BILL LOCKYER, Attorney General
of the State of California
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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:<br><br>MOSS ADAMS LLP<br>1001 Fourth Avenue, 31st Floor<br>Seattle, WA 98154<br><br>CPA Partnership Registration No. PAR 4524,<br><br>MARK WARREN RABKIN<br>c/o Moss Adams LLP<br>11766 Wilshire Blvd., #900<br>Los Angeles, CA 90025<br><br>Certified Public Accountant<br>Certificate No. CPA 31485,<br><br>and<br><br>ANTHONY SANCHEZ<br>9317 Sierra Vista Circle<br>Pico Rivera, CA 90660<br><br>Certified Public Accountant<br>Certificate No. CPA 77572<br><br>Respondents. | Case No. AC-2006-5<br><br>**STIPULATED SETTLEMENT AND DISCIPLINARY ORDER AS TO RESPONDENT MOSS ADAMS LLP ONLY** |

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 Marc D. Greenbaum, Deputy Attorney General.

2. Respondent Moss Adams LLP (Respondent) is represented in this proceeding by attorney James Miller, Esq., whose address is Musick Peeler Garrett, LLP, One Wilshire Blvd., Los Angeles CA 90017-3231. Respondent Moss Adams LLP, is acting in this proceeding through Neal West, the firm's Chief Practice Officer.

3. On or about October 31, 1995, the California Board of Accountancy issued CPA Partnership Registration No. PAR 4524 to Moss Adams LLP. The Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. AC-2006-5 and will expire on November 30, 2006, unless renewed.

## JURISDICTION

4. Accusation No. AC-2006-5 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. Respondent timely filed its Notice of Defense contesting the Accusation. A copy of Accusation No. AC-2006-5 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-2006-5. 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 its 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 its own expense; the right to confront and cross-examine the witnesses against the partnership; the right to present evidence and to testify on its 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 understands and agrees that the charges and allegations in Accusation No. AC-2006-5, if proven at a hearing, constitute cause for imposing discipline upon CPA Partnership Registration No. PAR 4524.

9. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation, and that Respondent hereby gives up its right to contest those charges.

10. Respondent agrees that its CPA Partnership Registration is subject to discipline and agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

RESERVATION

11. 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

12. 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 its counsel. By signing the stipulation, Respondent understands and agrees that Moss Adams LLP may not withdraw its 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.

13. 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.

14. 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:

**DISCIPLINARY ORDER**

IT IS HEREBY ORDERED that CPA Partnership Registration No. PAR 4524 issued to Respondent is suspended for thirty (30) days. However, the suspension is stayed and Respondent's license is placed on probation for eighteen (18) months on the following terms and conditions.

1. **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.

2. **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.

3. **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.

4. **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.

5. **Comply With Citations.** Respondent shall comply with all final orders resulting from citations issued by the Board of Accountancy.

6. **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.

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

8. **CPE for Respondent's California Attest Personnel.** All of Respondent's attest personnel licensed in California shall attend a course, a minimum of four hours, in the area of engagement coordination and documentation. All attest personnel licensed in California shall complete this course by March 1, 2007, and Respondent shall provide certification of completion of this requirement to the Board by April 1, 2007.

9. **Cost Reimbursement.** Respondent shall reimburse the Board thirty-five thousand dollars ($35,000.00) for its investigation and prosecution costs. The payment shall be made within sixty (60) days from the effective date of this decision.

10. **Dissemination of the Stipulated Settlement.** Within thirty (30) days of the Board's adoption of the Stipulated Settlement and its filing as a public document at the Board's office, Respondent shall disseminate the Stipulated Settlement and Disciplinary Order to all Moss Adams LLP professional personnel officed in California and shall confirm such dissemination in writing to the Board.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, James Miller, Esq. I understand the stipulation and the

effect it will have on CPA Partnership Registration No. PAR 4524. 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: July 11, 2006.

Neal West

MOSS ADAMS LLP
By: Neal West, Chief Practice Officer
Respondent

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

DATED: 7-11-06.

JAMES MILLER, ESQ.
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: 7/11/06.

BILL LOCKYER, Attorney General
of the State of California

Marc D. Greenbaum

MARC D. GREENBAUM
Deputy Attorney General

Attorneys for Complainant

DOJ Matter ID: LA2005600673
StipMossAdams.wpd

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

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| In the Matter of the Accusation Against:<br><br>MOSS ADAMS LLP<br>1001 Fourth Avenue, 31st Floor<br>Seattle, WA 98154<br><br>CPA Partnership Registration No. PAR 4524,<br><br>MARK WARREN RABKIN<br>c/o Moss Adams LLP<br>11766 Wilshire Blvd., #900<br>Los Angeles, CA 90025<br><br>Certified Public Accountant<br>Certificate No. CPA 31485,<br><br>and<br><br>ANTHONY SANCHEZ<br>9317 Sierra Vista Circle<br>Pico Rivera, CA 90660<br><br>Certified Public Accountant<br>Certificate No. CPA 77572<br><br>Respondents. | Case No. AC-2006-5<br><br>**STIPULATED SETTLEMENT AS TO RESPONDENT MOSS ADAMS LLP ONLY** |

## DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order, as to Respondent Moss Adams LLP, 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 August25, 2006.

It is so ORDERED July 26, 2006.

Ronald Blanc

FOR THE CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS

BILL LOCKYER, Attorney General
of the State of California
MARC D. GREENBAUM, State Bar No. 138213
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Attorneys for Complainant.

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

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|---|---|
| In the Matter of the Accusation Against:<br><br>MOSS ADAMS LLP<br>MOSS ADAMS<br>1001 Fourth Avenue, 31st Floor<br>Seattle, WA 98154<br><br>Accountancy Partnership Certificate No. PAR 4524<br><br>and<br><br>MARK WARREN RABKIN<br>Moss Adams LLP<br>11766 Wilshire Blvd., #900<br>Los Angeles, CA 90025<br><br>Certified Public Accountant Certificate No. CPA 31485<br><br>and<br><br>ANTHONY SANCHEZ<br>9317 Sierra Vista Circle<br>Pico Rivera, CA 90660<br><br>Certified Public Accountant Certificate No. CPA 77572<br><br>Respondents. | Case No. AC-2006-5<br><br>**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, Department of Consumer Affairs.

2. On or about November 8, 1982, the California Board of Accountancy issued Accountancy Partnership Certificate No. PAR 4524 to Moss Adams (Respondent Moss).

a. The Certificate was expired and was not valid during the period January 1, 1991 through February 24, 1991, for failure to pay the renewal fee required by Business and Professions Code section 5070.5 and file the renewal form.

b. Effective February 25, 1991, the Certificate was renewed through December 31, 1992, upon receipt of the renewal fee and form.

c. The Certificate was renewed and valid for the period January 1, 1993 through December 31, 1994.

d. The Certificate was expired and was not valid during the period January 1, 1995 through January 29, 1995, for failure to pay the renewal fee required by Business and Professions Code section 5070.5 and file the renewal form.

e. Effective January 30, 1995, the Certificate was renewed through December 31, 1996, upon receipt of the renewal fee and form.

f. Effective October 31, 1995, the name of Moss Adams was changed to Moss Adams LLP. The Accountancy Partnership Certificate No. PAR 4524 remained the same.

g. The Certificate was regularly renewed and valid for the period January 1, 1997 through November 30, 2006.

3. On or about January 30, 1981, the California Board of Accountancy issued Certified Public Accountant License Certificate No. CPA 31485 to Mark Warren Rabkin (Respondent Rabkin).

a. The Certificate was expired and was not valid during the period October 1, 1990 through October 30, 1990, for the following reasons:

1) The renewal fee required by Business and Professions Code section 5070.5 was not paid; and

2) Declaration of Compliance with continuing education requirements was not submitted.

b. Effective October 31, 1990 the Certificate was renewed through

September 30, 1992, upon receipt of the renewal fee and declaration of compliance with continuing education requirements ("active").

c. The Certificate was expired and was not valid during the period October 1, 1992 through October 23, 1992, for the following reasons:

1) The renewal fee required by Business and Professions Code section 5070.5 was not paid; and

2) Declaration of Compliance with continuing education requirements was not submitted.

d. Effective October 24, 1992, the Certificate was renewed through September 30, 1994, upon receipt of the renewal fee and declaration of compliance with continuing education requirements ("active").

e. The Certificate was expired and was not valid during the period October 1, 1994 through October 5, 1994, for the following reasons:

1) The renewal fee required by Business and Professions Code section 5070.5 was not paid; and

2) Declaration of Compliance with continuing education requirements was not submitted.

f. Effective October 6, 1994, the Certificate was renewed through September 30, 1996, upon receipt of the renewal fee and declaration of compliance with continuing education requirements ("active").

g. The Certificate was expired and was not valid during the period October 1, 1996 through October 27, 1996, for the following reasons:

1) The renewal fee required by Business and Professions Code section 5070.5 was not paid; and

2) Declaration of Compliance with continuing education requirements was not submitted.

h. Effective October 28, 1996, the Certificate was renewed through September 30, 1998, upon receipt of the renewal fee and declaration of compliance with

continuing education requirements ("active").

i. The Certificate was expired and was not valid during the period October 1, 1998 through October 4, 1998, for the following reasons:

1) The renewal fee required by Business and Professions Code section 5070.5 was not paid; and

2) Declaration of Compliance with continuing education requirements was not submitted.

j. Effective October 5, 1998, the Certificate was renewed through September 30, 2000, upon receipt of the renewal fees and declaration of compliance with continuing education requirements ("active").

k. The certificate was regularly renewed and valid during the period October 1, 2000 through September 30, 2006, upon receipt of the renewal fees and declarations of compliance with continuing education requirements ("active")..

4. On or about June 6, 1999, the California Board of Accountancy issued Certified Public Accountant License Certificate No. CPA 77572 to Anthony Sanchez (Respondent Sanchez).

a. Effective December 1, 2000, the certificate was renewed through November 30, 2002, upon receipt of the renewal fee and declaration of compliance with continuing education requirements ("active").

b. The Certificate was expired and was not valid during the period December 1, 2002 through April 27, 2003, for the following reasons:

1) The renewal fee required by Business and Professions Code section 5070.5 was not paid; and

2) Declaration of Compliance with continuing education requirements was not submitted.

d. Effective April 28, 2003, the Certificate was renewed through November 30, 2004, upon receipt of the renewal fees and declaration of compliance with continuing education requirements ("active").

e. The certificate was regularly renewed and valid during the period November 30, 2006, upon receipt of the renewal fee and declaration of compliance with continuing education ("active").

JURISDICTION

5. This Accusation is brought before the California Board of Accountancy (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

6. Section 118, subdivision (b) states:

"The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.

7. Section 5100 states:

"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 that includes, but is not limited to, one or any combination of the following causes:

. . . .

"(c) Dishonesty, fraud, gross negligence, or repeated negligent acts committed in the same or different engagements, for the same or different clients, or any combination of engagements or clients, each resulting in a violation of applicable professional standards that indicate a lack of competency in the practice of public accountancy or in the performance of the bookkeeping operations described in Section 5052.

. . . .

"(g) Willful violation of this chapter or any rule or regulation promulgated by the board under the authority granted under this chapter."

8. Section 5062 of the Code provides that a licensee shall issue a report which conforms to professional standards upon completion of a compilation, review or audit of financial statements.

9. California Code of Regulations, title 16, section 58, provides that licensees engaged in the practice of public accountancy shall comply with all applicable professional standards, including but not limited to Generally Accepted Accounting Principles ("GAAP") and Generally Accepted Auditing Standards (GAAS").

10. Section 5107, subdivision (a), states, in pertinent part:

"The executive officer of the board 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 to have committed a violation or violations of this chapter to pay to the board all reasonable costs of investigation and prosecution of the case, including, but not limited to, attorneys' fees. The board shall not recover costs incurred at the administrative hearing."

PROFESSIONAL STANDARDS

11. Standards applicable to the performance of a review are discussed in the Statements on Standards for Accounting and Review Services (SSARS) and codified by the American Institute of Certificate Public Accountants (AICPA), and codified by "AR" number. [Relevant SSARS sections include, without limitation: AR sections 100.25, 100.26, 100.30, 100.31, 100.35, 100.38, 100.45, 100.46 and 100.48.]

12. Generally Accepted Auditing Standards ("GAAS"), are contained in Statements on Auditing Standards ("SAS"), codified by the American Institute of Certified Public Accountants ("AICPA") by AU number. The accountant is guided by relevant sections of auditing standards in various sections of SSARS. [Relevant GAAS standards include, without limitation: AU sections 337.06, 337.08, 341.02, 420.01, 561.05 and 9561.02.]

13. Generally Accepted Accounting Principles ("GAAP") are derived from various authoritative sources including, without limitation, the Statements of Financial

Accounting Standards ("SFAS or "FAS"), the Financial Accounting Standards Board ("FASB") which codifies principles by FASB number, and the Accounting Principles Board ("APB") which issues numbered Opinions. The definition of GAAP and the hierarchy of established accounting principles presented in SAS No. 69, The Meaning of Present Fairly in Conformity With Generally Accepted Accounting Principles (AU 411), is also applicable to reviews of financial statements performed under SSARS. [Relevant GAAP standards include APB 43, FASB No. 5].

FOR CAUSES FOR DISCIPLINE

14. Respondents are subject to disciplinary action for multiple acts of unprofessional conduct under Business and Professions Code section 5100, including under specific subparagraphs thereof. The circumstances follow.

CIRCUMSTANCES SUPPORTING THE IMPOSITION OF DISCIPLINE

LANICO REVIEW ENGAGEMENTS

15. Respondent Moss had been performing accounting services for Lanico since at least January 24, 1994. Respondent Moss undertook engagements to review the financial statements of Lanico Inc. (Lanico), a corporation owned and operated by Jaime and Ligia Yuan, as of and for the years ended December 31, 1998 and 1999.

a. Respondent Moss undertook the engagement to review Lanico's financial statements as of and for the year ended December 31, 1998, on or about February 16, 1999, and issued its accountants' report dated March 5, 1999. Respondent Rabkin was the engagement partner responsible for reviewing and issuing, or causing to be issued, the accountants' report for the review of Lanico's financial statements for the year ended December 31, 1998.

b. Respondent Moss undertook the engagement to review Lanico's financial statements as of and for the year ended December 31, 1999, on or about March 22, 2000, and issued its accountants' report dated March 31, 2000. Respondent Sanchez was the engagement partner responsible for reviewing and issuing, or causing to be issued, the accountants' report for the review of Lanico's financial statements for the year ended December 31, 1999.

16. The Lanico review engagements for the years ended December 31, 1998 and 1999, included Respondent Moss' assistance in communications with outside financial

institutions and credit grantors. Respondent Moss was aware that such communication was important to the orderly and timely granting of credit. Lanico's major source of financing, as known to Respondent Moss, from at least 1994 through March 2000, was Lanico's revolving credit line.

17. Respondent Moss, in its reviews of Lanico's accounting system, found areas of weakness concerning unreconciled bank accounts, inventory reports and fixed asset schedules. Respondent Moss determined that Lanico's accounting staff and owner did not have a very strong understanding of accounting principles and that accounts were not consistently reconciled.

18. Respondent Moss, in its planning procedures for the Lanico review engagements, considered four areas critical to the reviews (accounts receivable, inventory, due to bank and accounts payable) and assessed materiality at $70,000.00 for each annual review engagement.

LANICO SALES TAX AUDIT

19. From at least March 1998, Respondent Moss was Lanico's representative for the State Board of Equalization (SBE) sales tax audit (SBE Audit), which encompassed Lanico's operations from 1995 to 1999, and Lanico's revenues for the periods therein.

20. Respondent Moss received the SBE's Report of Field Audit dated May 31, 2000, proposing an assessment of unpaid sales and use taxes of $384,991.28, interest of $175,763.64, and a fraud penalty of $96,247.88 (total assessment of $657,002.80.)

21. The SBE issued its Notice of Determination dated September 13, 2000, to Lanico with a copy of the notice sent to Respondent Moss' business address. The total amount assessed by the SBE was $597,353.55, which included fraud penalties of $86,201.53.

**FIRST CAUSE FOR DISCIPLINE**

(Gross Negligence)

22. Respondents Moss and Rabkin are subject to disciplinary action under section 5100, subdivisions (c) of the Code on the grounds of unprofessional conduct in that Respondents were grossly negligent for performing a review engagement in a manner that was an

extreme departure from professional standards in the following respects:

23. Respondents Moss and Rabkin failed to properly perform the review engagement for Lanico for the year ended December 31, 1998, as follows:

a. Respondents Moss and Rabkin, in planning the Lanico review engagement and performing risk assessments, assessed management integrity and attitude as moderate for business, capitalization, financial accounting strength and control environment without a basis for the assessment. Respondents Moss and Rabkin did not understand, or ignored, Lanico's background for purposes of planning the review engagement, based on, but not limited to, Respondent Moss' review of Lanico's accounting system.

b. Respondents Moss and Rabkin failed to give proper and adequate consideration to Lanico's valuation and presentation of inventory. Respondents Moss and Rabkin knew or should have known that the valuation and presentation of inventory did not comply with GAAP and should have considered the significance of these errors and their effect on Lanico's compliance with loan covenants.

c. Respondents Moss and Rabkin failed to make proper inquiries regarding Lanico's credit line liability including, but not limited to, the termination of the credit line, Lanico's ability to obtain new financing and Lanico's compliance with loan covenants.

d. Respondents Moss and Rabkin failed to perform sufficient inquiry or analysis as to the potential significant effect of the sales tax audit on Lanico's financial statements or its ability to continue as a going concern.

24. Respondents Moss and Rabkin failed to exercise due professional care in the performance of the Lanico review engagement as follows:

a. Complainant realleges the matters set forth in paragraph 23, above, and incorporates them herein by reference as if fully set forth at this point.

b. Respondents Moss and Rabkin did not consider "passed adjustments" to the financial statements when determining Lanico's compliance with loan convenants.

c. Respondents Moss and Rabkin failed to consider Lanico's ability to continue as a going concern by failing to consider the significance in Lanico's downward financial

health over the period 1994 to 1997.

d. Respondents Moss and Rabkin failed to consider and to document the potential effects of the sales tax audit including the effects of allegations of fraud and inadequate recordkeeping on Lanico's ability to continue as a going concern.

25. Respondents Moss and Rabkin failed to modify the accountants' report for a departure from generally accepted accounting principles. The valuation and presentation of Lanico's inventory consisted of amounts accounted for by a method not in accordance with generally accepted accounting principles. Inventory was overstated in an amount totaling at least $101,173, which was material to the financial statements.

26. Respondents Moss and Rabkin failed to date the accountants' report appropriately. The date of the accountants' report infers the date of completion of fieldwork, however, engagement documentation reflects completion of significant review engagement procedures at dates much later than March 5, 1999, the date of the accountants' report.

**SECOND CAUSE FOR DISCIPLINE**

(Review Report Not Conforming to Professional Standards)

27. Respondents Moss and Rabkin's conduct as set forth in paragraphs 23 through 26, above, constitutes the failure to issue a report which conforms to professional standards upon completion of a compilation, review or audit of financial statements within the meaning of Code section 5062 and therefore unprofessional conduct within the meaning of Code section 5100(g).

**THIRD CAUSE FOR DISCIPLINE**

(Failure to Comply with Professional Standards)

28. Respondents Moss and Rabkin's conduct as set forth in paragraphs 23 through 27, above, constitutes the failure to comply with professional standards within the meaning of Board Rule 58 and therefore unprofessional conduct within the meaning of Code section 5100(g).

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## FOURTH CAUSE FOR DISCIPLINE

(Repeated Negligent Acts )

29. Respondents Moss and Rabkin are subject to disciplinary action under section 5100(c) in that Respondents' conduct, as stated above in paragraphs 23 through 26, also constitute repeated negligent acts.

## FIFTH CAUSE FOR DISCIPLINE

(Gross Negligence)

30. Respondents Moss and Sanchez are subject to disciplinary action under section 5100(c) of the Code on the grounds of unprofessional conduct in that Respondents Moss and Sanchez were grossly negligent for performing a review engagement in a manner that was an extreme departure from professional standards in the following respects:

31. Respondents Moss and Sanchez failed to properly perform the review engagement for Lanico for the year ended December 31, 1999, as follows:

a. Respondents Moss and Sanchez, in planning the Lanico review engagement and performing risk assessments, assessed management integrity and attitude as moderate for business, capitalization, financial accounting strength and control environment without a basis for the assessment. Respondents Moss and Sanchez did not understand, or ignored, Lanico's background for purposes of planning the review engagement, based on, but not limited to, Respondent Moss' review of Lanico's accounting system.

b. Respondents Moss and Sanchez failed to give proper and adequate consideration to Lanico's valuation and presentation of inventory. Respondents Moss and Sanchez knew or should have known that the valuation and presentation of inventory did not comply with GAAP and should have considered the significance of these errors and their effect on Lanico's compliance with loan covenants.

c. Respondents Moss and Sanchez failed to give proper consideration to the consistency of Lanico's reporting of consigned goods (presented as $199,863.00 of Lanico's inventory) and failed to perform proper inquiries of management regarding the status of consigned goods.

d. Respondents Moss and Sanchez failed to make proper inquiries regarding Lanico's credit line liability including Lanico's compliance with loan covenants with its lenders (at the start of the fiscal year - Transamerica and at the end of the fiscal year - Universal Bank.)

e. Respondents Moss and Sanchez failed to perform sufficient inquiry or analysis as to the potential significant effect of the sales tax audit on Lanico's financial statements or its ability to continue as a going concern.

32. Respondents Moss and Sanchez failed to exercise due professional care in the performance of the Lanico review engagement as follows:

a. Complainant realleges the matters set forth in paragraph 31, above, and incorporates them herein by reference as if fully set forth at this point.

b. Respondents Moss and Sanchez did not consider "passed adjustments" to the financial statements when determining Lanico's compliance with loan convenants.

c. Respondents Moss and Sanchez failed to consider Lanico's ability to continue as a going concern by failing to consider the significance in Lanico's downward financial health over the period 1994 to 1999.

d. Respondents Moss and Sanchez failed to document the basis for the conclusions resulting in Lanico's presentation of the SBE sales tax liability and disclosure thereof.

e. Respondents Moss and Sanchez failed to consider the effects of the SBE sales tax audit on Lanico's ability to continue as a going concern.

33. Respondents Moss and Sanchez failed to consider the effects of the SBE's Notice of Determination on Universal Bank's continued reliance on Moss Adams' accountants' report for the review of Lanico's financial statements for the year ended December 31, 1999.

a. The amounts assessed by the SBE was known, or should have been known, by Moss and Sanchez through receipt of the SBE's Notice in September 2000, included sales taxes, interest and penalties of $597,353.55 against Lanico, including fraud penalties of $86,201.53. The amounts assessed were materially greater than the amounts reflected in Moss Adams' working papers and the conclusion reached by Lanico's legal counsel.

b. Universal Bank, a known third-party user of Lanico's financial statements, was not contacted regarding its continued reliance on Moss Adams' accountants' report.

34. Respondents Moss and Sanchez failed to modify the accountants' report for departures from generally accepted accounting principles.

a. Lanico's legal counsel represented that the SBE's sales tax audit would result in a final assessment that was anticipated to be in the range of $100,000 to $300,000. The range of loss was material to the financial statements. The disclosure of the loss contingency did not include the range of loss or state that a range of loss could not be determined.

b. The valuation and presentation of Lanico's inventory consisted of amounts accounted for by a method not in accordance with generally accepted accounting principles. Inventory was overstated in an amount totaling at least $250,011, which was material to the financial statements.

35. Respondents Moss and Sanchez failed to date the accountants' report appropriately. The date of the accountants' report infers the date of completion of fieldwork, however, engagement documentation reflects completion of significant review engagement procedures at dates much later than March 31, 2000, the date of the accountants' report.

SIXTH CAUSE FOR DISCIPLINE

(Review Not Conforming to Professional Standards)

36. Respondents Moss and Sanchez' conduct as set forth in paragraphs 31 through 35, above, constitutes the failure to issue a report which conforms to professional standards upon completion of a compilation, review or audit of financial statements within the meaning of Code section 5062 and therefore unprofessional conduct within the meaning of Code section 5100(g).

SEVENTH CAUSE FOR DISCIPLINE

(Failure to Comply with Professional Standards)

37. Respondents Moss and Sanchez' conduct as set forth in paragraphs 31 through 36, above, constitutes the failure to comply with professional standards within the meaning of Board Rule 58 and therefore unprofessional conduct within the meaning of Code

section 5100(g).

EIGHTH CAUSE FOR DISCIPLINE

(Repeated Negligent Acts )

38. Respondents Moss and Sanchez are subject to disciplinary action under section 5100(c) in that Respondents Moss and Sanchez' conduct, as stated above in paragraphs 31 through 35, also constitute repeated negligent acts.

**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 Accountancy Partnership Certificate No. PAR 4524, issued to Moss Adams LLP;

2. Revoking, suspending or otherwise imposing discipline upon Certified Public Accountant Certificate No. CPA 31485, issued to Mark Warren Rabkin;

3. Revoking, suspending or otherwise imposing discipline upon Certified Public Accountant Certificate No. CPA 77572, issued to Anthony Sanchez;.

4. Ordering Moss Adams LLP, Mark Warren Rabkin and Anthony Sanchez 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;

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

DATED: June 22, 2006

Carol Sigmann

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

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(04/25/06)