BEFORE THE
BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: ROBERT GLEN BARTLETT 2029 Century Park East Suite 1520 Los Angeles, CA 91403 Certified Public Accountant Certificate No. CPA 23122 Respondent.	No. AC-93-18 OAH No. L-60515

DECISION AFTER NONADOPTION

This matter came on regularly for hearing before Humberto Flores, Administrative Law Judge, Office of Administrative Hearings, at Los Angeles, California, on September 29, 1993.

Hooman Rowshan, Deputy Attorney General, represented the complainant. Respondent appeared personally and was represented by Roger L. Cossack, Attorney at Law.

The proposed decision of the administrative law judge was submitted to the Board on October 29, 1993. After due consideration thereof, the Board declined to adopt said proposed decision and thereafter on December 14, 1993 issued an Order of Nonadoption and subsequently issued an Order Fixing Date for Submission of Written Argument. The time for filing written argument in this matter having expired, written argument having been filed by respondent and such written argument, together with the entire record, including the transcript of said hearing, having been read and considered, pursuant to Government Code Section 11517, the Board of Accountancy hereby makes the following decision and order:

FINDINGS OF FACT

I

Carol Sigmann made the Accusation in her official capacity as Executive Officer of the Board of Accountancy (hereinafter "Board"), Department of Consumer Affairs of the State of California.

II

On June 25, 1976, the Board issued to Robert Glen Bartlett (hereinafter "respondent") Certified Public Accountant Certificate number CPA 23122.

III

On August 12, 1991, in the Superior Court, County of Los Angeles, State of California, (Case No. SA006364), respondent pleaded guilty to one count charging a violation of section 487.1 of the Penal Code (grand theft in excess of $100,000), a crime involving moral turpitude and substantially related to the duties, functions and qualifications of a Board licensee.

Respondent was placed on formal probation on the following terms and conditions:

(1) Respondent was ordered to spend one year under house arrest.

(2) Respondent was prohibited from using alcohol or drugs and submit to drug testing.

(3) Respondent was ordered to complete an alcohol and drug rehabilitation program.

(4) Respondent was ordered to make restitution to the victim.

Respondent has thus far successfully completed all terms and conditions of his probation.

IV

The facts and circumstances surrounding the conviction were that respondent, while acting as an accountant for a certain client, diverted the client's funds in excess of $100,000 to his own use without justification or authorization, in violation of Business and Professions Code section 5100(h)(2), and as amended in section 5100(j).

Shortly after the victim hired an independent accounting firm to review his financial records, respondent admitted to the victim that he had embezzled funds.

V

Respondent was licensed in 1976, and for a decade thereafter, respondent ran a successful accounting firm. In 1987, respondent and his wife began having serious marital problems. It was during this period that respondent began to use drugs and alcohol. Respondent's drug use increased to the point where he was using one-eighth ounce of cocaine each day. However, respondent's drug and alcohol abuse does not excuse his misconduct.

VI

The conduct underlying respondent's conviction occurred almost five years ago. Respondent has suffered no other criminal convictions and has made substantial progress in rehabilitation. Respondent has satisfied his conditions of probation as listed in Finding III. Moreover, respondent has continued his volunteer efforts for various community organizations, including the Pacific Lodge Boys' Home. In this regard, respondent has donated a considerable amount of time, energy and money to these organizations.

VII

Respondent was convicted of a very serious crime involving the theft of a large sum of money from an accounting client. Notwithstanding respondent's evidence of mitigation and rehabilitation and the passage of time since the misconduct, respondent has failed to establish that the public would be adequately protected if respondent is allowed to maintain his license.

DETERMINATION OF ISSUES

Pursuant to the foregoing findings of fact, the Board makes the following determination of issues:

I

Grounds for disciplinary action against respondent's license and licensing rights exist under the provisions of Business and Professions Code sections 490, 5100(h)(2), 5100(j), and 5100(f), for the conviction set forth in Finding III.

II

In view of the gravity of respondent's offense, which involves the victimization of respondent's own client, it would be contrary to the public interest to allow respondent to retain his license.

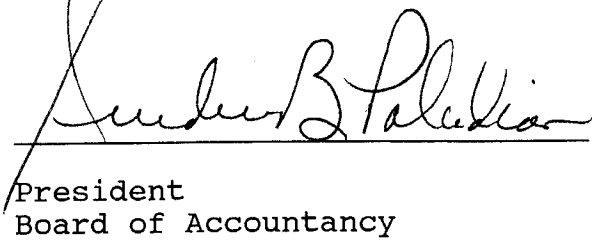
ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

The Certified Public Accountant License No. CPA 23122, issued to respondent Robert G. Bartlett, is hereby revoked.

This Decision shall be effective on May 15, 1994.

IT IS SO ORDERED this 15th day of April, 1994.



President
Board of Accountancy

BEFORE THE BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:	)	
ROBERT GLEN BARTLETT 2029 Century Park East #1520 Palo Alto, CA 94304	)	No. L-60515 Case No. AC-93-18

ORDER OF NON-ADOPTION OF PROPOSED DECISION

Pursuant to Section 11517 of the Government Code, the Proposed Decision of the Administrative Law Judge in the above-captioned matter is not adopted.

Attached hereto is a copy of the Proposed Decision relative to the above entitled matter which was submitted to the State Board of Accountancy by hearing officer, Humberto Flores. You are hereby informed that the California State Board of Accountancy considered that Proposed Decision on December 3, 1993, but did not adopt said Proposed Decision.

You are advised that pursuant to Section 11517(c) of the Government Code of the State of California, the Board of Accountancy will decide the case itself upon the record, including the transcript of the hearing held on September 29, 1993, and upon such written arguments as the parties may wish to submit, including, in particular, argument directed to the question of increasing the penalty proposed by Judge Flores so that it conforms to the disciplinary guidelines adopted by the Board.

IT IS SO ORDERED this 14th day of December, 1993.

CALIFORNIA STATE BOARD OF ACCOUNTANCY

Carol Sigmann

CAROL SIGMANN, EXECUTIVE OFFICER

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BEFORE THE
BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: ROBERT GLEN BARTLETT 2029 Century Park East Suite 1520 Los Angeles, CA 91403 Certified Public Accountant Certificate No. CPA 23122 Respondent.	No. AC-93-18 OAH No. L-60515

PROPOSED DECISION

This matter was heard by Humberto Flores, Administrative Law Judge of the Office of Administrative Hearings, in Los Angeles, California, on September 29, 1993. Complainant was represented by Hooman Rowshan, Deputy Attorney General. Respondent appeared personally and was represented by Roger L. Cossack, Attorney at Law.

Oral and documentary evidence was received and the matter was submitted. The Administrative Law Judge finds the following facts:

I

Carol Sigmann made the Accusation in her official capacity as Executive Officer of the Board of Accountancy (hereinafter "Board"), Department of Consumer Affairs of the State of California.

II

On June 25, 1976, the Board issued to Robert Glen Bartlett (hereinafter "respondent") Certified public accountant certificate number CPA 23122.

III

On August 12, 1991, in the Superior Court, County of Los Angeles, State of California, (Case No. SA006364), respondent pleaded guilty to one count charging a violation of section 487.1 of the Penal Code (grand theft in excess of $100,000), a crime involving moral turpitude and substantially related to the duties, functions and qualifications of a Board licensee.

Respondent was placed on formal probation on the following terms and conditions:

(1) Respondent was ordered to spend one year under house arrest.

(2) Respondent was prohibited from using alcohol or drugs and submit to drug testing.

(3) Respondent was ordered to complete an alcohol and drug rehabilitation program.

(4) Respondent was ordered to make restitution to the victim.

Respondent has thus far successfully completed all terms and conditions of his probation.

IV

The facts and circumstances surrounding the conviction were that respondent, while acting as an accountant for a certain client, diverted the client's funds in excess of 100,000 to his own use without justification or authorization, in violation of Business and professions Code section 5100 (h)(2), and as amended in section 5100(j).

Shortly after the victim hired an independent accounting firm to review his financial records, respondent admitted to the victim that he had embezzled funds.

V

Respondent was licensed in 1976, and for a decade thereafter, respondent ran a successful accounting firm. In 1987, respondent and his wife began having serious marital problems. It was during this period that respondent began to use drugs and alcohol. Respondent's drug use increased to the point where he was using one eighth ounce of cocaine each day. Although respondent's drug and alcohol abuse does not excuse his misconduct, it was a major contributing factor.

VI

The conduct underlying respondent's conviction occurred almost five years ago. Respondent has suffered no other criminal convictions and has made substantial progress in rehabilitation. First of all, respondent has made significant strides in his battle with alcoholism and drug abuse. He has completed a substance abuse program and has been clean and sober for almost four years. Further, respondent has undergone extensive counseling to further understand and deal with his past problems. Finally, it should be noted that respondent paid full restitution to the victim by borrowing funds against the equity in his home.

VII

Despite all of his personal and legal problems, respondent has continued his volunteer efforts for various community organizations, including the Pacific Lodge Boys' Home. In this regard, respondent has donated a considerable amount of time, energy and money to these organizations.

VIII

Respondent was convicted of a serious crime involving dishonesty, therefore, susbtantial discipline is appropriate. However, the level of discipline should be based on all of the evidence presented, including mitigation and rehabilitation and the passage of time since the misconduct. Based on the all of the evidence and respondent's comportment and demeanor at the hearing, it is clear that the public would be adequately protected if respondent is allowed to maintain his license under strict probationary conditions.

IX

The Board has paid the sum of $4,143.78 for the investigation and prosecution of this matter. The Board has requested that respondent be ordered to pay the reasonable costs of investigation and prosecution.

These costs are broken down as follows:

(1) Investigation: 4.50 hours at $55.84, totaling $251.28.

(2) Attorney General's cost: 43.25 hours, totaling $3892.50.

At the hearing, respondent admitted that he had taken money from a client and that he had been convicted of grand theft. There was no indication that respondent had not or would not have admitted these same facts directly to the Board or its

counsel. The amount billed to this case is not supported by the facts as presented at the hearing.

Under the circumstances, it would be reasonable to reduce the number of hours charged by the Attorney General to 15 hours. Therefore, the reasonable costs which respondent shall pay to the Board are fixed at $1601.28.

* * * * *

Pursuant to the foregoing findings of fact, the Administrative Law Judge makes the following determination of issues:

I

Grounds for disciplinary action against respondent's license and licensing rights exist under the provisions of Business and Professions Code sections 490, 5100(h)(2), 5100(j) and 5100(f), for the conviction set forth in finding III.

II

Respondent has established mitigation and rehabilitation to the extent that it would not be contrary to the public interest to allow respondent to retain his license under strict conditions.

III

Grounds exist to order respondent to pay the sum of $1601.28 to the Board as reasonable costs of investigation and prosecution, pursuant to Business and Professions Code section 5107.

* * * * *

WHEREFORE THE FOLLOWING ORDER is hereby made:

The Certified Public Accountant License No. CPA 2312, issued to respondent Robert G. Bartlett, is hereby revoked; provided, however, that said revocation is stayed and respondent is placed on probation for five (5) years on the following terms and conditions:

1. As part of probation, respondent's license is suspended for twenty (20) days from the effective date of this Decision.

2. Respondent shall obey all federal, California, other states' and local laws, including those rules relating to the practice of public accountancy in California.

3. Respondent, within 10 days of completion of the quarter, shall submit quarterly written reports to the Board on a form obtained from the Board.

4. Respondent shall report to and make personal appearances at meetings of the Administrative Committee at the Board's notification, provided such notification is accomplished in a timely manner.

5. Respondent shall cooperate fully with the Board of Accountancy, and with any of its agents or employees in their supervision and investigation of his compliance with the terms and conditions of this probation including the Board's Probation Surveillance Compliance Program.

6. Respondent shall be subject to, and shall permit, a practice investigation of the respondent's professional practice. Such a practice investigation shall be conducted by representatives of the Board whenever designated by the Administrative Committee, provided notification to respondent of such an investigation is accomplished in a timely manner.

7. Respondent shall comply with all final orders resulting from citations issued by the Board of Accountancy.

8. In the event respondent should leave California to reside or practice outside this state, respondent must notify the Board in writing of the dates of departure and return.

9. In the event the respondent fails to satisfactorily complete any provision of the order of probation, which failure results in the cessation of practice, all other provisions of probation other than the quarterly report requirements, examination requirements, education requirements, and Administrative Committee appearance, shall be held in abeyance until respondent is permitted to resume practice. All provisions of probation shall recommence on the effective date of resumption of practice. Periods of cessation of practice will not apply to the reduction of the probationary period.

10. Respondent shall pay the Board the sum of 1601.28 as its reasonable costs. Respondent shall make periodic payments during the course of his probation as dictated by the Board.

11. Within thirty days of the effective date of this decision, respondent shall submit to the Administrative Committee for its approval a plan of practice wherein respondent shall be monitored by another CPA or PA who provides periodic reports to the Administrative Committee. The respondent shall pay all costs for such monitoring.

12. Respondent shall take and pass a Board approved ethics examination (within a given period of time or prior to the resumption of practice). (Exam will be passed prior to resumption of practice where license has been suspended or where otherwise appropriate.)

13. During the period of probation the respondent shall engage in no activities which require receiving or disbursing funds for or on behalf of any other person, company, partnership, association, corporation or other business entity.

14. Respondent shall completely abstain from the personal use of all psychotropic drugs, including alcohol, in any form except when the same are lawfully prescribed.

15. Respondent shall participate or shall have participated in a drug screening program which the Administrative Committee approves and shall have reports submitted by the program. Respondent is responsible for all costs associated with said screening and reporting.

16. If respondent violates probation in any respect, the Board, after giving respondent notice and opportunity to be heard, may revoke probation and carry out the disciplinary order which was stayed. If an accusation or a petition to revoke probation is filed against respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

17. Upon successful completion of probation, respondent's license will be fully restored.

DATED: October 29, 1993

Humberto Flores

HUMBERTO FLORES
Administrative Law Judge
Office of Administrative Hearings

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Attorneys for Complainant

BEFORE THE
BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: ROBERT GLEN BARTLETT 2029 Century Park East Suite 1520 Los Angeles, California 91403 Certified Public Accountant Certificate No. CPA 23122 Respondent.	No. AC-93-18 **ACCUSATION**

Complainant, CAROL SIGMANN, alleges as follows:

1. She is the Executive Officer of the Board of Accountancy (hereinafter referred to as the "Board") of the Department of Consumer Affairs of the State of California and makes and files this Accusation solely in her official capacity.

2. On June 25, 1976, the Board issued to Robert Glen Bartlett (hereinafter "Respondent") certified public accountant certificate number CPA 23122 for the practice of public

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accountancy. The certificate will expire on May 31, 1993, unless renewed.

3. Business and Professions Code section 5051 provides that the practice of public accountancy is the use of the knowledge and science of accounting; the delivery for compensation of professional services that involve or require an audit, examination, verification, investigation, certification, presentation, or review, of financial transactions and accounting records; the preparation or certification of client reports on audit or examinations of books or records of account, balance sheets, and other financial, accounting and related schedules, exhibits, statements, or reports which are to be used for publication or for the purpose of obtaining credit or for filing with a court of law or with a governmental agency, or for any other purpose; the delivery of professional services that relate to accounting and the recording, presentation, or certification of financial information or data; the maintenance of client books, trial balances, statements, audits, reports, or bookkeeping; the preparation of client tax returns; the preparation of personal financial or investment plans or the product or services of others that implement a personal or financial or investment plan; and the delivery of client management consulting services.

4. Pursuant to Business and Professions Code section 5100 the Board may revoke, suspend or refuse to renew the permit or certificate of a certified public accountant, or may censure the holder of a permit or certificate for unprofessional conduct.

5. Business and Professions Code section 5100 provides at subsection (a) that unprofessional conduct includes conviction of any crime substantially related to the qualifications, functions and duties of a certified public accountant.

6. Business and Professions Code section 490 provides that the Board may suspend or revoke the certificate of a certified public accountant if the holder of the permit stands convicted of crime that substantially relates to the qualifications and duties of the profession for which the certificate was issued.

7. Title 16, California Code of Regulations section 99 provides that a crime is considered by the Board to be substantially related to the qualifications, functions, or the duties of a certified public accountant if to a substantial degree it evidences the presence or potential unfitness of the holder to perform the functions authorized by the certificate in a manner consistent with the public health, safety or welfare, including but not limited to those involving fiscal dishonesty, breach of fiduciary duty of any kind, dishonesty, fraud, gross negligence in the practice of public accountancy or in the performance of bookkeeping operations.

8. Respondent is subject to discipline by the Board pursuant to Business and Professions Code sections 5100 and 490 for conviction of Penal Code section 487.1, a substantially related crime within the scope of Business and Professions Code sections 5100(a) and 490 by the reason of the following facts:

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On or about August 12, 1991, in the Superior Court of California, County of Los Angeles, in a criminal action entitled People of the State of California v. Robert G. Bartlett, case number SA006364, respondent was convicted by certified plea of guilty to one count of grand theft in excess of $100,000.00 from Deven Productions in violation of the Penal Code section 487.1.

9. Business and Professions Code section 5100 (h)(2), currently 5100(j), as amended, provides that the Board may revoke, suspend or refuse to renew any permit or certificate for unprofessional conduct which includes but not limited to embezzlement, theft, misappropriation of funds or property, or obtaining money, property, or other valuable consideration by fraudulent means or by false pretenses.

Respondent is subject to discipline by the Board pursuant to Business and Professions Code sections 5100 (h)(2), currently 5100 (j), as amended by the reason of the following facts:

During the periods of April 1984 to March 1989, while acting as an accountant for Deven productions, respondent diverted his employer's funds in excess of $100,000 to his own use without justification or authorization all in violation of Business

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and Professions Code section 5100 (h) (2), currently 5100 (j), as amended.

11. Title 16, California Code of Regulations section 60 provides a licensee shall not engage in conduct which constitutes fiscal dishonesty or breach of fiduciary responsibility of any kind. Business and Professions Code section 5100(f) provides that the Board may revoke, suspend or refuse to renew any permit for unprofessional conduct which includes but not limited to the wilful violation of any provision under Business and Professions Code or any rules or regulations promulgated by the Board under the authority granted pursuant to Business and Professions Code.

12. Respondent is subject to discipline pursuant to Title 16, California Code of Regulations section 60 and Business and Professions Code Section 5100(f) by reason of the following facts:

> During the periods of April 1984 to March 1989, while acting as an accountant for Deven productions, respondent diverted his employer's funds in excess of $100,000 to his own use without justification or authorization all in violation of Business and Professions Code section 5100 (f) and Title 16, California Code of Regulations section 60.

14. Business and Profession Code section 5107 provides that in any order issued in resolution of a disciplinary proceeding before the Board, the executive officer of the Board

may request the Administrative Law Judge to direct the certificate holder found to have violated Business and Professions Code section 5100 to pay to the Board a sum not to exceed the actual and reasonable costs of the investigation and prosecution of the matter, including but not limited to the attorney's fees incurred by the Board.

NOTICE IS HEREBY GIVEN RESPONDENT that pursuant to Business and Professions Code section 5107, complainant hereby requests the Administrative Law Judge to direct respondent, if found in violation, to pay to the Board the reasonable costs of the investigation and prosecution of this matter.

WHEREFORE, complainant prays that a hearing be held and the Board make its order:

1. Revoking or suspending Certified Public Accountant certificate number CPA 23122 issued to Robert Glen Bartlett;

2. Directing the respondent to pay to the Board of Accountancy its reasonable cost of investigation and prosecution of this matter.

3. Taking such other and further action as may be appropriate.

DATED: March 18, 1993

Carol Sigmann

CAROL SIGMANN
Executive Officer
Board of Accountancy
Department of Consumer Affairs
State of California
Complainant

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