

Board of Accountancy
May 2, 2014

Tampa Airport Marriott
Tampa International Airport
Tampa Florida 33607

Friday, May 2, 2014

The meeting was called to order at 9:00 a.m. The roll was called by Ms. Kelly, Division Director, and reflected the following persons present:

BOARD MEMBERS

Teresa Borcheck	Excused Absence
Cynthia Borders-Byrd	Present
Maria E. Caldwell	Present
David L. Dennis	Present
M.G. Fennema	Present
James Lane	Present
Steve Riggs	Present
Eric Robinson	Present
H. Steven Vogel	Present

STAFF

Veloria Kelly	Present
June Carroll	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. Brande Bulger, Prosecuting Attorney, Department of Business and Professional Regulation, was present. Court Reporter was Penny Appleton.

Mr. Lane was introduced as a new board member, and gave a brief description of his career.

1. Approve Board Minutes

A. MARCH 21, 2014

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

2. OGC Action Request

A. ACTION PLAN FOR CPA COMPLAINTS PROCESS – DBPR
DEPUTY SECRETARY TIM VACCARRO & DBPR DEPUTY
GENERAL COUNSEL PAUL WATERS

Deputy Secretary Tim Vaccaro and Deputy General Counsel Paul Waters of the Department of Business and Professional Regulation were present for this item.

Mr. Vaccaro informed the board that the average days for enforcement to complete investigations was done to eighty five days in March. He informed the board that the deadline for supplemental materials is thirty days. Mr. Vaccaro informed the board that enforcement has been meeting with the investigative team once a month to over cases and to instruct the investigators on what is needed to complete an investigations. Mr.

Vaccaro let the board know that Erica White has been assigned to the Board to act as Senior Prosecuting Attorney.

Mr. Waters informed the board that since January 2014 there have been many changes in the legal department. Changes made have been hiring an attorney; Erica White that is at a supervisor level as well as hiring Brande Bugler. He also stated that there have been changes to the support staff of the legal team. There is now an administrative level employee who is also a paralegal, as well as a law clerk that is an accountant and has history of accounting and well as being a second year law student.

Mr. Waters stated that the timelines of cases have been reduced and the quality of work has improved. He stated the agendas and materials are being cleaned up, that coversheets are being provided as well as removing duplicate and unnecessary documents. Mr. Waters informed the board that when citations are issued the maximum fines are being issued.

Mr. Riggs stated that there has been noticeable improvement in the board agendas. Mr. Riggs stated that he would like to see included in the cases any criminal action such as the charging documents along with closing documents. Mr. Dennis stated he would like to see a summary of what had occurred and any resolution to help understand what had happened.

Mr. Vogel asked that the recommendation for discipline from the Probable Cause Panel be included in the board materials. Mr. Waters suggested that during the Probable Cause meetings let counsel know what type of discipline that would like to see issued.

B. AUDITOR GENERAL REPORTS - MR. RICHARD LAW, CPA

Mr. Richard Law was present for this item.

Mr. Law informed the board that he was there to discuss the process by which the board coordinates with the Auditor General's office regarding the review of local audits of government. Mr. Law stated that from 1980 through 2004 there was a team of consultants that would review a list of firms that had a deficient audit. Mr. Law stated he has been the liaison with the Auditor General's office, and as the liaison he would go over the score sheet with the Auditor General's office on deficient reports. Mr. Law stated in the early 80's and 90's there were some bad reports, however in the early 20's there haven't been any bad reports. Mr. Law stated the errors that are being seen are not ones begin made by the CPA. He stated for the last two years the information has gone to the Board office, and it should have been going to him, Mr. Nast or Mr. Reilly. Mr. Law asked the board if they wished for him to contact the Auditor General's office for future reports. Mr. Dennis stated he would like to see a report and that he wants an expert witness to look at the reports with deficiencies and see if there are any issues. It was determined that this will be done annually and Mr. Law requested Mr. Reilly and Mr. Nast participate in the review.

C. CLOUGH, RANDY M. - 2013020338 – (SV/BES/DD)

Mr. Vogel and Mr. Dennis were recused.

Mr. Clough was present.

Motion was made by Mr. Robinson, seconded by Ms. Caldwell, 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 Mr. Robinson, seconded by Ms. Caldwell, to adopt an amended stipulation to include a letter of reprimand, fine of \$500.00 and cost of 225.71, to be due within thirty days of date of Final Order, due to mitigating circumstance of financial hardship. Upon vote, the motion passed with Dr. Fennema voting no.

D. DUBE, DAVID WILLIAM - 2012025291– (SR/SV/BES)

Mr. Riggs and Mr. Vogel were recused.

Mr. Dennis acted as chair.

Motion was made by Dr. Fennema, seconded by Ms. Borders-Byrd, that respondent waived their right to request a hearing in which there is a disputed issue of material fact, 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 Mr. Robinson, seconded by Mr. Lane, to revoke license, issue fine of \$5,000 and cost in the amount of 16.66 to be due within thirty days of date of Final Order. Upon vote, the motion passed unanimously.

E. FORMAN AND PARKER - 2011036660 – (SV/BES/DD)

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

Mr. Parker was present.

Ms. Caldwell chaired.

Motion was made by Dr. Fennema, seconded by Ms. Borders-Byrd, to adopt the findings of fact and adopt the law as set forth in the amended administrative complaint. Upon vote, the motion passed unanimously. Motion was made by Mr. Robinson, seconded by Ms. Borders-Byrd, to revoke license. Upon vote, the motion passed unanimously.

F. FORMAN, TERRY – 2012002922

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

Mr. Parker was present.

Ms. Caldwell chaired

Motion was made by Dr. Fennema, seconded by Ms. Borders-Byrd, to adopt the findings of fact and adopt the law as set forth in the amended administrative complaint. Upon vote, the motion passed unanimously. Motion was made by Mr. Robinson, seconded by Ms. Borders-Byrd, to revoke license, issue a fine of \$7,500.00 and cost in the amount of \$439.68 to be due within thirty days of date of Final Order. Upon vote, the motion passed unanimously.

G. SULLIVAN, FREDERICK CASHIN - 2011055857

Mr. Vogel and Mr. Dennis were recused.

Motion was made by Mr. Robinson, seconded by Ms. Caldwell, to deny stipulation as presented. Upon vote, the motion passed unanimously. Motion was made by Mr. Robinson, seconded by Mr. Lane, to amend stipulation to suspend license to run concurrently with probation, fine of \$2, 500, and cost in the amount of \$150.47 to be due within thirty days of date of Final Order. Upon vote, the motion passed with Ms. Caldwell voting no.

H. THOMAS, DANA D. - 2013026588

Mr. Vogel and Mr. Dennis were recused.

Mr. Thomas was present.

Motion was made by Mr. Robinson, seconded by Ms. Caldwell, 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 Mr. Robinson, seconded by Ms. Caldwell, to adopt an amended stipulation to include a letter of reprimand, fine of \$500.00 and cost of 225.71, to be due within thirty days of date of Final Order, due to mitigating circumstance of financial hardship. Upon vote, the motion passed with Dr. Fennema voting no.

H. ZALKA, STEPHEN M. - 2012041365

Mr. Riggs and Mr. Vogel were recused.

Mr. Dennis chaired.

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

3. Petition for Variance

A. ANDREW HUGGINS

Motion was made by Dr. Fennema, seconded by Mr. Lane, to approve Petition for Variance or Waiver. Upon vote, the motion passed unanimously.

4. Reconsideration

A. PETER FERRARO

Mr. Ferraro was present.

Motion was made by Mr. Dennis, seconded by Mr. Lane, to reconsider, vacate the previous denial and approve. Upon vote, the motion passed unanimously.

B. HEATHER LABEAU

Ms. Storr elected to waive her ninety days, therefor no action was taken.

7. Maintenance and Reactivation - Consent Agenda - Staff Approvals

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

8. Deceased Practitioners

There was a moment of silence.

9. Temporary Permits

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

10. Reports

A. BUDGET TASK FORCE MEETING APRIL 23, 2014 - MR. DAVE DENNIS

Mr. Dennis reported.

Mr. Dennis informed the board that the Budget Task Force had met by conference call on April 23, 2014. Mr. Dennis informed the board that excess cash is being swept for General Revenue, and the board should be spending money on training for staff, for participation in the NASBA meetings, by staff, attorneys and board members. Mr. Riggs asked about money being generated by Unlicensed Activity, Mr. Riggs was informed that the collection of unlicensed activity fees are being tracked by board staff. Mr. Dennis informed the board that the money for the education Minority Assistance Program had scholarships returned, and there had a balance left due to this. Mr. Dennis stated this money is going to good work and that he wanted to pass along to the other board members the appreciation of those who had received scholarships.

B. PROSECUTING ATTORNEY'S REPORT

Ms. White and Ms. Bulger reported.

Ms. White reported on the licensed activity and Ms. Bulger reported on the unlicensed activity. Mr. Vogel stated he wanted the board to be more involved with the Unlicensed Activity and asked what kind of fines are being set. Ms. Kelly stated that the board has hired an OPS staff member to concentrate on unlicensed activity and that Craig's list as well as other social media it being used as a tool to find unlicensed activity.

C. ASSISTANT ATTORNEY GENERAL RULES REPORT

Ms. Clark reported.

Ms. Clark informed the Board members that the Peer Review language would become effective May 4, 2014. Ms. Clark thanked Mr. Dennis and the FICPA for their assistance

with the language and responding to letter received on this topic. Ms. Clark informed the Board members that Rule 61H1-31.001 – Licensure and Exam Score Verification Fee became effective March 23, 2014. Ms. Clark informed the board that the Independence Standard documents may need updates with regard to the web address, at this time the rule change has been withdrew due to the Joint Administrative Procedures Committee's comments. Ms. Clark stated perhaps a study to update the standards should be considered. No action was taken as all items are in a complete status.

D. 2014 – 2015 REGULATORY PLAN

Ms. Clark informed the Board members that the regulatory report is due by July 1st of the year that the draft needs to be given to the Department of Business and Professional Regulation by June 1st. The purpose of the report is to identify any rules that need to be addressed next year. Ms. Clark stated if the board failed to put a rule on the list it doesn't prevent them from looking at the rule.

Mr. Dennis suggested looking at Section 19 of the Uniform Accountancy Act pertaining to licensee's working papers and client records. Mr. Dennis suggested Rule 61H1-21.005 – Contingent fees should be reviewed for clarification as well as Rule 61H1-23.002 Records Disposition Responsibly. Mr. Dennis volunteered to assist Ms. Clark. Ms. Clark and Mr. Dennis will also look at Rule 61H1-21.001 – Independence.

11. Administrative

A. 2015 LEGISLATIVE PACKAGE

Board members discussed items they would like to see in the Legislative Package. Mr. Robinson stated he would like to see an item that allows a CPA firm to have more than one firm. It was determined that this is an issue that will take careful study as to not have a negative impact. Board members discussed F.S. 473.302(9) and determined an update to this is needed. Motion was made by Dr. Fennema, seconded by Ms. Borders-Byrd, to approve F.S. 473.302(9) be included in the 2015 Legislative Package. Upon vote, the motion passed unanimously.

B. BOARD OF ACCOUNTANCY STATISTICS

This was an informational item.

C. CONSIDER STARTING TIME FOR BOARD MEETINGS

It was determined the Board would continue to start the meeting at 9:00 a.m.

D. REMARKS FROM THE EXECUTIVE DIRECTOR

Ms. Kelly reported.

Ms. Kelly explained to the Board members that the Board of Accountancy t along with the Bureau of Testing (BET) have a Memorandum of Understanding with regards to how the Continuing Professional Education Audit will be performed. Ms. Kelly stated that historically the audit begin in April, and the licensee is notified they have been selected for a random audit. The Licensees are asked to complete the reporting form within the

re-establishment period is being requested and return with proofs of certification and outlines for courses that are not already approved by the board.

Ms. Kelly informed the board that for the 2011 audit year BET reported 591 audit notices were mailed out with an initial compliance rate of 92%, It was determined that on 7 licenses were non-compliant and they were referred to Enforcement. The final compliance rate being 99% with 7 cases under investigation.

Ms. Kelly informed the board that for the 2012 audit year BET reported 1, 139 audit notices were mailed out with an initial compliance rate of 87%. It was determined that 112 licensees were non-compliant and they were referred to Enforcement. The final compliance rate being 90% prior to enforcement involvement.

Ms. Kelly informed the board that for the 2013 audit year BET reported 948 audit notices were mailed out with an initial compliance rate of 88%. It was determined that 50 licensees were noncompliance and cases were referred to Enforcement. The final compliance rate being 95% prior to enforcement involvement with 16 citations issued, and 10 cases closed for having evidenced successful compliance.

Ms. Kelly informed the board that at this time it's been confirmed by BET that the board office has received documentation for all licensees who failed to comply with the 2011, 2012 and 2013 audits.

Ms. Kelly informed the board that board staff and BET staff have reviewed the process in both office to determine how to ensure that the audit is completed timely and efficiently, with follow up to the Board's CPA Advisory Council and Enforcement Section.

E. RESOLUTION FOR MR. WILLIAM H. DURKIN

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

F. TASKFORCE ON SECTION 19 OF THE UAA – CLIENT RECORDS- MR. DENNIS

This was an informational item as this was discussed under the Administrative Header, tab A.

12. NASBA

A. CONSIDER NOMINATING A FLORIDA BOARD MEMBER FOR 2014-2015 NASBA SOUTHEAST REGIONAL DIRECTOR

Motion was made by Mr. Dennis, seconded by Ms. Borders-Byrd, to submit a letter of recommendation for Ms. Caldwell. Upon vote, the motion passed unanimously.

B. CONSIDER SENDING REPRESENTATION TO NASBA EASTERN REGIONAL MEETING IN LOUISVILLE, KENTUCKY JUNE 4 – 6, 2014

Board members determined Mr. Riggs, Mr. Dennis, Ms. Caldwell, Ms. Kelly and Ms. Clark should attend. Mr. Lane will be attending as a new board member.

C. MULTI-TESTER REPORT

This item will be brought back to the board for consideration.

D. NASBA JURISDICTION REPORTS- TESTING WINDOWS 2014 Q-1 – FYI

This was an informational item.

E. NOMINATION AND QUALIFICATIONS FOR 2014-2015 NASBA DIRECTOR AT LARGE - FYI

- (1) JIMMY E. BURKES, CPA
- (2) CARLOS BERRERA, CPA
- (3) LAURIE J. TISH, CPA

This was an informational item.

F. NOMINATION AND QUALIFICATIONS FOR 2014-2015 NASBA GREAT LAKES REGIONAL DIRECTOR - FYI

- (1) W. MICHAEL FRITZ, CPA

This was an informational item.

G. NOMINATION AND QUALIFICATIONS FOR 2014-2015 NASBA SOUTHEAST REGIONAL DIRECTOR - FYI

- (1) WILLIE B. SIMS, JR., CPA

This was an informational item.

H. NOMINATION AND QUALIFICATIONS FOR 2014-2015 NASBA VICE CHAIR – FYI

- (1) DONALD H. BURKETT, CPA
- (2) JANICE L. GRAY, CPA

This was an informational item.

13. FICPA

A. FICPA DISCUSSION

Deborah Curry President /CEO and Rivers Buford, Director of Governmental Affairs of the Florida Institute of CPAs were present.

Ms. Curry informed the Board that Bill 725 has passed and is waiting for the Governor's signature. This legislation provides for the correction of quarter hours from 160 to 180 to sit for the CPA exam, good moral character for CPA exam applicants and the amnesty program which allows for the reactivation of inactive licenses that have held a Florida CPA license by completing 120 hours of continuing professional education.

Ms. Curry informed the Board that 100,000.00 was approved for the Unlicensed Activity Campaign for CPA's.

Mr. Curry thanked the Board for working on the Clay Ford Scholarship's.

14. AICPA

A. EMERGENT DOL- PEER REVIEW MATTERS

This was an informational item.

15. Old Business

There was none at this time.

16. Other Business

The Board discussed the Attorney Generals contract with the Board and allowing the Attorney General to advise the Board on Legislative matters.

Motion was made by Ms. Caldwell, seconded by Mr. Dennis to have in the contract with the Attorney General's office the provision that the attorney can advise the Board on Legislative matters. Upon vote, the motion passed unanimously.

The Board discussed pre-screening applicant's courses and charging a fee to prevent them from taking courses that don't qualify for the exam or licensure. This will be looked at a later date; at this time there isn't the staffing to perform pre-screening.

17. Future Meetings

This was an informational item.

18. Adjourn

The meeting was adjourned at 1:45 p.m.

Steve Riggs, Chair