

Vermont Secretary of State  
Office of Professional Regulation

**BOARD OF PUBLIC ACCOUNTANCY**

**UNAPPROVED MINUTES  
MEETING of TUESDAY, DECEMBER 20, 2005**

1. The meeting was called to order at 9:01 a.m.

Members present: Pamela J. Douglass, CPA, Chairperson; Lee M. Spivey, Jr., CPA, Vice Chair; Claire LaVoie, CPA, Secretary; Jeffrey A. Graham, CPA, RPA, and Cairn G. Cross.

OPR Staff present: Christopher D. Winters, Director of OPR, Kevin Leahy, Board Counsel, and Carla Preston, Unit Administrator.

Others present: Molly Lambert, Chris A. Varin, Patrick Theriault, Jaime Feehan, and Patti Pallito.

2. The Chair called for approval of the Minutes of the December 2<sup>nd</sup> meeting. On page one, #6 the name Amy Schwert was corrected to read Mary Shwert. Kenneth Nussbaum was added to the list noting that he must provide evidence of his work experience since he does not meet the ‘five of ten’ requirement. On page 3, under 8 (a), the last sentence was amended to read “The Board clarified that the 500 hours of attest and audit experience would have to be earned in a public accounting firm where there is Independence, which cannot be accomplished in a captive management company.” A few grammatical corrections were also made. Ms. LaVoie made a motion, seconded by Mr. Spivey, to approve the Minutes of the December 2, 2005 meeting as corrected. Motion passed unanimously.

3. **Hearing/Stipulation Review** - None.

4. **Reports**

Molly Lambert, President of the Vermont Captive Insurance Association, said they support the Board’s efforts for excellence and are present to clarify their understanding of what the Board is looking for with regard to experience. She said captive management companies need to recruit people and must know what to tell them.

The Board explained that the issue of Independence and how it impacts the process is a major factor. Employees of captive management companies are inside the captive, not a public CPA firm. An applicant must have the 500 hours of attest experience, including 200 hours of audit, to meet Rule 5.9. The Board believes that having experience that requires an independent mindset is of paramount importance and is an essential component of that experience. The Board noted that there are other situations where the environment provides independence, such as certain internal audit arrangements.

Mr. Varin said he understood the concern with regard to Independence. Staff participates in the audits, drafts notes, etc. but it would not count because it is not independent. He described captive management firms’ strong internal controls as quasi independence. He said he understands the requirements much better and the importance of the environment, tone and mindset.

Mr. Varin asked the Board if it would support re-evaluating the rules or adopting the Uniform Accounting Act (UAA). He said he does not approve of the experience for licensure from anywhere, which is set out in the UAA, but wondered if there was something acceptable in between.

The Board noted that parts of the UAA were considered and incorporated into the last version of the laws and rules, however other portions were considered and not incorporated. That suggests deliberate decisions not to accept those rules in Vermont. Currently, 32 districts have adopted the UAA with differences. As an example, the Board does not require 150 semester/credit hours to sit for the Uniform CPA examination, as do many states.

Mr. Varin asked if the Board would accept the experience in captive management firms if they had Peer Reviews. He noted that the exams are performed on clients, not on the management firm itself.

The Board noted that peer reviews would not resolve the issue of independence because the experience is still within the captive management company.

The group discussed other states that have captive management firms and wondered how they dealt with the Independence issue and other experience requirements.

The Board stated that applicants in Vermont are licensed to perform independent audits. Thus, the Board is charged with ensuring that qualified persons meet those requirements.

Jamie Feehan suggested an advisory opinion or policy that provided clarity to the industry.

The Board reiterated that it has never stated that no captive management experience would be acceptable. The Board indicated that the laws and rules are established to ensure that qualified applicants are licensed. Applicants are evaluated on a case-by-case basis against the requirements. Any proposed change would impact all candidates, not just those employed by captive management companies.

The Board mentioned other states that are considered two tier states in which persons who do not have audit experience may be issued a restricted license of some type. Vermont is not a two-tier state. Thus, the applicant must meet all of the requirements regardless of how he or she plans to practice once licensed.

Mr. Varin said they are performing attest functions, but it is not public as defined. He said their roles are different than persons who just prepare taxes. They just do not meet the independence requirement.

The Board noted that it has grown to respect the requirement for experience in attest including audit (200/500). The rest of the applicant's experience may vary but it is all reviewed by the Board and must be earned under the direct supervision of a CPA who was licensed at the time the supervision was provided.

The group exchanged a thank you.

**5. The Board reviewed and discussed the following applications for licensure.**

A. Mr. Spivey made a motion, seconded by Ms. LaVoie, to approve the following applicants for licensure based on their completed applications. Motion passed unanimously.

**John Bletzer (Endorsement)**  
**Marc A. Menard, CPA (firm)**  
**Margot Rogers (Reinstatement)**

**Marc A. Renaud (Endorsement)**  
**Brian Monbouquette (Endorsement)**  
**Peter K. Svendsen, CPA, PC (firm)**

B. The Board reviewed the applications listed below and noted that documents were either missing or unacceptable to complete their applications. Applicants will be notified of the Board's findings.

**Kenneth M. Nussbaum** (Endorsement) - The Board reviewed Mr. Nussbaum's application on the basis of endorsement from Illinois. The State of Illinois indicated that he became licensed in July of 2005. Since he has not been licensed for five years, he does not meet the 'five of ten' provision, and must provide evidence of his work experience. His supervisor(s) must complete a Report of Supervised Experience form and provide evidence that they are licensed and in good standing.

**Mudd Lee, LLC (firm)** – The Board reviewed the firm application but could not approve it as submitted. The partners that make up the limited liability company being formed are professional corporations, John M. Lee, CPA, P.C. and Brent A. Mudd, CPA, P.C. each having 50 percent ownership. The professional corporations controlling Mudd Lee, LLC are separate entities rather than individual certified public accountants. Section 74 (b) is interpreted to mean that an individual (CPA) would be the holder of a certificate who is licensed. Under the Board's statutes and rules, a joint venture cannot register as an accounting firm because it is more than one step removed from the holder of the license. Evidence of a Peer Review for each company is required.

**Brent A. Mudd** (Endorsement) – The Board reviewed Mr. Mudd's application for licensure on the basis of endorsement from Georgia. The Board was unable to determine if the requirements of Georgia were substantially equivalent to Vermont's licensing requirements. Georgia indicated that he was licensed on the basis of Aconversion.@ To meet CPE requirements Mr. Mudd needs to provide evidence of his having completed an additional 12 hours of CPE credits during the period of October 14, 2003 through October 14, 2005, or he must update (resubmit) his application.

**John M. Lee** (Endorsement) - The Board reviewed Mr. Lee's application for licensure on the basis of endorsement from Georgia. The Board was unable to determine if the requirements of Georgia were substantially equivalent to Vermont's licensing requirements. Georgia indicated that he was licensed on the basis of Aconversion.@

**TG Associates, CPA's PLLC (firm)** - The Board reviewed the firm application but could not approve it as submitted. The Board needs further clarification concerning their ALetter of Agreement@ pertaining to sections #5, AExclusivity of Practice,@ and #6, AEquity Interests.@ It appears that BST Advisory Network, LLC (consisting of non-professionals) has equal control which raises questions regarding independent control of TG Associates CPA's PLLC. The Board notes that BST's initial designated equity partner to speak on behalf of BST in all TGA matters is Willard G. Reynolds, a Certified Public Accountant. Although, Mr. Reynolds meets the Board's requirements, the agreement does not require that this position be filled by a CPA and it appears that non-CPA's may decide who fills this position. The statute requires a full disclosure of all equity owners and their pecuniary interests, in both entities and a complete and signed document depicting, at times, common entity governance.

**Misasi & Misasi, P.C. (firm)** - The Board noted that they have an existing firm registered under the name of Misasi & Misasi CPA's (092-0000644), with a registered office at 95 Elm Street, Manchester Center, Vermont. The Board has questions pertaining to the structure of their professional corporation as stated in their by-laws concerning governance and transfer of shares pertaining to compliance with 26 V.S.A. ' 74. The By-laws do not provide an explanation about whether the certified public accountant (professional) will have control or governance of actions. There appears to be no restriction on the transfer of shares to only certified public accountants. The Board requests amended by-laws (with appropriate signatures) that meet the requirements of ' 74 with regard to equity owners.

**Erik S. Karpinski** – (Score Transfer or Endorsement). The Board again reviewed Mr. Karpinski's application but was unable to approve it as submitted. Records show that on December 16, 1999 the State of New York issued him a license, which was not renewed (no expiration date available). Because he does not currently hold a valid CPA license, he is not eligible for licensure on the basis of endorsement from New York. Therefore, he must meet the requirements for licensure on the basis of examination (or Score

Transfer) with regard to education, examination, and experience requirements. Based on the information provided to date, he does not meet the requirements for licensure on the basis of score transfer (examination). He must also provide a notarized photograph (2" by 2") is required.

It is unclear from the information provided by the State of New York whether the examination he took was the Uniform CPA exam or a state examination. Additional information pertaining to the examination he passed in New York must be provided. Vermont has deemed the paper and pencil examination as NOT

equivalent to its requirements (Uniform CPA Examination), thus would not accept those scores on the basis of score transfer from New York. Based on the Report of Supervised Experience provided by Raymond J. Mikorits on his behalf, he only has 1700 hours of experience.

**Jean L. Girard, R. F. Lavigne & Company** - The Board reviewed Ms. Girard's October 26<sup>th</sup> letter and November 3<sup>rd</sup> fax with regard to the firm's renewal and subsequent changes in ownership and structure (License number 092-0000222). The Board acknowledged that as of November 1, 2005, the firm, R.F. Lavigne & Company will no longer be performing attest functions. However, the old and new firms must meet their regulatory obligation of a Peer Review covering the period of June 1, 2002 through May 31, 2005. They indicated that they have performed attest services since June of 2002, which would require the completion of a Peer Review for the three year reporting period ending May 31, 2005. If the old firm performed attest functions from June 1, 2005 to November 1, 2005, a Peer Review would be required to cover that period. It was unclear from the information provided if R.F. Lavigne & Company would be filing Articles of Amendment to change the corporate name or if it would be filing Articles of Dissolution on the corporation and forming a trade name, limited liability company or some other entity. The Board needs additional information regarding their plans. Pursuant to 26 V.S.A. § 74 (b) the professionals (CPA or RPA) in a firm, must own at least 51 percent of the equity. The Board also needs clarification as to how they plan to advertise.

**Denise A. Myers** – The Board reviewed Ms. Myers October 13<sup>th</sup> letter, which was in response to the Board's October 4<sup>th</sup> letter concerning requirements. Her October 13<sup>th</sup> letter requested an appeal of the Peer Review requirement. The Board will explain that its requirement for her to have completed an additional 40 hours of continuing professional education is not considered a form of disciplinary action. That requirement was in response to the Board's findings concerning deficiencies noted in the sample report she submitted with her 2003 renewal application. The additional 40 hours of CPE required of her, was determined as the appropriate remediation or corrective action necessary to deal with the deficiencies.

The Board will also explain that as of August of 2003 all firms providing attest functions have to have a Peer Review. This requirement took place of the Board's review of licensees' sample work previously in effect. If she (or her firm) performed attest functions (i.e., audit, review, compilation, agreed upon procedures, financial statements, forecasts and projections, certification or other attest functions), during the period of August 1, 2003 through July 31, 2005, the firm must have a Peer Review. The Board noted her assertion that her firm has "not nor does [it] plan to issue additional reports." However, Vermont law requires a Peer Review in order to maintain licenses in good standing. To date, the Board has not received her firm's Peer Review for the period ending July 31, 2005. Ms. Myer will be invited to attend the next meeting scheduled for January 24<sup>th</sup>.

## 6. **Miscellaneous Correspondence**

- a. The Board reviewed the December 14, 2005 letter from Patricia A. Doran concerning her difficulties in sitting for the Uniform CPA Examination. The Board concluded that if the facts she stated were verifiable, she should receive an extension as requested. The Board was a little unclear as to why she would need an extension but assumed it pertains to her ability to receive credit for portions of the exam already taken. A copy of her letter will be forwarded to the National Association of State Boards of Accountancy, which is responsible for the Certified Public Accountant's Examination Services (CPAES) administered by Thomson Prometric. The Board is confident that she will receive an explanation directly

from NASBA, as well as approval for the six-month extension requested.

b. The Board completed the questionnaire from the California Society of CPA's.

7. **American Institute of Certified Public Accountants (AICPA) Correspondence**

8. **National Association of State Boards of Accountancy (NASBA) Correspondence**

a. The Board reviewed the 2005 – 2006 NASBA Committee Handbook and State Board Directory.

9. **Public Comment**

10. **Other Business Introduced by the Board**

11. The next meeting is scheduled for **Tuesday, January 24, 2006.**

12. The meeting was adjourned at 2:46 p.m.

Respectfully submitted,

Carla Preston  
Unit Administrator  
Office of Professional Regulation