

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 57053 / December 27, 2007

ACCOUNTING AND AUDITING ENFORCEMENT
Release No. 2761 / December 27, 2007

ADMINISTRATIVE PROCEEDING
File No. 3-12797

In the Matter of

RICHARD E. SELLERS, CPA,

and

LESTER REX ANDERSEN, CPA

Respondents.

**ORDER MAKING FINDINGS AND IMPOSING
REMEDIAL SANCTIONS AND A CEASE-AND-
DESIST ORDER PURSUANT TO SECTIONS 4C
AND 21C OF THE SECURITIES EXCHANGE
ACT OF 1934 AND RULE 102(e) OF THE
COMMISSION'S RULES OF PRACTICE**

I.

On September 13, 2007, the Securities and Exchange Commission (“Commission”) issued an Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant to Sections 4C¹ and 21C of the Securities Exchange Act of 1934 and Rule 102(e) of the Commission’s Rules of Practice² (“OIP”) against Richard E. Sellers, CPA (“Sellers”) and Lester Rex Andersen, CPA (“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.

Respondents have each submitted an Offer of Settlement (“Offers”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over them and the subject matter of these proceedings, which are admitted, Respondents consent to the entry of this Order Making Findings and Imposing Remedial Sanctions and a Cease-and-Desist Order Pursuant to Sections 4C and 21C of the Securities Exchange Act of 1934 and Rule 102(e) of the Commission’s Rules of Practice (“Order”), as set forth below.

III.

On the basis of this Order and Respondents’ Offers, the Commission finds that:

Respondents

A. Respondent Richard E. Sellers, CPA, is a resident of the State of Nevada and has been a licensed CPA for over 37 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.

B. Respondent 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.

Facts

1. S&A’s Failure to Register with the Public Company Accounting Oversight Board

C. 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 public reporting company after October 22, 2003. S&A did not register with the Board on or before October 22, 2003.

D. 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.

E. 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.

F. 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.

2. S&A's Proceeding Before the Board

G. 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.

H. 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.

I. 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, an agreement was reached whereby S&A withdrew its application for registration.

J. 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.

K. 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.

Violations

L. 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

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

N. 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.”

O. Although Sellers and Andersen were aware of the registration requirement, they nevertheless knowingly or recklessly 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.

P. 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.

Findings

Q. As a result of the conduct described above, Sellers and Andersen willfully aided and abetted and caused violations of Section 102(a) of the Act.

R. As a result of the conduct described above, Sellers and Andersen did not possess the requisite qualifications to represent others.

IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions agreed to in Respondents’ Offers.

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).

Accordingly, it is hereby ORDERED, effective immediately, that:

A. Respondents shall cease and desist from committing or causing any violations and any future violations of Section 102(a) of the Act.

B. Respondents are censured.

C. Respondents may practice before the Commission as independent accountants provided that:

1. The public accounting firm with which they are associated is registered with the Board in accordance with the Act, and such registration continues to be effective; and

2. They have submitted to the Commission staff (attention: Office of the Chief Accountant) the Board's letter notifying the public accounting firm with which they are associated that its registration application has been approved.

D. Respondents shall, jointly and severally, within 20 days of the entry of this Order, pay disgorgement of \$7,615 to the United States Treasury. Such payment shall be: (A) made by United States postal money order, certified check, bank cashier's check or bank money order; (B) made payable to the Securities and Exchange Commission; (C) hand-delivered or mailed to the Office of Financial Management, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Stop 0-3, Alexandria, VA 22312; and (D) submitted under cover letter that identifies Richard E. Sellers and Lester Rex Andersen as Respondents in these proceedings and includes the file number of these proceedings, a copy of which cover letter and money order or check shall be sent to Kenneth D. Israel, Regional Director, Securities and Exchange Commission, Salt Lake Regional Office, 15 West South Temple Street, Suite 1800, Salt Lake City, Utah 84101.

By the Commission.

Nancy M. Morris
Secretary