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

In the Matter of the Accusation Against: **LINH KHANH NGUYEN HO** **1420 Spring Hill Road, #600** **McLean, VA 22102** **Certified Public Accountant License No. 97205** Respondent.	Case No. AC-2011-12 **DEFAULT DECISION AND ORDER** [Gov. Code, §11520]

FINDINGS OF FACT

1. On or about May 31, 2011, Complainant Patti Bowers, in her official capacity as the Executive Officer of the California Board of Accountancy, Department of Consumer Affairs, filed Accusation No. AC-2011-12 against Linh Khanh Nguyen Ho (Respondent) before the California Board of Accountancy. (Accusation attached as Exhibit A.)

2. On or about March 16, 2007, the California Board of Accountancy (Board) issued Certified Public Accountant License No. 97205 to Respondent. The Certified Public Accountant License expired on October 31, 2008, and has not been renewed.

3. On or about June 6, 2011, Respondent was served by Certified and First Class Mail copies of the Accusation No. AC-2011-12, Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at Respondent's address of record which, pursuant to California Code of Regulations, title 16, section 3, is required to be reported and maintained with the Board, which was and is:

1420 Spring Hill Road, #600
McLean, VA 22102.

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

5. On or about June 22, 2011, the aforementioned documents were returned by the U.S. Postal Service marked "return to sender unable to forward." The address on the documents was the same as the address on file with the Board. Respondent failed to maintain an updated address with the Board and the Board has made attempts to serve the Respondent at the address on file. Respondent has not made herself available for service and therefore, has not availed herself of her right to file a notice of defense and appear at hearing.

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

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

7. Respondent failed to file a Notice of Defense within 15 days after service upon her of the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. AC-2011-12.

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

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

9. Pursuant to its authority under Government Code section 11520, the Board finds Respondent is in default. The Board will take action without further hearing and, based on the relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as taking official notice of all the investigatory reports, exhibits and statements contained therein on file at the Board's offices regarding the allegations contained in Accusation No. AC-2011-12, finds that the charges and allegations in Accusation No. AC-2011-12, are separately and severally, found to be true and correct by clear and convincing evidence.

10. Taking official notice of its own internal records, pursuant to Business and Professions Code section 5107, it is hereby determined that the reasonable costs for Investigation and Enforcement is $4,861.86 as of June 30, 2011.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Linh Khanh Nguyen Ho has subjected her Certified Public Accountant License No. 97205 to discipline.

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

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

a. Respondent is subject to disciplinary action under section 5100 (a), (k), in conjunction with Title 16, California Code of Regulations section 99, in that on or about June 13, 2007, Respondent entered a plea of guilty to a violation of Virginia Code section 18.2-178 (obtaining money by false pretences) in *Commonwealth of Virginia vs. Linh Khanh Ho*, in the Circuit Court of Fairfax County, Virginia; Case No. FE-2007-675. The circumstances are as follows:

1. On or about December 4, 2006, Respondent feloniously obtained by false pretense or token, with intent to defraud, good and lawful currency of the United States in excess of $200 property of Commerce Bank.

b. Respondent is subject to disciplinary action under section 5100 (d) for unprofessional conduct in that pursuant to an Order by the Texas Board of Public Accountancy Respondent's Texas certificate of accountancy was revoked. The circumstances are as follows:

1. On or about January 21, 2010, in re Linh Khan Nguyen Ho the Texas Board of Accountancy issued an order revoking Respondent's Texas certificate and requiring Respondent to pay an administrative penalty of $20,000 and $469.74 in costs.

c. Respondent is subject to disciplinary action under section 5063 in that Respondent failed to report her conviction for violating Virginia Code section 18.2-178 (obtaining money by false pretences) as set forth more specifically above in paragraphs a and b.

d. Respondent is subject to disciplinary action under section 5100 (g) in conjunction with Title 16, California Code of Regulations section 52 for failure to respond to a Board inquiry. The circumstances are as follows:

1. On or about March 11, 2010, the Board sent correspondence to Respondent requesting information regarding her conviction and the Texas discipline. Respondent failed to respond to the Board's inquiry.

ORDER

IT IS SO ORDERED that Certified Public Accountant License No. 97205, heretofore issued to Respondent Linh Khanh Nguyen Ho, is revoked.

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

This Decision shall become effective on Dec. 28, 2011.

It is so ORDERED Nov. 28, 2011

Sarah J. Anderson

FOR THE CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS

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DOJ Matter ID:SA2011100901

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

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

In the Matter of the Accusation Against: **LINH KHANH NGUYEN HO** **1420 Spring Hill Road, #600** **McLean, VA 22102** **Certified Public Accountant License No. 97205** Respondent.	Case No. AC-2011-12 **ACCUSATION**

Complainant alleges:

PARTIES

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

2. On or about March 16, 2007, the California Board of Accountancy issued Certified Public Accountant License Number 97205 to Linh Khanh Nguyen Ho (Respondent). The Certified Public Accountant License expired on October 31, 2008, and has not been renewed.

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JURISDICTION

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

4. Section 118, subdivision (b), of the Code provides in pertinent part that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

5. 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.

6. Section 5100 states:

> After notice and hearing the board may revoke, suspend, or refuse to renew any permit or certificate granted under Article 4 (commencing with Section 5070) and Article 5 (commencing with Section 5080), or may censure the holder of that permit or certificate for unprofessional conduct that includes, but is not limited to, one or any combination of the following causes:
>
> (a) Conviction of any crime substantially related to the qualifications, functions and duties of a certified public accountant or a public accountant.
>
> (d) Cancellation, revocation, or suspension of a certificate or other authority to practice as a certified public accountant or a public accountant, refusal to renew the certificate or other authority to practice as a certified public accountant or a public accountant, or any other discipline by any other state or foreign country.
>
> (g) Willful violation of this chapter or any rule or regulation promulgated by the board under the authority granted under this chapter.
>
> (k) Embezzlement, theft, misappropriation of funds or property, or obtaining money, property, or other valuable consideration by fraudulent means or false pretenses.

7. Section 5063 of the Code requires a licensee to report in writing to the Board within 30 days all felony convictions and convictions of any crime: related to the qualifications, functions or duties of a licensee or committed in the course and scope of practice of public accountancy; or involving theft, embezzlement, misappropriation of funds or property, breach of

a fiduciary responsibility, or the preparation, publication, or dissemination of false, fraudulent, or materially misleading financial statements, reports or information.

8. Title 16, California Code of Regulations section 99 provides in pertinent part:

> For the purposes of denial, suspension, or revocation of a certificate or permit pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a certified public accountant or public accountant 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:
>
> (a) Dishonesty, fraud, or breach of fiduciary responsibility of any kind.

9. Title 16, California Code of Regulations section 52 provides in pertinent part:

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

FIRST CAUSE FOR DISCIPLINE
(Conviction of a Crime)

10. Respondent is subject to disciplinary action under section 5100 (a), (k), in conjunction with Title 16, California Code of Regulations section 99, in that on or about June 13, 2007, Respondent entered a plea of guilty to a violation of Virginia Code section 18.2-178 (obtaining money by false pretences) in *Commonwealth of Virginia vs. Linh Khanh Ho*, in the Circuit Court of Fairfax County, Virginia; Case No. FE-2007-675. The circumstances are as follows:

11. On or about December 4, 2006, Respondent feloniously obtained by false pretense or token, with intent to defraud, good and lawful currency of the United States in excess of $200 property of Commerce Bank.

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SECOND CAUSE FOR DISCIPLINE
(Out-of-State Discipline)

12. Respondent is subject to disciplinary action under section 5100 (d) for unprofessional conduct in that pursuant to an Order by the Texas Board of Public Accountancy Respondent's Texas certificate of accountancy was revoked.

The circumstances are as follows:

13. On or about January 21, 2010, in re Linh Khan Nguyen Ho the Texas Board of Accountancy issued an order revoking Respondent's Texas certificate and requiring Respondent to pay an administrative penalty of $20,000 and $469.74 in costs.

THIRD CAUSE FOR DISCIPLINE
(Failure to Report)

14. Respondent is subject to disciplinary action under section 5063 in that Respondent failed to report her conviction for violating Virginia Code section 18.2-178 (obtaining money by false pretences) as set forth more specifically above in paragraphs 10 and 11.

FOURTH CAUSE FOR DISCIPLINE
(Failure to Respond to Board Inquiry)

15. Respondent is subject to disciplinary action under section 5100 (g) in conjunction with Title 16, California Code of Regulations section 52 for failure to respond to a Board inquiry.

The circumstances are as follows:

16. On or about March 11, 2010, the Board sent correspondence to Respondent requesting information regarding her conviction and the Texas discipline. Respondent failed to respond to the Board's inquiry.

PRAYER

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

1. Revoking or suspending or otherwise imposing discipline upon Certified Public Accountant License Number 97205, issued to Linh Khanh Nguyen Ho;

2. Ordering Linh Khanh Nguyen Ho to pay the California Board of Accountancy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 5107; and,

3. Taking such other and further action as deemed necessary and proper.

DATED: May 31, 2011

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

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