



# Common Regulatory Pitfalls

**by Ryan P. Edmonson, MBA**

*I was 16 years old, new to Arizona and wanted to make an impression. So, I bought a car and not just any car; I bought a Chevrolet Camaro. Like most 16-year olds in a faster than normal vehicle, I didn't always drive the speed limit. One evening I found myself racing a car, which turned out to be a black and white, which is street jargon for a police car. As you might imagine, I found out pretty quickly that my impressive car and its speed was not faster than a speeding ticket. As a new driver, I was quickly introduced to the regulation and responsibility of having an Arizona driver's license.*

Regulations shape how we behave and help us distinguish right from wrong. Regulations protect us from individuals, businesses and other entities that do not have our best interests at heart. And like it or not, regulation is essential in every part of our lives: from the mundane of how fast we can drive in our Camaros to the regulation of certified public accountants. The certified public accounting profession provides the public with the assurance that they are hiring a professional who is competent and who upholds standards of professional conduct.



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In order for the certified public accounting profession to continue to be a respected profession, the Arizona State Board of Accountancy (Board) is charged with protecting the public. In fact, pursuant to Arizona Revised Statute § 32-703(A), the primary duty of the Board is to protect the public from unlawful, incompetent, unqualified or unprofessional certified public accountants or public accountants through certification, regulation and rehabilitation. Additionally, CPAs should not want individuals in their profession who tarnish their image, but rather individuals who live by a professional standard that the CPA designation denotes. That is why it is important for the Board to enforce its laws and rules and why it is important for CPAs to do the same – to protect the public and the reputation of this celebrated profession.

I have been the compliance manager for the Board for almost 10 years and have opened hundreds of files on individuals and firms ranging from failure to return records to fraud. I believe my tenure with the Board has exposed me to many, if not all, areas where CPAs are prone to error. With that in mind, my hope is to use this article to help CPAs.

### **Return of Client Records**

Complaints regarding the return of client records are, by far, the most common complaints received in the Board's office. While this request seems like a fairly simple request, made by your current or former clients, CPAs often find themselves struggling on how to respond to these requests. Based on the large number of complaints and phone calls I receive, it seems as though some CPAs may not be sure what constitutes client records and which portion of their file should be provided to the requesting party. This seems to be even more pivotal when there is a fee owed by the current or former client. The requesting party is more often than not the client. However, the requesting party may also be an entity, an attorney, a successor CPA or someone else on behalf of the client with signed consent.



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A.R.S. § 32-744; *Ownership and custody of working papers and records* and Arizona Administrative Code (A.A.C.) R4-1-455.02(B); *Professional Conduct: Confidentiality; Records Disposition* are the references Arizona CPAs should refer to when addressing current or former client requests for their records. Essentially, both references state that CPAs should furnish, within a reasonable timeframe, records that ordinarily would constitute part of the client's records and are not otherwise available to the client. The same is true when the records are joint records, such as a husband and wife, and must be returned to either party upon request. To fulfill such requests, CPAs may provide the copies in hard copy format and/or electronic format.

Although neither the statute, nor the rule requires a CPA to return copies that you believe are already in the client's possession, if the client asserts that the records are not in his or her possession, then the CPA should provide copies of the requested records. The CPA should always return records regardless of the terms of the relationship with the client, which is far easier than risking a complaint being filed by your current or former clients.

There is also no provision in either the statute or the rule prohibiting the CPA to charge a reasonable fee for copying and delivering the requested copies. Further, there is no such law allowing a CPA to retain a client's records as a ransom for payment; you must always return client records.

### **Update Your Current Address**

The Board works diligently to provide the CPA community, which consists of approximately 10,600 individuals and 3,300 firms with the most current information regarding their certificates and important information regarding

the maintenance of their certificates. However, we still receive hundreds of phone calls per year from certificate holders claiming they never received the communication that was delivered from the Board's office. In most, if not all, of those circumstances, we have discovered that the recipient did not receive the communication because they failed to notify the Board of an address change. A.A.C. R4-1-346 requires all certificate holders to notify the Board of any business, mailing or residential change of address, in writing and within 30 days of the change. Don't fall prey to this common and very avoidable pitfall. Simply download the Board's change of address form, which can be found at <http://www.azaccountancy.gov/Renewals/ChangeOfAddress.aspx> to request your change of address.

### **Timely Renew Your CPA Certificate**

You say it's your birthday; well it's my birthday too. Whether or not you are a *16 Candles* fan or not, there is no easier way to remember to renew your CPA certificate than to know that your renewal occurs every two years during the month of your birthday. For those born in even years, your renewal occurs every even year. And, for those born in odd years, your renewal is every odd year.

Pursuant to A.R.S. § 32-730(A), all CPAs shall biennially renew their certificates. Further, A.R.S. 32-741.01 states that failure to renew your certificate timely and pay the biennial renewal fee will result in an automatic suspension of your CPA certificate without prior notice or a hearing. If you fail to reinstate your CPA certificate within 12 months of the date of the suspension, the certificate expires. Under the terms of the suspension and expiration, the individual can no longer use the CPA

designation. Currently, it is mandatory that CPAs renew their certificates online through the Board's website, which is [www.azaccountancy.gov](http://www.azaccountancy.gov).

### Failure to Maintain Proper CPE Documentation

Pursuant to A.R.S. § 32-730(C), as a prerequisite of your renewal, each CPA must submit to the Board satisfactory proof, in a manner prescribed by the Board that the CPA has completed the CPE requirements established by the Board. The Board has tried to help CPAs with the proper maintenance of CPE by making it as easy as possible with the creation of a CPE list on your personal account. You must log into your personal account on the Board's website and click the CPE list menu option. Once there you may log your CPE at any time between renewals and your coursework will be saved to your account — making it easy for you when it comes time to submit your biennial renewal. The more challenging part is maintaining the records.

Reporting CPE is essentially based on an honor system. And because of the honor system, the Board conducts CPE audits on a random number of CPA renewal files on a monthly basis. If you become the subject of an audit, you must show proof of ALL the CPE you reported on your last registration renewal. The biggest mistake CPAs make regarding CPE is believing that the only proof of completion they need to maintain are certificates of completion. However, A.A.C. R4-1-453 requires that CPAs maintain, for three years, and be able to provide the Board, upon request, copies of course outlines and proof of completion. Failure to do so will result in the suspension of your CPA certificate for up to one year or until you cure the CPE deficiency by taking new CPE.

### Failure to Respond or Timely Respond to the Board

Yes, you read that subtitle correct. CPAs are often disciplined by the Board for simply failing to respond or failing to timely respond to the Board's inquiries.

Failure to timely respond carries a very stiff administrative civil penalty of up to \$2,000. The worst, however, happens for failure to respond, which more often than one may think, leads to an administrative hearing for the revocation of the CPA certificate.

How do you avoid discipline in this area? This may seem like a simple answer to many who are reading this, and it is just that simple – timely respond to the Board by providing the requested information. Your response must be in the Board's office no later than 30 days from the date of the request and not 30 days from the date you received the mailing. Simple – right? Wrong. Your professional world is very busy and sometimes crazy, but forgetting or putting aside the Board's request can prove to be a costly mistake.

### Public Accounting in a Registered Firm

Most CPAs are practicing public accounting in a registered firm. Every year; however, the Board receives several




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inquiries of CPAs who practice public accounting, but are doing so either in an unregistered firm or no firm at all. Pursuant to A.R.S. § 32-747.01 and A.A.C. R4-1-455.03(D)(1), CPAs may practice public accounting, even as an owner or employee, only in a registered firm with the Board. In many cases, the CPA has formed an entity with the Arizona Corporation Commission, but never with the Board. This is a violation. In other cases, a CPA works, as an employee, for a company like H & R Block, Hewitt Jackson, etc., but those entities and entities like them are not owned and operated by a CPA, and therefore, are not required to be registered with the Board. Thus, a CPA in this situation must, at no additional expense, form a sole practitioner firm with the Board as part of their individual online renewal application.

### CPA or Not a CPA That is the Question

Earning a CPA certificate is a great accomplishment, and you should feel

proud of your accomplishment. Believe it or not though, there are some in your community who are also proud, but there is only one problem – they have not earned the right to call themselves a CPA, in Arizona, but are doing so anyway. This is one of the most common areas the Board disciplines and rightly so. This is a violation for the unlawful use of the CPA designation. Any title likely to be confused with the CPA designation is also a violation. If you suspect that someone may be using the designation unlawfully, please provide a written description of the violation, usually a business card, letterhead, résumé, etc. showing the offender's unlawful use of the designation. Often times, the offender is certified in another jurisdiction and believes that certification is applicable in all jurisdictions, but A.R.S. § 32-747 states otherwise.

Now that I have shared with you the most common regulatory pitfalls, allow me to suggest that regulation is one of many rewards in the CPA profession.

Why? Because even in the most serious investigative matter, those in your profession whose practice has been reviewed by the Board soon realize there is value-added through the educational process of being regulated. In addition, those CPAs who have been educated understand the reward of regulation and, in many cases, express gratitude for the redirection.

Being regulated provides your prospective clients assurance and confidence that they are hiring a valuable individual from a respected profession. Any client retention or promotion of your practice should include this assurance and confidence, by impressing upon your current or prospective clients that you are knowledgeable of the Board's laws and rules and that you are at the top of your profession. **AZ CPA**

*Ryan P. Edmonson, MBA, is compliance manager at the Arizona State Board of Accountancy. He can be reached at [redmonson@azaccountancy.gov](mailto:redmonson@azaccountancy.gov).*

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Contact: Former Accountancy Board Member

**D. Jay Ryan**

Attorney at Law  
City North

5415 E. High St., #200

Phoenix, AZ 85054

(623) 937-3737 or

(602)840-8075 (fax)

Free Telephone Consult

Mr. Ryan is a former Assistant Attorney General who represented the Board.

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