

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

In the Matter of the Statement of Issues
Against:

HUY HY NGUY

Certified Public Accountant License
Applicant

Respondent.

Case No. SI-2015-22

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 April 26, 2015.

It is so ORDERED March 27, 2015.


FOR THE CALIFORNIA BOARD OF
ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS

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

11 In the Matter of the Statement of Issues
12 Against:

Case No. SI-2015-22

13 **HUY HY NGUY**

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

14 **Certified Public Accountant License**
15 **Applicant**

16 Respondent.

17
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 Carl W. Sonne,
24 Deputy Attorney General.

25 2. Respondent Huy Hy Nguy ("Respondent") is representing himself in this proceeding
26 and has chosen not to exercise his right to be represented by counsel.
27
28

1 1. **Obey All Laws**

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

4 2. **Submit Written Reports**

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

11 3. **Personal Appearances**

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

15 4. **Comply With Probation**

16 Respondent shall fully comply with the terms and conditions of the probation imposed by
17 the CBA and shall cooperate fully with representatives of the California Board of Accountancy in
18 its monitoring and investigation of the respondent's compliance with probation terms and
19 conditions.

20 5. **Practice Investigation**

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

24 6. **Comply With Citations**

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

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

28 In the event respondent should leave California to reside or practice outside this state,

1 respondent must notify the CBA in writing of the dates of departure and return. Periods of non-
2 California residency or practice outside the state shall not apply to reduction of the probationary
3 period, or of any suspension. No obligation imposed herein, including requirements to file
4 written reports, reimburse the CBA costs, and make restitution to consumers, shall be suspended
5 or otherwise affected by such periods of out-of-state residency or practice except at the written
6 direction of the CBA.

7 **8. Violation of Probation**

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

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

16 **9. Completion of Probation**

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

18 **10. Ethics Continuing Education**

19 Respondent shall complete four hours of continuing education in course subject matter
20 pertaining to the following: a review of nationally recognized codes of conduct emphasizing how
21 the codes relate to professional responsibilities; case-based instruction focusing on real-life
22 situational learning; ethical dilemmas facing the accounting profession; or business ethics, ethical
23 sensitivity, and consumer expectations. Courses must be a minimum of one hour as described in
24 California Code of Regulations Section 88.2. This course is in addition to the continuing
25 education requirements for license renewal.

26 If respondent fails to complete said courses within the time period provided, Respondent
27 shall so notify the CBA and shall cease practice until respondent completes said courses, has
28 submitted proof of same to the CBA, and has been notified by the CBA that he or she may

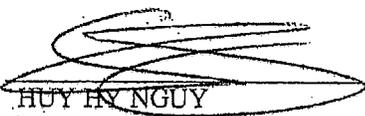
1 resume practice. Failure to complete the required courses within 180 days of the effective date of
2 this decision and order shall constitute a violation of probation.

3 11. Active License Status

4 Respondent shall at all times maintain an active license status with the CBA, including
5 during any period of suspension. If the license is expired at the time the CBA's decision becomes
6 effective, the license must be renewed within 30 days of the effective date of the decision.

7 ACCEPTANCE

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

12
13 DATED: 2/10/2015 
14 HUY HX NGUY
15 Respondent

16 ENDORSEMENT

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

19
20 Dated: 2/26/2015 Respectfully submitted,
21 KAMALA D. HARRIS
22 Attorney General of California
23 JAMES M. LEDAKIS
24 Supervising Deputy Attorney General
25 
26 CARL W. SONNE
27 Deputy Attorney General
28 *Attorneys for Complainant*

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Exhibit A

Statement of Issues No. SI-2015-22

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10 **STATE OF CALIFORNIA**

11 In the Matter of the Statement of Issues
12 Against:
13 **HUY HY NGUY**
14 **Certified Public Accountant License**
15 **Applicant**
16 Respondent.

Case No. SI-2015-22

STATEMENT OF ISSUES

17
18 Complainant alleges:

19 **PARTIES**

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

23 2. On or about October 30, 2013, the California Board of Accountancy, Department of
24 Consumer Affairs received an application for a Certified Public Accountant License from Huy Hy
25 Nguy (Respondent). On or about June 10, 2013, Huy Hy Nguy certified under penalty of perjury
26 to the truthfulness of all statements, answers, and representations in the application. The CBA
27 denied the application on June 27, 2014.

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JURISDICTION

3. This Statement of Issues 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 5110 of the Code states:

(a) After notice and an opportunity for a hearing, the board may deny an application to take the licensing examination, deny admission to current and future licensing examinations, void examination grades, and deny an application for a license or registration to any individual who has committed any of the following acts:

....

(4) Any act that if committed by an applicant for licensure would be grounds for denial of a license or registration under Section 480 or if committed by a licensee or a registrant would be grounds for discipline under Section 5100.

....

STATUTORY PROVISIONS

5. Section 475 of the Code states:

(a) Notwithstanding any other provisions of this code, the provisions of this division shall govern the denial of licenses on the grounds of:

(1) Knowingly making a false statement of material fact, or knowingly omitting to state a material fact, in an application for a license.

(2) Conviction of a crime.

(3) Commission of any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or another, or substantially injure another.

(4) Commission of any act which, if done by a licensee of the business or profession in question, would be grounds for suspension or revocation of license.

(b) Notwithstanding any other provisions of this code, the provisions of this division shall govern the suspension and revocation of licenses on grounds specified in paragraphs (1) and (2) of subdivision (a).

(c) A license shall not be denied, suspended, or revoked on the grounds of a lack of good moral character or any similar ground relating to an applicant's character, reputation, personality, or habits.

6. Section 480 of the Code states:

(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

1 (1) Been convicted of a crime. A conviction within the meaning of this
2 section means a plea or verdict of guilty or a conviction following a plea of nolo
3 contendere. Any action that a board is permitted to take following the establishment
4 of a conviction may be taken 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.

5 (2) Done any act involving dishonesty, fraud, or deceit with the intent to
6 substantially benefit himself or herself or another, or substantially injure another.

7 (3)(A) Done any act that if done by a licentiate of the business or profession
in question, would be grounds for suspension or revocation of license.

8 (B) The board may deny a license pursuant to this subdivision only if the
9 crime or act is substantially related to the qualifications, functions, or duties of the
business or profession for which application is made.

10 (b) Notwithstanding any other provision of this code, no person shall be denied
11 a license solely on the basis that he or she has been convicted of a felony if he or she
12 has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with
13 Section 4852.01) of Title 6 of Part 3 of the Penal Code or that he or she has been
convicted of a misdemeanor if he or she has met all applicable requirements of the
criteria of rehabilitation developed by the board to evaluate the rehabilitation of a
person when considering the denial of a license under subdivision (a) of Section 482.

14 (c) A board may deny a license regulated by this code on the ground that the
15 applicant knowingly made a false statement of fact required to be revealed in the
application for the license.

16 7. Section 482 of the Code states:

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

19 (a) Considering the denial of a license by the board under Section 480; or

20 (b) Considering suspension or revocation of a license under Section 490.

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

22 8. Section 493 of the Code states:

23 Notwithstanding any other provision of law, in a proceeding conducted by a
24 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
25 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
26 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
27 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
28 to the qualifications, functions, and duties of the licensee in question.

1 As used in this section, "license" includes "certificate," "permit," "authority,"
2 and "registration."

3 9. Section 5100 states:

4 After notice and hearing the board may revoke, suspend, or refuse to renew any
5 permit or certificate granted under Article 4 (commencing with Section 5070) and
6 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:

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

9

10 10. Section 5106 states:

11 A plea or verdict of guilty or a conviction following a plea of nolo contendere is
12 deemed to be a conviction within the meaning of this article. The record of the
13 conviction shall be conclusive evidence thereof. The board may order the certificate
14 or permit suspended or revoked, or may decline to issue a certificate or permit, when
15 the time for appeal has elapsed, or the judgment of conviction has been affirmed on
16 appeal or when an order granting probation is made, suspending the imposition of
17 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.

17 REGULATORY PROVISIONS

18 11. California Code of Regulations, title 16, section 99 states:

19 For the purposes of denial, suspension, or revocation of a certificate or permit
20 pursuant to Division 1.5 (commencing with Section 475) of the Business and
21 Professions Code, a crime or act shall be considered to be substantially related to the
22 qualifications, functions or duties of a certified public accountant or public accountant
23 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:

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

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

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

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

3 12. California Code of Regulations, title 16, section 99.1 states:

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

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

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

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

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

18 (5) If applicable, evidence of expungement proceedings pursuant to Section
19 1203.4 of the Penal Code.

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

21 **FIRST CAUSE FOR DENIAL OF APPLICATION**

22 **(April 16, 2007 Criminal Convictions for DUI on December 2, 2006)**

23 13. Respondent's application is subject to denial under section 480, subdivisions (a)(1)
24 and (a)(3)(A) of the Code in that he was convicted of crimes that are substantially related to the
25 qualifications, duties, and functions of a Certified Public Accountant (CPA). Said conduct would
26 be a ground for discipline under section 5100(a) of the Code for a licensed CPA. The
27 circumstances are as follows:

28 a. On April 16, 2007, in a criminal proceeding entitled *People of the State of
California v. Huy Hy Nguy*, in Orange County Superior Court, case number 07CM02960,
Respondent was convicted on his plea of guilty to violating Vehicle Code section 23152(a),
driving under the influence of alcohol/drugs, and Vehicle Code section 23152(b), driving with a
blood alcohol concentration (BAC) of .08 percent or more, misdemeanors.

///

1 and comply with DUI probation terms. On August 27, 2009, Respondent's probation was
2 revoked after charges were filed following his arrest for DUI on August 20, 2009. (See paragraph
3 15, below.) On April 7, 2010, Respondent's probation was reinstated and he was sentenced to
4 serve 30 days in the Orange County Jail or house arrest to run consecutive with the sentence
5 ordered in case number 07CM02960.

6 **THIRD CAUSE FOR DENIAL OF APPLICATION**

7 **(March 25, 2010 Criminal Conviction for DUI on July 19, 2009)**

8 15. Respondent's application is subject to denial under section 480, subdivisions (a)(1)
9 and (a)(3)(A) of the Code in that he was convicted of a crime that is substantially related to the
10 qualifications, duties, and functions of a Certified Public Accountant (CPA). Said conduct would
11 be a ground for discipline under section 5100(a) of the Code for a licensed CPA. The
12 circumstances are as follows:

13 a. On March 25, 2010, in a criminal proceeding entitled *People of the State of*
14 *California v. Huy Hy Nguy*, in Los Angeles County Superior Court, case number 9BF03993,
15 Respondent was convicted on his plea of nolo contendere to violating Vehicle Code section
16 23152 (b), driving with a blood alcohol concentration (BAC) of .08 percent or more, a
17 misdemeanor. Respondent admitted and the court found true that he was previously convicted of
18 DUI as described in paragraphs 13 and 14, above. A second count of violation Vehicle Code
19 section 23152(a), driving under the influence of alcohol/drugs, was dismissed by the court
20 pursuant to a plea agreement.

21 b. As a result of the conviction, Respondent was granted summary probation for
22 60 months, and ordered to serve 120 days in the custody of the Los Angeles County Jail's
23 SCRAM program.¹ Respondent was further ordered to complete an 18-month Licensed Second-
24 Offender Alcohol and Other Drug Education and Counseling Program, and to install an ignition

25 ¹ The Secure Continuous Remote Alcohol Monitoring (SCRAM) device is a tamper-
26 resistant bracelet that a DUI offender wears around his/her ankle. The SCRAM bracelet tests the
27 DUI offender's sweat for alcohol at least once per hour. The SCRAM bracelet wirelessly
28 transmits the results at least once per day via the SCRAM modem to a regional monitoring center.
If the DUI defendant removes the SCRAM bracelet or consumes alcohol, the regional monitoring
center will notify the court.

1 interlock device on his vehicle. Respondent was allowed to either pay fees and fines, or complete
2 13 days of CalTrans service, or complete 178 hours of community service.

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. Denying the application of Huy Hy Nguy for a Certified Public Accountant License;
7 2. Taking such other and further action as deemed necessary and proper.

8
9 DATED: 12/29/2014

Patti Bowers
PATTI BOWERS
Executive Officer
California Board of Accountancy
Department of Consumer Affairs
State of California
Complainant

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