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

In the Matter of the Statement of Issues
Against:

HUỲ HY NGUY
Certified Public Accountant License
Applicant

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 21, 2015.

It is so ORDERED March 27, 2015.

FOR THE CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
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In the Matter of the Statement of Issues
Against:

HUY HY NGUY
Certified Public Accountant License
Applicant

Case No. SI-2015-22
STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

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

PARTIES

1. Patti Bowers ("Complainant") is the Executive Officer of the California Board of
Accountancy. She brought this action solely in her official capacity and is represented in this
matter by Kamala D. Harris, Attorney General of the State of California, by Carl W. Sonne,
Deputy Attorney General.

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

STIPULATED SETTLEMENT (SI-2015-22)
3. On or about October 30, 2013, Respondent filed an application dated June 10, 2013, with the California Board of Accountancy to obtain a Certified Public Accountant License.

JURISDICTION

4. Statement of Issues No. SI-2015-22 was filed before the California Board of Accountancy (CBA), Department of Consumer Affairs, and is currently pending against Respondent. The Statement of Issues and all other statutorily required documents were properly served on Respondent on January 6, 2015.


ADVISEMENT AND WAIVERS

6. Respondent has carefully read, and understands the charges and allegations in Statement of Issues No. SI-2015-22. Respondent has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary Order.

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

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

CULPABILITY


10. Respondent agrees that his Certified Public Accountant License is subject to denial and he agrees to be bound by the CBA's probationary terms as set forth in the Disciplinary Order below.
CONTINGENCY

11. This stipulation shall be subject to approval by the California Board of Accountancy. Respondent understands and agrees that counsel for Complainant and the staff of the California Board of Accountancy may communicate directly with the CBA regarding this stipulation and settlement, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the CBA considers and acts upon it. If the CBA fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the CBA shall not be disqualified from further action by having considered this matter.

12. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

13. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

14. In consideration of the foregoing admissions and stipulations, the parties agree that the CBA may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that upon meeting all pre-licensure requirements, a Certified Public Accountant License will be issued to Respondent Huy Hy Nguyen and immediately revoked. The revocation will be stayed and the Respondent placed on three (3) years probation on the following terms and conditions.
1. **Obey All Laws**

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

2. **Submit Written Reports**

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

3. **Personal Appearances**

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

4. **Comply With Probation**

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

5. **Practice Investigation**

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

6. **Comply With Citations**

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

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

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

8. **Violation of Probation**

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

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

9. **Completion of Probation**

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

10. **Ethics Continuing Education**

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

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

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STIPULATED SETTLEMENT (SI-2015-22)
resume practice. Failure to complete the required courses within 180 days of the effective date of this decision and order shall constitute a violation of probation.

11. **Active License Status**

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

**ACCEPTANCE**

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

**DATED:** [signature]

**ENDORSEMENT**

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

Dated: **2/20/2015**

Respectfully submitted,

KAMALA D. HARRIS  
Attorney General of California  
JAMES M. LEDAKIS  
Supervising Deputy Attorney General

CARL W. SONNE  
Deputy Attorney General  
*Attorneys for Complainant*
Exhibit A

Statement of Issues No. SI-2015-22
Complainant alleges:

PARTIES

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

2. On or about October 30, 2013, the California Board of Accountancy, Department of Consumer Affairs received an application for a Certified Public Accountant License from Huy Hy Nguy (Respondent). On or about June 10, 2013, Huy Hy Nguy certified under penalty of perjury to the truthfulness of all statements, answers, and representations in the application. The CBA 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 licentiate 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) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment 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.

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

(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.

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

(b) Notwithstanding any other provision of this code, no person shall be denied a license solely on the basis that he or she has been convicted of a felony if he or she has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with 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.

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

7. 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.

8. 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."

9. 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.

10. Section 5106 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.

REGULATORY PROVISIONS

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

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;

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

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

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

When considering the denial of a certificate or permit under Section 480 of the
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, the
board, in evaluating the rehabilitation of the applicant and his present eligibility
for a certificate or permit, will consider the following criteria:

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

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

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

(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
applicant or licensee.

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

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

FIRST CAUSE FOR DENIAL OF APPLICATION

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

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

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.

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b. As a result of the convictions, Respondent was granted informal probation for three years, and ordered to complete a three-month Level 1 First Offender Alcohol Program, a MADD Victim Impact Panel session, pay fees and fines, and comply with DUJ probation terms. On May 12, 2008, Respondent’s probation was revoked after charges were filed following his arrest for DUJ on April 5, 2008. (See paragraph 14, below.) At a hearing on December 15, 2008, Respondent’s probation was reinstated and he was sentenced to serve 15 days in the sheriff’s work release program, to run consecutive with the sentence ordered in case number 08WM04177. On September 4, 2009, Respondent’s probation was revoked again after charges were filed following his arrest for DUI on August 20, 2009. (See paragraph 15, below.) On April 7, 2010, Respondent’s probation was reinstated and he was sentenced to serve 30 days in the Orange County Jail on 10 weekends, to run consecutive with the sentence ordered in case number 08WM04177.

SECOND CAUSE FOR DENIAL OF APPLICATION

(December 15, 2008 Criminal Convictions for DUI on April 5, 2008)

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

a. On December 15, 2008, in a criminal proceeding entitled People of the State of California v. Huy Hy Nguy, in Orange County Superior Court, case number 08WM04177, 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.

b. As a result of the convictions, Respondent was granted informal probation for three years, and ordered to serve 30 days in the Orange County Jail, to be served as 15 weekends, with pre-custody credit for one day. Respondent was further ordered to complete an 18-month Multiple Offender Alcohol Program, a MADD Victim Impact Panel session, pay fees and fines,
and comply with DUI probation terms. On August 27, 2009, Respondent’s probation was revoked after charges were filed following his arrest for DUI on August 20, 2009. (See paragraph 15, below.) On April 7, 2010, Respondent’s probation was reinstated and he was sentenced to serve 30 days in the Orange County Jail or house arrest to run consecutive with the sentence ordered in case number 07CM02960.

THIRD CAUSE FOR DENIAL OF APPLICATION

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

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

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

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

1 The Secure Continuous Remote Alcohol Monitoring (SCRAM) device is a tamper-resistant bracelet that a DUI offender wears around his/her ankle. The SCRAM bracelet tests the DUI offender’s sweat for alcohol at least once per hour. The SCRAM bracelet wirelessly 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.
interlock device on his vehicle. Respondent was allowed to either pay fees and fines, or complete
13 days of CalTrans service, or complete 178 hours of community service.

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

DATED: 12/29/2014

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

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