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

In the Matter of the Accusation Against:

Case No. AC-2016-46

**ROBERT HENRY CARLETON  
19521 Pompano Lane #101  
Huntington Beach, CA 92648**

**DEFAULT DECISION AND ORDER**

**Certified Public Accountant  
Certificate No. 28051**

[Gov. Code, §11520]

Respondent.

FINDINGS OF FACT

1. On or about April 21, 2016, 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-2016-46 against Robert Henry Carleton (Respondent) before the California Board of Accountancy. (Accusation attached as Exhibit A.)

2. On or about June 1, 1979, the California Board of Accountancy (CBA) issued Certified Public Accountant Certificate No. 28051 to Respondent. The Certified Public Accountant Certificate expires on August 31, 2017, unless renewed.

1           3.     On or about March 7, 2016, Respondent was served by Certified and First Class Mail  
2 copies of the Accusation No. AC-2016-46, Statement to Respondent, Notice of Defense, Request  
3 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and  
4 11507.7) at Respondent's address of record which, pursuant to California Code of Regulations,  
5 title 16, section 3, is required to be reported and maintained with the CBA. Respondent's address  
6 of record was and is:

7 19521 Pompano Lane #101  
8 Huntington Beach, CA 92648.

9           4.     Service of the Accusation was effective as a matter of law under the provisions of  
10 Government Code section 11505, subdivision (c) and/or Business & Professions Code section  
11 124.

12           5.     The aforementioned documents were not returned by the U.S. Postal Service as  
13 undelivered, and a postal delivery receipt for the certified mailing, dated March 15, 2016, bearing  
14 the name of Respondent was returned evidencing delivery of the documents described in  
15 paragraph 3 above.

16           6.     Government Code section 11506(c) states, in pertinent part:

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

22           7.     Respondent failed to file a Notice of Defense within 15 days after service upon him  
23 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.  
24 AC-2016-46.

25           8.     California Government Code section 11520(a) states, in pertinent part:

26           (a) If the respondent either fails to file a notice of defense . . . or to appear at  
27 the hearing, the agency may take action based upon the respondent's express  
28 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 CBA finds  
Respondent is in default. The CBA will take action without further hearing and, based on the

1 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as  
2 taking official notice of all the investigatory reports, exhibits and statements contained therein on  
3 file at the CBA's offices regarding the allegations contained in Accusation No. AC-2016-46, finds  
4 that the charges and allegations in Accusation No. AC-2016-46, are separately and severally,  
5 found to be true and correct by clear and convincing evidence.

6 10. Taking official notice of its own internal records, pursuant to Business and  
7 Professions Code section 5107, it is hereby determined that the reasonable costs for Investigation  
8 and Enforcement is \$4,711.48 as of April 21, 2016.

9 DETERMINATION OF ISSUES

10 1. Based on the foregoing findings of fact, Respondent Robert Henry Carleton has  
11 subjected his Certified Public Accountant Certificate No. 28051 to discipline.

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

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

17 a. Failure to comply with peer review in violation of Business and Professions Code  
18 sections 5076 and 5100, subdivision (g), and title 16, California Code of Regulations sections 41  
19 and 45; and

20 b. Failure to respond to CBA inquiries in violation of Business and Professions Code  
21 section 5100, subdivision (g), and title 16, California Code of Regulations section 52.

22 ORDER


23 IT IS SO ORDERED that Certified Public Accountant Certificate No. 28051, heretofore  
24 issued to Respondent Robert Henry Carleton, is revoked.

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

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This Decision shall become effective on June 25, 2010.

It is so ORDERED May 20, 2010

  
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FOR THE CALIFORNIA BOARD OF  
ACCOUNTANCY  
DEPARTMENT OF CONSUMER AFFAIRS

81327283.DOC  
DOJ Matter ID:SD2016800221

Attachment:  
Exhibit A: Accusation

# Exhibit A

Accusation

(ROBERT HENRY CARLETON)

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  
600 West Broadway, Suite 1800  
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*

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

12 In the Matter of the Accusation Against:

Case No. AC-2016-46

13 **ROBERT HENRY CARLETON**  
19521 Pompano Lane #101  
14 Huntington Beach, CA 92648

**A C C U S A T I O N**

15 Certified Public Accountant  
16 Certificate No. 28051

17 Respondent.

18  
19 Complainant alleges:

20 **PARTIES**

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

24 2. On June 1, 1979, the CBA issued Certified Public Accountant (CPA) Certificate  
25 Number 28051 to Robert Henry Carleton (Respondent). The CPA Certificate was in full force  
26 and effect at all times relevant to the charges brought herein and will expire on August 31, 2017,  
27 unless renewed.

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JURISDICTION

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

4. Section 478 of the Code states:

(a) As used in this division, "application" includes the original documents or writings filed and any other supporting documents or writings including supporting documents provided or filed contemporaneously, or later, in support of the application whether provided or filed by the applicant or by any other person in support of the application.

(b) As used in this division, "material" includes a statement or omission substantially related to the qualifications, functions, or duties of the business or profession.

5. Section 5109 of the Code 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

6. Section 498 of the Code, states in pertinent part:

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.

7. Section 5076 of the Code, states in pertinent part:

(a) In order to renew its registration, a firm, as defined in Section 5035.1<sup>1</sup>, shall have a peer review report of its accounting and auditing practice accepted by a board-recognized peer review program no less frequently than every three years.

<sup>1</sup> Section 5035.1 of the Code defines the term "[f]irm" as a sole proprietorship, a corporation, or a partnership.

1  
2 8. Section 5100 of the Code, states in pertinent part:

3 After notice and hearing the board may revoke, suspend, or refuse to  
4 renew any permit or certificate granted under Article 4 (commencing with Section  
5 5070) and Article 5 (commencing with Section 5080), or may censure the holder  
6 of that permit or certificate for unprofessional conduct that includes, but is not  
7 limited to, one or any combination of the following causes:

8 (b) A violation of Section 478, 498, or 499 dealing with false statements  
9 or omissions in the application for a license, in obtaining a certificate as a  
10 certified public accountant, in obtaining registration under this chapter, or in  
11 obtaining a permit to practice public accountancy under this chapter.

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

#### 14 REGULATORY PROVISIONS

15 9. California Code of Regulations, title 16, section 40 (Board Rule 40) states:

16 (b) A firm performing services as defined in Section 39(a) for the first  
17 time shall have a peer review report accepted by a Board-recognized peer review  
18 program within 18 months of the date it completes those services.

19 10. California Code of Regulations, title 16, section 41 (Board Rule 41) states:

20 A firm shall enroll with a Board-recognized peer review program  
21 provider, and shall cooperate with the Board-recognized peer review program  
22 provider with which the firm is enrolled to arrange, schedule, and complete a peer  
23 review, in addition to taking and completing any remedial or corrective actions  
24 prescribed by the Board-recognized peer review program provider.

25 11. California Code of Regulations, title 16, section 45 (Board Rule 45) states:

26 (a) Beginning on January 1, 2014, at the time of renewal, a licensee shall  
27 report to the Board specific peer review information as required on Form PR-1  
28 (Rev. 1/12), which is hereby incorporated by reference.

(b) Prior to January 1, 2014, the date for existing California licensees to  
report peer review results, on the form indicated in subsection (a), shall be based  
on the licensee's license number according to the following schedule: for license  
numbers ending with 01-33 the reporting date is no later than July 1, 2011; for  
license numbers ending with 34-66 the reporting date is no later than July 1, 2012;  
for license numbers ending with 67-00 the reporting date is no later than July 1,



2013.

1  
2 (c) A licensee's willful making of any false, fraudulent, or misleading  
3 statement, as part of, or in support of, his/her peer review reporting shall  
4 constitute cause for disciplinary action pursuant to Section 5100(g) of the  
5 Accountancy Act. Failure to submit a completed Form PR-1 (Rev. 1/12) shall be  
6 grounds for non-renewal or disciplinary action pursuant to Section 5100(g) of the  
7 Accountancy Act.

8  
9 12. California Code of Regulations, title 16, section 52 (Board Rule 52) states:

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

13 (b) A licensee shall respond to any subpoena issued by the Board or its  
14 executive officer or the assistant executive officer in the absence of the executive  
15 officer within 30 days and in accordance with the provisions of the Accountancy  
16 Act and other applicable laws or regulations.

17 (c) A licensee shall appear in person upon written notice or subpoena  
18 issued by the Board or its executive officer or the assistant executive officer in the  
19 absence of the executive officer.

20 (d) A licensee shall provide true and accurate information and responses to  
21 questions, subpoenas, interrogatories or other requests for information or  
22 documents and not take any action to obstruct any Board inquiry, investigation,  
23 hearing or proceeding.

#### 24 COST RECOVERY AND PENALTIES

25 13. Section 5107 of the Code states:

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

(b) A certified copy of the actual costs, or a good faith estimate of  
costs where actual costs are not available, signed by the executive officer, shall be  
prima facie evidence of reasonable costs of investigation and prosecution of the  
case:

(c) The administrative law judge shall make a proposed finding of the  
amount of reasonable costs of investigation and prosecution of the case when  
requested to do so by the executive officer pursuant to subdivision (a). Costs are  
payable 120 days after the board's decision is final, unless otherwise provided for  
by the administrative law judge or if the time for payment is extended by the  
board.

(d) The finding of the administrative law judge with regard to cost

1 shall not be reviewable by the board to increase the cost award. The board may  
2 reduce or eliminate the cost award, or remand to the administrative law judge  
where the proposed decision fails to make a finding on costs requested by the  
executive officer pursuant to subdivision (a).

3 (e) The administrative law judge may make a further finding that the  
4 amount of reasonable costs awarded shall be reduced or eliminated upon a finding  
5 that respondent has demonstrated that he or she cannot pay all or a portion of the  
costs or that payment of the costs would cause an unreasonable financial hardship  
which cannot be remedied through a payment plan.

6 (f) When an administrative law judge makes a finding that costs be  
7 waived or reduced, he or she shall set forth the factual basis for his or her finding  
in the proposed decision.

8 (g) Where an order for recovery of costs is made and timely payment  
9 is not made as directed by the board's decision, the board may enforce the order  
10 for payment in any appropriate court. This right of enforcement shall be in  
addition to any other rights the board may have as to any holder of a permit or  
certificate directed to pay costs.

11 (h) In a judicial action for the recovery of costs, proof of the board's  
12 decision shall be conclusive proof of the validity of the order of payment and the  
terms of payment.

13 (i) All costs recovered under this section shall be deposited in the  
14 Accountancy Fund.

15 (j) (1) Except as provided in paragraph (2), the board shall not renew  
16 or reinstate the permit or certificate of a holder who has failed to pay all of the  
costs ordered under this section.

17 (2) Notwithstanding paragraph (1) or paragraph (2) of subdivision  
18 (g) of Section 125.3, the board may, in its discretion, conditionally renew or  
19 reinstate for a maximum of three years the permit or certificate of a holder who  
demonstrates financial hardship and who enters into a formal agreement with the  
board to reimburse the board within that three-year period for those unpaid costs.

20 (k) Nothing in this section shall preclude the board from seeking  
21 recovery of costs in an order or decision made pursuant to an agreement entered  
into between the board and the holder of a permit or certificate.

22 (l) (1) Costs may not be recovered under this section as a result of a  
23 citation issued pursuant to Section 125.9 and its implementing language if the  
licensee complies with the citation.

24 (2) The Legislature hereby finds and declares that this subdivision  
25 is declaratory of existing law.

26 14. Section 5116 of the Code states:

27 (a) The board, after appropriate notice and an opportunity for hearing, may  
28 order any licensee or applicant for licensure or examination to pay an

1 administrative penalty as provided in this article as part of any disciplinary  
2 proceeding or other proceeding provided for in this chapter.

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

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

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

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

#### 21 **FACTUAL BACKGROUND**

22 15. On January 1, 2010, the State of California implemented new rules and  
23 regulations related to peer review, requiring licensees to report to the CBA using a Peer Review  
24 Reporting Form (PR-1), which serves to identify those licensees that must obtain a formal peer  
25 review due to the nature of their accounting work. Respondent was required to submit his PR-1  
26 to the CBA by July 1, 2012, as his CPA certificate number falls within the instructed range.  
27 Respondent did not submit a PR-1 Form by the due date of July 1, 2012.

28 16. On February 8, 2013, a citation and fine was issued to CPA 28051 for failure to  
respond to CBA inquiries regarding his peer review and submission of a PR-1 Form by the due  
date of July 1, 2012. Respondent did not contest the citation and paid the fine of \$250.00,  
however he did not comply with the abatement and correction order, to submit a PR-1 Form. He  
also failed to undergo a peer review.

17. On March 8, 2013, Respondent claimed to have misunderstood the need to submit  
to a peer review, as he had decided to stop performing compilations and reviews in 2012.  
Respondent continued in that communication that he now understood that since he produced

1 compilations and reviews during the period January 2010 to June 30, 2012 that he was subject to  
2 the peer review requirement. During that communication with the CBA, Respondent said that he  
3 would schedule the peer review. No evidence was found that Respondent ever scheduled a peer  
4 review.

5 18. On January 14, 2014, the CBA opened an enforcement case to investigate  
6 Respondent's failure to submit peer review information to the CBA prior to the renewal of his  
7 CPA certificate.

8 19. Respondent has failed to communicate with or respond to the CBA after  
9 numerous attempts by the CBA on March 11, 2013, March 18, 2013, July 22, 2013, November 5,  
10 2013, March 4, 2014, June 11, 2014, and February 19, 2015 to gain an update on the status of his  
11 peer review.

12 20. In a search of the American Institute of Certified Public Accountants (AICPA)  
13 website, Respondent was dropped from enrollment in the AICPA Peer Review Program on  
14 January 23, 2012. The last peer review accepted was on June 16, 2006 and covered the period  
15 September 1, 2004 to August 31, 2005.

16 21. On August 23, 2015, Respondent submitted a License Renewal Application for  
17 the renewal period ending August 31, 2015 without having completed the required peer review.  
18 Respondent renewed his CPA certificate in an "active" status and in answer to question number  
19 nine, "Are you subject to the completion of 24 hours of A&A CE?" Respondent marked "Yes".  
20 Respondent included a PR-1 Form with the License Renewal Application and answered question  
21 number nine, "Date Last Peer Review Report Accepted," with the statement "Not yet  
22 completed."

23 22. Respondent clearly understood that he was subject to the peer review requirement  
24 and that he was to undergo a peer review before the renewal date of his CPA certificate.  
25 Respondent renewed in both August 2013 and August 2015, without completion of the  
26 mandatory peer review.

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1 FIRST CAUSE FOR DISCIPLINE

2 (Failure to Comply With Peer Review)

3 23. Respondent has subjected his Certified Public Accountant Certificate to  
4 disciplinary action under Code sections 5076 and 5100, subdivision (g), and under title 16 of the  
5 California Code of Regulations, sections 41 and 45, in that Respondent failed to enroll in and  
6 obtain a peer review as required. The circumstances are as set forth in detail above in paragraphs  
7 15 to 22, which are incorporated here by this reference.

8 SECOND CAUSE FOR DISCIPLINE

9 (Failure to Respond to Board Inquiries)

10 24. Respondent has subjected his Certified Public Accountant Certificate to  
11 disciplinary action under Code section 5100(g) and title 16 of the California Code of  
12 Regulations, section 52, subdivision (a) in that Respondent failed to respond to the CBA's  
13 multiple requests for information regarding the status of his peer review, as set forth in detail  
14 above in paragraphs 15 to 22, which are incorporated here by this reference.

15 PRAYER

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

- 18 1. Revoking or suspending or otherwise imposing discipline upon Certified Public  
19 Accountant Certificate Number 28051, issued to Robert Henry Carleton;
- 20 2. Ordering Robert Henry Carleton to pay the California Board of Accountancy the  
21 reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
22 Professions Code section 5107;
- 23 3. Ordering Robert Henry Carleton to pay the California Board of Accountancy an  
24 administrative penalty pursuant to Business and Professions Code section 5116; and

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

DATED: 3/2/2016 Patti Bowers

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

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