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November 7, 2001

Florida Department of Professional Regulation
Division of Certified Public Accounting
240 Northwest 76th Drive, Suite A
Gainesville, Florida 32607-6835

Please consider this letter a formal Board of Accountancy Opinion Request.

HYPOTHETICAL SITUATION:

Two CPA partners of a six CPA Partner firm recognize the opportunity to serve a different type of client base through a second corporation. The mission of the second corporation (a non-CPA firm) would be to perform write up, assembled financial statements (FS. 61H1-20.0051 & .0053), client assistance and tax preparation services, but perform no attestation work including no reviews or audits. Currently, the six partner CPA firm serves an higher-end market and is heavily oriented toward the attestation work. The Two CPA partners discuss the potential for opening another venture, as a second corporation (a non-CPA firm), either with all six CPA partners participating or with only those interested CPA partners.

SPECIFIC QUESTIONS:

1. Are there potential issues for the CPA regarding State or IRS regulations or considerations? Are there licensing issues?
2. Are there ownership or conflict of interest issues regarding their CPA firm or its partners? Is the new corporation a continuation of the original firm?

PERTINENT LAW:

Florida Statute 473.3101 "Licensure of sole proprietors, partnerships, corporations, limited liability companies, and other legal entities".

DISCUSSION AND CONCLUSIONS:

It would appear that if all six partners were to become partners in the second firm there would be issues as to the segregation of the two firms. Now if only certain of the partners joined the second firm there would still be the “potential for issues” related to conflict of interest between firms and the potential for conflicts in the area of the duty of loyalty between the firms. The issues, though, appear to be drastically reduced as long as the second firm limits its client base to clients not seen as viable clients to the original six partner firm and as long as the second firm does holds itself out as a CPA firm or perform any attestation functions. It would seem it would be very similar to the CPA partners doing some simple work “on the side”. As long as each partner continues to perform fully for the CPA firm and does not compromise his “duty of loyalty” to the CPA firm, the second corporation does not appear to be a conflict or violation of applicable law.

Thank you for your consideration of this matter. I look forward to your response to these issues.

Sincerely

Jeffrey M. Tuscan, CPA