

**MINUTES OF THE KANSAS BOARD OF ACCOUNTANCY
DECEMBER 4, 2015
LANDON 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, Kathleen Graff and Joyce Schartz, Public Accountants Association.

B. CONSENT CALENDAR:

1. The Board reviewed the minutes of the October 23, 2015 meeting; reciprocity certificates/permits to practice; firm registration; and the November 30, 2015 financials. Mr. Helms moved and Ms. O'Sullivan seconded to approve the Consent Calendar. Upon a vote, the motion carried.

2. CPA EXAM:

A. The Board reviewed requests for waivers of courses required for the CPA exam as follows pursuant to K.A.R. 74-2-7(g) :

1. Apple Canaya: Request for a waiver of 2 hours of communications to include a speech course. After discussion, and based upon the information provided, Ms. O'Sullivan moved and Mr. Helms seconded to deny the request based upon a lack of information regarding her work experience. Upon a vote, the motion carried.

2. Hannah Carlson: Request for waiver of 2 hours of written or oral communications. After discussion, and based upon the information provided, Ms. O'Sullivan moved and Mr. Marsh seconded to deny the request. Upon a vote, the motion carried.

3. Kseniya Caldwell: Request for waiver of .5 hours of written or oral communications. After discussion, and based upon the information provided, Ms. O'Sullivan moved and Mr. Marsh seconded to deny the request. Upon a vote, the motion carried.

B. The Board reviewed information received from National American University in response to the Board's request for additional information regarding the University's ability to offer the required second business law course, and research by Ms. Somers as to whether or not other states accept credits from NAU. Todd Herseth, Dean of Business Accounting and Technology for NAU, was present at the meeting. Ms. Somers reported that based upon her research and the information provided by NAU, it would be her recommendation to the Board to approve NAU, provided that CPA exam candidates who attend NAU complete the courses in the manner in which the Board requires the courses to be taken, and that the transcript reflect the same. Further, that it would be incumbent upon NAU to relay this information to students who were seeking the CPA path. Ms. Denning then moved and Mr. Anderson seconded to accept NAU based upon the criteria outlined by Ms. Somers. Upon a vote, the motion carried.

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. No action was required to be taken.

B. Ms. Somers requested permission from the Board to assign the Board Chair, Vice Chair, or another Board member when the Chair or Vice Chair is not available, to review and adjudicate requests for waiver of educational requirements submitted pursuant to K.A.R. 74-2-7(g) for those individuals applying for a certificate by reciprocity or transfer of grades after they had already passed the exam as another state's candidate. This authorization would be limited to those instances where the applicant was deemed to be eligible to request a waiver under the provisions of K.A.R. 74-2-7(g). Ms. Denning moved and Ms. O'Sullivan seconded to approve the request. Upon a vote, the motion carried.

C. The Board reviewed the Peer Review Oversight Report prepared by the Board's Peer Review Liaison, Mark Dick. After review and discussion, Mr. Anderson moved and Mr. Helms seconded to accept the report. Upon a vote, the motion carried.

4. HEARINGS/DISCIPLINARY MATTERS:

A. MELODY CURNUTT CONSENT AGREEMENT AND FINAL ORDER: Ms. O'Sullivan, the investigative Board member, recused herself from this matter. Ms. Curnutt appeared in person. This matter was before the Board for consideration of a Consent Agreement and Final Order arising from Ms. Curnutt's practice of certified public accountancy without a valid permit to practice. The terms of the Consent Agreement and Final Order required Ms. Curnutt 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. After hearing testimony, Mr. Anderson moved and Mr. Marsh seconded for the Board to go into closed session to deliberate the matter.

When the Board reconvened, Mr. Marsh moved and Mr. Helms seconded to amend the Consent Agreement to omit the imposition of a fine, with all other provisions of the Consent Agreement and Final Order to remain intact. Ms. Curnutt agreed to the

amendment. Upon a vote, the motion carried, with Ms. O'Sullivan not participating. Mr. Marsh then moved to approve the Consent Agreement and Final Order as amended and Mr. Helms seconded the motion. Upon a vote, the motion carried with Ms. O'Sullivan not participating.

B. BARRY FISHER CONSENT AGREEMENT AND FINAL ORDER: Ms. O'Sullivan, the investigative Board member, recused herself from this matter. Mr. Fisher appeared in person. This matter was before the Board for consideration of a Consent Agreement and Final Order arising from an audit of Mr. Fisher's CPE claimed in support of his most recent permit renewal and his previous renewal. The Board determined that Mr. Fisher failed to maintain compliance with the requirements for renewal of a permit. The terms of the Consent Agreement and Final Order required Mr. Fisher to appear before the Board; pay a fine in the amount of \$1,000.00; payment of costs, pursuant to K.S.A. 1-206, to include attorney's fees and court reporter fees; submit proof to the Board of completion/attendance of fifty-eight and one-half (58.5) hours of CPE relative to the July 1, 2013 permit renewal; submit proof to the Board of completion/attendance of seventy-six (76) hours of CPE relative to the July 1, 2015 permit renewal; and submit proof of completion of the AICPA Comprehensive Ethics Exam with a score of 90% or higher. After hearing testimony, Ms. Mitchell 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. ANDREW HINRICHS STIPULATION AND CONSENT ORDER: Ms. O'Sullivan, the investigative Board member, recused herself from this matter. Mr. Hinrichs appeared in person. This matter was before the Board for consideration of a Stipulation and Consent Agreement arising from a request for hearing following the issuance of a Summary Order of Suspension of Certificate and Permit premised on Mr. Hinrich's failure to timely comply the Board's request for information relative to the CPE claimed by Mr. Hinrichs in support of his most recent permit renewal. Mr. Hinrichs subsequently complied with the Board's request for information and paid the fine imposed in the Summary Order of Suspension; however, the Board determined that he had violated the accountancy laws. The terms of the Stipulation and Consent Order required Mr. Hinrichs to appear before the Board; pay a fine in the amount of \$500.00; and payment of costs pursuant to K.S.A. 1-206, to include attorney's fees and court reporter fees. After hearing testimony, Mr. Helms moved and Ms. Denning seconded for the Board to go into closed session to deliberate the matter.

When the Board reconvened, Mr. Anderson moved and Mr. Marsh seconded to accept the Stipulation and Consent Order. Upon a vote, the motion carried, with Ms. O'Sullivan not participating.

D. JOSEPH M. KESSINGER & KESSINGER COMPANY, LLC CONSENT AGREEMENT AND FINAL ORDER: Ms. O'Sullivan, the investigative Board member, recused herself from this matter. Mr. Kessinger appeared in person and on behalf of Kessinger Company, LLC. This matter was before the Board for consideration of a Consent Agreement and Final Order arising from the practice of certified public accountancy without a lawful firm registration. The terms of the Consent Agreement and Final Order required the respondents to appear before the Board; and Kessinger

Company, LLC to pay a fine in the amount of \$250.00 and costs, pursuant to K.S.A. 1-206, to include attorney's fees and court reporter fees. After hearing testimony, Ms. Denning moved and Ms. Mitchell seconded to approve the Consent Agreement and Final Order. Upon a vote, the motion carried, with Ms. O'Sullivan not participating.

E. JAMES LONG, KARLIN & LONG, LLC CONSENT AGREEMENT AND FINAL ORDER: Mr. Van Norden, the investigative Board member, recused himself from this matter. Mr. Long appeared in person and on behalf of Karlin & Long, LLC. This matter was before the Board for consideration of a proposed Consent Agreement and Final Order arising from an investigation of respondent's compliance with applicable professional standards. After investigation and discussion, the Board determined that respondents had failed to comply with applicable professional standards in the performance of the attest services and were therefore subject to sanction pursuant to Kansas law. The terms of the Consent Agreement and Final Order required Mr. Long and the firm to appear before the Board; and Karlin & Long, LLC to pay a fine in the amount of \$250.00 and costs, pursuant to K.S.A. 1-206, to include attorney's fees and court reporter fees. After discussion, Ms. O'Sullivan moved and Ms. Mitchell seconded to approve the Consent Agreement and Final Order. Upon a vote, the motion carried, with Mr. Van Norden not participating.

F. CAROL MAHLER AND MAHLER ACCOUNTING CHARTERED DISCIPLINARY HEARING: Ms. Mitchell, the investigative Board member, recused herself from this matter. Ms. Mahler and Mahler Accounting Chartered appeared in person. The Board was represented by Randall J. Forbes, disciplinary counsel. This matter was before the Board for hearing on the merits of the Board's Petition for Disciplinary Action. After presentation of evidence and argument, Ms. O'Sullivan moved and Mr. Helms seconded for the Board to go into closed session to deliberate the matter.

When the Board reconvened, Mr. Helms submitted a motion, with Mr. Marsh's second, finding that (1) Respondent failed to timely file her personal federal and state tax returns and is subject to sanction pursuant to K.S.A. 1-311(a)(6); (2) Respondent failed to cooperate with the Board in its investigation and is subject to sanction pursuant to K.S.A. 1-311(a)(7); (3) Respondent willfully violated a rule of professional conduct, specifically the prohibition against committing acts discreditable to the profession, and she is subject to sanction pursuant to K.S.A. 1-311(a)(8); and (4) Respondent's conduct reflected adversely on her fitness to practice certified public accountancy and she is therefore subject to sanction pursuant to K.S.A. 1-311(a)(14).

The Board further moved that Respondent Mahler Accounting, Chartered willfully violated the rules of professional conduct, including acts discreditable relative to the timely filing of the firm's tax returns, and is therefore subject to sanction pursuant to K.S.A. 1-312(a)(6).

As a result of these violations, Respondent Mahler's Kansas CPA certificate is revoked, and she is to return the certificate to the Board within ten (10) days of the effective date of the Board's Final Order; she is to pay a fine to the Board in the amount of \$500.00 which may not be paid by credit card, to be paid within one year from the

effective date of the Board's Final Order; and payment of costs, pursuant to K.S.A. 1-206, to include attorney's fees and court reporter fees, payment of which is due within one year of the Board issuing an affidavit of costs to Respondent, which may not be paid by credit card. Upon a vote, the motion carried, with Ms. Mitchell not participating.

G. TIMOTHY P. FITZGERALD DISCIPLINARY HEARING: Mr. Helms, the investigative Board member, recused himself from this matter. Mr. Fitzgerald did not appear. The Board was represented by Randall J. Forbes, the Board's disciplinary counsel. This matter was before the Board for hearing on the merits of the Board's Petition for Disciplinary Action. After presentation of evidence and argument, Ms. Mitchell moved and Mr. Marsh seconded for the Board to go into closed session to deliberate the matter.

When the Board reconvened, Mr. Marsh submitted a motion, with Ms. Denning's second, that based on the evidenced presented and the contents of the disciplinary petition, that Respondent's CPA certificate shall be revoked pursuant to K.S.A. 1-311(a)(8), willful violation of a rule of professional conduct; K.S.A. 1-311(a)(10), conviction of a felony; K.S.A. 1-311(a)(11), performance of any fraudulent act while holding a Kansas certificate; and K.S.A. 1-311(a)(14), conduct reflecting adversely on a person's fitness to practice certified public accountancy. Furthermore, Respondent's CPA certificate shall be returned to the Board within ten (10) days of the effective date of the Board's Final Order, and Respondent shall pay a fine to the Board in the amount of \$5,000.00 within 30 days of the effective date of the Board's Final Order, which cannot be paid by credit card. Finally, Respondent shall pay costs, pursuant to K.S.A. 1-206, to include attorney's fees and court reporter fees within 30 days of the Board issuing an affidavit of costs to Respondent, which cannot be paid by credit card. Upon a vote, the motion carried, with Mr. Helms not participating.

5. LEGISLATION

At this time, Aaron Dunn, Liaison to the Kansas Society of CPAs, Tom Martin and Jay Langley, representing the Public Accountants Association, joined the meeting to discuss possible legislation for the upcoming legislative session. Ms. Somers presented the Board's proposed amendments to K.S.A. 1-302a, clarifying the education requirement for candidates that obtained education from a foreign college or university; K.S.A. 1-307, to clarify reciprocity; K.S.A. 1-311, to expand the Board's ability to discipline over action taken by the PCAOB or other state or federal agencies; K.S.A. 1-321, to further define "client" and to remove reference to the definition of "home office"; and K.S.A. 1-322, to eliminate an outdated reference to practice by notification and eliminate the reference to "home office". The KSCPA presented their proposed amendments to K.S.A. 1-302(a), to allow CPA exam candidates to sit sixty days before they had met the education requirement; K.S.A. 1-316 regarding firms issuing compilation reports; and K.S.A. 1-321 to incorporate the changes to the definition of "attest". The public accountants presented their proposed amendment to K.S.A. 1-308. After discussion, Ms. Somers was directed to incorporate the KSCPA's proposed amendments to K.S.A. 1-321 into the Board's proposed amendments, but not to incorporate the KSCPA's proposed amendments into K.S.A. 1-302(a) relating to sitting for the exam in advance of meeting the 150 hour education requirement. It was further

determined that the amendments to K.S.A. 1-308 proposed by the public accountants were not necessary; however, the Board would be making an amendment to that statute to eliminate the reference to “home office” which was being struck in K.S.A. 1-321 and K.S.A. 1-322. In addition, the Board would be amending K.S.A. 1-312 to mirror the change in K.S.A. 1-311 regarding action being taken by the PCAOB or another state or federal agency. Discussion also was had concerning the current term “financial statements” and changing it to “financial information”. Mr. Dunn indicated that he would contact the AICPA regarding that terminology. The Board will revisit this matter at the meeting to be held January 15, 2016.

6. ADJOURN

There being no further business to come before the meeting, Mr. Helms moved and Ms. Denning seconded to adjourn. Upon a vote, the motion carried.

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