

BEFORE THE WEST VIRGINIA BOARD OF ACCOUNTANCY

WEST VIRGINIA BOARD OF ACCOUNTANCY,

Complainant,

v.

Case No. 2001-11

FRED RUNYON, JR, C.P.A.,

Respondent.

CONSENT DECREE

FINDINGS OF FACT  
AND CONCLUSIONS OF LAW

On a prior day came the Respondent, Fred Runyon, Jr., C.P.A., and came the West Virginia Board of Accountancy (the "Board") by Jo Ann Walker, its Executive Director, and by its counsel, John S. Dalporto, Senior Assistant Attorney General, for the purpose of resolving certain matters concerning Mr. Runyon's license to practice accountancy, and the effect thereon of Mr. Runyon's admission to the embezzlement of certain funds. As reflected in this Consent Decree, the parties have reached an agreement concerning the proper disposition of this matter, and the Board, having approved such agreement, does hereby find and Order as follows:

FINDINGS OF FACT

1. The Board is a state entity, created by the provisions of West Virginia Code §§ 30-9-1, et seq., to regulate the practice of public accountancy.

2. Fred Runyon, Jr. holds Certificate No. 3386, as a certified public accountant and is licensed as an accountant by this Board.

3. By Memorandum dated September 20, 2001, Gary Swingle notified the Accountancy Board that Fred Runyon, Jr. had admitted that he had embezzled the sum of \$268,031.07 from his employer over the years 1999 and 2000. The thefts were accomplished by:

- a. Using a check-signing stamp taken from another employee's desk at night to sign payroll and other checks made out to himself;
- b. Forging the owner's signature on checks made to himself;
- c. Paying his own expenses (including the cost of tax preparation software used in his outside CPA practice) by checks of the company signed with the check signing stamp;
- d. Paying unauthorized payments from the employer checking account to another client of Mr. Runyon's for which he had access to the other client's checking account and then writing checks to himself from the other client's checking account; and
- e. Hiding the unauthorized payments in the general ledger account for supplies, which carried a very large balance over the three year period so the additional payments would not be detected.

4. By letter dated October 26, 2001, Fred Runyon, Jr., stated that he did not wish to contest the allegations brought against him by Mr. Swingle and stated that he understood that his license should be revoked. He returned his license card; however, he has not yet delivered his certificate.

5. The acts set forth above constitute deviations from acceptable accounting principles and a failure to comply with recommended standards.

### CONCLUSIONS OF LAW

1. Pursuant to Article 9 of Chapter 30 of the West Virginia Code, the West Virginia Board of Accountancy is the State entity vested with the power to regulate the practice of accountancy in West Virginia. W. Va. Code § § 30-9-4 provides, in pertinent part:

*§ 30-9-4. Powers of the board*

*The board has all the powers set forth in article one of this chapter, and in addition may:*

\* \* \*

*(4) Issue, renew, deny, suspend, revoke or reinstate licenses and take disciplinary action against licensees;*

*(5) Investigate alleged violations of the provisions of this article, reasonable rules promulgated hereunder and orders and final decisions of the board;*

*(6) Conduct hearings upon charges calling for the revocation or suspension of a license or take disciplinary action against a licensee, firm or substantial equivalency practitioner;*

*(7) Cooperate with the appropriate authorities in other states in the investigation and enforcement of violations of this article or comparable acts of other states;*

*(8) Propose rules in accordance with the provisions of article three, chapter twenty-nine-a of this code; and*

*(9) Take all other actions necessary and proper to effectuate the purposes of this article.*

2. West Virginia Code § 30-9-20 provides:

*§ 30-9-20. Refuse to issue or renew; suspension, revocation of license; disciplinary action*

*(a) The board may refuse to issue, refuse to renew, suspend, revoke or limit any license or practice privilege of any licensee, substantial equivalency practitioner or firm and may take disciplinary action against a licensee or substantial equivalency practitioner practicing in this state who, after hearing, has been adjudged by the board as unqualified because of any of the following reasons:*

*\* \* \**

*(5) Dishonesty, fraud, professional negligence in the performance of services as a licensee or substantial equivalency practitioner or in the filing or failure to file the licensee's or substantial equivalency practitioner's own income tax returns, or a willful departure from accepted standards of professional conduct applicable to licensees and substantial equivalency practitioners;*

*(6) Violation of any provision of this article or any rule, including the violation of any professional standard or rule of professional conduct;*

*\* \* \**

*(9) Any conduct adversely reflecting upon the licensee's or substantial equivalency practitioner's fitness to perform professional services;*

*\* \* \**

*(c) Disciplinary action includes, but is not limited to, a reprimand, censure, probation, administrative fine not to exceed one thousand dollars per day per violation, and mandatory attendance at continuing professional education seminars.*

3. The West Virginia Code of State Rules, §1-1-12 provides:

***§1-1-13. Discipline and Enforcement.***

*13.1. Censure, reprimand, revocation and suspension of certificates, registrations, and licenses. -- After notice and hearing, as provided in W. Va. Code §30-1-1, et. seq., the Board may censure or reprimand a certificand or registrant, revoke or suspend any certificate or registration, and may refuse to issue, or refuse*

*to renew, any license, for any one or combination of the following causes:*

\* \* \*

*(b) Dishonesty, fraud, or gross negligence in the practice of public accounting.;*

4. Mr. Runyon's conduct in embezzling \$268,031.07 constitutes violations of the above cited code and rule and constitute deviations from generally acceptable accounting principles, recommended standards, and rules of professional conduct of accountancy.

### CONSENT

Fred Runyon, Jr., by the execution hereof, agrees to the following:

1. Fred Runyon, Jr., has had the opportunity to consult with counsel and executes this Consent Decree voluntarily, freely, without compulsion or duress, and mindful that it has legal consequences. No person or entity has made any promise or given any inducement whatsoever to encourage Mr. Runyon to make this settlement other than as set forth herein. Mr. Runyon acknowledges that he is aware that he may pursue this matter through appropriate administrative and/or court proceedings, and is aware of his legal rights regarding this matter, but intelligently and voluntarily waives his rights.

2. Fred Runyon, Jr., consents to the entry of the following Order affecting his accountancy license.

### ORDER

On the basis of the foregoing, the Board hereby **ORDERS** as follows:

1. The certificate of Fred Runyon, Jr., is hereby revoked, and his certificate shall be

delivered to the Board upon the execution hereof.

Fred Runyon Jr.  
FRED RUNYON, JR.  
WEST VIRGINIA BOARD OF ACCOUNTANCY,

3-6-02  
DATE

By: Jo Ann Walker  
JOANN WALKER,  
EXECUTIVE DIRECTOR

3.22.02  
DATE

John S. Dalporto  
JOHN S. DALPORTO  
SENIOR ASSISTANT ATTORNEY GENERAL  
Counsel for the COMMISSION

3-4-2  
DATE

ENTERED into the records of the West Virginia Board of Accountancy on this:

22nd day of March, 2002.

Joann Rossi - President WVBOR  
Burt E. Mason  
Va. H. Univ.

Ray W. Rumbel

I certify that this is a true copy of the Consent Decree accepted and signed by members of the West Virginia Board of Accountancy this date of Tuesday, April 16, 2002.

Jo Ann Walker  
Jo Ann Walker