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

In the Matter of the Accusation Against: MITCHELL QUAN DANG 20015 Community Street Winnetka, CA 91306 Certified Public Accountant Certificate No. 82283 Respondent.	Case No. AC 2008-3 OAH No.

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 09-01-2008.

It is so ORDERED 08-01-2008.

Donald A. Driftmier
FOR THE CALIFORNIA BOARD OF ACCOUNTANCY

DEPARTMENT OF CONSUMER AFFAIRS

EDMUND G. BROWN JR., Attorney General
of the State of California
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BEFORE THE
CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: MITCHELL QUAN DANG 20015 Community Street Winnetka, CA 91306 Certified Public Accountant Certificate No. 82283 Respondent.	Case No. AC 2008-3 OAH No. **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 Edmund G. Brown Jr., Attorney General of the State of California, by Thomas L. Rinaldi, Deputy Attorney General.

2. Mitchell Quan Dang (Respondent) is representing himself in this proceeding and has chosen not to exercise his right to be represented by counsel.

3. On or about December 12, 2001, the California Board of Accountancy issued Certified Public Accountant Certificate No. 82283 to Respondent. The Certified Public Accountant Certificate will expire on November 30, 2009, unless renewed.

JURISDICTION

4. Accusation No. AC 2008-3 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 February 27, 2008. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. AC 2008-3 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and understands the charges and allegations in Accusation No. AC 2008-3. Respondent has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary 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. Respondent admits the truth of each and every charge and allegation in Accusation No. AC 2008-3.

9. Respondent agrees that his Certified Public Accountant Certificate is subject to discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

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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 settlement, without notice to or participation by Respondent. 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 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.

11. 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.

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 Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Certified Public Accountant Certificate No. 82283 issued to Respondent Mitchell Quan Dang (Respondent) is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years 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. **Practice Investigation.** Respondent shall be subject to, and shall permit, practice investigation of the Respondent's professional practice. Such a practice investigation shall be conducted by representatives of the Board, provided notification of such review is accomplished in a timely manner.

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

7. **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.

8. **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.

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

10. **Ethics Course/Examination.** Respondent shall take and pass with a score of 90 percent or better a Board approved ethics examination within one year of the effective date of the Board's decision adopting this stipulation.

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 he 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.

11. **Cost Reimbursement.** Respondent shall reimburse the Board $3,450 for its investigation and prosecution costs. Payment of these costs shall be made as follows: equal quarterly payments of $431.25, due with the quarterly written reports required by term and condition of probation no. 2, with the final payment due one year before probation is scheduled to terminate.

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ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Certified Public Accountant Certificate. 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: 5-27-08.

MITCHELL QUAN DANG
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: 6/11/08

EDMUND G. BROWN JR., Attorney General
of the State of California

KAREN B. CHAPPELLE
Supervising Deputy Attorney General

THOMAS L. RINALDI
Deputy Attorney General

Attorneys for Complainant

DOJ Matter ID: LA2007601577
dang stipulation.wpd

Exhibit A

Accusation No. AC 2008-3

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

In the Matter of the Accusation Against: MITCHELL QUAN DANG 20015 Community Street Winnetka, CA 91306 Certified Public Accountant Certificate No. 82283 Respondent.	Case No. AC-2008-3 **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 December 12, 2001, the California Board of Accountancy issued Certified Public Accountant Certificate Number 82283 to Mitchell Quan Dang (Respondent). The Certificate is subject to renewal every two years (on December 1 of odd-numbered years) pursuant to Business and Professions Code section 5070.5. The Certified Public Accountant Certificate was issued in "active" status until its renewal in an "inactive" status effective December 1, 2003, in which status it has remained, and is renewed through November 30, 2009.

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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. Section 5100 states in pertinent part:

"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:

"(a) Conviction of any crime substantially related to the qualifications, functions and duties of a certified public accountant or a public accountant."

. . .

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

5. Section 5063, subdivision (a), states, in pertinent part:

"A licensee shall report to the board in writing of the occurrence of any of the following events . . . within 30 days of the date the licensee has knowledge of these events:

"(1) The conviction of the licensee of any of the following:

"(A) A felony.

"(B) Any crime related to the qualifications, functions, or duties of a public accountant or certified public accountant, or to acts or activities in the course and scope of the practice of public accountancy.

"(C) Any crime involving theft, embezzlement, misappropriation of funds or property, breach of a fiduciary responsibility, or the preparation, publication, or dissemination of false, fraudulent, or materially misleading financial statements, reports, or information.

As used in this section, a conviction includes the initial plea, verdict, or finding of guilt, pleas of no contest, or pronouncement of sentence by a trial court even though that conviction may not be

final or sentence actually imposed until appeals are exhausted."

6. Section 5107(a) of the Code states:

"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."

7. Section 490 of the Code states:

"A board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code."

FIRST CAUSE FOR DISCIPLINE

(Substantially Related Conviction)

8. Respondent is subject to disciplinary action under section 5100(a) and 490, in that Respondent was convicted of a crime substantially related to the qualifications, functions, or duties of a Certified Public Accountant when, on September 8, 2006, he pled no contest to one felony count of violating Penal Code section 459 (Second Degree Commercial Burglary) in the Superior Court for the State of California (County of Los Angeles) in a case entitled *The People of the State of California v. Mitchell Quan Dang*, Case No. LA052270.[1] The circumstances are that on or around April 27, 2006, Respondent entered a commercial

1. The felony has since been reduced to a misdemeanor.

building occupied by Nordstrom's Rack with the intent to commit larceny and any felony.

SECOND CAUSE FOR DISCIPLINE

(Theft)

9. Respondent is subject to disciplinary action under section 5100(k) in that Respondent committed theft as further described in paragraph no. 8.

THIRD CAUSE FOR DISCIPLINE

(Failure to Report Conviction)

10. Respondent is subject to disciplinary action under section 5063, subdivision (a)(1)(A), (B) and (C), in that he failed to report to the board in writing the conviction described in paragraph no. 8.

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 Number 82283, issued to Mitchell Quan Dang;

2. Ordering Mitchell Quan Dang 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;

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

DATED: February 21, 2008

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

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