



Activity Review

North Carolina State Board of Certified Public Accountant Examiners

1101 Oberlin Road, Suite 104 • PO Box 12827 • Raleigh, NC 27605 • 919-733-4222 • No. 9-2009

Responding to Requests for Comfort Letters

CPAs continue to receive requests from clients, lenders, and loan brokers for “comfort letters” in which the CPA confirms client information such as the client’s self-employed status, verification of income from self-employment, profitability of a client’s business, and the impact on a client’s business if money is withdrawn to fund the down payment on a real estate purchase.

The letter at issue is usually associated with stated-income loans, which are mortgages that do not require borrowers to document their income. Such loans usually are sought by self-employed people and individuals with investment income or with sales jobs of varying commissions.

Lenders, lacking documentation to support borrowers’ income claims, take on the risk that borrowers’ claims are inadequate. To gain more comfort in extending loans, some lenders look to the borrowers’ CPA for assurance or comfort about certain information.

Most lenders will simply ask the CPA to write a letter indicating that the prospective borrower is self-employed or is employed in a certain profession. Others may attempt to shift the burden of responsibility for due diligence onto the borrower’s CPA and provide a script of what they want the letter to say.

Such a letter provides third-party verification of details in the application and could transfer some of the potential liability to the CPA in the event of default on the loan.

There are a few issues with this type of letter that should concern CPAs.

First, the proposed letter asks the CPA to attest, when the CPA has not specifically been engaged for that purpose. The report would be issued to a third party that has not contracted with the preparer for that specific purpose.

According to Auditing Standards Board Statement on Standards for Attestation Engagements No. 10, *Attest Engagements*, an attestation engagement is called for if the client wants a written report providing assurance about a specific subject.

Of course, performing an attestation engagement is not prohibited in the case of a lender’s comfort letter request, but CPAs must follow the procedures required in an attestation engagement. The client will likely not want to incur the expense of a formal attestation engagement.

It is also important to know what is not permitted under the standards. AT Section 9101, *Attest Engagements: Attest Engagements Interpretations of Section 101*, No. 2, ¶ 25 states that practitioners should not provide any form of assurance that an entity is not insolvent or would not be rendered insolvent upon a proposed condition, or that an entity has the ability to pay debts as they mature.

A lender may want the CPA to make an assurance that the applicant’s withdrawal of the funds for a down payment or other purposes would not put a financial strain on the applicant’s self-employment business. Any representation to that effect could be construed to be a comment on solvency

and would thus be prohibited under the standards.

The types of services permitted in a CPA attest report include an audit, a review, or a compilation of the applicant’s personal financial statements. The CPA may also report on *pro forma* financial information or perform an agreed-upon procedures report, as long as those procedures do not provide any assurance on matters of solvency.

The important thing to consider is that this type of engagement requires many procedural steps, which take time and result in significant fees to the client.

If the CPA takes the time to explain to the lender what is involved in presenting a comfort letter in light of professional standards and the related cost

Comfort Letters
continued on page 6

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In This Issue...

| | |
|--------------------------------|---|
| 2009 Board Meeting Dates | 3 |
| Cease and Desist Order | 5 |
| Certificates Issued | 6 |
| Disciplinary Actions | 2 |
| Exam Fees | 6 |
| Inactive Status | 7 |
| In Memoriam: | |
| Leonard W. Jones, CPA | 4 |
| Net Operating Losses | 7 |
| Peer Reviewers Needed | 5 |
| Reclassifications | 4 |

Disciplinary Actions

Cecelia A. Elkins, #12014
Raleigh, NC 08/19/2009

THIS CAUSE, coming before the Board at its offices at 1101 Oberlin Road, Raleigh, Wake County, North Carolina, with a quorum present. Pursuant to NCGS 150B-41, the Board and Respondent stipulate the following Findings:

1. Respondent is the holder of North Carolina certificate number 12014 as a Certified Public Accountant.

Count 1

2. In May of 2005, Respondent was engaged by a client to assist in the preparation of delinquent state and federal tax returns for the multiple tax years beginning in 1996.

3. Despite numerous requests in the intervening time including certified mail requesting the completed tax returns or the return of the records provided for the engagement by June 16, 2008, Respondent did not timely respond to the client's requests or provide the client with completed tax returns or the records by June 16, 2008.

4. In a response letter provided to the Board in September of 2008, Respondent stated that delinquent state and federal tax returns for the tax years 1996 – 2006 had been completed and copies provided to the client.

5. Respondent was previously disciplined by the Board for failure to return records upon requests by the client.

Count 2

6. In Board staff's investigation of the complaint filed by the client in Count 1, Respondent failed either to respond or to respond in a timely manner to requests from Board staff.

7. Respondent wishes to resolve this matter by consent and agrees that the Board staff and counsel may discuss this Consent Order with the Board *ex parte*, whether or not the Board accepts this Consent Order as written. Respondent understands and agrees that this Consent Order is subject to review and approval by the Board and

is not effective until approved by the Board at a duly constituted Board Meeting.

BASED UPON THE FOREGOING, the Board makes the following Conclusions of Law:

1. Respondent is subject to the provisions of Chapter 93 of the North Carolina General Statutes (NCGS) and Title 21, Chapter 08 of the North Carolina Administrative Code (NCAC), including the Rules of Professional Ethics and Conduct promulgated and adopted therein by the Board.

2. Respondent's actions as set out above constitute violations of NCGS 93-12(9)e and 21 NCAC 08N .0206, .0212, and .0305.

BASED ON THE FOREGOING and in lieu of further proceedings under 21 NCAC Chapter 08C, the Board and Respondent agree to the following Order:

1. Respondent's North Carolina CPA certificate is suspended for six (6) months from the date this Order is approved by the Board and until Respondent applies for and is approved for reissuance of her certificate.

2. The firm registration for Respondent's firm, Cecelia A. Elkins, CPA, is cancelled for six (6) months from the date this Order is approved by the Board and until Respondent completes (1) above and completes a new individual practitioner registration.

3. Respondent shall remit, with the signed Order, a one thousand dollar (\$1,000.00) civil penalty.

Joseph F. Trepanier, III, #32726
Raleigh, NC 08/19/2009

THIS CAUSE, coming before the Board at its offices at 1101 Oberlin Road, Raleigh, Wake County, North Carolina, with a quorum present. Pursuant to NCGS 150B-41, the Board and Respondent stipulate the following Findings:

1. Respondent is the holder of North Carolina certificate number 32726 as a Certified Public Accountant.

2. Respondent informed the Board on his 2008-2009 individual certificate renewal (renewal) that he had obtained forty (40) hours of continuing professional education (CPE) which included at least eight (8) hours of non-self-study CPE and some CPE earned between January 1, 2008, and June 30, 2008, to meet the 2007 CPE requirement.

3. Based on Respondent's representation, the Board accepted his renewal.

4. Board staff requested that Respondent provide certificates of completion for the CPE reported to meet his 2007 CPE requirement.

5. Respondent provided the CPE certificates of completion to the Board as requested. However, Respondent failed to provide the certificate or certificates of completion needed to document eight (8) hours of non-self study CPE that Respondent claimed he earned between January 1, 2007, and June-30, 2008, as was reported on his renewal.

6. Respondent wishes to resolve this matter by consent and agrees that the Board staff and counsel may discuss this Consent Order with the Board *ex parte*, whether or not the Board accepts this Consent Order as written. Respondent understands and agrees that this Consent Order is subject to review and approval by the Board and is not effective until approved by the Board at a duly constituted Board Meeting.

BASED UPON THE FOREGOING, the Board makes the following Conclusions of Law:

1. Respondent is subject to the provisions of Chapter 93 of the North Carolina General Statutes (NCGS) and Title 21, Chapter 08 of the North Carolina Administrative Code (NCAC), including the Rules of Professional Ethics and Conduct promulgated and adopted therein by the Board.

2. Respondent's actions as set out above constitute violations of NCGS 93-12(8b)a, 93-12(9)c and 93-12(9)e and 21 NCAC 08J .0101(b), 08N .0202(a), .0202(b)(3), .0202(b)(4), and .0203(b)(1).

BASED ON THE FOREGOING and in lieu of further proceedings under 21 NCAC Chapter 08C, the Board and Respondent agree to the following Order:

1. Respondent's application for renewal is deemed insufficient and untimely under NCGS 150B-3(a). Hence, his certificate is automatically forfeited pursuant to NCGS 93-12(8b).
2. Respondent must return his certificate to the Board with this signed Consent Order.
3. Respondent may not apply for the reissuance of his certificate for at least one (1) year from the date the Board receives Respondent's forfeited certificate and until the civil penalty required in number five (5) of this Order has been paid by Respondent.
4. Respondent may apply to return his certificate to active status by submission and approval of a reissuance application which includes:
 - a. Application form,
 - b. Payment of the application fee,
 - c. Three (3) moral character affidavits, and
 - d. Forty (40) hours of CPE in the twelve (12) months preceding the application including an eight (8) hour accountancy law course as offered by the North Carolina Association of CPAs (NCACPA) in a group study format.
5. Respondent shall pay a one thousand dollar (\$1,000.00) civil penalty to be remitted to the Board within six (6) months of the date this signed Order is accepted by the Board.
6. Respondent agrees that failure to timely comply with any terms of this agreement and Consent Order shall be deemed sufficient grounds for revocation of his license.

**Mark A. DiGirolamo, #26215
Dyersburg, TN 08/19/2009**

THIS CAUSE, coming before the Board at its offices at 1101 Oberlin Road, Raleigh, Wake County, North Carolina, with a quorum present. Pursuant to NCGS 150B-41, the Board and Respondent stipulate the following Findings:

1. Respondent is the holder of North Carolina certificate number 26215 as a Certified Public Accountant.

2. Respondent informed the Board on his 2008-2009 individual certificate renewal (renewal) that he had obtained twenty (20) hours of continuing professional education (CPE) which included the annual ethics CPE course and twenty (20) hours of CPE carryforward to meet the 2007 CPE requirement.

3. Based on Respondent's representation, the Board accepted his renewal.

4. Respondent self-reported to the Board that he had failed to complete an annual North Carolina (NC) CPE ethics course between January 1, 2007, and June 30, 2008, as was reported on his renewal to meet his 2007 CPE requirement. Respondent informed the Board that he had instead completed an ethics course for Tennessee CPAs. However, Respondent was living in Tennessee, but was not licensed as a CPA in Tennessee as required to claim credit for the Tennessee ethics course in order to comply with the annual NC CPE ethics requirement.

5. Respondent wishes to resolve this matter by consent and agrees that the Board staff and counsel may discuss this Consent Order with the Board *ex parte*, whether or not the Board accepts this Consent Order as written. Respondent understands and agrees that this Consent Order is subject to review and approval by the Board and is not effective until approved by the Board at a duly constituted Board Meeting.

BASED UPON THE FOREGOING, the Board makes the following Conclusions of Law:

1. Respondent is subject to the provisions of Chapter 93 of the North Carolina General Statutes (NCGS) and Title 21, Chapter 08 of the North Carolina Administrative Code (NCAC), including the Rules of Professional Ethics and Conduct promulgated and adopted therein by the Board.

2. Respondent's actions as set out above constitute violations of NCGS 93-12(8b)a, 93-12(9)c and 93-12(9)e and

21 NCAC 08J .0101(b), 08N .0202(a), .0202(b)3, .0202(b)4, and .0203(b)(1).

BASED ON THE FOREGOING and in lieu of further proceedings under 21 NCAC Chapter 08C, the Board and Respondent agree to the following Order:

1. Respondent's application for renewal is deemed insufficient and untimely under NCGS 150-B-3(a). Hence, his certificate is automatically forfeited pursuant to NCGS 93-12(8b).

2. Respondent must return his certificate to the Board with this signed Consent Order.

3. Respondent may not apply for the reissuance of his certificate for at least ninety (90) days from the date the Board receives Respondent's forfeited certificate and until the civil penalty required in number five (5) of this Order has been paid by Respondent.

4. Respondent may apply to return his certificate to active status by submission and approval of a reissuance application which includes:

- a. Application form,
- b. Payment of the application fee,
- c. Three (3) moral character affidavits, and

- d. Forty (40) hours of CPE in the twelve (12) months preceding the application including an eight (8) hour accountancy law course as offered by the North Carolina Association of CPAs (NCACPA) in a group or self-study format.

5. Respondent shall pay a one thousand dollar (\$1,000.00) civil penalty to be remitted to the Board within six (6) months of the date this signed Order is accepted by the Board.

6. Respondent agrees that failure to timely comply with any terms of this agreement and Consent Order shall be deemed sufficient grounds for revocation of his license.

2009 Board Meetings

October 19
November 19
December 17

Reclassifications

Reinstatements

| | | | |
|----------|------------------------------|--------|-----------------|
| 08/19/09 | Leigh Fitzgerald Agnew | #17198 | Hattiesburg, MS |
| 08/19/09 | William Robert Dresback, Jr. | #29668 | Weddington, NC |
| 08/19/09 | Sylvester Anthony Marino | #22824 | Tarrytown, NY |
| 08/19/09 | Hubert Phillip Moore, Jr. | #26773 | Atlanta, GA |
| 08/19/09 | Sharon Staton Parker | #16682 | Charlotte, NC |
| 08/19/09 | Albert Eugene Partridge, III | #13245 | Charlotte, NC |
| 08/19/09 | Ann Elizabeth Pletcher | #19604 | Greensboro, NC |

Reissuance

| | | | |
|----------|-------------------------|--------|-------------|
| 08/19/09 | Celeste Halifax Honaker | #16102 | Raleigh, NC |
|----------|-------------------------|--------|-------------|

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)].

| | | | |
|----------|------------------------|--------|---------------|
| 08/19/09 | Margaret Sheridan Kuhn | #10740 | Charlotte, NC |
| 08/19/09 | Larry David Mabry | #4096 | Norwood, NC |

Have a Question or Comment?

Have a question or comment about an article in the *Activity Review*? E-mail your questions or comments to lisahearne@nccpaboard.gov.

Moved? Changed Jobs?

21 NCAC 08J .0107 requires all licensees and firms to notify the Board *in writing* within 30 days of any change in address (including telephone number or e-mail address) or business location.

Licensees and firms can make address changes using the “Address Update” link on the Board’s web site, www.nccpaboard.gov.

Exam candidates must submit address changes by fax, e-mail, or US mail.

In Memoriam: Leonard W. Jones

Leonard W. Jones, CPA, a former President of the North Carolina State Board of CPA Examiners, died August 7, 2009, at Pitt County Memorial Hospital.

Jones was born in Lynchburg, VA, on February 20, 1953, to the late James Pinkney and Melba Janice Leonard Jones. He was raised in Greenville, NC, and graduated from East Carolina University in 1976 with a degree in accounting.

Licensed as a North Carolina CPA in 1978, Jones began his career with A.M. Pullen & Company in New Bern. In 1985, he started his own firm, Leonard W. Jones, CPA, in Morehead City.

Jones was a member of the North Carolina State Board of CPA Examiners from 2002 until 2007. During his tenure on the Board, he served as Secretary-Treasurer, Vice President, and President.

He was a member of the Executive Committee, the Communications Committee, the Personnel Committee, the Professional Education and

Applications Committee, and the Professional Standards Committee.

As a member of the North Carolina Association of Certified Public Accountants (NCACPA), Jones served on several committees, including the Nominating Committee and the Taxation Committee. In addition, he served on the NCACPA Board of Directors and served as liaison for the Coastal Plains Chapter.

Jones was a member of the American Institute of Certified Public Accountants (AICPA), a member of the AICPA’s tax section, a member of the AICPA Board of Examiners (BOE), and he served on the AICPA BOE Regulation/Tax Subcommittee.

He was also a member of the National Association of State Boards of Accountancy (NASBA) Ethics Committee and Nominating Committee.

Jones was one of less than 250 non-attorneys admitted to practice before the US Tax Court since 1942. The US Tax Court is a Federal court of record established by Congress to provide a judicial forum in which affected per-

sons could dispute tax deficiencies determined by the Commissioner of Internal Revenue prior to payment of the disputed amounts.

Senator Marc Basnight appointed Jones to several terms on the North Carolina General Assembly’s Revenue Laws Study Committee. The Committee provides guidance to the General Assembly regarding changes to North Carolina’s revenue laws.

Jones was a member of the Soundview Rotary Club and was President of the Carteret-Craven Electric Membership Cooperative Foundation.

He is survived by his wife, Shiron Taylor Jones, his daughter, Amanda Taylor Jones, and his sister, Gail Susan Owens, and her husband, David.

Memorial donations may be made to Broad Street Clinic Foundation, 534 N. 35th Street, Suite K, Morehead City, NC 28557 or Carteret County Domestic Violence Program, PO Box 2279, Morehead City, NC 28557.

Peer Reviewers Needed

Now is the perfect time to become a peer reviewer! With more than 32,000 firms participating in the AICPA Peer Review Program, demand for your skills in this important professional program has never been higher.

Being a peer reviewer will open doors to incredible opportunities. Peer review services will enhance your knowledge of professional standards. In addition, your work as a peer reviewer will enable you to provide better service to your own clients by offering you a venue to observe and understand the best techniques of other accounting firms.

When you become a peer reviewer, you'll be seen as an expert, gaining the respect of your peers; identify the best practices of other firms and apply them at your firm; use what you learn from other firms to sharpen your skills and reinforce your accounting and auditing knowledge; often receive referrals for additional services as a result of performing peer reviews; be of benefit to the accounting profession; and develop an additional profit center for your firm.

To qualify as a peer reviewer you must be an AICPA member in good standing, be active in public practice at a supervisory level in the accounting or auditing function, and have five years of public accounting experience. In addition, if you are a partner in your firm, you are qualified to be a team captain.

For a complete list of peer reviewer requirements, visit the AICPA's peer review web site, www.aicpa.org/members/div/practmonbecome_peer_reviewer.htm.

For additional information about the AICPA/NCACPA Peer Review Program, please contact Mary Kelly, NCACPA Peer Review Coordinator, by telephone at (919) 469-1010 or by e-mail at mckelly@ncacpa.org.

Notice of Apparent Violation and Demand to Cease and Desist

**James M. McDermott, Respondent
Charlotte, 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 §93-3 "It shall be unlawful for any person who has not received a certificate of qualification admitting him 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."

WHEREAS, Respondent James M. McDermott (hereinafter "Respondent McDermott") is not currently licensed or otherwise authorized by the Board as a certified public accountant in North Carolina; and

WHEREAS, Respondent McDermott is not currently actively licensed or otherwise authorized by the Louisiana State Board of CPAs to identify himself as a certified public accountant; and

WHEREAS, Respondent McDermott, while working in North Carolina, identified himself as a "CPA" or "Certified Public Accountant" to a North Carolina license applicant (applicant). Subsequently, Respondent McDermott signed and had notarized an "Experience Affidavit" in which he indicated that the applicant had received experience "under the direct

supervision of a CPA." On the form, Respondent indicated that he had an inactive license in Louisiana. However, the Louisiana Board has confirmed to this Board that under Louisiana accountancy laws and rules, inactive licensees cannot use the title "CPA." Respondent McDermott's use of the title "CPA" or "Certified Public Accountant" conveys the impression that he is authorized to use a title other than 'accountant' when, in fact, he is not lawfully authorized to use the title "certified public accountant" or "CPA" in this State. Such a representation is misleading and contrary to NCGS §93-1 and §93-3.

THEREFORE, Respondent James M. McDermott 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 "CPA" or "Certified Public Accountant" in North Carolina unless and until Respondent McDermott has been licensed as a CPA by the Board.

BY:

Robert N. Brooks, Executive Director
North Carolina State Board of Certified Public Accountant Examiners
06/10/2009

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

CONSENTED TO BY:

James M. McDermott
06/19/2009

Summary of 2009 Tax Law Changes

The NC Department of Revenue (NCDOR) has released a summary of changes made to the NC tax laws by the General Assembly and signed by Governor Perdue.

To access the summary, visit the NCDOR web site, www.dornc.com, and look for the "Headlines" link on the left side of the page.

Exam Fees Effective August 1, 2009

Administrative Fees

| | |
|-------------------|----------|
| Initial Applicant | \$230.00 |
| Re-exam Applicant | \$75.00 |

Exam Section Fees

| | |
|--|----------|
| Auditing & Attestation (AUDIT) | \$230.55 |
| Financial Accounting & Reporting (FAR) | \$218.15 |
| Regulation (REG) | \$193.35 |
| Business Environments & Concepts (BEC) | \$180.95 |

Certificates Issued

At its August 19, 2009, meeting, the Board approved the following applications for licensure:

| | |
|-----------------------------|--------------------------------|
| Robert C. Acuff | Jay Fredrick Lookabill |
| Jill Annis Ahrens | Cara Kathleen Loose |
| Robert Young Alexander | Matthew Ryan McGarry |
| William Elmore Allison, III | Kimberly Nicole Brown McKinney |
| Ashleigh Maureen Arnett | Andrew Alton Medlin |
| Michael Gary Austin | Kevin James Monacelli |
| Lonnie John Bewernitz | Thomas Danieleley Monte |
| Andrew Wharton Blair, Sr. | Sean Farrell Moran |
| Richard Alan Boris | Nisha Nair |
| James Zachary Bowman | Brooke Mims Owen |
| Laura Michelle Brown | Jennifer Renea Pacheco |
| Darren Paul Buer | Kimberly Golden Patterson |
| Benny Joseph Buras, Jr. | Lori Halstead Perry |
| Amy Michelle Butala | Brandis Burdis Phillips |
| Harry Bassett Cardwell, IV | Sean Joseph Regan |
| Catherine A. Davenport | Jennifer Rhodes Reilly |
| John Edward Dunn, Jr. | Charles Joseph Schrauder |
| Marina C. Fotinos | Joannis Terry Sitaras |
| Rita M. Fozdar | Michael Anthony Spence |
| Timothy Paul Gallagher | Alfredo Antonio Suarez |
| Wesley O'Brian Glover | Caleb G. Tevis |
| Kyle Wayne Granholm | Allan R. Thompson |
| John Wayne Griffin, Jr. | Kristen Lee Tripp |
| Amber Lee Groesser | Noha Melki Tury |
| Christopher Joseph Gulya | Brandon L. Veler |
| Michelle Rufty Holland | Minyan Wang |
| Stacey Lynn Jones | Wen-Chi Wang |
| David Eugene Kapka | Lora Katherine Wiggs |
| Kory Lee Klug | Matthew Rand Wilson |

Comfort Letters

continued from front

to the applicant of issuing any attestation letter, the lender may be convinced to withdraw its request for a comfort letter.

As an alternative, the CPA may offer to send a copy (with the client's written authorization) of the client's tax forms directly to the lender with a simple cover page stating, "Please find attached the tax forms I prepared for Client for the past two years."

Sometimes the broker does not want the tax forms in the application file because the forms do not provide enough information or may provide information that might cause the loan to be rejected.

Another option is to provide the lender with a CPA letter that basically makes no assurances, therefore limiting the CPA's liability. The letter merely says that the CPA prepared the tax forms and that the lender should not construe the letter to be an audited CPA representation.

Although from a risk management perspective it is preferable to avoid confirming any client information to a lender or broker, a CPA, not wanting to alienate or offend a client, may be tempted to send off a quick letter to the lender confirming that the client is self-employed, or retired, or earning a living from the activities addressed on the tax return.

The CPA should be careful about sending such a letter. Does the CPA really know everything that is occurring with that client? Does the client have other activities on the side that the CPA is not aware of and that conflict with the information on the tax forms? A CPA is certain about what he or she puts on tax forms. Saying anything else in the letter advances the tax engagement to a new level.

When asked to provide a comfort letter for a client, a CPA can best avoid risk by sticking to the professional standards and not caving in to pressure from a client or lender. While clients need to have the flexibility to obtain credit, the responsibility for underwriting the loan lies with the lender, not the CPA.

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)].

| | | | |
|----------|------------------------------|--------|----------------------|
| 07/22/09 | Kenneth Eugene Collins | #3660 | Monroe, NC |
| 07/22/09 | Leslie Anne Coolidge | #32353 | Barrington Hills, IL |
| 07/22/09 | Michael Scott Fair | #33589 | Columbus, OH |
| 07/22/09 | Jerry A. Mannen | #3314 | Raleigh, NC |
| 07/22/09 | Meredith Burleson Vaughn | #30166 | Martinsville, VA |
| 07/23/09 | Helene Pascale Turpyn | #26069 | Charlotte, NC |
| 07/24/09 | John William Gardner | #8991 | Raleigh, NC |
| 07/24/09 | Linda Kay Hadley | #29087 | Apex, NC |
| 07/24/09 | Thomas G. Jones | #26633 | Indian Trail, NC |
| 07/24/09 | Antonina Andriyivna Starodub | #33286 | Morrisville, NC |
| 07/24/09 | Lisa Suzanne Vallad | #33057 | Dacono, CO |
| 07/24/09 | Ernest Rickman Wilkins | #15238 | Durham, NC |
| 07/24/09 | Sally Deane Williams | #31476 | Raleigh, NC |
| 07/27/09 | Mark Howell Cooter | #23905 | Greenville, SC |
| 07/27/09 | Sean Patrick Davis | #29364 | Charlotte, NC |
| 07/27/09 | Rebecca Emery Goessel | #27290 | Simpsonville, SC |
| 07/27/09 | Zesheen Jyang | #33193 | Raleigh, NC |
| 07/27/09 | John Travis McMinnville | #31326 | Prairie Village, KS |
| 07/27/09 | Tamara Ayesha Romany | #32183 | Atlanta, GA |
| 07/28/09 | Bryan Douglas Preston | #33253 | Cincinnati, OH |
| 07/28/09 | Brian P. Tanzman | #32450 | Penfield, NY |
| 07/29/09 | John F. Healy | #32541 | Pinehurst, NC |
| 07/29/09 | Dale Creed Jones | #25793 | Decatur, GA |
| 07/29/09 | Paul Francis Lucas | #15091 | Greensboro, NC |
| 07/29/09 | Amanda Joy Morrison | #32777 | Baltimore, MD |
| 07/29/09 | Mark Walter Snyder | #18199 | Cary, NC |
| 07/30/09 | Roger Michael Jones | #20480 | New Ulm, MN |
| 07/30/09 | Sandra Cox McConnell | #17529 | Cornelius, NC |
| 07/30/09 | Monica M. Swanson | #32080 | Deerfield, IL |
| 07/30/09 | Jesse Alton Webb, Jr. | #7715 | Colfax, NC |
| 07/31/09 | Parul Garg | #32729 | Nutley, NJ |
| 07/31/09 | Eric Wayne Hill | #24348 | Monroe, NC |
| 07/31/09 | Cynthia P. Johnson | #18796 | Jupiter, FL |
| 07/31/09 | Theresa Spring Meza | #29430 | Jacksonville, NC |
| 07/31/09 | Kristi Wissel Snapp | #26156 | Denver, CO |
| 08/03/09 | Anthony Arthur Callander | #25238 | Greenville, SC |
| 08/03/09 | Amy Elizabeth Johnson | #19000 | Charlotte, NC |
| 08/04/09 | Nanette Allen | #10841 | Winston-Salem, NC |
| 08/04/09 | James Harley Bailey | #4321 | Charlotte, NC |
| 08/04/09 | Carleen Richardson Berndt | #16170 | Blowing Rock, NC |
| 08/04/09 | Christa Marie Dunn | #32797 | Moncks Corner, SC |
| 08/04/09 | Amy Valinda Hamilton | #31126 | West Columbia, SC |
| 08/04/09 | William Glynn Kelly | #24427 | Charlotte, NC |
| 08/04/09 | Lisa Michele Shumake | #19093 | Madison, NC |
| 08/17/09 | Ray Jackson Hough | #4332 | Charlotte, NC |
| 08/17/09 | Fred Wilson Sellers, Jr. | #3322 | Birmingham, AL |
| 08/20/09 | Roy O'Neil Cottle | #3137 | Charlotte, NC |

State Tax Treatment of Net Operating Loss

Reprinted from the NCACPA Member Advantage No. 128, August 2009.

The NC Department of Revenue (NCDOR) has added an update to its web site, www.dornc.com, regarding the state tax treatment of five-year carryback of 2008 net operating loss (NOL) for eligible small businesses.

Senate Bill 202, signed into law on August 7, 2009, by Governor Perdue, updates the references to the Internal Revenue Code to adopt the federal five-year NOL carryback for 2008 NOLs included in the American Recovery and Reinvestment Act of 2009 (ARRA).

Therefore, an individual is required to carryback the NOL to the same tax year(s) for both federal and state individual income tax purposes.

The NCDOR will now process amended state returns previously filed in which the three, four, or five year carryback election was made for both federal and state purposes.

As stated in its May 18, 2009, notice, the NCDOR had been holding these returns pending a decision by the General Assembly.

If a taxpayer filed an amended return in which the entire 2008 NOL was carried back to tax years 2006 and 2007 for state tax purposes, but the three, four, or five year carryback election was made for federal purposes, additional amended returns must be filed to carry the NOL to the same year as that elected for federal purposes.

Previously filed 2006 and 2007 amended returns must also be revised. A copy of the federal form 1045 with schedules A and B used for federal purposes must be included.

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