

BOARD OF ACCOUNTANCY MINUTES
JANUARY 23, 2004
9:00 AM
LANDON STATE OFFICE BUILDING, ROOM 108
TOPEKA, KS

1. ADMINISTRATIVE MATTERS:

A. CALL TO ORDER:

Tim Mitchell, CPA, Chair, called the meeting to order. Board members in attendance were Mr. Mitchell; Paul Allen, CPA; Jeff Bottenberg, Public Member; Adley Johnson, CPA; and Ginger Powell, CPA. Also in attendance was Susan Somers, Executive Director; Mary Feighny, Assistant Attorney General, General Counsel to the Board; Joyce Schartz, Public Accountants Association, and T. C. Anderson, Kansas Society of CPAs.

B. (1-4) CONSENT CALENDAR:

The Board reviewed the minutes of the December 12, 2003 meeting; reciprocity certificates/permits to practice/practice by notification; registrations of new/reorganized firms; and the 12/31/03 receipts and expenditures. Mr. Johnson moved and Ms. Powell seconded to approve. Upon a vote, the motion carried.

(5) Discussion of the budget amendments. Elaine Frisbie, the Board's budget analyst, was invited to present the Board's FY2005 budget as amended by the Governor.

C. AUTHORIZATION FOR TRAVEL:

Mr. Bottenberg moved and Mr. Johnson seconded to approve travel for Board members and the Executive Director to attend all Board and NASBA related meetings for calendar year 2004. Upon a vote, the motion carried.

2. CPA EXAM MATTERS:

A. B. The Board reviewed the report of Administration of the November 2003 exam prepared by CPA Examination Services; the master candidate grade list; and the exam pass list and statistics. Mr. Allen moved and Mr. Bottenberg seconded to approve the grades, which will be mailed out February 2, 2004. Upon a vote, the motion carried.

C. The Board reviewed policy recommendations recommended by NASBA for the state Boards to adopt relative to walk-in candidates; score approval/release; candidate check-in requirements; testing modifications – ADA; candidate cheating and misconduct; scheduled and unscheduled rest breaks; unused candidate fees; and scratch paper and writing instruments. Mr. Johnson moved and Mr. Allen seconded to adopt the policies as presented, and in the case of unused candidate fees, to instruct NASBA to send all unused, unrefunded fees back to the state Board for its discretionary use. Upon a vote, the motion carried.

3. CPE/PERMITS TO PRACTICE/RECIPROCITY/FIRM MATTERS/PEER REVIEW:

A. The Board reviewed the list of firms failing to renew, or firm renewals that had been returned as “incomplete”.

Ms. Somers advised the Board that two renewals had been returned for expired Peer Review letters of completion. Mr. Johnson moved and Ms. Powell seconded to issue Donald Freking and Ralph Howerton Summary Orders of suspension of their permits to practice. The Summary Order will be stayed if they pay a fine of \$250.00 and provide the Board with a Peer Review letter of completion or an “in process” letter by February 16, 2004. Upon a vote, the motion carried.

Mr. Johnson moved and Mr. Allen seconded to issue Cease and Desist Orders to all other firms that had not renewed their firm registration and give them until February 16, 2004 by which to file their firm registration and pay the late fee of \$60.00, or notify the Board that they were no longer practicing. If they do not respond by that date, the Board will consider disciplinary action against them. Upon a vote, the motion carried.

B. The Board reviewed the firm registration of Grant Thornton which had been returned for insufficient information relative to investigations and litigation. Ms. Feighny, the Board’s general counsel, had written the firm requesting more information which was provided by the firm’s legal counsel. After review of the information, the Board determined that the firm had complied with the requirements of firm renewal, with the exception of paying the \$60.00 late fee. The Board instructed Ms. Somers to write to the firm accepting the firm registration if the late fee were paid.

C. The Board reviewed a list of Peer Reviews due or in process. The Board noted that the Peer Review of Charles Harrison and Charlene Harrison had been in process since June 2002. The Board instructed Ms. Somers to have Bert Denny, the Board’s investigator, write to the firm and request copies of the Peer Review documents; i.e., Peer

Review Report, Letter of Comments and Letter of Response, and follow-up requirement letters for the Board to review at its April 30 meeting.

For the remainder of the firms who fail to comply with the due dates between now and the Board's next meeting, Mr. Allen moved and Mr. Bottenberg seconded to issue Summary Orders of suspension of firm registration or permit (whichever was applicable) staying the suspension if the firm paid a \$250.00 fine and provided a Peer Review letter of completion or an "in process" letter by April 5, 2004. Upon a vote, the motion carried.

4. DISCIPLINARY HEARINGS/COMPLAINT MATTERS:

A. 9:30 AM JANE ZIEHA Ms. Zieha appeared before the Board, with her counsel, Clinton Patty, to appeal the Summary Order of revocation of firm registration and permit issued for failure to comply with Peer Review. Ms. Zieha provided testimony and documentation of illnesses she had suffered since the issuance of the broker/dealer audits that were the reason for her non-compliance in addition to her belief that if she sold her practice, she wouldn't have to undergo the Peer Review. She informed the Board that she had merged her practice with another firm located in Missouri and that she would not be performing any more audits on her own in the future. The Board expressed its concern that she had issued significant public interest audits that had not gone through the Peer Review process and that the Board had never allowed a firm to forego the Peer Review process.

After discussion, Mr. Bottenberg moved and Mr. Allen seconded to go into Executive Session for fifteen minutes, to discuss the matter. Upon a vote, the motion carried.

The Board reconvened its public meeting after fifteen minutes, whereupon Ms. Powell moved and Mr. Johnson seconded to stay the action taken in the Summary Order if Ms. Zieha provided the Board with a Peer Review letter of completion, or a letter from the administering entity stating that the Peer Review was "in process" on or before April 26, 2004. If Ms. Zieha complies with this Order, the Summary Order issued October 17, 2003 will be vacated. Upon a vote, the motion carried.

5. OTHER

A. Ms. Somers reported to the Board that in July 2003, the Board's previous disciplinary counsel (Steve Phillips) was reassigned to other duties and was replaced by a temporary counsel (Eliehue Brunson) who was able to handle one hearing for the Board, but who was now tied up

with trial cases and would no longer be representing the agency. The Deputy Attorney General had informed Mr. Mitchell in November that they were looking to hire another attorney. Without disciplinary counsel, the Board is not able to move on cases that needed the Board's attention. Ms. Somers reported that she had contacted the Deputy Attorney General the day before the Board meeting as to the hiring status and was told that they were still interviewing. The Board expressed concern that cases weren't being handled in a timely manner. Ms. Somers reported that the agency's appropriations sub-committee hearings would be held the first week in February and that now would be the time to amend the agency's budget to include money to contractually hire an outside attorney to handle the disciplinary matters. After discussion, Mr. Johnson moved and Ms. Powell seconded that if the Attorney General couldn't or wouldn't obtain adequate counsel for the Board, to seek to amend the agency's budget by \$50,000 to contractually hire outside counsel to handle the Board's disciplinary matters. Upon a vote, the motion carried.

6. ADJOURN

There being no further business to come before the Board, the meeting was adjourned.

/s/ Susan L. Somers
Susan L. Somers, Executive Director