Practicing CPA, vol. 25 no. 8, September 2001

American Institute of Certified Public Accountants (AICPA)
THE CPA PROFESSION HAS COME A LONG WAY:  
NOW IT'S TIME TO GO FURTHER

by Frank P. Orlando, CPA

It was during a meeting more than a year ago when I first began to focus on the fact that an international consortium of accounting organizations, including the AICPA, was studying the development of a new global business credential. As Jim Castellano, managing partner of the St. Louis-based CPA firm, R.B.G. Company, described it, the new credential would complement the expertise signified by the CPA certificate with one that testified to a person's true breadth of knowledge and strategic focus.

As I listened to Jim, I was particularly struck with how this new credential seemed like an affirmation of not only the kind of work my firm was already doing, but also of the kind of focus and talents we were trying to encourage among our staff. I was also immediately intrigued with how the new credential might affect student enrollment in accounting programs, which as we all know has been diminishing steadily in recent years.

**Recruitment challenges**

At Parente Randolph, one of our biggest challenges is recruiting qualified, creative young people. Despite everything the profession has done to broaden the perception of CPAs, students especially tend to go along with the stereotype that CPAs are trusted, competent professionals adept at preparing and interpreting financial statements, but perhaps lacking the strategic insight of, say, an MBA or other business adviser. Within the profession we know there is a real disconnect between reality and perception—between the creative, strategic services so many of us are providing to our clients, and the persistent stereotype that makes our recruitment efforts so difficult.

Students we interview just don't think there is a sufficient amount of glitz to our profession. We hire almost two dozen young people each year directly from
accounting schools, and it is a continual challenge to keep them interested in accounting work on the one hand, and to train them to have the interdisciplinary, strategic perspective they will need on the job, on the other. I believe the new credential as it is currently being described will offer students and young CPAs a new career development path. I also think it will focus us, the employers, on developing CPE to help them on that path.

Validation of services already being provided

It also seems to me that the new credential would be a way for CPAs to validate the kind of nonattest services we are already providing. In different ways, the profession has been trying to accomplish this for years. The AICPA’s vision process was an almost unprecedented effort by a profession to take a comprehensive snapshot of where it had been, where it was at the time, and where it wanted to be in the not-so-distant future. According to the resulting vision statement, the core purpose of the accounting profession is to make sense of a changing and complex world and to solidify our place as trusted professionals who enable people and organizations to shape their future. When the vision statement talks about combining insight with integrity, delivering value by communicating the total picture with clarity and objectivity, translating complex information into critical knowledge, anticipating and creating opportunities, and designing pathways that transform vision into reality, it seems like a framework for this new credential.

The profession has also tried to broaden its perspective not only with the AICPA’s multimillion dollar yearly image enhancement campaign, but also by offering a number of specialties in the form of new accreditations in such areas as information technology, business valuation, and personal financial planning. This strategy has proven rewarding for a large number of CPAs, but it still has done nothing to combine the existing CPA certificate, which signifies an in-depth, critical understanding of the financial underpinnings of a business, with another single credential that fills in the rest of the broad-based, strategic expertise so many CPAs also possess and are bringing to their clients and employers.

Nothing to lose

That’s why when I first heard of the proposed new credential I was surprised to learn that there didn’t seem to be significant interest. I certainly understand why many CPAs—those who perform almost exclusively attest or tax work, for example—would have no interest in obtaining a new global, strategic-focused business credential. But I’m not sure I understand why they, or any other group of CPAs, would have strong objections to the rest of us having the opportunity to broaden our appeal.

From what I can gather from the trade press and from AICPA and state society publications, the opposition to the new proposed credential among some AICPA members boils down to three major objections. First, the name originally proposed, “Cognitor,” rubbed a lot of people the wrong way. I can’t say I was enamored with it either, and thankfully it has been discarded. I look forward to another, more generic name being offered so this nonissue can be put to rest.

Second, as I understand it, some CPAs fear that the new credential could somehow dilute the CPA certification, particularly among those many CPAs who will legitimately have no need for it. But no new credential will in any way change the CPA’s exclusive legal authority to audit companies, and it certainly won’t diminish the CPA’s expertise related to tax work. What’s more, only about 10% of our total membership are involved full time in the activities our CPA license allows us to perform. In order to legitimize the kinds of arenas in which we are performing, what would be the harm in adding to our CPA certificate a more global, more strategic, more descriptive, more multidisciplined credential that more clearly reflects the results we bring to our clients and employers?

The third criticism I’ve heard is that by allowing non-CPAs to hold the new credential we would be inviting additional competition. But we already face stiff competition from lawyers, MBAs, financial planners, and other non-CPA business consultants. It seems to me that a CPA who also had this new credential would have a substantial advantage over someone who had the credential but was not a CPA. As I understand it, for an interim period of several years at least, while CPAs would not be exactly
grandfathered in, any of us for whom the new credential would be helpful would have a relatively easy pathway toward acceptance. What’s more, for all those non-CPAs we hire for non compliance work anyway, a new credential designed and guided by CPAs would ensure that those who hold it adhere to standards of ethics and competency in keeping with the CPA profession’s longstanding traditions.

I think some of the opposition to the new credential may boil down to the fact that many CPAs are taking a short-term view, as if this is something we will vote on this year that could drastically and immediately change the way we conduct our business. Personally, I believe if given the opportunity to apply for this new credential, it may never affect my professional life or the lives of many of the principals currently at Parente Randolph. I think it does, however, set a footprint focused on fifteen years or more into the future that will help interest young people in our profession and give those who come after us the opportunity to present themselves in the most exciting, most valuable light possible. ✓

—By Frank P. Orlando, CPA, CEO of financial services at the CPA firm, Parente Randolph, which has 46 principals and more than 420 employees in Pennsylvania, New Jersey, and Delaware. He is a founding member of the firm, which began in 1970, and was managing partner between 1989 and 2000. For more than 30 years, Parente Randolph has served as a trusted advisor to closely held and public companies, their owners, and their executive teams.

EXPERT TESTIMONY: THE CPA’S RESPONSIBILITIES

by Michael G. Ueltzen, CPA, CFE and Robert H. Johnson, Esq.

In recent years, CPAs have been called upon in greater numbers with greater frequency to assist judges and juries in their deliberations. The skills that CPAs bring to dispute resolution are our core purpose, values, services, and competencies identified in the CPA Vision Project: “CPAs deliver value by . . . translating complex informa-

tion into critical knowledge.” Also, the core values outlined by the CPA Vision Project include competence, integrity, and objectivity. These foundations of the CPA profession are among the primary reasons that CPAs are called upon to assist the court system.

To help CPAs who offer litigation services uphold the goals outlined by the CPA Vision Project, the Litigation Services and Dispute Resolution Subcommittee is in the process of developing a Statement on Responsibilities for Litigation Services. The purpose of this proposed Statement is to combine the existing professional standards with the concepts embraced by the federal courts and prior publications of the AICPA.

A catalyst for developing a Statement on Responsibilities for the litigation services practitioner is that in recent years, trial courts have become increasingly frustrated with reliance on testimony from individuals who hold themselves out as experts and yet can claim no specific framework of professional guidance for their services. Since 1993, the Supreme Court has found it necessary to set forth guidelines. These two cases are Daubert v. Merrill Dow Pharmaceuticals, Inc. (509 US 579 (1993)) and Kumbo Tire Company, Ltd v. Patrick Carmichael (526 US 137 (1999)).

Further, a federal judge in Pennsylvania applied the standard set forth in Daubert in JMF Enterprises v. Via Veneto Italian Ice, Inc. (97-CV-0652, 1998 WL,175888) to a CPA seeking to testify as an expert witness.

The purpose of this article is to explore the Daubert and Kumbo Supreme Court decisions and the trial court ruling and consider how these rulings could be used in developing the new Statement of Responsibilities. (Note: The article addresses the issue of federal standards as opposed to the various state standards, some of which approach the issue of expert witness testimony in a different manner. Some states, such as Texas, have adopted the federal standards, while others, such as California, have different standards.)

Daubert v. Merrill Dow Pharmaceuticals, Inc.

In 1993, the Supreme Court issued a decision known as Daubert v. Merrill Dow Pharmaceuticals, Inc., which suggested that a federal trial judge should look to several factors to ensure the reliability and relevancy of expert testimony. The trial judge was charged to conduct “a preliminary assessment of whether the reasoning or methodology underlying the testimony is scientifically valid, and of whether that reasoning or methodology properly can

1 Two other U.S. Supreme Court decisions have had an impact on expert testimony: (1) General Electric Co. v. Joiner, 522 U.S. 136 (1997), in which GE clarified Daubert by explaining that while the focus under Daubert is the reliability of the expert’s methodology, if the expert’s conclusions do not reliably follow from the data on which the expert relies, the conclusions may not be admitted in evidence; and (2) Weisgram v. Marley Co., 528 U.S. 440 (2000), in which Weisgram permitted an appellate court to order entry of judgment for a defendant when, after ruling that expert testimony should not have been admitted, there was insufficient evidence to support a causation theory. It was after Weisgram that the Supreme Court adopted an amendment to Federal Rules of Evidence section 702 that affirms the gatekeeper role of the federal trial judge.
Exhibit 1—Federal Rules of Evidence Sections 701, 702, and 703

Rule 701 Opinion Testimony by Lay Witnesses
If the witness is not testifying as an expert, the witness testimony in the form of opinions or inferences is limited to those opinions or inferences that are (1) rationally based on the perception of the witness and (2) helpful to a clear understanding of the witness’ testimony or the determination of a fact in issue, and (3) not based on scientific, technical, or other specialized knowledge within the scope of rule 702.

Rule 702 Testimony by Experts
If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education may testify thereto in the form of an opinion or otherwise, if (1) the testimony is based on sufficient facts or data, (2) the testimony is the product of reliable principles and methods, and (3) the witness has applied the principles and methods reliably to the facts of the case.

Rule 703 Bases of Opinion Testimony by Experts
The facts or data in the particular case upon which an expert bases an opinion or inference may be those perceived by or made known to the expert at or before the hearing. If of a type reasonably relied upon by experts in the particular field in forming opinions or inferences upon the subject, the facts or data need not be admissible in evidence for the opinion or inference to be admitted. Facts or data that are otherwise inadmissible shall not be disclosed to the jury by the proponent of the opinion or inference unless the court determines that their probative value in assisting the jury to evaluate the expert’s opinion substantially outweighs their prejudicial effect.

be applied to the facts in the issue.” The Court went on to establish essentially four factors that the trial judge should consider before testimony would be allowed from an expert. These four factors are:
1. Determine whether the scientific testimony can be and has been tested.
2. Determine whether the theory or technique has been subjected to peer review and publication.
3. Consider the known or potential rate of error and the existence and maintenance of standards controlling the techniques and operations.
4. Consider whether the testimony has achieved general acceptance within a profession.

Kumho Tire Company, Ltd. v. Patrick Carmichael
In Kumho Tire Company, Ltd. v. Patrick Carmichael, the Supreme Court made it evident that it intended for the Daubert decision to apply not only to scientific testimony, but also to all experts providing testimony in federal courts. The Supreme Court held that it was the gatekeeping function of the trial court to determine whether the testimony would assist the trier of facts pursuant to Federal Rules of Evidence Section 702. (Rule 701, “Opinion Testimony by Lay Witnesses”; Rule 702, “Testimony by Experts”; and Rule 703, “Bases of Opinion Testimony by Experts” are presented in Exhibit 1.) As a result of the Supreme Court decision in Kumho Tire, a trial judge may perform the gatekeeping function (that is, determine whether an expert will testify) based on guidelines, including these:
1. The testimony should assist the trier of fact.
2. The expert should have some minimum qualifications that would include:
   a. Special knowledge
   b. Special skill
   c. Special experience
   d. Special training
   e. Special education

The expert would also have to show, before providing testimony, that the testimony (1) is based on sufficient facts or data, (2) is the product of reliable principles and methods, and (3) can demonstrate that the expert had applied the principles and methods reliably to the facts of the case. Kumho Tire clearly established reliability standards for expert testimony, which was based on three pillars: (1) reliable data, (2) a reliable methodology, and (3) a reliable application of the methodology.

JMJ Enterprises v. Via Veneto Italian Ice, Inc.
Even before the Supreme Court decided the Kumho Tire case, federal judges began to apply the Daubert standards to nonscientific testimony. In the matter of JMJ Enterprises v. Via Veneto Italian Ice, Inc. a district court judge in Pennsylvania reviewed the proposed testimony of a CPA expert to determine whether the testimony would be allowed. Much insight can be gained from his analysis of the proposed testifying expert.

The CPA was retained to present a damage calculation on behalf of the plaintiffs. The methodology was based on
the CPA's model, which was to (1) project sales, (2) determine the net margin, (3) multiply net profit margin by projected sales, (4) subtract operating expenses, (5) discount to present value, and (6) add unrecovered investment. The methodology was reliable; however, the analysis had significant shortcomings. The owners had limited background in the industry. The projection assumed sales would increase from 6,000 containers in year 1 to 20,000 containers in year 2, 57,600 containers in year 3, and 115,200 containers in year 4.

At a pretrial hearing, the trial court judge used the following questions to screen the opinion of the CPA:

1. Did the CPA possess the requisite qualifications?
2. Did the expert's testimony have some connection to the existing facts?
3. Was the expert's testimony based on reliable processes or techniques?
4. Will the expert's testimony assist the trier of fact to understand the evidence or determine the fact and issues?
5. Will testimony create either confusion or unfair prejudice in the matter to be heard by the court?

Based on the screening questions at the pretrial hearing, the judge determined the CPA:

- Knew little about the industry
- Had a limited understanding about the operating expense structure
- Acted as an advocate

The judge reviewed the entire proposed testimony and precluded the CPA from testifying in the trial. The CPA, in the opinion of the federal judge, did not (1) have sufficient relevant data that was (2) reliable that would (3) assist the trier of fact.

**Professional guidelines currently available**

Unlike some experts that provide testimony in a courtroom, the standards that apply to a CPA, if followed, should provide a powerful tool to address the concerns of the court. While a number of professions can lay claim to minimum (or even onerous) educational requirements, a rigorous exam, internship requirements, a code of professional conduct and a regulatory process administered by the states, few, if any, have an extensive peer review process that occurs even when there has been no problem with "morbidity or mortality" or more guidelines spelling out exactly what the professional should do under a wide variety of circumstances. To be sure, other professionals publish many articles and books on (for example) surgical or trial techniques. Few, if any, however adopt such detailed

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**Exhibit 2 – Comparison of Federal Rule of Evidence 702 and Existing CPA Standards**

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<thead>
<tr>
<th><strong>Federal Rules of Evidence Section 702</strong></th>
<th><strong>CPA Standards</strong></th>
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<tbody>
<tr>
<td><strong>Scope</strong></td>
<td>CPA Scope of Expertise</td>
</tr>
<tr>
<td>• Scientific, technical, or specialized knowledge</td>
<td>• Accounting, auditing, tax, or consulting services</td>
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<tr>
<td><strong>Qualifications</strong></td>
<td>CPA Qualifications</td>
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<tr>
<td>• Knowledge</td>
<td>• Education</td>
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<td>• Skill</td>
<td>• Examination</td>
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<td>• Experience</td>
<td>• Experience</td>
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<tr>
<td>• Training</td>
<td>• Ethics—Code of Professional Conduct</td>
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<tr>
<td>• Education</td>
<td></td>
</tr>
<tr>
<td><strong>Basis of Testimony</strong></td>
<td>AICPA Code of Professional Conduct</td>
</tr>
<tr>
<td>• Sufficient facts</td>
<td>102 Integrity and Objectivity</td>
</tr>
<tr>
<td>• Product of reliable principles and methods</td>
<td>201 General Standards</td>
</tr>
<tr>
<td>• Reliable application of the principles and methods to the facts of the case</td>
<td>a. Professional Competence</td>
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<td></td>
<td>b. Due Professional Care</td>
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<td></td>
<td>c. Planning and Supervision</td>
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<td></td>
<td>d. Sufficient Relevant Data</td>
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<td>202 Compliance With Standards</td>
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<td></td>
<td>203 Accounting Principles</td>
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rules mandating how relatively specific tasks must be done. By contrast, other professions have “schools of thought” on how things should be done.

The guidelines available to CPAs who offer litigation services include our Code of Professional Conduct; Statement on Standards for Consulting Services, Consulting Services: Definition and Standards (AICPA, Professional Standards, vol. 2, CS sec. 100); Litigation and Dispute Resolution Services Subcommittee publications, and generally accepted accounting principles.

Code of Professional Conduct

Whenever CPAs provide any professional service in their capacity as a CPA, the AICPA Code of Professional Conduct applies to the services being provided. The code is part of the examination process to become a CPA. The code is monitored by a regulatory body and subject to extensive peer review, and the AICPA Code of Professional Conduct has been published. The standards that the CPA adheres to emanate from the code but apply to a wide variety of services for which the CPA is well recognized as being competent, including:

- Auditing
- Tax
- Consulting matters

All of the above areas are subject to examination, peer review, and publication.

The AICPA Code of Professional Conduct embraces the concepts of integrity and objectivity that are applied to all services provided by a CPA. The general standards of the profession require that the CPA demonstrate professional competence, exercise due professional care, demonstrate adequate planning and supervision, and obtain sufficient relevant data.

Statement on Standards for Consulting Services

The profession has also concluded that testimony provided by a CPA in a litigated matter is a consulting service and, therefore, the Statement on Standards for Consulting Services would also apply.

Litigation and Dispute Resolution Services Subcommittee publications

The AICPA created a special consulting services subcommittee in 1990 known as the Litigation and Dispute Resolution Services Subcommittee. As a result of the initial effort, two special reports were issued in 1993 (Special Report 93-1, Application of AICPA Professional Standards in the Performance of Litigation Services, and Special Report 93-2, Conflicts of Interest in Litigation Services Engagements). Since that time, a significant number of practice aids and two additional special reports have been developed and issued.

Generally accepted accounting principles

When questioned about the underlying principles, CPAs should look to the Financial Accounting Standards Board (FASB), a private body that is well recognized. All FASB publications and standards are subject to extensive peer review and have been published. In addition, CPAs are examined on their understanding of the body of knowledge established by the FASB.

The new Statement on Responsibilities

CPAs should strive not only to meet the federal standards, but also to exceed the expectations of the trial courts. Although existing CPA standards line up well with the Federal Rules of Evidence 702 (see Exhibit 2 on page 5), there are gaps between existing CPA standards and the more detailed standards formulated by Daubert and Kumho and their new progeny. The new Statement on Responsibilities would seek to fill these gaps.

The development of the new Statement on Responsibilities would help complete a pyramid of standards and responsibilities that would apply to practice as an expert witness. This pyramid is summarized below.

Level 1 General standards and Code of Professional Conduct

Level 2 Statement on Standards for Consulting Services

Level 3 Statement on Responsibilities for Litigation Services (under consideration)

Level 4 Subject matter expertise

What has become evident is that a Statement on Responsibilities interpreting both the applicable professional standards and the rules of court would provide CPAs better guidance and would be a benefit in the court system. It would educate the CPA about applicable standards both of the court and the profession, acknowledge the messages of the various courts concerning the need to meet their standards, and raise the quality of work being provided by CPAs.

—By Michael G. Ueltzen, CPA, CFE, Ueltzen & Company, LLP, Sacramento, California. Ueltzen is a member of the AICPA’s Litigation and Dispute Resolution Services Subcommittee; his firm is one of the leading litigation support firms in California; phone (916) 563-7790; e-mail mueltzen@ueltzen.com. Robert H. Johnson, Esq., Johnson, Schacter & Collins, P.C., Sacramento, California, is the managing shareholder of the firm, which emphasizes the defense of professional liability cases throughout California; phone (916) 921-5800; e-mail bob@jsca-attorneys.com.
Special Promotion for PCPS member firms

AICPA and FASB professional literature is now being offered at a discount to PCPS member firms when purchased on cpa2biz.com. The discount covers the following:

- AICPA Professional Standards
- AICPA Technical Practice Aids
- AICPA Audit and Accounting Manual
- FASB Current Text
- FASB Original Pronouncements

If you buy all five titles, you get an additional price reduction. Go to cpa2biz.com, and enter Coupon Code FU to receive the special PCPS discount. This offer ends October 31, 2001. All manuals will be available to you in August with the exception of the Audit and Accounting Manual, which will be available in October. Product discounts are one more way that PCPS brings value to members.

Get the early news on technical developments!

Do you want a “heads up” on new or revised A&A standards that are heading our way? Do you want to hear what FASB and GASB have on the agenda for the year ahead? Do you want to have input on exposure drafts as they are being developed? Then you will want to read the TIC Alert.

The TIC Alert is a concise, one-page newsletter that comes out approximately five times a year, updating PCPS members on the activities of the PCPS Technical Issues Committee. Part of the mission of the TIC is to identify and comment on developing standards that relate to small firms and small businesses, noting the impact that new requirements may have and any potential unintended consequences. TIC is one of the standing committees of PCPS, working for the betterment of all local and regional firms, while providing a wide range of benefits to its 6,500 member firms.

If you are an A&A partner in your firm, or sit on your state society’s A&A committee, you will want to know all the news before it happens. To get a free subscription to the TIC Alert, email the TIC liaison, Linda Volkert, at lvolkert@aicpa.org or fax (212) 596-6233.

E-commerce—a growing new service for CPAs

Did you know that lots of local and regional CPA firms are providing e-commerce solutions to their clients? Now that so much of business touches the Web, CPAs can help in many areas, including issues surrounding privacy, security, internal controls, audit trails, and other traditional transactional matters.

On a new CD-ROM being sent to most PCPS managing partners, the AICPA has collected strong testimonials from clients who are using CPAs to help grow their e-commerce initiatives. Many of the clients involved are smaller entities, in which there seems to be growing opportunity for this type of consulting.

Is this type of work a good fit for you? The CD-ROM can help answer that question. It includes assessment tools to help you decide if this opportunity makes sense for your firm. One of these tools suggests that you consider partnering with other firms or technology providers to fast-track your capabilities. If your firm did not receive one of these informative packages, and you would like to, please email rhalse@aicpa.org, or call (800) CPA-FIRM.

Find out what your staff really want

Would your staff prefer more benefits or a larger bonus? Do they care about balancing work and life issues, or do they just want higher salaries? What can you do to keep them happy without adding more people-related costs?

In the June issue of the Practicing CPA, we updated you on the findings of the PCPS “Top Talent” study—a research initiative to discover what management can do to keep its best staff members happy and motivated. When the results of the study were presented at the PCPS Staffing Forum in May, and at the Practitioners Symposium in June, CPAs wanted to know, “How can I take this information and apply it to my own staff?”

Well, here’s the solution. Ask your staff to take the survey! Many practitioners requested a copy of the blank survey questionnaire so they could adapt it for their own use. As Staffing Task Force chair Ellen Feaver says, “As managers, we need to be more attuned to what our employees value most.” If you would like a copy of the “Top Talent” questionnaire, send an e-mail to PCPS@aicpa.org. You can administer the survey—as is, or adapted with your own questions—to your staff, to get the dialogue started about what will make them work smarter and harder.

For more information about the Top Talent Staffing Survey, call (800) CPA-FIRM or visit the PCPS Web site at www.aicpa.org/pcps.

LETTERS TO THE EDITOR

The Practicing CPA encourages its readers to write letters on practice management issues and on published articles. Please remember to include your name and your telephone and fax numbers. Send your letters by e-mail to pcpa@aicpa.org.
OUR DEEPEST SYMPATHY

The thoughts and prayers of the AICPA members and staff go out to members of the national and international financial community and media, government, and all families here and abroad affected by the heinous acts that occurred in New York, Washington, DC, and Pennsylvania.

We urge any CPA family that has been affected and is in need of assistance to contact AICPA Treasurer, Dale Atherton, at (201) 938-3253. The AICPA Benevolent Fund helps members and their families when they face financial difficulty caused by serious illness, accident, death or other major misfortunes. In addition, we are in the process of establishing a fund called CPAs in Support of America Fund, Inc. to help CPAs, CPA firms, and anyone else affected by these events. Please also contact Ms. Atherton regarding donations to this fund or send a check naming either fund to: name of fund, AICPA, Harborside Financial Center, 201 Plaza Three, Jersey City, NJ 07311-3881. For information regarding on-line contributions please continue to consult our website for updated information: http://www.aicpa.org.

Finally, one of our affinity partners, Aon Insurance Services, is unable to gain access to its service center which, although undamaged, is located near the World Trade Center. As a result, for the near term, inquiries regarding the AICPA Life, Long Term Care, Disability, and Personal Liability Umbrella Insurance Plans—which are serviced from that location—should be directed to: http://www.cpai.com.

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