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

In the Matter of the Accusation Against: CRAIG REID CLARK 32 W. Anapamu Street #377 Santa Barbara CA 93101 CPA License No. 21823, Respondent.	Case No. AC-2002-3 **DEFAULT DECISION AND ORDER OF THE BOARD; DECLARATION OF DEPUTY ATTORNEY GENERAL JEANNE COLLETTE WERNER** [Gov. Code § 11520]

Respondent Craig Reid Clark, CPA ("Respondent"), who was provided notice, as required by law, of the administrative hearing scheduled, at his request, in this matter on April 2, 2003, in Oakland, California, failed to appear at the hearing. Respondent is in default. The default of Respondent having been duly noted, the California Board of Accountancy has determined that Respondent waived his right to a hearing to contest the merits of the Accusation. Further, the Board is taking action on the Accusation and evidence herein without a hearing, and makes the following Decision and Order:

Jurisdiction and Statutory Authority

The Board takes official notice of the following statutes:

1. California Government Code section 11520 provides, 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...".

2. Business and Professions Code section 5109 provides, *inter alia*, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with any investigation of or action or disciplinary proceeding against the licensee. Business and Professions Code section 118 (b) further provides that the expiration of a license "shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the license on any such ground." Code section 5070.6 provides, in part, that an expired license may be renewed, upon compliance with applicable requirements, at any time within five years after its expiration.

3. This Board is authorized to discipline respondent's Certified Public Accountant License pursuant to California Business and Professions Code section 5100 (hereinafter "Code"), which, at all times material herein, has provided in pertinent part that "the Board may revoke, suspend or refuse to renew any permit or certificate" issued by the Board for unprofessional conduct, including but not limited to the matters set forth in the subparagraphs of that section. Relevant herein are the following provisions of the Accountancy Act[1]:

5100(g) Willful violation of this chapter or any rule or regulation promulgated by the board under the authority granted under this chapter.

5100(h) Suspension or revocation of the right to practice before any governmental body or agency.

5100(i) Fiscal dishonesty or breach of fiduciary responsibility of any kind.

5100(j) Knowing preparation, publication or dissemination of false, fraudulent, or materially misleading financial statements, reports, or information.

4. Business and Professions Code Section 5063(a) provides in pertinent part

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1. The subparagraphs of Code Section 5100 cited herein were re-lettered effective January 1, 2003, the accusation is deemed modified to reflect these changes, and the new designations are used herein.

that a Board licensee shall report to the board in writing of the occurrence of certain events occurring on or after January 1, 1997, within 30 days of the date the licensee has knowledge of these events, which include the cancellation, revocation, or suspension of the right to practice as a certified public accountant or a public accountant before any governmental body or agency.

5. Code Section 5107 provide for recovery by the board of all reasonable costs of investigation and prosecution of the case, including, but not limited to, attorney's fees in specified disciplinary actions, including alleged violations of former Code Section 5100(h) now re-lettered (i) and former Code Section 5100(i) now re-lettered (j).[2] A certified copy of the actual costs, or a good faith estimate of costs signed by the executive officer, constitute prima facie evidence of reasonable costs of investigation and prosecution of the case.

FINDINGS OF FACT

Pursuant to its authority under Government Code section 11520, and based on the evidence before it, the Board finds that the following allegations contained in Accusation No. AC-2002-3 are true:

1. The license history of Craig Reid Clark (hereinafter "Respondent"), is accurately set forth in the Accusation. The license, CPA License Number 21823, expired on June 1, 2001, and has not been renewed. The licensee's current address of record is: 32 W. Anapamu Street #377, Santa Barbara CA 93101.

2. On or about December 27, 2001, Complainant Carol B. Sigmann, in her official capacity as Executive Officer of the Board, filed Accusation No. AC-2002-3 against Respondent alleging, as bases for discipline, violations of Code Section 5100(g)/5063(a) [reportable events]; Code Section 5100(h)[suspension of right to practice before U.S. Securities and Exchange Commission; Code Section 5100(i)fiscal dishonesty; Code Section 5100(i)breach of fiduciary duty;. and 5100(j)knowing preparation, publication or dissemination of false, fraudulent or materially misleading financial statements, reports or information. A copy of the Accusation

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2. The subparagraphs of Code Section 5107 have not yet been re-lettered to conform to the re-lettering in Code Section 5100 (noted in footnote 1 above).

(which is among the jurisdictional exhibits marked at the default hearing) is attached hereto as part of Exhibit A and is incorporated herein.

3. The Accusation was duly served on Respondent. At the time of service of the Accusation, Respondent's address of record with the Board was 2601 Seascape Court, Plano, TX 75093. Respondent filed a Notice of Defense to the charges in the Accusation and subsequently filed a change of address request, changing his address of record with the Board from 2601 Seascape Court, Plano, Texas 75093 to his current address of record, that is, 32 W. Anapamu Street #377, Santa Barbara CA 93101.

4. On or about February 14, 2003, Heidi Bennett, an employee of the Office of the Attorney General, served, by Certified and First-Class mail, copies of the Notice of Hearing to Respondent at his address of record. The Notice of Hearing set the matter for April 2, 2003, at 9:00 a.m. at the Office of Administrative Hearings, 1515 Clay Street, Suite 206, Oakland, CA 94612. The above-described service was effective as a matter of law pursuant to the provisions of California Government Code section 11505(c) and Code section 124.A copy of the Notice of Hearing (which is among the jurisdictional exhibits marked at the default hearing) is attached hereto as part of Exhibit A.

5. Respondent failed to appear at the scheduled hearing and has therefore waived his right to a hearing on the merits of Accusation No. AC-2002-3.. His non-appearance was noted on the record by the Honorable Perry O. Johnson, Administrative Law Judge, who marked as exhibits the jurisdictional pleadings in the case. Administrative Law Judge Johnson confirmed on the record that the Respondent was in default.

6. On or about May 7, 2001, in an administrative proceeding before the United States Securities and Exchange Commission ("SEC"), entitled *In the Matter of Craig R. Clark, CPA* (SEC Administrative Proceeding No. 3-10476), Respondent was denied the privilege of appearing or practicing before the SEC as an accountant.

7. Respondent Clark was Unison HealthCare Corporation's (Unison) former Chief Financial Officer, was a member of the Board of Directors, and was, at times relevant to the SEC's charges, licensed as a CPA in Texas (as well as in California).

8. The following findings regarding Respondent and his role at Unison form the factual basis upon which discipline is imposed:

a. Analysts estimated that Unison would earn $0.36 per share for the third quarter ended September 30, 1996.

b. By late September, Respondent Clark had concluded that Unison would not meet those estimates. Consequently Respondent arranged for Unison to announce that it expected third quarter earnings to be $0.28 to $ 0.31per share before a $4 million one-time charge.

c. In early November 1996, shortly before Unison was to announce third quarter 1996 financial results, Respondent learned from the controller that the results showed a loss for the quarter.

d. Respondent instructed the company's former controller to make, and participated in making, materially false adjustments to revenue and expenses by creating unsupported journal entries in the company's books to achieve the desired income and earnings numbers.

e. These false entries materially increased Medicare receivables (by $3.391 million) and materially decreased expenses (by $1.7 million) for the third quarter of 1996.

f. These two journal entries, which were false, unsupported, and had no basis in fact, increased Unison's net income by over $5 million.

g. These adjustments to Unison's third quarter financial statements artificially inflated revenue by material amounts and enabled Unison to meet its own previously announced estimate of earnings for that quarter.

h. The adjustments to revenues and to expenses enabled Unison to report positive net income of $1.2 million ($.30 per share) rather than a loss of almost $4 million.

i. Clark made false representations regarding the company's financial statements (i.e., the adjustments noted in d. through h. above) to the company's outside auditors.

j. Clark participated in Unison's issued press releases announcing the falsely inflated earnings and included the materially false figures in its Form 10-Q filed for the third

quarter of 1996.

k. Clark participated in the filing of Unison's Form 10-Q, which contained materially false and misleading information because Unison's financial statements included unsupported accounts receivable, revenues, and expenses. Unison later restated its results of operations, which included the third quarter of 1996, to report a pretax loss of nearly $15 million for the nine-month period ended September 30, 1996.

9. The reasonable costs of investigation and prosecution of this case have been certified by the Executive Officer of the Board as $7322.74.

DETERMINATION OF ISSUES

Pursuant to its authority and according to the provisions of Government Code section 11520(a), the Board determines:

1. The Board is proceeding under the default provision of California Government Code section 11520 based upon the failure of Respondent to appear at a duly noticed Hearing as provided therein.

2. Service of the Accusation and of the Notice of Hearing was effective as a matter of law pursuant to the provisions of California Government Code section 11505(c) and Code section 124.

3. As a result of Respondent's misconduct, established by reason of the foregoing Findings of Fact, Respondent's certificate is subject to discipline for unprofessional conduct, as follows, and cause for revocation of the certificate based upon each of the following Determinations, and upon all of them, is established:

Bus. and Prof. Code Section 5100(j) - False, Fraudulent & Misleading Financial Statement, Reports and Information

Based on the foregoing Findings of Fact, Respondent's license is subject to discipline under Business and Professions Code Section 5100(j)for the knowing preparation, publication, and/or dissemination of false, fraudulent, or materially misleading financial statements, reports, or information, in particular his responsibility for the preparation of false financial information, for his participation in preparing and disseminating false and fraudulent

SEC reports and news releases, and for misleading the company's auditors.

Bus. and Prof. Code Section 5100(i) - Fiscal Dishonesty

Based on the foregoing Findings of Fact, Respondent's license is subject to discipline under Business and Professions Code Section(i) for fiscal dishonesty in that, as CFO of Unison, he engaged in multiple acts of fiscal dishonesty.

Bus. and Prof. Code Section 5100(i) - Breach of Fiduciary Duty

Based on the foregoing Findings of Fact, Respondent's license is subject to discipline under Business and Professions Code Section(i) for Breach of Fiduciary Duty of Any Kind in that, as CFO and a member of the Board of Directors of Unison, he engaged in multiple breaches of his fiduciary duty to Unison, its Board of Directors, and shareholders.

Bus. and Prof. Code Section 5100(h)- Revocation of Right to Practice Before Agency

Based on the foregoing Findings of Fact, Respondent's license is subject to discipline under Business and Professions Code Section 5100(h) for suspension or revocation of his right to practice before the U.S. Securities and Exchange Commission.

Bus. and Prof. Code Section 5100(g)-Failure to Report as Required

Based on the foregoing Findings of Fact, Respondent's license is subject to discipline under Business and Professions Code Section 5100(g) in conjunction with Code Section 5063(a)(3) for failing to report the denial of the privilege of appearing or practicing as an accountant before the SEC to the Board as required.

ORDER OF THE BOARD OF ACCOUNTANCY

Certified Public Accountant License No. CPA 21823, heretofore issued to Respondent Craig Reid Clark, is hereby revoked. An immediate effective date has been assigned to this Order.

Pursuant to California Government Code section 11520(c), Respondent may serve a written motion requesting that the decision be vacated and stating the grounds upon which he is

relying. The motion must be made in writing to the Board of Accountancy, 2000 Evergreen Street, Suite 250, Sacramento, California 95815, within seven days after service on the Respondent of the default Decision.

Made this 22 day of May, 2003.

Wendy S. Perez
Board President
For the California Board of Accountancy
Department of Consumer Affairs

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

In the Matter of the Accusation Against: CRAIG REID CLARK 2601 Seascape Court Plano, TX 75093 CPA License No. 21823, Respondent.	Case No. AC-2002-3 **ACCUSATION**

Complainant Carol Sigmann alleges:

PARTIES AND JURISDICTION

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

2. On or about August 1, 1975, the Board issued CPA License Number 21823 to Craig Reid Clark ("Respondent"). The CPA License expired on June 1, 2001, and has not been renewed.

3. This Accusation is brought before the Board under the authority of the Section 5100 of the Business and Professions Code (hereinafter "Code"), which provides that the Board may discipline a license for unprofessional conduct which includes, but is not limited to,

one or any combination of the following causes:

(f) Willful violation of this chapter (the Accountancy Act) or any rule or regulation promulgated by the board under the authority granted under this chapter.

(g) Suspension or revocation of the right to practice before any governmental body or agency.

(h) Fiscal dishonesty or breach of fiduciary responsibility of any kind.

(i) Knowing preparation, publication or dissemination of false, fraudulent, or materially misleading financial statements, reports, or information.

4. Code Section 5063(a) provides that a Board licensee shall report to the board in writing of the occurrence of certain events occurring on or after January 1, 1997, within 30 days of the date the licensee has knowledge of these events, which include the cancellation, revocation, or suspension of the right to practice as a certified public accountant or a public accountant before any governmental body or agency.

5. Code Section 5107 provides for recovery by the board of all reasonable costs of investigation and prosecution of the case, including, but not limited to, attorney's fees in specified disciplinary actions, including alleged violations of Code Section 5100(h) and (i). A certified copy of the actual costs, or a good faith estimate of costs signed by the executive officer, constitute prima facie evidence of reasonable costs of investigation and prosecution of the case.

6. Code Section 118(b) provides in pertinent part that the suspension, expiration, or forfeiture by operation of law of a license issued by the Board shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the Board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground. Code Section 5070.6 provides that, except as otherwise provided in this chapter, an expired permit may be renewed at any time within five years after its expiration upon the filing of an application for renewal on a form prescribed by the board, payment of all accrued and unpaid renewal fees and providing evidence satisfactory to the board of compliance as required by Code Section 5070.5.

FIRST CAUSE FOR DISCIPLINE - SEC Discipline

7. Respondent is subject to disciplinary action under Code Section 5100(g) in that his right to practice before a governmental body or agency has been suspended or revoked. The circumstances are that, on or about May 7, 2001, in an administrative proceeding before the United States Securities and Exchange Commission ("SEC"), entitled *In the Matter of Craig R. Clark, CPA* (SEC Administrative Proceeding No. 3-10476), Respondent was denied the privilege of appearing or practicing before the SEC as an accountant. The order provides that Clark may apply to resume such practice after three years. The circumstances underlying the SEC's administrative action are as follows:

A. Respondent Clark, Unison HealthCare Corporation's former Chief Financial Officer, was, at times relevant to the SEC's charges, licensed as a CPA in California and Texas.

B. Analysts estimated that Unison would earn $0.36 per share for the third quarter ended September 30, 1996. By late September, Respondent had concluded that Unison would not meet those estimates. Consequently Respondent arranged for Unison to announce that it expected third quarter earnings to be $0.28 to $ 0.31per share before a $4 million one-time charge.

C. In early November 1996, shortly before Unison was to announce third quarter 1996 financial results, Respondent learned from the controller that the results showed a loss for the quarter. Respondent instructed the company's former controller to make, and participated in making, materially false adjustments to revenue and expenses by creating unsupported journal entries in the company's books to achieve the desired income and earnings numbers. These false entries materially increased Medicare receivables (by $3.391 million) and materially decreased expenses (by $1.7 million) for the third quarter of 1996. These two journal entries, which were false, unsupported, and had no basis in fact, increased Unison's net income by over $5 million. These adjustments to Unison's third quarter financial statements artificially inflated revenue by material amounts and enabled Unison to meet its own previously announced estimate of earnings for that quarter. The adjustments to revenues and to expenses enabled Unison to report positive net income of $1.2 million ($.30 per share) rather than a loss of almost $4 million.

D Clark made false representations regarding the company's financial statements (i.e., the adjustments noted in C. above) to the company's outside auditors.

E. Unison issued press releases announcing the falsely inflated earnings and included the materially false figures in its Form 10-Q filed for the third quarter of 1996. The Form 10-Q contained materially false and misleading information because Unison's financial statements included unsupported accounts receivable, revenues, and expenses. Unison later restated its results of operations, which included the third quarter of 1996, to report a pretax loss of nearly $15 million for the nine-month period ended September 30, 1996.

SECOND CAUSE FOR DISCIPLINE - False, Fraudulent & Misleading Financial Statement, Reports and Information

8. Respondent is subject to disciplinary action under code Section 5100(i) for the knowing preparation, publication, and/or dissemination of false, fraudulent, or materially misleading financial statements, reports, or information. The circumstances are those described in paragraph 7 above, specifically Clark's responsibility for the preparation of false financial information, and his participating in SEC reports and news releases, and misleading the company's auditors.

9. Incorporating by reference the matters alleged in paragraphs 7 and 8 above, cause for discipline of Clark's license is established under Code Section 5100(i).

THIRD CAUSE FOR DISCIPLINE - Fiscal Dishonesty & Breach of Fiduciary Duty

10. Respondent is subject to disciplinary action under Code Section 5100(h) for his fiscal dishonesty in that, as is more particularly set forth in paragraph 7 above, as CFO of Unison, he engaged in multiple acts of fiscal dishonesty and breached his fiduciary duty to Unison's shareholders.

11. Incorporating by reference the matters alleged in paragraphs 7 and 10 above, cause for discipline of Clark's license is established under Code Section 5100(h).

FOURTH CAUSE FOR DISCIPLINE - Failure to Report as Required

12. Respondent is subject to disciplinary action under code Section 5100(f) in

conjunction with Code Section 5063(a)(3). Incorporating the matters set forth in paragraph 7 above, Respondent failed to report the denial of the privilege of appearing or practicing as an accountant before the SEC to the Board as required, and cause for discipline is thereby established.

OTHER MATTERS

13. Pursuant to Code section 5107, it is requested that the administrative law judge, as part of the proposed decision in this proceeding, direct Respondent to pay to the Board all reasonable costs of investigation and prosecution in this case, including, but not limited to, attorneys' fees.

14. It is charged, in aggravation of penalty, that at all times material to Respondent's misconduct described above, he was Unison's Chief Financial Officer, a member of the Board of Directors, and an experienced certified public accountant.

It is further charged, in aggravation of penalty, that, in *SEC v. Jerry M. Walker and Craig R. Clark* (a civil action in U.S. District Court, District of Arizona, Phoenix Division, Case No. CIV-99-1737-PHX-ROS), Clark was permanently restrained from violating Section 10(b) of the Exchange Act; rule 10b-5; rule 13(b)(5); Rule 13b2-1; Rule 13b2-2; and rule 13(a) promulgated thereunder. The suit alleged the misconduct described in paragraph 7 above, as well as the resulting failure of Unison to make and keep books, records and accounts that accurately and fairly reflected its transactions and dispositions of assets, and Unison's failure to devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that transactions were recorded as necessary to permit preparation of financial statements in conformity with GAAP or other applicable criteria. On or about March 16, 2001, Craig R. Clark signed a Consent to Entry of Judgment, and Final Judgment of Permanent Injunction and Other Relief as to Defendant Craig R. Clark was filed with the court on April 12, 2001. In addition to the permanent injunction, Craig was assessed a civil penalty in the amount of $15,000.

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PRAYER

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

1. Revoking, suspending, or otherwise imposing discipline upon CPA License Number 21823, issued to Craig Reid Clark;

2. Ordering Craig Reid Clark to pay the Board of Accountancy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code Section 5107;

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

DATED: December 27, 2001.

CAROL SIGMANN
Executive Officer
California Board of Accountancy
Department of Consumer Affairs
State of California
Complainant

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