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of the State of California
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6 Attorneys for Complainant

7
8 BEFORE THE
BOARD OF ACCOUNTANCY
9 DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA
10

11 In the Matter of the Accusation) NO. AC-97-6
Against:)
12)
MICHAEL DANIEL STEIN) STIPULATION IN
13 1660 Chicago Ave., Suite M-1) SETTLEMENT AND DECISION
Riverside, CA 92507)
14)
Certificate No. 24016)
15)
Respondent.)
16)

17
18 Complainant, Carol B. Sigmann, Executive Officer of the
19 Board of Accountancy, Department of Consumer Affairs of the State
20 of California, by and through her attorney, Daniel E. Lungren,
21 Attorney General of the State of California, by Rhonda L.
22 Cartwright-Ladendorf, Deputy Attorney General, and Michael Daniel
23 Stein ("respondent"), hereby stipulate as follows:

24 1. The Board of Accountancy, Department of Consumer
25 Affairs ("Board") acquired jurisdiction over respondent by reason
26 of the following:

27 A. Respondent was duly served with a copy of the
28 Accusation, Statement to Respondent, Request for Discovery, Form
Notice of Defense and copies of Government Code sections 11507.5,

1 11507.6 and 11507.7 as required by section 11503 and 11505, and
2 respondent timely filed a Notice of Defense within the time
3 allowed by section 11506 of the code.

4 B. Respondent has received and read the
5 Accusation which is presently on file as Case No. AC-97-6, before
6 the Board. Respondent understands the nature of the charges
7 alleged in the Accusation and that the charges and allegations
8 constitute cause for imposing discipline upon respondent's
9 license to practice public accountancy which was issued by the
10 Board of Accountancy.

11 2. Respondent is aware of each of his rights,
12 including the right to a hearing on the charges and allegations,
13 the right to confront and cross-examine witnesses who would
14 testify against respondent, the right to present evidence in his
15 favor and call witnesses on his behalf, or to testify, his right
16 to contest the charges and allegations, and other rights which
17 are accorded to respondent pursuant to the California
18 Administrative Procedure Act (Gov. Code, § 11500 et seq.),
19 including the right to seek reconsideration, review by the
20 superior court, and appellate review.

21 3. Respondent freely and voluntarily waives each and
22 every one of the rights set forth in paragraph 2.

23 4. Respondent understands that in signing this
24 Stipulation rather than contesting the accusation, he is enabling
25 the Board of Accountancy, Department of Consumer Affairs of the
26 State of California to issue the following order without further
27 process.

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1 5. The parties agree that the Stipulation recited
2 herein shall be null and void and not binding upon the parties
3 unless approved by the Board, except for this paragraph, which
4 shall remain in effect. The respondent understands and agrees
5 that in deciding whether or not to adopt this Stipulation the
6 Board may receive oral and written communications from its staff
7 and the Attorney General's office. Communications pursuant to
8 this paragraph shall not disqualify the Board or other persons
9 from future participation in this or any other matter affecting
10 respondent. In the event the Board in its discretion does not
11 approve this settlement, this Stipulation, with the exception of
12 this paragraph, is withdrawn and shall be of no evidentiary value
13 and shall not be relied upon or introduced in any disciplinary
14 action by either party hereto. Respondent agrees that should the
15 Board reject this Stipulation and if this case proceeds to
16 hearing, respondent will assert no claim that the Board was
17 prejudiced by its review and discussion of this Stipulation or of
18 any records related hereto.

19 6. Respondent admits he is guilty of violating
20 Business and Professions Code sections: 5037, subdivision (b),
21 5100, and 5100, subdivision (c), as alleged in paragraphs 6
22 through 11 of the Accusation (Beta Foster Care Charges); 5037,
23 subdivision (b), 5062 (in conjunction with California Code of
24 Regulations, section 58), 5100, and 5100, subdivision (c), as
25 alleged in paragraphs 12 through 21 of the Accusation (Business
26 Unlimited Property Management Charges); 5100, 5100, subdivision
27 (c), 17500 (in conjunction with California Code of Regulations,
28 section 63), as alleged in paragraphs 22 through 26 of the

1 Accusation (False Representation Charges). A true and correct
2 copy of the Accusation is attached to this Stipulation as Exhibit
3 A.

4 7. The parties agree that facsimile copies of this
5 Stipulation, including facsimile signatures of the parties, may
6 be used in lieu of original documents and signatures. The
7 facsimile copies will have the same force and effect as
8 originals.

9 8. Based upon the foregoing, it is stipulated and
10 agreed that the Board may issue the following as its decision in
11 this case.

12 ORDER

13 IT IS HEREBY ORDERED that Certificate number 24016
14 issued to Michael Daniel Stein is revoked. However, the
15 revocation is stayed and respondent is placed on probation for
16 three (3) years on the following terms and conditions:

17 1. OBEY ALL LAWS

18 Respondent shall obey all federal, California, other
19 states' and local laws, including those rules relating to the
20 practice of public accountancy in California.

21 2. SUBMIT WRITTEN REPORTS

22 Respondent, within 10 days of completion of the
23 quarter, shall submit quarterly written reports to the Board on a
24 form obtained from the Board. The respondent shall submit such
25 written reports and other declarations and verification of
26 actions under penalty of perjury as are required. These
27 declarations shall contain statements relative to respondent's
28 compliance with all the terms and conditions of probation.

1 Respondent shall immediately execute all release of information
2 forms as may be required by the Board or its representatives.

3 3. PERSONAL APPEARANCES

4 Respondent, during the period of probation, shall
5 appear in person at interviews/meetings as directed by the Board
6 or its designated representatives, provided notification is
7 accomplished in a timely manner.

8 4. COOPERATE WITH PROBATION MONITORING

9 Respondent shall fully comply with the terms and
10 conditions of the probation imposed by the Board and shall
11 cooperate fully with representatives of the Board of Accountancy
12 in its monitoring and investigation of the respondent's
13 compliance with probation terms and conditions. Respondent shall
14 at all times maintain current license status with the Board,
15 including during any period of suspension. If the license is
16 expired at the time Board's decision becomes effective, the
17 license must be renewed within 30 days of the effective date of
18 the decision.

19 5. PRACTICE INVESTIGATION

20 Respondent shall be subject to, and shall permit, a
21 practice investigation of the respondent's professional practice.
22 Such a practice investigation shall be conducted by
23 representatives of the Board, provided notification of such
24 review is accomplished in a timely manner.

25 6. COMPLY WITH CITATIONS

26 Respondent shall comply with all final orders resulting
27 from citations issued by the Board of Accountancy.

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1 7. ETHICS COURSE/EXAMINATION

2 Respondent shall take and pass a Board approved ethics
3 examination (as part of the basic 80 hour requirement for
4 licensure) by August 31, 1999. If respondent fails to pass said
5 examination within the time period provided or within two
6 attempts, respondent shall so notify the Board and shall cease
7 practice until respondent takes and successfully passes said
8 exam, has submitted proof of same to the Board, and has been
9 notified by the Board that he may resume practice. Failure to
10 pass the required examination no later than 100 days prior to the
11 termination of probation shall constitute a violation of
12 probation.

13 Notwithstanding any other provision of this probation,
14 failure to take and pass this examination within five years of
15 the effective date of this order constitutes a separate cause for
16 discipline of respondent's license.

17 8. CONTINUING EDUCATION COURSES

18 Respondent shall complete 40 hours of professional
19 education courses as specified by the Board or its designee at
20 the time of respondent's first probation appearance. Respondent
21 shall complete and provide proper documentation of the 40 hours
22 of professional education courses no later than six (6) months
23 prior to the end of the term of probation. These 40 hours of
24 professional education courses shall be in addition to the basic
25 continuing education requirements for relicensing.

26 Failure to satisfactorily complete the required courses
27 as scheduled shall constitute a violation of probation.

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1 9. REVIEW OF AUDITS AND REVIEWS

2 During the period of probation, the related reports and
3 working papers for any audit or review engagements conducted by
4 respondent shall, at respondent's expense, be reviewed by another
5 CPA before release of the audit or review. The reviewing CPA may
6 be selected by respondent but must be acceptable to the Board or
7 its designee.

8 10. COST REIMBURSEMENT

9 Respondent shall reimburse the Board \$11,260.00 for its
10 investigation and prosecution costs. The payment shall be made
11 in quarterly payments of not less than \$1,176.00 each (due with
12 quarterly written reports), the final payment being due one year
13 before probation is scheduled to terminate. Failure to complete
14 payment within six (6) months of the end of the term of probation
15 shall constitute a violation of probation.

16 11. PSYCHOTHERAPY

17 Respondent shall undergo treatment by a licensed
18 psychotherapist selected by respondent, but acceptable to the
19 Board or its designee. Treatment shall continue until the
20 treating psychotherapist certifies in writing in a report to the
21 Board or its designee that treatment is no longer necessary and
22 the Board approves termination of psychotherapy. Counseling
23 shall be at least once a month unless otherwise determined by the
24 Board.

25 Within 10 days of the effective date of this
26 stipulation, respondent shall submit to the Board for its prior
27 approval the name and qualifications of one or more therapists of
28 respondent's choice. Such therapists shall possess a valid

1 California license to practice. No later than 30 days after
2 receiving approval by the Board or its designee of respondent's
3 choice of therapist, respondent shall begin treatment.

4 Respondent shall provide the therapist with a copy of the Board's
5 decision no later than the first counseling session.

6 Respondent shall take all necessary steps to ensure
7 that the treatment psychotherapist submits reports to the Board
8 at intervals determined by the Board or its designee concerning
9 respondent's fitness to practice, progress in treatment, and to
10 provide such other information as may be required by the Board or
11 its designee. Respondent shall execute a Release of Information
12 authorizing the therapist to divulge information to the Board.
13 Respondent is responsible for costs of treatment and the
14 therapist's reports to the Board.

15 12. TOLLING OF PROBATION FOR OUT-OF-STATE
16 RESIDENCE/PRACTICE

17 In the event respondent should leave California to
18 reside or practice outside this state, respondent must notify the
19 Board in writing of the dates of departure and return. Periods
20 of non-California residency or practice outside the state shall
21 not apply to reduction of the probationary period.

22 13. VIOLATION OF PROBATION

23 If respondent violates probation in any respect, the
24 Board, after giving respondent notice and an opportunity to be
25 heard, may revoke probation and carry out the disciplinary order
26 that was stayed. If an accusation or petition to revoke
27 probation is filed against respondent during probation, the Board
28 shall have continuing jurisdiction until the matter is final, and

1 the period of probation shall be extended until the matter is
2 final.

3 14. COMPLETION OF PROBATION

4 Upon successful completion of probation, respondent's
5 license will be fully restored.

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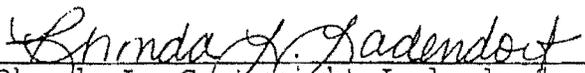
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We concur in the Stipulation and Order.

DATED: June 10, 1997

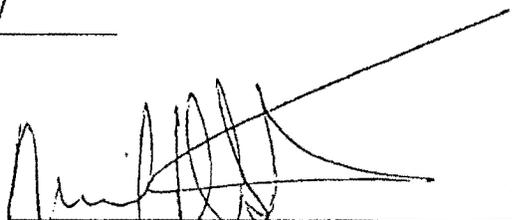
DANIEL E. LUNGREN, Attorney General
of the State of California


Rhonda L. Cartwright-Ladendorf
Deputy Attorney General

Attorneys for Complainant

I have carefully read and fully understand the Stipulation and Order set forth above. I understand that in signing this Stipulation I am waiving my right to a hearing on the charges set forth in the Accusation on file in this matter. I further understand that in signing this Stipulation the Board may enter the foregoing order placing certain requirements, restrictions and limitations on my right to practice public accounting in the State of California. I agree that a facsimile copy of this Stipulation, including a facsimile copy of my signature may be used with the same force and effect as the originals.

DATED: 5-29-97

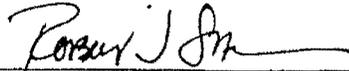

MICHAEL DANIEL STEIN
Respondent

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DECISION AND ORDER
OF THE BOARD OF ACCOUNTANCY

The foregoing Stipulation and Order, in No. AC-97-6, is hereby adopted as the Order of the California Board of Accountancy. An effective date of August 28, 1997, has been assigned to this Decision and Order.

Made this 29th day of July, 1997.



FOR THE BOARD OF ACCOUNTANCY

RCL:ar
03541110-SD96AD0514

1 DANIEL E. LUNGREN, Attorney General
of the State of California
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8 ----- BEFORE THE -----
BOARD OF ACCOUNTANCY
9 DEPARTMENT OF CONSUMER AFFAIRS
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11 In the Matter of the Accusation) NO. AC-97-6
Against:)
12 MICHAEL DANIEL STEIN) ACCUSATION
13 1660 Chicago Ave., Suite M-1)
Riverside, CA 92507)
14 Certificate No. 24016)
15 Respondent.)
16

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

19 PARTIES

20 1. Complainant is the Executive Officer of the
21 California State Board of Accountancy ("Board") and makes and
22 files this accusation solely in her official capacity.

23 License Status

24 2. On or about December 10, 1976, the Board issued
25 Certificate No. 24016 to Michael Daniel Stein ("respondent"):
26 The certificate expired on September 1, 1989 and was renewed
27 effective June 20, 1990, with continuing education ("active").

1 The certificate was regularly renewed in an "active" category
2 through August 31, 1995. The certificate was renewed without
3 continuing education ("inactive") effective September 1, 1995,
4 through November 24, 1995. The status of the certificate was
5 changed to "active" upon the licensee's compliance with the rules
6 of "reentry" effective November 25, 1995. The certificate is
7 currently renewed with education ("active") through August 31,
8 1997.

9 JURISDICTION

10 3. This accusation is made in reference to the
11 following statutes of the California Business and Professions
12 Code ("Code"):

13 a. Section 5100 provides, in part, that the Board may
14 revoke, suspend or refuse to renew any permit or certificate
15 issued by the Board, or may censure the holder of any such
16 permit or certificate for unprofessional conduct.

17 Unprofessional conduct includes, but is not limited to:

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

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

23 b. Section 5107 provides, in part, that the Executive
24 Officer of the Board may request the administrative law
25 judge, as part of the proposed decision in a disciplinary
26 proceeding, to direct any holder of a permit or certificate
27 found guilty of unprofessional conduct in violation of

1 section 5100(c) to pay to the Board all reasonable costs of
2 investigation and prosecution of the case, including, but
3 not limited to, attorneys' fees. The Board shall not
4 recover costs incurred at the administrative hearing.

5 c. Section 5062 provides that: "A licensee shall
6 issue a report which conforms to professional standards upon
7 completion of a compilation, review or audit of financial
8 statements."

9 d. Section 5037(b) provides, in part, that a licensee
10 shall furnish to his or her client or former client, upon
11 request and reasonable notice:

12 "(1) A copy of the licensee's working papers, to
13 the extent that those working papers include records
14 that would ordinarily constitute part of the client's
15 records and are not otherwise available to the client.

16 (2) Any accounting or other records belonging to,
17 or obtained from or on behalf of, the client which the
18 licensee removed from the client's premises or received
19 for the client's account. The licensee may make and
20 retain copies of documents of the client when they form
21 the basis for work done by him or her."

22 e. Section 17500 provides, in part, that it is
23 "unlawful for any person...with intent directly or
24 indirectly...to perform services, professional or
25 otherwise...or to induce the public to enter into any
26 obligation relating thereto, to make or disseminate or cause
27 to be made or disseminated before the public in this

1 state...in any newspaper or other publication, or any
2 advertising device, or by public outcry or proclamation, or
3 in any other manner or means whatever, any statement
4 concerning such...services...or concerning any circumstance
5 or matter of fact connected with the proposed performance or
6 disposition thereof, which is untrue or misleading, and
7 which is known, or which by the exercise of reasonable care
8 should be known, to be untrue or misleading..."

9 4. This accusation is made in reference to the
10 following regulations of the California Code of Regulations
11 ("CCR"), title 16:

12 a. Section 63 provides that a licensee shall not
13 advertise or use other forms of solicitation in any manner
14 which is false, fraudulent, misleading or in violation of
15 Code section 17500.

16 b. Section 68 provides, in part, that a "licensee,
17 after demand by or on behalf of a client, for books, records
18 or other data, whether in written or machine sensible form,
19 that are the client's records shall not retain such records.
20 Unpaid fees do not constitute justification for retention of
21 client records."

22 c. Section 58 provides that licensees engaged in
23 the practice of public accountancy shall comply with all
24 applicable professional standards, including but not limited
25 to generally accepted accounting principles and generally
26 accepted auditing standards.

27 ///

1 9. Respondent's conduct, as more particularly set
2 forth in paragraphs 6 through 8 above, violated Code section
3 5037(b) and CCR section 68 in that respondent did not timely
4 return the client's records after demand had been made for
5 the return of those records.

6 10. Respondent's conduct, as more particularly set
7 forth in paragraphs 6 through 8 above, constituted gross
8 negligence in violation of Code section 5100(c) in that
9 respondent failed to complete the audit or return the papers
10 to the client in a timely manner.

11 11. Respondent's conduct, as more particularly set
12 forth in paragraphs 6 through 8 above, constituted
13 unprofessional conduct in violation of Code section 5100 in
14 that respondent took money from his client to perform an
15 audit and then failed to complete the audit or return the
16 papers to the client in a timely manner.

17 Business Unlimited Property Management

18 12. On or about January 22, 1994, respondent was hired
19 by Business Unlimited Property Management to review the
20 financial statements of Alegre-Corona Homeowners Association
21 as of December 31, 1993 and prepare the 1993 federal and
22 state income tax returns for the Association. Respondent
23 was paid \$850.00 for this work. Respondent prepared the
24 review report and sent it to the client, but did not
25 complete the income tax returns.

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1 13. On or about January 22, 1994 the same client also
2 hired respondent to audit the financial statements of Crown
3 Ridge Community Association for the year ended December 31,
4 1993 and prepare the 1993 federal and state income tax
5 returns. Respondent was paid \$2,200 for this work.
6 Respondent completed the audit report and sent it to the
7 client, but did not complete the income tax returns.

8 14. Beginning on or about March 10, 1995, the client
9 contacted or attempted to contact respondent on many
10 occasions, regarding the returns and the documents provided
11 to respondent. On or about April 4, 1995, the client wrote
12 to respondent requesting a return of the documents provided
13 to respondent. Respondent failed to comply with that
14 request. Finally, on or about June 13, 1995, the client was
15 able to retrieve the documents from respondent's office.
16 Respondent never completed the tax returns for either
17 entity, and he ultimately refunded a portion of the fee paid
18 by the client.

19 15. Respondent's review of the financial statements of
20 Alegre-Corona Homeowners Association was deficient in the
21 following respects:

22 a. Respondent failed to obtain a representation
23 letter from management.

24 b. Respondent's review report failed to report on
25 required supplementary information that had been
26 omitted by management.

27 ///

1 16. Respondent's audit of the financial statements of
2 Crown Ridge Homeowner's Association was deficient in the
3 following respects:

4 a. The work papers did not document that the audit
5 was properly planned.

6 b. The work papers did not document respondent's
7 understanding and consideration of the internal control
8 structure of the association and did not document that
9 respondent had assessed the level of control risk.

10 c. Respondent did not obtain written
11 representations from management.

12 d. Respondent's audit report failed to report on
13 required supplementary information that had been
14 omitted by management.

15 17. Respondent's conduct, as more particularly set
16 forth in paragraphs 12 through 14 above, violated Code
17 section 5037(b) and CCR section 68 in that respondent did
18 not timely return the client's records after demand had been
19 made for the return of those records.

20 18. Respondent's conduct, as more particularly set
21 forth in paragraphs 12 through 16 above, constituted gross
22 negligence in violation of Code section 5100(c) in that
23 respondent's conduct in performing the audit and review and
24 preparing the reports, with the deficiencies noted above,
25 constituted an extreme departure from the standards of
26 practice for accountants.

27 ///

1 19. Respondent's conduct, as more particularly set
2 forth in paragraphs 12 through 16 above, violated Code
3 section 5062 and CCR section 58 in that respondent failed to
4 conform to the required standards in performing his audit
5 and review and preparing the reports.

6 20. Respondent's conduct, as more particularly set
7 forth in paragraphs 12 through 16 above, constituted gross
8 negligence in violation of Code section 5100(c) in that
9 respondent failed to complete the income tax returns or
10 return the papers to the clients in a timely manner.

11 21. Respondent's conduct, as more particularly set
12 forth in paragraphs 12 through 16 above, constituted
13 unprofessional conduct in violation of Code section 5100 in
14 that respondent took money from his client to perform work
15 and then failed to complete that work or return the papers
16 to the client in a timely manner.

17 False Representations

18 22. On or about September 22, 1993, respondent spoke at
19 a meeting of the Family Law Council of the San Bernardino
20 County Bar Association in an attempt to gain business in the
21 litigation support field. During his presentation,
22 respondent distributed copies of a legal case in which an
23 accounting expert named "Stein" had testified. When
24 questioned by a member of the audience, respondent claimed
25 that the Stein in the case was his brother who worked for
26 his firm. This statement was false.

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1 23. During that same meeting, respondent distributed
2 literature indicating he was a member of the American
3 Institute of Certified Public Accountants ("AICPA") and the
4 California Society of Certified Public Accountants
5 ("CSCPA"). In addition, in or about 1994, respondent
6 advertised in his letterhead that he was a member of the
7 AICPA and CSCPA. These representations were false.

8 Respondent's membership in the two organizations had lapsed
9 prior to September 1993 and he was not a member of either
10 organization in 1994.

11 24. Respondent's conduct, as more particularly set
12 forth in paragraphs 22 - 23 above, violated Code section
13 17500 and CCR section 63 in that respondent made false
14 representations in order to promote his business and induce
15 others to use his services.

16 25. Respondent's conduct, as more particularly set
17 forth in paragraphs 22 - 23 above, constituted dishonesty or
18 fraud in the practice of public accountancy in violation of
19 Code section 5100(c) in that respondent falsely represented
20 his affiliations in order to promote his business as an
21 accountancy expert witness.

22 26. Respondent's conduct, as more particularly set
23 forth in paragraphs 22 - 23 above, constituted
24 unprofessional conduct in violation of Code section 5100 in
25 that respondent made false representations in order to
26 promote his business and induce others to use his services.

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