

January 16th, 2015
Board of Accountancy

Tampa Airport Marriott
Tampa International Airport
Tampa Florida 33607

Friday, January 16, 2015

The meeting was called to order at 9:03 a.m. The roll was called by Veloria Kelly, Division Director, and reflected the following persons present:

BOARD MEMBERS		STAFF	
Cynthia Borders-Byrd	Present	Veloria Kelly	Present
Maria E. Caldwell	Present	June Carroll	Present
David L. Dennis	Present		
M.G. Fennema	Present		
Tracy Keegan	Present		
James Lane	Present		
Steve Riggs	Present		
Eric Robinson	Present		
H. Steven Vogel	Present		

Mary Ellen Clark, Senior Assistant Attorney General and Board Counsel was present. C. Erica White, Chief Attorney, Department of Business and Professional Regulation, was present. Chevonne Christian, Senior Attorney, Department of Business and Professional Regulation was present. Court Reporter was Penny Appleton.

Mr. Vogel congratulated Mr. Dennis and Dr. Fennema on their re-appointment to the Board. The Board then reciprocated by congratulating Mr. Vogel on his re-appointment.

Ms. White introduced Ms. Christian to the Board as the Board's new prosecuting attorney.

1. Approve Board Minutes
 - A. December 4th and 5th, 2014

Motion was made by Mr. Robinson, seconded by Dr. Fennema, to approve. Upon vote, the motion passed unanimously.

2. OGC Action Request
 - A. Baldwin, Ronald – 2014-002901

Ms. Borders-Byrd and Mr. Robinson were recused.

Mr. Baldwin and his attorney Mr. Brown were present.

Motion was made by Mr. Riggs, seconded by Ms. Caldwell, to approve Stipulation. Upon vote, the motion passed unanimously.

B. Kronhaus, Julie – 2014-032792

Mr. Vogel and Mr. Dennis were recused.

Mr. Riggs chaired.

Motion was made by Mr. Robinson, seconded by Dr. Fennema, to acknowledge respondent waived their right to request a hearing in which there is a disputed issue of material fact, as respondent failed to file an Election of Rights form. Upon vote, the motion passed unanimously. Motion was made by Mr. Robinson, seconded by Dr. Fennema, to adopt the findings of facts and adopt the law as set forth in the administrative complaint. Upon vote, the motion passed unanimously. Motion was made by Mr. Robinson, seconded by Dr. Fennema, to revoke license. Upon vote, the motion passed unanimously.

C. Picca, Irene – 2013-029161

Mr. Vogel, Ms. Caldwell and Mr. Dennis were recused.

Mr. Riggs chaired.

Ms. Picca and her attorney Ms. Patty were present.

Motion was made by Mr. Robinson, seconded by Ms. Borders-Byrd, to reject stipulation. Upon vote, the motion passed unanimously. Motion was made by Dr. Fennema, seconded by Ms. Borders-Byrd, to offer a counter stipulation to include all terms of original stipulation with the deletion of paragraph 7 in its entirety, to be replaced with reprimand and suspension for a period of two years, commencing with the filing of the Final Order. Paragraph 8 to be modified to reduce the fine to \$5,000.00. Paragraph 9 to be modified with technical investigative cost of \$1,860.50 in addition to other administrative cost of \$820.01 for a total of \$2,626.52. The technical investigative cost to be paid within ninety days of the date of Final Order. The other administrative cost to be paid within thirty days of the date of Final Order. Respondent will pay the fine and all cost imposed by the Final Order in this matter prior to lifting of suspension. Upon vote, the motion passed unanimously.

D. Rattray, Harris – 2012-018138

Mr. Vogel, Mr. Riggs and Mr. Dennis were recused.

Mr. Robinson chaired.

Motion was made by Dr. Fennema, seconded by Ms. Borders-Byrd, to acknowledge respondent requested through their Election of Rights to have a hearing not involving any disputed issues of material or fact. Upon vote, the motion passed unanimously. Motion was made by Ms. Keegan, seconded by Ms. Borders-Byrd, to adopt the findings of fact and adopt the law as set forth in the administrative complaint. Upon vote, the motion passed unanimously. Motion was made by Ms. Keegan, seconded by Ms. Borders-Byrd, to approve Reprimand, fine of \$1,400.00 and cost of \$247.36 due within thirty days of date of Final Order. Upon vote, the motion passed unanimously.

Petition for Variance or Waiver

A. Garate, Sonia

Ms. Garate was present.

Motion was made by Dr. Fennema, seconded by Ms. Borders-Byrd, to grant Petition for Variance or Waiver. Upon vote, the motion passed unanimously.

B. Harrison, Sasha

Ms. Harrison was present.

Mr. Harrison requested her Petition for Variance or Waiver be deferred to the March 6, 2015 Board meeting.

3. Exams – Considerations

Dario Eduardo Costa

The applicant was charged on November 16, 2011 with DUI (reduced to reckless driving). The applicant successfully completed probation as of November 22, 2012. All sanctions have been satisfied. The applicant was charged with criminal mischief, disorderly conduct and resisting arrest without violence on March 2, 2012. The applicant successfully completed probation as of November 22, 2012. All sanctions have been satisfied. Background analysis is consistent with application. Application complete on October 30, 2014.

Motion was made by Mr. Riggs, seconded by Ms. Borders-Byrd, to approve for convictions only. Upon vote, the motion passed unanimously.

William Lars Dieterle

Applicant charged on September 3, 2007 with Battery. Plead nolo contendere, adjudication withheld, six months' probation and paid fines. All sanctions have been satisfied. Applicant charged on April 8, 2011 with Felony Battery, with great bodily harm and Battery. Plead nolo contendere, adjudication withheld, one year probation, 100 hours community service, 29 day jail work camp and pay restitution. All sanctions have been satisfied. The Board requested Mr. Dieterle appear before them at the December meeting. In December Mr. Dieterle requested to appear before the Board at the January meeting instead of December and the request was granted. Mr. Dieterle notified the board in writing on October 16, 2014, that he is waiving his 90-day rights so that he can meet with the Board in person during the December Board meeting. Background analysis is consistent with application. Application complete on August 7, 2014.

Mr. Dieterle was present.

Motion was made by Mr. Riggs, second by Dr. Fennema, to approve for convictions only. Upon vote, the motion passed unanimously.

Brittney Mack

The applicant was charged on March 29, 2007 with sale of cocaine; pled nolo contendere, two years drug offender probation with the possibility of early termination after one year and paid fines. Received early termination after 11 months. All sanctions have been satisfied. The applicant was charged on January 18, 2011 with obstructing or resisting officer without violence; pled guilty and paid fines. All sanctions have been satisfied. Background analysis is consistent with application. Application is incomplete.

Ms. Mack was present.

Motion was made by Ms. Caldwell, seconded by Mr. Riggs, to approve for convictions only. Upon vote, the motion passed unanimously.

4. Maintenance and Reactivation – Staff Approvals

Motion was made by Ms. Borders-Byrd, seconded by Mr. Riggs, to approve those listed. Upon vote, the motion passed unanimously.

5. Maintenance and Reactivation – Voluntary Relinquishment

Motion was made by Dr. Fennema, seconded by Mr. Riggs, to approve those listed. Upon vote, the motion passed unanimously.

6. Deceased Practitioners

There was a moment of silence.

7. Temporary Permits

Motion was made by Mr. Robinson, seconded by Ms. Borders-Byrd, to ratify list. Upon vote, the motion passed unanimously.

8. Reports

A. Committee On Accounting Education Meeting Minutes December 8, 2014

Dr. Fennema reported.

Dr. Fennema informed the Board that they are continuing seeing applicant's that are taking more than the usual number of courses in a semester, using a competency based process from Western Governor State. Dr. Fennema stated the Education Committee has asked Western Governor State to provide a list of other State Boards that accept these types of credits. Dr. Fennema informed the Board members he would keep them apprised of any developments with this.

Motion was made by Mr. Robinson, seconded by Mr. Riggs, to ratify minutes. Upon vote, the motion passed unanimously.

B. Committee On Continuing Professional Education Meeting Minutes December 19, 2014

Ms. Caldwell reported.

Ms. Caldwell informed the Board that there has been discussion regarding CPAs take accounting and auditing courses if they are tax practitioners. The general consensus of the Board is accounting and auditing courses should be part of the continuing education for renewal.

Motion was made by Ms. Borders-Byrd, seconded by Dr. Fennema, to ratify minutes. Upon vote, the motion passed unanimously.

C. Prosecuting Attorney Report

Ms. White reported.

Ms. White gave the Board stats on how many licensed and unlicensed cases are under investigation as well as how many are being reviewed by Legal. Ms. White informed the Board that moving forward she would be handling all licensed activity cases and Ms. Christian will handle all unlicensed activity cases.

D. Rules Report – Assistant Attorney General

Ms. Clark reported.

61H1-29.002 Temporary License.

(1) In each instance in which out-of-state certified public accountants or firms, not authorized to practice public accounting pursuant to the practice privileges granted to Section 473.3141, F.S., send out-of-state personnel into the state to perform a specific engagement, a temporary license will be required. Applications for temporary licenses must be filed thirty (30) days prior to commencement of the engagement. A temporary license shall not be required of a person entering this state solely for the purpose of preparing federal tax returns or advising as to federal tax matters.

(2) Applications for temporary licenses to fulfill specific engagements shall be in writing directed to the Department on forms prescribed by the Department.

(3) Each application will be accompanied by the statement of the applicant, or if it is a partnership or professional service corporation, by a partner or shareholder of the applicant, to the effect that:

(a) Said work qualifies for a temporary license;

(b) That the applicant is not maintaining a full-time office and staff in the state for the full-time public accounting practice in the state through the use of a temporary license.

(4) The out-of-state certified public accountant shall furnish the Department with the names of all out-of-state personnel coming into the state to fulfill the specific engagement and such other information as required by Chapters 455 and 473, F.S., and rules promulgated pursuant

thereto. If the out-of-state certified public accountant desires to substitute personnel or bring additional personnel into the state to fulfill the specific engagement, he shall notify the Department of the names of such substituted personnel or additional personnel as soon as practicable after the substitution or addition.

~~(5) The Board may, on its own initiative or upon the request of the applicant, conduct a hearing, including the taking of the sworn testimony of the applicant, or a partner, shareholder or employee thereof, in regard to the granting or refusing of a temporary license. Such hearing may be held either prior to or after the granting or refusing of a temporary license.~~

~~(6)~~ An out-of-state certified public accountant who is a resident of Florida may not practice as a certified public accountant in Florida through the use of temporary licenses or the practice privileges granted to Section 473.3141, F.S., nor may he assume or use the titles or designations "certified public accountant," or "public accountant" or the abbreviation "CPA," or any other title, designation, words, letters, abbreviations, sign, card, or device tending to indicate that he holds an active license under Chapter 473, F.S., nor shall such person attest as an expert in accountancy to the reliability or fairness of presentation of financial information or utilize any form of disclaimer of opinion which is intended or conventionally understood to convey an assurance of reliability as to matters not specifically disclaimed unless such person holds an active license under Chapter 473, F.S. This rule shall not prohibit the performance by such persons of other services involving the use of accounting skills, including the preparation of tax returns and the preparation of financial statements without expression of opinion thereon.

~~(6)~~ ~~(7)~~ A temporary license may be denied for any one of the following:

(a) The applicant has failed to fully complete required application;

(b) The applicant has committed any of the acts specified by Rule 61H1-36.004, F.A.C., which constitutes grounds for disciplinary action against a certified public accountant.

~~(7)~~ ~~(8)~~ Notwithstanding the above-stated requirements, a temporary license will not be required for an individual who does not have an office as defined by subsection 61H1-20.001(8), F.A.C., and either:

(a) Holds a valid license as a certified public accountant from a state the Board has determined to have adopted standards that are substantially equivalent to the certificate requirements in s. 5 of the Uniform Accountancy Act in the issuance of licenses (the Board's list of approved states, effective August 15, 2014 ~~March 1, 2014~~, is incorporated herein and available at <https://www.flrules.org/Gateway/reference.asp?No=Ref-00291> or at <http://www.myfloridalicense.com/dbpr/cpa/documents/MobilitySubstantiallyEquivalentrevised.pdf>); or

(b) Holds a valid license as a certified public accountant and obtains verification from the National Association of State Board of Accountancy CredentialNet service that the individual meets the certificate requirements the set forth the Standards for Regulation Including Substantial Equivalency in s. 5 of the Uniform Accountancy Act, seventh ~~fifth~~ edition, revised May 2014 ~~July 2007~~, which is incorporated herein and available at:

http://nasba.org/files/2014/05/UAASeventhEdition_includes2012CPEStandards-REVISED_051914.pdf. CredentialNet can be reached at credentialnet@nasba.org or (866)350-0017.

Rulemaking Authority 473.304, 473.305, 473.314 FS. Law Implemented 473.314, 473.315, 473.3141 FS. History—New 12-4-79, Amended 2-3-81, 10-19-83, Formerly 21A-29.02, Amended 5-3-88, 12-3-89, 6-13-90, 3-29-92, 12-2-92, Formerly 21A-29.002, Amended 6-28-94, 1-11-95, 8-28-06, 12-10-09, 6-21-11, 1-7-13,_____.

Motion was made by Dr. Fennema, seconded by Mr. Riggs, to notice for rule change and approve language as presented with an additional change to (1) "filed thirty (30) days prior. Upon vote, the motion passed unanimously.

Motion was made by Mr. Robinson, seconded by Dr. Fennema, that the proposed rule would not have an adverse impact on small business or likely to directly or indirectly increase regulatory cost to any entity (including government) in excess of \$200,00 in the aggregate in Florida within one year after the implementation of the rule. Upon vote, the motion passed unanimously.

61H1-36.04 Disciplinary Guidelines

Failure to obtain continuing
~~Education~~ education hours (Section 473.212,
F.S.,
Rule 61H1-33.003, F.A.C.)

First Offense

NUMBER OF HOURS LACKING

1 to 16 hours

PENALTY

\$500 fine, makeup missing hours plus
20 additional penalty hours, in same category as
those missed, if missing hours are ethics, penalty
hours would consist of accounting/auditing within
90 days of final order, must submit proof of
compliance for next two renewal periods

17 to 80 hours

\$2,000 fine, makeup missing hours plus
additional penalty hours equal to the number of
those missed, within same category as those
missed, suspension until all hours are completed,
must submit proof of compliance for next two
renewal periods

Second Offense

NUMBER OF HOURS LACKING

1 to 16 hours

PENALTY

\$500 fine, makeup missing hours plus
20 additional penalty hours, in same category as
those missed, if missing hours are ethics, penalty
hours would consist of accounting/auditing
suspension until all hours are completed, must
submit proof of compliance for next two renewal
periods

17 to 80 hours

\$2,000 fine, makeup missing hours plus
additional penalty hours equal to the number of
those missed, within same category as those
missed, suspension until all hours are completed,
must submit proof of compliance for next two
renewal periods

Motion was made by Mr. Dennis, seconded by Ms. Borders-Byrd, to approve additional change to language that was adopted at the October 9, 2014 meeting.

Motion was made by Mr. Robinson, seconded by Dr. Fennema, that the proposed rule would not have an adverse impact on small business or likely to directly or indirectly increase regulatory cost to any entity (including government) in excess of \$200,00 in the aggregate in Florida within one year after the implementation of the rule. Upon vote, the motion passed unanimously.

61H1-36.005 Citations

Motion was made by Ms. Caldwell, seconded by Mr. Lane, to withdraw changes to rule. Upon vote, the motion passed unanimously.

E. Discuss Rule 61H1-29.002 Temporary Permits

This was addressed during the Rules Report.

9. Administrative

A. Board of Accountancy Statistics

This was an informational item.

B. Committee Appointments

Mr. Vogel reported.

Probable Cause Panel:

Dave Dennis, Chair
Eric Robinson
Tracy Keegan
Byron Shinn
Maria Caldwell (Audit cases)
Frank Puissegur (CE audit cases)

Clay Ford Scholarship Council:

Cynthia Borders-Byrd, Chair

Education Advisory Committee:

Dr. Fennema, Chair
Tracy Keegan

Budget Task Force:

Dave Dennis, Chair
Cynthia Borders-Byrd

CPE Committee:

Maria Caldwell, Chair
Dr. Fennema, Vice Chair
Eric Robinson

New Committee formed for the purpose of working with Legislature

Eric Robinson, Chair

Steve Riggs, Vice Chair
Cynthia Borders-Byrd
Steve Vogel

C. Discuss 2015 Delegation List

Motion was made by Ms. Borders-Byrd, seconded by Mr. Riggs, to approve the 2015 Delegation List. Upon vote, the motion passed unanimously.

D. Remarks from the Executive Director

Ms. Kelly had no remarks at this time.

E. Title 16 Division 1 California Board of Accountancy

This was an informational item.

F. Update from Board members/staff serving on NASBA Committees.

Ms. Clark reported she and Ms. Caldwell attended the meeting in Nashville and they will both be present for the next meeting in Fort Myers. Ms. Clark stated there is a lot of discussion regarding changes to the way CPAs complete their continuing education, and what the goals are.

Mr. Dennis reported he is on the Uniform Accountancy Act Committee and he has been asked to Chair a Sub Committee for the Uniform Accountancy Act to deal with technical corrections to the Uniform Accountancy Act.

10. NASBA

A. Candidate Care Concerns 14Q3

This was an informational item.

B. Mailings to Licensees and CPA Examination Content Survey

This was an informational item.

Addition

Consider requests for assistance from NASBA and the AICPA

Motion was made by Mr. Riggs, seconded by Ms. Borders-Byrd, to approve expanding the sampling of Florida's data in the Accountancy Licensee Database. Upon vote, the motion passed unanimously.

11. FICPA

A. Discussion

Deborah Curry President/CEO, of the Florida Institute of CPA's and Jennifer Green, Partner Liberty Partners of Florida, LLC were present for this item.

Ms. Curry congratulated Mr. Vogel, Mr. Dennis and Dr. Fennema on their reappointment to the Board.

Ms. Curry informed the Board about the legislative work that is in progress including the cannabis bill, and how it may impact CPA's. This includes the services provided by CPAs as to the whether or not they would be able to confirm that dispensaries may or may not have good financial standing. Ms. Curry stated that the legislature understood some of the language related to CPAs would not be appropriate and that this will be brought back to the FICPA for assistance with the language if this moves forward.

Ms. Curry informed the Board that another item that has come up for discussion is the state legislative policies committee as it relates to charging liens. She stated she will come back to the Board with more information regarding this.

Ms. Curry informed the Board that the FICPA will continue writing letters in support of the budget continuation for all the items that we have and need in the budget, to allow the board to continue being strong on issues such as the unlicensed activity.

Ms. Curry informed the Board that the FICPA has been successful with promoting young CPAs.

Ms. Curry informed the Board that Paul Brown will be the contact for the Board with regard to the Peer Review program. She stated Mr. Brown has the experience with the Peer Review program and its technical matters.

12. Other Business

Mr. Dennis stated he wanted to bring to the Board's attention F.S. 473.3101 and possible issues with firms having to hold a firm license. Mr. Dennis suggested the Board may want to do something legislatively to fix the statute. Ms. Clark agreed with Mr. Dennis that there could be potential loopholes for firms that don't have the title CPA or words to that effect in their title and only performs tax work. However, Ms. Clark stated Rule 61H1-26.001(1) states that a Florida CPA may practice public accounting whether as an owner or employee only in the form of a proprietorship, partnership, corporation or LLC, and that the reference to public accounting is not restricted to A, the audit function. Mr. Dennis stated he thought the Board needs to determine what they want to accomplish with the rule and statute regarding this.

13. Old Business

Motion was made by Mr. Robinson, seconded by Ms. Borders-Byrd, to approve the PROC application as presented with the applications being opened April 16, 2015 and closed on June 1, 2015. Upon vote, the motion passed unanimously.

14. Future Meetings

This was an informational item.

15. Adjourn

The meeting was adjourned at 12:29 p.m.

Steve Vogel, Chair