

**BEFORE THE WEST VIRGINIA BOARD OF ACCOUNTANCY**

**WEST VIRGINIA BOARD OF ACCOUNTANCY,**

**COMPLAINANT,**

**v.**

**CASE NOS. 2019-02, 2019-05,  
2019-06, 2019-08, 2019-10,  
AND 2019-11**

**JAY MICHAEL CLEM,**

**RESPONDENT.**

**NOTICE OF HEARING**

You are hereby notified that on September 17, 2019, at 9:30 a.m., the West Virginia Board of Accountancy ("Board") will conduct a hearing before Hearing Examiner Jeffrey G. Blaydes at the Board's office, 405 Capitol Street, Suite 908, Charleston, WV 25301, to determine whether the Board should suspend, revoke or otherwise discipline your license to practice accounting in the State of West Virginia based upon the allegations set forth in the "Complaint and Statement of Charges" attached hereto and herewith served upon you. The hearing will be open to the public.

You may appear, with an attorney if so desired, to testify or otherwise show cause why discipline should not be imposed. You have the right to offer witnesses, cross-examine witnesses, and present evidence on your behalf. This hearing will be conducted in accordance with West Virginia Code §§ 29A-5-1 through 5-5, 30-1-8, 30-9-22, and W. Va. Code R. §§ 1-2-1 *et seq.*

Dated this 25<sup>th</sup> day of July, 2019.

WEST VIRGINIA BOARD OF ACCOUNTANCY

By: Robin M. Baylous, CPA, President  
Robin M. Baylous, CPA, President

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**CASE NOS. 2019-02, 2019-05,  
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**JAY MICHAEL CLEM,**

**RESPONDENT.**

**COMPLAINT AND STATEMENT OF CHARGES**

The West Virginia Board of Accountancy ("Board"), a state entity created and governed by W. Va. Code §§ 30-9-1 *et seq.*, pursuant to the authority granted to it by W. Va. Code §§ 30-9-4 and 30-9-20 to suspend, revoke, or otherwise discipline an individual's license to practice accounting in the State of West Virginia, has instituted an investigation into allegations that certain conduct by Respondent, Jay Michael Clem ("Respondent"), may constitute violations of W. Va. Code §§ 30-9-1 *et seq.* and W. Va. Code R. §§ 1-1-1 *et seq.* As part of that investigation, the Board made a finding of probable cause to file a complaint for disciplinary action against Respondent.

The charges are as follows:

1. Respondent is a licensee of the Board, holding License No. WV001712, which license has been inactive since July 1, 2018.
2. The Board has received a series of complaints from members of the public alleging various acts of unprofessional conduct by Respondent.
3. On or about December 10, 2018, the Board received a written complaint from Christopher Bishop, which complaint has been designated Case No. 2019-02. The complaint alleged that Respondent had yet to file a 2017 tax return for Mr. Bishop, which

return was overdue. Mr. Bishop requested that he “get all my 17 year files back and my depreciation schedule.”

4. By letter to Respondent dated December 14, 2018, the Board transmitted a copy of Mr. Bishop’s complaint, requested that Respondent file a written response thereto within 30 days, and also requested that Respondent attend an informal conference with the Board on January 22, 2019.

5. Respondent never filed a written response to Mr. Bishop’s complaint.

6. On or about January 14, 2019, the Board received a written complaint from William and Dorothy Calvert, which complaint has been designated Case No. 2019-05. The complaint alleged that Respondent “has withheld all of our papers for 2017 and from Jan. thru June 2018,” that Respondent “has not prepared our taxes for 2017,” and that attempts to contact Respondent were unsuccessful.

7. By letter to Respondent dated January 18, 2019, the Board transmitted a copy of the Calverts’ complaint and requested that Respondent file a written response thereto within 30 days.

8. Respondent never filed a written response to the Calverts’ complaint.

9. Respondent attended an informal conference with the Board on January 22, 2019, via telephone. Following that conference, and by letter to Respondent dated January 25, 2019, the Board directed that he return the requested records to Mr. Bishop and the Calverts within two weeks of receipt of the letter and advised that he was prohibited from holding himself out as a “CPA” or “Certified Public Accountant.”

10. On or about January 30, 2019, the Board received an online complaint from Maxwell Weese, which complaint has been designated Case No. 2019-06. The complaint

alleged that Respondent “has not returned our paperwork from 2016 and 2017” and that all attempts to contact Respondent were unsuccessful.

11. By letter to Respondent dated January 30, 2019, the Board transmitted a copy of Mr. Weese’s complaint and requested that Respondent file a written response thereto within 30 days.

12. Respondent never filed a written response to Mr. Weese’s complaint.

13. On or about February 4, 2019, the Board received an online complaint from Dale Lee Parsons, which complaint has been designated Case No. 2019-08. The complaint alleged that “I’m trying to get my 2017 tax information back off of [Respondent],” that Respondent returned only one of several emails, and that Respondent “will not answer the phone.”

14. By letter to Respondent dated February 4, 2019, the Board transmitted a copy of Mr. Parsons’ complaint and requested that Respondent file a written response thereto within 30 days.

15. Respondent never filed a written response to Mr. Parsons’ complaint.

16. On or about April 22, 2019, the Board received a written complaint from Adam Stump, which complaint has been designated Case No. 2019-10. The complaint alleged that Mr. Stump’s “2017 taxes are not finished,” that Respondent is “never in his office” and “does NOT answer his phone,” and that Mr. Stump needs his tax information returned so that he may engage another accountant.

17. By letter to Respondent dated April 24, 2019, the Board transmitted a copy of Mr. Stump’s complaint and requested that Respondent file a written response thereto within 30 days.

18. Respondent never filed a written response to Mr. Stump’s complaint.

19. On or about May 31, 2019, the Board received an online complaint from Margaret Riden, which complaint has been designated Case No. 2019-11. The complaint alleged that Respondent failed to complete and file two tax returns and that attempts to get paperwork from Respondent were unsuccessful.

20. By letter to Respondent dated May 31, 2019, the Board transmitted a copy of Ms. Riden's complaint and requested that Respondent file a written response thereto within 30 days.

21. Respondent never filed a written response to Ms. Riden's complaint.

22. In a letter to Respondent dated June 27, 2019, the Board advised that it was in receipt of information that Respondent was continuing to advertise as a "Certified Public Accountant," that it was unlawful to do so (citing W. Va. Code § 30-9-26(g)(9)), and that Respondent had 15 days to remove the illegal advertising and verify to the Board he had done so.

23. As of the date of this Complaint, the Board has not received verification that Respondent has ceased his illegal advertising.

24. The Board's Complaint Committee reviewed the aforementioned complaints filed with the Board and all documentation pertinent thereto, including the above-described correspondence to Respondent, and determined that Respondent may have violated certain provisions of the Board's governing statutes and rules by committing professional negligence in the performance of services, by refusing and/or ignoring requests by the complainants for the return of their documents, and by continuing to advertise as a "CPA" or "Certified Public Accountant" without an active license, in violation of W. Va. Code §§ 30-9-20(a)(5)-(6), (9), 30-9-24, 30-9-26(g)(9), and W. Va. Code R. §§ 1-1-13.1.e-f., i., 1-1-19.2, 1-1-19.5.

25. Upon recommendation of the Complaint Committee, the Board, by majority vote at its meeting on July 12, 2019, determined there was probable cause to believe that Respondent had violated one or more provisions of W. Va. Code §§ 30-9-1 *et seq.* and W. Va. Code R. §§ 1-1-1 *et seq.* and that further action should be taken against Respondent.

26. The Board has the power to hold a hearing and to suspend or revoke a license, reprimand a licensee, impose probationary conditions, or take other disciplinary action under W. Va. Code §§ 30-9-4 and 30-9-20 and W. Va. Code R. §§ 1-1-13, 1-2-3, and 1-3-4.

27. The Board will therefore conduct a hearing in these matters based upon the charges contained herein, which hearing will continue until all evidence is fully submitted. Thereafter, the Board will issue a written decision setting forth findings of fact, conclusions of law, and a description of any disciplinary actions imposed. If a hearing is held and any violation(s) is/are proven, disciplinary action against Respondent may occur, which could include assessment of all costs of the investigation, hearing, hearing examiner, and all other reasonable and necessary costs incurred by or on behalf of the Board.

Dated this, the 25<sup>th</sup> day of July, 2019.

WEST VIRGINIA BOARD OF ACCOUNTANCY

By: Robin M. Baylous, CPA, President  
Robin M. Baylous, CPA, President