

December 15, 2005

Lisa A. Snyder
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Harborside Financial Center, 201 Plaza Three
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California
Society
Certified
Public
Accountants

Sent by e-mail to: lsnyder@aicpa.org

Re: Proposed Interpretation 101-16 Under Rule 101: *Indemnification, Limitation of Liability, and ADR Clauses in Engagement Letters*;
Proposed New Interpretation 101-17 Under Rule 101: *Performance of Client Advocacy Services, Fact Witness Testimony and Forensic Accounting Services*.

Dear Ms. Snyder,

On behalf of the California Society of Certified Public Accountants Litigation Sections (Litigation Sections), we appreciate the opportunity to comment and provide input. CalCPA's Professional Conduct State Committee has submitted a separate comment letter. The Litigation Sections has reviewed the Proposed Interpretation 101-17 Exposure Draft and overall is in agreement with the interpretation that providing litigation services impairs independence. However, we do not believe that the proposed interpretation goes far enough to improve standards and there are several areas that need to be addressed before the interpretation is finalized. Following are the Litigation Sections comments for consideration by the AICPA Professional Ethics Executive Committee prior to adopting the Exposure Draft.

1. We believe the provision that litigation services caused an independence problem when there was an "expectation" of confidentiality which could potentially be waived by the parties consent does not work. We believed that independence is impaired; and that waiving confidentiality is not practical and does not substantively change the relationship (and there is no definition for what "expected" means, and we suspect a workable definition is not possible) -- therefore independence is impaired. We believe that the AICPA should adopt a similar rule as that adopted by the SEC for auditors of public companies because the perceived *appearance* that independence is impaired is by providing litigation services is applicable to auditors of all companies.
2. Responsibility of third party providers - Often times an expert, whether doing consulting services or expert witness work has to rely on facts and assumptions presented by other experts hired as technical experts in other industries. The CPA can not be expected to take responsibility for the expertise of another professional, and can not therefore be held liable for those expert's opinions.
3. We believe that there is no distinct difference for investigative services and litigation services, therefore, they should be treated like litigation services.
4. The word "advocacy" in relation to expert testimony and consulting services should be removed. An expert, whether doing consulting, forensic, or expert witness work is not an advocate for the client, but rather is expressing their opinion about facts they have considered. Therefore, it is inappropriate to use the word "advocacy" in this context.
5. Need to identify and define what is meant by investigative services to create a meaningful distinction from litigation services.
6. Forensic Accounting Services: In the first line the definition states that forensic accounting services "general involve" the application of ... etc., when in fact they "are" the application of the skill set and processes mentioned.

Thank you for the opportunity to comment on the exposure drafts and provide our input and recommendations. Should you have any questions please feel free to contact me at (310) 395-0599 or andy@mintzercpa.com.

Sincerely,



Andrew M. Mintzer, CPA
Chair, Litigation Sections
California Society of CPAs

CC: Chris Yahng, Chair, California Society of CPAs
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Loretta Doon, CPA, COO, California Society of CPAs
Curt Eakin, Chair, Professional Conduct State Committee, California Society of CPAs
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