

**MINUTES OF THE KANSAS BOARD OF ACCOUNTANCY
APRIL 25, 2008
9:00 AM, LANDON STATE OFFICE BUILDING, ROOM 106
TOPEKA, KS**

1. ADMINISTRATIVE MATTERS:

A. CALL TO ORDER:

Paul Allen, CPA, Chair, called the meeting to order. Board members in attendance were Mr. Allen; Jeffery Bottenberg, Public Member; Jeffrey Leiserowitz, CPA; Ginger Powell, CPA; Kent Smoll, CPA; and Rodney Van Norden, 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; and Joyce Schartz and Joyce Bigler, Public Accountants Association.

B. 1-2 CONSENT CALENDAR:

The Board reviewed the minutes of the January 28, 2008 Board meeting; reciprocity certificates/permits to practice/practice by notification; firms; and the third quarter financials. Mr. Smoll moved and Ms. Powell seconded to approve. Upon a vote, the motion carried.

2. CPA EXAM:

The Board reviewed the January/February testing window exam scores previously approved by Mr. Van Norden and Ms. Powell. Mr. Leiserowitz moved and Mr. Smoll seconded, to approve. Upon a vote, the motion carried.

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

A. The Board reviewed a list of Peer Reviews that were due or "in process". Mr. Smoll moved and Mr. Van Norden seconded that in the case of firms not timely complying with Peer Review, 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 April 18, 2008 and the date after that to be June 18, 2008. Upon a vote, the motion carried.

B. The Board reviewed a request from Crowe Chizek for a change in their firm name. Based upon the information provided, and a review of the accountancy laws and regulations, the Board, upon motion of Mr. Smoll, seconded by Mr. Van Norden, denied the request. Upon a vote, the motion carried. The Board instructed Mr. Conklin to draft an Order to be approved and signed by Mr. Allen, which would set forth the reasons for denial, but provide an opportunity to request a hearing before the Board.

C. The Board reviewed a request from Snodgrass Dunlap & Company for an extension of their Peer Review. Based upon the information provided, Ms. Powell moved and Mr. Van Norden seconded to deny the request and instructed Ms. Somers to issue a Summary Order of Suspension of Firm Registration and Fine for failure to timely comply with Peer Review. Upon a vote, the motion carried.

D. The Board reviewed a request from McMillen Folkerts & Associates for an extension of their Peer Review due date. Based upon the information provided, Ms. Powell moved and Mr. Bottenberg seconded to grant a 90 day extension. Upon a vote, the motion carried.

E. The Board reviewed a request from Nicki Mezger for an extension of her Peer Review due date. Based upon the information provided, Mr. Bottenberg moved and Mr. Van Norden seconded to grant a 30 day extension, with no further extensions to be granted, and if she did not comply with that due date, a Summary Order of Suspension of firm registration and permit would be issued. Upon a vote, the motion carried, with Mr. Smoll voting against for the reason that he did not agree that an extension should be granted.

4. LEGISLATIVE/REGULATION MATTERS:

AT 9:30 AM, UPON MOTION OF MS. POWELL, SECONDED BY MR. VAN NORDEN, THE REGULAR MEETING WAS RECESSED IN ORDER TO HOLD A PUBLIC HEARING ON REGULATION CHANGES. UPON A VOTE, THE MOTION CARRIED.

Mr. Allen convened the public hearing to consider amendments to K.A.R. 74-4-7; 74-4-8; 74-4-9; and 74-4-10.

Public attendees of the meeting were Joyce Schartz and Joyce Bigler of the Public Accountants Association.

No one testified for or against the adoption of these Regulations.

Ms. Somers reported that the Joint Rules and Regulations Committee recommended that either 74-4-7 or 74-4-8 be amended to reflect consistent

language where the language “commencing with the renewal of permits issued on and after July 1, 2007” appeared. Ms. Somers recommended reinserting the strike type “commencing with the renewal of permits issued on and after July 1, 2007” found in K.A.R. 74-4-7(c)(4).

Mr. Allen then closed the public hearings.

MR. SMOLL MOVED AND MR. VAN NORDEN SECONDED TO RECONVENE THE REGULAR BOARD MEETING. UPON A VOTE, THE MOTION CARRIED.

Ms. Somers was instructed to take a roll-call vote of the Board members for the adoption of the Regulations. All Board members in attendance voted in favor of the amendments to include the amendment proposed by Ms. Somers. The Regulations were declared to be approved and adopted.

B. Ms. Somers reported on HB 2618, which would have required all Boards and Commissions to have their disciplinary hearings heard by the Office of Administrative Hearings. She indicated that the Bill was sent back to the Senate Judiciary Committee, and because of the lateness of the session, was not brought back for action. However, it was the consensus that it would probably be resurrected next legislative session.

5. COMPLAINT/DISCIPLINARY MATTERS:

A. **10:00 AM MARY SCOTT:** Ms. Scott appeared before the Board for approval of a Consent Order entered into for failure to timely file and pay withholding taxes, which required her to pay a fine in the amount of \$1,500 and 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 federal and state corporate, personal and withholding taxes for five years. Mr. Smoll moved and Mr. Leiserowitz seconded to approve the Consent Order. Upon a vote, the motion carried.

B. **10:15 AM JENNIFER PLACKEMEIER:** Ms. Plackemeier appeared before the Board for approval of a Consent Order entered into for practicing without a permit, which required her to pay a fine in the amount of \$1,500 and submit proof of completion of the AICPA Comprehensive Ethics Exam with a score of 90% or higher. Ms. Powell moved and Mr. Van Norden seconded to approve the Consent Order. Upon a vote, the motion carried.

C. **10:30 AM WILLIAM B. SCHMIDT:** Mr. Schmidt appeared before the Board for approval of a Consent Order entered into for failure to timely file and pay withholding taxes, which required him to pay a fine in the amount of \$2,000 and 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 federal and state

personal and withholding taxes for five years. Mr. Leiserowitz moved and Mr. Van Norden seconded to approve the Consent Order. Upon a vote, the motion carried.

D. 10:45 AM RAYMOND RELPH: Mr. Relph appeared before the Board for approval of a Consent Order entered into for failure to disclose that he had been involved in legal proceedings involving his practice as a CPA, which required him to pay a fine in the amount of \$500 and complete the AICPA Comprehensive Ethics Exam with a score of 90% or higher. Mr. Van Norden moved and Ms. Powell seconded to approve the Consent Order. Upon a vote, the motion carried.

E. 11:00 AM JEFFREY WEINER: Mr. Weiner appeared before the Board for approval of a Consent Order entered into for practicing without a permit, failure to timely file his personal income tax returns and failure to cooperate, which required him to 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 his federal and state personal income taxes for five years. Mr. Van Norden moved and Ms. Powell seconded to approve the Consent Order. Upon a vote, the motion carried.

F. 11:15 AM SARA JENKINS: Ms. Jenkins appeared before the Board to seek reinstatement of her revoked CPA certificate and permit. The Board, in accordance with the *Vakas v. Kansas Board of Healing Arts* decision rendered by the Kansas Supreme Court, reviewed the following guidelines as set forth in the decision:

1. Present moral fitness of the applicant.
2. Applicant demonstrates a consciousness that his/her wrongful conduct has brought disrepute to the profession.
3. Extent of applicant's rehabilitation.
4. Seriousness of the original misconduct.
5. Conduct subsequent to the revocation.
6. The time which has elapsed since the original discipline.
7. Applicant's character, maturity, and experience at the time of the revocation.
8. Applicant's present competence to re-enter the profession.

During the discussion with Ms. Jenkins, the Board learned that Ms. Jenkins was practicing in several states without being licensed to practice in those states; and that she had recently pled guilty to a felony charge.

Mr. Bottenberg moved and Mr. Leiserowitz seconded for the Board to go into executive session for fifteen minutes to deliberate the matter. Upon a vote, the motion carried.

When the Board reconvened, Mr. Smoll moved and Mr. Leiserowitz seconded to deny Ms. Jenkins' application for reinstatement of her certificate and permit at this time premised upon her failure to fulfill the burden of proof relative to those factors as set forth in the Vakas case. Ms. Jenkins has failed to establish the sufficiency of her present moral fitness to resume her practice as a CPA in the State of Kansas. She has likewise failed to demonstrate a consciousness of her wrongful conduct and the disrepute that has been brought upon the profession by presentation of any substantive evidence here today. She has failed to demonstrate that she has been rehabilitated since the date of her original misconduct. The original misconduct was serious and involves more than one incident of discipline. Very little time has elapsed since the original misconduct that resulted in the revocation of her certificate and permit. Ms. Jenkins has likewise failed to provide sufficient evidence of her character, maturity, and experience at the time of the violation which would justify or excuse the conduct at that time. Finally, there was no substantive evidence presented as to her competence to justify reinstatement as a CPA in the State of Kansas at this time. Upon a vote, the motion carried.

6. OTHER:

A. Ms. Somers reported that NASBA had sent out request for nominations for Regional Director, Nominating Committee and Board of Directors. She indicated that Mr. Smoll had served two years as Regional Director and that he would be eligible to serve one more year. Mr. Bottenberg moved and Mr. Leiserowitz seconded to nominate Mr. Smoll as Regional Director for the Central Region. Upon a vote, the motion carried.

7. ADJOURN

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

Susan L. Somers, Executive Director