



# **ETHICAL DETERMINATIONS FOR ACCOUNTANTS**

**2016 WVASBO Spring Conference  
Embassy Suites  
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# CHANGING BUSINESS DYNAMIC

## **“IT’S JUST BUSINESS”**

- **1990's - Longest Peace Time Economic Expansion**
- **Mistaken View That Business Cycle Had Been “Outlawed”**
- **Events of September 11, 2001**
- **Too Much Belief in “Rising tide lifts all boats”**
- **The Age of the Economic Bubble – Real Dollars Pursuing Imaginary Earnings**

# **CHANGING PROFESSION**

## **FEES AND SERVICE MIX**

- **1993 - 31% of Industry Fees From Consulting**
- **1999 - 51% of Industry Fees From Consulting**
- **2001 – Non Audit Consulting to Auditing Fees (\$2.69 to \$1.00)**
- **Modern Audits - High Risk - Low Profit Margin Enterprise**
- **Increased Use of Audits as “Loss Leader”**



# **HIGH PROFILE AUDIT FAILURES**

- **Rite Aid - 1999 (\$500 Million Earnings Adjustment)**
- **W.R. Grace - 1999 (Earnings Smoothing)**
- **Enron - Fall 2001 (\$50 Billion Bankruptcy)**
- **Tyco - Fall 2002 (Unethical Behavior by Officers)**
- **World com - Summer 2002 (\$9 Billion Earnings Adjustment brings down World com)**

# **OVERVIEW**

## **ETHICAL STANDARDS**

- **AICPA Code of Professional Conduct**
- **SEC Independence Rules**
- **Public Company Accounting Oversight Board (PCAOB)**
- **GAO Ethics and Independence Rules**
- **DOL Rules – Employee Benefit Plan Audits**
- **IRS Requirements – Circular No. 230**

# **OVERVIEW – RULE SETS**

## **AICPA CODE OF PROFESSIONAL CONDUCT**

- **Effective December 15, 2014**
- **Contains Six Principles**
  - **0.300.020 – Responsibilities**
  - **0.300.030 - The Public Interest**
  - **0.300.040 – Integrity**
  - **0.300.050 - Objectivity and Independence**
  - **0.300.060 - Due Care**
  - **0.300.070 - Scope and Nature of Services**



# **OVERVIEW – RULE SETS**

## **AICPA CODE OF PROFESSIONAL CONDUCT**

- **Effective December 15, 2014**
- **Consists of Three Parts**
  - **Part 1 – Pertains to members in public practice (Primary focus of this presentation)**
  - **Part 2 – Pertains to members in business**
  - **Part 3 – Pertains to all other members, including those who are retired and unemployed.**

# **OVERVIEW – RULE SETS**

## **SEC INDEPENDENCE RULES**

- **Rule 2-01 of Regulation S-X**
- **FAQ - Commission's Rules on Auditor Independence**
- **Section 602 - SEC Codification of Financial Reporting Releases**



# **OVERVIEW – RULE SETS**

## **PCAOB RULES**

- **Rule 3100 - Compliance with Auditing and Related Professional Practice Standards**
- **Rule 3101 - Certain Terms Used in Auditing and Related Professional Practice Standards**
- **Rule 3200T - Interim Auditing Standards**
- **Rule 3201T - Temporary Transitional Provision for PCAOB Auditing Standard No. 2, “An Audit of Internal Control Over Financial Reporting Performed in Conjunction With an Audit of Financial Statements”**

# **OVERVIEW – RULE SETS**

## **PCAOB RULES**

- **Rule 3300T - Interim Attestation Standards**
- **Rule 3400T - Interim Quality Control Standards**
- **Rule 3500T - Interim Ethics Standards**
- **Rule 3501 - Definitions of Terms Employed in Section 3, Part 5 of the Rules**
- **Rule 3502 - Responsibility Not to Knowingly or Recklessly Contribute to Violations**

# **OVERVIEW – RULE SETS**

## **PCAOB RULES**

- **Rule 3520 - Auditor Independence**
- **Rule 3521 - Contingent Fees**
- **Rule 3522 - Tax Transactions**
- **Rule 3523 - Tax Services for Persons in Financial Reporting Oversight Roles**
- **Rule 3524 - Audit Committee Pre-approval of Certain Tax Services**



# OVERVIEW – RULE SETS

## PCAOB RULES

- **Rule 3525 - Audit Committee Pre-approval of Non-audit Services Related to Internal Control Over Financial Reporting**
- **Rule 3600T - Interim Independence Standards**
- **Rule 3700 - Advisory Groups**

# AICPA CODE - PRINCIPLES

## RESPONSIBILITIES

- **“0.300.020.01 Responsibilities principle. In carrying out their responsibilities as professionals, members should exercise sensitive professional and moral judgments in all their activities.”**

# AICPA CODE – PRINCIPLES

## THE PUBLIC INTEREST

- **“0.300.030.01 The public interest principle. Members should accept the obligation to act in a way that will serve the public interest, honor the public trust, and demonstrate commitment to professionalism.”**



# **AICPA CODE – PRINCIPLES**

## **INTEGRITY**

- **“0.300.040.01 Integrity principle. To maintain and broaden public confidence, members should perform all professional responsibilities with the highest sense of integrity.”**

# **AICPA CODE - PRINCIPLES**

## **OBJECTIVITY AND INDEPENDENCE**

- **“0.300.050.01 Objectivity and independence principle. A member should maintain objectivity and be free of conflicts of interest in discharging professional responsibilities. A member in public practice should be independent in fact and appearance when providing auditing and other attestation services.”**

# AICPA CODE – PRINCIPLES

## DUE CARE

- **“0300.060.01 Due care principle. A member should observe the profession’s technical and ethical standards, strive continually to improve competence and the quality of services, and discharge professional responsibility to the best of the member’s ability.”**



# **AICPA CODE - PRINCIPLES**

## **SCOPE AND NATURE OF SERVICES**

- **“0300.070.01 Scope and nature of services principle. A member in public practice should observe the Principles of the Code of Professional Conduct in determining the scope and nature of services to be provided.”**

# **AICPA CODE – RULES**

## **INTEGRITY AND OBJECTIVITY**

- **“1.100.001.01 In the performance of any professional service, a member shall maintain objectivity and integrity, shall be free of conflicts of interest, and shall not knowingly misrepresent facts or subordinate his or her judgment to others.”**

# AICPA CODE – RULES

## INDEPENDENCE

- **“1.200.001.01 A member in public practice shall be independent in the performance of professional services as required by standards promulgated by bodies designated by Council.”**



# **AICPA CODE – RULES**

## **GENERAL STANDARDS**

- **“1.300.001.01 A member shall comply with the following standards and with any interpretation thereof by bodies designated by Council ....  
A. Professional Competence.... B. Due Professional Care.... C. Planning and Supervision and D. Sufficient Relevant Data....”**

# **AICPA CODE – RULES**

## **COMPLIANCE WITH STANDARDS**

- **“1.310.001.01 A member who performs auditing, review, compilation, management consulting, tax, or other professional services shall comply with standards promulgated by bodies designated by Council.”**

# AICPA CODE – RULES

## ACCOUNTING PRINCIPLES

- **“1.320.001.01 A member shall not (1) express an opinion or state affirmatively that the financial statements or other financial data of any entity are presented in conformity with generally accepted accounting principles or (2) state that he or she is not aware of any material modifications that should be made to such statements or data in order for them to be in conformity with generally accepted accounting principles, if such statements or data contain any departure from an accounting principle promulgated by bodies designated by Council to establish such principles that has a material effect on the statements or data taken as a whole. . . .**



# AICPA CODE - RULES

## ACCOUNTING PRINCIPLES – CONT'

- ... If however, the statements or data contain such a departure and the member can demonstrate that due to unusual circumstances the financial statements or data would otherwise have been misleading, the member can comply with the rule by describing the departure, its approximate effects, if practicable, and the reasons why compliance with the principles would result in a misleading statement.”

# AICPA CODE – RULES

## ACTS DISCREDITABLE

- **“1.400.001.01 A member shall not commit an act discreditable to the profession.”**

# AICPA CODE – RULES

## CONTINGENT FEES

- “1.510.001.01 A member in public practice shall not
- (1) Perform for a contingent fee any professional services for, or receive such a fee from a client for whom the member or the member’s firm performs,
  - (a) an audit or review of a financial statement; or



# AICPA CODE – RULES

## CONTINGENT FEES – CONT'

- (b) a compilation of a financial statement when the member expects, or reasonably might expect, that a third party will use the financial statement and the member's compilation report does not disclose a lack of independence; or

# **AICPA CODE – RULES**

## **CONTINGENT FEES – CONT'**

- (c) an examination of prospective financial information; or**

# AICPA CODE – RULES

## CONTINGENT FEES CONT'

- **(2) Prepare an original or amended tax return or claim for a tax refund for a contingent fee for any client.”**



# AICPA CODE – RULES

## COMMISSIONS AND REFERRAL FEES

### Prohibited Commissions

- **“1.520.001.01 A member in public practice shall not for a commission, recommend or refer to a client any product or service, or for a commission recommend or refer any product or service to be supplied by a client, or receive a commission, when the member or the member’s firm also performs for that client**

# AICPA CODE – RULES

## COMMISSIONS AND REFERRAL FEES

- (a) an audit or review of a financial statement; or
- (b) a compilation of a financial statement when the member expects, or reasonably might expect, that a third party will use the financial statement and the member's compilation report does not disclose a lack of independence; or
- (c) an examination of prospective financial information.

# **AICPA CODE – RULES**

## **COMMISSIONS AND REFERRAL FEES**

### **Disclosure of permitted commissions**

- **“1.520.001.03 A member in public practice who is not prohibited by this rule from performing services for or receiving a commission and who is paid or expects to be paid a commission shall disclose that fact to any person or entity to whom the member recommends or refers a product or service to which the commission relates.”**



# **AICPA CODE – RULES**

## **COMMISSIONS AND REFERRAL FEES**

### **Referral Fees**

- **“1.520.001.04 Any member who accepts a referral fee for recommending or referring any service of a CPA to any person or entity or who pays a referral fee to obtain a client shall disclose such acceptance or payment to the client.”**

# AICPA CODE - RULES

## ADVERTISING

- **“1.600.001.01 A member in public practice shall not seek to obtain clients by advertising or other forms of solicitation in a manner that is false, misleading, or deceptive. Solicitation by the use of coercion, over-reaching, or harassing conduct is prohibited.”**

# AICPA CODE – RULES

## CONFIDENTIAL CLIENT INFO

- **“1.700.001.01 A member in public practice shall not disclose any confidential client information without the specific consent of the client.”**



# **GENERAL DISCUSSION**

## **PERMITTED MIX OF SERVICES**

**What Services Are Permitted for Attest Clients?**

- **Bookkeeping**
- **Payroll and Other Disbursement**
- **Benefit Plan Administration**
- **Investment Advisory or Management Services**
- **Corporate Finance Services**
- **Actuarial Services – Insurance Companies**
- **Employee Search & Human Resource Services**

# **GENERAL DISCUSSION**

## **PERMITTED MIX OF SERVICES**

**What Services Are Permitted for Attest Clients?**

- **Business Risk Consulting**
- **Information Systems Services**
- **Management Advisory Services**
- **Legal Services**
- **Tax Services**

