

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

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IN THE MATTER OF:	)	
	)	CASE NO. 92-34
JERRY W. SEARS	)	
CERTIFICATE NO. 1502	)	COMPLAINT & CONSENT ORDER
RESPONDENT	)	
	)	

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COMPLAINT

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 (1995).
3. On February 8, 1974, Jerry W. Sears, the Respondent was issued Iowa CPA certificate number 1502 by the Board.
4. CPA Certificate No. 1502 is currently in good standing.
5. On October 12, 1992, Betty J. Griffin, an elderly client of Sears, filed an action against Sears in the Iowa District Court for O'Brien County. The action seeks damages based on breach of fiduciary duty, fraudulent misrepresentation, negligent misrepresentation, and breach of contract arising from Sears' conduct in securing \$70,000 in loans from Griffin for Sears' private business venture while acting as Griffin's financial advisor and CPA.
6. Griffin alleges Sears took improper advantage of his access to financial information to secure loans for his personal benefit and failed to disclose material information about the company for which the loans were made, including Sears' ownership interest.
7. Griffin subsequently died, Sears filed bankruptcy and Griffin's estate pursued the claims in the United States Bankruptcy Court for the Northern District of Iowa, Case No. 94-50981 XS.

8. The Board delayed action on this matter pending the outcome of the pending litigation. In January, 1996, a judgment was entered against Sears in bankruptcy court determining his debt to Griffin's estate to be non-dischargeable. The judgment was entered in connection with a settlement agreement and no factual determination was made as to Griffin's original allegations.

9. The Board is currently investigating whether the conduct alleged by Griffin violates professional standards applicable to Iowa CPA's, pursuant to Iowa Code sections 542C.21(2) and 542C.21(10), and 193A IAC 11.5(1), 11.3(3) and 12.4(1)"b".

10. Sears has offered to voluntarily surrender his CPA certificate pursuant to 193A IAC 12.12(2) rather than pursue these issues in a formal contested case hearing.

#### CONSENT ORDER

The Board and Sears enter into this Consent Order, pursuant to Iowa Code Section 17A.10(1995) and 193A IAC 12.12(2):

11. The Board has jurisdiction of this matter pursuant to Iowa Code chapters 17A, 542C, and 272C(1995).

12. The Complaint and Consent Order shall be filed together in compliance with 193A IAC 12.12(2).

13. Sears has a right to a hearing on the charges, but waives his right to hearing and all attendant rights by freely and voluntarily agreeing to this Consent Order.

14. This Complaint and Consent Order shall be part of Sears' permanent record 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.

15. This Complaint and Consent Order are public records available for inspection and copying in accordance with the requirements of Iowa Code Chapter 22.

16. Failure to comply with the provisions of this Order shall be considered prima facie evidence of a violation of Iowa Code section 542C.21(2) and (10) (1995) and 193A IAC 12.4(6), and shall be grounds for disciplinary action pursuant to Iowa Code section 272C.3(2)(a) (1995). However, no action may be taken against Sears for violations of these provisions without hearing or waiver of hearing.

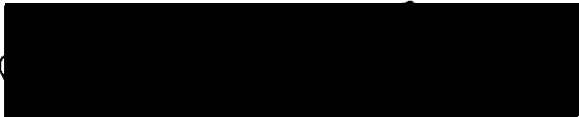
17. This Agreement is subject to approval of the Board. If the Board fails to approve this Agreement, it shall be of no force or effect on either party, and it shall not be admissible for any purpose in further proceedings in this matter. If the Board approves this Agreement, it shall fully dispose of all issues in this case.

IT IS THEREFORE ORDERED that Sears shall voluntarily surrender his Iowa CPA certificate No. 1502 within ten (10) days of the execution of this document. Application to reinstate may not be made for at least two (2) years from the date the certificate is voluntarily surrendered following execution of this document. The Board may require Sears to make a personal appearance before the Board in order to reinstate the Iowa CPA certificate.

AGREED AND ACCEPTED:

Jerry W. Sears

The Iowa Accountancy Examining Board



Jerry W. Sears

By: David Vaudt, Chair

3-4-96

Date

3-16-96

Date