

**MINUTES OF THE KANSAS BOARD OF ACCOUNTANCY  
JANUARY 28, 2011  
LONDON STATE OFFICE BUILDING  
TOPEKA, KS**

**1. ADMINISTRATIVE MATTERS:**

**A. CALL TO ORDER:**

Virginia A. Powell, CPA, Chair, called the meeting to order. Board members in attendance were Ms. Powell; Paul Allen, CPA; Jeffery Bottenberg, Public Member; Jeffrey Leiserowitz, CPA; Patricia O'Sullivan, Public Member; Kent Smoll, CPA; and Rodney Van Norden, CPA. Also in attendance were Susan Somers, Executive Director; Darin Conklin, General Counsel to the Board; Marty Snyder, Disciplinary Counsel to the Board; John Bruckner, CPA, Gary Allerheiligen, CPA, Mary MacBain, CPA, and members of the 20 under 40 Committee of the Kansas Society of CPAs; and Joyce Schartz, Public Accountants Association.

**B. 1-4 CONSENT CALENDAR:**

The Board reviewed the minutes of the October 29, 2010 meeting; reciprocity certificates/permits to practice/firm registrations; the December 31, 2010 financials; and the request for the executive director and legal counsel to attend the NASBA Executive Directors/Legal Counsel conference in March. Mr. Van Norden moved and Mr. Smoll seconded to approve all but the firm registrations. Upon a vote, the motion carried.

The Board discussed the firm registration of "Creative Accounting Solutions" in that the firm name used terminology ("creative accounting") that would be considered misleading. Ms. Somers reported that the firm indicated that it performed attest and non-attest services. Mr. Leiserowitz moved and Mr. Van Norden seconded to deny the name pursuant to K.A.R. 74-5-406(a)(c)(2). Upon a vote, the motion carried.

**2. CPA EXAM:**

A. Mr. Smoll moved and Mr. Allen seconded to ratify the exam grades previously approved by Mr. Van Norden for the October/November 2010 testing window. Mr. Smoll moved and Mr. Allen seconded to approve. Upon a vote, the motion carried.

B. The Board reviewed the exam statistics from the previous testing window. No action was required to be taken.

C. The Board reviewed a request from Douglas Mattoon for a waiver of a business law course. In reviewing the information that he provided, the Board learned that the one business law course he took did not qualify, as it was a review course for the law portion of the CPA exam. Ms. O'Sullivan moved and Mr. Leiserowitz seconded to deny his request of a waiver of 3 credit hours of business law, and in addition to disqualify the one business law course that he took, leaving him short 2 business law courses. Upon a vote, the motion carried.

### **3. CPE/PERMIT TO PRACTICE/PEER REVIEW/FIRM REGISTRATIONS**

A. A. The Board reviewed the list of Peer Reviews due and in process. Mr. Leiserowitz moved, and Mr. Smoll 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 would be issued. 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 April 21, 2011, unless otherwise warranted. Upon a vote, the motion carried.

B. The Board reviewed a list of firms that had not registered. No action was taken at this time.

C. The Board reviewed a request from Lynn Jenkins for a waiver of the CPE requirements for renewal of her permit to practice. Ms. Somers reported that the Board has never waived the CPE requirement, but has allowed others to extend the time by which they were to obtain their CPE, but within a short time frame. The Board, in reviewing the Regulations, agreed that they had little discretion in granting waivers under Ms. Jenkins circumstances. After discussion, Ms. Smoll moved and Ms. O'Sullivan seconded for Ms. Powell to contact Ms. Jenkins to inform her that if she wasn't practicing or providing services for the public as a CPA, she would not be required to maintain her permit to practice in order for her to use the title "CPA" in connection with her position as Congresswoman, and that when it was time to renew her permit all she would have to do is check the box that she's not renewing and return the renewal application. If, however, she still wished to pursue the waiver, she would need to resubmit her request to the Board. Upon a vote, the motion carried.

#### 4. OTHER

A. The Board reviewed an administrative hearing policy regarding the use of video and audio equipment at Board of Accountancy hearings. Mr. Leiserowitz moved and Ms. O'Sullivan seconded to adopt the hearing policy and instructed Ms. Somers to post it on the Board's webpage. Upon a vote, the motion carried.

#### 5. HEARINGS:

**A. WILLA FRANKLIN CONSENT ORDER:** Ms. O'Sullivan recused herself from this matter. Ms. Franklin appeared before the Board as a condition of the Consent Order for failure to timely pay withholding taxes, the terms of which require her to provide proof of timely filing of withholding taxes for tax years 2011-2014; payment of a \$500 fine, which cannot be paid by credit card within 30 days of the date of the Consent Order; and pay \$172.50 as reimbursement of costs incurred in this matter, which also may not be paid by credit card. Mr. Leiserowitz moved, and Mr. Van Norden seconded, to approve. Upon a vote, the motion carried.

**B. MAPES & MILLER CONSENT ORDER:** This matter was removed from the docket list.

**C. EDWARD B. STUCKY REQUEST FOR HEARING ON DENIAL OF APPLICATION FOR REINSTATEMENT:** Mr. Allen and Mr. Van Norden recused themselves in this matter. Mr. Stucky appeared before the Board in person and with counsel, Joel Krieger for the purpose of seeking reinstatement of his permit to practice which was previously denied. Mr. Stucky's permit and firm registration was suspended in 2005 for failure to comply with Peer Review. Since that time, Mr. Stucky has been delinquent in timely filing his personal tax returns for tax years 2002-2005. Stipulations had been agreed to prior to the hearing. The Board heard testimony as to Mr. Stucky's employment, his reasons for his inability to obtain a Peer Review and file his taxes timely, as well as his intentions of what he would like to do in the future should his permit be reinstated. Mr. Stucky also submitted a statement of proposed reinstatement conditions wherein he agreed not to materially participate in providing audit or review services for at least two years from the date of reinstatement, after which time, he may request to reinstate those privileges. Mr. Leiserowitz 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.

When the Board reconvened, Mr. Leiserowitz moved and Mr. Smoll seconded to accept Mr. Stucky's proposed reinstatement conditions and reinstate his permit and waive the requirement of Mr. Stucky resubmitting a new

application for reinstatement; however, he shall submit the \$225.00 reinstatement fee as it was returned to him when his previous application for reinstatement was denied. Upon a vote, the motion carried.

**D. KEVIN BRAND DISCIPLINARY HEARING:** Ms. O'Sullivan and Mr. Van Norden recused themselves from this matter. Mr. Brand appeared in person and with counsel, Joshua Ney, for the purpose of renewing his late permit renewal application and violation of compliance with accounting standards. Evidence was presented that Mr. Brand was in violation of SSARS 8 in the issuance of "management use only" compilation reports. Evidence was also presented showing a pattern of perpetual late filing of his permit renewal applications. Mr. Bottenberg moved and Mr. Leiserowitz seconded for the Board to go into executive session to deliberate the matter for twenty minutes. Upon a vote, the motion carried.

When the Board reconvened, Mr. Smoll moved and Mr. Leiserowitz seconded that Mr. Brand's conduct reflected adversely on his fitness to practice certified public accountancy, and for that reason his permit will be renewed with the following conditions: obtain 8 hours each year of compilation and/or SSARS CPE for the next 3 renewal periods, for a total of 48 hours, which may be used for permit renewal purposes; provide proof of his CPE for the next three renewal periods on a timely basis; and payment of a fine in the amount of \$2,000 which cannot be paid by credit card, within 60 days of the date of the Final Order. Upon a vote, the motion carried.

**6. AT THIS TIME IN THE MEETING, THE MEETING WAS ADJOURNED FOR LUNCH.**

**7. THE BOARD RECONVENED THE MEETING AT 1:30 TO DISCUSS THE REQUIREMENTS TO SIT FOR THE CPA EXAM.**

In addition to members, Executive Director and general counsel of the Board of Accountancy, the following were present:

John Bruckner, President, Kansas Society of CPAs  
Gary Allerheiligen, Immediate Past President, Kansas Society of CPAs  
Mary MacBain, Kansas Society of CPAs  
Dan Deines, Kansas State University  
Paul Mason, Lisa Ottinger, University of Kansas  
Charles Gnizak, Cole Engle, Fort Hays State University  
George Durler, Emporia State University  
Michael Flores, Wichita State University  
Tom Clevenger, Washburn University  
Marcy Randall, Becker Review  
Joyce Schartz, Public Accountants Association

The purpose of this discussion culminated from a dual request from the Kansas Society of CPAs and the University of Kansas to amend the statute requiring completion of the 150 hours of course specific education prior to an exam candidate being able to submit an application for the CPA exam. There is some interest that candidates should be able to sit for the exam before they have met the education requirements but within a certain time frame before they have met the requirements, for the reason that it is believed that our candidates are put to some disadvantage in not being able to sit like some other states candidates before meeting the education requirement. John Bruckner, George Durler, Paul Mason and Lisa Ottinger spoke in favor of the amendment. Dan Deines spoke against the amendment. Considerable discussion was had concerning the purpose behind the 150 hour education requirement, the erosion of the education requirement, and the possible unintended consequences of opening up a statute to accommodate a select few. The Board expressed its deep concern over opening up a statute and reiterated past experiences when the law addressing the education requirement had been opened up for amendment and further expressed its opinion that there was no need to change the requirements. Ms. Somers indicated that, pending confirmation from the Board's legal counsel, she thought that a compromise could be made in allowing candidates to submit their applications 8 weeks in advance of their meeting the education requirements, which would not allow them to sit for the exam earlier, but would give the candidate time to get through most of the application process in advance of meeting the education requirements. If that is the case, a position paper will be prepared and disseminated to all of the Regents colleges and Washburn University, as well as the Kansas Society of CPAs, CPA Examination Services (the administrator for the CPA exam for Kansas candidates), as well as being posted on the Board's webpage.

## **8. ADJOURN**

There being no further business to come before the Board, upon motion of Mr. Bottenberg, and seconded by Ms. O'Sullivan, the meeting was adjourned.

/s/ Susan L. Somers

Susan L. Somers, Executive Director