

**MINUTES OF THE KANSAS BOARD OF ACCOUNTANCY
JANUARY 23, 2015
LONDON STATE OFFICE BUILDING, ROOM 556A
TOPEKA, KS**

1. ADMINISTRATIVE MATTERS:

A. CALL TO ORDER:

John R. Helms, CPA, Chair, called the meeting to order. Board members in attendance were Mr. Helms; Rodney Van Norden, CPA; T. C. Anderson, Public Member; Denise Denning, CPA; Michael Marsh, CPA; Kathryn Mitchell CPA; and Patricia O'Sullivan, Public Member. Also in attendance was Susan Somers, Executive Director; Randy Forbes, Disciplinary Counsel to the Board; Darin Conklin, General Counsel to the Board; Rita Barnard, Kansas Society of CPAs; and Joyce Schartz, Public Accountants Association.

B. CONSENT CALENDAR:

The Board reviewed the minutes of the December 5, 2014 meeting; reciprocity certificates/permits to practice/firm registrations; and the December 2014 financials. Ms. O'Sullivan moved and Mr. Van Norden seconded to approve the Consent Calendar. Upon a vote, the motion carried.

2. CPA EXAM

A. The Board reviewed the October/November 2014 testing window exam scores. Ms. O'Sullivan moved and Mr. Van Norden seconded to ratify the grades. Upon a vote, the motion carried.

B. The Board reviewed the CPA exam statistics comparing the Kansas pass rates to the National pass rates. No action was required to be taken.

C. The Board reviewed the CPA Exam Performance Summary for fourth quarter 2014. No action was required to be taken.

D. The Board reviewed a request for approval from National American University. After discussion, the Board instructed Ms. Somers to notify them that the Board will table this matter until the May 1, 2015 meeting, at which time they are requested to appear in person before the Board to answer questions the Board may have, in particular as to the issuance of life experience credits, work credits, corporate training certificate credits; copies of official transcripts for someone who has been awarded military credits; work/life experience credits; corporate training credits; and whether or not these alternative credits are awarded for specific courses included within the definition of "concentration in accounting"; the average GPA of the accounting students; and the pass rate of students in the accounting program;

3. CPE/PERMIT TO PRACTICE/PEER REVIEW/FIRM REGISTRATIONS:

A. Ms. Somers presented to the Board the list of firms with Peer Reviews either due or in process, and indicated that since the Board has already established the due dates for 2015, the report was for informational purposes only.

B. The Board reviewed the list of firms not renewed. No action was required to be taken.

C. The Board reviewed the list of firms indicating their reason for not renewing. No action was required to be taken.

4. HEARINGS:

A. 9:30 AM JOHN EDWARD OWEN CONSENT AGREEMENT AND FINAL ORDER: Ms. O'Sullivan, the investigative Board member, recused herself from this matter. Mr. Owen appeared in person. This matter was before the Board for consideration of a Consent Agreement and Final Order arising from Mr. Owen's submission to the Board of an application for reinstatement of his permit to practice, and the Board's subsequent determination that Mr. Owen had engaged in the practice of certified public accountancy in the State of Kansas without a valid permit. The terms of the Consent Agreement and Final Order required Mr. Owens to appear before the Board; pay a fine in the amount of \$250; pay costs pursuant to K.S.A. 1-206, to include attorney's fees and court reporter fees; and the approval of the application for reinstatement of Mr. Owen's permit. After hearing the testimony, Mr. Anderson moved and Mr. Van Norden seconded to approve the Consent Agreement and Final Order. Upon a vote, the motion carried, with Ms. O'Sullivan not participating.

B. NATHAN A. JONES CONSENT AGREEMENT AND FINAL ORDER: Ms. O'Sullivan, the investigative Board member, recused herself from this matter. Mr. Jones appeared in person. This matter was before the Board for consideration of a Consent Agreement and Final Order arising from Mr. Jones submission to the Board of an application for an initial permit to practice, and the Board's subsequent determination that Mr. Jones had engaged in the practice of certified public accountancy in the State of Kansas without a valid permit. The terms of the Consent Agreement and Final Order required Mr. Jones to appear before the Board; pay a fine in the amount of \$500; pay costs pursuant to K.S.A. 1-206, to include attorney's fees and court reporter fees; and the approval of Mr. Jones application for initial permit to practice. After hearing testimony, Ms. Denning moved and Mr. Van Norden seconded, to approve the Consent Agreement and Final Order. Upon a vote, the motion carried, with Ms. O'Sullivan not participating.

C. KYLE W. HEINCKER CONSENT AGREEMENT AND FINAL ORDER: Ms. O'Sullivan, the investigative Board member, and Mr. Van Norden, recused themselves from this matter. Mr. Heincker appeared in person. This matter was before the Board for consideration of a Consent Agreement and Final Order arising from Mr. Heincker's

delinquent submission of a permit renewal application, and the Board's subsequent determination that Mr. Heincker had engaged in the practice of certified public accountancy in the State of Kansas without a valid permit. The terms of the Consent Agreement and Final Order required Mr. Heincker to appear before the Board; pay a fine in the amount of \$500; pay costs pursuant to K.S.A. 1-206, to include attorney's fees and court reporter fees; and the approval of Mr. Heincker's application for permit renewal. After testimony, Ms. Mitchell moved and Ms. Denning seconded to approve the Consent Agreement and Final Order. Upon a vote, the motion carried, with Ms. O'Sullivan and Mr. Van Norden not participating.

D. FRANK PAUL SALERNO AND ARNONE, SALERNO & COMPANY, P.A. CONSENT AGREEMENT AND FINAL ORDER: Ms. Denning, the investigative Board member, recused herself from this matter. Mr. Salerno and Mr. Arnone appeared in person. This matter was before the Board for consideration of a Consent Agreement and Final Order relating to Respondents' compliance with applicable professional standards. The terms of the Consent Agreement and Final Order required the Respondents to appear before the Board and to undergo pre-issuance reviews of all attest reports until further order of the Board. The Respondents shall also submit the pre-issuance findings to the Board, within a specified period of time. The Respondents were also ordered to pay costs pursuant to K.S.A. 1-206, to include attorney's fees and court reporter fees incurred in this matter. Mr. Van Norden moved, and Ms. O'Sullivan seconded for the Board to go into closed session for twenty minutes pursuant to K.S.A. 1-501 to discuss the peer review. Upon a vote, the motion carried.

When the Board reconvened in open session, Ms. O'Sullivan moved, and Mr. Van Norden seconded for the Board to accept the Consent Agreement and Final Order. Upon a vote, the motion carried, with Ms. Denning not participating.

E. SUSAN DONOHUE CONSENT AGREEMENT AND FINAL ORDER: Ms. Denning, the investigative Board member, recused herself from this matter. Ms. Donohue appeared in person. This matter was before the Board for consideration of a Consent Agreement and Final Order arising from Ms. Donohue's submission of an application for an initial permit to practice wherein Ms. Donohue represented that she had not been delinquent in filing her tax returns or the tax returns of others for which she was responsible, within the seven years preceding the submission of the application. The Board initiated an investigation as to the merits of Ms. Donohue's application and determined that she had failed to timely file her personal income tax returns for tax years 2010 and 2011 and that her business entity, SH Donohue Enterprises, Ltd. had also failed to timely file its Kansas corporate tax returns for tax years 2010, 2011 and 2012. The terms of the Consent Agreement and Final Order required Ms. Donohue to appear before the Board; pay a fine in the amount of \$500; pay costs, pursuant to K.S.A. 1-206, to include attorney's fees and court reporter fees incurred in this matter; provide proof of timely filing of her personal federal and state income tax returns for tax years 2014 through 2019; provide proof of timely filing of federal and state income tax returns for tax years 2014 through 2019 for SH Donohue Enterprises, Ltd.; file a firm registration for SH Donohue Enterprises, Ltd. with the

Board; and the approval of Ms. Donohue's application for an initial permit to practice and SH Donohue Enterprises, Ltd.'s application for firm registration. Ms. O'Sullivan moved, and Mr. Van Norden seconded for the Board to go into closed session for fifteen minutes to deliberate the matter. Upon a vote, the motion carried.

When the Board reconvened, Mr. Van Norden moved and Ms. O'Sullivan seconded to approve the Consent Agreement and Final Order. Upon a vote, the motion carried, with Ms. Denning not participating.

F. MICHELE A. HERZOG AND HERZOG FINANCIAL SOLUTIONS, LLC CONSENT AGREEMENT AND FINAL ORDER: Mr. Van Norden, the investigative Board member, and Mr. Marsh recused themselves from this matter. Ms. Herzog appeared in person. This matter was before the Board for consideration of a Consent Agreement and Final Order arising from the Board's investigation into Ms. Herzog's practice of certified public accountancy without a valid Kansas certificate and permit to practice and for practicing under a firm name not lawfully registered with the Board. Prior to the meeting, Ms. Herzog filed with the Board an application for a Kansas CPA certificate and, permit to practice, and firm registration. The terms of the Consent Agreement and Final Order required Ms. Herzog to appear before the Board; pay a fine in the amount of \$500; pay costs, pursuant to K.S.A. 1-206, to include attorney's fees and court reporter fees; complete the AICPA Comprehensive Ethics exam with a score of 90% or higher, which cannot be claimed for CPE credit for permit renewal purposes; and the Board's approval of her application for a CPA certificate and permit. The Consent Agreement and Final Order also required Respondent Herzog Financial Solutions, LLC to appear before the Board and the approval of its application for firm registration. Discussion was held as to the accuracy of the date referenced in paragraph 4c of the Consent Agreement and Final Order. Ms. O'Sullivan moved and Ms. Mitchell seconded for the Board to go into closed session for ten minutes to deliberate the matter. Upon a vote, the motion carried.

When the Board reconvened, Ms. O'Sullivan moved and Ms. Mitchell seconded to approve the Consent Agreement and Final Order, with a change to the date in paragraph 4c from June 1, 2006 to September 9, 2013. Upon a vote, the motion carried, with Mr. Van Norden and Mr. Marsh not participating.

G. TAMMY L. MANN, CPA, PA CONSENT AGREEMENT AND FINAL ORDER: Ms. O'Sullivan, the investigative Board member, recused herself from this matter. Tammy L. Mann, CPA, PA appeared in person by Tammy L. Mann. This matter was before the Board for consideration of a proposed Consent Agreement and Final Order arising from the Board's investigation into the corporation's practice of certified public accountancy without being properly registered with the Board. Respondent subsequently submitted an application for firm registration prior to the hearing. The terms of the Consent Agreement and Final Order required Respondent to appear before the Board; pay a fine in the amount of \$500; pay costs, pursuant to K.S.A. 1-206, to include attorney's fees and court reporter fees; and the approval of Respondent's application for firm registration. Mr. Van Norden moved and Ms. Denning

seconded to approve the Consent Agreement and Final Order. Upon a vote, the motion carried, with Ms. O'Sullivan not participating.

H. JENICA CHARTIER APPLICATION FOR CPA CERTIFICATE AND PERMIT TO PRACTICE: Ms. Chartier appeared in person and by counsel, Joel I. Krieger. This matter was before the Board for hearing on Ms. Chartier's application for a CPA certificate by reciprocity and initial permit to practice as a CPA in Kansas. Prior to the filing of Respondent's applications, the District Court of Johnson County, Kansas issued an Order for Permanent Injunction pursuant to K.S.A. 1-318 prohibiting Ms. Chartier from practicing certified public accountancy in Kansas without a Kansas CPA certificate and a valid permit to practice. After hearing the evidence in support of her applications, Ms. O'Sullivan moved and Ms. Denning seconded for the Board to go into closed session for a period of 10 minutes to deliberate the matter. Upon a vote, the motion carried.

When the Board reconvened, Ms. O'Sullivan moved and Mr. Marsh seconded to approve Ms. Chartier's application for a CPA certificate by reciprocity and permit to practice. Upon a vote, the motion carried.

I. APRIL SWARTZ APPLICATION FOR CPA CERTIFICATE: Ms. Swartz appeared in person and by counsel, Barry Clark. This matter was before the Board for consideration of Ms. Swartz's application for a Kansas CPA certificate. In July of 2011, the Board denied Ms. Swartz's application for CPA certificate based upon her conduct while serving as an employee of the City of St. John. Specifically, her conduct resulted in criminal convictions, and the Board's subsequent denial of her application. Thereafter, an order of expungement as to the criminal convictions was issued by the criminal court. After hearing Ms. Swartz's extensive testimony, and the testimony of others, Ms. O'Sullivan moved, and Ms. Denning seconded, for the Board to go into closed session for thirty minutes to deliberate the matter.

When the Board reconvened, Mr. Marsh moved and Ms. Denning seconded to approve her application for a CPA certificate. Upon a vote, the motion carried.

J. KEVAN D. ACORD, CPA and PHILIP C. GROWNEY, CPA STIPULATION AND CONSENT ORDER: Mr. Helms, the investigative Board member, recused himself from this matter. Mr. Acord and Mr. Growney appeared in person, and with counsel, Joel I. Krieger. This matter was before the Board for consideration of a Stipulation and Consent Order arising from the Board's review of certain documents filed with the Securities and Exchange Commission and the Board's investigation of Respondent's compliance with the code of professional conduct and acts activities reflecting adversely on a person's fitness to practice certified public accountancy. The Stipulation and Consent Order provides in part that there are reasonable grounds to conclude that violations of the Accountancy Act occurred and noted Respondents' denial of the allegations of unlawful conduct. Respondents were required to appear before the Board, each pay a fine in the amount of \$1,000.00, and pay costs pursuant to K.S.A. 1-206 to include attorney's fees and court reporter fees. Mr. Anderson moved and Ms.

O'Sullivan seconded, to approve the Stipulation and Consent Order. Upon a vote, the motion carried, with Mr. Helms not participating.

5. OTHER:

A. The Board discussed assigning a Presiding Officer for Board matters that occur before the Board's next meeting to be held May 1, 2015. Ms. O'Sullivan moved, and Ms. Denning seconded, to delegate the Chair, and in the event the Chair is not available or able, the Vice-Chair, of the Board as the Presiding Officer. Upon a vote, the motion carried.

B. The Board reviewed a letter from the Kansas Society of CPAs indicating that they would not pursue any changes to the Accountancy laws during the 2015 session, but that it was their intent to pursue changes in the 2016 legislative session.

6. ADJOURN

There being no further business to come before the Board, Mr. Van Norden moved, and Ms. O'Sullivan seconded, to adjourn. Upon a vote, the motion carried.

/s/ Susan L. Somers

Susan L. Somers, Executive Director