

BEFORE THE ACCOUNTANCY EXAMINING BOARD
OF THE STATE OF IOWA

IN THE MATTER OF:)	CASE NO. 91-16
)	DIA NO. 92DOCAB-1
ROBERT L. RIDENOUR)	
)	
Certificate No. 1498,)	
)	FINAL DECISION
Respondent)	

To: Robert L. Ridenour

On December 7, 1991, the Executive Secretary of the Iowa Accountancy Examining Board filed a Complaint with the Iowa Accountancy Examining Board against the Respondent, Robert L. Ridenour.

1. On July 15, 1991, the Chicago Region, U.S. Securities and Exchange Commission, sent a letter to the Executive Secretary of the Iowa Accountancy Examining Board. The letter stated:

As a follow-up to our recent conversation, I am enclosing a copy of the Initial Decision dated April 9, 1991 In the Matter of Robert L. Ridenour in which Mr. Ridenour was barred from association with any broker or dealer. This Decision was declared effective on May 15, 1991. Previously a permanent injunction was entered against Mr. Ridenour on July 12, 1989 enjoining him from future violations of the antifraud provisions of the Securities Act and of the Exchange Act and from violations of the broker-dealer registration provisions of the Exchange Act. He was also ordered to disgorge net trading profits realized from fraudulent trades during the period November, 1979 through January, 1984.

2. On December 7, 1991, the Executive Director of the Board of Accountancy filed the Complaint. The Complaint alleged:

COUNT 1

The Respondent is charged with conduct discreditable to the public accounting profession pursuant to Iowa Code Section 116.21(10)(1991), as defined by Administrative Code section 193A-11.6(1) for having been found guilty, by the United States District Court and the United States Securities and Exchange Commission, of willfully violating the antifraud provisions of the Securities Act and Exchange Act and the broker-dealer registration provisions of the Exchange Act.

COUNT 2

The Respondent is charged with a violation of Iowa Code section 116.21(9) (1991) in that the United States Securities and Exchange Commission barred the Respondent from association with any broker or dealer.

3. On December 7, 1991, an Order and Notice of Hearing was issued. The notice indicated that hearing would be held at 1:30 p.m. on the 21st day of March, 1992 at 1918 S.E. Hulsizer, Ankeny, Iowa 50021.

4. On March 3, 1992, the Respondent answered, denying Counts 1 and 2.

5. On March 4, 1992, the Respondent filed a request for permission to file a brief on the matter of issue preclusion. The Respondent further filed a request to reset the hearing date.

6. On March 4, 1992, the Respondent's Motion to Continue the Hearing was granted.

7. On April 28, 1992, the Respondent's request for filing a brief motion was granted.

8. On July 6, 1992, a second Order and Notice for Hearing was filed. The Notice of Hearing indicated a hearing would be held at 1:00 p.m. on the 10th day of August 1992, at 1918 S.E. Hulsizer, Ankeny, Iowa 50021.

9. A hearing was held on August 10, 1992 at 1:00 p.m. at 1918 S.E. Hulsizer, Ankeny, Iowa 50021. The entire Board membership was present for a determination. The Respondent waived his right to have a closed hearing. The Respondent represented himself. The State was represented by Assistant Attorney General Theresa O'Connell Weeg. The hearing was presided over by Administrative Law Judge Kim A. Fields from the Iowa Department of Inspections and appeals who was instructed, following deliberations, to prepare this Decision.

THE RECORD

The record includes the following documents:

State's Exhibit 1: Letter dated July 15, 1991 from Ms. Mary E. Keefe, Assistant Regional Administrator, Chicago Regional Office, U.S. Securities and Exchange Commission.

State's Exhibit 2: Copy of the initial Decision, dated April 9, 1991, of the United States of America,

Security Exchange Commission, In The
Matter of Robert L. Ridenour.

- State's Exhibit 3: Copy of the Notice that the initial decision becomes the final decision dated May 9, 1991.
- State's Exhibit 4: Copy of SCC v. Ridenour, 913 F2d 515, 8th Circuit 1990.
- State's Exhibit 5: Findings of Fact, Conclusions of Law, and Order, United States District Court for the Southern District of Iowa, Central Division, Securities and Exchange Commission v. Robert L. Ridenour.
- Respondent's Exhibit 6: An Investment Department, Central National Bank Trust, confirmation dated November 15, 1979.
- Respondent's Exhibit 7: Confirmation Statement, Troy National Bank, Sioux City, Iowa, dated May 19, 1981.
- Respondent's Exhibit 8: Affidavit from Richard H. Hickman dated December 11, 1990.
- Respondent's Exhibit 9: Customer Securities Transaction form, Troy National Bank.
- Respondent's Exhibit 10: Respondent's statement in writing.

The record also includes the testimony of the witnesses provided at the hearing.

The Administrative Law Judge, based upon his own motion, identified the issue of whether or not issue preclusion was applicable to the Respondent's case. The Board voted unanimously to delegate the decision as to the applicability of issue preclusion and a decision as to what evidence would be admissible with issue preclusion being determined applicable to the Administrative Law Judge. The Administrative Law Judge ruled that issue preclusion was applicable and that the Respondent's evidence would be limited to matters of extenuation and mitigation and whether the findings of the United States District Court as affirmed by the Eighth Circuit Court of Appeals and the Securities and Exchange Commission constituted conduct discreditable to the public accounting profession and whether the action of the Securities and Exchange Commission barring the Respondent from association from any broker-dealer constitutes suspension or revocation of the right to practice before any State or Federal agency.

Respondent asked to be able to provide proposed findings of facts and conclusions of law and a brief. The Board granted the Respondent permission to provide the brief and proposed findings of fact and conclusions of law before September 10, 1992. The Board further allowed an additional ten days for the State to respond to the Respondent's brief.

After receipt of the Respondent's proposed findings of fact and conclusions of law, the Board, upon recommendation of the assistant attorney general, dismissed Count 2 of the statement of charges.

The proposed findings of fact and conclusions of law provided by the Respondent are rejected. The Board has elected to determine its own findings of fact and conclusions of law. Any use of a proposed finding of the Respondent is clearly coincidental.

FINDINGS OF FACT

1. The Respondent was issued an Iowa CPA certificate number 1498 on February 8, 1974 by the Board.
2. The Board has jurisdiction pursuant to Iowa Code Section 17A, 116, and 258A (1991).
3. On July 12, 1989, the United States District Court for the Southern District of Iowa enjoined the Respondent from future violations of the antifraud provisions of the Securities Act and Exchange Act and from violations of the broker-dealer registration provisions of the Exchange Act.
4. The district court also ordered Respondent to disgorge \$470,287.23, which represented the net trading profits realized from fraudulent trades during the period of November 1979, through January 1984.
5. The United States Court of Appeals for the Eight Circuit affirmed the U.S. District Court on September 5, 1990 with the exception of the amount of the profits to be disgorged.
6. The Respondent does not intend to practice public accountancy.
7. The federal judgement for fraud is conduct which is discreditable to the profession of public accountancy.

CONCLUSIONS OF LAW

Chapter 116.21, Code of Iowa (1991):

Causes for revocation, suspension, or refusal to renew.
After notice and hearing as provided in section 116.23,
the Board may revoke or suspend for a period not to

exceed two years, any certificate issued under section 116.5, or any registration granted under 116.6, or any license issued under section 116.7 or 116.8, or may revoke, suspend or refuse to renew any permit issued under section 116.20, or may censure the holder of any such permit, for any one or any combination of the following causes: . . .

Suspension or revocation of the right to practice before any state or federal agency . . .

Conduct discreditable to the public accounting profession.

193A Iowa Administrative Code 12.12(116, 258A):

Disciplinary sanctions.

The Board has authority to impose the following disciplinary sanctions:

(a) Revoke a certificate, registration, license, or permit issued by the Board. In the event of revocation, the licensee shall not be allowed to remain a partner or shareholder of a business entity if the law requires all partners or shareholders of such entity to be CPAs or APs.

(b) Suspend a certificate, registration, license, or permit issued by the Board. A CPA or AP who is under suspension shall refrain, during the period of suspension, from all facets of the ordinary practice of public accounting.

(c) Revoke or suspend the privilege to engage in one or more areas of the practice of public accounting.

(d) Impose a period of probation. As a condition to a period of probation, the Board may impose terms and conditions deemed appropriate by the Board which may include but are not limited to the following:

(1) The Board may require the licensee to undergo a quality review or peer review. The licensee shall select, subject to the approval of the Board, a CPA, a firm of CPAs, or a review program which is endorsed by the American Institute of Certified Public Accountants. The cost of the review shall be paid by the licensee. The Board shall be furnished a copy of the report issued by the reviewing party.

(2) The Board may require the licensee to enter into an agreement with a CPA or firm of CPAs to obtain a preissuance review of any audits, compilations, or reviewed issued by the licensee during the period of probation. The agreement shall be approved by the Board. The Board may require a licensee to report regularly concerning the preissuance reviews conducted pursuant to the agreement. Any costs incurred in obtaining preissuance reviews shall be paid by the licensee.

- (e) Impose requirements regarding continuing education.
- (f) Require reexamination using one or more parts of the CPA or AP examination given to candidates for the CPA certificate or AP license.
- (g) Impose civil penalties, the amount of which shall be at the discretion of the Board, but which shall not exceed \$1,000. Civil penalties may be imposed for any of the disciplinary violations specified in subrule 12.4(116, 258A).
- (h) Issue a citation and warning.

193A Iowa Administrative Code 12.12(1).


In the case at issue, the Respondent has a judgment for fraudulent trading at the United States District Court. The District Court decision was taken on appeal to the United States Court of Appeals and affirmed. The judgment against the Respondent in The Securities and Exchange Commission v. Ridenour demonstrates a determination by a preponderance of evidence by the judge that the actions of the Respondent constituted violations of the antifraud provisions of the Securities and Exchange Act and registration provisions of the Exchange Act. The determination of fraudulent practice by a preponderance of the evidence is a matter which goes to the honesty of an individual. A public accounting professional who has been determined to be dishonest is a discredit to the public accounting profession. The Respondent's conduct, as determined by the district court judge, of fraudulent training is conduct which is discreditable to the public accounting profession.

DECISION AND ORDER

It is the decision of the Iowa Accountancy Examining Board that the Respondent's certificate be suspended for a period of two years, at which time the Respondent will appear before the Board and demonstrate that the basis of the disciplinary action no longer exists and that it is in the best interest of the public for his certificate to be reinstated.

Judicial review of the Board's action may be sought in accordance with the terms in the Iowa Administrative Procedures Act (Iowa Code Chapter 17A) from and after the date of this Order.

Dated this *22* day of *December*, 1992



Daryl K. Henze, Chairperson
Iowa Accountancy Examining Board

KAF/jmm

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cc: Robert L. Ridenour
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Iowa Accountancy Examining Board
William M. Schroeder, Executive Secretary

Theresa Weeg, Attorney General's Office