

1 CLOTHILDE V. HEWLETT
Commissioner of Financial Protection and Innovation
2 COLLEEN MONAHAN
Deputy Commissioner
3 THERESA LEETS
Assistant Chief Counsel
4 MARISA I. URTEAGA-WATKINS (State Bar No. 236398)
Senior Counsel
5 Department of Financial Protection and Innovation
6 2101 Arena Blvd.
7 Sacramento, California 95834

8 Attorneys for Complainant

9 BEFORE THE DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION
10 OF THE STATE OF CALIFORNIA

11 In the Matter of:)
12 THE COMMISSIONER OF FINANCIAL)
PROTECTION AND INNOVATION,)
13 Complainant,) CONSENT ORDER
14 v.)
15 STRETCHMED FRANCHISE, LLC. doing)
business as STRETCHMED,)
16 Respondent.)
17)
18)

19 This Consent Order is entered into between the Commissioner of Financial Protection and
20 Innovation (Commissioner), and StretchMed Franchise, LLC., doing business as StretchMed
21 (STRETCH) (collectively, Parties) and is made with respect to the following facts:
22

23 I.

24 RECITALS

25 A. The Commissioner is the head of the Department of Financial Protection and
26 Innovation (Department) and is responsible for administering and enforcing the Franchise
27 Investment Law (FIL) (Corp. Code, § 31000 et seq.),¹ and registering the offer and sale of franchises
28

¹ All further statutory references are to the Corporations Code unless otherwise indicated.

1 in California. To register a franchise, a franchisor must file an application which includes a Uniform
2 Franchise Disclosure Document (FDD) with the Department for review and approval, in accordance
3 with sections 31111 and 31114. The FIL requires franchisors to disclose certain material
4 information which is intended to provide prospective franchisees with facts upon which to make an
5 informed decision to purchase a franchise, as stated in section 31001.

6 B. At all relevant times, STRETCH was and is a Puerto Rican limited liability company
7 with a principal place of business located at 954 Avenida Ponce De Leon Suite 205- PMB# 10076
8 San Juan, Puerto Rico, 00907. At all relevant times, STRETCH sells franchises that provide one-on-
9 one assistance with stretching for health purposes to consumers.

10 C. At all relevant times, Brenda Roxie Samaniego (Roxie Samaniego), was an individual
11 and partner at Roxie Samaniego CPA, P.C., a professional corporation (Samaniego P.C.), doing
12 business at 3123 Savannah Avenue, El Paso, Texas 79930. On October 29, 2004, Roxie Samaniego
13 was certified and registered with the Texas State Board of Public Accountancy (TSBPA). On
14 December 12, 2018, Samaniego P.C. was registered with the TSBPA. A true and correct copy of
15 Roxie Samaniego’s and Samaniego P.C.’s license history from the official TSBPA public website at
16 <https://www.tsbpa.texas.gov> is attached hereto and incorporated by reference herein as “Exhibit A”.

17 D. On February 29, 2020, Samaniego P.C.’s license expired. On February 28, 2021,
18 Roxie Samaniego’s license expired. On March 11, 2021, the TSBPA revoked both Roxie
19 Samaniego’s and Samaniego P.C.’s licenses, based upon violations regarding competence,
20 discreditable acts, responses, conduct indicating lack of fitness to serve the public as a professional
21 accountant, and/or violation of a rule of professional conduct adopted by the TSBPA.

22 E. Pursuant to section 31200, it is unlawful for any person willfully to make any untrue
23 statement of a material fact in any application, notice or report filed with the Commissioner under
24 the FIL, or willfully omit to state in any such application, notice, or report any material fact which is
25 required to be stated therein or fail to notify the Commissioner of any material change as required by
26 section 31123.

27 F. On July 1, 2022, STRETCH filed application number 25090 for registration with the
28 Department to offer and sell franchises in California (2022 Application). The 2022 Application

1 included an auditor’s consent and an FDD containing audited financial statements accompanied by
2 an independent auditor’s report signed by Samaniego P.C. as the firm conducting the audit dated
3 February 3, 2022 (2022 Financial Statements). The 2022 Financial Statements included a balance
4 sheet as of December 31, 2021, and the related statement of operations, members equity, and cash
5 flows for the period ending December 31, 2021, and related notes. The independent auditor’s report
6 contained an unqualified audit opinion on the 2022 Financial Statements. On July 11, 2022, the
7 Department issued an order making this registration effective, thereby allowing STRETCH to offer
8 and sell of franchises in California from July 11, 2022, to April 20, 2023.

9 G. On April 19, 2021, STRETCH filed another application, application number 28661,
10 on June 28, 2023, for registration to offer and sell franchises in California (2023 Application). The
11 2023 Application included an auditor’s consent and an FDD containing audited financial statements
12 accompanied by an independent auditor’s report signed by Samaniego P.C. as the firm conducting
13 the audit (2021-2022 Financial Statements). The 2021-2022 Financial Statements included a
14 balance sheet as of December 31, 2021, and December 31, 2022, related statement of operations,
15 members equity, cash flows for the period of December 31, 2021, to December 31, 2022, and
16 related notes. The independent auditor’s report contained an unqualified audit opinion on the 2021-
17 2022 Financial Statements. The 2023 Application is currently pending approval.

18 H. STRETCH included the auditor’s consent and financial Statements with
19 accompanying independent auditor’s report in its 2022 Application and 2023 Application with the
20 Department, even though Samaniego P.C.’s license expired on February 29, 2020, and both
21 Samaniego P.C.’s and Roxie Samaniego’s licenses were revoked by the TSBPA on March 11, 2021.
22 STRETCH failed to disclose to the Commissioner that Samaniego P.C. was not licensed by the
23 TSBPA and properly update their applications once Samaniego P.C.’s and Roxie Samaniego’s
24 licenses were expired and revoked.

25 I. Pursuant to section 31201, it is unlawful for any person to offer or sell a franchise in
26 California by means of any written or oral communication not enumerated in section 31200 which
27 includes an untrue statement of a material fact or omits to state a material fact necessary in order to
28 make the statement made, in light of the circumstances under which they were made, not misleading.

1 J. STRETCH included the auditor’s consent and financial statements with
2 accompanying independent auditor’s report in its 2022 Application and 2023 Application with the
3 Department, even though Samaniego P.C.’s license expired on February 29, 2020, and both
4 Samaniego P.C.’s and Roxie Samaniego’s licenses were revoked by the TSBPA on March 11, 2021.
5 From July 11, 2021 to April 20, 2023, STRETCH distributed the FDD which included the offending
6 2021-2022 Financial Statements to prospective and actual franchisees during the offer and sale of a
7 STRETCH franchise.

8 K. The Commissioner finds that the failure to disclose in the both the 2022 and 2023
9 Applications that Samaniego P.C.’s license expired on February 29, 2020, Roxie Samaniego’s
10 license expired on February 28, 2021, and Samaniego P.C.’s and Roxie Samaniego’s licenses were
11 both revoked by the TSBPA on March 11, 2021, is an omission of a material fact under the FIL, in
12 violation of section 31200.

13 L. The Commissioner also finds that the inclusion of the 2021-2022 Financial
14 Statements in the 2022 Application and the 2023 Application accompanied by Samaniego P.C.’s
15 independent auditor’s report stating that the 2021-2022 Financial Statements were audited when
16 Samaniego P.C. was not qualified to conduct audits is an untrue statement of a material fact in an
17 application filed with the Commissioner, in violation of section 31200.

18 M. The Commissioner finally finds that STRETCH offered and sold franchises using an
19 FDD containing an untrue statement of a material fact, since the FDD contained the 2021-2022
20 Financial Statements accompanied by Samaniego’s P.C.’s independent auditor’s report stating that
21 the Financials were audited when Samaniego P.C. and/or Roxie Samaniego was not qualified to
22 conduct audits, in violation of section 31201.

23 NOW, THEREFORE, in consideration of the foregoing, and the terms and conditions set
24 forth herein, the Parties agree as follows:

25 **II.**

26 **TERMS AND CONDITIONS**

27 1. Purpose. This Consent Order resolves the issues before the Commissioner [findings
28 in paragraphs A through M above] in a manner that avoids the expense of a hearing and other

1 possible court proceedings, protects consumers, is in the public interest, and is consistent with the
2 purposes and provisions of the applicable law.

3 2. Desist and Refrain Order. Pursuant to Corporations Code section 31406,
4 StretchMed Franchise, LLC., doing business as StretchMed is hereby ordered to desist and refrain
5 from the violations of Corporations Code section 31200 and Corporations Code section 31201 set
6 forth herein and from violating the Franchise Investment Law. The issuance of this order is
7 necessary, in the public interest, for the protection of investors, and is consistent with the purposes,
8 policies, and provisions of the Franchise Investment Law.

9 3. Penalties. STRETCH shall pay an administrative penalty of \$3,000 (Penalties). The
10 Penalties must be made payable in the form of a cashier’s check or Automated Clearing House
11 deposit to the Department and transmitted to the attention of Accounting-Legal, Department of
12 Financial Protection and Innovation, 2101 Arena Boulevard, Sacramento, California 95834. Notice
13 of the payment must be concurrently sent via email to Marisa I. Urteaga-Watkins, Esq. at
14 marisa.urteaga-watkins@dfpi.ca.gov. Failure to pay Penalties in a timely manner shall be deemed to
15 be a material breach of this Consent Order.

16 4. New Application. STRETCH hereby agrees that it will request the abandonment of
17 application number 28661 and file a new registration application containing new audited financial
18 statements and otherwise comply with the FIL.

19 5. Waiver of Hearing Rights. STRETCH acknowledges that the Commissioner is ready,
20 willing, and able to proceed with the filing of an administrative enforcement action on the charges
21 contained in this Consent Order. STRETCH hereby waives the right to any hearings, and to any
22 reconsideration, appeal, or other right to review which may be afforded pursuant to the FIL, the
23 Administrative Procedure Act (APA), the Code of Civil Procedure (CCP), or any other provision of
24 law. STRETCH further expressly waives any requirement for the filing of an accusation pursuant to
25 Government Code section 11415.60, subdivision (b). By waiving such rights, STRETCH effectively
26 consents to this Consent Order becoming final.

27 6. Failure to Comply with Consent Order. STRETCH agrees that if it fails to comply
28 with the terms of this Consent Order, the Commissioner may, in addition to all other available

1 remedies it may invoke under the FIL, summarily suspend or revoke STRETCH’s franchise
2 registration (if applicable) or deny STRETCH’s FIL applications (if applicable), until STRETCH is
3 in compliance. STRETCH waives any notice and hearing rights to contest such summary actions by
4 the Commissioner, which may be afforded under the FIL, APA, CCP, or any other provision of law.

5 7. Information Willfully Withheld or Misrepresented. This Consent Order may be
6 revoked, and the Commissioner may pursue any and all remedies available under law against
7 STRETCH, if the Commissioner discovers that STRETCH knowingly or willfully withheld or
8 misrepresented information used for and relied upon in this Consent Order.

9 8. Future Actions by Commissioner. If STRETCH fails to comply with any terms of the
10 Consent Order, the Commissioner may institute proceedings for any and all violations otherwise
11 resolved by this Consent Order. The Commissioner reserves the right to bring any future actions
12 against STRETCH, or any of its partners, owners, officers, shareholders, directors, employees, or
13 successors for any and all unknown violations of the FIL or any other law under the Commissioner’s
14 jurisdiction.

15 9. Assisting Other Agencies. Nothing in this Consent Order limits the Commissioner’s
16 ability to assist any other government agency (whether city, county, state, or federal) with any
17 administrative, civil, or criminal action brought by that agency against STRETCH, or any other
18 person based upon any of the activities alleged in this matter or otherwise.

19 10. Headings. The headings to the paragraphs of this Consent Order are inserted for
20 convenience only and will not be deemed a part hereof or affect the construction or interpretation of
21 the provisions hereof.

22 11. Binding. This Consent Order is binding on all heirs, assigns, and/or successors in
23 interest.

24 12. Reliance. Each of the Parties represents, warrants, and agrees that in executing this
25 Consent Order, it has relied solely on the statements set forth herein and the advice of its own
26 counsel. Each of the Parties further represents, warrants, and agrees that in executing this Consent
27 Order, it has placed no reliance on any statement, representation, or promise of any other party, or
28 any other person or entity not expressly set forth herein, or upon the failure of any party or any

1 other person or entity to make any statement, representation, or disclosure of anything whatsoever.
2 The Parties have included this clause: (1) to preclude any claim that any party was in any way
3 fraudulently induced to execute this Consent Order; and (2) to preclude the introduction of parol
4 evidence to vary, interpret, supplement, or contradict the terms of this Consent Order.

5 13. Waiver, Amendments, and Modifications. No waiver, amendment, or modification
6 of this Consent Order will be valid or binding unless it is in writing and signed by each of the
7 Parties. The waiver of any provision of this Consent Order will not be deemed a waiver of any
8 other provision. No waiver by either Party of any breach of, or of compliance with, any condition
9 or provision of this Consent Order by the other Party will be considered a waiver of any other
10 condition or provision or of the same condition or provision at another time.

11 14. Full Integration. This Consent Order is the final written expression and the complete
12 and exclusive statement of all the agreements, conditions, promises, representations, and covenant
13 between the Parties with respect to the subject matter hereof, and supersedes all prior or
14 contemporaneous agreements, negotiations, representations, understandings, and discussions
15 between and among the Parties, their respective representatives, and any other person or entity with
16 respect to the subject matter covered hereby.

17 15. Governing Law. This Consent Order will be governed by and construed in
18 accordance with California law. Each of the Parties hereto consents to the jurisdiction of such
19 court, and hereby irrevocably waives, to the fullest extent permitted by law, the defense of an
20 inconvenient forum to the maintenance of such action or proceeding in such court.

21 16. Counterparts. This Consent Order may be executed in one or more separate
22 counterparts, each of which when so executed, shall be deemed an original. Such counterparts shall
23 together constitute a single document.

24 17. Effect Upon Future Proceedings. If STRETCH applies for any license, registration,
25 permit, or qualification under the Commissioner’s current or future jurisdiction, or is the subject of
26 any future action by the Commissioner to enforce this Consent Order, then the subject matter hereof
27 shall be admitted for the purpose of such application(s) or enforcement proceeding(s).
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1 18. Voluntary Order. STRETCH enters into this Consent Order voluntarily and without
2 coercion and acknowledges that no promises, threats, or assurances have been made by the
3 Commissioner or any officer, or agent thereof, about this Consent Order. The Parties each
4 represent and acknowledge that he, she, or it is executing this Consent Order completely voluntarily
5 and without any duress or undue influence of any kind from any source.

6 19. Notice. Any notice required under this Consent Order shall be provided to each
7 party at the following addresses:

8 To STRETCH: Ms. Regina Amolsch, Esq.
9 Plave Koch, PLC.
10 12005 Sunrise Valley Drive
11 Reston, VA 20191
12 ramolsch@plavekoch.com

13 To the Commissioner: Marisa I. Urteaga-Watkins, Esq.,
14 Senior Counsel
15 Department of Financial Protection and Innovation
16 2101 Arena Blvd.
17 Sacramento, California 95834
18 marisa.urteaga-watkins@dfpi.ca.gov

19 20. Signatures. A fax, scanned, or electronic signature shall be deemed the same as an
20 original signature.

21 21. Public Record. STRETCH hereby acknowledges that this Consent Order is and will
22 be a matter of public record.

23 22. Effective Date. This Consent Order shall become final and effective when signed by
24 all Parties and delivered by the Commissioner’s agent via e-mail to STRETCH’s agent, Ms. Regina
25 Amolsch, Esq. at ramolsch@plavekoch.com.

26 23. Authority to Sign. Each signatory hereto covenants that he/she possesses all
27 necessary capacity and authority to sign and enter into this Consent Order and undertake the
28 obligations set forth herein.

Dated: 10/20/2023

CLOTHILDE V. HEWLETT
Commissioner of Financial Protection and Innovation

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By: _____

COLLEEN MONAHAN
Deputy Commissioner

Dated: 10/18/2023

STRETCHMED FRANCHISE, LLC., doing business
as STRETCHMED

By: _____

Brian Cook
President

EXHIBIT A TO CONSENT ORDER



Texas State Board of Public Accountancy

William Treacy, Executive Director

Individual Licensee - SAMANIEGO, BRENDA R

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Certificate last name

SAMANIEGO

Location

EL PASO, TEXAS

Date certified/registered

10/29/2004

License expiration date

02/28/2021

Status

Revoked

Employment areas most recently reported

Full time

PARTNER - IN TEXAS

Part time

PARTNER - IN TEXAS

Firms in which the individual is a partner, shareholder, owner, officer, director, or resident manager

Association with the firm ROXIE SAMANIEGO, CPA, P.C. (License ID = C10325) began on 12/10/2018.

History of Board actions

Complaint 2003-0008L was opened on 03/18/2020 and was closed on 03/11/2021 with a resolution, Revocation.

Violation(s) Regarding:

- Competence
- Discreditable acts
- Discreditable acts
- Discreditable acts
- Responses
- Conduct indicating lack of fitness to serve the public as a professional accountant
- Conduct indicating lack of fitness to serve the public as a professional accountant

Complaint 2005-0007L was opened on 05/05/2020 and was closed on 03/11/2021 with a resolution, Revocation.

Violation(s) Regarding:

- Competence
- Discreditable acts
- Discreditable acts
- Discreditable acts
- Responses

- Violation of a rule of professional conduct adopted by the board
- Conduct indicating lack of fitness to serve the public as a professional accountant

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Texas State Board of Public Accountancy

William Treacy, Executive Director

Office - ROXIE SAMANIEGO, CPA, P.C.

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Firm License ID

C10325

Firm name

ROXIE SAMANIEGO, CPA, P.C.

Resident manager

Ms. SAMANIEGO

Location

3123 SAVANNAH AVE

EL PASO TX 79930

Phone: (915)274-6073

Date registered

12/20/2018

License expiration date

02/29/2020

Status

Revoked

History of disciplinary actions

Complaint 2003-0009L was opened on 03/18/2020 and was closed on 03/11/2021 with a resolution, Revocation.

Violation(s) Regarding:

- Competence
- Discreditable acts
- Discreditable acts
- Discreditable acts
- Responses
- Violation of a rule of professional conduct adopted by the board
- Conduct indicating lack of fitness to serve the public as a professional accountant

Complaint 2005-0008L was opened on 05/05/2020 and was closed on 03/11/2021 with a resolution, Revocation.

Violation(s) Regarding:

- Competence
- Discreditable acts
- Discreditable acts
- Discreditable acts
- Discreditable acts
- Responses

- Violation of a rule of professional conduct adopted by the board
- Conduct indicating lack of fitness to serve the public as a professional accountant

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