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FLORIDA BOARD OF ACCOUNTANCY
Department of Professional Regulation
2610 N.W. 43rd Street 1- A
Gainesville, Florida 32606

To Whom It May Concern:

We are contacting you as the authorized representatives of a CPA. The purpose of this letter is to make a formal request for a written opinion from the Board of Accountancy. Pursuant to the procedures for requesting opinions from the Board of Accountancy, please consider the following information:

Statement of Situation: What is the fiduciary duty, if any of an accountant to provide a W-2 form requested by an employee when the accountant's client is the employer? Does the accountant require a release from the client to produce the W-2 form to the employer? Does the accountant require a release from the client to produce the W-2 form to the employee? What consequences or liability does the accountant have or may incur in if the client withholds giving the authorization to release the W-2 form to the employee?

Citation to applicable law and rules:

In the pertinent Chapter 473 of the Florida Statutes Annotated, Sec. 473.316 reads as follows:

"A communication between an accountant and his client is 'confidential' if it is not intended to be disclosed to third persons other than those to whom disclosure is in the furtherance of the rendition of accounting services to the client."

Conclusions drawn:

We believe that the W-2 form is not covered by the accountant-client privilege.

The W-2 can not be confidential because it is meant to be disclosed to the employee (as a third person) in the normal course of rendering services to the client or employer.

There appears to be applicable case law. "Financial records and data which are not privileged in the hands to client cannot be shielded from discovery, deposition or subpoena by transferring them to client's accountant." Paper Corp. of America v. Schneider, App. 3 Dist., 563 So. 2d 1134 (1990).

The employee has an economic interest in the accounting services the employer uses and the employee may have a right to copy or inspect all documents used to generate the W-2 form.

We would appreciate greatly that you fax or send us the written copy of the opinion as soon as it is available. Finally, if we must comply with additional information, please feel free to contact us at your earliest convenience.

Very Truly Yours,
Alfredo Lopez-Brignoni, Esq.