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

| | | |
|---------------------------------|---|------------------|
| In the Matter of the Accusation |) | No. AC-96-27 |
| Against: |) | |
| CHERYL LYNN MORTEN |) | DEFAULT DECISION |
| 7612 Corona Court |) | AND ORDER |
| Fontana, California 92336 |) | |
| Certificate No, CPA 40866 |) | |
| Respondent. |) | |

On November 12, 1996, Accusation Number AC-96-27 was filed by Complainant Carol B. Sigmann (hereinafter referred to as "Complainant") in her official capacity as Executive Officer of the Board of Accountancy (hereinafter referred to as "the Board"), Department of Consumer Affairs of the State of California against Cheryl Lynn Morten (hereinafter referred to as "the Respondent"), holder of Certificate Number 40866.

On November 22, 1996, the Accusation along with the Statement to Respondent, excerpts from California Government Code, sections 11507.5, 11507.6 and 11507.7, a Request for Discovery, and a Notice of Defense (hereinafter referred to as "the Accusation Package") was served on Respondent by certified mail addressed to Respondent at 7612 Corona Court, Fontana, California 92336.

1 Pursuant to California Code of Regulations, Title 16, Section 3, as a holder of
2 a certificate from the Board, Respondent is required to notify the Board, in writing, of any
3 change in his/her address within 30 days of such change. Respondent's current mailing
4 address of record with the Board is 7612 Corona Court, Fontana, California 92336.

5 Respondent has been served with the Accusation Package in a manner
6 authorized by California Government Code, section 11505 (c) and California Code of Civil
7 Procedure, section 11. Respondent has failed to file a Notice of Defense as permitted by
8 California Government Code, section 11506 (a), and has otherwise failed to request a hearing,
9 object or otherwise contest the Accusation. Respondent has waived her right to a hearing on
10 the Accusation and is in default. Because of respondent's waiver, and pursuant to California
11 Government Code, section 11520(a), the Board takes action on the Accusation without a
12 hearing based upon the Accusation and documentary evidence on file, and makes the
13 following findings of fact and determination of issues.

14 FINDINGS OF FACT

15 1. Complainant, Carol B. Sigmann, the Executive Officer of the Board of
16 Accountancy, made and filed Accusation No. AC-96-27 in the above-entitled matter solely in
17 her official capacity.

18 2. On or about August 3, 1984, respondent was issued Certificate Number
19 40866 by the Board. Said certificate expired on August 1, 1990, and was in a delinquent
20 status and was not valid from August 1, 1990, through July 31, 1995. On July 31, 1995,
21 said certificate was renewed for the period August 1, 1990, through July 31, 1992. As of
22 February 7, 1996, said certificate remains in a delinquent status.

23 3. Respondent performed audits of the financial statements of Southland
24 Community Services for the fiscal years ending June 30, 1991, June 30, 1992, and June 30,
25 1993 (hereinafter "audit reports"). The audit reports prepared by respondent exhibit the
26 same deficiencies and departures from applicable professional standards as follows:

27 ///

1 a. Respondent issued audit reports which each omit a statement that an
2 audit includes examining, on a test basis, evidence supporting the amounts and disclosures in
3 the financial statements, and assessing the accounting principles used and significant
4 estimates made by management.

5 b. Respondent issued audit reports which each omit an opinion covering
6 the client's cash flows for the year.

7 c. Respondent issued audit reports which each omit specific identification
8 of each financial statement in the introductory paragraph of the report.

9 4. The statements of cash flows presented with the Respondent's audit
10 reports exhibit gross departures from professional standards in both format and disclosures.
11 The statements of cash flows do not provide a reconciliation of net income to net cash flows
12 from operating activities.

13 5. Respondent prepared audit reports that failed to describe uncertainty
14 about Southland Community Services' ability to continue as a going concern.

15 a. Respondent issued an unqualified opinion for the fiscal year ending
16 June 30, 1993, which failed to include relevant factors pertaining to the decline in Southland
17 Community Services' financial condition from 1990 through 1993.

18 b. Respondent failed to evaluate whether there was substantial doubt about
19 Southland Community Services' ability to continue as a going concern for a reasonable
20 period of time, not to exceed one year, beyond the date of the financial statements being
21 audited.

22 c. Respondent failed to include an explanatory paragraph in the audit
23 reports reflecting the conclusion that there is substantial doubt about Southland Community
24 Services' ability to continue as a going concern.

25 6. Respondent's license expired on August 1, 1990.
26 Respondent prepared audit reports dated February 22, 1992, December 22, 1992, and
27 November 1, 1993, for the fiscal years ending June 30, 1991, June 30, 1992 and June 30,

1 1993, respectively. The audit reports were prepared when Respondent's license was in an
2 expired status.

3 7. Respondent prepared audit reports dated December 22, 1992, and
4 November 1, 1993, on letterhead bearing the name "C. L. Morten and Associates, Certified
5 Public Accountants". This fictitious name has not been approved by the Board in any form.
6 Further, as a sole practitioner, Respondent is not entitled to utilize the plural term
7 "accountants" as part of her firm's name.

8 8. Respondent represented to the Board in a letter dated September 15,
9 1989, that she was "not operating under the name "C.L. Morten and Associates," and that
10 "all publication[s] sent to me have been read and corrective actions taken."

11 9. Despite Respondent's representations to the Board, the letterhead of
12 Respondent's audit reports thereafter dated November 22, 1992, and December 1, 1993, bear
13 the name "C. L. Morten and Associates, Certified Public Accountants". This fictitious name
14 has not been approved by the Board in any form. Further, as a sole practitioner, Respondent
15 is not entitled to utilize the plural term "accountants" as part of her firm's name.

16 10. Respondent's address of record with the Board, as of March 24, 1989,
17 was 2728 Bearcreek, Ontario, California. This address appears on Respondent's audit report
18 for Southland Community Services for the fiscal year ending June 30, 1991.

19 a. Respondent's audit report for Southland Community Services for the
20 fiscal year ending June 30, 1992, bears the address 10565 Civic Center Drive, Rancho
21 Cucamonga, California.

22 b. Respondent's audit report for Southland Community Services for the
23 fiscal year ending June 30, 1993, bears the address 3856 West Martin Luther King
24 Boulevard, Los Angeles, California.

25 c. Respondent was located during the investigation of the facts supporting
26 this Accusation at the address 13540 Dana Court, Fontana, California.

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1 4. Cause for discipline exists pursuant to California Business and
2 Professions Code Section 5100(c) for gross negligence in failing to comply with the
3 Codification of Statements on Auditing Standards ["SAS"] promulgated by the American
4 Institute of Certified Public Accountants. SAS No. 59 and AU § 341.02 provide that the
5 auditor has a responsibility to evaluate whether there is substantial doubt about an entity's
6 ability to continue as a going concern for a reasonable period of time, not to exceed one year
7 beyond the date of the financial statements being audited. AU § 341.12 further provides that
8 the audit report must include an explanatory paragraph, if, after considering all relevant
9 factors, the auditor concludes that there is substantial doubt about an entity's ability to
10 continue as a going concern. Cause for discipline exists for each item set forth in Findings
11 of Fact No. 5, for the audit report prepared by Respondent for the fiscal year ending June
12 30, 1993.

13 5. Cause for discipline exists pursuant to California Business and
14 Professions Code Section 5050 for engaging in the practice of public accountancy, as
15 described in Section 5051, in this State without a valid permit issued by the Board, by reason
16 of Findings of Fact No. 6.

17 6. Cause for discipline exists pursuant to Regulation Section 67, for
18 practicing under a name other than her own until such name has been registered with and
19 approved by the Board, by reason of Findings of Fact No. 7.

20 7. Cause for discipline exists pursuant to Regulation Section 66, for using
21 a plural designation in her firm's name when she is a sole practitioner, by reason of Findings
22 of Fact No. 8.

23 8. Cause for discipline exists pursuant to California Business and
24 Professions Code Section 5100(f) since Respondent willfully violated a rule or regulation
25 promulgated by the Board requiring the Board to approve all fictitious names and preventing
26 Respondent from using plural nomination, by reason of Findings of Fact Nos. 8 and 9.

27 ///

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of the State of California
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5 Attorneys for Complainant

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

9

10

11 In the matter of the Accusation) No. AC-96-27
Against:)
12) ACCUSATION
CHERYL LYNN MORTEN)
13 7612 Corona Court)
Fontana, California 92336)
14)
Certificate No. CPA 40866)
15)
Respondent.)
16)
17)

17

18 Complainant, Carol B. Sigmann, as cause for disciplinary
19 action, alleges:

20 1. Complainant Carol B. Sigmann ("Complainant") is the
21 executive Officer of the California Board of Accountancy
22 ("Board") and makes and files the Accusation solely in her
23 official capacity.

24 LICENSE STATUS

25 2. On or about August 3, 1984, Certificate Number 40866
26 was issued by the Board to Cheryl Lynn Morten ("Respondent").
27 Said certificate expired on August 1, 1990, and was in a
28 delinquent status and was not valid from August 1, 1990 through

1 July 31, 1995. On July 31, 1995, said certificate was renewed
2 for the period August 1, 1990 through July 31, 1992. As of
3 February 7, 1996, said certificate remains in a delinquent
4 status.

5 STATUTES

6 3. This Accusation is made in reference to the following
7 sections of the California Business and Professions Code.

8 a. Section 5100 provides that the Board may revoke,
9 suspend or refuse to renew any permit or certificate
10 issued by the Board, or may censure the holder of any
11 such permit or certificate for unprofessional conduct
12 which includes, but is not limited to, one or any
13 combination of the following:

14 (c) Dishonesty, fraud, or gross negligence
15 in the practice of public accountancy.

16 (f) Willful violation of this chapter or any
17 rule or regulation promulgated by the Board
18 under the authority granted under this
19 chapter.

20 b. Section 5050 provides that no person shall engage
21 in the practice of public accountancy in this State
22 without a valid permit to practice issued by the Board.

23 REGULATIONS

24 4. This Accusation is made in reference to the following
25 regulations of the California Code of Regulations, Title 16
26 ("Regulation"):

27 a. Section 67 prohibits a licensee from practicing
28 under a name other than her own until such name has

1 been registered with and approved by the Board.

2 b. Section 66 provides that a licensee shall not use
3 a firm name which includes plural terms such as "and
4 Associates," unless she maintains a full-time
5 professional staff consisting of a licensee or an
6 employee or assistant as described in Section 5053 of
7 the Accountancy Act. An individual practitioner shall
8 not use the plural designation "Certified Public
9 Accountants".

10 c. Section 3 provides that it is mandatory for every
11 permit holder to file, in writing, with the Board at
12 the time of payment of her renewal fee, her address and
13 business connections and to notify the Board, in
14 writing, within 30 days of any change thereof occurring
15 during the renewal period.

16 AUDIT REPORTS OF FINANCIAL STATEMENTS OF SOUTHLAND
17 COMMUNITY SERVICES FOR THE FISCAL YEARS ENDING
 JUNE 30, 1991, JUNE 30, 1992 AND JUNE 30, 1993

18 5. Respondent performed audits of the financial statements
19 of Southland Community Services for the fiscal years ending June
20 30, 1991, June 30, 1992, and June 30, 1993 (hereinafter "audit
21 reports"). The audit reports prepared by respondent exhibit the
22 same deficiencies and departures from applicable professional
23 standards as follows:

24 a. Respondent issued audit reports which each omit a
25 statement that an audit includes examining, on a test basis,
26 evidence supporting the amounts and disclosures in the financial
27 statements, and assessing the accounting principles used and
28 significant estimates made by management.

1 b. Respondent issued audit reports which each omit an
2 opinion covering the client's cash flows for the year.

3 c. Respondent issued audit reports which each omit
4 specific identification of each financial statement in the
5 introductory paragraph of the report.

6 6. As a result of the conduct described in paragraph 5,
7 Respondent is subject to discipline under California Business and
8 Professions Code Section 5100(c) for gross negligence in failing
9 to comply with the Codification of Statements on Auditing

10 Standards promulgated by the American Institute of Certified
11 Public Accountants (hereinafter referred to as "AU § ____").

12 AU § 508.06 requires specific identification of each financial
13 statement in the introductory paragraph of the auditor's report.

14 AU § 508.08 requires that the report include specific language
15 regarding what an audit entails, and an opinion that encompasses
16 the entity's cash flows. Respondent is subject to discipline for
17 each item set forth in paragraph 5, for each of the audit reports
18 prepared by respondent for the fiscal years ending June 30, 1991,
19 June 30, 1992, and June 30, 1993.

20 7. The statements of cash flows presented with the
21 Respondent's audit reports exhibit gross departures from
22 professional standards in both format and disclosures. The
23 statements of cash flows do not provide a reconciliation of net
24 income to net cash flows from operating activities.

25 8. As a result of the conduct described in paragraph 7,
26 Respondent is subject to discipline under California Business and
27 Professions Code Section 5100(c) for gross negligence in failing
28 to comply with the Statements of Financial Accounting Standards

1 ["SFAS"] promulgated by the Financial Accounting Standards Board.
2 SFAS Number 95, paragraphs 14 through 24, require that a
3 statement of cash flows classify cash receipts and cash payments
4 by "investing," "financing," or "operating" activities.
5 Respondent is subject to discipline for the conduct set forth in
6 paragraph 7, for each of the audit reports prepared by Respondent
7 for the fiscal years ending June 30, 1991, June 30, 1992, and
8 June 30, 1993.

9 9. Respondent prepared audit reports that failed to
10 describe uncertainty about Southland Community Services' ability
11 to continue as a going concern.

12 a. Respondent issued an unqualified opinion for the fiscal
13 year ending June 30, 1993, which failed to include relevant
14 factors pertaining to the decline in Southland Community
15 Services' financial condition from 1990 through 1993.

16 b. Respondent failed to evaluate whether there was
17 substantial doubt about Southland Community Services' ability to
18 continue as a going concern for a reasonable period of time, not
19 to exceed one year, beyond the date of the financial statements
20 being audited.

21 c. Respondent failed to include an explanatory paragraph
22 in the audit reports reflecting the conclusion that there is
23 substantial doubt about Southland Community Services' ability to
24 continue as a going concern.

25 10. As a result of the conduct described in paragraph 9,
26 Respondent is subject to discipline under California Business and
27 Professions Code Section 5100(c) for gross negligence in failing
28 to comply with the Codification of Statements on Auditing

1 Standards ["SAS"] promulgated by the American Institute of
2 Certified Public Accountants. SAS No. 59 and AU § 341.02 provide
3 that the auditor has a responsibility to evaluate whether there
4 is substantial doubt about an entity's ability to continue as a
5 going concern for a reasonable period of time, not to exceed one
6 year beyond the date of the financial statements being audited.
7 AU § 341.12 further provides that the audit report must include
8 an explanatory paragraph, if, after considering all relevant
9 factors, the auditor concludes that there is substantial doubt
10 about an entity's ability to continue as a going concern.
11 Respondent is subject to discipline for each item set forth in
12 paragraph 9, for the audit report prepared by Respondent for the
13 fiscal year ending June 30, 1993.

14 PRACTICING WITHOUT A LICENSE

15 11. Respondent's license expired on August 1, 1990.
16 Respondent prepared audit reports dated February 22, 1992,
17 December 22, 1992, and November 1, 1993, for the fiscal years
18 ending June 30, 1991, June 30, 1992 and June 30, 1993,
19 respectively. The audit reports were prepared when Respondent's
20 license was in an expired status.

21 12. As a result of the conduct described in paragraph 11,
22 Respondent is subject to discipline under California Business and
23 Professions Code Section 5050 for engaging in the practice of
24 public accountancy, as described in Section 5051, in this State
25 without a valid permit issued by the Board.

26 USING AN UNAPPROVED FICTITIOUS NAME

27 13. Respondent prepared audit reports dated December 22,
28 1992, and November 1, 1993, on letterhead bearing the name "C. L.

1 Morten and Associates, Certified Public Accountants". This
2 fictitious name has not been approved by the Board in any form.
3 Further, as a sole practitioner, Respondent is not entitled to
4 utilize the plural term "accountants" as part of her firm's name.

5 14. As a result of the conduct described in paragraph 13,
6 Respondent is subject to discipline under Regulation Section 67,
7 for practicing under a name other than her own until such name
8 has been registered with and approved by the Board.

9 15. As a result of the conduct described in paragraph 13,
10 Respondent is subject to discipline under Regulation Section 66,
11 for using a plural designation in her firm's name when she is a
12 sole practitioner.

13 WILFUL VIOLATION OF BOARD RULES

14 16. Respondent represented to the Board in a letter dated
15 September 15, 1989, that she was "not operating under the name
16 "C.L. Morten and Associates," and that "all publication[s] sent
17 to me have been read and corrective actions taken."

18 17. Despite Respondent's representations to the Board, the
19 letterhead of Respondent's audit reports thereafter dated
20 November 22, 1992, and December 1, 1993, bear the name "C. L.
21 Morten and Associates, Certified Public Accountants". This
22 fictitious name has not been approved by the Board in any form.
23 Further, as a sole practitioner, Respondent is not entitled to
24 utilize the plural term "accountants" as part of her firm's name.

25 18. As a result of the conduct described in paragraphs 16
26 and 17, Respondent is subject to discipline under California
27 Business and Professions Code Section 5100(f) since Respondent
28 willfully violated a rule or regulation promulgated by the Board

1 requiring the Board to approve all fictitious names and
2 preventing Respondent from using plural nomination.

3 FAILURE TO NOTIFY BOARD OF CHANGE OF ADDRESS

4 19. Respondent's address of record with the Board is 2728
5 Bearcreek, Ontario, California. This address appears on
6 Respondent's audit report for Southland Community Services for
7 the fiscal year ending June 30, 1991.

8 a. Respondent's audit report for Southland Community
9 Services for the fiscal year ending June 30, 1992, bears the
10 address 10565 Civic Center Drive, Rancho Cucamonga, California.

11 b. Respondent's audit report for Southland Community
12 Services for the fiscal year ending June 30, 1993, bears the
13 address 3856 West Martin Luther King Boulevard, Los Angeles,
14 California.

15 c. Respondent was located during the investigation of the
16 facts supporting this Accusation at the address 13540 Dana Court,
17 Fontana, California.

18 d. Respondent advised the Board's investigator that her
19 current address is 7612 Corona Court, Fontana, California, as of
20 January 20, 1995.

21 20. Respondent failed to notify the Board of her address
22 changes since she last renewed her license after completing the
23 August 1, 1986 through July 31, 1988 licensing period.

24 21. As a result of the conduct described in paragraphs 19
25 and 20, Respondent is subject to discipline under the mandatory
26 provisions of Regulation Section 3 which require permit holders
27 to notify the Board of address and business connections and
28 changes in writing.

