

## **21 NCAC 08N .0303 OBJECTIVITY AND CONFLICTS OF INTEREST**

(a) **Personal Financial Interest in Advice.** When offering or rendering accounting or related financial, tax, or management advice, a CPA shall be objective and shall not place the CPA's own financial interests nor the financial interests of a third party ahead of the legitimate financial interests of the CPA's client or the public in any context in which a client or the public can reasonably expect objectivity from one using the CPA title.

(b) **Expectation of Objectivity Presumed.** If the CPA uses the CPA title in any way to obtain or maintain a client relationship, the Board shall presume the reasonable expectation of objectivity.

(c) **Acceptance of a Commission or Referral Fee.** A CPA shall not recommend or refer to a client any product or service for a commission; recommend or refer any product or service to be supplied by a client; or receive a commission, when the CPA also performs the following for the client:

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

This prohibition applies during the period in which the CPA is engaged to perform any of the services listed in Paragraph (c) of this Rule and the period covered by any historical financial statements involved in such listed services.

(d) **Acceptance of a Contingent Fee.**

- (1) The offering or rendering of professional services for, or the receipt of, a contingent fee by a CPA shall not be prohibited except for engaging to render or rendering by a CPA:
  - (A) of professional services for any person for whom the CPA also performs attest services, during the period of the attest services engagement, and the period covered by any historical financial statements involved in such attest services; and
  - (B) for the preparation of original or amended tax returns or claims for tax refunds.
- (2) Fees shall not be regarded as being contingent if fixed by courts or other public authorities or, in tax matters, if determined based on the results of judicial proceedings or the findings of governmental agencies.

(e) A CPA shall communicate in advance to a client the scope of services or products to be rendered or referred for which the CPA will receive a commission, referral, or contingent fee. A CPA shall provide disclosure in a written statement within ten business days of the service or product to be rendered or referred with the commission, referral, or contingent fee to be charged or received by the CPA.

*History Note: Authority G.S. 55B-12; 57D-2-02; 93-12(9);  
Eff. April 1, 1994;  
Amended Eff. January 1, 2006; April 1, 1999;  
Readopted Eff. February 1, 2016.*