

MINUTES OF THE KANSAS BOARD OF ACCOUNTANCY
JANUARY 27, 2006
9:00 AM
LANDON STATE OFFICE BUILDING, ROOM 511
TOPEKA, KS

1. ADMINISTRATIVE MATTERS:

A. CALL TO ORDER:

Ginger Powell, CPA, called the meeting to order. Board members in attendance were Ms. Powell; Kent Smoll, CPA; Paul Allen, CPA; Jeff Bottenberg, public member; Adley Johnson, CPA; Patricia O'Sullivan, public member; and Rodney Van Norden, CPA. Also in attendance were Susan Somers, Executive Director; Mary Feighny, Assistant Attorney General, General Counsel to the Board; Derenda Mitchell, Assistant Attorney General, Disciplinary Counsel to the Board; Tony Scott, Kansas Society of CPAs; and Joyce Schartz, Public Accountants Association.

B. 1-3 CONSENT CALENDAR:

The Board reviewed the minutes of the December 9, 2005 meeting; reciprocity certificates/permits to practice/practice by notification; registrations of new/reorganized firms; and the 12/31/05 financials. Mr. Johnson moved and Ms. O'Sullivan seconded to approve. Upon a vote, the motion carried.

C. AUTHORIZATION FOR TRAVEL:

Mr. Smoll moved and Ms. O'Sullivan seconded to approve travel for Board members and the Executive Director to attend all Board and NASBA related meetings for calendar year 2006. Upon a vote, the motion carried.

2. CPA EXAM:

A. After review of the grades from the October/November 2005 CPA exam testing window, Mr. Bottenberg moved and Ms. O'Sullivan seconded to ratify the grades as previously approved by Mr. Johnson and Ms. Powell. Upon a vote, the motion carried.

B. The Board reviewed the comparison of Kansas vs. the National CPA exam statistics. No action was required to be taken.

C. The Board reviewed a request for reconsideration from Jill Ochs to allow AP credit for courses taken in high school. Ms. Somers reported that she had previously told Ms. Ochs the law required that a candidate complete the coursework at a college or university and receive semester credit for the courses, and that testing out of a course or courses did not meet the Board's requirement

as previously determined by the Board and verified by the Board's general counsel. Mr. Smoll moved and Ms. O'Sullivan seconded to deny the request for reconsideration for the reasons stated by Ms. Somers and to advise Ms. Ochs that if she wanted to appeal the Board's decision, she would have to take the matter to District Court. Upon a vote, the motion carried, with Mr. Allen and Mr. Johnson abstaining from voting.

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

A. The Board reviewed a list of firms that had not yet renewed their firm registrations. Mr. Johnson moved, and Mr. Bottenberg seconded to instruct Ms. Somers to issue Cease and Desist Orders to the firms, with the exception of Wilcox, P.A., that had not renewed by the date of the Board's meeting and to inform the firms that to renew their firm registrations, they would need to pay a \$250.00 fine, in addition to the \$60.00 late fee, for practicing without being registered as a firm. Upon a vote, the motion carried.

The Board then addressed the 2006 late firm registration of Wilcox, P.A. Ms. Somers reported to the Board that this firm was issued a Cease and Desist Order for failure to timely renew its 2005 firm registration, making this a repeat violation. (At the December 2005 meeting, the Board voted to double the fines in instances where Summary Orders were being issued for a repeat violation.) Mr. Johnson moved and Mr. Van Norden seconded to instruct Ms. Somers to issue a Cease and Desist Order to Wilcox, P.A., indicating that the firm would need to pay a \$500.00 fine, in addition to the \$60.00 late fee, for practicing without being registered as a firm. Upon a vote, the motion carried.

B. The Board reviewed a list of Peer Reviews due and "in process". Mr. Allen moved and Mr. Van Norden seconded that for any firm or individual who did not comply with their Peer Review due date prior to the Board's next meeting, a Summary Order of Suspension of Firm Registration and/or permit renewal (whichever is applicable) would be issued, imposing a \$250 fine, (or in the case of repeat violations, double the previous fine) with the suspension being stayed for thirty days from the date of issuance of the Summary Order, provided the fine was paid and a Peer Review letter of completion or "in process" letter was provided to the Board. Upon a vote, the motion carried.

4. COMPLAINT/DISCIPLINARY MATTERS:

A. **9:30 AM RICHARD EISBERG.** Mr. Eisberg appeared before the Board with counsel for failure to return client documents, and conduct reflecting adversely on his ability to practice. After discussion, Mr. Smoll moved and Ms. O'Sullivan seconded for the Board to go into executive session for twenty minutes to deliberate the matter. Upon a vote, the motion carried.

After twenty minutes, Ms. O'Sullivan moved and Mr. Johnson seconded to extend the executive session for an additional ten minutes to continue to deliberate the matter. Upon a vote, the motion carried.

When the Board reconvened its regular meeting, Mr. Bottenberg moved and Ms. O'Sullivan seconded to censure Mr. Eisberg; that he shall, on or before December 31, 2006, complete 8 hours of CPE in the subject matter of management of a tax practice, which shall be preapproved by the Board's Executive Director and shall not be included in the 80 hours of CPE required for the permit renewal period 2006-2008; that he shall, on or before March 31, 2006, complete the AICPA's Comprehensive Ethics Course with a score of 90% or higher, which shall not be included in the 80 hours of CPE required to renew his permit which expires on June 30, 2006; and, on or before December 31, 2006, he shall complete 16 hours of CPE in the areas of tax technical courses to be pre-approved by the Board's Executive Director, which shall be included in the 80 hours of CPE required for the 2006-2008 renewal period. Failure to comply with any of these conditions will result in revocation of his permit to practice. Upon a vote, the motion carried. Mr. Eisberg was instructed that he would have to take the AICPA Ethics exam for "COPE" purposes, and not "CPE" purposes, and to indicate that the Kansas board is to receive a copy of his score.

B. 10:30 AM JEFFREY BATES Mr. Bates appeared before the Board to reinstate his permit and firm registration. Mr. Bates had been disciplined in 2005 for practicing without being registered as a firm, which resulted in an assessment of a \$250.00 fine. 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. Upon a vote, the motion carried.

When the Board reconvened its regular meeting, Mr. Bottenberg moved and Ms. O'Sullivan seconded, to impose a fine of \$500.00 to be paid within ninety (90) days of the date of the Board's Order and that the fine could not be paid by credit card. Upon a vote, the motion carried.

5. OTHER BUSINESS:

The Board discussed a request from Bob Pearson, Central Region Director, for the Board to attend a meeting of the NASBA Central States Region prior to the NASBA Western Regional Meeting to be held in May. After discussion, the Board members concluded that they would like to see an agenda for the meeting before making a commitment to attend.

6. ADJOURN

Mr. Bottenberg moved and Ms. O'Sullivan seconded to adjourn the meeting. Upon a vote, the motion carried.

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