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 7 Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

Case No. AC-2007-5

12 ERIC MARK KLEIN
 4924 Balboa Blvd., Suite 271
 13 Encino, CA 91316

**STIPULATED SETTLEMENT AND
 DISCIPLINARY ORDER**

14 Certified Public Accountant License
 15 Certificate No. 46150

16 Respondent.

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

20 PARTIES

21 1. Carol Sigmann (Complainant) is the Executive Officer of the
 22 California Board of Accountancy. She brought this action solely in her official capacity and
 23 is represented in this matter by Edmund G. Brown Jr., Attorney General of the State of
 24 California, by Jami L. Cantore, Deputy Attorney General.

25 2. Eric Mark Klein (Respondent) is representing himself in this
 26 proceeding and has chosen not to exercise his right to be represented by counsel.

27 3. On or about October 10, 1986, the California Board of Accountancy
 28 issued Certified Public Accountant License Certificate No. 46150 to Eric Mark Klein. The

1 Certificate was in full force and effect at all times relevant to the charges brought in
2 Accusation No. AC-2007-5 and will expire on October 31, 2007, unless renewed.

3 JURISDICTION

4 4. Accusation No. AC-2007-5 was filed on January 9, 2007, before the
5 California Board of Accountancy (Board), Department of Consumer Affairs, and is currently
6 pending against Respondent. The Accusation and all other statutorily required documents
7 were properly served on Respondent on January 22, 2007. Respondent timely filed his
8 Notice of Defense contesting the Accusation. A copy of Accusation No. AC-2007-5 is
9 attached as Exhibit A and incorporated herein by reference.

10 ADVISEMENT AND WAIVERS

11 5. Respondent has carefully read, and understands the charges and
12 allegations in Accusation No. AC-2007-5. Respondent has also carefully read, and fully
13 understands the effects of this Stipulated Settlement and Disciplinary Order.

14 6. Respondent is fully aware of his legal rights in this matter, including
15 the right to a hearing on the charges and allegations in the Accusation; the right to be
16 represented by counsel at his own expense; the right to confront and cross-examine the
17 witnesses against him; the right to present evidence and to testify on his own behalf; the right
18 to the issuance of subpoenas to compel the attendance of witnesses and the production of
19 documents; the right to reconsideration and court review of an adverse decision; and all other
20 rights accorded by the California Administrative Procedure Act and other applicable laws.

21 7. Respondent voluntarily, knowingly, and intelligently waives and gives
22 up each and every right set forth above.

23 CULPABILITY

24 8. Respondent admits the truth of each and every charge and allegation in
25 Accusation No. AC-2007-5.

26 9. Respondent agrees that his Certified Public Accountant License
27 Certificate is subject to discipline and he agrees to be bound by the California Board of
28 Accountancy's imposition of discipline as set forth in the Disciplinary Order below.

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RESERVATION

10. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the California Board of Accountancy or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

CONTINGENCY

11. This stipulation shall be subject to approval by the California Board of Accountancy. Respondent understands and agrees that counsel for Complainant and the staff of the California Board of Accountancy may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

OTHER MATTERS

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

DISCIPLINARY ORDER

In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

IT IS HEREBY ORDERED that Certified Public Accountant License Certificate No. 46150 issued to Respondent Eric Mark Klein is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

1 1. **Actual Suspension.** Certified Public Accountant License Certificate
2 No. 46150 issued to Eric Mark Klein is suspended for six (6) months. During the period of
3 suspension Respondent shall engage in no activities for which certification as a Certified
4 Public Accountant or Public Accountant is required, as described in Business and Professions
5 Code, Division 3, 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)
10 days of completion of the quarter, written reports to the Board on a form obtained from the
11 Board. The Respondent shall submit, under penalty of perjury, such other written reports,
12 declarations, and verification of actions as are required. These declarations shall contain
13 statements relative to Respondent's compliance with all the terms and conditions of
14 probation. Respondent shall immediately execute all release of information forms as may be
15 required by the Board or its representatives.

16 4. **Personal Appearances.** Respondent shall, during the period of
17 probation, 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
20 terms 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
24 permit, a practice investigation of the Respondent's professional practice. Such a practice
25 investigation shall be conducted by representatives of the Board, provided notification of
26 such review is accomplished in a timely manner.

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

1 8. **Tolling of Probation For Out-of-State Residence/Practice.** In the
2 event Respondent should leave California to reside or practice outside this state, Respondent
3 must notify the Board in writing of the dates of departure and return. Periods of non-
4 California residency or practice outside the state shall not apply to reduction of the
5 probat. . . . period, or of any suspension. No obligation imposed herein, including
6 requirements to file written reports, reimburse the Board costs, or make restitution to
7 consumers, shall be suspended or otherwise affected by such periods of out-of-state residency
8 or practice except at the written direction of the Board.

9 9. **Violation of Probation.** If Respondent violates probation in any
10 respect, the Board, after giving Respondent notice and an opportunity to be heard, may
11 revoke probation and carry out the disciplinary order that was stayed. If an accusation or a
12 petition to revoke probation is filed against Respondent during probation, the Board shall
13 have continuing jurisdiction until the matter is final, and the period of probation shall be
14 extended until the matter is final.

15 10. **Completion of Probation.** Upon successful completion of probation,
16 Respondent's license will be fully restored.

17 11. **Ethics Course/Examination.** Respondent shall take and pass with a
18 score of 90 percent or better a Board approved ethics examination prior to the resumption of
19 practice.

20 If Respondent fails to pass said examination within the time period provided
21 or within two attempts, Respondent shall so notify the Board and shall cease practice until
22 Respondent takes and successfully passes said exam, has submitted proof of same to the
23 Board, and has been notified by the Board that he may resume practice. Failure to pass the
24 required examination no later than 100 days prior to the termination of probation shall
25 constitute a violation of probation.

26 12. **Active License Status.** Respondent shall at all times maintain an
27 active license status with the Board, including during any period of suspension. If the license
28 is expired at the time the Board's decision becomes effective, the license must be renewed

1 within 30 days of the effective date of the decision.

2 13. **Cost Reimbursement.** Respondent shall reimburse the Board six
3 thousand seventy-three dollars and fifty-seven cents (\$6073.57) for its investigation and
4 prosecution costs. The payment shall be made in quarterly payments (due with quarterly
5 written reports), the final payment being due 100 days before probation is scheduled to
6 terminate.

7 ACCEPTANCE

8 I have carefully read the Stipulated Settlement and Disciplinary Order. I
9 understand the stipulation and the effect it will have on my Certified Public Accountant
10 License Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily,
11 knowingly, and intelligently, and agree to be bound by the Decision and Order of the
12 California Board of Accountancy.

13 DATED: 4/16/07



14 ERIC MARK KLEIN
15 Respondent

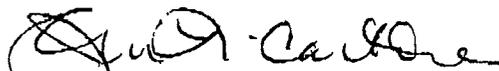
16
17 ENDORSEMENT

18 The foregoing Stipulated Settlement and Disciplinary Order is hereby
19 respectfully submitted for consideration by the California Board of Accountancy of the
20 Department of Consumer Affairs.

21 DATED: 4/16/07

22 EDMUND G. BROWN JR., Attorney General
23 of the State of California

24 MARC D. GREENBAUM
25 Supervising Deputy Attorney General



26 JAMI L. CANTORE
27 Deputy Attorney General

28 Attorneys for Complainant

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

In the Matter of the Accusation Against:

ERIC MARK KLEIN
4924 Balboa Blvd., Suite 271
Encino, CA 91316

Certified Public Accountant License
Certificate No. 46150

Respondent.

Case No. AC-2007-5

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 June 17, 2007.

It is so ORDERED May 18, 2007.



FOR THE CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS

Exhibit A
Accusation No. AC-2007-5

1 BILL LOCKYER, Attorney General
of the State of California
2 MARC D. GREENBAUM, State Bar No. 138213
Supervising Deputy Attorney General
3 JAMI L. CANTORE, State Bar No. 165410
Deputy Attorney General
4 California Department of Justice
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CALIFORNIA BOARD OF ACCOUNTANCY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10

11 In the Matter of the Accusation Against:

Case No. AC-2007-5

12 ERIC MARK KLEIN
4924 Balboa Blvd., Suite 271
13 Encino, CA 91316

ACCUSATION

14 Certified Public Accountant Certificate
No. 46150

Respondent.

15

16

17

18 Complainant alleges:

18

PARTIES

19

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

23 2. On or about October 10, 1986, the California Board of Accountancy
24 issued Certified Public Accountant Certificate No. 46150 to Eric Mark Klein (Respondent).
25 The Certificate expired and was not valid during the period November 1, 1989 through
26 December 3, 1989, for the following reasons:

27 a. The renewal fee required by California Business and Professions Code
28 section 5070.5 was not paid; and

1 b. Declaration of compliance with continuing education requirements
2 was not submitted.

3 Effective December 4, 1989, the Certificate was renewed through October 31,
4 1991, upon receipt of the renewal fee and declaration of compliance with continuing
5 education requirements ("active"). The Certificate was expired and was not valid during the
6 period November 1, 1991 through November 4, 1992, for the reasons set forth in
7 subparagraphs (a) and (b), above.

8 Effective November 5, 1992, the Certificate was renewed through October
9 31, 1993, upon receipt of the renewal fee and declaration of compliance with continuing
10 education requirements ("active"). The Certificate was expired and was not valid during the
11 period November 1, 1993 through January 4, 1994, for the reasons set forth in subparagraphs
12 (a) and (b), above.

13 Effective January 5, 1994, the Certificate was renewed through October 31,
14 1995, upon receipt of the renewal fee and declaration of compliance with continuing
15 education requirements ("active"). The Certificate was expired and was not valid during the
16 period November 1, 1995 through March 17, 1996, for the reasons set forth in subparagraphs
17 (a) and (b), above.

18 Effective March 18, 1996, the Certificate was renewed through October 31,
19 1997, upon receipt of the renewal fee and declaration of compliance with continuing
20 education requirements ("active"). The Certificate was expired and was not valid during the
21 period November 1, 1997 through November 21, 1997, for the reasons set forth in
22 subparagraphs (a) and (b), above.

23 Effective November 22, 1997, the Certificate was renewed through October
24 31, 1999, upon receipt of the renewal fee and declaration of compliance with continuing
25 education requirements ("active"). The Certificate was renewed for the period November 1,
26 1999 through October 31, 2001, however, compliance with continuing education
27 requirements was not met until March 20, 2000.

28 The Certificate was renewed for the period November 1, 2001 through

1 October 31, 2003; however, compliance with continuing education requirements was not met
2 until September 17, 2002. The Certificate was renewed for the period November 1, 2003
3 through October 31, 2005, with continuing education ("active"). The Certificate has been
4 renewed for the period November 1, 2005 through October 31, 2007, with continuing
5 education ("active").

6 JURISDICTION

7 3. This Accusation is brought before the California Board of
8 Accountancy (Board), Department of Consumer Affairs, under the authority of the following
9 laws. All section references are to the Business and Professions Code unless otherwise
10 indicated.

11 4. Section 118, subdivision (b) states:

12 "The suspension, expiration, or forfeiture by operation of law of a license
13 issued by a board in the department, or its suspension, forfeiture, or cancellation by order of
14 the board or by order of a court of law, or its surrender without the written consent of the
15 board, shall not, during any period in which it may be renewed, restored, reissued, or
16 reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding
17 against the licensee upon any ground provided by law or to enter an order suspending ore
18 revoking the license or otherwise."

19 5. Section 5100 states:

20 "After notice and hearing the board may revoke, suspend, or refuse to renew
21 any permit or certificate granted under Article 4 (commencing with Section 5070) and Article
22 5 (commencing with Section 5080), or may censure the holder of that permit or certificate for
23 unprofessional conduct that includes, but is not limited to, one or any combination of the
24 following causes:

25

26 "(b) A violation of Section 478, 498, or 499 dealing with false statements or
27 omissions in the application for a license, in obtaining a certificate as a certified public
28 accountant, in obtaining registration under this chapter, or in obtaining a permit to practice

1 public accountancy under this chapter.

2

3 "(g) Willful violation of this chapter or any rule or regulation promulgated by
4 the board under the authority granted under this chapter."

5 BOARD RULES¹

6 6. California Code of Regulations, title 16, section 87, subdivision (a),
7 states, in pertinent part:

8 "80 Hours.

9 "As a condition of active status license renewal, a licensee shall complete at
10 least 80 hours of qualifying continuing education as described in Section 88 in the two-year
11 period immediately preceding license expiration and meet the reporting requirements
12 specified in subsection (a) of Section 89.

13 "A licensee engaged in the practice of public accountancy as defined in
14 Section 5051 of the Business and Professions Code is required to hold a license in active
15 status. No carryover of continuing education is permitted from one two-year license renewal
16 period to another."

17 7. Section 5107(a) of the Code states:

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

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27 1. Board of Accountancy Rules and Regulations are codified in Title 16, California Code of Regulations
28 beginning with Division 1, Section 1, under corresponding numbers and are hereinafter referenced as "Board
Rules".

1 FIRST CAUSE FOR DISCIPLINE

2 (Failure to Complete Minimum Continuing Education Requirements)

3 8. Respondent is subject to disciplinary action under section 5100,
4 subdivision (g), of the Code for violating California Code of Regulations, title 16, section 87,
5 in that Respondent failed to complete the minimum number of required hours of Continuing
6 Education in order to renew his Certified Public Accountant license. The circumstances are
7 as follows:

8 a. On or about April 24, 2006, May 24, 2006, and June 29, 2006, the
9 Board requested Respondent to submit copies of certificates of completion for the Continuing
10 Education courses reported on Respondent's October 2005 license renewal form. On or
11 about June 28, 2006, during a telephonic conference with the Board's investigative CPA,
12 Respondent admitted that he had not completed all of the courses reported on his license
13 renewal form.

14 b. In July 2006, Respondent provided completion certificates for the
15 courses reported on his 2005 renewal worksheet. The certificates of completion submitted by
16 Respondent establish that all of the Continuing Education courses were completed outside of
17 the October 2005 license renewal cycle.

18 SECOND CAUSE FOR DISCIPLINE

19 (Unprofessional Conduct: False Statements In Obtaining License)

20 9. Respondent is subject to disciplinary action under section 5100,
21 subdivisions (b) and (g), of the Code on the grounds of unprofessional conduct in that
22 Respondent knowingly made false statements on his October 2005 renewal application. The
23 circumstances are as follows:

24 a. On or about October 22, 2005, the Board received Respondent's
25 Certified Public Accountant/Public Accountant Renewal Form. On the form, Respondent
26 checked "Yes" to the question: "Did you complete the required total number of hours of
27 continuing education (CE) during the two years preceding your license expiration date?"

28 b. Respondent in fact did not complete the required Continuing

1 Education courses within the relevant renewal cycle, as fully set forth above in paragraph 8
2 and incorporated herein by reference.

3 FACTORS IN AGGRAVATION

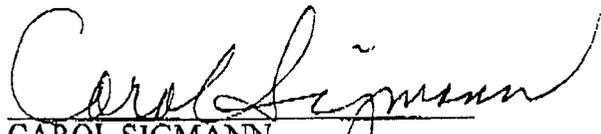
4 10. On or about April 22, 2003, Respondent was issued Citation No. CT-
5 2003-21 and fined \$1,000.00 for violating section 5050, subdivision (a), of the Code. The
6 circumstances surrounding the citation are that Respondent engaged in the practice of public
7 accounting during the period of November 1, 2001, through September 16, 2002, while his
8 license was in an expired status.

9 PRAYER

10 WHEREFORE, Complainant requests that a hearing be held on the matters
11 herein alleged and that, following the hearing, the California Board of Accountancy issue a
12 decision:

- 13 1. Revoking or suspending or otherwise imposing discipline upon
- 14 Certified Public Accountant Certificate No. 46150 issued to Eric Mark Klein;
- 15 2. Ordering Eric Mark Klein to pay the California Board of Accountancy
- 16 the reasonable costs of the investigation and enforcement of this case pursuant to Business
- 17 and Professions Code section 5107, subdivision (a);
- 18 3. Taking such other and further action as deemed necessary and proper.

19 DATED: January 9, 2007

21 

22 CAROL SIGMANN
23 Executive Officer
24 California Board of Accountancy
25 Department of Consumer Affairs
26 State of California
27 Complainant
28