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

In the Matter of the Accusation Against: ROBERT PERRY DUBIN 13412 Ventura Blvd., Suite 220 Sherman Oaks, California 91423 Certified Public Accountant License No. 13296 Respondent.	NO. AC-95-2 DEFAULT DECISION AND ORDER

On February 13, 1996, accusation number AC-95-2 was filed by Carol Sigmann (hereinafter "complainant"), before the Board of Accountancy (hereinafter the "Board"), Department of Consumer Affairs of the State of California against Robert Perry Dubin (hereinafter "respondent"), holder of Certified Public Accountant License No. 13296.

On or about February 27, 1996, the accusation, along with the statement to respondent, excerpt of Government Code sections 11507.5, and 11507.7, notice of defense, request for discovery (hereinafter the accusation package), was served on respondent by certified mail addressed to respondent at 13412

Ventura Boulevard, Suite 220, Sherman Oaks, California 91423. A second accusation package was served on respondent by certified mail addressed to respondent at 38200 Maracaibo Circle East, Palm Springs, California 92264. An accusation package was also served on respondent's attorney, Mark Werksman, Esq., by certified mail addressed to Mark Werksman, Esq. at 601 West Fifth Street, 12th Floor, Los Angeles, California 90071. On or about March 4, 1996, the accusation packages addressed to respondent were received and accepted on behalf of respondent. On February 28, 1996, the office of Mark Werksman signed for receipt of the accusation package addressed to Mr. Werksman. Attached hereto as Exhibit "A" and "B" are copies of the proof of service of the accusation package and copies of the signed return receipt cards, respectively.

On or about June 3, 1996, the accusation package was served on respondent by certified mail addressed to respondent at FPC Boron, P. O. Box 500, Boron, California 93596-1000. On June 4, 1996, the accusation package was accepted on behalf of respondent. Attached hereto as Exhibit "C" is a copy of the proof of service of the accusation package and a copy of the signed return receipt card.

Pursuant to Title 16, California Code of Regulations, section 3, as holder of a certified public accountant certificate from the Board, respondent is required to file his current mailing address with the Board, and is required to immediately notify the Board of any and all changes of his mailing address. Respondent's mailing address of record with the Board is 13412

Ventura Boulevard Suite 220, Sherman Oaks, California 91423.

Respondent was served with the accusation package on March 4, 1996 and June 3, 1996, in a manner authorized by Government Code section 11505(c) and Code of Civil Procedure section 11. Respondent has failed to file a notice of defense as permitted by Government code section 11506(a), and has otherwise failed to request a hearing, object or otherwise contest the accusation. Respondent has waived his right to a hearing on the accusation and is in default. Because of respondent's waiver and pursuant to Government Code section 11520(a), the Board takes action on the accusation without a hearing, based upon the accusation and documentary evidence on file, and makes the following findings of fact and determination of issues.

FINDINGS OF FACT

1. Complainant, Carol Sigmann, the Executive Officer of the Board of Accountancy, made and filed accusation AC-95-2 in the above-entitled action solely in her official capacity.

2. On or about October 10, 1967, respondent was issued Certified Public Accountant Certificate Number CPA 13296 by the Board. Said license expired on February 1, 1996 and has not been renewed.

I

SUBSTANTIALLY RELATED CONVICTION

3. On or about November 11, 1994, in the United States District Court for the Central District of California, in

the criminal action entitled United States of America v. Robert Perry Dubin and June Helen Dubin, case No. CR 94-276, respondent was convicted upon a jury verdict of one count of violating 18 United States Code section 371 (conspiracy), six counts of violating 18 United States Code section 152 and 2 (false statement and concealed assets in bankruptcy; aiding and abetting and causing an act to be done), and two counts of violating 26 United States Code section 7206(1) (false statement on tax return).

4. The circumstances surrounding the conviction described in paragraph 3 hereinabove are as follows:

A. On or about July 12, 1989, respondent Dubin and his wife filed in the United States Bankruptcy Court for the Central District of California a Chapter Seven joint bankruptcy proceeding (hereinafter the "Dubin bankruptcy").

B. From June, 1989 to November, 1990, respondent Dubin conspired to conceal and transfer assets of the Dubin bankruptcy and make false statements under penalty of perjury in connection with the Dubin bankruptcy.

C. From January, 1987 to December, 1991, respondent Dubin embezzled a total of $1,010,378 from a client of respondent's accounting practice and concealed such embezzled funds from the bankruptcy court, trustee and creditors of the Dubin bankruptcy.

D. On July 12, 1989, respondent Dubin was owed approximately $286,222 in account receivables from clients

of his accounting practice. Prior to commencing the Dubin bankruptcy, respondent created two sets of ledgers concerning said account receivables. The first set of ledgers which was filed with the Dubin bankruptcy showed receivables of approximately $51,377.50 and were primarily sixty days or older. The second set of ledgers showed accounts receivable of approximately $234,844.50 and were primarily less than sixty days old. Respondent concealed said $234,844.50 in new receivables from the bankruptcy court, trustee and creditors.

E. Respondent Dubin and his wife owned approximately ten fur coats with an original aggregate acquisition price of $42,460. Respondent stored said fur coats in a commercial cold storage and concealed same from the bankruptcy court, trustee and creditors.

F. Respondent Dubin concealed from the bankruptcy court, trustee and creditors a payment of $82,000.00 to a general partnership consisting of respondent's children and step-children.

G. In April, 1988, respondent Dubin filed a United States Joint Income Tax Return (Form 1040) for the calendar year 1987 which misrepresented his total taxable income for 1987.

H. In April, 1989, respondent Dubin filed a Untied States Joint Income Tax Return (Form 1040) for the calendar year 1988 which misrepresented his total taxable income for 1988.

5. The crime of violating 18 United States Code sections 371, conspiracy to defraud the United States, 152 and 2, false statement and concealed assets in bankruptcy, and the violation of 26 United States Code section 7201(1), false statement on tax return are substantially related to the practice of accountancy.

DETERMINATION OF ISSUES

1. Because of the above findings of fact, cause for disciplinary action against respondent exists for violating the provisions of the Board of Accountancy and the rules and regulations adopted by the Board.

2. Cause for discipline exists pursuant to Business and Professions Code section 5100 as defined in section 5100(a) and Title 16 of the California Code of Regulations in that respondent has a been convicted of a crime which is substantially related to the qualifications, functions, or duties of a certified public accountant by reason of Findings of Fact No. 3.

DISCIPLINARY ORDER

WHEREFORE, IT IS ORDERED:

Certified Public Accountant Certificate Number 13296 issued to Robert Perry Dubin is hereby revoked by reason of Determination of Issues 1 and 2, separately and for each of them.

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Respondent shall not be deprived of making any showing by way of mitigation; however, such showing shall be made to the Board prior to the effective date of this Default Decision.

This Default Decision shall become effective on November 4, 1996.

DATED: October 4, 1996

By _____

President
Board of Accountancy
Department of Consumer Affairs
State of California

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(CML)

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BEFORE THE
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DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: ROBERT PERRY DUBIN 13412 Ventura Blvd., Suite 220 Sherman Oaks, California 91423 C.P.A. License No. 13296 Respondent.	Case No. AC-95-2 ACCUSATION

Complainant, Carol Sigmann, for cause of discipline against Robert Perry Dubin, alleges as follows:

PARTIES

1. The Complainant, Carol Sigmann, the Executive Officer of the California State Board of Accountancy (hereinafter the "Board"), makes this Accusation solely in her official capacity.

2. On October 10, 1967, the Board issued to respondent Robert Perry Dubin (hereinafter respondent "Dubin") a Certificate No. 13296 of Certified Public Accountant under the provisions of the Accountancy Act, Division 3, Chapter 1,

Sections 5000 et. seq. of the California Business and Professions Code. At all times material herein, respondent Dubin was and is licensed by the Board as a Certified Public Accountant. Said license expires on February 1, 1996.

JURISDICTION

3. Business and Professions Code Section 5100 provides that after notice and hearing the Board may revoke, suspend or refuse to renew any permit or certificate granted under Article 4 or Article 5 of the Accountancy Act, or may censure the holder of that permit or certificate for unprofessional conduct.

FIRST CAUSE OF ACCUSATION

SUBSTANTIALLY RELATED CONVICTION

4. Complainant incorporates herein by this reference the Preamble and each of the allegations set forth in Paragraphs 1 through 3 hereinabove.

5. Business and Professions Code Section 5100(a) provides that unprofessional conduct within the meaning of the Accountancy Act includes a conviction of any crime substantially related to the qualifications, functions and duties of a certified public accountant or a public accountant.

6. Business and Professions Code Section 5106 provides, in pertinent part, that a plea or verdict of guilty or a conviction of guilty following a plea of nolo contendere is deemed to be a conviction within the meaning of the Accountancy Act.

7. Section 99 of the California Code of Regulations

(hereinafter the "Board Regulations") provides that for the purposes of denial, suspension, or revocation of a certificate or permit, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a certified public accountant or public accountant if to a substantial degree it evidences present or potential unfitness of a certified public accountant or public accountant to perform the functions authorized by his certificate or permit in a manner consistent with the public health, safety, or welfare. Board Regulation 99 further provides that such crimes or acts shall include: "(a) (f)iscal dishonesty or breach of fiduciary responsibility of any kind."

8. Business and Professions Code Section 493 provides that notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

9. On November 11, 1994, in a case entitled United States of America v. Robert Perry Dubin and June Helen Dubin in the United States District Court for the Central District of California, Case No. CR 94-276, respondent Dubin was convicted upon a jury verdict of violating one count of 18 U.S.C. Section 371 (conspiracy), six counts of 18 U.S.C. Sections 152 and 2 (false statement and concealed assets in bankruptcy; aiding and abetting and causing an act to be done), and two counts of 26 U.S.C. Section 7206(1) (false statement on tax return).

10. The circumstances surrounding the conviction described in Paragraph 9 hereinabove are as follows:

A. On or about July 12, 1989, respondent Dubin and his wife filed in the United States Bankruptcy Court for the Central District of California a Chapter Seven joint bankruptcy proceeding (hereinafter the "Dubin bankruptcy").

B. From June, 1989 to November, 1990, respondent Dubin conspired to conceal and transfer assets of the Dubin bankruptcy and make false statements under penalty of perjury in connection with the Dubin bankruptcy.

C. From January, 1987 to December, 1991, respondent Dubin embezzled a total of $1,010,378 from a client of respondent's accounting practice and concealed such embezzled funds from the bankruptcy court, trustee and creditors of the Dubin bankruptcy.

D. On July 12, 1989, respondent Dubin was owed approxiametely $286,222 in account receivables from clients of his accounting practice. Prior to commencing the Dubin

bankruptcy, respondent created two sets of ledgers concerning said account receivables. The first set of ledgers which was filed with the Dubin bankruptcy showed receivables of approxiametely $51,377.50 and were primarily sixty days or older. The second set of ledgers showed account receivables of approximateley $234,844.50 and were primarily less than sixty days old. Respondent concealed said $234,844.50 in new receivables from the bankruptcy court, trustee and creditors.

E. Respondent Dubin and his wife owned approximately ten fur coats with an original aggregate acquisition price of $42,460. Respondent stored said fur coats in a commercial cold storage and concealed same from the bankruptcy court, trustee and creditors.

F. Respondent Dubin concealed from the bankruptcy court, trustee and creditors a payment of $82,000 to a general partnership consisting of respondent's children and step-children.

G. In April, 1988, respondent Dubin filed a United States Joint Income Tax Return (Form 1040) for the calendar year 1987 which misrepresented his total taxable income for 1987.

H. In April, 1989, respondent Dubin filed a United States Joint Income Tax Return (Form 1040) for the calendar year 1988 which misrepresented his total taxable income for 1988.

11. Based on his conviction, respondent Dubin is estopped to deny the truth of the allegations set forth in the Indictment of the criminal case described in Paragraph 9 hereinabove.

12. Respondent Dubin's conviction, as described in Paragraphs 9 and 10 hereinabove, is substantially related to the qualifications, functions and duties of a certified public accountant within the meaning of Business and Professions Code Section 5100(a) and Board Regulation 99 and is cause thereunder to revoke the certificate of certified public accountant held by respondent.

13. Business and Professions Code Section 5107(a) provides, in pertinent part, that the Executive Officer of the Board of Accountancy may request the Administrative Law Judge, as part of the Proposed Decision in a disciplinary proceeding, to direct any holder of a permit or certificate found guilty of unprofessional conduct involving a felony conviction in violation of Business and Professions Code Section 5107(a), to pay to the Board all reasonable costs of investigation and prosecution of the case, including, but not limited to, attorneys' fees.

14. Pursuant to Business and Professions Code Section 5107(a), Complainant requests the Administrative Law Judge who issues a Proposed Decision in this matter to include an Order which finds that respondent has violated Business and Professions Code Section 5100(a) and provides for the recovery of the costs of investigation and prosecution, including attorneys' fees, incurred in this matter, according to proof.

SECOND CAUSE OF ACCUSATION

SUSPENSION BY INTERNAL REVENUE SERVICE

15. Complainant incorporates herein by this reference the Preamble and each of the allegations set forth in Paragraphs

1 through 3 hereinabove.

16. Business and Professions Code Section 5100(g) provides that unprofessional conduct within the meaning of the Accountancy Act includes the suspension or revocation of the right to practice before any governmental body or agency.

17. Respondent Dubin is subject to discipline by the Board under Business and Professions Code Section 5100, for a violation of Business and Professions Code Section 5100(g), according to the following facts:

A. On or about July 31, 1992, under the authority set forth in 31 U.S.C. Section 330 and 31 C.F.R. Section 10.54, the Director of Practice of the Office of Director of Practice of the Department of the Treasury of the United States brought a Complaint against respondent seeking to disbar respondent from engaging in practice before the Internal Revenue Service.

B. On or about January 25, 1993, respondent executed a Consent to Voluntary Suspension which prevented respondent from practicing before the Internal Revenue Service. The suspension became effective on February 23, 1993.

WHEREFORE, Complainant prays that a hearing be held and that the Board of Accountancy make its Order:

1. Revoking, suspending, refusing to renew or censuring the Certificate No. 13296 of Certified Public Accountant issued to respondent Robert Perry Dubin.

2. Directing respondent Robert Perry Dubin to pay to the Board of Accountancy the reasonable costs of the

investigation and prosecution, including attorney's fees, of this case pursuant to Business and Professions Code Section 5107(a), according to proof.

3. For such other and further relief as may be deemed proper and appropriate.

DATED: February 13, 1996

CAROL SIGMANN
Executive Officer
Board of Accountancy
State of California

Complainant