

IOWA ACCOUNTANCY EXAMINING BOARD

IN THE MATTER OF)
MICHAEL H. LANE)
IOWA CPA CERTIFICATE) STIPULATION
NO. 2400)
RESPONDENT)

WHEREAS, it has come to the attention of the Iowa Accountancy Examining Board that Michael H. Lane has:

1. Failed to re-register his Iowa CPA certificate and permit to practice and therefore has been improperly practicing as a CPA since July 1, 1987; and
2. Failed in several respects to use applicable review standards (SAARS) in the preparation of a grain dealer review;

WHEREAS, following the investigation of this matter Michael H. Lane was given the opportunity to appear voluntarily with legal counsel before the Board's Committee on Ethics and Enforcement to be apprised of the results of the investigation and to orally present additional data, views and comments at an informal conference held on September 21, 1989, and;

WHEREAS, Michael H. Lane with full knowledge of the investigation, its potential legal consequences, the right to counsel, and the right to formal adjudicatory proceedings under Iowa Code section 116.23, did appear voluntarily;

NOW THEREFORE, the Iowa Accountancy Examining Board and Michael H. Lane do hereby stipulate and agree as follows:

1. Michael H. Lane admits the jurisdiction of the Iowa Accountancy Examining Board over this action.
2. Michael H. Lane shall surrender his Iowa CPA certificate (No. 2400) to the Board office on or before September 30, 1989.
3. Michael H. Lane shall pay a fine of \$250.00 on or before September 30, 1989.
4. Michael H. Lane shall develop a consultation agreement with a firm of CPAs or individual CPA to provide a review of work papers and a pre-release review for all audits and reviews. Mr. Lane shall submit the name of the firm or individual in writing, to the Board for approval. Upon Board approval Mr. Lane shall execute the consultation agreement and submit a copy to the Board office.

Michael H. Lane agrees that he will not issue any audit or review without the pre-release review by the approved consultant as specified in the above paragraph.

The consultant agreement shall remain in effect until further notice of the Board.

5. Michael H. Lane's CPA certificate and permit to practice may be reinstated with the completion of the appropriate registration forms, reporting of 120 hours of continuing education, in the preceding three years, payment of appropriate fees, penalties, and the fine specified in paragraph 3 above.

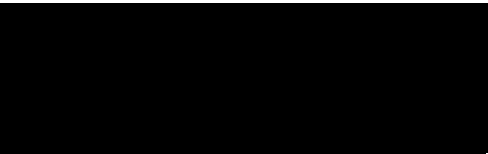
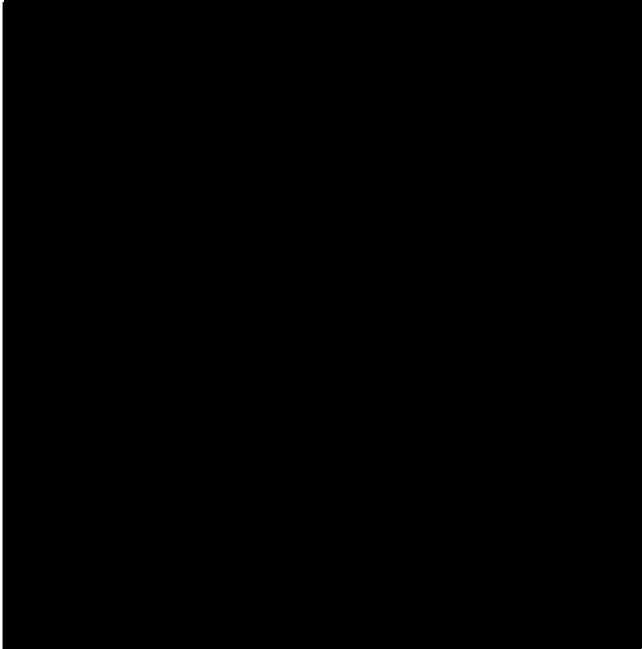
6. Failure to execute the provisions of this Stipulation shall result in the Board setting a date for a formal hearing for failure to comply with an order of the Board pursuant to Iowa Code section 258A.3(2)(a).

7. This agreement shall constitute the entire agreement of the parties hereto and is intended to be a final disposition of all matters which are the subject of this stipulation. Satisfactory completion of the terms of this stipulation shall be considered a final disposition of this matter and no other proceedings shall be instituted in this matter.

8. This stipulation is voluntarily entered into by Michael H. Lane and Michael H. Lane fully realizes the legal consequences of this stipulation.

Dated this 28 day of SEPTEMBER, 1989.

FOR THE BOARD:



Michael H. Lane

IN THE IOWA DISTRICT COURT FOR MUSCATINE COUNTY

IOWA ACCOUNTANCY EXAMINING BOARD,) EQUITY NO.
)
)
 Plaintiff,)
)
 v.)
) PETITION FOR INJUNCTION
 MICHAEL H. LANE,)
)
)
 Defendant.)

COMES NOW Plaintiff, Iowa Accountancy Examining Board, pursuant to Iowa Code § 116.28 (1989) and Iowa R. Civ. P. 320, and petitions this Court to issue an order permanently enjoining the Defendants from holding themselves out as practicing as certified public accounts when they are not properly licensed, and in support thereof states:

1. Plaintiff is the licensing board for certified public accounts (C.P.A.'s) in the State of Iowa. See ch. 116. Its office is located in the city of Ankeny, in Polk County, Iowa.

2. Defendant is a resident of, and has his place of business in, the city of Muscatine in Muscatine County, Iowa.

3. Chapter 116 governs the practice of public accounting in Iowa. This chapter establishes a dual licensure system which requires a person actively practicing as a C.P.A. in Iowa to obtain both a certificate and a permit to practice. See §§ 116.5; 116.20(1), (2), and (5); 116.25(1) and (8). Biennial renewal of both the certificate and license are required in order to practice as a C.P.A. See § 116.20(1) and (2); 10 Iowa Admin. Code §§ 6.1 and 9.9.

4. Section 116.25(8) prohibits a person who does not hold a valid certificate and permit to practice as a C.P.A. from signing his name to any financial opinion as described in that section

5. A violation of § 116.25 constitutes a serious misdemeanor. See 116.29.

6. Section 116.28 authorizes the Accountancy Examining Board ("Board") to apply to this Court for an order permanently enjoining a violation of § 116.25.

7. Iowa R. Civ. P. 320 also provides for permanent injunctive relief by an action in equity.

8. Defendant held a certificate and permit to practice as a C.P.A. in Iowa until July 1, 1987, at which time he failed to renew his permit to practice. Accordingly, pursuant to sections 116.20(5) and 116.25(8), Defendant was not authorized to practice as a C.P.A. after July 1, 1987.

9. Defendant has continued to practice as a C.P.A. up to the present time even though he has not held a permit to practice since July 1, 1987.

10. On September 28, 1989, Defendant signed a formal disciplinary Stipulation with the Board. A copy of that Stipulation is attached as Exhibit A.

11. This Stipulation was entered into because it had come to the Board's attention that Defendant had:

1. Failed to re-register his Iowa CPA certificate and permit to practice and therefore has been improperly practicing as a CPA since July 1, 1987; and

2. Failed in several respects to use applicable review standards (SAARS) in the preparation of a grain dealer review.

* * * *

12. The Stipulation provided that Defendant was to surrender his CPA certificate and pay a fine of \$250. It further provided that Defendant could seek reinstatement of his C.P.A. certificate and permit to practice if he completed the continuing education hours required by Board rules of all parties seeking reinstatement, and if he submitted the necessary forms and fees. Upon reinstatement, he was prohibited from issuing any audits or reviews without a pre-release review by a firm of C.P.A.'s or an individual C.P.A. who had been approved by the Board.

13. After signing the Stipulation, Defendant surrendered his certificate and paid the fine. However, he has not at any time after September 28, 1989, renewed his certificate or permit to practice, nor has he entered into a Board-approved consultation agreement with any other C.P.A. for pre-release review of any audits or reviews.

14. On March 1, 1990, Defendant issued an "Accountant's Compilation Report" to the Board of Trustees of the B.P.O. Elks Lodge #304 in Muscatine, Iowa. Defendant signed that report "Michael H. Lane, Certified Public Accountant."

15. On April 2, 1990, Defendant sent a letter to tax clients signed "Michael H. Lane, Certified Public Accountant."

On August 20, 1990, Defendant sent these same clients a bill "for professional services" on a statement with the letterhead "Michael H. Lane, CPA."

16. Defendant listed himself in the May 1990 U.S. West telephone directory for Muscatine as a "Certified Public Accountant."

17. Defendant advertises himself as a "C.P.A." or "Certified Public Accountant" on the exterior signs at his business address, on the business directory inside the building where his business is located, and on his office door.

18. On September 5, 1990, the Iowa Attorney General's Office sent Defendant a letter advising him to cease and desist from holding himself out to the public as a C.P.A. because he did not hold a certificate or permit required by Iowa law to practice as a C.P.A. He was further advised that if he did not cease and desist, the Attorney General's Office would seek a court order enjoining him from holding himself out to the public as a C.P.A. public as a C.P.A.

19. Since September 5, 1990, Defendant has continued to hold himself out to the public as a C.P.A. He continues to advertise himself as a C.P.A. to the public in the manner described in sections 16 and 17, above.

20. Section 116.30 provides that evidence of the commission of a single act of holding oneself out as a certified public accountant is sufficient to justify an injunction without evidence of a general course of conduct.

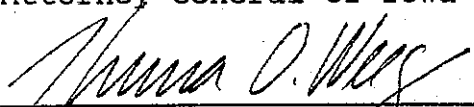
21. The Board has reason to believe that Defendants are continuing to engage in activities requiring licensure as a C.P.A. without a valid certificate and permit and will continue to do so in the future.

22. This petition or cause of action has not been presented to another court.

WHEREFORE, Plaintiff requests that this Court permanently enjoin Defendant from practicing as a certified public accountant for so long as he does not hold a valid certificate and permit to practice, that this Court order such other relief as it deems equitable, and that this Court assess Defendant the costs of this action.

Respectfully submitted

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