



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

Board Minutes

3 May 2012

The meeting of the Tennessee State Board of Accountancy convened in the Andrew Johnson Tower, Nashville, TN on Thursday, May 3, 2012 at 8:30 a.m.

Board members present were: Stan Sawyer, Chair; Don Royston, Vice-Chair; Lisa Stickel, Secretary; Bill Blaufuss; Troy Brewer; Jennifer Brundige; Kenneth Cozart; Shannone Raybon; Casey Stuart and Trey Watkins.

Board member Doug Warren was absent.

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 Wendy Garvin, TSCPA.

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

- This meeting was properly noticed by the web on 23 April 2012
- Senate Bill 2322 and House Bill 2541 concerning the Board's sunset extension have not yet been passed in the legislature.
- CPA Exam candidate Mary Howard of Baxter, TN has qualified for one of the 2011 Elijah Watt Sells Awards. Ms. Howard had an average of 96 on the exam.
- This is the last meeting for Board members Ken Cozart and Doug Warren. Both were recognized for their work on the Board. Ms. Stickel and Ms. Raybon are both completing their second terms and are eligible for re-appointment. Mr. Crocker presented to Mr. Cozart a gift in appreciation for his service. Mr. Sawyer received an award as outgoing Chair.

The Chair then asked the Board members to review the minutes from the 27 January 2012 meeting. Mr. Blaufuss moved to adopt the minutes. The motion was seconded by Mr. Royston and unanimously approved.

Mr. Sawyer called on Mr. Crocker to present the Executive Director's Report. A copy of the report is included as Attachment A.

Following discussion regarding travel for NASBA meetings, Mr. Stuart moved to accept the Executive Director's Report. Ms. Stickel seconded and the motion passed, with Mr. Blaufuss abstaining.

The Board then moved on to NASBA Committee Reports

NASBA Communications Committee

Ms. Stickel has withdrawn her request to attend the May Committee meeting in Las Vegas. She will attend the June meetings.

NASBA Relevance and Effectiveness Committee

Ms. Brundige reported that the Committee will meet next week to discuss surveys that were sent to State Boards and Societies. The Committee has also been watching legislative activity regarding State Boards.

With no action required on either report, this concluded the NASBA Committee Reports.

The Board then moved on to Board Committee Reports.

Executive Committee:

Mr. Sawyer reviewed the three items discussed in the Committee meeting.

- Evaluation of the Executive Director resulted in generally high marks with some concerns expressed, including
 - Improving the Board's relationship with the Commissioner's office
 - Travel frequency and costs

Mr. Blaufuss and Mr. Royston requested that the full Board have input in the evaluation process in the future. The Board decided that henceforth the annual evaluation of the Executive Director will be done in conjunction with input from the full Board. The tool used for such evaluation will be sent to Board members.

- Mr. Crocker was asked to continue to maintain and enhance the Board's relationship with the Tennessee Society.

After discussion, Mr. Stuart moved to accept the Committee's evaluation of the Executive Director, including a recommendation to consider a raise for Mr. Crocker. Mr. Brewer seconded and the motion passed with Mr. Blaufuss abstaining.

- Review of financial information (included as Attachment B).

After discussion, Mr. Brewer moved to accept the financial report. Mr. Cozart seconded and the motion passed unanimously.

The Board then commenced with the first of the Formal Hearings, with the Executive Committee Report to resume at its conclusion.

Mr. Whittaker presented the following Agreed Orders to the Board.

First was the matter of docket number 12.09-11624A, David Cannon, CPA license 11992.

Allegations: Mr. Cannon practiced public accountancy with an expired license from 2004 to 2007. He also failed to notify the Board of changes in his address and employment.

Proposed Agreed Order: A Civil Penalty of \$1,000.00, filing costs of \$200.00 and past due renewal fees of \$690.00. This fine is payable through a payment schedule. Mr. Cannon must submit a reinstatement application for Inactive status. All penalties must be satisfied on or before August 1, 2012. Failure to comply will result in the revocation of Mr. Cannon's license.

Mr. Cannon has signed an Agreed Order admitting to the Findings of Fact and Conclusion of Law in this matter. Mr. Warren moved to approve the proposed Agreed Order. Ms. Brundige seconded, and the motion passed unanimously.

The second case was docket number 12.19-116242A, Donald Abercrombie, CPA license 2460.

Allegations: In September 2010, Mr. Abercrombie pleaded guilty to TennCare fraud.

Proposed Agreed Order: Temporary suspension of Mr. Abercrombie's CPA license until he completes the diversion and probation to which he was sentenced, at which time he will be eligible for reinstatement. Failure to complete diversion or probation will result in the revocation of his CPA license.

Mr. Watkins moved to approve the Agreed Order. Mr. Royston seconded and the motion passed unanimously.

Next was the matter of docket number 12.19-116243A, William King, license 4783.

Allegations: Mr. King has pleaded guilty to conspiracy to commit Medicare fraud and has served 24 months in prison.

Proposed Agreed Order: Mr. King's CPA license will be immediately revoked for a maximum of five years, during which time Mr. King is prohibited from engaging in the practice of accounting.

Mr. Royston moved to accept the Agreed Order. Ms. Brundige seconded and the motion passed unanimously.

The Board then heard the matter of docket number 12.19-116239A, David Britton Brand, license 8812.

Allegations: Mr. Brand provided 50 hours of service as a CPA for tax preparation while having an expired license.

Proposed Agreed Order: A Civil Penalty of \$2,500.00 and filing costs of \$200.00. Failure to satisfy the terms of the agreement on or before June 14, 2012 will result in the revocation of Mr. Brand's CPA license.

Mr. Stuart moved to accept the Agreed Order. Mr. Blaufuss seconded and the motion passed unanimously, with Mr. Royston recused.

This concluded the first session of Formal Hearings. A transcript of the Formal Hearings is included as Exhibit 1.

The Executive Committee Report then continued.

- License Fee Structure

The Board has not yet determined how our license fees compare with those of surrounding states.

The Board has in the past desired to become semi-independent, but has since tabled the topic. The Board now may have the opportunity to be included in a study conducted by the Legislature regarding Health Regulatory Boards to determine the feasibility of independence. The Executive Committee recommended that the Board request inclusion in the legislative study.

Following discussion, Mr. Sawyer asked Mr. Crocker to prepare a document by for the next meeting regarding the advantages of independence.

Mr. Blaufuss moved to lower the CPA renewal fee to \$100.00 (\$50.00 per year) and to raise the firm permit by a like amount. Ms. Brundige questioned how the change in fees would affect the independence study. Mr. Cozart stated that raising the firm permit fee would place an undue burden on sole proprietors. The motion was not seconded. Mr. Blaufuss amended the motion to remove the adjustment to the firm permit fee. The motion was not seconded.

Mr. Stuart moved to recommend that the new Executive Committee review the fee structure and defer a vote until after the legislative study is complete. Mr. Royston seconded and the motion passed unanimously.

This concluded the Executive Committee Report.

Licensing Committee

Ms. Brundige presented the Licensing Committee Report.

- Candidate Bryan H. Todd requested an extension of time to complete the CPA exam due to illness. The Committee recommended an extension through the third quarter of 2012 to pass the remaining part of the exam.
- The Committee recommended approval for the Two-Hour State Specific Ethics course presented by Western CPE.

- The Committee recommended approval of the Texas Board's acceptance of Community College credits to satisfy "upper division" requirements.

Ms. Brundige moved to accept the Committee's recommendations. Mr. Stuart seconded and the motion passed unanimously.

- Regarding the new State Ethics Education requirement, the Committee recommended allowing licensees renewing through December 31, 2012 to comply with either the old or the new rule.

Ms. Brundige moved to accept the Committee's recommendation, with Mr. Stuart seconding. Mr. Whittaker cautioned that the Board does not have the authority to defer the effective date of the new law and that deferring implementation of the rule would set a dangerous precedent in enforcing rules in the future. Ms. Betty stated that any change to the rule of law will require the Rule-Making procedure. After discussion, the votes were cast as follows:

Ken Cozart	Yea	Stan Sawyer	Yea	Troy Brewer	Yea
Jennifer Brundige	Yea	Don Royston	Nay	Trey Watkins	Yea
Shannone Raybon	Yea	Casey Stuart	Yea		
Lisa Stickel	Yea	Bill Blaufuss	Yea		

The motion was approved by the majority.

This concluded the Licensing Committee Report.

After a break for lunch, the Board reconvened for Formal Hearings.

With Judge Joyce Safley presiding, the Board heard the case of Brian Sellars, docket number 12.19-116248. Mr. Sellars was not present for the hearing. The State was represented by Chris Whittaker.

After establishing Proof of Service, the State requested the Board to find Mr. Sellars in default. Mr. Watkins so moved. Mr. Stuart seconded and the motion passed unanimously.

Allegations: Mr. Sellars failed to report the revocation of his license to practice public accountancy in Alabama. He also failed to renew his Tennessee CPA license and did not return his wall certificate as required by law.

The State sought the revocation of Mr. Sellar's CPA license and to report this action to the Alabama State Board of Public Accountancy.

The following motions were made:

Mr. Royston moved to accept the Findings of Fact in this case, with Ms. Stickel seconding.

Mr. Blaufuss moved to accept the Conclusion of Law in this case, with Mr. Stuart seconding.

Mr. Royston moved to assess no Civil Penalty in this case, with Mr. Blaufuss seconding.

Mr. Stuart moved that the Board revoke Mr. Sellars' CPA license, with Mr. Blaufuss seconding.

All motions were unanimously passed.

This concluded the second session of Formal Hearings. A transcript of the Formal Hearings is included as Exhibit 1.

The Board then continued with the remaining Committee Reports.

Probable Cause Committee

Legal Report:

Mr. Royston called upon Mr. Whittaker to present the Legal Report. Mr. Royston moved to accept the recommendations of the Probable Cause Committee and also requested that the settlement guidelines used in determining discipline be made available for Board members. Mr. Blaufuss seconded and the motion passed unanimously with Mr. Watkins recused from voting on Legal Report items 9, 12, 13, 14, 15, 17 and 21.

A copy of the Legal Report is included as Attachment C.

Status Report:

Mr. Mills presented a report on the current status of open complaints as well as comparatives from three prior committee meeting dates. A copy of the report is included as Attachment D.

Mr. Royston announced that upon Mr. Whittaker's arrival on staff, the Board was in compliance with the 180-day target for complaint closures at a rate of 11%. The Board is now at an 83.5% closure rate thanks in part to Mr. Whittaker's efforts.

This concluded the Probable Cause Committee Report.

Formal Hearings then resumed.

With Judge Joyce Safley presiding, the Board heard the matter of Jacqueline Singh Riojas. Ms. Riojas was present and represented by counsel. The State was represented by Chris Whittaker.

Allegations: Sufficient review of the client's documentation was not done in advance by Ms. Riojas to obtain a reasonable basis for the conclusion drawn in preparing a certification of net worth for a client.

Mr. Whittaker proposed an Agreed Settlement with the penalty being the issuance of a Letter of Warning.

Mr. Stuart moved to accept the settlement offer, with Mr. Watkins seconding. The votes were cast as follows:

Trey Watkins	Yea	Stan Sawyer	Yea
Troy Brewer	Yea	Lisa Stickel	Nay
Bill Blaufuss	Nay	Shannone Raybon	Nay
Casey Stuart	Yea	Jennifer Brundige	Yea
Don Royston	Nay	Ken Cozart	Yea

The motion was passed by the majority.

This concluded the last session of Formal Hearings. A transcript of the Formal Hearings is included as Exhibit 1.

The Board then moved to the business of Board Member elections. Mr. Crocker stated that the only nomination thus far received was that of Ms. Stickel for Chair. Mr. Sawyer asked for nominations for the position of Chair. Mr. Watkins moved to close nominations for the position. Mr. Blaufuss seconded and the motion passed unanimously.

The next item was nominations for the position of Vice-Chair. Mr. Sawyer nominated Mr. Stuart, and Mr. Stuart accepted. Mr. Watkins moved to close the nominations for Vice-Chair. Ms. Brundige seconded and the motion passed unanimously.

The next item was nominations for the position of Secretary. Ms. Raybon nominated Mr. Blaufuss for the position. Mr. Blaufuss accepted and Mr. Watkins moved to close nominations for the position of Secretary. The motion passed unanimously.

The Board then moved on to old business. Mr. Crocker suggested that the Board make an official endorsement of the nomination of Ms. Stickel to the NASBA Nominating Committee. Mr. Stuart so moved. Ms. Raybon seconded and the motion passed unanimously.

The next topic was a motion before the Board at the January 27, 2012 meeting regarding the new 30-hour accounting course education requirement. Mr. Whittaker has advised that the Board does not have the authority to extend a one-year grace period. The requirement will become effective June 24, 2012. In addition, the Board has proposed several rule changes. The Board agreed to hold a rule making hearing in October, after reviewing the language of the rule changes at the July Board meeting.

The Board then commenced with the last of the day's Formal Hearings. With Administrative Law Judge Joyce Safley presiding, the Board heard the matter of Paul Adams, docket number 12.19-116245A. Mr. Royston recused himself from the proceedings. Mr. Adams represented himself via telephone. The State was represented by Mr. Whittaker.

Allegations: Mr. Adams is a previous licensee of the Board, with a revoked license. He has used the term "Accounting" without proper licensure.

Mr. Adams has stipulated to the Findings of Fact and the Conclusions of Law.

Proposed Settlement: Civil Penalty of \$2,300.00, and investigative Costs of \$200.00.

Mr. Adams requested a Civil Penalty of \$1,000.00. Mr. Watkins moved to accept the proposed Civil Penalty of \$800.00, with Investigative Costs of \$200.00, payable by an installment plan. Mr. Blaufuss seconded, and the motion passed unanimously.

There being no further business to come before the Board, Mr. Sawyer adjourned the meeting.