

STATE OF SOUTH DAKOTA
DEPARTMENT OF LABOR AND REGULATION
BOARD OF ACCOUNTANCY

In the Matter of:

MICHAEL J. POMMER,
CERTIFIED PUBLIC ACCOUNTANT
Certificate No. 2079

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CONSENT AGREEMENT

104-20

The above-named parties in the interest of resolving the action between them enter into this Consent Agreement upon the terms and conditions set forth below.

1. The South Dakota Board of Accountancy (Board) has jurisdiction of this matter pursuant to SDCL 36-20B.
2. Michael J. Pommer is licensed as a certified public accountant (CPA) with the Board. His certificate number is 2079.
3. As a licensee, Pommer is subject to the provisions of SDCL 36-20B, ARSD 20:75 and the American Institute of Certified Public Accountants (“AICPA”) Professional Standards, Volume 2.
4. Pommer was the defendant in The State of Nebraska v. Michael J. Pommer, Case No. CR18-15 in the District Court of Dixon County Nebraska, which was filed on October 25, 2018 alleging in the county attorney’s Information 15 counts of theft by unlawful taking or disposition.
5. On August 16, 2019 Pommer entered a plea of no contest to Count I of the Information and was found guilty of the crime under Count I – Theft by Unlawful Taking or Disposition, a Class IIA felony, upon the allegation of transferring the sum

of \$5,065.44 from Saint John Lutheran Church's endowment fund account to his personal account on or about July 25, 2016.

6. Pommer was sentenced on September 23, 2019 to a term of probation for a period of 18 months, was ordered to serve 90 days of incarceration, with 1 day served, 30 days to be served immediately; and the remaining 59 days to be served at the end of the probation unless waived by the court; and was ordered to pay a fine in the amount of \$5,000 on or prior to the end of probation.
7. The conduct described above would constitute a Class 4 Felony under SDCL 22-30A-2 and 22-30A-17.
8. **This is grounds for disciplinary action under 36-20B-40(8).**
9. Pommer failed to report the conviction to the South Dakota Board of Accountancy, **this is grounds for disciplinary action under SDCL 36-20B-29.**
10. On November 8, 2019, the State Board of Public Accountancy of the State of Nebraska accepted a Stipulation and Consent Order regarding the above stated criminal matter.
11. Pommer's license was revoked under the Stipulation and Consent Order. **This is grounds for disciplinary action under SDCL 36-20B-40(2).**
12. The above described conduct constitutes grounds for disciplinary action in South Dakota against Pommer.
13. Pommer is aware that he may choose to be represented by legal counsel in this matter.
14. Pommer is aware of and understands the nature of these matters and has been informed of his right to counsel, notice, hearing, and appeal, and that by agreeing to

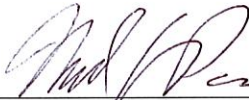
and signing this Consent Agreement, he waives all procedures and proceedings before the Department to which he may be entitled under state or federal law.

15. Pommer admits that the violations described in this Consent Agreement are true and accurate, and Pommer admits to having violated South Dakota Law.
16. In return Pommer's agreement to the provisions of this Consent Agreement, the Board agrees not to proceed to hearing and agrees that this Consent Agreement will constitute the final agency disposition of this matter.
17. Pommer agrees, in lieu of contesting this matter formally, to voluntarily accept the following terms and conditions for entry of this Consent Agreement:
 - a. Pommer's certificate as a certified public accountant shall be revoked immediately upon the Board accepting this agreement;
 - b. Pommer shall submit his certificate to the Board's office within 30 days of the agreement being signed by the Chair.
18. Pommer understands that nothing in this Consent Agreement will be deemed to restrict the Board from raising facts in reference to either party outside of those set forth in this Consent Agreement, if these or are other material facts related to the matters under investigation that have not been set forth or disclosed herein.
19. Pommer consents, agrees, and acknowledges that this Consent Agreement must be submitted to the Board for acceptance or rejection. In the event the Board rejects the recommendations for resolution by Consent Agreement, Pommer waives any right to claim prejudice of the Board by reason of any factual basis submitted to the Board in an effort to resolve this matter by Consent Agreement rather than by formal proceeding.

20. Pommer understands that by executing this agreement, the Board is making a finding that Pommer has violated SDCL 36-20B-29 and 36-20B40(2) and (8). Pommer understands that by executing this agreement, disciplinary action is being taken against him.
21. Pommer understands that the terms of this Consent Agreement will be public, which includes publishing a summary of the action taken on the Board's website.
22. Pommer understands that this Consent Agreement may be considered in any future licensing procedures with the Board and for the purposes of determining the appropriate sanctions in any future actions by the Board for any violations of laws or regulations of the State of South Dakota or for failing to abide by any order of the Board.
23. Pommer has read, understands, and agrees to this Consent Agreement and is freely and voluntarily signing it. This Consent Agreement contains the entire agreement between the parties relating to the matters referenced in the Consent Agreement. Pommer is not relying on any other representations of any kind, verbal or otherwise.
24. If this Consent Agreement is approved by the Board, a copy of the executed Consent Agreement will be served by mail to him at PO Box 479 Wakefield, NE 68784.

I have read and understand the terms of this Consent Agreement and I understand that I am waiving my due process rights and my right to a hearing. I am voluntarily entering into this agreement.

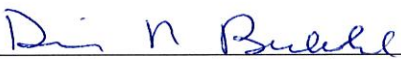
Dated this 25th day of November, 2019.



Michael J. Pommer, CPA

This agreement is accepted by the South Dakota Board of Accountancy.

Dated this 11 day of December, 2019.



Deidre N. Budahl, Chair
South Dakota Board of Accountancy