



# *Pensions* on PEACHTREE 2023



IN ASSOCIATION WITH:



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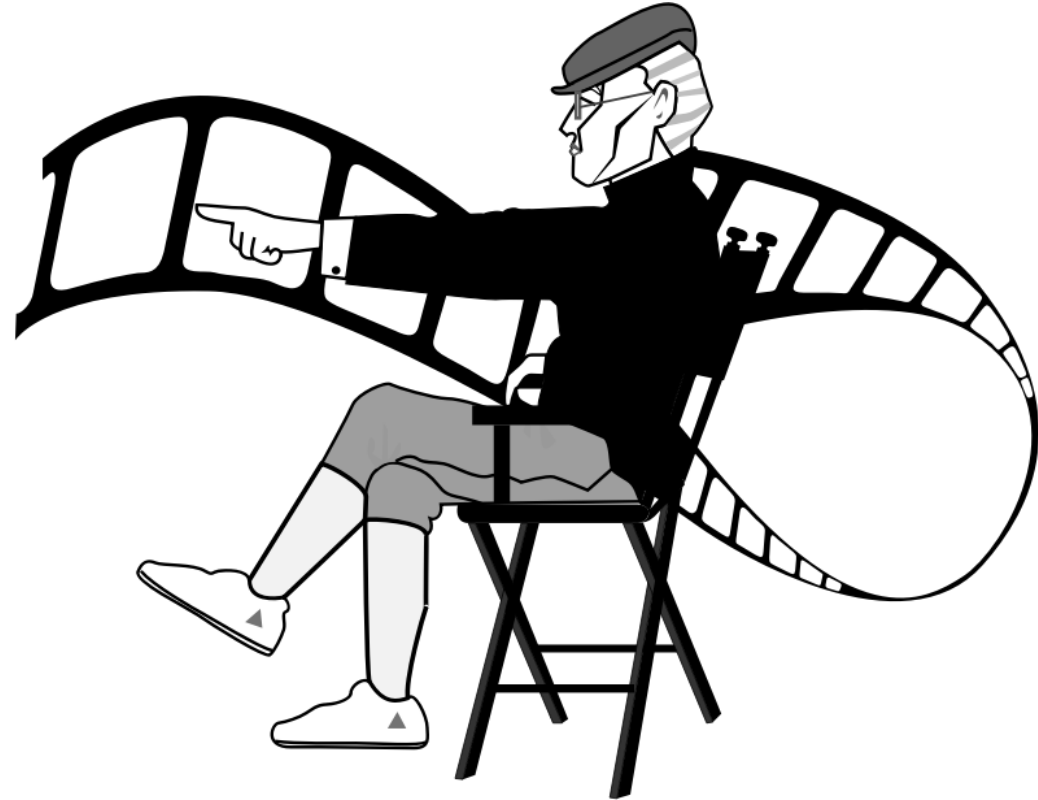
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# ETHICS: LET THE FUN BEGIN

DIRECTED BY:  
ILENE FERENCZY, ESQ. &  
ALISON COHEN, ESQ.

# AGENDA

- Introduction
- What are Ethics?
- Source of Ethics for TPAs
- Let the Games Begin
- Final Considerations



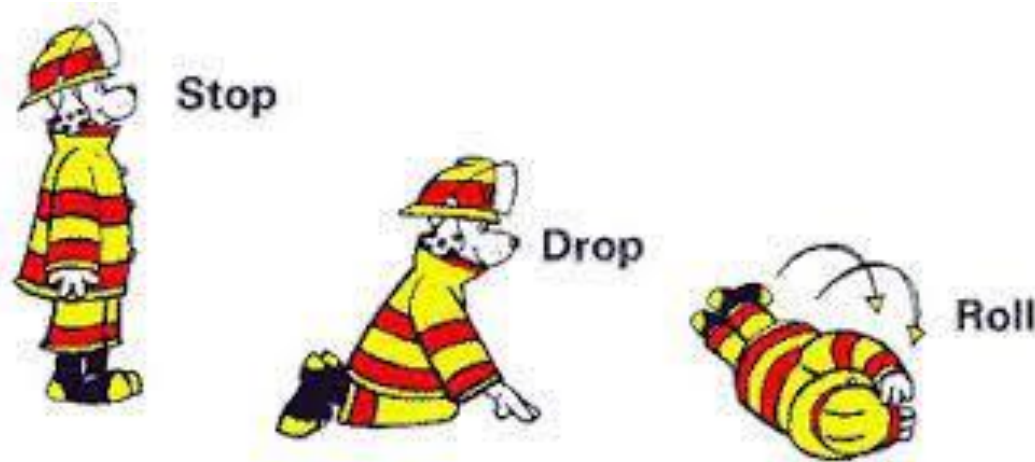
# INTRODUCTION

- Lather, Rinse, and....



# INTRODUCTION (CONT.)

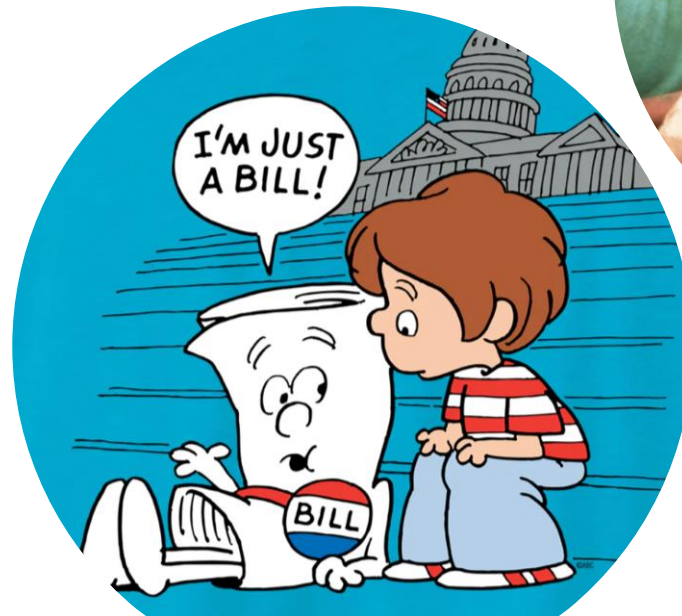
- Stop, drop, and....



# INTRODUCTION (CONT.)

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- I'm just a Bill, yes, I'm only a Bill.....



# ETHICS...WHAT IS IT?



According to the dictionary:

The discipline dealing with what is good and bad and with moral duty and obligation; a set of moral principles; a theory or system of moral values

# TYPES OF ETHICS

- Ethics defined by a professional organization (like NIPA, ASPPA, CEBS, AICPA, FINRA, or the ABA) may represent what you need to do to keep your designation
- Ethics defined by a governmental department may represent what you need to do to keep your license to practice before such department (e.g., Circular 230, SEC) and may also involve criminal sanctions
- “Proper standard of care” in your industry to define what is not malpractice or negligence

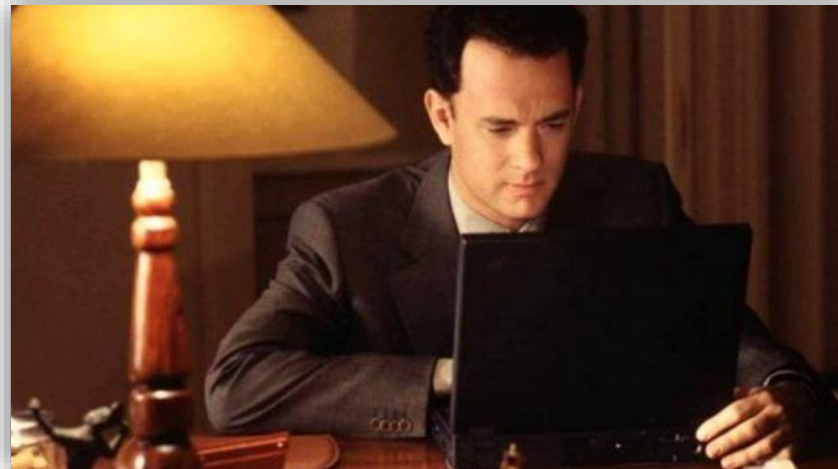
# ERPA ETHICS

- Circular 230 contains ethical rules to which ERPAs, as well as other tax professionals, are subject



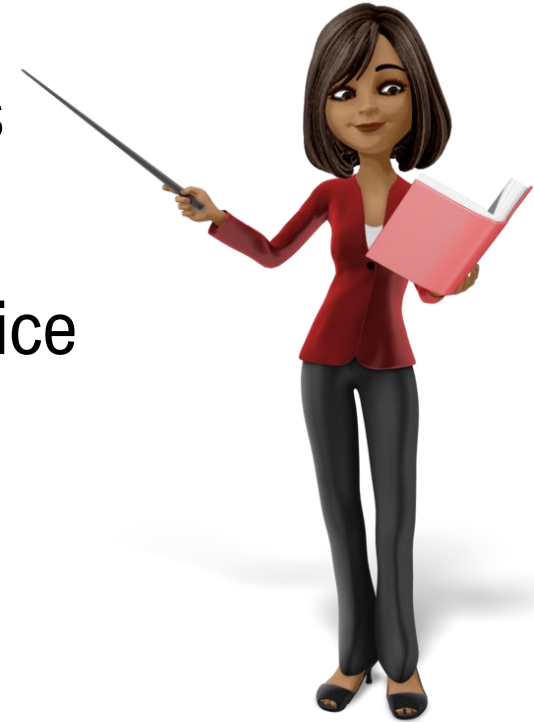
# WHAT YOU NEED

- For an IRS Designation
  - Information about Circular 230 (The IRS ethical standard)
- For ASPPA/NIPA, etc.
  - Information about their ethical standards
- For your Practice
  - The proper balance between IRS/industry ethics, your personal ethics, and what your client expects of you



# KEY PRACTICE ISSUES

- The difference between the client's expectations and your performance may be the basis of the client's belief that you have committed malpractice
- How will the client define that expectation?
  - Impressions of what a TPA does?
  - Impressions of what his/her TPA does?
  - General ideas about what is involved in retirement plan administration?
  - What his/her friends with plans have said?
  - Legal documentation, such as the TPA's service agreement?



# WHAT WE WILL DO TODAY

1. Present little vignettes that raise ethical issues
  - Many of these are based in real cases that we have seen
  - Some we just made up for your entertainment
2. Discuss the issues raised with the background of the Circular 230 and other ethical code rules
3. Intersperse all that with some friendly advice about “safe” ways to practice and things we see that may be well intended, but lead to... well, you get the idea





# *GRACELAND*



# CIRCULAR 230, § 10.21

- Knowledge of client's omission
  - A practitioner who...knows that the client has not complied with the revenue law of the United States or has made an error in or omission from any return, document, affidavit, or other paper which the client submitted or executed...must advise the client promptly of the fact of such noncompliance, error, or mission."



# NIPA CODE OF ETHICS

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#14 – I will honor the integrity of the designation I hold with NIPA and respect any limitations placed upon it.





## ***STEVEN'S FABLE***



# CIRCULAR 230, § 10.22

- Diligence as to accuracy
  - A practitioner must exercise due diligence –
    - In preparing or assisting in the preparation of, approving, and filing tax returns, documents, affidavits, and other papers relating to Internal Revenue Service matters



# NIPA CODE OF ETHICS

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#13 – I shall not engage in any activity or conduct which constitutes dishonest, deceitful, fraudulent, or willfully illegal acts while conducting my practice as a pension administrator.



# ASPPA CODE OF CONDUCT

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#10 – A Member shall perform Professional Services, and shall take reasonable steps to ensure that Professional Services rendered under the Member's supervision are performed with honesty, integrity, skill, and care.





***ASPHALT***



# ASPPA CODE OF CONDUCT

- #6 Conflict of Interest.
  - A Member shall not perform Professional Services involving an actual conflict of interest unless:
    - A Member's ability to act fairly is unimpaired; and
    - There has been full disclosure of the conflict to the Principal(s); and
    - All Principals have expressly agreed to the performance of the services by the Member.



# NIPA CODE OF ETHICS

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#13 – I shall not engage in any activity or conduct which constitutes dishonest, deceitful, fraudulent, or willfully illegal acts while conducting my practice as a pension administrator.





***WOMEN BETRAYING***

# CIRCULAR 230, § 10.28

- Return of client's records
  - In general, a practitioner must, as the request of a client, promptly return any and all records of the client that are necessary for the client to comply with his or her Federal tax obligations.
  - The existence of a dispute over fees generally does not relieve the practitioner of his or her responsibility under this section.
  - Nevertheless, if applicable state law allows or permits the retention of a client's records by a practitioner in the case of a dispute over fees for services rendered, the practitioner need only return those records that must be attached to the taxpayer's return.

# NIPA CODE OF ETHICS

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#6 – I will deliver, on direction from my client, all documents and information essential to the administration of a plan to a successor administrator.



# ASPPA CODE OF CONDUCT

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#8 – A Member shall perform Professional Services with courtesy and shall cooperate with others in the Principal's interest. A Principal has an indisputable right to choose a professional advisor.





***TRIANGLE OF HAPPINESS***



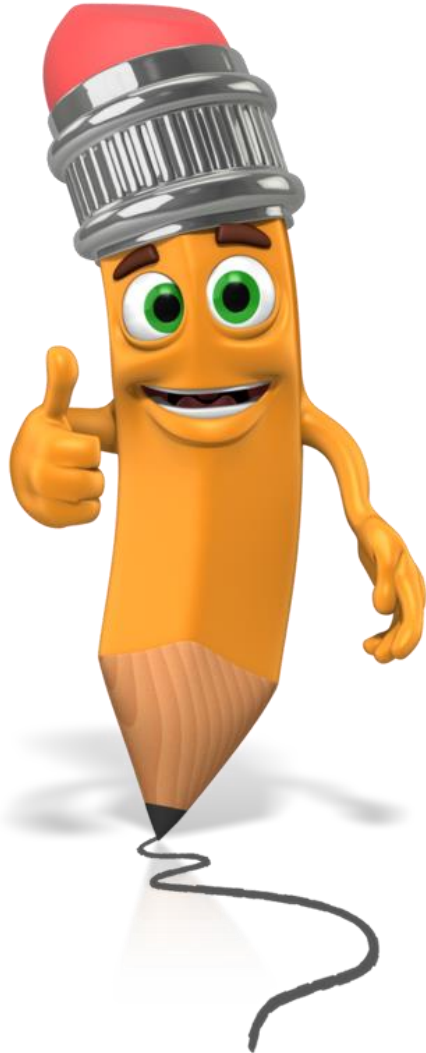
# CIRCULAR 230, § 10.30

- Solicitation
- No false, fraudulent, coercive statements or claims
- Cannot use the term “certified” or imply that you are an IRS employee
- If you make uninvited solicitation, must clearly identify as such and identify source of information used in choosing the recipient
- Fee information cannot be misleading



# NIPA CODE OF ETHICS

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#12 – I will be truthful in all advertising and solicitation of business.



# ASPPA CODE OF CONDUCT

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#2 – Member shall not engage in an Advertising with respect to Professional Services that the Member knows or is reasonably expected to know are false.





## ***MAVERICK: TOP HEAVY***

# CIRCULAR 230, § 10.33



Owners/managers should “take reasonable steps” to ensure that the firm’s procedures for all in the firm are consistent with best practices

# NIPA CODE OF ETHICS

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#3 – I will design and administer pension plans consistent with the expressed goals of my clients.



# ASPPA CODE OF CONDUCT

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#11 – A Member shall render opinions or advice, or perform Professional Services, only when qualified to do so based on education, training, and experience.



# *ACTUARY THE WAY OF THE TPA*



# ACTUARIES – CODE OF PROFESSIONAL CONDUCT

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Precept #1 – An Actuary shall act honestly, with integrity and competence, and in a manner to fulfill the profession's responsibility to the public and to uphold the reputation of the actuarial profession.



# NIPA CODE OF ETHICS

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#14 – I will honor the integrity of the designation I hold with NIPA and respect any limitations placed upon it.





***ANYTHING, ANYWHERE,  
LET'S HAVE LUNCH***



# CIRCULAR 230, § 10.34

- Standards for Returns and Documents, Affidavits, Papers
- You may not advise a client to take a position on a document submitted to the IRS that:
  - Is frivolous
  - Is meant to impede or delay the administration of the tax laws
  - Demonstrates an intentional disregard of a rule or regulation unless there is a good faith challenge to the rule or reg
- You may not advise a client to submit a return that:
  - Lacks a reasonable basis
  - Takes an unreasonable position
  - Willfully understates tax or disregards tax rules and regulations



# CIRCULAR 230, § 10.34 (CONT.)

- You may not:
  - Ignore implications of information furnished, and must make reasonable inquiries if the information appears to be incorrect, inconsistent with facts, or incomplete



- You may:
  - Rely in good faith on information provided by the client



# TAX FRAUD

- What is Tax Fraud?
  - Making a statement or filing a return or other document that has a declaration under penalty of perjury that you do not believe to be true and correct as to every material matter
  - Willfully aiding, assisting, advising in preparation of a document, return, affidavit that is fraudulent or false
  - Giving the IRS a document you know to be false
  - Willfully attempting to evade or defeat a tax
  - **A CRIME!**



# NIPA CODE OF ETHICS


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#13 – I shall not engage in any activity or conduct which constitutes dishonest, deceitful, fraudulent, or willfully illegal acts while conducting my practice as a pension administrator.



# ASPPA CODE OF CONDUCT

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A photograph of a yellow folder with papers inside, engulfed in bright orange and yellow flames. The folder is positioned on the left side of the slide, and the fire is intense, with smoke rising from the top.

#7 – A Member shall not perform Professional Services when the Member has reason to believe that they may be altered in a material way or may be used to violate or evade the law.



## ***THE TPAS OF INISHERIN***

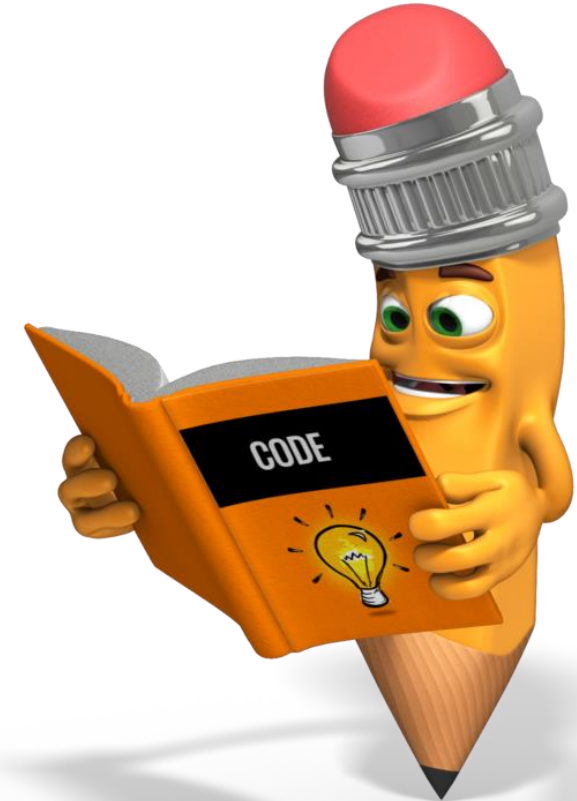
# CIRCULAR 230, §10.35

- Competence
- A practitioner must possess the necessary competence to engage in practice before the Internal Revenue Service:
  - Competent practice requires the appropriate level of knowledge, skill, thoroughness, and preparation necessary for the matter for which the practitioner is engaged
  - A practitioner may become competent for the matter for which the practitioner has been engaged through various methods, such as consulting with experts in the relevant area or studying the relevant law

# ASPPA CODE OF CONDUCT

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#4 – A Member shall be knowledgeable about the Code, keep current with Code revisions and abide by its provisions.



# NIPA CODE OF ETHICS

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#1 – I will practice within the laws and regulations governing pension plans.





***ALL QUIET ON THE TPA FRONT***

# CIRCULAR 230, §10.36

- Office Procedures
- If you oversee a firm's practice, you "must take reasonable steps to ensure that the firm has adequate procedures in effect for all members, associates, and employees for purposes of complying with" Circular 230



# CIRCULAR 230, §10.36 (CONT.)

- IRS can discipline you if:
  - You don't take reasonable steps to establish procedures and see that they are followed (and correct violations), and
  - “One or more individuals who are members of, associated with, or employed by, the firm are, or have, engaged in a pattern or practice, in connection with their practice with the firm, of failing to comply with” Circular 230



# ASPPA CODE OF CONDUCT

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#10 – A Member shall perform Professional Services, and shall take reasonable steps to ensure that Professional Services rendered under the Member's supervision are performed with honesty, integrity, skill, and care.



# NIPA CODE OF ETHICS

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#13 – I shall not engage in any activity or conduct which constitutes dishonest, deceitful, fraudulent, or willfully illegal acts while conducting my practice as a pension administrator.



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