NCGS 93 Amended to Allow for Practice Mobility

On July 27, 2009, Governor Perdue signed into law legislation that amends NCGS 93 (see page 3) to allow non-resident CPAs from other jurisdictions to perform, or offer to perform, services for North Carolina clients without obtaining a reciprocal license or filing a notification of intent to practice with the Board.

An individual who qualifies for practice privileges and exercises the privilege by performing or offering to perform services as a CPA in North Carolina simultaneously consents as a condition to the grant of this privilege to comply with the laws of North Carolina and the rules adopted by the Board; have an administrative notice of hearing served on the licensing board in the individual’s principal state of business; and be subject to personal jurisdiction, subject matter jurisdiction and disciplinary authority of the Board.

In addition, the legislation allows a CPA firm whose principal place of business is outside North Carolina and has no office in North Carolina the privilege to perform or offer to perform services in North Carolina as a firm without notice to the Board, submission of any other documentation, or payment of any fee, except as otherwise noted.

A firm that exercises the privilege simultaneously consents as a condition to the grant of the practice privilege to comply with the laws of North Carolina and the rules adopted by the Board; subject to personal jurisdiction, subject matter jurisdiction and disciplinary authority of the Board; and provide notice without a fee to the Board if any individual with the firm who has been granted privileges in North Carolina to practice as a CPA performs any of the following services for a client in North Carolina:

- A financial statement audit or other engagement performed in accordance with SAS;
- An examination of prospective financial information performed in accordance with SSAE; or
- An engagement performed in accordance with the PCAOB auditing standards.

In the coming weeks, the Board will post additional information regarding mobility on its web site, www.nccpaboard.gov.

Information about mobility legislation enacted by 44 other jurisdictions will also be made available on the Board’s web site.

Questions about mobility should be sent by e-mail to the Board’s Executive Staff at rbrooks@nccpaboard.gov and mbarham@nccpaboard.gov.

Exam Fees Effective August 1, 2009

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www.nccpaboard.gov

In This Issue...

2009 Board Meeting Dates .......... 2
Board Office Closed .................. 5
Cease and Desist Order ............. 5
Certificates Issued .................. 6
Disciplinary Action .................. 2
Inactive Status ..................... 7
NCGS 93 .............................. 3
Reclassifications ................... 4
Standards for Tax Preparers ........ 5
Disciplinary Action

Israel W. Rwejuna, #17275
Fayetteville, NC  07/20/2009

THIS CAUSE coming before the Board at its offices at 1101 Oberlin Road, Raleigh, Wake County, North Carolina, at public hearing, with a quorum present, the Board finds, based on the evidence presented at the hearing on July 20, 2009, that:

FINDINGS OF FACT
1. The parties have been properly identified.
2. The Board has jurisdiction over the Respondent and this matter.
3. Respondent received at least fifteen (15) days written Notice of Hearing of this Matter by personal service, certified mail, or other approved personal delivery.
4. Venue is proper and the Noticed Hearing was properly held at 1101 Oberlin Road, Raleigh, North Carolina.
5. Respondent had no objection to any Board Member’s participation in the Hearing of this Matter.
6. Respondent was not present at the Hearing and was not represented by counsel.
7. Respondent was the holder of a certificate as a Certified Public Accountant in North Carolina and is therefore subject to the provisions of Chapter 93 of the North Carolina General Statutes (NCGS) and Title 21, Chapter 8 of the North Carolina Administrative Code (NCAC), including the Rules of Professional Ethics and Conduct promulgated and adopted therein by the Board.
8. In July of 2007, Respondent applied for and was granted inactive status.

Count 1
9. Sometime in August of 2000, the United States Department of the Treasury (US Treasury) obtained a tax lien against Respondent’s professional corporation for failure to timely file and pay 941s for the quarters ending September 30, 1998; December 31, 1998; March 31, 1999; June 30, 1999; September 30, 1999; and December 31, 1999, with the “Unpaid Balance of Assessment” totaling $75,405.82. This lien was released sometime in March of 2001.
10. Sometime in December of 2005, the US Treasury obtained a second tax lien against Respondent’s professional corporation for failure to timely file and pay 941s for the quarters ending December 31, 2003; March 31, 2004; June 30, 2004; September 30, 2004; and December 31, 2004, with the “Unpaid Balance of Assessment” totaling $43,827.92.
11. Sometime in November of 2006, the US Treasury obtained a third tax lien against Respondent’s professional corporation for failure to timely file and pay 941s for the quarter ending September 30, 2005, with the “Unpaid Balance of Assessment” totaling $1,874.20.
12. Sometime in February of 2007, the US Treasury obtained a fourth tax lien against Respondent’s professional corporation for failure to timely file and pay 941s for the quarter ending June 30, 2006, with the “Unpaid Balance of Assessment” totaling $2,543.75.
13. Sometime in April of 2007, the US Treasury obtained a fifth tax lien against the Respondent’s professional corporation for failure to timely file and pay 941s for the quarter ending September 30, 2006, with the “Unpaid Balance of Assessment” totaling $2,037.37.
14. At all times relevant to this matter, Respondent was either the sole or the majority shareholder in his professional corporation and at no time did Respondent or anyone else on behalf of Respondent’s professional corporation advise the Board of the tax liens.

Count 2
15. On April 22, 2004, the Board sent Respondent a letter stating he needed to admit another CPA owner to his firm, Rwejuna & Associates, CPAs, PA, because it implies more than one owner or change the name of his CPA firm to his name only.
16. On May 3, 2004, the Board received a “Notification of New Owner in a Professional Corporation” form from Respondent indicating that Brenda T. Watkins, CPA, (Ms. Watkins) had been admitted as a five (5) percent owner of Rwejuna & Associates, CPAs, PA.
17. The Board received a letter from Ms. Watkins dated October 1, 2007, stating that she had never been admitted as an owner in Rwejuna & Associates, CPAs, PA, and had terminated her employment with the firm on June 30, 2000.

CONCLUSIONS OF LAW
1. Respondent’s actions as set out above constitute violations of NCGS93.12(9) and 21 NCAC 8N .0203(b)(1), .0204 (a) and (c), .0207, .0208, and .0307(b).

BASED ON THE FOREGOING, the Board orders in a vote of 7 to 0 that:
1. The Certified Public Accountant certificate issued to Respondent, Israel W. Rwejuna, is hereby permanently revoked.
2. Respondent shall not offer or render services as a CPA or otherwise trade upon or use the CPA title in this state either through CPA mobility provisions or substantial equivalency practice privileges or in any other manner.

2009 Board Meetings

September 21
October 19
November 19*
December 17

Unless otherwise noted, meetings are held at the Board office at 1101 Oberlin Road, Raleigh, and begin at 10:00 a.m.

Meetings of the Board are open to the public except, when under State law, some portions may be closed to the public.

The agenda for each meeting is available from the Board’s web site, www.nccpaboard.gov.

*New Date
Amended NCGS 93, “Certified Public Accountants,”
Effective July 27, 2009

AN ACT CLARIFYING VARIOUS PROVISIONS UNDER THE LAWS PERTAINING TO CERTIFIED PUBLIC ACCOUNTANTS AND ALLOWING PUBLIC ACCOUNTANTSCERTIFIED OR LICENSED OUTSIDE THIS STATE TO PRACTICE IN THIS STATE UNDER CERTAIN CIRCUMSTANCES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 93-1(a)(3) reads as rewritten:
“(a) Definitions. – As used in this Chapter certain terms are defined as follows:

(3) A “certified public accountant” is a person who holds a certificate as a certified public accountant issued to him under the provisions of this Chapter.

SECTION 2. G.S. 93-3 reads as rewritten:
“§ 93-3. Unlawful use of title “certified public accountant” by individual.
It shall be unlawful for any person who has not received a certificate of qualification or not been granted a practice privilege under G.S. 93-10 admitting himself to practice as a certified public accountant to assume or use such a title, or to use any words, letters, abbreviations, symbols or other means of identification to indicate that the person using same has been admitted to practice as a certified public accountant.”

SECTION 3. G.S. 93-4 reads as rewritten:
“§ 93-4. Use of title by firm.
It shall be unlawful for any firm, copartnership, or association to assume or use the title of certified public accountant, or to use any words, letters, abbreviations, symbols or other means of identification to indicate that the members of such firm, copartnership or association have been admitted to practice as certified public accountants, unless each of the members of such firm, copartnership or association first shall have received a certificate of qualification from the State Board of Certified Public Accountant Examiners or been granted a practice privilege admitting him—each member of the firm, copartnership, or association to practice as a certified public accountant, provided, however, that the Board may exempt those persons who do not actually practice in or reside in the State of North Carolina from registering and receiving a certificate of qualifications qualification under this section.”

SECTION 4. G.S. 93-10 reads as rewritten:
“§ 93-10. Persons certified in other states—Practice privileges.
(a) An individual whose principal place of business is outside this State may be granted the privilege to perform or offer to perform services services, whether in person or by mail, telephone, or electronic means, in this State as a certified public accountant if the Board, the individual notice of hearing, or any other documentation, or the payment of any fee, if the individual meets all of the following conditions:
(1) Holds a valid and unrevoked certificate as a certified public accountant, or its equivalent, issued by another state, a territory of the United States, or the District of Columbia.
(2) Holds a valid and unrevoked license or permit to practice as a certified public accountant issued by another state, a territory of the United States, or the District of Columbia and that jurisdiction’s requirements for license are substantially equivalent to the requirements of this Chapter.
(3) Notifies the State Board of Certified Public Accountant Examiners that the person intends to perform or offer to perform services in this State as a certified public accountant in this State.
(4) Has passed The Uniform CPA Examination.
(5) Is subject to personal jurisdiction, subject matter jurisdiction, and disciplinary authority of the Board.
(b) An individual who satisfies the requirements of subsection (a) of this section and exercises the privilege afforded under this section by performing or offering to perform services as a certified public accountant in this State simultaneously consents as a condition of the grant of this privilege to:
(1) Comply with the laws of this State, the provisions of this Chapter, and rules adopted by the Board.
(2) Have an administrative notice of hearing served on the licensing board in the individual’s principal state of business, notwithstanding the individual notice requirements of G.S. 150B-38.
(3) Subject to personal jurisdiction, subject matter jurisdiction, and disciplinary authority of the Board.
(c) A firm whose principal place of business is outside this State and has no office in this State is granted the privilege to perform or offer to perform services, whether in person or by mail, telephone, or electronic means, in this State as a firm without notice to the Board, submission of any other documentation, or payment of any fee, except as otherwise provided in subdivision (3) of this subsection. A firm that exercises the privilege afforded under this section simultaneously consents as a condition of the grant of the privilege to:
(1) Comply with the laws of this State, the provisions of this Chapter, and rules adopted by the Board.
(2) Subject to personal jurisdiction, subject matter jurisdiction, and disciplinary authority of the Board.
(3) Provide notice without a fee to the Board if any individual with the firm who has been granted privileges in North Carolina to practice as a certified public accountant performs any of the following services for a client in this State:
(a) A financial statement audit or other engagement performed in accordance with the Statements on Auditing Standards.
(b) Provides an annual fee not to exceed fifty dollars ($50.00).
Reclassifications

Reinstatements

07/20/09 Leigh Fitzgerald Agnew #17198 Hattiesburg, MS
07/20/09 William Robert Dresback, Jr. #29668 Weddington, NC
07/20/09 Sylvester Anthony Marino #22824 Tarrytown, NY
07/20/09 Hubert Phillip Moore, Jr. #26773 Atlanta, GA
07/20/09 Sharon Staton Parker #16682 Charlotte, NC
07/20/09 Albert Eugene Partridge, III #13245 Charlotte, NC
07/20/09 Ann Elizabeth Pletcher #19604 Greensboro, NC

Reissuance

07/20/09 Lisa Dianne Barnwell Pierce #29600 Denton, NC
07/20/09 Robert M. Pope, Jr. #13297 Raleigh, NC
07/20/09 Kathryn S. Rominger #28156 Vilas, NC
07/20/09 Frank J. Sambor #30643 Glastonbury, CT
07/20/09 Susan L. Whitlock #17293 York, SC

Retired

“Retired,” when used to refer to the status of a person, describes one possessing a North Carolina certificate of qualification who verifies to the Board that the applicant does not receive or intend to receive in the future any earned compensation for current personal services in any job whatsoever and will not return to active status. However, retired status does not preclude volunteer services for which the retired CPA receives no direct or indirect compensation so long as the retired CPA does not sign any documents, related to such services, as a CPA [21 NCAC 08A .0301(b)(33)].

07/20/09 Alvin Maston Brown, Jr. #11820 Charlotte, NC
07/20/09 William Earl Carter, Jr. #3959 Raleigh, NC
07/20/09 Charles William Davis #19491 Richmond, KY
07/20/09 Marjorie Ferguson Freeman #17012 High Point, NC
07/20/09 Jeffrey Craig Froehle #21780 Savannah, NC
07/20/09 Kathleen T. George #25076 Raleigh, NC
07/20/09 Sherrill L. Hagar #26762 Hartsville, SC
07/20/09 Dorsey O. Hawkins, Jr. #8954 Merry Hill, NC
07/20/09 Larry Barnwell Huggins #4161 Gastonia, NC
07/20/09 Joyce Elaine Kelly #19151 Leesburg, FL
07/20/09 Ruth Lee Little #15008 Fort Myers, FL
07/20/09 Harry Ray Mathis #3814 Wilmington, NC
07/20/09 Mitchell Morlan #15309 Charlotte, NC
07/20/09 Joseph Horace Murray, Jr. #2995 Wilmington, NC
07/20/09 Gary Thomas Pope #14517 Carlsbad, CA
07/20/09 Carl Hampton Queen, Jr. #3514 Hickory, NC
07/20/09 William Gray Riggs #15113 Greensboro, NC
07/20/09 Howard Clifton Sessoms #3281 Fayetteville, NC
07/20/09 Thomas Hill Smith, Jr. #9283 Charlotte, NC
07/20/09 Olive Squires Thomas #11523 Winston-Salem, NC

NCGS 93

continued from page 3

b. An examination of prospective financial information performed in accordance with the Statements on Standards for Attestation Engagements.

c. An engagement performed in accordance with the Public Company Accounting Oversight Board auditing standards.”

SECTION 5. G.S. 93-12(9) reads as rewritten:

“(9) Adoption of Rules of Professional Conduct; Disciplinary Action. – The Board shall have the power to adopt rules of professional ethics and conduct to be observed by certified public accountants in this State, and persons exercising the practice privilege authorized by this Chapter. The Board shall have the power to revoke, either permanently or for a specified period, any certificate issued under the provisions of this Chapter to a certified public accountant or any practice privilege authorized by the provisions of this Chapter or to censure the holder of any such certificate or person exercising the practice privilege authorized by this Chapter. The Board also shall have the power to assess a civil penalty not to exceed one thousand dollars ($1,000) for any one or combination of the following causes:

a. Conviction of a felony under the laws of the United States or of any state of the United States.

b. Conviction of any crime, an essential element of which is dishonesty, deceit or fraud.

c. Fraud or deceit in obtaining a certificate as a certified public accountant.

d. Dishonesty, fraud or gross negligence in the public practice of accountancy.

e. Violation of any rule of professional ethics and professional conduct adopted by the Board.

Any disciplinary action taken shall be in accordance with the provisions of Chapter 150B of the General Statutes. The clear proceeds of any civil penalty assessed under this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.”

SECTION 6. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 16th day of July, 2009.

www.nccpboard.gov
Notice of Apparent Violation and Demand to Cease and Desist

Richard D. Elledge, Respondent
Wilkesboro, NC

To The Above-Named Respondent:

WHEREAS, the North Carolina State Board of Certified Public Accountant Examiners (Board) is authorized by NCGS §93-12 (16) to enforce the provisions of the North Carolina Certified Public Accountant Act (Act) through actions for injunctive relief regarding “a single violation” of this Chapter; and,

WHEREAS, pursuant to NCGS §93-1, “A ‘certified public accountant’ is a person who holds a certificate as a certified public accountant issued to him under the provisions of this Chapter.”

WHEREAS, pursuant to NCGS §93-6, “It shall be unlawful for any person to engage in the public practice of accountancy in this State who is not a holder of a certificate as a certified public accountant issued by the Board, unless such person uses the term ‘accountant’ and only the term ‘accountant’ in connection with his name on all reports, letters of transmittal, or advice, and on all stationery and documents used in connection with his services as an accountant, and refrains from the use in any manner of any other title or designation in such practice.”

WHEREAS, Respondent Richard D. Elledge (hereinafter “Respondent Elledge”) is not actively licensed or otherwise authorized by the Board as a certified public accountant in North Carolina. Respondent Elledge was actively licensed in this State until 2002 at which time he requested and received inactive status. The applicable North Carolina accountancy laws and rules provide that an individual holding an inactive license shall not hold himself out as a “certified public accountant” in any manner, and

WHEREAS, Respondent Elledge, while providing audit services in North Carolina, identified himself as a “Public Accountant.” Respondent Elledge’s use of the designation “Public Accountant” conveys the impression that he is authorized to use a designation other than ‘accountant’ when, in fact, he is not lawfully authorized to use the title “Certified Public Accountant,” the title “CPA,” or the designation “Public Accountant” in this State. Such a representation is misleading and contrary to NCGS §93-1 and §93-6.

THEREFORE, Respondent Richard D. Elledge is hereby notified and the North Carolina State Board of Certified Public Accountant Examiners demands that he immediately cease and desist from offering or using in any manner the title “Certified Public Accountant,” the title “CPA,” or the designation “Public Accountant” in North Carolina unless and until Respondent Elledge has been licensed as a CPA by the Board.

BY:
Robert N. Brooks, Executive Director
North Carolina State Board of Certified Public Accountant Examiners

06/11/2009

In lieu of civil proceedings authorized by NCGS §93-12(16), the Board will accept Respondent’s consent to this Demand.

CONSENTED TO BY:

Richard D. Elledge
06/15/2009

Board Office Closed

In accordance with the holiday schedule adopted by the State of North Carolina, the Board office will be closed on the following date:

Monday, September 7, 2009
Labor Day

IRS Seeks Public Comment for Proposals to Boost Tax Preparer Performance Standards

The Internal Revenue Service (IRS) is inviting the public to contribute ideas as part of an effort to ensure high performance standards for all tax preparers.

More than 80 percent of taxpayers use either a paid preparer or third-party software to prepare their annual tax returns.

Professionals who represent clients before the IRS, including attorneys, CPAs, and enrolled agents, are already subject to IRS oversight. However, under current law, a much larger group of return preparers is not subject to IRS oversight.

The IRS is particularly interested in the public’s responses to questions such as:

• If tax return preparation services should be regulated, what, if any, special regulatory provisions should be made for individuals who are already tax return preparers, licensed attorneys, CPAs, enrolled agents, or software providers?

• What, if any, additional legislative, regulatory, or administrative rules should the IRS consider recommending as part of its proposals with respect to the tax return preparer community?

For additional information on the proposed regulation of paid tax return preparers, please see IRS Notice 2009-60 which is available on the IRS website, www.irs.gov.

Written comments must be received by August 31, 2009. Mail comments to CCPA:LPD:PR (Notice 2009-60), Room 5203, Internal Revenue Service, PO Box 7604, Ben Franklin Station, Washington, DC 20044.

E-mail comments to Notice.Comments@irs.counsel.treas.gov. Please include “Notice 2009-60” in the subject line of any e-mail messages.
At its July 20, 2009, meeting, the Board approved the following applications for licensure:

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<th>Christy Erin Adams</th>
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<th>Camille Parker</th>
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Inactive Status

“Inactive,” when used to refer to the status of a person, describes one who has requested inactive status and been approved by the Board and who does not use the title “certified public accountant” nor does he or she allow anyone to refer to him or her as a “certified public accountant,” and neither he nor she nor anyone else refers to him or her in any representation as described in 21 NCAC 08A .0308(b) [21 NCAC 08A .0301(b)(21)].
Notice of Address Change

Certificate Holder ____________________________  Last Name  Jr./III  First  Middle

Certificate No. ____________________________  Send Mail to  ___ Home  ___ Business

New Home Address ____________________________________________________________

City____________________________ State______ Zip________________

CPA Firm/Business Name ______________________________________________________

New Bus. Address _____________________________________________________________

City____________________________ State______ Zip________________

Telephone: Bus. ( ) ____________ Home ( ) ____________

Bus. Fax ( ) ____________ E-mail Address________________________________________

Signature ____________________________ Date ____________

Mail to:  NC State Board of CPA Examiners  Fax to: 919-733-4209
NC State Board of CPA Examiners  PO Box 12827
Raleigh, NC 27605-2827

Pursuant to 21 NCAC 08j.0107, all certificate holders and CPA firms must notify the Board in writing within 30 days of any change in address or business location.