

**OCTOBER 26, 2004 OPEN MEETING**

**SUBPOENA REQUESTS IN DISCIPLINARY PROCEEDINGS**

**Statement of Daniel L. Goelzer**

In my view, Board Rule 5424 will provide a useful tool for making sure that a full record is developed in Board cases. The ability to request a subpoena in disciplinary proceedings will promote that goal and is something that should be welcomed by both the accounting profession and the investing public. While I anticipate that the need to use the rule will be relatively rare, I think it is important that we have a fair, carefully tailored, mechanism to compel testimony or document production when a witness that would prefer not to become involved has information that will help the Board arrive at the most informed decision possible.

One of the unique features of Board disciplinary matters is that many of them are likely to require evidence from two types of participants in the audit that is the subject of the proceeding -- the accounting firm and its individual accountants who performed the work, and the public company that was the subject of the audit. However, while the Board can require registered accounting firms and individual auditors associated with such firms to participate in its proceedings, public companies are not directly regulated by the Board. And, in some cases, the public company and its personnel who interacted with the auditor may be unwilling to tell their side of the story voluntarily.

Rule 5424 -- which the Commission has already approved -- addresses that problem. It permits a party to a Board proceeding to request that the Board ask the SEC to issue a subpoena to compel a reluctant witness to come forward and provide relevant information or documents. In my view, the procedural amendments to the rule that the staff has proposed are a fair and logical way of putting Rule 5424 into practice.