

**MINUTES OF THE KANSAS BOARD OF ACCOUNTANCY
APRIL 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; Jeffrey Bottenberg, Public Member; Jeffrey Leiserowitz, CPA; Patricia O'Sullivan, Public Member; 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; Tom Penka and Joyce Schartz, Public Accountants Association.

The Board welcomed Daniel Sweetwood, Executive Director of the Nebraska State Board of Public Accountancy. Mr. Sweetwood briefly addressed the Board about issues that the Nebraska Board was facing and opened up the discussion for questions from the Board. Some members of the Board inquired about Nebraska's mobility/practice privilege policy in that it was perceived as being more onerous on a CPA from outside Nebraska to practice in Nebraska through via mobility than it is for a Nebraska CPA to practice in Kansas via mobility. The true spirit of the mobility concept was to permit individuals in good standing to move freely from state to state, but require the firms to register in a state if they were performing attest services. In Nebraska, a non-resident CPA associated with a registered firm must also be licensed and must meet the specific Nebraska CPE standards. The Board believes that Nebraska law runs contrary to the mobility concept. The Board strongly encouraged Mr. Sweetwood to take the matter back to the Nebraska Board to urge them to simplify the practice of mobility in their state in a manner consistent with the intent of the Uniform Accountancy Act.

B. CONSENT CALENDAR:

The Board reviewed the minutes of the January 28, 2011 and February 4, 2011 meetings; reciprocity certificates/permit to practice/firm registrations; and the March 31, 2011 financials. Mr. Bottenberg moved and Ms. O'Sullivan seconded to approve. Upon a vote, the motion carried.

2. CPA EXAM:

A. Mr. Leiserowitz moved and Mr. Van Norden seconded to ratify the exam grades previously approved by Mr. Van Norden for the January/February 2011 testing window. 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 requests for waivers of courses required to be taken in order to be eligible to sit for the CPA exam from the following exam candidates:

1. Jonathan Anderson: Based upon good cause, Ms. O'Sullivan moved and Mr. Leiserowitz seconded to approve the request for waiver of 2 hours of accounting. Upon a vote, the motion carried.

2. Mary Jo Struttman: Based upon good cause, Mr. Leiserowitz moved and Mr. Bottenberg seconded to waive 3 hours of accounting. Upon a vote, the motion carried.

3. James Marsicek: Based upon good cause, Mr. Van Norden moved, and Mr. Leiserowitz seconded to waive the computer applications course. Upon a vote, the motion carried.

D. The Board reviewed a request from Gleim Publications and NASBA for release of a list of the eligible and successful CPA exam candidates. After conferring with counsel, and in reviewing the Kansas Open Records Act, it was determined that exam applicant's names shall be sold or given to organizations providing professional educational materials or courses for the sole purpose of providing applicants with information relating to the availability of educational materials or courses. Lists of names and addresses of person licensed or issued certificates or permits may be sold or given to organizations of person who practice that profession for membership, informational or other purposes related to the practice of the profession, such as the AICPA and the Kansas Society of CPAs. Mr. Leiserowitz moved and Ms. O'Sullivan seconded, that in accordance with K.S.A. 45-230, NASBA and the Board may release information in a manner consistent with K.S.A. 45-230. Upon a vote, the motion carried.

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

A. The Board reviewed the list of Peer Reviews due and in process. Mr. Bottenberg moved, and Ms. O'Sullivan 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 June 10, 2011 and July 22, 2011, unless otherwise warranted. Upon a vote, the motion carried.

B. Discussion of the H & R Block tax course, which came about as a result of an application for reinstatement of Charles Floyd’s permit to practice, was tabled to the June meeting. However, Ms. Somers reported that when Mr. Floyd submitted his application for reinstatement of his permit to practice, he was unable to provide the required certificates of attendance for the courses that he claimed that were tied to the H & R Block tax course and he subsequently requested a refund of his application fee. The Board confirmed that the fees are non-refundable and he is to be advised accordingly.

C. Discussion of CPE was tabled to the June meeting.

D. The Board reviewed a request from Dennis Edwards for an extension to complete his Peer Review, which was due to be completed by March 31, 2011. Mr. Allen moved and Ms. O’Sullivan seconded to extend his due date to July 31, 2011. Upon a vote, the motion carried.

E. The Board reviewed a request from Michael Clark for an extension to complete his Peer Review, which was due to be completed by April 30, 2011. Mr. Leiserowitz moved and Mr. Allen seconded to extend his due date to May 31, 2011. Upon a vote, the motion carried.

F. Ms. Somers reported that permit renewal applications would be mailed the following week for permits that expire June 30, 2011. She requested affirmation from the Board as to their policy regarding CPE audit procedures. Mr. Allen moved and Mr. Leiserowitz seconded to require that approximately 25% of those renewing each year will be chosen for audit, to include any one that had been disciplined within the last two years. Upon a vote, the motion carried.

4. OTHER:

A. Further discussion of mobility/practice privilege, other than the discussion had with Mr. Sweetwood from the Nebraska Board, was tabled to the June meeting.

B. The request for presentation on Peer Review from Jim Brackens of the AICPA was tabled to the June meeting.

5. HEARINGS:

A. **ERIC BUR CONSENT ORDER:** Mr. Van Norden and Mr. Leiserowitz recused themselves from the matter. Mr. Bur appeared in person, along with his counsel Joel Krieger, of Wallace Saunders Austin Brown and Enochs, Overland Park, KS, and Michael Ungar (by telephone) of McDermott Will & Emery, Washington, D.C., as a condition of the Consent Order arising from a disciplinary action taken against Mr. Bur by the Securities and Exchange Commission. The Consent Order requires that Mr. Bur's CPA certificate be suspended until February 17, 2012; payment of a \$1,000 fine, reimbursement to the Board of costs incurred in the matter, which cannot be paid by credit card, and disclosure of certain information to the Board. Ms. O'Sullivan moved and Mr. Bottenberg seconded, to approve the Consent Order. Upon a vote, the motion carried, with Mr. Van Norden and Mr. Leiserowitz not participating.

B. **SAMUEL FOREMAN CONSENT ORDER:** Ms. O'Sullivan recused herself from this matter. Mr. Foreman appeared before the Board as a condition of the Consent Order for failure to timely file his personal tax returns. The Consent Order requires that Mr. Foreman provide proof of timely filing of his personal tax returns for tax years 2010 to 2014; and payment of a \$500 fine, plus costs incurred in the matter, which cannot be paid by credit card. Mr. Foreman's application for CPA certificate is to be granted provided that he otherwise qualifies for receipt of a certificate pursuant to Kansas law. Mr. Allen moved and Mr. Leiserowitz seconded to approve the Consent Order. Upon a vote, the motion carried, with Ms. O'Sullivan not participating.

C. **LEON LOGAN, LEON LOGAN, CPA, PA:** Ms. O'Sullivan recused herself from this matter. Mr. Logan and Leon Logan, CPA, PA, appeared before the Board as a condition of the Consent Order for failure to timely pay withholding taxes. The Consent Order requires that Mr. Logan complete the AICPA Comprehensive Ethics Exam with a score of 90% or higher, which cannot be used for permit renewal purposes; provide proof of timely filing and payment of federal and state withholding taxes for tax years 2011 through 2015; and pay a fine in the amount of \$1,000, plus costs incurred in the matter, which cannot be paid by credit card. Upon a vote, the motion to approve the Consent Order carried, with Ms. O'Sullivan not participating.

D. **MERIDIAN BUSINESS SERVICES CONSENT ORDER:** Ms. O'Sullivan recused herself from this matter. Amy Goode, owner of Meridian Business Services, appeared before the Board as a condition of the Consent Order for practicing without a firm registration. The Consent Order requires Meridian Business Services to pay a fine in the amount of \$250.00, plus costs

incurred in the matter, which cannot be paid by credit card. Upon a vote, the motion to approve the Consent Order carried, with Ms. O'Sullivan not participating.

E. RANDELL REITZ CONSENT ORDER: Mr. Bottenberg recused himself from this matter. Mr. Reitz appeared before the Board as a condition of the Consent Order arising from his conviction for a third DUI, a felony. The Consent Order requires that Mr. Reitz's Kansas certificate and permit be revoked, with the revocation stayed, provided that Mr. Reitz is not ever arrested for another DUI, that he pay a fine in the amount of \$500 and costs incurred in the matter, which cannot be paid by credit card, and his acceptance of a censure. Upon a vote, the motion to approve the Consent Order carried, with Mr. Bottenberg recusing himself from the matter.

F. MAPES & MILLER: Mr. Conklin reported to the Board that this matter was removed from the docket. Due to the legislative action in the 2011 session and the representations of Mapes & Miller, the Board investigator declined to formulate and enter into a Consent Agreement at this time.

G. WILLIAM S. PIROTTE AND W. S. PIROTTE, CPA, PA DISCIPLINARY HEARING: Ms. O'Sullivan recused herself from this matter. Mr. Pirotte and W.S. Pirotte, CPA, PA, appeared before the Board for hearing relating to alleged violations of the accountancy statutes and regulations. After testimony was given, Mr. Van Norden moved 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 in open session, Mr. Bottenberg moved and Mr. Leiserowitz seconded, that Mr. Pirotte and W.S. Pirotte, CPA, PA were subject to sanction pursuant to K.S.A. 1-311 and K.S.A. 1-312. The Board then ordered that Mr. Pirotte's Kansas CPA certificate and permit and the firm registration of W. S. Pirotte, CPA, P.A., be suspended until further order of the Board. Further, Mr. Pirotte is to return his Kansas CPA certificate, his permit to practice and his firm's registration to the Board within 30 days of the date of the Final Order. Mr. Pirotte is to notify his audit client of the suspensions. Upon a vote, the motion carried, with Ms. O'Sullivan not participating.

H. WILLIAM A. O'CONNOR, W. A. O'CONNOR, CPA, LLC, AND PATHWAY MANAGEMENT FINANCIAL ADVISORS, LLC: Ms. Powell recused herself from this matter. Mr. O'Connor, W.A. O'Connor, CPA, LLC and Pathway Financial Management Advisors, LLC appeared before the Board in person, along with counsel Joel Krieger, of Wallace Saunders Austin Brown and Enochs, Overland Park, KS, for hearing relating to alleged violations of the accountancy statutes and regulations. After testimony was given, Ms. O'Sullivan moved and Mr. Leiserowitz seconded for the Board to go into closed session for twenty minutes to deliberate the matter. Upon a vote, the motion carried.

When the Board reconvened in open session, Mr. Leiserowitz moved and Mr. Allen seconded that Mr. O'Connor be assessed a fine in the amount of \$1,000 for failure to comply with a Board Order and be assessed costs in the matter, which cannot be paid by credit card. The Board further ordered that Mr. O'Connor may complete the two audits currently in process, but that those audits shall be preissuance reviewed by a qualified reviewer approved by Ms. Powell, who shall approve the clearance of comments by the preissuance reviewer before the audit reports are issued. Finally, the Board ordered that in the future, Mr. O'Connor and W.A. O'Connor, CPA, PA shall not perform or offer to perform attest work without the prior approval of the Board. Respondent Pathways Financial Management Advisors was dismissed from the proceeding. Upon a vote, the motion carried, with Ms. Powell not participating.

6. 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