

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

In the Matter of the Accusation Against:

Case No. AC-2016-4

ALFONSO FIERRO JR.
15673 Via Montecristo
San Diego, CA 92127
Certified Public Accountant License
No. CPA 77331

Respondent.

DECISION AND ORDER

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

This Decision shall become effective on 12/30/15.

It is so ORDERED on 11/30/15.



For The CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
Senior Assistant Attorney General
3 GREGORY J. SALUTE
Supervising Deputy Attorney General
4 State Bar No. 164015
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2617
7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

Case No. AC-2016-4

13 **ALFONSO FIERRO JR.**
14 **15673 Via Montecristo**
San Diego, CA 92127

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

15 **Certified Public Accountant**
16 **Certificate No. 77331**

17 Respondent.

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

20 **PARTIES**

21 1. Patti Bowers (Complainant) is the Executive Officer of the California Board of
22 Accountancy. She brought this action solely in her official capacity and is represented in this
23 matter by Kamala D. Harris, Attorney General of the State of California, by Gregory J. Salute,
24 Supervising Deputy Attorney General.

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

27 3. On or about April 20, 1999, the California Board of Accountancy issued Certified
28 Public Accountant Certificate No. 77331 to Respondent. The Certified Public Accountant

1 Public Accountant Certificate expired on January 1, 2013, and has not been renewed. Section
2 5109 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the
3 board of jurisdiction to commence or proceed with any investigation of or action or disciplinary
4 proceeding against the licensee, or to render a decision suspending or revoking the license.

5 **JURISDICTION**

6 4. Accusation No. AC-2016-4 was filed before the California Board of Accountancy
7 (CBA), Department of Consumer Affairs, and is currently pending against Respondent. The
8 Accusation and all other statutorily required documents were properly served on Respondent on
9 September 16, 2015. Respondent timely filed his Notice of Defense contesting the Accusation.
10 A copy of Accusation No. AC-2016-4 is attached as Exhibit A and incorporated by reference.

11 **ADVISEMENT AND WAIVERS**

12 5. Respondent has carefully read, and understands the charges and allegations in
13 Accusation No. AC-2016-4. Respondent also has carefully read, and understands the effects of
14 this Stipulated Surrender of License and Order.

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

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

24 **CULPABILITY**

25 8. Respondent admits the truth of each and every charge and allegation in Accusation
26 No. AC-2016-4, agrees that cause exists for discipline and hereby surrenders his Certified Public
27 Accountant Certificate No. 77331 for the CBA's formal acceptance.

28 ///

ORDER

IT IS HEREBY ORDERED that Certified Public Accountant Certificate No. 77331, issued to Respondent Alfonso Fierro Jr., is surrendered and accepted by the California Board of Accountancy.

1. The surrender of Respondent's Certified Public Accountant Certificate and the acceptance of the surrendered license by the CBA shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the CBA.

2. Respondent shall lose all rights and privileges as a certified public accountant in California as of the effective date of the CBA's Decision and Order.

3. Respondent shall cause to be delivered to the CBA his pocket license and, if one was issued, his wall certificate on or before the effective date of the Decision and Order.

4. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the CBA shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation No. AC-2016-4 shall be deemed to be true, correct and admitted by Respondent when the CBA determines whether to grant or deny the petition.

5. Respondent shall pay the agency its costs of investigation and enforcement in the amount of \$1,959.14 prior to issuance of a new or reinstated license.

ACCEPTANCE

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

DATED: 10-8-2015



ALFONSO FIERRO JR.
Respondent

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

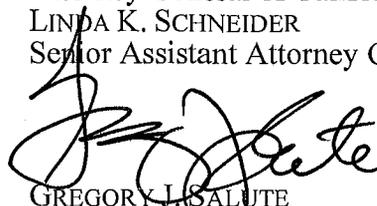
ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the California Board of Accountancy of the Department of Consumer Affairs.

Dated: 10-15-2015

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
LINDA K. SCHNEIDER
Senior Assistant Attorney General



GREGORY L. SALUTE
Supervising Deputy Attorney General
Attorneys for Complainant

SD2015802004
81156402.doc



Exhibit A

Accusation No. AC-2016-4

A small, handwritten mark or signature located in the bottom right corner of the page.

1 Kamala D. Harris
Attorney General of California
2 LINDA K. SCHNEIDER
Senior Assistant Attorney General
3 GREGORY J. SALUTE
Supervising Deputy Attorney General
4 State Bar No. 164015
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2617
7 Facsimile: (619) 645-2061
Attorneys for Complainant
8

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

12 In the Matter of the Accusation Against:

Case No. AC-2016-4

13 **ALFONSO FIERRO JR.**
14 **15673 Via Montecristo**
San Diego, CA 92127

A C C U S A T I O N

15 **Certified Public Accountant**
16 **Certificate No. 77331**

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 (CBA), Department of Consumer
23 Affairs.

24 2. On or about April 20, 1999, the CBA issued Certified Public Accountant Certificate
25 Number 77331 to Alfonso Fierro Jr. (Respondent). The Certified Public Accountant Certificate
26 expired on January 1, 2013, and has not been renewed.

27 ///

28 ///

1 **JURISDICTIONAL & STATUTORY PROVISIONS**

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

5 4. Section 5109 of the Code states:

6 The expiration, cancellation, forfeiture, or suspension of a license, practice
7 privilege, or other authority to practice public accountancy by operation of law or by
8 order or decision of the board or a court of law, the placement of a license on a retired
9 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.

10 5. Section 5100 of the Code states:

11 After notice and hearing the board may revoke, suspend, or refuse to renew any
12 permit or certificate granted under Article 4 (commencing with Section 5070) and
13 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:

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

16

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

18

19 (i) Fiscal dishonesty or breach of fiduciary responsibility of any kind.

20

21 (k) Embezzlement, theft, misappropriation of funds or property, or obtaining
22 money, property, or other valuable consideration by fraudulent means or false
pretenses. . . .

23 6. Section 5063 of the Code requires a licensee to report in writing to the Board within
24 30 days all felony convictions and convictions of any crime: related to the qualifications,
25 functions or duties of a licensee or committed in the course and scope of practice of public
26 accountancy; or involving theft, embezzlement, misappropriation of funds or property, breach of
27 a fiduciary responsibility, or the preparation, publication, or dissemination of false, fraudulent, or
28 materially misleading financial statements, reports or information.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

7. Section 5106 of the Code states:

A plea or verdict of guilty or a conviction following a plea of nolo 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 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 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 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 dismissing the accusation, information or indictment.

8. Section 482 of the Code states:

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

- (a) Considering the denial of a license by the board under Section 480; or
- (b) Considering suspension or revocation of a license under Section 490.

Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

9. 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.

10. 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."

REGULATORY PROVISIONS

11. California Code of Regulations, Title 16, section 52 provides, in pertinent part, that a licensee shall respond to any inquiry by the CBA or its appointed representatives within 30 days,

1 and shall provide true and accurate information and responses to questions, subpoenas,
2 interrogatories or other requests for information or documents and not take any action to obstruct
3 any CBA inquiry, investigation, hearing or proceeding.

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

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

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

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

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

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

16 13. California Code of Regulations, Title 16, section 99.1 states:

17 When considering the denial of a certificate or permit under Section 480 of the
18 Business and Professions Code, the suspension or revocation of a certificate or permit
or restoration of a revoked certificate under Section 11522 of the Government Code,
19 the board, in evaluating the rehabilitation of the applicant and his present eligibility
for a certificate or permit, will consider the following criteria:

20 (1) Nature and severity of the act(s) or offense(s).

21 (2) Criminal record and evidence of any act(s) committed subsequent to the
22 act(s) or offense(s) under consideration which also could be considered as grounds for
denial, suspension or revocation.

23 (3) The time that has elapsed since commission of the act(s) or offense(s)
24 referred to in subdivision (1) or (2).

25 (4) The extent to which the applicant or licensee has complied with any terms
of parole, probation, restitution, or any other sanctions lawfully imposed against the
26 applicant or licensee.

27 (5) If applicable, evidence of expungement proceedings pursuant to Section
1203.4 of the Penal Code.

28 (6) Evidence, if any, of rehabilitation submitted by the applicant or licensee.

1 **COSTS & ADMINISTRATIVE PENALTIES**

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

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

9 15. Section 5116 of the Code states:

10 (a) The board, after appropriate notice and an opportunity for hearing, may
11 order any licensee or applicant for licensure or examination to pay an administrative
12 penalty as provided in this article as part of any disciplinary proceeding or other
13 proceeding provided for in this chapter.

14 (b) The board may assess administrative penalties under one or more provisions
15 of this article. However, the total administrative penalty to be paid by the licensee
16 shall not exceed the amount of the highest administrative penalty authorized by this
17 article.

18 (c) The board shall adopt regulations to establish criteria for assessing
19 administrative penalties based upon factors, including, but not limited to, actual and
20 potential consumer harm, nature and severity of the violation, the role of the person in
21 the violation, the person's ability to pay the administrative penalty, and the level of
22 administrative penalty necessary to deter future violations of this chapter.

23 (d) Administrative penalties assessed under this article shall be in addition to
24 any other penalties or sanctions imposed on the licensee or other person, including,
25 but not limited to, license revocation, license suspension, denial of the application for
26 licensure, denial of the petition for reinstatement, or denial of admission to the
27 licensing examination. Payment of these administrative penalties may be included as
28 a condition of probation when probation is ordered.

(e) All administrative penalties collected under this article shall be deposited in
the Accountancy Fund.

21 **FIRST CAUSE FOR DISCIPLINE**

22 **(March 11, 2014 Criminal Conviction for Mail Fraud)**

23 16. Respondent has subjected his license to disciplinary action under sections 490 and
24 5100, subdivision (a) of the Code in that he was convicted of a crime that is substantially related
25 to the qualifications, functions, and duties of a Certified Public Accountant. The circumstances
26 are as follows:

27 a. On or about March 11, 2014, in a criminal proceeding entitled *United States of*
28 *America v. Alfonso Fierro, Jr.*, in United States District Court, Southern District of California,

1 case number 14CR0573-GPC, Respondent entered a plea of guilty to Count 1 of a federal
2 indictment for violating Title 18 United States Code sections 1341, mail fraud, a felony.

3 b. As a result of Respondent's guilty plea, on May 30, 2014, the court entered
4 judgment sentencing Respondent to serve a term of 15 months in federal prison, followed by
5 three years of supervised release on standard conditions, and special conditions that require he
6 submit to a Fourth Amendment waiver, report all vehicles owned/operated, and provide complete
7 disclosure of personal and business financial records to his probation officer. Respondent was
8 ordered to pay restitution in the amount of \$2,480,967.11 to WSA Distributing, Inc.

9 c. The facts that led to the conviction are that on or about April 7, 2008,
10 Respondent was hired as the Corporate Comptroller to WSA Distributing, Inc. (WSA), a wireless
11 handset distributor headquartered in San Diego. In 2012, Respondent was promoted to Chief
12 Financial Officer. From September 2011 through December 2013, Respondent forged signatures
13 of other employees on 110 WSA checks totaling \$2,480,967.11, which funds he used for his own
14 purposes. Respondent forged a letter purportedly signed by WSA's CEO falsely claiming that
15 Respondent earned a base salary of \$450,899.50 and was guaranteed an annual bonus of
16 \$200,000, when in fact, his income was \$125,000 a year with no bonus guarantee. Respondent
17 submitted the forged letter to Bank of America in order to qualify for two mortgages in the
18 combined amount of \$1.95 million in order to purchase a \$2.79 million home in Rancho Santa Fe
19 in 2013. Respondent forged additional WSA checks totaling \$1,071,700 and used the proceeds to
20 make two escrow payments. Respondent used monies to pay for personal expenses including a
21 \$54,904 membership at an exclusive country club, \$90,000 for luxury vehicles, \$185,382 for fine
22 jewelry and watches, \$67,000 for a private jet and \$24,000 for hotel accommodations for a
23 Hawaiian vacation. On November 21, 2013, Respondent used the U.S. Mail to send a WSA
24 check with forged signatures to American Express to pay his personal credit card bill in the
25 amount of \$55,656.97.

26 ///

27 ///

28 ///

1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Fiscal Dishonesty)**

3 17. Respondent has subjected his license to disciplinary action under section 5100,
4 subdivision (i) of the Code for unprofessional conduct in that while entrusted with the duties of
5 corporate comptroller and chief financial officer, he committed acts of fiscal dishonesty, as
6 described in paragraph 16, above.

7 **THIRD CAUSE FOR DISCIPLINE**

8 **(Embezzlement-Theft-Misappropriation of Funds)**

9 18. Respondent has subjected his license to disciplinary action under section 5100,
10 subdivision (k) of the Code for unprofessional conduct in that while entrusted with the duties of
11 corporate comptroller and chief financial officer, he obtained money from his employer through
12 embezzlement, theft, misappropriation of funds, and/or obtained money by fraudulent means or
13 false pretenses, as described in paragraph 16, above.

14 **FOURTH CAUSE FOR DISCIPLINE**

15 **(Failure to Report Criminal Conviction)**

16 19. Respondent has subjected his license to disciplinary action under section 5100,
17 subdivision (g) of the Code when he failed to report his felony conviction, as described in
18 paragraph 16 above, within 30 days of its occurrence, as required by section 5063.

19 **FIFTH CAUSE FOR DISCIPLINE**

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

21 20. Respondent has subjected his license to disciplinary action under section 5100,
22 subdivision (g) of the Code when he failed to respond to an inquiry by the CBA, in violation of
23 California Code of Regulations, Title 16, section 52. The facts and circumstances are that on
24 April 15, 2015, in a letter to Respondent sent to his address of record with the CBA via First
25 Class and Certified Mail, an enforcement analyst advised Respondent that the CBA received
26 information concerning Respondent's federal conviction. Respondent was directed to provide a
27 written explanation of the facts underlying his conviction. Respondent was warned that a failure
28 to respond constituted a violation of section 5100, subdivision (g) of the Business and Professions

1 Code. The certified letter was returned to the CBA by the U.S. Postal Service marked
2 "Unclaimed," however, Respondent telephoned the enforcement analyst and requested an
3 extension of time to respond to the directive. To date, Respondent has not complied with the
4 CBA's inquiry.

5 **PRAYER**

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

8 1. Revoking or suspending or otherwise imposing discipline upon Certified Public
9 Accountant Certificate Number 77331, issued to Alfonso Fierro Jr.;

10 2. Ordering Alfonso Fierro Jr. to pay the California Board of Accountancy the
11 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
12 Professions Code section 5107, subdivision (a);

13 3. Ordering Alfonso Fierro Jr. to pay the California Board of Accountancy
14 administrative penalties pursuant to Business and Professions Code section 5116;

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

16
17 DATED: 9-14-2015

Patti Bowers

18 PATTI BOWERS
19 Executive Officer
20 California Board of Accountancy
21 Department of Consumer Affairs
22 State of California
23 Complainant

24
25
26
27
28
SD2015802004
81143152.doc