

July 21, 2017
Board of Accountancy

Biltmore Hotel & Resort
Coral Gables, Florida

Friday, July 21, 2017

The meeting was called to order at 9:03 a.m. The Pledge of Allegiance was recited; Introduction of Board; the roll was called by Veloria Kelly, Executive Director, and reflected the following persons present:

BOARD MEMBERS

David Dennis	Present
M.G. Fennema	Present
Tracy Keegan	Present
Mindy Rankin	Excused Absence
Eric Robinson	Unexcused Absence
David Skup	Present
Jesus Socorro	Present
H. Steven Vogel	Present

STAFF

Veloria Kelly	Present
Denise Graves	Present

Mary Ellen Clark, Senior Assistant Attorney General and Board Counsel; was present. Megan Kachur, Chief Attorney, Department of Business and Professional Regulation were present and the Court Reporter was Daisy Amador.

1. Approve Board Minutes

A. June 2, 2017

Motion was made by Mr. Vogel, seconded by Mr. Dennis, to approve minutes. Upon vote, the motion passed unanimously.

2. OGC Final Action

A. Bell, Lawrence 2015-035142

The case was continued due to lack of quorum.

B. Brandenburg, Clement 2015-028548

The case was continued until to the September meeting.

C. Friedlander, Philip H. 2016-050363

Ms. Keegan was recused.

Ms. Kachur presented the case.

Motion was made by Mr. Vogel, seconded by Mr. Dennis, to accept the Stipulation. Upon vote, the motion passed unanimously.

D. Smith, Armin 2016-029884

Mr. Smith was present.

Ms. Keegan was recused.

Ms. Kachur presented the case.

Motion was made by Mr. Dennis, seconded by Mr. Socorro, to accept the Stipulation. Upon vote, the motion passed unanimously.

E. Spallina, Robert 2015-043077

Mr. Spallina was present.

Ms. Keegan was recused.

Ms. Kachur presented the case.

Mr. Vogel acknowledged he knows Mr. Spallina but can be fair and impartial.

Motion was made by Mr. Dennis, seconded by Mr. Skup, to reject the stipulation. Upon the vote, the motion passed unanimously. A Counterstipulation was made by Mr. Vogel, seconded by Mr. Dennis, to impose an administrative fine of \$1,200.00 and administrative costs of \$278.91, to be due within one (1) year of the filing date of the Final Order; A Reprimand; Suspension for a period of one (1) year from the entry date of the Final Order and Probation for a period of two (2) years commencing immediately upon reactivation of his license to current active status. Upon vote, the motion passed with Mr. Skup opposing.

Mr. Spallina accepted the Counterstipulation.

F. Sullivan, Laura 2016-052637

Ms. Keegan was recused.

Ms. Kachur presented the case.

Motion was made by Mr. Socorro, seconded by Mr. Vogel, to reject the stipulation. Upon the vote, the motion passed unanimously. A Counterstipulation was made by Mr. Socorro, seconded by Mr. Dennis, to impose an administrative fine of \$1,500.00 and administrative costs of \$93.99, to be due within thirty (30) days from the filing date of the Final Order; Suspension until licensee submits satisfactory evidence of having completed the following: satisfactory evidence of having completed the eighty (80) hours of continuing professional education that she failed to complete for the reestablishment period July 1, 2013 through June 30, 2015 plus an additional eighty (80) hours, as penalty, for a total of one hundred sixty (160) continuing professional education hours. The hours are not eligible for use toward meeting the requirements of any subsequent reestablishment periods and submit proof of CPE compliance for July 1, 2015 through June 30, 2017 and July 1, 2017 through June 30, 2019. Upon vote, the motion passed unanimously.

G. Villate, Joseph 2016-048483

Ms. Kachur presented the case.

Motion was made by Mr. Dennis, seconded by Mr. Socorro, to acknowledge that Respondent requested through Election of Rights form to have a hearing not involving any disputed issues of material fact. Motion was made by Mr. Dennis, seconded by Mr. Socorro, to adopt the allegations of fact and conclusions of law in the Administrative Complaint as the findings of fact, and conclusions of law of the Board. Upon vote, the motion passed unanimously. Motion was made by Mr. Dennis, seconded by Mr. Socorro, to an administrative fine of \$2,000.00 and administrative costs of \$203.62 to be due within thirty (30) days of the entry of Final Order; Suspension effective immediately upon entry of the Final Order until the such time as the licensee provides to the Board office satisfactory evidence of having completed the eighty (80) hours of continuing professional education that he failed to complete for the reestablishment period July 1, 2013 through June 30, 2015 plus an additional eighty (80) hours, as penalty, for a total of one hundred sixty (160) continuing professional education hours. The hours required shall be of the same type as those he previously failed to complete and are a penalty; The hours are not eligible for use toward meeting the requirements of any subsequent reestablishment periods and submit proof of CPE compliance for July 1, 2015 through June 30, 2017 and July 1, 2017 through June 30, 2019; Upon vote, the motion passed unanimously.

M. Ploch, Tracey E. 2015-018212

The case was continued due to lack of quorum.

N. Faber, Michael L. 2016-026029

Ms. Keegan was recused.

Ms. Kachur presented the case.

Motion was made by Mr. Dennis, seconded by Mr. Socorro, to acknowledge that Respondent requested through Election of Rights form to have a hearing not involving any disputed issues of material fact. Motion was made by Mr. Dennis, seconded by Mr. Socorro, to adopt the allegations of fact and conclusions of law in the Administrative Complaint as the findings of fact, and conclusions of law of the Board. Upon vote, the motion passed unanimously. Motion was made by Mr. Dennis, seconded by Mr. Skup, to impose an administrative fine of \$1,200.00 and administrative costs of \$230.00 to be due within thirty (30) days of the entry of the Final Order and a Reprimand. Upon vote, the motion passed unanimously.

O. Weisse, Marsha 2015-053875

The case was continued.

P. Weisse, Marsha 2016-036293

The case was continued.

3. Petition for Variance or Waiver

A. Fayer, Mayer A.

Mr. Fayed was present.

Motion was made by Mr. Dennis, seconded by Ms. Keegan, to grant the Petition for Variance or Waiver for permanent variance of Rule 61H1-27.002(2)(b), Florida Administrative Code. Petitioner established that the purpose of the underlying statute, Section 473.306, Florida Statutes, would be met were he to be granted a variance from Rule 61H1-27.002(2)(b), Florida Administrative Code, based upon his completion of the following: The completed coursework at IE Business School in Spain including two Master degrees and a Bachelor degree; Petitioner acquired over fourteen (14) years of professional experience in finance, advisory and consulting services. Petitioner further established that the Board's application of 61H1-27.002(2)(b), Florida Administrative Code, to his circumstances would violate principles of fairness and impose a substantial hardship on him. Upon vote, the motion passed unanimously.

B. Krajewski, Tanya

Motion was made by Mr. Dennis, seconded by Ms. Keegan, to grant the Petition for Variance or Waiver for temporary variance of Rule 61H1-33.006(2), Florida Administrative Code and a permanent variance from Rule 61H1-31.006, Florida Administrative Code. Petitioner established that the purpose of the underlying statute, Section 473.312 and 473.313, Florida Statutes, would be met were she to be granted a variance from Rule 61H1-33.006(2), Florida Administrative Code. Petitioner established that the purpose of Section 455.271, Florida Statutes, would be met were she to be granted a waiver of Rule 61H1-31.006, Florida Administrative Code. Petitioner further established that the Board's application of Rule 61H1-31.006, Florida Administrative Code, to her circumstances would violate principles of fairness and would impose a substantial hardship on her. Upon vote, the motion passed unanimously.

C. Tushaus, Kathryn

Mr. Holder, Esquire was present.

Motion was made by Mr. Dennis, seconded by Ms. Keegan, to grant the Petition for Variance or Waiver for permanent variance of Rule 61H1-33.006(2)(c) and 61H1-33.006(3), Florida Administrative Code. Petitioner established that the purpose of the underlying statutes, Sections 473.312 and 473.313, Florida Statutes, would be met were she to be granted a variance from Rule 61H1-33.006(2)(c) and (3), Florida Administrative Code. Petitioner further established that the Board's application of Rule 61H1-31.006, Florida Administrative Code, to her circumstances would violate principles of fairness and would impose a substantial hardship on her. Upon vote, the motion passed unanimously.

4. Disciplinary Matters

A. Schultz, Ronald M.

Mr. Schultz was present.

Motion was made by Mr. Vogel, seconded by Ms. Keegan, to approve the probation termination based on the testimony of actions taken to ensure no further violations will incur. Upon vote, the motion passed unanimously.

5. Examination – Considerations

A. Dibartolomeo, Michael

Mr. Dibartolomeo was present.

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

B. Hoaglund, Cheryl Ann

Ms. Hoaglund was present.

Motion was made by Mr. Vogel, seconded by Ms. Keegan, to approve for convictions only. Upon vote, the motion passed with Dr. Fennema and Mr. Dennis opposing.

C. Menton, Zachary

Motion was made by Mr. Dennis, seconded by Mr. Vogel, to approve for convictions only. Upon vote, the motion passed unanimously.

6. Exams – Do Not Meet Requirements

A. Alonso, Sindy

Board requested the applicant appear before the Board at the next meeting to supply additional information.

B. Rheinhardt, Spencer

The item was removed from the agenda. Ms. Kelly will review the spring 2015 transcript and approve the application.

7. Original Licensure

A. Rees, Sean

The item was continued until the October meeting at the request of the applicant.

8. Endorsement - Considerations

A. Collins, James

Mr. Collins was present.

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

B. Jones, Jeremy

Motion was made by Mr. Dennis, seconded by Mr. Socorro, to approve for answering affirmatively to question five (5) only. Upon vote, the motion passed unanimously.

C. McGlaun, Michelle

Motion was made by Mr. Dennis, seconded by Ms. Keegan, to approve for answering affirmatively to question four (4) only. Upon vote, the motion passed unanimously.

D. Mendez, Michael

Mr. Mendez was present.

Motion was made by Mr. Socorro, seconded by Mr. Dennis, to approve for convictions only. Upon vote, the motion passed unanimously.

E. Miller, Jennifer Gayle

Motion was made by Ms. Keegan, seconded by Mr. Dennis, to approve for answering affirmatively to question five (5) only. Upon vote, the motion passed unanimously.

F. Sayler, Jana Ruth

Motion was made by Mr. Dennis, seconded by Ms. Keegan, to approve for answering affirmatively to question five (5) only. Upon vote, the motion passed unanimously.

9. Maintenance and Reactivation - Staff Approvals

Motion was made by Ms. Keegan, seconded by Mr. Dennis, to approve and ratify those listed. Upon vote, the motion passed unanimously.

10. Maintenance and Reactivation - Voluntary Relinquishment

Motion was made Ms. Keegan, seconded by Mr. Dennis, to approve and ratify those listed. Upon vote, the motion passed unanimously.

11. Deceased Practitioners

There was a moment of silence.

12. Temporary Permits

Motion was made by Mr. Dennis, seconded by Ms. Keegan, to approve and ratify those listed. Upon vote, the motion passed unanimously.

Dr. Fennema finds good cause shown to add the additions agenda.

Additions:

1. Reports

A. Rules Committee Meeting – May 18, 2017

Motion was made by Mr. Dennis, seconded by Mr. Socorro, to approve and ratify the recommendations and actions of the Committee. Upon vote, the motion passed unanimously.

13. Reports

A. Committee on Continuing Professional Education Meeting June 9, 2017

Motion was made by Ms. Keegan, seconded by Mr. Socorro, to approve and ratify the recommendations and actions of the Committee. Upon vote, the motion passed unanimously.

B. Committee on Budget Task Force Meeting June 22, 2017

Motion was made by Ms. Keegan, seconded by Mr. Socorro, to approve and ratify the recommendations and actions of the Committee. Upon vote, the motion passed unanimously.

C. Prosecuting Attorney Report

Ms. Kachur reported.

Ms. Kachur 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. Kachur requested permission from the Board to continue prosecuting cases over one (1) year old.

Motion was made by Mr. Dennis, seconded by Mr. Skup, to approve Ms. Kachur to prosecute cases over one (1) year old. Upon vote, the motion passed unanimously.

D. Rules Report – Assistant Attorney General

Ms. Clark reported.

Ms. Clark informed the Board the rules on the report are for their information only.

a. Certification for the Board of Accountancy – FYI

This was an informational item.

b. Changes to the Rulemaking Process Memorandum

This item will be placed on the September agenda.

14. Rules

A. 61H1-20.0093 Rules of the Auditor General

Motion was made by Mr. Skup, seconded by Ms. Keegan, to notice and approve text presented. Upon vote, the motion passed unanimously. Motion was made by Mr. Dennis, seconded by Ms. Keegan, 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 \$200,000 in the aggregate in Florida within one (1) year after the implementation of the rule and should this rule or any part of this rule be designated a minor violation? No Upon vote, the motion passed unanimously.

B. 61H1-31.004 Delinquency Fee

Motion was made by Mr. Dennis, seconded by Ms. Keegan, to notice and approve text presented. Upon vote, the motion passed unanimously. Motion was made by Mr. Dennis, seconded by Ms. Keegan, 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 \$200,000 in the aggregate in Florida within one (1) year after the implementation of the rule and should this rule or any part of this rule be designated a minor violation? No Upon vote, the motion passed unanimously.

C. Annual Rule Review / Recommendations

The Rules Committee will meet August 29, 2017, at 1:30 p.m. for telephonic meeting to discuss recommendations.

D. Department of Business and Professional Regulation 2016-2017 Annual Regulatory Plan

This item was continued to the September agenda. The Board will meet on September 7, 2017, beginning at 3:00 p.m. to discuss this item.

15. Administration

A. Board of Accountancy Statistics

This was an informational item.

B. Consider Recognizing Harold Monk, CPA

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

C. Consider Sending Representation To NASBA Annual Meeting – October 29 – November 1, 2017

Motion was made by Mr. Dennis, seconded by Mr. Vogel, to approve Ms. Kelly, Ms. Clark and all the sitting Board members to attend the conference. Upon vote, the motion passed unanimously.

D. Remarks from the Executive Director

Ms. Kelly informed the Board the newly appointed Secretary, Jonathan Zachem took office and he has been invited to attend a future meeting. Ms. Kelly informed the Board, all members present have filed the financial disclosure form. Ms. Kelly asked the Board to consider a date for Board workshop in the future, for a strategic planning session.

E. Tentative Meeting Dates for 2018

All tentative dates are acceptable with the exception of August 1st and 2nd, 2018. Dr. Fennema suggested considering having no more than two (2) meetings in each location if possible.

F. Update from Board Members / Staff Serving on NASBA Committees

Mr. Dennis reported.

The AICPA UAA Committee is currently working on the CPE Model rules.

Ms. Kelly reported.

She continues to serve on the AICPA Committee.

Ms. Clark reported.

The NASBA Committee she serves is not currently active.

16. NASBA

A. Security Incident Report for Candidates – FYI

This was an informational item.

B. UAA Committee on the use of Titles – Comments due by September 30, 2017

At the July 21, 2017 meeting, the Florida Board of Accountancy considered the Title Language Exposure Draft of the Uniform Accountancy Act (UAA). Specifically, the Board discussed (1) whether to accept or reject NASBA's title language, and (2) whether the language should be included in the UAA.

In general, the Board felt that Florida's current laws and rules afforded the needed protection in this area. Therefore, the Board could not come to a consensus as to whether to accept or reject NASBA's title language. The Board does not support adding the language in the UAA. Dr. Fennema will draft a letter on behalf of the Board.

a. Nevada's Response to the use of Titles Language Exposure Draft – FYI

This was an information item.

b. Texas Statewide Survey on the use of Titles - FYI

This was an informational item.

17. FICPA

Mr. Thames and Ms. Green were present.

Mr. Thames thanked the Board for allowing the FICPA the opportunity to address the Board. Mr. Thames informed the Board the Legislative session was successful and House Bill 987 became effective July 1st. The FICPA offered the Board assistance with any rule making process they may need. Mr. Thames invited the Board to hold their June 2018 meeting in conjunction with the FICPA Mega conference.

18. Old Business

None at this time.

19. Other Business

Dr. Fennema requested to place on the September agenda, a discussion to consider discipline for applicants who are untruthful on their applications. Ms. Clark advised this can be considered under rule 61H1-36.004(2)(a), Florida Administrative Code. The Board would need to add a category for misrepresentation; the motion to consider would be to grant the applications on the condition of a payment of a fine or imposed sanction.

20. Future Meetings

This was an informational item.

21. Adjourned

Dr. Fennema adjourned the meeting at 4:21 p.m.

M. Fennema

Dr. Martin Fennema, Chair