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Department of Commerce and Insurance
Tennessee State Board of Accountancy
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Board Minutes

January 28, 2011

The meeting of the Tennessee State Board of Accountancy convened in the Andrew Johnson Tower, Nashville, Tennessee on Friday, January 28, 2011 at 8:30 a.m. Board members present were: Stan Sawyer, Chair; Don Royston, Vice Chair; Lisa Stickel, Secretary; Vic Alexander; Bill Blaufuss; Jennifer Brundige; Kenneth Cozart; Al Creswell; Shannone Raybon; and Casey Stuart.

Absent: Doug Warren.

Staff members present: Mark Crocker, Executive Director; Don Mills, Investigator; Chris Whittaker, Staff Attorney; Sandra Cooper and Kathy Riggs, Board Staff. Wendy Garvin was also present representing the TSCPA.

Mr. Sawyer called the meeting to order and yielded the floor to Mr. Cozart. Mr. Cozart expressed his appreciation for the support he received in the recent death of his son, Bob Cozart.
Mr. Sawyer announced that Ms. Julie Mix McPeak had been named the new Commissioner of the Department of Commerce and Insurance. He reviewed her curriculum vitae and gave the highlights of her career.
Board members were then given time to read and sign their Conflict of Interest forms and to review the minutes from the October 29, 2010 Board meeting. Mr. Alexander moved to accept the minutes as presented, seconded by Mr. Royston. Motion passed unanimously.

Mr. Sawyer stated that he met with Assistant Commissioner Steve Majchrzak and discussed the Board's desire to attain semi-independent status. In the meeting, Mr. Majchrzak re-emphasized his open door policy and his willingness to discuss issues with the Board.

NASBA is now taking applications for Vice Chair for the coming year, and Mr. Sawyer stated that those nominated were: Gaylen Hansen from Colorado; Walter Davenport from

North Carolina; and Carlos Johnson from Oklahoma. He asked that resumes of these candidates be distributed to the Board members for review so that a decision on which candidate to support could be made later in the meeting.

Mr. Sawyer also reminded the Board that it was time to nominate officers for the coming year. Elections will be held at the meeting on 06 May.

Executive Director's Report:

Mr. Crocker stated that the NASBA Executive Director and Legal Conferences will take place in San Diego on March 6-9, 2011. Topics this year include the Credentialing Process for International Candidates, Social Media and Marketing, Relationships with Federal Agencies, Practice Privileges, Peer Review Oversight and Enforcement Practices. The Legal Conference is held in conjunction with the Executive Director's Conference and we have requested approval for Mr. Mills and Mr. Whittaker to attend. Mr. Crocker is scheduled to make a presentation to the Legal Conference on complaint procedures.

The ALD (Accounting Licensing Database Committee) will meet in San Diego on Sunday, March 6, 2011.

The Executive Director's Committee, which is in charge of the Executive Director's Conference, will meet in San Diego on Saturday, March 5, 2011 to ensure that everything is in place for the conference to begin on Sunday. The Executive Director's Committee has planned a send-off for David Costello, since this is the last ED Conference he will be attending as NASBA's CEO. David served as Executive Director of the Tennessee Board and remains one of our licensees, so NASBA staff has been asked to tape a farewell message from the entire Board and the staff at the conclusion of this meeting.

NASBA has hired Ken Bishop to replace David Costello as the CEO as of 01 January 2012.

License counts for Profession Code 1101 (CPAs), Profession Code 1102 (PAs), and Profession Code 1103 (Firms) are attached. On January 1, 2011 when 'Delinquent' licensees from last year flipped to 'Expired' there were only 27 individuals and 3 firms moved to an 'Expired' status. We currently have 16 Public Accountants who retain an 'Active' status, 11 who are 'Inactive' and 1 who is 'Delinquent.' The Board currently regulates 1,811 firms that are current and in good standing and 168 that are 'Delinquent.'

There is progress in getting the PROC (Peer Review Oversight Committee) in place. Contracts were sent out to Tracy Thomas (Middle Tennessee) and Charlie Millsaps (East Tennessee). However, when the new administration reviewed the contracts they instructed that the contracts be re-written to pro-rate the amount of the liability. The contracts were initially written for a three year term to expire in 2012. The administration has directed that the contracts be written for the shorter time frame to maintain the expiration date in 2012 and to reduce the dollar amounts accordingly. New

contracts should be delivered to Mr. Thomas and Mr. Millsaps soon. David Curbo has agreed to serve as the PROC member from West Tennessee.

License renewals appeared to go smoothly this year. In an attempt to simplify the process, the renewal questions were re-written, which seemed to confuse some of our licensees. Those who answered the questions incorrectly were notified and corrections made in the file. When loading the new questions into the system, the history was erased for the renewal questions back through 2006. The IT staff was able to retrieve that information and send it to us in a zip file, so if there is a need to search for a licensee's responses there is a history available.

The schedule of State Holidays before the next Board Meeting is as follows:

Monday, February 21, 2011
Friday, April 22, 2011

Future Board Meeting dates are as follows:

Friday, May 6, 2011
Friday, July 29, 2011
Friday, October 21, 2011
Friday, January 27, 2012
Friday, April 27, 2012
Friday, July 27, 2012

The original meeting date of April 29, 2011 was changed to May 6, 2011 due to the Music City Marathon. A motion was made by Mr. Royston to accept the date changes and seconded by Mr. Cozart. Motion carried.

Feedback from the Board Retreat in December 2010 indicated that the meeting was beneficial to Board Members. There were one or two sessions that did not seem to generate much interest. The Staff would like to plan a Board Retreat every two years and Board Members are asked to provide topics that may be of interest and send that information to the Executive Director.

Paperwork to re-classify a position in Regulatory Boards to an Investigator for the Board of Accountancy has been submitted. With many of the top administration in the department leaving, the process has slowed. In addition, Mr. Crocker and Mr. Majchrzak are working together to determine the best replacement for the vacant position previously held by Ms. Gail York.

Site visits will be made to the Prometric Test Sites in the spring. There have not been any complaints from our candidates but site visits should be made on a regular basis. Several Board Members volunteered to assist with these visits in their areas of the state.

This concluded Mr. Crocker's report. (Attachment 1)

NASBA Committee Reports

Communications Committee:

Ms. Stickel began by stating that the Department of Commerce and Insurance is currently not using Facebook to maintain contact with licensees. Facebook appears to be a great tool for communications, but the new agreement that Facebook has designed has caused some concern among State Attorneys General since it shifts all burden for inaccurate information to the states. Under current conditions State and Local Government would have to pay the Company's legal fees should Facebook be sued due to content posted by an agency on the website. Several Attorneys General from various states have been working for the past year to have the language modified so that states can use Facebook and not have unnecessary legal exposure.
This concluded Ms. Stickel's report.

UAA Committee:

Ms. Stickel passed out the UAA Exposure Draft of Firm Names and asked that Board Members read the document when time permitted. (Attachment 2)

State Board Relevance and Effectiveness Committee:

Jennifer Brundige stated that her first meeting with this committee was scheduled for February 9, 2011 via telephone. The committee's charge this year is to promote the benefits of more independent State Boards of Accountancy. The committee is discussing developing three sub-committees to concentrate on: 1) communications with state boards; 2) promoting the concept of independent state boards to the state societies; and 3) promoting the benefits of independent state boards to the state legislatures. She indicated a more complete report would be presented at the May meeting.

Remarks from Ken Odom, Southeastern Region Board Representative:

Mr. Odom expressed his appreciation for being allowed to address the Board in his role as NASBA's Southeast Regional Director. Mr. Odom encouraged the Board to send comments on the UAA Exposure Draft on Firm Names. Firm names will be a topic at the NASBA Regional meeting in Point Clear, Alabama in June 2011. He also stated that the Board should be heard on the Blue Ribbon Panel's recommendation to create another accounting board to deal with "private company GAAP." Mr. Odom stated that Carlos Johnson headed the committee that studied independence and did a great job. The State of Washington commissioned a study on semi-autonomous boards and the determination was that a semi-autonomous board was actually better at carrying out its mission.

Committee Reports:

Independence Committee:

Chair Lisa Stickel stated that the committee had discussed short-term and long-term strategies. The short-term strategy is to strengthen government relations by meeting with the appropriate state officials. The TSCPA is hosting a reception for Legislators on February 23 and Board members are encouraged to attend. Lisa and Mark will draft some talking points to use in future meetings with Legislators.
The long-term strategy includes using the Sunset Review which the TNSBA should undergo this year. In addition, the Board needs to consider the statute that places us in the Department of Commerce and Insurance and perhaps campaign to change our reporting status to another entity within State Government. Ms. Stickel did point out that our statutes are written so that this Board is almost in a semi-autonomous status if the State would actually follow the statute as written.

Licensing Committee:

Jennifer Brundige, Chair of the committee, gave the report.
First, Ms. Brundige stated that a candidate (Rafiq Sabir) with a felony conviction on his record had applied to sit for the CPA exam. The committee had discussed the issue and sought the advice of Counsel. It was determined that neither the Committee nor the Board can prevent a candidate who meets the education requirements from sitting for the exam. CPAES will be advised that candidates with and without felony convictions should be treated in the same manner. A letter will be sent to Mr. Sabir indicating that the Board can only rule on applications presented to the Board after the examination is complete.
Second, the Knoxville Chapter of the Society of Financial Service Professionals submitted a request to sponsor and provide CPE under Rule 0020-5-.05(3)(a). The Committee recommends to the Board that the chapter should supply more information concerning their membership makeup (percentage of CPAs, Attorneys, Financial Planners, etc.) and the specific courses taught or to be taught (including outlines or course descriptions) before the Committee makes a recommendation to the Board.
Third, Katherine Whitehead requested an extension of 3 months to complete the CPA exam due to documented family illness. The Committee recommends to the Board that Ms. Whitehead be awarded the 3 month extension to complete the 4th section of the examination and that CPAES be advised.
Fourth, Larry Tarwater presented information previously requested by the Committee concerning his request for reinstatement following revocation pursuant to a felony conviction. Mr. Tarwater complied with the Committee's request for additional information, but the Committee determined that the decision on reinstatement should be forwarded to the full Board and that Mr. Tarwater should be present for the Board to interview. A call to Mr. Tarwater after the Committee meeting revealed that it would not be possible for him to be in Nashville the next day and he asked that the matter be tabled until the next Board meeting.
Ms. Brundige also provided a list of firms requesting exemption from peer review. (Attachment 3)
Mr. Alexander made a motion to accept the report and recommendations as stated and Mr. Royston seconded. Motion passed unanimously.

Executive Committee:

The Committee met to discuss the performance evaluation for the Executive Director since one had not been completed since hiring Mr. Crocker in January of 2008. The Committee stated that they would meet in the future to discuss the Executive Director's goals, strengths and weaknesses. They also requested that an 'upward evaluation' be completed so as to get input from staff. The Executive Committee recommended a 5% raise for Mr. Crocker to be effective 01 January 2011. A motion was made by Mr. Sawyer to accept the recommendation which was seconded by Mr. Alexander. Motion passed unanimously.

The Committee's second item of business was a discussion of firm names. The Board discussed the issue and determined that numerals and symbols are inappropriate in a firm name. This topic was brought to the Board's attention because a firm had requested approval of a name using a numeral (CM2 Financial Services, LLC) and another firm had requested approval of a name with a symbol (Atnip+CPA, PLLC). Mr. Royston moved that the firm names as submitted be rejected, Mr. Cozart seconded and motion passed unanimously. (Attachments 4 and 5)

Mr. Royston then gave a review of the Revenue and Expenditures for the Board and discussed budget variances. (Attachment 6) He then moved to accept the financial report as submitted, seconded by Ms. Stickel and passed unanimously.

Law and Rules Committee:

Ms. Stickel asked Staff Attorney Chris Whittaker to review the proposed rule changes for the Rule-Making Hearing to be held at the next meeting. (Attachment 7) Mr. Alexander moved to accept the proposed changes and Ms. Stickel seconded. Motion passed unanimously.

The Board had voted to include a reference to Robert's Rules of Order in the Rules, but the Administration felt that this addition could lead to some confusion if there was a conflict with the Administrative Procedures Act. Therefore, this proposed rule change was deleted. There was also a definition for conditional credit that the Administration felt was unnecessary and that has also been deleted.

Ms. Stickel passed out a copy of Facebook's new "Modified Terms of Service for State and Local Government" for the Board to review. (Attachment 8)

Ms. Stickel also addressed the issue of firm names and the UAA Exposure Draft. The Committee directed that Mr. Crocker draft a letter of comment to NASBA's UAA Committee concerning our position on the use of numerals and symbols in firm names.

The Committee reviewed a letter of comment submitted by Mr. Gary Tucker concerning the proposed rule change regarding dropping the 1.5 multiplier for graduate hours. (Attachment 9) The Committee appreciated Mr. Tucker's comments, but felt that the multiplier needed to be dropped in order for Tennessee to be completely substantially equivalent.

That concluded Ms. Stickel's report.

Mr. Alexander moved to accept the report and recommendations as presented, seconded by Ms. Stickel and passed unanimously.

Probable Cause Committee:

Mr. Alexander gave a status report on the complaints and stated that 23 formal hearings are on the books to be heard. The Committee recommended to the Board that cases which do not involve revocation of a license be referred to an Administrative Law Judge. This would expedite the process and any licensee dissatisfied with the outcome could appeal for a formal hearing before the Board. Mr. Creswell moved to accept this recommendation, second by Mr. Royston and passed unanimously.
Mr. Whittaker presented the Legal Report and Mr. Alexander reviewed the summary. After reviewing the proposed disposition of the complaints presented on the Legal Report, Mr. Creswell recused himself from voting on case number 16. A motion was made by Mr. Sawyer to accept the disciplinary actions as recommended, second by Ms. Brundige. Motion passed unanimously with the abstention noted above. (Attachments 9 and 10)

Mr. Sawyer returned to the issue of NASBA's Vice Chair nominations. After reviewing the resumes presented, Mr. Blaufuss made a motion to support the nomination of Carlos Johnson as Vice Chair for the coming year. Ms. Stickel seconded the motion and it passed with a unanimous vote.

Legal Presentation:

Mr. Whittaker provided an overview of the Rule-Making process.

Following Mr. Whittaker's presentation, there being no further business to come before the Board, Mr. Stuart moved to adjourn, second by Ms. Brundige and the motion passed unanimously.

Chairman

Secretary