



**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

27 July 2012

The meeting of the Tennessee State Board of Accountancy convened in the Andrew Johnson Tower, Nashville, TN on Friday, July 27, 2012 at 8:30 a.m.

Board members present were:, Lisa Stickel, Chair; Casey Stuart, Vice-Chair; Bill Blaufuss, Secretary; Stan Sawyer, immediate past Chair; Troy Brewer; Don Royston; Trey Watkins and Doug Warren

Board members absent were Jennifer Brundige, Kenneth Cozart and Shannone Raybon.

Staff members present were: Mark Crocker, Executive Director; Don Mills, Investigator; Ray Butler, Investigator; Chris Whittaker, Staff Attorney; Laura Betty, Prosecuting Attorney; Kathy Riggs; and Karen Condon.

Others present were: Brad Floyd, TSCPA President and Linda Biek, NASBA.

Ms. Stickel 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 and on the Department's website on Monday, July 16, 2012.

Due to the beginning of a new Fiscal Year, the Board should adopt Robert's Rules of Order as a means of conducting the meetings. Mr. Royston so moved, with Mr. Sawyer seconding. The motion passed unanimously.

Mr. Crocker presented Mr. Warren a gift in appreciation for his service to the Board.

Board members then reviewed the minutes from the May 3, 2012 meeting. Mr. Sawyer moved to adopt the minutes. The motion was seconded by Mr. Watkins. Mr. Blaufuss stated that the minutes should be amended to add a synopsis of the formal hearings conducted at that meeting. Mr. Sawyer amended his motion to approve the minutes upon the inclusion of the formal hearing summaries. This was seconded by Mr. Watkins and passed unanimously.

Mr. Blaufuss noted a request from Mr. Sawyer at the May 2012 meeting for Mr. Crocker to prepare a study of the advantages of independence for the Board. A similar request was made at the July 2011 meeting. Mr. Crocker will prepare the report in the coming weeks.

Ms. Stickel asked the Board to adopt the resolution recently presented to Dennis Dycus by the Board. Mr. Blaufuss moved to accept the resolution. This was seconded by Mr. Watkins and passed unanimously.

The Board then reviewed a query from E. Terry Cowles, CPA. Mr. Cowles is retiring and wishes to pursue a management advisory and consulting business. He wishes to do so while having a retired license and not be subjected to CPE requirements. Mr. Cowles was present via telephone for the discussion. Rule 0020-5-.03 (3) precludes a retired licensee from offering accounting services in Tennessee and Mr. Cowles was seeking an exception to that Rule. Mr. Stuart moved to deny the request for an exception. The motion was seconded by Mr. Watkins and passed unanimously. Mr. Warren moved that the Board undertake a review of the section of the Rule pertaining to this request. Mr. Royston seconded and the motion was unanimously passed. Mr. Crocker will draft a letter to Mr. Cowles confirming the Board's decision.

With Administrative Law Judge Steve Darnell presiding, the Board heard the case of Lisa Unge, docket number 12.19-116247A. Ms. Unge was present and represented by counsel. The State was represented by Chris Whittaker, assisted by Laura Betty.

After hearing testimony, Mr. Blaufuss moved to accept the Findings of Fact, which read, in summary:

1. At all times pertinent hereto, the Respondent did not possess a valid CPA license issued by the State of Tennessee.
2. On or about October 19, 2006, the Respondent entered into an Agreed Order for the disposition of a complaint for unlicensed conduct. In the Agreed Order, the Respondent admitted that she held herself out as a CPA despite not possessing a valid CPA license, and agreed to pay a \$1,000.00 civil penalty.
3. As part of the settlement set forth in Paragraph 2, the Respondent agreed to cease and desist using any all words and/or designations prohibited under the Act and to cease holding out as a CPA without a CPA license.
4. On or about March 8, 2010, the Respondent generated a document captioned "Report of Enrolled Agent" for review of and use by the Arkansas

Contractors' Board. In this report, the Respondent stated that she had "audited the accompanying balance sheet" of an entity and the word audit was used repeatedly throughout the document.

Mr. Watkins seconded and the motion passed unanimously.

Mr. Sawyer moved to accept the proposed Conclusions of Law, which read, in summary:

1. The Respondent's acts and conduct as set out in the foregoing Proposed Findings of Fact constitute violations of TENN. CODE ANN. §§ 62-1-113(a), (c), and (h).
2. The Respondent's acts and conduct as set forth in the foregoing Proposed Findings of Fact constitute violations of TENN. COMP. R. & REGS. R. 0020-4-.03(1)(c) of the Rules of the Tennessee State Board of Accountancy.
3. The Respondent's violations constitute grounds for the Board to impose a civil penalty against the Respondent pursuant to TENN. CODE ANN. § 62-1-111(a).
4. The Respondent's violations constitute grounds for the imposition of lawful discipline, including the assessment of civil penalties, as prescribed by law at TENN. COMP. R. & REGS. R. 0020-4-.02 (1).
5. The Respondent's violations also constitute grounds for the recovery of all associated costs pursuant to TENN. COMP. R. & REGS. R. 0780-5-11-.01 (Assessment of Investigatory and Hearing Costs) of the Rules of the Department of Commerce and Insurance, Division of Regulatory Boards.
6. The Petitioner has met its burden of proof by a preponderance of the evidence, in showing that, at all relevant times hereto: (1) That, on or about March 8, 2010, the Respondent generated a document captioned "Report of Enrolled Agent" for review of and use by the Arkansas Contractors' Board. In this report, the Respondent stated that she had "audited the accompanying balance sheet" of an entity, and the word audit was used repeatedly throughout the document.

Mr. Blaufuss seconded and the motion passed unanimously.

Mr. Blaufuss moved to accept the State's recommendation of a Civil Penalty of \$1,000.00 plus investigative and hearing Costs. Mr. Watkins seconded and the motion was unanimously passed.

Upon the reading of the Policy Statement regarding the Board's decision, Mr. Watkins moved to adopt the Statement, with Mr. Royston seconding. The motion passed unanimously.

The Board next heard the matter of Edwin P. Osborne, docket number 12.19-116244A. Mr. Osborne represented himself before the Board. The State was represented by Chris Whittaker and Laura Betty.

After hearing testimony, Mr. Warren moved to adopt the proposed Findings of Fact, which read, in summary:

1. Respondent Edwin Osborne holds a Tennessee CPA license (No. 11166), which expired on December 31, 2006.
2. Respondent Edwin P. Osborne, CPA, holds a Tennessee CPA firm permit (No. 3184), which expired on December 31, 2006.
3. Respondent Edwin P. Osborne, CPA, was required to provide proof to the Board of enrollment in an approved peer review program no later than October 30, 2006.
4. Respondent Edwin P. Osborne, CPA, provided the Board with proof of enrollment in an approved peer review program on or about May 14, 2007. In so doing, Respondent Edwin P. Osborne, CPA, failed to provide the Board with proof of enrollment in an approved peer review in a timely manner.
5. On or about August 1, 2007, the Respondent performed an audit for the year 2006 for Stepping Out, Inc., a company located in Morristown, TN. The Respondent did not possess a valid Tennessee CPA license and did not possess a valid Tennessee CPA firm permit at the time this audit was issued.
6. On or about August 1, 2008, the Respondent performed an audit for the year 2007 for Stepping Out, Inc., a company located in Morristown, TN. The Respondent did not possess a valid Tennessee CPA license and did not possess a valid Tennessee CPA firm permit at the time this audit was issued.
7. On or about October 30, 2010, the Respondent issued an Independent Auditor's Report to the Board of Directors of the Morristown Emergency & Rescue Squad, Inc. without a valid Tennessee CPA license or CPA firm permit.
8. To date, the Respondent has continued to practice accountancy in the State of Tennessee without a valid Tennessee CPA license and without a valid Tennessee CPA firm permit.

Mr. Stuart seconded and the motion passed unanimously.

Mr. Blaufuss moved to approve the Conclusions of Law, which read, in summary:

1. The Respondent's acts and conduct as set out in the foregoing Proposed Findings of Fact constitute violation(s) of TENN. CODE ANN. § 62-1-113(d).

2. The Respondent's acts and conduct as set out in the foregoing Proposed Findings of Fact constitute violation(s) of TENN. CODE ANN.§.§ 62-1-113(a), (c), and (h).
3. The Respondent's acts and conduct as set out in the foregoing Proposed Findings of Fact constitute violation(s) of TENN. CODE ANN.§ 62-1-201(b).
4. The Respondent's acts and conduct as set out in the foregoing Proposed Findings of Fact constitute violation(s) of TENN. CODE ANN. § 62-1-108(a).
5. The Respondent's acts and conduct as set forth in the foregoing Proposed Findings of Fact constitute violation(s) of Rules 0020-4-.03(1)(c) of the Rules of the Tennessee State Board of Accountancy.
6. The Respondent's acts and conduct as set out in the foregoing Proposed Findings of Fact constitute violation(s) of Rules 0020-6-.04(1) and (4).
7. The Respondent's violation(s) constitute grounds for the Board to impose a civil penalty against the Respondent pursuant to TENN. CODE ANN.§ 62-1-111(a).
8. The Respondent's violation(s) constitute grounds for the imposition of lawful discipline, including the assessment of civil penalties, as prescribed by law at Rule 0020-4-.02 (1).
9. The Respondent's violations also constitute grounds for the recovery of all associated costs pursuant to TENN. COMP. R. & REGS. R. 0780-5-11-.01.
10. Petitioner has met its burden of proof by a preponderance of the evidence, in showing that, at all relevant times hereto: (1) The Respondent failed to provide proof to the Board of enrollment in an approved peer review program as required by law; (2) The Respondent failed to maintain his Tennessee CPA license in good standing as required by law; (3) The Respondent failed to maintain his Tennessee CPA firm permit in good standing as required by law; and, (4) The Respondent provided accounting services on an expired Tennessee CPA license and from a Tennessee CPA firm that did not possess a valid Tennessee CPA firm permit on three separate occasions (on or about August 1, 2007, on or about August 1, 2008, and on or about October 30, 2010).

Mr. Stuart seconded the motion and it passed unanimously.

Mr. Stuart moved to adopt the State's recommendation of a Civil Penalty in the amount of \$4,000.00 and the revocation of Mr. Osborne's CPA license and CPA firm permit. Mr. Blaufuss seconded and the motion passed unanimously.

Mr. Sawyer read and moved to adopt the Policy Statement regarding the Board's decision. With Mr. Blaufuss seconding, the motion passed unanimously.

The next hearing was the matter of Wanda Smithson, docket number 12.19-116246A. Ms. Smithson was not present. After establishing adequate proof of service, the State asked the Board to hold Ms. Smithson in default. Mr. Royston so moved and Mr. Sawyer seconded. The motion passed unanimously.

Mr. Sawyer moved to adopt the proposed Findings of Fact, which read, in summary:

1. Respondent does not currently hold a valid Tennessee CPA license issued by the State of Tennessee, nor did she hold a valid Tennessee CPA license at all times pertinent hereto.
2. The Respondent previously held a Tennessee CPA license (No. 12160), but it was revoked by the Board on or about October 14, 2008, for failure to comply with peer review and licensing requirements.
3. On or about December 7, 2010, the Respondent displayed signage outside her office and visible to the public stating that the Respondent is a Certified Public Accountant, and that the Respondent was doing "audit" work.
4. In an affidavit provided to Board Investigator Don Mills on or about January 18, 2011, the Respondent promised that she would remove any signage indicating that she is a Certified Public Accountant because she is no longer a licensed CPA in the State of Tennessee.
5. A follow-up visit to the Respondent's office by Board Investigator Ray Butler on or about June 14, 2012, revealed that the signage indicating that the Respondent is a Certified Public Accountant had not been removed.

Mr. Royston seconded and the motion was unanimously passed.

Mr. Warren moved to adopt the Conclusion of Law, which read, in summary:

1. The Respondent's acts and conduct constitute violations of TENN. CODE ANN. §§ 62-1-113(c).
2. The Respondent's acts and constitute violations of TENN. COMP. R. & REGs. R. 0020-4-.03(1)(c) of the Rules of the Tennessee State Board of Accountancy.

3. The Respondent's violations constitute grounds for the Board to impose a civil penalty against the Respondent pursuant to TENN. CODE ANN. § 62-1-111(a).
4. The Respondent's violations constitute grounds for the imposition of lawful discipline, including the assessment of civil penalties, as prescribed by law at TENN. COMP. R. & REGS. R. 0020-4-.02 (1).
5. The Respondent's violations also constitute grounds for the recovery of all associated costs pursuant to TENN. COMP. R. & REGS. R. 0780-5-11-.01 (Assessment of Investigatory and Hearing Costs) of the Rules of the Department of Commerce and Insurance, Division of Regulatory Boards.
6. Petitioner has met its burden of proof by a preponderance of the evidence, in showing that, at all relevant times hereto: (1) That the Respondent held out to the public that she is a licensed Certified Public Accountant on a revoked Tennessee CPA license on three separate occasions (December 7, 2010, January 18, 2011, and June 14, 2012); and, (2) That the Respondent admitted providing accounting services by doing "audit work" on a revoked Tennessee CPA license on December 7, 2010.

Mr. Royston seconded and the motion passed unanimously.

In determining discipline in this case, Mr. Warren moved to accept the State's recommendation of a Civil Penalty of \$2,500.00, investigative and hearing Costs, and evidence of the removal of all signage referring to accountancy. Mr. Sawyer seconded the motion and it was unanimously passed.

Mr. Sawyer read and moved to adopt the Policy Statement regarding the Board's decision. Ms. Stickel seconded and the motion was unanimously passed.

Executive Committee Report

Ms. Stickel announced that, with the exception of the following items, the report of the Executive Committee would be deferred until the Board's October meeting.

The Executive Committee recommended approval of the two-hour Ethics course presented by Pass Online. Mr. Warren moved to approve the course, with Mr. Blaufuss seconding. The motion was unanimously passed.

The Committee also recommended approval for Philip Babin's request to teach the two-hour State-Specific Ethics course. Mr. Blaufuss moved to approve the course. Mr. Brewer seconded and the motion passed unanimously.

The Executive Committee was also asked to review the request of a non-licensee to teach the State-Specific Ethics course. The Committee recommended deferring the

request until the Board develops guidelines for the qualifications for teaching this course.

Legal Report

Mr. Whittaker presented the Legal Report, included as Attachment A.

Mr. Sawyer moved to accept the State's recommendation to close the complaints in item numbers 14-28 with Letters of Warning. Mr. Warren seconded and the motion passed unanimously.

Mr. Warren moved to accept the State's recommendation to close the complaints in item number 35 with a binding Letter of Instruction. Mr. Blaufuss seconded and the motion was unanimously passed.

Mr. Stuart moved to accept the State's recommendation for the complaints in items 1-13 and 29-34. Mr. Sawyer seconded and the motion passed unanimously.

Of the 35 complaints presented, these motions resulted in the following:

- Civil Penalties Authorized: 6
- Amount of Civil Penalties: \$ 11,500.00
- Letters of Warning: 18
- Letters of Instruction: 4
- Dismissal: 5
- Consent Orders for License Suspension, Surrender, or Revocation: 1
- Informal Conference: 1

With no further business before the Board, Ms. Stickel adjourned the meeting.