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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92067284
Party	Defendant Lance E. Butner, Michael M. Mohl, Troy A. Kurth
Correspondence Address	LANCE E BUTNER MICHAEL M MOHL TROY A KURTH 7601 FRANCE AVE SOUTH, SUITE 550 EDINA, MN 55435 UNITED STATES
Submission	Answer
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Date	12/18/2017
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of:
Registration No. 4,356,971

Consilium Investment Management, LLC,)	
)	
Petitioner,)	
)	
v.)	Cancellation No. 92067284
)	
Lance E. Butner, Michael M. Mohl,)	
Troy A. Kurth,)	
)	
Registrants.)	

REGISTRANT’S ANSWER TO PETITION FOR CANCELLATION

Registrants, Lance E. Butner, Michael M. Mohl, and Troy A. Kurth, (collectively “Registrants”) for their Answer to the Petition for Cancellation filed by Petitioner against Registrants’ trademark “CONSILIUM WEALTH GROUP”, Registration No. 4,356,971 registered June 25, 2013, plead and aver as follows:

1. Answering paragraph 1 of the Petition, based on the publically available records and websites, Registrants admit the allegations thereof.
2. Answering paragraph 2 of the Petition, based on the publically available records, Registrants admit the allegations thereof.
3. Answering paragraph 3 of the Petition, based on the publically available records, Registrants admit the allegations thereof.
4. Answering paragraph 4 of the Petition, based on the publically available records, Registrants admit the allegations thereof.

5. Answering paragraph 5 of the Petition, Registrants are without knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph, and therefore deny the same and put Petitioner to its strict proof thereof.

6. Answering paragraph 6 of the Petition, Registrants are without knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph, and therefore deny the same and put Petitioner to its strict proof thereof.

7. Answering paragraph 7 of the Petition, Registrants are without knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph, and therefore deny the same and put Petitioner to its strict proof thereof.

8. Answering paragraph 8 of the Petition, Registrants are without knowledge or information sufficient to form a belief as to the context and extent of Petitioner's trademark rights, and therefore deny the allegations in paragraph 8 and put Petitioner to its strict proof thereof.

9. Answering paragraph 9 of the Petition, Registrants are without knowledge or information sufficient to form a belief as to the context and extent of Petitioner's trademark rights, and therefore deny the allegations in paragraph 9 and put Petitioner to its strict proof thereof.

10. Answering paragraph 10 of the Petition, Registrants deny the allegations of this paragraph.

11. Answering paragraph 11 of the Petition, Registrants are without knowledge or information sufficient to form a belief as to the context and extent of Petitioner's trademark rights, and therefore deny the allegations in paragraph 11 and put Petitioner to its strict proof thereof.

12. Answering paragraph 12 of the Petition, Registrants deny the allegations of this paragraph.

AFFIRMATIVE DEFENSES

First Affirmative Defense

13. Petitioner fails to state a claim upon which relief can be granted.

Second Affirmative Defense

14. There is no likelihood of confusion between Registrants' and Petitioner's marks.

Third Affirmative Defense

15. Petitioner's claims are barred in whole or in part by the doctrine of Waiver.

Fourth Affirmative Defense

16. Petitioner's claims are barred in whole or in part by the doctrine of Estoppel.

Fifth Affirmative Defense

17. Petitioner's claims are barred in whole or in part by the doctrine of Acquiescence.

Sixth Affirmative Defense

14. Registrants did not develop and begin to use their mark with knowledge of Petitioner's mark.

Seventh Affirmative Defense

14. Petitioner's trademark rights to the mark "CONSILIUM INVESTMENT MANAGEMENT" if any, are limited to the services provided under that mark, and physical territory in which the mark was used, prior to the Registrants' application and/or registration date for the mark "CONSILIUM WEALTH GROUP".

Eighth Affirmative Defense

14. Petitioner cannot show use of the mark “CONSILIUM INVESTMENT MANAGEMENT” prior to August 17, 2012 and thus may not claim priority of use to Registrants.

Ninth Affirmative Defense

14. Petitioner cannot show use of the mark “CONSILIUM INVESTMENT MANAGEMENT” prior to August 22, 2012 and thus may not claim priority of use to Registrants.

Tenth Affirmative Defense

14. To the extent that Petitioner cannot show priority of use to the Registrants and the Board finds there is a likelihood of confusion between the two marks, then Petitioner’s application for “CONSILIUM INVESTMENT MANAGEMENT” must be denied.

PRAYER FOR RELIEF

WHEREFORE, Registrants pray that judgment be granted in their favor and against Petitioner as follows:

- A. This Petition to Cancel be dismissed;
- B. That Petitioner’s application for the mark “CONSILIUM INVESTMENT MANAGEMENT” be denied in all respects; and
- C. That Petitioner take nothing from its Petition to Cancel.

Respectfully submitted,

Registrants, Lance E. Butner, Michael M. Mohl, and
Troy A. Kurth

Dated: December 18, 2017

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CERTIFICATE OF SERVICE

I hereby certify that on December 18, 2017 that a true and complete copy of the foregoing Answer to Petition to Cancel was served via First Class Mail, postage pre-paid, upon the Petitioner's appointed Attorney of Record at the address below:

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_____/Alexander J. Farrell/
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