

**MINUTES OF THE KANSAS BOARD OF ACCOUNTANCY  
AUGUST 15, 2008  
9:00 AM, LANDON STATE OFFICE BUILDING, ROOM 106  
TOPEKA, KS**

**1. ADMINISTRATIVE MATTERS:**

**A. CALL TO ORDER:**

Rodney Van Norden, CPA, Chair, called the meeting to order. Board members in attendance were Mr. Van Norden; Jeffrey Leiserowitz, CPA; Paul Allen, CPA; Jeffery Bottenberg, Public Member; Patricia O'Sullivan, Public Member; Ginger Powell, CPA; and Kent Smoll, CPA. Also in attendance were Susan Somers, Executive Director; Darin Conklin, General Counsel to the Board; Derenda Mitchell, Assistant Attorney General, Disciplinary Counsel to the Board; Joyce Schartz and Janet S. Clair, Public Accountants Association; and Tony Scott, Kansas Society of CPAs. Special guests at the meeting were: Noel Allen and Ken Bishop, National Association of State Boards of Accountancy; and Suzanne Jolicoeur, American Institute of Certified Public Accountants.

**B. 1-2 CONSENT CALENDAR:**

A. The Board reviewed the minutes of the July 25, 2008 Board meeting; reciprocity certificate/permits to practice; practice by notification; firms; July 31, 2008 financials; and the FY 2008 Annual Report. Ms. Powell moved and Mr. Bottenberg seconded to approve. Upon a vote, the motion carried.

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

A. The Board reviewed a list of Peer Reviews that were due or "in process". Mr. Leiserowitz moved and Ms. Powell seconded that in the case of firms not timely complying with Peer Review, unless otherwise warranted, a 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 of up to \$2,000 would be issued, with a draft copy of the Summary Order being attached to the letter. 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. 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 December 5, 2008 and the date after that to be January 16, 2009. Upon a vote, the motion carried.

B. The Board reviewed a request from Charlene Harrison for an extension of her Peer Review due date, which is currently August 31, 2008. Mr.

Leiserowitz moved and Ms. Powell seconded to extend her due date to September 30, 2008. Upon a vote, the motion carried.

C. The Board reviewed a list of permit holders that could not be located or that indicated would not be renewing their permits to practice. No action was required to be taken.

D. The Board reviewed a list of permit holders that had not yet renewed. Ms. Somers reported that in accordance with the Board's direction at the previous meeting, Cease and Desist Notices would be sent August 4, 2008 to those who had not renewed, or had not indicated that they weren't renewing.

E. The Board reviewed a request for waiver of Peer Review from Fletcher Bennett, Jr. Mr. Allen moved and Mr. Bottenberg seconded to approve the waiver, provided that Mr. Bennett sign a Consent Order to be prepared by Mr. Conklin agreeing not to accept or perform any attest engagements without prior approval of the Board. Upon a vote, the motion carried.

F. Ms. Somers reported to the Board that she needed guidance on how to handle permit holders who were chosen for audit, but that couldn't document the required hours for renewal. Ms. Powell moved and Mr. Allen seconded that in the case of a person lacking 8 hours or under, they would have 60 days to obtain the hours they were lacking, plus an additional 8 hours of CPE as a penalty, with proof back to the Board within the 60 days. In the event a person was lacking over 8 hours, the individual matters would be assigned to a Board member for possible disciplinary action. Upon a vote, the motion carried.

### **3. HEARINGS/DISCIPLINARY MATTERS:**

**A. 9:15 AM MICHAEL SWISHER, MICHAEL SWISHER, CPA, P.A. CONSENT ORDER:** Ms. O'Sullivan recused herself from this matter. Mr. Swisher appeared before the Board for approval of a Consent Order entered into for failure to timely pay withholding taxes, which required him to appear before the Board, pay a fine in the amount of \$500; submit proof of completion of the AICPA Comprehensive Ethics Exam with a score of 90% or higher; and provide proof of timely filing of his personal and firm income tax returns for years 2007 through 2011 and proof of timely filing and payment of withholding taxes for calendar years 2008 through 2012. Mr. Allen moved and Ms. Powell seconded to approve the Consent Order. Upon a vote, the motion carried, with Ms. O'Sullivan not participating.

**B. 9:30 AM CAROL MAHLER, MAHLER ACCOUNTING CHARTERED CONSENT ORDER:** Ms. Powell recused herself from this matter. Ms. Mahler appeared before the Board for approval of a Consent Order entered into for failure to timely file her federal corporate income tax returns, and failure to timely file and pay withholding taxes, which required her to appear before the Board,

pay a fine in the amount of \$2,000; submit proof of completion of the AICPA Comprehensive Ethics Exam with a score of 90% or higher; and provide proof of timely filing of her personal and firm income tax returns for years 2007 through 2011 and proof of timely filing and payment of withholding taxes for calendar years 2008-2012. Ms. Mahler requested that her fine be reduced. Mr. Bottenberg moved and Mr. Leiserowitz seconded for the Board to go into executive session for 15 minutes to deliberate the matter.

When the Board reconvened, Mr. Bottenberg moved and Mr. Smoll seconded to accept the terms of the Consent Order, with the fine being reduced to \$1,000. Upon a vote, the motion carried, with Ms. Powell not participating.

**C. 9:30 AM RON E. BOYLE CONSENT ORDER:** Mr. Smoll recused himself from this matter. Mr. Boyle appeared before the Board for approval of a Consent Order entered into for failure to register as a firm and failure to notify the Board that he had issued an attest report, which required him to appear before the Board, and pay a fine in the amount of \$250.00. Ms. Powell moved and Ms. O'Sullivan seconded to approve the Consent Order. Upon a vote, the motion carried, with Mr. Smoll not participating.

**D. 11:15 AM LARRY L. DOUGLAS DISCIPLINARY HEARING:** Mr. Smoll recused himself from this matter. Mr. Douglas appeared before the Board for failure to comply with Peer Review; and conduct reflecting adversely on a person's fitness to practice. After hearing the evidence, Mr. Leiserowitz moved and Ms. O'Sullivan seconded for the Board to go into executive session to deliberate the matter for ten minutes. Upon a vote, the motion carried.

When the Board reconvened, Ms. Powell moved and Mr. Allen seconded to revoke the permit and firm registration of Mr. Douglas; to suspend his CPA certificate for 2 years; impose a \$2,000 fine to be paid within 30 days of the date of the Final Order, which cannot be paid by credit card; and because he indicated that he did not have his CPA certificate, he is to sign an affidavit affirming same. Upon a vote, the motion carried, with Mr. Smoll not participating.

E. Mr. Bottenberg moved and Mr. Allen seconded for the Board to go into executive session to discuss attorney/client matters for 15 minutes. Upon a vote, the motion carried. When the Board reconvened, Mr. Smoll moved and Ms. O'Sullivan seconded for the Board to extend the executive session for another 15 minutes.

When the Board reconvened, Ms. Powell moved and Mr. Bottenberg seconded that the Board has reached the judgment that Dwayne C. Laubinger had engaged in the act of practicing without a permit to practice, which is a violation of K.S.A. 1-316, and that the matter be referred to the Attorney General to pursue in District Court pursuant to K.S.A. 1-318. Upon a vote, the motion carried.

Mr. Bottenberg moved and Mr. Smoll seconded that the Board has reached the judgment that William A. O'Connor, Jr. had engaged in the act of practicing without a permit to practice, which is a violation of K.S.A. 1-316, and that the matter be referred to the Attorney General to pursue in District Court pursuant to K.S.A. 1-318. Upon a vote, the motion carried.

**4. OTHER:**

The Board recognized Noel Allen, legal counsel, and Ken Bishop, Senior Vice President of the National Association of State Boards of Accountancy who were at the meeting to discuss the topic of mobility with the Board. Mr. Allen and Mr. Bishop briefly outlined the concept of mobility (the ability for CPAs to move freely from state to state without having to be registered or licensed with each individual state) and provided a map of other states that either had adopted or would be adopting the mobility concept. The Board members expressed their concerns as to the legalities of discipline, the fiscal impact that it would have on the Board, and most importantly, the effect that it would have on protecting the public. Mr. Allen indicated that he would be attending the KSCPA's annual Board retreat in the next week and would continue the conversation of mobility with the KSCPA's Board of Directors.

The Board recognized Suzanne Jolicouer, Manager, State Regulatory Outreach for the AICPA, who was at the meeting to observe and introduce herself and offer any help that she could as a liaison between the Board and the AICPA.

**5. ADJOURN**

There being no further business to come before the Board, the meeting was adjourned.

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