

January 18, 2012

Department of Consumer Affairs
California Board of Accountancy
2000 Evergreen Street, Suite 250
Sacramento CA 95815-3832
Attn: Matthew Stanley, Regulation Analyst

RE: California Board of Accountancy & Safe Harbor Language for Financial Statement Preparation.

Dear Mr. Stanley,

The California Board of Accountancy voted to add a section to the safe harbor language with regard to financial statement preparation to read: "We [I] are [am] not licensed nor required to be licensed by the California Board of Accountancy for the preparation of these financial statements. If compiled, reviewed or audited financial statements are desired, the services of someone licensed by the California Board of Accountancy would be required."

Our clients know we are not CPAs and they know what they "desire." We have no issue with the statement that "I am not licensed by the Board..." However, the additional sentence is essentially requiring individuals not licensed by the Board to advertise the services of licensees. This is unfair and contrary to the decision by the California Supreme Court in 1992 in the *Bonnie Moore* case. The current Safe Harbor Language is in line with the Supreme Court decision; it is not broken and does not need to be fixed.

The revised language is negative and mandates us to provide free advertising and referrals for California CPAs. Furthermore, it confuses clients into believing that a regulated individual – a CPA – is required even when non-regulated accounting services are "desired." We as tax professionals and non-licensed accountants do not provide services regulated or licensed by the CBA, but by changing the safe harbor language you are trying to regulate us.

Very truly yours,

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Attn: Matthew Stanley, Regulation Analyst

RE: Changes to the California Board of Accountancy Safe Harbor Language

Dear Mr. Stanley,

I take great exception to the additions to the safe harbor language being promulgated by the Board of Accountancy. The statements are irrelevant, unnecessary and contrary to the California Supreme Court decision in the *Bonnie Moore* case.

The first statement to be added says "I am not licensed or required to be licensed by the California Board of Accountancy." This is factual, but irrelevant. The *Bonnie Moore* case clearly established that the preparation of financial statements does not require a license. Because the safe harbor letter only covers the preparation of financial statements, which does not require a license, the mention of a license is unnecessary.

The second statement to be added says "If compiled, reviewed or audited financial statements are desired, the services of someone licensed by the California Board of Accountancy would be required." The current safe harbor letter clearly states "I have not audited or reviewed the accompanying financial statements..." so the user is already aware that the financial statements have been prepared but not reviewed or audited. There is no reason to assume the client wants anything more than the financial statements that were requested and prepared. Therefore the added statement is unnecessary.

The *Bonnie Moore* case revolved around the use of the words "accounting" and "accountant." The Court ruled that a disclaimer must accompany the use of these words by an unlicensed person, and it provided two examples of wording that would satisfy the disclaimer: "I am not licensed by the Board of Accountancy" and "The services provided do not require a state license." An example implies that other wording could also be acceptable. However, the Board of Accountancy has chosen one of the Court's examples and mandated its use, even where the words "accountant" and "accounting" have not been used. This is clearly beyond the scope of the Court's decision and contrary to its intent. Thus it is unacceptable and should not be permitted.

Thank you for your consideration.

Sincerely yours,