

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION
September 13, 2007

ADMINISTRATIVE PROCEEDING
File No. 3-12797

In the Matter of

RICHARD E. SELLERS, CPA,

and

LESTER REX ANDERSEN, CPA

Respondents.

**ORDER INSTITUTING
ADMINISTRATIVE AND CEASE-
AND-DESIST PROCEEDINGS
PURSUANT TO SECTIONS 4C and
21C OF THE SECURITIES
EXCHANGE ACT OF 1934 AND
RULE 102(e) OF THE
COMMISSION'S RULES OF
PRACTICE, AND NOTICE OF
HEARING**

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate that public administrative and cease-and-desist proceedings be, and hereby are, instituted pursuant to Sections 4C¹ and 21C of the Securities Exchange Act of 1934 (“Exchange Act”) and Rules 102(e)(1)(i) and (iii) of the Commission’s Rules of Practice² against Richard E. Sellers (“Sellers”) and Lester Rex Andersen (“Andersen”) (collectively, “Respondents”).

¹ Section 4C provides, in relevant part, that:

The Commission may censure any person, or deny, temporarily or permanently, to any person the privilege of appearing or practicing before the Commission in any way, if that person is found . . . (1) not to possess the requisite qualifications to represent others . . . or (3) to have willfully violated, or willfully aided and abetted the violation of, any provision of the securities laws or the rules and regulations thereunder.

² Rules 102(e)(1)(i) and (iii) provide, in pertinent part, that:

The Commission may censure any person or deny, temporarily or permanently, the privilege of appearing or practicing before it in any way to any person who is found . . . (i) not to possess the requisite qualifications to represent others; . . . or (iii) to have willfully violated, or willfully aided and abetted the violation of any provision of the Federal securities laws or the rules and regulations thereunder.

II.

After an investigation the Division of Enforcement alleges that:

A. RESPONDENTS

1. Richard E. Sellers, CPA, is a resident of the State of Utah and has been a licensed CPA for 38 years; he is currently licensed in Nevada and New York. From February 2003 until in or about February 2004 Sellers was affiliated with the public accounting firm of Sellers & Andersen, LLC (“S&A”). Sellers and Andersen were the only members of S&A and it had no other employees. As of June 2007, S&A’s legal existence was terminated by the State of Utah for nonpayment of annual fees. Since February 2004, Sellers has been affiliated with a registered public accounting firm for purposes of conducting audits of public reporting companies, while operating under his own name for other professional engagements.

2. Lester Rex Andersen, CPA, is a resident of Utah and has been a licensed CPA for over 48 years; he is currently licensed as a CPA in the State of Utah. From February 2003 until in or about February 2004 Andersen was affiliated with S&A. Since February 2004, he has been affiliated with a registered public accounting firm for purposes of conducting audits of public reporting companies, while operating under his own name for other professional engagements.

B. FACTS

1. Section 102(a) of the Sarbanes-Oxley Act of 2002 (the “Act”), prohibits any person that is not a registered public accounting firm with the Public Company Accounting Oversight Board (“Board”) from preparing or issuing, or participating in the preparation or issuance of, any audit report with respect to any issuer after October 22, 2003. S&A did not register with the Board on or before October 22, 2003.

2. Both Sellers and Andersen were aware of the October 22, 2003 deadline for S&A’s registration with the Board. Sellers took it upon himself to be the person in the firm to make an application for registration with the Board on behalf of S&A. S&A ultimately filed a completed application for registration with the Board on December 9, 2003, but never became registered.

3. Even though S&A had failed to register with the Board, it issued reports after the October 22, 2003 deadline on the financial statements of five clients required to file periodic reports with the Commission. These reports were included in filings made by those issuers with the Commission on Form 10-KSB or Form 10-K. Both Sellers and Andersen prepared, issued, or participated in the preparation or issuance, of the five audit reports issued by S&A after October 22, 2003.

4. S&A was paid an aggregate of \$9,615 by the issuers in audit fees for conducting audits of the financial statements of the five companies for which S&A filed audit reports after October 22, 2003.

C. S&A's Proceeding Before the Board

1. The Board prepared and sent a Notice of Hearing on the Registration Application of Sellers & Andersen, LLC, to S&A on January 20, 2004, to determine whether to accept or reject that application. In a response letter to the Board dated January 22, 2004, S&A stated it had released only two audit reports after October 22, 2003, when in fact, by that date it had released five audit reports.

2. In a subsequent letter to the Commission's Division of Corporation Finance, dated February 10, 2004, S&A stated that it had found two additional clients for which it had released audit reports after October 22, 2003. Even then, S&A did not admit to having issued a fifth report dated November 26, 2003.

3. S&A justified its actions to the Board by stating the firm had decided to issue the audit reports without being registered because its clients might be harmed if the filings were not made in a timely fashion. Ultimately, S&A withdrew its application for registration.

D. Subsequent Affiliation with Registered Public Accounting Firm

1. Sellers and Andersen referred their audit reporting clients to another Salt Lake City, Utah, public accounting firm that was registered with the Board. They also became employees of that firm for purposes of continuing to conduct audits of those companies, while operating under their own individual names for other non-audit professional engagements.

2. The registered public accounting firm with which Sellers and Andersen became affiliated performed re-audits of, and issued new reports on, all five issuers for which S&A had improperly issued reports. S&A paid the accounting firm \$2,000 for these reaudits.

E. Violations

1. Section 102(a) of the Act provides that "it shall be unlawful for any person that is not a registered public accounting firm to prepare or issue, or to participate in the preparation or issuance of, any audit report with respect to any issuer."³

2. The provisions of Section 102(a) of the Act became effective on October 22, 2003.⁴

³ A violation of the Act or any rule that the Board issues under the Act is treated for all purposes in the same manner as a violation of the Exchange Act, including with respect to penalties. Sarbanes-Oxley Act of 2002, 15 U.S.C.A. § 7202(b)(1) (West 2002).

⁴ Section 102(a) became effective "[b]eginning 180 days after the date of the determination of the Commission under Section 101(d)" of the Act that the Board was prepared to undertake its statutory responsibilities. The Commission made the required determination on April 25, 2003. See Order Regarding Section 101(d) of the Sarbanes-Oxley Act of 2002, Securities Act Release No. 8223, Exchange Act Release No. 47746, 2003 WL 1956164 (Apr. 25, 2003).

3. Because S&A had not registered with Board, it lacked “the requisite qualifications” to issue audit reports after October 22, 2003. By participating in the preparation of five audit reports after October 22, 2003, by an audit firm that was not registered with the Board, Sellers and Andersen lacked “the requisite qualifications to represent others.”

4. Although Sellers and Andersen were aware of the registration requirement, they nevertheless caused S&A to prepare and issue five audit reports after October 22, 2003, on the financial statements of companies required to file periodic reports with the Commission without first registering S&A with the Board. In so doing, S&A violated Section 102(a) of the Act.

5. Sellers and Andersen knowingly rendered substantial assistance to S&A in its primary violations of the Act, because they failed to register it with the Board before the October 22, 2003 deadline although they were aware of the registration requirement. They knew that their actions would result in the violation by S&A of Section 102(a) of the Act if S&A issued audit reports, without having been registered with the Board, with respect to the financial statements of issuers whose securities were registered with the Commission. In so doing, Sellers and Andersen willfully aided and abetted or caused the violations by S&A.

III.

In view of the allegations made by the Division of Enforcement, the Commission deems it necessary and appropriate that public administrative and cease-and-desist proceedings be instituted to determine:

A. Whether the allegations set forth in Section II are true and, in connection therewith to afford Respondents an opportunity to establish any defenses to such allegations;

B. Whether, pursuant to Sections 4C(a)(1) and (3) of the Exchange Act and Rules 102(e)(1)(i) and (iii) of the Commission’s Rules of Practice, Respondents should be censured by the Commission or temporarily or permanently denied the privilege of appearing or practicing before the Commission; and

C. Whether, pursuant to Section 21C of the Exchange Act, Respondents should be ordered to cease and desist from committing or causing violations of and any future violations of Section 102(a) of the Act, and whether Respondents should be ordered to pay disgorgement of audit fees pursuant to Section 21C(e) of the Exchange Act.

IV.

IT IS ORDERED that a public hearing for the purpose of taking evidence on the questions set forth in Section III hereof shall be convened not earlier than 30 days and not later than 60 days from service of this Order at a time and place to be fixed, and before an Administrative Law Judge to be designated by further order as provided by Rule 110 of the Commission’s Rules of Practice, 17 C.F.R. § 201.110.

IT IS FURTHER ORDERED that Respondents shall file an Answer to the allegations contained in this Order within twenty (20) days after service of this Order, as provided by Rule 220 of the Commission's Rules of Practice, 17 C.F.R. § 201.220.

If Respondents fail to file the directed answer, or fail to appear at a hearing after being duly notified, the Respondents may be deemed in default and the proceedings may be determined against them upon consideration of this Order, the allegations of which may be deemed to be true as provided by Rules 155(a), 220(f), 221(f) and 310 of the Commission's Rules of Practice, 17 C.F.R. §§ 201.155(a), 201.220(f), 201.221(f) and 201.310.

This Order shall be served forthwith upon Respondents personally or by certified mail.

IT IS FURTHER ORDERED that the Administrative Law Judge shall issue an initial decision no later than 300 days from the date of service of this Order, pursuant to Rule 360(a)(2) of the Commission's Rules of Practice.

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually related proceeding will be permitted to participate or advise in the decision of this matter, except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not "rule-making" within the meaning of the Section 551 of the Administrative Procedures Act, it is not deemed subject to the provisions of Section 553 delaying the effective date of any final Commission action.

By the Commission.

Nancy M. Morris
Secretary