

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

In the Matter of the Accusation Against:

Case No. AC-2014-55

WILLIAM KEVIN AYLWARD
8976 Oak Creek Rd.
Cherry Valley, CA 92223

Certified Public Accountant
Certificate No. 47025

Respondent.

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 July 5, 2015.

It is so ORDERED June 5, 2015.



FOR THE CALIFORNIA BOARD OF
ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS

1 KAMALA D. HARRIS
Attorney General of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 CARL W. SONNE
Deputy Attorney General
4 State Bar No. 116253
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-3164
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-2014-55

12
13 **WILLIAM KEVIN AYLWARD**
8976 Oak Creek Rd.
14 Cherry Valley, CA 92223
15 **Certified Public Accountant**
Certificate No. 47025

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

16 Respondent.
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19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
20 entitled proceedings that the following matters are true:

21 PARTIES

22 1. Patti Bowers ("Complainant") is the Executive Officer of the California Board of
23 Accountancy. She brought this action solely in her official capacity and is represented in this
24 matter by Kamala D. Harris, Attorney General of the State of California, by Carl W. Sonne,
25 Deputy Attorney General.

26 2. Respondent William Kevin Aylward ("Respondent") is representing himself in this
27 proceeding and has chosen not to exercise his right to be represented by counsel.
28

1 **DISCIPLINARY ORDER**

2 IT IS HEREBY ORDERED that Certified Public Accountant Certificate No. 47025 issued
3 to Respondent William Kevin Aylward (Respondent) is revoked. However, the revocation is
4 stayed and Respondent is placed on probation for three (3) years on the following terms and
5 conditions.

6 1. **Obey All Laws**

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

9 2. **Cost Reimbursement**

10 Respondent shall reimburse the CBA \$3,000.25 for its investigation and prosecution costs.
11 The payment shall be made within six (6) months of the date the CBA's decision is final.

12 3. **Submit Written Reports**

13 Respondent shall submit, within 10 days of completion of the quarter, written reports to the
14 CBA on a form obtained from the CBA. The respondent shall submit, under penalty of perjury,
15 such other written reports, declarations, and verification of actions as are required. These
16 declarations shall contain statements relative to respondent's compliance with all the terms and
17 conditions of probation. Respondent shall immediately execute all release of information forms
18 as may be required by the CBA or its representatives.

19 4. **Personal Appearances**

20 Respondent shall, during the period of probation, appear in person at interviews/meetings as
21 directed by the CBA or its designated representatives, provided such notification is accomplished
22 in a timely manner.

23 5. **Comply With Probation**

24 Respondent shall fully comply with the terms and conditions of the probation imposed by
25 the CBA and shall cooperate fully with representatives of the California Board of Accountancy in
26 its monitoring and investigation of the respondent's compliance with probation terms and
27 conditions.

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1 **6. Practice Investigation**

2 Respondent shall be subject to, and shall permit, a practice investigation of the respondent's
3 professional practice. Such a practice investigation shall be conducted by representatives of the
4 CBA, provided notification of such review is accomplished in a timely manner.

5 **7. Comply With Citations**

6 Respondent shall comply with all final orders resulting from citations issued by the
7 California Board of Accountancy.

8 **8. Tolling of Probation for Out-of-State Residence/Practice**

9 In the event respondent should leave California to reside or practice outside this state,
10 respondent must notify the CBA in writing of the dates of departure and return. Periods of non-
11 California residency or practice outside the state shall not apply to reduction of the probationary
12 period, or of any suspension. No obligation imposed herein, including requirements to file
13 written reports, reimburse the CBA costs, and make restitution to consumers, shall be suspended
14 or otherwise affected by such periods of out-of-state residency or practice except at the written
15 direction of the CBA.

16 **9. Violation of Probation**

17 If respondent violates probation in any respect, the CBA, after giving respondent notice and
18 an opportunity to be heard, may revoke probation and carry out the disciplinary order that was
19 stayed. If an accusation or a petition to revoke probation is filed against respondent during
20 probation, the CBA shall have continuing jurisdiction until the matter is final, and the period of
21 probation shall be extended until the matter is final.

22 The CBA's Executive Officer may issue a citation under California Code of Regulations,
23 Section 95, to a licensee for a violation of a term or condition contained in a decision placing that
24 licensee on probation.

25 **10. Completion of Probation**

26 Upon successful completion of probation, respondent's license will be fully restored.

27 **11. Restricted Practice**

28 Respondent shall be prohibited from providing audit, review, and compilation services

1 until Respondent provides proof that a peer review has been accepted by a Board-recognized peer
2 review program provider.

3 **12. Ethics Continuing Education**

4 Respondent shall complete four hours of continuing education in course subject matter
5 pertaining to the following: a review of nationally recognized codes of conduct emphasizing how
6 the codes relate to professional responsibilities; case-based instruction focusing on real-life
7 situational learning; ethical dilemmas facing the accounting profession; or business ethics, ethical
8 sensitivity, and consumer expectations by September 30, 2015. Courses must be a minimum of
9 one hour as described in California Code of Regulations Section 88, and shall be in addition to
10 continuing education requirements for relicensing.

11 If respondent fails to complete said courses by September 30, 2015, Respondent shall so
12 notify the CBA and shall cease practice until respondent completes said courses, has submitted
13 proof of same to the CBA, and has been notified by the CBA that he or she may resume practice.
14 Failure to complete the required courses no later than 100 days prior to the termination of
15 probation shall constitute a violation of probation.

16 **13. Regulatory Review Course**

17 Respondent shall complete a CBA-approved course on the provisions of the California
18 Accountancy Act and the California Board of Accountancy Regulations specific to the practice of
19 public accountancy in California emphasizing the provisions applicable to current practice
20 situations by September 30, 2015. The course also will include an overview of historic and recent
21 disciplinary actions taken by the CBA, highlighting the misconduct which led to licensees being
22 disciplined. The course shall be a minimum of two hours, and shall be in addition to continuing
23 education requirements for relicensing.

24 If respondent fails to complete said courses by September 30, 2015, Respondent shall so
25 notify the CBA and shall cease practice until respondent completes said courses, has submitted
26 proof of same to the CBA, and has been notified by the CBA that he or she may resume practice.
27 Failure to complete the required courses no later than 100 days prior to the termination of
28 probation shall constitute a violation of probation.

1 **14. Peer Review**

2 During the period of probation, all audit, review, and compilations reports and work papers
3 shall be subject to peer review by a Board-recognized peer review program provider pursuant to
4 California Business and Professions Code section 5076 and California Code of Regulations, Title
5 16, Division 1, Article 6, at Respondent's expense. The specific engagements to be reviewed
6 shall be at the discretion of the peer reviewer. The peer review shall be completed by September
7 30, 2015 and failure to complete the peer review by that time frame shall constitute a violation of
8 probation. Within 45 days of the peer review report being accepted by a Board-recognized peer
9 review program provider, Respondent shall submit the CBA a copy of the peer review report,
10 including any materials documenting the prescription of remedial or corrective actions imposed
11 by the Board-recognized peer review program provider. Respondent shall also submit, if
12 available, any materials document completion of any or all of the prescribed remedial or
13 corrective actions.

14 **15. Continuing Education Courses**

15 Respondent shall complete and provide proper documentation of 16 hours of professional
16 education courses in the subject matter of accounting and auditing each year Respondent is on
17 probation for a total of 48 hours during the three (3) years of probation. The sixteen hours of
18 continuing education courses shall be completed by December 31st of each year of probation.
19 This shall be in addition to continuing education requirements for relicensing. Failure to
20 satisfactorily complete the required courses as scheduled shall constitute a violation of probation.

21 **16. Samples - Audit, Review or Compilation**

22 During the period of probation, if the respondent undertakes an audit, review or compilation
23 engagement, the respondent shall submit to the CBA as an attachment to the required quarterly
24 report a listing of the same. The CBA or its designee may select one or more from each category
25 and the resulting report and financial statement and all related working papers must be submitted
26 to the CBA or its designee upon request.

27 **17. Active License Status**

28 Respondent shall at all times maintain an active license status with the CBA, including

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during any period of suspension. If the license is expired at the time the CBA's decision becomes effective, the license must be renewed within 30 days of the effective date of the decision.

ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. 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: 5-11-15 
WILLIAM KEVIN AYLWARD
Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the California Board of Accountancy.

Dated: May 14, 2015

Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
JAMES M. LEDAKIS
Supervising Deputy Attorney General


CARL W. SONNE
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. AC-2014-55

1 KAMALA D. HARRIS
Attorney General of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 CARL W. SONNE
Deputy Attorney General
4 State Bar No. 116253
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-3164
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13 **WILLIAM KEVIN AYLWARD**
14 **8976 Oak Creek Rd.**
Cherry Valley, CA 92223

A C C U S A T I O N

15 **Certified Public Accountant**
16 **Certificate No. 47025**

17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

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

23 2. On or about January 30, 1987, the California Board of Accountancy issued Certified
24 Public Accountant Certificate Number 47025 to William Kevin Aylward (Respondent). The
25 Certified Public Accountant Certificate was in full force and effect at all times relevant to the
26 charges brought herein and will expire on January 31, 2015, unless 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 (Code) unless otherwise indicated.

4. Section 5109 states:

The expiration, cancellation, forfeiture, or suspension of a license, practice privilege, or other authority to practice public accountancy by operation of law or by order or decision of the board or a court of law, the placement of a license on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board of jurisdiction to commence or proceed with any investigation of or action or disciplinary proceeding against the licensee, or to render a decision suspending or revoking the license.

STATUTORY PROVISIONS

5. Section 498 states:

A board may revoke, suspend, or otherwise restrict a license on the ground that the licensee secured the license by fraud, deceit, or knowing misrepresentation of a material fact or by knowingly omitting to state a material fact.

6. Section 5050 of the Code provides, in pertinent part, that except as otherwise provided, no person shall engage in the practice of public accountancy in this state unless the person is the holder of a valid permit to practice public accountancy issued by the Board.

7. Section 5051 of the Code states:

Except as provided in Sections 5052 and 5053, a person shall be deemed to be engaged in the practice of public accountancy within the meaning and intent of [Chapter 1 of Division 3 (commencing with Section 5000)] if he or she does any of the following:

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

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

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

(d) Prepares or certifies for clients reports on audits or examinations of books or records of account, balance sheets, and other financial, accounting and related schedules, exhibits, statements, or reports that are to be used for publication, for the purpose of obtaining credit, for filing with a court of law or with any governmental agency, or for any other purpose.

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

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

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

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

10 (i) Provides management consulting services to clients.

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

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

23 8. Section 5076 of the Code, in effect at the time of the alleged conduct, stated in part:

24 (a) In order to renew its registration, a firm, as defined in Section 5035.1, shall
25 have a peer review report of its accounting and auditing practice accepted by a board-
26 recognized peer review program no less frequently than every three years.

27 (b) For purposes of this article, the following definitions apply:

28 (1) "Peer review" means a study, appraisal, or review conducted in
accordance with professional standards of the professional work of a firm by an
individual who has a valid and current license, certificate, or permit to practice public
accountancy from this state or another state and is unaffiliated with the firm being
reviewed, and may include an evaluation of other factors in accordance with
requirements specified by the board in regulations.

(2) "Accounting and auditing practice" includes any services that are
performed using professional standards defined by the board in regulations.

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1 12. California Code of Regulations, title 16, section 45, in effect at the time of the alleged
2 conduct, stated in pertinent part:

3 (b) The operative date of existing California-licensed firms to begin reporting
4 peer review results shall be based on a firm's license number according to the
5 following schedule: for license numbers ending with 01-33 the reporting date is no
6 later than July 1, 2011; for license numbers ending with 34-66 the reporting date is no
7 later than July 1, 2012; for license numbers ending with 67-00 the reporting date is no
8 later than July 1, 2013.

9 (c) A firm licensed after the operative date of this Article that performs
10 accounting and auditing services or a firm not previously required to undergo a peer
11 review shall have a peer review report accepted by a Board-recognized peer review
12 program no later than 18-months after the completion of the services as required by
13 Section 40. Upon the acceptance of the peer review report, the firm shall report
14 specific peer review information to the Board on form PR-1 (1/10).

15 13. California Code of Regulations, title 16, section 52(a) states:

16 A licensee shall respond to any inquiry by the Board or its appointed
17 representatives within 30 days. The response shall include making available all files,
18 working papers and other documents requested.

19 COSTS & PENALITIES

20 14. Section 5107, subdivision (a) of the Code states:

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

27 15. Section 5116 of the Code provides, in pertinent part, that the Board may order any
28 licensee or applicant for licensure or examination to pay an administrative penalty as part of any
disciplinary proceeding. Administrative penalties shall be in addition to any other penalties or
sanctions imposed on the licensee or other person, including, but not limited to, license
revocation, license suspension, denial of the application for licensure, denial of the petition for
reinstatement, or denial of admission to the licensing examination. Payment of these
administrative penalties may be included as a condition of probation when probation is ordered.

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FACTUAL ALLEGATIONS

16. Under the procedures in place by the CBA for the administration of the Peer Review Program, the CBA sent a letter to all licensees advising them of the requirement that all California-licensed firms, including sole proprietorships, who perform accounting and auditing services using professional standards are required to undergo peer review. The letter, dated July 2010, also advised licensees that, based on their license number ending in 01 through 33, it was required to submit a Peer Review Reporting Form to the CBA no later than July 1, 2011. Respondent was included in the mailing.

17. In a letter dated April 1, 2011, the CBA sent a reminder to licensees advising them of the requirement to submit a Peer Review Reporting form to the CBA no later than July 1, 2011. Respondent was included in the mailing.

18. In a third letter dated September 12, 2011, the CBA advised licensees of their responsibility to comply with the peer review requirement, and warned that failure to report peer review information by September 30, 2011 would result in a Citation and Fine or other enforcement action. Respondent was included in the mailing.

19. On January 20, 2012, the CalCPA¹ dropped and/or terminated Respondent from its Peer Review Program for “non-compliance.”

20. On February 23, 2012, Respondent was issued Citation No. CT-2012-636 for failing to respond to the CBA’s inquiries regarding peer review requirements, in violation of California Code of Regulations, title 16, section 52. The Citation included a \$250 administrative fine. Respondent was given thirty (30) days to correct the violation and submit a Peer Review Reporting Form.

21. On March 23, 2012, the CBA received Respondent’s response to the Citation and his Peer Review Reporting Form. On the form, Respondent indicated that he performed services that

¹ CalCPA administers the American Institute of CPAs (AICPA) Peer Review Program for enrolled firms with their main office in California, Arizona and Alaska. As set forth above in Business and Professions Code section 5076, a peer review is a periodic outside review of a firm’s accounting and auditing practice aimed at helping the firm assess and improve the quality of its services.

1 required a peer review, and provided a statement that he had not performed any audit or review
2 services in the previous 15 years. However, Respondent acknowledged that because he
3 performed a compilation after January 1, 2010, he was subject to the requirement for a peer
4 review, and that he intended to have a peer review completed.

5 22. In a March 30, 2012 letter to Respondent, the CBA acknowledged receiving payment
6 of the \$250 administrative fine, but that the Citation would not be closed until the peer review
7 was completed. Respondent was also warned that renewal of his license without having a peer
8 review completed could result in disciplinary action.

9 23. On January 27, 2013, the CBA received Respondent's Certified Public Accountant/
10 Public Accountant License Renewal Application. By signing the application, Respondent
11 acknowledged that he was required to have a peer review report accepted by a Board-recognized
12 peer review program.

13 24. In a letter to Respondent dated July 17, 2013, the CBA advised Respondent that they
14 did not receive his peer review results that were due July 1, 2011, and that the CBA was
15 conducting an investigation into whether Respondent completed a peer review in conjunction
16 with his license renewal. Respondent was directed to provide to the CBA, no later than August
17 19, 2013, a copy of the Engagement Review or System Review prepared by the peer reviewer,
18 documentation that the peer review report was accepted by a Board-recognized peer review
19 program, and a completed Peer Review Reporting Form. If a peer review had not been
20 completed, Respondent was directed to provide a written explanation of the reason the firm did
21 not complete the peer review prior to renewing its license, the firm's intentions to complete the
22 peer review, and the steps the firm has taken to complete the peer review. The CBA requested
23 that Respondent provide a copy of the first accounting and auditing engagement, including work
24 papers and engagement letter, issued by the firm after January 1, 2010, a listing of any accounting
25 or auditing engagements performed between July 1, 2008 and January 1, 2010, and the results of
26 any prior peer review. Respondent was warned that failure to comply with the CBA's inquiry
27 was a violation of California Code of Regulations, title 16, section 52.

28

1 respond to the CBA's multiple requests for information regarding the status of his peer review, as
2 described in paragraphs 15 to 25, above.

3 **PRAYER**

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

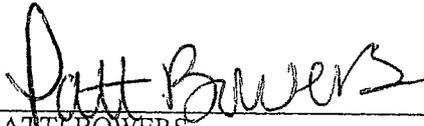
6 1. Revoking or suspending or otherwise imposing discipline upon Certified Public
7 Accountant Certificate Number 47025, issued to William Kevin Aylward;

8 2. Ordering William Kevin Aylward to pay the California Board of Accountancy the
9 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
10 Professions Code section 5107;

11 3. Ordering William Kevin Aylward to pay the California Board of Accountancy an
12 administrative penalty pursuant to Business and Professions Code section 5116; and

13 4. Taking such other and further action as deemed necessary and proper.

14
15 DATED: 1/12/2015


16 PATTY BOWERS
17 Executive Officer
18 California Board of Accountancy
19 Department of Consumer Affairs
State of California
Complainant

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