BILL LOCKYER, Attorney General
of the State of California
ARTHUR D. TAGGART
Supervising Deputy Attorney General
LORRIE M. YOST, State Bar No. 119088
Deputy Attorney General
California Department of Justice
1300 I Street, Suite 125
P.O. Box 944255
Sacramento, CA 94244-2550
Telephone: (916) 445-2271
Facsimile: (916) 327-8643

Attorneys for Complainant

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

In the Matter of the Accusation Against: STEPHEN WAGGLE 1120 West I Street, #E Los Banos, CA 93635 Certified Public Accountant Certificate No. 12039 Respondent.	Case No. AC-2006-18 **STIPULATED SURRENDER OF LICENSE AND ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties in this proceeding 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 Lorrie M. Yost, Deputy Attorney General.

2. Stephen Waggle (Respondent) is represented in this proceeding by attorney Matthew W. Powell, whose address is Wilke, Fleury, Hoffelt, Gould & Birney, LLP, 400 Capitol Mall, 22nd Floor, Sacramento, CA 95814-4407.

///

3. On or about October 16, 1965, the California Board of Accountancy issued Certified Public Accountant Certificate No. 12039 to Stephen Waggle (Respondent). The certified public accountant certificate will expire on June 30, 2008 unless renewed.

JURISDICTION

4. Accusation No. AC-2006-18 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 September 8, 2006. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. AC-2006-18 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-2006-18. Respondent also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of License and Order.

6. Respondent is fully aware of his 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 his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his 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. Solely for the purpose of resolving the charges and allegations in the accusation as they relate to him without further proceedings, Respondent agrees that at a hearing, Complainant could establish a factual basis for the charges in the accusation and that those

charges, if proven, would constitute cause for discipline of his certified public accountant certificate. Respondent does not admit the charges but he hereby gives up his right to contest those charges for the purpose of resolving these proceedings. However, Respondent agrees that, as provided herein in paragraph 4 of the order, should Respondent apply for licensure, the charges will be deemed admitted.

9. Respondent understands that by signing this stipulation he enables the Board to issue an order accepting the surrender of his Certified Public Accountant Certificate No. 12039 without further process. The surrender of the certificate, and the acceptance of the surrendered license by the Board, constitutes the imposition of the discipline against Respondent. This stipulation constitutes a record of the of the discipline and shall become a part of Respondent's license history with the Board. Upon acceptance of Respondent's license surrender by the Board according to the terms of this stipulation, the license shall be canceled.

CONTINGENCY

10. 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 surrender, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his 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 Surrender 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.

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

///

///

12. 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 Order:

ORDER

IT IS HEREBY ORDERED that Certified Public Accountant Certificate No. 12039 issued to Respondent Stephen Waggle is surrendered and accepted by the California Board of Accountancy.

1. The surrender of Respondent's Certified Public Accountant Certificate and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board.

2. Respondent shall lose all rights and privileges as a certified public accountant in California as of the effective date of the Board's Decision and Order.

3. Respondent shall cause to be delivered to the Board both his wall and pocket license certificate on or before the effective date of the Decision and Order.

4. Respondent fully understands and agrees that if he ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation No. AC-2006-18 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

5. Respondent shall pay the Board its costs of investigation and enforcement in the amount of $10,853.00 prior to issuance of a new or reinstated license.

///

///

///

///

ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney, Matthew W. Powell. I understand the stipulation and the effect it will have on my Certified Public Accountant Certificate No. 12039. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the California Board of Accountancy.

DATED: 11-17-2006.

Stephen L. Waggle

Stephen Waggle (Respondent)
Respondent

I have read and fully discussed with Respondent Stephen Waggle the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form and content.

DATED: November 21, 2006.

MATTHEW W. POWELL
Attorney for Respondent

ENDORSEMENT

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

DATED: Nov. 9, 2006

BILL LOCKYER, Attorney General
of the State of California

ARTHUR D. TAGGART
Supervising Deputy Attorney General

Lorrie Yost

LORRIE M. YOST
Deputy Attorney General

Attorneys for Complainant

DOJ Matter ID: SA2006101658
10292342.wpd

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

In the Matter of the Accusation Against: STEPHEN WAGGLE 1120 West I Street, #E Los Banos, CA 93635 Certified Public Accountant Certificate No. 12039 Respondent.	Case No. AC-2006-18

DECISION AND ORDER

The attached Stipulated Surrender of License and 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 February 25, 2007.

It is so ORDERED January 26, 2007.

FOR THE CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS

Exhibit A

Accusation No. AC-2006-18

BILL LOCKYER, Attorney General
of the State of California
LORRIE M. YOST, State Bar No. 119088
Deputy Attorney General
California Department of Justice
1300 I Street, Suite 125
P.O. Box 944255
Sacramento, CA 94244-2550
Telephone: (916) 445-2271
Facsimile: (916) 327-8643

Attorneys for Complainant

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

In the Matter of the Accusation Against: Stephen Lee Waggle 1120 West I Street #E Los Banos, CA 93635 Certified Public Accountant Certificate No. 12039 Respondent.	Case No. A-2006-18 **ACCUSATION**

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 October 16, 1965, the California Board of Accountancy issued Certified Public Accountant Certificate No. 12039 to Stephen Lee Waggle (Respondent). The certified public accountant certificate was in effect at all times relevant to the charges brought herein and will expire on June 30, 2008, unless renewed.

///

///

///

JURISDICTION

3. 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.

4. This Accusation is brought before the Board under the authority of Code section 5100 of the Business and Professions Code,[1] which provides, in relevant part, that, after notice and hearing the board may revoke, suspend or refuse to renew any permit or certificate granted, for unprofessional conduct which includes, but is not limited to, one or any combination of the causes specified therein, including those in the following subparagraphs:

5100(c)	Dishonesty, fraud, or gross negligence in the practice of public accountancy or in the performance of the bookkeeping operations described in section 5052.
5100(i)	Fiscal dishonesty or breach of fiduciary responsibility of any kind.
5100(j)	Knowing preparation, publication, or dissemination of false, fraudulent, or materially misleading financial statements, reports, or information.
5100(k)	Embezzlement, theft, or misappropriation of funds or property, or obtaining money, property, or other valuable consideration by fraudulent means or false pretenses.

5. Code sections 118(b) and 5109 provide in pertinent part that the suspension, expiration, cancellation, or forfeiture of a license issued by the Board shall not deprive the Board of its authority to investigate, or to institute or continue a disciplinary proceeding against, a 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.

///

---

1. All statutory references are to the Business and Professions Code unless otherwise indicated.

6. Code section 5070.6 of the Code provides, in pertinent part, that an expired permit may be renewed at any time within five years after its expiration.

7. Code section 5107 provides for recovery by the Board of all reasonable costs of investigation and prosecution of the case, including, but not limited to, attorney's fees when any holder of a permit or certificate is found to have committed a violation or violations of this chapter. A certified copy of the actual costs, or a good faith estimate of costs signed by the Executive Officer, shall be prima facie evidence of reasonable costs of investigation and prosecution of the case.

8. Code section 5000.1 provides as follows: "Protection of the public shall be the highest priority for the California Board of Accountancy in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount."

FIRST CAUSE FOR DISCIPLINE

(Dishonesty, Fraud, Gross Negligence)

9. Respondent is subject to disciplinary action under section 5100 (c) in that he committed acts of dishonesty, fraud, or gross negligence in the practice of public accountancy or in the performance of the bookkeeping operations as follows:

a. From September 16, 2003, through November 23, 2004, while acting as the accountant for Sunstar Investments, Inc. (Sunstar), and responsible for writing checks for corporate disbursements, Respondent wrote the following checks to himself from the corporate account without permission or authorization from Sunstar:

Date	Check No.	Amount	On Check Register?
9-16-03	1303	$ 3,000.00	No
10-30-03	1308	$ 3,500.00	No
11-20-03	1313	$ 3,500.00	No
12-01-03	1315	$ 3,000.00	No
12-11-03	1320	$ 3,500.00	No
1-20-04	1323	$ 4,000.00	No

Date	Check No.	Amount	On Check Register?
2-9-04	1325	$ 2,000.00	No
5-20-04	1330	$ 2,000.00	No
6-17-04	1333	$ 2,000.00	No
7-12-04	1335	$ 4,000.00	No
9-15-04	1343	$ 4,000.00	No
9-20-04	1344	$ 2,000.00	No
9-30-04	1346	$ 2,500.00	No
11-08-04	1450	$ 2,000.00	No
11-23-04	1350	$ 4,000.00	No
TOTAL		**$45,000.00**	

b. Respondent paid restitution to his client Sunstar.

SECOND CAUSE FOR DISCIPLINE

(Knowing Preparation, Publication, or Dissemination of False, Fraudulent, or Materially Misleading Financial Statements)

10. Respondent is subject to disciplinary action under section 5100(j) in that he knowingly prepared, published, or disseminated false, fraudulent, or materially misleading financial statements, reports, or information as follows:

a. Respondent prepared and filed for his client Sunstar financial reports that he knew failed to reflect the funds that he had taken from Sunstar for himself. Per records prepared by Respondent, Sunstar's checking account balances as of December 31, 2003 and 2004 were $37,123.51 and $62,375.91, respectively, as reflected on Sunstar's check register, general ledger and financial reports. The actual checking account balances, however, should have been as follows:

Bank balance, December 31, 2003		$ 70,973.51
Less outstanding checks:		
Check # 1321	$ 50,000.00	
Check # 1322	350.00	50,350.00
Actual reconciled checking account balance		20,623.51
Balance per records prepared by Respondent		37,123.51
Difference		$ 16,500.00

Bank balance December 31, 2004	$ 19,375.91
No outstanding checks or deposits	-0-
Actual reconciled checking account balance	19,375.91
Balance per records prepared by Respondent	62,375.91
Difference	$ 43,000.00[2]

THIRD CAUSE FOR DISCIPLINE

(Embezzlement, Theft, Misappropriation of Funds)

11. Respondent is subject to disciplinary action under section 5100(k) in that he committed acts of embezzlement, theft, or misappropriation of funds or property, or obtaining money, property, or other valuable consideration by fraudulent means or false pretenses by using his position with Sunstar to wrongfully obtain money from Sunstar for his personal use and then conceal his actions by falsifying the company records as more fully described in paragraphs 9 and 10, above.

FOURTH CAUSE FOR DISCIPLINE

(Fiscal Dishonesty or Breach of Fiduciary Responsibility)

12. Respondent is subject to disciplinary action under section 5100(i) for having committed acts of fiscal dishonesty or breach of fiduciary responsibility in that when he performed the actions described in paragraphs 9, 10, and 11, above, he was employed by Sunstar as their accountant, and his actions were, therefore, a breach of his fiduciary responsibility to Sunstar.

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 or suspending or otherwise imposing discipline upon Certified Public Accountant Certificate No. 12039, issued to Stephen Lee Waggle.

2. Ordering Stephen Lee Waggle to pay the California Board of Accountancy

---

2. The difference between this $43,000.00 total and the $45,000.00 total referred to in paragraph 9, above, is the result of the different ways in which a deposit made on May 24, 2004 was reported on company records. The deposit was reflected on Sunstar's bank statement in the amount of $4,000.00, but appeared in the amount of $2,000.00 on the general ledger prepared by Respondent.

the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 5107;

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

DATED: September 5, 2006

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

SA2006101658