

**MINUTES OF THE KANSAS BOARD OF ACCOUNTANCY  
JANUARY 23, 2009  
8:30 AM, LANDON STATE OFFICE BUILDING, ROOM 106  
TOPEKA, KS**

**1. ADMINISTRATIVE MATTERS:**

**A. CALL TO ORDER:**

Rodney Van Norden, CPA, Chair, called the meeting to order. Board members in attendance were Mr. Van Norden; Jeffrey Leiserowitz, CPA; Paul Allen, CPA; Patricia O'Sullivan, Public Member; Virginia Powell, CPA; and Kent Smoll, CPA. Also in attendance were Susan Somers, Executive Director; Darin Conklin, General Counsel to the Board; Derenda Mitchell, Assistant Attorney General, Disciplinary Counsel to the Board; Mike Oliver and Joyce Schartz, Public Accountants Association; and Tony Scott, Kansas Society of CPAs.

**B-1. CONSENT CALENDAR:**

A. The Board reviewed the minutes of the December 12, 2008 Board meeting; reciprocity certificate/permits to practice; practice by notification; firms; and the December 31, 2008 financials. Mr. Smoll moved and Mr. Leiserowitz seconded to approve. Upon a vote, the motion carried.

**2. CPA EXAM:**

A. A.-B. The Board reviewed the grades and statistics from the October/November 2008 testing window. Mr. Smoll moved and Ms. O'Sullivan seconded to approve. Upon a vote, the motion carried.

**3. CPE/PERMITS TO PRACTICE/PEER REVIEW/FIRM REGISTRATIONS:**

A. The Board reviewed a list of Peer Reviews that were due or "in process". Ms. Powell moved and Mr. Leiserowitz seconded that in the case of firms not timely complying with Peer Review, unless otherwise warranted, a "warning" letter would be sent notifying them that if they did not provide the Peer Review letter of completion or "in process" letter within thirty days from the date of the letter, a Summary Order of Suspension and imposition of a fine of up to \$2,000 would be issued, with a draft copy of the Summary Order being attached to the letter. If the firm complied within the thirty days, no disciplinary action would be taken. If the firm did not comply within the thirty days, the Summary Order of Suspension and Fine would be issued. For those firms who have received a second "warning" letter, should the firm fail to comply again, a

Summary Order would be issued without a warning letter. Upon a vote, the motion carried. The Board also set the next due date for Peer Review letters of completion or additional "in process" letters to be June 12, 2009. Upon a vote, the motion carried.

B. The Board reviewed a list of firms that had not renewed by December 31, 2008. Mr. Somers reported that Cease and Desist Notices would be mailed to firms that had failed to register on January 30, 2009.

C. The Board reviewed a request from Virchow Krause & Company, LLP to change its name to Baker Tilly Virchow Krause, LLP. After review of the information provided relative to the name change, the Board determined that the name change was not in compliance with Kansas law. Therefore, upon motion of Mr. Allen, seconded by Mr. Leiserowitz, the request for name change is denied. Upon a vote, the motion carried.

#### **4. LEGISLATIVE MATTERS:**

Tony Scott addressed the Board with major concerns expressed by the AICPA, Gibson Dunn and himself relative to the proposed mobility legislation. He indicated that the areas of concern were the definition of home office; definition of attest services; principal place of business; concentration in accounting; and subpoena power.

The Board, after discussion, came to a compromise regarding the definition of home office, principal place of business, and concentration in accounting; however, the Board insisted on the inclusion of all attest services, with the exception of compilations, which is the current law, and incorporating subpoena power as they are essential to the regulation of the profession. This keeps in line with the discussions held and decisions made when the Board met with members of the KSCPA Executive Committee. Therefore, the broader definition of attest and the incorporation of subpoena power would stay as they are if there was to be any legislation regarding mobility. Both parties agreed that Mr. Conklin and Ms. Somers would make the necessary changes and would disseminate them for final approval.

#### **5. HEARINGS:**

**A. VELVA IMEL CONSENT ORDER:** Mr. Smoll recused himself as he was the investigative Board member. Ms. Imel appeared before the Board for approval of a Consent Order which requires her to obtain approval from the Board before commencing any attest work. Mr. Leiserowitz moved and Ms. O'Sullivan seconded to approve the Consent Order. Upon a vote, the motion carried, with Mr. Smoll not participating.

**B. HIGDON & HALE CONSENT ORDER:** Mr. Smoll recused himself as he was the investigative Board member. John Martin appeared on behalf of the firm, and Joel Krieger appeared as the firm's legal counsel for approval of a Consent Order which requires the firm to undergo a preissuance review of all governmental and not for profit audits for a period of one year, with the findings of such reviews to be reported to the Board within ten days of the issuance of the pre-issuance reviews, for a period of one year. Mr. Allen moved and Mr. Leiserowitz seconded to approve the Consent Order. Upon a vote, the motion carried, with Mr. Smoll not participating.

**C. JON PARMAN CONSENT ORDER:** Ms. O'Sullivan recused herself in this matter as she was the investigative Board member. Mr. Parman appeared before the Board for approval of a Consent Order for failure to timely file his personal tax returns which requires him to pay a \$2,000 fine; complete the AICPA comprehensive ethics exam with a score of 90% or higher; and provide proof of filing of his personal tax returns for tax years 2008 through 2011. Mr. Allen moved and Mr. Smoll seconded to approve the Consent Order. Upon a vote, the motion carried, with Ms. O'Sullivan not participating.

**D. GEORGE JACKSON, JR.:** Ms. O'Sullivan recused herself in this matter as she was the investigative Board member. Mr. Jackson appeared before the Board for approval of a Consent Order for failure to timely file his personal and firm tax returns and failure to timely file and pay withholding taxes which requires him to pay a \$2000 fine; complete the AICPA Comprehensive Ethics exam with a score of 90% or higher; and provide proof of filing of his personal and withholding tax returns for calendar years 2008 through 2013. Mr. Allen moved and Ms. Powell seconded to approve the Consent Order. Upon a vote, the motion carried.

**E. JOHN BROOKS:** Mr. Brooks appeared by telephone before the Board for practicing without a permit. Mr. Brooks renewed his permit late on October 7, 2008, when it was determined that he had been practicing without a permit. He was issued a permit, conditioned upon his appearing before the Board to determine the amount of the fine imposed for practicing without a permit. After discussion, Mr. Allen moved and Ms. Powell seconded for the Board to go into executive session for ten minutes to deliberate the matter.

When the Board reconvened, Ms. Powell moved and Ms. O'Sullivan seconded to impose a fine in the amount of \$250.00, to be payable within 30 days after the date of the Final Order of the Board. Said fine may not be paid by credit card. Upon a vote, the motion carried.

During the processing of Mr. Brooks late renewal, it came to the attention of the Board that the name "CPA Center" was being utilized by Mr. Brooks and other CPAs whose offices were all at the same location. A listing in the Wichita yellow pages for "CPA Center" appeared under the heading of "Accountants,

Certified Public". Mr. Brooks indicated that in the late 1980s former members of the Board gave permission for him and other CPAs to use the name "CPA Center". Mr. Brooks was cautioned by the Board that this was not a CPA firm, and to advertise it as such was now a violation of the Board, regardless of what former members of the Board had determined in the late 1980's. He was informed that he was to remove the name "CPA Center" wherever it appeared and if it came to the attention of the Board that the name was continued to be used, that a disciplinary action would be filed.

**F. RICHARD BRADLEY:** Mr. Bradley appeared for reinstatement of his CPA certificate, which was suspended in January of 2007 for failure to cooperate in an investigation relative to his practicing without a permit and the timely filing of his tax returns, and reinstatement of his permit to practice which had lapsed in 2006. The Order of Suspension also imposed a \$250 fine, which Mr. Bradley had not paid. After discussion, Mr. Leiserowitz moved and Mr. Allen seconded for the Board to go into executive session for fifteen minutes to deliberate the matter.

When the Board reconvened, Ms. Powell moved and Mr. Allen seconded to reinstate the CPA certificate and permit to practice of Mr. Bradley upon the following conditions:

Payment of the \$250 fine imposed in the Order of Suspension; completion of the AICPA Comprehensive Ethics Exam with a score of 90% or higher within 90 days of the date of the Final Order, which cannot be claimed as CPE for permit renewal purposes; submission of proof of filing of personal and business tax returns and withholding taxes (if applicable) for tax years 2008, 2009 and 2010 to the Board by December 31 of each following year; that upon reinstatement of his permit to practice, he not be allowed to perform attest functions without prior approval of the board; and pay a fine in the amount of \$2,000 to be paid within 30 days of the date of the Final Order. Upon a vote, the motion carried.

**G. DRU SHINER CONSENT ORDER:** Ms. O'Sullivan recused herself from this matter as she was the investigative Board member. Mr. Shiner appeared before the Board for approval of a Consent Order for failure to maintain compliance with the requirement for the renewal of his permit which requires him to pay a fine in the amount of \$250.00 and complete the AICPA Comprehensive Ethics exam with a score of 90% or higher within 90 days, which cannot be used for permit renewal purposes. Mr. Allen moved and Mr. Leiserowitz seconded to approve the Consent Order. Upon a vote, the motion carried, with Ms. O'Sullivan not participating.

**H. CROWE CHIZEK & COMPANY, LLC:** Fred Bauters, CPA, Risk Management Officer for Crowe Chizek & Company, LLC appeared before the Board for approval of an application for firm registration and request for extension of time to comply with firm ownership requirements. Mr. Bauters advised the

Board that it was the firm's intent to change the name from Crowe Chizek & Company, LLC to Crowe Chizek, LLP, and that the ownership of the new entity would be in compliance with Kansas law, but that it was going to take some time to establish the new entity and effect the change. After discussion, Mr. Smoll moved and Ms. O'Sullivan seconded for the Board to go into executive session for ten minutes to deliberate the matter.

When the Board reconvened, Mr. Allen moved and Mr. Smoll seconded to grant a conditional firm registration to Crowe Chizek & Company, LLC until April 1, 2009, with no further extensions, by which time the firm shall come into compliance with the accountancy laws and regulations relative to firm ownership. Upon a vote, the motion carried.

**I. JACK MICHAEL LAMB:** Mr. Allen recused himself from this matter as he was the investigative Board member. Darin Conklin, the Board's general counsel, did not participate in the hearing. Ed Gaschler, from the Office of Administrative Hearings, was the hearing facilitator for this matter. Mr. Lamb appeared in person and with counsel, Paul Morrison. Mr. Lamb had submitted an application for a Kansas CPA certificate, which was denied for failure to satisfy the good moral character requirement, based upon a ruling by the Oklahoma Department of Health. A hearing was conducted, after which, Mr. Leiserowitz moved, and Ms. O'Sullivan seconded for the Board to go into executive session for twenty minutes to deliberate the matter.

When the Board reconvened, Mr. Smoll moved and Ms. O'Sullivan seconded to issue Mr. Lamb a Kansas CPA certificate conditionally with the following conditions:

He is to make semi-annual written reports to the Executive Director of the Board to provide a status report as to any and all proceedings by the Oklahoma Department of Health, any and all courts in the state of Oklahoma, and the Oklahoma Accountancy Board. However, upon any action being taken by the Oklahoma authorities or by the Missouri Board of Accountancy, Mr. Lamb is to notify the Executive Director of the Board within thirty days of any such action being taken. In addition, Mr. Lamb is to notify the Executive Director of the Board if he is denied a license by any regulatory agency or licensing board. Upon a vote, the motion carried, with Mr. Allen not participating.

It is noted that the Board did not find the findings of the Oklahoma State Department of Health to be erroneous, nor did the Board establish that he is not of good moral character. The Board withholds judgment on this point at this time.

## **6. OTHER:**

Discussion was held as to the Board's nomination for Vice-Chair of NASBA. Mr. Smoll indicated that Michael Daggett from Arizona and Bob Pearson from Missouri had sought the Board's recommendation. After discussion, Mr. Leiserowitz moved and Mr. Smoll seconded to nominate Mr. Pearson. Upon a vote, the motion carried.

## **7. ADJOURN**

At 6:45 P.M., Mr. Leiserowitz moved and Mr. Smoll seconded, to adjourn the meeting. Upon a vote, the motion carried.

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