

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

**In the Matter of the Petition for
Reinstatement of the Revoked
Certificate of:**

**ORLANDO J. ANTONINI
1325 Columbus Avenue, 2nd Floor
San Francisco, California 94133-1303**

Petitioner.

Case No. SI-2000-6

OAH No. L1999110404

DECISION

This matter came on regularly for hearing before a quorum of the Board of Accountancy, Department of Consumer Affairs, State of California ("the Board") on January 21, 2000 in Los Angeles, California.

The following Board members were present: Joseph Tambe, Navid Sharafatian, Baxter Rice, Michael Schneider, Donna McCluskey, Robert Shackleton, and Walter Finch.¹

H. Stuart Waxman, Administrative Law Judge with the Office of Administrative Hearings, presided.

Michael R. Granen, Deputy Attorney General, was present pursuant to Government Code section 11522.

Petitioner, Orlando J. Antonini ("Petitioner"), was present and was represented by Donald R. Wild, Attorney at Law.

Oral and documentary evidence was received and the matter was submitted for decision.

¹ Board member Harry Mikkelsen recused himself from the proceedings in the instant case.

FACTUAL FINDINGS

1. By Decision effective June 15, 1997, the Board revoked Certified Public Accountant Certificate No. CPA 18654, previously issued to Petitioner on April 27, 1973.

2. The Decision was based on Petitioner's failure to comply with a citation issued on March 11, 1996. The citation alleged violation of Business and Professions Code section 5050 (Practicing public accountancy without a valid permit), section 5052 (Representing a public accounting practice as an accountancy corporation without filing a biennial report), and Title 16, California Code of Regulations, section 63 (Knowingly disseminating materially misleading information). The citation contained an Order of Abatement requiring payment of administrative fines totaling \$1750, and an Order of Correction requiring the filing of certain forms and the completion of the requisite continuing education hours for the May 1, 1993 through April 30, 1995 renewal period. Petitioner failed to comply with the citation and, on or about April 1, 1997, an Accusation was filed against him. Petitioner did not file a Notice of Defense. However, on April 11, 1996, he corresponded with the Board requesting reconsideration of the \$1000 administrative fine on Item 1 of the citation and the \$500 administrative fine on Item 2. The Board declined his request for reconsideration. On May 16, 1997, the Board issued a default decision revoking Petitioner's license.

3. Petitioner was the managing partner in his accountancy firm at the time the citation was issued. Although the incidents giving rise to the citation were not the result of dishonest or immoral conduct on Petitioner's part, he accepted responsibility for the three items referenced in the citation. However, at that time, Petitioner was experiencing financial difficulties and was unable to pay the fines or pay for continuing education courses.

4. Most of the violations referenced in the citation occurred between 1990 and 1994. Due to his financial problems, Petitioner downsized his firm and, in 1994, closed the practice entirely. He presently works as a consultant. He wishes to resume his work as a C.P.A., emphasizing financial planning, tax and business consulting. He vows to ensure that no similar violations occur should his certificate be reinstated.

5. Petitioner paid the administrative fines on July 19, 1999. He has completed his required continuing education through 1999.

LEGAL CONCLUSIONS

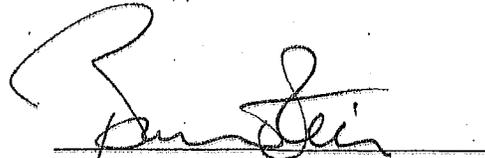
Cause exists, pursuant to Business and Professions Code section 5070.7(e), to grant the Petition by reason of Findings 2, 3, 4 and 5.

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

The Petition of Orlando J. Antonini for reinstatement of his revoked Certified Public Accountant's Certificate No. CPA 18654 is granted.

DATED: March 3rd, 2000



BAXTER RICE
President
Board of Accountancy
Department of Consumer Affairs
State of California

1 DANIEL E. LUNGREN, Attorney General
of the State of California
2 JEANNE C. WERNER
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6 Attorneys for Complainant

7
8 BEFORE THE
BOARD OF ACCOUNTANCY
9 DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA
10

11 In the Matter of the Accusation) NO. AC-97-15
12 Against:)
13)
14 ORLANDO J. ANTONINI) DEFAULT DECISION AND
1325 Columbus Ave., 2nd Floor) ORDER OF THE BOARD
14 San Francisco, CA 94133-1315)
15) [Gov. Code §11520]
15 Certified Public Accountant)
License No. CPA 18654)
16)
17 Respondent.)
_____)

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19 STATUTES

20 1. California Government Code section 11506 provides,
21 in pertinent part:

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

1 grant a hearing. ..."

2 2. California Government Code section 11520 provides,
3 in pertinent part:

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

9 3. The Board of Accountancy, Department of Consumer
10 Affairs ("Board"), is authorized to revoke Respondent's Certified
11 Public Accountant License pursuant to section 5100 of the
12 California Business and Professions Code ("Code"), which, at all
13 times material herein, has provided in pertinent part that "the
14 Board may revoke, suspend or refuse to renew any permit or
15 certificate" issued by the Board for unprofessional conduct,
16 including but not limited to the willful violation of the
17 Accountancy Act or any rule or regulation promulgated by the
18 Board [sec. 5100(f)].

19 4. Code section 125.9 permits the Board to establish,
20 by regulation, a system for the issuance to a licensee of a
21 citation which may contain an order of abatement or an order to
22 pay an administrative fine where the licensee is in violation of
23 the licensing act or any regulation adopted pursuant thereto.
24 Subdivision 125.9(b)(5) provides in part that the failure of a
25 licensee to pay a fine within 30 days of the date of assessment,
26 unless the citation is being appealed, may result in disciplinary
27 action being taken by the Board.

1 5. The Board's regulations, adopted pursuant to its
2 rulemaking authority and Code section 125.9, and codified in
3 Title 16 of the California Code of Regulations, provide, in
4 section 95¹ et seq., for the issuance of citations by the
5 Executive Officer of the Board. Board Rule 95.4 provides in
6 pertinent part as follows: "When an order of abatement is not
7 contested...failure to abate the violation charged within the
8 time specified in the citation shall constitute a violation and
9 failure to comply with the order of abatement...Such failure
10 shall constitute a ground for revocation or suspension of the
11 license or permit."

12 6. Code section 118 provides, in pertinent part:
13 "(b) The suspension, expiration, or forfeiture by
14 operation of law of a license issued by a board in the
15 department, or its suspension, forfeiture, or cancellation
16 by order of the board or by order of a court of law, or its
17 surrender without the written consent of the board, shall
18 not, during any period in which it may be renewed, restored,
19 reissued, or reinstated, deprive the board of its authority
20 to institute or continue a disciplinary proceeding against
21 the licensee upon any ground provided by law or to enter an
22 order suspending or revoking the license or otherwise taking
23 disciplinary action against the license on any such ground."

24 Code section 5070.6 provides, in part, that an expired
25

26
27 1. The Board's regulations are codified, e.g., at 16 C.C.R.
section 95, and are referred herein as Board Rules, e.g., Board
Rule 95.

1 license may be renewed, upon compliance with applicable
2 requirements, at any time within five years after its expiration.

3 FINDINGS OF FACT

4 7. On April 27, 1973, the Board issued Certified
5 Public Accountant License No. CPA 18654 to Orlando J. Antonini
6 ("Respondent"). Said certificate was expired and invalid from
7 May 1, 1993 through February 15, 1994. It was renewed February
8 16, 1994 through April 30, 1995. The certificate again expired
9 May 1, 1995, and was invalid until its renewal effective May 1,
10 1996. The certificate is currently renewed through April 30,
11 1997.

12 8. Pursuant to its authority under Government Code
13 section 11520, and based on the evidence before it, the Board
14 finds that the following allegations contained in Accusation No.
15 AC-97-15 are true:

16 a. On or about March 11, 1996, Citation No. CT-96-14
17 was issued to Respondent.

18 b. The Citation contained three alleged violations,
19 set forth orders of abatement and correction, proposed
20 administrative fines totaling \$1,750, and established April 11,
21 1996, as the date on which, unless contested, the Citation was to
22 become a final order of the Board.

23 c. On or about March 11, 1996, copies of the
24 Citation, Statement to Cited Person, Notice of Appeal, and
25 relevant Governmental Code Sections (the "citation package") were
26 served, by both Certified Mail and First Class Mail, by Jenny
27 Ayala, an employee of the Board, on Respondent at his address of

1 record with the Board, which address was and is 1325 Columbus
2 Ave., 2nd Floor, San Francisco, CA 94133-1315.

3 d. In or about March 1996, the green Domestic Return
4 Receipt for the citation package sent by Certified Mail was
5 returned to the Board by the USPS with a signature in Box 6:
6 *Signature (Addressee or Agent)* and a delivery date, March 13,
7 1996, noted in Box 7.

8 e. Respondent failed to file a Notice of Appeal
9 requesting an administrative hearing on the Citation.

10 f. The Citation is a final order of the Board.

11 g. Respondent failed to comply with Board Citation
12 No. CT-96-14.

13 9. On or about April 1, 1997, Complainant Carol B.
14 Sigmann, in her official capacity as Executive Officer of the
15 Board, filed Accusation No. AC-97-15 against Respondent. A copy
16 of the Accusation is attached hereto as Exhibit A and
17 incorporated herein.

18 10. On or about April 2, 1997, Patricia A. Mota, an
19 employee of the Office of the Attorney General, sent by certified
20 mail a copy of Accusation No. AC-97-15, Statement to Respondent,
21 Government Code sections 11507.5, 11507.6, and 11507.7, the
22 Notice of Defense form, and a Request for Discovery, to
23 Respondent's address of record with the Board which was and is
24 1325 Columbus Ave., 2nd Floor, San Francisco, CA 94133-1315. On
25 or about April 9, 1997, the attached green Domestic Return
26 Receipt was returned to the Office of the Attorney General
27 indicating the service package was "delivered" on April 7, 1997.

1 to the Board of Accountancy, 2000 Evergreen Street, Suite 250,
2 Sacramento, California 95815, prior to the effective date of this
3 decision.

4 Made this 16th day of MAY, 1997.

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ROBERT J. SHACKLETON
Board President
For The Board of Accountancy

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CAJEANNEANTONINI.DEF
(4/30/97)

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1 DANIEL E. LUNGREN, Attorney General
of the State of California
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8 BEFORE THE
9 BOARD OF ACCOUNTANCY
10 DEPARTMENT OF CONSUMER AFFAIRS
11 STATE OF CALIFORNIA

12 In the Matter of the Accusation) NO. AC-97-15
13 Against:)
14) ACCUSATION
ORLANDO J. ANTONINI)
15 1325 Columbus Ave., 2nd Floor)
San Francisco, CA 94133-1315)
16 Certified Public Accountant)
Certificate No. CPA 18654)
17 Respondent.)

18
19 Complainant Carol B. Sigmann, as cause for disciplinary
20 action, alleges:

21 1. Complainant is the Executive Officer of the
22 California Board of Accountancy ("Board") and makes and files
23 this accusation solely in her official capacity.

24 LICENSE INFORMATION

25 2. On or about April 27, 1973, Certified Public
26 Accountant Certificate No. CPA 18654 was issued by the Board to
27 Orlando J. Antonini ("Respondent"). Said certificate was expired

1 and invalid from May 1, 1993 through February 15, 1994. It was
2 renewed February 16, 1994 through April 30, 1995. The
3 certificate again expired May 1, 1995, and was invalid until its
4 renewal effective May 1, 1996. The certificate is currently
5 renewed through April 30, 1997.

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7 STATUTES AND REGULATIONS

8 3. At all times material herein, section 5100 of the
9 California Business and Professions Code (hereinafter "Code") has
10 provided in pertinent part that "(a)fter notice and hearing, the
11 Board may revoke, suspend or refuse to renew any permit or
12 certificate" issued by the Board for unprofessional conduct,
13 including but not limited to the wilful violation of the
14 Accountancy Act or any rule or regulation promulgated by the
15 Board [Sec. 5100(f)].

16 4. Code section 125.9 permits the Board to establish,
17 by regulation, a system for the issuance to a licensee of a
18 citation which may contain an order of abatement or an order to
19 pay an administrative fine where the licensee is in violation of
20 the licensing act or any regulation adopted pursuant thereto.
21 Subdivision 125.9(b)(5) provides in part that the failure of a
22 licensee to pay a fine within 30 days of the date of assessment,
23 unless the citation is being appealed, may result in disciplinary
24 action being taken by the Board.

25 5. The Board's regulations, adopted pursuant to its
26 rulemaking authority and Code section 125.9, and codified in
27 Title 16 of the California Code of Regulations, provide, in

1 disciplinary action because he has failed to comply with Board
2 Citation No. CT-96-14 which has become a final order of the
3 Board. The circumstances are as follows:

4 a. On or about March 11, 1996, Citation No. CT-96-14
5 was issued to Orlando J. Antonini. The Citation contained three
6 alleged violations, set forth orders of abatement and correction,
7 proposed administrative fines totaling \$1,750, and established
8 April 11, 1996, as the date on which, unless contested, the
9 Citation was to become a final order of the Board.

10 b. On or about March 11, 1996, copies of the
11 Citation, Statement to Cited Person, Notice of Appeal, and
12 relevant Governmental Code Sections (the "citation package") were
13 served, by both Certified Mail and First Class Mail, by Jenny
14 Ayala, an employee of the Board, on Respondent at his address of
15 record with the Board, which address was and is 1325 Columbus
16 Ave., 2nd Floor, San Francisco, CA 94133-1315. In or about March
17 1996, the green Domestic Return Receipt for the package sent by
18 Certified Mail was returned to the Board by the USPS with a
19 signature in *Box 6: Signature (Addressee or Agent)* and a delivery
20 date, March 13, 1996, noted in Box 7. The above-described
21 service was effective as a matter of law pursuant to the
22 provisions of California Government Code section 11505,
23 subdivision (c) and under Code section 124.

24 c. Although Respondent and the Board exchanged
25 further correspondence relating to the Citation, Respondent
26 failed to file a Notice of Appeal requesting an administrative
27 hearing on the Citation. Owing to Respondent's failure to file a

1 Notice of Appeal, the Citation has become a final order of the
2 Board.

3 8. Respondent has not complied with the Citation,
4 and, as a result, Respondent's certificate is subject to
5 discipline for unprofessional conduct in violation of Board Rule
6 95 et seq. in conjunction with Code section 5100(f).

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PRAYER

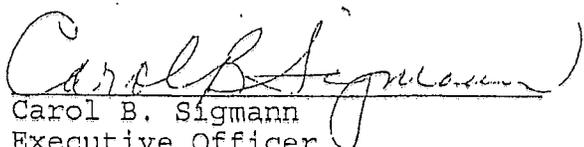
9 WHEREFORE, complainant requests that the Board hold a
10 hearing on the matters alleged herein, and that following said
11 hearing, the Board issue a decision:

- 12 1. Revoking or suspending Certified Public Accountant
13 Certificate Number CPA 18654, heretofore issued to
14 Respondent Orlando J. Antonini;
- 15 2. Taking such other and further action as the Board
16 deems proper.

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DATED: April 1, 1997

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Carol B. Sigmann
Executive Officer
Board of Accountancy
Department of Consumer Affairs
State of California

24
25

Complainant

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27

C:\JEANNEANTONINI.ACC
(3/5/97)



BOARD OF ACCOUNTANCY
2000 EVERGREEN STREET, SUITE 250
SACRAMENTO, CA 95815-3862
(916) 263-3680



Orlando J. Antonini
1325 Columbus Ave., 2nd Floor
San Francisco, CA 94133-1315

Citation No. CT-96-14
License No. CPA 18654

An investigation has been conducted by the California Board of Accountancy. This citation is hereby issued to you pursuant to the Board of Accountancy's authority under Sections 125.9 and 5100 of the Business and Professions Code and Rule 95 - 95.6 of Title 16, Chapter 1 of the California Code of Regulations (hereinafter "Board Rules") for the violation(s) which were found during the investigation.

This citation details each violation charged and orders of correction where applicable. IT IS YOUR RESPONSIBILITY TO READ THE ENTIRE CITATION.

Unless contested, this citation shall become a final order of the Board on April 11, 1996; the Orders of Correction are due on or before May 11, 1996, and the administrative fine totaling \$1750.00 is due on or before May 11, 1996.

You are responsible for notifying the Board of Accountancy when correction is made. Proof of correction must be received at the above address no later than five (5) working days after the correction due date.

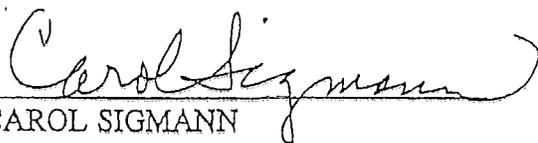
Payment of the administrative fine should be made payable to the State Board of Accountancy by cashier's check or money order. Please include the citation number on the payment and on all correspondence.

FAILURE TO RESPOND TO THIS CITATION WILL RESULT IN FURTHER DISCIPLINARY ACTION AGAINST YOUR LICENSE.

March 11, 1996

Date

CS:sns:ja


CAROL SIGMANN
Executive Officer
STATE BOARD OF ACCOUNTANCY

Item No. 1

Section(s)
Violated:

Business and Professions Code, Division 3, Chapter 1, Article 3,
Section 5050:

"No person shall engage in the practice of public accountancy in this State unless such person is the holder of a valid permit to practice public accountancy issued by the board; provided, however, that nothing in this chapter shall prohibit a certified public accountant or a public accountant of another state, or any accountant of a foreign country lawfully practicing therein, from temporarily practicing in this State on professional business incident to his regular practice in another state or country."

Description
of Violation:

During the period May 1, 1993, to February 16, 1994, and from May 1, 1995, to present, Orlando J. Antonini has practiced public accountancy without a valid permit in violation of Business and Professions Code Section 5050.

Order of
Abatement:

Pay the administrative fine as set forth in the citation.

Cease and desist practicing as a Certified Public Accountant in California until compliance has been met with the order of correction set forth herein.

Order of
Correction:

Complete and return the enclosed renewal form with the appropriate fees.

Execute certification to support fulfillment of 80 hours of continuing education completed for the renewal period from May 1, 1993, through April 30, 1995. Supply evidence of completion for each of the continuing education courses claimed.

Time to
Correct:

60 days

Administrative
Fine:

\$1000.00

Item No. 2

Section(s)
Violated:

California Code of Regulations Title 16, Division 1, State
Board of Accountancy, Rule 63:

"A certified public accountant or public accountant shall not
advertise in any manner which is false, fraudulent, or
misleading in violation of Section 17500 of the Business
and Professions Code."

Description
of Violation:

In September 1990, the accounting corporation of
Orlando J. Antonini, to include Orlando J. Antonini,
shareholder, violated Business and Professions Code
Section 5100(i)/California Code of Regulations Section 63.

The violation occurred when the firm knowingly
disseminated materially misleading information by
plagiarizing a copyrighted article, "Banks More Likely To
Lend To Firms Having Precise Plans," on the firm's
letterhead without the permission of the author, Ms. Marjie
Fitterer.

Order of
Abatement:

Pay the administrative fine as set forth in the citation.

Order of
Correction:

Not applicable

Time to
Correct:

Not applicable

Administrative
Fine:

\$500.00

Item No. 3

Section(s)
Violated:

Business and Professions Code Division 3, Chapter 1,
SECTION 5152:

"Each accountancy corporation shall file with the board at the times the board may require a report containing information pertaining to qualification and compliance with the statutes, rules and regulations of the board as the board may determine. All reports shall be signed and verified by an officer of the corporation."

Description
of Violation:

During the period from June 1, 1992, through February 10, 1994, and from June 1, 1994, to present, Orlando J. Antonini Accountancy Corporation, to include shareholder Orlando J. Antonini, has represented the public accounting practice as an accountancy corporation without filing the required biennial report in violation of Business and Professions Code Section 5152.

Order of
Abatement:

Pay the administrative fine as set forth in the citation.

Discontinue practicing under the firm name of Orlando J. Antonini Accountancy Corporation, until the Accountancy Corporation has filed its biennial report with the Board.

Order of
Correction:

Complete and submit the enclosed biennial report with the appropriate fee.

Time to
Correct:

60 days

Administrative
Fine:

\$250.00