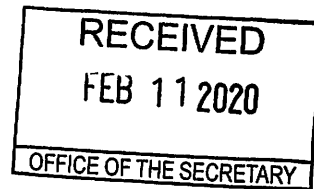


Initial Decision No. 1391  
Administrative No 3-18994  
C-83-0711 WHA  
No 13-1252  
SEC Finra 3-15056



January 29, 2019

Secretary of Securities and Exchange Commission  
Washington DC 20549

**PETITION TO REVIEW**

Amundsen petitions the Securities and Exchange Commission ("SEC") for two issues of law and fact:

1. SEC Release 34-42240, NASD Release 9871 **specifically** say that a settlement reached by the SEC and a defendant where the charges are dismissed is subject to a 10 year disclosure and enforcement requirement.
2. Lack of jurisdiction – Amundsen has filed nothing with the SEC since the wrongful bars were placed on him in 2010. The EQR is unenforceable - it has no separate rules and regulations, basing its foundation on "partner review".

**BACKGROUND:**

In 1983, Amundsen agreed to a SEC settlement offer, he would not appear before the SEC "in any way". In return the SEC dismissed all charges against Amundsen. In 2000, before registering with FINRA, Amundsen petitioned the California Board of Accountancy for reinstatement, and from 2000-2010 worked as an accountant in the broker dealer industry without incident.

In 2010 Finra and the SEC acted on the "in any way" injunction without regard to the dismissal of charges. The dismissal of charges puts Amundsen solidly in the 10 year category of disclosure and enforcement. (SEC Release 34-42240 and NASD Release 9871), so that the injunction complies with the specific requirements of Rule 65d.

The alleged infraction of EQR rules does not address the fact that EQR is based on the "partner review", and a sole proprietor has no partners. There are no rules or regulations for an EQR and this Administrative Action takes the unsupported legal jump that audit rules of independence were violated by the "EQR" – which is not an audit. These were all former clients, and Amundsen was best able to determine the quality of the audit.

**PREVIOUS ACTIONS:**

Attached are two previous decisions by the US Court of Appeals for District of Columbia Circuit, and the United States Court of Appeals for the Ninth Circuit. The SEC and FINRA have never addressed the issues raised by these Courts, and Amundsen requests that they now do so.

**PETITION TO VACATE**

Amundsen petitions the SEC and FINRA to notify the various Courts involved, and to remove its bars and bands preventing Amundsen from working.

A handwritten signature in black ink, appearing to be "J.P.R." or similar, located at the bottom left of the page.

**Exhibit 1**

**SEC Dismissal of Charges**

LIBRARY

FEB 28 1983

# sec news digest

February 25, 1983

Issue 83-38

## ADMINISTRATIVE PROCEEDINGS

### PROCEEDINGS AGAINST JOSEPH S. AMUNDSEN DISMISSED

The Commission issued an order dismissing administrative proceedings instituted against Joseph S. Amundsen on November 30, 1982, pursuant to Rule 2(e) of the Commission's Rules of Practice. Amundsen consented to the entry of a final judgment of permanent injunction in an action instituted against him by the Commission on February 15, 1983, in the U.S. District Court for the Northern District of California. A settlement agreement with Mr. Amundsen provided for the dismissal of the administrative proceedings upon entry of the final judgment of permanent injunction. (Rel. 33-6451)

## CRIMINAL PROCEEDINGS

### JEREMIAH L. O'CONNOR SENTENCED FOR CRIMINAL CONTEMPT

The Chicago Regional Office announced that on February 9, Jeremiah L. O'Connor of Kankakee, Illinois, pursuant to a plea agreement, whereby he pled guilty to a charge of criminal contempt, was sentenced by the Honorable William T. Hart of the U.S. District Court for the Northern District of Illinois, to four years probation conditioned on two months incarceration, and a good faith effort to make restitution. If O'Connor violates the terms and conditions of his probation, he would then be incarcerated for an additional two months. O'Connor also consented, as part of the plea agreement, to modification of a prior injunction entered against him. The modification requires that O'Connor furnish advance notice to the Chicago Regional Office prior to making any offers or sales of securities, except for normal brokerage transactions.

O'Connor was originally enjoined in 1978, in the case of SEC v. Pharmaco, Inc., et. al., N.D. Ill., No. 78 C 1667, Decided May 30, 1978) (See Litigation Release No. 8433, June 13, 1978), from further violations of the registration and antifraud provisions of the Federal securities laws.

The pleadings in the criminal contempt proceeding alleged that between August 1977 and September 1979, O'Connor and others acting in concert with him and at his direction, sold approximately \$335,000 of securities to 34 investors by use of false and misleading statements and omissions of material fact. Such alleged misleading statements and omissions concerned, among other things, the existence of an escrow account, the use of proceeds to purchase or construct a building for a discount grocery store, the payment of salaries to O'Connor and other officers of American, American's profitability, O'Connor's and another officer's personal investment in American, and the existence of the Pharmaco Injunction. (United States, ex rel. Securities and Exchange Commission v. Jeremiah L. O'Connor, Civil No. N.D. Ill. 82-CR-0329, Decided February 9, 1983). (LR-9902)

### HOWARD L. DAVIDOWITZ SENTENCED

The New York Regional Office announced that on February 2 Howard L. Davidowitz of New York City was sentenced to a term of imprisonment of 39 consecutive weekends and a fine of \$10,000 to be followed by a term of five years' probation, including one year's community service. On December 22, 1982, Davidowitz pleaded guilty to a two-count Information charging him with violations of the securities and mail fraud statutes for trading on inside information while he was a principal of Ernst & Whinney, a public accounting firm.

While working in the New York Office of Ernst & Whinney, Davidowitz acquired confidential information entrusted to Ernst & Whinney by a client, Gray Drug Stores, Inc., concerning Gray's plans to merge with or take over Drug Fair, Inc., a publicly-held corporation based in Alexandria, Virginia. Davidowitz learned that the anticipated public offering price was approximately double Drug Fair Inc.'s then prevailing market price. He acquired 11,000 shares of Drug Fair, Inc. stock several days before the public announcement of a takeover. He then sold his stock at a net profit of \$45,746.37.

**Exhibit 2**

**9<sup>th</sup> Circuit and DC Court of Appeals – never answered by SEC**

UNITED STATES COURT OF APPEALS

FEB 17 2017

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

In re: JOSEPH S. AMUNDSEN.

No. 13-71472

JOSEPH S. AMUNDSEN,

D.C. No. 3:83-cv-00711-WHA  
Northern District of California,  
San Francisco

Petitioner,

v.

ORDER

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF  
CALIFORNIA, SAN FRANCISCO,

Respondent,

U.S. SECURITIES & EXCHANGE  
COMMISSION,

Real Party in Interest.

Before: Peter L. Shaw, Appellate Commissioner.

On September 9, 2013, this court denied in part and transferred in part petitioner's petition for a writ of mandamus in petition No. 13-71472. Petition No. 13-71472 has been closed since 2013.

On December 30, 2016, this court received a letter from petitioner (Docket Entry No. 17) requesting that the court "allow him to use a Ninth Circuit decision

on 13-71472 to petition the District Court for injunctive relief” and additionally stating that “this petition for reinstatement can be made at any time.”

To the extent that petitioner requests to reinstate petition No. 13-71472, that request is denied. Petition No. 13-71472 remains closed.

No action will be taken on petitioner’s request to “use a Ninth Circuit decision on 13-71472 to petition the District Court for injunctive relief.” *See* Fed. R. App. Proc. 32.1 (“A court may not prohibit or restrict the citation of federal judicial opinions, orders, judgments, or other written dispositions that have been: (i) designated as ‘unpublished,’ ‘not for publication,’ ‘non-precedential,’ ‘not precedent,’ or the like; and (ii) issued on or after January 1, 2007.”); 9th Cir. R. 36-3(b) (“Unpublished dispositions and orders of this Court issued on or after January 1, 2007 may be cited to the courts of this circuit in accordance with FRAP 32.1”).

**United States Court of Appeals**  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

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**No. 13-1252**

**September Term, 2013**

**SEC-FINRA 3-15056**

**Filed On: August 13, 2014**

Joseph S. Amundsen,

Petitioner

v.

Securities and Exchange Commission,

Respondent

**PETITION FOR REVIEW OF AN ORDER OF  
THE SECURITIES AND EXCHANGE COMMISSION**

**BEFORE:** Brown, Millett, and Pillard, Circuit Judges

**J U D G M E N T**

This petition for review of an order of the Securities and Exchange Commission was considered on the briefs and appendices filed by the parties. See Fed. R. App. P. 34(a)(2); D.C. Cir. Rule 34(j). It is

**ORDERED AND ADJUDGED** that the petition for review be denied. Petitioner seeks review of an SEC order sustaining the results of a Financial Industry Regulatory Authority ("FINRA") disciplinary action taken against him due to his failure to disclose, as required by FINRA rules, the final judgment of permanent injunction entered in SEC v. Joseph S. Amundsen, No. 3:83-cv-00711 (N.D. Cal. Feb. 15, 1983), and the resulting 1986 revocation of his California license to practice certified public accounting. Petitioner raises a variety of arguments challenging and seeking relief from the 1983 injunction, but petitioner may not collaterally attack that injunction in this proceeding, cf. Blinder, Robinson, & Co. v. SEC, 837 F.2d 1099, 1108 (D.C. Cir. 1988) (holding that "an attack on the validity of [an underlying] proceeding" that could have been raised in the convicting jurisdiction "is doomed to fail"), and petitioner has failed to demonstrate how his arguments in this regard excuse his failure to disclose the injunction on the relevant FINRA forms. Petitioner also raises a "statute of limitations" argument, apparently contending he was not obligated to disclose the injunction and license revocation because they were more than ten years old, but petitioner failed to raise this

**United States Court of Appeals**  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

**No. 13-1252**

**September Term, 2013**

argument before the Commission and has not provided a reasonable ground for his failure to do so. See 15 U.S.C. § 78y(c)(1). Even if this court could consider this argument, it is without merit because the FINRA rule on which petitioner relies does not govern petitioner's disclosure obligations. See FINRA Rule 8312 (describing the information FINRA shall release through BrokerCheck). Petitioner's remaining arguments fail to identify any legal or factual basis for granting the petition for review.

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or petition for rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

**Per Curiam**



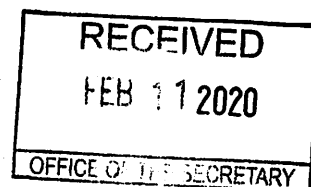
**Exhibit 3**

**Amundsen correspondence with SEC**

Joseph Amundsen

[REDACTED]  
Easton PA [REDACTED]

[REDACTED]@gmail.com



June 28, 2019

Vanessa Countryman, Acting Secretary  
Office of the Secretary  
Securities and Exchange Commission  
100 F Street NE  
Washington DC 20549

RE: SEC Admin File 3-18994  
DC Court of Appeals 13-1252  
USDC SF c83-00711 WHA

Responding to your letter of October 25, 2019, the Commission did not state the exhibits that Amundsen presented, and I want to make sure that you discuss these issues presented in all these proceedings. You did not do so in DC Court 13-1252, and UCDC C83-00711.

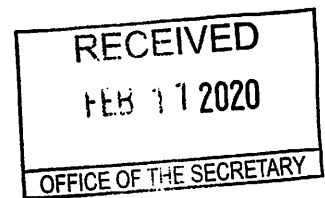
This letter is to insist that you discuss the dismissal of all charges against Amundsen in 1983, and the ramifications within your own rules and regulations of disclosure and enforcement.

Yours truly,

Initial Decision No. 1391  
Administrative No 3-18994  
C-83-0711 WHA  
No 13-1252  
SEC Finra 3-15056

December 13, 2019

Secretary of Securities and Exchange Commission  
Washington DC 20549



PETITION TO VACATE:

The Securities and Exchange Commission has not proven its case against Amundsen. Petition to vacate each and every action cited above.

ARGUMENT:

1. Amundsen did not do any audit work, his "partner review" was not an audit and the auditor independence requirement is not applicable. The new requirement in 2015 did not have any guidance and did not offer any regulations for a sole proprietor.
2. Federal rule 65d must be honored.
  - Any permanent injunction must state why issued, state terms issued, and describe the acts restrained
  - The SEC dismissed all charges in 1983, please see attached, and by its own rules and procedures following 65d, this settlement is not enforceable or required to be disclosed after February 28, 1993.
3. None of the cases cited are applicable to this situation – where the SEC has dropped all charges, and then revisited 40 years later as if there were findings.

The SEC has commented that Amundsen feels the regulators are "over zealous". That assertion is not true. Amundsen requests that the regulators be punctilious – follow the rules and regulations.

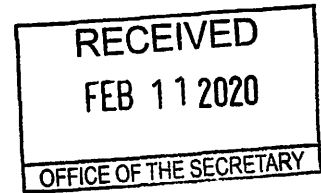
Amundsen has had an unblemished career in the securities industry. Amundsen petitions the Securities and Exchange Commission to honor the 1983 settlement, and to correct its dilatory actions to date.

Further, Amundsen petitions the SEC to offer guidance as to what Amundsen can and cannot do. Amundsen has had a difficult time finding work, and the \$7,000 that he was paid by Remus is the largest salary he has received since 2010. It is a hardship to suffer from the "look back-but not too deeply" tactics used against him.

**Exhibit 4**

**SEC Notice authorizing review**

UNITED STATES OF AMERICA  
before the  
SECURITIES AND EXCHANGE COMMISSION  
January 16, 2020



SECURITIES EXCHANGE ACT OF 1934  
Release No. 88001 / January 16, 2020

ACCOUNTING AND AUDITING ENFORCEMENT  
Release No. 4114 / January 16, 2020

Admin. Proc. File No. 3-18994

In the Matter of

JOSEPH S. AMUNDSEN, CPA,  
MICHAEL T. REMUS, CPA, and  
MICHAEL REMUS CPA

CORRECTED ORDER  
GRANTING  
PETITIONS  
FOR REVIEW  
AND SCHEDULING  
BRIEFS

Pursuant to Commission Rule of Practice 411,<sup>1</sup> the petitions of Joseph S. Amundsen, CPA, Michael T. Remus, CPA, and Michael Remus CPA for review of the administrative law judge's initial decision<sup>2</sup> is granted. Pursuant to Rule of Practice 411(d),<sup>3</sup> the Commission will determine what sanctions, if any, are appropriate in this matter.

Accordingly, IT IS ORDERED, pursuant to Rule of Practice 450(a),<sup>4</sup> that briefs in support of the petitions for review shall be filed by February 18, 2020. A brief in opposition

<sup>1</sup> 17 C.F.R. § 201.411.

<sup>2</sup> *Joseph S. Amundsen, CPA, Michael T. Remus, CPA, and Michael Remus CPA*, Initial Decision Release No. 1391 (Dec. 5, 2019), 2019 WL 6683122.

<sup>3</sup> 17 C.F.R. § 201.411(d).

<sup>4</sup> 17 C.F.R. § 201.450(a).