

COPAS Accounting Procedures Litigation Perspectives

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1

OVERVIEW:

- 1. COPAS Org. and publications**
- 2. Interpreting COPAS**
- 3. “conclusive presumption”**
- 4. “written exception”**
- 5. tolling the presumption**
- 6. Admissibility of MFIs and AG’s**
- 7. Miscellaneous**

2

What/who is COPAS?

- JOA v. Accounting Procedure
- COPAS Organization
- COPAS Model Form
- Other COPAS Publications

Interpreting COPAS Forms

- General contract interpretation principles
- COPAS AG's and MFI's?
- Sparse case law

Most COPAS Disputes:

- “conclusive presumption”
- Sufficiency of “written exception”
- Focus:
 - Billings provision
 - Adjustments provision

Billings and Adjustments Provisions

1984 Form:

Statements and Billings. Operator shall bill Non-Operators on or before the last day of each month for their proportionate share of the Joint Account for the preceding month. **Such bills will be accompanied by statements which identify the authority for expenditure, lease or facility, and all charges and credits summarized by appropriate classifications of investment and expense** except that items of Controllable Material and unusual charges and credits shall be separately identified and fully described in detail.

Adjustments. Payment of any such bills shall not prejudice the right of any Non-Operator to protest or question the correctness thereof; provided, however, **all bills and statements rendered to Non-Operators by Operator during any calendar year shall conclusively be presumed to be true and correct after twenty-four (24) months following the end of any such calendar year, unless within the said twenty-four (24) month period a Non-Operator takes written exception thereto and makes claim on Operator for adjustment.** No adjustment favorable to Operator shall be made unless it is made within the same prescribed period. The provisions of this paragraph shall not prevent adjustments resulting from a physical inventory of Controllable Material as provided for in Section V.

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