

STATE OF MINNESOTA
BOARD OF ACCOUNTANCY

In the Matter of the CPA Certificate of
Michael E. Pocrnich
CPA Certificate No. 24275

**STIPULATION AND
CONSENT ORDER**

Board File No. 2022-053
OAH No. 23-0100-38812

STIPULATION

Michael E. Pocrnich ("Respondent") and the Minnesota Board of Accountancy's Complaint Committee stipulate that, subject to Board's review and discretionary approval, the Board may issue a consent order that imposes the following sanctions:

A. Respondent's CPA certificate, No. 24275, is REVOKED, CENSURED and REPRIMANDED pursuant to Minn. Stat. § 326A.08 (2022). Respondent shall not apply for reinstatement of his certificate for FIVE years.

B. Respondent shall pay to the Board a CIVIL PENALTY of Twenty-Thousand Dollars (\$20,000). Respondent shall submit a civil penalty of \$20,000 by check to the Board within sixty (60) days of the Board's approval of this Stipulation and Consent Order.

C. Respondent shall remain law abiding and comply with all statutes and rules within the Board's jurisdiction. *See* Minn. Stat. ch. 326A (2022) and Minn. R. ch. 1105 (2021).

D. Respondent shall report in writing within ten days any and all violations of this stipulation and consent order to the Board's Executive Director.

Respondent and the Committee enter into this stipulation based on the following allegations, conclusions of law, and other stipulated provisions. Respondent does not admit the Committee's allegations, but acknowledges that the Board is considering them as true solely for the purpose of this stipulation and consent order.

ALLEGATIONS

1. Respondent holds a CPA certificate in the State of Minnesota, which expires on December 31, 2023.
2. Respondent was a partner of The Anton Group (TAG), where he was the manager of certain of TAG's client accounts, including the accounts from a client who will be identified as "Client Doe."
3. On February 2, 2022, Respondent transferred \$12,500 from Doe's bank account to an account operated in the TAG name at Affinity Bank without authorization.
4. The other partners of TAG were not aware that the Affinity account was still active. TAG uses Choice Bank, and no deposits were made to that institution.
5. On February 4, Respondent transferred \$30,000 from the Doe account to the Affinity account without authorization.
6. On March 9, Respondent transferred \$3,000 from the Affinity account to his personal bank account without authorization.
7. On March 10, Respondent transferred \$3,000 from the Affinity account to his personal bank account without authorization.
8. On March 14, Respondent transferred \$3,000 from the Affinity account to his personal bank account without authorization.
9. On March 17, Respondent transferred \$3,000 from the Affinity account to his personal bank account without authorization.
10. On March 21, 2022, another TAG employee who did work for Doe became aware of the \$42,500 transaction and requested the associated invoice. Respondent told the employee to

code it as accounting services for some additional work performed for Doe but was unable to provide an invoice.

11. The TAG employee alerted a manager at TAG who does TAG's billing for Doe invoices. The manager found no invoices noted for this work and there was no cash received in TAG's bank account at Choice Bank.

12. Respondent informed the manager and other TAG employee that the billing was a mistake.

13. Respondent then transferred \$42,500 from an account for Doe's building company to the Doe checking account. This "repayment" was not refunded from the Affinity Bank account that received the February 2nd and 3rd payments.

14. On March 24, Respondent admitted to the manager to making the transfer and offered to the pay the manager to keep the theft quiet.

15. On March 25, TAG suspended Respondent without pay and reported the fraud to the St. Paul Police Department.

16. On April 1, the remaining owners of the firm gained access to the Affinity Bank account and discovered the four unauthorized transfers from the TAG account at Affinity Bank to Respondent's personal account.

17. On April 26, Respondent repaid TAG the \$12,000 in funds in Respondent's personal account.

18. On May 3, TAG repaid Doe the \$42,500.

CONCLUSIONS OF LAW

1. The Board has authority to license and regulate certified public accountants and to take disciplinary action as appropriate. Minn. Stat. ch. 326A (2022).

2. Based on the allegations that Respondent agrees the Board is accepting as true solely for the purpose of this stipulation and consent order, Respondent violated Minn. Stat. ch. 326A.08, subd. 5(a)(1), (2), (3) and (10) (2022) and Minnesota Rules 1105.5600, subp. 1(D)(2) and 1105.7800(A) (2021) by transferring funds from Doe's account to the Affinity account, transferring funds from the Affinity account to his personal account, transferring funds from Doe's building company account to Doe's account, and offering to pay an individual to cover up the unauthorized transfers.

3. This stipulation and consent order is in the public interest.

OTHER STIPULATED PROVISIONS

1. This stipulation and consent order must be approved by the Board to become effective.

2. Respondent agrees that the Committee may move the Board *ex parte*, with or without advance notice to the Respondent, to approve this stipulation and consent order. Respondent understands that the Board may either approve the stipulation and consent order or not approve it. This stipulation and the files, records, and proceedings associated with this matter may be reviewed by the Board in its consideration of the Committee's motion.

3. If approved by the Board, this stipulation and consent order shall be classified as public data. Minn. Stat. § 13.41, subd. 5 (2022).

4. If the Board does not approve this stipulation and consent order, then the matter remains unresolved and the Committee may either seek to negotiate a revised stipulation and consent order with Respondent to present to the Board or continue to pursue discipline through a contested-case hearing before an Administrative Law Judge at the Office of Administrative

Hearings. *See* Minn. Stat. §§ 14.57–.62, 214.10, subd. 2 (2022) (describing administrative hearing process).

5. Respondent agrees that if this case comes before the Board again after it reviews and discusses this stipulation and consent order, Respondent waives any claim that the Board was prejudiced by its review and discussion of this stipulation and consent order and any records relating to it.

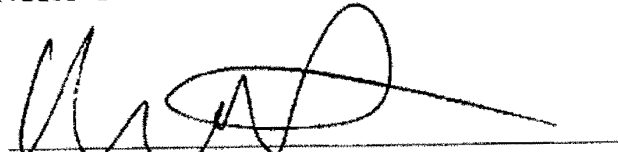
6. Respondent acknowledges that Respondent was advised by the Committee of Respondent's right to a contested-case hearing in this matter before an Administrative Law Judge, to file exceptions and make argument to the Board after the hearing, and to seek judicial review from any adverse decision rendered by the Board. Upon the Board approving this Stipulation, Respondent expressly waives those rights. Respondent was further advised by the Committee of Respondent's right to be represented by counsel, and Respondent is represented by legal counsel.

7. Respondent has read, understands, and agrees to this stipulation and has voluntarily signed it. It is expressly understood that this stipulation contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise. If approved by the Board, a copy of the final stipulation and consent order shall be served personally or by first class mail on Respondent. The Board's order shall be effective when it is signed by the Chair of the Board or the Chair's designee.

8. Pursuant to Minn. Stat. § 16D.13 (2022), any civil penalty imposed by this stipulation and consent order shall begin to accrue simple interest in accordance with that section thirty days after the civil penalty is due. Pursuant to Minn. Stat. § 16D.17 (2022), thirty days after any civil penalty imposed by this stipulation and consent order is due, the Board may file and

enforce any unpaid portion of the civil penalty as a judgment against Respondent in district court without further notice or additional proceedings.

CONSENT TO ENTRY OF ORDER


Michael E. Poernich, CPA

STATE OF Minnesota

COUNTY OF Scott


This instrument was acknowledged before me on 3-22-23 by Michael E. Poernich.

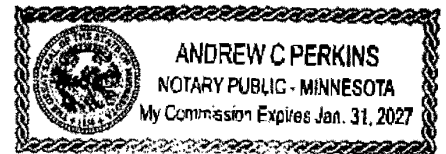
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(Signature of notary officer)

Dated: 3-22-, 2023

COMPLAINT COMMITTEE


CHARLES MCELROY, CPA
Chair



Dated: March 31, 2023

CONSENT ORDER

Upon consideration of this stipulation and consent order, and based upon all the files, records, and proceedings herein, all terms of the stipulation and consent order are approved. Accordingly, the Board orders as follows:

- A. Respondent's CPA certificate, No. 24275, is REVOKED, CENSURED and REPRIMANDED pursuant to Minn. Stat. § 326A.08 (2022). Respondent shall not apply for reinstatement of his certificate for FIVE years.

B. Respondent shall pay to the Board a CIVIL PENALTY of Twenty-Thousand Dollars (\$20,000). Respondent shall submit a civil penalty of \$20,000 by check to the Board within sixty (60) days of the Board's approval of this Stipulation and Consent Order.

C. Respondent shall remain law abiding and comply with all statutes and rules within the Board's jurisdiction. *See* Minn. Stat. ch. 326A (2022) and Minn. R. ch. 1105 (2021).

D. Respondent shall report in writing within ten days any and all violations of this stipulation and consent order to the Board's Executive Director.

STATE OF MINNESOTA
BOARD OF ACCOUNTANCY



Dated: 05/04/, 2023

For:

CHARLES SELCER, CPA
Board Chair