

STATE OF MINNESOTA
BOARD OF ACCOUNTANCY

In the Matter of
Michael James Murry
Certified Public Accountant Certificate No. 03537

STIPULATION AND
CONSENT ORDER
Board File 2011-276

The Minnesota Board of Accountancy ("Board") is authorized pursuant to Minnesota Statutes Section 214.10 (2012); Minnesota Statutes Section 326A.02, subdivisions 4 and 6 (2012); and Minnesota Statutes Section 326A.08 (2012) to review complaints against certified public accountants and to take disciplinary action whenever appropriate.

The Board received information concerning Michael James Murry, CPA, Murry & Associates, LLC, 7575 Golden Valley Road, Suite 119, Golden Valley, Minnesota 55427 ("Respondent"). The Board's Complaint Committee ("Committee") reviewed that information.

On December 21, 2012, the Board's Complaint Committee, composed of Board members Robert P. Saunders, CPA, Michael M. Vekich, CPA, and Gregory S. Steiner, CPA, met to discuss allegations made in reference to this matter.

It is hereby stipulated and agreed by Respondent and the Committee that without trial or adjudication of any issue of fact or law and without any evidence or admission by any party with respect to any such issue:

1. For the purpose of this Stipulation, 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 Minnesota Statutes Chapter 14 (2012). 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. All documents in the Board's files shall maintain the data classification to which they are entitled under the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13 (2012). They shall not, to the extent they are not already public documents, become public merely because they are referenced herein.

3. In the event the Board in its discretion does not approve this Stipulation or a lesser remedy than specified in this Consent Order, this Stipulation and Consent Order shall be null and void and shall not be used for any purpose by either party. If this Stipulation is not approved and a contested case hearing is initiated by the Committee pursuant to Minnesota Statutes Chapter 14 (2012), Respondent agrees not to object to the Board's initiation of the hearing and its hearing the case on the basis that the Board has become disqualified because of its review and consideration of this Stipulation or of any records relating hereto.

FACTS

4. This Stipulation 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 without prejudice to the Respondent in any current or future proceeding of the Board with regard to these or other allegations:

a. The Board initially issued a Certified Public Accountant license to Respondent on November 24, 1975. Respondent currently holds an active Certified Public Accountant Certificate Number 03537, issued by the Board. Respondent is

subject to the jurisdiction of the Board with respect to the matters referred to in this Stipulation.

b. During the years 1991-2010, Respondent was the primary tax return preparer for Jeffrey John Wirth and his businesses, including The Wirth Companies ("TWC").

c. From approximately 1991 until 2006, Respondent was the primary tax return preparer for Jeffrey John Wirth's then-wife, Holly Claire Damiani, formerly known as Holly Claire Wirth.

d. On October 26, 2012, pursuant to a guilty plea, Respondent was convicted of one count of violation of 26 U.S.C. §7206(2), procuring a false corporate tax return for TWC for 2005, and sentenced to 18 months incarceration, followed by supervised release of one (1) year, with a fine of \$50,000.

e. In his Plea Agreement and Sentencing Stipulations dated May 14, 2012, Respondent admitted that on or about September 15, 2006, Respondent willfully aided and assisted in, and procured, counseled, and advised the preparation and presentation to the Internal Revenue Service ("IRS"), a U.S. Corporation Income Tax Return, Form 1120S, on behalf of TWC, for the calendar year 2005, which return he knew was false and fraudulent as to a material matter. Specifically, the Respondent agreed that he prepared the Form 1120S to reflect on Schedule K, Line 16d, reported property distributions to be \$0, whereas, as the Respondent then and there well knew and believed, the property distributions were substantially more than \$0.

5. Respondent admits that the facts and conduct specified in paragraph 4 above constitute violations of Minnesota Statutes Section 326A.08, Subdivisions 5(a) (1), 5a(2), 5a(4), and 5a(10) (2012) and Minnesota Rule 1105.5600.D (2) (2011) 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 against Respondent's certificate.

6. This Stipulation shall not in any way or manner limit or affect the authority of the Board to proceed against Respondent by initiating a contested case hearing or by other appropriate means on the basis of any act, conduct, or admission of Respondent 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 paragraph 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 as follows:

a. Respondent's Certified Public Accountant Certificate is **REVOKED** effective upon Respondent's receipt of this Stipulation and Order signed by the Chair of the Board or his designee.

b. Respondent shall not offer to perform or perform services required by law to be performed by a Certified Public Accountant as set forth in Minnesota Statutes Chapter 326A (2012) and Minnesota Rules Chapter 1105 (2011); **and**

c. Respondent shall not use the designations "Certified Public Accountant" nor "CPA" in connection with his name, nor shall Respondent hold himself out as a Certified Public Accountant or CPA in any manner in the State of Minnesota.

d. Respondent shall pay to the Board a **CIVIL PENALTY** of Four Thousand Dollars (\$4,000.00). Respondent shall submit Civil Penalty of Four Thousand Dollars (\$4,000.00) by cashier's check or money order to the Board within sixty (60) days of the Board's approval of this Stipulation and Order.

8. Respondent agrees that he will not petition the Board for reinstatement of his CPA certificate until at least four (4) years after the date the Board Chair signs this Stipulation and Order. Any future petition for reinstatement of his revoked CPA

certificate submitted to the Board by Respondent will be reviewed and considered by the Board pursuant to Minnesota Statutes Section 326A.09 and other applicable Board statutes and rules in effect at the time the petition it is submitted. Respondent expressly acknowledges and agrees that this Stipulation and Order does not, and shall not be construed to, assure that any petition for reinstatement of his revoked CPA certificate would be granted or approved.

9. Any appropriate court may, upon application of the Board, enter its decree enforcing the order of the Board.

10. Respondent hereby acknowledges that he has read, understands, and agrees to this Stipulation and Consent Order and is freely and voluntarily signing the stipulation without threat or promise by the Board or any of its members, employees, or agents. When signing the stipulation, Respondent acknowledges that he is fully aware that the Stipulation and Consent Order must be approved by the Board. The Board may approve the Stipulation and Consent Order as proposed, approve the order subject to specified change, 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.

11. Upon approval by the Board and execution by the Board Chair or his designee, this Stipulation and Consent Order is public data pursuant to Minnesota Statutes Section 13.41, subdivision 5 (2012).

12. 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.

13. Respondent is aware that Respondent may choose to be represented by legal counsel in this matter. Respondent is represented by Thomas E. Brever, Esq.

14. If approved by the Board, a copy of this Stipulation and Consent Order shall be served personally or by first class mail on Respondent to his last known address on file with the Board. The Order shall be effective and deemed issued when it is signed by the Board Chair or designee of the chair.

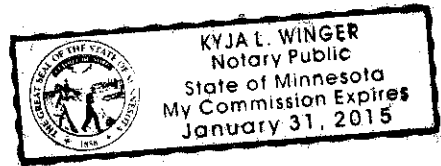
CONSENT:

RESPONDENT

Michael James Murry
MICHAEL JAMES MURRY

Dated: March 27, 2013

SUBSCRIBED and sworn to before me on
this the 27 day of March, 2013.



Kyja E. Winger
(Notary Public)

My Commission Expires:

1/31/15

COMPLAINT COMMITTEE

Robert P. Saunders CPA
ROBERT P. SAUNDERS, CPA
Chair

Dated: 4-19-, 2013

ORDER:

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

1. **IT IS HEREBY ORDERED** THAT Respondent Michael James Murry's CPA Certificate is **REVOKED**.
2. **IT IS HEREBY ORDERED** that all other terms of this Stipulation and Consent Order are adopted and implemented this 19 day of APRIL, 2013.

**STATE OF MINNESOTA
BOARD OF ACCOUNTANCY**

Kathleen K. Mooney
KATHLEEN K. MOONEY, CPA
Chair

