



STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
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Board Minutes

April 30, 2010

The meeting of the Tennessee State Board of Accountancy convened in the Andrew Johnson Tower, Nashville, Tennessee on Friday, 30 April 2010 at 8:30 a.m.

Board members present were: Vic Alexander, Chair; Stan Sawyer, Vice Chair; William Underwood, Secretary; William Blaufuss; Jennifer Brundige; Kenneth Cozart; Al Creswell; Shannone Raybon; Don Royston; Lisa Stickel; and Doug Warren. Staff present were: Mark Crocker, Executive Director; Chris Whittaker, Staff Attorney; Don Mills, Investigator; Sandra Cooper and Kathy Riggs. Wendy Garvin from TSCPA also attended.

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

Gail York's condition continues to improve. At present she is in the Baptist Rehab Center, but is expected to be discharged on May 5 to return home.

Please complete the travel expense reimbursement forms that have been provided to you and return them to Sandy Cooper before leaving today. Sign all forms and return with receipts for hotel and parking.

NASBA leadership is undergoing significant changes in the coming year. Joe Cote, the COO of NASBA, will retire at 31 December 2010. His replacement, Ken Bishop, has been selected so that he and Joe will have sufficient time to work together for Ken to be up to speed by the end of the year. Denise Hanley will assume the position that Ken is leaving. David Costello has announced his retirement at 31 December 2011. The selection process for his replacement has not yet begun.

Bill Underwood's term expires this year and he has decided not to seek re-appointment. Mr. Crocker presented Mr. Underwood with an award in appreciation of his service on the Board. Mr. Underwood stated that he considered it a privilege to be a member of the Board and that he had enjoyed his time of service.

After the announcements and award presentation, Mr. Alexander asked the Board Members to review the minutes from the January 2010 meeting. A motion to accept the minutes was made by Doug Warren and seconded by Don Royston. Motion passed unanimously.

Mr. Crocker presented his Executive Director's Report (Attachment 1).

Ms. Brenda Demastus, Licensing Coordinator for the Board, made a presentation on the licensing process. The Power Point is attached (Attachment 2).

The next item of business was a contested case hearing in the matter of Henry Clay Hart, Jr., license number 1451. The case convened with Ms. Laura Betty, Esq., representing the State of Tennessee. Mr. Hart represented himself. Mr. Hart participated in the hearing telephonically. The Honorable Steve Darnell presided.

Results of the hearing were as follows:

The Board ordered that the Respondent (1) immediately cease and desist from practicing as a certified public accountant, (2) obtain Board approval before any license is issued to the Respondent, (3) pay a civil penalty in the amount of \$500.00, (4) pay all investigatory, prosecutorial and hearing costs, and (5) return his certificate to the Board or provide an affidavit of lost certificate.

The full transcript of the hearing is attached (Attachment 3).

Committee Reports:

Executive Committee Report:

The Committee recommended that Lisa Stickel be nominated for a position on NASBA's Nominating Committee for the coming year.

A letter was sent to David Costello of NASBA advising him of the Board's concerns relative to NASBA's promoting continuing education at their National CPE Expo per the Board's instruction at the January meeting. Mr. Costello responded and he expressed NASBA's desire to continue working proactively together for the public interest, and indicated that some changes will be made as a result of the concerns raised by the Board (Letters are attached for reference – Attachment 4).

The following firms requested exemption from Peer Review Requirements:

Brown, Brown & Associates, PC

Monahan Tax Resolution

Randi C. Perkins

Louisa B. Sullivan, CPA

Davis Financial Services

Jessie B. Lee, CPA

Susan B. Tuccillo, CPA

Tennsouth Business Solutions

James H. Boswell, CPA

These requests are based on the assertions made by the firms that they do not perform any attest services.

The Committee also discussed how to process a complaint made against a Board Member or a Board Member's firm. The consensus was that Board Staff should not be involved in any Board Member complaints. Instead, arrangements have been made with the Municipal Audit Division of the Comptroller's Office to perform the investigations for these complaints.

A Board Retreat was discussed. The last retreat was in 2007, so it is time for another for the benefit of the new Board members. A suggestion was to go off-site and to start on a Thursday morning and leave around noon on Friday. Alternatively, it could be held in conjunction with the October Board meeting. Potential topics for the retreat include:

1. Role of a Board Member
2. Day to day operations of the Board
3. The Complaint Process
4. Budget Process
5. NASBA involvement
6. TSCPA involvement
7. Board Development – National Issues
8. Contact with Legislators
9. Where do we go from here?

Please give any suggestions for retreat topics to Mark.

A motion was made to accept the Committee's report and to take actions as recommended by Mr. Underwood and seconded by Mr. Sawyer. The motion passed unanimously.

Finance and Administration Committee Report:

Mr. Sawyer reviewed the financial reports for fiscal 2009 and fiscal 2010. He explained the variances and their causes. There are several months before the end of the fiscal year

and changes to these numbers are expected (Attachment 5).

Probationary status of a license was also discussed. Probationary status of a license is an administrative issue. The Board has been voting to put new licensees on probation if a misdemeanor (other than a speeding ticket) is reported on their application. This was challenged by a licensee at the January meeting, and as a result Mr. Crocker sought a legal opinion on the matter. Our legal staff opined that a license may not be issued in a probationary status. An individual cannot be issued a conditional license. Probationary status may only be used if a licensed individual commits an act that warrants probation. Therefore, all licensees who were issued licenses on a probationary status are now reflected in the Board's records as having 'Active' licenses.

Press releases will be issued through the Public Relations office for severe disciplinary actions taken by the Board. This allows the public to know if a person's license has been revoked, suspended, etc., and therefore provides protection to the public.

Licensing Committee Report:

An application from Mark D. Gregory was reviewed due to the applicant's past legal infractions. It was determined that Mr. Gregory had not supplied sufficient information concerning the events under scrutiny and Mr. Cozart made a motion that Mr. Gregory should appear before the Board with additional information prior to the Board determining if a license should be issued to him. Mr. Underwood seconded the motion and it passed unanimously.

The Chartered Financial Analyst Society of Memphis had requested to be an exempt organization under Rule 0020-5-.05(a). It was determined this organization does not meet the requirements stated under the scope of this rule.

Certification examinations and their prep courses counting toward CPE relative to Rule 0020-5-.04(8) were discussed. It was determined that a licensee could use both the courses and successful completion of the examination for approved CPE were actually completed in the prior licensing period.

New Licensee Statistics (01/16/10 – 04/15/10)

Initial Licenses Issued:	24
Reciprocal Licenses Issued:	12
Total:	36

The 2008-2009 licensing period CPE audit was initiated April 1, 2010. To date, 47% of the contacted licensees have responded. Ten percent of the active licenses (918) were mailed letters requesting they present their CPE for audit.

The Board discussed CPE audits for Board members. It was determined that all Board members who hold an active CPA license will have their CPE audited biennially. Mr. Underwood made a motion to audit the CPE of all Board members holding an active license at the time of renewal. Motion was seconded by Ms. Brundige and passed by the Board.

Mr. Cozart made a motion to accept the Licensing Committee's report, seconded by Mr. Underwood and passed unanimously.

Law and Rules Committee Report:

After a discussion on pre-license educational requirements, it was decided by the Board to revise Rule 0020-2-.02 to require thirty (30) semester hours of accounting education with twenty-four (24) of those hours to be upper division courses. A motion was made by Mr. Underwood to accept this recommendation and seconded by Mr. Royston. The motion passed unanimously.

Peer Review language was also discussed and it was decided that a Firm would have to be enrolled in a peer review program in order to be in compliance. Rule 0020-6-.04(1) does not currently require enrollment in a peer review program. The wording will be changed so that a firm **must** be enrolled in a peer review program. A motion was made by Mr. Creswell and seconded by Mr. Royston to make this rule change. All voted in favor.

Probable Cause Committee Report:

Investigator Don Mills passed out copies of his report to the Board Members for review. The report covered the status of open complaints as of today's date and also included 12 month totals. Mr. Warren stated that Mr. Mills continued to work on older complaints as a priority. Mr. Whittaker presented his Legal Report to the Board Members for their review with his recommendations for disposition of each case. Mr. Alexander recused himself from complaint numbers 6, 7, and 19. Mr. Blaufuss recused himself from complaint number 19. A motion was made by Mr. Sawyer to accept Legal Counsel's report, seconded by Mr. Cozart, and passed with the abstentions as noted above (Attachment 6).

A discussion of the State Specific Ethics ensued since the Board has been requiring additional State Specific Ethics training if discipline was incurred as a result of a violation of the state law and rules. The Board was reminded that these were additional courses that did not count toward CPE requirements, but were in the form of penalty

education. The Board Staff volunteered to develop a two (2) hour course to be offered quarterly. In anticipation of the rule change (making the ethics requirement 2 hours of

State Specific Ethics every renewal period), TSCPA is developing a two (2) hours course that will be available.

Old Business:

On the issue of Board independence, Mr. Alexander stated that until we have an administrative change there is no point in pursuing this issue.

Report on NASBA Communications Committee:

Ms. Stickel reported the Communications Committee met on March 7th and 8th 2010 in Texas. The meeting focused on 1) Social media; 2) Macro Outreach; 3) NASBA website; and 4) Student Outreach. Ms. Stickel explained that "Macro Outreach" meant getting the word out to big constituencies such as the societies and the public – and trying to determine the best method to actually get information into the public forum. The next meeting of the Committee will be in Las Vegas, Nevada.

Report on the UAA Committee:

The UAA Committee is NASBA's committee on the Uniform Accountancy Act. Ms. Stickel stated that a meeting of this committee was scheduled in Chicago in December of 2009 but she was unable to attend since travel had not been approved. She stated there was no further activity on this committee at this time.

New Business:

The Board elects new officers every year at the April meeting for service beginning on July 1. Nominations submitted were:

Chair: Stan Sawyer
Vice Chair: Don Royston
Secretary: Lisa Stickel

There being no additional nominations from the floor, Mr. Blaufuss moved that these be elected by acclamation, seconded by Mr. Underwood. The officers were elected by a unanimous vote.

Presentation by Legal Counsel:

Mr. Whittaker wanted to make the Board aware of student loans and TSAC (Tennessee Student Assistance Corporation). This division monitors student loans, and when a loan is in default, notices are sent to licensing agencies giving notification that a licensee is in default. Tennessee Code Annotated gives the Board the authority to suspend a license if a licensee is in default. This is different from the statute governing Professional Privilege Tax in that licensees deficient in payment of the Privilege Tax must go through the disciplinary process before action can be taken. The statute governing TSAC allows for immediate suspension.

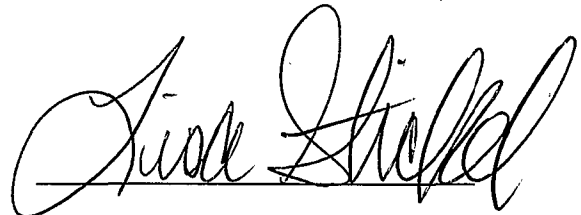
Mr. Whittaker also discussed the registration of tax preparers. There is a potential with this new requirement for states to register and to regulate these preparers. California and Oregon already have state registration underway, but this process is not under the auspices of the Accountancy Boards in those states. There is potential for the Board of Accountancy (in Tennessee) to be proactive and to move in as the State Regulatory Body for these tax preparers.

Adjournment:

There being no further business to come before the Board, Mr. Warren moved for adjournment, seconded by Mr. Underwood and passed unanimously.



Chairman



Secretary