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Board of Accountancy
2610 NW 43rd Street
Gainesville FL 32606

To Members of the Board of Accountancy:

Graham & Cottrill, P.A. requests an opinion related to the following situation:

Our firm is considering reselling computer accounting software to audit clients, to clients for whom we do not provide attestation services, and to non-clients. For this reselling, we would earn a commission/referral fee. We would disclose the fact that we are earning a commission/referral fee to those we sell to or refer.

We have reviewed F.S. Chapter 473.3205, which states:

A licensee may not accept or pay a commission or referral fee in connection with the sale or referral of public accounting services as defined in s.473.302 (7)(a) and (c). Any certified public accountant or business that is engaged in the practice of public accounting and that accepts a commission for the sale of a product or service to a client must disclose that fact to the client in writing in accordance with rule adopted by the board:

Section 473.302 (7) (a) and (c) defined public accounting services as:

- (a) Offering to perform or performing for the public one or more types of services involving the expression of an opinion on financial statements, the attestation as an expert in accountancy to the reliability and fairness of presentation of financial information, the utilization of any form of opinion or financial statement that provide a level of assurance, the utilization of any form of disclaimer of opinion which conveys and assurance of reliability as to matters not specifically disclaimed, or the expression of an opinion on the reliability of an assertion by one party for use by a third party.

- (c) Offering to perform or performing for the public one or more types of service involving the preparation of financial statements not included within paragraph (a), by a certified public accountant who holds an active license, a firm of certified public accountants, or a firm in which a certified public accountant has an ownership interest, including the performance of such services in the employ of another person. The board shall adopt rules establishing standards of practice for such reports and financial statements; provided, however, that nothing in this paragraph shall be construed to permit the board to adopt rules that have the result of prohibiting licensees employed by unlicensed firms from preparing financial statements as authorized by this paragraph.

Based on these statutes it does not appear that the proposed activity is in violation of Florida Statutes. Please let us know if such activity would, in your opinion, violate any specific law or rule.

Sincerely,
Michael E. Batts