

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
BOARD OF ACCOUNTANCY
DEPARTMENT OF BUSINESS REGULATION
JOHN O. PASTORE COMPLEX
1511 PONTIAC AVENUE
CRANSTON, RI 02920**

IN THE MATTER OF:

BRIAN D. SMITH,

Respondent.

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DBR No.: 17BOA001

FINAL ORDER OF REVOCATION

The Rhode Island Board of Accountancy (“Board”) hereby issues this Order of Revocation permanently revoking the Certified Public Accountant (“CPA”) license of Brian D. Smith (“Respondent”) pursuant to the Accountancy Act, R.I. Gen. Laws §§ 5-3.1-1 to - 25, including specifically R.I. Gen. Laws § 5-3.1-12(b)(5), (10), and (11), the Administrative Procedures Act (“APA”) §§ 42-35-1 to -18, including specifically § 42-35-14(c), and the Department of Business Regulation’s Rules of Procedure for Administrative Hearings, 230-RICR-100-00-2.

On January 10, 2017, the Board issued an Emergency Order Summarily Suspending License and Notice of Intent to Permanently Revoke License and of Opportunity for Hearing to the Respondent (“Emergency Order and Notice”) which is attached hereto and incorporated herein by reference and made part hereof.¹ The Emergency Order and Notice provides that the Emergency Order and Notice became “effective upon issuance” and further that “if no hearing [was] requested, [the Emergency] Order shall become permanent thirty (30) days after entry unless it is modified or vacated by the Board.”

¹ The Emergency Order and Notice was erroneously dated January 10, 2016, but was in fact executed January 10, 2017.

The Emergency Order and Notice was sent by certified mail, return receipt requested, to the Respondent's last mailing address in the licensing file and also to the Medium John J. Moran Facility, at which the Board had reasonable grounds to believe the Respondent was residing. As such, service of process was legally effected upon mailing in accordance with 230-RICR-100-00-2.9 and the APA. Moreover, the Board has reasonable grounds to conclude that the Respondent received actual service based on the certified mail return request receipt for the document sent to the Medium John J. Moran Facility, which was delivered back to the Board with the name "Brian D. Smith" signed on the Signature line in penmanship that appears to match that of the signature on prior licensing documents submitted to the Board by the Respondent.

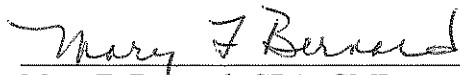
Neither the Respondent, nor anyone acting on his behalf, has requested a hearing nor contacted the Board in any manner since the Emergency Order and Notice was duly served.

Accordingly, the Respondent, by failing to request a hearing has waived any right to an administrative hearing and waived any right to pursue an appeal to the Superior Court under the APA.

Based on the facts and violations of law alleged in the Emergency Order and Notice and the failure of the Respondent to request a hearing in this matter within the time and manner specified in the Emergency Order and Notice, it is hereby **ORDERED**:

That the CPA license of Brian D. Smith is permanently revoked.

Entered this 28th day of February, 2017



Mary F. Bernard, CPA, CMI
Chair

APPENDIX A

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
BOARD OF ACCOUNTANCY
DEPARTMENT OF BUSINESS REGULATION
JOHN O. PASTORE COMPLEX
1511 PONTIAC AVENUE
CRANSTON, RI 02920

IN THE MATTER OF: :
 :
BRIAN D. SMITH, : DBR No.: 17BOA001
 :
Respondent. :
_____ :

**EMERGENCY ORDER SUMMARILY SUSPENDING LICENSE
AND NOTICE OF INTENT TO PERMANENTLY REVOKE LICENSE
AND OF OPPORTUNITY FOR HEARING**

The Rhode Island Board of Accountancy (“Board”) hereby issues this Emergency Order Summarily Suspending License and Notice of Intent to Permanently Revoke License and of Opportunity for Hearing (“Order and Notice”) to Brian D. Smith (“Respondent”), pursuant to the Accountancy Act, R.I. Gen. Laws §§ 5-3.1-1 to - 25, the Administrative Procedures Act (“APA”) §§ 42-35-1 to -18, specifically § 42-35-14(c), and Central Management Regulation 2 *Rules of Procedures for Administrative Hearings* (“CMR 2”). This Order is effective upon issuance.

A. BASIS FOR ISSUANCE OF ORDER AND NOTICE

1. Respondent holds a Certified Public Accountant (“CPA”) license issued by the Board with the current three-year licensing term beginning November 18, 2014 and expiring June 30, 2017.
2. There have been significant negative events in the Respondent’s criminal record since issuance of the CPA license, as reported in Rhode Island court records:

- i. On April 4, 2016, the Respondent was found guilty by a jury of simple assault in the Newport County Superior Court (Case No. N2-2015-0045A).
 - ii. On December 14, 2016, judgment of conviction was entered against the Respondent upon a plea of nolo contendere for second degree child molestation in the Providence/Bristol County Superior Court (Case No. P2-2015-3448A).
3. R.I. Gen. Laws § 5-3.1-12(b) authorizes the Board to revoke a CPA license on specific grounds, including, as relevant to this case:

(5) Conviction of, or pleading guilty or nolo contendere to, a crime or an act constituting a crime...involving moral turpitude, in a court of competent jurisdiction of this or any other state or in federal court.

(10) Any conduct reflecting adversely upon the licensee's fitness to engage in the practice of public accountancy; and

(11) Any other conduct discreditable to the public accounting profession.

4. Based upon the foregoing, the Board makes a finding that the public welfare imperatively requires that Respondent's license be summarily suspended pursuant to Rhode Island General Laws § 42-35-14(c).
5. The Board further finds that the criminal conduct cited herein is adequate grounds for permanent revocation of the CPA license under R.I. Gen. Laws § 5-3.1-12.

B. EMERGENCY ORDER SUMMARILY SUSPENDING LICENSE

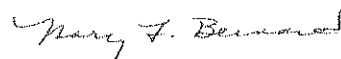
It is hereby **ORDERED**:

1. That, pursuant to § 42-35-14(c), Respondent's CPA license is immediately suspended;
2. That, Respondent shall cease and desist from any activity requiring licensure pursuant to the Accountancy Act.

C. NOTICE OF INTENT TO PERMANENTLY REVOKE LICENSE AND OF OPPORTUNITY FOR HEARING

The Board hereby provides notice of its intent to permanently revoke the Respondent's CPA license. If the Respondent makes a written request for a hearing to contest this matter within thirty (30) days of the date of this Order and Notice, the matter will be set down for hearing before the Board at the above-listed office location on a date and time designated by the Board with adequate notice to the Respondent. Any such written request should be addressed to the above-listed office location and labeled with the case name and number. If no hearing is requested, this Order shall become permanent thirty (30) days after entry unless it is modified or vacated by the Board.

Entered this 10th day of January, 2016



Mary F. Bernard, CPA, CMI
Chair

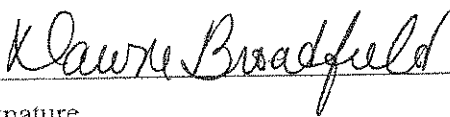
All are welcome at the Rhode Island Department of Business Regulation ("DBR"). If any reasonable accommodation is needed to ensure equal access, service or participation, please contact DBR at 401-462-9551, RI Relay at 7-1-1, or email DBR.dirofficeinq@dbri.gov at least three (3) business days prior to the hearing.

SERVICE CERTIFICATION

I, Dawne Broadfield, hereby certify that on this 10th day of January , 2017 a copy of this Emergency Order and Notice of Intent to Revoke was sent by First Class Mail and Certified Mail, Return Receipt Requested, to:

Brian D. Smith
210 Pheasant Run
Saunderstown, RI 02874

Brian D. Smith (# 154338)
Medium John J. Moran Facility
PO Box 8274, Cranston 02920
Main Control Center


Signature

NOTICE PURSUANT TO R.I. GEN. LAWS § 42-35-12

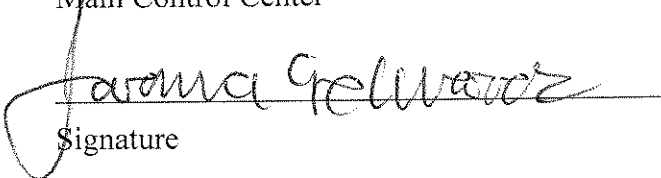
THIS FINAL ORDER OF REVOCATION CONSTITUTES A FINAL ACTION OF THE DEPARTMENT OF BUSINESS REGULATION PURSUANT TO RHODE ISLAND GENERAL LAWS TITLE 42, CHAPTER 35. FINAL AGENCY ACTIONS ARE GENERALLY APPEALABLE TO THE SUPERIOR COURT WITHIN THIRTY (30) DAYS OF THE DATE OF THE ACTION BY FILING A PETITION FOR REVIEW OF SAID COURT. HOWEVER, THE RESPONDENT UNDERSTANDS THAT BY WAIVING HIS/HER/ITS RIGHT TO A COMPLETE HEARING, THE ABOVE RIGHTS ARE WAIVED.

SERVICE CERTIFICATION

I, Jovonna Edwards, hereby certify that on this 2 day of March, 2017 a copy of this Final Order of Revocation was sent by First Class Mail and by Certified Mail, Return Receipt Requested, to:

Brian D. Smith
210 Pheasant Run
Saunderstown, RI 02874

Brian D. Smith (# 154338)
Medium John J. Moran Facility
PO Box 8274, Cranston 02920
Main Control Center


Signature