

**MINUTES OF THE KANSAS BOARD OF ACCOUNTANCY
AUGUST 18, 2006
9:00 AM, LANDON STATE OFFICE BUILDING, ROOM 106
TOPEKA, KS**

1. ADMINISTRATIVE MATTERS:

A. CALL TO ORDER:

Adley E. Johnson, CPA, called the meeting to order. Board members participating in the meeting were Mr. Johnson; Jeff Bottenberg, Public Member; Pat O'Sullivan, Public Member; Ginger Powell, CPA, 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; Roger Hoyt and Joyce Schartz, Public Accountants Association of Kansas.

B. 1-2 CONSENT CALENDAR:

The Board reviewed the minutes of the July 17, 2006 meeting; reciprocity certificates/permits to practice; practice by notification; and firms; the FY 2006 financials; July 31, 2006 financials; and the FY 2006 Annual Report. Mr. Smoll moved and Ms. O'Sullivan seconded, to approve. Upon a vote, the motion carried.

2. CPA EXAM:

A. The Board reviewed the exam statistics comparison for the April/May 2006 testing window. Kansas candidates met or exceeded the national pass rates. No action was required to be taken.

B. The Board reviewed a revised pass list from the April/May testing window. Ms. Somers reported that CPA Examination Services had failed to include two candidates who passed on the previous report--the reason being that when they ran the report they used a cut-off date that fell out of the testing period for these two candidates. One of the candidates had contacted the Board office inquiring as to where was his letter indicating that he had passed, as he was able to access his score online and he knew that he had passed all four parts of the exam. Ms. Somers requested CPA Examination Services to lengthen their time frame for running the reports for the exam period so that this situation wouldn't happen again. Mr. Bottenberg moved and Ms. O'Sullivan seconded to approve the revised report. Upon a vote, the motion carried.

C. The Board reviewed a request from James Boomer to waive the residency requirement to be able to sit for the CPA exam as a Kansas candidate. Mr. Boomer lives in Missouri, and works for his father's business in Kansas, which is not a CPA firm. The Regulations require that a person either be a resident of Kansas, or work full-time for a CPA firm in Kansas. Mr. Van Norden moved and Ms. Powell seconded to waive the residency requirement in this one instance for Mr. Boomer. Upon a vote, the motion carried.

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

A. The Board reviewed a list of persons who were not renewing or who couldn't be located. No action was required to be taken.

B. The Board reviewed a list of permit holders who had not renewed. No action was required to be taken.

C. The Board reviewed a list of permit renewals that had been returned as "incomplete", but who hadn't resubmitted their applications. Ms. Somers reported that everyone on the list had received a Cease and Desist Order. No action was required to be taken.

D. The Board reviewed a list of Peer Reviews due and "in process". Ms. Powell moved and Mr. Van Norden 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.

E. Ms. Somers reported that at the meeting held June 23, 2006 the Board instructed her that when a person renewed their permit indicating that they were delinquent in filing their own tax returns, or delinquent in filing or paying on behalf of others, or who had tax liens filed against them, to treat it as an investigative matter. Ms. Somers requested that when she sent her initial letter of inquiry to the CPA of the delinquency that she also be allowed to request a tax clearance letter from the CPA issued by the Kansas Department of Revenue to speed up the investigative process before turning it over to a Board member. The Board agreed, and upon advice of legal counsel, was not required to make a formal motion adopting the policy.

F. The Board reviewed a request from Bruce Vance for a waiver of Peer Review that was tabled from the July meeting. The Board has requested that Mr. Vance provide a copy of the work papers of the agreed-upon procedure to Ms.

Powell and Mr. Smoll for review and recommendation to the Board. Ms. Powell reported that it appears that he did the work, although he did not use the correct wording, and Mr. Smoll affirmed her findings. Ms. Powell moved and Mr. Smoll seconded, to waive the Peer Review requirement for Mr. Vance, provided he enter into a Consent Agreement with the Board agreeing not to perform any attest services unless he appears before the Board before he accepts or commences any engagement, and that the Consent Agreement be signed within thirty (30) days from the date that it is mailed. Upon a vote, the motion carried.

G. The Board reviewed the Peer Review Oversight Report submitted by Jay Cooper. The Report indicated that he had concluded that the Kansas Society of CPAs had complied with the administrative procedures and standards in all material respects as established by the AICPA Peer Review Board. The Board accepted the report.

H. Ms. Somers presented a verbal request for waiver of the late fee for permit renewal from Marsha Oliver. When Ms. Oliver submitted her permit application on July 26, 2006, it was returned for proof of the ethics hours. Ms. Oliver contacted Ms. Somers to tell her that she was in possession of the certificate at one time, but in her haste to leave town after she took the exam, she had either thrown it away or misplaced it and was attempting to retrieve another copy of the certificate through the KSCPA and the AICPA. It wasn't until August 14, 2006 that she was able to provide a copy of the certificate. Mr. Smoll moved to waive the late fee, which was seconded by Mr. Van Norden. Upon a vote, the motion failed.

I. Ms. Somers requested that the Board establish a policy for failure to cooperate. K.A.R. 74-5-407 provides that in circumstances of a complaint or investigation for possible violation of the accountancy laws, a certified letter be sent and if not responded to within thirty days of the date of the letter, the recipient could be subject to disciplinary action. She indicated that there are occasions where a person doesn't respond within the required time frame, and to speed up the disciplinary process, requested that she be able to issue a Summary Order of Suspension of permit and certificate (if applicable) with the suspension being stayed if they responded within a specified period of time. The Summary Order would only be for failure to cooperate, not for the underlying reason or reasons for issuing the letter in the first place—merely a way to get the person to respond so that the investigation could continue. Ms. Powell moved and Ms. O'Sullivan seconded that in cases where a person has failed to cooperate in accordance with K.A.R. 74-5-407, a Summary Order of Suspension of the permit and certificate (if applicable) be issued with the suspension stayed for two weeks if the person responded. Upon a vote, the motion carried.

4. REGULATORY MATTERS:

A. Since Mr. Allen was not able to be present for the meeting, the discussion of the amendment to the Regulations was tabled until the October 20, 2006, meeting.

5. OTHER

A. Mr. Johnson asked members of the task force to report on its meeting held the day before as to proposed amendments to the accountancy laws. Ms. Powell reported that the following amendments were discussed:

1-302(a) Language be included to the effect that 150 hours of coursework or credit accepted by a college or university recognized by the Board, with limitations to be set on the type and number of hours accepted by the Board as set forth in the Regulations;

1-304a Eliminate the language that pertained to the pencil and paper examination;

1-308 Require out of state firms who do not have an office in Kansas, but who are providing services in Kansas, to register with the Board;

1-308(b) Eliminate that section;

1-311 (a)(1) Include "Dishonesty";

1-311(a)(4) include the Public Company Accounting Oversight Board of Accountancy;

1-311(a)(9) include "deceit";

1-311(13) include conduct reflecting adversely under the provisions of 1-322 (practice by notification);

1-312 Include the same amendments for firms as for individuals under 1-311;

1-312(b) Include bridging language for the amendments being made to the Peer Review Standards;

1-316(c) Delete "Kansas";

1-316(e) Revise the language to state “It is unlawful for any person, except the holder of a permit to practice to issue an attest report that references the AICPA or the PCAOB”;

1-319 (a) “Delete “Kansas”;

1-321 Include any engagement performed under the standards promulgated by the Public Company Accounting Oversight Board of Accountancy;

1-501 Include bridging language for the amendments being made to the Peer Review Standards.

The Board discussed the confusion that is created by having a two-tiered system; i.e., certificate and a permit to practice, and the confusion that it creates in using the title “CPA”. The Board instructed members of the task force to possibly adopt the provisions in the UAA to revert to a one-tier system.

B. Mr. Johnson expressed his concern as a result of an investigation that he was working on, in that firms who are incorporated should be up to date in their registration and filings with the Kansas Secretary of State, and when they fell out of compliance, that could be construed as “false and misleading” advertising. The Board discussed adding a question to the firm renewal registrations inquiring as to whether the firm was in good standing with the Kansas Secretary of State. After discussion, Ms. Somers was instructed to include the following question in the disclosure statement section of the annual firm renewal form: “Is your business organization in good standing with the Kansas Secretary of State?” To be answered either “yes or “no”. The Board office would then check with the Secretary of State to confirm compliance at the time of renewal. This would not apply to unincorporated sole practitioners who were registered with the Board.

6. DISCIPLINARY MATTERS:

A. 9:30 AM MARK A. NELSON DISCIPLINARY HEARING

Mr. Nelson did not appear for the hearing. Ms. Somers read a transcript of a voice-mail message left by Mr. Nelson indicating that he would not be able to appear, but requested that he be allowed to voluntarily surrender his certificate and permit and to not be assessed a fine.

Ms. Mitchell presented evidence of Mr. Nelson being found guilty in Nebraska of Theft by Deception, a felony. Mr. Nelson did not renew his Kansas permit which expired June 30, 2006.

Ms. Powell then moved, and Ms. O'Sullivan seconded, for the Board to go into executive session for fifteen minutes to deliberate the matter.

When the Board reconvened, Mr. Smoll moved and Mr. Van Norden seconded that Mr. Nelson's certificate be revoked and that he be fined \$500.00 for commission of a felony; that the fine be paid within thirty (30) days of the date of the Certificate of Service and which cannot be paid by credit card; and that he be required to return his Kansas CPA certificate. In the event he cannot produce the certificate, he is to sign an affidavit indicating that he is unable to produce the document. Upon a vote, the motion carried.

7. ADJOURN:

There being no further business to come before the meeting, Mr. Bottenberg moved, and Ms. O'Sullivan seconded to adjourn. Upon a vote, the motion carried.

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