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3 California Department of Justice
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6 Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

12 CALVIN LOWELL SHELLINE
313 South 7th Street
Camp Verde, AZ 86322
13 Certified Public Accountant License
No. CPA 32305

14 Respondent.

Case No. AC-2005-3

OAH No. L-2005 050 250

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

15
16 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
17 above-entitled proceedings that the following matters are true:

18 PARTIES

19 1. Carol Sigmann (Complainant) is the Executive Officer of the California
20 Board of Accountancy. She brought this action solely in her official capacity and is represented
21 in this matter by Bill Lockyer, Attorney General of the State of California, by Jami L. Cantore,
22 Deputy Attorney General.

23 2. CALVIN L. SHELLINE (Respondent) is representing himself in this
24 proceeding and has chosen not to exercise his right to be represented by counsel.

25 3. On or about June 12, 1981, the California Board of Accountancy issued
26 Certified Public Accountant License No. CPA 32305 to Calvin Lowell Sheline. The Certified
27 Public Accountant License was in full force and effect at all times relevant to the charges brought
28 herein and will expire on March 31, 2007, unless renewed.

1 1. **Actual Suspension.** Certified Public Accountant License No. CPA 32305
2 issued to Calvin L. Sheline is suspended for sixty (60) days. During the period of suspension the
3 Respondent shall engage in no activities for which certification as a Certified Public Accountant
4 or Public Accountant is required as described in Business and Professions Code, Division 3,
5 Chapter 1, Section 5051.

6 2. **Obey All Laws.** Respondent shall obey all federal, California, other
7 states' and local laws, including those rules relating to the practice of public accountancy in
8 California.

9 3. **Submit Written Reports.** Respondent shall submit, within ten (10) days
10 of completion of the quarter, written reports to the Board on a form obtained from the Board.
11 The Respondent shall submit, under penalty of perjury, such other written reports, declarations,
12 and verification of actions as are required. These declarations shall contain statements relative to
13 Respondent's compliance with all the terms and conditions of probation. Respondent shall
14 immediately execute all release of information forms as may be required by the Board or its
15 representatives.

16 4. **Personal Appearances.** Respondent shall, during the period of probation,
17 appear in person at interviews/meetings as directed by the Board or its designated
18 representatives, provided such notification is accomplished in a timely manner.

19 5. **Comply With Probation.** Respondent shall fully comply with the terms
20 and conditions of the probation imposed by the Board and shall cooperate fully with
21 representatives of the Board of Accountancy in its monitoring and investigation of the
22 Respondent's compliance with probation terms and conditions.

23 6. **Practice Investigation.** Respondent shall be subject to, and shall permit,
24 practice investigation of the Respondent's professional practice. Such a practice investigation
25 shall be conducted by representatives of the Board, provided notification of such review is
26 accomplished in a timely manner.

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

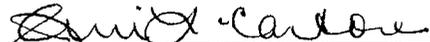
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ENDORSEMENT

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: 10/26/05

BILL LOCKYER, Attorney General
of the State of California


JAMI L. CANTORE
Deputy Attorney General
Attorneys for Complainant

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

In the Matter of the Accusation Against:

CALVIN LOWELL SHELINE
313 South 7th Street
Camp Verde, AZ 86322

Certified Public Accountant License
No. CPA 32305

Respondent.

Case No. AC-2005-3

OAH No. L-2005 050 250

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the California Board of Accountancy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on December 23, 2005.

It is so ORDERED November 23, 2005.



FOR THE CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS

Exhibit A
Accusation No. AC-2005-3

1 BILL LOCKYER, Attorney General
of the State of California
2 JAMI L. CANTORE, State Bar No. 165410
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3 California Department of Justice
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8 **BEFORE THE**
CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. AC-2005-3

11 CALVIN LOWELL SHELNE
12 323 South 7th Street
Camp Verde, AZ 86322

A C C U S A T I O N

13 Certified Public Accountant License
14 No. CPA 32305

Respondent.

15

16

17 Complainant alleges:

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PARTIES

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1. Carol Sigmann (Complainant) brings this Accusation solely in her official
20 capacity as the Executive Officer of the California Board of Accountancy, Department of
21 Consumer Affairs.

22

2. On or about June 12, 1981, the California Board of Accountancy issued
23 Certified Public Accountant License No. CPA 32305 to Calvin Lowell Sheline (Respondent).
24 The Certified Public Accountant License was in full force and effect at all times relevant to the
25 charges brought herein and will expire on March 31, 2005, unless renewed.

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"(4) Where the guardian or conservator negligently enables the other guardian or conservator to commit a breach of fiduciary duty.

"(5) Where the guardian or conservator knows or has information from which the guardian or conservator reasonably should have known of the breach of fiduciary duty by the other guardian or conservator and fails to take reasonable steps to compel the other guardian or conservator to redress the breach."

7. Section 5107, subdivision (a), states:

"The executive officer of the board may request the administrative law judge, as part of the proposed decision in a disciplinary proceeding, to direct any holder of a permit or certificate found to have committed a violation or violations of this chapter to pay to the board all reasonable costs of investigation and prosecution of the case, including, but not limited to, attorneys' fees. The board shall not recover costs incurred at the administrative hearing."

FACTUAL SUMMARY

8. E.P. was an 87 year old male with significant chronic physical and psychiatric conditions, which included paraplegia and dementia, which rendered him unable to provide for his personal needs for physical health, food, clothing, or shelter. He was also unable to manage his financial resources.

9. On or about February 24, 2000, Respondent was appointed co-conservator with his sister Susanne Horton ("Horton") for the conservatorship of E.P. Respondent acknowledged receiving specific information regarding the duties and responsibilities of a conservator.

10. Respondent affirmed that he would perform the conservator duties according to law on or about February 2, 2000. Respondent acknowledged receipt of the statement of duties and liabilities of the office of conservator and the Handbook for Conservators on or about February 23, 2000.

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1 11. After Respondent's appointment as co-conservator, Horton was
2 subsequently found by the Superior Court to have systematically looted more than \$200,000 from
3 E.P.'s estate by liquidating E.P.'s assets and otherwise converting the assets for her own personal
4 use as follows:

5 a. Payment in the amount of \$6,000 to Horton's daughter for her daughter's
6 wedding;

7 b. Placing \$200,000 in a Paine Webber securities account in Horton's own
8 name rather than in the name of the conservatorship, without court approval;

9 c. Personal loans to Horton;

10 d. Vacations for Horton;

11 e. Payments to Horton and her daughters;

12 f. Purchase of an automobile for Horton's daughter;

13 g. Transfer of E.P.'s automobile to Respondent without court approval;

14 h. Payment of Horton's personal expenses including clothing, telephone bills,
15 pet supplies, and hair care.

16 i. Horton prepared and executed a quitclaim deed transferring all of E.P.'s
17 interest in his real property to Horton, and subsequently sold the property.

18 12. On May 2, 2000, two days before E.P.'s death on May 4, 2000, Horton
19 prepared a will and caused E.P. to execute the will. The will left E.P.'s entire estate to Horton.
20 Following E.P.'s death, Horton attempted to probate the will dated May 2, 2000. Subsequently,
21 the will was found invalid.

22 13. Following the death of E.P., Horton and the conservatorship attorney
23 prepared the First and Final Account and Report for the conservatorship. On January 16, 2001,
24 Horton filed the First and Final Account with the Orange County Superior Court. Horton filed
25 supplements on April 25, 2001, and October 3, 2001. The filings did not properly or accurately
26 account for the assets, receipts, disbursements and other financial information of the
27 conservatorship estate.

28 ///

1 14. On or about January 22, 2001, Respondent signed a verification declaring
2 that he had read the First and Final Account and Report and certified as to the truth of the
3 accounting based on his own knowledge and belief.

4 15. Following the presentation of the First and Final Account and Report for
5 the conservatorship by Respondent and Horton to the court in January 2001, a hearing was held
6 in Superior Court to consider objections to the accounting raised by an heir of E.P.

7 16. Respondent testified during the Superior Court proceeding and reiterated
8 during the Board investigation, that while he had reviewed the accounting statements prepared by
9 Horton and the conservatorship attorney, he never personally examined the underlying supporting
10 documentation to verify the final accounting. Respondent further testified that he felt that he had
11 delegated his responsibility to verify the actual source data.

12 17. Respondent testified during the Board investigation that he delegated his
13 conservatorship responsibilities to Horton and the conservatorship attorney, which he believed
14 was authorized by the Handbook for Conservators.

15 18. On July 18, 2002, the Superior Court issued an Order Settling the First
16 and Final Account and Report of Co-Conservators, as Supplemented, Surcharging Co-
17 Conservators and Denying Petitions for Approval of Attorneys' Fees, which included the
18 following findings:

19 "3. In the conduct of management of the conservatorship estate, the co-
20 conservators did commit acts of misconduct, neglect, waste, mismanagement and/or other breach
21 of fiduciary duty causing a total pecuniary loss to the estate of \$209,649. The nature and
22 amounts of the damages for which a surcharge is warranted are as follows:

<u>Description</u>	<u>Amount</u>
Checks Payable to Cash	\$ 4,612.20
Unsubstantiated Withdrawals of Cash and "Less Cash"	\$ 7,527.24
Improper Payments to [Horton]	\$42,449.18
Improper Payments to Melissa Hack [Horton's daughter]	\$29,202.00
Improper Payments to Dana Hack [Horton's daughter]	\$ 6,608.50

1	Improper Payments to V.L. Sheline [Respondent's father]:	\$11,245.39
2	Improper Payments to Calvin Sheline [Respondent]	\$ 1,075.00
3	Improper Payments to Shelly Flazer	\$ 300.00
4	Improper Payments to Rod Fehlman	\$ 9,415.00
5	Improper Transfer of Asset to Calvin Sheline [Respondent]	\$ 800.00
6	Horton's Personal Expenses Paid with Conservatorship	
7	Funds	\$54,394.32
8	Unauthorized Investment of Real Estate Proceeds	\$27,183.26
9	Improper Purchase, Use and Loss of Vehicle	\$14,428.42
10	Early Withdrawal Penalties	\$ 408.86
11	TOTAL:	\$209,649.37"

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13 19. The Appellate Court affirmed the Superior Court Order and concluded that
14 "without a doubt" Respondent was liable under the Probate Code for the estate's losses caused by
15 Horton because he admittedly breached his fiduciary duty by failing to "inquire" into Horton's
16 activities.

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FIRST CAUSE FOR DISCIPLINE

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(Unprofessional Conduct: Breach of Fiduciary Duty)

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20. Respondent is subject to disciplinary action under section 5100,
subdivision (i), for unprofessional conduct in conjunction with Probate Code section 2105.5,
subdivision (b), for breach of fiduciary duty as fully set forth above in paragraphs 8-19 and
incorporated herein by reference, and as found by the Superior Court and Appellate Court with
respect to Respondent's management of the conservatorship estate as follows:

a. Respondent had knowledge that Horton, without court approval,
transferred the estate automobile to Respondent and paid Respondent in excess of \$2,000 for
purported accounting services.

b. As a Certified Public Accountant, Respondent would be especially
knowledgeable in his duties as a fiduciary and his duty to inquire into his sister's activities as a

1 co-conservator.

2 c. Respondent and Horton both knew what duties and responsibilities were
3 imposed upon them as co-conservators.

4 d. The Court found Respondent jointly and severally liable for all surcharges
5 and interest following his appointment as co-conservator on February 24, 2000, finding that
6 Respondent did not act reasonably or in good faith in regard to his conduct.

7 e. The Court found that Respondent knew from the beginning that Horton
8 could not be bonded without him becoming a co-conservator, which should have alerted
9 Respondent to monitor closely the activities of Horton, as co-conservator.

10 f. The Court further found that Respondent did nothing to monitor Horton's
11 activities while E.P. was alive, did nothing to inquire as to Horton's final account after E.P.'s
12 death, and little, if anything, to verify her account information provided to the attorneys or to the
13 Court.

14 21. The Appellate Court affirmed that Respondent was liable under the
15 Probate Code rules for the losses Horton caused the estate because Respondent admitted in
16 Superior Court and on appeal that he breached his fiduciary duty by failing to "inquire" into
17 Horton's activities. The Appellate Court opinion also noted that Respondent recognized that he
18 had improperly delegated the administration of the estate to Horton and the conservatorship
19 attorney. The Court further found that under Probate Code rules (Probate Code sections 2105.5,
20 subdivisions (b)(2) and (b)(4)), Respondent's concessions rendered Respondent chargeable for
21 losses to the conservatorship estate.

22 SECOND CAUSE FOR DISCIPLINE

23 (Unprofessional Conduct: Knowing Preparation of Materially Misleading Information)

24 22. Respondent is subject to disciplinary action under section 5100,
25 subdivision (j), for unprofessional conduct for the knowing preparation, publication, or
26 dissemination of false, fraudulent, or materially misleading financial statements, reports, or
27 information as fully alleged above in paragraphs 9-16 and incorporated herein by reference.

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