

**BEFORE THE ACCOUNTANCY EXAMINING BOARD
OF THE STATE OF IOWA**

IN THE MATTER OF:)	COMPLAINT
JOHN SCHMACKER)	
)	
CPA CERTIFICATE NO. 1346)	CASE NO. 97-10
RESPONDENT)	

COMES NOW, the Complainant William M. Schroeder, and states:

1. He is the Executive Secretary of the Iowa Accountancy Examining Board and files this Complaint solely in his official capacity.
2. The Board has jurisdiction in this matter pursuant to Iowa Code Chapters 17A, 542C, and 272C (1997).
3. On February 2, 1973, John Schmacker, the Respondent was issued Iowa CPA certificate number 1346 by the Board.
4. Iowa CPA Certificate No. 1346 is currently in good standing.

COUNT I

Between 1991 and 1997, while acting in the fiduciary capacity of board member and Treasurer, and while performing accounting services, Respondent misappropriated funds of a non-profit association for his personal use in violation of Iowa Code sections 116.21(2), (4) and (10), and 258A.10(3) and (8) (1991), Iowa Code sections 272C.10(3) and (8), and 542C.21(2), (4), and (10) (1993-1997), and 193A IAC 11.2(1), 11.3(3), 11.6(1), 12.4(1)(a) and (b), and 12.4(5).

COUNT II

Respondent is charged with failing to comply with Generally Accepted Auditing Standards in the preparation of a compilation for a non-profit association in violation of Iowa Code sections 542C.21(2), (4) and (10) (1997), Iowa Code sections 272C.10(2), (3) and (8) (1997), and 193A IAC 11.2(1), 11.2(2), 11.3(1), 11.3(3), 11.4(1), 11.4(2), 11.4(3), and 11.4(5).

CIRCUMSTANCES OF THE CASE

1. Between 1991 and 1997, Respondent acted as board member and Treasurer for a fraternity and its non-profit alumni association.
2. Between 1991 and 1997, Respondent also performed tax and accounting functions for these organizations, including the issuance of financial statements and tax returns.
3. Respondent failed to disclose his lack of independence in the preparation of financial statements, including a compilation dated July 15, 1997, issued to a non-profit fraternity, in violation of Statements on Standards for Accounting and Review Services (SSARS) AR100.22.
4. Respondent diverted at least \$84,916.45 in funds belonging to the non-profit alumni association to his own use without documentation or authorization. The unauthorized "advances" were repaid in 1997.
5. Respondent misclassified the "advances" on financial statements and tax forms in an apparent effort to camouflage the disbursements to himself.
6. Respondent prepared a substandard compilation report for the non-profit fraternity dated July 15, 1997, which did not appropriately reflect the lack of disclosures, failed to include a Statement of changes in Net Assets, and erroneously included a Statement of Income in violation of SSARS AR100.04, AR100.10, AR100.13, and AR100.21, and which failed to include a Statement of Cash Flow as required by Statement of Financial Accounting Standards (SFAS) 117.

FINDINGS OF PROBABLE CAUSE

On this 5th day of February, 1998, the Iowa Accountancy Examining Board found probable cause to file this Statement of Charges and to order a hearing be set in this case.

Executed this ___ day of February, 1998.

William M. Schroeder, Executive Secretary
Complainant

BEFORE THE ACCOUNTANCY EXAMINING BOARD
OF THE STATE OF IOWA

IN THE MATTER OF:)	SETTLEMENT AGREEMENT
JOHN SCHMACKER)	CONSENT ORDER
IA PERMIT NO. 97-635)	CASE NO. 97-10
RESPONDENT)	

The Iowa Accountancy Examining Board (Board) and John Schmacker enter into this Settlement Agreement and Consent Order (Order), pursuant to Iowa Code section 17A.10 (1997) and 193A IAC 12.7.

1. The Board has jurisdiction of this matter pursuant to Iowa Code Chapters 17A, 272C and 542C (1997).
2. A Statement of Charges will be filed with this Consent Order.
3. Respondent does not admit all allegations in the Statement of Charges, but he agrees the Board may rely on the allegations as providing the factual basis for this Order.
4. Respondent has the right to a hearing on the charges, but waives his right to hearing and all attendant rights, including the right to appeal, by freely and voluntarily agreeing to this Order. Once entered, this Order shall have the force and effect of a disciplinary order entered following contested case hearing.
5. Respondent agrees the State's counsel may present this Order to the Board and may have ex parte communications with the Board while presenting it.
6. This Order shall be part of the permanent record of Respondent and shall be considered by the Board in determining the nature and severity of any disciplinary action to be imposed in the event of any future violations.
7. This Order and the Statement of Charges are public records available for inspection and copying in accordance with the requirements of Iowa Code chapter 22 (1997).

8. Failure to comply with the provisions of this Order shall be considered prima facie evidence of a violation of Iowa Code section 542C.21(4) (1997), and shall be grounds for disciplinary action pursuant to Iowa Code section 272C.3(2)(a) (1997). However, no action may be taken against Respondent for violations of these provisions without a hearing, or waiver of hearing.

9. This Agreement is subject to approval of the Board:

(a) If the Board fails to approve this Agreement, it shall be of no force or effect on either party, and it shall not be admissible for any purpose in further proceedings in this matter.

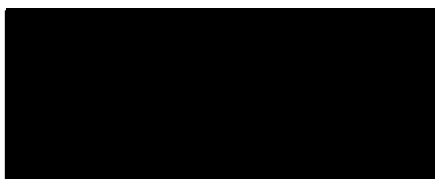
(b) If the Board approves this Agreement, it shall fully dispose of all issues in this case.

IT IS THEREFORE ORDERED:

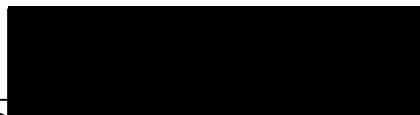
Respondent's CPA certificate and permit to practice are voluntarily surrendered pursuant to 193A IAC 12.12(2). Respondent shall deliver his CPA certificate to the Board office within ten (10) calendar days of the Board's execution of the Order. Respondent shall comply with the notification requirements in 193A IAC 12.12(3) and shall comply with 193A IAC 12.16 if he seeks reinstatement in the future. An application for reinstatement shall not be filed for at least two years following the date this Order is fully-executed.

The Order shall also not preclude the Board from taking appropriate action in the event it receives any further complaints against the Respondent.

AGREED AND ACCEPTED:



John Schmacker, Respondent



**David Vaudt, Chair
Iowa Accountancy Examining Board**

3/19/98

DATE

3/21/98

DATE