehearing request for a continuance or any other relief. The Respondent did not appear at the prehearing conference or have an appearance made on its behalf.

4. Because the Respondent failed to appear at the prehearing conference in this matter, it is in default. Pursuant to Minn. R. 1400.6000, the allegations contained in the Notice of and Order for Prehearing Conference and Hearing, with the exception of allegations Nos. 4 and 5, are hereby taken as true and incorporated into these Findings of Fact.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS

1. The Board and the Administrative Law Judge have jurisdiction in this matter pursuant to Minn. Stat. §§ 14.50, 214.10, and 326.165 to 326.229 (1998).

2. The Board has given proper notice of the hearing in this matter and has fulfilled all relevant substantive and procedural requirements of law and rule. The conduct described in the Notice of and Order for Prehearing conference and Hearing constitutes violations of Minn. Stat. § 326.20; and Minn. R. pts. 1100.0600, 1100.1200, 1100.3200, 1100.3300, and 1100.4300.

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

RECOMMENDATION

IT IS HEREBY RECOMMENDED: that disciplinary action be taken against the public accountant license of John Peters & Associates, Ltd.

Dated this 16th day of January, 2001.

BEVERLY JONES HEYDINGER
Administrative Law Judge

NOTICE

Pursuant to Minn. Stat. § 14.62, subd. 1, the agency is required to serve its final decision upon each party and the Administrative Law Judge by first class mail.

Reported: Default.

¹ Minn. Stat. § 14.61 (2000).