

**STATE OF MINNESOTA**  
**BOARD OF ACCOUNTANCY**

**In the Matter of  
Kushner, Smith, Joanou & Gregson, LLP  
Firm Permit No. F2038**

**STIPULATION AND  
CONSENT ORDER  
Board File 2014-309**

The Minnesota Board of Accountancy ("Board") is authorized pursuant to Minnesota Statutes Section 214.10 (2014); Minnesota Statutes section 326A.02, subdivisions 4 and 6 (2014); and Minnesota Statutes section 326A.08, subdivision 1 (2014) to review complaints against certified public accountants and CPA firms and to take disciplinary action whenever appropriate.

The Board received information concerning Kushner, Smith, Joanou & Gregson, LLP, 100 Spectrum Center Drive, Suite 1000, Irvine, California 92618 ("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 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 (2014), and to dispute any civil penalty imposed by this Stipulation. 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 (2014). 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 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 is not approved and a contested case hearing is initiated by the Committee pursuant to Minnesota Statutes Chapter 14 (2014), Respondent agrees not to object to the Board's initiation of the hearing and it 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 issued a Certified Public Accountant firm permit ("CPA firm permit") to Respondent on December 5, 2014. Respondent's CPA firm permit expired on December 31, 2014. Respondent renewed its CPA firm permit on February 12, 2015, and currently holds an Active CPA firm permit 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. It is alleged, based on information received from the United States Department of Labor on June 30, 2014, that before the Board issued a CPA firm permit to Respondent, Respondent performed an audit pursuant to the Employee Retirement Income Security Act ("ERISA") of the RELS Pension Plan 401(K) Plan ("the Plan") for a business whose corporate headquarters are located in Minnesota. RELS, LLC, the Plan sponsor, is located in Minnetonka, Minnesota.

c. It is alleged that Respondent performed an audit for a client having its headquarters in Minnesota before obtaining a Minnesota CPA Firm Permit to practice, as required by Minnesota Statutes 326A.05, subdivision 1 (a)(4) (2014).

5. Respondent admits that the facts and conduct specified in paragraph 4 above constitute violations of Minnesota Statutes sections 326A.05, subdivision 1(a)(4), 326A.08, subdivision 5 (a)(1), and 326A.10 (d) (2014); and Minnesota Rules 1105.5600, subpart 1.C.(1) (2013), 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 Minnesota Statutes section 326A.08 (2014).

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 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 shall pay to the Board a CIVIL PENALTY of Two Thousand Dollars (\$2,000.00). Respondent shall submit a Civil Penalty of Two Thousand Dollars (\$2,000.00) by check to the Board within sixty (60) days of the Board's issuance of this Stipulation and Consent Order.

8. The undersigned authorized representative of Respondent, whose signature appears below, hereby acknowledges that the undersigned representative has been duly authorized by Respondent to sign this Stipulation and Consent Order on its behalf, and that he has read, understands, and agrees to this Stipulation and Consent Order and is freely and voluntarily signing it without threat or promise by the Board or any of its members, employees, or agents. When signing the stipulation, Respondent acknowledges that it 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.

9. Under the Minnesota Government Data Practices Act, this Stipulation is classified as public data upon its issuance by the Board. (Minnesota Statutes Section 13.41, subdivision 5 (2014)). All documents in the record shall maintain the data classification to which they are entitled under the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13 (2014). They shall not, to the extent they are not already public documents, become public merely because they are referenced herein. A summary of this 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 it may choose to be represented by legal counsel in this matter. Respondent knowingly waived legal representation.

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.

**CONSENT:**

**RESPONDENT**

KUSHNER, SMITH, JOANOU & GREGSON, LLP

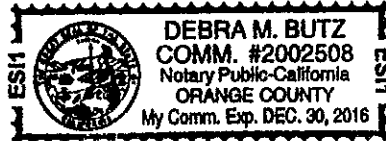
By: Kenneth L. Johnson

Its: Audit Partner



Dated: April 1, 2015

SUBSCRIBED and sworn to before me on this the 1<sup>st</sup> day of April, 2015.



Debra M. Butz

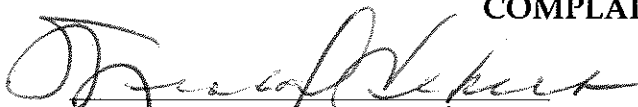
(Notary Public)



My Commission Expires:

12/30/16

**COMPLAINT COMMITTEE**



MICHAEL M. VEKICH, CPA

Chair

Dated: 4/17, 2015

**ORDER:**

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

1. **IT IS HEREBY ORDERED** that all terms of this Stipulation and Consent Order are adopted and implemented this 17 day of April, 2015.

STATE OF MINNESOTA  
BOARD OF ACCOUNTANCY

Sharon A Jensen  
GREGORY S. STEINER, CPA

Vice Chair

AFFIDAVIT OF SERVICE BY MAIL

RE: Kushner, Smith, Joanou & Gregson, LLP; Firm Permit No. F2038

STATE OF MINNESOTA )  
 ) ss.  
COUNTY OF RAMSEY )

Bev Carey, being first duly sworn, deposes and says:

That at the City of St. Paul, County of Ramsey and State of Minnesota, on this the 20<sup>th</sup> day of April, 2015, 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 prepaid first class postage, and addressed to:

Kushner, Smith, Joanou & Gregson, LLP  
Kenneth L. Johnson, Partner  
100 Spectrum Center Drive, Suite 1000  
Irvine, California 92618

Bev Carey  
Bev Carey

Subscribed and sworn to before me on  
this the 20<sup>th</sup> day of April, 2015

Victoria E. Oehrlein  
(Notary Public)

