

**ACCOUNTANCY BOARD OF OHIO
MINUTES OF FEBRUARY 3, 2012 MEETING**

The Accountancy Board met on February 3, 2012 in Rooms West B and C on the 31st floor of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio with the following members present: Margaret Houston, CPA (Chair), W. Michael Fritz, CPA (Vice Chair), Robert Fay, CPA (Secretary), Greta Russell, CPA (Immediate Past Chair), Mark LaPlace, CPA (Past Chair), Michael Comer, CPA (Member), James Carroll, CPA-Inactive (Member), Adriana Sfalcin (Public member), and James Gero, CPA (Member).

Representing the Board staff were Ronald Rotaru, Executive Director, and Robert Joseph, CPA, Assistant Director. Board counsel present was John Patterson, Esq., representing the office of the Attorney General.

Present in the audience were Clarke Price, Chief Executive Officer of the Ohio Society of Certified Public Accountants (OSCPA), Barbara Benton, Vice President for Governmental Affairs of the OSCP, and Joseph Skoda, CPA, representing the Ohio Association of Independent Accountants.

Ms. Houston called the meeting to order at 10:05 a.m., and welcomed the guests in the audience.

APPROVAL OF THE DECEMBER 2011 BOARD MEETING MINUTES

Upon motion by Ms. Russell, seconded by Mr. Comer, the Board voted to approve the minutes of the December 12-13, 2011 Board meeting. Motion carried 9-0.

NEW BOARD MEMBER

The Board welcomed James Gero, the newest Board member. Mr. Gero practices public accounting in the Cleveland area and was a member of the OSCP peer review acceptance committee for twelve years.

PROPOSED RULES PROCEDURE

Mr. Joseph noted that the Common Sense Initiative implemented by Governor Kasich on January 1, 2012 will increase the number of steps required to file rule changes. He added since there are usually two or three Board meetings devoted to review of proposed rules there would not be any delay beyond what already occurs.

INFORMATION REPORTS AND UPDATES

NASBA REPORT

Mr. Rotaru said that the NASBA Executive Directors Conference for accountancy board staff would be held in San Antonio, Texas on March 11-14, 2012 and that Mr. Joseph and he would attend. He added Mr. Patterson would attend the concurrent NASBA Legal Counsel Conference on March 11-13, 2012.

BUDGET AND FINANCIAL REPORT

Mr. Joseph noted that the Board is still spending less than its projected budget for fiscal year 2012, so it is likely once again that the Board would not spend its entire appropriation.

INVESTIGATIONS REPORT

Mr. Joseph noted that 18 firms subject to peer review did not renew their firm registrations by the late deadline of January 31, 2012. He added hearings concerning some of these firms would be scheduled at the next Board meeting in April. He concluded by stating that the continuing education verification notices would be mailed on February 6, 2012. 1,548 licensees, or 25% of the number renewing the Ohio permit in 2011, were selected.

EDUCATION ASSISTANCE PROGRAM REPORT

Mr. Joseph reported a total of \$198,121.73 spent for education assistance so far in fiscal year 2012. He referred to the total appropriation for fiscal year 2012 of \$240,000 and said that progress was good even compared to last year's record total of grants under the new rules. He concluded by stating that Youngstown State University, Ohio State University, and DeVry University were the three top recipients of scholarship dollars.

The Board then discussed the participation of colleges in the program and possible reasons why candidates who receive education assistance funds do not sit for the CPA examination.

OLD BUSINESS

LICENSE RENEWAL REPORT

Mr. Joseph presented the license renewal report. As of January 2012, 695 licensees did not renew their Ohio permits or Ohio registrations. Of that total, 89 licensees retired and 24 licensees were deceased; this left 582 licensees whose licenses were considered expired.

BOARD STANDING COMMITTEES

After discussion, the Board agreed on the following standing committees for the remainder of 2012:

Executive Committee

- Margaret Houston, Chair
- W. Michael Fritz, Vice Chair
- Robert Fay, Secretary

Nominating Committee

- Greta Russell, Chair
- James Carroll
- James Gero

Education Assistance Committee

- Robert Fay, Chair
- Michael Comer
- Greta Russell

Peer Review Oversight Committee

- W. Michael Fritz, Chair
- James Gero
- Robert Fay
- Thomas Mulligan (Past Board member)

Disciplinary Advisory Committee

- Michael Comer, Chair
- Robert Fay
- Adriana Sfalcin

Licensing Committee

- James Carroll, Chair
- James Gero
- Michael Comer
- Jerry Esselstein (Past Board member)

Office Oversight Committee

- Mark LaPlace, Chair
- James Carroll
- Adriana Sfalcin

Finance and Audit Committee

- W. Michael Fritz, Chair
- Michael Comer
- Greta Russell

NEW BUSINESS***DISCIPLINARY ADVISORY COMMITTEE MEETING***

Mr. Comer said that the disciplinary advisory committee met at 9:00 a.m. on February 3, 2012 in the Accountancy Board of Ohio office on the 18th floor of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio with the following members present: Adriana Sfalcin (Public Member), Robert Fay, CPA (Member), and Margaret Houston, CPA (Chair and ex-officio member). He noted that the committee agreed to study the concept of a Board newsletter to be published on a regular basis.

Mr. Comer added that the committee discussed the Board's late fee statute and procedures but took no action on this issue.

DISCUSSION OF OPEN MEETINGS LAW

Mr. Patterson reviewed the provisions of the Ohio Open Meetings Law with the Board members in light of a recent court case involving the Ohio Board of Embalmers and Funeral Directors.

COMMUNICATIONS FROM MEMBERS OF THE PUBLIC TO BOARD MEMBERS

The Board discussed communications received from members of the public, and agreed that all such communications should be forwarded to the Board office. Mr. Patterson noted that the Accountancy Board members are only considered Board members when convened at an official Board meeting.

REQUESTS FOR WAIVER OF LATE FILING FEES***MARK A. ROJEK***

Mr. Rojek requested a waiver of the \$400 late fee applicable to the late renewal of his Ohio registration

because his employer discouraged him from obtaining a CPA license.

DONALD A. HILE

Mr. Hile requested a waiver of the \$450 late fee applicable to the late renewal of his Ohio registration because he inadvertently failed to renew his license.

RAFFAELA I. MONTEMARANO

Ms. Montemarano requested a waiver of the \$450 late fee applicable to the late renewal of her Ohio permit because she did not recall receiving a renewal notice.

DARIAN M. REZAI

Mr. Rezai requested a waiver of the \$400 late fee applicable to the late renewal of his Ohio registration because he was not aware that he needed to have a license with the Accountancy Board of Ohio in order to remain in good standing as a CPA.

KEITH E. MARTIN

Mr. Martin requested a waiver of the \$450 late fee applicable to the late renewal of his Ohio registration because he did not recall receiving a renewal notice.

RICHARD B. BACKMAN

Mr. Backman requested a waiver of the \$400 late fee applicable to the late renewal of his Ohio permit due to personal issues.

FORMAL HEARING: CHARLES L. MELOSH

Ms. Houston noted that the hearing for Mr. Melosh had been continued.

FORMAL HEARING: ROBERT E. DAVIS

Ms. Houston noted that the hearing for Mr. Davis had been continued.

FORMAL HEARING: JAMES F. BATES, JR.

Ms. Houston opened a reinstatement hearing at 11:00 a.m. Present at the hearing was James F. Bates, Jr., whose CPA certificate was revoked by the Board on August 8, 2008 pursuant to his conviction of theft in the Court of Common Pleas, Guernsey County, Ohio on May 22, 2008. Mr. Bates was released from the supervision of the court on September 14, 2010. On December 14, 2010, Mr. Bates appeared before the Board at a reinstatement hearing and the Board took no action on Mr. Bates's reinstatement request. The Board stipulated that Mr. Bates may apply for reinstatement after December 31, 2011 and submit documentation of 120 continuing education credits plus a Board-approved professional standards and responsibilities course. Mr. Bates requested a reinstatement hearing on January 4, 2012.

Mr. Patterson noted that the only duty of the Board at a reinstatement hearing was to listen to Mr.

Bates's request for reinstatement. Mr. Patterson added that the Board has three options:

- Take no action, leaving Mr. Bates's CPA certificate in revoked status;
- Reinstatement Mr. Bates's CPA certificate, or
- Reinstatement Mr. Bates's CPA certificate subject to the fulfillment of certain conditions.

Mr. Bates said that he completed 120 continuing education credits, including a professional standards and responsibilities course. The Board staff reviewed Mr. Bates's continuing education and it was acceptable. Mr. Patterson marked the continuing education submission as Respondent Exhibit 1 and asked for acceptance of that exhibit and State's Exhibit A. Mr. Bates did not object, and Ms. Houston accepted the exhibits.

The Board then asked questions of Mr. Bates.

Ms. Houston closed the hearing.

FORMAL HEARING: CHARLES C. DRAKE

Ms. Houston opened a disciplinary hearing at 11:20 a.m. pursuant to Chapter 119 of the Revised Code. Charles C. Drake was charged with a violation of section 4701.16(A)(4) of the Ohio Revised Code and rule 4701-11-07 of the Ohio Administrative Code, pertaining to Mr. Drake's failure to respond to Board communications in a timely manner concerning a complaint filed by Joanne Montager-Hull on behalf of Robin Yates. Mr. Drake did not request a hearing in a timely manner but he was present at the hearing.

Mr. Patterson explained that in a Goldman hearing the respondent did not request a hearing in a timely manner and therefore was not permitted to participate in the hearing. Mr. Patterson waived his opening statement, called Mr. Rotaru as a witness, and asked that Mr. Rotaru be sworn in. Mr. Rotaru took the oath. Mr. Patterson reviewed documents in State's Exhibit A with Mr. Rotaru. Mr. Rotaru affirmed that Mr. Drake did not respond to Board communications in a timely manner and did not request a hearing in a timely manner. Mr. Patterson noted that the issue before the Board was Mr. Drake's failure to respond to Board communications in a timely manner and not the underlying complaint that was the focus of the hearing.

Mr. Patterson moved for the acceptance of State's Exhibit A and Ms. Houston accepted the exhibit. Mr. Patterson said the Board has jurisdiction to take action in this matter. Mr. Patterson noted that Mr. Drake was in attendance and he recommended that Mr. Drake be permitted to address the Board. The Board agreed with Mr. Patterson's recommendation and Mr. Drake was sworn in.

Mr. Drake said he did not pick up the Board's certified mail notice because he was out of town and could not get to the post office before the letter was returned to the Board. He added that a Board investigator delivered a notice to his office.

Mr. Drake remarked that he was aware of the underlying complaint and said that he would work to resolve the complaint.

Ms. Houston concluded the hearing.

EXECUTIVE SESSION

Upon motion by Ms. Sfalcin, seconded by Mr. Gero, the Board voted to recess into executive session pursuant to Ohio Revised Code section 121.22(G)(1) to discuss the requests for waiver of late fees and

confidential investigative cases with Mr. Patterson. Motion carried 9-0 on a roll call vote. After discussion, the Board returned to general session.

BOARD DECISIONS

LATE FEE WAIVER APPEALS

Upon motion by Mr. Fay, seconded by Mr. Comer, the Board voted to deny the appeals of the following licensees for waiver of the late filing fee:

- Mark A. Rojek
- Donald A. Hile
- Raffaella I. Montemarano
- Darian M. Rezai
- Keith E. Martin
- Richard B. Backman

Motion carried 9-0 on a roll call vote.

REINSTATEMENT HEARING: JAMES F. BATES, JR.

Upon motion by Mr. Fay, seconded by Mr. LaPlace, the Board voted to reinstate the CPA certificate of James F. Bates, Jr., subject to the payment of a \$2,000 fine. Motion carried 6-3 on a roll call vote, with Mr. Carroll, Mr. Comer, and Mr. Fay dissenting.

DISCIPLINARY HEARING: CHARLES C. DRAKE

Upon motion by Mr. Fay, seconded by Ms. Sfalcin, the Board voted to assess Charles C. Drake a fine of \$1,000 and require the completion of a Board-approved professional standards and responsibilities course no later than April 4, 2012 for failure to respond to Board communications in a timely manner. Motion carried 9-0 on a roll call vote.

The Board then adjourned.

MARGARET A. HOUSTON, CHAIR

ROBERT F. FAY, SECRETARY