

**MINUTES OF THE KANSAS BOARD OF ACCOUNTANCY
APRIL 20, 2007
9:00 AM, LANDON STATE OFFICE BUILDING, ROOM 106
TOPEKA, KS**

1. ADMINISTRATIVE MATTERS:

A. CALL TO ORDER:

Adley Johnson, CPA, Chair, called the meeting to order. Board members in attendance were Mr. Johnson; Paul Allen, CPA; Jeff Bottenberg, Public Member; Ginger Powell, CPA; Kent Smoll, CPA; and Rodney Van Norden, CPA. Also in attendance were Susan Somers, Executive Director; Camille Nohe, Assistant Attorney General, General Counsel to the Board; Derenda Mitchell, Assistant Attorney General, Disciplinary Counsel to the Board; Victor Barbo, CPA and Joyce Schartz, Public Accountants Association; and Tony Scott, Kansas Society of CPAs.

B. 1-2 CONSENT CALENDAR:

The Board reviewed the minutes of the January 19, 2007 and February 19, 2007 meetings; reciprocity certificates/permits to practice/ practice by notification; firms; and the March 31, 2007 financials. Mr. Smoll moved and Mr. Van Norden seconded to approve. Upon a vote, the motion carried.

2. CPA EXAM:

A. The Board reviewed the grades from the January/February 2007 testing window previously approved by Ms. Powell.

B. After review of the grades, Mr. Smoll moved and Mr. Van Norden seconded to ratify the approval of the grades. Upon a vote, the motion carried.

C. Ms. Somers asked members of the Board if it would be possible to change the current policy on grade release. She indicated that currently notification was sent to those who had successfully passed all 4 parts of the exam after the Board had a chance to ratify the grades. This was causing a long gap between when the candidates knew that they had passed the exam and when they received official notice from the Board. Mr. Allen moved and Mr. Bottenberg seconded to change the current policy on releasing the grades to allow a Board member to review the grades and approve them for mailing once the grade files had been received from NASBA and the scores compiled, rather than having to wait until the next Board meeting for the grades to be ratified. Upon a vote, the motion carried.

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

A. The Board reviewed a list of Peer Reviews due and “in process”. Mr. Allen moved and Mr. Smoll seconded that any firm or individual who did not comply with their Peer Review due date would be issued a Summary Order of Suspension of firm registration and/or permit (whichever is applicable), 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.

Ms. Somers reported that an “in process” letter had been received from Murray Vendetti. Given the circumstances concerning Mr. Vendetti’s Peer Review, Mr. Allen moved and Mr. Van Norden seconded to give Mr. Vendetti until May 31, 2007 by which time to submit a Peer Review “in process” or letter of completion. Upon a vote, the motion carried.

B. The Board reviewed a request from Regier Carr & Monroe concerning the transfer of “profits interest” from a partner in the firm to another legal entity formed by that partner. The Board concluded that based upon the facts presented in the letter, it didn’t appear that there was a conflict with the law.

C. The Board reviewed a request from Ernst & Young concerning the performance of due diligence activities in Kansas and whether or not it would be considered the practice of certified public accountancy. The Board determined that in fact it falls under the definition of practice and therefore would require licensure either by reciprocity or notification, whichever is applicable.

D. The Board reviewed a request from Richard Mikesic for approval of a Police Department Citizens Academy course for CPE credit. The Board determined that the course did not qualify for CPE credit.

4. COMPLAINT/DISCIPLINARY MATTERS:

9:30 AM to 10:30 AM: The following representatives of firms were required to appear before the Board for practicing without a firm registration. Their firm registrations had been issued conditionally upon their appearance before the Board to determine the fine to be imposed:

Curtis Henderson, CPA, LLC (Curtis Henderson)
Ann Robertson, CPA, P.A. (Ann Robertson)
ACT III (Chearie Donaldson)—Failed to appear.
Herfordt Shelton Mertens & Couch, P.C. (Janet Fanska)
Hettenbach & Langdon, CPAs, P.A. (Bruce Hettenbach and Patricia Langdon)

John Dupuy, P.C. (John Dupuy)
Greg Heidrick, CPA, PA (Greg Heidrick)

The Board, after addressing each firm individually, went into executive session with general counsel, to deliberate the matters.

When the Board reconvened, the following motions were made:

Curtis Henderson, CPA, LLC: Mr. Allen moved and Mr. Van Norden seconded to impose a fine of \$500, due within thirty days of the date of the Order issued by the Board, which cannot be paid by credit card. Upon a vote, the motion carried, with Mr. Johnson not voting.

Ann Robertson, CPA, PA: Mr. Allen moved and Mr. Smoll seconded to impose a fine of \$500, due within thirty days of the date of the Order issued by the Board, which cannot be paid by credit card. Upon a vote, the motion carried, with Mr. Johnson not voting.

Act III (Chearie Donaldson, CPA): Ms. Donaldson failed to appear before the Board, which would result in revocation of her firm registration. However, Mr. Bottenberg moved and Mr. Van Norden seconded to stay the revocation, pending the appearance of Ms. Donaldson at the Board's meeting to be held June 29, 2007. If she fails to appear at the June 29, 2007 meeting, her firm registration and her permit to practice will be revoked. Upon a vote, the motion carried, with Ms. Powell and Mr. Johnson not voting.

Herfordt Shelton Mertens & Couch, P.C: Mr. Smoll moved and Mr. Van Norden seconded to impose a fine of \$250, to be paid within thirty days of the date of the Order issued by the Board, which cannot be paid by credit card. Upon a vote, the motion carried, with Mr. Johnson not voting.

Hettenbach & Langdon, CPAs, P.A.: Mr. Bottenberg moved and Mr. Smoll seconded to impose a fine of \$250, payable within 30 days of the date of the Order issued by the Board, which cannot be paid by credit card. Upon a vote, the motion carried, with Mr. Johnson not voting.

John Dupuy, P.C.: Mr. Van Norden moved and Mr. Bottenberg seconded to impose a fine of \$250, payable within thirty days of the date of the Order issued by the Board, which cannot be paid by credit card. Upon a vote, the motion carried, with Mr. Johnson not voting.

Greg Heidrick, CPA, PA: Ms. Powell moved and Mr. Smoll seconded, to impose a fine of \$250, payable within thirty days of the date of the Order issued by the Board, which cannot be paid by credit card. Upon a vote, the motion carried, with Mr. Johnson not voting.

10:30 AM **GREG HEIDRICK, CPA, PA:** Ms. Powell recused herself from this matter. Mr. Heidrick appeared before the Board for approval of a Consent Order imposing a public censure, proof of completion to the Board of the AICPA Comprehensive Ethics exam with a score of 90% or higher by June 30, 2007, and a \$250 fine for failure to file taxes collected on behalf of others. Mr. Allen moved and Mr. Van Norden seconded to approve the Consent Order. Upon a vote, the motion carried, with Ms. Powell not voting.

11:00 AM **GOTTLIEB FLEKIER & & CO., P.A.:** Mr. Smoll and Mr. Bottenberg recused themselves from this matter. Jerrold Gottlieb appeared on behalf of the firm, along with his counsel, Bob Alderson, for approval of a Consent Order imposing a public censure and a \$2000 fine for failure to answer a question on the firm renewal registration in compliance with K.S.A. 1-311(a)(1)—Fraud or deceit in obtaining a certificate, permit, registration or notification. Mr. Allen moved and Ms. Powell seconded to approve the Consent Order. Upon a vote, the motion carried, with Mr. Smoll and Mr. Bottenberg not voting.

11:30 AM **W.S. PIROTTE, CPA, PA:** Mr. Van Norden and Mr. Johnson recused themselves from this matter. Mr. Pirotte appeared before the Board for approval of a Consent Ordered imposing a public censure and a \$500 fine for failure to file his income tax returns and for practicing under a firm name that was misleading concerning the legal form of the firm, as his professional association's status was forfeited by the Kansas Secretary of State in 1998. Ms. Powell moved and Mr. Smoll seconded, to approve the Consent Order. Upon a vote, the motion carried, with Mr. Johnson and Mr. Van Norden not voting.

5. LEGISLATIVE MATTERS/REGULATION MATTERS:

A. Ms. Somers reported to the Board that the Governor had signed HB 2561, the technical amendment bill, and HB2314, the education bill relating to the type of credits accepted by the Board toward the 150 hour education requirement. She also reported that there were two other bills that were either in Committee or Conference Committee that could potentially have an effect on the Board and practitioners—SB351, which would require the Board to utilize the Office of Administrative Hearings for disciplinary matters, rather than the Board hearing the matters; and HB2548, which would require practitioners to obtain a “verification” from the Kansas Department of Revenue in order to obtain initial licensure, reinstatement or renewal of a license or registration. She reported that a fiscal impact statement was filed on SB351, which essentially could cost the Board \$102,150 the first year if it were to be enacted. The Bill would have a large fiscal impact on the agencies, and would take away one of the primary responsibilities of the regulatory boards. A letter, signed by various agencies and commissions, was sent to the members of the Conference Committee requesting that the matter be tabled.

Mr. Bottenberg discussed the effects of SB66, the gaming bill, which could be interpreted to require those who are appointed by the Governor to serve on Boards and Commissions and also represent gaming clients, to terminate their representation. The prohibition on representing gaming clients would also extend to immediate family members of persons serving on state boards and commissions. He indicated that this was not a formal legal opinion, but that those on the Board who represent gaming clients should be aware of the potential problem. Even though the Governor had signed the Bill, and the law had taken affect, perhaps legislation could clarify the ambiguity during the veto session, or emergency rule and regulation could be promulgated to correct the situation caused by the legislation. Both Ms. Somers and Mr. Bottenberg indicated that they would watch the legislation and report back to the Board.

B. Ms. Somers requested that since the Board's legislation had passed, the rule and regulation process needed to commence. Therefore, Mr. Allen moved and Mr. Smoll seconded to authorize Ms. Somers, Ms. Nohe and Bert Denny to promulgate necessary rules and regulations. Upon a vote, the motion carried.

6. ADJOURN

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

/s/ Susan L. Somers

Susan L. Somers, Executive Director