

# **Lenders & Mortgage Brokers Still Pushing CPAs ... Comfort Letters**

The saga continues ... CAMICO's advisory hotlines have not stopped buzzing with a steady stream of calls regarding lenders and loan brokers pressing CPAs and their clients to provide a letter from the CPA verifying that the client is self-employed, financially sound, profitable, creditworthy, or a combination of such attributes.

As we know, the pressure on CPAs to help their client can be considerable as many clients are informed by brokers that they potentially will not qualify for a loan to buy a house, or for a mortgage refinance, unless the CPA provides a letter to confirm or verify certain types of information.

The primary motive is simple...lenders and mortgage brokers are hoping to find a "deep pocket". We have seen an ongoing attempt to shift onto the CPA the burden of responsibility for assessing the information supplied by the borrower in the event the borrower defaults on the loan and the lender incurs a loss.

So how should a CPA respond to such requests when pushing back and saying "no" to the request is not considered to be a prudent option given your relationship with your client...?

## **Sample Response Letter Language**

CAMICO's advice is that you respond in an appropriate manner commensurate with the services you have rendered to your client. What this means in "plain English" is that we strongly encourage you to not provide assurances on information that you have not, in fact, verified by performing the procedures necessary for that level of assurance.

For example, assume that you have a tax client that is asking you, their long time CPA, to confirm to the broker that they are self-employed and have the future ability to repay the loan. The "million dollar question" of course is how to delicately balance the desire to provide your valuable client with the assistance they need without taking on the risks that should instead rest with the broker.

In this scenario the CPA, after first receiving written consent from the client to respond to the broker, should consider writing a letter similar to the below example that addresses in clear and simple language the facts for the broker. It is then up to the broker to make their own conclusions and perform, if they deem necessary, their own independent procedures which may include requesting copies of the tax work product prepared the CPA.

---

### **Sample Response Letter Language # 1**

Date:

To Whom It May Concern:

We were engaged to prepare the tax returns for [insert client's name] for [insert year(s)]. The engagement was limited to the preparation of tax returns from information that was provided to us by the client. The information the client provided to us represented he/she was self employed and/or a sole proprietor. Accordingly, we prepared for our client the following tax schedule(s) for the [insert year(s)]:  
[Identify the tax schedule(s)]

However, since we have not audited, reviewed or otherwise verified the information provided by the client, we are not in a position to make any conclusions or assurances regarding the accuracy or completeness of the information, nor the future ability of the client to repay any loan.

For a copy of any tax work product prepared by our office, we require a signed document from the taxpayer(s) authorizing such product to be provided to you. If you have any questions, please let us know.

Sincerely,

[Insert your Firm Name]

---

### **Sample Response Letter Language # 2**

**CAMICO has prepared sample letter language for responding to requests from lenders and loan brokers, as follows. This letter can be modified as appropriate and sent to your client:**

Dear [Bank]:

You have asked me to provide your bank with certain information on [Client Name] for your use in deciding whether to extend credit to [Client Name].

My services to [Client Name] were and remain limited to the preparation of [year] federal and state income tax returns from information provided to me by my client. As such, I have not performed any procedures or been given any information that would allow me to assist your institution in its decision on whether to extend credit to [Client Name]. Specifically, the tax returns were prepared for my client's tax needs, and your request does not fall within the scope of the engagement that I performed for [Client Name]. Again, as the tax returns are based on information given to me by [Client Name], I have not reviewed, audited, or otherwise attempted to verify any of this information.

Consequently, I cannot affirm its accuracy or completeness.

However, if [Client Name] authorizes me to do so, I can send you a copy of [Client Name]'s [year] federal [and state] [personal, corporate, etc.] income tax returns so that you may compare your records with those in my office.

If you wish me to do this, please send my firm the enclosed form signed by [Client Name] authorizing me to release this information to your bank.

However, by providing these returns to you, I am not confirming or in any way verifying the accuracy of the information contained in the tax returns.

If you intend to use or rely on the tax returns I send you, you should perform your own independent procedures and tests as you deem necessary for approval of credit.

Please call me at [phone number] if you have any questions.

Sincerely, CPA

---

### **Example Response To Lender's Request For Verification Of Client's Self-Employed Status**

Date:

Dear Lender,

You have requested that we provide you with certain information regarding [Client] (hereinafter referred to as "our client"). Our client has consented to our provision of the requested information.

We have prepared the income tax returns for our client during the period from \_\_\_\_\_ through \_\_\_\_\_. Those income tax returns have each included a Schedule C and Schedule SE, Self-Employment Tax computation.

We prepared the income tax returns noted above based on the documentation and other information provided to us by our client. We did not audit, review, or otherwise verify the accuracy of such documentation or information at any time, and we have not and do not express an opinion or give any other form of assurances regarding the same.

By providing you with this letter, we have not established with you any direct or indirect client, contractual or quasi-contractual relationship. We do not understand or anticipate that you or any third party will rely on the information contained in this letter as a basis for entering into or continuing any contractual or other relationship with our client. We fully expect that before you or any third party decides to enter into any such relationship with our client, that you and/or that third party will exercise an appropriate level of independent due diligence. Accordingly, any use of this information is solely your responsibility and judgment.

By accepting this letter, you acknowledge all of the above, and also that we are under no obligation to provide you or any third party with any additional information at any time, including but not limited to any changes or corrections to any of the information we have provided in this letter concerning our client.

Thank you.

Very Truly Yours,

Certified Public Accountant

*The above example would be a perfectly appropriate limited response to a lender or broker's request for credit-worthiness information. However, the most protective thing for the accountant to do, especially in a state like California (with very restrictive law on the ability of third parties to sue accountants), would be to decline to respond to the lender's request. In California, unless the third party can demonstrate that there is close and direct contact between itself and the accountant, it will be difficult to establish the requisite standing to bring a lawsuit alleging detrimental reliance on the accountant's work product or representations. By responding to the lender or broker's request for a credit worthiness letter, the accountant would be helping the lender build its case for close and direct contact. So, unless this is a client that the accountant does not want to lose,*

*and would lose if the accountant didn't provide the requested response, we advise against responding to the request, and advise the accountant to direct the lender or broker to the client for the needed information.*

---

The bottom line is that your client, in this scenario, needs to clearly understand that you would be falling below your professional standards of care by complying with a broker's request beyond what is stated in the above letter.

**CAMICO** has prepared additional sample letters which are available on our members-only website for your reference when responding to requests from lenders and loan brokers.

When tailoring your own CPA response letters please remember the following loss prevention tips.

### ***Loss Prevention Tips***

- Receive written consent from your client before you even begin to respond to the request of the lender/mortgage broker.
- Keep the language of your CPA letter simple and clear.
- Only document the facts. Refrain from speculation or comments regarding future events (i.e.; forecast future income or contingencies) and avoid making conclusions that are not part of the services you have rendered to your clients (i.e.: do not make assurances regarding the accuracy or completeness of the information provided unless you have performed the appropriate scope of services for this level of assurance).
- Stay away from words that expand, rather than contract, your responsibilities. For more information on words to avoid in response letters refer to IMPACT 69 – Fall 2005.
- As always, guidance on responding to these types of requests is available to policyholders from CAMICO's Loss Prevention department. Email requests to [lp@camico.com](mailto:lp@camico.com) , or call 1.800.652.1772.