STATE OF CONNECTICUT
BEFORE THE BOARD OF ACCOUNTANCY

In the Matter of
Daniele & Associates LLC
Thomas W. Daniele
James R. Mitchell III
66 Cedar Street
Newington, CT 06111

Case No. M2023-1

CONSENT ORDER

This Consent Order ("Order"), by and between Daniele & Associates LLC, Thomas W. Daniele, and James R. Mitchell III (individually, "Respondent") and the authorized representative of the Commissioner of Consumer Protection, is entered into in accordance with the Chapter 389 of the Connecticut General Statutes ("C.G.S."). In accordance herewith, the parties agree that:

1. At all times relevant herein, Respondent Daniele & Associates LLC ("Respondent Firm") held a certified public accountant ("CPA") firm permit # CPAP.0003452, which expires on December 31, 2023; Respondent Thomas W. Daniele (Respondent Daniele) held a CPA license # CPAL.0003731, which expired on December 31, 2022; and Respondent James R. Mitchell III (Respondent Mitchell) held a CPA license # CPAL.0007965, which expires on December 31, 2023.

2. Respondents admit to all jurisdictional facts alleged in the Hearing Notice and Complaint and agree that this Order shall have the same force and effect as orders entered after a full administrative hearing.

3. Respondents waive the following:

    a. Any further procedural steps;

    b. The requirement that this Order contain a statement of findings of fact and conclusions of law;

    c. All rights to seek judicial review or otherwise challenge or contest the validity of this Order; and

    d. The right to an adjudicative hearing.

4. Respondents neither admit nor deny the allegations set forth hereinafter and agree to this Order as a means of avoiding protracted proceedings and litigation.

5. The Complaint may be used in construing the terms of this Order.

6. It is alleged that:

   a. Since at least 2016, Respondents Daniele and Mitchell are 50% owners of Respondent Firm. As the sole owners and members of Respondent Firm, Respondent Daniele and Respondent Mitchell exerted complete control over the operation and management of Respondent Firm.

   b. In 2022, Respondent Mitchell prepared the 2022 federal tax returns for John and Josephine Donnangolo of 545 Witches Rock Road, Bristol, CT 06010. Due to Respondent Mitchell's negligence and errors on their tax returns, John and Josephine Donnangolo paid another tax professional a total of $299.95 to prepare and refile their 2022 tax returns and incurred a total of $475.17 in IRS penalty and service fees.

   c. In 2017, Respondent Mitchell prepared and filed the 2016 federal and state tax returns for Tracy Taback of 90 Bridlewood Road, South Windsor, CT 06074, who reported an address at that time of 17 Mallard Lane, Newington, CT, which was the same address as Steve Lyga, who it was understood was cohabitating with Ms. Taback. The tax returns that Respondent Mitchell prepared and filed for Tracy Taback contained, without Tracy Taback's knowledge or consent, a Schedule C "Profit and Loss From Business" for The Back-9 Boardroom, LLC, even though Tracy Taback has never been a member, officer or employee of The Back-9 Boardroom, LLC. Additionally, this Schedule C also contained a deduction of $29,858 for "legal and professional expenses" without any substantiating documentation.

   d. Respondent Mitchell filed the tax returns after allowing a third party, unrelated to Tracy Taback, to forge her signature on the tax returns, the Letter of Engagement with Respondent firm, as well as the IRS Form 8879 "e-file Signature Authorization."

   e. After having filed Tracy Taback's tax returns without her knowledge or consent, Respondent Mitchell and Respondent Firm furnished a copy of her 2017 federal and state tax returns to the same unrelated third party, also without Tracy Taback's knowledge or consent.

   f. Despite having been informed by Tracy Taback and her attorney that she was not affiliated with the Back-9 Boardroom LLC, Respondents continued issuing Tracy Taback periodic billing statements to the present-day demanding payment including accrued interest for the Back-9 Boardroom LLC's "general ledger" work.

   g. As a result of Respondent Mitchell and Respondent Firm's actions, Tracy Taback incurred for a total of $3,187.50 to retain a forensic accounting firm to prepare and file an amended 2016 federal and Connecticut tax returns to correct her tax situation, and a total of $3,000 in legal fees to demand corrective actions by Respondents.

   h. Respondent Daniele's license # CPAL.003731 expired on December 31, 2022, and he has been practicing public accountancy and using the CPA designation without a valid CPA license since January 1, 2023.

   i. Every year since 2016, Respondent Daniele has failed to fulfill the annual CPE requirements and the Ethics requirements for CPA licensure; failed to submit CPE certificates of completion as required; and incorrectly reported his fulfillment of his annual CPA license requirements on his renewal application.

j. Respondent Mitchell CPA license # CPAL.0007965 lapsed January 2, 2022 - February 7, 2022, and January 2, 2023 - March 3, 2023, and while his CPA license lapsed, Respondent Mitchell continued practicing public accountancy and using the CPA designation without a valid CPA license.

k. Respondent Firm was operating as a public accounting firm and using the title "CPA" while Firm permit CPAP.0003452 lapsed from January 1, 2022, through October 11, 2022.

l. During the period January 2, 2022 – February 7, 2022, Respondent Firm failed to meet the requirement that a simple majority of the ownership of the firm belongs to individuals holding a valid CPA license in that Respondent Mitchell CPA license lapsed during that time.

m. In every year since 2016, Respondents used Respondent Daniele's incorrectly renewed CPA license to obtain the renewal of firm permit CPAP.0003452

7. This Order shall not become part of the official record unless and until it is accepted and approved by the Commissioner of Consumer Protection.

ORDERS

IT IS HEREBY ORDERED that Respondents shall cease and desist from any future violations of C.G.S. Chapter 389 and regulations promulgated pursuant thereto, and it is further ORDERED that Respondents shall:

1. By no later than August 15, 2023, Respondents Daniele and/or Mitchell shall submit to the Department documentation showing restitution has been made to John Donnangolo of 545 Witches Rock Road, Bristol, CT 06010. Documentation shall include a copy of a check made payable to John Donnangolo in the amount of $475.17, and a mailing receipt with John Donnangolo's signature.

2. By no later than August 15, 2023, Respondents Daniele and/or Mitchell shall submit to the Department documentation showing restitution has been made to Tracy Taback of 90 Bridlewood Road, South Windsor, CT 06074. Documentation shall include a copy of a check made payable to Tracy Taback in the amount of $6,187.50, and a mailing receipt with Tracy Taback's signature.

3. By no later than August 15, 2023, Respondents shall submit to the Department documentation showing Respondents have sent an apology to Tracy Taback, which shall include a retraction of all the billing statements Respondents have sent Tracy Taback over the years and an affirmation that Respondents will cease billing her. Documentation shall include a copy of the apology letter and a mailing receipt with Tracy Taback's signature.

4. By no later than August 15, 2023, Respondent Mitchell shall submit to the Department documentation showing he has completed 8 credits of continuing professional education (CPE) courses in Ethics which shall cover the areas of client confidentiality, office management to reduce clients' risks, how to handle tax returns, proper review for tax preparation, AICPA professional ethic

requirements, and Connecticut Ethics and Professional Conduct. Documentation shall include certificates of completion. Respondent Mitchell may not use any such credits for the license renewal due in December 2023.

5. By no later than August 15, 2023, Respondent Daniele shall submit to the Department documentation showing he has completed 80 credits of CPE courses, including 20 hours in the area of Ethics, which shall cover the areas of client confidentiality, office management to reduce clients' risks, how to handle tax returns, proper review for tax preparation, AICPA professional ethic requirements, and Connecticut Ethics and Professional Conduct, and the majority of the remaining 60 hours shall be in the area of Tax. Documentation shall include certificates of completion. Respondent Daniele may use such CPE credits for the license renewal due in December 2023; however, none of such credits may be carried over for the license renewal due in December 2024.

6. By no later than August 31, 2023, Respondent Daniele shall submit a complete application, including payment of all necessary fees and sufficient CPE certificates of completion, to reinstate his CPA license # CPAL.0003731.

7. By no later than August 15, 2023, Respondents shall submit to the Department for approval a proposed plan to implement procedures, practices and security controls consistent with industry standards to protect and safeguard the firm's clients' tax returns and confidential information. Respondents shall work diligently with the Department to finalize and implement its best practices plans by no later than August 31, 2023.

8. Respondent Daniele shall pay the Department of Consumer Protection a settlement fee of $15,500. Such payment may be made online at https://elicense.ct.gov by logging into Respondent's existing account using Respondent's personal login information, then clicking on "pay outstanding fees." A payment of $4,500 shall be paid by no later than August 31, 2023, and the remaining $11,000 shall be paid in eleven monthly payments of $1,000, each due by the end of the last day of each month starting on September 30, 2023. Early payments or payoff may be made without penalty.

9. Respondent Mitchell shall pay the Department of Consumer Protection a settlement fee of $12,500. Such payment may be made online at https://elicense.ct.gov by logging into Respondent's existing account using Respondent's personal login information, then clicking on "pay outstanding fees." A payment of $4,500 shall be paid by no later than August 31, 2023, and the remaining $8,000 shall be paid in eight monthly payments of $1,000, each due by the end of the last day of each month starting on September 30, 2023. Early payments or payoff may be made without penalty.

10. The Department may, without further proceedings, revoke Respondent Firm's CPA firm permit # CPAP.0003452, if any of Orders 1 through 9 have not been complied with.

11. The Department may, without further proceedings, revoke Respondent Daniele's CPA license # CPAL.0003731, if any of Orders 1 through 3, or 5 through 8, has not been complied with.

12. The Department may, without further proceedings, revoke Respondent Mitchell's CPA license CPAL.0008971, if any of Orders 1 through 3, 4, 7 or 9 has not been complied with.

Respondent,

Dated: 7/31/23

By: _____
Thomas W. Daniele

Respondent,

Dated: 7/31/23

By: _____
James R. Mitchell III

Hearing Officer,

Dated: 7-31-2023

By: _____
Thomas C. McNeill,, Jr.

Acknowledged and agreed to pursuant to Connecticut General Statutes section 21a-9
on this 3rd day of August, 2023.

_____
Bryan Cafferelli - Commissioner
Department of Consumer Protection
450 Columbus Avenue, Suite 901
Hartford, CT 06103-1940