

STATE OF MINNESOTA
BOARD OF ACCOUNTANCY

In the Matter of
Russell K. Emerson, Unlicensed

SETTLEMENT AGREEMENT
AND
CEASE AND DESIST ORDER
Board File 2013-109

TO:

Russell K. Emerson
38520 300th Street Southeast
Gully, Minnesota 56646

The Minnesota Board of Accountancy ("Board") is authorized pursuant to Minnesota Statutes section 214.10 (2012), Minnesota Statutes section 326A.02, subdivision 6, and section 326A.08, subdivision 1 (2012) to review complaints concerning the unauthorized practice of public accounting and unauthorized use of the terms "CPA" or "certified public accountant," and to take action pursuant to those statutes whenever appropriate.

The Board received a complaint concerning Russell K. Emerson ("Respondent"). The Board's Complaint Committee ("Committee") reviewed the information. The parties have agreed that the matter may now be resolved by this Settlement Agreement and Cease and Desist Order.

SETTLEMENT AGREEMENT

IT IS HEREBY AGREED by and between Respondent and the Committee as follows:

1. Jurisdiction. Pursuant to Minnesota Statutes section 326A.08, subdivision 4 (2012) and section 326A.10 (a) and (c) (Supp. 2013), the Board is authorized to issue an order requiring an unlicensed person to cease and desist from holding himself out as a

CPA and from offering to perform or performing services that only certified public accountants are authorized to perform in Minnesota. Respondent is subject to the jurisdiction of the Board with respect to the matters referred to in this Settlement Agreement and Cease and Desist Order.

2. Facts. This Settlement Agreement is based upon the following facts:

- a. Respondent does not currently hold a Minnesota Certified Public Accountant ("CPA") Certificate nor has the Board ever issued a CPA Certificate to him.
- b. The Committee has received information that Respondent has used the "CPA" designation on correspondence, envelopes and the PTIN Directory while performing an audit in the state of Minnesota.
- c. Respondent's use of "CPA" next to his name, in conjunction with a Minnesota address, for a Minnesota client, as described above, is in violation of Minnesota Statutes Section 326A.10 (a) and (c) (Supp.2013) and Minnesota Rules 1105.5600, subpart 1(C) (1) (2011).
- d. In Respondent's letter to the Board dated October 9, 2013 Respondent admits to performing the Agreed Upon Procedures which were part of an audit for Hill River Township located in Polk County, Minnesota.

3. Violations. Respondent admits that the facts specified above constitute violations of Minnesota Statutes section 326A.10 (a) and (c) (Supp. 2013), and Minnesota Rule 1105.5600, subpart 1(C) (1) (2011) and are sufficient grounds for the action specified below. Specifically, Respondent: (1) held himself out as a Certified Public Accountant by using the designation "CPA" in connection with his name and a Minnesota business address; and (2) engaged in the unlicensed practice of public

accounting in Minnesota by performing the Agreed Upon Procedures which were part of an audit for Hill River Township, Polk County, Minnesota.

4. Enforcement Action. Respondent and the Committee agree that the Board may issue an Order in accordance with the following term(s):

- a) Cease and Desist Order. Respondent shall **cease and desist** from using "CPA" in conjunction with his name, nor shall Respondent hold himself out to the public as a Certified Public Accountant in Minnesota in any other manner, whether in written, oral, electronic, or other communications, until he is issued a Certified Public Accountant Certificate by the Board; and from further violations of Minnesota Statutes Chapter 326A (2012) and Minnesota Rules Chapter 1105 (2011).
- 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), until he is issued a Certified Public Accountant Certificate by the Board;
- c) Respondent shall not violate any statute, rule or order that the Board has issued or is empowered to enforce.
- d) Respondent shall pay to the Board a CIVIL PENALTY of Five Hundred Dollars (\$500.00). Respondent shall submit a Civil Penalty of Five Hundred Dollars (\$500.00) by check to the Board within sixty (60) days of the Board's approval of this Settlement Agreement and Cease and Desist Order.

5. Waiver of Respondent's Rights. For the purpose of this Settlement Agreement, Respondent waives all procedures and proceedings before the Board to which Respondent may be entitled under the Minnesota and United States

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 proceeding pursuant to Minnesota Statutes Chapter 14 (2012). Respondent agrees that upon the application of the Committee without notice to or an appearance by Respondent, the Board may issue an Order requiring the action specified in paragraph 4 herein. Respondent waives the right to any judicial review of this Settlement Agreement and Cease and Desist Order or the attached Board Order by appeal, writ of certiorari, or otherwise.

6. Board Rejection of Settlement Agreement and Cease and Desist Order. In the event the Board in its discretion does not approve this Settlement Agreement and Cease and Desist Order, this Settlement Agreement shall be null and void and shall not be used for any purpose by either party hereto. If this Settlement Agreement is not approved and a contested case proceeding is initiated pursuant to Minnesota Statutes Chapter 14 (2012), Respondent agrees not to object to the Board's initiation of the proceeding and hearing the case on the basis that the Board has become disqualified due to its review and consideration of this Settlement Agreement and the record.

7. Record. The Settlement Agreement, related investigative reports and other documents shall constitute the entire record of the proceedings herein upon which the Order is based. The investigative reports, other documents, or summaries thereof may be filed with the Board with this Settlement Agreement.

8. Data Classification. Under the Minnesota Government Data Practices Act, this Stipulation is classified as public data upon its issuance by the Board, Minnesota Statutes Chapter 13.41, subdivision 5 (2012). 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 (2012). 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.

9. Unrelated Violations. This settlement 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 Settlement Agreement and which is not directly related to the specific facts and circumstances set forth herein.

10. Entire Agreement. Respondent has read, understood, and agrees to this Settlement Agreement and Cease and Desist Order and is freely and voluntarily signing it. The Settlement Agreement and Cease and Desist Order contains the entire agreement between the parties. Respondent is not relying on any other agreement or representations of any kind, verbal or otherwise.

11. Counsel. Respondent is aware that he may choose to be represented by legal counsel in this matter. Respondent knowingly waived legal representation.

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

[Signature]

RESPONDENT

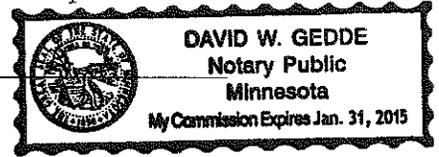
RUSSELL K. EMERSON

Dated: August 29, 2014

SUBSCRIBED and sworn to before me on this the 29TH day of August, 2014.

[Signature]
(Notary Public)

My Commission Expires:



COMPLAINT COMMITTEE

[Signature]
MICHAEL M. VEKICH, CPA
Chair

Dated: 9/15, 2014

ORDER

Upon consideration of the foregoing Settlement Agreement and based upon all the files, records and proceedings herein, all terms of the Settlement Agreement are approved and hereby issued as an Order of this Board on this the 15 day of September, 2014.

STATE OF MINNESOTA

BOARD OF ACCOUNTANCY

[Signature]
ROBERT P. SAUNDERS, CPA
Chair

