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Attorneys for Complainant

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

In the Matter of the Accusation Against: JENNIFER OUTFLEET 7419 N. Cedar Avenue, #103 Fresno, CA 93720 Certified Public Accountant License No. 40892 Respondent.	Case No. AC-2002-16 OAH No. N-2002100456 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-entitled proceedings that the following matters are true:

PARTIES

1. Carol Sigmann (Complainant) is the Executive Officer of the California Board of Accountancy. She brought this action solely in her official capacity and is represented in this matter by Bill Lockyer, Attorney General of the State of California, by Janice K. Lachman, Deputy Attorney General.

2. Respondent Jennifer Outfleet (Respondent) is represented in this proceeding by attorney John W. Phillips, whose address is Wild, Carter & Tipton, 246 W. Shaw Avenue, Fresno, CA 93704.

3. On or about August 3, 1984, the California Board of Accountancy issued Certified Public Accountant License No. 40892 to Jennifer Outfleet (Respondent). The License

was in full force and effect at all times relevant to the charges brought in Accusation No. AC-2002-16 and will expire on May 31, 2004, unless renewed.

JURISDICTION

4. Accusation No. AC-2002-16 was filed before the California Board of Accountancy (Board) , Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on July 24, 2002. Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation No. AC-2002-16 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. AC-2002-16. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Accusation No. AC-2002-16.

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9. Respondent agrees that her Certified Public Accountant License is subject to discipline and she agrees to be bound by the California Board of Accountancy (Board) 's imposition of discipline as set forth in the Disciplinary Order below.

RESERVATION

10. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the California Board of Accountancy or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

CONTINGENCY

11. This stipulation shall be subject to approval by the California Board of Accountancy. Respondent understands and agrees that counsel for Complainant and the staff of the California Board of Accountancy may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or her counsel. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

12. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

13. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

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DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Certified Public Accountant License No. 40892 issued to Respondent Jennifer Outfleet is revoked. However, the revocation is stayed and Respondent is placed on probation for five (5) years on the following terms and conditions.

1. **Actual Suspension.** Certified Public Accountant License No. 40892, issued to Jennifer Outfleet, is suspended for five (5) years. During the period of suspension the Respondent shall engage in no activities for which certification as a Certified Public Accountant or Public Accountant is required as described in Business and Professions Code, Division 3, Chapter 1, Section 5051.

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

3. **Submit Written Reports.** Respondent shall submit, within ten (10) days of completion of the quarter, written reports to the Board on a form obtained from the Board. The Respondent shall submit, under penalty of perjury, such other written reports, declarations, and verification of actions as are required. These declarations shall contain statements relative to Respondent's compliance with all the terms and conditions of probation. Respondent shall immediately execute all release of information forms as may be required by the Board or its representatives.

4. **Personal Appearances.** Respondent shall, during the period of probation, appear in person at interviews/meetings as directed by the Board or its designated representatives, provided such notification is accomplished in a timely manner.

5. **Comply With Probation.** Respondent shall fully comply with the terms and conditions of the probation imposed by the Board and shall cooperate fully with representatives of the Board of Accountancy in its monitoring and investigation of the Respondent's compliance with probation terms and conditions.

6. **Tolling of Probation For Out-of-State Residence/Practice.** 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. Periods of non-California residency or practice outside the state shall not apply to reduction of the probationary period, or of any suspension. No obligation imposed herein, including requirements to file written reports, reimburse the Board costs, or make restitution to consumers, shall be suspended or otherwise affected by such periods of out-of-state residency or practice except at the written direction of the Board.

7. **Ethics Course/Examination.** Respondent shall take and pass with a score of 90 percent or better a Board approved ethics examination prior to the resumption of practice.

If Respondent fails to pass said examination within the time period provided or within two attempts, Respondent shall so notify the Board and shall cease practice until Respondent takes and successfully passes said exam, has submitted proof of same to the Board, and has been notified by the Board that she may resume practice. Failure to pass the required examination no later than 100 days prior to the termination of probation shall constitute a violation of probation.

Notwithstanding any other provision of this probation, failure to take and pass this examination within five years of the effective date of this order constitutes a separate cause for discipline of Respondent's license.

8. **Active License Status.** Respondent shall at all times maintain an active license status with the Board, including during any period of suspension. If the license is expired at the time the Board's decision becomes effective, the license must be renewed within 30 days of the effective date of the decision.

9. **Prohibition From Handling Funds.** 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.

10. **Violation of Probation.** If Respondent violates probation in any respect, the Board, after giving Respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order that 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.

11. **Cost Reimbursement.** Respondent shall reimburse the Board $16,108.26 for its investigation and prosecution costs. The payment shall be made in quarterly payments (due with quarterly written reports), with the final payment being due ninety (90) days before probation is scheduled to terminate.

12. **Notification to Clients/Cessation of Practice.** In orders which provide for a cessation or suspension of practice, Respondent shall comply with procedures provided by the Board of Accountancy or its designee regarding notification to, and management of, clients.

13. **Completion of Probation.** Upon successful completion of probation, Respondent's license will be fully restored.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, John W. Phillips. I understand the stipulation and the effect it will have on my Certified Public Accountant License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the California Board of Accountancy.

DATED: 12/17/02.

JENNIFER L. OUTFLEET
Respondent

I have read and fully discussed with Respondent Jennifer Outfleet the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 12/18/02.

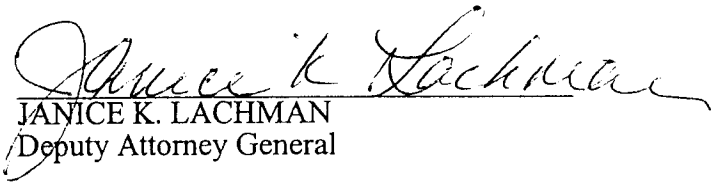
JOHN W. PHILLIPS
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the California Board of Accountancy of the Department of Consumer Affairs.

DATED: 12/18/02.

BILL LOCKYER, Attorney General
of the State of California



JANICE K. LACHMAN
Deputy Attorney General

Attorneys for Complainant

DOJ Docket Number: 03541110-SA2002AD0784

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

In the Matter of the Accusation Against: JENNIFER OUTFLEET 7419 N. Cedar Avenue, #103 Fresno, CA 93720 Certified Public Accountant License No. 40892 Respondent.	Case No. AC-2002-16 OAH No. N-2002100456

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the California Board of Accountancy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on March 1, 2003.

It is so ORDERED January 29, 2003.

Wendy S. Perez

FOR THE CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS

Exhibit A

Accusation No. AC-2002-16

BILL LOCKYER, Attorney General
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Attorneys for Complainant

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

In the Matter of the Accusation Against: **JENNIFER L. OUTFLEET** **7419 N. Cedar Avenue, #103** **Fresno, CA 93720** **Certified Public Accountant License No. 40892** **Respondent.**	Case No. AC-2002-16 OAH No. **A C C U S A T I O N**

Complainant alleges:

PARTIES

1. Carol Sigmann (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the California Board of Accountancy.

2. On or about August 3, 1984, the California Board of Accountancy issued Certified Public Accountant License No. 40892 to Jennifer L. Outfleet (Respondent). The Certified Public Accountant License was in full force and effect at all times relevant to the charges brought herein and will expire on May 31, 2004, unless renewed.

JURISDICTION

3. This Accusation is brought before the California Board of Accountancy ("Board") under the authority of the following sections of the Business and Professions Code (Code).

4. Section 5100 of the Code provides that, after notice and hearing, the Board "may revoke. suspend or refuse to renew any permit or certificate granted under Article 4 (commencing with Section 5070) and Article 5 (commencing with Section 5080), or may censure the holder of that permit or certificate for unprofessional conduct which includes, but is not limited to, one or any combination of the following causes", including:

"(i) Knowing preparation, publication or dissemination of false, fraudulent, or materially misleading financial statements, reports, or information.

(j) Embezzlement, theft, misappropriation of funds or property, or obtaining money, property, or other valuable consideration by fraudulent means or false pretenses."

5. Section 3 of Title 16 of the California Code of Regulations ("CCR") provides that "[e]ach licensee shall notify the Board of any change in his or her address of record within 30 days after the change."

6 Section 5107 of the Code states, in pertinent part, that the Board's Executive Officer 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 in violation of subdivisions (b), (c), (i) or (j) of section 5100, to pay to the Board all reasonable costs of investigation and prosecution of the case, including, but not limited, to attorney's fees.

7. Section 118, subdivision (b), of the Code provides that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

FACTUAL BACKGROUND

8. Respondent became a shareholder in Daniel, Towle, Outfleet and Warkentine Accountancy Corporation ("DTOW") in approximately 1986. She began acting as Chief Financial Officer ("CFO") for DTOW in or around 1994. As CFO, Respondent was responsible for paying DTOW's expenses and for depositing funds paid to DTOW.

On or about August 1, 1998, DTOW formed a partnership with another accounting corporation, Watts, Campbell and Anderson. The new partnership operated under the

name of Watts, Daniel & Company ("WD&C"). While all operating expenses for the new partnership of WD&C were administered by another individual, Respondent retained responsibility for administering the limited corporate financial responsibilities of DTOW. On or about July 31, 2000, the partnership agreed to disassociate, with each firm returning to its former operation. On or about August 23, 2000, Respondent informed the other shareholders of DTOW that she would be withdrawing from the firm to practice as a sole practitioner. A target date for Respondent's withdrawal from the firm was set for December 31, 2000.

On or about November 8, 2000, another shareholder in DTOW, Don Warkentine ("Warkentine"), took over as DTOW's CFO and requested that Respondent provide him with the firm's accounting records. After receiving most of the accounting records, Warkentine and another shareholder reviewed them and discovered some questionable items. A more extensive review of the firm's accounting records for the years 1998, 1999, and 2000 was then performed. The review disclosed numerous unauthorized and unexplained payments by DTOW to Respondent and other entities during that time period, along with numerous unauthorized credit card charges to the firm's charge account. On or about November 16, 2000, Respondent was placed on unpaid administrative leave by DTOW pending further investigation.

Further study of DTOW's accounting records for the period of 1998 through 2000 revealed unauthorized checks paid to Respondent totaling over $31,000.00 and sixty (60) unauthorized credit card purchases by Respondent on the firm's credit card totaling almost $12,000.00. The credit card purchases included personal-use items such as a Disneyland vacation, clothing, and auto repairs.

FIRST CAUSE FOR DISCIPLINE

(Embezzlement, Theft, Misappropriation of Funds or Property)

9. Respondent is subject to disciplinary action under section 5100(j) of the Code in that, while a shareholder and while acting as CFO for DTOW, Respondent embezzled funds and other valuable consideration in excess of approximately $43,000.00, as more fully set forth herein under paragraph 8.

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SECOND CAUSE FOR DISCIPLINE

(Knowing Preparation of False, Fraudulent and Materially Misleading Financial Statements, Reports or Information)

10. Respondent is subject to disciplinary action under section 5100(i) of the Code in that Respondent, who was responsible for posting and maintaining DTOW's financial records, prepared and presented false, fraudulent and materially misleading financial information to fellow shareholders in DTOW, as follows:

A. As set forth herein under paragraph 8, Respondent embezzled funds from DTOW in an amount exceeding approximately $43,000.00. In order to perpetuate and conceal the embezzlement, Respondent posted the transactions in DTOW's accounting records in a manner inconsistent with the true nature of the transactions, and in some instances, failed to post the transaction at all.

THIRD CAUSE FOR DISCIPLINE

(Failure to Notify Board of Change of Address)

11. Respondent is subject to disciplinary action under Section 3, Title 16 of the California Code of Regulations in that Respondent failed to notify the Board of her change of address of record within thirty (30) days after resigning from DTOW, which was her previous address of record.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the California Board of Accountancy issue a decision:

1. Revoking, suspending or otherwise imposing discipline upon Certified Public Accountant License No. 40892, issued to Jennifer L. Outfleet;

2. Ordering Jennifer L. Outfleet to pay the California Board of Accountancy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 5107;

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3. Taking such other and further action as deemed necessary and proper.

DATED: July 12, 2002

CAROL SIGMANN
Executive Officer
California Board of Accountancy
State of California
Complainant

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