

MAINE STATE LEGISLATURE

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September 26, 1975

James E. Calahan, P.A.
Chairman, Maine Board of Accountancy
24 Mechanic Street
Camden, Maine

Dear Jim:

I am writing in response to your letter to me of September 4, 1975. From your letter and our telephone conversation on that day, it is my understanding that both your term and Roger Fortin's term as members of the Board of Accountancy expired on September 1, 1975, and that you wish to know whether you and Mr. Fortin still serve as members of the Board.

32 M.R.S.A. § 3971, which deals with the appointment of members to the Board of Accountancy, is explicit in this regard. "Upon the expiration of his term of office, a member shall continue to serve until his successor shall have been appointed and shall have qualified." Your successor "shall have qualified" when he has taken the oath of office required by Article IX Section 1 of the Maine Constitution. See Formal Opinion of Attorney General, dated October 22, 1974, to Pease, Executive Department Administrative Assistant; see also 5 M.R.S.A. § 4. Accordingly, both you and Mr. Fortin will continue to serve as members of the Board until your successor has been appointed by the Governor and has taken the required oath of office.

I understand from your letter and our conversation that your second question is whether you and Mr. Fortin retain full powers as members of the Board until your successor is appointed and qualified. The answer to this question is affirmative. See Maine Beauty Schools v. State Board of Hairdressers, 225 A.2d 424 (Me., 1967). Thus, with regard to the Walter Young administrative hearing scheduled to be held before the Board on October 23, 1975, Mr. Fortin would have the power to issue subpoenas pursuant to 32 M.R.S.A. § 3992, sub-§ 5.

Very truly yours,

DAVID ROSEMAN
Assistant Attorney General

DR:mfe
cc: Roger Fortin