

**STATE OF MINNESOTA
BOARD OF ACCOUNTANCY**

In the Matter of the CPA Certificate of

**STIPULATION AND
CONSENT ORDER**

Kyle Theodore Mielke
CPA Certificate No. 30850 (Exempt)

Board File 2021-474

STIPULATION

Kyle Theodore Mielke (“Respondent”) and the Minnesota Board of Accountancy’s Complaint Committee stipulate that, subject to Board’s review and discretionary approval, the Board may issue a consent order that imposes the following sanctions:

A. Respondent’s CPA certificate, No. 30850, is CENSURED and REPRIMANDED pursuant to Minn. Stat. § 326A.08 (2020).

B. Respondent shall pay to the Board a CIVIL PENALTY of Two Thousand Dollars (\$2,000). Respondent shall submit a civil penalty of \$2,000 by check to the Board within sixty (60) days of the Board’s approval of this Stipulation and Consent Order.

C. Respondent shall remain law abiding and comply with all statutes and rules within the Board’s jurisdiction. See Minn. Stat. ch. 326A (2020) and Minn. R. ch. 1105 (2021).

D. Respondent shall report in writing within ten days any and all violations of this stipulation and consent order to the Board’s Executive Director.

Respondent and the Committee enter into this stipulation based on the following findings of fact, conclusions of law, and other stipulated provisions:

Findings of Fact

1. Respondent was issued a CPA certificate by the Board on April 19, 2018.

2. Respondent's CPA certificate expired on December 31, 2020.
3. Respondent renewed his CPA certificate on August 11, 2021.
4. During the lapse, Respondent held out as a CPA without a valid certificate by using the CPA designation on his company website and LinkedIn profile.
5. On August 27, 2021, a complaint allegation letter was sent to Respondent.
6. In September 2021, Respondent sent a response to the Board. Respondent acknowledged he accidentally allowed his CPA certificate to lapse and held out as a CPA until he realized his CPA certificate was expired. He also self-reported that he practiced as a CPA during his lapse by working on eight 401(k) audits.
7. On February 2, 2022, Respondent requested and was granted exempt status.

Conclusion of Law

1. The Board has authority to license and regulate certified public accountants and to take disciplinary action as appropriate. Minn. Stat. ch. 326A (2020).
2. Respondent violated Minnesota Statutes §§ 326A.08, subd. 5(a)(1) and 326A.10 (c) (2020) and Minn. R. 1105.5600, subp. 1(C)(1) (2021).
3. This stipulation and consent order is in the public interest.

Other Stipulated Provisions

1. This stipulation and consent order must be approved by the Board to become effective.
2. Respondent agrees that the Committee may move the Board *ex parte*, with or without advance notice to the Respondent, to approve this stipulation and consent order. Respondent understands that the Board may either approve the stipulation and consent order

or not approve it. This stipulation and the files, records, and proceedings associated with this matter may be reviewed by the Board in its consideration of the Committee's motion.

3. If approved by the Board, this stipulation and consent order shall be classified as public data. Minn. Stat. § 13.41, subd. 5 (2020).

4. If the Board does not approve this stipulation and consent order, then the matter remains unresolved and the Committee may either seek to negotiate a revised stipulation and consent order with Respondent to present to the Board or issue an order commencing a contested-case hearing before an Administrative Law Judge at the Office of Administrative Hearings. *See* Minn. Stat. §§ 14.57–.62, 214.10, subd. 2 (2020) (describing administrative hearing process).

5. Respondent agrees that if this case comes before the Board again after it reviews and discusses this stipulation and consent order, Respondent waives any claim that the Board was prejudiced by its review and discussion of this stipulation and consent order and any records relating to it.

6. Respondent acknowledges that they were advised by the Committee of their right to a contested-case hearing in this matter before an Administrative Law Judge, to file exceptions and make argument to the Board after the hearing, and to seek judicial review from any adverse decision rendered by the Board. Respondent hereby expressly waives those rights. Respondent was further advised by the Committee of their right to be represented by counsel and that they knowingly waive that right.

7. Respondent has read, understands, and agrees to this stipulation and has voluntarily signed it. It is expressly understood that this stipulation contains the entire

agreement between the parties, there being no other agreement of any kind, verbal or otherwise. If approved by the Board, a copy of the final stipulation and consent order shall be served personally or by first class mail on Respondent. The Board's order shall be effective when it is signed by the Chair of the Board or the Chair's designee.

8. Pursuant to Minn. Stat. § 16D.13 (2020), any civil penalty imposed by this stipulation and consent order shall begin to accrue simple interest in accordance with that section thirty days after the civil penalty is due. Pursuant to Minn. Stat. § 16D.17 (2020), thirty days after any civil penalty imposed by this stipulation and consent order is due, the Board may file and enforce any unpaid portion of the civil penalty as a judgment against Respondent in district court without further notice or additional proceedings.



KYLE THEODORE MIELKE

STATE OF _____

COUNTY OF _____

This instrument was acknowledged before me on _____ by Kyle Theodore Mielke.

(stamp)

(Signature of notary officer)

My commission expires: _____

COMPLAINT COMMITTEE



GREGORY S. STEINER, CPA
Chair


Dated: 5/5, 2022

CONSENT ORDER

Upon consideration of this stipulation and consent order, and based upon all the files, records, and proceedings herein, all terms of the stipulation and consent order are approved. Accordingly, the Board orders as follows:

- A. Respondent's CPA certificate, No. 30850, is CENSURED and REPRIMANDED pursuant to Minn. Stat. § 326A.08 (2020).
- B. Respondent shall pay to the Board a CIVIL PENALTY of Two Thousand Dollars (\$2,000). Respondent shall submit a civil penalty of \$2,000 by check to the Board within sixty (60) days of the Board's approval of this Stipulation and Consent Order.
- C. Respondent shall remain law abiding and comply with all statutes and rules within the Board's jurisdiction. See Minn. Stat. ch. 326A (2020) and Minn. R. ch. 1105 (2021).
- D. Respondent shall report in writing within ten days any and all violations of this stipulation and consent order to the Board's Executive Director.

STATE OF MINNESOTA
BOARD OF ACCOUNTANCY


BOARD SECRETARY

Dated: 5/11 / _____, 2022

CHARLES SELCER, CPA
Board Chair

STATE OF MINNESOTA
MINNESOTA BOARD OF ACCOUNTANCY
85 East 7th Place, Suite 125
St. Paul, MN 55101

CERTIFICATE OF SERVICE BY U.S. MAIL

Case Title: Kyle Theodore Mielke
File #2021-474

I, Holly Salmela, verify by oath or affirmation that on the 11th day of May, 2022, at the City of Saint Paul, in the county of Ramsey, in the State of Minnesota, served the Stipulation and Consent Order by depositing a true and correct copy in the United States mail, properly enveloped, with first class postage prepaid and addressed to the following named individual(s) or entities at the address indicated below.

Kyle Theodore Mielke
47383 271st St
Sioux Falls, SD 57108



Holly Salmela