State of Tennessee
Department of Commerce and Insurance
Tennessee State Board of Accountancy
Davy Crockett Tower
500 James Robertson Parkway
Nashville, TN 37243
615-741-2550 or 888-453-6150

Board Minutes

October 18, 2013

The meeting of the Tennessee State Board of Accountancy convened in Davy Crockett Tower, Nashville, TN on Friday, October 18, 2013 at 8:31 AM.

Board members present were: Trey Watkins, Chair; Casey Stuart, Vice-Chair; Bill Blaufuss, Secretary; Vic Alexander, Troy Brewer, Stephen Eldridge, Henry Hoss, Don Royston, and Charlene Spiceland. Gabe Roberts and Jennifer Brundige were absent.

Staff members present were: Mark Crocker, Executive Director; Don Mills, Investigator; Ray Butler, Investigator; Jesse Joseph, Litigation Counsel; Chris Whittaker, Board Counsel; Karen Condon, and Kristy Burton.

Also present were Wendy Garvin, TSCPA; Rebecca Gebhardt, NASBA, and Amy Tongate, NASBA.

Mr. Watkins called the meeting to order and made the following announcements:

This meeting was properly noticed by placing information concerning the meeting on the Board's website on October 3, 2013.

Mr. Watkins introduced new board member, Dr. Charlene Spiceland.

Mr. Watkins reminded the Board that they would convene again on Tuesday, November 5, 2013, to hear the case of Mr. Edwin Osborne that was remanded to the Board by the Chancery Court. This case was previously heard, appealed, and has now been remanded back to the Board. It will not be a full formal hearing. It will be almost solely for the purpose of reconsidering the discipline in light of the Chancellor's ruling on appeal.

Board members were asked to review the minutes from the July 2013 meeting. Mr. Royston moved to approve the minutes. With Mr. Hoss seconding, the motion passed.

Mr. Crocker was called upon to present the Executive Director's Report. A copy of the report is included as Attachment A. Mr. Crocker also added that NASBA has extended the 4th Quarter 2013 exam period to December 6, 2013. The target date for release of the exam scores will be two weeks after the exam window closes.

Mr. Crocker distributed a brochure from the State Board Committee that will be distributed at colleges describing how to become a CPA.

Mr. Crocker stated that 488 CPE audits had been conducted. Of the 488, 435 were compliant; 30 were not compliant and will require late penalties; 20 were removed due to a status change or recent reinstatement; and two complaints have been opened due to no response from the licensees.

Mr. Blaufuss congratulated Mr. Crocker on his appointment to be Chairman of the Executive Director Committee for NASBA for the next fiscal year. Mr. Blaufuss stated that based upon the schedule provided to him that it appears that just the meeting days will require over seven weeks (37 days) of Mr. Crocker being out of town, not including preparation or any travel time. Mr. Blaufuss stated that board meeting dates have already been moved to accommodate Mr. Crocker's NASBA schedule.

Mr. Blaufuss requested an affirmation from Mr. Crocker that his job as the Executive Director of the Tennessee State Board of Accountancy is his number one priority and not the NASBA assignment. Mr. Crocker affirmed that his Executive Director position for the TNSBA is his number one priority. Mr. Blaufuss asked Mr. Crocker who would be in charge when he is out seven weeks for NASBA, plus other travel, plus vacation. Mr. Crocker stated that he had provided a list of Board staff in the Board packets. Mr. Blaufuss stated that Mr. Crocker had done so at his request.

Mr. Crocker stated that Ms. Patricia Turner is in charge of personnel matters in his absence and that any technical questions would be referred to the board investigators. Mr. Blaufuss asked if the Board had met Ms. Turner before. Mr. Crocker stated that the Board had met her before but that it had been a few years ago and that he could arrange for Ms. Turner to come in and meet the Board in January. Mr. Blaufuss stated that it would be good to be better acquainted with some or all of the staff. Mr. Crocker stated that could be arranged.

Rebecca Gebhardt, NASBA, then made a presentation on a CPE audit pilot program.

Mr. Stuart expressed that he would like to for someone to take a lead in communicating with members to let them know this pilot program is a tool available to them. Mr. Crocker stated that it was possible to do a mass mail out to the entire CPA population. Mr. Watkins asked if the Board has email addresses on all members and Mr. Crocker stated that the Board is not in possession of email addresses on all members. Mr. Royston asked if it is a requirement for licensees to provide an email address at renewal time and Mr. Crocker stated that it is a requirement, however, that requirement is not being enforced. Mr. Royston asked what was being done about that and Mr. Crocker stated that nothing was currently being done. Mr. Royston asked what would be done

about it and Mr. Crocker stated that the staff would contact members and get email addresses.

Ms. Gebhardt stated that the goal was to have the program up and running for the Board staff by Spring of 2014. Ms. Gebhardt stated that members would not be able to access their accounts without providing a valid email address.

Mr. Hoss moved to approve the NASBA pilot program for the Tennessee State Board of Accountancy's use with the caveats that CPA's selected for audit be required to participate in the pilot program, that it be open to the general public of CPA's, and that there be an opt-out option. With Mr. Blaufuss seconding, the motion passed.

NASBA Committee Reports
State Board Relevance and Effectiveness Committee

In Ms. Brundige's absence, Mr. Crocker stated that there was no report from the Committee.

Uniform Accountancy Act Committee

Mr. Brewer reported the following items discussed by the Committee:

A copy of the Exposure Draft of the Uniform Accountancy Act concerning the revised definition of "attest" was provided to all Board members and staff for review. Mr. Brewer stated that the Committee would receive comments regarding the Exposure Draft until January 17, 2014.

The Committee will meet in person in January 2014 to go over the Exposure Draft for the Mobility issues.

Board Committee Reports
Law and Rules Committee

Mr. Brewer reported the following items discussed by the Committee:

Item 1- New proposed language for failure to pay Professional Privilege Tax.

Item 2- New proposed language for failure to meet Technical CPE requirements, including SSE.

The proposed language is attached as Attachment B.

Dr. Spiceland asked what the eight (8) hour penalty hours would consist of and Mr. Crocker stated the eight hours could come from any category.

Mr. Brewer moved to approve the proposed language. With Mr. Hoss seconding, the motion passed.

Licensing Committee

Mr. Eldridge reported the following items discussed by the Committee:

The Committee recommended approval of the SSE course for Accounting Tools.

The Committee recommended approval of the request from Art Taylor for an extension of time to complete the CPA exam with the caveat that he only be given a six-month extension.

The Committee recommended disapproval of the request from Knoxville CFMA for Exempt Sponsor status.

The Committee recommended approval of the CPA application of Richard Brown.

The Committee recommended approval for the CPE consideration of Graduate School of Banking Course for Matt Walden.

The Committee recommended approval of an extension of time to complete the CPA exam for Laura Wright with an extension to March 31, 2014.

Mr. Alexander moved to approve the recommendations of the Licensing Committee. With Mr. Blaufuss seconding, the motion passed.

Executive Committee

Mr. Watkins reported the following items discussed by the Committee:

Item 1 - The State Regulatory Board fee change.

Item 2 - Travel Information.

Probable Cause Committee

Mr. Mills presented his report on the Status of Open Complaints. A copy of the report is included as Attachment C.

Mr. Whittaker then presented the Legal Report. A copy of the report is included as Attachment D. The Board reviewed the report and discussed the items presented.

Regarding Items 1-3, Mr. Whittaker recommended removal from Litigation Monitoring and dismissal of the complaint.

Regarding Items 4-8, Mr. Whittaker recommended a formal hearing for number 4, a Letter of Warning for number 5, a Letter of Instruction for number 6, dismissal of number 7, and a Letter of Warning for number 8.

Regarding Item 9, Mr. Whittaker recommended a formal hearing.

Regarding Item 10, Mr. Whittaker recommended a Letter of Instruction. Mr. Royston recused himself from voting.

Regarding Items 11-13, Mr. Whittaker recommended a Letter of Warning. Mr. Alexander moved to approve the recommendations.

Regarding Item 14, Mr. Whittaker recommended a civil penalty.

Mr. Eldridge moved to approve the recommendations for Items 1-14 of the Legal Report. Mr. Royston recused himself from voting on Item 10. With Mr. Alexander seconding, the motion passed.

Regarding Item 15, Mr. Whittaker recommended tabling the item to allow further investigation as to whether there is an employment dispute ongoing with Mr. Parrott being a former employee. The Respondent alleges that his former employer is using the board complaint process against him because of some of their former clients leaving that firm to utilize Mr. Parrott.

Mr. Watkins asked if there had been any complaints submitted to the Board by clients. Mr. Whittaker stated that the only complaint that had been submitted was from the firm the Respondent had worked for. Mr. Watkins voiced concern as to whether this was an issue of protecting the public or settling a firm's internal dispute.

Mr. Royston stated that the tax return that was filed fraudulently was his own personal return. Mr. Whittaker stated that the Board could table Item 15 until January to allow investigation as to whether there were substantiated problems with Mr. Parrott's work product. Mr. Blaufuss stated that after it was discovered that Mr. Parrott had circumvented the firm's policy, he offered to resign but they rejected that and he went on to work for them for another year. Mr. Stuart stated that he shares Mr. Watkins concerns and that it sounds more like a firm quality control policy than a state board matter because if he was not complying with firm policy they should have dealt with that.

In light of the Board's concerns, Mr. Whittaker recommended tabling Item 15 until January to allow for further investigation.

Mr. Blaufuss moved to table Item 15 to allow for further investigation. With Mr. Watkins seconding, the motion passed.

Mr. Joseph stated that a Formal Hearing would be held on November 5, 2013, at 1:30 PM, in regards to Edwin Osborne.

Mr. Royston invited Mr. Joseph to present the Supplemental Legal Report. A copy of the report is included as Attachment E.

Mr. Royston moved to approve the recommendations. Mr. Eldridge was no longer present at the Board meeting for this vote. With Mr. Stuart seconding, the motion passed.

Civil Penalties Authorized: 3

Amount of Civil Penalties: $ 4,500.00
Consent Orders for Suspension, Surrender, or Revocation: 1
Placement of Complaints into Litigation Monitoring Status: 0
Letters of Warning: 4
Letters of Instruction: 2
Dismiss: 5

This concluded the Board Committee reports at 10:40 AM.

Old Business

Mr. Crocker stated that an application for the Peer Oversight Committee has come in from West Tennessee.

Mr. Crocker stated that online webinars for State Specific Ethics (SSE) will begin in late November or December 2013.

New Business

Mr. Edgar Gee spoke in regards to his request to end his probationary period early. The Board discussed the request.

Mr. Royston moved to deny Mr. Gee's request to end his probation. With Mr. Hoss seconding, the motion to keep Mr. Gee's probation in place passed.

The Board tabled discussion of the Open Meetings Act until the January 2014 Board meeting so that the Legal Department could develop something more coherent for all Boards. There is a desire to have conversations outside of the Board meetings but due to the strict restrictions of the Open Meetings Act, the Board is prohibited from doing so. Mr. Watkins stated it can be cumbersome to run a Board when there are only four meetings per year. Mr. Whittaker stated that the head Legal personnel felt it would be appropriate to take some more time and get something together for all Boards and then decide who should present that.

With no further business before the Board, the meeting was adjourned at 11:08 AM.

Chair

Secretary

State of Tennessee
Department of Commerce and Insurance
Tennessee State Board of Accountancy
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Nashville, TN 37243-1141
615-741-2550 or 888-453-6150
www.tn.gov/commerce/boards/tnsba

Board Meeting will be held at 500 James Robertson Parkway
Conference Room 1A in the Davy Crockett Building

Agenda for October 18, 2013

8:30 AM

Call to Order
Announcements
Adopt Minutes from Meeting on July 19, 2013
Executive Director's Report

NASBA Presentation on CPE Audits

NASBA Committee Reports
- Board Effectiveness and Legislative Support Committee – Jennifer Brundige
- Uniform Accountancy Act Committee – Troy Brewer

Board Committee Reports
- Law and Rules Committee – Troy Brewer
- Licensing Committee – Stephen Eldridge
- Executive Committee – Trey Watkins
- Probable Cause Committee – Don Royston

Old Business

New Business
- Mr. Edgar Gee
- Discussion of Open Meetings Act

Adjourn

Commission/Board meetings will be conducted by permitting participation of the Commission/Board members by electronic means of communication, if necessary. Any member participation by electronic means shall be audible to the public at the location specified above.

Those persons interested in attending these meetings may do so.

STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
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Tennessee State Board of Accountancy

Executive Director's Report

18 October 2013

1. NASBA Activities

   Executive Directors Committee

   I have been nominated to serve as the Chair of the Executive Directors Committee for the 2013/2014 year. This will involve more out of state travel than normal, but is only a one year commitment. This position gives me a seat at the Director's meetings as NASBA and will allow more insight as to how NASBA operates and gives Tennessee a greater voice in the decision making process. I am excited about this opportunity and hope that you will allow me to serve.

2. State Board Committee

   I attended a meeting of the AICPA's State Board Committee on October 2, 2013 in Washington, D.C.

3. Proposed Future Meeting Dates

   Friday, 31 January 2014

   Friday, 02 May 2014

   Friday, 25 July 2014

   Friday, 17 October 2014

   Friday, 16 January 2015

   Friday, 01 May 2015

4. Webcast Update
   We have done a "dry run-though" of a live streaming video and after a few minor adjustments the equipment seems to be working well. Since this webcast will be offered for CPE, we must be able to track those attending and ensure that they are "logged on" for the full time. This issue has been addressed and we feel like we have the answer. I indicated to Evans Murray, the Video Streaming Specialist, that we would like to do our first webcast sometime in late November and then do a follow up presentation around the middle of December. We will advertise both dates on our website and in the newsletter. This should give CPAs who need State Specific Ethics training an option on how to receive the CPE credits.

5. Notification Options
   Please go online to our webpage and sign up for the new Notification Option. It is the second item in the News and Information section. It is easy to do and will notify you when there are significant changes impacting your license!

6. Peer Review Oversight Committee
   We have now received a resume from a candidate in West Tennessee for the PROC. Since we now have a resume from one candidate in each area, we can proceed with the hiring process.

7. Reimbursement Rate
   The reimbursement rate for hotels for the Nashville area has been raised to $132.00 per night for Board members.

8. Expert Witness
   We are in the process of hiring an expert witness for a complaint that has already been considered on a legal report and which has been referred for formal hearing. The expert witness is needed in order to determine whether sufficient evidence of a violation exists to proceed to formal hearing, and if so, the expert will testify at the hearing.

Language for Proposed Rule Changes First Considered at October 2013 Board Meeting

***New proposed language appears in bold italics

1.) Adding failure to pay professional privilege tax as required by law as a ground for disciplinary action to Rule 0020-4-.03

--New Rule 0020-4-.03(9) would read:

(9) ***Failure to timely pay professional privilege tax as required by law.***

2.) Adding a specific penalty for failure to timely complete 2 hour state specific ethics course to Rule 0020-05-.08

--Amended Rule 0020-5-.03(1) [Basic Requirements] would read as follows: "A license holder seeking regular biennial renewal shall, as a prerequisite for such renewal, show that he or she has completed no less than eighty (80) hours of continuing professional education, ***including a two (2) hour state-specific ethics course as set forth in Rule 0020-5-.03(1)(b),*** during the two year period immediately preceding renewal, with a minimum of twenty (20) hours in each year with specifications as follows:"

--Rule 0020-5-.08 would be deleted in its entirety and replaced with the following language:

(1) "A penalty of (8) additional CPE hours will be assessed against those license holders who fail to ***timely complete*** the eighty (80) hour two (2) year minimum required by Rule 0020-5-.03 unless an extension of time under 0020-5-.07 is granted by the Board."
***This is currently 0020-5-.08(2)

(2) ***"A penalty of eight (8) additional CPE hours will be assessed against those license holders who fail to timely complete the forty (40) hour requirement in the subject areas of accounting, accounting ethics, attest, taxation, or management advisory services required by Rule 0020-5-.03 unless an extension of time under 0020-5-.07 is granted by the Board."***

(3) "A penalty of (8) additional CPE hours will be assessed against those license holders who fail to ***timely complete at least twenty (20) hours in each year of the biennial renewal period as*** required by Rule 0020-5-.03 unless an extension of time under 0020-5-.07 is granted by the Board."
***This is currently 0020-5-.08(1)

(4) ***"A penalty of (8) additional CPE hours will be assessed against those license holders who perform the attest function who fail to timely complete the twenty (20) hour requirement in the subject areas of attest and accounting theory and practice under Rule 0020-5-.03 unless an extension of time under 0020-5-.07 is granted by the Board."***

(5) ***"A penalty of eight (8) additional CPE hours will be assessed against those license holders who fail to timely complete the two (2) hour state specific continuing professional education ethics course required by Rule 0020-5-.03 unless an extension of time under 0020-5-.07 is granted by the Board."***

(6) ***"A licensee who is assessed a penalty under this rule shall complete such penalty and shall submit proof of completion of such penalty to the Board no later than one hundred and eighty (180) days from the date the Board notifies the licensee of the deficiency."***
***This would replace the language of current Rule 0020-5-.08(3).

STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
OFFICE OF LEGAL COUNSEL
Davy Crockett Tower
500 James Robertson Parkway
NASHVILLE, TENNESSEE 37243
Phone: (615) 741-3072
Fax: (615) 532-4750

MEMORANDUM

TO: TENNESSEE BOARD OF ACCOUNTANCY

FROM: CHRISTOPHER R. WHITTAKER, Assistant General Counsel

SUBJECT: OCTOBER 2013 LEGAL REPORT

DATE: October 18, 2013

Civil Penalties Authorized: 3
Amount of Civil Penalties: $ 4,500.00
Consent Orders for Suspension, Surrender, or Revocation: 1
Placement of Complaints into Litigation Monitoring Status: 0
Letters of Warning: 4
Letters of Instruction: 2
Dismiss: 5

1. L11-ACC-RBS-2011025921

This matter was previously referred to Litigation Monitoring status by the Board pending the outcome of a civil lawsuit against the Respondent involving allegations similar and/or identical to the allegations set forth in the complaint. The complaint alleges that a Tennessee-licensed CPA, while employed at the Respondent firm, mismanaged and/or misappropriated funds from a client of the CPA, and as such, that the firm is vicariously liable for the misconduct of the CPA. In its response to the complaint, the firm indicated that the CPA's client was never a client of the firm, stated that the CPA's representation of the client in question was outside the scope of his employment with the firm, and as such, that the firm was not and is not liable for any alleged misconduct by the CPA (its former employee). The Board was recently notified that the CPA's client, who was the plaintiff in the related civil lawsuit, passed away. Additionally, the client's estate no longer wishes to pursue the civil lawsuit, and as such, has voluntarily dismissed the civil lawsuit. In light of the Complainant's passing and the dismissal of the civil lawsuit, there appears to be insufficient admissible evidence to substantiate any of the allegations against the Respondent at a potential formal hearing. As such, dismissal is recommended.

STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
OFFICE OF LEGAL COUNSEL
500 JAMES ROBERTSON PARKWAY
DAVY CROCKETT TOWER
NASHVILLE, TENNESSEE 37243
TELEPHONE (615) 741-3072 FACSIMILE (615) 532-4750

TO: **Tennessee State Board of Accountancy**

FROM: **Jesse D. Joseph, Assistant General Counsel-Litigation**

DATE: **October 17, 2013**

SUBJECT: **Supplemental Legal Report on matters referred for Formal Proceedings**

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1. L11-ACC-RBS-2011019231
Docket No. 12.19-121591A
Notice of Hearing and Charges Filed 6/18/13

The complaint in this matter was opened by the staff in August of 2011, and involved the allegation that Respondent had not paid her Professional Privilege Taxes for calendar years 2010 and 2011 as required by law.

The Respondent's CPA license expired on December 31, 2011, but she renewed same on January 7, 2013 (Respondent has no CPA firm permit). In January of 2012, Board counsel sent Respondent by certified mail a proposed consent order which would have imposed an indefinite suspension of her license until all past professional privilege taxes were paid, and a $500 civil penalty. The January, 2012 mailing of this informal settlement offer was returned unclaimed. Board counsel sent a second transmission of this proposed order via email to Respondent in January of 2013 after speaking with her telephonically. Respondent did not sign the proposed order the second time it was transmitted.

In April of this year, the complaint was forwarded to litigation counsel for the preparation of a Notice of Hearing and Charges (NOHC), and the NOHC was filed on June 18, 2013.

After being served with the NOHC, Respondent was very apologetic about her prior

failures to pay the PPT when due, and claimed she was probably out of town for several weeks when the first consent order was mailed to her in January of 2012. She also claimed that her email settings were inadvertently sending all email from the Department or from the State of Tennessee) to her spam folder or trash box unbeknownst to her, and that she did not receive the emailed version of the prior consent order in January of 2013. She indicates she has corrected this problem with her private email account after speaking with litigation counsel in July of this year.

The hearing in this case was initially set for August 13 before an Administrative Judge sitting alone, and the State agreed to continue it until September 3 because Respondent was out of town in mid-August. Respondent also requested additional time in order to pay in full all past due PPT and penalties and to consider entering into a settlement after the filing of formal charges (Agreed Final Order).

By July 31, 2013, Respondent had paid all Professional Privilege Taxes which were due (calendar years 2009-2013) and penalties (in an amount exceeding $2,000). Our office has received a clearance letter from the Tennessee Department of Revenue stating that she has paid all outstanding liabilities to the Department of Revenue.

By the end of August of this year, Respondent had signed a revised settlement proposal tendered by the State (Agreed Final Order) requiring Respondent to pay a $750 civil penalty to the State for this conduct which reflects adversely on the profession, and $200 in investigatory and hearing costs (initial docketing fee) by January 31, 2014. If Respondent does not pay this $950 civil penalty and costs assessment by that deadline, she has agreed that her CPA license shall be revoked on the next business day after January 31, 2014.

Respondent has requested this 4 month period after September in order to pay the $950 assessment in full because she indicated her financial resources were exhausted after paying the Professional privilege Taxes in full.

We have taken the formal proceeding off of the contested hearing docket in order to give the Board an opportunity to consider this revised proposal. Further, we believe this disposition is comparable to similar cases in the past where Respondents have fully paid their PPT liability after the filing of formal charges.

Counsel for the State hopes that the Respondent will comply with the Department of Revenue's requirements going forward and that she will timely pay her PPT obligations in the future.

Recommendation: Litigation Counsel for the Department recommends that the Agreed Final Order recently negotiated after the filing of the notice of charges and signed by Respondent, be approved.

Vote:

2. L11-ACC-RBS-2011015881

The Respondent was President of a municipal utility district in Tennessee between 2007 and a certain portion of 2010. His CPA license expired on December 31, 2010 and he has no firm permit.

Between January 1, 2007 and May 14, 2010, Respondent misappropriated more than $90,000 of the District's funds for his personal use by fraudulent use of a credit card, by directing an unauthorized extra paycheck to himself, and by receiving improper travel advances.

The District initially believed Respondent had misappropriated approximately $80,000 in the spring of 2010, and Respondent executed a promissory note with the District promising to repay $80,462 by June 30, 2010.

In the summer of 2010, state auditors with the Comptroller of the Treasury's Division of Municipal Audit completed an investigative audit of selected records of the District, and in the Comptroller's investigative audit report issued on October 18, 2010, said auditors determined that Respondent had misappropriated $95,059 in District funds to his personal use.

On December 6, 2011, Respondent was charged by the Grand Jury in a two count indictment with Theft Over $60,000 in violation of TENN. CODE ANN. § 39-14-103 (Count 1), and with Fraudulent Use of a Credit Card in violation of TENN. CODE ANN. § 39-14-118 (Count 2) (Class B felony offenses), based on his misappropriations from the District between January 1, 2007 and May 14, 2010.

On August 28, 2013, Respondent entered guilty pleas to, and was convicted of both of these indicted Class B felony offenses - Theft Over $60,000 in violation of TENN. CODE ANN. § 39-14-103 (Count 1), and Fraudulent Use of a Credit Card in violation of TENN. CODE ANN. § 39-14-118 (Count 2). Respondent was sentenced to 10 years in the Tennessee Department of Corrections, with 10 days jail time to serve and 9 years, 355 days of supervised probation.

Respondent was also sentenced in this case to complete 40 hours of community service per year of probation (400 hours total), to pay court costs, and to contribute $10,000 to the District's Project Assist Program by the end of his probationary period (to help needy families get utility service).

No restitution was ordered to the District, because by sentencing, the District indicated that Respondent had paid full restitution in excess of $93,000.

The offenses Respondent was convicted of - TENN. CODE ANN. §§ 39-14-103 and 39-14-118 – are Class B felonies and are also convictions of crimes elements of which are dishonesty or fraud under the laws of this state.

Respondent had rejected a proposed consent revocation offer (with a $5,000 civil penalty) through prior counsel in late 2011 before he was convicted.

Since late 2011, Respondent lost two jobs and his former home, and was ultimately represented by the Public Defender's Office in Criminal Court due to his indigency. Respondent has informed the State that he is currently living with his mother due to his circumstances and his address information was confirmed through his probation officer. Respondent also claims that his financial circumstances are such that he does not know how or when he will be able to pay the $10,000 special contribution ordered by the Criminal Court.

Based on all of these factors, litigation counsel for the State believes it is unlikely that any civil penalty and costs assessment would be collectible against Respondent if such were ordered by the Board if this matter proceeded to hearing.

Given these circumstances, the fact that the District has been made whole and Respondent is now serving his debt to society, the State is of the opinion that a consent order revoking the Respondent's CPA license without costs or civil penalties would be an adequate sanction in this case. Respondent would not be eligible to petition for any reinstatement of his license until 5 years after the effective date of this Order, and he would be required to appear before the Board in person should he later wish to petition for reinstatement.

Respondent has signed and transmitted to the State such a Consent Order on October 11, 2013.

Recommendation: Litigation Counsel for the Department recommends that the Consent Order revoking Respondent's CPA license described above, which was recently negotiated and signed by Respondent, be approved.

Vote:

STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
TENNESSEE STATE BOARD OF ACCOUNTANCY
500 James Robertson Parkway
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Fax (615) 532-8800

Memorandum

To: C. Don Royston, CPA, Chairman
William Blaufuss, CPA
Stephen Eldridge, CPA
J. Gabe Roberts, Attorney-at-Law

From: Donald A. Mills, CPA, Investigator

Date: 17 October 2013

Re: Status of Open Complaints

Attached is my report with regard to the status of open complaints as of today's date, along with data from three prior meeting dates. If you have any questions or need additional information, please ask.

cc: Mark H. Crocker, CPA
Executive Director

Raymond Butler, CPA
Investigator

STATUS OF OPEN COMPLAINTS
January 24 to October 17, 2013

Status	2013			
	24-Jan	2-May	18-Jul	17-Oct
Litigation Monitoring	6	7	9	9
Formal Charges Authorized	17	4	3	10
Formal Hearings Set	4	3	2	1
Consent Order Outstanding	5	1	8	4
Legal	14	31	17	16
Investigation	8	15	5	3
Open	15	2	4	11
Total- All Cases	69	63	48	54

Recommendation: Remove the complaint from Litigation Monitoring status and dismiss the complaint.

2. L11-ACC-RBS-2011025931

This matter was previously referred to Litigation Monitoring status by the Board pending the outcome of a civil lawsuit against the Respondent involving allegations similar and/or identical to the allegations set forth in the complaint. The complaint alleges that a Tennessee-licensed CPA, while employed at the Respondent firm, mismanaged and/or misappropriated funds from a client of the CPA, and as such, that the firm is vicariously liable for the misconduct of the CPA. In its response to the complaint, the firm indicated that the CPA's client was never a client of the firm, stated that the CPA's representation of the client in question was outside the scope of his employment with the firm, and as such, that the firm was not and is not liable for any alleged misconduct by the CPA (its former employee). The Board was recently notified that the CPA's client, who was the plaintiff in the related civil lawsuit, passed away. Additionally, the client's estate no longer wishes to pursue the civil lawsuit, and as such, has voluntarily dismissed the civil lawsuit. In light of the Complainant's passing and the dismissal of the civil lawsuit, there appears to be insufficient admissible evidence to substantiate any of the allegations against the Respondent at a potential formal hearing. As such, dismissal is recommended.

Recommendation: Remove the complaint from Litigation Monitoring status and dismiss the complaint.

3. L11-ACC-RBS-2011025941

This matter was previously referred to Litigation Monitoring status by the Board pending the outcome of a civil lawsuit against the Respondent involving allegations similar and/or identical to the allegations set forth in the complaint. The complaint alleges that a Tennessee-licensed CPA, while employed at the Respondent firm, mismanaged and/or misappropriated funds from a client of the CPA, and as such, that the firm is vicariously liable for the misconduct of the CPA. In its response to the complaint, the firm indicated that the CPA's client was never a client of the firm, stated that the CPA's representation of the client in question was outside the scope of his employment with the firm, and as such, that the firm was not and is not liable for any alleged misconduct by the CPA (its former employee). The Board was recently notified that the CPA's client, who was the plaintiff in the related civil lawsuit, passed away. Additionally, the client's estate no longer wishes to pursue the civil lawsuit, and as such, has voluntarily dismissed the civil lawsuit. In light of the Complainant's passing and the dismissal of the civil lawsuit, there appears to be insufficient admissible evidence to substantiate any of the allegations against the Respondent at a potential formal hearing. As such, dismissal is recommended.

Recommendation: Remove the complaint from Litigation Monitoring status and dismiss the complaint.

4. L13-ACC-RBS-2013012171

The complaint alleges that the Respondent's Texas CPA license and firm permit were revoked due to the Respondent's non-compliance with the requirements of a prior disciplinary action taken by the Texas State Board of Public Accountancy, and that the Respondent failed to timely report those revocations to this Board as required by law. The Respondent has another

complaint pending before this Board alleging that the Respondent failed to timely pay the professional privilege tax as required by law for at least two (2) payment cycles. The Respondent has not indicated at this time whether she intends to settle the professional privilege tax complaint via Consent Order or whether she wishes to have a formal hearing.

Recommendation: Formal hearing for the revocation of the Respondent's Tennessee CPA license with authority to settle via Consent Order which settles both of the Respondent's pending complaints and provides for the voluntary revocation of her license.

5. L13-ACC-RBS-2013011801

The complaint alleges that the Respondent CPA failed to notify the Tennessee Board of the revocation of her Ohio CPA license as required by law and that she failed to maintain her Tennessee CPA license in good standing as required by law. The investigation revealed that the Respondent's Ohio CPA license was revoked for failure to renew, and the Respondent advised the Board's investigator that she had not worked as a CPA in over 15 years. The Respondent has submitted a surrender affidavit to close her Tennessee CPA license.

Recommendation: Close the complaint upon the issuance of a Letter of Warning.

6. L13-ACC-RBS-2013011961

The complaint alleges that the Respondent, a non-licensee, issued financial statements without proper licensure to do so. During its meeting with the Board's investigator, the Respondent stated that it was unaware of the safe harbor language but that it would be happy to use such language. It is noteworthy that the investigation revealed no evidence that anyone at the Respondent company claimed to be a CPA at any time.

Recommendation: Close the complaint upon the issuance of a Letter of Instruction which contains language ordering the Respondent to cease and desist the issuance of financial statements without the use of the safe harbor language set forth in Rule 0020-4-.06 until and unless the Respondent obtains the necessary licensure to lawfully issue financial statements without the safe harbor language.

7. L13-ACC-RBS-2013015421

The complaint alleges that the Respondent CPA, who also possesses an Arizona CPA license, had his Arizona license administratively revoked for failure to timely renew as required by law. By the time the complaint was ready to be sent for investigation, the Board staff received documentation reflecting that the above-referenced revocation was apparently a mistake which resulted from a timing issue relative to when the Respondent's renewal documentation and fees were received. The records of the Arizona Board reflect that no disciplinary action has ever been issued against the Respondent. As such, dismissal is recommended.

Recommendation: Dismiss the complaint.

8. L13-ACC-RBS-2013012581

The complaint alleges that the Respondent operated a CPA firm in Tennessee without a firm permit for a short period of time. The Respondent mistakenly believed that, because Florida does not require a firm permit, that he did not need a firm permit in Tennessee. Immediately upon being contacted by a Board investigator regarding the complaint, the Respondent apologized for his mistaken impression about the law and the requirement that he possess a firm permit to practice in Tennessee. As such, a Letter of Warning is recommended.

Recommendation: Close the complaint upon the issuance of a Letter of Warning.

9. L13-ACC-RBS-2013015481

The complaint alleges that the Respondent firm failed to timely comply with the peer review requirement that is required of all licensed Tennessee CPA firms despite the Board sending several notices to the firm advising the firm that the Board had not received proof of timely enrollment in a peer review program from the firm as required by law. The Respondent admits that the firm did not timely enroll in a peer review program, but requests leniency from the Board on the basis that the firm is very small, that his main employee was repeatedly hospitalized and subsequently resigned from the firm for medical reasons, and as such, the owner/manager of the firm had difficulty finding sufficient time to schedule and/or to complete a peer review.

Recommendation: Formal hearing for the revocation of the Respondent's Tennessee CPA firm permit with authority to settle via Consent Order which requires the Respondent to provide proof of enrollment in a peer review program within thirty (30) days of the date the Consent Order is executed and to pay a $ 1,000.00 civil penalty. Additionally, failure to complete all requirements of the Consent Order in a timely manner shall result in the automatic revocation of the Respondent's CPA firm permit without the necessity of a formal hearing based on the violations admitted in the Consent Order.

10. L13-ACC-RBS-2013010991

The complaint alleges that the Respondent, who possessed an expired Maryland CPA license at all times relevant to this complaint but did not possess a Tennessee CPA license, improperly used the word "accountant" and identified herself as a "CPA" on her website. Immediately upon being contacted by a Board investigator regarding the complaint, the Respondent immediately made all changes necessary to bring her website into compliance with the law. The Respondent apologized for any misunderstanding, and advised the investigator that she intends to reactivate her Maryland CPA license and apply for a Tennessee CPA license as soon as possible.

Recommendation: Dismiss the complaint.

11. L13-ACC-RBS-2013015601

The complaint alleges that the Respondent failed to timely notify the Tennessee Board that his Arizona CPA license had been suspended. The investigation revealed that the Respondent's Arizona license was administratively suspended for a very short time for failure to

timely pay fees and complete biennial registration requirements relative to his Arizona CPA license. By the time the complaint reached a Board investigator, the Respondent had already taken all steps necessary to bring his Arizona license current and back into good standing, which was evidenced by an order from the Arizona Board vacating the suspension of the Respondent's Arizona license. As such, a Letter of Warning is recommended.

Recommendation: Close the complaint upon the issuance of a Letter of Warning.

12. L13-ACC-RBS-2013015471

The complaint alleges that the Respondent failed to timely notify the Tennessee Board of the suspension of her Texas CPA license as required by law. The investigation revealed that the Respondent has not lived in Texas for many years, does not currently practice public accounting, and does not plan to do so any time in the near future. Further, the Respondent mistakenly believed that simply not renewing her Texas CPA license would be sufficient to close it. As a result of the Respondent choosing not to renew her Texas CPA license, the Texas Board suspended the Respondent's Texas CPA license due to non-compliance with licensure requirements. During the investigation, the Respondent provided to the investigator a letter from the Texas Board agreeing to accept the surrender of her Texas CPA license and submitted an affidavit placing her Tennessee CPA license into inactive status. As such, a Letter of Warning is recommended.

Recommendation: Close the complaint upon the issuance of a Letter of Warning.

13. L13-ACC-RBS-2013015111

The complaint alleges that the Respondent CPA, formerly the owner and manager of a Tennessee CPA firm, continued to operate in a manner for which a firm permit was required despite having requested that the Board close her firm's permit in 2011. Upon being contacted by an investigator from the Board, the Respondent CPA admitted that she should not have asked the Board to close her firm permit and that it should have been renewed. She further states that she will take all steps necessary to reinstate her firm permit once the Board has completed its preliminary consideration of her complaint.

Recommendation: Formal hearing for the revocation of the Respondent's Tennessee CPA license with authority to settle via Consent Order which requires the Respondent to pay all past due fees that should have been paid for years during which the Respondent should have held a firm permit, to complete all steps necessary to reinstate the previously closed firm permit no later than one hundred and eighty (180) days from the date the Consent Order is executed, and to pay a $ 1,000.00 civil penalty. Additionally, failure to complete all requirements of the Consent Order in a timely manner shall result in the automatic revocation of the Respondent's CPA license without the necessity of a formal hearing based on the violations admitted in the Consent Order.

14. L13-ACC-RBS-2013014781

The complaint alleges that the Respondent company, a non-licensee, used the word "accounting" in its company name, on its website, and on its signage, and that the company used the word "audit" on its website. The investigation revealed that the Respondent is actually a

small tax and bookkeeping practice which does not perform any functions for which a firm permit would be required. The Respondent agreed to make all necessary changes to bring its name, signage, and website into compliance with the law as soon as possible.

Recommendation: Close the complaint upon the issuance of a Letter of Instruction which contains language ordering the Respondent to cease and desist using the words "accounting" and "audit" until and unless such time as the Respondent obtains the proper licensure to do so.

15. L13-ACC-RBS-2013010761

The complaint alleges that the Respondent engaged in conduct that was dishonest and/or grossly negligent during the performance of professional services. Specifically, the Complainant, the Respondent's now former employer, alleges that the Respondent forged a partner's initials in order to circumvent firm requirements that the Complainant's work not be sent out without review by a partner, that the Respondent performed work in a manner inconsistent with the firm's controls and procedures, and that the Respondent made numerous errors during the performance of professional services that caused actual harm to clients. The investigation revealed that the Respondent previously pled guilty to filing a false tax return in 1990, which resulted in the Respondent surrendering his Tennessee CPA license in 1997. The Respondent subsequently applied for reinstatement of his license, and the Board granted the Respondent's request and reinstated his Tennessee CPA license in 2003. The Respondent, through counsel, states that he is guilty of, at most, violation of internal firm policies and procedures, but not of any violation(s) of the laws and rules applicable to CPAs licensed in Tennessee. Specifically, he states that the signing of a partner's initials was done to expedite completion of client documents when partners were out of town or otherwise unavailable and that doing so was standard practice at the firm notwithstanding the firm's written policies. The Respondent offered to resign as a result of this alleged violation, but states that the firm would not accept his resignation and allowed him to continue to work there. The Respondent further states that he believes his former employer used the threat of filing a complaint with the Board to keep him working at the firm and actually did file the complaint because the Respondent left the firm, went to work elsewhere, and several now former clients of his former employer became clients of the Respondent at his new place of employment. Additionally, the Respondent states that his former employer, if they believed he was guilty of the serious legal violations alleged in the complaint, had a duty to report such alleged violations immediately, that the firm failed to do so, and that the firm's failure to timely report what ultimately became the allegations set forth in this complaint could be considered a legal violation(s) by the firm. In response to the Respondent's response to the complaint, the Complainant provided documentation from multiple clients of the firm indicating dissatisfaction with the Respondent's work product.

Recommendation: Formal hearing for the revocation of the Respondent's Tennessee CPA license with authority to settle via Consent Order which places the Respondent's CPA license on probation for two (2) years from the date the Consent Order is executed, requires the Respondent to complete two penalty hours of state-specific ethics CPE and to provide proof of completion to the Board no later than ninety (90) days from the date the Consent Order is executed, and requires the Respondent to pay a $ 2,500.00 civil penalty. Additionally, failure to complete all requirements of the Consent Order in a timely manner shall result in the automatic revocation of the Respondent's CPA license without the necessity of a formal hearing based on the violations admitted in the Consent Order.