

**MINUTES OF THE KANSAS BOARD OF ACCOUNTANCY
JULY 17, 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; Kent Smoll, CPA and Rodney Van Norden, 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; John Jarvis and Joyce Schartz, Public Accountants Association.

B. 1-2 CONSENT CALENDAR:

The Board reviewed the minutes of the June 23, 2006 meeting; reciprocity certificates/permits to practice; practice by notification; and firms. Mr. Smoll moved and Mr. Bottenberg seconded to approve. Upon a vote, the motion carried.

2. CPA EXAM

A. After review of the grades from the April/May 2006 CPA exam testing window, Mr. Smoll moved and Mr. Bottenberg seconded to ratify the grades as previously approved by Ms. Powell. Upon a vote, the motion carried.

B. The Board reviewed a request from the University of Kansas relative to a course offered at the University entitled "ACCT 321—Intermediate Accounting for Finance", and whether or not the Board would accept it as a part of the accounting course requirements to sit for the CPA exam. After review, Mr. Smoll moved and Mr. Johnson seconded that that this course not be accepted to meet the accounting course requirements to sit for the exam, but be accepted for the overall 150 hour education requirement. Upon a vote, the motion carried.

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

A. The Board reviewed a list of Peer Reviews due and "in process". Mr. Johnson moved and Ms. O'Sullivan seconded that any firm or individual who did

not comply with their Peer Review due date prior to the Board's next meeting 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.

B. The Board reviewed a list of persons who indicated they were not going to renew or who could not be located. No action was required to be taken.

C. The Board discussed what action should be taken for late renewals. After discussion, Ms. O'Sullivan moved and Mr. Bottenberg seconded that immediately after July 31, 2006, Cease and Desist Orders would be issued to those who had not renewed their permits ordering them to cease practicing as a CPA, and that if they renewed their permits after August 31, 2006 indicating that they were practicing, they would be issued a permit conditioned upon appearing before the Board and paying a fine to be determined by the Board. Upon a vote, the motion carried.

D. The Board reviewed a list of permit holders who had attempted to renew, but whose renewals were returned. No action was required to be taken.

E. The Board reviewed a request for approval of a firm name from Dan Feng, CPA. Ms. Somers reported that he had renewed his permit using the firm name of Feng & Company, LLC, which, upon her inquiry, was found to not qualify for use of that name. His wife is an owner of that entity, but is not a CPA. Further, she owned 51% of that entity, which is not allowed by the accountancy statutes. He then requested that the Board review the names of Feng's Company, LLC, or Feng Company, LLC. The Board agreed to allow the name of Feng Company, LLC, not Feng's Company, LLC, and instructed Ms. Somers to advise him that he would have to own a majority of the equity and voting rights of the firm.

F. The Board reviewed a request for a waiver of Peer Review from Bruce Vance. Mr. Vance indicated that he had issued an agreed-upon-procedure report in June of 2006, but that he was going to work for a Bank and didn't want to incur the cost of the Peer Review. After discussion, the Board tabled this matter until the August 18, 2006 meeting, in order for him to provide Ms. Somers with a copy of the Report and work papers so that Mr. Smoll and Ms. Powell could review them prior to the Board's next meeting.

G. The Board reviewed a request from Albert Armstrong, Jr. for an extension of time in which to obtain his CPE required for his permit renewal, due to health reasons. Mr. Allen moved and Mr. Van Norden seconded to grant Mr. Armstrong an extension to August 31, 2006 by which time he could renew,

without being subject to a CPE penalty or a late fee. Upon a vote, the motion carried.

H. The Board reviewed a request from Nolan Luke for an extension of time in which to obtain his ethics CPE required for his permit renewal, due to health reasons. Mr. Allen moved and Mr. Johnson seconded to grant Mr. Luke an extension to August 31, 2006 by which time he could renew, without being subject to a CPE penalty or a late fee. Upon a vote, the motion carried.

4. COMPLAINT/DISCIPLINARY MATTERS:

A. 9:30 AM KENNETH KOESTER: Mr. Koester appeared before the Board to appeal a Summary Order of Suspension and fine issued to him for failure to timely comply with Peer Review. Mr. Koester indicated that he had sent an "in process" letter to the Board on June 10, 2006; however, Ms. Somers testified that she had never received that letter, resulting in the issuance of the Summary Order. Mr. Koester said that he was unaware that Ms. Somers would send him a letter acknowledging the "in process" letter, and that is why he never contacted the Board office to see if it had been received.

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

When the Board reconvened, Mr. Van Norden moved and Mr. Allen seconded to vacate the Summary Order. Upon a vote, the motion carried.

B. 10:00 AM LEON LOGAN, LEON LOGAN, CPA, P.A., LOGAN SCHMIDT, LERNER, P.A.: Mr. Logan appeared before the Board with his counsel, Merle Parks. Mr. Allen and Mr. Johnson recused themselves from this matter.

On August 17, 2001, William Schmidt, a principal in Logan Schmidt & Lerner (LS&L) and the firm of LS&L were named defendants, among others, in a lawsuit filed in Johnson County, Kansas.

In January of 2004, Leon Logan (Logan) was the president of LS&L and, in that capacity, submitted a registration application for the firm of LS&L. Logan, on that application, denied that the firm or any individual associated with the firm had been involved in legal proceedings relating to the practice of certified public accountancy within three years prior to registration.

On July 29, 2004, the district court found in favor of the plaintiffs and entered a money judgment against the defendants, including LS&L.

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

When the Board reconvened, Ms. O'Sullivan moved and Mr. Van Norden seconded that the firm of Logan Schmidt & Lerner be censured and fined \$2,000, for violation of K.S.A. 1-312(a)(2) and K.S.A. 1-312(a)(4). The fine is to be paid within thirty days of the date of the Certificate of Service on the Final Order, and cannot be paid by credit card. Upon a vote, the motion carried.

5. OTHER:

A. ELECTION OF OFFICERS:

Mr. Allen nominated Adley E. Johnson, CPA, as the incoming Chair. Mr. Smoll seconded the nomination. Upon a vote, the nomination was approved.

Mr. Johnson nominated Paul Allen, CPA, as the incoming Vice-Chair. Mr. Bottenberg seconded the nomination. Upon a vote, the nomination was approved.

B. Ms. Somers reported that it was necessary for the Board to revise its Regulations to update its materials by reference and other Regulations that have been discussed over the past few meetings and need to be amended; i.e., advertising; notice to the Board of changes in address and business connection; elimination of the Regulation addressing incompatible occupations; and others, if needed. Mr. Allen moved and Mr. Johnson seconded to authorize Ms. Somers, Ms. Feighny and Bert Denny to commence revisions to the Rules and Regulations. Upon a vote, the motion carried.

Further discussion arose concerning the use of the CPA designation in advertising by persons who don't hold a permit to practice, either with another designation, or alone. The Board instructed Ms. Somers to contact Noel Allen, the attorney for NASBA, to find out if any other state had similar issues, and the outcome, if any. Ms. Somers will report back to the Board at the August meeting with any information provided by Noel Allen.

C. Mr. Allen, the Chair of the Task Force assigned to review the accountancy laws, announced that the next meeting of the Task Force will be held Thursday, August 17, 2006, at 1:00 PM, in Room 106 of the Landon State Office Building in Topeka. The main focus of this meeting will be on aspects of the accountancy laws other than the education requirements.

6. EXECUTIVE SESSION:

A. Mr. Smoll moved and Ms. O’Sullivan seconded for the Board to go into Executive Session for 15 minutes under attorney/client privilege in the DeBerry matter. Mr. Allen recused himself and left the meeting. Upon a vote, the motion carried.

7. ADJOURN

After fifteen minutes, the Board reconvened its meeting. There being no further business to come before the Board, upon motion of Ms. O’Sullivan, seconded by Mr. Bottenberg, the meeting was adjourned. Upon a vote, the motion carried.

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