

STATE OF MINNESOTA
BOARD OF ACCOUNTANCY

In the Matter of
Timothy Martin Kosiek
CPA Certificate No. 13127

STIPULATION AND
CONSENT ORDER
Board File 2019-372

The Minnesota Board of Accountancy ("Board") is authorized pursuant to Minn. Stat. §§ 214.10, 326A.02, subds. 4, 6, and 326A.08, subd. 1 (2018) to review complaints against certified public accountants and to take disciplinary action whenever appropriate.

The Board received information concerning Timothy Martin Kosiek ("Respondent"). The Board's Complaint Committee ("Committee") reviewed that information.

It is hereby stipulated and agreed by Respondent and the Committee that without trial or adjudication:

1. For the purpose of this stipulation and consent order, Respondent waives all procedures and proceedings before the Board to which Respondent may be entitled under the United States and Minnesota constitutions, statutes, or the rules of the Board, including the right to dispute the allegations against Respondent and to dispute the appropriateness of discipline in a contested case hearing pursuant to Minn. Stat. ch. 14 (2018), and to dispute any civil penalty imposed by this stipulation and consent order. Respondent agrees that upon the *ex parte* application of the Committee, without notice to or appearance by Respondent, the Board may order the remedy specified in paragraph 7 below. Respondent waives the right to any judicial review of the order by appeal, by writ of certiorari, petition for review, or otherwise.

2. This stipulation shall constitute the entire record of the proceedings herein upon which the consent order is based.

3. In the event the Board in its discretion does not approve this stipulation and consent order or propose a lesser remedy than specified herein, this stipulation and consent order shall be null and void and shall not be used for any purpose by either party. If this stipulation and consent order is not approved and the Committee initiates a contested case hearing pursuant to Minn. Stat. ch. 14 (2018), Respondent agrees not to object to the Board hearing the case on the basis that the Board has become disqualified because of its review and consideration of this stipulation and consent order or of any records relating hereto.

FACTS

4. This stipulation and consent order is based upon the following facts. Respondent admits the facts referred to below and grants that the Board may, for the purpose of reviewing the record in paragraph 2 above, consider the following as true:

- a. The Board issued a certified public accountant certificate to Respondent on February 27, 1990; Respondent currently holds an active certified public accountant certificate from the Board. Respondent is subject to the jurisdiction of the Board with respect to the matters referred to in this stipulation and consent order.
- b. On May 9, 2019, Respondent self-reported to the Board that he had been subject to disciplinary action by the Public Company Accounting Oversight Board ("PCAOB") on April 26, 2019. Respondent failed to comply with PCAOB rules and standards on an audit of financial statements and internal control over financial reporting for fiscal year 2013. Specifically, Respondent failed to exercise due professional care, including appropriate professional

skepticism, and failed to obtain sufficient appropriate audit evidence in connection with the reported value of and control's over the allowance for loan and lease losses for fiscal year 2013.

5. Respondent admits that the facts and conduct specified in paragraph 4 above constitute grounds for discipline under Minn. Stat. § 326A.08, subds. 5(a)(1), 5(a)(7) and 5(a)(10) (2018) and Minn. R. 1105.5600, subps. 1.C. (6), and 1105.7800 A. and F. (2017), and are sufficient grounds for the remedy specified in paragraph 7 below, and that proof at hearing of any one or more of the allegations set forth would empower the Board to take disciplinary action pursuant to Minn. Stat. § 326A.08 (2018).

6. This stipulation and consent order shall not limit the authority of the Board to proceed against Respondent by appropriate means on the basis of any conduct justifying disciplinary action which occurred before or after the date of this stipulation and that is not directly related to the specific facts and circumstances set forth herein.

REMEDY

7. Upon this stipulation and record, as set forth in paragraphs 2 and 4 above, and without any further notice of proceedings, the Committee and Respondent agree that the Board may, in its discretion, issue an order to Respondent requiring compliance with the following:

- a. Respondent's certified public accountant certificate is **CENSURED** and **REPRIMANDED**.
- b. Respondent shall pay to the Board a **CIVIL PENALTY** of five thousand dollars (\$5,000). Respondent shall submit to the Board payment of the civil penalty by check payable to the Board of Accountancy within sixty days of the Board's approval of this stipulation and consent order.

- c. Respondent SHALL remain in compliance with all requirements outlined in the April 26, 2019 PCAOB Order, which is attached and incorporated by reference.

8. Respondent hereby acknowledges that he has read, understands, and agrees to this stipulation and consent order and is voluntarily signing the stipulation without threat or promise by the Board or any of its members, employees, or agents. Respondent further acknowledges that he is aware that the stipulation and consent order must be approved by the Board. The Board may approve the stipulation and consent order as proposed, propose changes, or reject it. If the changes are unacceptable to Respondent or the Board rejects the stipulation, it will be of no effect except as specified herein.

9. Under the Minnesota Government Data Practices Act, this stipulation will be classified as public data upon its issuance by the Board. Minn. Stat. § 13.41, subd. 5 (2018). All documents in the record shall maintain the data classification to which they are entitled under the Minnesota Government Data Practices Act, Minn. Stat. ch. 13 (2018). They shall not, to the extent they are not already public documents, become public merely because they are referenced herein. A summary of this stipulation and consent order will appear in the Board's newsletter. A summary will also be sent to the national discipline data bank pertaining to the practice of public accounting.

10. This Stipulation contains the entire agreement between the parties. Respondent is not relying on any other agreement or representation of any kind, verbal or otherwise.

11. Respondent is aware that he may choose to be represented by legal counsel in this matter. Respondent is represented by Gary Bendinger, Esq.

12. If approved by the Board, a copy of this Stipulation and Consent Order shall be served personally or by first class mail on Respondent. The Order shall be effective and deemed issued when it is signed by the Board Chair or designee of the Chair.

13. Pursuant to Minnesota Statutes Section 16D.17 (2018), ninety days after the Board's approval of this Stipulation and Order, the Board may file and enforce any unpaid portion of the civil penalty imposed by this Order as a judgment against the Respondent in district court without further notice or additional proceedings.

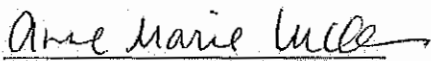
CONSENT:

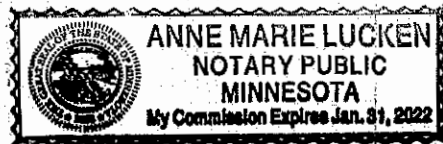
RESPONDENT


TIMOTHY MARTIN KOSIEK, CPA

Dated: January 20, 2018.20

SUBSCRIBED and sworn to before me on
this the 20 day of January, 2018.20


(Notary Public)



My Commission Expires: Jan. 31, 2022

COMPLAINT COMMITTEE



GREGORY S. STEINER, CPA

Chair *Charles Selcer*

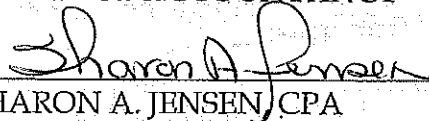
Dated: 1/22, 2020.

ORDER:

Upon consideration of the foregoing Stipulation and based upon all the files, records and proceedings, herein,

1. **IT IS HEREBY ORDERED** that all other terms of this Stipulation and Consent Order are adopted and implemented this 22 day of Jan, 2020.

STATE OF MINNESOTA
BOARD OF ACCOUNTANCY



SHARON A. JENSEN, CPA
Chair

AFFIDAVIT OF SERVICE BY MAIL

RE: Timothy Martin Kosiek; CPA Certificate No. 13127

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Holly Salmela, being first duly sworn, deposes and says:

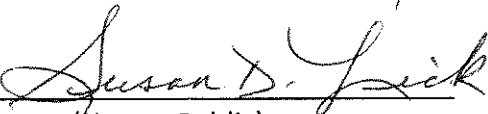
That at the City of St. Paul, County of Ramsey and State of Minnesota, on this the 27th day of January, 2020, she served the attached Stipulation and Consent Order, by depositing in the United States mail at said city and state, a true and correct copy thereof, properly enveloped, with first class postage prepaid, and addressed to:

Gary Bendinger, Esq.
Lewis Roca Rothberger Christie LLP
201 E Washington St
Phoenix AZ 85004



Holly Salmela

Subscribed and sworn to before me on
this the 27 day of January, 2020.



(Notary Public)

