

Public Law 27-58

I MINA' BENTE SIETE NA LIHESLATURAN GUÅHAN
2003 (FIRST) Regular Session

Bill No. 212 (COR)

As substituted by the
Committee on Economic Development,
Retirement, Investments, Public Works
and Regulatory Functions and further
amended on the Floor.

Introduced by:

Toni Sanford
v. c. pangelinan
F. B. Aguon, Jr.
R. J. Respicio
J. M.S. Brown
F. R. Cunliffe
C. Fernandez
Mark Forbes
L. F. Kasperbauer
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Ray Tenorio

AN ACT TO REPEAL AND REENACT CHAPTER 35 TITLE 22 OF THE GUAM CODE ANNOTATED, RELATIVE TO THE GUAM ACCOUNTANCY ACT OF 2003, AND TO REPEAL AND REENACT TITLE 25, CHAPTER 2 OF THE GUAM ADMINISTRATIVE RULES, RELATIVE TO POLICIES WITHIN THE ADMINSTRATIVE RULES AND REGULATIONS OF THE GUAM BOARD OF ACCOUNTANCY.

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan*

3 finds the Guam Board of Accountancy (“GBA”) regulates the practice of
4 public accountancy, as well as the administration of testing, certification,
5 licensure, and enforcement of certified public accountants (“CPAs”) for the
6 purpose of protecting the welfare of the general public. *I Liheslaturan*
7 *Guåhan* further finds most state boards of accountancy, including the GBA,
8 generally subscribe to regulatory and professional standards incorporated
9 in the Uniform Accountancy Act (“UAA”), a model code issued and
10 periodically updated by the National Association of State Board of
11 Accountancy (“NASBA”) and American Institute of Certified Public
12 Accountants (“AICPA”).

13 The GBA has determined it is necessary to adopt certain substantive
14 changes in Guam’s Public Accountancy statutes, as recommended by the
15 recently revised UAA, including but not limited to: 1) allowing computer
16 based testing (“CBT”) of CPA Exam(s); 2) applying a broader definition of
17 accounting experience to qualify for a CPA certificate; 3) mandating a
18 triennial ethics continuing professional education (“CPE”) requirement;
19 and 4) accepting substantially equivalent CPAs originally certified in other
20 states rather than requiring each transferring CPA to re-qualify in each new
21 state. Recognizing that the goal of the GBA should be to maintain
22 standards and practices to safeguard the public interest, *I Liheslaturan*
23 *Guåhan* further finds the GBA’s proposed “Guam Public Accountancy Act
24 of 2003” is consistent with established public policies and warrants
25 repealing and reenacting Guam’s statutes.

- 1 **§35112. Reinstatement.**
- 2 **§35113. Unlawful Acts.**
- 3 **§35114. Injunctions Against Unlawful Acts.**
- 4 **§35115. Criminal Penalties.**
- 5 **§35116. Single Act Evidence of Practice.**
- 6 **§35117. Confidential Communications.**
- 7 **§35118. Licensees' Working papers; Clients' Records.**
- 8 **§35119. Privacy of Contract.**
- 9 **§35120. Uniform Statute of Limitations.**
- 10 **§35121. Proportionate Liability.**
- 11 **§35122. Substantial Equivalency.**
- 12 **§35123. Construction; Severability.**
- 13 **§35124. Repeal of Prior Law.**
- 14 **§35125. Effective Date.**

15 **§35101. Title.** This Chapter may be cited as the 'Guam
16 Accountancy Act of 2003'.

17 **§35102. Purpose.** It is the policy of Guam, and the purpose of
18 this Chapter, to promote the reliability of information that is used for
19 guidance in financial transactions or for accounting for or assessing
20 the financial status or performance of commercial, noncommercial,
21 and governmental enterprises. The public interest requires that
22 persons professing special competence in accountancy or offering
23 assurance as to the reliability or fairness of presentation of such
24 information shall have demonstrated their qualifications to do so,
25 and that persons who have not demonstrated and maintained such

1 qualifications, not be permitted to represent themselves as having
2 such special competence or to offer such assurance; that the conduct
3 of persons licensed as having special competence in accountancy be
4 regulated in all aspects of their professional work; that a public
5 authority competent to prescribe and assess the qualifications and to
6 regulate the conduct of licensees be established; and that the use of
7 titles that have a capacity or tendency to deceive the public as to the
8 status or competence of the persons using such titles be prohibited.

9 **§35103. Definitions.** When used in this Act, the following
10 terms have the meanings indicated:

11 (a) 'AICPA' means the American Institute of Certified Public
12 Accountants.

13 (b) 'Attest' means providing the following financial
14 statement services:

15 (1) any audit or other engagement to be performed in
16 accordance with the Statements on Auditing Standards ('SAS');

17 (2) any review of a financial statement to be performed
18 in accordance with the Statements on Standards for Accounting
19 and Review Services ('SSARS'); and

20 (3) any examination of prospective financial information
21 to be performed in accordance with the Statements on
22 Standards for Attestation Engagements ('SSAE').

23 The statements on standards specified in this definition shall be
24 adopted by reference by the Board pursuant to rulemaking and shall
25 be those developed for general application by recognized national

1 accountancy organizations such as the AICPA.

2 (c) 'Board' means the Guam Board of Accountancy
3 established under §35104 of this Chapter or its predecessor under
4 prior law.

5 (d) 'Certificate' means a certificate as certified public
6 accountant issued under §35105 of this Chapter or corresponding
7 provisions of prior law, or a corresponding certificate as certified
8 public accountant issued after examination under the law of any
9 other state.

10 (e) 'Client' means a person or entity that agrees with a
11 licensee, or licensee's employer, to receive any professional service.

12 (f) 'Compilation' means providing a service to be performed
13 in accordance with Statements on Standards for Accounting and
14 Review Services ('SSARS') that is presenting in the form of financial
15 statements, information that is the representation of management
16 (owners) without undertaking to express any assurance on the
17 statements.

18 (g) 'CPA Firm' means a sole proprietorship, a corporation, a
19 partnership, a limited liability partnership, a professional limited
20 liability company. or any other form of organization issued a permit
21 under §35107 of this Chapter.

22 (h) 'License' means a license issued under §35106 of this
23 Chapter; or an individual permit to practice or Firm Permit to
24 Practice issued under corresponding provisions of prior law.

25 (i) 'Licensee' means the holder of a license as defined in

1 §35103(h).

2 (j) 'Manager' means a manager of a limited liability
3 company.

4 (k) 'Member' means a member of a limited liability company.

5 (l) 'NASBA' means the National Association of State Boards
6 of Accountancy.

7 (m) 'Peer Review' means a study, appraisal, or review of one
8 (1) or more aspects of the professional work of a certificate holder,
9 licensee, or CPA firm that issues attest or compilation reports, by a
10 person or persons who hold licenses and who are not affiliated with
11 the license holder or CPA firm being reviewed.

12 (n) 'Permit' means a Firm Permit to Practice as a CPA firm
13 issued under §35107 of this Chapter, or corresponding provisions of
14 prior law, or under corresponding provisions of the laws of other
15 states.

16 (o) 'Professional' means arising out of or related to the
17 specialized knowledge or skills associated with CPAs.

18 (p) 'Report,' when used with reference to financial
19 statements, means an opinion, report, or other form of language that
20 states or implies assurance as to the reliability of any financial
21 statements and that also includes or is accompanied by any statement
22 or implication that the person or firm issuing it has special
23 knowledge or competence in accounting or auditing. Such a
24 statement or implication of special knowledge or competence may
25 arise from use by the issuer of the report of names or titles indicating

1 that the person or firm is an accountant or auditor, or from the
2 language of the report itself. The term “report” includes any form of
3 language which disclaims an opinion when such form of language is
4 conventionally understood to imply any positive assurance as to the
5 reliability of the financial statements referred to and/or special
6 competence on the part of the person or firm issuing such language;
7 and it includes any other form of language that is conventionally
8 understood to imply such assurance and/or such special knowledge
9 or competence.

10 (q) ‘Rule’ means any rule, regulation, or other written
11 directive of general application duly adopted by the Board.

12 (r) ‘State’ means any state of the United States, the District of
13 Columbia, Puerto Rico, the United States Virgin Islands, and Guam.

14 (s) ‘Substantial Equivalency’ is a determination by the board
15 of accountancy or its designee that the education, examination and
16 experience requirements contained in the statutes and administrative
17 rules of another jurisdiction are comparable to, or exceed the
18 education, examination and experience requirements contained in the
19 Uniform Accountancy Act or that an individual CPA’s education,
20 examination and experience qualifications are comparable to or
21 exceed the education, examination and experience requirements
22 contained in the Uniform Accountancy Act.

23 **§35104. Guam Board of Accountancy.** (a) There is hereby
24 created the Guam Board of Accountancy, which shall have
25 responsibility for the administration and enforcement of this Chapter.

1 The Board shall consist of five (5) members appointed by *I Maga'lahi*,
2 all of whom shall be residents of Guam and holders of licenses
3 currently valid under §35106 of this Chapter. The term of each
4 member of the Board shall be four (4) years. Vacancies occurring
5 during a term shall be filled by appointment by *I Maga'lahi* for the
6 unexpired term. Upon the expiration of a member's term of office,
7 such member shall continue to serve until a successor shall have been
8 appointed and taken office. Any member of the Board whose
9 certificate under §35105 of this Chapter is revoked, or suspended
10 shall automatically cease to be a member of the Board. *I Maga'lahi*
11 may, after a hearing pursuant to the Administration Adjudication
12 Law, remove any member of the Board for neglect of duty or other
13 cause.

14 (b) The Board shall elect annually from among its members a
15 chairman and such other officers as the Board may determine to be
16 appropriate. The Board shall meet at such times and places as may
17 be fixed by the Board. Meetings of the Board shall be open to the
18 public except insofar as they are concerned with investigations under
19 §35110 of this Chapter and except as may be necessary to protect
20 information that is required to be kept confidential by Board rules or
21 by the laws of Guam. A majority of the Board members then in office
22 shall constitute a quorum at any meeting duly called. The Board
23 shall have a seal which shall be judicially noticed. The Board shall
24 retain or arrange for the retention of all applications and all
25 documents under oath that are filed with the Board and also records

1 of its proceedings, and it shall maintain a registry of the names and
2 addresses of all licensees under this Chapter. In any proceeding in
3 court, civil or criminal, arising out of or founded upon any provision
4 of this Chapter, copies of any of said records certified as true copies
5 under the seal of the Board shall be admissible in evidence as tending
6 to prove the contents of said records.

7 (c) Each member of the Board shall be reimbursed for the
8 member's actual and necessary expenses incurred in the discharge of
9 the member's official duties.

10 (d) Notwithstanding the Central Accounting Act, all fees and
11 money collected by the Board under this Chapter shall be received
12 and accounted for by the Board and deposited in a special fund
13 known as the Guam Board of Accountancy Fund. This fund shall be
14 established by the Board and kept in a bank licensed to do business
15 on Guam, and funds shall be paid out only upon a request for
16 payment, or requisition, submitted by the Executive Director and
17 countersigned by the Chairperson of the Board, or other member
18 specifically designated by the Board. All monies in this fund are
19 subject to legislative appropriation for the use of the Board in the
20 pursuit of its authority. Such monies shall be utilized solely for the
21 expenses of administering the provisions of this Chapter, which may
22 include, but shall not be limited to, the costs of conducting
23 investigations and of taking testimony and procuring the attendance
24 of witnesses before the Board or its committees; all legal proceedings
25 taken under this Chapter for the enforcement thereof; and

1 educational programs for the benefit of the public and licensees and
2 their employees. The Board shall submit a proposed operating
3 budget to *I Liheslatura* annually

4 (1) The Board shall provide surety bonds in the name
5 of Guam on behalf of the Chairperson and the Executive
6 Director in the sum of Thirty Thousand Dollars (\$30,000.00)
7 each. The premium of said bonds shall be regarded as proper
8 and necessary expenses of the Board.

9 (2) The Board shall make expenditures from this fund
10 for any purpose which is approved by the Board as reasonable
11 and necessary for the proper performance of its duties under
12 this Chapter, including the expenses of the Board delegates to
13 meetings of and the membership fees to the National
14 Association of State Boards of Accountancy.

15 (e) The Board shall file an annual report of its activities with *I*
16 *Maga'lahi, I Liheslatura*, and the Public Auditor, which report shall
17 include a listing of all current licensees under this Chapter. The
18 Board shall mail a copy of the annual report to any person requesting
19 it and paying a reasonable charge therefor.

20 (f) The Board may employ or contract for the services of an
21 executive director and such other personnel as it deems necessary in
22 its administration and enforcement of this Chapter. It may appoint
23 such committees or persons, to advise or assist it in such
24 administration and enforcement, as it may see fit. It may retain its
25 own counsel to advise and assist it in addition to such advice and

1 assistance as is provided by the Attorney General of Guam.

2 (g) The Board shall have the power to take all action that is
3 necessary and proper to effectuate the purposes of this Chapter,
4 including the power to sue and be sued in its official name. The
5 Board shall also have the power to issue subpoenas to compel the
6 attendance of witnesses and the production of documents; to
7 administer oaths; to take testimony, to cooperate with the
8 appropriate authorities in other states in investigation and
9 enforcement concerning violations of this Chapter and comparable
10 acts of other states; and to receive evidence concerning all matters
11 within the scope of this Chapter. In case of disobedience of a
12 subpoena, the Board may invoke the aid of any court in requiring the
13 attendance and testimony of witnesses and the production of
14 documentary evidence. The Board, its members, and its agents shall
15 be immune from personal liability for actions taken in good faith in
16 the discharge of the Board's responsibilities, and the government of
17 Guam shall hold the Board, its members, and its agents harmless
18 from all costs, damages, and attorneys' fees arising from claims and
19 suits against them with respect to matters to which such immunity
20 applies.

21 (h) The Board may adopt rules governing its administration
22 and enforcement of this Chapter and the conduct of licensees,
23 including but not limited to:

24 (1) Rules governing the Board's meetings and the
25 conduct of its business;

1 (2) Rules of procedure governing the conduct of
2 investigations and hearings by the Board;

3 (3) Rules specifying the educational and experience
4 qualifications required for the issuance of certificates under
5 §35105 of this Chapter and the continuing professional
6 education required for renewal of licenses under §35106 of this
7 Chapter;

8 (4) Rules of professional conduct directed to
9 controlling the quality and probity of services by licensees, and
10 dealing among other things with independence, integrity, and
11 objectivity; competence and technical standards;
12 responsibilities to the public; and responsibilities to clients;

13 (5) Rules governing the professional standards
14 applicable to licensees;

15 (6) Rules governing the manner and circumstances of
16 use of the titles 'certified public accountant' and 'CPA';

17 (7) Rules regarding peer review that may be required
18 to be performed under provisions of this Chapter;

19 (8) Rules on substantial equivalence to implement
20 §35122; and

21 (9) Such other rules as the Board may deem necessary
22 or appropriate for implementing the provisions and the
23 purposes of this Chapter.

24 (i) All rules or amendments thereto as promulgated under
25 Subsection (h) of this §35104, or under any other provision of this

1 Chapter shall be adopted pursuant to the rule making procedures set
2 forth in the Administrative Adjudication Law.

3 **§35105. Qualifications for a Certificate as a Certified Public**
4 **Accountant.** (a) The certificate of 'certified public accountant' shall
5 be granted to persons of good moral character who meet the
6 education, experience and examination requirements of the following
7 Subsections of this §35105 and rules adopted thereunder and who
8 make application therefor pursuant to §35106 of this Act.

9 (b) Good moral character for purposes of this §35105
10 means lack of a history of dishonest or felonious acts. The Board may
11 refuse to grant a certificate. or license, on the ground of failure to
12 satisfy this requirement only *if* there is a substantial connection
13 between the lack of good moral character of the applicant and the
14 professional responsibilities of a licensee and *if* the finding by the
15 Board of lack of good moral character is supported by clear and
16 convincing evidence. When an applicant is found to be unqualified
17 for a certificate or license because of a lack of good moral character,
18 the Board shall furnish the applicant a statement containing the
19 findings of the Board, a complete record of the evidence upon which
20 the determination was based, and a notice of the applicant's right of
21 appeal.

22 (c) The education requirement for a certificate shall be at
23 least one hundred fifty (150) semester hours of college education
24 including a baccalaureate, or higher degree, conferred by a college or
25 university acceptable to the Board, the total educational program to

1 include an accounting concentration, or equivalent, as determined by
2 Board rule to be appropriate.

3 **(d) Examination and Education.** (1) The examination
4 required to be passed as a condition for the granting of a certificate
5 shall be held at least twice a year, and shall test the applicant's
6 knowledge of the subjects of accounting and auditing, and such other
7 related subjects as the Board may specify by rule, including but not
8 limited to business law and taxation. The time for holding such
9 examination shall be determined by the Board and may be changed
10 from time to time. The Board shall prescribe by rule the methods of
11 applying for and conducting the examination, including methods for
12 grading and determining a passing grade required of an applicant for
13 a certificate provided, however, that the Board shall to the extent
14 possible see to it that the examination itself, grading of the
15 examination, and the passing grades, are uniform with those
16 applicable in all other states. The Board may make such use of all or
17 any part of the Uniform Certified Public Accountant Examination
18 and Advisory Grading Service of the American Institute of Certified
19 Public Accountants and may contract with third parties to perform
20 such administrative services with respect to the examination as it
21 deems appropriate to assist it in performing its duties hereunder.

22 (2) Notwithstanding Title 22 GCA, §35105(c), beginning
23 August 1, 2003, the education requirement, which must be met *before*
24 an applicant is qualified to take the examination prescribed in
25 Subsection (d)(1) shall be as follows: a baccalaureate degree, or its

1 equivalent, conferred by a college or university acceptable to the
2 Board, with an accounting and business concentration, or equivalent,
3 as determined by Board rule to be appropriate.

4 (e) The Board may charge, or provide for a third party
5 administering the examination to charge, each applicant a fee, in an
6 amount prescribed by the Board by rule.

7 (f) An applicant for initial issuance of a certificate under
8 this §35105 shall show that the applicant has had one (1) year of
9 experience as defined herein and in the Rules. This experience shall
10 include providing any type of service or advice involving the use of
11 accounting, attest, compilation, management advisory, financial
12 advisory, tax or consulting skills all of which was verified by a
13 licensee, meeting requirements prescribed by the Board by rule. This
14 experience would be acceptable if it was gained through employment
15 in government, industry, academia or public practice. The type of
16 experience now acceptable can be applied retroactively.

17 An applicant for initial licensure, or initial certification, who
18 first sat for the exam as a Guam candidate in May 2000 or *prior*, shall
19 have had two (2) years of experience in the practice of public
20 accountancy, meeting requirements prescribed by the Board by rule;
21 or, *if* the applicant's educational qualifications comprise a
22 baccalaureate degree with an accounting concentration, or
23 equivalent, as determined by the Board to be appropriate, and not
24 less than thirty (30) semester hours of additional study in the field of
25 business or related subjects, then that such applicant shall have had

1 one (1) year of experience in such practice;

2 An applicant for initial licensure or initial certification who first
3 sat for the exam as a Guam candidate in November 2000, or *after*,
4 shall have had one (1) year of experience in the practice of public
5 accountancy, meeting requirements prescribed by the Board by rule;

6 An applicant for initial licensure. or initial certification, who
7 first sat for the exam as other than a Guam candidate and did *not*
8 meet Guam's current one hundred fifty (150) hour educational
9 requirements at the time of first sitting shall have had two (2) years of
10 experience in the practice of public accountancy, meeting
11 requirements prescribed by the Board by rule;

12 An applicant for initial licensure or initial certification who first
13 sat for the exam as other than a Guam Candidate and did meet
14 Guam's current one hundred fifty (150) hour educational
15 requirements at the time of first sitting shall have had one year of
16 experience in the practice of public accountancy, meeting
17 requirements prescribed by the Board by rule.

18 (g) Upon the effective date of this Chapter, any person
19 holding a valid certificate issued under *prior* Guam law shall be
20 deemed to have met the requirements for certification set out in this
21 §35105. Individuals who held certificates issued prior to the effective
22 date of this Law will be marked 'inactive' unless they are issued
23 licenses pursuant to and in accordance with §35106.

24 **§35106. Issuance and Renewal of Licenses, and**
25 **Maintenance of Competency.** (a) The Board shall grant or renew

1 licenses to persons who make application and demonstrate:

2 (1) that their qualifications, including where applicable,
3 the qualifications prescribed by §35105, are in accordance with
4 the following Subsections of this Section, *or*

5 (2) that they are eligible under the substantial
6 equivalency standard set out in §35122 of the Act which
7 requires licensure for those CPAs that establish their principal
8 place of business in another state. The holder of a license issued
9 under this Section may only provide attest services, as defined,
10 in a CPA firm that holds a permit issued under §35107 of this
11 Law.

12 (b) Licenses shall be initially issued, and renewed, for
13 periods of not more than three (3) years but in any event shall expire
14 on the last day of June.

15 (1) Applications for such licenses shall be made in such
16 form, and in the case of applications for renewal, between such
17 dates, as the Board shall by rule specify, and the Board shall
18 grant or deny any such application no later than sixty (60) days
19 after the application is filed in proper form.

20 (2) In any case where the applicant seeks the
21 opportunity to show that issuance or renewal of a license was
22 mistakenly denied, or where the Board is not able to determine
23 whether it should be granted or denied, the Board may issue to
24 the applicant a provisional license, which shall expire ninety
25 (90) days *after* its issuance or when the Board determines

1 whether or not to issue or renew the license for which
2 application was made, whichever shall first occur.

3 (c) **Non-substantial equivalency reciprocity.** (1) With
4 regard to applicants that do not qualify for reciprocity under the
5 substantial equivalency standard set out in §35122 of this Chapter,
6 the Board shall issue a license to a holder of a certificate, license, or
7 permit issued by another state upon a showing that:

8 (A) The applicant passed the examination
9 required for issuance of the applicant's certificate with
10 grades that would have been passing grades at the time in
11 Guam;

12 (B) The applicant had four (4) years of experience
13 outside of Guam of the type described in §35105(f) or
14 meets equivalent requirements prescribed by the Board
15 by rule, after passing the examination upon which the
16 applicant's certificate was based and within the ten (10)
17 years immediately preceding the application; and

18 (C) If the applicant's certificate, license, or permit
19 was issued more than four (4) years prior to the
20 application for issuance of an initial license under this
21 Section, that the applicant has fulfilled the requirements
22 of continuing professional education that would have
23 been applicable under Subsection (d) of this Section.

24 (2) As an alternative to the requirements of §35106(c)(1)
25 of this Act, a certificate holder licensed by another state who

1 establishes their principal place of business in Guam shall
2 request the issuance of a license and Guam CPA Firm Permit to
3 Practice from the Board prior to establishing such principal
4 place of business. The Board shall issue a certificate and license
5 to such person who obtains from the NASBA National
6 Qualification Appraisal Service verification that such
7 individual's CPA qualifications are substantially equivalent to
8 the CPA licensure requirements of the AICPA/NASBA
9 Uniform Accountancy Act. Such person must also apply for
10 and receive a Guam CPA Firm Permit to Practice prior to
11 conducting business.

12 (3) An application under this Section may be made
13 through the NASBA Qualification Appraisal Service.

14 (d) For renewal of a license under this §35106 each licensee
15 shall participate in a program of learning designed to maintain
16 professional competency. Such program of learning must comply
17 with rules adopted by the Board. The Board may by rule create an
18 exception to this requirement for certificate holders who do not
19 perform or offer to perform for the public one (1) or more kinds of
20 services involving the use of accounting or auditing skills, including
21 issuance of reports on financial statements, or of one (1) or more
22 kinds of management advisory, financial advisory or consulting
23 services, or the preparation of tax returns or the furnishing of advice
24 on tax matters. Licensees granted such an exception by the Board
25 must place the word 'inactive' adjacent to their CPA title on any

1 business card, letterhead or any other document or device, with the
2 exception of their CPA certificate, on which their CPA title appears.

3 (e) For renewal of a license under this §35106, each licensee
4 shall participate in a program of learning designed to maintain
5 professional competency. Such program of learning must comply
6 with rules adopted by the Board. The Board may by rule create an
7 exception to this requirement. Licensees granted such an exception
8 by the Board must place the word “inactive” adjacent to their CPA
9 title on any business card, letterhead, or any other document or
10 device with the exception of their CPA certificate on which their CPA
11 title appears.

12 (f) The Board shall charge a fee for each application for
13 initial issuance, or renewal, of a license under this Section in an
14 amount prescribed by the Board by rule.

15 (g) Applicants for initial issuance, or renewal, of licenses
16 under this Section shall in their applications list all states in which
17 they have applied for or hold certificates, licenses, or permits and list
18 any past denial, revocation or suspension of a certificate, license or
19 permit, and each holder of or applicant for a license under this §35106
20 shall notify the Board in writing, within thirty (30) days after its
21 occurrence, of any issuance, denial, revocation, or suspension of a
22 certificate, license or permit by another state.

23 (h) The Board shall issue a license to a holder of a
24 substantially equivalent foreign designation, provided that: (1) The
25 foreign authority which granted the designation makes similar

1 provision to allow a person who holds a valid license issued by
2 Guam to obtain such foreign authority's comparable designation; and

3 (2) The foreign designation was:

4 (A) duly issued by a foreign authority that
5 regulates the practice of public accountancy and the
6 foreign designation has not expired or been revoked
7 or suspended;

8 (B) entitles the holder to issue reports upon
9 financial statements; and

10 (C) was issued upon the basis of
11 educational, examination, and experience
12 requirements established by the foreign authority or
13 by law; and

14 (3) The applicant:

15 (A) received the designation, based on educational
16 and examination standards substantially equivalent to
17 those in effect in Guam, at the time the foreign
18 designation was granted;

19 (B) completed an experience requirement,
20 substantially equivalent to the requirement set out in
21 §35105(f), in the jurisdiction which granted the foreign
22 designation or has completed four (4) years of
23 professional experience in Guam; or meets equivalent
24 requirements prescribed by the Board by rule, within the
25 (10) ten years immediately preceding the application; and

1 (C) passed a uniform qualifying examination in
2 national standards and, if the Board requires in its rules,
3 an examination on the laws, regulations and code of
4 ethical conduct in effect in Guam.

5 (i) An applicant under §35106(h) shall in the application list
6 all jurisdictions, foreign and domestic, in which the applicant has
7 applied for or holds a designation to practice public accountancy, and
8 each holder of a license issued under this Subsection shall notify the
9 Board in writing, within thirty (30) days after its occurrence, of any
10 issuance, denial, revocation or suspension of a designation or
11 commencement of a disciplinary or enforcement action by any
12 jurisdiction.

13 (j) The Board has the sole authority to interpret the
14 application of the provisions of §35106(h) and (i).

15 (k) Upon the effective date of this Chapter, any person
16 holding a currently valid Individual Permit to Practice issued under
17 prior Guam law shall be automatically issued a License.

18 **§35107. Firm Permits to Practice, Attest and Compilation**
19 **Competency and Peer Review.** (a) The Board shall grant or renew
20 Firm Permits to Practice as a CPA firm to entities that make
21 application and demonstrate their qualifications therefor in
22 accordance with the following Subsections of this Section or to CPA
23 firms originally licensed in another state that establish an office in
24 Guam. A CPA firm must hold a Firm Permit to Practice issued under
25 this Section in order to provide attest services as defined or to use the

1 title 'CPAs' or 'CPA firm'.

2 (b) Firm Permits to Practice shall be initially issued and
3 renewed for periods of not more than three years but in any event
4 expiring on the last day of June in the year of expiration. Applications
5 for Firm Permits to Practice shall be made in such form, and in the
6 case of applications for renewal, between such dates as the Board
7 may by rule specify, and the Board shall grant or deny any such
8 application no later than sixty (60) days after the application is filed
9 in proper form.

10 (c) In any case where the applicant seeks the opportunity to
11 show that issuance or renewal of a Firm Permit to Practice was
12 mistakenly denied or where the Board is not able to determine
13 whether it should be granted or denied, the Board may issue to the
14 applicant a provisional Firm Permit to Practice, which shall expire
15 ninety (90) days after its issuance or when the Board determines
16 whether or not to issue or renew the Firm Permit to Practice for
17 which application was made, whichever shall first occur.

18 (d) An applicant for initial issuance or renewal of a Firm
19 Permit to Practice under this Section shall be required to show that:

20 (1) Notwithstanding any other provision of law, a
21 simple majority of the ownership of the CPA firm, in terms of
22 financial interests and voting rights of all partners, officers,
23 shareholders, members or managers, belongs to holders of a
24 certificate who are licensed in some state, and such partners,
25 officers, shareholders, members or managers, whose principal

1 place of business is in Guam, and who perform professional
2 services in Guam hold a valid license issued under §35106 or
3 the corresponding provision of prior law. Although CPA firms
4 may include non-licensee owners, the CPA firm and its
5 ownership must comply with rules promulgated by the Board.

6 (2) Any CPA firm as defined in this Act may include
7 non-licensee owners provided that:

8 (A) The CPA firm designates a licensee of Guam,
9 who is responsible for the proper registration of the firm
10 and identifies that individual to the Board.

11 (B) All non-licensee owners are active individual
12 participants in the CPA firm or affiliated entities.

13 (C) The CPA firm complies with such other
14 requirements as the Board may impose by rule.

15 (3) Any individual licensee who is responsible for
16 supervising attest or compilation services and signs or
17 authorizes someone to sign the report on the financial
18 statements on behalf of the CPA firm, shall meet the
19 competency requirements set out in the professional standards
20 for such services as prescribed by the Board by rule.

21 (4) Any individual licensee who signs or authorizes
22 someone to sign the report on the financial statements on behalf
23 of the CPA firm shall meet the competency requirement of
24 §35107(c)(3).

25 (e) An applicant for initial issuance or renewal of a Firm

1 Permit to Practice under this Section shall be required to register each
2 office of the firm within Guam with the Board and to show that all
3 attest and compilation services as defined herein rendered in Guam
4 are under the charge of a person holding a valid license issued under
5 either §35106, a corresponding provision of prior Guam law, or the
6 law of another state.

7 (f) The Board shall charge a fee for each application for
8 initial issuance, or renewal, of a permit under §35107 in an amount
9 prescribed by the Board by rule.

10 (g) Applicants for initial issuance or renewal of Firm Permits
11 to Practice under §35107 shall in their applications list all states in
12 which they have applied for or hold permits as CPA firms and list
13 any past denial, revocation or suspension of a permit by any other
14 state, and each holder of or applicant for a Firm Permit to Practice
15 under §35107 shall notify the Board in writing, within thirty (30) days
16 after its occurrence, of any change in the identities of owners,
17 partners, officers, shareholders, members or managers whose
18 principal place of business is in Guam, any change in the number or
19 location of offices within Guam, any change in the identity of the
20 persons in charge of such offices, and any issuance, denial,
21 revocation, or suspension of a license or permit by any other state.

22 (h) CPA Firms which fall out of compliance with the
23 provisions of §35107 due to changes in CPA firm ownership or
24 personnel, after receiving or renewing a Firm Permit to Practice ,
25 shall take corrective action to bring the CPA firm back into

1 compliance as quickly as possible. The Board may grant a reasonable
2 period of time for a CPA firm to take such corrective action. Failure
3 to bring the CPA firm back into compliance within a reasonable
4 period as defined by the Board will result in the suspension or
5 revocation of the Firm Permit to Practice.

6 (i) The Board shall by rule require, as a condition to renewal
7 of Firm Permits to Practice under §35107, that applicants undergo, no
8 more frequently than once every three (3) years, peer reviews
9 conducted in such manner as the Board shall specify, and such
10 review shall include a verification that individuals in the CPA firm
11 who are responsible for supervising attest and compilation services
12 and sign or authorize someone to sign the report on the financial
13 statements on behalf of the CPA firm meet the competency
14 requirements set out in the professional standards for such services,
15 provided that any such rule:

16 (1) shall be promulgated reasonably in advance of the
17 time when it first becomes effective;

18 (2) shall include reasonable provision for compliance
19 by an applicant showing that it has, within the preceding three
20 (3) years, undergone a peer review that is a satisfactory
21 equivalent to peer review generally required pursuant to this
22 §35107(i);

23 (3) may require, with respect to peer reviews
24 contemplated by §35107(i)(2), that they be subject to oversight
25 by an oversight body established or sanctioned by Board rule,

1 which body shall periodically report to the Board on the
2 effectiveness of the review program under its charge, and
3 provide to the Board a listing of CPA firms that have
4 participated in a peer review program that is satisfactory to the
5 Board; and

6 (4) shall require, with respect to peer reviews
7 contemplated by §35107(i)(2), that the peer review processes be
8 operated and documents maintained in a manner designed to
9 preserve confidentiality, and that neither the Board nor any
10 third party (other than the oversight body) shall have access to
11 documents furnished or generated in the course of the review.

12 **§35108. Appointment of Director of the Department of**
13 **Revenue and Taxation as Agent.** Application by a person or a CPA
14 firm not a resident of Guam for a license under §35106, or a Firm
15 Permit to Practice under §35107, shall constitute appointment of the
16 Director of the Department of Revenue and Taxation as the
17 applicant's agent upon whom process may be served in any action or
18 proceeding against the applicant arising out of any transaction or
19 operation connected with or incidental to services performed by the
20 applicant while a licensee within Guam.

21 **§35109. Enforcement Against Holders of Certificates,**
22 **Licenses, Firm Permits to Practice and 22 GCA §35122 Practitioners.**

23 (a) After notice and hearing pursuant to §35111 of this
24 Chapter, the Board may revoke any certificate, licenses, or Firm
25 Permit to Practice issued under §35105, §35106, or §35107 or

1 corresponding provisions of prior law, or revoke or limit privileges
2 under §35122; suspend any such certificate, license or Firm Permit to
3 Practice or refuse to renew any such certificate, license, or Firm
4 Permit to Practice for a period of not more than five (5) years;
5 reprimand, censure, or limit the scope of practice of any licensee;
6 impose an administrative fine not exceeding Five Thousand Dollars
7 (\$5,000), or place any licensee on probation, all with or without terms,
8 conditions, and limitations, for any one (1) or more of the following
9 reasons:

10 (1) Fraud or deceit in obtaining a certificate, license,
11 Firm Permit to Practice, or §35122 privilege;

12 (2) Cancellation, revocation, suspension, or refusal to
13 renew a license or privileges under §35122 for disciplinary
14 reasons in any other state for any cause;

15 (3) Failure, on the part of a holder of a license under
16 §35106 or Firm Permit to Practice under §35107, to maintain
17 compliance with the requirements for issuance, or renewal of
18 such license or Firm Permit to Practice, or to report changes to
19 the Board under §35106(g) or §35107(g);

20 (4) Revocation or suspension of the right to practice
21 before any state or Federal agency;

22 (5) Dishonesty, fraud, or gross negligence in the
23 performance of services as a licensee or individual granted
24 privileges under §35122, or in the filing or failure to file one's
25 own income tax returns, or other required tax filings;

1 (6) Violation of any provision of this Chapter, or rule
2 promulgated by the Board under this Chapter, or violation of
3 professional standards;

4 (7) Violation of any rule of professional conduct
5 promulgated by the Board under §35104(h)(4) of this Chapter;

6 (8) Conviction of a felony, or of any crime an element
7 of which is dishonesty or fraud, under the laws of the United
8 States, of Guam, or of any other state, *if* the acts involved would
9 have constituted a crime under the laws of Guam;

10 (9) Performance of any fraudulent act while holding a
11 certificate, license, Firm Permit to Practice, or §35122 privilege
12 issued under this Chapter, or prior law;

13 (10) Any conduct reflecting adversely upon the
14 licensee's fitness to perform services while a licensee, or
15 individual granted privileges under §35122; and

16 Making any false or misleading statement or verification, in
17 support of an application for a certificate or Firm Permit to Practice
18 filed by another.

19 Failure to pay child support as determined by the Child
20 Support Enforcement Division of the Office of the Attorney General
21 Office of Guam.

22 (b) In lieu of, or in addition to any remedy specifically
23 provided in §35109(a), the Board may require of a licensee or the
24 holder of a certificate under §35105, or prior law:

25 (1) A peer review conducted in such fashion as the

1 Board may specify; and/or

2 (2) Satisfactory completion of such continuing
3 professional education programs as the Board may specify; or
4 both.

5 (c) In any proceeding in which a remedy provided by
6 §35109(a) or §35109(b) is imposed, the Board may also require the
7 respondent licensee to pay the costs of the proceeding and fees
8 including reasonable attorneys fees incurred by the Board.

9 **§35110. Enforcement Procedures - Investigations.** (a) The
10 Board may, upon receipt of a complaint or other information
11 suggesting violations of this Chapter or of the rules of the Board,
12 conduct investigations to determine whether there is probable cause
13 to institute proceedings under §35111, §35114, §35115, or any other
14 Section of this Chapter, against any person or firm for such violation,
15 but an investigation under §35110 shall not be a prerequisite to such
16 proceedings in the event that a determination of probable cause can
17 be made without investigation. In aid of such investigations, the
18 Board or the chairperson thereof may issue subpoenas to compel
19 witnesses to testify and/or to produce evidence.

20 (b) The Board may designate a member, or any other person
21 of appropriate competence, to serve as investigating officer to
22 conduct an investigation. Upon completion of an investigation, the
23 investigating officer shall file a report with the Board. The Board
24 shall find probable cause, or lack of probable cause, upon the basis of
25 the report or shall return the report to the investigating officer for

1 further investigation. Unless there has been a determination of
2 probable cause, the report of the investigating officer, the complaint,
3 if any, the testimony and documents submitted in support of the
4 complaint or gathered in the investigation, and the fact of pendency
5 of the investigation shall be treated as confidential information and
6 shall *not* be disclosed to any person except law enforcement
7 authorities and, to the extent deemed necessary in order to conduct
8 the investigation, the subject of the investigation, persons whose
9 complaints are being investigated, and witnesses questioned in the
10 course of the investigation.

11 (c) Upon a finding of probable cause, if the subject of the
12 investigation is a licensee, holder of a certificate, or an individual
13 with privileges under §35122 of this Chapter, the Board shall direct
14 that a complaint be issued under §35111 of this Chapter, and if the
15 subject of the investigation is not a licensee, holder of a certificate, or
16 an individual with privileges under §35122, the Board shall take
17 appropriate action under §35114 or §35115 of this Chapter. Upon a
18 finding of no probable cause, the Board shall close the matter and
19 shall thereafter release information relating thereto only with the
20 consent of the person or firm under investigation.

21 (d) The Board may review the publicly available professional
22 work of licensees, holders of certificates, or individuals with
23 privileges under §35122 of this Act on a general or random basis,
24 without any requirement of a formal complaint or suspicion of
25 impropriety. In the event that as a result of such review the Board

1 discovers reasonable grounds for a more specific investigation, the
2 Board may proceed under Subsections (a) through (c) of this Section.

3 **§35111. Enforcement Procedures Hearings by the Board.** (a)

4 In any case where probable cause with respect to a violation by a
5 licensee, holder of a certificate, or an individual with privileges
6 granted under §35122 of this Chapter has been determined by the
7 Board, whether following an investigation under §35110 of this
8 Chapter, or upon receipt of a written complaint furnishing grounds
9 for a determination of such probable cause, or upon receipt of notice
10 of a decision by the Board of Accountancy of another state furnishing
11 such grounds, the Board shall issue a complaint setting forth
12 appropriate charges and set a date for hearing before the Board on
13 such charges. The Board shall, not less than thirty (30) days prior to
14 the date of the hearing, serve a copy of the complaint and notice of
15 the time and place of the hearing upon the licensee, holder of a
16 certificate, or an individual with privileges granted under §35122 of
17 this Chapter, together with a copy of the Board's rules governing
18 proceedings under this Section, either by personal delivery, or by
19 mailing a copy thereof by registered mail to the licensee or holder of
20 a certificate at the licensee's or certificate holder's address last known
21 to the Board. In the case of an individual exercising privileges under
22 §35122, service shall be by registered mail to the address last known
23 to the Board, or pursuant to §35122(a)(3)(c).

24 (b) A licensee, a holder of a certificate, or an individual with
25 privileges under §35122, against whom a complaint has been issued

1 under this §35111 shall have the right, reasonably in advance of the
2 hearing, to examine and copy the report of investigation, *if any*, and
3 any documentary or testimonial evidence and summaries of
4 anticipated evidence in the Board's possession relating to the subject
5 matter of the complaint. The Board's rules governing proceedings
6 under this Section shall specify the manner in which such right may
7 be exercised.

8 (c) In a hearing under this §35111 the respondent licensee,
9 holder of a certificate, or an individual with privileges granted under
10 §35122 may appear in person (or, in the case of a firm, through a
11 partner, officer, director, shareholder, member or manager) and/or
12 by counsel, examine witnesses and evidence presented in support of
13 the complaint, and present evidence and witnesses on the licensee's
14 or an individual's own behalf. The licensee, holder of a certificate, or
15 an individual granted privileges under §35122 shall be entitled, on
16 application to the Board, to the issuance of subpoenas to compel the
17 attendance of witnesses and the production of documentary
18 evidence.

19 (d) The evidence supporting the complaint shall be presented
20 by the investigating officer, by a Board member designated for that
21 purpose, or by counsel. A Board member who presents the evidence,
22 or who has conducted the investigation of the matter under §35110 of
23 this Chapter, shall not participate in the Board's decision of the
24 matter.

25 (e) In a hearing under this §35111, the Board may be advised

1 by counsel, who shall not be the same counsel who presents, or
2 assists, in presenting the evidence supporting the complaint under
3 Subsection (d) of this §35111.

4 (f) In a hearing under this §35111, the Board shall not be
5 bound by technical rules of evidence.

6 (g) In a hearing under this §35111, a stenographic or
7 electronic record, shall be made and filed with the Board. A transcript
8 need *not* be prepared unless review is sought under Subsection (j) of
9 this §35111, or the Board determines that there is other good cause for
10 its preparation.

11 (h) In a hearing under this §35111, a recorded vote of a
12 majority of all members of the Board then in office (excluding
13 members disqualified by reason of Subsection (d) of this §35111) shall
14 be required to sustain any charge and to impose any penalty with
15 respect thereto.

16 (i) *If*, after service of a complaint and notice of hearing as
17 provided in Subsection (a) of this §35111, the respondent licensee,
18 holder of a certificate, or individual granted privileges under §35122,
19 fails to appear at the hearing, the Board may proceed to hear
20 evidence against the licensee, holder of a certificate, or an individual
21 granted privileges under §35122, and may enter such order as it
22 deems warranted by the evidence, which order shall be final *unless*
23 the licensee, holder of a certificate, or an individual granted
24 privileges under §35122 petitions for review thereof under Subsection
25 (j) of this §35111, provided, however, that within thirty (30) days

1 from the date of any such order, upon a showing of good cause for
2 the licensee's, certificate holder's, or an individual's failure to appear
3 and defend, the Board may set aside the order and schedule a new
4 hearing on the complaint, to be conducted in accordance with
5 applicable Subsections of this §35111.

6 (j) Any person or firm adversely affected by any order of the
7 Board entered after a hearing under this §35111 may obtain review
8 thereof by filing a written petition for review with the Superior Court
9 of Guam within thirty (30) days after the entry of said order. The
10 procedures for review and the scope of the review shall be as
11 specified in the Administrative Adjudication Law. However all
12 hearings conducted pursuant to this Section shall be conducted in
13 accordance with the procedures specified in this Section rather than
14 those under the Administrative Adjudication Law.

15 (k) In any case where the Board renders a decision imposing
16 discipline under §35109, §35111, or §35122, against a licensee, a
17 holder of a certificate, or an individual granted privileges under
18 §35122, the Board shall examine its records to determine whether the
19 licensee, holder of a certificate, or individual holds a certificate or a
20 permit in any other state; and if so, the Board shall notify the Board of
21 Accountancy of such other state of its decision, by mail, within
22 forty-five (45) days of rendering the decision. The Board may also
23 furnish information relating to proceedings resulting in disciplinary
24 action to other public authorities and to private professional
25 organizations having a disciplinary interest in the licensee. Where a

1 petition for review has been filed pursuant to §35111(j), the
2 notification and furnishing of information provided for in this
3 Subsection shall await the resolution of such review and, if resolution
4 is in favor of the licensee, a holder of a certificate, or an individual
5 granted privileges under §35122 of this Chapter, no such notification
6 or furnishing of information shall be made.

7 **§35112. Reinstatement.** (a) In any case where the Board has
8 suspended or revoked a certificate, license, a Firm Permit to Practice,
9 or refused to renew a certificate or Firm Permit to Practice, the Board
10 may, upon application in writing by the person or firm affected and
11 for good cause shown, modify the suspension, or reissue the
12 certificate, or Firm Permit to Practice, or remove the limitation or
13 revocation of privileges under §35122.

14 (b) The Board shall by rule specify the manner in which such
15 applications shall be made, the times within which they shall be
16 made, and the circumstances in which hearings will be held thereon.

17 (c) Before reissuing, or terminating the suspension of, a
18 certificate, license, or Firm Permit to Practice under this §35112 or of
19 privileges under §35122, and as a condition thereto, the Board may
20 require the applicant therefor to show successful completion of
21 specified continuing professional education; and the Board may
22 make the reinstatement of a certificate, license, or Firm Permit to
23 Practice or of privileges under §35122 conditional and subject to
24 satisfactory completion of a peer review conducted in such fashion as
25 the Board may specify.

1 **§35113. Unlawful Acts.** (a) Only licensees may issue a report
2 on financial statements of any person, firm, organization, or
3 governmental unit or offer to render or render any attest or
4 compilation service, as defined herein. This restriction does not
5 prohibit any act of a public official or public employee in the
6 performance of that person's duties as such; or prohibit the
7 performance by any non-licensee of other services involving the use
8 of accounting skills, including the preparation of tax returns,
9 management advisory services, and the preparation of financial
10 statements without the issuance of reports thereon. Non-licensees
11 may prepare financial statements and issue non-attest transmittals or
12 information thereon which do not purport to be in compliance with
13 the Statements on Standards for Accounting and Review Services
14 (SSARS).

15 (b) Licensees performing attest or compilation services must
16 provide those services in accordance with professional standards.

17 (c) No person not holding a valid license in accordance with
18 §35106 shall use or assume the title 'certified public accountant,' or
19 the abbreviation 'CPA' or any other title, designation, words, letters,
20 abbreviation, sign, card, or device tending to indicate that such
21 person is a certified public accountant.

22 (d) No firm shall provide attest services or assume or use the
23 title 'certified public accountants,' or the abbreviation 'CPAs,' or any
24 other title, designation, words, letters, abbreviation, sign, card, or
25 device tending to indicate that such firm is a CPA firm unless (1) the

1 firm holds a valid permit issued under §35107 of this Chapter, and (2)
2 ownership of the firm is in accord with this Chapter and rules
3 promulgated by the Board. No individual or firm shall provide or
4 offer professional CPA services in Guam via a Web site, or represent
5 via a Web site that such firm or individual has a office in Guam or is
6 authorized to practice as a CPA in Guam, unless such individual or
7 firm is licensed to practice in accordance with 22 GCA §35107.

8 (e) No firm not holding a valid permit issued under §35107
9 of this Chapter shall provide attest services or assume or use the title
10 'public accountant,' the abbreviation 'PA,' or any other title,
11 designation, words, letters, abbreviation, sign, card, or device tending
12 to indicate that such firm is composed of public accountants.

13 (f) No person, or firm, not holding a valid license or permit
14 issued under §35106 and §35107 of this Act shall assume or use the
15 title 'certified accountant,' 'chartered accountant,' 'enrolled
16 accountant,' 'licensed accountant,' 'registered accountant,' 'accredited
17 accountant,' or any other title or designation likely to be confused
18 with the titles 'certified public accountant' or 'public accountant,' or
19 use any of the abbreviations 'CA,' 'LA,' 'RA,' 'AA,' or similar
20 abbreviation likely to be confused with the abbreviations 'CPA' or
21 'PA.' The title 'Enrolled Agent' or 'EA' may only be used by
22 individuals so designated by the Internal Revenue Service, or the
23 Director of the Department of Revenue and Taxation.

24 (g) Non-licensees, non-firms use of titles and language.

25 (1) Non-licensees may *not* use language in any

1 statement relating to the financial affairs of a person or entity
2 which is conventionally used by licensees in reports on
3 financial statements. In this regard, the Board shall issue safe
4 harbor language that non-licensees may use in connection with
5 such financial information.

6 (2) No person or firm not holding a valid license or
7 Firm Permit to Practice issued under §35106 or §35107 of this
8 Chapter shall assume or use any title or designation that
9 includes the words 'accountant,' 'auditor,' or 'accounting,' in
10 connection with any other language (including the language of
11 a report) that implies that such person or firm holds such a
12 license or Firm Permit to Practice, or has special competence as
13 an accountant or auditor provided, however, that this
14 Subsection does not prohibit any officer, partner, member,
15 manager or employee of any firm or organization from affixing
16 that person's own signature to any statement in reference to the
17 financial affairs of such firm or organization with any wording
18 designating the position, title, or office that the person holds
19 therein nor prohibit any act of a public official or employee in
20 the performance of the person's duties as such.

21 (h) No person holding a license or firm holding a Permit
22 under this Chapter shall use a professional or firm name or
23 designation that is misleading about the legal form of the firm, or
24 about the persons who are partners, officers, members, managers or
25 shareholders of the firm, or about any other matter, provided,

1 however, that names of one (1) or more former partners, members,
2 managers or shareholders may be included in the name of a firm, or
3 its successor.

4 (i) None of the foregoing provisions of this §35113 shall have
5 any application to a person or firm holding a certification,
6 designation, degree, or license granted in a foreign country entitling
7 the holder thereof to engage in the practice of public accountancy or
8 its equivalent in such country, whose activities in Guam, are limited
9 to the provision of professional services to persons or firms who are
10 residents of, governments of, or business entities of the country in
11 which the person holds such entitlement, who performs no attest or
12 compilation services as defined and who issues no reports with
13 respect to the financial statements of any other persons, firms, or
14 governmental units in Guam, and who does not use in Guam any
15 title or designation other than the one under which the person
16 practices in such country, followed by a translation of such title or
17 designation into the English language, *if* it is in a different language,
18 and by the name of such country.

19 (j) No holder of a license issued under §35106 of this
20 Chapter shall perform attest services through any business form that
21 does not hold a valid permit issued under §35107 of this Chapter.

22 (k) No individual licensee shall issue a report in standard
23 form upon a compilation of financial information through any form
24 of business that does *not* hold a valid permit issued under §35107 of
25 this Chapter unless the report discloses the name of the business

1 through which the individual is issuing the report, and the
2 individual:

3 (1) signs the compilation report identifying the
4 individual as a CPA,

5 (2) meets the competency requirement provided in
6 applicable standards, and

7 (3) undergoes no less frequently than once every three
8 years, a peer review conducted in such manner as the Board
9 shall by rule specify, and such review shall include verification
10 that such individual has met the competency requirements set
11 out in professional standards for such services.

12 (l) Nothing herein shall prohibit a practicing attorney or firm
13 of attorneys from preparing or presenting records or documents
14 customarily prepared by an attorney or firm of attorneys in
15 connection with the attorney's professional work in the practice of
16 law.

17 (m) **Commissions and referral fees.**

18 (1) A licensee shall *not*, for a commission, recommend
19 or refer to a client any product or service, or for a commission,
20 recommend or refer any product or service to be supplied by a
21 client, or receive a commission, when the licensee also performs
22 for that client,

23 (A) an audit or review of a financial statement; or

24 (B) a compilation of a financial statement when
25 the licensee expects, or reasonably might expect, that a

1 third party will use the financial statement and the
2 licensee's compilation report does not disclose a lack of
3 independence; or

4 (C) an examination of prospective financial
5 information.

6 This prohibition applies during the period in which the
7 licensee is engaged to perform any of the services listed above
8 and the period covered by any historical financial statements
9 involved in such listed services.

10 (2) A licensee who is *not* prohibited by this Section
11 from performing services for, or receiving a commission and
12 who is paid or expects to be paid, a commission shall disclose
13 that fact to any person or entity to whom the licensee
14 recommends, or refers, a product or service to which the
15 commission relates.

16 (3) Any licensee who accepts a referral fee for
17 recommending or referring any service of a licensee to any
18 person or entity, or who pays a referral fee to obtain a client
19 shall disclose such acceptance or payment to the client.

20 (n) **Contingent fees.**

21 (1) A licensee shall not:

22 (A) perform for a contingent fee any professional
23 services for, or receive such a fee from a client for whom
24 the licensee or the licensee's firm performs,

25 (i) an audit or review of a financial

1 statement; or

2 (ii) a compilation of a financial statement
3 when the licensee expects, or reasonably might
4 expect, that a third party will use the financial
5 statement and the licensee's compilation report
6 does not disclose a lack of independence; or

7 (iii) an examination of prospective financial
8 information; or

9 (B) Prepare an original or amended tax return or
10 claim for a tax refund for a contingent fee for any client.

11 (2) The prohibition in (1) above applies during the
12 period in which the licensee is engaged to perform any of the
13 services listed above and the period covered by any historical
14 financial statements involved in any such listed services.

15 (3) Except as stated in the next sentence, a contingent
16 fee is a fee established for the performance of any service
17 pursuant to an arrangement in which no fee will be charged
18 *unless* a specified finding or result is attained, or in which the
19 amount of the fee is otherwise dependent upon the finding or
20 result of such service. Solely for purposes of this Section, fees
21 are not regarded as being contingent *if* fixed by courts or other
22 public authorities, or, in tax matters, *if* determined based on the
23 results of judicial proceedings or the findings of governmental
24 agencies. A licensee's fees may vary depending, for example,
25 on the complexity of services rendered.

1 **§35114. Injunctions against Unlawful Acts.** Whenever, as a
2 result of an investigation under §35110 of this Chapter or otherwise,
3 the Board believes that any person or firm has engaged, or is about to
4 engage, in any acts or practices which constitute or will constitute a
5 violation of §35109, §35113, or any other provision of this Chapter, or
6 any rule adopted by the Board, the Board may make application to
7 the Superior Court of Guam for an order enjoining such acts or
8 practices, and upon a showing by the Board that such person or firm
9 has engaged, or is about to engage, in any such acts or practices, an
10 injunction, restraining order, or other order as may be appropriate
11 shall be granted by the court.

12 **§35115. Criminal Penalties.** (a) Whenever, by reason of an
13 investigation under §35110 of this Chapter or otherwise, the Board
14 has reason to believe that any person or firm has knowingly engaged
15 in acts or practices that constitute a violation of §35113, or any other
16 provision of the Chapter, or any rule adopted by the Board, the Board
17 may bring its information to the attention of the Attorney General of
18 Guam who may cause appropriate criminal proceedings to be
19 brought thereon.

20 (b) Any person or firm who knowingly violates any
21 provision of §35113 or other provision of this Chapter shall be guilty
22 of a misdemeanor, and upon conviction thereof shall be subject to a
23 fine of not more than Five Thousand Dollars (\$5,000) for each
24 violation or to imprisonment for not more than one (1) year, or to
25 both such fine and imprisonment.

1 **§35116. Single Act Evidence of Practice.** In any action
2 brought under §35111, §35114 or §35115 of this Chapter, evidence of
3 the commission of a single act prohibited by this Chapter shall be
4 sufficient to justify a penalty, injunction, restraining order, or
5 conviction, respectively, without evidence of a general course of
6 conduct.

7 **§35117. Confidential Communications.** Except by permission
8 of the client for whom a licensee performs services or the heirs,
9 successors, or personal representatives of such client, a licensee under
10 this Chapter, shall *not* voluntarily disclose information
11 communicated to the licensee by the client relating to and in
12 connection with services rendered to the client by the licensee. Such
13 information shall be deemed confidential, provided, however, that
14 nothing herein shall be construed as prohibiting the disclosure of
15 information required to be disclosed by the standards of the public
16 accounting profession in reporting on the examination of financial
17 statements or as prohibiting disclosures in court proceedings, in
18 investigations or proceedings under §35110 or §35111 of this Chapter,
19 in ethical investigations conducted by private professional
20 organizations, or in the course of peer reviews, or to other persons
21 active in the organization performing services for that client on a
22 need to know basis or to persons in the entity who need this
23 information for the sole purpose of assuring quality control.

24 **§35118. Licensees' Working Papers; Clients' Records.**

25 (a) Subject to the provisions of §35117, all statements,

1 records, schedules, working papers, and memoranda made by a
2 licensee or a partner, shareholder, officer, director, member, manager
3 or employee of a licensee, incident to, or in the course of, rendering
4 services to a client while a licensee except the reports submitted by
5 the licensee to the client and except for records that are part of the
6 client's records, shall be and remain the property of the licensee in
7 the absence of an express agreement between the licensee and the
8 client to the contrary. No such statement, record, schedule, working
9 paper, or memorandum shall be sold, transferred, or bequeathed,
10 without the consent of the client or the client's personal
11 representative or assignee, to anyone other than one (1) or more
12 surviving partners, stockholders, members or new partners, new
13 stockholders, or new members of the licensee, or any combined or
14 merged firm or successor in interest to the licensee. Nothing in this
15 §35118 should be construed as prohibiting any temporary transfer of
16 work papers or other material necessary in the course of carrying out
17 peer reviews or as otherwise interfering with the disclosure of
18 information pursuant to §35117.

19 (b) A licensee shall furnish to a client or former client, upon
20 request and reasonable notice:

21 (1) A copy of the licensee's working papers, to the
22 extent that such working papers include records that would
23 ordinarily constitute part of the client's records and are not
24 otherwise available to the client; and

25 (2) Any accounting or other records belonging to, or

1 obtained from or on behalf of, the client that the licensee
2 removed from the client’s premises or received for the client’s
3 account; the licensee may make and retain copies of such
4 documents of the client when they form the basis for work
5 done by the licensee.

6 (c) Nothing herein shall require a licensee to keep any work
7 paper beyond the period prescribed in any other applicable statute.

8 **§35119. Privacy of Contract.**

9 (a) This section applies to all causes of action of the type
10 specified herein filed on or after the effective date of the enactment of
11 this section.

12 (b) This section governs any action based on negligence
13 brought against any accountant, or firm of accountants, practicing in
14 Guam by any person or entity claiming to have been injured as a
15 result of financial statements or other information examined,
16 compiled, reviewed, certified, audited or otherwise reported or
17 opined on by the defendant accountant or in the course of an
18 engagement to provide other services.

19 (c) No action covered by this section may be brought unless:

20 (1) The plaintiff (1) is issuer (or successor of the issuer)
21 of the financial statements or other information examined,
22 compiled, reviewed, certified, audited or otherwise reported or
23 opined on by the defendant and (2) engaged the defendant
24 licensee to examine, compile, review, certify, audit or otherwise
25 report or render an opinion on such financial statements or to

1 provide other services; or

2 (2) The defendant licensee or firm: (1) was aware at the
3 time the engagement was undertaken that the financial
4 statements or other information were to be made available for
5 use in connection with a specified transaction by the plaintiff
6 who was specifically identified to the defendant accountant, (2)
7 was aware that the plaintiff intended to rely upon such
8 financial statements or other information in connection with the
9 specified transaction, and (3) had direct contact and
10 communication with the plaintiff and expressed by words or
11 conduct the defendant accountant's understanding of the
12 reliance on such financial statements or other information.

13 **§35120. Uniform Statute of Limitations.**

14 (a) This section applies to all causes of action of the types
15 specified herein filed on or after the effective date of the enactment
16 of this section.

17 (b) This section governs any action based on negligence or
18 breach of contract brought against any licensee, or any CPA firm
19 practicing in Guam by any person or entity claiming to have been
20 injured as a result of financial statements or other information
21 examined, compiled, reviewed, certified, audited or otherwise
22 reported or opined on by the defendant licensee as a result of an
23 engagement to provide services.

24 (c) No action covered by this section may be brought unless
25 the suit is commenced on or before the earlier of:

1 (1) One (1) year from the date the alleged act, omission
2 or neglect is discovered or should have been discovered by the
3 exercise of reasonable diligence;

4 (2) Three (3) years after completion of the service for
5 which the suit is brought has been performed; or

6 (3) Three (3) years after the date of the initial issuance of
7 the accountant's report on the financial statements or other
8 information.

9 **§35121. Proportionate Liability.**

10 (a) This Section applies to all causes of action of the type
11 specified herein filed on or after the effective date of the enactment of
12 this section.

13 (b) This Section governs any claim for money damages
14 brought against any licensee or any CPA firm registered, licensed, or
15 practicing in Guam; or any employee or principal of such firm by any
16 person or entity claiming to have been injured by the defendant
17 licensee or other person or entity.

18 (c) No judgment for money damages may be entered against
19 any licensee, firm, employee, or principal described in Subsection (b)
20 in an action covered by this Section except in accordance with the
21 provisions of this Subsection.

22 (1) *If the party seeking a judgment for damages against*
23 *the licensee proves that the licensee acted with the deliberate*
24 *intent to deceive, manipulate or defraud for the licensee's own*
25 *direct pecuniary benefit, the liability of the licensee shall be*

1 determined according to the principles that generally apply to
2 such an action.

3 (2) If the licensee is *not* proven to have acted with the
4 deliberate intent to deceive, manipulate or defraud for the
5 accountant's own direct pecuniary benefit, the amount of the
6 accountant's liability in damages shall be determined as
7 follows:

8 (A) The trier of fact shall determine the
9 percentage of responsibility of the plaintiff, of each of the
10 defendants, and of each of the other persons or entities
11 alleged by the parties to have caused or contributed to the
12 harm alleged by the plaintiff. In determining the
13 percentages of responsibility, the trier of fact shall
14 consider both the nature of the conduct of each person
15 and the nature and extent of the causal relationship
16 between that conduct and the damage claimed by the
17 plaintiff.

18 (B) The trier of fact shall next determine the total
19 amount of damage suffered by the plaintiff caused in
20 whole or in part by the plaintiff, the defendants, and
21 other persons alleged to have caused or contributed to the
22 damage.

23 (C) The trier of fact shall then multiply the
24 percentage of responsibility of the licensee (determined
25 under (A)) by the total amount of damages (determined

1 under (B)) and shall enter a judgment or verdict against
2 the licensee in an amount no greater than the product of
3 those two (2) factors.

4 (D) In no event shall the damages awarded
5 against or paid by a licensee exceed the amount
6 determined under (C). The licensee shall not be jointly
7 liable on any judgment entered against any other party to
8 the action.

9 (E) Except where a contractual relationship
10 permits, no defendant shall have a right to recover from a
11 licensee any portion of the percentage of damages
12 assessed against such other defendant.

13 **§35122. Substantial Equivalency.**

14 (a) An individual whose principal place of business is not in
15 Guam.

16 (1) An individual whose principal place of business is
17 not in Guam having a valid certificate or license as a Certified
18 Public Accountant from any state which the NASBA National
19 Qualification Appraisal Service has verified to be in substantial
20 equivalence with the CPA licensure requirements of the
21 AICPA/NASBA Uniform Accountancy Act shall be presumed
22 to have qualifications substantially equivalent to the
23 requirements of Guam and shall have all the privileges of
24 certificate holders and licensees of Guam without the need to
25 obtain a license under §35106. However, such individuals shall

1 file written notice with the Board, on such form as may be
2 specified by the Board, of their intent to enter Guam under this
3 provision, shall pay any fee required, and shall have received
4 written confirmation of receipt of such notice from the Board
5 prior to practicing as a CPA.

6 (2) An individual whose principal place of business is
7 *not* in Guam having a valid certificate or license as a Certified
8 Public Accountant from any state which the NASBA National
9 Qualification Appraisal Service has not verified to be in
10 substantial equivalence with the CPA licensure requirements of
11 the AICPA/NASBA Uniform Accountancy Act shall be
12 presumed to have qualifications substantially equivalent to the
13 requirements of Guam and shall have all the privileges of
14 certificate holders and licensees of Guam without the need to
15 obtain a certificate under §35106, if such individual obtains
16 from the NASBA National Qualification Appraisal Service
17 verification that such individual's CPA qualifications are
18 substantially equivalent to the CPA licensure requirements of
19 the AICPA/NASBA Uniform Accountancy Act. However, such
20 individuals shall file written notice with the Board, on such
21 form as may be specified by the Board, of their intent to enter
22 Guam under this provision, and shall have received written
23 confirmation of receipt of such notice from the Board prior to
24 practicing as a CPA.

25 (3) Any individual licensee of another state exercising

1 the privilege afforded under this section hereby consents, as a
2 condition of the grant of this privilege:

3 (A) to the personal and subject matter jurisdiction
4 and disciplinary authority of the Board,

5 (B) to comply with this Chapter and the Board's
6 rules; and,

7 (C) to the appointment of the Director of the
8 Department of Revenue and Taxation as their agent upon
9 whom process may be served in any action or proceeding
10 by this Board against the licensee.

11 (b) A licensee of Guam offering or rendering services or
12 using their CPA title in another state shall be subject to disciplinary
13 action in Guam for an act committed in another state for which the
14 licensee would be subject to discipline for an act committed in the
15 other state. Notwithstanding §35110(a), the Board shall be required to
16 investigate any complaint made by the board of accountancy of
17 another state.

18 (d) The provisions of this section only apply to individual
19 licensees. No firm, as defined in §35103(g), shall perform services as
20 a certified public accountant in Guam without a Firm Permit to
21 Practice issued pursuant to §35107.

22 **§35123. Construction; Severability.** If any provision of this
23 Chapter or the application thereof to any person or entity or in any
24 circumstances is held invalid, the remainder of the Chapter and the
25 application of such provision to others or in other circumstances shall

1 not be affected thereby.

2 **§35124. Repeal of Prior Law.** All other acts or parts of acts in
3 conflict herewith are hereby repealed; provided, however, that
4 nothing contained in this Chapter shall invalidate or affect any action
5 taken or any proceeding instituted under any law in effect prior to
6 the effective date hereof.

7 **§35125. Effective Date.** This Chapter shall take effect upon its
8 enactment.

9 **Section 3.** Chapter 25 of the Guam Administrative Rules are hereby
10 *repealed and reenacted* to read:

11 **“Guam Accountancy Administrative Rules**

12 **§2101. Preamble**

13 **§2102. Definitions. Terms used in these rules.**

14 **§2103. Guam Board of Accountancy.**

15 **§2104. Certified Public Accountants.**

16 **§2105. Issuance of Licenses and Renewal of Licenses and**
17 **Registrations, Continuing Professional Education and**
18 **Reciprocity**

19 **§2106. Permits to Practice – Firms.**

20 **§2107. Enforcement Actions against Licensees.**

21 **§2108. Enforcement Procedures – Investigations.**

22 **§2109. Enforcement Procedures – Hearings by the Board.**

23 **§2110. Reinstatement.**

24 **§2111. Unlawful Acts.**

25 **§2112. Substantial Equivalency.**

1 **§2113. Code of Professional Conduct.**

2 **§2101. Preamble.** These Rules are adopted by the Guam
3 Board of Accountancy, pursuant to its authority under 22 GCA,
4 Chapter 35. Their purpose is to promote and protect the public
5 interest by implementing the provisions of that Chapter, which
6 provide for the issuance of certificates as certified public accountants;
7 the issuance and renewal of licenses, the issuance and renewal of
8 Firm Permits to Practice, and the regulation of licensees, all to
9 enhance the reliability of information which is used for guidance in
10 financial transactions or accounting for or assessing the financial
11 status or performance of commercial, noncommercial and
12 governmental enterprises.

13 **§2102. Definitions.** Terms used in these rules. For purposes
14 of these Rules the following terms have the meanings indicated:

15 (a) 'Act' means 22 GCA, Chapter 35, 'the Guam Accountancy
16 Act of 2003'.

17 (b) 'Financial statements' means statements and footnotes
18 related thereto that undertake to present an actual or
19 anticipated financial position as of a point in time, or results of
20 operations, cash flow, or changes in financial position for a
21 period of time, in conformity with generally accepted
22 accounting principles or another comprehensive basis of
23 accounting. The term does *not* include incidental financial
24 data included in management advisory service reports to
25 support recommendations to a client; nor does it include tax

1 returns and supporting schedules.

2 (c) 'Manager', when used in these Rules, has the same
3 meaning as the term 'manager' in a limited liability company.

4 (d) 'Member' when used in these Rules has the same
5 meaning as the term 'member' in a limited liability company.

6 (e) 'Report,' as defined in 22 GCA, §35103(p) and used in 22
7 GCA, §35113(a), and in these Rules, includes forms of
8 language contained in a report which refers to financial
9 statements, when such forms of language express or deny any
10 assurance as to the reliability of the financial statements to
11 which it refers. Among the possible sources of such forms of
12 language are pronouncements by authoritative bodies
13 describing the work that should be performed and/or the
14 responsibilities that should be assumed, for specified kinds of
15 professional engagements, and in addition prescribing the
16 form of report which should be issued upon completion of
17 such engagements. A form of report prescribed by such a
18 pronouncement will ordinarily constitute a form of language
19 which is conventionally understood as implying assurance and
20 expertise. For this reason, as provided in 22 GCA, §35113, the
21 term 'report' includes the issuance of reports using the forms
22 of language set out in the AICPA's Statement on Standards for
23 Accounting and Review Services No. 1 (SSARS 1), for reports
24 with respect to both 'reviews' of financial statements, and also
25 compilations of financial statements, as well as the forms of

1 language for 'special reports' set out in the AICPA's Statement
2 on Auditing Standards No. 14, No. 35 and No. 62 (SAS 14, 35
3 and 62) or successor pronouncements.

4 **§2103. Guam Board of Accountancy.** (a) Board meetings. The
5 Board shall meet at least four (4) times each year. The first meeting of
6 the Board in each calendar year shall be known as the annual
7 meeting. The Board's purpose is to carry out its duties as stated in the
8 Guam Accountancy Act and Guam Accountancy Rules. The chair or
9 a quorum of the Board shall have the authority to call meetings of the
10 Board. The Board shall follow and apply the rules of procedure set
11 forth in 5 GCA, Chapter 43 regarding notice and conduct of meetings.

12 (b) Election and tenure of officers. At its first meeting in each
13 calendar year, the Board shall elect from among its members a chair,
14 a vice-chair, and such other officers as the Board may require. The
15 officers shall assume the duties of their respective offices at the
16 conclusion of the meeting at which they were elected. They shall
17 serve a term of one (1) year, but shall be eligible for reelection.

18 (c) Duties of officers. The chair or, in the event of the chair's
19 absence or inability to act, the vice-chair shall preside at all meetings
20 of the Board. The Board shall determine the duties of the officers at
21 the annual meeting.

22 (d) Fees. Fees charged by the Board shall be as established
23 from time to time. The fees shall be in effect on November 15, 2003, as
24 follows:

25 (1) Exam applications (Initial and Re-Exam).

- 1 (A) Application Processing Fee, Twenty-five Dollars
2 (\$25.00)/application.
- 3 (B) NASBA/Prometric/AICPA Fees, Actual
4 amounts specified in the CBT Services
5 Agreement between AICPA, NASBA, and
6 Prometric.
- 7 (C) Jurisdictional Testing Fee, Fifty Dollars
8 (\$50)/part to be given to Guam Board of
9 Accountancy and Fifty Dollars (\$50)/part to
10 be given to CPA Examination Services.
- 11 (i) The Fifty Dollars (\$50)/part
12 Jurisdictional Testing Fee to be given to Guam
13 Board of Accountancy will be rebated or
14 waived for those applicants demonstrating
15 Guam residency.
- 16 (2) Certification/licensure.
- 17 (A) Initial.
- 18 (i) Active, per 22 GCA, §35105(f), Two
19 Hundred Dollars (\$200.00).
- 20 (ii) Inactive, per 22 GCA, §35105(g), Two
21 Hundred Dollars (\$200.00).
- 22 (iii) Foreign, per 22 GCA, §35106(h), Two
23 Hundred Dollars (\$200.00).
- 24 (iv) Substantial Equivalency, per 22 GCA,
25 §35122, One Hundred Fifty Dollars

1 (\$150.00).

2 (B) Renewal.

3 (i) Active, per 22 GCA, §35105(f), Seventy-
4 Five Dollars (\$75.00).

5 (ii) Inactive, per 22 GCA, §35105(g),
6 Seventy-Five Dollars (\$75.00).

7 (iii) Foreign, per 22 GCA, §35106(h),
8 Seventy-Five Dollars (\$75.00).

9 (iv) Substantial Equivalency, per 22 GCA,
10 §35122, One Hundred Fifty Dollars
11 (\$150.00).

12 (C) Reinstatement.

13 (i) Active, per 22 GCA, §35105(f), Two
14 Hundred Fifty Dollars (\$250.00).

15 (ii) Inactive, per 22 GCA, §35105(g), Two
16 Hundred Fifty Dollars (\$250.00).

17 (iii) Foreign, per 22 GCA, §35106(h), Two
18 Hundred Fifty Dollars (\$250.00).

19 (iv) Substantial Equivalency, per 22 GCA,
20 §35122, One Hundred Fifty Dollars
21 (\$150.00).

22 (D) Provisional (every ninety (90) days).

23 (i) Active, per 22 GCA, §35105(f), Seventy-
24 Five Dollars (\$75.00).

25 (ii) Inactive, per 22 GCA, §35105(g),

1 shall notify the Board in writing within thirty (30) days of any change
2 of address and, in the case of holders of certificates, licensees, change
3 of employment.

4 (f) **Communications.**

5 Holders of certificates, licensees and Firm Permits to Practice
6 shall respond in writing to any communication from the Board
7 requesting a response, within thirty (30) days of the mailing of such
8 communication by registered or certified mail, to the last address
9 furnished to the Board by the holders of certificates, licenses and
10 Firm Permits to Practice.

11 (g) Reconsideration of Board actions on applications for
12 certificates, licenses, and Firm Permits to Practice.

13 Any applicant for a certificate, license, or Firm Permit to
14 Practice who is aggrieved by an action taken by the Board with
15 respect to his application may request the Board to reconsider such
16 action. Any such request shall be filed within sixty (60) days of the
17 mailing of the Board's letter advising the applicant of the action
18 complained of, and shall contain the following information:

19 (1) The name and address of the applicant;

20 (2) The date of the Board's letter advising the applicant
21 of the action of the Board complained of; and

22 (3) A statement of any facts or consideration to which
23 the applicant believes the Board failed to give due weight.

24 **§2104. Certified Public Accountants.** (a) Semester hour;
25 accredited colleges, universities, schools and programs; credit for

1 courses.

2 (1) As used in these Rules, a 'semester hour' means the
3 conventional college semester hour. Quarter hours may be
4 converted to semester hours by multiplying them by two-thirds
5 (2/3).

6 (2) As used in these Rules, 'accreditation' refers to the
7 process of quality control of the education process. There are
8 three (3) different levels of accreditation referred to in these
9 Rules and the degree to which the Board relies on accreditation
10 differs according to the level at which the degree-granting
11 institution is accredited. The three (3) levels of accreditation are:

12 (A) Level one accreditation (the educational
13 institution) is granted to a four (4)-year degree-granting
14 college or university which is accredited by one (1) or
15 more recognized regional accrediting agencies (or
16 successor agencies). The following regional accrediting
17 agencies are recognized by the Board:

18 (i) Middle States Association of Colleges and
19 Secondary Schools;

20 (ii) New England Association of Schools and
21 Colleges;

22 (iii) North Central Association of Colleges and
23 Secondary Schools;

24 (iv) Northwest Association of Schools and
25 Colleges;

1 (v) Southern Association of Colleges and Schools;
2 and

3 (vi) Western Association of Schools and Colleges.

4 (B) Level two accreditation (the business school)
5 is granted to a business school or college of business that
6 has been accredited by a national accreditation agency
7 recognized by the Board such as the 'American Assembly
8 of Collegiate Schools of Business' ('AACSB') following a
9 specific and comprehensive review of their faculty,
10 resources, and curricula. In evaluating a candidate's
11 credentials, the Board may choose to rely on this
12 accreditation as evidence that the institution's business
13 school has met minimum overall standards of quality for
14 such schools.

15 (C) Level three accreditation (the accounting
16 program or department) is granted to an accounting
17 program or department that has been accredited by a
18 national accreditation agency recognized by the Board
19 such as the AACSB. Accounting programs or
20 departments accredited in this manner have met
21 standards substantially higher and much more specific
22 than those required for level one or level two
23 accreditation. For level three accreditation, the
24 accounting program or department must meet a stringent
25 set of standards that addresses faculty credentials,

1 student quality, physical facilities, and curricula.
2 Graduates who submit transcripts from accredited
3 accounting programs may be deemed to have met the
4 Board's specific accounting and business course
5 requirements.

6 (3) For purposes of 22 GCA, §35105 and §35106, a
7 candidate is considered as graduating from an accredited
8 educational institution *if* at the time the educational institution
9 grants the applicant's degree, it is accredited at the appropriate
10 level as outlined in these Rules.

11 (4) *If* an educational institution was *not* accredited at
12 the time an applicant's degree was received but is so accredited
13 at the time the application is filed with the Board, the
14 institution will be deemed to be accredited for the purpose of
15 25 GAR, §2104(a)(3), provided that it:

16 (A) certifies that the applicant's total educational
17 program would qualify the applicant for graduation with
18 a baccalaureate degree during the time the institution has
19 been accredited; and

20 (B) furnishes the Board satisfactory proof,
21 including college catalogue course numbers and
22 descriptions, that the pre-accrediting courses used to
23 qualify the applicant as an accounting major are
24 substantially equivalent to post-accrediting courses.

25 (5) *If* an applicant's degree was received at an

1 accredited educational institution pursuant to 25 GAR,
2 §2104(a)(3) or (4), but the educational program which was used
3 to qualify the applicant as an accounting major included
4 courses taken at non-accredited institutions, either before or
5 after graduation, such courses will be deemed to have been
6 taken at the accredited institution from which applicant's
7 degree was received, provided the accredited institution either:

8 (A) has accepted such courses by including them
9 in its official transcript; or

10 (B) has certified to the Board that it will accept
11 such courses for credit toward graduation.

12 (6) A graduate of a four (4)-year degree-granting
13 college or university not accredited at the time applicant's
14 degree was received or at the time the application was filed will
15 be deemed to be a graduate of an accredited educational
16 institution if:

17 (A) a credentials evaluation service approved by
18 the Board certifies that the applicant's degree is
19 equivalent to a degree from an accredited educational
20 institution defined in 25 GAR §2104(a)(2); or

21 (B) Accreditation alternatives.

22 (i) an accredited educational institution as
23 defined by 25 GAR, §2104(a)(2) accepts
24 applicant's non-accredited baccalaureate
25 degree for admission to a graduate

1 business degree program;

2 (ii) the applicant satisfactorily completes at
3 least fifteen (15) semester hours, or the
4 equivalent, in post-baccalaureate
5 education at the accredited educational
6 institution, of which at least nine (9)
7 semester hours, or the equivalent, shall
8 be in accounting; and

9 (iii) the accredited educational institution
10 certifies that the applicant is in good
11 standing for the continuation in the
12 graduate program, or has maintained a
13 grade point average in these courses
14 that is necessary for graduation; or

15 (C) In the case of a United States institution, the
16 University of Guam certifies that the applicant's degree is
17 equivalent to a degree from the University of Guam with
18 a major in accounting.

19 (7) The advanced subjects completed to qualify under
20 25 GAR, §2104 (a)(6)(B) or (C) may *not* be used to satisfy the
21 requirements of 25 GAR, §2104(a)(8).

22 (8) The accounting and business concentration or
23 equivalent contemplated by 22 GCA, §35105(c) shall consist of
24 the semester hours specified in 25 GAR, §2104(b) below. No
25 more than six (6) hours will be recognized for internships or life

1 experience.

2 (9) The accounting and business concentration or
3 equivalent contemplated by 22 GCA, §35105(d) shall consist of
4 the semester hours specified in 25 GAR, §2104(k) below. No
5 more than six (6) hours will be recognized for internships or life
6 experience.

7 (b) **Certification Education requirement.**

8 For purposes of certification per 22 GCA, §35105(c), an applicant will
9 be deemed to have met the education requirement if the applicant
10 has met any one (1) of the following four (4) conditions:

11 (1) Earned a graduate degree with a concentration in
12 accounting from an accounting program or department that is
13 accredited (level three accreditation) by an accrediting agency
14 recognized by the Board.

15 (2) Earned a graduate degree from a business school or
16 college of business that is accredited (level two accreditation)
17 by an accrediting agency recognized by the Board and
18 completed

19 (A) At least twenty-four (24) semester hours in
20 accounting at the upper division or graduate level, or an
21 equivalent combination thereof, including coverage of,
22 but not necessarily separate courses in, the subjects of
23 financial accounting, auditing, taxation, and management
24 accounting. (An upper division course is normally
25 defined as a course taken at the junior or senior level. In

1 accounting, this would normally be all courses taken
2 beyond the elementary level)

3 (3) Earned a baccalaureate degree from a business
4 school or college of business that is accredited (level two
5 accreditation) by an accrediting agency recognized by the
6 Board and completed one hundred fifty (150) semester hours
7 including:

8 (A) At least twenty-four (24) semester hours in
9 accounting at the upper division or graduate level,
10 including coverage of, but not necessarily separate
11 courses in, the subjects of financial accounting, auditing,
12 taxation, and management accounting (Upper division is
13 normally defined as junior or senior level. In accounting,
14 this would normally be all courses taken beyond the
15 elementary level); and

16 (B) At least thirty-six (36) semester hours in
17 business courses (which shall include six (6) semester
18 hours in economics, three (3) semester hours in business
19 law, three (3) semester hours in finance and can include
20 accounting courses beyond the elementary level in excess
21 of those included to meet the twenty-four (24) semester
22 hour requirement at the upper division level or graduate
23 level).

24 (4) Earned a baccalaureate or higher degree from an
25 accredited educational institution (level one accreditation) and

1 completed one hundred fifty (150) semester hours: including:

2 (A) At least twenty-four (24) semester hours in
3 accounting at the upper division or graduate level,
4 including coverage of, but not necessarily separate
5 courses in, the subjects of financial accounting, auditing,
6 taxation, and management accounting (Upper division is
7 normally defined as junior or senior level. In accounting,
8 this would normally be all courses taken beyond the
9 elementary level); and

10 (B) At least thirty-six (36) semester hours in
11 business courses (which shall include 6 semester hours in
12 economics, three (3) semester hours in business law, three
13 (3) semester hours in finance and can include accounting
14 courses beyond the elementary level in excess of those
15 included to meet the twenty-four (24) semester hour
16 requirement at the upper division level or graduate level).

17 (c) **Applications for examination.**

18 (1) Applications to take the Certified Public Accountant
19 Examination must be made on a form provided by the Board
20 and filed with the Board by a due date specified by the Board in
21 the application form.

22 (2) An application will not be considered filed until the
23 application fee and examination fee required by these Rules
24 and all required supporting documents have been received,
25 including proof of identity as determined by the Board and

1 specified on the application form, official transcripts and proof
2 that the Candidate has satisfied the education requirement.

3 (3) A Candidate who fails to appear for the
4 examination shall forfeit all fees charged for both the
5 application and the examination.

6 (4) The Board, or its designee, will forward notification
7 of eligibility (Authorization to Test) for the computer-based
8 examination to NASBA's National Candidate Database.

9 **(d) Time and place of examination.**

10 Prior to the implementation of a computer-based examination,
11 notice of the time and place of the examination shall be mailed at
12 least ten (10) days prior to the date set for the examination to each
13 Candidate whose application to sit for the examination has been
14 approved by the Board.

15 Upon the implementation of a computer-based examination,
16 eligible Candidates shall be notified of the time and place of the
17 examination or shall independently contact the Board or a test center
18 operator identified by the Board to schedule the time and place for
19 the examination at an approved test site. Scheduling reexaminations
20 must be made in accordance with 25 GAR, §2104(g)(2) below.

21 **(e) Examination content.**

22 The examination required by 22 GCA, §35105 shall test the
23 knowledge and skills required for performance as an entry-level
24 certified public accountant. The examination shall include the subject
25 areas of accounting and auditing and related knowledge and skills as

1 the Board may require.

2 (f) **Determining and Reporting Examination Grades.**

3 A Candidate shall be required to pass all Test Sections of the
4 examination provided for in 22 GCA, §35105(d) in order to qualify for
5 a certificate. Upon receipt of advisory grades from the examination
6 provider, the Board will review and may adopt the examination
7 grades and will report the official results to the Candidate. Prior to
8 the implementation of a computer-based examination, a passing
9 grade for each Test Section shall be seventy-five (75). Upon
10 implementation of a computer-based examination, the Candidate
11 must attain the uniform passing grade established through a
12 psychometrically acceptable standard-setting procedure and
13 approved by the Board.

14 (g) **Retake and Granting of Credit Requirements.**

15 (1) A Candidate shall be required to pass all sections of
16 the examination provided for in 22 GCA, §35105(d) in order to
17 qualify for a certificate. Prior to the implementation of a
18 computer-based examination, *if* at a given sitting of the
19 examination a Candidate passes two (2) or more but not all
20 sections, then the Candidate shall be given credit for those
21 sections that the Candidate has passed and need not sit for
22 reexamination in those sections, provided that:

23 (A) at that sitting the Candidate wrote all sections
24 of the examination for which the Candidate does not have
25 credit;

1 (B) the Candidate attained a minimum grade of
2 fifty (50) on each section taken at that sitting;

3 (C) the Candidate passes the remaining sections
4 of the examination within six (6) consecutive
5 examinations given after the one at which the first
6 sections were passed;

7 (D) at each subsequent sitting at which the
8 Candidate seeks to pass any additional sections, the
9 Candidate sits for all sections for which the Candidate
10 does not have credit; and

11 (E) in order to receive credit for passing
12 additional sections in any such subsequent sitting, the
13 Candidate attains a minimum grade of fifty (50) on
14 sections taken at that sitting.

15 (2) Upon the implementation of a computer-based
16 examination, a Candidate may take the required Test Sections
17 individually and in any order. Credit for any Test Section(s)
18 passed shall be valid for eighteen (18) months from the actual
19 date the Candidate took that Test Section, without having to
20 attain a minimum score on any failed Test Section(s) and
21 without regard to whether the Candidate has taken other Test
22 Sections.

23 (A) Candidates must pass all four (4) Test Sections
24 of the Uniform CPA Examination within a rolling
25 eighteen (18)-month period, which begins on the date that

1 the first Test Section(s) passed is taken.

2 (B) Candidates cannot retake a failed Test
3 Section(s) in the same examination window. An
4 examination window refers to a three (3)-month period in
5 which Candidates have an opportunity to take the CPA
6 examination (comprised of two (2) months in which the
7 examination is available to be taken and one (1) month in
8 which the examination will *not* be offered while routine
9 maintenance is performed and the item bank is
10 refreshed). Thus, Candidates will be able to test two (2)
11 out of the three (3) months within an examination
12 window.

13 (C) In the event all four (4) Test Sections of the
14 Uniform CPA Examination are not passed within the
15 rolling eighteen (18)-month period, credit for any Test
16 Section(s) passed outside the eighteen (18)-month period
17 will expire and that Test Section(s) must be retaken.

18 (3) Candidates having earned conditional credits on
19 the paper-and-pencil examination, as of the launch date of the
20 computer-based Uniform CPA Examination, will retain
21 conditional credits for the corresponding Test Sections of the
22 computer-based CPA examination as follows:

Paper-and-Pencil Examination	Computer-Based Examination
Auditing	Auditing and Attestation

Financial Accounting and Reporting (FARE)	Financial Accounting and Reporting
Accounting and Reporting (ARE)	Regulation
Business Law and Professional Responsibilities (LPR)	Business Environment and Concepts

1 (A) Candidates who have attained conditional
2 status as of the launch date of the computer-based
3 Uniform CPA Examination will be allowed a transition
4 period to complete any remaining Test Sections of the
5 CPA examination. The transition is the maximum number
6 of opportunities that Candidates who have conditioned
7 under the paper-and-pencil examination have remaining,
8 at the launch of the computer-based CPA examination, to
9 complete all remaining Test Sections, or the number of
10 remaining opportunities under the paper-and-pencil
11 examination, multiplied by six (6) months, whichever is
12 first exhausted.

13 (B) If a previously conditioned Candidate does
14 not pass all remaining Test Sections during the transition
15 period, conditional credits earned under the paper-and-

1 pencil examination will expire and the Candidate will
2 lose credit for the Test Sections earned under the paper-
3 and-pencil examination. However, any Test Section(s)
4 passed during the transition period is subject to the
5 conditioning provisions of the computer-based
6 examination as indicated in the aforementioned
7 conditioning recommendation, except that a previously
8 conditioned Candidate will not lose conditional credit for
9 a Test Section of the computer-based examination that is
10 passed during the transition period, even though more
11 than eighteen (18) months may have elapsed from the
12 date the Test Section is passed, until the end of the
13 transition period.

14 (4) A Candidate shall retain credit for any and all Test
15 Sections of an examination passed in another state if such credit
16 would have been given, under then applicable requirements, if
17 the Candidate had taken the examination in Guam.

18 (5) The Board may in particular cases extend the term
19 of conditional credit validity notwithstanding the requirements
20 of Subsections (1), (2), (3), and (4), upon a showing that the
21 credit was lost by reason of circumstances beyond the
22 Candidate's control.

23 (6) A Candidate shall be deemed to have passed the
24 Uniform CPA Examination once the Candidate holds at the
25 same time valid credit for passing each of the four (4) Test

1 Sections of the examination. For purposes of this section, credit
2 for passing a Test Section of the computer-based examination is
3 valid from the actual date of the Testing Event for that Test
4 Section, regardless of the date the Candidate actually receives
5 notice of the passing grade.

6 (h) **Candidate Testing Fee.**

7 The Candidate shall, for each Test Section scheduled by the
8 Candidate, pay a Candidate Testing Fee to the Board or its designee
9 that includes the fees charged by the AICPA, NASBA, and the Test
10 Delivery Service Provider(s), as well as application fees established
11 by the Board.

12 (i) **Cheating.**

13 (1) Cheating by a Candidate in applying for, taking or
14 subsequent to the examination will be deemed to invalidate any
15 grade otherwise earned by a Candidate on any Test Section of
16 the examination, and may warrant summary expulsion from
17 the test site and disqualification from taking the examination
18 for a specified period of time.

19 (2) For purposes of this Rule, the following actions or
20 attempted activities, among others, may be considered
21 cheating:

22 (A) Falsifying or misrepresenting educational
23 credentials or other information required for admission to
24 the examination;

25 (B) Communication between Candidates inside or

1 outside the test site or copying another Candidate's
2 answers while the examination is in progress;

3 (C) Communication with others inside or outside
4 the test site while the examination is in progress;

5 (D) Substitution of another person to sit in the test
6 site in the stead of a Candidate;

7 (E) Reference to or possession of crib sheets,
8 textbooks or other material or electronic media (other
9 than that provided to the Candidate as part of the
10 examination) inside or outside the test site while the
11 examination is in progress;

12 (F) Violating the nondisclosure prohibitions of
13 the examination or aiding or abetting another in doing so;
14 or

15 (G) Retaking or attempting to retake a Test
16 Section by an individual holding a valid Certificate or by
17 a Candidate who has unexpired credit for having already
18 passed the same Test Section, unless the individual has
19 been directed to retake a Test Section pursuant to Board
20 order or unless the individual has been expressly
21 authorized by the Board to participate in a 'secret
22 shopper' program.

23 (3) In any case where it appears that cheating has
24 occurred or is occurring, the Board or its representatives may
25 either summarily expel the Candidate involved from the

1 examination or move the Candidate to a position in the Test
2 Center away from other examinees where the Candidate can be
3 watched more closely.

4 (4) In any case where the Board believes that it has
5 evidence that a Candidate has cheated on the examination,
6 including those cases where the Candidate has been expelled
7 from the examination, the Board shall conduct an investigation
8 and may conduct a hearing consistent with the requirements of
9 the 5 GCA §9100 *et seq.* ('the Administrative Adjudication Law')
10 following the examination session for the purpose of
11 determining whether or not there was cheating, and if so what
12 remedy should be applied. In such proceedings, the Board shall
13 decide:

14 (A) Whether the Candidate shall be given credit
15 for any portion of the examination completed in that
16 session; and

17 (B) Whether the Candidate shall be barred from
18 taking the examination and if so, for what period of time.

19 (5) In any case where the Board, or its representative,
20 permits a Candidate to continue taking the examination, it may,
21 depending on the circumstances:

22 (A) Admonish the Candidate;

23 (B) Seat the Candidate in a segregated location for
24 the rest of the examination;

25 (C) Keep a record of the Candidate's seat location

1 and identifying information, and the names and
2 identifying information of the Candidates in close
3 proximity of the Candidate; and/or

4 (D) Prior to the introduction of a computer-based
5 examination, notify the AICPA of the circumstances,
6 furnishing the Candidate's identification number, so that
7 after the initial grading is completed, the Candidate's
8 papers can be compared for unusual similarities with the
9 papers of others who may have been involved.

10 (E) Upon introduction of a computer-based
11 examination, notify the National Candidate Database and
12 the AICPA and/or the Test Center of the circumstances,
13 so that the Candidate may be more closely monitored in
14 future examination sessions.

15 (6) In any case in which a Candidate is refused credit
16 for any Test Section of an examination taken, disqualified from
17 taking any Test Section, or barred from taking the examination
18 in the future, the Board will provide to the Board of
19 Accountancy of any other state to which the Candidate may
20 apply for the examination information as to the Board's
21 findings and actions taken.

22 (j) **Security and Irregularities.** Notwithstanding any other
23 provisions under these rules, the Board may postpone scheduled
24 examinations, the release of grades, or the issuance of certificates due
25 to a breach of examination security; unauthorized acquisition or

1 disclosure of the contents of an examination; suspected or actual
2 negligence, errors, omissions, or irregularities in conducting an
3 examination; or for any other reasonable cause or unforeseen
4 circumstance.

5 (k) **Examination Education requirement.**

6 For purposes of qualifying to take the exam per 22 GCA,
7 §35105(d)(2), an applicant will be deemed to have met the education
8 requirement *if* the applicant has met any one (1) of the following four
9 (4) conditions:

10 (1) Earned a graduate degree with a concentration in
11 accounting from an accounting program or department that is
12 accredited (level three accreditation) by an accrediting agency
13 recognized by the Board.

14 (2) Earned a graduate degree from a business school or
15 college of business that is accredited (level two accreditation)
16 by an accrediting agency recognized by the Board and
17 completed at least twenty-four (24) semester hours in
18 accounting at the upper division or graduate level, or an
19 equivalent combination thereof, including coverage of, but not
20 necessarily separate courses in, the subjects of financial
21 accounting, auditing, taxation, and management accounting.
22 (An upper division course is normally defined as a course taken
23 at the junior or senior level. In accounting, this would normally
24 be all courses taken beyond the elementary level)

25 (3) Earned a baccalaureate degree from a business

1 school or college of business that is accredited (level two
2 accreditation) by an accrediting agency recognized by the
3 Board and including:

4 (A) completed at least twenty-four (24) semester
5 hours in accounting at the upper division or graduate
6 level, including coverage of, but not necessarily separate
7 courses in, the subjects of financial accounting, auditing,
8 taxation, and management accounting (Upper division is
9 normally defined as junior or senior level. In accounting,
10 this would normally be all courses taken beyond the
11 elementary level); and

12 (B) completed at least thirty-six (36) semester
13 hours in business courses (which shall include six (6)
14 semester hours in economics, three (3) semester hours in
15 business law, three (3) semester hours in finance and can
16 include accounting courses beyond the elementary level
17 in excess of those included to meet the twenty-four (24)
18 semester hour requirement at the upper division level or
19 graduate level).

20 (4) Earned a baccalaureate or higher degree from an
21 accredited educational institution (level one accreditation) and
22 including:

23 (A) completed at least twenty-four (24) semester
24 hours in accounting at the upper division or graduate
25 level, including coverage of, but *not* necessarily separate

1 courses in, the subjects of financial accounting, auditing,
2 taxation, and management accounting (Upper division is
3 normally defined as junior or senior level. In accounting,
4 this would normally be all courses taken beyond the
5 elementary level); and

6 (B) completed at least thirty-six (36) semester
7 hours in business courses (which shall include six (6)
8 semester hours in economics, three (3) semester hours in
9 business law, three (3) semester hours in finance and can
10 include accounting courses beyond the elementary level
11 in excess of those included to meet the twenty-four (24)
12 semester hour requirement at the upper division level or
13 graduate level).

14 **§2105. Issuance of Certificates and Renewal of Certificates**
15 **and Registrations, Continuing Professional Education and**
16 **Reciprocity.**

17 (a) **Applications.**

18 (1) Applications for initial certificates, licenses, and for
19 renewal of licenses and registrations pursuant to the Act shall
20 be made annually on a form provided by the Board and, in the
21 case of applications for renewal, shall be filed no later than
22 sixty (60) days prior to the expiration date set by these rules.
23 Applications will not be considered filed until the applicable
24 fee prescribed in the Rules is received. *If* an application for
25 renewal is filed late, it shall also be accompanied by the

1 delinquency fee prescribed in the Rules.

2 Applications for renewal of licenses, or registrations shall
3 be accompanied by evidence satisfactory to the Board that the
4 applicant has complied with the continuing professional
5 education requirements under 22 GCA, §35106 and of these
6 Rules. During each three (3) year renewal period after January
7 1, 2004, at least two (2) hours of ethics continuing professional
8 education shall be required.

9 Applications for initial certificates, licenses, and for
10 renewal of licenses and registrations pursuant to the Act shall
11 be cleared by the Director of the Department of Revenue and
12 Taxation for tax purposes.

13 **(b) Experience required for initial certificate.**

14 The experience required to be demonstrated for issuance of an
15 initial certificate pursuant to 22 GCA, §35105 shall meet the
16 requirements of this Rule.

17 (1) Experience may consist of providing any type of
18 services or advice using accounting, attest, compilation,
19 management advisory, financial advisory, tax or consulting
20 skills.

21 (2) The applicant shall have their experience verified to
22 the Board by a licensee as defined in the Act or from another
23 state. Acceptable experience shall include employment in
24 industry, government, academia or public practice. The Board
25 shall look at such factors as the complexity and diversity of the

1 work.

2 (3) One (1) year of experience shall consist of full or
3 part-time employment that extends over a period of no less
4 than a year and no more than three (3) years and includes no
5 fewer than two thousand (2,000) hours of performance of
6 services described in Subsection (1) above.

7 **(c) Evidence of applicant's experience.**

8 (1) Any licensee who has been requested by an
9 applicant to submit to the Board evidence of the applicant's
10 experience and has refused to do so shall, upon request by the
11 Board, explain in writing or in person the basis for such refusal.

12 (2) The Board may require any licensee who has
13 furnished evidence of an applicant's experience to substantiate
14 the information.

15 (3) Any applicant may be required to appear before the
16 Board, or its representative, to supplement or verify evidence of
17 experience.

18 (4) The Board may inspect documentation relating to
19 an applicant's claimed experience.

20 (d) Continuing professional education requirements for
21 renewal of the license or registration.

22 The following requirements of continuing professional
23 education apply to the renewal of licenses and registrations pursuant
24 to 22 GCA §35106:

25 (1) An applicant seeking renewal of a license, or

1 registration, shall show that the applicant has completed no less
2 than one hundred twenty (120) hours of continuing
3 professional education, complying with these Rules during the
4 three (3)-year period preceding renewal, with a minimum of
5 twenty (20) hours in each year. An applicant seeking renewal of
6 a license or registration shall demonstrate participation in a
7 program of learning, meeting the standards set forth in the
8 Statement on Standards for Continuing Professional Education
9 (CPE) Programs jointly approved by NASBA and AICPA.

10 (2) An applicant whose license, or registration, has
11 lapsed shall complete no less than one hundred twenty (120)
12 hours of CPE complying with these Rules during the three (3)-
13 year period preceding the date of reapplication. An applicant
14 whose license or registration has lapsed shall be required to
15 identify and complete a program of learning designed to
16 demonstrate the currency of the licensee's competencies
17 directly related to his or her area of service.

18 (3) A licensee granted an exception from the
19 competency requirement by the Board may discontinue use of
20 the word 'inactive' in association with their CPA title upon
21 showing that they have completed no less than one hundred
22 twenty (120) hours of continuing professional education
23 complying with these Rules during the three (3)-year period
24 preceding their request to discontinue use of the word
25 'inactive'.

1 (4) An applicant seeking renewal of a license or
2 registration shall show that the applicant has completed no less
3 than two (2) hours of ethics continuing professional education
4 during the three (3)-year period preceding renewal.

5 (e) Programs qualifying for continuing professional
6 education credit.

7 (1) Standards -- A program qualifies as acceptable
8 continuing professional education for purposes of 22 GCA,
9 §35106 and these Rules *if* it is a program of learning which
10 contributes to the growth in the professional knowledge and
11 professional competence of a licensee. The program must meet
12 the minimum standards of quality of development,
13 presentation, measurement, and reporting of credits set forth in
14 the Statement on Standards for Continuing Professional
15 Education Programs jointly approved by NASBA and AICPA
16 or such other standards acceptable to the Board.

17 (2) Subject Areas -- The Board will accept programs
18 meeting the standards set forth in the Statement on Standards
19 for Continuing Professional Education Programs jointly
20 approved by NASBA and AICPA or standards deemed by the
21 Board to be comparable thereto.

22 (3) A non-resident licensee seeking renewal of a license
23 in Guam shall be determined to have met the CPE requirement
24 of this rule by meeting the CPE requirements for renewal of a
25 certificate, or license, in the state in which the licensee's

1 principal office is located.

2 (A) Non-resident applicants for renewal shall
3 demonstrate compliance with the CPE renewal
4 requirements of the state in which the licensee's principal
5 office is located by signing a statement to that effect on
6 the renewal application of Guam.

7 (B) *If* a non-resident licensee's principal office
8 state has no CPE requirements for renewal of a certificate,
9 the non-resident licensee must comply with all CPE
10 requirements for renewal of a license in Guam.

11 (f) **Continuing professional education records.**

12 (1) Applicants for renewal of licenses or registrations
13 pursuant to this Act shall file with their applications a signed
14 statement indicating they have met the requirements for
15 participation in a program of continuous learning as set forth
16 by the Board or contained in the Statement on Standards for
17 Continuing Professional Education (CPE) Programs jointly
18 approved by the NASBA and the AICPA. Responsibility for
19 documenting the acceptability of the program and the validity
20 of the credits rests with the applicant who should retain such
21 documentation for a period of five (5) years following
22 completion of each learning activity.

23 (2) The Board will verify, on a test basis, information
24 submitted by applicants for renewal of licenses or registrations.
25 In cases where the Board determines that the requirement is not

1 met, the Board may grant an additional period of time in which
2 the deficiencies can be cured. Fraudulent reporting is a basis
3 for disciplinary action.

4 (g) **Exceptions.**

5 (1) The Board may make an exception to the
6 requirement set out in §2105(d)(1) for a licensee who is retired
7 or who does *not* perform, or offer to perform, for the public one
8 (1) or more kinds of services involving the use of accounting or
9 auditing skills, including the issuance of reports on financial
10 statements or other compilation communication, or of one (1) or
11 more kinds of management advisory, financial advisory or
12 consulting services, or the preparation of tax returns or the
13 furnishing of advice on tax matters.

14 (2) The Board may in particular cases make exceptions
15 to the requirements set out in Rule §2105(d)(1) for reasons of
16 individual hardship including health, military service, foreign
17 residence, or other good cause.

18 (3) Licensees granted such an exception by the Board
19 must place the word 'inactive' adjacent to their CPA title on
20 any business card, letterhead or any other document or device,
21 with the exception of their CPA certificate, on which their CPA
22 title appears.

23 (4) Licensees granted an exception by the Board must
24 comply with a re-entry competency requirement defined by the
25 Board as set out in §2105(d)(3) *before* they may discontinue use

1 of the word 'inactive' in association with their CPA title.

2 (h) **Interstate reciprocity.**

3 *If the substantial equivalency standard set out in 22 GCA,*
4 *§35122 is not applicable, the Board shall issue a certificate to the*
5 *holder of a certificate issued by another state provided that the*
6 *applicant:*

7 (1) Has successfully completed the CPA examination.

8 Successful completion of the examination means that the
9 applicant passed the examination in accordance with the rules
10 of the other state at the time it granted the applicant's initial
11 certificate.

12 (2) Has, in addition to meeting the requirements of
13 Subsection (1) satisfied the requirements set out in 22 GCA
14 §35106(c)(1)(B).

15 (3) Has experience of the type required under this Act
16 and these Rules for issuance of the initial certificate.

17 (4) Has met the CPE requirement pursuant to 22 GCA,
18 §35106 (c)(1)(C) if applicable.

19 (i) **International reciprocity.**

20 (1) The Board may designate a professional accounting
21 credential issued in a foreign country as substantially
22 equivalent to a CPA certificate by relying on the International
23 Qualifications Appraisal Board for evaluation of foreign
24 credential equivalency.

25 (2) The Board may satisfy itself through qualifying

1 examination(s) that the holder of a foreign credential deemed
2 by the Board to be substantially equivalent to a CPA certificate
3 possesses adequate knowledge of United States practice
4 standards and the Board's regulations. The Board may rely on
5 the National Association of State Boards of Accountancy, the
6 American Institute of Certified Public Accountants, or other
7 professional bodies to develop, administer, and grade such
8 qualifying examination(s). The Board will specify the qualifying
9 examination(s) and process by resolution.

10 (3) An applicant for renewal of a CPA license originally
11 issued in reliance on a foreign accounting credential shall:

12 (A) make application for renewal at the time and
13 in the manner prescribed by the Board for all other license
14 renewals;

15 (B) pay such fees as are prescribed for all other
16 license renewals;

17 (C) *if* the applicant has a foreign credential in
18 effect at the time of the application for renewal of the
19 CPA certification, present documentation from the
20 foreign accounting credential issuing body that the
21 applicant's foreign credential has not been suspended, or
22 revoked, and the applicant is not the subject of a current
23 investigation. *If* the applicant for renewal no longer has a
24 foreign credential, the applicant must present proof from
25 the foreign credentialing body that the applicant for

1 renewal was not the subject of any disciplinary
2 proceedings, or investigations, at the time that the foreign
3 credential lapsed; and

4 (D) either show completion of continuing
5 professional education substantially equivalent to that
6 required under §2105(d) within the three (3) year period
7 preceding renewal application, or petition the Board for
8 complete or partial waiver of the CPE requirement based
9 on the ratio of foreign practice to practice in Guam.

10 (4) The holder of a CPA license issued in reliance on a
11 foreign accounting credential shall report any investigations
12 undertaken, or sanctions imposed, by a foreign credentialing
13 body against the CPA's foreign credential.

14 (5) Suspension or revocation of, or refusal to renew, the
15 CPA's foreign accounting credential by the foreign
16 credentialing body may be evidence of conduct reflecting
17 adversely upon the CPA's fitness to retain the license and may
18 be a basis for Board action.

19 (6) Conviction of a felony or any crime involving
20 dishonesty or fraud under the laws of a foreign country is
21 evidence of conduct reflecting adversely on the CPA's fitness to
22 retain the license and is a basis for Board action.

23 (7) The Board shall notify the appropriate foreign
24 credentialing authorities of any sanctions imposed against a
25 CPA.

1 (8) The Board may participate in joint investigations
2 with foreign credentialing bodies and may rely on evidence
3 supplied by such bodies in disciplinary hearings.

4 (j) Peer review for license holders who do *not* practice in a
5 licensed firm.

6 A license holder who issues compilation reports as defined in
7 this Act other than through a CPA firm that holds a permit under 22
8 GCA §35107 must undergo a peer review as required under §2106(c)
9 and (d).

10 **§2106. Permits to Practice – Firms.**

11 (a) **Applications.**

12 (1) Applications by firms for initial issuance and for
13 renewal of permits pursuant to 22 GCA, §35107 shall be made
14 annually on a form provided by the Board and, in the case of
15 applications for renewal, shall be filed no earlier than four (4)
16 months and no later than two (2) months prior to June 30 of
17 each year. Applications will not be considered filed until the
18 applicable fee and all required documents prescribed in these
19 Rules are received. *If* an application for permit renewal is filed
20 late, it shall also be accompanied by the delinquency fee
21 prescribed in these Rules.

22 (2) A sole proprietor may apply simultaneously for a
23 license or a renewal of a registration or a license and a Firm
24 Permit to Practice and will pay only for the license or
25 registration.

1 (3) Applications shall include the firm name, addresses
2 and telephone numbers of the main office and of any branch
3 offices of the firm in Guam, the name of the person in charge of
4 each such branch office, and the names of the partners,
5 shareholders, members, managers, directors and officers
6 practicing in Guam.

7 **(b) Notification of changes by firms.**

8 (1) A firm registered pursuant to 22 GCA, §35107 shall
9 file with the Board a written notification of any of the following
10 events concerning the practice of public accountancy within
11 Guam within thirty (30) days after its occurrence:

12 (A) formation of a new firm;

13 (B) addition of a partner, member, manager or
14 shareholder;

15 (C) retirement, withdrawal or death of a partner,
16 member, manager or shareholder;

17 (D) any change in the name of the firm;

18 (E) termination of the firm;

19 (F) change in the management of any branch
20 office in Guam;

21 (G) establishment of a new branch office or the
22 closing or change of address of a branch office in Guam;
23 and

24 (H) the occurrence of any event or events which
25 would cause such firm not to be in conformity with the

1 provisions of this Act or these Rules.

2 (2) In the event of any change in legal form of a firm,
3 such new firm shall within thirty (30) days of the change file an
4 application for an initial permit in accordance with these Rules
5 and pay the fee required by these Rules.

6 (c) **Peer review as a condition for renewal of permit.**

7 (1) The Board may establish internal procedures to
8 perform the following functions:

9 (A) review of financial statements and the reports
10 of licensees thereon, to assess their compliance with
11 applicable professional standards;

12 (B) improvement of reporting practices of
13 licensees through educational and rehabilitative
14 measures;

15 (C) referrals to the Board of cases requiring
16 further investigation by the Board, or its designees; and

17 (D) verification that individuals in the firm
18 responsible for supervising compilation or attest services
19 and signing the accountants' report on financial
20 statements on behalf of the firm meet the competency
21 requirement set out in applicable professional standards.

22 (E) assignment of functions to its designees.

23 (2) On and after June 30, 2005, each applicant for
24 renewal of a Firm Permit to Practice under 22 GCA, §35107 may
25 furnish in connection with their application, with respect to

1 each office maintained by the applicant in Guam, one (1) copy
2 of each of the following kinds of reports, together with their
3 accompanying financial statements, issued by the license holder
4 or office during the twelve (12) month period next preceding
5 the date of application, *if* any report of such kind was issued
6 during such period:

7 (A) a compilation report;

8 (B) a review report;

9 (C) an audit report;

10 (D) a report of the examination of prospective
11 financial information.

12 (3) The Board may also solicit for review reports of
13 licensees and related financial statements from clients, public
14 agencies, banks, and other users of financial statements.

15 (4) Any documents submitted in accordance with
16 Subsection (2) may have the name of the client, the client's
17 address and other identifying facts omitted, provided that the
18 omission does not render the type or nature of the enterprise
19 undeterminable. The identities of the sources of financial
20 statements and reports received by the Board from other than
21 the licensees who issued the reports shall be preserved in
22 confidence. Reports submitted to the Board pursuant to
23 Subsection (2), and comments of reviewers and of the Board on
24 such reports or workpapers relating thereto, also shall be
25 preserved in confidence except that they may be communicated

1 by the Board to the licensees who issued the reports.

2 (5) The review of financial statements and reports of
3 the licensees thereon shall be directed toward the following:

4 (A) presentation of financial statements in
5 conformity with generally accepted accounting
6 principles;

7 (B) compliance by licensees with generally
8 accepted auditing standards;

9 (C) compliance by licensees with other
10 professional standards; and

11 (D) compliance by licensees with the Rules of the
12 Board and other regulations relating to the performance
13 of compilation and attest services as herein defined.

14 (6) In gathering information about the professional
15 work of licensees, the Board may make use of investigators,
16 either paid or unpaid, who are *not* members of the Board.

17 (7) In any instance where the Board finds a deficiency
18 in the professional work of a licensee, it shall advise the
19 licensee in writing of the deficiency. The Board may request
20 the licensee to meet with it to discuss deficiencies. If the Board
21 determines that a report is substandard or seriously
22 questionable, the Board may direct that a review of the
23 workpapers be conducted by an independent reviewer other
24 than the person who performed the review of the report. The
25 findings of any such review of the workpapers shall be

1 transmitted by the reviewer to the Board.

2 (d) **Equivalent reviews as a condition for renewal of a**
3 **permit.**

4 (1) The requirements of Subsection (c) shall not apply
5 with respect to any firm or license holder which within the three
6 (3) years immediately preceding the application had been
7 subjected to a satisfactory peer review conducted in accordance
8 with a peer review program approved by the Board.

9 (2) A Peer Review Oversight Committee shall be
10 appointed by the Board to monitor the equivalent programs and
11 report to the Board that the programs meet the requirements set
12 out in this Act and these Rules.

13 (3) The Board shall establish procedures and take all
14 action necessary to ensure that the above materials remain
15 privileged as to any third parties.

16 (e) **Internet practice.** A CPA firm offering or rendering
17 professional services via a Web site shall provide in the Web site's
18 homepage, a name, an address, and principal state of licensure as a
19 means for regulators and the public to contact a responsible licensee
20 in charge at the firm regarding complaints, questions, or regulatory
21 compliance. An individual or firm is not authorized to offer or
22 render professional CPA services in Guam via a Web site, or to
23 represent via a Web site that such firm or individual has a office in
24 Guam or is authorized to practice as a CPA in Guam, unless such
25 individual or firm is licensed to practice in accordance with 22 GCA,

1 §35107.

2 **§2107. Enforcement Actions against Licensees.**

3 (a) **Grounds for enforcement actions against licensees.**

4 The grounds for revocation and suspension of certificates,
5 registrations and licenses, and other disciplinary action against
6 licensees and individuals with privileges under 22 GCA, §35122, are
7 set out in 22 GCA, §35109 in both specific and general terms. The
8 general terms of that provision of the Act include the following
9 particular grounds for such disciplinary action:

10 (1) Fraud or deceit in obtaining a certificate,
11 registration or license, within the meaning of 22 GCA, §35109,
12 includes the submission to the Board of any knowingly false or
13 forged evidence in, or in support of, an application for a
14 certificate, registration or license, and cheating on an
15 examination as defined in these Rules.

16 (2) Dishonesty, fraud or gross negligence, within the
17 meaning of 22 GCA, §35109(a)(5), include knowingly, or
18 through gross negligence, making misleading, deceptive or
19 untrue representations in the performance of services.

20 (3) Violations of this Act or of Rules promulgated
21 under the Act, within the meaning of 22 GCA, §35109(a)(6),
22 include:

23 (A) Using the CPA title or providing attest or
24 compilation services in Guam without a license,
25 registration or Firm Permit to Practice issued under 22

1 GCA, §35106 and 35107 or without properly qualifying to
2 practice across state lines under the substantial
3 equivalency provision of this Act.

4 (B) Using or attempting to use a certificate,
5 registration or license which has been suspended or
6 revoked;

7 (C) Making any false or misleading statement, in
8 support of an application for a certificate, registration or a
9 license filed by another;

10 (D) Failure of a licensee to provide any
11 explanation requested by the Board regarding evidence
12 submitted by the licensee in support of an application
13 filed by another, or regarding a failure or refusal to
14 submit such evidence; and failure by a licensee to furnish
15 for inspection upon request by the Board, or its
16 representative, documentation relating to any evidence
17 submitted by the licensee in support of such an
18 application;

19 (E) Failure to satisfy the continuing professional
20 education requirements set out in 22 GCA, §35106(d)
21 and/or failure to comply with the continuing education
22 requirements of these Rules;

23 (F) Failure to comply with professional standards
24 as to the attest and/or compilation competency
25 requirement for those who supervise attest and/or

1 compilation engagements and sign reports on financial
2 statements or other compilation communications with
3 respect to financial statements; or

4 (G) Failure to comply with the applicable peer
5 review requirements set out in 22 GCA, §35107 (i) and
6 these Rules.

7 (4) Conduct reflecting adversely upon the licensee's
8 fitness to perform services, within the meaning of 22 GCA,
9 §35109(a)(10), includes:

10 (A) Adjudication as mentally incompetent;

11 (B) Fiscal dishonesty of any kind;

12 (C) Presenting as one's own a certificate,
13 registration or license issued to another;

14 (D) Concealment of information regarding
15 violations by other licensees of this Act or the Rules
16 thereunder when questioned or requested by the Board;
17 and

18 (E) Willfully failing to file a report or record
19 required by state or federal law; willfully impeding or
20 obstructing the filing of such a report or record, or
21 inducing another person to impede or obstruct such filing
22 by another; and the making or filing of such a report or
23 record which one knows to be false.

24 (b) **Return of certificate, registration, license, or Firm**
25 **Permit to Practice.**

1 Any licensee whose certificate or Firm Permit to Practice issued
2 by the Board is subsequently suspended or revoked shall promptly
3 return such certificate, registration, license, or Firm Permit to Practice
4 to the Board.

5 **§2108. Enforcement Procedures – Investigations.**

6 (a) **Review of professional work product.**

7 The Board may solicit and receive publicly available reports of
8 licensees and individuals with privileges under 22 GCA, §35122 and
9 related financial statements from clients, public agencies, banks, and
10 other users of financial statements on a general and random basis
11 without regard to whether an application for renewal of the
12 particular licensee is then pending or whether there is any formal
13 complaint or suspicion of impropriety on the part of any particular
14 licensee or an individual with privileges under 22 GCA, §35122; and
15 it may review such reports and otherwise proceed with respect to the
16 results of any such review in the fashion prescribed in §2106 (c).

17 **§2109. Enforcement Procedures – Hearings by the Board.**

18 (a) **Complaints and notices of hearing.**

19 (1) A complaint issued by the Board pursuant to 22
20 GCA, §35111(a) will include :

21 (A) A statement of matters asserted or charged;

22 and

23 (B) References to any particular sections of the
24 Act or of the Rules which are asserted to have been
25 involved in unlawful conduct.

1 (2) When the complaint and notice of hearing are
2 served pursuant to 22 GCA, §35111(a), they will be
3 accompanied by:

4 (A) A copy of the Board's Rules under this §2109;

5 (B) A copy of 22 GCA, §35111;

6 (C) A copy of any particular sections of this Act or
7 of any Rule asserted to have been violated; and

8 (D) A brief statement calling attention to the
9 rights of the licensee or an individual with privileges
10 under 22 GCA, §35122, under this Act and the Rules, to
11 examine reports and evidence in advance of the hearing;
12 to appear by counsel at the hearing to present evidence;
13 and to appeal an adverse decision.

14 **(b) Examination and copying of documents.**

15 Under 22 GCA, §35111(b), a respondent has the right in
16 advance of the hearing to examine and copy any report of
17 investigation and documentary or testimonial evidence and
18 summaries of evidence in the Board's possession relating to the
19 subject matter of the complaint. The right of examination may be
20 exercised by the respondent or the respondent's attorney or agent at
21 the Board's office where the records in question are kept, during
22 regular business hours, on four (4) days' advance notice in writing.
23 Copies will be promptly furnished of any documents or other
24 materials designated for copying, but the Board may charge a fee for
25 such copying pursuant to these Rules.

1 (c) **Conduct of hearing.**

2 (1) A hearing under 22 GCA, §35111 shall be conducted
3 by and shall be under the control of a presiding officer
4 appointed by the Board.

5 (2) The order of proceedings shall be as follows:

6 (A) Statement and presentation of evidence
7 supporting the complaint by the investigating officer, if
8 any, by a Board member designated for that purpose, or
9 by counsel.

10 (B) Statement and presentation of evidence of the
11 respondent, in person (or in the case of a firm through a
12 partner, officer, director, member, manager or
13 shareholder) and/or by counsel.

14 (C) Rebuttal evidence in support of the complaint.

15 (D) Surrebuttal evidence of the respondent.

16 (E) Closing statements.

17 (F) Board decision, which pursuant to 22 GCA,
18 §35111(h) must be by written vote of a majority of the
19 Board excluding members disqualified under 22 GCA,
20 §35111(d) to sustain any charge and impose any penalty.

21 (3) The presiding officer, Board members, the
22 respondent and the person presenting the complaint shall have
23 the right to question or examine or cross-examine any witness.

24 (4) The burden of proof to support a violation of the
25 Act or Rules rests with the Board.

1 (5) The hearing may be continued with recesses as
2 determined by the presiding officer.

3 (6) The presiding officer may set reasonable time limits
4 for oral presentation.

5 (7) Exhibits shall be marked, and preserved along with
6 the record of the hearing.

7 **(d) Evidentiary rules.**

8 (1) Under 22 GCA, §35111(f) , the Board is not bound
9 by technical rules of evidence, and in its discretion may
10 consider any evidence of a kind commonly relied upon by
11 reasonably prudent persons in the conduct of their affairs.

12 (2) All such evidence that is offered and *not* objected to
13 will be received by the presiding officer unless the presiding
14 officer determines that it is irrelevant, immaterial or unduly
15 repetitious.

16 (3) Evidence may be received provisionally, subject to a
17 later ruling by the presiding officer as to its admissibility; but
18 any such ruling must be made *before* closing statements are
19 heard pursuant to §2109(c)(2)(E).

20 **(e) Publication of decisions.**

21 Decisions by the Board following hearings under 22 GCA
22 §35111 will, if they sustain any charge, be made public. Decisions that
23 do not sustain a charge may be made public at the Board's discretion.

24 **§2110. Reinstatement.**

25 **(a) Applications for relief from disciplinary penalties.**

1 (1) A person whose certificate, license, or registration
2 has been revoked or suspended or an individual whose
3 privileges under 22 GCA, §35122 have been revoked or limited,
4 or a firm whose Permit to Practice has been revoked or
5 suspended or a person or firm that has been put on probation
6 pursuant to 22 GCA, §35109 may apply to the Board for
7 modification of the suspension, revocation or probation after
8 completion of all requirements contained in the Board’s original
9 order.

10 (2) The application shall be in writing; shall set out
11 and, as appropriate, substantiate the reasons constituting good
12 cause for the relief sought, and shall be accompanied by at least
13 two (2) supporting recommendations, under oath, from
14 licensees who have personal knowledge of the activities of the
15 applicant since the suspension or revocation was imposed.

16 **(b) Action by the Board.**

17 (1) An application pursuant to §2110(a) will ordinarily
18 be processed by the Board upon the basis of the materials
19 submitted in support thereof, supplemented by such additional
20 inquiries as the Board may require. At the Board’s discretion a
21 hearing may be held on an application, following procedures
22 the Board may find suitable for the particular case.

23 (2) The Board may impose appropriate terms and
24 conditions for reinstatement of a certificate, license, registration,
25 Firm Permit to Practice or privileges under 22 GCA, §35122 or

1 modification of a suspension, revocation or probation.

2 (3) In considering an application under §2110(a), the
3 Board may consider all activities of the applicant since the
4 disciplinary penalty from which relief is sought was imposed,
5 the offense for which the applicant was disciplined, the
6 applicant's activities during the time the certificate, license,
7 registration, privileges under 22, GCA §35122 or permit was in
8 good standing, the applicant's rehabilitative efforts, restitution
9 to damaged parties in the matter for which the penalty was
10 imposed, and the applicant's general reputation for truth and
11 professional probity.

12 (4) No application for reinstatement will be considered
13 while the applicant is under sentence for any criminal offense,
14 including any period during which the applicant is on court-
15 imposed probation or parole.

16 **§2111. Unlawful Acts.**

17 (a) **Misleading CPA firm names.**

18 A CPA firm name is misleading within the meaning of 22 GCA,
19 §35113(h) if, among other things:

20 (1) The CPA firm name implies the existence of a
21 corporation when the firm is not a corporation;

22 (2) The CPA firm name implies existence of a
23 partnership when there is not a partnership (as in 'Smith &
24 Jones, C.P.A.s');

25 (3) The CPA firm name includes the name of a person

1 who is neither a present nor a past partner, member or
2 shareholder of the firm; or

3 (4) The CPA firm name includes the name of a person
4 who is *not* a CPA *if* the title 'CPAs' is included in the firm
5 name.

6 (b) **Fictitious firm names.**

7 A fictitious CPA firm name (that is, one not consisting of the
8 names or initials of one (1) or more present or former partners,
9 members or shareholders) may *not* be used by a CPA firm unless
10 such name has been registered with and approved by the Board as
11 *not* being false or misleading.

12 (c) **Use of titles by persons holding certificates but *not***
13 **licenses.**

14 A holder of a certificate who does not also hold a license may
15 use the titles 'certified public accountant' and 'CPA' under the
16 following circumstances, and no others;

17 (1) By display, in an office or other place of business, of
18 the original of a currently valid certificate;

19 (2) For identification as a faculty member in an
20 educational institution, for purposes of functioning in the
21 capacity as such a faculty member;

22 (3) For identification as the author of a book, article or
23 other publication, provided that such publication does not offer
24 the performance of services, or the sale of products (other than
25 a book, article or other publication) of any kind.

1 (4) Their certification is published in certification or
2 society membership directories, or is included in the sale of
3 mailing labels, or when certification or membership status is
4 confirmed.

5 (5) Use of the title in the form of a disclosure, when a
6 certificate holder is required by law to disclose the fact of
7 certification as a CPA, is *not* 'holding out' for the purposes of
8 this Rule.

9 (6) Displaying membership in a CPA association.

10 (7) Displaying a certificate of another jurisdiction.

11 (d) Knowingly practicing public accounting in Guam prior to
12 compliance with 22 GCA, §35106, §35107, and §35122.

13 (e) Any representation that a person holds a license, *if* that
14 representation is made in connection with an offer to perform or the
15 performance of accountancy services for the public, regardless of
16 whether that representation is made by the person, someone
17 associated with him, or someone serving as his agent. Any such
18 representation is presumed to invite the public to rely upon the
19 professional skill implied by the certificate or license in connection
20 with the professional services offered to be performed by the person.
21 For purposes of this Rule, a representation shall be deemed to include
22 any oral or written communication indicating that the person holds a
23 license, including without limitation the use of titles or legends on
24 letterheads, reports, business cards, brochures, resumes, office signs,
25 telephone directories or any other advertisements, news articles,

1 publications, listings, tax return signatures, signatures on experience
2 or character affidavits for exam or certificate applicants, displayed
3 membership in CPA associations, displayed CPA licenses from this
4 or any other state, and displayed certificates or licenses from other
5 organizations which have the designation 'CPA' or 'Certified Public
6 Accountant' by the licensee's name.

7 (f) **Safe harbor language.**

8 Non-licensees may use the following disclaimer language in
9 connection with financial statements to not be in violation of the Act:

10 'I (we) have prepared the accompanying (financial statements)
11 of (name of entity) as of (time period) for the (period) then ended.
12 This presentation is limited to preparing in the form of financial
13 statements information that is the representation of management
14 (owners).

15 I (we) have not audited or reviewed the accompanying
16 financial statements and accordingly do not express an opinion or
17 any other form of assurance on them.'

18 **§2112. Substantial Equivalency. Notification and Internet**
19 **Practice.**

20 (a) A qualified individual seeking practice privileges in
21 Guam pursuant to 22 GCA, §35122(a)(1) or (2) shall comply with the
22 notice requirement as follows:

23 (1) Notice may be given electronically or in writing on
24 forms established by this Board;

25 (2) Notice is immediately due and shall be received by

1 the Board with the required fee within thirty (30) days after the
2 individual knowingly avails him/herself of the laws of Guam
3 by:

4 (A) Accepting an engagement or an assignment to
5 render professional services in Guam; or

6 (B) Offering to render professional services
7 through direct solicitation or marketing targeted to
8 persons in Guam.

9 (3) In lieu of the procedure set out in Paragraph (a)(1),
10 at anytime prior to entering Guam, an individual, directly or
11 through the individual's firm, may be included in a master
12 notice to all participating, substantially equivalent jurisdictions
13 including this Board by giving notice to the NASBA National
14 Qualification Appraisal Service or other comparable service
15 designated by the Board; and, provided the firm accepts
16 responsibility for each such individual's compliance with the
17 accountancy laws and rules of Guam for so long as the
18 individual is included in the firm's master notice, keeps the
19 master notice reasonably current and renews the notice
20 annually. In any event, the individual seeking practice
21 privileges is responsible for complying with the requirement
22 that the notification required under 22 GCA, §35122 has been
23 made.

24 (b) Notice shall be renewed on the same cycle as the Board
25 requires for license renewals, for so long as the individual intends to

1 use privileges under 22 GCA §35122 in Guam.

2 (c) Notice shall be amended within thirty (30) days after the
3 individual changes his principal place of business, or within thirty
4 (30) days after the license has been denied, revoked, or suspended in
5 any jurisdiction.

6 (d) A non-resident individual shall *not* be deemed to have
7 entered Guam for purposes of 22 GCA, §35122 and notice is *not*
8 required under 22 GCA, §35122 *if* the individual's contact with Guam
9 is limited to any of the following activities:

10 (1) teaching either a college or continuing professional
11 education course,

12 (2) delivering a lecture,

13 (3) moderating a panel discussion,

14 (4) rendering professional services to the individual's
15 employer or to persons employed by the individual's employer,
16 including affiliated, parent, or subsidiary entities, provided
17 such services are not rendered for the employer's clients.

18 (e) An individual entering into an engagement to provide
19 professional services via a Web site pursuant to 22 GCA, §35122 shall
20 disclose, via any such Web site, in the individual's principal state of
21 licensure, a license number and an address as a means for regulators
22 and the public to contact the individual regarding complaints,
23 questions, or regulatory compliance.

24 **§2113. Code of Professional Conduct.**

25 (a) **Ethical Rules.** In the case of CPA's, the Code of

1 Professional Conduct of this Board are those published separately for
2 purposes of convenience and are those published by the American
3 Institute of CPA's entitled Code of Professional Conduct, as adopted,
4 and any amendments made to the same thereafter. These Rules shall
5 be known as the Code of Professional Conduct and by reference
6 thereto are included herein and shall have the full force and effect of
7 a regulation of this Board. The Rules are promulgated for the
8 purpose of maintaining high standards of professional conduct by
9 those licensed and registered as Certified Public Accountants."

10 **Section 4.** Amendment 3 of this Act is considered part of the Guam
11 Administrative Rules and may be amended through the Administrative
12 Adjudication process.

13 **Section 5.** *If* any provision of this Law or its application to any
14 person or circumstance is found to be invalid or contrary to law, such
15 invalidity shall *not* affect other provisions or applications of this Law which
16 can be given effect without the invalid provisions or application, and to
17 this end the provisions of this Law are severable.