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of the State of California
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Deputy Attorney General
3 **California Department of Justice**
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6 **Attorneys for Complainant**

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

10 **In the Matter of the Accusation Against:**

11 **Silver Dollar Sack**
12 **7217 Enter Street**
Bakersfield, CA 93308
13 **Certified Public Accountant Certificate**
Certificate No. 27047

14 **and**

15 **MICKEY, CASANOVA & SACK, CPAs**
16 **1735 - 28th Street**
Bakersfield, CA 93301-1902
17 **CPA Partnership Registration**
18 **No. PAR 4215,**

Respondents.

Case No. AC-2004-35

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

[AS TO RESPONDENT SILVER
DOLLAR SACK ONLY]

19 **In the interest of a prompt settlement of this matter, consistent with the public interest and**
20 **the responsibility of the California Board of Accountancy of the Department of Consumer**
21 **Affairs, the parties hereby agree to the following Stipulated Settlement and Disciplinary Order**
22 **which will be submitted to the Board for approval and adoption as the final disposition of the**
23 **Accusation on file as it relates to licensee Silver Dollar Sack:**

24 **PARTIES AND JURISDICTION**

25 **1. Carol Sigmann, Complainant, is the Executive Officer of the California Board of**
26 **Accountancy (the "Board"). She brought this action solely in her official capacity and is**
27 **represented in this matter by Bill Lockyer, Attorney General of the State of California, by Jeanne**
28 **C. Werner, Deputy Attorney General.**

StpRev 3/2004/2000/7 SackCPA(only)

1 2. On or about December 1, 1978, the California Board of Accountancy issued
2 Certified Public Accountant Certificate Number 27047 to Respondent herein, Silver Dollar Sack.
3 The Certified Public Accountant Certificate was in full force and effect at all times relevant to
4 the charges brought herein and is renewed through February 28, 2007.

5 3. On or about March 6, 1981, the California Board of Accountancy issued
6 Partnership Certificate Number PAR 4215 to Mickey, Casanova & Co.¹ Respondent Silver
7 Dollar Sack became a partner in the firm Mickey, Casanova & Co. when it was created in 1981.
8 On or about August 11, 1983, Mickey, Casanova & Co. changed its name to its current name,
9 Mickey, Casanova & Sack. The partnership renewal for the period beginning January 1, 1993,
10 listed licensees Casanova and Sack as the firm partners.

11 The Board was informed, in the renewal application for the renewal period beginning
12 April 1, 2001, that, on June 30, 1999, Kenneth J. Casanova had been disassociated as a partner
13 and that Susan J. Cosper had been added as a partner. Subsequent to the filing of the Accusation
14 in this matter, the Board was informed, in the renewal application for the renewal period
15 beginning April 1, 2005, that Ms. Cosper had been disassociated as a partner and that Kenneth J.
16 Casanova had (again) been added as a partner.² The Accountancy Partnership Registration is
17 renewed through March 31, 2007, with partners listed as licensees Casanova and Sack.

18 4. Accusation No. AC-2004-35 and First Amended Accusation No. AC-2004-35
19 were filed on June 15, 2004, and on June 3, 2005, respectively, before the California Board of
20 Accountancy, Department of Consumer Affairs, and the First Amended Accusation is currently
21 pending against respondents. Both Accusations and all other statutorily required documents were
22 properly served on Respondant Sack and Respondent Mickey, Casanova & Sack, CPAs.
23 Respondents timely filed Notices of Defense contesting the original Accusation, which are
24

25 1. Prior to 1981, Mickey, Casanova & Co., holder of Partnership Certificate No. 4215 was
26 known as Mickey, Casanova & Vaske, and was the holder of Public Accountancy Partnership
Registration No. 3907.

27 2. Kenneth J. Casanova, who, at the time of the filing of the Accusation, was a retired
28 partner of Respondent, is the holder of CPA Certified Public Accountant Certificate Number
9404, which is currently renewed in an active status through November 30, 2005.

1 deemed to have controverted any new charges in the First Amended Accusation. A copy of the
 2 First Amended Accusation No. AC-2004-35 (hereinafter "Accusation") is attached as Exhibit A
 3 and incorporated herein by reference.

4 WAIVERS, RESTRICTIONS & CONTINGENCY

5 5. Respondent Sack has carefully read, fully discussed with counsel, and understands
 6 the charges and allegations in Accusation No. AC-2004-35.³ Respondent has also carefully
 7 read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and
 8 Disciplinary Order on both licenses.

9 6. Respondent is fully aware of his legal rights in this matter, including the right to a
 10 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at
 11 his own expense; the right to confront and cross-examine the witnesses against him; the right to
 12 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to
 13 compel the attendance of witnesses and the production of documents; the right to reconsideration
 14 and court review of an adverse decision; and all other rights accorded by the California
 15 Administrative Procedure Act and other applicable laws. Respondent voluntarily, knowingly,
 16 and intelligently waives and gives up each and every right set forth above.

17 7. The admissions made by Respondent herein are only for the purposes of this
 18 proceeding, or any other proceedings in which the Board or other professional licensing agency is
 19 involved (excluding the stipulation resolving the disciplinary action pending against the
 20 partnership) and shall not be admissible in any other criminal or civil proceeding.

21 8. This stipulation shall be subject to approval by the Board. Respondent
 22 understands and agrees that counsel for Complainant and the staff of the Board may
 23 communicate directly with the Board regarding this stipulation and settlement, without notice to
 24 or participation by Respondent or his counsel.

25 9. By signing the stipulation, Respondent understands and agrees that he may not
 26 withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers

27 _____
 28 3. The charges pending against the partnership license for Mickey, Casanova & Sack,
 CPAs are being resolved separately, with Mr. Sack acting for the partnership.

1 and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the
2 Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this
3 paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not
4 be disqualified from further action by having considered this matter.

5 10. Respondent understands that by signing this stipulation he enables the Board to
6 issue an order revoking his CPA Certificate without further process.

7 **ADMISSIONS, FINDINGS, AND FURTHER STIPULATIONS**

8 11. For the purpose of resolving the Accusation without further proceedings, the
9 undersigned agrees that, at a hearing, Complainant could establish a factual basis for imposing
10 discipline of his CPA license. Specifically, while disputing certain of the factual assertions in the
11 Accusation, Respondent admits the allegations asserted in paragraphs 14 through 24, 28 through
12 31, 33 through 35, and 60 through 62 of the Accusation with the following exceptions:

- 13 A. Paragraph 18: Respondent asserts that the use of blank checks and mailing of
- 14 statements to his home was at his client's request;
- 15 B. Paragraph 19: Respondent disputes the amount of fees which were understood to
- 16 be paid;
- 17 C. Paragraph 22: Respondent asserts that he returned more, if not all, records to his
- 18 client than his client acknowledges.
- 19 D. Paragraph 62(g) and (h): Respondent denies.

20 Respondent agrees that these admissions provided the basis for discipline of his license as
21 described in paragraphs 36 through 38 (Code Section 5100(k)); paragraph 45 (Code Section
22 5100(i)(fiscal dishonesty)); paragraph 46 (Code Section 5100(c)(dishonesty); and paragraph 63
23 (Code Section 5100(i)). Respondent also agrees that he practiced as an accountancy partnership
24 while he was a sole proprietor.

25 Respondent agrees that those violations constitute cause for discipline of his CPA license.
26 Respondent hereby gives up any right to contest that cause for discipline of his license is
27 established based on those charges. Respondent agrees to be bound by the Board's imposition of
28 discipline as set forth in the Disciplinary Order below.

1 12. The parties understand and agree that facsimile copies of this Stipulated
2 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
3 force and effect as the originals.

4 13. The parties stipulate that, for the purpose of cost recovery under Code Section
5 §107, the Board's reasonable costs of investigation and prosecution in this matter will not exceed
6 \$57,500.00 and a statement of costs actually billed and thus owing by Respondent will be
7 provided to Respondent upon adoption of this Stipulated Settlement and Order. Respondent
8 Silver Dollar Sack and the Respondent partnership, Mickey, Casanova and Sack, CPAs, are
9 jointly and severally liable for the cost reimbursement. The Board will not accept a petition for
10 reinstatement (or any other application for licensure) from Respondent Sack unless cost recovery
11 in this case has been satisfied according to the provisions of Code Section §107 or pursuant to
12 agreement with the Board and/or its designees.

13 **IN CONSIDERATION OF THE FOREGOING** admissions and stipulations, the
14 parties agree that the Board may, without further notice or formal proceeding, issue and enter the
15 following Disciplinary Order:

16
17 **DISCIPLINARY ORDER**

18 **IT IS HEREBY ORDERED** that Certified Public Accountant Certificate No. CPA 27047,
19 issued to Respondent Silver Dollar Sack, is revoked.

20 Respondent Sack shall lose all rights and privileges as a Certified Public Accountant in
21 California as of the effective date of the Board's Decision and Order. Respondent shall cause to
22 be delivered to the Board both his wall and his pocket license certificate on or before the
23 effective date of the Decision and Order.

24 As provided in this stipulation, the Board shall require payment of its investigation and
25 enforcement charges associated with this proceeding prior to its accepting for its consideration a
26 petition for reinstatement or application for licensure.

27 //
28 //

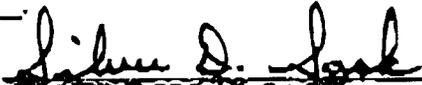
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ACCEPTANCE

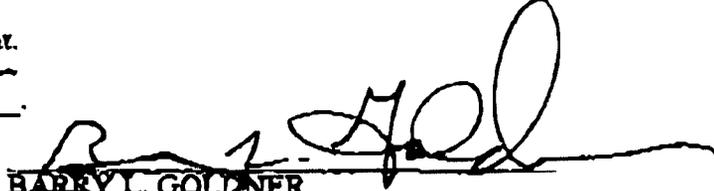
I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Barry L. Goldner. I understand the stipulation and the effect it will have on my Certified Public Accountant Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the California Board of Accountancy.

DATED: July 14, 2005


SILVER DOLLAR SACK
Respondent

I have read and fully discussed with Respondent Silver Dollar Sack the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: July 14, 2005


BARRY L. GOLDNER
Klein, Denatale, Goldner, Cooper,
Rosenlieb & Kimball, LLP,
Attorney for 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: July 14, 2005

BILL LOCKYER, Attorney General
of the State of California


JEANNE C. WERNER
Deputy Attorney General
Attorneys for Complainant

Exhibit A
Accusation No. 2004-35

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

In the Matter of the Accusation Against:

Silver Dollar Sack
7217 Enter Street
Bakersfield, CA 93308
Certified Public Accountant Certificate
Certificate No. 27047

and

MICKEY, CASANOVA & SACK, CPAs
1735 - 28th Street
Bakersfield, CA 93301-1902
CPA Partnership Registration
No. PAR 4215,

Respondents.

Respondents.

Case No. AC-2004-35

**ORDER ADOPTING STIPULATED
REVOCATION OF LICENSE AND
ORDER**

**[AS TO RESPONDENT SILVER
DOLLAR SACK ONLY]**

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 as it affects the Certified Public Accountant License No. 27047, issued to Silver Dollar Sack.

This Decision shall become effective on August 26, 2005.

It is so ORDERED July 27, 2005.



**Renata M. Sos, President
FOR THE CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS**

Sep Recv SF2004000087SackCPA(only)

1 BILL LOCKYER, Attorney General
of the State of California
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6 Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

Case No. AC-2004-35

12 Silver Dollar Sack
7217 Etter Street
13 Bakersfield, CA 93308

FIRST AMENDED ACCUSATION

14 Certified Public Accountant
Certificate No. 27047

15 and

16 MICKEY, CASANOVA & SACK, CPAs
17 1735 - 28th Street
Bakersfield, CA 93301-1902

18 CPA Partnership Registration
19 No. PAR 4215,

20 Respondents.

21
22 Carol Sigmann, the Complainant herein, alleges:

23 **PARTIES AND JURISDICTION**

24 1. Complainant Carol Sigmann brings this Accusation solely in her official capacity as
25 the Executive Officer of the California Board of Accountancy, Department of Consumer Affairs.
26 This First Amended Accusation, hereinafter "Accusation," replaces the Accusation on file herein
27 *nunc pro tunc*.

28 2. On or about December 1, 1978, the California Board of Accountancy issued

1 Certified Public Accountant Certificate Number 27047 to Respondent herein, Silver Dollar Sack.
2 The Certified Public Accountant Certificate was in full force and effect at all times relevant to the
3 charges brought herein and is renewed through February 28, 2007.

4 3. On or about March 6, 1981, the California Board of Accountancy (Board) issued
5 Partnership Certificate Number PAR 4215 to Mickey, Casanova & Co.² Respondent Silver
6 Dollar Sack became a partner in the firm Mickey, Casanova & Co. when it was created in 1981.
7 On or about August 11, 1983, Mickey, Casanova & Co. changed its name to its current name,
8 Mickey, Casanova & Sack.

9 The partnership renewal for the period beginning January 1, 1993, listed licensees
10 Casanova³ and Sack as the firm partners. The Board was informed, in the renewal for the renewal
11 period beginning April 1, 2001, that, on June 30, 1999, Kenneth J. Casanova was disassociated
12 as a partner⁴ and that Susan J. Cospers had been added as a partner.⁵ Cospers left the firm in
13 December 2003. The Board was notified that Casanova was again added as a partner⁶ in the
14 partnership registration renewal for the period April 1, 2005 through March 31, 2007.

16 1. The use of "Respondent" herein refers to Mr. Silver Dollar Sack as the holder of both
17 the individual CPA certificate and the partnership license. He was one of two licensed partners
18 during the time period relevant herein. The other partner left the firm in 2003, in effect
terminating that partnership (see below).

19 2. Prior to 1981, Mickey Casanova & Co., holder of Partnership Certificate No. 4215, was
20 known as Mickey, Casanova & Vaske, and was the holder of Public Accountancy Partnership
21 Registration No. 3907.

22 3. Kenneth J. Casanova is the holder of CPA Certified Public Accountant Number 9404.

23 4. After Casanova's dissociation from the partnership in 1999, he retired from the firm. His
license had expired on November 30, 2003.

24 5. Susan Jane Cospers holds CPA Certificate No. 72232. The partnership registration listed
25 only one other partner, Silver Dollar Sack.

26 6. Casanova's CPA license was renewed in an "active" status on January 20, 2005, and is
27 renewed through November 30, 2005. Prior to Casanova's license renewal in January 2005 (or
the partnership's most recent license renewal for the period beginning April 1, 2005, listing
28 Casanova and Sack as partners), Respondent Sack was in fact operating as a "sole proprietor" as
he was the only CPA in the practice.

1 4. This Accusation is brought before the Board under the authority of Code section
2 5100 of the Business and Professions Code,⁷ which provides, in relevant part, that, after notice
3 and hearing the board may revoke, suspend or refuse to renew any permit or certificate granted,
4 for unprofessional conduct which includes, but is not limited to, one or any combination of the
5 causes specified therein, including those in the following subparagraphs:

6 5100 (c) Dishonesty, fraud, or gross negligence in the practice of public
7 accountancy or in the performance of the bookkeeping operations
8 described in Section 5052.

9 5100 (g) Willful violation of this chapter or any rule or regulation
10 promulgated by the board under the authority granted under this
11 chapter.

12 5100(i) Fiscal dishonesty or breach of fiduciary responsibility of any kind.

13 5100(j) Knowing preparation, publication, or dissemination of false, fraudulent, or
14 materially misleading financial statements, reports, or information.

15 5100 (k) Embezzlement, theft, or misappropriation of funds or property, or
16 obtaining money, property, or other valuable consideration by fraudulent
17 means or false pretenses.

18 5. Code section 5101 provides that an accountancy partnership may be disciplined for
19 the reasons enumerated therein, as well as for unprofessional conduct under Code section 5100,
20 including for any of the above specific causes for discipline.

21 6. Code section 5037(b) provides in pertinent part that a licensee shall furnish to his
22 former client, upon request and reasonable notice, working papers, to the extent that they include
23 records that would ordinarily constitute part of the client's records and are not otherwise available
24 to the client, as well as any accounting or other records belonging to, or obtained from or on
25 behalf of the client which the licensee removed from the client's premises or received for the
26

27 7. All statutory references are to the Business and Professions Code unless otherwise
28 indicated.

1 client's account.

2 7. Board Rule 58 (Title 16, Cal. Code Regs., § 58) a regulation of the Board,
3 requires that a licensee comply with all applicable professional standards. The AICPA's *Code of*
4 *Professional Conduct* includes Section I - Principles and Section II - Rules. Both the Principles
5 (Articles III and VI) and the Rules (Rule 102, rule 501) are relevant to the allegations herein.
6 For example, Rule 102 (Integrity and Objectivity), provides that:

7 "In the performance of any professional service, a member shall maintain
8 objectivity and integrity, shall be free of conflicts of interest, and shall not
9 knowingly misrepresent facts or subordinate his or her judgment to others."

10 8. Board Rule 63 (Title 16, Cal. Code Regs., § 63) provides that a licensee shall not
11 advertise or use other forms of solicitation in any manner which is false or misleading. Board
12 Rule 67 (Title 16, Cal. Code Regs., § 67)(Approval of Use of Fictitious Name) provides that no
13 sole proprietor may practice under a name other than the name set forth on his or her permit to
14 practice unless such name has been registered with the Board.

15 9. Board Rule 68 (Title 16, Cal. Code Regs., § 68) provides that a licensee, after
16 demand by or on behalf of a client, for books, records, or other data, whether in written or
17 machine sensible form, that are the client's records shall not retain such records. Further, although
18 in general the accountant's working papers are the property of the licensee, if such working
19 papers include records which would ordinarily constitute part of the licensee's books and records
20 and are not otherwise available to the licensee, then the information on those working papers must
21 be treated the same as if it were part of the client's books and records.

22 Board Rule 68.1 further defines working papers, and requires that licensees adopt
23 reasonable procedures for the safe custody of working papers and that they retain working papers
24 for purposes and periods specified therein and otherwise required by law.

25 10. Code section 5107 provides for recovery by the Board of all reasonable costs of
26 investigation and prosecution of the case, including, but not limited to, attorney's fees. A certified
27 copy of the actual costs, or a good faith estimate of costs signed by the Executive Officer,
28 constitute prima facie evidence of reasonable costs of investigation and prosecution of the case.

11. Code sections 118(b) and 5109 provide in pertinent part that the suspension,

1 expiration, cancellation, or forfeiture of a license issued by the Board shall not, deprive the Board
2 of its authority to investigate, or to institute or continue a disciplinary proceeding against, a
3 licensee upon any ground provided by law, or to enter an order suspending or revoking the license
4 or otherwise taking disciplinary action against the licensee on any such ground.

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

9 **FOR CAUSES FOR DISCIPLINE**

10 13. Respondent is subject to disciplinary action for multiple acts of unprofessional
11 conduct under Business and Professions Code section 5100, including under specific
12 subparagraphs thereof. The circumstances follow.

13 **CIRCUMSTANCES SUPPORTING THE IMPOSITION OF DISCIPLINE**

14 14. Respondent has worked at the partnership firm now known as Mickey, Casanova
15 & Sack (hereinafter the "firm") since 1975, and became a partner in or around 1981. He became
16 the managing partner approximately six years ago, that is, in or around 1999, in or around the
17 time when Mr. Casanova retired and Ms. Cosper became a partner.⁸ As relevant herein,
18 Respondent's remaining partner, Susan Cosper, left the firm at the end of 2003.⁹

19 ***Respondent's Client Ryan Jeffries***

20 15. Ryan W. Jeffries¹⁰ and his wife, who live in Bakersfield and operate B&R Farms in
21 Shafter, California (in the Bakersfield area), had been Respondent's clients for approximately
22 twenty-eight years, dating to a time prior to Respondent's becoming a partner at the firm.

23 _____
24 8. See paragraph 3 above. According to Respondent, during the period following
25 Casanova's retirement, Mr. Casanova, whose license was expired, was not a partner but
performed some professional services for the firm.

26 9. Following the filing of the original Accusation in this matter in June, 2004, Mr.
27 Casanova, on January 20, 2005, reactivated his license, and the partnership license was renewed
effective April 1, 2005, with Messrs. Casanova and Sack listed as the qualifying partners.

28 10. Mr. Ryan Jeffries is sometimes referred to herein by his last name.

1 Respondent performed many services (described in greater detail below) for Mr. Jeffries, who
2 considered Respondent to be acting as his accountant, tax preparer and advisor, and controller.
3 Respondent performed many of his services "on the side" for Mr. Jeffries (not "running them
4 through" the partnership accounts), with the acquiescence of his partner(s). However, other
5 services performed for Mr. Jeffries, as well as services for other Jeffries entities¹ were provided
6 through the firm, either by Respondent or other individuals, and were billed through the firm.

7 16. Among the services for Mr. Jeffries and B&R Farms which Respondent performed
8 "on the side" were opening mail and reviewing bills; bill paying procedures and manual
9 bookkeeping through preparation of the journal entries for computer input (cash routing, coding,
10 and filing); cash estimates; analysis working papers; maintenance of banking records; preparation
11 of bi-weekly payroll, and monthly payroll checks and bank deposits; depreciation schedules; estate
12 and tax planning; investments; and "extra projects."

13 17. In carrying out his responsibility for paying Jeffries' bills, Respondent created a
14 cash disbursements journal (entitled "Payment Record", and also referred to as the "write-at-
15 once" check system or the checkbook) in which he entered check payees, date, amounts, check
16 numbers and bank deposits and balances. Payments were recorded in various expense categories,
17 for example, Taxes, Travel and Entertainment, Supplies, Chemicals, "Drawing" - signifying
18 compensation to Mr. Jeffries - and to Respondent or the firm for accounting fees.

19 18. Respondent kept Mr. Jeffries' financial records, including the cash disbursement
20 journal, the general ledgers, and other pertinent records in Respondent's private office at the firm.
21 Respondent regularly requested that Mr. Jeffries sign a number of checks "in blank" which,
22 Respondent represented, were to be used in the ongoing payment of Mr. Jeffries' financial
23 obligations. Mr. Jeffries' checking account statements and canceled checks were mailed directly
24 to the Respondent at the Respondent's home address.

25 _____
26 11. Respondent performed accounting services for Phil Jeffries Farms (operated by June
27 Jeffries, who is Ryan Jeffries' mother), and provided other services to various Jeffries family
28 members, including income tax preparation. Respondent served as co-trustee, along with June
Jeffries, for the William Lachenmaier Trust, whose beneficiaries include Ryan Jeffries and June
Jeffries.

1 19. Respondent did not use engagement letters for the services performed "on the
2 side" for Mr. Jeffries and B&R Farms. Respondent did not generate bills or invoices for these
3 services. Respondent charged a "set amount" for providing the accounting, bookkeeping and
4 controller functions, which was understood by Mr. Jeffries to be \$600.00 per month in 2002 and
5 2003. Respondent did not create or maintain a listing or other record of the services performed
6 for, and fees paid by, B& R Farms, with the exception of the specific services provided through
7 the firm, discussed below.

8 20. In contrast to the foregoing "on-the-side" arrangement, Respondent provided other
9 professional services to Mr. Jeffries and B & R Farms under the auspices of Mickey, Casanova &
10 Sack, CPAs, namely, financial statements; W-2's and reports; Forms 1099; and Federal and State
11 tax returns. These services were invoiced through the firm, whether provided to Mr. Jeffries or to
12 other Jeffries family members or entities, and regardless of who at the firm performed the work.
13 The Forms 1099 were prepared by, or from information provided by, Respondent. Respondent
14 signed the income tax returns as the preparer. Respondent prepared, or was responsible for the
15 preparation of, the financial statements.

16 21. Respondent's services were terminated by Mr. Jeffries in or around early 2003.
17 After having his bank statement redirected to himself, Mr. Jeffries discovered, in early February
18 2003, a check (No. 12545, dated January 9, 2003) in the amount of \$2000.00 made payable to,
19 and negotiated by, Respondent. Mr. Jeffries confronted Respondent in his office and obtained the
20 cash disbursements journal (Payment Record) for January 2003, the period during which the
21 check was issued. The cash disbursements journal reflects the check as being made payable to
22 "Cash" rather than Respondent Sack, and it is posted to the draw account for Mr. Jeffries rather
23 than as an accounting fee or payment to Respondent.

24 22. Following the discovery of the \$2000.00 check, Mr. Jeffries undertook an inquiry
25 to determine the amount of funds diverted by Respondent. Mr. Jeffries requested the return of his
26 records from Respondent. Although some records were returned, many of Mr. Jeffries' records,
27 including canceled checks, bank statements, and cash disbursement journals (with the exception of
28 the Payment Record for January 2003, and February 2003, which he had already retrieved from

1 Respondent) were not returned to him by Respondent.

2 23. Mr. Jeffries requested duplicate checks and statements from the bank, some of
3 which the bank was able to provide, and reviewed what records were available to him.¹² He
4 confirmed additional irregularities or questionable payments to Respondent, dating back several
5 years, evidenced in part by additional checks being made payable to, and negotiated by,
6 Respondent without Mr. Jeffries' knowledge.

7 24. During Mr. Jeffries' inquiry, settlement negotiations were initiated, and eventually
8 a Settlement Agreement and General Release was executed on February 19, 2003, which required
9 Respondent to pay \$200,000.00¹³ in satisfaction of those matters relating to his alleged conversion
10 and mishandling of Jeffries' funds. The agreement further provided that Respondent would
11 complete, at his own expense, the Jeffries' federal and state tax returns; that Respondent would
12 provide free of charge any services in connection with any audits of any tax returns, including
13 prior years, prepared by Respondent; that Respondent would pay all costs incurred by such audits;
14 and that Respondent would pay all costs, including legal fees, associated with his resignation, and
15 replacement, as trustee of the William Lachenmaier Trust. The firm (Mickey, Casanova & Sack,
16 CPA's) was included under the terms of the release in the Settlement.

17 *Respondent's Former Partner Susan Cospers*

18 25. Susan Jane Cospers, CPA, had worked at the firm prior to her becoming
19 Respondent's only remaining partner in or about 1999 (as set forth in paragraph 3). Ms. Cospers
20 was unaware of Respondent's settlement with Mr. Jeffries (see paragraph 24) and the underlying
21 misconduct until Mr. Jeffries alerted her to the fact in mid-2003. Respondent had not been candid
22 or forthcoming in responding to her earlier inquiry regarding the \$7,000.00 check payable to Mr.

23 _____
24 12. On or about February 13, 2003, Respondent provided Mr. Jeffries with a check for
25 \$7,000.00 drawn on Mickey, Casanova & Sack partnership funds (Check No. 5893) for Jeffries'
26 use in defraying bank copying charges for missing canceled checks and bank statements. This
payment is further discussed in paragraph 25.

27 13. By the terms of the agreement, these monies do **not** represent funds which were used
28 as deductions, nor listed or taken as tax return expenses, by Respondent in his preparation of the
Jeffries' tax return.

1 Jeffries (for bank copying charges in connection with the missing records and questionable
2 payments to Respondent - see footnote 12) and drawn on partnership funds.

3 26. After being alerted by Mr. Jeffries regarding the settlement, Ms. Cosper and
4 Respondent reviewed partnership accounts, resulting in Ms. Cosper claiming reimbursement
5 pursuant to their partnership agreement.

6 27. In resolution of the dispute regarding partnership accounts, Ms. Cosper reached a
7 compromise with Respondent, resulting in an adjustment of \$26,848.48 to allocated partnership
8 net income, and the adjustment of Respondent's draw accounts for personal expenses previously
9 recorded as partnership expenses. Ms. Cosper left the partnership in December 2003.

10 **FIRST CAUSE FOR DISCIPLINE**

11 **Embezzlement or Misappropriation of Funds, or**
12 **Obtaining Money by Fraudulent Means or False Pretenses**
13 **Business and Professions Code Section 5100(k)**

14 ***Ryan Jeffries' Funds***

15 28. Complainant realleges paragraphs 15 through 24, above, and incorporates them
16 herein by reference as if fully set forth at this point. Additional circumstances follow.

17 29. Respondent engaged in embezzlement by paying himself unauthorized funds from
18 Ryan Jeffries in an amount known to Respondent but not precisely known by Complainant or Mr.
19 Jeffries.¹⁴ This misconduct occurred over an unknown period of years. Much of the
20 embezzlement could only be estimated, because of Respondent's failure to preserve, and to return
21 to Mr. Jeffries, the complete set of his financial records. However, banking records, partially
22 reconstructed for the years 2001 and 2002, reflect an extensive pattern of self-payments by
23 Respondent, commonly two and three checks a month, in amounts ranging from \$200.00 to
24 \$600.00, and totaling, with very few exceptions, more than \$600.00 per month.¹⁵

25 In addition, specific examples of embezzlement follow:

26 _____
27 14. As set forth in paragraph 24, Ryan Jeffries accepted \$200,000.00 in settlement of his
28 claims against Respondent.

15. These payments were in addition to those made to the firm for invoiced services.

1 a. Check No. 12451, dated November 14, 2002, in the amount of \$2000.00 payable
2 to "Silver Sack" and deposited to his personal checking account.

3 b. Check No. 12545, dated January 9, 2003, in the amount of \$2000.00 made
4 payable to, and negotiated by, Respondent, but recorded by him in Mr. Jeffries' records as a draw
5 to Jeffries (see paragraphs 21 and 22 above).

6 c. Check No. 12606, dated February 6, 2003, in the amount of \$2000.00 payable to
7 Respondent.

8 30. Respondent also made payments for his personal credit card debt directly through
9 the B&R Farms checking account. Respondent estimated that this occurred six or seven times a
10 year in the past six or seven years, and that these personal credit card payments included
11 payments for his AT&T Universal Card and for a VISA credit card. Respondent was unable to
12 rule out payments on his own behalf to a Chevron credit account (an account which is not
13 recognized by Mr. Jeffries as his own). Respondent testified (at a May 6, 2004, Board
14 Investigative Hearing) that in order to record the payments for his personal credit card debts, he
15 posted the transactions into an expense account used for payment of Jeffries' farm and personal
16 credit card debts, "probably" into Mr. Jeffries' travel and entertainment account category.

17 31. Among fraudulent credit card payments discovered by Mr. Jeffries in the limited
18 records made available to him were:

19 a. Check No. 12427, dated October 30, 2002, in the amount of \$757.39 made
20 payable to AT&T Universal card for Respondent's personal credit card debt.

21 b. Check No. 12520, dated December 24, 2002, in the amount of \$255.47 made
22 payable to Chevron, but not to Mr. Jeffries' credit card account.

23 32. Respondent concealed his embezzlement from Mr. Jeffries, by using checks signed
24 in blank for other purposes to pay himself and by having the bank statements and checks sent to
25 his personal residence.

26 33. Respondent concealed his embezzlement from Mr. Jeffries by creating false entries
27 in the client's original accounting records (the cash disbursements journal).

28 34. Respondent concealed his embezzlement from Mr. Jeffries when he failed to

1 include in Mr. Jeffries' accounting fees, as reflected in the compiled financial statements for the
2 year ended December 31, 2002, a \$2,000.00 payment to himself from client funds.

3 35. Respondent misappropriated funds by making payments to himself in excess of the
4 agreed-upon fees for accounting services provided to Jeffries. He created no time records,
5 invoices, etc. to justify or communicate to Jeffries regarding these excess charges.

6 36. Incorporating by reference the matters alleged in paragraphs 29 through 35 above,
7 causes for discipline of Respondent's licenses are established under Code section 5100(k) for
8 embezzlement.

9 37. Incorporating by reference the matters alleged in paragraphs 29 through 35 above,
10 causes for discipline of Respondent's licenses are established under Code section 5100(k) for the
11 misappropriation of his client's funds.

12 38. Incorporating by reference the matters alleged in paragraphs 29 through 35 above,
13 causes for discipline of Respondent's licenses are established under Code section 5100(k) for
14 obtaining money by fraud or false pretenses.

15 *CPA Partnership Funds*

16 39. Complainant realleges paragraphs 3, 14, and 25 through 27, above, and
17 incorporates them herein by reference as if fully set forth at this point. Additional circumstances
18 follow.

19 40. Respondent made unauthorized use of accountancy partnership funds for the
20 payment of personal expenses as well as payments for liabilities incurred by his misconduct with
21 his client Jeffries.

22 41. Use of Accountancy Partnership Funds for "Jeffries Liabilities." In addition to
23 the February 2003 payment of \$7,000.00 to Jeffries for bank copying charges (see paragraph 25
24 and footnote 12), additional payments to or for the benefit of Jeffries, but drawn on the
25 partnership account rather than charged to Respondent, were:

26 a. Check No. 6132, dated April 18, 2003, for \$1,167.69, to Jeffries' attorney
27 in connection with drafting the settlement agreement.

28 b. Check No. 6152, dated April 25, 2003, for \$1,495.35, payable to the IRS

1 for penalties incurred by Jeffries regarding insufficient or late deposits of payroll taxes by
2 Respondent during 2002.

3 42. Use of Accountancy Partnership Funds for the Payment of Personal Expenses.

4 Respondent frequently paid his personal expenses with partnership funds, and posted the expenses
5 to partnership expense accounts rather than to his draw account. Among the charges were
6 regular payments for Respondent's daughter's cell phone; his swimming pool maintenance;
7 personal life and medical insurance payments; and consumer purchases, e.g., hardware store,
8 refrigerator, etc. Respondent's use of partnership funds for personal expenses and recording of
9 the transactions by use of partnership expense accounts resulted in overstated partnership expense
10 and understated net income.

11 43. Incorporating by reference the matters alleged in paragraphs 39 through 42 above,
12 cause for discipline of Respondent's licenses are established under Code section 5100(k) for
13 obtaining money in the form of payment of his personal expenses by the firm by fraudulently
14 categorizing said expenses or falsely pretending the expenses were business, not personal,
15 expenses, and by concealing his use of partnership assets to address liabilities he incurred in his
16 dealings with Jeffries.

17 **SECOND CAUSE FOR DISCIPLINE**

18 **Gross Negligence in the Practice of Public Accountancy Bus. & Prof. Code § 5100(c)**
19 **and**
20 **Dishonesty in the Practice of Public Accountancy- Bus. & Prof. Code § 5100(c)**
21 **and**
22 **Fiscal Dishonesty - Business & Professions Code § 5100(i)**

23 44. Complainant realleges paragraphs 14 through 35 and 39 through 42, above, and
24 incorporates them herein by reference as if fully set forth at this point.

25 45. Incorporating these matters by reference, cause for discipline of Respondent's
26 licenses is established under Code section 5100(i) for fiscal dishonesty in his dealings with his
27 client Ryan Jeffries and his characterization of partnership expenses.

28 46. Re-incorporating by reference the matters alleged in paragraph 44 above, cause for
discipline of Respondent's licenses is established under Code section 5100(c) for dishonesty in the
practice of public accountancy in his misconduct with his client Mr. Jeffries.

1 multiple causes for discipline of Respondent's licenses are established under Code section 5100(j)
2 for preparing, publishing, and disseminating false and fraudulent financial reports or information,
3 including accounting records and financial statements for both Jeffries and the firm.

4 55. Incorporating by reference the matters alleged in paragraphs 48 through 53 above,
5 multiple causes for discipline of Respondent's licenses are established under Code section 5100(c)
6 for gross negligence in the practice of public accountancy in that his preparation and treatment of
7 financial records and information constitute extreme departures from the standard of practice of
8 public accountancy.

9 56. Respondent failed to report all of the "fees" (client funds paid to him or on his
10 behalf to his creditors) he collected by means of his embezzlement or conversion of Mr. Jeffries'
11 assets on Respondent's own federal and state income tax returns.

12 57. Incorporating by reference the matters alleged in paragraphs 48 through 51 and 56
13 above, cause for discipline of Respondent's licenses is established under Code section 5100(j) for
14 filing (his own) false or fraudulent tax returns in that he did not report the substantial
15 unauthorized payments by Jeffries on his tax returns.

16 58. Incorporating by reference the matters alleged in paragraphs 40 through 42, 48
17 through 52, and 56 above, cause for discipline of Respondent's licenses is established under Code
18 section 5100(i)(fiscal dishonesty) in that he filed, or caused to be filed, income tax returns for
19 himself which understated his tax liability, which were thus to his financial benefit and reflected
20 fiscal dishonesty.

21 **FOURTH CAUSE FOR DISCIPLINE**

22 **Breach of Fiduciary Duty of Any Kind - Bus. & Prof. Code § 5100(i)**

23 *Respondent's Fiduciary Duty to Mr. Jeffries*

24 59. Complainant realleges paragraphs 14 through 24 and 29 through 35 above, and
25 incorporates them herein by reference as if fully set forth at this point. Additional circumstances
26 follow.

27 60. Respondent had a confidential and fiduciary relationship with Mr. Jeffries,
28 occupied a position of trust, and owed him duties as his fiduciary. Respondent's close

1 relationship with Mr. Jeffries, dating back 28-odd years, was characterized by Mr. Jeffries' placing
2 complete confidence in Respondent to handle Jeffries' financial affairs. This is reflected, in part, in
3 Respondent's maintenance of all banking and other records, his receiving at home Jeffries'
4 statements and canceled checks, his control over, and use of signed blank checks entrusted to him
5 by Jeffries, and his complete control over, and management of, Jeffries' original books of entry.
6 The trusting quality of the relationship is also demonstrated by Respondent's serving generations
7 of the Jeffries family, including as a co-trustee of the trust holding the land farmed. Some of his
8 duties are described in paragraph 15 through 20 above. He performed other duties such as
9 financial advisor and personal representative or agent in a variety of circumstances. Mr. Jeffries
10 reposed a special trust and confidence in Respondent. Mr. Jeffries was justified in believing that
11 Respondent would act in Mr. Jeffries' interest.

12 61. Respondent used his position and influence with Mr. Jeffries to his own financial
13 advantage and to Mr. Jeffries' detriment. Respondent's dealings with Mr. Jeffries lacked the
14 indicia of care, candor, and loyalty which Respondent owed Mr. Jeffries as his fiduciary. He
15 placed his self-interest above Mr. Jeffries' interests. Moreover, Respondent took advantage of
16 his position and of Mr. Jeffries' trust in him, resulting in Mr. Jeffries' not being fully informed
17 about the amounts and purposes of the fees Respondent collected. For example, Respondent's
18 failure to bill Jeffries, to keep time records, to provide accountings, and to clearly indicate *in any*
19 *way* the amount of fees, fee "increases" and nature and amount of work performed, constitutes the
20 repeated breach of his fiduciary duty to Mr. Jeffries, in light of their confidential and fiduciary
21 relationship and the significant trust Mr. Jeffries reposed in Respondent.

22 62. Among further examples of Respondent's multiple breaches of fiduciary duty to
23 Mr. Jeffries are:

24 a. Respondent breached his fiduciary duty to Mr. Jeffries by using his access
25 to Mr. Jeffries' accounts to obtain "fees" for himself far in excess of agreed-upon fees, which
26 violated his duty of loyalty to Mr. Jeffries and placed Respondent's interests above his client's.

27 b. Respondent breached his fiduciary duty to Mr. Jeffries by using his access
28 to Mr. Jeffries' accounts to obtain "fees" for himself far in excess of the agreed costs.

1 c. Respondent repeatedly violated his duty of candor as Mr. Jeffries' fiduciary
2 when he presented Mr. Jeffries with incomplete or selective information and summaries regarding
3 B & R Farm accounts.

4 d. Respondent repeatedly violated his duty of candor as Mr. Jeffries' fiduciary
5 when he failed to present Mr. Jeffries with complete information regarding his finances and
6 financial transactions, particularly those by which he personally benefitted.

7 e. Respondent repeatedly violated his fiduciary duty and his duty of candor as
8 Mr. Jeffries' fiduciary in taking advantage of Respondent's reliance on him and their extensive and
9 longstanding confidential and trusting relationship.

10 f. Respondent repeatedly violated his fiduciary duty and his duty of candor as
11 Mr. Jeffries' fiduciary when he obtained Mr. Jeffries' signature on blank checks which were
12 subsequently made payable to Respondent without Mr. Jeffries' knowledge or consent, e.g., the
13 \$2000.00 check (in January 2003) referenced above.

14 g. Respondent violated his fiduciary duty as a co-trustee of the William
15 Lachenmaier trust.¹⁶ Respondent testified at the Investigative Hearing that he was the trustee
16 responsible for handling funds, collecting rents, collecting royalties, paying taxes, etc. By his own
17 admission, "about four years ago," the "receipts - mainly the sales" of several Jeffries entities
18 became commingled. Respondent's lack of due diligence regarding his co-trustee responsibilities
19 had unknown financial and legal consequences for the beneficiaries, to whom he owed a duty,
20 including his client Mr. Jeffries.

21 h. Respondent violated his fiduciary duty to Mr. Jeffries when he made
22 insufficient or late deposits of payroll taxed during 2002, resulting in penalties to Mr. Jeffries.

23 63. Incorporating by reference the matters set forth in paragraphs 59 through 62,
24 Respondent's conduct constitutes multiple breaches of fiduciary duty to Mr. Jeffries, and thus
25 constitutes multiple causes for discipline of his licenses for unprofessional conduct within the
26

27
28 16. The land which Mr. Jeffries farmed was in the Lachenmaier trust, and Jeffries was one
of the trust beneficiaries.

1 meaning of Code section 5100(i)(breach of fiduciary duty of any kind).

2 **FIFTH CAUSE FOR DISCIPLINE**

3 **Record Retention Violations**

4 **Business And Professions Code Sections 5037(b) and 5100(g)/Board Rule 68**

5 64. Complainant realleges paragraphs 16 through 18 and 21 through 23 above, and
6 incorporates them herein by reference as if fully set forth at this point.

7 65. As previously set forth, Respondent was responsible for creating and maintaining
8 Mr. Jeffries' records. After he was alerted that Mr. Jeffries was becoming aware of his
9 misappropriations of Jeffries' funds, he failed to respond to Mr. Jeffries' prompt request for the
10 return of his records, including at least the original (or copies of) cash disbursement journals,
11 some 6000 canceled checks, and bank statements, which were the most incriminating of the
12 records regarding Respondent's embezzlement. The records he did provide were incomplete.

13 66. Respondent testified at the Investigative Hearing that he had no definite records
14 destruction policy. Records were moved to an off-site storage site periodically, and
15 indiscriminately, and when the storage became "full" the records were shredded.

16 67. Incorporating by reference the matters alleged in paragraphs 64 through 66 above,
17 cause for discipline of Respondent's licenses is established under Code section 5037(b) and Board
18 Rules 68 and 68.1 (in conjunction with Code section 5100(g)).

19 **SIXTH CAUSE FOR DISCIPLINE**

20 **False Advertising as a Sole Proprietor**

21 **Business And Professions Code Section 5100(g)/Board Rules 63 & 67**

22 68. Complainant realleges paragraphs 3 and 14 above, incorporating them herein by
23 reference as if fully set forth at this point. Complainant further alleges that Respondent has
24 continued to practice under the auspices of Mickey, Casanova & Sack, showing the full names of
25 former partners Mickey and Casanova at the bottom of his letterhead directly above the legend
26 "Members - American Institute of CPA's California Society of CPA's" and the firm's address, as
27 if they were still involved in the firm, and that he has represented himself as a partnership while he
28 is in fact operating as a sole proprietor.

