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Congressman
Michael Conaway

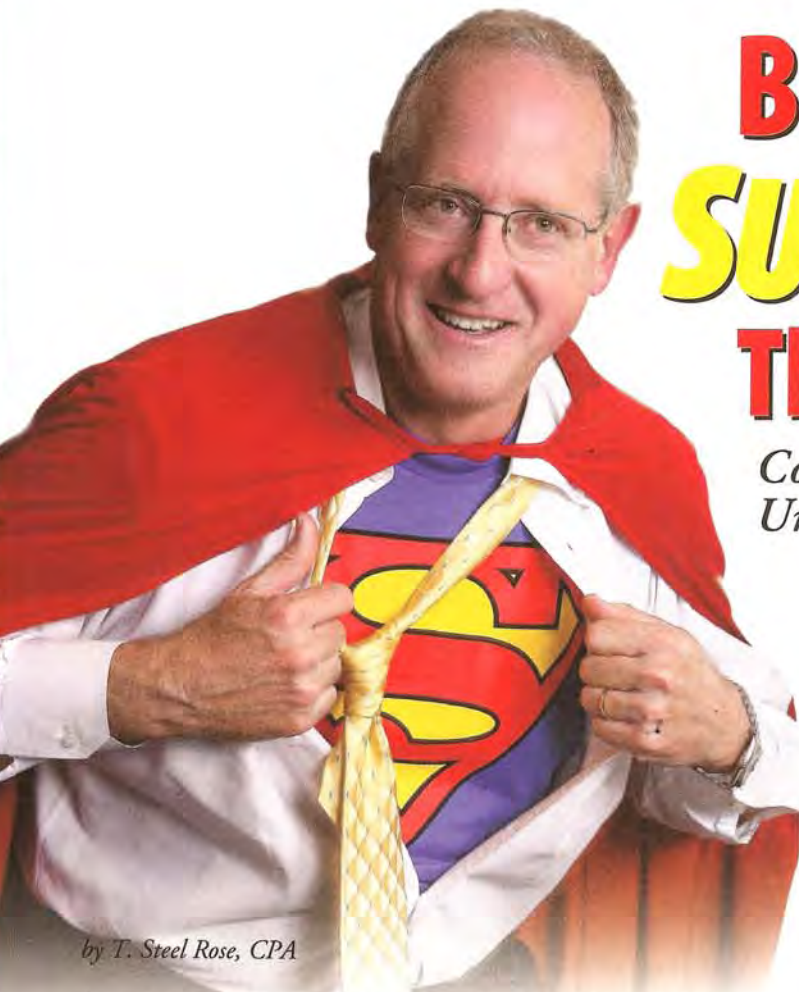
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Top 4 Tax/Write-Up Suites





Becoming A **SUPERHERO** This Tax Season

*Congressman Conaway, CPA
Uncovers \$750,000 Fraud*

by T. Steel Rose, CPA

Getting to know the Top 50 CPAs and Tax Practitioners is always interesting. Three of the Top 50 Tax Practitioner CPAs to know in a recession, the focus of our next issue, are profiled here: Julie Welch, Sandy McClarty and Congressman Michael Conaway.

Conaway has been listed in 2007 under the most influential accountant category in *CPA Magazine*. Before that, he was chairman of the Texas State Board of Accountancy. This May, he uncovered a fraud at the National Republican Campaign Committee (NRCC). After a journalist referred to him as a caped crusader, Conaway made a statement about a hero accountant wearing a cape. We pursued the story and the photo from May to November, from Washington, D.C., to Midland, Texas. We are thankful that Congressman Conaway brought his metaphor to life by posing as the superhero accountant he described.

Conaway took the time to explain the discovery of the fraud at NRCC. "It was one of those things that no one would have noticed unless a red flag went up," he said. No past auditors had been on the review board before Conaway joined the team.

The bookkeeping irregularities were discovered in January after Conaway became chairman of the panel's auditing committee. He repeatedly asked to meet with representatives of the audit firm that was supposed to be reviewing the committee's books. "I just kept insisting that we meet with the auditors," Conaway said. "It finally came into my head, as the circumstances unfolded, that no audit had been done."

"Chris Ward, the treasurer of NRCC, left captions on the balance sheet," Conaway said. "In 2002, Ward had hired Deloitte and Touche to perform the audit [of NRCC]. They resigned. When they pulled out, Ward used their name to fake the financials for two years.

He kept moving the fake numbers forward and even changed auditing firms, again faking the financial statements. The bankers accepted the statements not knowing that the auditors had not done anything.

"The real financials were a mess. All Ward did was make sure he knew how much money he had in the bank. He made wire transfers around that eventually went to him."

When Conaway first sensed a problem, he asked Ward to bring the audited financials to a meeting in late January of this year.

But 30 minutes before the meeting, committee officials said, Ward sent an email to colleagues announcing that, in fact, no audit had been done.

The officials said the fundraising committee then determined that its books had not been audited since 2003 and that Ward had submitted a series of false audits. "This was a longtime, trusted employee, and there were no obvious signs that he was living beyond his means," Conaway said.

Of the four campaign committees run by House and Senate members, the NRCC raised the most money by far during the House Republicans' 12-year reign on Capitol Hill. Contributions to the committee totaled more than \$368 million during the years Ward was treasurer.

Former co-workers and lawmakers said they never expected Ward to be the subject of such an investigation. Several said that he was a workaholic who was in the office 14 hours on some days.

Conaway brought in the Price Waterhouse forensic team, who by June, had found about \$750,000, they said. The FBI put a lien on Ward's house, but he has yet to be indicted.

Although Conaway described his role as congressman as the best job he's ever had, he added that he is just "one election away from being back in public practice." He said the "future is incredibly bright [for tax practitioners] coping with an ever-changing tax code."

That's good news for Julie Welch and Sandy McClarty, whom I asked several questions about tax planning for this tax season issue. Welch has been practicing tax for about 25 years at Meara Welch Browne, PC, a local CPA firm in Kansas City, Mo. She co-authored 101 Tax Saving Ideas, Ninth Edition, an easy-to-understand, year-round tax planning book.

For McClarty, accounting runs in the family. She and her husband practice in the Nashville office of Carr, Riggs, and

her daughter and brother are also CPAs. She and her husband formed their own firm before merging with Carr, Riggs. A Senior Tax Partner, McClarty always wanted to be a teacher. Her father wanted her to be a doctor, so she compromised. "It has been a great career for a woman. You can do so many things," said McClarty, who has been in private and public practice. "I prefer public because you just never know. I find that exciting."

CPA Magazine: *I began by asking how they got into tax planning.*



Julie Welch

your income if you are not planning for state taxes. The SubS shareholders had to file 13 returns in 40 some odd states. You might want to have a person in a different state or a different entity in a particular state.

CPA Magazine: *What advice can you offer concerning planning for AMT?*

Welch: Do a calculation each year and always be considering at least two years at a time. It might make sense to accelerate income to an AMT year if the person's normal tax rate (such as 35%) is higher than the person's AMT rate (such as 28%). It's nice this year that we at least know the exemption amount in October so we can do some planning.

CPA Magazine: *What mistakes, such as prepaying property taxes, do clients make?*

Welch: Not considering the impact of AMT on transactions. Private activity bonds are a good example. Some people are focused on investing in municipals because they don't want to pay Federal tax, but they fail to realize that some bonds are subject to AMT.

CPA Magazine: *What advice can you offer concerning capital gains?*

Welch: Charitable donations can be made with appreciated stock. This is an excellent planning idea for charitably inclined clients. They avoid the income tax (both Federal and state) on the gain, and they get a charitable tax deduction for the fully appreciated value of the stock.

McClarty: One perspective is that capital gain rates are going up, so 2008 is a time to sell. You need to sell shares at a loss even at a penny back to the firm.

CPA Magazine: *What mistakes, such as gifting stock to children, do clients make?*

Welch: Not taking advantage of what the law offers you, such as the stock they sold at a loss qualifies for Section 1244 ordinary loss treatment. It's common to get a new client and find a transaction in a prior year that would have qualified for the ordinary loss deduction.

CPA Magazine: *When is an LLC the right entity for tax purposes?*

Welch: They are good for simple entities. They are good for liability protection, such as owning rental real estate in a single-member LLC. When is it not? When you will have multiple people coming in and going out of the business. Partnership accounting can get quite complicated. When a partner/member joins the company, you might have to deal with complex accounting allocations of items such as depreciation. When a partner/member leaves the company, you have to deal with complex rules and potentially having ordinary income on the sale of some assets.

Yet, if it were a corporation, a stock transaction is relatively simple to record. Also, if you have a company operating in multiple states and you have multiple owners, the process of filing tax returns in the various states can get cumbersome if the company is an LLC.

McClarty: Some states tax LLCs. In some states, you want it to be self-employment income; in others, you do not. If Congress makes



Sandy McClarty

FICA unlimited, like the Medicare portion, they won't get that many phone calls. So taxpayers need to be aware of that.

Self-employment is not well-defined. IRS proposed regulations in 1997 that tried to determine which limited members of an LLC had SE income. If you participated more than 500 hours, you had SE income. There was an outcry, and they were withdrawn and have not been re-proposed. So, now you should be consistent. The operating agreement is the

governing document.

CPA Magazine: *Does it make sense for a small corporation to set up a different entity for equipment, such as a partnership, and then lease that equipment to the business?*

Welch: If the business is a corporation, it makes sense to be able to pay a reasonable rate of rent to help keep the Corporation's taxable income low. It also makes sense if there is a family member with money to invest, but you don't want them investing directly in the operating business.

McClarty: You have to be careful because you can create sales tax.

CPA Magazine: *Comment on some effective tax planning strategies such as cost-segregation plans or research and development credits that have worked well in your practice.*

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Welch: One often overlooked issue is depreciation catch-up, where you find assets with depreciation amounts that had not been deducted because, for example, the incorrect life was used.

Another good planning opportunity is to watch for accrual basis companies that could change their method of accounting related to prepaid expenses. They could be able to get a deduction for the full amount of the prepaid items all in one year and then continue on that method of accounting for future years.

McClarty: You can move assets from 39 years down to 15 for parking lots, for example. The land is not depreciable. Some can be five years, such as specialty wiring in medical facilities. A seven-year asset can be flooring and carpeting.

CPA Magazine: How do you advise small-business owners on how much salary to receive when they are making substantial profits as opposed to when they are not?

Welch: Try to be aware of what other similar businesses are paying. Consider compensation paid in prior years. If it was too low, the owner might be able to take out extra in the current year.

McClarty: It's a matter of documenting when the salary fluctuates. The apportionment was payroll, property and sales. More states are going to a sales factor, so you can be taxed on more than 100%.

CPA Magazine: In light of the uncertainty of the financial markets recently, what advice can you offer?

Welch: Check to see that all your bank accounts are within the FDIC limits. The FDIC website, www.fdic.gov, has a calculator to help you de-

termine the limits. Also, diversification is extremely important.

McClarty: People are very nervous, aren't they? A client was concerned about sweep accounts that are investing in Fannie Maes and Freddie Macs. They wanted a guarantee, which you cannot get. Indeed, you can be limited like in the 80s.

A new bank product has subbed out your account to other banks so you get multiple \$100,000 guarantees. Certificate of Deposit Account Registry Service (CDARS) is very new. It can be used for millions of dollars for from 4 weeks to 5 years. Pinnacle and SunTrust banks here are using.

CPA Magazine: Finally, what are your favorite leisure activities?

Welch: Spending time with my family. I have a small child and another one on the way, so I'm learning how to play all over again! I also like to read, walk, ride bikes, spend time at the Lake of the Ozarks with friends, swim and do crafts.

McClarty: I enjoy reading, especially mysteries. I find tax to be a mystery. I just read Category 7 about hurricanes being directed. I love to travel, especially to historically significant places, such as Boston, where I saw everything associated with the Revolutionary War. I love history of this nature. It's what makes this country great and will pull us out of this current situation. I am involved in the Exchange program, which is like Rotary. We focus on patriotism through education, youth programs and prevention of child abuse.

I also learned that Congressman Conaway's leisure time includes spending time with his four grandsons; three of whom are of an age to have an imaginative time with the red cape we sent him for the cover photo. ☺

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