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

In the Matter of the Accusation Against:
RILEY TERENCE DRAKE
9441 Neolani Drive
Huntington Beach, CA 92646
Certified Public Accountant
Certificate No. 103104

Respondent.

Case No. AC-2014-14

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about February 27, 2014, Complainant Patti Bowers, in her official capacity as the Executive Officer of the California Board of Accountancy, Department of Consumer Affairs, filed Accusation No. AC-2014-14 against Riley Terence Drake (Respondent) before the California Board of Accountancy. (Accusation attached as Exhibit A.)

2. On or about November 12, 2008, the California Board of Accountancy (CBA) issued Certified Public Accountant Certificate No. 103104 to Respondent. The Certified Public Accountant Certificate expired on December 1, 2009, and has not been renewed. The CBA has jurisdiction to adjudicate this case pursuant to Business and Professions Code Section 5109.

1 3. On or about February 28, 2014, Respondent was served by Certified and First Class
2 Mail copies of the Accusation No. AC-2014-14, Statement to Respondent, Notice of Defense,
3 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,
4 and 11507.7) at Respondent's address of record which, pursuant to California Code of
5 Regulations, title 16, section 3, is required to be reported and maintained with the CBA.

6 Respondent's address of record was and is:

7 9441 Neolani Drive
8 Huntington Beach, CA 92646.

9 Respondent was also served at the following address:

10 Riley Terence Drake, CDCR No. AM3732
11 General Inmate Mail
12 P.O. Box 92
13 Chowchilla, CA 93610-0092

14 4. Service of the Accusation was effective as a matter of law under the provisions of
15 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
16 124.

17 5. On or about March 12, 2014, Respondent wrote a letter in response to the service of
18 the Accusation, stating in part:

19 "I have no wish to deny the legitimacy of the causes for discipline outlined
20 in the accusation, I am not requesting a hearing to present a defense, for the
21 accusation is legitimate. However, I do request leniency inasmuch as is provided
22 by law in the discipline that is levied against me."

23 Respondent's entire letter is contained in the Default Decision Evidence Packet in this matter.

24 6. Government Code section 11506 states, in pertinent part:

25 (c) The respondent shall be entitled to a hearing on the merits if the respondent
26 files a notice of defense, and the notice shall be deemed a specific denial of all parts
27 of the accusation not expressly admitted. Failure to file a notice of defense shall
28 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
may nevertheless grant a hearing.

 7. Respondent failed to file a Notice of Defense within 15 days after service upon him
of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
AC-2014-14.

1 8. California Government Code section 11520 states, in pertinent part:

2 (a) If the respondent either fails to file a notice of defense or to appear at the
3 hearing, the agency may take action based upon the respondent's express admissions
4 or upon other evidence and affidavits may be used as evidence without any notice to
5 respondent.

6 9. Pursuant to its authority under Government Code section 11520, the CBA finds
7 Respondent is in default. The CBA will take action without further hearing and, based on the
8 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
9 taking official notice of all the investigatory reports, exhibits and statements contained therein on
10 file at the CBA's offices regarding the allegations contained in Accusation No. AC-2014-14, finds
11 that the charges and allegations in Accusation No. AC-2014-14, are separately and severally,
12 found to be true and correct by clear and convincing evidence.

13 10. Taking official notice of its own internal records, pursuant to Business and
14 Professions Code section 5107, it is hereby determined that the reasonable costs for Investigation
15 and Enforcement is \$1,335.00 as of August 14, 2014.

16 DETERMINATION OF ISSUES

17 1. Based on the foregoing findings of fact, Respondent Riley Terence Drake has
18 subjected his Certified Public Accountant Certificate No. 103104 to discipline.

19 2. The agency has jurisdiction to adjudicate this case by default.

20 3. The California Board of Accountancy is authorized to revoke Respondent's Certified
21 Public Accountant Certificate based upon the following violations alleged in the Accusation
22 which are supported by the evidence contained in the Default Decision Evidence Packet in this
23 case:

24 a. Conviction for Lewd or Lascivious Act on Minor, in violation of Business and
25 Professions Code sections 5100(a) and 490;

26 b. Failure to Report Conviction, in violation of Business and Professions Code section
27 5063(a)(1)(A-B); and
28

1 c. Failure to Respond to Board Inquiry, in violation of Business and Professions Code
2 section 5100, including subdivision (g), and Title 16 of the California Code of Regulations,
3 section 52.

4 ORDER

5 IT IS SO ORDERED that Certified Public Accountant Certificate No. 103104, heretofore
6 issued to Respondent Riley Terence Drake, is revoked.

7 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
8 written motion requesting that the Decision be vacated and stating the grounds relied on within
9 seven (7) days after service of the Decision on Respondent. The agency in its discretion may
10 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

11 This Decision shall become effective on 10-26-14.

12 It is so ORDERED 9-26-14

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15 *Murillo-James*
16 FOR THE CALIFORNIA BOARD OF
17 ACCOUNTANCY
18 DEPARTMENT OF CONSUMER AFFAIRS

19 70851429.DOC
20 DOJ Matter ID:SD2013706176

21 Attachment:
22 Exhibit A: Accusation
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6 San Diego, CA 92186-5266
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7 Facsimile: (619) 645-2061
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-2014-14

12 **RILEY TERENCE DRAKE**
13 **9441 Neolani Drive**
14 **Huntington Beach, CA 92646**

A C C U S A T I O N

15 **Certified Public Accountant**
16 **Certificate No. 103104**

Respondent.

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19 Complainant alleges:

20 **PARTIES**

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

24 2. On or about November 12, 2008, the California Board of Accountancy issued
25 Certified Public Accountant Certificate Number 103104 to Riley Terence Drake (Respondent).
26 The Certified Public Accountant Certificate expired on December 1, 2009, and has not been
27 renewed.
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JURISDICTION

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

4. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

5. Section 493 of the Code states:

Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and 'registration.'

6. Section 5063 of the Code requires a licensee to report in writing to the Board within 30 days all felony convictions and convictions of any crime: related to the qualifications, functions or duties of a licensee or committed in the course and scope of practice of public accountancy; or involving theft, embezzlement, misappropriation of funds or property, breach of a fiduciary responsibility, or the preparation, publication, or dissemination of false, fraudulent, or materially misleading financial statements, reports or information.

7. Section 5100 of the Code states in pertinent part as follows:

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:

1 (a) Conviction of any crime substantially related to the qualifications,
functions and duties of a certified public accountant or a public accountant.

2 ...
3 (g) Willful violation of this chapter or any rule or regulation promulgated by
the board under the authority granted under this chapter.

4 8. Section 5106 of the Code states:

5 A plea or verdict of guilty or a conviction following a plea of nolo
6 contendere is deemed to be a conviction within the meaning of this article. The
record of the conviction shall be conclusive evidence thereof. The board may order
7 the certificate or permit suspended or revoked, or may decline to issue a certificate
or permit, when the time for appeal has elapsed, or the judgment of conviction has
8 been affirmed on appeal or when an order granting probation is made, suspending
the imposition of sentence, irrespective of a subsequent order under the provisions
9 of Section 1203.4 of the Penal Code allowing such person to withdraw his plea of
guilty and to enter a plea of not guilty, or setting aside the verdict of guilty or
10 dismissing the accusation, information or indictment..

11 9. Section 5107(a) of the Code states:

12 The executive officer of the board may request the administrative law judge,
13 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
14 chapter to pay to the board all reasonable costs of investigation and prosecution of
the case, including, but not limited to, attorney's fees. The board shall not recover
15 costs incurred at the administrative hearing.

16 10. Section 5109 of the Code provides that the expiration, cancellation, forfeiture or
17 suspension of a license shall not deprive the CBA of jurisdiction to proceed with any
18 investigation of or action or disciplinary action against the licensee, or to render a decision
19 suspending or revoking a license.

20 REGULATIONS

21 11. Title 16 of the California Code of Regulations, section 52, states:

22 (a) A licensee shall respond to any inquiry by the Board or its appointed
23 representatives within 30 days. The response shall include making available all
24 files, working papers and other documents requested.

25 (b) A licensee shall respond to any subpoena issued by the Board or its executive
officer or the assistant executive officer in the absence of the executive officer
26 within 30 days and in accordance with the provisions of the Accountancy Act and
other applicable laws or regulations.
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1 (c) A licensee shall appear in person upon written notice or subpoena issued by the
2 Board or its executive officer or the assistant executive officer in the absence of
the executive officer.

3 (d) A licensee shall provide true and accurate information and responses to
4 questions, subpoenas, interrogatories or other requests for information or
5 documents and not take any action to obstruct any Board inquiry, investigation,
hearing or proceeding.

6 12. Title 16 of the California Code of Regulations, section 99, states:

7 For the purposes of denial, suspension, or revocation of a certificate or
8 permit pursuant to Division 1.5 (commencing with Section 475) of the Business
9 and Professions Code, a crime or act shall be considered to be substantially related
10 to the qualifications, functions or duties of a certified public accountant or public
11 accountant if to a substantial degree it evidences present or potential unfitness of a
certified public accountant or public accountant to perform the functions
12 authorized by his or her certificate or permit in a manner consistent with the public
13 health, safety, or welfare. Such crimes or acts shall include but not be limited to
14 those involving the following:

15 (a) Dishonesty, fraud, or breach of fiduciary responsibility of any kind;

16 (b) Fraud or deceit in obtaining a certified public accountant's certificate or a
17 public accountant's permit under Chapter 1, Division III of the Business and
18 Professions Code;

19 (c) Gross negligence in the practice of public accountancy or in the
20 performance of the bookkeeping operations described in Section 5052 of the code;

21 (d) Violation of any of the provisions of Chapter 1, Division III of the
22 Business and Professions Code or willful violation of any rule or regulation of the
23 board.

24 **FIRST CAUSE FOR DISCIPLINE**

25 **(Conviction for Lewd or Lascivious Act on Minor)**

26 13. Respondent has subjected his license to disciplinary action for unprofessional conduct
27 under Code sections 5100(a) and 490 in that he was convicted of a crime substantially related to
28 the qualifications, functions or duties of a licensee. On or about August 10, 2012, in a criminal
proceeding entitled *People v. Riley Terrence Drake* in Orange County Superior Court, Case
Number 11WF2670, Respondent was convicted by plea of guilty to one count of Penal Code
section 288(a) (Lewd Act Upon Child Under 14), a felony, based upon events which took place

1 between January 1, 2010 and November 6, 2011. The circumstances surrounding the conviction
2 are as follows:

3 14. Between January 1, 2010 and November 6, 2011, Respondent in violation of Penal
4 Code section 288(a) did willfully and unlawfully commit a lewd and lascivious act upon the body
5 of Jane Do, a child under the age of fourteen, with the intent of arousing, appealing to, and
6 gratifying the lust, passions, and sexual desires of Respondent.

7 15. On or about August 10, 2012, Respondent was sentenced to state prison for six (6)
8 years, ordered to pay a \$300 Sex Offense Additional Fine, a restitution fine in the amount of
9 \$200, a \$200 Parole Revocation Restitution Fine, and other fees. Respondent was credited for
10 274 actual days, 40 days due to conduct, totaling 314 days pursuant to Penal Code section 2933.1.
11 Respondent is now a registered sex offender.

12 **SECOND CAUSE FOR DISCIPLINE**

13 **(Failure to Report Conviction)**

14 16. Respondent is subject to discipline under section 5063(a)(1)(A-B) of the Code in that
15 he failed to report his felony conviction, as detailed in paragraphs 14 to 16, above, to the CBA
16 within thirty days after it was entered by his guilty plea made on August 10, 2012.

17 **THIRD CAUSE FOR DISCIPLINE**

18 **(Failure to Respond to Board Inquiry)**

19 17. Respondent is subject to disciplinary action under section 5100, including subdivision
20 (g) thereof, of the Code in that he failed to respond to a CBA inquiry in violation of Title 16 of
21 the California Code of Regulations, section 52. Specifically, on or about August 10, 2012, the
22 CBA wrote Respondent requesting an explanation of the circumstances of his arrest for lewd and
23 lascivious conduct referred to above, and set forth in that letter Respondent's obligation to
24 respond to the CBA's letter within 30 days, in compliance with Title 16 of the California Code of
25 Regulations, section 52. Respondent failed to respond thereto within 30 days, or at any time
26 thereafter.

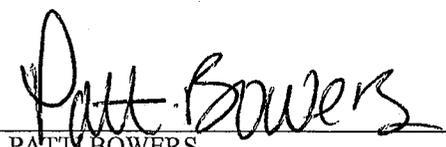
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PRAYER

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

1. Revoking or suspending or otherwise imposing discipline upon Certified Public Accountant Certificate Number CPA 103104, issued to Riley Terence Drake;
2. Ordering Riley Terence Drake to pay the California Board of Accountancy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 5107;
3. Ordering Riley Terence Drake to pay the California Board of Accountancy an administrative penalty pursuant to Business and Professions Code section 5116; and
4. Taking such other and further action as deemed necessary and proper.

DATED: 2/27/2014


PATTI BOWERS
Executive Officer
California Board of Accountancy
State of California
Complainant

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