

**ACCOUNTANCY BOARD OF OHIO
MINUTES OF APRIL 26, 2013 MEETING**

The Accountancy Board met on April 26, 2013 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: W. Michael Fritz, CPA (Chair), Robert Fay, CPA (Vice-Chair), Michael Comer, CPA (Secretary), Margaret Houston, CPA (Immediate Past Chair), Greta Russell, CPA (Past Chair), James Carroll, CPA (Member), Adriana Sfalcin (Public Member), James Gero, CPA (Member), and James Gottfried, CPA (Member).

Representing the Board staff was John E. Patterson, Executive Director and Tracey F. Fithen, Assistant Executive Director and Jesse J. Dixon, Enforcement Officer, who opened the meeting with the Pledge of Allegiance. Board counsel present was Hilary R. Damaser, Esq. and Gregory L. Patterson, Esq., representing the office of the Attorney General.

Present in the audience were Scott D. Wiley, CAE, President and Chief Executive Officer of the Ohio Society of Certified Public Accountants (OSCPA), Barbara Benton, Vice President for Governmental Affairs of the OSCP, Joseph Skoda, CPA, representing the National Society of Accountants, and Shemaiah (Mia) Underdown and Mark Srsen, two students of accounting.

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

APPROVAL OF THE FEBRUARY 2013 BOARD MEETING MINUTES

Upon motion by Ms. Houston, seconded by Mr. Comer, the Board voted to approve the minutes, with one correction, of the February 1, 2013 Board meeting. Motion carried 9-0.

INFORMATION REPORTS AND UPDATES

NASBA REPORT

Mr. Patterson reported the NASBA Executive Directors Conference for accountancy board staff was held in Tucson, Arizona on March 3-6, 2013 and was attended by him and Tracey Fithen. The meeting was beneficial to both Mr. Patterson and Ms. Fithen in their new positions with the Board.

The Board discussed the upcoming NASBA Regional Meeting in Chicago, June 26-28, 2013. Mr. Fritz noted that reimbursement normally cannot be paid in June, so the authorizations for travel need to be in by the end of May.

REVIEW OF RULES

Mr. Patterson noted that he is currently reviewing five-year rule changes that include "no change" as well as necessary rule changes prior to the September review date. One of his main concerns is to change Rule 4701-11-05, *Form of Practice and Name*, as well as the Education Assistance rules.

INVESTIGATIONS REPORT

Mr. Dixon noted that there were 9 cases opened since the last Board meeting, 12 closed and a total of 20 opened during 2013. Out of the 800 (793 computer generated, 7 per board decision)

licensees selected for cpe verification, 765 have complied, 13 submitted partial documentation and 22 licensees have not complied. He added that cease and desist notices have already been sent.

EDUCATION ASSISTANCE PROGRAM REPORT

Ms. Houston stated that the Education Assistance Committee met prior to the Board meeting today and discussed changing many of the Board reports, rule changes as well as changing the 5th year requirement rule and statute language. The Board then discussed the participation of colleges in the program and better tracking students who receive education assistance funds but do not sit for the CPA examination.

Ms. Karen Salyer, Education Assistance Secretary, reported a total of \$257,740.33 spent for education assistance so far in fiscal year 2013. She referred to the total appropriation for fiscal year 2013 of \$325,000 and said that many colleges/universities are not even aware of the scholarship program.

Youngstown State University, the University of Cincinnati and the Ohio State University were the three top recipients of scholarship dollars.

BUDGET AND FINANCIAL REPORT

Ms. Fithen noted that the Board, as of April 22, 2013, is still spending less than its projected budget for fiscal year 2013, so it is likely once again that the Board would not spend its entire appropriation. She added the travel expense encumbrances for the June NASBA regional meeting should be created so the expenses could be paid from this fiscal year's funds. Also, a new employee has been hired and will still leave the Board under budget for this fiscal year.

OLD BUSINESS

Status of Past Hearings

Mr. Patterson noted, per the February 1, 2013 Board meeting, the status of the hearings were processed and remedies were ordered.

NEW BUSINESS

Mr. Patterson presented the board with a letter from Jerry L. Esselstein, requesting the Board's acceptance of his Professional Standards and Responsibilities course. He also introduced two students that have taken Mr. Esselstein's course, Shemaiah (Mia) Underdown and Mark Srsen, to answer any questions of the Board. The Board moved to accept the course as an Ohio sponsored PSR course. Upon motion by Ms. Houston, seconded by Ms. Sfalcin, the Board voted to approve the course.

REQUESTS FOR WAIVER OF LATE FILING FEES

DAVID A. BERK

Mr. Berk requested a waiver of the \$300 late fee applicable to the late renewal of his Ohio permit because he was unemployed and unable to take CPE classes.

SHEILA R. RANKIN

Ms. Rankin requested a waiver of the \$150 late fee applicable to the late renewal of her Ohio registration because she felt the Board had neglected to send her renewal notice.

JILL A. TURRINGTON

Ms. Turrington requested a waiver of the \$100 late fee applicable to her cpe verification of hours. Ten hours of cpe was disallowed due to not being able to provide a certificate of attendance.

PRICEWATERHOUSECOOPERS LLP

PricewaterhouseCoopers LLP, requested that their Ohio firm renewal date be changed from October 31, 2015 to December 31, 2015, as well as waiving any late filing fees for their upcoming 2015 peer review.

FORMAL HEARING: DALE B. SHAFER

Mr. Fritz noted that the hearing for Mr. Shafer had been continued until the June 7, 2013 Board meeting.

FORMAL HEARING: MICHAEL F. DENOEWER

Mr. Fritz noted that the hearing for Mr. Denoewer had been continued until the June 7, 2013 Board meeting.

FORMAL HEARING: DAVID N. BAUER/BAUER & COMPANY, CPA

Mr. Fritz opened a disciplinary hearing at 10:35 a.m. pursuant to Chapter 119 of the Revised Code. The Board charged Mr. Bauer with a violation of section 4701.16(A)(9) of the Ohio Revised Code, pertaining to the failure to obtain an Ohio permit and a firm registration and Section 4701.16(A)(11) of the Revised Code, concerning failure of the firm to comply with the firm registration requirements in section 4701.04 of the Revised Code.

Ms. Damaser called Mr. Patterson as a witness and introduced State's Exhibits A through J. Mr. Bauer then spoke to the Board and was asked questions by the Board.

The Board admitted into evidence all exhibits. Mr. Fritz concluded the hearing.

FORMAL HEARING: MERRILL E. KANE/KANE, MERRILL AND COMPANY

Mr. Fritz opened a disciplinary hearing at 11:10 a.m. pursuant to Chapter 119 of the Revised Code. The Board charged Mr. Kane with a violation of section 4701.16(A)(11) of the Ohio Revised Code, pertaining to the failure of his firm, Kane, Merrill & Company, to comply with the firm registration requirements in section 4701.04 of the revised code.

Ms. Damaser called Mr. Patterson as a witness and introduced State's Exhibits A through N. Mr. Kane then spoke to the Board and was asked questions by the Board.

The Board admitted into evidence all exhibits. Mr. Fritz concluded the hearing.

REINSTATEMENT HEARING: JOHN D. MAY, JR.

Mr. Fritz opened a reinstatement hearing at 11:35 a.m. Present at the hearing was John D. May, Jr., whose CPA certificate was revoked by the Board on June 8, 2012 pursuant to section 4701.16(A)(9) of the Revised Code, concerning failure to obtain an Ohio permit and a firm registration. Also, pursuant to section 4701.16(A)(11) of the Revised Code, concerning failure of the firm to comply with the firm registration requirements in section 4701.04 of the Revised Code.

Ms. Damaser called Mr. Patterson as a witness and introduced State's Exhibits A through E. Mr. May then spoke to the Board and was asked questions by the Board.

The Board admitted into evidence all exhibits. Mr. Fritz concluded the hearing.

FORMAL HEARING: A. DENNIS BELLA/BURNS, O'HARE & BELLA INC.

Mr. Fritz opened a disciplinary hearing at 11:55 a.m. pursuant to Chapter 119 of the Revised Code. A. Dennis Bella was charged with a violation of Section 4701.16(A)(11) of the Ohio Revised Code, pertaining to the failure of the firm to comply with the firm registration requirements in Section 4701.04 of the Revised Code.

Ms. Damaser called Mr. Patterson as a witness and introduced State's Exhibits A through J. Mr. Bella then spoke to the Board and presented Exhibit K as evidence requesting a hearing. Mr. Bella was asked questions by the Board.

The Board admitted into evidence all exhibits. Mr. Fritz concluded the hearing.

REINSTATEMENT HEARING: FREDERICK J. FROEHLICH

Mr. Fritz opened a reinstatement hearing at 12:10 p.m. Mr. Frederick J. Froehlich, was present and whose CPA certificate was revoked by the Board on September 7, 2012 concerning violation of Section 4701.16(A)(1) of the Revised Code, committing fraud or deceit in obtaining an Ohio permit; and Section 4701.16(A)(4) of the Revised Code, concerning failure to comply with the continuing education verification requirements. Mr. Froehlich requested a reinstatement hearing in a letter dated March 30, 2013.

Ms. Damaser called Mr. Patterson as a witness and introduced State's Exhibits A through C. Mr. Froehlich then spoke to the Board and was asked questions by the Board.

The Board admitted into evidence all exhibits. Mr. Fritz concluded the hearing.

FORMAL HEARING: RAYMOND G. ISABELLA

Mr. Fritz opened a disciplinary hearing at 12:25 p.m. Mr. Fritz noted that the hearing for Mr. Raymond G. Isabella would be a Goldman hearing, as Mr. Isabella is currently incarcerated. Mr. Isabella

is in violation of Section 4701.16(A)(5) of the Revised Code concerning conviction of a felony under the laws of any state or of the United States. Mr. Isabella was convicted in the Northern District of the United States Court of Title 18 USC Section 1343 and 2 (Wire Fraud); Section 1344 and 2 (Bank Fraud); Section 1028(a)(1) and 2 (Aggravated Identity Theft); and Section 1957 and 2 (Money Laundering).

Mr. Patterson asked to be sworn in and stated that all exhibits are accurate and property of the Board and should be admitted as evidence. Mr. Raymond G. Isabella has surrendered his CPA license as part of his court order. Mr. Carroll asked if we have the right to revoke Mr. Isabella's license if he has already surrendered. Ms. Damaser stated that due to the possibility he may wish for reinstatement of his license we are permitted to revoke at this time.

Mr. Fritz concluded the hearing.

FORMAL HEARING: H. JEFFREY CHRISTIAN

Mr. Fritz opened a disciplinary hearing at 12:35 p.m. pursuant to Chapter 119 of the Revised Code. H. Jeffrey Christian was charged with a violation of section 4701.16(A)(3) and Section 4701.16(A)(9) of the Ohio Revised Code concerning violation of any of the provisions of section 4701.14 of the Revised Code, and failure of the holder of a CPA certificate to obtain an Ohio permit. Mr. Christian did not request a hearing in a timely manner and was not present at the hearing.

Ms. Damaser called Mr. Patterson as a witness and introduced State's Exhibits A through F. The Board admitted into evidence all exhibits.

Mr. Fritz concluded the hearing.

FORMAL HEARING: THEODORE LYSIAK

Mr. Fritz opened a disciplinary hearing at 12:45 p.m. pursuant to Chapter 119 of the Revised Code. Theodore Lysiak was charged with a violation of section 4701.16(A)(3) and Section 4701.16(A)(9) of the Ohio Revised Code concerning violation of any of the provisions of section 4701.14 of the Revised Code, and failure of the holder of a CPA certificate to obtain an Ohio permit. Mr. Lysiak did not request a hearing in a timely manner and was not present at the hearing.

Ms. Damaser called Mr. Patterson as a witness and introduced State's Exhibits A through F. The Board admitted into evidence all exhibits. Ms. Damaser said the Board has jurisdiction to take action in this matter.

Mr. Fritz concluded the hearing.

EXECUTIVE DIRECTOR'S REPORT

Per the last four requests of the Board, Mr. Patterson stated that Board staff has flagged all the revocation and reinstatement licensees that were due to report this past renewal period for cpe verification as directed by the Board at the February 1, 2013 board meeting. All subcommittees were notified by Mr. Patterson asking if there were any issues to discuss. The Education Assistance Committee met prior to today's board meeting.

The letter of support for Mr. W. Michael Fritz, as the Regional Director of NASBA, was completed and sent out February 7, 2013. Mr. Patterson noted that he and Tracey Fithen attended the Tucson Executive Director's NASBA Conference in March. Mr. Patterson and Ms. Fithen have met with the OSCPA and Mr. Patterson is very optimistic in working alongside the OSCPA in various areas.

Mr. Patterson asked the Board to approve the nomination of Theodore W. Long, Jr., as NASBA's Director-at-Large. Upon motion by Mr. Comer, seconded by Mr. Gero, the Board voted to approve the nomination of Mr. Long. Motion carried 9-0.

Mr. Patterson also informed the Board that the budget hearing before the Senate on April 24, 2013, went well and there were no questions presented by the Senate. He also noted that the board would be terminating the Certificate of Enrollment (COE) program due to a request from NASBA in an effort to take the examination earlier. He also stated that the AICPA would like to meet with the OSCPA and the Ohio Board but Mr. Patterson would like to wait until he and Scott Wiley, of the OSCPA, are a little further along in their tenure.

EXECUTIVE SESSION

Upon motion by Mr. Fritz, seconded by Mr. Comer, 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 formal hearings. 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. Comer, seconded by Mr. Gottfried, the Board voted to deny the appeals of the following licensees for waiver of the late filing fee and renewal date change:

- David A. Berk
- Sheila R. Rankin
- Jill A. Turrington

Upon motion by Mr. Comer, seconded by Mr. Fay, the Board voted to deny the request to change the renewal date and late fee waiver of PricewaterhouseCoopers, LLC.

Motion carried 9-0 on a roll call vote.

DISCIPLINARY HEARING: DAVID N. BAUER/BAUER & COMPANY

Upon motion by Mr. Comer, seconded by Ms. Houston, the Board voted to revoke the CPA certificate of David N. Bauer and the firm registration of Bauer & Company, but stay the revocation subject to the completion of the following requirements by June 30, 2013:

- Payment of a fine of \$5,000.
- Payment of any applicable late and penalty fees.
- Completion of a Board-approved professional standards and responsibilities course.

Motion carried 9-0 on a roll call vote.

DISCIPLINARY HEARING: MERRILL KANE/KANE, MERRILL & COMPANY

Upon motion by Mr. Comer, seconded by Ms. Houston, the Board voted to revoke the CPA certificate of Merrill Kane and the firm registration of Kane, Merrill & Company, but stay the revocation subject to the completion of the following requirements by June 30, 2013:

- Payment of a fine of \$2,000.
- Payment of any applicable late and penalty fees.
- Completion of a Board-approved professional standards and responsibilities course.

Motion carried 9-0 on a roll call vote.

REINSTATEMENT HEARING: JOHN D. MAY, JR.

Upon motion by Mr. Comer, seconded by Ms. Russell, the Board voted to reinstate the CPA certificate of John D. May, Jr., and the firm registration of John D. May, Jr., Inc., subject to the completion of the following requirements by June 30, 2013:

- Payment of a fine of \$500.
- Payment of any applicable late and penalty fees.
- Completion of a Board-approved professional standards and responsibilities course.

Motion carried 9-0 on a roll call vote.

DISCIPLINARY HEARING: A. DENNIS BELLA/BURNS, O'HARE & BELLA INC.

Upon motion by Mr. Comer, seconded by Mr. Fay, the Board voted to revoke the CPA certificate of A. Dennis Bella and the firm registration of Burns, O'Hare & Bella Inc., but stay the revocation subject to the completion of the following requirements by June 30, 2013:

- Payment of a fine of \$5,000.
- Payment of any applicable late and penalty fees.
- Completion of a Board-approved professional standards and responsibilities course.

Motion carried 9-0 on a roll call vote.

REINSTATEMENT HEARING: FREDERICK FROEHLICH

Upon motion by Mr. Comer, seconded by Ms. Houston, the Board voted to reinstate the CPA certificate of Frederick Froehlich, upon the completion of the following requirements by June 30, 2013:

- Payment of a fine of \$500.
- Payment of any applicable late and penalty fees.
- Completion of a Board-approved professional standards and responsibilities course.

Motion carried 9-0 on a roll call vote.

DISCIPLINARY HEARING: RAYMOND G. ISABELLA

Upon motion by Mr. Comer, seconded by Ms. Sfalcin, the Board voted to revoke the CPA certificate of Mr. Raymond G. Isabella and he may not reapply for reinstatement until he satisfies the terms and conditions of his court orders. Motion carried 9-0 on a roll call vote.

DISCIPLINARY HEARING: H. JEFFREY CHRISTIAN

Upon motion by Mr. Comer, seconded by Ms. Houston, the Board voted to revoke the CPA certificate of H. Jeffrey Christian and the firm registration of Jeff Christian, CPA. Motion carried 9-0 on a roll call vote.

DISCIPLINARY HEARING: THEODORE A. LYSIAK

Upon motion by Mr. Comer, seconded by Mr. Carroll, the Board voted to revoke the CPA certificate of Theodore A. Lysiak and the CPA firm of Theodore A. Lysiak, CPA. Motion carried 9-0 on a roll call vote.

Upon motion by Ms. Houston, seconded by Mr. Fritz, the Board voted to adjourn. Motion carried 9-0.

W. MICHAEL FRITZ, CHAIR

MICHAEL S. COMER, SECRETARY