

**ACCOUNTANCY BOARD OF OHIO  
MINUTES OF DECEMBER 13-14, 2010 MEETING**

The Accountancy Board met on December 13, 2010 in Rooms South 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: Greta Russell, CPA (Chair), Margaret Houston, CPA (Vice Chair), W. Michael Fritz, CPA (Secretary), Mark LaPlace, CPA (Immediate Past Chair), James Landaker, CPA (Past Chair), Michael Comer, CPA (Member), and James Carroll, CPA (Member). Robert Fay, CPA (Member) was absent.

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.

Ms. Russell opened the meeting at 1:00 p.m., and said that the purpose of the meeting is to discuss the issues that will be of importance to the Board and the public accounting profession in 2011.

**NEW BOARD WEBSITE**

Mr. Joseph presented some test pages for the new Board website. The Board members commented on the placement of links and material to be included in the new website and suggested that other accountancy board websites could be used for ideas. Mr. Joseph indicated that the new website would be live soon after the planning process was complete.

**NASBA FOCUS QUESTIONS**

The Board reviewed the focus questions due December 23, 2010 as asked quarterly by the NASBA regional directors, and agreed to send the draft answers proposed by Mr. Joseph to NASBA.

**STATE AGENCY CONSOLIDATION**

Mr. Rotaru noted that one of the priorities of the new administration would be saving money through implementing various efficiencies in state government. He added that the data nationwide for accountancy boards supports the concept of an independent board with respect to investigations and that the recent IRS task force recommended that the states' accountancy boards be autonomous.

The Board then discussed general state budget issues and their possible impact on the operations of the Board. Mr. Patterson noted that the Board's due process in hearings is very good in that a CPA charged with an offense is heard before the Board and not a hearing officer who may be hired just for one hearing.

**PROPOSED RULES**

Mr. Joseph presented a paper describing the terms used in the professional ethics rules, such as independence, integrity, and objectivity. He noted the difficulties of defining those terms, that tend to be normative in nature, in a Board enforcement proceeding.

The Board then discussed the proposed rules and agreed that the comments from the OSCPA would be incorporated into the rules. In addition, the Board agreed that a vote on the rules would be deferred until the February 4, 2011 Board meeting.

## **FINANCE AND AUDIT COMMITTEE**

The Board agreed to create a new standing committee entitled the finance and audit committee. This new committee would be responsible for review of the Board's finances and biennial budget in addition to acting as the liaison to the Auditor of State with respect to the Board's biennial audit.

## **BOARD CALENDAR OF EVENTS**

The Board agreed on the following meeting dates for 2011-2012:

- February 4, 2011 (Friday) (Regular Board meeting)
- April 29, 2011 (Friday) (Regular Board meeting)
- June 3, 2011 (Friday) (Regular Board meeting)
- July 8, 2011 (Friday) (Regular Board meeting)
- September 9, 2011 (Friday) (Regular Board meeting)
- November 4, 2011 (Friday) (Annual Board meeting)
- December 12, 2011 (Monday) (Annual Board retreat)
- December 13, 2011 (Tuesday) (Regular Board meeting)
- February 3, 2012 (Friday) (Regular Board meeting)

The Board also noted the following dates for upcoming NASBA conferences in 2010:

- Executive Directors Conference: March 6-9, 2011 (San Diego, California)
- Western Regional Meeting: June 8-10, 2011 (Omaha, Nebraska) Ms. Russell and Mr. Joseph were scheduled to attend this meeting.
- Eastern Regional Meeting: June 22-24, 2011 (Point Clear, Alabama)
- Annual Meeting: October 2011 (Nashville, Tennessee)

## **BOARD COMMITTEES**

Ms. Russell led discussion concerning the Board's committee structure for 2011. The following committee assignments were approved:

### **Executive Committee**

- Greta Russell, Chair
- Margaret Houston, Vice Chair
- Michael Fritz, Secretary

### **Nominating Committee**

- Mark LaPlace, Chair
- Michael Comer
- James Landaker

### **Education Assistance Committee**

- Robert Fay, Chair
- Margaret Houston

- James Landaker

**Peer Review Oversight Committee**

- Michael Comer, Chair
- Michael Fritz
- Robert Fay
- Thomas Mulligan (Past Board member)

**Disciplinary Advisory Committee**

- Robert Fay, Chair
- James Landaker
- Michael Comer

**Licensing Committee**

- James Carroll, Chair
- Margaret Houston
- Robert Fay
- Jerry Esselstein (Past Board member)

**Office Oversight Committee**

- James Landaker, Chair
- James Carroll
- Mark LaPlace

**Finance and Audit Committee**

- Michael Fritz, Chair
- Michael Comer
- Robert Fay

**LICENSE RENEWAL PROCEDURE**

The Board discussed the license renewal procedure, and agreed that the list of delinquent licensees would be posted on the Board's website.

**DISCIPLINARY POLICIES AND PROCEDURES**

The Board discussed the disciplinary policies and procedures, including the penalties assessed by the Board at hearings.

**FORMAL PERFORMANCE REVIEW OF THE EXECUTIVE DIRECTOR**

The Board then recessed into executive session to conduct the formal performance review of the Executive Director. After conducting the review, the Board returned to general session.

The Board then recessed the meeting until 9:00 a.m. on December 14, 2010.

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The Accountancy Board reconvened on December 14, 2010 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: Greta Russell, CPA (Chair), Margaret Houston, CPA (Vice Chair), W. Michael Fritz, CPA (Secretary), Mark LaPlace, CPA (Immediate Past Chair), James Landaker, CPA (Past Chair), Robert Fay, CPA (Member), Michael Comer, CPA (Member), and James Carroll, 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 Barbara Benton, Vice President for Governmental Affairs of the Ohio Society of Certified Public Accountants (OSCPA), and Joseph Skoda, CPA, representing the Ohio Association of Independent Accountants.

### ***PRESENTATION BY DAVID COSTELLO***

Ms. Russell introduced David Costello, the NASBA Chief Executive Officer.

Mr. Costello noted that the Accountancy Board of Ohio has consistently been among the national leaders in accountancy regulation. He commended the Board for its efforts in maintaining its leadership among the states, particularly in the area of mobility.

Mr. Costello then noted the following items:

- NASBA was invited to be a participant in a study related to accounting standards. The question posed was whether there should be one set of accounting standards for both large and small companies (the current standards) and whether the current accounting standards should be modified in some respects for nonpublic companies.
- The CPA examination will be offered internationally this year, and it is expected that the first examination site will probably be in Tokyo, Japan. Kuwait and Hong Kong, China were also mentioned as possible exam sites in the future.
- NASBA continues to lend its support to the CPA credential as the premier world accounting credential, and would resist attempts to dilute the CPA credential to gain popularity.
- Nearly all states should have mobility legislation within a year or two. Mr. Costello mentioned Ohio's 48-year history of permitting interstate mobility of CPAs as a key reason other states passed the legislation.

Mr. Costello then answered questions from the Board members concerning NASBA activities.

Michael Daggett, CPA, the current NASBA Board Chair, noted the following items:

- Ohio is represented well on the various NASBA committees. Twelve different Ohio board representatives (current Board members, past Board members, and the Executive Director) hold one NASBA committee chair and seventeen other NASBA committee positions.
- NASBA is monitoring the global efforts to harmonize the accounting standards, particularly the latest effort in this area from the European Union.
- The recent PCAOB regulations concerning the registration of public accounting firms appear to exempt small and medium-size firms from the requirements. Nevertheless,

the accountancy boards should closely monitor the impact of PCAOB activities on board operations.

- NASBA is monitoring the issue of firms from foreign countries practicing public accounting in the USA, particularly those firms that are not subject to any peer review requirements in the home country. A related issue is that of networked firms in the USA that use a common brand among the affiliates.
- Efforts continue to develop a uniform definition of independence, along with related issues such as "loss leader" audits.
- NASBA continues to focus on methods to enhance the effectiveness of the accountancy boards. Some initiatives in the investigations area include providing specialized expertise for certain cases and coordinating multi-state disciplinary action against the same public accounting firm.
- The NASBA regulatory response committee assists NASBA in providing responses to various technical exposure drafts.
- Other active NASBA committees include the education committee and the Uniform Accountancy Act (UAA) committee. The UAA committee recently studied the issue of firm names.
- NASBA continues to endorse the concept of the semi-autonomous accountancy board because comparisons among the centralized boards and the semi-autonomous boards reveal that the semi-autonomous boards operate more effectively.

Mr. Daggett then answered questions from the Board members concerning NASBA activities.

#### **APPROVAL OF THE NOVEMBER 2010 BOARD MEETING MINUTES**

Upon motion by Mr. Landaker, seconded by Mr. Comer, the Board voted to approve the minutes of the November 5, 2010 Board meeting. Motion carried 8-0.

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

##### ***FINANCIAL AND BUDGET REPORT***

Mr. Joseph said that the Board's current budget submission for fiscal years 2012 and 2013 was currently on hold awaiting the new administration. He added that budget reviews would commence in January and February in time to submit a budget by the March 15, 2011 deadline.

##### ***INVESTIGATIONS REPORT***

Mr. Joseph reported that, to date, 61 public accounting firms did not renew on time and may be subject to disciplinary action. He added that all firms renewing the firm registration late are subject to late fees.

Mr. Joseph also noted that the investigators spent time on 35 additional cases in 2010 involving unlawful practice, and added that these cases also require time and travel on the part of the investigative staff.

##### ***EDUCATION ASSISTANCE PROGRAM REPORT***

Mr. Joseph reported that a total of \$109,855.52 has been paid in scholarships so far in fiscal year 2010. This amount includes the \$50,000.00 grant to the Accounting Career

Awareness Program paid in December 2010. He added that there was a total of \$768,523.05 in net commitments outstanding.

### **PRESENTATION OF AWARD**

Ms. Russell presented a distinguished service award to Mr. LaPlace for his service as Chair for the past year.

### **OLD BUSINESS**

There was no old business to discuss.

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There was no new business to discuss.

### **REQUESTS FOR WAIVER OF LATE FILING FEES**

#### ***DOUGLAS E. SITZLER***

Mr. Sitzler requested a waiver of the \$1,100 late fee applicable to the renewal of his Ohio permit because his home was destroyed by fire December 19, 2008.

#### ***MARIO A. MARCON***

Mr. Marcon requested a waiver of the \$350 late fee applicable to the renewal of his Ohio permit because his employer did not support his retention of the CPA designation.

#### ***LORINDA M. REAM***

Ms. Ream requested a waiver of the \$350 late fee applicable to the renewal of her Ohio registration because she moved out of Ohio in 2005 and became a full-time at-home mother.

#### ***JILL SIMMS McDERMOTT***

Ms. McDermott requested a waiver of the \$450 late fee applicable to the renewal of her Ohio registration because she did not receive her renewal notice in 2003.

#### ***DOUGLAS A. BRICHFORD, JR.***

Mr. Brichford requested a waiver of the \$400 late fee applicable to the renewal of his Ohio registration because he changed jobs six years ago and did not update his address.

#### ***DONALD J. PIAZZA***

Mr. Piazza requested a minimum 50% reduction of the \$400 late fee applicable to the renewal of his Ohio registration because his employer changed its reimbursement procedures and the Board experienced difficulty processing license fees in 2004.

***KEVIN MASSA***

Mr. Massa requested a waiver of the \$300 late fee applicable to the renewal of his Ohio permit for financial reasons.

***MARGARET A. VAN DINE***

Ms. Van Dine requested a waiver of the \$450 late fee applicable to the renewal of her Ohio registration because she inadvertently failed to renew her license.

**FORMAL HEARING: MICHAEL J. SCHMIDT**

Ms. Russell opened a disciplinary hearing at 10:15 a.m. pursuant to Chapter 119 of the Revised Code. Michael J. Schmidt was charged with a violation of sections 4701.16(A)(3), 4701.16(A)(9), and 4701.16(A)(11) of the Ohio Revised Code, pertaining to his failure to obtain an Ohio permit, his firm's failure to comply with the firm registration requirements outlined in section 4701.04 of the Revised Code, and unlawful practice. Mr. Schmidt requested a hearing in a timely manner and he was present at the hearing. James Savage, Esq. presented Mr. Schmidt as his legal counsel.

Mr. Patterson waived his opening statement.

Mr. Savage opened by stating the reasons why Mr. Schmidt's Ohio permit and firm registration were not renewed in a timely manner. He noted that Mr. Schmidt is frequently out of the office and that the firm's office manager failed to file the appropriate renewal documents. He added that Mr. Schmidt has changed his office policy to minimize the possibility of error. He concluded by stating that Mr. Schmidt has complied with all Board requirements except for the filing of those documents—including the removal of signs—and that Mr. Schmidt was prepared to accept the Board's sanctions in the matter. He did urge the Board not to revoke Mr. Schmidt's CPA certificate so that Mr. Schmidt could continue serving his clients.

Mr. Patterson moved for the admission of State's Exhibit A. Mr. Savage did not object, and Ms. Russell accepted the exhibit.

Mr. Patterson then called Mr. Schmidt as a witness, and asked that he be sworn in. Mr. Schmidt took the oath. Mr. Patterson reviewed documents in State's Exhibit A with Mr. Schmidt, including the Board's adjudication order dated August 11, 2008 showing that the Board revoked the firm registration of Schmidt & Associates, the fact that Mr. Schmidt's Ohio permit expired December 31, 2008, and a photograph dated August 3, 2010 of Mr. Schmidt's office showing a sign that read "Schmidt & Associates, Inc., Certified Public Accountants."

Mr. Schmidt then explained the reasons why he did not comply with the Board's requirements. He added that he completed well in excess of the 120 continuing education credits required for the renewal of his Ohio permit. Mr. Savage then asked questions of Mr. Schmidt concerning the steps Mr. Schmidt has taken in order to prevent a recurrence of the compliance issues.

The Board then asked questions of Mr. Schmidt.

Ms. Russell concluded the hearing.

## **REINSTATEMENT HEARING: JAMES F. BATES, JR.**

Ms. Russell opened a reinstatement hearing at 10:45 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 Ohio Revised Code section 4701.06(A)(5) then in effect, pertaining to his conviction of a felony under the laws of any state or of the United States.

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:

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

Mr. Bates described the felony of theft for which he was convicted, and said that he was released from supervision imposed by the Ohio Department of Corrections on September 13, 2010.

Mr. Bates briefly reviewed his background with the Board, and indicated that he would like guidance from the Board concerning how his CPA certificate could be reinstated.

Ms. Russell closed the hearing.

## **FORMAL HEARING: PATRICK EDWARD SMITH**

Ms. Russell opened a disciplinary hearing at 11:15 a.m. pursuant to Chapter 119 of the Revised Code. Patrick Edward Smith was charged with a violation of sections 4701.16(A)(3) and 4701.16(A)(9) of the Ohio Revised Code, pertaining to his failure to obtain an Ohio permit and unlawful practice. Mr. Smith requested a hearing in a timely manner and he was present at the hearing.

Mr. Patterson waived his opening statement.

James Leo, Esq., acting as counsel for Mr. Smith, waived his opening statement.

Mr. Patterson moved for the admission of State's Exhibit A. Mr. Leo did not object, and Ms. Russell accepted the exhibit.

Mr. Patterson then called Mr. Smith as a witness, and asked that he be sworn in. Mr. Smith took the oath. Mr. Patterson reviewed documents in State's Exhibit A with Mr. Smith, including a document dated October 8, 2008 indicating that Mr. Smith signed an independent auditor's report for National Electric Coil, Inc. Union 401(k) Plan despite not holding an active license since December 31, 2002. Mr. Smith's firm, Smith Tax Accounting & Financial Consulting, was never registered with the Board as a public accounting firm. Mr. Smith's audit was referred to the Board by the US Department of Labor, Employee Benefits Security Administration.

Mr. Smith then explained that his practice consists mostly of tax and consulting work, and that he became involved in the audit as a favor to a client. He added that he currently did not perform any audit or attest work.

The Board members then asked questions of Mr. Smith.

Ms. Russell concluded the hearing.

### **FORMAL HEARING: HARRILL S. CAMPBELL**

Ms. Russell opened a disciplinary hearing at 11:35 a.m. pursuant to Chapter 119 of the Revised Code. Harrill S. Campbell was charged with a violation of section 4701.16(A)(4) of the Ohio Revised Code, pertaining to failure to respond to Board communications regarding a complaint filed with the Board. Mr. Campbell did not request a hearing in a timely manner and he was not present at the hearing.

Mr. Patterson called Mr. Rotaru as a witness, and asked that he be sworn in. Mr. Rotaru took the oath. Mr. Patterson reviewed documents in State's Exhibit A with Mr. Rotaru, including correspondence with Mr. Campbell regarding the complaint filed with the Board.

Ms. Russell concluded the hearing.

### **EXECUTIVE SESSION**

Upon motion by Mr. Fay, seconded by Ms. Houston, the Board voted to recess into executive session to discuss the hearings and confidential investigative matters with legal counsel. Motion carried 8-0 on a roll call vote. After discussion, the Board voted to return to general session.

### **BOARD DECISIONS**

#### ***LATE FEE WAIVER APPEALS***

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

- Douglas Sitzler
- Mario Marcon
- Lorinda Ream
- Jill Simms McDermott
- Douglas Brichford, Jr.
- Donald J. Piazza
- Kevin Massa
- Margaret Van Dine

Motion carried 8-0 on a roll call vote.

#### ***FORMAL HEARING: MICHAEL J. SCHMIDT***

Upon motion by Mr. Fritz, seconded by Mr. Comer, the Board voted to revoke the CPA certificate of Michael J. Schmidt, but stay the revocation subject to Mr. Schmidt's payment of a \$2,000 fine and completion of a Board professional standards and responsibilities course for his Ohio permit and payment of a \$5,000 fine for the firm of Schmidt & Associates by June 30, 2011. Motion carried 8-0 on a roll call vote.

***REINSTATEMENT HEARING: JAMES F. BATES, JR.***

Upon motion by Mr. Fritz, seconded by Ms. Houston, the Board voted to defer action for one year on the reinstatement request of James F. Bates, Jr., subject to completion of all court-ordered requirements including restitution and completion of continuing education requirements for the Ohio permit including a Board professional standards and responsibilities course. Motion carried 8-0 on a roll call vote.

***DISCIPLINARY HEARING: PATRICK EDWARD SMITH***

Upon motion by Mr. Fritz, seconded by Mr. Comer, the Board voted to revoke the CPA certificate of Patrick Edward Smith. Motion carried 8-0 on a roll call vote.

***DISCIPLINARY HEARING: HARRILL S. CAMPBELL***

Upon motion by Mr. Fritz, seconded by Mr. Fay, the Board voted to revoke the CPA certificate of Harrill S. Campbell. Motion carried 8-0 on a roll call vote.

***APPEAL OF CLOSED CASE***

Mr. Patterson reviewed the particulars of case 2010-75 (Syska vs. Moler), and recommended to the Board that the case remain closed. Upon motion by Mr. Fay, seconded by Mr. Landaker, the Board voted to uphold the decision of the Executive Director to close case 2010-75. Motion carried 8-0 on a roll call vote.

**ADJOURNMENT**

Upon motion by Ms. Houston, seconded by Mr. Comer, the Board voted to adjourn. Motion carried 8-0.

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**GRETA RUSSELL  
CHAIR**

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**W. MICHAEL FRITZ  
SECRETARY**