

BOARD OF ACCOUNTANCY MEETING
APRIL 30, 2004
9:00 AM
LANDON STATE OFFICE BUILDING, ROOM 106
TOPEKA, KS

1. ADMINISTRATIVE MATTERS:

A. CALL TO ORDER:

Tim Mitchell, CPA, chair, called the meeting to order. Board members in attendance were Mr. Mitchell; Paul Allen, CPA; Jeff Bottenberg, Public Member; Adley Johnson, CPA; and Ginger Powell, CPA. Also in attendance was Bert Denny, CPA, investigator for the Board; Susan Somers, Executive Director; Mary Feighny, Assistant Attorney General, General Counsel to the Board; Steve Phillips, Assistant Attorney General, Disciplinary Counsel to the Board; and Joyce Schartz, Public Accountants Association.

B. 1-4 CONSENT CALENDAR:

The Board reviewed the minutes of the January 23, 2004 and March 22, 2004 meetings; reciprocity certificates/permits to practice/practice by notification; registrations of new/reorganized firms; and the 03/31/04 receipts and expenditures. Mr. Johnson moved and Ms. Powell seconded to approve. Upon a vote, the motion carried.

2. CPA EXAM MATTERS:

A. Ms. Somers reported that as of April 22, 2004, 1700 candidates had sat nationwide for the CPA exam. She also reported that there were over 2,000 candidates scheduled to sit on Friday, May 28 nationwide. To date, there had been no major problems with the exam, other than some small computer glitches. There have been 75 candidates sit for the exam in Kansas since the launch of the computerized exam April 5, 2004.

3. CPE/PEER REVIEW/PERMITS TO PRACTICE/PRACTICE BY NOTIFICATION/RECIPROCITY/FIRM MATTERS:

A. The Board reviewed a list of Peer Reviews either due or in process. Ms. Somers reported that John Brooks had not complied with his most recent due date. Mr. Johnson moved and Mr. Bottenberg seconded to suspend the firm registration and permit to practice of Mr. Brooks and impose a \$250.00 fine, with the suspension being stayed until June 4, 2004, if Mr. Brooks pays the fine and

provides the Board with a letter of completion, or an “in process” letter bearing a June 2004 date. Upon a vote, the motion carried.

The Board noted that there were 11 firms who had provided another “in process” letter and needed new due dates. Mr. Johnson moved and Ms. Powell seconded to extend the due dates of these firms until June 4, 2004, by which time they are to provide the Board with a Peer Review letter of completion, or another “in process” letter bearing a June 2004 date. Upon a vote, the motion carried.

B. Ms. Somers reported that the firm of Robert A. Knight & Company, LLC had failed to register as a firm with the Board. A Cease and Desist Order had been issued January 26, 2004 ordering him to cease practicing as a firm and sent by certified mail, return receipt requested. The return receipt was signed by Mr. Knight. Ms. Somers reported that Mr. Knight had not contacted the Board office relative to the Cease and Desist Order, so the presumption was that he was still practicing under the firm name. She also pointed out to the Board that the firm’s Peer Review expired in September of 2003, and that his permit to practice would expire June 30, 2004. Mr. Johnson moved and Ms. Powell seconded to request the Attorney General to bring an injunction on behalf of the Board against Robert A. Knight & Company, LLC for practicing without a firm registration. Upon a vote, the motion carried.

C. The Board reviewed a request from Brad Palen, CPA, of Kennedy & Coe, LLC for approval of a personal development course for CPE credit. Mr. Johnson reported that he had met with Mr. Palen and had reviewed the subject matter of the course, and had determined that up to 20.5 hours of the hours taken between July 1, 2003 and June 30, 2004 could qualify for CPE credit. The Board determined that it would accept Mr. Johnson’s review and determination of the qualifying CPE credit for the course for the period ended June 30, 2004, provided that Mr. Palen provided a letter from the course provider that he did in fact attend the segments of the course that he would be claiming for CPE credit. The Board also wanted to make it clear that it does not pre-approve CPE courses and that there are specific guidelines in the Regulations pertaining to CPE courses. Any inquiries in the future would be responded to with a direction that the individual practitioner must make a judgment as to whether or not the course contributed to his or her own practice as a CPA, in addition to meeting the other requirements outlined in the Regulations.

D. The Board reviewed documentation pertaining to a Peer Review of an out of state firm that had been “in process” since June of 2002. Mr. Denny had been instructed to review the Peer Review documents and make a report to the Board. Mr. Denny reported that based upon his review of the information provided, he felt that the firm was continuing to comply with the provisions of the Peer Review. Mr. Allen moved and Mr. Bottenberg seconded to extend the due date for the permit holders to submit a Peer Review letter of completion, or an “in

process” letter to January 14, 2005. If the firm submits another “in process: letter, it must bear a January 2005 date. Upon a vote, the motion carried.

4. DISCIPLINARY MATTERS:

A. 9:30 AM JEROME TILZER—REQUEST FOR REINSTATEMENT OF CPA CERTIFICATE. Mr. Tilzer appeared without counsel before the Board to request reinstatement of his CPA certificate that was suspended in 1999 for failure to comply with Peer Review. Mr. Tilzer informed the Board that he had experienced some difficult times in the past few years, with his wife being diagnosed with cancer, and subsequently passing away, but wanted to “get his life back in order”. He admitted that he had continued to practice as a CPA, preparing tax returns, consulting, bookkeeping services, but wasn’t doing audits anymore. He told the Board that he had a Missouri permit to practice, and was practicing out of his home located in Leawood, KS. The Board noted that he did not comply with the provisions of the Order of Suspension issued in 1999, in that he did not return his CPA certificate and permit, and continued to hold out and practice as a CPA in Kansas without a Kansas permit to practice. The Board also noted that he had not been honest in reporting the discipline taken by this Board to the Missouri board of Accountancy when renewing his permit in that state, and that, according to the Kansas Secretary of State, he had continued to register the firm name of Jerome S. Tilzer, CPA, P.A. in Kansas.

At 9:55 AM, Ms. Powell moved and Mr. Johnson seconded to go into Executive session for 20 minutes to discuss the matter. Upon a vote, the motion carried.

At 10:20 AM, the meeting was reconvened, whereupon Mr. Allen moved and Ms. Powell seconded to deny the reinstatement request of Mr. Tilzer until such time as Mr. Tilzer has fully complied with the original disciplinary Order and returns the CPA certificate and permit to practice as originally instructed and ceases practicing as a CPA in the State of Kansas. Upon a vote, the motion carried. Mr. Bottenberg recused himself during deliberations of this matter and did not participate in the vote.

10:00 AM MICHAEL LOY—DISCIPLINARY HEARING. Mr. Loy failed to appear at the hearing, not did he request a continuance of the hearing, and therefore he was deemed to be in default.

Mr. Phillips, disciplinary counsel to the Board, urged the Board to issue a proposed Default Order accepting the allegations in the Petition, along with accompanying exhibits; i.e., two civil judgments of fraud, suspension of practice before the IRS, and issuance of eleven school district audit reports without having a Kansas permit to practice. Mr. Phillips urged the Board to accept the allegations contained in the Petition as true, impose a fine of \$2,000 and revoke Mr. Loy’s CPA certificate.

Ms. Powell moved and Mr. Johnson seconded to revoke the CPA certificate of Mr. Loy and impose a fine of \$2,000. Upon a vote, the motion carried. Further, upon motion of Ms. Powell and seconded by Mr. Johnson, Ms. Somers is instructed to write a letter to the U.S. Department of Education, the Kansas Board of Education, and the Municipal Audit Section of the Division of Accounts and Reports of the Kansas Department of Administration that the school district audits issued by Mr. Loy were not issued in accordance with Kansas and Federal law. Upon a vote, the motion carried.

10:30 AM THOMAS POPPE—DISCIPLINARY HEARING. Mr. Poppe appeared without counsel before the Board for the issuance of an ERISA audit without having a Kansas permit to practice. In 2001, Mr. Poppe's permit and certificate were suspended for failure to comply with Peer Review. It subsequently came to the attention of the Board that he had issued an ERISA audit as a CPA for a Kansas client, without having a valid Kansas permit to practice.

Mr. Poppe admitted to issuing the ERISA audit, in addition to other audits, and preparation of tax returns (one of which he brought with him that was introduced into evidence). He told the Board that he did not sign tax returns as a CPA, but had prepared audits as a CPA. Mr. Poppe stated that he had never had a Peer Review as required by Kansas, that he had experienced several health problems, and that he hadn't had a Missouri permit to practice since 2002 because he couldn't get the CPE that was required. He told the Board that he was practicing out of his home in Leawood, KS but that he wasn't holding out in the telephone book as a CPA.

At 11:05 AM, Mr. Allen moved and Mr. Bottenberg seconded to go into executive session for twenty minutes to deliberate the matter. Upon a vote, the motion carried.

At 11:20 AM, the Board reconvened, at which time Ms. Powell moved and Mr. Johnson seconded to revoke the CPA certificate of Mr. Poppe and further that Mr. Poppe is to return his CPA certificate to the Board within thirty days of the date of the Order. Upon a vote, the motion carried. Mr. Mitchell recused himself during deliberations of this matter and did not participate in the vote.

5. REGULATION MATTERS:

The Board was provided with a preliminary draft of amendments to the Rules and Regulations. Mr. Denny had been asked to review the Board's Rules and Regulations and make recommendations to Ms. Somers and Ms. Feighny. Mr. Denny indicated that the primary points found in the amendments were relative to materials adopted by date; contradiction of Standards; reconciling

disparities between our Regulations and the ever-evolving profession; reference to the AICPA's Code of Professional Conduct, Securities and Exchange Commission, Public Company Accounting Oversight Board; modification of the Peer Review Program with regard to the inspection process; and other minor amendments made for clean-up and clarification purposes. Mr. Bottenberg moved and Mr. Johnson seconded to authorize the Attorney General and the Executive Director, along with the assistance of Mr. Denny, to finalize revisions and commence the process of amending the Board's Rules and Regulations. Upon a vote, the motion carried.

6. OTHER:

A. Ms. Somers reported that the National Center for Competency Training, which had been offering a credential known as the "Registered CPA Assistant", after receiving official notification from the Kansas Attorney General, had withdrawn its offering of the credential and had removed all reference to it on its web page.

B. At 12:55 PM, upon motion of Mr. Allen and seconded by Mr. Johnson, the Board went into executive session for the purpose of attorney/client privilege for ten minutes. Upon a vote, the motion carried.

At 1:05 PM, the Board reconvened its regular meeting, at which time Ms. Powell moved and Mr. Johnson seconded to adjourn. Upon a vote the motion carried.

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