

Accountancy Board of Ohio
Minutes of Board Meeting September 04, 2015
The Ohio State University, Fisher College of Business
Mason Hall, 250 West Woodrow Avenue, Columbus, Ohio 43210

The Accountancy Board met on September 04, 2015 in the rotunda of Mason Hall on the campus of The Ohio State University, Fisher College of Business with the following members present: Michael Comer, CPA (Chair), James Carroll, CPA (Vice-Chair), James Gero, CPA (Secretary), Robert Fay, CPA (Immediate Past Chair), W. Michael Fritz, CPA (Past Chair), James Gottfried, CPA (Member), Michael Guinigundo, CPA (Member), Margaret Gilmore, CPA (Member) and Adriana Sfalcin (Public Member).

Representing the Board staff was John E. Patterson, Executive Director, Tracey F. Fithen, Assistant Executive Director and Nick Chucales, Investigative Supervisor. Board counsel present was Rachel Huston, Esq., representing the office of the Attorney General.

Present in the audience was past ABO Board member Greta Russell; Scott Wiley, President of the Ohio Society of Certified Public Accountants (OSCPA); Laura Hay, Executive Vice President of the Ohio Society of Certified Public Accountants (OSCPA) and Gary D. Zeune, Managing Director of "The Pros & The Cons, LLC."

Mr. Comer called the meeting to order at 10:00 a.m., and welcomed the guests in the audience. Mr. Comer opened the meeting with the Pledge of Allegiance.

******FORMAL HEARINGS******

Formal Hearing: Ronald C. Midcap/Midcap & Co. (Case# 2015-51)

Mr. Comer opened a disciplinary hearing at 10:04 a.m., pursuant to Chapter 119 of the Ohio Revised Code. The Board charged Ronald C. Midcap and his firm, Midcap & Co., with violations of Ohio Revised Code (ORC) sections 4701.16(A) (1) *Fraud or deceit in obtaining a firm registration* and (11) *Failure of a public accounting firm to comply with ORC 4701.04* (firm registration). Mr. Midcap was present and was represented by legal counsel, William Chris, Esq.; the Board was represented by Ohio Assistant Attorney General, Rachel Huston.

During the hearing Ms. Huston called Accountancy Board Investigator Faith Ottavi as a witness and introduced State's exhibits marked as 3B Exhibit A1 through A6; 3B Exhibit B1 through B5; 3B Exhibit C1 through C5; 3B Exhibit D1 through D6 and 3B Exhibits E1 through E5. The State's Exhibits were admitted as evidence. Mr. Chris called Mr. Midcap as a witness and introduced exhibits marked as Respondents Exhibits 1 through 3, Mr. Midcap presented his reasons for failing to have a PEER review completed. Mr. Chris' exhibits were admitted as evidence. Both parties were given the opportunity to present closing arguments and the hearing was concluded by Mr. Comer.

Formal Hearing: Robert L. White, CPA (Case# 2015-9)*

Mr. Comer opened a disciplinary hearing at 10:39 a.m., pursuant to Chapter 119 of the Ohio Revised Code. The Board charged Robert L. White with violation of Ohio Revised Code (ORC) section 4701.16(A) (11) *Failure of a public accounting firm to comply with ORC 4701.04* (firm registration). Mr. White was present and was not represented by legal counsel; the Board was represented by Ohio Assistant Attorney General, Rachel Huston.

During the hearing Ms. Huston called Accountancy Board Investigator Jenny Kochensparger as a witness and introduced State's exhibits marked as 3C Exhibit A1 through A14; 3C Exhibit B1 through B6 and 3C Exhibit C1 through C3. The State's Exhibits were admitted as evidence. Mr. White presented his reason for failing to have a PEER review completed. Both parties were given the opportunity to present closing arguments and the hearing was concluded by Mr. Comer.

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Formal Hearing: Robert L. White, CPA (Case# 2013-96)*

Mr. Comer opened a disciplinary hearing at 10:39 a.m., pursuant to Chapter 119 of the Ohio Revised Code. The Board charged Robert L. White with violation of Ohio Revised Code (ORC) section 4701.16(A) (10) *Conduct discreditable to the public accounting profession*. Mr. White was present and was not represented by legal counsel; the Board was represented by Ohio Assistant Attorney General, Rachel Huston.

During the hearing Ms. Huston called Accountancy Board Investigator Jenny Kochensparger as a witness and introduced State's exhibits marked as 3C-1 Exhibit A1 through A6; 3C-1 Exhibit B1 through B8 and 3C-1 Exhibit C1. The State's Exhibits were admitted as evidence. Mr. White introduced exhibits marked as Respondents Exhibits 1 through 3 and presented his reason for taking loans from clients and failing to fulfill the terms of the promissory note he signed with the loans. Mr. White's exhibits were admitted as evidence. Both parties were given the opportunity to present closing arguments and the hearing was concluded by Mr. Comer.

Formal Hearing: Robert L. White, CPA (Case# 2013-2)*

Mr. Comer opened a disciplinary hearing at 10:39 a.m., pursuant to Chapter 119 of the Ohio Revised Code. The Board charged Robert L. White with violation of Ohio Revised Code (ORC) section 4701.16(A) (10) *Conduct discreditable to the public accounting profession*. Mr. White was present and was not represented by legal counsel; the Board was represented by Ohio Assistant Attorney General, Rachel Huston.

During the hearing Ms. Huston called Accountancy Board Investigator Jenny Kochensparger as a witness and introduced State's exhibits marked as 3C-2 Exhibit A1 through A6; 3C Exhibit B1 through B18; 3C Exhibit C1; 3C-2 Exhibit D and 3C Exhibit E. The State's Exhibits were admitted as evidence. Mr. White presented his reason for failing to include all income on his clients' tax return, then failing to amend the return as he had promised. Both parties were given the opportunity to present closing arguments and the hearing was concluded by Mr. Comer.

Formal Hearing: Robert L. White, CPA (Case# 2013-37)*

Mr. Comer opened a disciplinary hearing at 10:39 a.m., pursuant to Chapter 119 of the Ohio Revised Code. The Board charged Robert L. White with violation of Ohio Revised Code (ORC) section 4701.16(A) (10) *Conduct discreditable to the public accounting profession*. Mr. White was present and was not represented by legal counsel; the Board was represented by Ohio Assistant Attorney General, Rachel Huston.

During the hearing Ms. Huston called Accountancy Board Investigator Jenny Kochensparger as a witness and introduced State's exhibits marked as 3C-3 Exhibit A1 through A6; 3C-3 Exhibit B1 through B6; 3C-3 Exhibit C1 through C2 and 3C-3 Exhibit D. The State's Exhibits were admitted as evidence. Mr. White introduced exhibits marked as Respondents Exhibits 1 through 3 and presented his reason for taking loans from clients and failing to fulfill the terms of the promissory note he signed with the loans. Mr. White's exhibits were admitted as evidence. Both parties were given the opportunity to present closing arguments and the hearing was concluded by Mr. Comer.

***All cases for Robert L. White were heard at the same time, not individually, as agreed to by Mr. White.**

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Formal Hearing: Barbara Holthaus, CPA (Case# 2015-68)

Mr. Comer opened a disciplinary hearing at 12:51 p.m., pursuant to Chapter 119 of the Ohio Revised Code. The Board charged Barbara Holthaus with violation of Ohio Revised Code (ORC) section 4701.16(A) (1) *fraud and deceit in obtaining an Ohio permit*; specifically 4701-15-03 continuing education reporting. Ms. Holthaus was present and was not represented by legal counsel; the Board was represented by Ohio Assistant Attorney General, Rachel Huston.

During the hearing Ms. Huston called Accountancy Board Investigator Jenny Kochensparger as a witness and introduced State's exhibits marked as 3D Exhibit A1 through A6 and 3D Exhibit B1 through B9. The State's Exhibits were admitted as evidence. Ms. Holthaus presented her reason for not having the required CPE credits. Both parties were given the opportunity to present closing arguments and the hearing was concluded by Mr. Comer.

Formal Hearing: Ronald Nims, CPA (Case# 2015-56)

Mr. Comer opened a disciplinary hearing at 12:51 p.m., pursuant to Chapter 119 of the Ohio Revised Code. The Board charged Ronald Nims with violation of Ohio Revised Code (ORC) section 4701.16(A) (1) *fraud and deceit in obtaining an Ohio permit*; specifically 4701-15-03 continuing education reporting. Mr. Nims was present and self-represented, as a licensed attorney; the Board was represented by Ohio Assistant Attorney General, Rachel Huston.

During the hearing Ms. Huston called Accountancy Board Investigator Jenny Kochensparger as a witness and introduced State's exhibits marked as 3E Exhibit A1 through A7; 3D Exhibit B1 through B27 and 3D Exhibit C1 through C2. The State's Exhibits were admitted as evidence. Mr. Nims presented his reason for not having the required CPE credits. Both parties were given the opportunity to present closing arguments and the hearing was concluded by Mr. Comer.

Request for Waiver of Late Fees or Renewal Fee Refund

Paula Andray-Watkins (CPA.17269) requested a refund of \$350 of the \$404 she submitted for her 2015 – 2017 individual CPA Registration license renewal, which had been in an expired status.

****** STUDENT/GUEST PRESENTATION******

Chair's Opening Remarks

Board Chair, Michael Comer acknowledged and thanked the faculty and staff of The Ohio State University, Fisher College of Business for their hosting of the Board meeting. Representing The Ohio State University, Fisher College were, Anil K. Makhija, Dean; John W. Berry, Senior Chair; David B. Greenberger, Associate Dean for Faculty and Outreach; Patricia West, Associate Dean for Undergraduate Programs; Dick Dietrich, Chair, Department of Accounting and MIS; Cynthia Turner, Senior Lecturer, Accounting and MIS; Francisco X. Gomez-Bellenge, Associate to the Dean; Rob Chabot, Associate Director, MAcc, MHRH, and PhD Programs; David E. Harrison, Director, Office of Diversity and Inclusion Student Services and Corporate and Community Outreach.

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Chair's Presentation

Chair Michael Comer gave a presentation to students from The Ohio State University, Fisher College of Business on the function of the Accountancy Board of Ohio. Mr. Comer's presentation was followed by Karen Salyer, CPA certification and licensing specialist for the Board, giving a presentation on CPA certification and licensing and how to apply. Elisabeth Newell, Education Assistance Program specialist for the Board, then gave a presentation of the Education Assistance Program and how to apply.

Approval of the July 10, 2015 Board Meeting Minutes

Upon motion by Ms. Sfalcin, seconded by Mr. Gottfried, the Board voted unanimously to approve the minutes of the July 10, 2015 Board Meeting. Motion carried 9-0.

***** INFORMATION REPORTS AND UPDATES*****

Budget and Financial Report

Ms. Fithen noted, as of September 1, 2015, the Board is currently still within the first quarter of the fiscal year 2016. Spending on payroll and overall office maintenance, rent and supplies are running about average as in past years. Everything is on track and no issues have arisen.

Investigative Update

Investigative Supervisor, Nick Chucales, updated the Board on the number of firms doing DOL audits in the State of Ohio, the resulting number of violations and the status of those investigations.

Education Assistance Program Report

Ms. Newell noted that we are currently experiencing one of the busiest times for the education assistance program. She also stated that The Ohio State University and the University of Akron are two of the top schools in issuing grant dollars to students.

***** OLD BUSINESS*****

Status of Past Hearings

Rachel Huston, Assistant Ohio Attorney General, reported that there are two cases currently pending litigation. A case that had been pending litigation was heard by the appeals court and no appeal was filed on the court's ruling, the matter is now considered closed.

***** NEW BUSINESS*****

EXECUTIVE DIRECTOR'S REPORT

John E. Patterson, Executive Director for the Accountancy Board, advised the Board that his annual review was due to be performed at either the November or December Board Meeting. The Board agreed to perform the review at the December Board Meeting. A representative of the Central Services Agency will be at the Board meeting to assist Board members with the review process.

Chair Michael Comer advised that the Office Oversight Committee would meet in November prior to the Board Meeting, as well as the Finance & Audit Committee.

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Executive Director John Patterson advised that the State mandated ethics training provided by the Ohio Ethics Commission has been approved for one hour of CPE for Board members.

CHAIR'S REPORT

Chair Michael Comer requested a roll call vote to determine the number of Board members that would be attending NASBA's 108th Annual Meeting, October 25 – 28, 2015 in Dana Point, California. Five of nine members indicated they would be attending with four requiring travel cost reimbursement from the Board which was subsequently approved by the executive committee.

Chair Comer reviewed the new Office Oversight Committee Policy and Procedure with the other board members and was approved. Motion carried 9-0.

Chair Comer initiated a discussion regarding approving funding for ACAP for the year, Vice Chair James Carroll made a motion to approve the request; Past Chair Michael Fritz seconded the motion. Motion carried 9-0.

****** SUMMARY OF BOARD REQUESTS******

No requests from Board members.

****** BOARD DECISIONS******

Late Fee Waiver or Renewal Fee Appeals

Upon motion by Secretary James Gero and seconded by Board Member Adriana Sfalcin, the Board voted to deny the appeals of the following licensee for waiver of the late filing fee and/or renewal fee:

Paula Andray-Watkins (CPA.17269)

Motion carried 9-0 on a roll call vote.

Ronald C. Midcap/Midcap & Co. (Case# 2015-51)

Upon the motion by Secretary James Gero and seconded by Immediate Past Chair Robert Fay, the Board voted to revoke the CPA certificate of Ronald C. Midcap and firm registration of Midcap & Company, but stay the revocation subject to the completion of the following conditions by **December 31, 2015**:

- (1) A fine of \$5,000.00;
- (2) Completion of 3 hours of CPE of Board-approved professional standards and responsibilities courses;
- (3) Submission of all peer review/firm registration renewal materials and related fees;

Motion carried 9-0 on a roll call vote.

Robert L. White, CPA (Case# 2015-9)*

Upon the motion by Secretary James Gero and seconded by Immediate Past Chair Robert Fay, the Board voted to revoke the CPA certificate of Robert L. White and the firm registration of Robert L. White & Associates, not to reapply for reinstatement prior to **December 31, 2017**:

Motion carried 9-0 on a roll call vote.

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Robert L. White, CPA (Case# 2013-96)*

Upon the motion by Secretary James Gero and seconded by Immediate Past Chair Robert Fay, the Board voted to revoke the CPA certificate of Robert L. White and the firm registration of Robert L. White & Associates, not to reapply for reinstatement prior to **December 31, 2017**:

Motion carried 9-0 on a roll call vote.

Robert L. White, CPA (Case# 2015-2)*

Upon the motion by Secretary James Gero and seconded by Immediate Past Chair Robert Fay, the Board voted to revoke the CPA certificate of Robert L. White and the firm registration of Robert L. White & Associates, not to reapply for reinstatement prior to **December 31, 2017**:

Motion carried 9-0 on a roll call vote.

Robert L. White, CPA (Case# 2015-37)*

Upon the motion by Secretary James Gero and seconded by Immediate Past Chair Robert Fay, the Board voted to revoke the CPA certificate of Robert L. White and the firm registration of Robert L. White & Associates, not to reapply for reinstatement prior to **December 31, 2017**:

Motion carried 9-0 on a roll call vote.

***Board decision for Robert L. White applies to all of his cases heard on September 4, 2016**

Barbara Holthaus, CPA (Case# 2015-68)

Upon the motion by Secretary James Gero and seconded by Board member James Gottfried, the Board voted to revoke the CPA certificate of Barbara Holthaus, CPA, but to stay the revocation subject to the completion of the following conditions by **December 31, 2015**:

- (1) A fine of \$500.00;
- (2) Completion of 3 hours of CPE of Board-approved professional standards and responsibilities courses;
- (3) Submission of Ohio permit fees, including late fees (contact the Board office to determine exact fees required);
- (4). Submission of penalty fee of \$10.00 per CPE credit earned in 2015 (39.5 hours earned in 2015);
- (5). CPE reported for 2014 audit will not count in next reporting period (2015-2017).

Motion carried 8-1 on a roll call vote.

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Ronald Nims, CPA (Case# 2015-56)

Upon the motion by Secretary James Gero and seconded by Vice Chair James Carroll, the Board voted to revoke the CPA certificate of Ronald Nims, CPA, but to stay the revocation subject to the completion of the following conditions by **December 31, 2015**:

- (1) A fine of \$500.00;
- (2) Completion of 3 hours of CPE of Board-approved professional standards and responsibilities courses;
- (3) Submission of Ohio permit fees, including late fees (contact the Board office to determine exact fees required);
- (4). Submission of penalty fee of \$10.00 per CPE credit earned in 2015 (30.6 hours earned in 2015);
- (5). CPE reported for 2014 audit will not count in next reporting period (2015-2017).

Motion carried 7-2 on a roll call vote.

Upon motion by Secretary James Gero and seconded by Vice Chair James Carroll the Board voted to adjourn.

Motion carried 9-0.

Michael S. Comer, Chair

James Gero, Secretary