

**MINUTES OF THE KANSAS BOARD OF ACCOUNTANCY
MAY 19, 2006
9:00 AM, LANDON STATE OFFICE BUILDING, ROOM 106
TOPEKA, KS**

1. ADMINISTRATIVE MATTERS:

A. CALL TO ORDER:

Ginger Powell, CPA, called the meeting to order. Board members participating in the meeting were Ms. Powell; Paul Allen, CPA; Jeff Bottenberg, Public Member; Adley E. Johnson, CPA; Pat O'Sullivan, Public Member; and Kent Smoll, 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 of Kansas.

B. 1-3 CONSENT CALENDAR:

The Board reviewed the minutes of the April 21, 2006 meeting; reciprocity certificates/permits to practice; practice by notification; firms; and the April 30, 2006 financials. Mr. Johnson moved and Ms. O'Sullivan seconded to approve. Upon a vote, the motion carried.

2. CPE/CERTIFICATE/PERMIT TO PRACTICE/PEER REVIEW/FIRM REGISTRATIONS:

A. The Board reviewed a list of Peer Reviews due and in process. No action was required to be taken.

B. The Board reviewed a request from Donald Schrick for waiver of Peer Review which is due June 30, 2006. Mr. Schrick had issued a HUD audit in November of 2005. Mr. Johnson moved and Mr. Smoll seconded to deny his request. Upon a vote, the motion carried.

C. The Board reviewed a request for extension of Peer Review from Larry Douglas. Mr. Douglas' Peer Review expires June 30, 2006; however, he was asking for an extension to September 30, 2006 to cover some municipal audits that were issued. Mr. Allen moved and Ms. O'Sullivan seconded to approve the request to extend his Peer Review due date to September 30, 2006, with no further extensions being granted. Upon a vote, the motion carried.

D. The Board reviewed a firm registration application received from Gudenkauf & Malone, Inc. Neither Ms. Gudenkauf nor Mr. Malone appeared;

however, their attorney Joel Krieger was present. Ms. Somers reported to the Board that the reason the firm registration was brought to their attention was because of an answer made to a non-CPA owner disclosure question, where the firm indicated that their non-CPA owner was ultimately responsible for the issuance of compilation reports. The firm had provided a copy of a compilation report issued in the past by the non-CPA owner, which was issued on the former firm name's letterhead (Gudenkauf, Morris & Brock, Inc.) referencing the Statements on Standards for Accounting and Review Services adopted by the Public Accountants Association of Kansas. The Board questioned how that compilation report was even included in a Peer Review, since that firm was not a CPA firm, and the compilation report referenced the Public Accountants Standards. Nevertheless, the matter at hand was whether or not the non-CPA could take responsibility for the issuance of compilation reports of the firm, which the Board determined would be a violation of the accountancy laws and the professional standards. Mr. Krieger was told to advise his clients that a CPA in the firm would have to review and sign-off on the compilation reports in order to be in compliance with GAAP reporting. Mr. Krieger was also told to remind his clients that their Peer Review letter of completion, or "in process" letter was due in the Board office by June 13, 2006. Mr. Krieger inquired as to the placement of the non-CPA owner's name on the firm's letterhead. Ms. Somers had previously advised Mr. Krieger that the name should appear on the right-hand side of the letterhead, away from the listing of the CPA owners of the firm, which the Board affirmed. In conclusion of the matter, Mr. Krieger was told that his clients would have to refile the firm registration application eliminating reference to the non-CPA's responsibility for the issuance of the compilation reports, and to affirm in writing that the CPA's in the firm will be ultimately responsible for the issuance of the compilation reports of the firm.

E. The Board reviewed proposed changes to the Peer Review Reporting process as proposed by the AICPA, whereby the Peer Review letter of completion would be eliminated, and the Peer Review Report would be written in "plain English". Further revisions would include eliminating the terms "modified" or "adverse" and using other terminology, to be determined, to indicate whether a firm's practice is good or needs improvement. The Board, after discussion, determined that it had no particular opposition to the proposed changes; however, the changes would require an amendment to current statutes, so an adequate time frame would be required in order to facilitate legislative action. Mr. Allen suggested that perhaps the AICPA could establish some sort of "bridge" language in the Standards, much like was done with the implementation of the Center for Peer Review.

F. The Board reviewed an application for a CPA certificate and permit to practice from Jonathan Mounce, who indicated that he had pled guilty to a misdemeanor. Ms. Somers reported that she had requested a copy of the plea agreement, but had not yet received it. The Board tabled this matter to another meeting pending receipt of the court documents relating to the plea agreement.

3. COMPLAINT/DISCIPLINARY MATTERS:

A. 10:00 AM POLLY MCCALL:

Ms. McCall appeared before the Board for failure to register her fictitious firm name (Meadowlark Accounting), false advertising, and failure to cooperate with the Board. Ms. McCall did not register her firm name for 2006 with the Board, because unbeknownst to the Board, she had commenced employment with another firm in November of 2005 and was unable to cancel her ad in the Southwestern Bell Company Yellow Pages. She was sent a Cease and Desist Order January 30, 2006, advising her to cease and desist practicing as a firm because the firm was not registered. The Board was not aware that the firm was no longer in business and that her mailing address had changed. On February 15, 2006, Ms. Somers sent her a certified letter, return receipt requested as provided for in K.A.R. 74-5-407, inquiring as to whether or not the firm was practicing and to respond to the Board, in writing, within 30 days of the date of the letter. She did not respond within the thirty days as prescribed by the Regulation

Mr. Smoll moved and Ms. O'Sullivan seconded for the Board to go into executive session for 15 minutes to deliberate the McCall matter. Upon a vote, the motion carried.

When the Board reconvened, Mr. Bottenberg moved and Mr. Johnson seconded to censure Ms. McCall for failure to cooperate timely with the Board and impose a fine \$750, to be paid within thirty (30) days of the date of the Certificate of Service on the Final Order, and which cannot be paid by credit card. Upon a vote, the motion carried.

B. 10:30 AM HOLMES & ASSOCIATES, CHARTERED, ROBERT N. HOLMES, JR.:

Ms. Powell recused herself from this matter. Mr. Holmes appeared before the Board with members of his staff--Twila Theimer, Phil Flick and Kathy Stevenson; for false and misleading advertising, and failure to cooperate with the Board. The Topeka Southwestern Bell Company telephone book lists the firm under the subheading of "Accountants, Certified Public" and lists the names of Bob Holmes, Twila Theimer, Phil Flick, John Quinlan and Jeff Burgess. Mr. Burgess has never held a permit to practice, and at the time the ad was placed, Mr. Flick had a permit, but it lapsed July 1, 2005. Ms. Somers had previously written a letter to Mr. Holmes warning him that Mr. Flick's permit had lapsed and that Mr. Flick had been ordered not to practice certified public accountancy. On January 17, 2006, Ms. Somers wrote a certified letter, return receipt requested, to Mr. Holmes inquiring as to the telephone book ad that listed two individuals who did not have valid permits to practice, which he was to respond to within thirty days of the date of the letter. While the Board correspondence was

received by an employee of the firm, both letters were never delivered to Mr. Holmes until May 1, 2006, the date the Petition for this disciplinary hearing was delivered to Mr. Holmes.

Mr. Bottenberg moved and Ms. O'Sullivan seconded, for the Board to go into executive session for fifteen minutes to deliberate the Holmes matter. Upon a vote, the motion carried.

When the Board reconvened, Mr. Bottenberg moved and Ms. O'Sullivan seconded that the firm be censured for failing to cooperate timely with the Board and impose a fine of \$2,000 to be paid on or before December 31, 2006, or, in lieu of the fine, procure a practice management review from a company approved by the Board. The practice management review shall include, but not be limited to: firm organization, internal controls, policies, procedures, paper flow, quality control, and administration. If Mr. Holmes chooses the practice management review option in lieu of paying the fine, he shall notify the Board and shall provide a copy of the report to the Board on or before December 31, 2006. The firm registration for the calendar year 2007 shall be conditioned upon compliance with the recommendations in the report or payment of the fine. Upon a vote, the motion carried.

C. 10:30 AM PHILIP FLICK:

Mr. Flick appeared before the Board for practicing without a permit to practice. Mr. Flick's permit to practice expired on July 1, 2005. The Board recently received his application to renew his permit, wherein he indicated that he was practicing certified public accountancy without a permit to practice.

Mr. Bottenberg moved and Ms. O'Sullivan seconded, for the Board to go into executive session for ten minute to deliberate the Flick matter. Upon a vote, the motion carried.

When the Board reconvened, Ms. O'Sullivan moved and Mr. Johnson seconded that because Mr. Flick received a Cease and Desist Order on August 4, 2005, ordering him not to practice certified public accountancy; because of his diverting correspondence from Mr. Holmes relative to his permit status; and because of his not renewing his permit in a timely manner, caused a chain of events resulting in his employer being disciplined by the Board, he is fined in the amount of \$2,000, which is to be paid within thirty days of the date on the Certificate of Service of the Final Order, and which cannot be paid by credit card. Upon a vote, the motion carried.

D. Ms. Somers informed the Board that the names Thomas Stelle and Ronald Kowalewski, whose certificates were revoked by the Board in 1998 and 2002, respectively, continue to appear in the Kansas City Phone Book yellow page ads under the heading "Accountants, Certified Public". The accountancy

laws provide for injunctive relief if this occurs, and the Board instructed Ms. Mitchell to pursue the matters in the appropriate District Court.

4. OTHER

The Board reviewed K.A.R. 74-5-403, the “Advertising and Other Forms of Solicitation” regulation in respect to telephone book ads that had been placed where persons who hold CPA certificates, but not permits to practice, were using the CPA designation after their name, or ads which included CPAs and non-CPAs. The Board believes it to be a violation of the law for a person to hold out using the CPA designation without a permit to practice, and for firms to include non-CPA owners in their firm ads. The Board asked Ms. Feighny to look at the issue of “holding out” and felt that it would be necessary to expand the Regulation. The Board postponed this matter to a future date after Ms. Feighny has had an opportunity to review the matter.

5. ADJOURN

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

/s/ Susan L. Somers

Susan L. Somers, Executive Director