

**PUBLIC MATTER**

**FILED**

**MAR - 4 2015**

**STATE BAR COURT CLERK'S OFFICE  
SAN FRANCISCO**

1 STATE BAR OF CALIFORNIA  
2 OFFICE OF THE CHIEF TRIAL COUNSEL  
3 JAYNE KIM, No. 174614  
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8 SUPERVISING SENIOR TRIAL COUNSEL  
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10 SENIOR TRIAL COUNSEL  
11 180 Howard Street  
12 San Francisco, California 94105-1639  
13 Telephone: (415) 538-2285

STATE BAR COURT

HEARING DEPARTMENT - SAN FRANCISCO

12 In the Matter of: ) Case No. 14-O-2716  
13 DANIEL ROBERT MILLER, )  
14 No. 109634, ) NOTICE OF DISCIPLINARY CHARGES  
15 A Member of the State Bar )

**NOTICE - FAILURE TO RESPOND!**

17 **IF YOU FAIL TO FILE A WRITTEN ANSWER TO THIS NOTICE**  
18 **WITHIN 20 DAYS AFTER SERVICE, OR IF YOU FAIL TO APPEAR AT**  
19 **THE STATE BAR COURT TRIAL:**

- 20 (1) **YOUR DEFAULT WILL BE ENTERED;**
- 21 (2) **YOUR STATUS WILL BE CHANGED TO INACTIVE AND YOU**  
22 **WILL NOT BE PERMITTED TO PRACTICE LAW;**
- 23 (3) **YOU WILL NOT BE PERMITTED TO PARTICIPATE FURTHER IN**  
24 **THESE PROCEEDINGS UNLESS YOU MAKE A TIMELY MOTION**  
25 **AND THE DEFAULT IS SET ASIDE, AND;**
- 26 (4) **YOU SHALL BE SUBJECT TO ADDITIONAL DISCIPLINE.**  
27 **SPECIFICALLY, IF YOU FAIL TO TIMELY MOVE TO SET ASIDE**  
28 **OR VACATE YOUR DEFAULT, THIS COURT WILL ENTER AN**  
**ORDER RECOMMENDING YOUR DISBARMENT WITHOUT**  
**FURTHER HEARING OR PROCEEDING. SEE RULE 5.80 ET SEQ.,**  
**RULES OF PROCEDURE OF THE STATE BAR OF CALIFORNIA.**

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1 The State Bar of California alleges:

2 JURISDICTION

3 1. Daniel Robert Miller ("respondent") was admitted to the practice of law in the State  
4 of California on December 12, 1983, was a member at all times pertinent to these charges, and is  
5 currently a member of the State Bar of California.

6 COUNT ONE

7 Case No. 14-O-2716  
8 Business and Professions Code, section 6068(a)  
9 [Failure to Comply With Laws]

10 2. On or about March 27, 2014, the California Board of Accountancy issued a Default  
11 Decision and Order in which it revoked respondent's Certified Public Accountant Certificate,  
12 effective April 27, 2014, for violations of Business and Professions Code sections 5100(c), 5037,  
13 5050 and 5060. A certified copy of the Decision and Order is attached as exhibit 1 and is hereby  
14 incorporated by reference. Respondent violated Business and Professions Code section 5100(c),  
15 5037, 5050 and 5060, as detailed in the Decision and Order, and thereby wilfully violated  
Business and Professions Code, section 6068(a) as follows:

- 16 A) Respondent violated Business and Professions Code, section 5100(c) by committing  
17 acts of gross negligence when he failed to prepare Client M's 2010 tax returns and  
18 failed to respond to Client M's multiple inquiries regarding the status of the returns;
- 19 B) Respondent violated Business and Professions Code, section 5100(c) by committing  
20 acts of gross negligence when he failed to prepare Client H's 2011 tax returns, failed  
21 to respond to Client H's multiple inquiries regarding the status of the returns, and  
22 failed to return Client H's records after receiving multiple demands to return the  
23 records;
- 24 C) Respondent violated Business and Professions Code, section 5037 and California  
25 Code of Regulation Title 16, section 52 when respondent provided false information  
26 to a Board of Accountancy investigator on October 21, 2011 by stating he had not  
27  
28



1 Board of Accountancy when in fact they were not, and thereby committed acts involving moral  
2 turpitude, dishonesty or corruption in willful violation of Business and Professions Code, section  
3 6106.

4 COUNT FOUR

5 Case No. 14-O-2716  
6 Business and Professions Code, section 6068(i)  
7 [Failure to Cooperate in State Bar Investigation]

8 4. Respondent failed to cooperate and participate in a disciplinary investigation pending  
9 against respondent by failing to provide a substantive response to the State Bar's letters of June  
10 18, 2014 and August 5, 2014, which respondent received, that requested respondent's response  
11 to the allegations of misconduct being investigated in case no. 14-O-2716, in willful violation of  
12 Business and Professions Code, section 6068(i).

13 COUNT FIVE

14 Case No. 14-O-2716  
15 Business and Professions Code, section 6068(o)(6)  
16 [Failure to Report Imposition of Discipline]

17 5. Respondent failed to report to the agency charged with attorney discipline, in writing,  
18 within 30 days of the time respondent had knowledge of the imposition of discipline against the  
19 attorney by a professional or occupational disciplinary agency or licensing board by failing to  
20 report to the State Bar the revocation of his CPA license on or about March 27, 2014 by Default  
21 Decision and Order in connection with *In the Matter of the Accusation Against Daniel Robert*  
22 *Miller*, case number AC-2014-19 before the California Board of Accountancy, Department of  
23 Consumer Affairs, State of California in willful violation of Business and Professions Code  
24 section, 6068(o)(6).

25 NOTICE - INACTIVE ENROLLMENT!

26 **YOU ARE HEREBY FURTHER NOTIFIED THAT IF THE STATE BAR  
27 COURT FINDS, PURSUANT TO BUSINESS AND PROFESSIONS CODE  
28 SECTION 6007(c), THAT YOUR CONDUCT POSES A SUBSTANTIAL  
THREAT OF HARM TO THE INTERESTS OF YOUR CLIENTS OR TO  
THE PUBLIC, YOU MAY BE INVOLUNTARILY ENROLLED AS AN  
INACTIVE MEMBER OF THE STATE BAR. YOUR INACTIVE  
ENROLLMENT WOULD BE IN ADDITION TO ANY DISCIPLINE  
RECOMMENDED BY THE COURT.**

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**NOTICE - COST ASSESSMENT!**

**IN THE EVENT THESE PROCEDURES RESULT IN PUBLIC DISCIPLINE, YOU MAY BE SUBJECT TO THE PAYMENT OF COSTS INCURRED BY THE STATE BAR IN THE INVESTIGATION, HEARING AND REVIEW OF THIS MATTER PURSUANT TO BUSINESS AND PROFESSIONS CODE SECTION 6086.10.**

Respectfully submitted,

THE STATE BAR OF CALIFORNIA  
OFFICE OF THE CHIEF TRIAL COUNSEL

DATED: 4 March 2015

By: Erica L. M. Dennings  
Erica L. M. Dennings  
Senior Trial Counsel

DECLARATION OF SERVICE

by

U.S. FIRST-CLASS MAIL / U.S. CERTIFIED MAIL / OVERNIGHT DELIVERY / FACSIMILE-ELECTRONIC TRANSMISSION

CASE NUMBER(s): 14-O-02716

I, the undersigned, am over the age of eighteen (18) years and not a party to the within action, whose business address and place of employment is the State Bar of California, 180 Howard Street, San Francisco, California 94105, declare that:

- on the date shown below, I caused to be served a true copy of the within document described as follows:

NOTICE OF DISCIPLINARY CHARGES



By U.S. First-Class Mail: (CCP §§ 1013 and 1013(a))

- in accordance with the practice of the State Bar of California for collection and processing of mail, I deposited or placed for collection and mailing in the City and County of San Francisco.



By U.S. Certified Mail: (CCP §§ 1013 and 1013(a))



By Overnight Delivery: (CCP §§ 1013(c) and 1013(d))

- I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for overnight delivery by the United Parcel Service ("UPS").



By Fax Transmission: (CCP §§ 1013(e) and 1013(f))

Based on agreement of the parties to accept service by fax transmission, I faxed the documents to the persons at the fax numbers listed herein below. No error was reported by the fax machine that I used. The original record of the fax transmission is retained on file and available upon request.



By Electronic Service: (CCP § 1010.6)

Based on a court order or an agreement of the parties to accept service by electronic transmission, I caused the documents to be sent to the person(s) at the electronic addresses listed herein below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.



(for U.S. First-Class Mail) in a sealed envelope placed for collection and mailing at San Francisco, addressed to: (see below)



(for Certified Mail) in a sealed envelope placed for collection and mailing as certified mail, return receipt requested,

Article No.: 9414-7266-9904-2011-9752-11 at San Francisco, addressed to: (see below)



(for Overnight Delivery) together with a copy of this declaration, in an envelope, or package designated by UPS,

Tracking No.: addressed to: (see below)

Person Served	Business-Residential Address	Fax Number	Courtesy Copy to:
DANIEL R. MILLER	P.O. Box 281 Half Moon Bay, CA 94019-0281	Electronic Address dan@baycpas.com	795 Main Street Half Moon Bay, Ca 94109

via inter-office mail regularly processed and maintained by the State Bar of California addressed to:

N/A

I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for mailing with the United States Postal Service, and overnight delivery by the United Parcel Service ("UPS"). In the ordinary course of the State Bar of California's practice, correspondence collected and processed by the State Bar of California would be deposited with the United States Postal Service that same day, and for overnight delivery, deposited with delivery fees paid or provided for, with UPS that same day.

I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date on the envelope or package is more than one day after date of deposit for mailing contained in the affidavit.

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct. Executed at San Francisco, California, on the date shown below.

DATED:

4 Mar 2015

SIGNED:

EUNICE A. WALLACE-DUNCAN  
Declarant

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

In the Matter of the Accusation Against:  
**DANIEL ROBERT MILLER**  
P.O. Box 281  
Half Moon Bay, CA 94019  
**Certified Public Accountant Certificate No.**  
**41516**  
  
Respondent.

Case No. AC-2014-19

**DEFAULT DECISION AND ORDER**

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about December 20, 2013, 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-2014-19 against Daniel Robert Miller (Respondent) before the California Board of Accountancy. (Accusation attached as Exhibit A.)
2. On or about October 12, 1984, the California Board of Accountancy (CBA) issued Certified Public Accountant Certificate No. 41516 to Respondent. The Certified Public Accountant Certificate expired on April 1, 2011, and is currently in delinquent status.
3. On or about January 3, 2014, Respondent was served by Certified and First Class Mail copies of the Accusation No. AC-2014-19, Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,

1 and 11507.7) at Respondent's address of record which, pursuant to California Code of  
2 Regulations, title 16, section 3, is required to be reported and maintained with the CBA.

3 Respondent's address of record was and is:

4 P.O. Box 281  
5 Half Moon Bay, CA 94019.

6 4. Service of the Accusation was effective as a matter of law under the provisions of  
7 Government Code section 11505, subdivision (c) and/or Business & Professions Code section  
8 124.

9 5. Government Code section 11506 states, in pertinent part:

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

15 6. Respondent failed to file a Notice of Defense within 15 days after service upon him  
16 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.  
17 AC-2014-19.

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

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

23 8. Pursuant to its authority under Government Code section 11520, the CBA finds  
24 Respondent is in default. The CBA will take action without further hearing and, based on the  
25 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as  
26 taking official notice of all the investigatory reports, exhibits and statements contained therein on  
27 file at the CBA's offices regarding the allegations contained in Accusation No. AC-2014-19, finds  
28 that the charges and allegations in Accusation No. AC-2014-19, are separately and severally,  
found to be true and correct by clear and convincing evidence.



1 section 52. Between March 2010 and July 2013, Respondent failed to respond to multiple  
2 inquiries from the Board's staff. Respondent did not respond to a subpoena issued by the Board  
3 in March 2010. Respondent provided false information to a Board investigator on October 21,  
4 2011, by stating he had not been in the practice of public accountancy for several years and that  
5 he did not do tax returns.

6 d. Respondent is subject to disciplinary action under Business and Professions Code  
7 section 5100(g) in that Respondent willfully violated Business and Professions Code section  
8 5050. From about April 1, 2011 until at least May 21, 2013, Respondent practiced public  
9 accountancy while his license was in an expired status.

10 e. Respondent is subject to disciplinary action under Business and Professions Code  
11 section 5100(g) in that Respondent willfully violated Business and Professions Code section  
12 5060. Respondent practiced public accountancy from at least 2011 until 2013 under the  
13 unregistered firm name "Bay CPAs."

14 f. Respondent is subject to disciplinary action under Business and Professions Code  
15 section 5100(g) in that Respondent willfully violated California Code of Regulations Title 16,  
16 section 63. Respondent advertised with signs, business cards, brochures, calendars and on the  
17 internet under the unregistered name "Bay CPAs" while his license was expired. The  
18 advertisements were false, fraudulent, or misleading in that they gave the impressions that  
19 Respondent and his firm were licensed accountants in good standing with the Board when in fact  
20 they were not.

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ORDER

IT IS SO ORDERED that Certified Public Accountant Certificate No. 41516, heretofore issued to Respondent Daniel Robert Miller, 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 April 26, 2014.

It is so ORDERED March 27, 2014

  
\_\_\_\_\_  
FOR THE CALIFORNIA BOARD OF  
ACCOUNTANCY  
DEPARTMENT OF CONSUMER AFFAIRS

40883825.DOC  
DOJ Matter ID:SF2013406450

Attachment:  
Exhibit A: Accusation

# Exhibit A

Accusation

1 KAMALA D. HARRIS  
Attorney General of California  
2 FRANK H. PACOE  
Supervising Deputy Attorney General  
3 JUSTIN R. SURBER  
Deputy Attorney General  
4 State Bar No. 226937  
455 Golden Gate Avenue, Suite 11000  
5 San Francisco, CA 94102-7004  
Telephone: (415) 355-5437  
6 Facsimile: (415) 703-5480  
*Attorneys for Complainant*  
7

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

10 In the Matter of the Accusation Against:

Case No. AC-2014-19

11 **DANIEL ROBERT MILLER**  
12 **P.O. Box 281**  
13 **Half Moon Bay, CA 94019**

**ACCUSATION**

14 **Certified Public Accountant Certificate No.**  
~~41516~~

15 Respondent.

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17  
18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about October 12, 1984, the California Board of Accountancy issued Certified  
23 Public Accountant Certificate Number 41516 to Daniel Robert Miller (Respondent). The  
24 Certified Public Accountant Certificate expired on April 1, 2011, and is currently in delinquent  
25 status.

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JURISDICTION

1  
2 3. This Accusation is brought before the California Board of Accountancy ("Board"),  
3 Department of Consumer Affairs, under the authority of the following laws. All section  
4 references are to the Business and Professions Code unless otherwise indicated.

5 4. Section 5109 states:

6 "The expiration, cancellation, forfeiture, or suspension of a license, practice privilege, or  
7 other authority to practice public accountancy by operation of law or by order or decision of the  
8 board or a court of law, the placement of a license on a retired status, or the voluntary surrender of  
9 a license by a licensee shall not deprive the board of jurisdiction to commence or proceed with  
10 any investigation of or action or disciplinary proceeding against the licensee, or to render a  
11 decision suspending or revoking the license."

12 5. Section 5037 states:

13 "... (b) A licensee shall furnish to his or her client or former client, upon request and  
14 reasonable notice:

15 "(1) A copy of the licensee's working papers, to the extent that those working papers include  
16 records that would ordinarily constitute part of the client's records and are not otherwise available  
17 to the client.

18 "(2) Any accounting or other records belonging to, or obtained from or on behalf of, the  
19 client which the licensee removed from the client's premises or received for the client's account.  
20 The licensee may make and retain copies of documents of the client when they form the basis for  
21 work done by him or her."

22 6. Section 5050 states:

23 "(a) Except as provided in subdivision (b) and (c) of this section, in subdivision (a) of  
24 Section 5054, and in Section 5096.12, no person shall engage in the practice of public  
25 accountancy in this state unless the person is the holder of a valid permit to practice public  
26 accountancy issued by the board or a holder of a practice privilege pursuant to Article 5.1  
27 (commencing with Section 5096.).

28 ..."

1           7.       Section 5050.1(a) of the Code states:

2            "Any person that engages in any act that is the practice of public accountancy in this state  
3 consents to the personal, subject matter, and disciplinary jurisdiction of the board. This  
4 subdivision is declarative of existing law."

5           8.       Section 5051 states:

6            "Except as provided in Sections 5052 and 5053, a person shall be deemed to be engaged in  
7 the practice of public accountancy within the meaning and intent of [Chapter 1 of Division 3  
8 (commencing with Section 5000)] if he or she does any of the following:

9            "(a) Holds himself or herself out to the public in any manner as one skilled in the  
10 knowledge, science, and practice of accounting, and as qualified and ready to render professional  
11 service therein as a public accountant for compensation.

12           "(b) Maintains an office for the transaction of business as a public accountant.

13           "(c) Offers to prospective clients to perform for compensation, or who does perform on  
14 behalf of clients for compensation, professional services that involve or require an audit,  
15 examination, verification, investigation, certification, presentation, or review of financial  
16 transactions and accounting records.

17           "(d) Prepares or certifies for clients reports on audits or examinations of books or records of  
18 account, balance sheets, and other financial, accounting and related schedules, exhibits,  
19 statements, or reports that are to be used for publication, for the purpose of obtaining credit, for  
20 filing with a court of law or with any governmental agency, or for any other purpose.

21           "(e) In general or as an incident to that work, renders professional services to clients for  
22 compensation in any or all matters relating to accounting procedure and to the recording,  
23 presentation, or certification of financial information or data.

24           "(f) Keeps books, makes trial balances, or prepares statements, makes audits, or prepares  
25 reports, all as a part of bookkeeping operations for clients.

26           "(g) Prepares or signs, as the tax preparer, tax returns for clients.

27           "(h) Prepares personal financial or investment plans or provides to clients products or  
28 services of others in implementation of personal financial or investment plans.

1           "(i) Provides management consulting services to clients.

2           "The activities set forth in subdivisions (f) to (i), inclusive, are 'public accountancy' only  
3 when performed by a certified public accountant or public accountant, as defined in this chapter.

4           "A person is not engaged in the practice of public accountancy if the only services he or she  
5 engages in are those defined by subdivisions (f) to (i), inclusive, and he or she does not hold  
6 himself or herself out, solicit, or advertise for clients using the certified public accountant or  
7 public accountant designation. A person is not holding himself or herself out, soliciting, or  
8 advertising for clients within the meaning of this section solely by reason of displaying a CPA or  
9 PA certificate in his or her office or identifying himself or herself as a CPA or PA on other than  
10 signs, advertisements, letterhead, business cards, publications directed to clients or potential  
11 clients, or financial or tax documents of a client."

12           9.     Section 5060 states:

13           "(a) No person or firm may practice public accountancy under any name which is false or  
14 misleading.

15           "(b) No person or firm may practice public accountancy under any name other than the  
16 name under which the person or firm holds a valid permit to practice issued by the board.

17           "(c) Notwithstanding subdivision (b), a sole proprietor may practice under a name other  
18 than the name set forth on his or her permit to practice, provided the name is registered by the  
19 board, is in good standing, and complies with the requirements of subdivision (a).

20           "(d) The board may adopt regulations to implement, interpret, and make specific the  
21 provisions of this section including, but not limited to, regulations designating particular forms of  
22 names as being false or misleading."

23           10.     Section 5100 states:

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

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1 FIRST CAUSE FOR DISCIPLINE

2 (Gross Negligence)

3 16. Respondent is subject to disciplinary action under section 5100(c) in that Respondent  
4 committed acts of Gross Negligence. Respondent committed the following acts which constitute  
5 gross negligence

6 a. Respondent contracted to prepare Client M's 2010 tax returns. However, Respondent  
7 failed to prepare and file Client M's tax returns. Respondent also failed to respond to multiple  
8 inquires from Client M regarding the status of the returns.

9 b. Respondent contracted to prepare Client H's 2011 tax returns. However, Respondent  
10 failed to prepare and file Client H's tax returns. Respondent also failed to respond to Client H's  
11 multiple inquires regarding the status of the returns.

12 c. Respondent failed to return Client H's Records after Client H demanded the records  
13 be returned.

14 SECOND CAUSE FOR DISCIPLINE

15 (Retention of Client Records)

16 17. Respondent is subject to disciplinary action under section 5100(g) in that Respondent  
17 willfully violated section 5037 and Board Rule 68. Respondent retained Client H's records, after  
18 receiving multiple demands to return the records.

19 THIRD CAUSE FOR DISCIPLINE

20 (Failure to Respond to Board Inquiry and to Provide Accurate Information)

21 18. Respondent is subject to disciplinary action under section 5100(g) in that Respondent  
22 willfully violated Board rule 52. Between March 2010 and July 2013, Respondent failed to  
23 respond to multiple inquiries from the Board's staff. Respondent did not respond to a subpoena  
24 issued by the Board in March 2010. Respondent provided false information to a Board  
25 investigator on October 21, 2011, by stating he had not been in the practice of public accountancy  
26 for several years and that he did not do tax returns.

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1 FOURTH CAUSE FOR DISCIPLINE

2 (Practice Without a Valid Permit )

3 19. Respondent is subject to disciplinary action under section 5100(g) in that Respondent  
4 willfully violated section 5050. From about April 1, 2011 until at least May 21, 2013,  
5 Respondent practiced public accountancy while his license was in an expired status.

6 FIFTH CAUSE FOR DISCIPLINE

7 (Unregistered Firm Name)

8 20. Respondent is subject to disciplinary action under section 5100(g) in that Respondent  
9 willfully violated section 5060. Respondent practiced public accountancy from at least 2011 until  
10 2013 under the unregistered firm name "Bay CPAs."

11 SIXTH CAUSE FOR DISCIPLINE

12 (False Advertising)

13 21. Respondent is subject to disciplinary action under section 5100(g) in that Respondent  
14 willfully violated board Rule 63. Respondent advertised with signs, business cards, brochures,  
15 calendars and on the internet under the unregistered name "Bay CPAs" while his license was  
16 expired. The advertisements were false, fraudulent, or misleading in that they gave the  
17 impressions that Respondent and his firm were licensed accountants in good standing with the  
18 Board when in fact they were not.

19 PRAYER

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

22 1. Revoking or suspending or otherwise imposing discipline upon Certified Public  
23 Accountant Certificate Number 41516, issued to Daniel Robert Miller

24 2. Ordering Daniel Robert Miller to pay the California Board of Accountancy the  
25 reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
26 Professions Code section 5107;

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

DATED: 12/20/2013

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

SF2013406450  
40828884.doc

**Issuing Agency:** State Bar of California, Office of the Chief Trial Counsel

**CASE NAME:** In the Matter of Daniel Robert Miller, a member of the State Bar

**CASE NO.:** 14-O-02716

**NAME OF AGENCY:** California Board of Accountancy

**RECORDS PERTAINING TO:** In the Matter of the Accusation Against Daniel Robert Miller, PO Box 281, Half Moon Bay, CA 94109, CPA Cert No. 41516, and documents related to the dishonesty charge

### DECLARATION OF CUSTODIAN OF RECORDS

I, the undersigned, being the duly authorized custodian of records or other qualified witness in the employ of the CALIFORNIA BOARD OF ACCOUNTANCY, 2000 Evergreen St., Suite 250, Sacramento, California 95815 with personal knowledge of the facts set forth below, and having authority to certify said records, do hereby attest to the following facts:

I am an employee of the organization listed above and have personal knowledge of the facts described herein. The records pertain to an investigation and disciplinary case involving former licensee Daniel Robert Miller by the CALIFORNIA BOARD OF ACCOUNTANCY (BOARD). With the exception of the redaction or removal of the following information to protect consumer privacy and preserve the Board's attorney-client privilege, which includes: consumer tax returns or tax return information, consumer home addresses or phone numbers, social security numbers, and attorney-client privileged communications (including declaration of costs by the attorney general's office), a true copy of the records in the possession of the BOARD called for in the attached Subpoena (as modified by agreement to exclude private tax documents and other privileged items), have been produced.

The following records are business records of the BOARD and were prepared in the ordinary course of business, at or near the time of the act or event set forth by, or from information transmitted by, staff from the BOARD with knowledge of these matters. These records are as follows:

- Accusation No. AC-2014-19 dated 12/20/2013
- Investigative Report for Internal Case A-2013-468 by Marla Weitzman, dated October 15, 2013 with Exhibits
- Exhibit 1 – Investigative Report from Internal Case A-2010-319 by Jesus Silva, Jr., dated July 18, 2012
- Exhibit 3 – Letter to Leonard G. Malcolm from CBA, Liz Nunally, dated October 9, 2012
- Exhibit 5 – Letter to Leonard G. Malcolm from Tina MacGregor, dated November 15, 2012
- Exhibit 6 – Letter to Mr. Daniel R. Miller from Tina MacGregor, Investigative CPA, dated November 15, 2012
- Exhibit 9 – Letter to Mr. Ernest J. Hutchinson from Tina MacGregor, Investigative CPA, dated April 19, 2013;  
Letter to Mr. Daniel R. Miller from Tine MacGregor, Investigative CPA, dated April 19, 2013
- Exhibit 10 – May 8, 2013 letter from Marla Weitzman to Daniel Miller dated May 8, 2013 w/return receipt confirmation; Two Memos dated May 22, 2013 from Marla Weitzman "To File" regarding the practice investigation and site visit

- Exhibit 11 – Letter to Mr. Miller from Marla Weitzman, dated July 2, 2013
- Certification of Costs of Investigation and Prosecution, dated February 5, 2014
- Certification of License History for Daniel Robert Miller, dated October 22, 2013
- Default Decision and Order In the Matter of the Accusation Against: Daniel Robert Miller, Case No. AC-2014-19, effective April 26, 2014
- Exhibit 1 to Default Decision and Evidence Packet: Accusation No. AC-2014-109
- Exhibit 2 to Default Decision and Evidence Packet: License History Certification for Respondent dated 10/22/2013
- Exhibit 3 to Default Decision and Evidence Packet: Certification of Costs dated 2/5/2014
- Exhibit 5 to Default Decision and Evidence Packet: Investigative Report from Marla Weitzman dated October 15, 2013 (without attachments)

Other documents produced are true copies of copies contained in files maintained by the BOARD, but were not prepared by BOARD personnel. These records are as follows:

- Email from Dan Miller to Jesus Silva and attached to Investigative Report from Internal Case A-2010-319 and dated Friday, October 21, 2011
- Exhibit 2 – Complaint from Leonard G. Malcolm against Dan Miller, BayCPA's, dated October 7, 2012 (minus tax returns of the consumer); email correspondence between Leonard Malcolm and Dan Miller and Leonard Malcolm and Carolyn Lieberman
- Exhibit 4 – Copies of Internet Advertising for BayCPAs, dated November 1, 2012
- Exhibit 7 – Copies of website research for BayCPAs, dated January 29, 2013 and April 19, 2013
- Exhibit 8 – Complaint from Ernest J. Hutchinson against Daniel R. Miller COR 3359, Daniel R. Miller JD CPA ACTY Corp, dated February 1, 2013, with attachments
- Exhibit 10 – Documentation related to May 21, 2013 Practice Investigation, Investigative Report prepared by the DCA's Division of Investigation and Request for Service by CBA
- Exhibit 12 – Minnesota Board of Accountancy printout; State BAR of California Attorney Search printout; Oregon State BAR printout; email from Oregon Board of Accountancy dated May 22, 2013 to Marla Weitzman  
Washington State BAR printout
- Exhibit 13 – Criteria for preparing tax returns as an attorney from the State BAR of California
- Exhibit 14 – Pertinent excerpts from the Business and Professions Code and Title 16, California Code of Regulations regarding Accountants
- Default Decision and Investigatory Evidence Packet dated February 12, 2014 prepared by Deputy Attorney General Justin Serber
- Exhibit 1 to Default Decision and Evidence Packet: Statement to Respondent dated 1/3/2014; Request for Discovery dated 1/3/2014; Notice of Defense and Proof of Service dated 1/3/2014

I hereby declare under penalty of perjury under the laws of the State of California, that the foregoing is true and correct:

EXECUTED ON:

11/16/2014

EXECUTED AT:

2000 Evergreen St., Suite 250  
Sacramento, California 95815

SIGNED:

Melissa Winchell

PRINTED NAME:

Melissa Winchell