PUBLIC SESSION MINUTES
North Carolina State Board of CPA Examiners
August 23, 2004
1101 Oberlin Road
Raleigh, NC 27605

MEMBERS ATTENDING: Norwood G. Clark, Jr., CPA, President; Leonard W. Jones, CPA, Vice President; Arthur M. Winstead, Jr., CPA, Secretary-Treasurer; O. Charlie Chewning, Jr., CPA; Scott L. Cox, CPCU, CIC; Jordan C. Harris, Jr.; and Michael C. Jordan, CPA.

STAFF ATTENDING: Robert N. Brooks, Executive Director; J. Michael Barham, CPA, Deputy Director; Lisa R. Hearne, Manager-Communications; Ann J. Hinkle, Manager-Professional Standards; Buck Winslow, Manager-Licensing; and Noel L. Allen, Legal Counsel.

GUESTS: James T. Ahler, Executive Director, NCACPA; Sharon Bryson, Deputy Director, NCACPA; Tom Chenoweth, CPA, Highland Publishing Company; Thurman Lee Gause; Curt Lee, Past President, NCSA; Donna Salter, Director of Professional Development, NCACPA; and William E. Self, CPA.

CALL TO ORDER: President Clark called the meeting to order at 10:02 a.m.

MINUTES: The minutes of the July 15, 2004, meeting were approved as submitted.

FINANCIAL AND BUDGETARY ITEMS: The financial statements for July 2004 were accepted as submitted.

Messrs. Cox and Winstead moved to approve the audit report for the Board for the year-ending March 31, 2004. Motion passed. (Appendix I)

LEGISLATIVE AND RULE-MAKING ITEMS: Messrs. Jones and Jordan moved to approve 21 NCAC 8G .0410 as published for the June 22, 2004, rule-making hearing which was continued to August 23, 2004. Motion passed with seven (7) affirmative and zero (0) negative votes. No written comments on the proposed rule were received by the Board following the August 23, 2004, rule-making hearing. Bradley J. Newkirk, CPA, NCACPA President, was the only individual to present oral testimony to the Board on August 23, 2004. (Appendix II)

NATIONAL ORGANIZATION ITEMS: Messrs. Cox and Chewning moved to approve the Mutual Findings of Substantial Equivalence between the Institute of Chartered Accountants of Saskatchewan and the Board. Motion passed. (Appendix III)

REPORT OF THE PROFESSIONAL STANDARDS COMMITTEE: Mr. Jones moved and the Board approved the following recommendations of the Committee:

200402-005 - Chieh-Chun Hsu - Approve the signed Consent Order. (Appendix IV)
200302-003 - Close the case without prejudice. Mr. Winstead did not participate in the discussion of this matter, nor did he vote on this matter.
200206-024 - W. Edward Goodall, Jr. - Approve the signed Consent Order. (Appendix V)

Messrs. Chewning and Winstead moved to approve the Emergency Order for Revocation for Martin Harold Witherspoon, Case No. 200401-001. Motion passed with six (6) affirmative votes and zero (0) negative votes. (Appendix VI)

Messrs. Chewning and Jordan moved to approve the interpretive statement as presented by Staff and Legal Counsel as modified. Motion passed with six (6) affirmative votes and zero (0) negative votes. (Appendix VII)

REPORT OF THE PROFESSIONAL EDUCATION AND APPLICATIONS COMMITTEE: Mr. Cox moved and the Board approved the following recommendations of the Committee:

Transfer of Grades Applications - The following was approved:

Elizabeth Jones Morrow

Original Certificate Applications - The following were approved:

Melissa Gail Alligood
Evan Andrew Anderson
Meredith Lee Bolton
Douglas Russell Browne
Sarah Elizabeth Chaffins
Stephanie Lynn Cyrus
Richard Clifton Dawson Jr.
Carlton Wayne Edwards II
Carriea Kafae Shemone Flowers
Donald B. Freudiger
Mary Ann Gardner
Charla Dean Gottschalk
Wayne Richard Hayden Jr.
Benjamin Irwin Holcomb
Shirley J. Huff
Kimberly M. Hughes
Jeffrey Kendrick Hunt
Lee Allison Lemonds
Shelly Schultz McKee
Kevin Lee Metcalf
Charity Annette Miller
Douglas W. Mishoe
Timothy Aaron Moore
Elizabeth Jones Morrow
Erik Kristopher Otto
Kristina Jean Reid
Andrea Yvonne Richardson
Charles Stewart Rigsbee Jr.
Julie Frazier Silnutzer
Tanya Lynn Singleton
Scott Alton-McGraw Stewart
Amanda Jane Thomas
Davis Gray Tyndall
Lori Ann Verrette
Jason Cadwell Wilkinson
Theresa Bates Younce

Reciprocal Certificate Applications - The following were approved:

Jennifer Lynn Coats
Caron Elaine Crouse
Tara Ann Edwards
Jason A. Enoch
Andrew Gordon Foster
Jeffrey Smith Greenway
Crystal Rae Gugelmeyer
Shelley A. Lee Hing
Jason Paul Holt
Robert W. Johns
Chad Eugene Johnson
Tina Marie Lodge
Ashley Truly McMillan
Robin Lynn Milligan-Jones
Carl Player Patterson
Sonia Ivette Rodriguez-Marshall
Bonnie J. Sames
Charles J. Shearer
Tara Mechelle Sherbert
Beverly Ruth Winstead
Timothy Allen Wise

Temporary Permits - The following temporary permits were approved by the Executive Director and ratified by the Board:

Andrea Marie Esterline T03055
Amy Valinda Hamilton T03056
Andrew Gordon Foster T03057
Douglas L. Hassman T03058
Steven Douglas Hintz T03059
Ilia Kay T03060
Tina Marie Lodge T03061
Anthony C. Rispoli T03062
Sonia Ivette Rodriguez-Marshall T03063
Eric J. Wade T03064

Reinstatements - The following were approved:

Melford Ray Baker #9280
Edward Wayne Carr #7140
Kimberly Ann Cossaart #22899
Diane Kaden Coy #14533
Karen Boswell Gibson #13497
Howard Lee Gilliland Jr. #13693
David Lee Jackson #22588
Philip Joseph Kresse #30052
Patricia Ann Roberts #17890
Christopher Robert Simmons #22022
Carly Niele Weber #27576
Robert E. Willis #5196

Firm Registrations - The following professional corporations, professional limited liability companies, and limited liability partnerships were approved by the Executive Director and ratified by the Board:

BRANDT ELLIOTT & PAINTER, LLP
BURGESS & CO., P.C., CERTIFIED PUBLIC ACCOUNTANTS
CURL & ASSOCIATES, PLLC
JAMMIE L. EUBANKS, CPA, P.A.
HALSTEAD ADAMS, PA
Knapp & Lowman, P.C.
Si Young Park, CPA, PLLC
ELIZABETH M. REDEKER, CPA, P.A.
PATTI D. ROYSTER, CPA PA
Suzan H. Sluder, CPA PA
Larry E. Widis, PLLC

Reclassifications - The Committee approved the request for retired status submitted by Jesse J. McKinney (#10392) because he is completely retired and does not receive any earned compensation for current personal services in any job whatsoever.

CPE Matters – Messrs. Jones and Clark moved to approve the request by Norborne G. Smith, Jr. (#861) for exemption from 21 NCAC 8G .0409(c), which requires at least eight (8) hours of non-self study CPE each year. Motion failed with one (1) affirmative vote and five (5) negative votes.

Staff recommended that the $100.00 civil penalty for first conditional licenses pursuant to NCAC 8G .0406(b)(1) not be required this year because it will give the licensees a period to adjust to the new rule. The Committee approved staff recommendation.

Extension Requests - The Committee approved Cynthia Sexton (#16469) for extension for completion of 2003 CPE until January 4, 2004.

The following requests were disapproved:

Beverly M. Harrington #30177
Mary Terese Masterson #14002

Examinations – The Committee reviewed and approved the following staff-approved applicants to sit for the CPA Examination:

Andrew Martin Allen
Donna S. Allen
Kristin Marie Allgood
Jeffery Bruce Baker
Michael Linwood Ballard
Williams Curtis Belcher III
Kenneth R. Biser
Carrie Ann Bogart
Paulina D. Bolton
Michael David Brittain
Courtney Elaine Brizendine
Charles John Brunatti Jr
Gilbert Rex Buck Jr
Misty Dawn Buonsignore
Jennifer Renee Burris
Lori Elizabeth Caddell
Marie-Lucie Cadet
Mary Lynne Caldwell
James Everett Campbell
Jeffrey Gene Campbell
Marcus W. Canady
Kendell Gore Cangelosi
Jay Anthony Carreno
Edric R. Carrington IV
Ronald Clifton Carter Jr
Robbie Brett Chapman
Patricia D. Cheek
Wenliang Chen
Nathaniel Wayne Clawson
Jennifer Hahn Cline
Mark G. Cole
Nolan Howard Combs
Paul L. Constantino
Michael Richard Cromie
Jolene Renee Csatlos
Bronnie E. Cummings
Brian Glenn Cusick
Dipak P. Dave

Sunita Jagdish Dave
Brett Duane Davidson
Ian Oluwatoyin Davies
Wesley Joe Davis
Christopher T. Dickman
Reese Dickson Dorrier
Kristina Lynn Draudt
Julie L. Duriga
Carrie Lynne Dyckman
Jennifer Lynn Eckard
Chad Richard Edwards
Amanda Evans
Caroline Elizabeth Finch
Ann Marie Foust
Sharon Faith Freeman
Mark Alexander Gabriel
Betty Jane Garner
John Michael Gay
Kendra Ward Gillespie
Micaela K. Glenn
Katherine S. Grant
Michelle E. Grant
Allen Kemper Gray
Michelle Morris Greene
Susan Labriska Griffin
Heather Marie Guenther
Laura Elizabeth Hagel
Jarrod R. Hand
Vickie R. Hanner
Christopher Scott Hardee
Angela Teola Harris
Mindy June Harvey
Holly Renea Hatch
Kevin Clayton Hatch
Brandy Miller Havens
Amy Katherine Heath
Leslie Michelle Hedrick
Debra Michelle Hemric
Sarah Scott Henderson
Julie Deanna Hicks
Leon Douglas Hobbs
Jared Reid Horton
John Willis Howard
Tawnya M. Hurtt
Gregory E. Husted
Lisa Renee Isenhour
Arthur George Jaeger
Bharati S. Javalkar
Tajuanda A. Jenkins
Dallas Clinton Johnson
Steven Dean Johnson
Justin Warren Jones
Sherry Mitchell Jones
Penny Jones Kaffenberger
Margaret Turner Kelly
Haley Allyson Kendrick
Jennifer Nicole Kinlaw
John Michael Kledis
Joel David Kronenberg
William Thorpe Landis
Matthew Philip Leach
Austin Keith Lee
Jennifer Amanda Lee
Kari Diane Linfors
Stephanie Jean Little
Regina Lynn Love
Lauren L. Lovelace
Howard Leonard Lucas
Kathy Lyn Luke
Kirk Lyndsay Mangum
Charles Bernard McCrimmon
Melissa Susan McDonald
Dain Alexander Mickalites
Michele Anderson Mitchell
Daniel R. Monroe
Gwen Burchette Moore
Koichi Moroto
Rashi Kaur Mundi
Joshua Todd Munsey
Alyssa Anna Nelson
Amy Hall Novinc
John Porter Paisley III
Somi Leia Pak
John David Palmer
Joseph F.B. Palmer
James Edwards Partin

Lloyd Roddesie Patillo
Olga Pazuk
Timothy Paul Pivovarnik
Kirsten Emily Pollock
William Markland Porter
Jennifer Robinson Queen
Teresa Reed
Tracy Ann Reeves
Sarah Beth Rhoton
Bonnie Elizabeth Richardson
Brian Daniel Rosenthal
Christopher Daniel Sanders
Clint J. Saunders
William Karl Schmitt
Alissa Elizabeth Shan
April Shavonne Sherman
Tameeka Monique Shorter
Tracie L. Singleton
Laura Mills Sloop
John Robert Sook
Christopher James Surratt
Kelly Gerard Taylor
Naimish P. Thaker
Emily G. Thomas
Brandy Garrell Turbeville
Holly M. Turner
James Will Vannoy
Tanya Taylor Ward-Gupton
Ryan Andrew Wheatley
Joel Nathan White
Mary Jane Y. Williams
Regina Black Williams
Carole Emily Wilson
Xinyi Wu

Rescind Form of Practice Statement - The individuals listed below signed Form of Practice Statements due to their employment. However, due to a change in their employment, staff recommended that the statements be rescinded. The Committee approved staff recommendation:

Joseph Milton Hart, Jr. #11022
Julia Ann Passmore #20133

RULE-MAKING HEARING: President Clark convened the Rule-Making Hearing which had been continued to August 23, 2004, from June 22, 2004. Bradley J. Newkirk, CPA, NCACPA President, spoke in favor of the proposed rule, 21 NCAC 8G .0410. Written comments from 15 individuals and organizations were received for the Hearing. The Rule-Making Hearing was adjourned by President Clark.

CLOSED SESSION: Messrs. Jordan and Winstead moved to enter Closed Session with Staff and Legal Counsel to discuss a registration matter. Motion passed.

PUBLIC SESSION: The Board re-entered Public Session to continue with the Agenda.

RESOLUTION: President Clark read a Resolution of Appreciation for Scott L. Cox's service to the Board. President Clark instructed the Executive Director to make the Resolution a part of the minutes. (Appendix VIII)

OATH OF OFFICE: Thurman Lee Gause was sworn the Oath of Office by President Clark.

ADJOURNMENT: Messrs. Winstead and Jordan moved to adjourn the meeting at 12.07 p.m. Motion passed.

Respectfully submitted:

Robert N. Brooks
Executive Director

Attested to by:

Norwood G. Clark, Jr., CPA
President

NORTH CAROLINA STATE BOARD OF CERTIFIED PUBLIC ACCOUNTANT EXAMINERS

FINANCIAL STATEMENTS

FOR THE YEARS ENDED MARCH 31, 2004 AND 2003

NORTH CAROLINA STATE BOARD OF CERTIFIED PUBLIC ACCOUNTANT EXAMINERS

FINANCIAL STATEMENTS AND SUPPLEMENTARY INFORMATION

FOR THE YEARS ENDED MARCH 31, 2004 AND 2003

BOARD MEMBERS

Norwood G. Clark, Jr., CPA, President

Leonard W. Jones, CPA, Vice-President

Arthur M. Winstead, Jr., CPA, Secretary-Treasurer

O. Charlie Chewning, Jr., CPA

Scott L. Cox, CPCU, CIC

Jordan C. Harris, Jr.

R. Stanley Vaughan, CPA

EXECUTIVE DIRECTOR

Robert N. Brooks

DEPUTY DIRECTOR

J. Michael Barham, CPA

LEGAL COUNSEL

Noel L. Allen, Esq.

NORTH CAROLINA STATE BOARD OF CERTIFIED PUBLIC ACCOUNTANT EXAMINERS
FOR THE YEARS ENDED MARCH 31, 2004 AND 2003

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NORTH CAROLINA STATE BOARD OF CERTIFIED PUBLIC ACCOUNTANT EXAMINERS
MANAGEMENT'S DISCUSSION AND ANALYSIS
FOR THE YEAR ENDED MARCH 31, 2004

The following is a discussion and analysis of the Board's financial performance for the fiscal year ended March 31, 2004. Please read it in conjunction with the financial statements which follow this section.

Financial Highlights

The Board's total net assets increased by $182,753, or 8.18%, due primarily to an increase in examination fee revenue and licensing fee revenue.

The operating revenues of the Board increased $186,609, or 12.08%, due primarily to an increase in the examination fee for the computer-based Uniform Certified Public Accountant Examination administered for the first time starting in April 2004.

The net non-operating revenues of the Board decreased $17,573, or 18.96%, due primarily to the termination of lease agreements that caused rental income to decrease by $11,937 or 23.77%. Also, interest rates fell during the year causing a decrease in investment earnings.

The operating expenses of the Board increased by $207,517, or 14.65%, due primarily to an increase in legal fees, resulting from an increase in litigation and hearing activity. Salaries and benefits also increased due to the hiring, in January 2004, of a Deputy Director. Examination expenses increased relative to vendor fees associated with the computer-based exam.

Overview of the Financial Statements

This discussion and analysis is an introduction to the Board's basic financial statements, which are comprised of two components: 1) financial statements, and 2) notes to financial statements. This report also contains required supplementary schedules in addition to the basic financial statements.

Basic Financial Statements

The financial statements of the Board report information about the Board using accounting methods similar to those used by private sector companies. These statements offer short and long-term financial information about the activities of the Board.

The Statements of Net Assets (page 5) present the current and non-current portions of assets and liabilities separately and reflects the total net assets of the Board.

The Statements of Revenues, Expenses, and Changes in Net Assets (page 6) present information on how the Board's assets changed as a result of operations for the year.

The Statements of Cash Flows (page 7) present information on how the Board's cash changed as a result of activities for the year.

The following presents condensed financial information on the operations of the Board:

	As of and for the year ended March 31, 2004	As of and for the year ended March 31, 2003
Current assets	$ 1,732,177	$ 1,786,460
Capital assets	1,036,202	1,061,015
Total assets	$ 2,768,379	$ 2,847,475
Current liabilities	$ 319,757	$ 577,017
Non-current liabilities	31,194	35,783
Total assets	$ 350,951	$ 612,800
Invested in capital assets	$ 1,036,202	$ 1,038,326
Unrestricted	1,381,226	1,196,349
Total net assets	$ 2,417,428	$ 2,234,675
Operating revenues	$ 1,731,208	$ 1,544,599
Operating expenses	1,623,546	1,416,029
Operating income	107,662	128,570
Non-operating revenues	75,091	92,664
Change in net assets	$ 182,753	$ 221,234

A comparison of budget to actual operations is presented in the schedule on page 16. Total expenses for 2004 were $57,221 below budgeted amounts. This is a result of efforts made by the Board to decrease overall spending.

Events Affecting Future Operations

The Uniform CPA Examination (exam) administered by the Board is scheduled to convert from a pencil-and-paper format to a computer-based format beginning April 5, 2004. The computer-based exam will be delivered on demand at Prometric Testing Centers. Although the Board may operate its own testing center(s) in the future, it has chosen to use the Prometric Testing Centers for the first year of the computer-based exam. This decision was based on the uncertainty of the number of candidates who may apply to take the exam. The administrative fee to be charged by the Board for an initial application to sit for the computer-based exam is $230. The administrative fee for re-examination applications is $75. The Board also collects, from the exam applicants, amounts to cover exam vendor fees charged to the Board as follows: 1) Audit and Attestation - $134.50; 2) Financial Accounting and Reporting - $126.00; 3) Regulation - $109.00; and 4) Business Environments and Concepts - $100.50. The fees include NASBA's administrative fee, Prometric's Testing Center fee, a digital photo fee, and the AICPA's grading fee. Exam vendor fees are collected, deposited and remitted to NASBA.

The exam vendor fees are recorded as both revenues and expenses in the same accounting period when received and processed. Since computer-based exam fees are higher than the former pencil and paper exam fees, it is expected that exam fee revenue and expenses will both increase. If the Board chooses to operate its own test center(s) in the future, it will experience an increase in both capital expenditures and operating expenses.

The Board had non-operating income of $75,091 for 2004, which included rental income of $38,288 from two office leases. The leases terminated during 2004 and the tenants vacated. The Board may try to lease the approximately 3,500 square feet of space for a short time, or may leave it vacant until it is determined whether to use some or all of the space for a testing center.

The Board approved a budget for fiscal year 2004-2005 that includes an appropriation from unrestricted net assets of $239,250 to replace the current database software and hardware with a new licensing and enforcement web-based computer system, including hardware, maintenance and support. It is anticipated the system will be installed and the funds expended during the 2004-2005 fiscal year.

Contacting the Board's Management

This financial report is designed to provide a general overview of the Board's finances and to demonstrate the Board's accountability for the money it receives. If you have any questions about this report or need additional information, contact: North Carolina State Board of Certified Public Accountant Examiners, PO Box 12827, Raleigh, NC 27605-2827.

BOYCE, FURR & COMPANY, LLP
CERTIFIED PUBLIC ACCOUNTANTS
RALEIGH, NORTH CAROLINA

INDEPENDENT AUDITORS' REPORT

Governor Michael Easley
The General Assembly of North Carolina
North Carolina State Board of
Certified Public Accountant Examiners

We have audited the accompanying financial statements as listed in the table of contents of the North Carolina State Board of Certified Public Accountant Examiners as of March 31, 2004 and 2003, and for the years then ended. These financial statements are the responsibility of the Board's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the North Carolina State Board of Certified Public Accountant Examiners as of March 31, 2004 and 2003, and the results of its operations, changes in financial position, and cash flows for the years then ended in conformity with accounting principles generally accepted in the United States of America.

Management's Discussion and Analysis is not a required part of the financial statements but is supplementary information required by accounting principles generally accepted in the United States of America. We have applied certain limited procedures, which consisted principally of inquiries of management regarding the methods of measurement and presentation of the required supplementary information. However, we did not audit this information and express no opinion on it.

Our audits were conducted for the purpose of forming an opinion on the basic financial statements taken as a whole. The supplementary schedules listed in the accompanying table of contents are presented for purposes of additional analysis and are not a required part of the basic financial statements. Such information has been subjected to the auditing procedures applied in our audit of the basic financial statements and, in our opinion, is fairly stated in all material respects in relation to the basic financial statements taken as a whole.

May 25, 2004

Boyce, Furr + Company, LLP

NORTH CAROLINA STATE BOARD OF CERTIFIED PUBLIC ACCOUNTANT EXAMINERS
STATEMENTS OF NET ASSETS
FOR THE YEARS ENDED MARCH 31, 2004 AND 2003

ASSETS	2004	2003
Current assets		
Cash and cash equivalents	$ 789,762	$ 942,828
Certificates of deposit	895,000	800,000
Accrued interest receivable	44,054	43,632
Prepaid insurance	3,361	-
Total current assets	1,732,177	1,786,460
Property and equipment		
Land	300,000	300,000
Building	688,151	718,996
Furniture	882	1,193
Equipment	27,021	14,144
Vehicle	20,148	26,682
Total property and equipment - net of depreciation	1,036,202	1,061,015
TOTAL ASSETS	2,768,379	2,847,475
LIABILITIES		
Current liabilities		
Accounts payable	23,074	23,980
Current portion of note payable	-	10,890
Due to exam vendors	97,658	-
Accrued vacation	-	6,007
Deferred revenue	199,025	536,140
Total current liabilities	319,757	577,017
Noncurrent liabilities		
Note payable	-	11,799
Accrued vacation	31,194	23,984
Total noncurrent liabilities	31,194	35,783
TOTAL LIABILITIES	350,951	612,800
NET ASSETS		
Invested in capital assets - net of related debt	1,036,202	1,038,326
Unrestricted net assets	1,381,226	1,196,349
TOTAL NET ASSETS	$ 2,417,428	$ 2,234,675

See accompanying notes and auditor's report.

NORTH CAROLINA STATE BOARD OF CERTIFIED PUBLIC ACCOUNTANT EXAMINERS
STATEMENTS OF REVENUES, EXPENSES AND CHANGES IN NET ASSETS

	For The Years Ended March 31	
	2004	2003
OPERATING REVENUES		
Examination fees		
N. C. candidates	$ 767,053	$ 602,525
Other states' candidates	5,840	4,880
Other	2,000	800
	774,893	608,205
Licensing fees		
Certificate fees	881,076	856,475
Professional corporation fees	29,390	26,230
Partnership registration fees	27,970	25,520
Quality review registration fees	75	1,060
	938,511	909,285
Other		
Sale of labels and lists	16,225	25,629
Miscellaneous	1,579	1,480
	17,804	27,109
TOTAL OPERATING REVENUES	1,731,208	1,544,599
OPERATING EXPENSES		
Administrative (page 13)	1,144,946	1,036,795
Examination (page 14)	438,807	345,743
Building (page 15)	39,793	33,491
TOTAL OPERATING EXPENSES	1,623,546	1,416,029
OPERATING INCOME	107,662	128,570
NON-OPERATING REVENUES (EXPENSES)		
Rental income	38,288	50,225
Interest income	64,339	65,536
Proceeds from sale of equipment	115	175
Building expenses (page 15)	(27,651)	(23,272)
TOTAL NON-OPERATING REVENUES (EXPENSES)	75,091	92,664
CHANGE IN NET ASSETS	182,753	221,234
NET ASSETS - BEGINNING OF YEAR	2,234,675	2,013,441
NET ASSETS - ENDING OF YEAR	$ 2,417,428	$ 2,234,675

See accompanying notes and auditor's report.

NORTH CAROLINA STATE BOARD OF CERTIFIED PUBLIC ACCOUNTANT EXAMINERS
STATEMENTS OF CASH FLOWS

	For Years Ended March 31	
	2004	2003
Cash flows provided from (used for) operating activities		
Cash received from fees	$ 1,376,288	$ 1,615,945
Other cash received	17,804	27,109
Cash payments to employees for services	(512,727)	(472,976)
Cash payments for administrative, examination, and building expenses	(982,089)	(891,649)
Net cash provided from (used for) operating activities	(100,724)	278,429
Cash flows provided from (used for) capital and related financing activities		
Acquisition and construction of capital assets	(21,967)	(69,161)
Proceeds from the sale of assets	115	175
Loan proceeds - less payments of $9,983	-	22,688
Loan payoff - vehicle	(22,689)	-
Net cash used for capital and related financing activities	(44,541)	(46,298)
Cash flows provided from (used for) investing activities		
Purchase of certificate of deposit	(95,000)	-
Interest on investments	63,915	65,536
Rental income - less building expense of $15,226 (2004) and $23,272 (2003)	23,284	26,953
Net cash provided from (used for) investing activities	(7,801)	92,489
Net increase (decrease) in cash	(153,066)	324,620
Cash - beginning of year	942,828	618,208
Cash - end of year	$ 789,762	$ 942,828
Reconciliation of operating income to net cash provided from (used for) operating activities		
Operating income	$ 107,662	$ 128,570
Adjustments to reconcile operating income to net cash provided by operating activities		
Depreciation	34,135	44,342
Changes in assets and liabilities		
Prepaid insurance	(3,361)	-
Accounts payable	(906)	8,946
Due to exam vendors	97,658	-
Deferred revenue	(337,115)	98,455
Accrued vacation	1,203	(1,884)
Total adjustments	(208,386)	149,859
Net cash provided from (used for) operating activities	$ (100,724)	$ 278,429

See accompanying notes and auditor's report.

Note 1 - Nature of Activities and Significant Accounting Policies

Description of Organization

The North Carolina State Board of Certified Public Accountant Examiners is an independent State agency. It is an occupational licensing board and is authorized by Chapters 93 and 93B of the North Carolina General Statutes (NCGS). The Board is composed of seven members: five persons who are holders of valid and unrevoked certified public accountant certificates issued under the provisions of NCGS 93, and two persons who are not certified public accountants and represent the public at large. All members are appointed by the Governor.

The Board's primary responsibilities are to administer the Uniform Certified Public Accountant Examination, to grant certificates of qualification as certified public accountants to qualified persons, to register certified public accounting firms, and to enforce all statutes and rules of Chapter 93 and 21 North Carolina Administrative Code Chapter 8.

The Board's operations are financed with self-generated revenues from fees charged to examinees and licensees. As of March 31, 2004, and March 31, 2003, the Board had approximately 16,783 and 16,750 licensees, respectively.

Basis of Presentation

The accompanying financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America. The Governmental Accounting Standards Board (GASB) is the accepted standard setting body for establishing governmental accounting principles and reporting standards. The Board applied all applicable Financial Accounting Standards Board (FASB) pronouncements issued after November 30, 1989.

All activities of the Board are accounted for within a single proprietary (enterprise) fund. Proprietary funds are used to account for operations that are financed and operated in a manner similar to private business enterprises where the intent of the governing body is that the cost of providing goods or services to the general public on a continuing basis be financed or recovered primarily through user charges.

Reporting Entity

The Board is a component unit of the State of North Carolina. GASB Codification Section 2100 has defined the governmental reporting entity to be the State of North Carolina because the State exercises oversight responsibility in that the Governor appoints the Board members, and public service is rendered within the State's boundaries. The accompanying financial statements present only the activity of the North Carolina State Board of Certified Public Accountant Examiners. Annually, the State of North Carolina issues general-purpose financial statements, which include the activity of occupational licensing boards.

Basis of Accounting

In accordance with *Statement of Governmental Accounting Standards 34*, the Board presents a Statement of Net Assets; a Statement of Revenues, Expenses, and Changes in Net Assets; and a Statement of Cash Flows. These statements reflect entity-wide operations of the Board. The Board has no fiduciary funds or component units.

Note 1 - Nature of Activities and Significant Accounting Policies, Continued

The Statement of Revenues, Expenses, and Changes in Net Assets demonstrates the degree to which the direct expenses of the Board are offset by examination and license fees.

The financial statements report all activities of the North Carolina State Board of Certified Public Accountant Examiners using the current financial resource measurement focus and the full accrual basis of accounting. Revenues are recognized in the accounting period in which they are earned and become measurable. Expenses are recognized when incurred, if measurable.

Operating revenues and expenses consist of those revenues and expenses that result from the ongoing principal operations of the Board. Operating revenues consist primarily of examination and license fees. Non-operating revenues and expenses consist of those revenues and expenses that are related to rental and investing types of activities and are classified as non-operating in the financial statements. Building expenses are allocated to operating and non-operating activities based on square footage.

Budget Practices

A budget for fiscal year ended March 31, 2004, was adopted by the Board and is prepared and reported on the accrual basis of accounting. Although budgeted amounts lapse at year-end, the Board retains its unexpended net assets to fund expenses of the succeeding year.

Cash and Cash Equivalents

For purposes of the statement of cash flows, the Board considers all investments with a maturity of three months or less when purchased to be cash.

Certificates of Deposit

The Board owns two certificates. One certificate, in the amount of $800,000, bears interest at 7.1% and matures on June 21, 2005. The other certificate, in the amount of $95,000, bears interest at 2.10% and matures on January 18, 2005.

Property and Equipment

Property and equipment are stated at cost and are being depreciated over their useful lives on a straight-line basis. A summary follows:

	Cost 3-31-03	Acquisitions	Disposals	Cost 3-31-04	Accumulated Depreciation	Net Amount
Land	$ 300,000	$ -	$ -	$ 300,000	$ -	$ 300,000
Building	781,318	-	-	781,318	93,167	688,151
Furniture	121,946	-	-	121,946	121,064	882
Equipment	120,373	21,967	1,679	140,661	113,640	27,021
Vehicle	32,672	-	-	32,672	12,524	20,148
	$1,356,309	$ 21,967	$ 1,679	$1,376,597	$ 340,395	$ 1,036,202

When an asset is disposed, the cost of the asset and the related accumulated depreciation are removed from the books. Any gain or loss on disposition is reflected in the earnings for the period.

Note 1 - Nature of Activities and Significant Accounting Policies, Continued

Vacation and Sick Leave

Board employees may accumulate up to thirty days earned vacation and such leave is fully vested when earned. The executive director may accumulate up to forty-five days earned vacation. On March 31, accrued vacation in excess of the limits is transferred and added to sick leave balances. Accumulated earned vacation payable at March 31, 2004 and 2003 consisted of the following:

	2004	2003
Current portion	$ -	$ 6,007
Non-current portion	31,194	23,984
Total	$ 31,194	$ 29,991

The Board's sick leave policy provides for an unlimited accumulation of earned sick leave. Since the Board has no obligation for the accumulated sick leave until it is actually taken, no accrual for sick leave has been recognized.

Use of Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect certain reported amounts of assets and liabilities and disclosures of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenue and expenses during the reporting period. Accordingly, actual results could differ from those estimates, resulting in adjustments in future periods.

Note 2 - Deposits and Investments

The Board maintains accounts consisting of cash, certificates of deposit, and money market funds with one bank in which the Federal Depository Insurance Corporation (FDIC) insurance of $100,000 per depositor was exceeded by $1,381,966 on March 31, 2004. Management believes there is minimum credit risk relative to its cash investments.

Note 3 – Note Payable

The Board, at March 31, 2003, had an automobile three-year note payable of $22,689 with zero percent interest, which was paid off during 2004.

Note 4 - Deferred Revenue

For both 2004 and 2003 certificate renewal fees collected in advance are recorded as deferred revenue at year-end and recognized as revenue when the license period begins in the next fiscal year. Due to the change from a pencil-and-paper exam to a computer-based exam, examination

Note 4 - Deferred Revenue, Continued

fee revenues are no longer deferred beginning in 2004. In 2003, examination fees collected in advance were recorded as deferred revenue at year-end and recognized as revenue when the examination was held. In 2004, examination fees for the computer-based-exam, consist of both administrative fees and exam vendor fees. Administrative fees are recognized as revenues in the same period received, to match administrative expenses incurred. Exam vendor fees are recognized as both revenue and expense in the same period when fees are received and processed.

Note 5 - Net Assets

Invested in capital assets - This component of net assets consists of capital assets, net of accumulated depreciation and reduced by the outstanding balances of any borrowings that are attributable to the acquisition, construction, or improvement of those assets.

Unrestricted net assets - This component of net assets consists of net assets that do not meet the definition of *restricted* or *invested in capital assets.*

The Board has designated a portion of the unrestricted net assets to cover future activities. The Board may change such designated amounts based on perceived operating conditions and situations. Designated amounts, at March 31, 2004 and 2003 were the same as follows:

Litigation	$ 500,000
Operating expenses	300,000
Capital asset acquisitions	250,000
Computerization of CPA examination	100,000
Total	$ 1,150,000

Note 6 - Operating Leases

The Board's building lease agreements with tenants terminated during 2004, thereby reducing rental income by $11,937 for 2004. The Board may try to lease the approximately 3,500 square feet of space for a short period or may leave it vacant until it is determined whether to use some or all of the space for a testing center.

Note 7 - Pension Plan

The Board participates in the North Carolina Licensing Board Retirement Savings Plan, a defined contribution plan. A 6% contribution, based on eligible employee compensation, is made monthly by both employer and employee. Employees are eligible to participate in the plan immediately upon employment. Employees are vested 20% for each year of service and may make voluntary contributions to the plan over their 6% contribution. The 401(k) plan is administered by Wachovia Securities. Pension costs, including administrative fees, totaled $31,755 and $28,598 for 2004 and 2003, respectively.

Note 8 - Risk Management

The Board is exposed to various risks of loss related to torts; theft of, damage to, and the destruction of assets; errors and omissions; injuries to employees; and natural disasters. Tort claims of board members up to $500,000 are self-insured by the State under the authority of the State Tort Claims Act. Additional coverage is provided to the Board under the State's $5,000,000 public officers' and employees' liability insurance contract with a private insurance company. The Board also protects itself from exposures to loss through the purchase of commercial insurance, of which coverages include building and contents, commercial liability, workers compensation and employers' liability, and vehicle.

NORTH CAROLINA STATE BOARD OF CERTIFIED PUBLIC ACCOUNTANT EXAMINERS

SUPPLEMENTARY SCHEDULES

NORTH CAROLINA STATE BOARD OF CERTIFIED PUBLIC ACCOUNTANT EXAMINERS
SCHEDULES OF ADMINISTRATIVE EXPENSES

ADMINISTRATIVE EXPENSES	For The Years Ended March 31 2004	2003
Salaries	$ 513,930	$ 471,087
Legal counsel and hearing expense	165,674	106,420
Postage	84,767	86,413
Employee health benefits	84,196	82,380
Travel and per diem - Board members	71,804	78,260
Printing	47,986	48,780
Social Security contributions	40,026	34,971
Retirement contributions and administrative fee	31,755	28,598
Staff travel	17,170	17,081
Office supplies	15,955	11,096
Depreciation	15,936	17,168
Audit fees	11,375	7,010
Credit card fees for license renewals	10,297	9,737
Repairs and maintenance on equipment	7,850	5,355
Dues	7,090	7,005
Telephone	5,083	5,472
Insurance	1,375	3,828
Subscriptions	3,113	4,101
Internet website	1,881	1,518
Clipping service	1,690	1,143
Investigator fees	1,364	3,667
Payroll service	1,364	1,265
Miscellaneous	1,355	1,580
Equipment rental	1,021	1,016
Continuing education	389	782
Clerical expense - Board members	500	1,062
TOTAL ADMINISTRATIVE EXPENSES	$ 1,144,946	$ 1,036,795

NORTH CAROLINA STATE BOARD OF CERTIFIED PUBLIC ACCOUNTANT EXAMINERS
SCHEDULES OF EXAMINATION EXPENSES

EXAMINATION EXPENSES	For The Years Ended March 31 2004	2003
Examinations and grading	$ 352,706	$ 241,154
Rent of examination facilities	31,482	36,463
Proctor wages	27,544	30,321
Proctor travel	8,163	9,060
Postage	7,023	11,168
Staff travel	4,726	8,200
Printing	2,515	3,245
Travel and per diem - Board members	2,305	2,567
Temporary staff	972	-
Examination supplies	774	1,040
Miscellaneous	597	2,525
TOTAL EXAMINATION EXPENSES	$ 438,807	$ 345,743

NORTH CAROLINA STATE BOARD OF CERTIFIED PUBLIC ACCOUNTANT EXAMINERS
SCHEDULES OF BUILDING EXPENSES

	For The Years Ended March 31	
	2004	2003
OPERATING BUILDING EXPENSES		
Depreciation	$ 18,199	$ 16,033
Improvements	7,263	899
Utilities	7,259	9,575
Maintenance	6,843	6,422
Insurance	229	562
TOTAL OPERATING BUILDING EXPENSES	$ 39,793	$ 33,491
NON-OPERATING BUILDING EXPENSES		
Depreciation	$ 12,647	$ 11,141
Improvements	5,047	624
Utilities	5,044	6,654
Maintenance	4,755	4,462
Insurance	158	391
TOTAL NON-OPERATING BUILDING EXPENSES	$ 27,651	$ 23,272

NORTH CAROLINA STATE BOARD OF CERTIFIED PUBLIC ACCOUNTANT EXAMINERS
SCHEDULES OF BUDGET AND ACTUAL
REVENUES, EXPENSES AND CHANGES IN NET ASSETS

	For The Year Ended March 31, 2004			For The Year Ended March 31, 2003		
	Budget	Actual	Over (Under) Budget	Budget	Actual	Over (Under) Budget
REVENUES						
Examination fees	$ 620,180	$ 774,893	$ 154,713	$ 621,450	$ 608,205	$ (13,245)
Licensing fees	945,325	938,511	(6,814)	923,000	909,285	(13,715)
Other	144,158	120,546	(23,612)	167,575	143,045	(24,530)
TOTAL REVENUES	1,709,663	1,833,950	124,287	1,712,025	1,660,535	(51,490)
EXPENSES						
Personnel	804,654	669,907	(134,747)	724,752	617,036	(107,716)
Examination	351,050	438,807	87,757	370,264	345,743	(24,521)
Office	223,015	221,125	(1,890)	225,075	217,911	(7,164)
Board and legal	221,882	237,978	16,096	224,939	184,680	(40,259)
Building	74,536	36,598	(37,938)	107,774	29,589	(78,185)
Depreciation	33,281	46,782	13,501	37,077	44,342	7,265
TOTAL EXPENSES	1,708,418	1,651,197	(57,221)	1,689,881	1,439,301	(250,580)
CHANGE IN NET ASSETS	1,245	182,753	181,508	22,144	221,234	199,090
NET ASSETS-BEGINNING OF YEAR	2,234,675	2,234,675	-	2,013,441	2,013,441	-
NET ASSETS-END OF YEAR	$ 2,235,920	$ 2,417,428	$ 181,508	$ 2,035,585	$ 2,234,675	$ 199,090

21 NCAC 08G .0410, is proposed to be adopted as follows:

.0410 PROFESSIONAL ETHICS AND CONDUCT CPE

As part of the annual CPE requirement, all active CPAs shall complete two hours of CPE in a Board-approved group study format or four hours of CPE in a Board-approved self-study format on professional ethics and conduct in 21 NCAC 08N.

History Note: *Authority G.S. 93-12(8b);*
Eff. January 1, 2005.

NORTH CAROLINA STATE BOARD OF CPA EXAMINERS
INSTITUTE OF CHARTERED ACCOUNTANTS OF SASKATCHEWAN

MUTUAL FINDINGS OF SUBSTANTIAL EQUIVALENCE

Consistent with the Principles for Reciprocity, recommended by the American Institute of Certified Public Accountants (AICPA), the National Association of State Board of Accountancy (NASBA), and the Canadian Institute of Chartered Accountants on September 16, 1991, the North Carolina State Board of Certified Public Accountant Examiners ("the Board"), pursuant to North Carolina General Statute (NCGS) 93-12 (and its rules promulgated thereunder), and the Institute of Chartered Accountants of Saskatchewan, pursuant to the Chartered Accountants Act of 1986 (and the bylaws promulgated thereunder), each find and confirm that for purposes of respective certificate licensure or admission to membership:

1. The Board and the Institute have determined by diligent review of applicable laws, bylaws, rules, regulations, policies, and practices concerning the requirement for licensure or admission to membership, as applicable:
   a. The AICPA Uniform CPA Examination and the Canadian Uniform Evaluation (UFE) test comparable bodies of knowledge.
   b. The educational requirements in each jurisdiction are based on comparable fields of study.
   c. The experience requirements prescribed by the other body must be completed by an individual prior to making application for reciprocity.

2. The Board and the Institute agree that applicants from the other body are required to take a qualifying examination as mutually agreed by the bodies.

3. A Certified Public Accountant or Chartered Accountant, who holds a valid, active certificate in good standing from the Board or is a member in good standing of the Institute, may apply for membership in or a certificate license from the other body, as applicable, upon successful completion of that other body's qualifying examination, IQEX or CARE respectively, and any professional ethics examination, and, where applicable, completion of a period of experience as may be prescribed by that other body to comply with their minimum experience requirement.

4. The Board or the Institute will notify the other in advance of any material change in its laws, rules, regulations, policies, or practice concerning licensure or admission to membership.

5. The Board or the Institute will notify the other in event of any disciplinary action taken against a Certified Public Accountant or Chartered Accountant.

6. The Board or the Institute may withdraw its findings of substantial equivalence only after reasonable notice to the other body indicating the basis for the proposed action.

Norwood D Clark Jr. CPA
North Carolina State Board of
Certified Public Accountant Examiners

Date: 8/23/04

Institute of Chartered Accountants of
Saskatchewan

Date: July 5/04

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NORTH CAROLINA
WAKE COUNTY

BEFORE THE NORTH CAROLINA STATE BOARD OF CERTIFIED PUBLIC ACCOUNTANT EXAMINERS
CASE #: 200402-005

IN THE MATTER OF:
Chieh-Chun Hsu, #23435
Respondent

CONSENT ORDER

THIS CAUSE, coming before the Board at its offices at 1101 Oberlin Road, Raleigh, Wake County, North Carolina, with a quorum present. Pursuant to NCGS 150B-41, the Board and Respondent stipulate the following Findings:

1. Respondent was the holder of North Carolina certificate number 23435 as a Certified Public Accountant.

2. On October 31, 2003, Respondent was arrested and charged with two felony counts of obtaining property by false pretense and one felony count of financial identity fraud (Attachment 1). According to the charges, Respondent used a client's name and social security number to obtain nearly $2.5 million in mortgages to buy a house in Charlotte.

3. On June 24, 2004, Respondent pled guilty to a felony charge of financial identity fraud and a felony charge of obtaining property by false pretense (Attachment 2).

4. As a part of its Judgment, the Court placed Respondent on probation for twenty-four (24) months, ordered Respondent not to work as a CPA during the period of his probation, and required Respondent to surrender his CPA certificate for the period of his probation.

5. On July 9, 2004, the Board office received a letter from Respondent dated June 30, 2004, surrendering his CPA certificate and providing the Board with his certificate and a copy of the Superior Court Judgment.

6. Respondent wishes to resolve this matter by consent and agrees that the Board staff and counsel may discuss this Order with the Board *ex parte*, whether or not the Board accepts this Order as written.

BASED upon the foregoing, the Board makes the following Conclusions of Law:

1. Respondent is subject to the provisions of Chapter 93 of the North Carolina General Statutes (NCGS) and Title 21, Chapter 8 of the North Carolina Administrative Code (NCAC), including the Rules of Professional Ethics and Conduct promulgated and adopted therein by the Board.

2. Respondent's actions as set out above constitute violations of NCGS 93-12 (9)a and e, and 21 NCAC 8N .0201, .0202, .0203, and .0204 (b).

BASED on the foregoing and in lieu of further proceedings under 21 NCAC Chapter 8C, the Board and Respondent agree to the following Order:

1. The Certified Public Accountant certificate issued to Respondent, Chieh-Chun Hsu, is hereby permanently revoked.

CONSENTED TO THIS THE 22nd DAY OF JULY, 2004.

Chieh Chun Hsu
Respondent

APPROVED BY THE BOARD THIS THE 23rd DAY OF August 2004.

NORTH CAROLINA STATE BOARD OF CERTIFIED PUBLIC ACCOUNTANT EXAMINERS

BOARD SEAL

BY: Norwood S Clark Jr. CPA
President

4NCrecords on 7/16/2004 11:38:55 AM
Search for Case Number "03CRS058027" in "310" county

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Z
310 DURHAM      01      ICA INQUIRY 51  03CRS058027    FILM:
DISPOSED                R  S DOB/AGE    CRS   FILING DATE: 031604
INDICTMENT              A  M 11281955 DL#: 2939262          NC
HSU,CHIEN,CHUN          3102003058027  CIT#:      TRIAL DATE: 062204
5815 SHAMROCK ROAD              CSLR:      CSLRC:      AM
DURHAM      NC  27713       DEF ATTY: RALPH FRASIER       TYP: R
CHG/ARRN OFFN: F OBT PROP FALSE PRET >=$100,000       14-100
COMPLAINANT: JACKSON,A,L            CPD ISSUED: 103003  SERVED: 103103
OFFN DATE: 100803   ARRN DATE:      MOTIONS DATE:      DISP DATE: 062404
CONT. D: 00 S: 00 C: 00 NR: 00
                                    N   310  52
PLEA VERDICT MOD  FINE   COSTS   REST    JUDGE  MONIES-PD  TO-BE-PAID
 GL   GU   JU $      $     $        RLS
CONV OFFN: F  OBTAIN PROPERTY FALSE PRETENSE        14-100
SENT LEN:     -     SENT TYPE:  CRMENUP    CONS F/JGMT: 03CRS058027  52
PROB:               WITHDRAWN:      APPEALED TO SUPERIOR:
AREA CD:   ACCD:  HWY:      V LIC:          TRANS TO SUPERIOR: 031504
CDL: N  CMV: N  HAZ: N   TRP/DIST:   V ST:   V TYP:     APPELLATE:
                                    CRMENUP      0
                                    CRICA1P      01

ARREST DATE: 103103 CHECK DIGIT: AN5483V SID: NC1047402A LID: CHAM0859C-310
NEXT#:          8  PF2 - NAME INQUIRY           ADDL CHARGES: Y
Z
310 DURHAM      01      ICA INQUIRY 52  03CRS058027    FILM:
DISPOSED                R  S DOB/AGE    CRS   FILING DATE: 031604
INDICTMENT              A  M 11281955 DL#: 2939262          NC
HSU,CHIEN,CHUN          3102003058027  CIT#:      TRIAL DATE: 062204
5815 SHAMROCK ROAD              CSLR:      CSLRC:      AM
DURHAM      NC  27713       DEF ATTY: RALPH FRASIER       TYP: R
CHG/ARRN OFFN: F FINANCIAL IDENTITY FRAUD           14-113.20
COMPLAINANT: JACKSON,A,L            CPD ISSUED: 103003  SERVED: 103103
OFFN DATE: 100803   ARRN DATE:      MOTIONS DATE:      DISP DATE: 062404
CONT. D: 00 S: 00 C: 00 NR: 00
                                    N   310  52
PLEA VERDICT MOD  FINE   COSTS   REST    JUDGE  MONIES-PD  TO-BE-PAID
 GU   GU   JU $ 00000 $ 0135 $   50.00  RLS    NO      062406
CONV OFFN: F  FINANCIAL IDENTITY FRAUD              14-113.20
SENT LEN: 010 M - 012 M  SENT TYPE: I CRMENUP    CONS F/JGMT:
PROB: 024 M     SUPERVISED  WITHDRAWN:      APPEALED TO SUPERIOR:
AREA CD:   ACCD:  HWY:      V LIC:          TRANS TO SUPERIOR:
CDL: N  CMV: N  HAZ: N   TRP/DIST:   V ST:   V TYP:     APPELLATE:
NOT TO WORK AS A CPA DURING PROBATION SENTENCE AND SURRENDE CRMENUP      0
R LICENSE TO DO SO DURING PROBATIONARY PERIOD.TO HAVE NO CO CRICA1P      01
NTACT W/KWAI-TONG HON AND PAY REST OF $50 TO  HIM.
ARREST DATE: 103103 CHECK DIGIT: AN5483V SID: NC1047402A LID: CHAM0859C-310
NEXT#:          8  PF2 - NAME INQUIRY           ADDL CHARGES:
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Attachment 1

4NCrecords on 7/16/2004 11:39:46 AM
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Z
310 DURHAM 01 ICA INQUIRY 01 03CR 058029 FILM:
DISPOSED R S DOB/AGE CR FILING DATE: 103003
WARRANT A M 11261955 DL#: 2939262 NC
HSU,CHIEN,CHUN 3102003058029 CIT#: TRIAL DATE: 033104
5815 SHAMROCK ROAD CSLR: CSLRC: AM
DURHAM NC 27713 DEF ATTY: TYP:
CHG/ARRN OFFN: F FINANCIAL IDENTITY FRAUD 14-113.20
COMPLAINANT: JACKSON,A,L CPD ISSUED: 103003 SERVED: 103103
OFFN DATE: 100803 ARRN DATE: MOTIONS DATE: DISP DATE: 032304
CONT. D: 00 S: 00 C: 00 NR: 00
N 310 01
PLEA VERDICT MOD FINE COSTS REST JUDGE MONIES-PD TO-BE-PAID
VD $ $ $
CONV OFFN:
SENT LEN: - SENT TYPE: CRMENUP CONS F/JGMT:
PROB: WITHDRAWN: APPEALED TO SUPERIOR:
AREA CD: ACCD: HWY: V LIC: TRANS TO SUPERIOR:
CDL: N CMV: N HAZ: N TRP/DIST: V ST: V TYP: APPELLATE:
INCLUDED ON INDICTMENT CRMENUP 0
CRICA1P 01

ARREST DATE: 103103 CHECK DIGIT: AN5483V SID: NC1047402A LID: CHAM0859C-310
NEXT#: 8 PF2 - NAME INQUIRY ADDL CHARGES:

4NCrecords on 7/16/2004 11:39:24 AM
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310 DURHAM      01        ICA INQUIRY 51  03CRS058028    FILM:
DISPOSED                  R  S DOB/AGE     CRS   FILING DATE: 031604
INDICTMENT                A  M 11281955 DL#: 2939262                NC
HSU,CHIEN,CHUN            3102003058028  CIT#:        TRIAL DATE: 062204
5815 SHAMROCK ROAD                  CSLR:       CSLRC:        AM
DURHAM          NC  27713         DEF ATTY: RALPH FRASIER          TYP: R
CHG/ARRN OFFN: F OBT PROP FALSE PRET >=$100,000          14-100
COMPLAINANT: JACKSON,A,L                CPD ISSUED: 103003  SERVED: 103103
OFFN DATE: 100803   ARRN DATE:        MOTIONS DATE:       DISP DATE: 062404
CONT. D: 00 S: 00 C: 00 NR: 00
                                        N    310  52
PLEA VERDICT MOD   FINE    COSTS    REST     JUDGE  MONIES-PD  TO-BE-PAID
 GL   GU   JU $       $      $          RLS
CONV OFFN: F  OBTAIN PROPERTY FALSE PRETENSE          14-100
SENT LEN:     -       SENT TYPE:  CRMENUP    CONS F/JGMT: 03CRS058027  52
PROB:                   WITHDRAWN:        APPEALED TO SUPERIOR:
AREA CD:   ACCD:  HWY:        V LIC:           TRANS TO SUPERIOR: 031504
CDL: N  CMV: N  HAZ: N   TRP/DIST:   V ST:    V.TYP:      APPELLATE:
                                        CRMENUP        0
                                        CRICA1P      01

ARREST DATE: 103103 CHECK DIGIT: AN5483V SID: NC1047402A LID: CHAM0859C-310
NEXT#:            8   PF2 - NAME INQUIRY              ADDL CHARGES: Y
Z
310 DURHAM      01        ICA INQUIRY 52  03CRS058028    FILM:
DISPOSED                  R  S DOB/AGE     CRS   FILING DATE: 031604
INDICTMENT                A  M 11281955 DL#: 2939262                NC
HSU,CHIEN,CHUN            3102003058028  CIT#:        TRIAL DATE: 062204
5815 SHAMROCK ROAD                  CSLR:       CSLRC:        AM
DURHAM          NC  27713         DEF ATTY: RALPH FRASIER          TYP: R
CHG/ARRN OFFN: F FINANCIAL IDENTITY FRAUD                14-113.20
COMPLAINANT: JACKSON,A,L                CPD ISSUED: 103003  SERVED: 103103
OFFN DATE: 100803   ARRN DATE:        MOTIONS DATE:       DISP DATE: 062404
CONT. D: 00 S: 00 C: 00 NR: 00
                                        N    310  52
PLEA VERDICT MOD   FINE    COSTS    REST     JUDGE  MONIES-PD  TO-BE-PAID
 GU   GU   JU $       $      $          RLS
CONV OFFN: F  FINANCIAL IDENTITY FRAUD                14-113.20
SENT LEN:     -       SENT TYPE:  CRMENUP    CONS F/JGMT: 03CRS058027  52
PROB:                   WITHDRAWN:        APPEALED TO SUPERIOR:
AREA CD:   ACCD:  HWY:        V LIC:           TRANS TO SUPERIOR:
CDL: N  CMV: N  HAZ: N   TRP/DIST:   V ST:    V TYP:      APPELLATE:
                                        CRMENUP        0
                                        CRICA1P      01

ARREST DATE: 103103 CHECK DIGIT: AN5483V SID: NC1047402A LID: CHAM0859C-310
NEXT#:            8   PF2 - NAME INQUIRY              ADDL CHARGES:
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STATE OF NORTH CA LINA

No. 03CRS058027 52

DURHAM County DURHAM Seat of Court

NOTE: [This form is to be used for (1) felony offense(s), and (2) misdemeanor offense(s), which are consolidated for judgment with any felony offense(s). Use AOC-CR-310 for DWI offense(s).]

In The General Court Of Justic
☐ District ☒ Superior Court Divi

STATE VERSUS

Name Of Defendant: HSU,CHIEN,CHUN

Race: A | Sex: M | DOB: 11/28/1955

Attorney For State: WALKER,DORETTA,L ☐ Def. Found Not Indigent ☐ Def. Waived Attorney

JUDGMENT SUSPENDING SENTENCE - FELONY

☒ IMPOSING AN INTERMEDIATE PUNISHMENT
☐ IMPOSING A COMMUNITY PUNISHMENT
(STRUCTURED SENTENCING)

G.S. 15A-1341, -1342, -1343, -1343.2, -

Attorney For Defendant: RALPH FRASIER ☐ Appointed ☒ Reta

The defendant ☒ pled guilty to: ☐ was found guilty by a jury of: ☐ pled no contest to:

File No.(s)	Off.	Offense Description	Offense Date	G.S. No.	F/M
03CRS058027	52	FINANCIAL IDENTITY FRAUD	10/8/2003	14-113.20	F
03CRS058027	51	OBTAIN PROPERTY FALSE PRETENSE	10/8/2003	14-100	F

The Court:
☒ 1. has determined, pursuant to G.S. 15A-1340.14, the prior record points of the defendant to be 0.
☐ 2. makes no prior record level finding because none is required.

PRIOR RECORD LEVEL: ☒ I ☐ III ☐ II ☐ IV

The Court (NOTE: Block 1 or 2 MUST be checked.):
☒ 1. makes no written findings because the prison term imposed is within the presumptive range of sentences authorized under G.S. 15A-1340.17(c).
☐ 2. makes the Findings of Aggravating and Mitigating Factors set forth on the attached AOC-CR-605.
☐ 3. makes the Findings of Extraordinary Mitigation set forth on the attached AOC-CR-606.
☐ 4. finds the defendant has provided substantial assistance pursuant to G.S. 90-95(h)(5).
☐ 5. finds enhanced punishment from a Class A1 or Class 1 misdemeanor to a Class I felony.
☐ G.S. 90-95(e)(3) (drugs). ☐ G.S. 14-3(c) (hate crime).
☒ 6. imposes the punishment pursuant to a plea arrangement as to sentence under Article 58 of G.S. Chapter 15A.
☐ 7. finds the above designated offenses(s) is a reportable conviction involving a minor. G.S. 14-208.6.
☐ 8. finds the defendant is classified as a sexually violent predator. G.S. 14-208.20.
☐ 9. finds the defendant is classified as a recidivist. G.S. 14-208.6.
☐ 10. finds the defendant has committed an aggravated offense. G.S. 14-208.6.
☐ 11. finds that a ☐ motor vehicle ☐ commercial motor vehicle was used in the commission of the offense and this conviction shall reported to DMV.

The Court, having considered evidence, arguments of counsel and statement of defendant, Orders that the above offenses, if more than one, be consolidated for judgment and the defendant be imprisoned

for a minimum term of 10 months | for a maximum term of 12 months in the custody of N.C. DOC.

☐ This sentence shall run at the expiration of sentence imposed in file number

The defendant shall be given credit for 2 days spent in confinement prior to the date of this Judgment as a result of this charge(s) to be applied toward the ☐ sentence imposed above. ☒ imprisonment required for special probation set forth on AOC-CR-603, Page Two.

SUSPENSION OF SENTENCE

Subject to the conditions set out below, the execution of this sentence is suspended and the defendant is placed on
☒ supervised ☐ unsupervised probation for 24 months.
☐ 1. The Court finds that a ☐ longer ☐ shorter period of probation is necessary than that which is specified in G.S. 15A-1343.2(d).
☐ 2. The Court finds that it is NOT appropriate to delegate to the Division of Adult Probation and Parole in the Department of Correction the authority to impose any of the requirements in G.S. 15A-1343.2(e) if the offender is sentenced to a community punishment, or G.S. 15A-1343.2(f) if the offender is sentenced to an intermediate punishment.
☐ 3. The above period of probation shall begin when the defendant is released from incarceration in the case referred to below.
☐ 4. The above period of probation shall begin at the expiration of the sentence in the case referred to below.

File Number	Offense	County	Court	Date

☐ 5. The defendant shall comply with the conditions set forth in file number

MONETARY CONDITIONS

The defendant shall pay to the Clerk of Superior Court the "Total Amount Due" shown below, plus the probation supervision fee, pursuant to a schedule ☐ determined by the probation officer. ☐ set out by the court as follows:

Court Costs	Miscellaneous	Fine	Restitution*	Attorney's Fee	Comm. Service Fee	Total Amount Due
$ 135.00	$ 0.00	$ 0.00	$ 50.00	$ 0.00	$ 200.00	$ 385.00

*See attached "Restitution Worksheet, Notice And Order (Initial Sentencing)" AOC-CR-611, which is incorporated by reference.

☐ All payments received by the Clerk shall be distributed pro rata among the persons entitled to restitution in this priority: first among all G.S. 7A-304(d) priorities ☐ and before payment of community service and probation supervision fees.
☐ Upon payment of the "Total Amount Due", the probation officer may transfer the defendant to unsupervised probation.

AOC-CR-603, Rev. 12/03
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(Over)

Attachment 2

STATE VE S

File No. 03CRS058027

Name Of Defendant: HSU,CHIEN,CHUN

INTERMEDIATE PUNISHMENTS - CONTEMPT

NOTE: Use this page in conjunction with AOC-CR-603, "Judgment Suspending Sentence - Felony"; or AOC-CR-604, "Judgment Suspendi Sentence - Misdemeanor(s)"; or AOC-CR-609, "Order On Violation Of Probation Or On Motion To Modify."

In addition to complying with the regular and any special conditions of probation set forth in the "Judgment Suspending Sentence" entered in the above case(s), the defendant shall also comply with the following special conditions of probation and conditions of spec probation, which are defined as intermediate punishments by G.S. 15A-1340.11(6).

☒ **1. Special Probation - G.S. 15A-1351** ☐ **Contempt - G.S. 15A-1344(e1) and 5A-11(a)**

☒ A. Serve an active term of 2 ☒ days ☐ months ☐ hours in the custody of ☐ N.C. DOC. ☒ Sheriff of this Coun

☐ B. The defendant shall report in a sober condition to begin serving his/her term on:

Day	Date	Hour	☐ AM ☐ PM

and shall remain in custody until:

Day	Date	Hour	☐ A ☐ P

☐ C. The defendant shall again report in a sober condition to continue serving this term on the same day of the week for the n _____ consecutive weeks, and shall remain in custody during the same hours each week until completion o the active sentence ordered.

☐ D. This sentence shall be served at the direction of the probation officer within _____ ☐ days ☐ months of this judgm

☐ E. Pay jail fees.

☐ F. Work release is recommended.

☐ G. A DOC substance abuse treatment unit is recommended. G.S. 15A-1351(h).

H. Other:
DEFT HAS CREDIT FOR 2 DAYS TOWARD THE ACTIVE PORTION OF THIS SENTENCE

☐ **2. Residential Program - G.S. 15A-1340.11(8); 15A-1343(b1)(2); 15A-1343(b1)(2a); 15A-1343.1**

☐ A. Attend or reside in _____ *(name program)* residential program for a period of _____ ☐ days, ☐ months, and abide by all rules and after care regulations of that program.

☐ B. **IMPACT** - Submit to a period of residential treatment in the Intensive Motivational Program Of Alternative Correction Treatment (IMPACT) on the date and place specified to a facility for a minimum of 90 days or a maximum of 120 days fror that date, and abide by all rules and regulations of the program. If the defendant is not certified to be medically fit for program participation or for any other reason is not ordered to submit to imprisonment as provided above, then the defendant shall reappear before the court as directed by the probation officer for a hearing to determine what modification if any, should be made to this judgment.

C. Other:

☐ **3. House Arrest With Electronic Monitoring - G.S. 15A-1340.11(4a); 15A-1343(b1)(3c)**

Be assigned to house arrest with electronic monitoring for a period of _____ ☐ days ☐ months, and submit to electronic monitoring and abide by all rules, regulations and directions of the probation officer, regarding electronic monitoring.
Other:

☐ **4. Intensive Supervision Program - G.S.15A-1340.11(5); 15A-1343(b1)(3b); 143B-262(c)**

Submit to supervision by officers assigned to the Intensive Probation Program established pursuant to G.S. 143B-262(c), for a period of _____ months, *(6 to 9 months recommended by the Division of Community Corrections)*, and comply with the rules adopted by that program.
Other:

☐ **5. Day-Reporting Center - G.S. 15A-1340.11(3); 15A-1343(B1)(10); 15A-1340.11(6)**

Report as directed by the probation officer to the Day Reporting Center for a period of _____ ☐ days ☐ months, and abide by all rules and regulations of that program.
Other:

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(Over)

REGULAR CONDITIONS OF PROBATION - G.S. 15A-1343(b)

The defendant shall: (1) Commit no crimi[illegible]ense in any jurisdiction. (2) Possess no firearm, [illegible]ve device or other deadly weapon listed in G.S. 14-269. (3) Remain gainfully and sui[illegible] employed or faithfully pursue a course of study or [illegible]tional training, that will equip the defendant for suitable employment, and abide by all rules of the institution. (4) Satisfy child support and family obligations, as required by the Court.
If the defendant is on supervised probation, the defendant shall also: (5) Remain within the jurisdiction of the Court unless granted written permission leave by the Court or the probation officer. (6) Report as directed by the Court or the probation officer to the officer at reasonable times and places a reasonable manner, permit the officer to visit at reasonable times, answer all reasonable inquiries by the officer and obtain prior approval from the off for, and notify the officer of, any change in address or employment. (7) Notify the probation officer if the defendant fails to obtain or retain satisfactory employment. (8) At a time to be designated by the probation officer, visit with the probation officer a facility maintained by the Division of Prisons.
If the defendant is to serve an active sentence as a condition of special probation, the defendant shall also: (9) Obey the rules and regulations of the Department of Correction governing the conduct of inmates while imprisoned. (10) Report to a probation officer in the State of North Carolina within seventy-two (72) hours of the defendant's discharge from the active term of imprisonment.

SPECIAL CONDITIONS OF PROBATION - G.S. 15A-1343(b1), 143B-262(c)

The defendant shall also comply with the following special conditions which the Court finds are reasonably related to the defendant's rehabilitation:

☐ 11. Surrender the defendant's drivers license to the Clerk of Superior Court for transmittal/notification to the Division of Motor Vehicles and not operate a motor vehicle for a period of _____ or until relicensed by the Division of Motor Vehicles, whichever is later.

☒ 12. Submit at reasonable times to warrantless searches by a probation officer of the defendant's person, and of the defendant's vehicle and premises while the defendant is present, for the following purposes which are reasonably related to the defendant's probation supervision: ☒ stolen goods ☒ controlled substances ☒ contraband ☐

☒ 13. Not use, possess or control any illegal drug or controlled substance unless it has been prescribed for the defendant by a licensed physician and is in the original container with the prescription number affixed on it; not knowingly associate with any known or previously convicted users possessors or sellers of any illegal drugs or controlled substances; and not knowingly be present at or frequent any place where illegal drugs c controlled substances are sold, kept or used.

☒ 14. Supply a breath, urine and/or blood specimen for analysis of the possible presence of a prohibited drug or alcohol, when instructed by the defendant's probation officer.

☐ 15. Successfully pass the General Education Development Test (G.E.D.) during the first _____ months of the period of probation.

☒ 16. Complete 250 hours of community or reparation service during the first 360 days of the period of probation, as directed by the community service coordinator and pay the fee prescribed by G.S. 143B-475.1(b). ☐ pursuant to the schedule set out under monetary conditi above. ☐ within _____ days of this Judgment and before beginning service.

☐ 17. Report for initial evaluation by _____ participate in all further evaluation, counseling, treatment or education programs recommended as a result of that evaluation, and comply with a other therapeutic requirements of those programs until discharged.

☐ 18. Not assault, communicate with, be in the presence of, or be found in or on the premises of _____

☐ 19. Provide a DNA sample pursuant to G.S. 15-A 266.4. (AOC-CR-319)

☒ 20. Other:

NOT TO WORK AS A CPA DURING PROBATION SENTENCE AND SURRENDER LICENSE TO DO SO DURING PROBATIONAR PERIOD.TO HAVE NO CONTACT W/KWAI-TONG HON AND PAY REST OF $50 TO HIM.

☒ 21. Comply with the Special Conditions Of Probation - Intermediate Punishments - Contempt which are set forth on AOC-CR-603, Page Two.

☐ A hearing was held in open court in the presence of the defendant at which time a fee, including expenses, was awarded the defendant's appointed counsel or assigned public defender.

ORDER OF COMMITMENT/APPEAL ENTRIES

☒ 1. It is ORDERED that the Clerk deliver two certified copies of this Judgment and Commitment to the sheriff or other qualified office and that the officer cause the defendant to be delivered with these copies to the custody of the agency named on the reverse to serve the sentence imposed or until the defendant shall have complied with the conditions of release pending appeal.

☐ 2. The defendant gives notice of appeal from the judgment of the Superior Court to the Appellate Division. Appeal entries and any conditions of post conviction release are set forth on form AOC-CR-350.

SIGNATURE OF JUDGE

Date	Name Of Presiding Judge (Type Or Print)	Signature Of Presiding Judge
6/24/2004	HON. RONALD L. STEPHENS	Ronald L. Stephens

CERTIFICATION

I certify that this Judgment and the attachment(s) marked below is a true and complete copy of the original which is on file in this case.

☐ 1. Appellate Entries (AOC-CR-350)
☒ 2. Judgment Suspending Sentence, Page Two [Special Conditions Of Probation - Intermediate Punishments - Contempt] (AOC-CR-603, Page Two)
☐ 3. Felony Judgment Findings Of Aggravating And Mitigating Factors (AOC-CR-605)
☐ 4. Extraordinary Mitigation Findings (AOC-CR-606)
☐ 5. Restitution Worksheet, Notice And Order [Initial Sentencing] (AOC-CR-611)
☐ 6. Judicial Findings As To Required DNA Sample (AOC-CR-319)

Date Of Certification	Signature	
6/24/2004		SEA
Date Certified Copies Delivered To Sheriff		
6/24/2004	☒ Deputy CSC ☐ Assistant CSC ☐ Clerk Of Superior Court	

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SPECIAL CONDITIONS FOR SEX OFFENDERS - G.S. 15A-13443(b2)

NOTE: *The following are not defined ermediate punishments under G.S. 15A-1340.1*

☐ **6. Special Conditions For Sex Offenders, etc. - G.S. 15A-1343(b2)**

The defendant has been convicted of an offense which is a reportable conviction as defined in G.S. 14-208.6(4), or which inv the physical, mental, or sexual abuse of a minor, and must:

1. Register as required by G.S. 14-208.7 if the offense is a reportable conviction as defined by G.S. 14-208.6(4).
2. Participate in such evaluation and treatment as is necessary to complete a prescribed course of psychiatric, psycholo or other rehabilitative treatment as ordered by the court.
3. Not communicate with, be in the presence of, or found in or on the premises of the victim of the offense.
4. ☐ Not reside in a household with any minor because there is evidence of sexual abuse of a minor child in this offense.
5. ☐ Not live in a household with any minor child other than the child(ren) named below, because there is evidence of phys or mental abuse of a minor child in this offense, but the court expressly finds that it is unlikely that the defendant's har or abusive conduct will recur and that it would be in the best interests of the named child(ren) to live in the same hous as the defendant. *(Name minor child(ren) with whom the defendant may live in the same household.)*

_____

_____

6. Other:

OTHER SPECIAL CONDITIONS

☐ **7. Other Special Conditions:**

The above conditions are incorporated in the "Judgment Suspending Sentence" in the above case(s) and made a part thereof.

Date	Name Of Presiding Judge (Type Or Print)	Signature Of Presiding Judge
6/24/2004	HON. RONALD L. STEPHENS	Ronald L. Stephens

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NORTH CAROLINA
WAKE COUNTY

BEFORE THE NORTH CAROLINA STATE BOARD OF CERTIFIED PUBLIC ACCOUNTANT EXAMINERS
CASE #: 200206-024

IN THE MATTER OF:
W. Edward Goodall, Jr., #4766
Respondent

CONSENT ORDER

THIS CAUSE, coming before the Board at its offices at 1101 Oberlin Road, Raleigh, Wake County, North Carolina, with a quorum present. Pursuant to NCGS 150B-41 and 150B-22, the Board and Respondent stipulate the following Findings:

1. Respondent is the holder of North Carolina certificate number 4766 as a Certified Public Accountant.

2. Respondent entered into a contingent fee arrangement with a client to prepare amended federal and state income tax returns; Respondent's fee arrangement provided that no fee would be charged unless a specified result was attained; and the fee was not to be fixed by a court, by other public authorities, by judicial proceedings, or by the findings of governmental agencies.

3. Respondent wishes to resolve this matter by consent and agrees that the Board staff and counsel may discuss this Order with the Board *ex parte*, whether or not the Board accepts this Order as written.

BASED upon the foregoing, the Board makes the following Conclusions of Law:

1. Respondent is subject to the provisions of Chapter 93 of the North Carolina General Statutes (NCGS) and Title 21, Chapter 8 of the North Carolina Administrative Code (NCAC), including the Rules of Professional Ethics and Conduct promulgated and adopted therein by the Board.

2. Respondent's actions as set out above constitute violations of NCGS 93-12 (9)e and 21 NCAC 21 NCAC 08A .0301(b)(14) and 8N .0303 (d) (1)(B) and(2).

BASED on the foregoing and in lieu of further proceedings under 21 NCAC Chapter 8C, the Board and Respondent agree to the following Order:

1. Respondent's certificate is suspended for thirty (30) days; however, said suspension is stayed.

2. Respondent is censured.

3. Respondent shall pay a one thousand dollar ($1000.00) civil penalty to be remitted with this signed Order.

4. Within one hundred eighty (180) days of the date this Order is approved by the Board, Respondent must complete and provide verification of his completion of the Ethics Principles and Professional Responsibilities course as offered by the North Carolina Association of Certified Public Accountants. Said course may not be used to meet Respondent's annual forty (40) hour continuing professional education requirement.

CONSENTED TO THIS THE 16 DAY OF July, 2004.

W E Goodall

Respondent

APPROVED BY THE BOARD THIS THE 23rd DAY OF August 2004.

NORTH CAROLINA STATE BOARD OF CERTIFIED PUBLIC ACCOUNTANT EXAMINERS

BOARD SEAL

BY: Norwood S Clark Jr. CPA
President

NORTH CAROLINA
WAKE COUNTY

BEFORE THE NORTH CAROLINA STATE BOARD OF CERTIFIED PUBLIC ACCOUNTANT EXAMINERS
CASE #: 200401-001

IN THE MATTER OF:
Marvin Harold Witherspoon, #2223
M. Harold Witherspoon, CPA
Respondents

EMERGENCY ORDER
FOR REVOCATION

Upon substantial evidence, the Board finds that Respondents have engaged in general and specific conduct demonstrating that Respondents are no longer qualified or fit to continue respectively to hold a certificate as a Certified Public Accountant or to hold a license as a CPA firm. Specifically, during the relevant period of time through and including the present, while Respondents have been respectively a licensee and a licensed CPA firm, and have been engaged in rendering accounting services to the public, there is substantial evidence substantiating each of the following findings of fact and indicating, sufficient for purposes of this Emergency Order, that Respondents have engaged in acts or omissions in violation of the North Carolina accountancy laws and rules [GS § 93-12 (9)e, and 21 NCAC 8N .0103, 8N.201, 8N .0202, 8N .0203, 8N .0302 (d)]:

1. Respondent Marvin Harold Witherspoon (hereinafter "Respondent Witherspoon") is the holder of North Carolina certificate number 2223 as a Certified Public Accountant and practices as an individual practitioner.

2. Respondent M. Harold Witherspoon, CPA (hereinafter "Respondent firm"), is a licensed certified public accounting firm in North Carolina.

3. In November of 2003, Respondent Witherspoon was arrested and charged with four (4) counts of first-degree sexual exploitation of a minor and with five (5) counts of second-degree sexual exploitation. (Exhibit 1)

4. Respondent Witherspoon was released on a one hundred thousand dollar ($100,000.00) bond.

5. In a response to a Board staff request for information concerning the criminal charges, Respondent Witherspoon, through his legal counsel, informed the Board that Respondent Witherspoon's legal counsel was representing Respondent Witherspoon "with respect to certain criminal charges now pending against him (Respondent Witherspoon) in the general court of justice, superior court division, Catawba County, North Carolina." (Exhibit 2)

6. On January 20, 2004, Respondent Witherspoon was arrested on federal charges and was subsequently indicted by a federal Grand Jury on January 30, 2004, for violations of 18 U.S.C. §2, 2251, 2252, 2252A, generally pertaining to the alleged sexual exploitation of children and the transportation or distribution of child pornography. (Exhibit 3)

7. On June 29, 2004, the federal Grand Jury issued a Superceding Bill of Indictment, further charging that the Respondent Witherspoon "...did knowingly travel in interstate or foreign commerce, for the purpose of engaging in illicit sexual conduct with another person, to wit: engaging in a sexual act with another person when that person is incapable of appraising the nature of the conduct or is physically incapable of declining participation in or communicating an unwillingness to engage in that sexual act...." (Exhibit 4)

8. From January 20, 2004, through the date of this Order, Respondent Witherspoon has been continuously held in federal custody. (Exhibit 5)

9. Respondent Witherspoon failed to timely disclose to the Board those federal charges pending against Respondent Witherspoon or the fact of Respondent Witherspoon's incarceration.

10. A search by the Board's staff of the Board's registration records for Respondent firm still identify Respondent Witherspoon as the licensee in charge and the Board's records further indicate that no other licensed CPA is employed by Respondent firm. (Exhibit 6)

11. Despite his incarceration and despite the absence of active and local supervision by a CPA, Respondent firm has continued to offer and provide public accountancy services, including attest services as defined by 21 NCAC 8A .0301 (b)(5), to clients as a CPA firm. (Exhibit 7)

12. In light of the imminent, ongoing violations as well as failures to disclose the pending federal charges and incarceration, in light of the potential irreparable harm to the public resulting from Respondent Witherspoon's inability to provide active and local supervision from jail to the unlicensed staff in Respondent firm, and in light of the Respondent firm's continued offer by unlicensed and unsupervised staff of accounting services through Respondent' firm; the Board finds that the public welfare requires emergency action.

The Board therefore issues this Emergency Order, pursuant to N.C.G.S. §150B-3(c), to revoke Respondent Witherspoon's certificate as a Certified Public Accountant and to revoke the firm registration for Respondent firm. This Order is effective immediately at

the time of service of this Order upon Respondents, and shall remain in effect until this proceeding, pursuant to NCGS §150B, may be concluded. This Order shall constitute the Notice of Hearing to be held for this matter in the Board Office on December 20, 2004, at 10:00 a.m.

Adopted by a vote of 6 to 0 by the Board on this the 23rd day of August, 2004.

NORTH CAROLINA STATE BOARD OF CERTIFIED PUBLIC ACCOUNTANT EXAMINERS

BOARD SEAL

BY: Norwood D Clark Jr. CPA
President

3CR 15262

STATE OF NORTH CAROLINA
In the General Court of Justice
Superior Court Division

CATAWBA COUNTY

File No.

Film No.

STATE VERSUS

DEFENDANT
MARVIN HAROLD WITHERSPOON W/M 9/20/35
1316 5TH ST CIR NW, HICKORY, NC

INDICTMENT
I SECOND DEGREE SEXUAL EXPLOITATION OF A MINOR
II. SECOND DEGREE SEXUAL EXPLOITATION OF A MINOR
III. SECOND DEGREE SEXUAL EXPLOITATION OF A MINOR
IV. SECOND DEGREE SEXUAL EXPLOITATION OF A MINOR
V. SECOND DEGREE SEXUAL EXPLOITATION OF A MINOR

DATE OF OFFENSE ON OR ABOUT	OFFENSE IN VIOLATION OF G.S
7/20/02	14-190.16 (A)(1)

I. SECOND DEGREE SEXUAL EXPLOITATION OF A MINOR

The jurors for the State upon their oath present that on or about the date of offense shown and in the county named above the defendant named above unlawfully, willfully, and feloniously did record, photograph, film, develop, or duplicate material that contains a visual representation of a minor engaged in sexual activity, to wit: a boy and girl approximately 10-14 years old nude and engaged in intercourse, the defendant knowing the character or content of the material. This act was in violation of the law referenced above.

II. SECOND DEGREE SEXUAL EXPLOITATION OF A MINOR

The jurors for the State upon their oath present that on or about the date of offense shown and in the county named above the defendant named above unlawfully, willfully, and feloniously did record, photograph, film, develop, or duplicate material that contains a visual representation of a minor engaged in sexual activity, to wit: a boy and girl approximately 4-8 years old nude and engaged in intercourse, the defendant knowing the character or content of the material. This act was in violation of the law referenced above.

III. SECOND DEGREE SEXUAL EXPLOITATION OF A MINOR

The jurors for the State upon their oath present that on or about the date of offense shown and in the county named above the defendant named above unlawfully, willfully, and feloniously did record, photograph, film, develop, or duplicate material that contains a visual representation of a minor engaged in sexual activity, to wit: two nude boys approximately 6-9 years old engaged in anal intercourse, the defendant knowing the character or content of the material. This act was in violation of the law referenced above.

Exhibit 1-1

IV. SECOND DEGREE SEXUAL EXPLOITATION OF A MINOR

The jurors for the State upon their oath present that on or about the date of offense shown and in the county named above the defendant named above unlawfully, willfully, and feloniously did record, photograph, film, develop, or duplicate material that contains a visual representation of a minor engaged in sexual activity, to wit: tow young boys approximately 7-10 years old on bed nude with adult male holding his penis, the defendant knowing the character or content of the material. This act was in violation of the law referenced above.

V. SECOND DEGREE SEXUAL EXPLOITATION OF A MINOR

The jurors for the State upon their oath present that on or about the date of offense shown and in the county named above the defendant named above unlawfully, willfully, and feloniously did record, photograph, film, develop, or duplicate material that contains a visual representation of a minor engaged in sexual activity, to wit: two boys approximately 6-8 years old on a bed nude holding each others penis, the defendant knowing the character or content of the material. This act was in violation of the law referenced above.

Signature of Prosecutor

WITNESSES

☒ J. MORTON,	HPD	☐
☐		☐
☐		☐

The witnesses marked "X" were sworn by the undersigned Foreman of the Grand Jury and, after hearing testimony, this bill was found to be:

☒ A TRUE BILL by twelve or more grand jurors, and I the under-signed Foreman of the Grand Jury, attest the concurrence of twelve or more grand jurors in this Bill of indictment.

☐ NOT A TRUE BILL

Date	Signature of Grand Jury Foreman
11/10/03	Martha H. Headrick

1-2

STATE OF NORTH CAROLINA
In the General Court of Justice
Superior Court Division

CATAWBA COUNTY

File No. 3CR 15263

Film No.

STATE VERSUS

DEFENDANT
MARVIN HAROLD WITHERSPOON W/M 9/20/35
1316 5TH ST CIR NW, HICKORY, NC

INDICTMENT
I FIRST DEGREE SEXUAL EXPLOITATION OF A MINOR
II. FIRST DEGREE SEXUAL EXPLOITATION OF A MINOR
III. FIRST DEGREE SEXUAL EXPLOITATION OF A MINOR
IV. FIRST DEGREE SEXUAL EXPLOITATION OF A MINOR

DATE OF OFFENSE ON OR ABOUT	OFFENSE IN VIOLATION OF G.S
7/15/01	14-190.16 (A)(1)

I. FIRST DEGREE SEXUAL EXPLOITATION OF A MINOR

The jurors for the State upon their oath present that on or about the date of offense shown and in the county named above the defendant named above unlawfully, willfully, and feloniously did use, employ, induce, coerce, encourage or facilitate a minor to engage in or assist others to engage in sexual activity on a couch for the purpose of producing material that contains a visual representation depicting this activity, the defendant knowing the character or content of the material. This act was in violation of the law referenced above.

II. FIRST DEGREE SEXUAL EXPLOITATION OF A MINOR

The jurors for the State upon their oath present that on or about the date of offense shown and in the county named above the defendant named above unlawfully, willfully, and feloniously did use, employ, induce, coerce, encourage or facilitate a minor to engage in or assist others to engage in sexual activity in a pool for the purpose of producing material that contains a visual representation depicting this activity, the defendant knowing the character or content of the material. This act was in violation of the law referenced above.

III. FIRST DEGREE SEXUAL EXPLOITATION OF A MINOR

The jurors for the State upon their oath present that on or about the date of offense shown and in the county named above the defendant named above unlawfully, willfully, and feloniously did use, employ, induce, coerce, encourage or facilitate a minor to engage in or assist others to engage in sexual activity on a deck for the purpose of producing material that contains a visual representation depicting this activity, the defendant knowing the character or content of the material. This act was in violation of the law referenced above.

IV. FIRST DEGREE SEXUAL EXPLOITATION OF A MINOR

The jurors for the State upon their oath present that on or about the date of offense shown and in the county named above the defendant named above unlawfully, willfully, and feloniously did use, employ, induce, coerce, encourage or facilitate a minor to engage in or assist others to engage in sexual activity on a bed for the purpose of producing material that contains a visual representation depicting this activity, the defendant knowing the character or content of the material. This act was in violation of the law referenced above.

Signature of Prosecutor

WITNESSES		
☒ J. MORTON,	HPD	☐
☐		☐
☐		☐

The witnesses marked "X" were sworn by the undersigned Foreman of the Grand Jury and, after hearing testimony, this bill was found to be:

☒ A TRUE BILL by twelve or more grand jurors, and I the under-signed Foreman of the Grand Jury, attest the concurrence of twelve or more grand jurors in this Bill of indictment.

☐ NOT A TRUE BILL

Date	Signature of Grand Jury Foreman
11/10/03	Marta A Hendricks

1-4

J. STEVEN BRACKETT LAW OFFICE
ATTORNEY AND COUNSELOR AT LAW
FIRST PLAZA BUILDING, SUITE 135
1985 TATE BOULEVARD SE
HICKORY, NORTH CAROLINA 28602

J. STEVEN BRACKETT

TELEPHONE (828) 324-2101
TELECOPIER (828) 324-6410

January 13, 2004

Mr. Robert N. Brooks
Executive Director
NC Board of Certified Public Accountants
Post Office Box 12827
Raleigh, North Carolina 27605

Mr. Noel L. Allen
Legal Counsel
NC Board of Certified Public Accountants
Post Office Drawer 1270
Raleigh, North Carolina 27602-1270

Re: Marvin Harold Witherspoon, CPA

Dear Gentlemen:

As you can see from the enclosed correspondence, I together with L. Oliver Noble, Jr., represent Marvin Harold Witherspoon, CPA, with respect to certain criminal charges now pending against him in the general court of justice, superior court division, Catawba County, North Carolina.

I am delivering herewith Mr. Witherspoon's response to your preliminary licensee litigation report form. The answers provided correspond to the question numbers on your form. Should you have any further questions, please do not hesitate to contact me.

Sincerely,

J. STEVEN BRACKETT LAW OFFICE

Steve

J. Steven Brackett

JSB:caj

Enclosure

NC BOARD OF CPA
Received
JAN 16 2004
CPA EXAMINERS

Exhibit 2-1

N:\SHARED:Cajj\011204

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION

04 JAN 30 PM 3:57
U.S. ... W. DIST. ... N.C.

UNITED STATES OF AMERICA	)	DOCKET NO. 5:04CR05-V
	)	
	)	BILL OF INDICTMENT
v.	)	Violations:
	)	18 U.S.C. § 2251(a)
	)	18 U.S.C. § 2251(d)
	)	18 U.S.C. § 2252A(a)(5)(B)
MARVIN HAROLD WITHERSPOON	)	18 U.S.C. § 2
MARVIN LEE TRIVETTE	)	

THE GRAND JURY CHARGES:

COUNT ONE

In or around July 2001, in Catawba County, within the Western District of North Carolina, the defendants,

MARVIN HAROLD WITHERSPOON
and
MARVIN LEE TRIVETTE

did knowingly and willfully combine, conspire, confederate and agree with one another, and with others both known and unknown to the grand jury, to commit against the United States the following offense: to employ, use, persuade, induce, entice, or coerce a person under the age of eighteen to engage in sexually explicit conduct, specifically, oral-genital sexual intercourse, masturbation of the genitals and the lascivious exhibition of the genitals and the pubic area of said minor, for the purpose of producing visual depictions of such conduct, specifically a videotape entitled "Marvin and friends", such visual depictions having actually been produced using materials that have been mailed, shipped, or transported in interstate or foreign commerce by any means, in violation of Title 18, United States Code, Sections 2251(d).

Exhibit 3-1

COUNT TWO

In or around July 2001, in Catawba County, within the Western District of North Carolina, the defendants,

MARVIN HAROLD WITHERSPOON
and
MARVIN LEE TRIVETTE

and others known and unknown to the grand jury, aiding and abetting each other, did knowingly and willfully employ, use, persuade, induce, entice, or coerce a person under the age of eighteen to engage in sexually explicit conduct, specifically, oral-genital sexual intercourse, masturbation of the genitals and the lascivious exhibition of the genitals and the pubic area of said minor, for the purpose of producing visual depictions of such conduct, specifically a videotape entitled "Marvin and friends", such visual depictions having actually been produced using materials that have been mailed, shipped, or transported in interstate or foreign commerce by any means, in violation of Title 18, United States Code, Sections 2251(a) and 2.

COUNTS THREE THROUGH TEN

On or about October 21, 2003 in Catawba County, within the Western District of North Carolina, the defendant,

MARVIN HAROLD WITHERSPOON

did knowingly possess one or more books, magazines, periodicals, films, videos, CDs or other material which contain images of child pornography that have been mailed, shipped or transported in interstate or foreign commerce, or which was produced using materials which have been mailed, shipped, or transported in interstate or foreign commerce, such material is described more specifically as follows:

COUNT	ITEM	TITLE	DEPICTION
3	VHS VIDEO TAPE #65	"4-1-02"	minors engaged in sexual explicit conduct with each other and adults; lewd and lascivious exhibition of the genitals of a minor
4	VHS VIDEO TAPE #97	"#1 Disc B 3-16-97"	minors engaged in sexual explicit conduct with each other and adults; lewd and lascivious exhibition of the genitals of a minor

3-2

5	VHS VIDEO TAPE #100	"New Web Site over European Nudism"	minors engaged in sexual explicit conduct with each other and adults; lewd and lascivious exhibition of the genitals of a minor
6	VHS VIDEO TAPE #103	"2-16-00 over Dis 12-00"	minors engaged in sexual explicit conduct with each other and adults; lewd and lascivious exhibition of the genitals of a minor
7	VHS VIDEO TAPE #124	"Computer 7-20-02"	minors engaged in sexual explicit conduct with each other and adults
8	VHS VIDEO TAPE #127	"Computer 4-99"	minors engaged in sexual explicit conduct with each other and adults; lewd and lascivious exhibition of the genitals of a minor
9	VHS VIDEO TAPE #174	"9-95 Golden Boys #2 Mardi Gras"	minors engaged in sexual explicit conduct with each other and adults; lewd and lascivious exhibition of the genitals of a minor
10	VHS VIDEO TAPE #224	"infrared (see thru camera) "	minors engaged in sexual explicit conduct with each other and adults; lewd and lascivious exhibition of the genitals of a minor

Each item a violation of Title 18, United States Code, Section 2252A(a)(5)(B).

NOTICE OF FORFEITURE

Notice is hereby given that:

a) all property involved in the violations alleged in this Bill of Indictment, including but not limited to all real and personal property listed below;

b) all property which constitutes proceeds of such violations; and

c) in the event that any property described in (a) or (b) cannot be located or recovered, all other property of the defendant, to the extent of the value of the property described in (a) or (b),

is subject to forfeiture to the United States pursuant to the provisions of 18 U.S.C. Section 2253.

REAL PROPERTY

1. 1316 Fifth Street Circle, NW, Hickory, North Carolina, 28601
   Parcel Number: 3703-10-46-0567
   Deed recorded at Book 870, Page 133, Catawba County Public Registry

PERSONAL PROPERTY

1. One black 1999 Mercedes Benz SL500, NC Tag: ESK-8422
   VIN: WDBFA68F4XF183220, TITLE: 772058992252101
   DATE OF PURCHASE: July 24, 1999.

2. One grey 1988 Mercedes Benz 560 SL, NC Tag: CNC-1957
   VIN: WDBBA48D3JA075452, TITLE: 833632897
   DATE OF PURCHASE: October 28, 1988.

A TRUE BILL

Barbara M. McClyde
FOREMAN

ROBERT J. CONRAD, JR.
UNITED STATES ATTORNEY

BRIAN S. CROMWELL
ASSISTANT UNITED STATES ATTORNEY

3-4

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION

FILED
CHARLOTTE, N. C.
JUN 29 2004
U. S. DISTRICT COURT
W. DIST. OF N. C.

UNITED STATES OF AMERICA	)	DOCKET NO. 5:04CR5-V
	)	
	)	SUPERSEDING BILL OF INDICTMENT
v.	)	Violations:
	)	
	)	18 U.S.C. § 2251(a)
	)	18 U.S.C. § 2251(d)
	)	18 U.S.C. § 2252A(a)(5)(B)
MARVIN HAROLD WITHERSPOON	)	18 U.S.C. § 2
MARVIN LEE TRIVETTE	)	
	)	

THE GRAND JURY CHARGES:

COUNT ONE

In or around July 2001, in Catawba County, within the Western District of North Carolina, the defendants,

MARVIN HAROLD WITHERSPOON
and
MARVIN LEE TRIVETTE

did knowingly and willfully combine, conspire, confederate and agree with one another, and with others both known and unknown to the grand jury, to commit against the United States the following offense: to employ, use, persuade, induce, entice, or coerce a person under the age of eighteen to engage in sexually explicit conduct, specifically, oral-genital sexual intercourse, masturbation of the genitals and the lascivious exhibition of the genitals and the pubic area of said minor, for the purpose of producing visual depictions of such conduct, specifically a videotape entitled "Marvin and friends", such visual depictions having actually been produced using materials that have been mailed, shipped, or transported in interstate or foreign commerce by any means, in violation of Title 18, United States Code, § 2251(d).

Exhibit 4-1

COUNT TWO

In or around July 2001, in Catawba County, within the Western District of North Carolina, the defendants,

MARVIN HAROLD WITHERSPOON
and
MARVIN LEE TRIVETTE

and others known and unknown to the grand jury, aiding and abetting each other, did knowingly and willfully employ, use, persuade, induce, entice, or coerce a person under the age of eighteen to engage in sexually explicit conduct, specifically, oral-genital sexual intercourse, masturbation of the genitals and the lascivious exhibition of the genitals and the pubic area of said minor, for the purpose of producing visual depictions of such conduct, specifically a videotape entitled "Marvin and friends", such visual depictions having actually been produced using materials that have been mailed, shipped, or transported in interstate or foreign commerce by any means, in violation of Title 18, United States Code, §§ 2251(a) and 2.

COUNTS THREE THROUGH TEN

On or about October 21, 2003 in Catawba County, within the Western District of North Carolina, the defendant,

MARVIN HAROLD WITHERSPOON

did knowingly possess one or more books, magazines, periodicals, films, videos, CDs or other material which contain images of child pornography that have been mailed, shipped or transported in interstate or foreign commerce, or which was produced using materials which have been mailed, shipped, or transported in interstate or foreign commerce, such material is described more specifically as follows:

COUNT	ITEM	TITLE	DEPICTION
3	VHS VIDEO TAPE #65	"4-1-02"	minors engaged in sexually explicit conduct with each other and adults; lewd and lascivious exhibition of the genitals of a minor
4	VHS VIDEO TAPE #97	"#1 Disc B 3-16-97"	minors engaged in sexually explicit conduct with each other and adults; lewd and lascivious exhibition of the genitals of a minor

4-2

5	VHS VIDEO TAPE #100	"New Web Site over European Nudism"	minors engaged in sexually explicit conduct with each other and adults; lewd and lascivious exhibition of the genitals of a minor
6	VHS VIDEO TAPE #103	"2-16-00 over Dis 12-00"	minors engaged in sexually explicit conduct with each other and adults; lewd and lascivious exhibition of the genitals of a minor
7	VHS VIDEO TAPE #124	"Computer 7-20-02"	minors engaged in sexually explicit conduct with each other and adults
8	VHS VIDEO TAPE #127	"Computer 4-99"	minors engaged in sexually explicit conduct with each other and adults; lewd and lascivious exhibition of the genitals of a minor
9	VHS VIDEO TAPE #174	"9-95 Golden Boys #2 Mardi Gras"	minors engaged in sexually explicit conduct with each other and adults; lewd and lascivious exhibition of the genitals of a minor
10	VHS VIDEO TAPE #224	"infrared (see thru camera) "	minors engaged in sexually explicit conduct with each other and adults; lewd and lascivious exhibition of the genitals of a minor

Each item a violation of Title 18, United States Code, § 2252A(a)(5)(B).

COUNT ELEVEN

On or about July 4, 2003, in Catawba County, within the Western District of North Carolina, and elsewhere, the defendant,

MARVIN HAROLD WITHERSPOON

did knowingly travel in interstate or foreign commerce, for the purpose of engaging in illicit sexual conduct with another person, to wit: engaging in a sexual act with another person when that person is incapable of appraising the nature of the conduct or is physically incapable of declining participation in or communicating unwillingness to engage in that sexual act, which would be in violation of Title 18, United States Code § 2242(2) if the sexual act had occurred in the special maritime and territorial jurisdiction of the United States, all in violation of Title 18, United States Code § 2423(b).

4-3

NOTICE OF FORFEITURE

1. The allegations contained in Counts One through Eleven of this Indictment are hereby re-alleged and incorporated by reference for the purpose of alleging forfeitures, pursuant to the provisions of Title 18, United States Code § 2253.

2. From their engagement in the violations alleged in Counts One through Eleven of this Indictment and punishable by imprisonment for more than one year, the defendants, MARVIN HAROLD WITHERSPOON and MARVIN LEE TRIVETTE, shall forfeit to the United States pursuant to Title 18, United States Code § 2253, all of their interests in any property, real or personal, used or intended to be used to commit or to promote the commission of such offenses acts described in Title 18, United States Code, §§ 2251(a), 2251(d), 2252A(a)(5)(B) and 2423(a).

3. Notice is hereby given that:

   a) all property involved in the violations alleged in this Bill of Indictment, including but not limited to all real and personal property listed in paragraph 4. below;

   b) all property which constitutes proceeds of such violations; and

   c) in the event that any property described in (a) or (b) cannot be located or recovered, all other property of the defendant, to the extent of the value of the property described in (a) or (b),

   is subject to forfeiture to the United States pursuant to the provisions of 18 U.S.C. § 2253.

4. REAL PROPERTY

   a) 1316 Fifth Street Circle, NW, Hickory, North Carolina, 28601
   Parcel Number: 3703-10-46-0567
   Deed recorded at Book 870, Page 133, Catawba County Public Registry

   b) 104 Celebration Boulevard
   Celebration, FL 34747
   Parcel Number : 072528-2807-0001-1310
   Deed recorded at Book 2207, Page 1678, Osceola County Public Registry

   PERSONAL PROPERTY

   c) One black 1999 Mercedes Benz SL500, NC Tag: ESK-8422
   VIN: WDBFA68F4XF183220, TITLE: 772058992252101
   DATE OF PURCHASE: July 24, 1999.

4-4

d) One grey 1988 Mercedes Benz 560 SL, NC Tag: CNC-1957
VIN: WDBBA48D3JA075452, TITLE: 833632897
DATE OF PURCHASE: October 28, 1988.

If any property described above, as being subject to forfeiture, as a result of any act of omission of the defendant:

a. cannot be located upon the exercise of due diligence;

b. has been transferred or sold to, or deposited with, a third party;

c. has been placed beyond the jurisdiction of the Court;

d. has been substantially diminished in value; or

e. has been commingled with other property, which cannot be divided without difficulty, the United States of America may, pursuant to Title 18, United States Code § 2253(o), seek forfeiture of any other property of said defendant up to the value of the above forfeited property.

A TRUE BILL

Barbara McBride
FOREMAN

GRETCHEN C. F. SHAPPERT
UNITED STATES ATTORNEY

BRIAN S. CROMWELL
ASSISTANT UNITED STATES ATTORNEY

4-5

FILED
STATESVILLE, N.C.
2004 FEB 24 AM 10: 51
U.S. DISTRICT COURT
W. DIST. OF N.C.

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
CRIMINAL ACTION NO.: 5:04CR5-1-V

UNITED STATES OF AMERICA,	)	
Plaintiff,	)	
v.	)	**ORDER**
MARVIN HAROLD WITHERSPOON,	)	
Defendant.	)	

THIS MATTER is before the Court on the Government's Motion for Revocation of the Magistrate Judge's Release Order filed January 22, 2004. In the same Motion, the Government also requested a stay of the Magistrate Judge's release order pending a ruling on the appeal. On January 23, 2004, this Court entered a stay pending further order of the Court.

Defendant was arrested on January 16, 2004, and charged by way of a criminal complaint for alleged violations of Title 18 U.S.C. §§ 2251 et seq. (sexual exploitation of minors), 2252 et seq. (receipt, distribution, or possession of material involving the sexual exploitation of minors), and 2252A et seq. (receipt, distribution, or possession of material constituting or containing child pornography). Although 18 U.S.C. § 3142(e) creates a presumption in favor of detention, the Magistrate Judge, after reviewing the record and hearing evidence, concluded that conditional release would adequately assure Defendant's appearance in court proceedings and the safety of the community. The Magistrate Judge released Defendant on a $35,000 cash bond upon the conditions that Defendant be

Exhibit 5-1

subject to 24-hour electronic monitoring and confined to his home (except for pre-approved visits with his physician, his attorney or certain business clients), not leave the Western District of North Carolina, disconnect the Internet service at his residence, and not have any contact with any co-defendants, victims, or potential witnesses. The Government appeals this release.

This Court reviews *de novo* the Magistrate Judge's detention order. See United States v. Williams, 753 F.2d 329, 333 (4th Cir. 1985). In determining whether there are conditions of release that will reasonably assure the appearance of the Defendant and the safety of other persons and the community, the Court must consider all the evidence regarding:

> (1) the nature and circumstances of the offense charged, including whether the offense is a crime of violence or involves a narcotic drug;
> (2) the weight of the evidence against the person;
> (3) the history and characteristics of the person, including –
> 1. the person's character, physical and mental condition, family ties, employment, financial resources, length of residence in the community, community ties, past conduct, history relating to drug or alcohol abuse, criminal history, and record concerning appearances at court proceedings; and
> 2. whether, at the time of the current offense or arrest, the person was on probation, on parole, or on other release pending trial, sentencing, appeal, or completion of sentence for an offense under Federal, State, or local law; and
> (4) the nature and seriousness of the danger to any person or the community that would be posed by the person's release. . . .

18 U.S.C.A. §3142(g) (West 2002). However, Congress recently enacted the "Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today Act of 2003" ("Protect Act"), PL 108-21, April 30, 2003, 117 Stat. 650, which amended 18 U.S.C. § 3142(e) and extended the rebuttable presumption in favor of detention that previously

5-2

applied to drug related cases to those cases arising from offenses involving minor victims.[1]

18 U.S.C. § 3142(e) now reads:

> Subject to rebuttal by the person, it shall be presumed that no condition or combination of conditions will reasonably assure the appearance of the person as required and the safety of the community if the judicial officer finds that there is probable cause to believe that the person committed an offense for which a maximum term of imprisonment of ten years or more is prescribed in the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.), an offense under section 924(c), 956(a), or 2332b of this title, **or an offense involving a minor victim under section 1201, 1591, 2241, 2242, 2244(a)(1), 2245, 2251, 2251A, 2252(a)(1), 2252(a)(2), 2252(a)(3), 2252A(a)(1), 2252A(a)(2), 2252A(a)(3), 2252A(a)(4), 2260, 2421, 2422, 2423, or 2425 of this title.**

18 U.S.C. § 3142(e) (West 2004) (emphasis added). As discussed in greater detail below, the Court finds that there is probable cause to believe Defendant committed offenses in violation of Title 18 U.S.C. §§ 2251, 2252, and 2252A, and as a result, the statutory presumption that "no condition or combination of conditions will reasonably assure the appearance of the person as required and the safety of the community" applies. Nevertheless, Defendant can rebut that statutory presumption by producing evidence that Defendant is not dangerous or a flight risk. The proper analysis of the rebuttable

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[1]The Government argued before the Magistrate Judge, and now in briefs to this Court, that a presumption of detention applies because the Defendant stands accused of crimes of violence pursuant to 18 U.S.C. § 3156(a)(4)(C). The Court notes that the Government is incorrect for two reasons. First, simply being charged with a "crime of violence" does not trigger the rebuttable presumption in favor of detention. See United States v. Coffey, 2001 WL 1249684 (N.D.N.Y. July 24, 2001) ("The mere fact that the defendant is charged with a crime of violence entitling the government to a detention hearing under 18 U.S.C. § 3142(f)(1) alone does not suffice to trigger such a presumption."); See also United States v. Chappelle, 51 F.Supp.2d 703, 704-05 (E.D. Va. 1999). More importantly, it is obvious that the recent passage of the Protect Act dictates the statutory presumption in this case. Consequently, the Magistrate Judge was in error in applying the presumption proffered by the Government.

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presumption has been summarized as follows:

> Once the statutory presumptions are raised, the defendant carries the burden of production to come forward with evidence to rebut the presumptions. The defendant's obligation to come forward with evidence does not shift to the defendant the government's burden of persuasion. Therefore, [Defendant has] the burden to produce evidence "to suggest that he . . . [was] wither not dangerous or not likely to flee if turned loose on bail." Even if this evidence is sufficient to rebut the statutory presumption, the presumption "remains in the case as an evidentiary finding militating against release, to be weigh[ed] along with other evidence relative to factors listed in section 3142(g)." The presumption becomes evidence to be considered along with other evidence listed in the Act as indicative of risk of flight or danger to the community.

United States v. Quartermaine, 913 F.2d 910, 916 (11th Cir. 1990) (internal citations omitted).

The Court has reviewed the transcript of the detention hearing before the Magistrate Judge as well as the contents of the criminal file in this matter. At the outset, the Court finds that Defendant has presented sufficient evidence initially to rebut the presumption of detention, specifically that he: (a) is sixty-seven years of age, (b) has resided at the same residence in Hickory, North Carolina for many years, (c) has practiced as a Certified Public Accountant for more than forty years, (d) has an adult son who works in his accounting firm, (e) has considerable wealth, and (f) has not made any attempts to flee since being released on bond months ago for related state charges. For these same reasons, the Court also finds that Government has not proven by a preponderance of the evidence that Defendant poses a flight risk. However, upon review of the factors outlined above, and after careful consideration, the Court concludes that there is clear and convincing evidence from which to conclude that this Defendant, if released, poses a danger to others within the community. See United States v. Coffey, 2001 WL 1249684 (N.D.N.Y. July 24, 2001).

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In regards to the nature and circumstances of the offense charged, it is unquestionable that they constitute "crimes of violence" as specifically defined by 18 U.S.C. § 3156(a)(4)(C). In addition, the weight of the evidence against Defendant for these crimes is overwhelming. Significantly, evidence presented through affidavits and testimony reflects that:

1. One of the witnesses ("Person A") described Defendant's house to Detective Joanna S. Morton of the Hickory Police Department as containing a locked video room which contained "stacks upon stacks" of sexual video tapes and a computer room in the basement where he had personally observed Defendant communicating with young boys via the internet where he would watch them masturbate via a web camera;

2. "Person A" turned over a videotape to Detective Morton given to him by Defendant which contained images of young boys as young as 13 years in age engaging in sexual activity;

3. Pursuant to a search warrant executed on October 21, 2003, 357 videotapes (177 of which contained adult pornography, 11 contained sexual images of minors as young as 4 years of age, 5 contained graphic sexual activity with minors, and 6 contained nude images of children) and a personal computer later found to contain child pornography website links in addition to actual pornography images;

4. One videotape in particular, entitled "MARVIN AND FRIENDS/JOSE #3/FOX 2-25-02," (hereinafter referred to as "Marvin and Friends") showed a young boy ("Person B") approximately 15 years in age engaging in masturbation and oral sex with an adult male;

5. Special Agent Ginger Davis and Detective Morton have identified the house in the videotape as the residence of the Defendant and the voice overheard giving instructions as the voice of the Defendant as well;

6. Agent Davis and Detective Morton subsequently interviewed Marvin Lee Trivette who admitted that he was the adult male in the "Marvin and Friends" video and stated that Defendant videotaped the incident and paid him $100 to engage in the sexual activity. Trivette also stated that, at one point, Defendant put the camera down and personally engaged in oral sex on the boy, after which he continued to tape;

7. "Person B" was interviewed by Special Agent Lisa Holman and Special Agent

Davis and he admitted that he was the young boy in the camera. "Person B" stated that Defendant offered him $300 to swim nude in his swimming pool and when he began to swim, he was joined by Trivette. "Person B" stated that as Defendant recorded, Trivette began to engage in masturbation and oral sex with him. "Person B" stated that he was taken into Defendant's house where he was shown an adult pornography movie and he again masturbated and engaged in oral sex with Trivette as Defendant recorded. "Person B" stated that Defendant paid him $300 in cash;

8. Pursuant to a Federal search warrant executed on Defendant's residence in Celebration, Florida, authorities discovered a color-highlighted map of children's parks in Celebration, Florida.[2]

Furthermore, regarding Defendant's history and character, evidence presented shows:

1. Defendant has a 1985 conviction for public lewdness in Brooklyn, New York;

2. A report was filed with the Hickory Police Department in 1996 against Defendant wherein a tenant renting a room from him alleged that he found a video camera hidden in a vent over his bed. Police searched Defendant's home and found evidence of camera in the area above the bed, but no charges were ever filed;

3. A report was also filed against Defendant in 1999 by a person living with him alleging that Defendant had downloaded child pornography onto his computer via the internet, although no charges were filed;

4. "Person A" told investigators that he had been to Defendant's home in Florida approximately 17 times. "Person A" stated that on one occasion, as he and Defendant were driving to Defendant's home, Defendant slowed to a crawl in order to follow a young boy approximately 12 years in age. Although Defendant never confronted the young boy, Defendant at one point proceed down the wrong way of a one-way street in order to continue following the boy;

5. "Person A" and "Person B" have both told investigators that they feared for their lives, and at one time, were both put into protective custody by authorities.

---

[2]Because of this compelling evidence, the Court finds, as did the Magistrate Judge, that there is probable cause to believe Defendant committed offenses in violation of Title 18 U.S.C. §§ 2251, 2252, and 2252A.

When all this evidence is considered in conjunction with the statutory presumption which remains as an evidentiary finding militating against release, the Court finds that Defendant would pose a serious danger to the community should he be released. Accordingly, the Court declines to accept the Magistrate Judge's finding that bond is appropriate.

IT IS, **THEREFORE, ORDERED** that the Government's Motion for Revocation of Magistrate's Order is hereby **GRANTED**. Accordingly, the Order of the Magistrate Judge authorizing release is hereby **VACATED**. The Defendant shall remain committed to the custody of the Attorney General, subject to the following conditions:

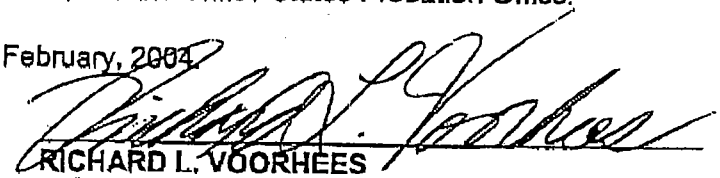
a. He shall be confined in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal;

b. He shall be afforded reasonable opportunity for private consultation with his counsel; and

c. On order of a court of the United States or on request of an attorney for the government the person in charge of the corrections facility in which he is confined shall deliver him to a United States Marshal for the purpose of an appearance in connection with a court proceeding.

The Clerk shall certify copies of this Order to Defense Counsel, the United States Attorney, the United States Marshal, and the United States Probation Office.

THIS the 27th of February, 2004.



RICHARD L. VOORHEES

5-7

NORTH CAROLINA STATE BOARD OF CPA EXAMINERS

P. O. Box 12827 Raleigh, NC 27605-2827 http://www.cpaboard.state.nc.us
(919) 733-1423 or 1421 FAX (919) 733-4209

2004 RENEWAL FORM FOR INDIVIDUAL PRACTITIONERS

Must be postmarked by December 31, 2003

M. Harold Witherspoon, CPA
PO Box 1364
Hickory, NC 28603

Please correct the information on your firm shown above and listed below. The address listed above is the firm's preferred mailing address. The office physical or secondary address is listed below. You must also complete the State Quality Review (SQR) Compliance Information on the reverse. **Please return forms for all offices together** when you renew your registration. You may verify that your firm's renewal has been processed by checking our website (updated weekly).

Supervising CPA in this office:	Mr. Marvin Harold Witherspoon, CPA #2223
Physical or Secondary Address	PO Box 1364 Hickory, NC 28603
Office telephone number:	828-327-3967
Office FAX number:	828-322-5978
Firm's E-Mail Address:	mhw100@charternet.com
Firm's Website:	
Exempt(E) or non-exempt(N) from SQR in 2002:	N
Last review was accepted on (MM/DD/YY):	12/30/01
Last review was a(n):	AICPA Peer Rev.
Next review deadline is (MM/DD/YY):	2/28/05
Firm administrative office (Yes or No):	N

Check only if applicable:

( ) I no longer practice public accounting as defined at 21 NCAC 8A .0301(b)(16), .0307 and .0308 or I practice only through another properly registered firm. Please terminate this firm registration. (No fee required.)

I certify under penalty of perjury that the information in this document is correct and complete.

DATE: 10-1-2003 SIGNATURE: M Harold Witherspoon

TITLE: owner

This form must be postmarked by December 31, 2003. There is no fee required.

FOR BOARD STAFF USE

Entered by _____

Company Number **597701**

Date 11-11-03

Rev. 10/9/2003

NC BOARD OF CPA EXAMINERS Received NOV 7 2003

Exhibit 6-1

SQR Compliance Information

Please answer all questions below regarding your compliance with the SQR requirements found at G.S. 93-12(8c) and 21 NCAC 8M. Please check the "**Yes**" blank as appropriate to answer the questions below. A "**No**" response will be assumed unless the "**Yes**" blank has been checked. This office of my firm has between **January 1 and December 31, 2003**:

_____	**Yes**	Issued SSARS-8 compilations
_____	**Yes**	Issued compilations
_____	**Yes**	Performed agreed-upon procedures
✓	**Yes**	Issued reviews
✓	**Yes**	Issued audits

If your firm's latest review is not listed on the front of this form or if your firm is required to be reviewed before 12/31/2003, please use the following statement of completion section to show proof of that review. If you would prefer, you may send a copy of your acceptance letter from NCACPA or AICPA. Either document will confirm your compliance with the SQR requirements. However, **you must send one or the other to show compliance by January 31, 2004.**

State Quality Review (SQR) Statement of Completion

My firm participated in the following Review Program (Check Type 1, 2, 3 or 4):

1) ✓ AICPA Peer Review Program

2) _____ AICPA Division for CPA Firms SEC Practice Section

3) _____ NCACPA Peer Review Program

4) _____ State Board State Quality Review (SQR) Program

12-31-2001 Date of Exit Conference or Report **(Required)**

8-31-2001 Review covered the period ended (Date)

Moral Character Data If you answer "Yes" to any of the questions below, you must provide a certified copy of the court records or a certified copy of applicable license or disciplinary records with a statement of explanation with this renewal application:

A. ( )Yes Has any member of your firm been charged, arrested, convicted, found guilty of, received a prayer for judgment continued, or pleaded *nolo contendere* to any criminal offense since filing your firm's last renewal (excluding non-criminal traffic infractions)?

B. ( )Yes Has your firm or any firm member had an application for certificate or license denied or certificate or license suspended, canceled or revoked by a state or federal agency or governing or licensing board or professional organization since filing your firm's last renewal?

C. ( )Yes Has your firm or any firm member been investigated, charged, or disciplined since filing your firm's last renewal, or is your firm or any firm member under investigation by a governing or licensing board, professional organization, or a state or federal agency?

D. ( )Yes Has your firm or any firm member been party to a civil suit, bankruptcy action, administrative proceeding, or binding arbitration; the basis of which is an allegation of negligence, dishonesty, fraud, misrepresentation or incompetence since filing your firm's last renewal?

GERMAN

Division of F. L. German Motor Company Corp.

565 N. Main St.
Granite Falls, N.C. 28630
Tel: (828) 396-3332

August 9, 2004

TO: NC Board of CPA Examiners

This affidavit is to document the information we received at F. L. German Motor Co., Inc. from the office of M. Harold Witherspoon, CPA.

Hal Witherspoon, son of Marvin Harold Witherspoon, has been acting as our bookkeeper. When his father was incarcerated on Federal charges we hired a new CPA since we assumed he would be unable to complete our yearly reviewed financial statements and tax returns. Hal told me at that time that he had talked with his father on the phone but had no other contact with him. At that time we asked if he (Hal) would work with the new CPA to complete our yearly records and tax returns by supplying the accounting records he had compiled during the year. However, on June 29, 2004 he presented my office with a completed year end reviewed financial statement and tax returns along with a bill for $4,410.00. When I asked him how this had been accomplished since his father (Harold) was still in jail he said he had prepared them and signed his father's name.

John W. German
JOHN W GERMAN, PRES.
F. L. GERMAN MOTOR CO., INC.

Barbara Brittain 8-9-04
BARBARA BRITTAIN, ASST SEC.
F. L. GERMAN MOTOR CO., INC.

State of North Carolina
I, Teresa W. Kirksey Notary Public
do hereby certify that John W. German and Barbara Brittain
personally appeared before me this day and acknowledged
the due execution of the foregoing instrument.
Witness my hand and official seal, this 9th day of
August, 19 2004
Teresa W. Kirksey Notary Public

My Commission Expires 10/26/2008

Exhibit 7-1

M. HAROLD WITHERSPOON
CERTIFIED PUBLIC ACCOUNTANT
POST OFFICE BOX 1364 • TELEPHONE (828) 327-3967
HICKORY, NORTH CAROLINA 28603

MEMBER
AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS
NORTH CAROLINA ASSOCIATION OF CERTIFIED PUBLIC ACCOUNTANTS
FLORIDA INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS

June 29, 2004

F.L. German Motor Company, Inc.

Preparation of financial statements and income tax returns for the year ended April 30, 2004.

$4,410.00

7-2

COPY

FINANCIAL STATEMENTS

F. L. GERMAN MOTOR COMPANY, INC.

Granite Falls, North Carolina

For The Year Ended April 30, 2004

Prepared By:

M. Harold Witherspoon
Certified Public Accountant
Hickory, North Carolina

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F. L. GERMAN MOTOR COMPANY, INC.

Granite Falls, North Carolina
For The Year Ended April 30, 2004

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B — Statement of Income and Retained Earnings

C — Statement of Cash Flows

Notes to Financial Statements

M. HAROLD WITHERSPOON
CERTIFIED PUBLIC ACCOUNTANT
POST OFFICE BOX 1364 • TELEPHONE (828) 327-3967
HICKORY, NORTH CAROLINA 28603

MEMBER
AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS
NORTH CAROLINA ASSOCIATION OF CERTIFIED PUBLIC ACCOUNTANTS
FLORIDA INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS

INDEPENDENT ACCOUNTANT'S REVIEW REPORT

Officers and Directors
F. L. German Motor Company, Inc.
Granite Falls, North Carolina

Gentlemen:

I have reviewed the accompanying Balance Sheets of F. L. German Motor Company, Inc. as of April 30, 2004 and April 30, 2003 and the related Statements of Income and Retained Earnings and Cash Flow for the year then ended in accordance with Statements on Standards for Accounting and Review Services issued by the American Institute of Certified Public Accountants in the United States of America. All information included in these financial statements is the representation of the management of F. L. German Motor Company, Inc.

A review consists principally of inquiries of company personnel and analytical procedures applied to financial data. It is substantially less in scope than an audit in accordance with generally accepted auditing standards; the objective of which is the expression of an opinion regarding the financial statements taken as a whole. Accordingly, I do not express such an opinion.

Based on my review, I am not aware of any material modifications that should be made to the accompanying financial statements in order for them to be in conformity with generally accepted accounting principles.

Respectfully submitted,

M Harold Witherspoon

M. Harold Witherspoon
Certified Public Accountant

June 28, 2004
Hickory, North Carolina

F. L. GERMAN MOTOR COMPANY, INC.

Granite Falls, North Carolina

BALANCE SHEETS

April 30, 2004

With Comparative Totals for April 30, 2003

	2004	2003
ASSETS		
Current Assets		
Cash	$ 67,592.13	$ 45,444.08
Marketable Securities	9,703.32	7,721.79
Accounts and Notes Receivable	1,154,024.95	1,100,284.34
Inventory	398,386.10	341,717.19
TOTAL CURRENT ASSETS	$ 1,629,706.50	$ 1,495,167.40
Fixed Assets		
Property and Equipment	$ 46,165.56	$ 46,165.56
Improvements	29,971.84	29,971.84
	$ 76,137.40	$ 76,137.40
Less: Accumulated Depreciation	65,155.95	62,746.71
TOTAL CURRENT ASSETS	$ 10,981.45	$ 13,390.69
Other Assets		
Investments	$ 100.00	$ 100.00
Prepaid Income Taxes	13,169.00	6,029.00
TOTAL OTHER ASSETS	$ 13,269.00	$ 6,129.00
TOTAL ASSETS	$ 1,653,956.95	$ 1,514,687.09

See Accompanying Notes and Accountant's Review Report

F. L. GERMAN MOTOR COMPANY, INC.

Granite Falls, North Carolina

BALANCE SHEETS

April 30, 2004

With Comparative Totals for April 30, 2003

	2004	2003
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current Liabilities		
Accounts Payable	$ 175,047.41	$ 128,413.08
Accrued Taxes		
Sales and Payroll	7,343.40	5,050.72
Income	.00	1,317.00
Deferred Taxes	1,165.42	806.17
Notes Payable	173,560.00	83,560.00
TOTAL CURRENT LIABILITIES	$ 357,116.23	$ 219,146.97
Other Liabilities		
Deferred Income	$ 191,847.66	$ 166,174.89
TOTAL LIABILITIES	$ 548,963.89	$ 385,321.86
Stockholders' Equity		
Common Stock - Authorized 3,000 Shares $100.00 Par Value - Issued and Outstanding 1,680 Shares	$ 168,000.00	$ 168,000.00
Retained Earnings	1,111,568.95	1,137,292.59
Paid In Capital	(178,960.07)	(178,960.07)
Accumulated Other Comprehensive Income	4,384.18	3,032.71
TOTAL STOCKHOLDERS' EQUITY	$ 1,104,993.06	$ 1,129,365.23
TOTAL LIABILITIES AND STOCKHOLDERS' EQUITY	$ 1,653,956.95	$ 1,514,687.09

See Accompanying Notes and Accountant's Review Report

F. L. GERMAN MOTOR COMPANY, INC.

Granite Falls, North Carolina

STATEMENT OF INCOME AND RETAINED EARNINGS

For The Year Ended April 30, 2004

With Comparative Totals For The Year Ended April 30, 2003

	2004		2003	
	Amount	% Of Sales	Amount	% Of Sales
Gross Sales	$ 1,678,706.25	100.00	$ 1,496,680.38	100.00
Cost Of Goods Sold				
Inventory - Beginning	$ 341,717.19		$ 321,043.27	
Purchases	1,366,204.24		1,151,176.94	
	$ 1,707,921.43		$ 1,472,220.21	
Inventory - Ending	398,386.10		341,717.19	
Cost of Sales	$ 1,309,535.33	78.01	$ 1,130,503.02	75.53
GROSS PROFIT	$ 369,170.92	21.99	$ 366,177.36	24.47
Expenses				
Advertising	$ 5,499.10		$ 4,401.94	
Salaries	228,612.89		205,575.26	
Taxes	38,462.36		26,952.10	
Bad Debts	138,381.52		122,447.84	
Depreciation	2,409.24		2,922.21	
Insurance	15,983.63		14,685.32	
Repairs	3,231.29		4,422.05	
Rent	5,000.00		15,000.00	
Telephone	3,344.42		3,604.84	
Utilities	11,499.97		11,254.68	
Laundry	2,748.38		4,078.43	
Office Expense	7,239.15		6,778.98	
Legal and Audit	8,420.00		8,482.50	
Interest	17,898.19		12,470.05	
Other	5,132.94		5,362.30	
Shop Supplies	2,211.74		4,011.33	
Travel	7,787.41		5,748.32	
Contract Labor	22,762.24		7,618.26	
TOTAL EXPENSES	$ 526,624.47	31.37	$ 465,816.41	31.13

See Accompanying Notes and Accountant's Review Report

F. L. GERMAN MOTOR COMPANY, INC.

Granite Falls, North Carolina

STATEMENT OF INCOME AND RETAINED EARNINGS

For The Year Ended April 30, 2004

With Comparative Totals For The Year Ended April 30, 2003

	2004		2003	
	Amount	% Of Sales	Amount	% Of Sales
Other Income				
Bad Debts Recovered	$ 2,753.33		$ 5,729.48	
Finance and Insurance Income	125,842.26		138,050.58	
Dividends	427.66		267.42	
Interest	380.60		2,407.05	
Other	2,326.06		1,041.22	
Gain On Sales:				
Fixed Assets				
Investments				
Administrative Income			43.20	
			15,000.00	
TOTAL OTHER INCOME	$ 131,729.91	7.85	$ 162,538.95	10.86
NET INCOME(LOSS) BEFORE INCOME TAXES	$ (25,723.64)	(1.53)	$ 62,899.90	4.20
Provision For Income Taxes				
Federal (Net Refund)			10,071.00	
State			3,004.00	
TOTAL INCOME TAXES	$	0.00	$ 13,075.00	.87
NET INCOME (LOSS)	$ (25,723.64)	(1.53)	$ 49,824.90	3.33
Retained Earnings - Beginning	1,137,292.59		1,087,467.69	
Retained Earnings - Ending	$ 1,111,568.95		$ 1,137,292.59	

See Accompanying Notes and Accountant's Review Report

EXHIBIT C

F. L. GERMAN MOTOR COMPANY, INC.

Granite Falls, North Carolina

STATEMENT OF CASH FLOWS

For The Year Ended April 30, 2004

With Comparative Totals For April 30, 2004

	2004	2003
Cash Flows From Operating Activities		
Net Income(Loss) After Taxes	$ (25,723.64)	$ 49,824.90
Adjustments to Reconcile Net Income to Net Cash Provided by Operating Activities		
Depreciation	$ 2,409.24	$ 2,922.21
Decrease (Increase) in Marketable Securities	(1,981.53)	4,877.66
Decrease (Increase) in Accounts and Notes Receivable	(53,740.61)	(58,230.80)
Decrease (Increase) in Inventory	(56,668.91)	(20,673.92)
(Decrease) Increase in Accounts Payable	46,634.33	(5,878.08)
(Decrease) Increase in Accrued Taxes	975.68	(10,764.46)
(Decrease) Increase in Deferred Income	25,672.77	6,314.80
(Decrease) Increase in Deferred Taxes	359.25	(1,115.57)
Decrease (Increase) in Prepaid Income Taxes	(7,140.00)	(6,029.00)
TOTAL ADJUSTMENTS	$ (43,479.78)	$ (88,577.16)
Net Cash (Used) By Operating Activities	$ (69,203.42)	$ (38,752.26)
Cash Flows From Investing Activities		
Increase (Decrease) In Comprehensive Income	$ 1,351.47	$ (4,196.67)
Net Cash Flows (Used) by Investing Activities	$ 1,351.47	$ (4,196.67)
Cash Flows Provided By Financing Activities		
Increase In Short Term Debt	$ 90,000.00	$
Decrease In Short Term Debt		(25,000.00)
Net Cash Flows Provided by Financing Activities	$ 90,000.00	$ (25,000.00)
NET INCREASE (DECREASE) IN CASH	$ 22,148.05	$ (67,948.93)
Cash at Beginning of Year	45,444.08	113,393.01
Cash at End of Year	$ 72,592.13	$ 45,444.08

See Accompanying Notes and Accountant's Review Report

F. L. GERMAN MOTOR COMPANY, INC.
Granite Falls, North Carolina
NOTES TO FINANCIAL STATEMENTS
April 30, 2004

SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Business Activity

The company operates a used car lot and sells new and used mobile homes and farm equipment in Granite Falls, North Carolina.

Basis of Accounting

Assets and liabilities are recorded and revenues and expenses are recognized on the accrual basis of accounting.

Accounts and Notes Receivable

The company uses the direct write-off method for recording uncollectible accounts and notes receivable.

Property and Equipment

Property and equipment additions are recorded at cost. Maintenance, repairs, and renewals are expensed. Depreciation is computed using the accelerated cost system over a useful life of five years.

Marketable Securities

Marketable securities are carried at cost of $4,253.72. The market value of the securities were $9,703.32 as of April 30, 2004.

Income Taxes

Income Taxes are the same for both financial and income tax reporting. No deferred income adjustment was considered, as the amount is not significant.

F. L. GERMAN MOTOR COMPANY, INC.
Granite Falls, North Carolina
NOTES TO FINANCIAL STATEMENTS
April 30, 2004

Notes Payable

There is a note payable for $70,000.00 due to the First Citizens Bank and Trust Company. The note is an open line of credit and is unsecured.

Inventory

Inventories are valued at lower of cost or market, whichever is lower.

Leasing Arrangements

The company conducts its operations from facilities that are leased from the principal stockholders on an informal arrangement. $20,000 in rent was paid for the year ended April 30, 2004.

Deferred Income

The corporation has elected to finance a majority of its sales to customers. At the time of sale, the finance charge is reflected as income on the company's books. At the end of the year, a computation is made recognizing only the finance income earned during the current year. This resulted in reflecting $191,847.66 as deferred income for the year ended April 30, 2004. This amount will be recognized as income in future years.

SUPPLEMENTAL DISCLOSURES OF CASH FLOW INFORMATION

Interest and Income Taxes Paid

Cash paid for income taxes for the year ended April 30, 2004 was as follows:

Income Taxes Paid	$ 9,481.00
Interest Paid	$ 17,898.19

F. L. GERMAN MOTOR COMPANY, INC.
Granite Falls, North Carolina
NOTES TO FINANCIAL STATEMENTS
April 30, 2002

Accumulated Other Comprehensive Income

The change in accumulated other comprehensive income is presented below:

Balance, begining of year	$ 10,221.19
Unrealized, Loss on Investment Securities	2,991.81
Balance, end of year	$ 7,229.38

Interpretive Statement

RE: 21 NCAC 8N .0307 (a) CPA Firm Names

Issue:

This non-binding interpretive statement is issued by the North Carolina State Board of CPA Examiners pursuant to NCGS 150B-2(8a)(c) to address the use of "Group" in a CPA firm name.

Interpretation:

21 NCAC 8N .0307 (a) states, "A CPA or CPA firm shall not trade upon the CPA title through use of any name that would have the capacity or tendency to deceive." 21 NCAC 8N .0306 (e)(6) provides that CPA firms may have non-CPA owners, but "a non-CPA owner's name may not be used in the name of the CPA firm . . . ." Further, 21 NCAC 8N .0201 (b)(2) prohibits deception in "obtaining or keeping clients." 21 NCAC 8N .0201 (b)(9) prohibits deception in "using or permitting another to use the CPA title in a form of business not permitted by the accountancy laws or rules." Additionally, 21 NCAC 8N .0302(a) states that: "A CPA who uses CPA in or with the name of the business or offers or renders attest services in the public practice of accountancy to clients shall do so only through a registered sole proprietorship, partnership, Professional Corporation, Professional Limited Liability Company, or Registered Limited Liability Partnership."

There is no authorized form of business known as a "group." Thus, the desire to include the term "group" in a CPA firm's name is presumably aimed at representing to consumers and the public that the firm embodies a "group" of licensed CPAs. One common definition of the term "group" is: "An assemblage of persons . . . gathered or located together; an aggregation" or "A number of individuals or things considered together because of similarities." (The American Heritage ® Dictionary of the English Language, Fourth Edition, 2000). The effect upon consumers and the public is much more likely to conjure a presumption of more than merely two. Thus, for example, if a firm with only two licensee owners used "group" in addition to both of their names, the deceptive effect would be to falsely suggest that there are other licensee owners. Of further concern to the Board is that despite the possibility that when the firm

name using the term "group" was first adopted there may have been two or more licensee owners, a subsequent reduction in the number of owners could make the name lawful but inherently deceptive.

With the advent of non-CPA owners, there is greater need to assure that consumers and the public are not mislead or confused about who is or is not licensed in a firm. Non-CPA ownership constituted a regulatory break with a hundred years of the common law presumption that only licensed CPAs could be owners of a CPA firm. Thus, the same rulemaking proceedings that resulted in allowing non-CPA ownership also resulted in a calculated restriction of firm names. In agreeing to liberalize its ownership rules the Board understandably made it clear that in light of the inevitably greater risks of deception and consumer confusion, all types of fictitious names could no longer be prospectively approved. This in no way restricts CPA firms from truthfully describing firm participants and affiliations in their letterhead and other advertising. And, unlike some arguably informative fictitious firm names, the addition of the term "group" to a firm names adds little or no useful information that may not already be lawfully provided by either including the CPAs' names in the firm or listing them on letterhead.

Therefore, the North Carolina State Board of CPA Examiners believes that the term "group," is a fictitious term in a firm name and demonstrably and inherently actually or potentially deceptive. The Board thus believes that the use of terms other than "Associates," "Certified Public Accountant(s)," "CPA(s)," "Company," "Member(s)," "Partner(s),"and "Partnership," would have the capacity or the tendency to deceive the public with regard to the number of CPA owners as well as the firm's form of business. Therefore, the use of "Group" in a CPA firm name would appear to be impermissible.

August 23, 2004

NORTH CAROLINA STATE BOARD OF CERTIFIED PUBLIC ACCOUNTANT EXAMINERS

RESOLUTION

***WHEREAS**, Scott L. Cox, has served as a member of the North Carolina State Board of Certified Public Accountant Examiners since 1995;*

***WHEREAS**, during his tenure he served as Secretary-Treasurer of the Board; Chair of the Professional Education and Applications Committee; Chair of the Communications Committee; Member of the Executive Committee, Member of the Personnel Committee; Member of the Professional Standards Committee; and Member of the Audit Committee;*

***WHEREAS**, he has represented the Board and the profession through his service on various committees of the National Association of State Boards of Accountancy;*

***WHEREAS**, during his tenure he has served faithfully and tirelessly as an eloquent spokesman for the best interest of the public and the profession;*

***BE IT THEREFORE RESOLVED** that the members of the North Carolina State Board of Certified Public Accountant Examiners thank Scott L. Cox for his dedicated service, his personal sacrifice to serve the public interest, and his leadership to the Board.*

This the 23rd day of August 2004.

North Carolina State Board of
Certified Public Accountant Examiners

Norwood G. Clark Jr. CPA

Norwood G. Clark, Jr., CPA
President