

**MINUTES OF THE KANSAS BOARD OF ACCOUNTANCY
OCTOBER 23, 2015
LONDON STATE OFFICE BUILDING, ROOM 556A
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; Denise Denning, CPA, Vice-Chair; T. C. Anderson, Public Member; John R. Helms, CPA; Michael L. Marsh, CPA; Kathryn J. Mitchell, CPA; and Patricia A. O'Sullivan, public member. Also in attendance was Susan Somers, Executive Director; Randy Forbes, Disciplinary Counsel to the Board; Darin Conklin, General Counsel to the Board; Rita Barnard, Kansas Society of CPAs, and Joyce Schartz, Public Accountants Association.

B. CONSENT CALENDAR:

1. The Board reviewed the minutes of the August 26, 2015 meeting; reciprocity certificates/permits to practice; firm registration; and the September 30, 2015 financials. Mr. Helms moved and Ms. O'Sullivan seconded to approve the Consent Calendar. Upon a vote, the motion carried.

C. The Board reviewed the 2015-2017 budget documents which had been approved by the legislature in its 2015 session. No action was required to be taken.

2. CPA EXAM:

A. The Board reviewed the July/August 2015 testing window exam scores. Ms. O'Sullivan moved and Mr. Marsh seconded to ratify the grades. Upon a vote, the motion carried. The Board reviewed the CPA exam statistics comparing the Kansas pass rates to the National pass rates and the CPA Exam Performance Summary for third quarter 2015. No action was required to be taken.

B. The Board reviewed a request from Joshua Willnerd for a waiver of a business law course and 2 hours of communication courses pursuant to K.A.R. 74-2-7(g). The request for waiver arises from Mr. Willnerd's efforts to transfer his exam scores to the State of Kansas and to obtain a Kansas certificate. After discussion, and based upon the information provided, Ms. O'Sullivan moved and Mr. Helms seconded to grant the waiver relative to the 2 hours of communication courses. Mr. Willnerd's request for waiver of the business law course was denied. Upon a vote, the motion carried.

C. The Board reviewed a letter from NASBA announcing that candidates would be permitted to sit for the CPA exam for an additional period of ten days in blackout testing months beginning in June 2016. NASBA also delayed its announcement relative to fee changes. No action was required to be taken.

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

A. Ms. Somers presented to the Board the list of firms with peer reviews either due or in process. Mr. Helms moved and Ms. O'Sullivan seconded that in the case of firms not timely complying with Peer Review, a "warning" letter will be sent notifying them that if they do 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 will be issued. If the firm complies within the thirty days, no disciplinary action will be taken. If the firm does not comply within the thirty days, the Summary Order of Suspension and Fine will be issued. For those firms who have received a second "warning" letter, should the firm fail to comply again, a Summary Order will be issued without a warning letter. Upon a vote, the motion carried. The Board also set the next 2016 due dates for Peer Review letters of completion or additional "in process" letters to be June 17, 2016 and December 2, 2016, unless otherwise warranted. Upon a vote, the motion carried.

B. The Board reviewed a request from David Lundgren for an extension of his Peer Review due date. Mr. Lundgren had received an extension from the AICPA's National Peer Review Committee (NPRC) from May 31, 2015 to September 30, 2015 and was requesting an additional extension of time from September 30, 2015 to October 31, 2015 within which to complete his peer review. The Board noted that the AICPA did not grant Mr. Lundgren an additional extension beyond the September 30, 2015 extension date. Mr. Anderson moved and Ms. Denning seconded to grant to Mr. Lundgren an extension of time from September 30, 2015 to October 31, 2015 (the date that Mr. Lundgren had requested) within which to provide to the Board either a Peer Review letter of completion, or a letter from the AICPA NPRC stating that the Peer Review was "in process." If Mr. Lundgren provides an "in process" letter, it must bear a date of October, 2015. Upon a vote, the motion carried.

C. Stuart Douthett, of Douthett & Co., CPA, PA, appeared in person and with counsel, Joel Krieger, to request a waiver of his Peer Review, which was due to be completed by November 30, 2015. Ms. Denning recused herself from this matter. Mr. Anderson moved and Ms. Mitchell seconded for the Board to go into closed session pursuant to K.S.A. 1-501 to discuss the results of peer review. Mr. Douthett was requesting a waiver of his Peer Review for health reasons, and for the reason that he was selling his firm and would no longer be providing attest services for the public.

The hearing on the Douthett matter was then recessed so that the Board could take up other matters.

When the hearing reconvened in the matter of Douthett & Co., CPA, PA., Mr. Anderson moved, and Mr. Helms seconded for the Board to go into closed session to deliberate the matter.

When the Board reconvened in open session, Mr. Helms moved and Mr. Anderson seconded to grant Douthett & Co., CPA, PA's request for a waiver of Peer Review on the condition that Mr. Douthett provide to the Board on or before November 30, 2015, a copy of the Peer Review Change in Firm Structure form sent to and received by the Peer Review administering entity. Upon a vote, the motion carried.

D. The Board reviewed a request from Michael Peroo of Michael D. Peroo, CPA, PA, for an extension of his Peer Review due to scheduling and health issues. After discussion, Ms. O'Sullivan moved and Ms. Mitchell seconded to grant an extension to December 3, 2015, by which time Mr. Peroo is to provide to the Board either a Peer Review letter of completion, or a letter stating that the Peer Review is "in process" from the Kansas Society of CPAs. No further extensions would be granted. Upon a vote, the motion carried.

4. HEARINGS/DISCIPLINARY MATTERS:

A. MATTHEW J. GEYER, CPA CONSENT AGREEMENT AND FINAL ORDER:

Ms. O'Sullivan, the investigative Board member, recused herself from this matter. Mr. Geyer appeared in person. This matter was before the Board for consideration of a Consent Agreement and Final Order arising from an audit of Mr. Geyer's CPE claimed in support of his most recent permit renewal and for his previous renewal. The Board determined that Mr. Geyer failed to maintain compliance with the requirements for renewal of a permit. The terms of the Consent Agreement and Final Order required Mr. Geyer to appear before the Board; pay a fine in the amount of \$250.00; payment of costs pursuant to K.S.A. 1-206, to include attorney's fees and court reporter fees; and submit proof of completion/attendance of 55 hours of CPE to the Board on or before October 15, 2015. After hearing testimony, Mr. Anderson moved and Mr. Marsh seconded to approve the Consent Agreement and Final Order. Upon a vote, the motion carried, with Ms. O'Sullivan not participating.

B. NANCY TOELKES CONSENT AGREEMENT AND FINAL ORDER. Ms. O'Sullivan, the investigative Board member, recused herself from this matter. Ms. Toelkes appeared in person. This matter was before the Board for consideration of a Consent Agreement and Final Order arising from Ms. Toelkes practice of certified public accountancy without a valid permit. The terms of the Consent Agreement required Ms. Toelkes to appear before the Board; pay a fine in the amount of \$250.00; and payment of costs pursuant to K.S.A. 1-206, to include attorney's fees and court reporter fees. After hearing testimony, Ms. Denning moved and Mr. Marsh seconded to approve the Consent Agreement and Final Order. Upon a vote, the motion carried, with Ms. O'Sullivan not participating.

C. JEFFREY LUCKE AND LUCKE & ASSOCIATES, CPAS, LC STIPULATION AND CONSENT ORDER: Ms. Denning, the investigative Board member, recused herself from this matter. Mr. Lucke was not required to appear before the Board. This

matter was before the Board to amend a previous Stipulation and Consent Order issued regarding the timing of pre and post issuance reviews of all attest work issued by Jeffrey Lucke and Lucke & Associates, CPAs, LC. After review, Mr. Marsh moved and Ms. Mitchell seconded to approve the amended Stipulation and Consent Agreement. Upon a vote, the motion carried.

D. BENJAMIN GILES CONTINUATION OF HEARING ON PETITION FOR DISCIPLINARY ACTION. Ms. O'Sullivan recused herself from this matter. Mr. Giles appeared in person and by counsel, Scott J. Gunderson. The Board was represented by Randall J. Forbes, disciplinary counsel to the Board. This matter was before the Board for hearing on the merits of the Board's Petition for Disciplinary Action. The hearing commenced on May 1, 2015 and was thereafter continued to October 23, 2015. After presentation of evidence and argument, Ms. Denning moved and Mr. Van Norden seconded, for the Board to go into closed session to deliberate the matter.

When the Board reconvened, Mr. Van Norden submitted a motion, with Mr. Marsh's second, as follows:

As to Count I, Respondent engaged in fraud, dishonesty and deceit in obtaining a permit to practice and is subject to sanction pursuant to K.S.A. 1-311(a)(1). As a result, Respondent's permit to practice is suspended for one year, commencing on the effective date of the Final Order of the Board, and Respondent shall pay a fine in the amount of \$1,500 to be paid within thirty (30) days of the effective date of the Final Order of the Board, which shall not be paid by credit card;

As to Count II, Respondent failed to timely file his personal tax returns and is subject to sanction pursuant to K.S.A. 1-311(a)(6). Respondent shall pay a fine in the amount of \$500.00 to be paid within thirty (30) days of the effective date of the Final Order of the Board which shall not be paid by credit card;

As to Count III, Respondent committed a willful violation of a rule of professional conduct and is subject to sanction pursuant to K.S.A. 1-311(a)(8). Respondent's permit to practice is suspended for one year commencing on the effective date of the Final Order of the Board, and Respondent shall pay a fine in the amount of \$1,500 to be paid within thirty (30) days of the effective date of the Final Order of the Board, which shall not be paid by credit card;

As to Count IV, Respondent engaged in conduct reflecting adversely on his fitness to practice as a CPA and is subject to sanction pursuant to K.S.A. 1-311(a)(14). Respondent's permit to practice is suspended for one year commencing on the effective date of the Final Order of the Board, and Respondent shall pay a fine in the amount of \$1,500 to be paid within thirty (30) days of the effective date of the Final Order of the Board, which shall not be paid by credit card.

Costs are to be assessed to Respondent pursuant to K.S.A. 1-206 with the amount to be determined upon motion to the Board and a hearing. All periods of suspension shall run concurrently.

Upon a vote, the motion carried, with Ms. O'Sullivan not participating.

5. ADJOURN

There being no further business to come before the Board, Ms. Mitchell moved, and Ms. Denning seconded to adjourn.

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