

BEFORE THE WEST VIRGINIA BOARD OF ACCOUNTANCY

West Virginia
Board of Accountancy

**WEST VIRGINIA BOARD OF
ACCOUNTANCY,**

MAR 03 2020

Complainant,

Received

v.

Case No. 2020-03

**BILLY JAMES CLINE,
License No. WV002875,**

Respondent.

CONSENT AGREEMENT AND ORDER

NOW COME the West Virginia Board of Accountancy (“Board”) and Billy James Cline (“Respondent”) for the purpose of agreeing to disciplinary action which shall be taken against Respondent in the above-referenced matter. As a means of compromise, the Board and Respondent hereby agree to resolve this matter by and through a voluntary agreement and consent to disciplinary action, with consideration given to appropriate safeguards for protection of the public.

WHEREAS, Respondent acknowledges that the Board may file a Statement of Charges alleging that he has violated certain provisions of W. Va. Code §§ 30-9-1 *et seq.* and W. Va. Code R. §§ 1-1-1 *et seq.*, and proceed to a hearing and seek disciplinary action in this matter.

WHEREAS, Respondent hereby waives the filing of a formal Statement of Charges and the parties mutually desire to settle this matter without further prosecution and a formal hearing.

WHEREAS, the Board agrees and acknowledges that this agreement is a compromise of claims disputed by Respondent.

THEREFORE, it is hereby STIPULATED and AGREED between the undersigned parties that this matter be settled and resolved, the parties having reached an understanding concerning the

proper disposition of the matter in controversy, and the Board, approving such an agreement, does hereby FIND and ORDER as follows:

FINDINGS OF FACT

1. Respondent is a licensee of the Board, holding License No. WV002875, which license has been inactive since July 1, 2018 due to CPE non-compliance.

2. On or about August 28, 2019, the Board received an online complaint from an individual identified herein as "W.N." alleging the "mishandling of tax records" by Respondent.

3. In an email to W.N. dated August 29, 2019, the Board requested additional information regarding his allegations against Respondent.

4. In an email to the Board dated August 30, 2019, W.N. stated that he had recently received a phone call from Pinch Elementary School informing him that "numerous pages from [his] 2008 tax files" were found in the school's parking lot and along Route 114 near the school. W.N. attached to his email a copy of one of the found documents, which was a tax return bearing the Social Security Numbers and other private information for him and his wife. W.N. and his wife met with Respondent to discuss "the matter of the tax forms being scattered along route 114."

5. According to W.N.'s email, "[Respondent's wife] stated that they were taking the old tax papers to a landfill where they were to be buried and when they discovered that some of the boxes became open and papers were lost they stopped and tried to pick up the papers. Mr. Cline also stated th[at] the papers were to be buried and they watched to make sure none of the tax forms did not get destroyed. . . . The Cline's stated that they were sorry that this happened to us but they did not offer to assist us in any other manner. As a result of the Cline's carelessness in the files which contained the tax returns I had to contact the social security office, the credit services Equifax and

the other credit companies to advise them as to what happened” and “I also had to pay for the credit service to monitor our credit”

6. By letter to Respondent dated August 30, 2019, the Board transmitted a copy of W.N.’s complaint and supplemental email and requested that Respondent file a written response thereto within 30 days.

7. On or about September 13, 2019, the Board received a written response from Respondent, wherein he explained that, “[o]n August 16, 2019, my wife and daughter were removing old records to be disposed of. They were using an open trailer and all the records were in boxes with lids attached. Evidentially [sic] one of the lids came off and some loose papers were blown out of the box. As soon as my wife saw the papers fly in the air (they were hitting against a very high tailgate) she immediately pulled off the road. My wife and daughter thought that all the papers that had flown out of the box was in the trailer” Respondent claimed “[t]his occurrence was an error but not due to negligence on our part. We made a good faith effort to properly secure, transport, and dispose of the records in a manner consistent with industry standards.”

8. The Complaint Review Committee reviewed all available documents at its meeting on October 17, 2019, and found probable cause to believe that Respondent was in violation of the Board’s governing statutes and rules, more particularly, W. Va. Code § 30-9-20(a)(5)-(6) and W. Va. Code R. §§ 1-1-13.1.e-f., 1-1-19.2.a.2., 1-1-19.3.a.

9. At its meeting on October 24, 2019, the Board considered the matter, including the findings and recommendations of the Complaint Review Committee, and voted to seek disciplinary action against Respondent.

10. The Board informed Respondent of its findings by correspondence dated November 26, 2019.

11. On January 7, 2020, the Board received a letter from Respondent stating that he wished to permanently surrender his license to practice as a certified public accountant in the State of West Virginia.

CONCLUSIONS OF LAW

1. Respondent is a licensee of the Board, holding License No. WV002875, and is therefore subject to the license requirements and disciplinary rules of the Board.

2. The Board is a state entity created and governed by W. Va. Code §§ 30-9-1 *et seq.*, and is empowered to regulate the practice of accountancy in the State of West Virginia.

3. In order to carry out its regulatory duties, 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.

4. The Respondent does not contest that the Board has probable cause to charge him with one or more violations of the Board's governing statutes and rules based upon the allegations at issue in this matter.

5. Respondent's actions in this matter, if proven, would constitute violations of W. Va. Code § 30-9-20 and W. Va. Code R. §§ 1-1-1 *et seq.* Such conduct is therefore grounds for disciplinary action.

CONSENT OF LICENSEE

I, Billy James Cline, by signing this *Consent Agreement and Order*, acknowledge the following:

1. After having had the opportunity to consult with an attorney of my choice, I sign this *Consent Agreement and Order* voluntarily, freely, without compulsion or duress, and understand that my signature has legal consequences.

2. No person or entity has made any promise or given any inducement whatsoever to encourage me to make this settlement other than as set forth in this document.

3. I am aware that I may pursue this matter through appropriate administrative and/or court proceedings. I am aware of my legal rights regarding this matter, but I have chosen to waive those rights intelligently, knowingly, and voluntarily.

4. I waive any defenses including, but not limited to, laches, statute of limitations, and estoppel, that I may have otherwise claimed as a condition of this agreement.

5. I acknowledge that the execution of this document constitutes disciplinary action by the Board and is therefore considered to be public information.

6. In lieu of a hearing, I seek to voluntarily surrender my license to practice as a certified public accountant in the State of West Virginia.

The Respondent, Billy James Cline, by affixing his signature hereto, agrees to the following Order.

ORDER

Based on the foregoing, the Board does hereby ORDER and DECREE as follows:

1. Respondent is hereby REPRIMANDED for his actions in this matter.
2. Immediately following the entry of this *Consent Agreement and Order*, Respondent shall voluntarily surrender his license, License No. WV002875, to the Board. Respondent agrees not to seek reinstatement of his license or apply for any type of licensure with the Board at any time thereafter.

3. Having permanently surrendered his license to practice as a certified public accountant in the State of West Virginia, Respondent agrees to immediately remove and cease using the title "certified public accountant," the abbreviation "CPA," or any other title, word, combination of letters, abbreviation, sign, card or device, in whatever medium, that may lead a reasonable person to believe that he is a certified public accountant.

4. Respondent shall at all times cooperate with the Board, and any of its agents or employees, in the monitoring or investigation of Respondent's compliance with the terms and conditions of this *Consent Agreement and Order*.

5. Respondent agrees and acknowledges that a violation of any term or condition of this Agreement may subject him to additional disciplinary proceedings or injunctive proceedings in a court of law.

6. This document is a public record as defined in West Virginia Code § 29B-1-2.

7. This *Consent Agreement and Order* constitutes the entire agreement between the parties.

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In recognition of this *Consent Agreement and Order*, we hereby affix our signatures.

WEST VIRGINIA BOARD OF ACCOUNTANCY

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

Entered: 3/5/2020
Date

REVIEWED AND AGREED TO BY:

Billy James Cline
Billy James Cline
Respondent

2-27-20
Date

This day personally appeared before me, Billy James Cline, whose name is signed to the foregoing document and who is known to me, having acknowledged before me that the statements in the foregoing document are complete, true and correct, to the best of his knowledge, information, and belief, and executed the document voluntarily on the date shown above.

Given under my hand and seal on this the 27th day of February, 2020

My Commission expires: July 4, 2021

Amie M Robinson
Notary Public

