



STATE OF WASHINGTON  
BOARD OF ACCOUNTANCY

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June 17, 2013

Dear Mr. Schumacher:

Although I understand that as an expenditure-appropriated agency, we are subject to cessation of business on July 1 absent legislative approval of an operating budget, I submit the following contingency plan as requested in your memo dated June 12, 2013.

The Washington State Board of Accountancy, ACB 165, receives no general fund or federal funds. However, the agency's expenditure authority is appropriated by the legislature.

Our mission is to protect the public from errant regulated professional accountants (CPAs) who violate the public trust and cause financial harm to Washington citizens and others. A violation of the state's Public Accountancy Act is a misdemeanor the first time a violation occurs. Thereafter, a violation may result in prosecution as a Class C Felony.

The primary purpose of the Board and the Agency is to (*paraphrasing of the statute*):

***Promote the dependability of financial and other information used by providers of capital when assessing the status and performance of those seeking financial resources***

To accomplish that purpose, the Agency and the Board members are responsible for ***ensuring credentialed persons are:***

- *Initially qualified, referred to generally as merely issuing a initial license to practice public accounting which gives the board legal authority to impose discipline if necessary*
- *Remain qualified, un-affectionately referred to as merely issuing a renewed license to practice public accounting every three years if the applicant remains qualified*
- *Monitor the performance of individual CPAs and their business organizations (CPA Firms) , respond to complaints about negligent performance referred to the agency; and*
- *Bring charges for criminal actions and/or otherwise impose sanctions including restitution to injured parties, if appropriate.*

Additionally, the Board serves as the public authority to provide:

- *Consumer alerts and public protection information regarding persons or firms who violate the Public Accountancy Act or Board rules, and*
- *General consumer protection information.*



Mr. Schumacher

June 17, 2013

Page 2

We currently have several egregious cases with investigations completed or nearly completed requiring resolution in a timely manner to ensure the respondent's rights to due legal process are protected. Failure to timely conclude these proceedings could allow these persons to continue to render services while potential constitutional legal issues of alleged lack of due legal process could be potentially litigated.

Progressing with this critical activity would require the Executive Director, the Director of Investigations and the involvement of the nine volunteer Board members appointed by the Governor.

Failure to timely produce "licenses"(Board recognition) for initial applicants for recognition and applicants for renewed recognition (which is merely posting to our publicly available licensee search application) will result in limited public dissatisfaction and confusion but, in my view, would likely not result in enhanced public harm in the short term.

Lack of availability to respond to citizen/consumer complaints against credentialed firms and individuals would also likely not result in enhanced public harm in the very short term but would, in my view, result in public dissatisfaction.

In sum:

1. As I understand the constitutional interpretation, the agency would cease operations on July 1 because the agency's expenditure authority is subject to legislative appropriation through the operating budget.
2. As an agency regulating CPA services required by other federal agencies (SEC, PCAOB) as acknowledged by the tenth amendment to the U.S. Constitution and the more recent Sarbanes-Oxley and Dodd-Graham Acts, the agency's activities are similar to those of the state's law enforcement agencies, e.g. the protection of the financial safety of citizen consumers through regulation of the audit process and investigation of alleged fraud, embezzlement, and theft of the consumer's financial assets and/or remuneration to the injured consumer by virtue of the Board's statutory authority to require restitution to injured parties. Absent cease and desist emergency orders and other regulatory mechanisms, defendant/respondent parties might continue such activities in the near term and then seek to avoid prosecution by litigating the agency's failure to provide timely resolution to the matter either as a tort claim by the injured parties or by the defendant/respondent's litigation of a violation of her/his constitutional rights to due legal process.
3. The Executive Director's contingency plan would be:
  - a. Cease licensure and monitoring activities, but
  - b. **If permitted**, the Executive Director, Director of investigations,, and the nine volunteer Board members would conclude the several ongoing investigations involving violators of the state's 1031 exchange facilitators provisions, embezzlement, theft, and grossly negligent performance supported by clear, cogent, and convincing evidence.
4. Consumer awareness information would be intact through the agency's electronic licensee search through June 30. That information about the credentialed status of a licensee or CPA-Inactive

Mr. Schumacher

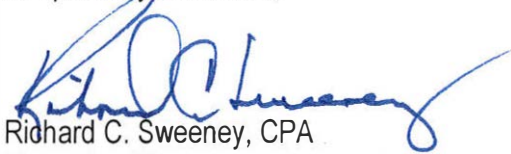
June 17, 2013

Page 3

certificateholder would be available to consumers as long as the state's IT infrastructure was available. Alternatively, by virtue of a second web based consumer tool known as CPAVerify.org, similar information would continue to be available to consumers on a global basis. Almost all Boards of Accountancy throughout the United States and territorial jurisdictions have their individual licensee search information available on CPAVerify.org.

Beginning July 1, by virtue of ceasing to recognize individuals and cessation of monitoring activities due to the shutdown, individuals and their firms otherwise qualified or disqualified subsequent to June 30 would not be available to consumers.

Respectfully submitted,



Richard C. Sweeney, CPA

Executive Director

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