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Comment letters on Proposed Statement on Standards for Attestation Engagements, Amendments to Statement on Auditing Standards No. 72, Letters for Underwriters and Certain Other Requesting Parties

American Institute of Certified Public Accountants. Auditing Standards Board

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Comment letters - SAS 72 Revision

February 10, 1995

File Ref. No. 1120
2312

To the Auditing Standards Board:

Here are comment letters received to date on the proposed Statement on Standards for Attestation Engagements, *Amendments to Statement on Auditing Standards No. 72, Letters for Underwriters and Certain Other Requesting Parties, and to Statements on Standards for Attestation Engagements.*

<u>Name/Affiliation</u>	<u>Location</u>
1. Kevin Wilson	Bronx, NY
2. John J. O'Leary Walter M. Primoff New York State Society of Certified Public Accountants	New York, NY
3. Lucinda V. Upton Governmental Training Solutions, Inc.	Georgetown, KY
4. Auston G. Johnson Office of the State Auditor State of Utah	Salt Lake City, UT
5. Ernst & Young LLP	Washington, DC
6. P. Daniel Hurley, Jr. Massachusetts Society of Certified Public Accountants, Inc.	Boston, MA

Name/Affiliation

Location

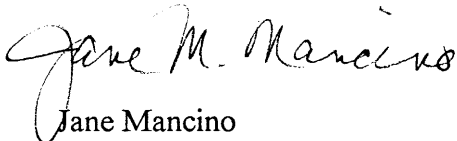
7. Coopers & Lybrand LLP

New York, NY

8. KPMG Peat Marwick LLP

New York, NY

Sincerely,



Jane Mancino
Technical Manager
Auditing Standards Division

Enclosures

cc: SEC Auditing Practice Task Force

11/15/94

#1

EXPOSURE DRAFT

FILE 2312

PROPOSED STATEMENT ON AUDITING STANDARDS AND STATEMENT ON STANDARDS FOR ATTESTATION ENGAGEMENTS

AMENDMENTS TO STATEMENT ON AUDITING STANDARDS NO. 72, LETTERS FOR UNDERWRITERS AND CERTAIN OTHER REQUESTING PARTIES, AND TO STATEMENTS ON STANDARDS FOR ATTESTATION ENGAGEMENTS

October 28, 1994

Comment Date: January 31, 1995.

Name and Affiliation: KEVIN WILSON - NON MEMBER, JUNIOR ACCOUNTANT

Comments: If an underwriter of Securities needs a comfort letter, they should prepare a Management Representation letter for the Accountants. Also, an engagement letter should be prepared detailing every responsibility the Auditor is taking, and signatures of all parties involved should be on these documents. Underwriters of insurance companies should do the same thing.

Also, for investors highly accountants to inquire on the performance and financial status of Mutual fund companies. These companies, Fidelity, Dreyfus, Lord Abbett, Kemper, etc., manage companies personal funds, offer IRA's, KEOGH accounts, money market funds. They have stock and bond mutual funds, some growth income, some at a sales charge and some are no-load.

Mutual fund companies have prospectuses, interim financial reports and annual reports. Accountants should inquire with the literature Department, statistics and accounting department, and the computer department. Also, performance reports are done internally.

Instructions for Response Form

This form may be used for comments or suggestions relating to any aspect of the exposure draft that is of concern to you. For convenience, the most significant points have been identified in the summary that accompanies this exposure draft. Return this response form to the address indicated on the reverse side by the comment date.

CUT ALONG LINE

OFFICERS

MARILYN A. PENDERGAST, CPA	PRESIDENT
BRIAN A. CASWELL, CPA	PRESIDENT-ELECT
VIRGINIA L. GOYER, CPA	VICE-PRESIDENT
EDWARD J. HALAS, CPA	VICE-PRESIDENT
FRANCIS T. NUSSPICKEL, CPA	VICE-PRESIDENT
HARVEY L. SONNENBERG, CPA	VICE-PRESIDENT
JOSEPH L. CHARLES, CPA	SECRETARY
LAURENCE KEISER, CPA	TREASURER
ROBERT L. GRAY, CPA	EXECUTIVE DIRECTOR



NEW YORK STATE SOCIETY
OF
CERTIFIED PUBLIC ACCOUNTANTS
530 FIFTH AVENUE
NEW YORK, NY 10036-5101
(212) 719-8300
FAX (212) 719-3364

January 17, 1995

Jane M. Mancino, Technical Manager
Auditing Standards Division
AICPA, File 2312
1211 Avenue of the Americas
New York, New York 10036-8775

Re: Proposed Statement on Auditing Standards and Statement on Standards for Attestation Engagements-Amendments to Statement on Auditing Standards No. 72, Letters for Underwriters and Certain Other Requesting Parties, and to Statements on Standards for Attestation Engagements

Dear Ms. Mancino:

We are enclosing the comments of the New York State Society of Certified Public Accountants in response to the above proposed statements. These comments were prepared by the Society's Auditing Standards and Procedures Committee.

If you have any questions regarding the comments, please call us and we will arrange for someone from the committee to contact you.

Thank you for your consideration.

Very truly yours,

John J. O'Leary, CPA
Chairman, Auditing Standards
and Procedures Committee

Walter M. Primoff, CPA
Director, Professional Programs

cc: Accounting & Auditing Committee Chairmen

- The phrase "...which the requesting party has asked us to perform", in the first sentence of the paragraph numbered 5 on page 14 of Example Q of the proposed Statements, be revised to be more specific. We suggest that the placement agent, broker-dealer, or other financial intermediary, etc., who requested the letter and established the scope and nature of the procedures performed, be specifically named.

- The following phrase be added to the first sentence of the paragraph numbered 6 on page 14 of Example Q of the proposed Statements "...or a review in accordance with Statements on Standards for Accounting and Review Services issued by the American Institute of Certified Public Accountants".

- The phrase "...or in accordance with Statements on Standards for Accounting and Review Services..." be added to the second sentence of the paragraph numbered 6 on page 14 of Example Q of the proposed Statements before the phrase "..., other matters might have come to our attention...".

- While we believe we understand the reasons for requiring the statement in item c of paragraph 9 of the proposed Statement, we question whether the Statement negates the reasons for requesting and issuing such letters.

- Although we generally support the issuance of the proposed Statements, and generally agree, considering certain suggested revisions as noted above, with its applicability, contents, and conclusions, we oppose the issuance of the proposed Statements if the perceived practice problem, to be resolved by their issuance, is not discussed in detail in the proposed Statements.

January 25, 1995

Lucinda V. Upton, CPA
Governmental Training Solutions, Inc.
119 Nancy Lane
Georgetown, Kentucky 40324-9310

Jane M. Mancino, Technical Manager
Auditing Standards Division
File 2312
American Institute of Certified Public Accountants
1211 Avenue of the Americas
New York, New York 10036-8775

Dear Ms. Mancino:

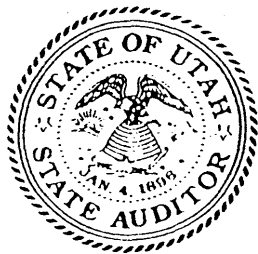
Thank you for giving us an opportunity to respond to the Auditing Standards Board's exposure draft entitled *Amendments to Statement on Auditing Standards No. 72, Letters for Underwriters and Certain Other Requesting Parties, and to Statements on Standards for Attestation Engagements*. On the whole, we find the draft to be clear and well-written, and we commend the AICPA for providing this additional guidance. In particular, we whole-heartedly agree with the elimination of the negative assurance report, since we believe it provides a false sense of comfort to report users.

We want to offer the following comments in an attempt to further clarify the standards:

¶ 9 Because of the confusion that often accompanies the preparation of comfort letters and the performance of agreed-upon procedures in general, we believe the usefulness of this paragraph would be enhanced with the addition of more specific information. For example, it would be easier for the practitioner to read and understand this paragraph if the first sentence provided specific examples of "one of the parties identified in paragraph 3, 4, or 5, other than an underwriter or other party with a due diligence defense under section 11 of the Act."

It would also be helpful if this paragraph identified the circumstances under which a representation would not be provided to the practitioner. For example, the statement should specify whether this guidance is intended to apply to practitioners' reports to the board of directors on required annual financial information.

¶ 10 For the sake of clarity, this paragraph should provide specific examples of "a party other than those described in paragraph 3, 4, or 5" that may request a comfort letter.



Tom L. Allen, CPA
STATE AUDITOR

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Office of the State Auditor

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(801) 538-1025
FAX (801) 538-1383

DEPUTY STATE AUDITOR
Auston G. Johnson, CPA

AUDIT MANAGERS
Joe Christensen, CPA
H. Dean Eborn, CPA
Stanley R. Godfrey, CPA
Jana R. Obrey, CPA
John C. Reidhead, CPA

January 27, 1995

AICPA
Jane M. Mancino, Technical Manager
Auditing Standards Division, File 2312
1211 Avenue of the Americas
New York, NY 10036-8775


This letter is in response to the following exposure draft:

Proposed Statement on Auditing Standards and Statement on Standards for Attestation Engagements: Amendments to Statement in Auditing Standards No. 72, Letters for Underwriters and Certain Other Requesting Parties, and to Statements on Standards for Attestation Engagements

We appreciate the opportunity to respond to this exposure draft. We support the exposure draft as written and feel it adds valuable guidance.

If you have any questions concerning our response please call me at (801)538-1025.

Sincerely,


Auston G. Johnson

Deputy State Auditor

January 27, 1995

Ms. Jane M. Mancino
Auditing Standards Board
American Institute of Certified Public Accountants
1211 Avenue of the Americas
New York, New York 10036-8775

**Amendments to Statement on Auditing Standards No. 72,
“Letters For Underwriters and Certain Other Requesting Parties,”
and to Statements on Standards for Attestation Engagements
(File Reference Number 2312)**

Dear Ms. Mancino:

We support the issuance of the above referenced Amendments and we urge the Auditing Standards Board to proceed with the issuance of the Amendments because they will eliminate the present diversity in practice relating to the form of agreed-upon procedures reports issued in connection with registration statements and other securities offerings when the criteria for issuance of a comfort letter have not been met.

Very truly yours,

Ernst & Young LLP



January 30, 1995

Ms. Jane M. Mancino
Technical Manager
Auditing Standards Division, AICPA
File 2312
1211 Avenue of the Americas
New York, NY 10036-8775

RE: Exposure Draft - Proposed Statement on Auditing Standards and Statement for Attestation Engagements - Amendments to Statement on Auditing Standards No. 72, Letters for Underwriters and Certain Other Requesting Parties, and to Statements on Standards for Attestation Engagements

Dear Ms. Mancino:

The Accounting Principles and Auditing Procedures Committee is the senior technical committee of the Massachusetts Society of Certified Public Accountants (MSCPA). The Committee consists of over thirty members who are affiliated with public accounting firms of various sizes from the sole practitioner to the international "big six" firms, as well as members in both industry and academia.

The Committee has reviewed and discussed the exposure draft on the proposed statement of auditing standards noted above and is in substantial agreement with its content. The proposed statement addresses the needs of those financial intermediaries who are not familiar with the due diligence process as required under an 1933 Act filing. The language and caveats in the proposed letter (Appendix Q) is both prudent and reasonable. It affords some level of comfort for the intermediary while crystallizing the practitioner's responsibilities in performing the procedures.

Very truly yours,

P. Daniel Hurley, Jr. Chairman
Accounting Principles and Auditing Procedures Committee
of the MSCPA

Coopers
& Lybrand

Coopers & Lybrand L.L.P.

a professional services firm

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New York, NY 10020-1157

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(212) 536-3035

January 31, 1995

Ms. Jane M. Mancino
Technical Manager, Auditing Standards Division
File 2312
American Institute of Certified Public Accountants
1211 Avenue of the Americas
New York, NY 10036-8775

Dear Ms. Mancino:

We support the issuance of the proposed Statement on Auditing Standards and Statement on Standards for Attestation Engagements, Amendments to Statement on Auditing Standards No. 72, Letters for Underwriters and Certain Other Requesting Parties, and to Statements on Standards for Attestation Engagements. We believe that this provides useful guidance for situations that practitioners face.

The letter contained in the proposed Example Q appears to be available for a non-1933 Act offering. In addition, there is no requirement that the entity issuing the offering document be a public company. Nevertheless, the proposed letter contemplates that unaudited *condensed* financial statements will be included in the document, in addition to the audited financial statements, and that procedures will be performed on these *condensed* financial statements. The problem is that there is no professional or regulatory literature that provides for *condensed* financial statements of non-public entities.

We recognize that the inclusion of such a presentation in offering documents of non-public entities is not an isolated occurrence, and we believe that this practice should be permitted. Furthermore, we believe that the accountant should be able to comment on this presentation in a letter to a requesting party. (Presumably, this would mean that comments on such a presentation could also be included in the circumstances leading to issuance of an Example O letter.)

Therefore, we believe that SAS No. 72 should be amended to recognize this situation, and explicitly permit accountant comment on such a presentation if (i) audited annual financial statements are also included in the document, and (ii) the presentation conforms with available guidance on the subject (e.g., is in compliance with comparable rules and regulations governing condensed interim financial statements issued by the SEC).

In addition to the preceding comment, we suggest that one clarification be made. Revised paragraph 9 established the parties that may receive the letter illustrated in new Example Q, and provides for certain required language to be included. New paragraph 10 indicates that parties other than those described in paragraph 3, 4, or 5 may obtain a letter under SAS No. 35 or SSAE No. 1. However, the introductory paragraph to Example Q indicates that the required language

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February 3, 1995

Ms. Jane M. Mancino
Technical Manager
Auditing Standards Division
American Institute of Certified Public Accountants, File 2312
1211 Avenue of the Americas
New York, New York 10036-8775

Dear Ms. Mancino:

We are pleased to respond to the AICPA Auditing Standards Board's request for comment on the exposure draft: "Proposed Statement on Auditing Standards and Statement on Standards for Attestation Engagements, *Amendments to Statement on Auditing Standards No. 72, Letters for Underwriters and Certain Other Requesting Parties, and to Statement on Standards for Attestation Engagements*" (the Proposed Amendments). We support the issuance of the Proposed Amendments, however, we present the following comments and suggestions for the Board's consideration:

The Board is currently considering "mirror" SAS and SSAE exposure drafts with respect to agreed-upon procedures engagements ("mirror" standards). The Board indicated that the exposure draft of the SAS "mirror" standard proposes to supersede SAS 35 and would require that SAS 72 be updated. We suggest that the Proposed Amendments incorporate any necessary "updating" of SAS 72 that would be required by the final guidance of the "mirror" standards. To do otherwise may cause unneeded confusion. Consequently, the issuance of the Proposed Amendments should coincide with the issuance of the "mirror" standards approved by the Board.

Paragraph 1. – The introduction to SAS 72 establishes the use of the term "comfort letter" to refer to the letters provided under SAS 72 engagements. However, letters provided in accordance with the guidance of paragraph 9 of the Proposed Amendments are not considered "comfort letters" (see paragraph 10 in the Proposed Amendments which refers to a comfort letter or the letter described in paragraph 9 or Example Q). Accordingly, we believe that paragraph 1 should be expanded to clarify the difference between comfort letters and paragraph 9 letters, as well as to properly introduce the entire scope of the revised standard. We recommend the following:

This section¹ provides guidance to accountants for performing and reporting on the results of engagements to issue letters for underwriters and certain other requesting parties described in and meeting the requirements of paragraph 3, 4 or 5 (commonly referred to as "comfort letters"), in connection with financial statements and financial statement schedules contained in registration statements filed with the Securities and Exchange Commission (SEC) under the Securities Act of 1933 (the Act) and other securities offerings. Paragraph 9 provides guidance to accountants for performing and reporting on the results of an engagement to issue a letter to certain requesting parties, other than



Ms. Jane M. Mancino
February 3, 1995
Page 3

such report in the letter issued, provided that such report and applicable interim financial statements have been provided to the recipients of the letter or are appended to the letter. Absent these conditions, the accountant should not refer to the performance of any review or report thereon."

Paragraph 30. – Footnote 20 to Example Q refers to paragraphs .30 and .31 for guidance on commenting on independence. Paragraph .30 states: "In a non-SEC filing, the accountant may refer to the AICPA's Code of Professional Conduct" with respect to independence. We suggest that the accountant be prohibited from referring to the SEC's independence requirements in letters to underwriters with respect to offering circulars that are exempt from the SEC's filing requirements. This could be accomplished by changing the second to last sentence of paragraph 30 as follows: "In a non-SEC filing, the accountant may refer to the AICPA's *Code of Professional Conduct* [ET section 101], but should not refer to the SEC's independence requirements."

* * * * *

We appreciate the opportunity to provide our comments and suggestions on the proposed Amendments.

Very truly yours,

KPMG Peat Marwick LLP

KPMG Peat Marwick LLP



CROWE CHIZEK

January 31, 1995

Ms. A. Louise Williamson
Auditing Standards Division, File 3615
AICPA
1211 Avenue of the Americas
New York, New York 10036-8775

Dear Ms. Williamson:

We are pleased to comment on the exposure drafts covering agreed-upon procedures.

Proposed Auditing Standard to supersede SAS 35; Proposed Attestation Standard

Paragraph 4 limits distribution of the report to specified users. However, may regulatory agencies be named as a recipient of the report even if they are not specifically involved in determining the procedures? To illustrate, in some situations an entity may be subject to periodic regulatory examinations, and there may be a presumption that the regulatory agency has access to all information at the entity. May the regulatory agency be allowed to read the agreed-upon procedures report even if the regulatory agency was not involved in determining or agreeing to the procedures performed? If so, may the regulatory agency be referred to? If not, are we comfortable with the attempted limitation on the regulatory agency's ability to have access to information of the entity being regulated? Perhaps suitable wording should be provided, such as: "Although not involved in determining the procedures to be performed, the ABC regulatory agency may be furnished a copy of this report as part of its general access to information about the company."

In paragraph 43, the third sentence does not appear grammatically correct.

The proposed effective date is indicated to be reports dated June 30, 1995 or later. However, there are various engagements that may already have been undertaken under existing standards that may cover later periods in 1995. We suggest the effective date be set at reports dated December 15, 1995 or later, with earlier application encouraged.

* Amendment to SAS 72.

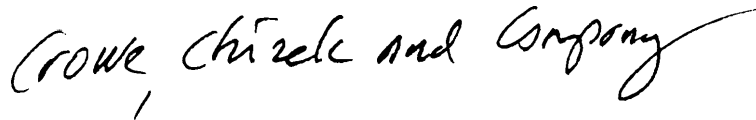
At the time SAS 72 is amended, consider changing paragraph 7 in Example A to include the word "other" in the sixth line, just as Example C, ~~paragraph 60,~~ etc. illustrate.

January 31, 1995
Ms. A. Louise Williamson
Page 2

Paragraph 5, 7, and 9 of the proposed Example Q contain language discussing the responsibility for specific procedures performed, the fact these procedures should not supplant additional inquiries, and the lack of updating responsibility. The wording proposed appears appropriate. However, to the degree that this language is needed in Example Q, shouldn't similar language be included in Examples A through P? We note that existing paragraphs 14 and 34A of SAS 72 acknowledge that agreed-upon procedures are presented in comfort letters, and hence we wonder why some agreed-upon procedure discussions will contain the wording included in Example Q, while other discussions will not. Either the wording in Example Q should be changed to more closely conform to the other examples in SAS 72, or those other examples should be conformed to the wording in Example Q.

Please contact Jim Brown if you have questions.

Very truly yours,

A handwritten signature in cursive script that reads "Crowe, Chizek and Company". The signature is written in black ink and is positioned above the printed name of the firm.

Crowe, Chizek and Company

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February 27, 1995

Auditing Standards Division
American Institute of Certified Public Accountants
1211 Avenue of the Americas
New York, NY 10036-8775

Attention: Jane M. Mancino
Technical Manager

Re: File No. 2312 --
Proposed Statement on Auditing Standards --
Amendments to Statement on Auditing Standards No. 72

Ladies and Gentlemen:

This letter is submitted on behalf of the representatives of securities firms and law firms set forth in Appendix A to this letter for the purpose of commenting on the October 28, 1994 exposure draft of a proposed Statement on Auditing Standards relating to amendments to Statement on Auditing Standards No. 72, "Letters for Underwriters and Certain Other Requesting Parties". The amendments would also require changes to certain statements on standards for attestation engagements.

The persons that contributed to this letter previously commented on early versions of SAS 72 and participated in meetings with representatives of the Auditing Standards Board and the AICPA on problems arising out of the application of SAS 72. Their firms collectively account for a substantial portion of the financing activity that takes place in the global and domestic markets.

The exposure draft would effect a major modification of SAS 72. It would affect those persons who are not underwriters or other persons with a due diligence defense under Section 1 of the Securities Act of 1933 but who have equally burdensome liabilities under other provisions of federal and state law. Such persons customarily attempt to exercise reasonable care in

their sale of securities by, among other things, requesting the issuer's auditors to deliver a letter pursuant to SAS 72. Under SAS 72 as currently in effect, where such persons cannot provide the auditors with the representation letter described in paragraphs 6 and 7 of SAS 72, the auditors are permitted only to deliver a letter pursuant to SAS 35, "Special Reports -- Applying Agreed-Upon Procedures to Specified Elements, Accounts, or Items of a Financial Statement. SAS 72 states specifically in paragraph 9 that "[w]hile SAS No. 35 permits accountants to provide negative assurance with respect to a financial statement, element, account, or item, it prohibits accountants from providing negative assurance on the entity's financial statements taken as a whole".

The exposure draft would prohibit accountants from providing negative assurance under SAS 35 not only for the financial statements taken as a whole but also for any element thereof.

The exposure draft offers no justification for the limitation it proposes. The persons involved in the preparation of this letter are not aware of widespread use of an SAS 35 letter to obtain negative assurance on financial statement "elements, accounts or items" or any attempts on the part of underwriters to frustrate the purposes of SAS 72 by requesting negative assurance on financial statements by means of an SAS 35 letter. These persons believe, however, that SAS 35 negative assurance should be available in instances where a particular element, account or item assumes particular importance in the transaction and justifies not only a request to the accountants to follow agreed-upon procedures but also to express negative assurance in connection with the item. This technique can be especially important in transactions involving governmental issuers or securitization.

The persons involved in the preparation of this letter have previously commented to the Board that SAS 72 establishes an unrealistic distinction between transactions registered under the Securities Act of 1933 and those that are not so registered. While due diligence techniques certainly differ, as contemplated by footnote 4 to SAS 72, the requesting parties are still subject to liabilities that can be mitigated or avoided by reasonable care or investigation. An accountant's letter expressing negative assurance on a particular item on the basis of agreed-upon procedures is an important means of inquiry that is not otherwise available. We noted in our letter of September 1992 to the Board, commenting on the then-pending exposure draft that became the present SAS 72, the importance of the exposure draft's explicit statement that SAS 35 would be available for negative assurance "with respect to specified elements, accounts or items

Auditing Standards Division
February 27, 1995
Page 3

of a financial statement or to an assertion as long as the requesting party has established the procedures to be performed". We doubt that SAS 72 would work as well as it does in the absence of this option.

Moreover, we note that the exposure draft states that the Board is considering the issuance of an SAS to replace SAS 35. Rather than indirectly amend SAS 35 at this time by means of an amendment to SAS 72, the Board should postpone adoption of the amendment until such time as it is prepared to consider the substance of the amendment in the context of an overall revision of SAS 35.

We would be pleased to discuss our comments and remaining concerns at further length with the AICPA staff or the Auditing Standards Board in more detail. If we can be of further assistance, please contact the undersigned or any of the individuals listed in Appendix A.

Very truly yours,



Joseph McLaughlin

Appendix A

Goldman, Sachs & Co.	- Kenneth L. Josselyn
Merrill Lynch, Pierce, Fenner & Smith, Incorporated	- Laura Inman
Morgan Stanley & Co. Incorporated	- Ralph L. Pellecchio Michelle Wallalch
Salomon Brothers Inc	- Brad Gans
Brown & Wood	- Norman D. Slonaker Joseph McLaughlin
Cravath, Swaine & Moore	- John W. White
Davis Polk & Wardwell	- Sue Ann Dillport
Sullivan & Cromwell	- John T. Bostelman