

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

In the Matter of the Accusation Against:

Case No. AC-2007-39

TROY RANDALL BARNETT
30212 TOMAS, SUITE 200
RANCHO SANTA MARGARITA, CA 92688

Certified Public Accountant Certificate No. 50152

Respondent.

DECISION AND ORDER

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

This Decision shall become effective on April 28, 2008.

It is so ORDERED on March 28, 2008.



FOR THE CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 DIANE DE KERVOR, State Bar No. 174721
Deputy Attorney General
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7 Facsimile: (619) 645-2061

8 Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

Case No. AC-2007-39

13 TROY RANDALL BARNETT
22411 Peartree Lane
14 Mission Viejo, CA 92692

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

15 Certified Public Accountant No. CPA 78116

16 Respondent.

17
18 In the interest of a prompt and speedy settlement of this matter, consistent with the public
19 interest and the responsibility of the California Board of Accountancy of the Department of
20 Consumer Affairs, the parties hereby agree to the following Stipulated Settlement and
21 Disciplinary Order which will be submitted to the Board for approval and adoption as the final
22 disposition of the Accusation.

23 **PARTIES**

24 1. Carol Sigmann (Complainant) is the Executive Officer of the California
25 Board of Accountancy. She brought this action solely in her official capacity and is represented
26 in this matter by Edmund G. Brown Jr., Attorney General of the State of California, by Diane de
27 Kervor, Deputy Attorney General.

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1 5. **Comply With Probation.** Respondent shall fully comply with the terms
2 and conditions of the probation imposed by the Board and shall cooperate fully with
3 representatives of the Board of Accountancy in its monitoring and investigation of the
4 Respondent's compliance with probation terms and conditions.

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

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

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

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

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

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1 11. **Ethics Course/Examination.** Respondent shall take and pass with a score
2 of 90 percent or better a Board approved ethics examination during the period of suspension and
3 prior to the resumption of practice.

4 If Respondent fails to pass said examination within the time period provided,
5 Respondent shall so notify the Board and the period of suspension will be extended until
6 Respondent takes and successfully passes said exam, has submitted proof of same to the Board,
7 and has been notified by the Board that he may resume practice. Failure to pass the required
8 examination no later than 100 days prior to the termination of probation shall constitute a
9 violation of probation.

10 Notwithstanding any other provision of this probation, failure to take and pass this
11 examination within five years of the effective date of this order constitutes a separate cause for
12 discipline of Respondent's license.

13 12. **Administrative Penalty.** Respondent shall pay to the Board an
14 administrative penalty in the amount of \$20,000.00. The payment shall be made in quarterly
15 payments (due with quarterly written reports) in the first year of probation.

16 13. **Cost Reimbursement.** Respondent shall reimburse the Board \$15,122.04
17 for its investigation and prosecution costs. The payment shall be made in quarterly payments (due
18 with quarterly written reports), the final payment being due one year before probation is
19 scheduled to terminate.

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Michael Fitzgerald. I understand the stipulation and the effect it will have on my Certified Public Accountant license. 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: 2/13/08


TROY RANDALL BARNETT
Respondent

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

DATED: _____

MICHAEL FITZGERALD
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: _____

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

JAMES M. LEDAKIS
Supervising Deputy Attorney General

DIANE DE KERVOR
Deputy Attorney General

Attorneys for Complainant

ACCEPTANCE

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3 have fully discussed it with my attorney, Michael Fitzgerald. I understand the stipulation and the
4 effect it will have on my Certified Public Accountant license. I enter into this Stipulated
5 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be
6 bound by the Decision and Order of the California Board of Accountancy.

7 DATED: _____

8
9 TROY RANDALL BARNETT
Respondent

10 I have read and fully discussed with Respondent Troy Randall Barnett the terms
11 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary
12 Order. I approve its form and content.

13 DATED: 2-13-09

14 
15 MICHAEL FITZGERALD
Attorney for Respondent

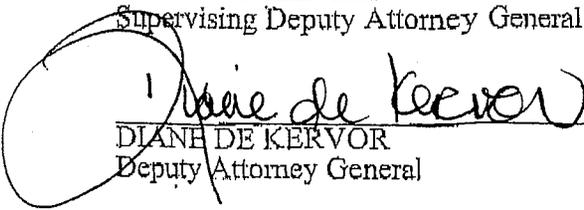
ENDORSEMENT

16
17 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
18 submitted for consideration by the California Board of Accountancy of the Department of
19 Consumer Affairs.

20 DATED: 2/19/2008

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

22
23 JAMES M. LEDAKIS
Supervising Deputy Attorney General

24 
25 DIANE DE KERVOR
26 Deputy Attorney General

27 Attorneys for Complainant

Exhibit A
Accusation No. AC-2007-39

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 DIANE DE KERVOR, State Bar No. 174721
Deputy Attorney General
4 California Department of Justice
110 West "A" Street, Suite 1100
5 San Diego, CA 92101

6 P.O. Box 85266
San Diego, CA 92186-5266
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8
9 Attorneys for Complainant

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

12 In the Matter of the Accusation Against:	Case No. AC-2007-39
13 TROY RANDALL BARNETT	A C C U S A T I O N
14 22411 Peartree Lane	
14 Mission Viejo, CA 92692	
15 CPA Certificate No. 78116	
16 Respondent.	

18 Complainant alleges:

19 **PARTIES**

- 20 1. Carol Sigmann (Complainant) brings this Accusation solely in her official
21 capacity as the Executive Officer of the California Board of Accountancy, Department of
22 Consumer Affairs.
- 23 2. On or about October 14, 1999, the California Board of Accountancy issued
24 Certified Public Accountant Certificate Number 78116 to Troy Randall Barnett (Respondent).
25 The Certified Public Accountant Certificate expired and Respondent did not have practice rights
26 during the period November 1, 2002 through September 24, 2003 due to continuing education
27 deficiencies. The certificate was renewed September 25, 2003 and will expire on October 31,
28 2008, unless renewed again.

1 JURISDICTION AND STATUTORY PROVISIONS

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

5 4. Section 5033 states:

6 "Certified public accountant' means any person who has received from the board
7 a certificate of certified public accountant and who holds a valid permit to practice under the
8 provisions of this chapter."

9 5. Section 5050 of the Code provides:

10 "(a) Except as provided in subdivisions (b) and (c) of this section, in
11 subdivision(a) of Section 5054, and in Section 5096.12, no person shall engage in the practice of
12 public accountancy in this state unless the person is the holder of a valid permit to practice public
13 accountancy issued by the board or a holder of a practice privilege pursuant to Article 5.1
14 (commencing with Section 5096)."

15 6. Section 5051 of the Code provides:

16 "Except as provided in Sections 5052 and 5053, a person shall be deemed to be
17 engaged in the practice of public accountancy within the meaning and intent of this chapter if he
18 or she does any of the following:

19 "(a) Holds himself or herself out to the public in any manner as one skilled in the
20 knowledge, science, and practice of accounting, and as qualified and ready to render professional
21 service therein as a public accountant for compensation.

22 "(b) Maintains an office for the transaction of business as a public accountant.

23 "(c) Offers to prospective clients to perform for compensation, or who does
24 perform on behalf of clients for compensation, professional services that involve or require an
25 audit, examination, verification, investigation, certification, presentation, or review of financial
26 transactions and accounting records.

27 "(d) Prepares or certifies for clients reports on audits or examinations of books or
28 records of account, balance sheets, and other financial, accounting and related schedules,

1 exhibits, statements, or reports that are to be used for publication, for the purpose of obtaining
2 credit, for filing with a court of law or with any governmental agency, or for any other purpose.

3 “(e) In general or as an incident to that work, renders professional services to
4 clients for compensation in any or all matters relating to accounting procedure and to the
5 recording, presentation, or certification of financial information or data.

6 “(f) Keeps books, makes trial balances, or prepares statements, makes audits, or
7 prepares reports, all as a part of bookkeeping operations for clients.

8 “(g) Prepares or signs, as the tax preparer, tax returns for clients.

9 “(h) Prepares personal financial or investment plans or provides to clients
10 products or services of others in implementation of personal financial or investment plans.

11 “(i) Provides management consulting services to clients.

12 “The activities set forth in subdivisions (f) to (i), inclusive, are "public
13 accountancy" only when performed by a certified public accountant or public accountant, as
14 defined in this chapter.

15 “A person is not engaged in the practice of public accountancy if the only services
16 he or she engages in are those defined by subdivisions (f) to (i), inclusive, and he or she does not
17 hold himself or herself out, solicit, or advertise for clients using the certified public accountant or
18 public accountant designation. A person is not holding himself or herself out, soliciting, or
19 advertising for clients within the meaning of this section solely by reason of displaying a CPA or
20 PA certificate in his or her office or identifying himself or herself as a CPA or PA on other than
21 signs, advertisements, letterhead, business cards, publications directed to clients or potential
22 clients, or financial or tax documents of a client.

23 7. Section 5055 of the Code provides:

24 “Any person who has received from the board a certificate of certified public
25 accountant may, subject to Section 5051, be styled and known as a "certified public accountant"
26 and may also use the abbreviation "C.P.A." No other person, except a firm registered under this
27 chapter, shall assume or use that title, designation, or abbreviation or any other title, designation,
28 sign, card, or device tending to indicate that the person using it is a certified public accountant.”

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8. Section 5058.1 of the Code provides:

“A person or firm may not use any title or designation in connection with the designation "certified public accountant" or "public accountant" that is false or misleading. The board may adopt regulations covering the use of titles or designations.”

9. Section 5060 of the Code provides:

“(a) No person or firm may practice public accountancy under any name which is false or misleading.

“(b) No person or firm may practice public accountancy under any name other than the name under which the person or firm holds a valid permit to practice issued by the board.

“(c) Notwithstanding subdivision (b), a sole proprietor may practice under a name other than the name set forth on his or her permit to practice, provided the name is registered by the board, is in good standing, and complies with the requirements of subdivision (a).

“(d) The board may adopt regulations to implement, interpret, and make specific the provisions of this section including, but not limited to, regulations designating particular forms of names as being false or misleading.”

10. Section 5100 of the Code provides:

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

“ . . . :

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

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1 cause for discipline are contained in paragraphs 14 to 22 above and are incorporated by reference
2 herein.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Practicing Under an Unregistered Name)**

5 24. Respondent is subject to disciplinary action under section 5060 in that he
6 provided tax and consulting services under the firm name "Barnett & Company Certified Public
7 Accountants" to California clients when this name was not registered with the Board. The facts
8 and circumstances supporting this cause for discipline are contained in paragraphs 14 to 22 above
9 and are incorporated by reference herein.

10 **THIRD CAUSE FOR DISCIPLINE**

11 **(Advertising as Certified Public Accountant Without a Valid Certification
12 and In a Confusing Manner)**

13 25. Respondent is subject to disciplinary action under sections 5055, 5058,
14 5058.1 and 5060 as well as California Code of Regulations, Title 16, section 2 in that he
15 advertised his services as a Certified Public Accountant, as that term is defined by section 5033,
16 prior to obtaining his Certified Public Accountant certification on October 14, 1999 and
17 continued to so advertise during the time period November 1, 2002 and September 25, 2003
18 while he had no valid certification to so practice. Respondent also advertised under the
19 unregistered firm name "Barnett & Company Certified Public Accountants" to California clients
20 describing it as "a full service Certified Public Accounting firm and a member of the American
21 Institute of Public Accountants" when the name had not been registered by the Board. The facts
22 and circumstances supporting this cause for discipline are contained in paragraphs 14 to 22 above
23 and are incorporated by reference herein.

24 **FOURTH CAUSE FOR DISCIPLINE**

25 **(Unprofessional Conduct - Misappropriation of Resources from Employer)**

26 26. Respondent is subject to disciplinary action for unprofessional conduct
27 under section 5100(k) in that he misappropriated the resources of his employer when he utilized
28 Deloitte Tax's computers and personnel resources to perform services for his private practice

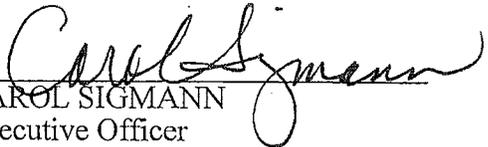
1 clients fraudulently, without the permission of Deloitte Tax, and without compensating Deloitte
2 Tax for those resources. The facts and circumstances supporting this cause for discipline are
3 contained in paragraphs 14 to 22 above and are incorporated by reference herein.

4 **PRAYER**

5 WHEREFORE, complainant requests that a hearing be held on the matters herein
6 alleged, and that following said hearing, the Board issue a decision:

- 7 1. Revoking, suspending or otherwise imposing discipline upon Certified Public
8 Accountant Certificate Number 78116 issued to Troy Barnett;
9 2. Awarding costs as provided by statute; and
10 3. Taking such other and further action as the Board deems proper.

11 DATED: September 14, 2007

12
13 
14 CAROL SIGMANN
15 Executive Officer
16 California Board of Accountancy
17 Department of Consumer Affairs
18 State of California
19 Complainant

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