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August 2, 1993

Mr. William Treacy
Executive Director
Texas State Board of Public Accountancy
333 Guadalupe
Tower III, Suite 900
Austin, Texas 78701-3942

RE: Certified Public Accountants and
Investment Advisory Activities

Dear Mr. Treacy:

This is in response to your letter dated June 29, 1993, and received by this Agency July 2, 1993. It will also serve to confirm my telephone conversation with you and Jerry Hill of your staff on July 28, 1993.

You noted that the Public Accountancy Act of 1991 broadly defines the practice of Public Accountancy to include, in pertinent part, "the furnishing of management or financial advisory or consulting services," and you are interested in the potential for regulatory gaps and/or the elimination of duplicative regulation.

As we discussed, this Agency's Rule Section 107.2 defines the term "investment adviser." The term is deemed not to apply to, among other listed professionals, any accountant "whose performance of such services is solely incidental to the practice of his profession." Therefore, assuming that the accountant was not receiving any special compensation for providing personalized analyses, advice, and/or recommendations to others, either directly or through publications or writings, as to the advisability of investing in, purchasing, or selling securities, registration with this Agency as an investment adviser would not be required. In all other instances an accountant would be treated no differently than any other person and, of course, would be required to register as a securities dealer or agent prior to making offers or sales of securities within or from this state, absent a specific exemption.

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If we encounter a situation that may be of interest to you in connection with your continued inquiry into this matter, we will be sure to provide you with all pertinent facts.

I trust this answers your inquiry. If I may provide further information, please do not hesitate to write or call.

Very truly yours,

RICHARD D. LATHAM
Securities Commissioner

Denise Voigt Crawford
General Counsel

DVC:bp