DANIEL E. LUNGREN, Attorney General
of the State of California
GLYNDA B. GOMEZ,
Deputy Attorney General, State Bar No. 143448
Department of Justice
300 South Spring Street
Los Angeles, California 90013
Telephone: (213) 897-2542

Attorneys for Complainant

BEFORE THE BOARD OF ACCOUNTANCY

DEPARTMENT OF CONSUMER AFFAIRS

STATE OF CALIFORNIA

In the Matter of the Accusation Against: Joseph Thomas Heidelman 440 W. Baseline Road Claremont, CA 91711 Accountancy Certificate No. 35386 Respondent.	NO. AC-96-19 DEFAULT DECISION

FINDINGS OF FACT

1. On or about December 9, 1996, Complainant Carol Sigmann, in her official capacity as Executive Officer of the Board of Accountancy, Department of Consumer Affairs, State of California ("Complainant"), filed an Accusation No. AC-96-19 against JOSEPH THOMAS HEIDELMAN ("respondent") which is incorporated herein by reference as though fully set forth herein and attached hereto as Exhibit 1.

2. On or about January 2, 1997, Tom Buck, an employee of the Office of the Attorney General, sent by certified mail, a copy of ACCUSATION No. AC-96-19, Statement to Respondent, Government Code sections 11507.5, 11507.6, and 11507.7, the Notice of Defense form, and a Request for Discovery, to respondent's

address of record with the Board which was and is 440 W. Baseline Road, Claremont, CA 91711. On or about January 3, 1997, S. Perez signed for the above referenced certified mailing. The above-described service was effective as a matter of law pursuant to the provisions of California Government Code section 11505, subdivision (c).

3. On July 30, 1982, the Board issued Certificate No. CPA 35386 to respondent. The certificate expired on February 1, 1992 because the renewal fee, required by Business and Professions Code Section 5070.5 was not paid and evidence of compliance with continuing education regulations was not submitted.

4. Said certificate was in delinquent status and was not valid during the period of February 1, 1992 through July 24, 1994. The certificate was renewed effective July 25, 1994 upon receipt of the renewal fee and evidence of compliance with the continuing education requirement. Said certificate was in full force and effect from July 25, 1994 until February 1, 1996. Said certificate expired on February 1, 1996 because the renewal fee required by Business and Professions Code Section 5070.50 was not paid and evidence of compliance with continuing education regulation was not submitted.

STATUTES AND REGULATIONS

5. California Business and Professions Code section 118 provides, in pertinent part:

"(b) 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 license on any such ground."

6. California Government Code section 11506 provides, in pertinent part:

"(b) The respondent shall be entitled to a hearing on the merits if he files a notice of defense, and any such notice shall be deemed a specific denial of all parts of the accusation not expressly admitted. Failure to file such notice shall constitute a waiver of respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing. ..."

7. Respondent failed to file a Notice of Defense within 15 days after service upon him of ACCUSATION NO. AC-96-19 and therefore waived his right to a hearing on the merits of ACCUSATION No. AC-96-19.

8. California Government Code section 11520 provides, in pertinent part:

"(a) If the respondent fails to file a notice of defense or to appear at the hearing, the agency may take action based upon the respondent's express admissions or upon other evidence and affidavits may be used as evidence without any notice to respondent; ..."

9. The Board of Accountancy, Department of Consumer Affairs, State of California is authorized to revoke respondent's Certificate/license to practice pursuant to the provisions of Section 5100 of the California Business and Professions Code. Section 5100 provides that the Board may revoke, suspend or refuse to renew any permit or certificate for unprofessional conduct.

10. Pursuant to its authority under Government Code section 11520, and based upon the evidence before it, the Board finds that the allegations, and each of them, contained in ACCUSATION No. AC-96-19 are true.

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DETERMINATION OF ISSUES

1. Respondent is subject to disciplinary action pursuant to sections 5100 and 5050 of the California Business and Professions Code by reason of the above findings and cause for revocation has thereby been established.

ORDER OF THE BOARD

Certified Public Accountancy Certificate No. 35386, heretofore issued to respondent JOSEPH THOMAS HEIDELMAN, is hereby revoked. An effective date of MAY 3, 19__, has been assigned to this Order.

Pursuant to California Government Code section 11520, subdivision (b), respondent is entitled to make any showing by way of mitigation; however, such showing must be made in writing to the BOARD OF ACCOUNTANCY, DEPARTMENT OF CONSUMER AFFAIRS prior to the effective date of this decision.

Made this 3rd day of APRIL, 1997.

Robert J. Shackleton, President
Board of Accountancy
Department of Consumer Affairs

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BEFORE THE BOARD OF ACCOUNTANCY

DEPARTMENT OF CONSUMER AFFAIRS

STATE OF CALIFORNIA

In the Matter of the Accusation Against: Joseph Thomas Heidelman 440 W. Baseline Road Claremont, CA 91711 Accountancy Certificate No. 35386 Respondent.	NO. AC-96-19 ACCUSATION

COMES NOW Complainant Carol Sigmann, who as cause for disciplinary action against Respondent Thomas Joseph Heidelman, alleges:

PARTIES

1. Complainant is the Executive Officer of the Board of Accountancy, Department of Consumer Affairs, State of California ("Board") and makes and files this accusation solely in her official capacity.

LICENSE STATUS

2. On or about July 30, 1982, the Board issued to Joseph Thomas Heidelman (hereinafter referred to as the "respondent") Certified Public Accountant certificate number CPA 35386. The certificate expired on February

1, 1992 because the renewal fee, required by Business and Professions Code Section 5070.5 was not paid and evidence of compliance with continuing education regulations was not submitted.

3. Said certificate was in delinquent status and was not valid during the period of February 1, 1992 through July 24, 1994. The certificate was renewed effective July 25, 1994 upon receipt of the renewal fee and evidence of compliance with the continuing education requirement. Said certificate was in full force and effect from July 25, 1995 until February 1, 1996. Said certificate expired on February 1, 1996 because the renewal fee required by Business and Professions Code Section 5070.50 was not paid and evidence of compliance with continuing education regulations was not submitted.

STATUTES AND REGULATIONS

4. Business and Professions Code section 5100 provides that the Board may revoke, suspend or refuse to renew any permit or certificate, or may censure the holder of a certificate or permit for unprofessional conduct, including but not limited to (a) conviction of a crime substantially related to the qualifications, functions and duties of a certified public accountant or a public accountant, and (f) willful violation of any rule or regulation promulgated by the board under the authority granted under this chapter.

5. Business and Professions Code section 5050 provides that no person shall engage in the practice of public accountancy in this State unless such a person is the holder of a valid permit to practice public accountancy issued by the board.

6. Business and Professions Code Section 490 provides that the Board may suspend or revoke the certificate of a certified public accountant if the holder of the permit stands convicted of a crime that substantially relates to the qualifications and duties of the profession for which the certificate was issued.

7. Title 16, California Code of Regulations section 99 provides that a crime is considered by the Board to be substantially related to the qualifications, functions, or the duties of a certified public accountant if to a substantial degree it evidences the present or potential unfitness of the holder to perform the function authorized by the certificate in a manner consistent with the public health, safety or welfare, including but not limited to those involving fiscal dishonesty, breach of fiduciary duty of any kind, dishonesty, fraud, gross negligence in the practice of public accountancy or in the performance of bookkeeping operation.

8. California Code of Regulations Section 52 and 52.1 (Board Rules 52 and 52.1) provide that a licensee's willful failure or refusal to respond to Board inquiries and/ or to appear in person before the administrative committee constitutes a violation of Business and Professions Code Section 5100(f).

CAUSES FOR DISCIPLINE

9. Respondent is subject to discipline under Business and Professions Code section 5100(f) in conjunction with section 5050 and 5055, by the reason of the following facts:

> From the period of February 1, 1992 to July 24, 1994, respondent engaged in the practice of public accountancy and held out as a certified public accountant without a valid permit.

10. Respondent is subject to discipline by the Board pursuant to Business and Professions Code sections 5100(a) and 490 for conviction of substantially related crimes within the scope of Business and Professions Code section 5100(a) and 490 by reason of the following facts:

> On August 30, 1994, respondent was convicted of a misdemeanor violation, Business and Professions Code Section 16240 (carrying

on any business trade, profession or calling for which a license is required by any law of this state without a license) and Business and Professions Code Section 5055(holding oneself out as a Certified Public Accountant without a valid license).

11. Respondent has subjected his license to discipline under Business and Professions Code section 5100(f) in conjunction with California Code of Regulations 52.1 (Board Rule 52.1) by reason of the following facts:

a. Respondent failed to appear in person before the Administrative committee of the Board on June 22, 1995 and on October 19, 1995.

b. Respondent did not respond to information requests from the Board dated February 5, 1993, March 5, 1993, June 1, 1993, September 13, 1993 and February 8, 1994.

c. Respondent failed to respond to two (2) inquires from he Board's cite and Fine program dated January 23, 1994 and February 14, 1994.

PRAYER

WHEREFORE, complainant requests that the Board hold a hearing on the matters alleged herein, and that following said hearing, the Board issue a decision:

1. Revoking or suspending Accountancy Certificate Number 35386, heretofore issued to respondent Joseph Thomas Heidelman;

2. Taking such other and further action as the Board deems appropriate to protect the public health, safety and welfare.

DATED: December 9, 1996

Carol Sigmann, Executive Officer
Board of Accountancy
State of California
Complainant