



STATE BOARD LEDGER

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PEER REVIEW-CPE-AND LICENSE RENEWAL CHANGES FOR 2009

For 2009 there are three changes to the licensing requirements that CPAs need to remember.

The first change is to the peer review process. For years CPAs and firms enrolled in peer review only had to submit to the Board a copy of their enrollment letter and the letter of acceptance from their peer review provider. By law the Board staff could obtain these documents only by making a request to the CPA or firm. Following an extensive amount of discussion on this issue the Board members decided to amend the regulation that governs the peer review process to require CPAs and firms to submit to the Board staff a copy of their peer review report along with the previously mentioned letters.

A peer review report that is classified as “unmodified” (which will be changed to “pass” for reports begun after January 1, 2009), or as the first “modified” report (to be changed to “pass with deficiencies”) will be recorded as such by the Board staff and then discarded. Second consecutive “modified” reports and all reports classified as “adverse” (to be changed to “fail”) will be presented to the Board members for consideration. Following an examination of all of the documents associated with these reports the CPA or firm will be contacted regarding what action(s), if any, the Board members believe should be implemented regarding the CPA or the firm.

Those CPAs and firms who use the Kentucky Society of CPAs as their peer review provider should also keep in mind that copies of the peer review documents will be downloaded to a website accessible to the Board staff for review and printing. These reports will be made available to the Board staff unless the CPA or the firm advises the Society staff that they choose to opt out of this program. If this choice is made the CPA and firm will be required to submit a copy of the peer review report to the Board staff. By placing the report on the website the CPA and firm eliminate the need to send a copy of the report to the Board staff.

Beginning with the renewal of licenses in 2010 CPAs will be required to obtain 2 continuing professional education hours in professional ethics. The hours will not have to relate solely to KY law or be offered by a particular provider. The hours will be included as part of the 80 or 60 hours of CPE to be obtained by the CPA. **In addition the 65 years of age 25 years of experience exemption will no longer be available after the 2010 renewal period.**

Finally it is anticipated that CPAs will be able to renew their licenses online beginning this year. The development process is currently underway. Unfortunately firm licenses will not be able to be renewed online until 2010. CPAs are encouraged to pay attention to updates on the Board website and in the mail regarding the status of this project.

SHOULD YOU OR YOUR FIRM REGISTER AS AN INVESTMENT ADVISER?

[The following article was prepared by the KY Dept. of Financial Institutions pursuant to a request by the KY Society of CPA's and is being reprinted here with the permission of the Society.]

As a certified public accountant, your clients probably look to you to answer all types of questions about their financial well-being. Most likely, you talk to clients about managing their financial affairs; including discussing the tax impact of any investments they may hold. In providing this service to clients, you must be cognizant of the requirements of state and federal securities law. If you're not careful, you may run afoul of these laws and damage your practice and your reputation. So, how do you know when the services you provide to clients subject you to the state and federal securities laws and just what are those laws?

The first securities act was passed in Kansas in 1911. It was basically a consumer protection law designed to protect the public from unscrupulous promoters selling intangible investments. The federal securities laws followed some years later and each state now has a law regulating the offer and sale of securities, including regulation of those who give advice about buying and selling securities. The laws of the states are very similar and each, along with the federal law, contains a definition of "investment adviser." In 1996, a federal law was passed that divided the regulation of investment advisers between the federal government (by the U.S. Securities and Exchange Commission – the SEC) and the states. This law gave the SEC the exclusive authority to require registration of the big advisers and left regulation of the smaller advisers to the states. Big advisers are those who manage \$25 million or more in client assets, while small advisers manage less than that amount or only provide financial plans.

This brings us to the question of "what is an investment adviser?" Under Kentucky law, an investment adviser is any person who, for **compensation**, engages **in the business of advising others**, either directly or through publications or writings, as to the value of **securities** or as to the advisability of investing in, purchasing, or selling securities, or who, for **compensation** and as a part of a **regular business, issues or promulgates analyses or reports concerning securities**.

Now, you may think, "I talk to clients about their investments all the time – does that mean I'm an investment adviser?" The answer is "maybe." In the case of a CPA, the first question to ask is: "what is the nature of your discussions with your client about their investments?" If you're talking with clients about the tax impact of certain securities investments but also recommending certain types of securities based on the needs of that client, then you might be an investment adviser. You need not recommend specific securities to be an investment adviser. Recommending a client invest a certain percentage of their assets in stocks versus bonds can subject you to the investment adviser laws.

If you do make recommendations to clients about the types of securities they should invest in to achieve their desired tax impact, then the next question to ask is do you frequently engage in this activity? If you do this on an ongoing basis with one or more clients or with a number of your clients, then you might be an investment adviser. If you monitor your client's securities investments and advise them when would be a good time to buy or sell to achieve their desired tax impact, then you might be an investment adviser.

The final question to ask is do you hold yourself out to the public or to your clients as providing investment advisory services? This can include holding yourself out as providing "financial planning," "retirement planning," "investment management" or the like, if in the course of providing those services, you discuss the benefits of buying or selling securities with your client. If the answer to this question and the prior question is yes, then you probably are an investment adviser. In that case, you should contact the Kentucky Department of Financial Institutions to discuss your situation and, if necessary, register as an investment adviser in Kentucky.

At this point you may ask how can I do my job as a CPA without subjecting myself to investment adviser registration? An exclusion does exist from the definition of investment adviser for an accountant (and other professionals such as attorneys) whose performance of investment advisory services is **solely incidental** to the practice of his profession. However, this exclusion is commonly misunderstood. It does not give a blanket exclusion to the investment adviser requirements. The advisory services must be “solely incidental” to the professional’s regular business. Generally, this means the accountant or other professional does not regularly provide these services to their clients and does not hold himself or herself out to the public as providing these types of services – i.e. financial planning.

As you can see, determining whether you are an investment adviser is not an easy question to answer. When in doubt, the best thing to do is contact the Department at 1025 Capital Center Drive, Suite 200 Frankfort, Kentucky 40601; 800-223-2579; www.kfi.ky.gov/securities

STATISTICS FROM THIRD & FOURTH 2008 EXAM WINDOWS

JULY - AUGUST 2008			
AUD*	138 sat 63 passed 46% pass rate	FAR*	117 sat 63 passed 54% pass rate
REG*	123 sat 59 passed 48% pass rate	BEC*	155 sat 69 passed 45% pass rate
OCTOBER - NOVEMBER 2008			
AUD*	126 sat 65 passed 52% pass rate	FAR*	120 sat 55 passed 46% pass rate
REG*	127 sat 52 passed 41% pass rate	BEC*	152 sat 72 passed 47% pass rate

DISCIPLINARY ACTIONS

Publication of the following information is required by 201 KY Administrative Regulation 1:150.

2008-012 (Clancy & Co.) and 2008-013 (Jennifer Clancy Nipp, 5942) - On May 27, 2008 Judith Clancy on behalf of the Firm and Jennifer C. Nipp individually entered into a Decision and Order with the Arizona Board of Accountancy. Ms. Nipp and the Firm also hold active licenses to practice public accounting in Kentucky. The Board, Ms. Nipp and the Firm decided to enter into an agreement to resolve the issues described in the Arizona Order.

Statutory Violation: Judith Clancy on behalf of the Firm and Ms. Nipp agreed that the Findings of Fact and Conclusions of Law allegations contained in the Arizona Order constitute a basis under Kentucky law for the Board to take action against the licenses of the Firm and Ms. Nipp.

Remedy: The licenses of the Firm and Ms. Nipp were placed on probation for a period of two (2) years and the Firm was fined \$1,000. During the period of probation all audit reports of the Firm and Ms. Nipp issued for Kentucky based clients will be subject to a pre-issuance review by the Board investigator. Upon successful compliance by Ms. Nipp and the Firm with all provisions of the agreement for a period of one year, and provided that at least 3 (three) audits have undergone successful pre-issuance review, Ms. Nipp and the Firm may request in writing that the Board terminate the probation before the expiration of the time specified in the agreement.

2008-017 (Karl G. Bergklint, 2636) - On his license renewal application for 2002 the Respondent indicated he was employed full-time, but not in public accounting, and did not respond to questions on the form as to whether he had issued any audit reports in 2001 or if he would be issuing any audit reports in the future. When he submitted his license renewal application for 2004 the Respondent again noted that he was employed full-time, but not in public accounting, and indicated that since his last renewal in 2002, he had not issued any audit reports and that he did not plan to issue any such reports in the next two years. On his 2006 renewal form the Respondent reported he was still employed full-time, but not in public accounting, and failed to indicate whether he had issued any audit reports since the renewal of his license in 2004 or whether he anticipated issuing any reports in the next two years. In fact the Respondent prepared and issued audit reports for the years 2004 and 2005. However the Respondent never enrolled in a peer review program during any of the times mentioned above as required by law. The audit reports prepared by the Respondent were performed in accordance with *Generally Accepted Auditing Standards* as opposed to the *Generally Accepted Government Auditing Standards* commonly referred to as the *Yellow Book Standards*.

Statutory violation: The Respondent admitted that: by failing to indicate on his 2006 license renewal form that he had performed audits in 2004 and 2005 he deceived the Board in issuing him a license; by preparing audit reports without becoming enrolled in a peer review program he violated KRS 325.301(8) which is a basis to take action against his license; and the audit reports he issued failed to comply with the *Yellow Book Standards*.

Remedy: The Respondent was ordered to pay a \$2,500 fine and his license to practice public accounting was suspended for a period of one (1) year. Following the completion of the suspension of his license if the Respondent chooses to perform an audit or review thereafter he shall first, notify the Board in writing that he intends to prepare and issuance an audit or review report(s); next, complete 40 hours in accounting or auditing continuing professional education courses prior to preparing and issuing any report. These 40 hours can be included as part of the 60 or 80 hours of continuing professional education the Respondent is typically required to obtain. The courses shall be preapproved by the Board. The Respondent will have to submit copies of completion documents from the course providers to the Board; following the completion of the continuing education requirement the Respondent must submit the first 5 (five) audit or review reports he prepares. The reports will be submitted to the CPA investigator for the Board for pre-issuance review. Each of the 5 proposed reports must be approved by the CPA investigator prior to their release to a client. The investigator is to submit a report to the Board following the completion of the pre-issuance review process. If the report is favorable then the Respondent will not have to undergo any further pre-issuance review. If the report is unfavorable then the pre-issuance review process shall continue for another year and thereafter until the Respondent receives a favorable annual report.

2008-022 (J. Brinke Marcuccilli, 2254) - The Respondent was chosen at random to submit documentation to verify he completed the CPE courses listed on his 2008 license renewal application. That form listed 7 courses for a total of 62.75 CPE hours. The first letter sent to the Respondent requesting the documentation was mailed on August 4, 2008 to his address on file with the Board. In response to the letter Mr. Marcuccilli notified the Board in writing that he did not have any of the completion documents to substantiate the courses listed on his 2008 renewal form. Instead he was going to obtain copies of the documents from the course providers but needed additional time beyond the August 19, 2008 date listed in the letter from the Board. The Respondent was notified by staff in writing that such an extension could not be granted but under the regular procedures of the Board he would receive a second letter requesting the documentation and another submission date. A second letter requesting the documentation was mailed on September 9, 2008 to the Respondent. In a letter dated

September 17, 2008 to the Board staff the Respondent indicated he was still unable to obtain the documents from the course providers but that he would continue to pursue this with the providers. In the meantime the Respondent offered to submit course agendas and registrations to obtain additional time to obtain the completion documents. The offer to submit the course agendas and registration forms was rejected by the Board and the parties decided to instead settle the matter in an agreed order.

Statutory violation: Primary responsibility for obtaining and maintaining documentation of completion of the continuing education requirements rests with each CPA. These records are to be maintained for a period of five years by the CPA. The Respondent admits he failed to comply with these requirements which is a basis to take action against his license pursuant to KRS 325.340(1)(c).

Remedy: The Respondent was ordered to obtain an additional 120 hours in CPE courses and pay a \$500 fine.

2008-023 (Kathleen K. Cunnington, 5452) - The Respondent was chosen at random to submit documentation to verify she completed the CPE courses listed on her 2008 license renewal application. That renewal form listed 22 courses for a total of 78 continuing professional education hours. In reply to a request to provide the supporting documentation the Respondent submitted a letter dated August 18, 2008 in which she indicated she was enclosing completion documents for 30 of the 78 hours of CPE listed on her renewal form and additional documents to substantiate an additional 11 hours. However the additional documents were not included with her letter. The Respondent also admitted in the letter she was unable to locate documents to support the remaining courses listed on her renewal form.

Statutory violation: Primary responsibility for obtaining and maintaining documentation of completion of the continuing education requirements rests with each CPA. These records are to be maintained for a period of five years by the CPA. The Respondent admits she failed to comply with these requirements which is a basis to take action against her license pursuant to KRS 325.340(1)(c).

Remedy: The Respondent was ordered to complete 60 hours of CPE courses and pay a \$500 fine.

2008-024 (Gregory Donaldson, 7400) - The Respondent was chosen at random to submit documentation to verify he completed the 3 CPE courses for a total of 72 hours as listed on his 2008 license renewal application. The Respondent was able to submit completion documents for 48.6 of the 72 hours listed on the renewal form. The Respondent also admitted in a letter to the Board dated August 14, 2008 that due to some confusion with courses taken through his employer he did not attend one of the courses listed on the renewal form.

Statutory violation: Primary responsibility for obtaining and maintaining documentation of completion of the continuing education requirements rests with each CPA. These records are to be maintained for a period of five years by the CPA. The Respondent admits he failed to comply with these requirements which is a basis to take action against his license pursuant to KRS 325.340(1)(c).

Remedy: The Respondent was ordered to complete 22 hours of CPE courses and pay a \$500 fine.

2008-026 (Gregory M. Curry, 4622) - The Respondent was chosen at random to submit documentation to verify he completed the 6 CPE courses for 60 CPE hours as listed on his 2008 license renewal application. A letter requesting the documentation was sent August 4, 2008 to the Respondent's address on file with the Board. The letter was not returned by the US Postal Service. No response to the letter was received from the Respondent. A second letter requesting the documentation was mailed on September 8, 2008 to the same address as the previous letter. The letter was not returned by the US Postal Service. No response to the letter was received from the Respondent. The Respondent never contacted the Board regarding his failure to submit any documentation in support of the hours listed on his renewal form.

Statutory violation: Primary responsibility for obtaining and maintaining documentation of completion of the continuing education requirements rests with each CPA. These records are to be maintained for a period of five years by the CPA. The Respondent admits he failed to comply with these requirements which is a basis to take action against his license pursuant to KRS 325.340(1)(c).

Remedy: The Respondent was ordered to complete an additional 120 hours of CPE courses and pay a \$500 fine.

2008-031 (Lydia Reynolds, 7552) - The Respondent was chosen at random to submit documentation to verify she completed the CPE courses listed on her 2008 license renewal application. The renewal form listed 5 courses for a total of 65 CPE hours completed in September of 2007 and May of 2008. The first letter sent to the Respondent requesting the documentation was mailed on August 4, 2008 to her address which is on file with the Board. In response to the letter Ms. Reynolds submitted copies of documents that substantiated she had completed the 65 hours of CPE listed on her renewal form. The Respondent also submitted a letter to the Board in which she stated she had encountered some personal problems during this time, her CPE records were in storage and that she was out of town when the August 4th letter was sent. She went on to note that she had resubmitted her answer sheets to the courses listed on the renewal form. The completion documents submitted by the Respondent do match those of the courses listed on her renewal form except as to the month and years they were completed. The renewal form listed the courses as having been completed in September of 2007 and May of 2008. The documents submitted by the Respondent indicated completion dates of August 14 and 15, 2008.

Statutory violation: Primary responsibility for obtaining and maintaining documentation of completion of the continuing education requirements rests with each CPA. These records are to be maintained for a period of five years by the CPA. The Respondent admits she failed to comply with these requirements which is a basis to take action against her license pursuant to KRS 325.340(1)(c).

Remedy: The Respondent was ordered to complete an additional 120 hours of CPE and pay a \$500 fine.

2008-032 (Kristie W. Saffer, 6090) - The Respondent was chosen at random to submit documentation to verify she completed the CPE courses listed on her 2008 license renewal application. A spread sheet attached to the renewal form listed 9 courses for a total of 65 CPE hours. The first letter sent to the Respondent requesting the documentation was mailed on August 4, 2008 to her address which is on file with the Board. In response to the letter Ms. Saffer notified the Board in writing that she was enclosing the completion documents to substantiate some of the courses submitted with her 2008 renewal form. However, the letter also indicated that she had accidentally recorded the same 16 hour CPE course twice for the 2006 calendar year. This reduction in hours meant that in 2006 the Respondent had completed 47 instead of the 63 hours listed on the spread sheet. For 2007 the Respondent verified completing 2 hours of CPE which meant at that time she was able to substantiate having completed 49 as opposed to 65 hours of CPE. The letter went on to request guidance as to what action to take to resolve this deficiency. In early September of 2008 the Respondent submitted course completion documents that substantiated she had completed one 2 hour CPE course in June of 2008 and another 2 hour course on August 28, 2008. The Board agreed to count the June 2008 2 hour course toward the 60 hours of CPE the Respondent should have obtained which gives her a total of 51 hours. The Board rejected the August 28, 2008, 2 (two) hour course to count toward the 60 hour CPE requirement since this course was taken by the Respondent following her receipt of the August 4 CPE audit letter. In the afternoon of September 25 and following completion of the Board's decision in this case, the Respondent submitted proof of having completed an additional 10 hours of CPE on September 23 and 25th respectively.

Statutory violation: Primary responsibility for obtaining and maintaining documentation of completion of the continuing education requirements rests with each CPA. These records are to be maintained for a period of five years by the CPA. The Respondent admits she failed to comply with these requirements which is a basis to take action against her license pursuant to KRS 325.340(1)(c).

Remedy: The Respondent was ordered to obtain an additional 18 hours of CPE and pay a \$250 fine.

2008-033 (Pamela G. Schierberg, 9270) - The Respondent was chosen at random to submit documentation to verify she had completed the CPE courses listed on her 2008 license renewal application. The renewal form listed 12 courses for a total of 60.5 CPE hours completed in 2006, 2007, and through June of 2008. The first letter sent to the Respondent requesting the documentation was mailed on August 4, 2008 to her address which is on file with the Board. In response to the letter Ms. Schierberg submitted copies of documents that substantiated she had completed 57.5 hours of the CPE courses. The Respondent also submitted a letter in which she stated she could not locate all of the completion documents so she submitted a completion document

which substantiated she had completed a 4 hour CPE course in August of 2008 in place of the course documents she could not locate.

Statutory violation: Primary responsibility for obtaining and maintaining documentation of completion of the continuing education requirements rests with each CPA. These records are to be maintained for a period of five years by the CPA. The Respondent admits she failed to comply with these requirements which is a basis to take action against her license pursuant to KRS 325.340(1)(c).

Remedy: The Respondent was ordered to obtain an additional 5 hours of CPE and pay a \$250 fine.

2008-034 (Thomas G. Smith, 1218) - The Respondent was chosen at random to submit documentation to verify he completed the CPE courses listed on his 2008 license renewal application. That renewal form listed 7 courses for a total of 80 CPE hours. The first letter sent to the Respondent requesting the documentation was mailed on August 4, 2008 to his address which is on file with the Board. In response to the letter Mr. Smith submitted completion documents to substantiate he had completed 49 of the 80 hours listed on his 2008 renewal form.

Statutory violation: Primary responsibility for obtaining and maintaining documentation of completion of the continuing education requirements rests with each CPA. These records are to be maintained for a period of five years by the CPA. The Respondent admits he failed to comply with these requirements which is a basis to take action against his license pursuant to KRS 325.340(1)(c).

Remedy: The Respondent was ordered to obtain an additional 62 hours in CPE courses and pay a \$500 fine.

2008-006 (J. Theodore Brittain, 3867) - In 2005 when the Respondent renewed his license he indicated on the form that in the two years prior to the renewal he had not issued any audit, review or compilation reports. However he did indicate that he anticipated issuing one or more of these types of reports in the coming two years. When he renewed his license in 2007 the Respondent indicated that he did not perform any attest services. In a letter dated April 25, 2007 to a member of the Board staff, the Respondent indicated he had performed one attest service but that he did not plan on performing any other services in the future. He also noted difficulty he was having with attempting to retain a CPA to perform a peer review. In a letter dated May 24, 2007 to a Board employee, the Respondent noted he had discussed his situation with two CPA's, one of whom was a member of the KY Society of CPA's peer review committee at that time. Based upon those conversations, the Respondent believed that he would not be required to undergo a peer review for the audit report he had issued. As a result of that conversation and that he was limiting his practice to tax and consulting services he requested a waiver of the peer review requirement. Following a discussion with the head of the KY Society's peer review program on May 31, 2007 the executive director of the Board advised the Respondent that he needed to have the audit he had issued undergo peer review. On August 2, 2007 a member of the Board staff contacted the Respondent by phone and inquired as to his status in the peer review program. The Respondent advised the staff member that he had obtained names of some other CPAs to perform the peer review of his audit report. He went on to advise the staff member that a few of those CPAs had turned him down but he was waiting to hear back from one of them and would send the staff member a written update on his peer review status the following day. On August 3, 2007 the staff member received an email from the Respondent in which he listed the names of 4 (four) CPAs he had contacted to perform the peer review. One of those CPAs was retired and two of the others had turned down his request. After failing to hearing anything more from the Respondent after August 3, 2007, on November 2, 2007 the staff member sent a letter to the Respondent in which she requested to be provided with an update on his status in the peer review program no later than December 7, 2007. On December 4, 2007 the Respondent called and spoke to the same staff member and advised her that the CPA he was trying to retain for the peer review would not be in the office until December 7, 2007 and that when he spoke with that CPA he would contact the staff member. The staff member never heard back from the Respondent. On December 18, 2007 the executive director of the Board left a message on the Respondent's answering machine to call about the peer review status. On January 3, 2008 the executive director sent a letter to the Respondent which requested an update on the peer review status. In a letter dated January 18, 2008 the Respondent stated that on December 4, 2007 he had checked with one of the previous CPAs recommended to perform the peer review but he had still not heard from that CPA. According to

the Respondent that CPA was the fifth one who either refused to perform the review or failed to return his call. In summary Mr. Brittain alleges that he made an attempt to have his peer review performed by five different reviewers. However three of those firms turned down his request, a fourth CPA who was retiring at the time turned down his request and the fifth CPA never returned his calls to perform the review. In order to resolve this situation Mr. Brittain and the Board entered into an Agreed Order.

Statutory violation: The Respondent admitted that by having issued an audit report but having failed to complete a peer review constitutes a violation of KRS Chapter 325.301(6) which is a basis to take action against his license pursuant to KRS 325.340(1)(c).

Remedy: The Respondent was fined \$1,000. He was also prohibited from performing any more audits or other attest services unless he notifies the Board staff in writing that he has agreed to provide such a service to a client, becomes enrolled in the peer review program, and complies with all of the applicable requirements to complete the program.

2008-005 (Melanie B. Bay, 4501) - On July 2, 2007, the Board received a 2007 License Renewal Application and an attached document from the Respondent. On the attachment to the form the Respondent listed the continuing professional education courses she had obtained beginning in November 2005, up to and including October 2006 which totaled 66 hours. The Respondent was one of a number of CPAs chosen at random by the Board to submit proof of having completed the continuing professional education courses listed on their 2007 renewal application form. In a letter to a member of the Board staff dated September 4, 2007, the Respondent stated that she was only able to provide documentation to substantiate that she had completed 26 of the 66 hours reported with her renewal application form. The Respondent indicated that she began having health problems in 2003 and retired from fulltime employment in May of that year. In 2004 the Respondent stated that due to medical problems for the next two years she worked a limited number of hours. She went on to state that when she received the renewal form in 2007 she was unaware that was the year to renew her license, that she was experiencing health problems at the time and had ordered but failed to complete two of the courses listed on the renewal form. The Respondent then stated she thought she could only order new courses or report those ordered and then finish them later. Ultimately she requested additional time to complete the courses.

Statutory violation: The Respondent admitted she failed to comply with the CPE requirements as set forth above, which is a basis to take action against her license pursuant to KRS 325.340(1)(c).

Remedy: The Respondent's license was voluntarily surrendered as if revoked. To reinstate her license the Respondent must obtain 160 hours of CPE within the two years prior to submitting a reinstatement request, 40 of which must be in accounting and auditing courses, submit proof of having attended the courses listed on the reinstatement application, pay the reinstatement fee in effect at that time, submit a letter from her current treating physician that she is capable of returning to the practice of public accounting; and pay a fine in the amount of \$500.

2008-004 (Jean Robison, 4292) - On or about November 20, 2007, the Respondent entered into a Plea Agreement in a case styled as *United States of America v. Jean Robison*, Case No. 2:07-CR-98-DLB-1, which was filed in the United States District Court for the Eastern District of Kentucky. As described in the agreement the Respondent pled guilty to 1(one) felony count of Conspiracy to Harbor Aliens for Commercial Advantage or Private Financial Gain in violation of 8 USC Section 1324(a)(1)(A)(v)(I). The Respondent was scheduled to renew her individual license prior to July 1, 2008. However after entering the guilty plea described above the Respondent was not authorized to renew her license until she was sentenced in the criminal case. On July 31, 2008 a Judgment was entered in the case in which the Respondent was sentenced to 3 years of probation, 6 months of which consisted of home detention, completion of 100 hours of community service, and payment of a \$100 criminal monetary penalty.

Statutory violation: The Respondent admitted that by entering a guilty plea in the criminal case, she in fact pled guilty to having committed a felony which constitutes a violation of KRS 325.340(1)(e).

Remedy: The Respondent's individual license was suspended for a period of three (3) years. The Respondent is not allowed to make application for a possible reissuance or reinstatement of her license until a period of three (3) years has passed. Any such application for an license will not be considered or granted unless the

Respondent establishes by a preponderance of the evidence that she completed all of the terms and conditions of her sentence from the federal criminal action, which includes completion of any probation; refrains from pleading guilty to or being convicted of a felony in any federal or state court on any other charges; refrains from pleading guilty to or being convicted of a misdemeanor involving theft, fraud, or moral turpitude in any federal or state court on any other charges; not found guilty by the Board of violating any provision of KRS Chapter 325 or the accompanying administrative regulations; and has completed the reinstatement requirements in effect for the year she submits her application for reinstatement which includes the necessary amount of continuing professional education hours which at the time the Order was entered into consisted of 80 hours, one half of which must be in auditing and accounting courses.

2008-019 (Gaw and Associates, PLLC) - For the year ended 2007 the Respondent performed audits for 6 (six) KY school districts. The Board was notified by the KY Auditor's Office of possible deficiencies with the audits. Each of the audits was reviewed by an investigator for the Board. Following his review the investigator noted that each audit report indicated a significant deficiency in internal control. However each significant deficiency was not included in the Schedule of Findings as required by *Government Auditing Standards*. Instead the deficiencies were reported in a Management Letter. In addition the significant deficiency did not contain the elements of criteria, condition, cause, effect and recommendations required by the *Government Auditing Standards*. Each of the reports was therefore considered substandard. In response to the report Mr. Gaw admitted that the *Report on Internal Control Over Financial Reporting on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with Government Auditing Standards* did reference an audit finding in the Schedule of Findings and Questioned Cost and the finding did not appear on that schedule. Mr. Gaw acknowledged that while this error may result in the audit being classified as substandard he would classify this as a "reporting error" that he has since corrected. He went on to state that he has updated his Quality Control Document, instituted a policy of having a pre-issuance review on at least one of the Single Audits the firm performs each year and having his yearly monitoring report completed by an outside firm each year.

Statutory violation: The Respondent admitted that in issuing the audit reports the firm failed to comply with the applicable *Yellow Book Standards* as set forth above which is a violation of KRS 325.340(1) (b).

Remedy: The Respondent was ordered to pay a \$500 fine.

2008-025 (Dan C. Wyse, 5534) - The Respondent was chosen at random to submit documentation to verify he completed the CPE courses listed on his 2008 license renewal application. That renewal form listed 4 courses for a total of 65 CPE hours. The first letter sent to the Respondent requesting the documentation was mailed on August 4, 2008 to his address which is on file with the Board. The letter was not returned by the US Postal Service as undeliverable. No response to the letter was received from the Respondent. A second letter requesting the documentation was mailed on September 8, 2008 to the same address as the previous letter. The letter was not returned by the US Postal Service as undeliverable. No response to the letter was received from the Respondent. On October 3, 2008 a third letter was sent to the Respondent to the same above noted address. The letter included a suggested Agreed Order to resolve the Respondent's failure to produce the CPE course completion documents. The Respondent was requested to submit a response to the October 3rd letter in time so it would be received in the Board office no later than October 31, 2008. On November 14, 2008 a letter was received from the Respondent at the Board office. In his letter the Respondent stated that he was voluntarily surrendering his license since he has not practiced public accounting for more than 15 years. In conclusion the Respondent noted that he was not going to submit any CPE completion documents.

Statutory violation: Primary responsibility for obtaining and maintaining documentation of completion of the continuing education requirements rests with each CPA. These records are to be maintained for a period of five years by the CPA. The Respondent admits he failed to comply with these requirements which is a basis to take action against his license pursuant to KRS 325.340(1)(c).

Remedy: The Respondent's license was voluntarily surrendered as if revoked. To reinstate his license the Respondent must complete 200 hours of CPE within the two years prior to submitting a reinstatement request, 40 of which must be in accounting and auditing courses. Also he must pay the reinstatement fee in effect at that time, and pay a \$500 fine.

2008-027 (Michael D. Foley, 1832) - The Respondent was chosen at random to submit documentation to verify he completed the CPE courses listed on his 2008 license renewal application. That renewal form listed 7 courses for a total of 80 CPE hours. The first letter sent to the Respondent requesting the documentation was mailed on August 4, 2008 to his address which is on file with the Board. The letter was not returned by the US Postal Service as undeliverable. No response to the letter was received from the Respondent. The letter requested the documents be received in the Board office no later than August 19, 2008. As a result of being out of town the Respondent did not open the letter from the Board until August 18, 2008. On that same day the Respondent contacted the Board office and spoke with a member of the staff regarding the August 4 letter and his inability to meet the deadline even though he had copies of the documents requested. The Respondent was advised to wait to submit the documents with a second notice that would be sent to him. Following the phone call with the Board employee the Respondent set the completion documents aside and began to work on matters associated with satisfying the Sept 15 and Oct 15 tax deadlines. A second letter requesting the documentation was mailed on Sept 8, 2008 to the same address as the previous letter. In the letter it was requested that copies of the CPE completion documents be mailed no later than September 22, 2008. The letter was not returned by the US Postal Service as undeliverable. No response to the letter was received from the Respondent by the date requested. After failing to hear a response to the request for documents, on Oct 3, 2008 a letter and proposed Agreed Order was mailed to the Respondent's address on file with the Board. In the letter the Respondent was given until October 17 to submit the CPE completion documents or until October 31 to return the Agreed Order. On October 27, 2008 a letter and all of the CPE completion documents was received from the Respondent. In the letter the Respondent described the reasons for failing to respond to the previous requests for the documents and that he did not recall having seen the October 3 letter.

Statutory violation: The Respondent admits he failed to respond in a timely manner to a board inquiry regarding a licensing matter which is a basis to take action against his license pursuant to KRS 325.340(1)(i).

Remedy: The Respondent was ordered to pay a \$100 fine.

2008-039 (Gregory A. Spradlin, 3120) - The Respondent was chosen at random to submit documentation to verify he completed the CPE courses listed on his 2008 license renewal application. The renewal form listed 6 courses for a total of 64 CPE hours. A letter to the Respondent requesting the documentation was mailed on September 17, 2008 to his address which is on file with the Board. No response was received from Mr. Spradlin and the letter was not returned by the US Postal Service as undeliverable. A second letter requesting the documentation was mailed on October 6, 2008 to the Respondent's address which is on file with the Board. On October 15, 2008 a letter was received from the Respondent. In addition to the letter Mr. Spradlin enclosed documentation that substantiated he had completed 45.5 hours of CPE as opposed to the 64 listed on his 2008 renewal form. Mr. Spradlin explained in his letter that he discovered one of the courses listed on the renewal form did not qualify for CPE and credit hours for three of the other courses were actually less than the corresponding amounts listed on his renewal form. The Respondent also stated that he was unaware of the discrepancies between the hours listed on his renewal form and the hours actually granted by the course providers until he obtained copies of the completion documents from the providers following receipt of the letters from the Board.

Statutory violation: Primary responsibility for obtaining and maintaining documentation of completion of the continuing education requirements rests with each CPA. These records are to be maintained for a period of five years by the CPA. The Respondent admits he failed to comply with these requirements which are a basis to take action against his license pursuant to KRS 325.340(1) (c).

Remedy: The Respondent was ordered to complete 40 hours of CPE and pay a \$500 fine.

2008-040 (J. Todd Thompson, 5686) - The Respondent was chosen at random to submit documentation to verify he completed the CPE courses listed on his 2008 license renewal application. The renewal form listed 5 courses for a total of 62 CPE hours. A letter to the Respondent requesting the documentation was mailed on September 17, 2008 to his address which is on file with the Board. On September 28, 2008 a letter from the Respondent was received in the Board office. Enclosed with the letter were documents related to the courses listed on the Respondent's 2008 license renewal form. However as noted on the documents and by Mr.

Thompson in his letter, the courses were in fact completed after the dates listed on his renewal form that was received in the Board office on August 8, 2008. Also included with the letter was an “amended” 2008 license renewal form that listed the correct dates the courses had been completed along with a check to pay the fee associated with the late filing of the renewal form. Mr. Thompson noted in his letter that he had purchased the courses and began working on them prior to sending in his renewal form but was unable to complete them before submitting the form.

Statutory violation: Primary responsibility for obtaining and maintaining documentation of completion of the continuing education requirements rests with each CPA. These records are to be maintained for a period of five years by the CPA. The Respondent admits he failed to comply with these requirements which are a basis to take action against his license pursuant to KRS 325.340(1) (c).

Remedy: The Respondent was ordered to complete 120 hours of CPE and pay a \$500 fine.

2008-041 (Lori K. Rawls, 8868) - The Respondent was chosen at random to submit documentation to verify she completed the CPE courses listed on her 2008 license renewal application. That renewal form listed 5 courses for a total of 65 CPE hours. The first letter sent to the Respondent requesting the documentation was mailed on September 17, 2008 to her address on file with the Board. The letter was not returned by the US Postal Service as undeliverable. No response to the letter was received from the Respondent. A second letter requesting the documentation was mailed on October 6, 2008 to the same address as the previous letter. The letter was not returned by the US Postal Service as undeliverable. No response to the letter was received from the Respondent. The Respondent never contacted the Board regarding her failure to submit any documentation in support of the hours listed on her renewal form.

Statutory violation: Primary responsibility for obtaining and maintaining documentation of completion of the continuing education requirements rests with each CPA. These records are to be maintained for a period of five years by the CPA. The Respondent admits she failed to comply with these requirements which is a basis to take action against her license pursuant to KRS 325.340(1)(c).

Remedy: The Respondent was ordered to obtain an additional 120 hours of CPE and pay a \$100 fine.

2008-042 (Ted S. Wahl, 9522) - The Respondent was chosen at random to submit documentation to verify he completed the CPE courses listed on his 2008 license renewal application. That renewal form listed 7 courses for a total of 60 CPE hours. The first letter sent to the Respondent requesting the documentation was mailed on August 4, 2008 to his address on file with the Board. The letter was not returned by the US Postal Service as undeliverable. No response to the letter was received from the Respondent. A second letter requesting the documentation was mailed on September 8, 2008 to the same address as the previous letter. The letter requested that copies of the documents be mailed no later than September 22, 2008. On September 26, 2008 copies of the documents requested in the previous two letters were received in the Board office. In a letter to the executive director of the Board dated September 30, 2008 the Respondent apologized for the delay in responding to the two letters requesting the documents. He went on to state that he had failed to promptly open the letters from the Board which resulted in his inability to submit the documents according to the date specified in the letters.

Statutory violation: The Respondent admitted he failed to respond in a timely manner to a board inquiry regarding a licensing matter which is a basis to take action against his license pursuant to KRS 325.340(1)(i).

Remedy: The Respondent was ordered to pay a \$100 fine.



Kentucky State Board of Accountancy
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**ADDRESS CHANGED?
PLEASE NOTIFY US**

It is your responsibility as a licensed CPA to notify the Board of your Current address. You may submit notice of a change in address by mail, fax, or through our website at cpa.ky.gov by using our “address Change form.”