

Vermont Secretary of State
Office of Professional Regulation

**BOARD OF PUBLIC ACCOUNTANCY
UNAPPROVED MINUTES
MEETING of TUESDAY, AUGUST 26, 2003**

1. The meeting was called to order at 9:07 a.m.

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

OPR Staff present: Jessica G. Porter, Director of the Office of Professional Regulation; Christopher D. Winters, Board Counsel; Carla Preston, Unit Administrator; and Patty Skinner, Administrative Assistant.

2. The Chairman called for approval of the Minutes of the July 22nd meeting. Ms Douglass made a motion, seconded by Mr. Cross, to approve the Minutes of the July 22, 2003 meeting as presented. Motion passed unanimously.

3. **Hearings/Stipulation Review:** None to report.

4. **Reports:**

- A. Jessica Porter, Director, attended the meeting to touch base with the Board. She asked Members if they had any concerns they would like her to address and mentioned the Licensing Board Seminar scheduled for November 3, 2003.

The Board asked for an update as to the State Prosecuting Attorneys and how the process was working. The Board also expressed concerns about last minute deals with the State in which the I-Team member on the Board has no input.

Ms Porter said the new process with the prosecuting attorneys hired by the Secretary of State is working very well. She said she is very pleased with Ed Adrian who has eight years of litigation experience in the State's Attorney's office. She said he is very efficient and confident with opposing counsel. She noted that the senior Attorney, Robert Backus, has 25 years of experience and that the boards currently working with him are very pleased. She noted that he is working less hours due to family illness and that another Attorney, William M. MaGill has been hired to work temporarily. She said they have also hired a paralegal and have successfully cut the budget by a third.

Ms Porter said that members of Investigative teams should be involved in all phases of an investigation. She said years ago when board members interviewed respondents, problems were found. She said with some of the more technical boards such as accountancy, it may be best to have the Board member on the team provide input into the process early on before the investigation begins. She said it is possible to set up a process for Board members to contact the investigator for input within a certain amount of time of receiving the complaint. If the investigator does not hear from the Board member within a week or so, then the investigator would begin the investigation. She agreed that the Board member needs to be involved.

Ms Porter said situations may evolve as a result of negotiations

between the State Prosecuting Attorneys and the client, but noted that the Team should still be involved. She said she would relay the possible need for the Board member to guide the investigation to investigators and prosecuting attorneys and suggest it as a topic for the Fall Seminar.

4. **Reports** - continued

The Board indicated that their involvement early on may save the investigator from again having to interview the respondent to obtain additional information. Members stressed that Board members need to be involved before the investigation begins because points made in the complaint should be addressed.

Ms Porter said some of the topics mentioned for the Fall Seminar include the issue of competency and continuing professional education. She noted that states are moving to require sign in and sign out for persons attending CPE courses. Some require testing at the end of a course. She said they would like to learn where boards stand on this issue. The hearing process and the legislative process have also been suggested as topics.

Ms Porter indicated that the Business Office is catching up on budgets and that they should be available to boards soon.

- B. Attorney Winters said the Board had asked him if confidential disciplinary records may be subject to search and seizure by law enforcement under The Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA Patriot Act). He said licensing boards are exempt from HIPPA, therefore it does not apply.

Attorney Winters reported that under the USA Patriot Act, licensing boards could possibly be required to report answers to questions on applications (original and renewal) that are "not subject to public disclosure." He referred members to his July 25, 2003 Memorandum and supporting documentation. He said the USA Patriot Act was created for homeland security and its very broad wording could apply to licensing boards. He said the Office would turn over the information provided on applications and renewals upon request. He said Title 3 § 131 also allows for sharing information with other state agencies in the course of an investigation. He said the Patriot Act contains very broad language and is being challenged on other levels. The matter was discussed further.

Attorney Winters said boards must determine whether the possible abuse of law enforcement power in obtaining otherwise confidential records justifies a board's refusal to ask certain questions or contain certain information it typically uses to determine whether or not a licensee is qualified. He said in his opinion, the Board should not compromise its duty to protect the public by obtaining all necessary information to evaluate the qualifications of current and future licensees. He said he does not believe that the threat of invasion of privacy rights is significant enough in Vermont to warrant not obtaining confidential information relative to licensing.

In the end, the Board concluded that it needed the information currently asked in making its decision regarding qualifications for licensure.

Attorney Winters said he is not aware of any requests for information under the USA Patriot Act. He agreed to bring up the matter with the Director and Unit Administrators for discussion.

- C. The Board discussed its changes in educational requirements to require courses in United States Business Law and United States Income Tax, and its policy regarding Certified General Accountants. Board Rule 5.3, Studies in

Accounting, Auditing and Business has been amended to require three semester hours in United States income tax and three semester hours in United States business law. The educational requirements must be met to determine eligibility to sit for the Uniform CPA examination, therefore candidates will need to have taken these courses. The Board voted to deal with persons in transition as follows:

4. **Reports** - continued

1) Successful May 2003 (and earlier) candidates who have a completed application and are eligible for licensure before 8/22/04, will not need the US courses.

2) November 2003 candidates are eligible to sit for the exam w/o the US courses and eligible for licensure if their application is completed before 8/22/04.

3) 2004 April - July 31 candidates are eligible to sit for the exam w/o the US courses and eligible for licensure if their application is complete before 8/22/04.

On or after 8/22/04, ALL candidates (new and previously conditional) will need the US courses to be eligible to sit for the Uniform CPA examination and for licensure.

Certified General Accountants (CGA):

The Board confirmed that all Certified General Accountant applicants new and transitioning, will need an educational assessment from a NASBA approved organization (i.e., FACS). CPAES agreed to notify all candidates, new and those who are transitioning, of this requirement. CGAs should also be notified of the requirement mentioned above re three semester hours of US business law and US income tax.

The Board confirmed that CGA candidates who have passed all four components as of the May 2003 examination will be "grandfathered" with regard to the need of an educational assessment. The Board will not require it of candidates passing all components of the May 2003 exam, but if any of them need to retake portions, they will be required to have an evaluation.

The Board will accept supervisors with a CGA designation for the period of January 2001 through August 22, 2003. This period covers the effective period of its agreement with the Certified General Accountants Association of Canada up to the effective date of the Board's new Rules. The Board noted that it was not its intention that the agreement with the CGA Association of Canada also cover the acceptability of supervisors with CGA designations, but noted that it took place. The intention of the agreement pertained only to that of a CGA's eligibility to sit for the Uniform CPA Examination without an evaluation of the candidate's foreign education.

5. **Legislation**

- A. Attorney Winters said that a new law was recently passed (3 V.S.A. §129(g)(1)) which authorizes Boards to delegate authority to grant stays and continuances to the Chair on behalf of the Board. He said this is very helpful since these circumstances are usually very time sensitive.

Mr. Spivey made a motion, seconded by Ms Douglass, to authorize the Chairman to grant stays and/or continuances on behalf of the Board. Motion passed unanimously.

6. **Rulemaking** - The Board reviewed Attorney Winters' cover sheet which highlighted the more significant changes in the Rules. This cover sheet and the current laws and rules will be sent to all licensees.

7. **COMPLAINTS**

AC-02-0801 - The Board noted the August 17, 2003 letter from Kenneth Heath who stated that he was unable to

comply with the Order and pay the fine imposed by the Board. Mr. Health's license lapsed in July of 1999 and was revoked as of May 16, 2003.

7. **COMPLAINTS** - continued

AC-08-0402 - The Board reviewed the Report of Concluded Investigation. Ms Preston and Mr. Spivey explained that the Board had previously approved this Report. The Complainant received a copy of that report and presented additional information and noted errors in it. The Investigative Team re-evaluated the information and agreed that the original report contained a few errors. The Team however, concluded that the corrections did not change the outcome of its investigation and that the matter should be closed. Ms Douglass made a motion, seconded by Mr. Cross, to accept the Investigative Team's recommendation and conclude this matter without charges. Motion passed. Mr. Spivey, Board Investigator, did not participate in the vote.

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

- A. Ms Douglass made a motion, seconded by Mr. Cross, to approve the following applicants for licensure based on their completed applications and successful completion of the Uniform CPA examination if applicable. Motion passed unanimously.

William Bartlett - Examination
Brian Croteau - Endorsement
William Craig Freda - Endorsement
Connie Ouellette - Endorsement
William R. Webber - Endorsement

Renee Bishop - Endorsement
Heather M. Kuney - Examination
Mark O'Connell - Endorsement
Kaj Samsom - Examination

- B. The Board reviewed Alfred Viscido's application for licensure. At its May 27th meeting, the Board voted to approve the *Stipulation and Consent Order* regarding Mr. Viscido's application for licensure, Docket number APP-AC-06-1002. Mr. Viscido submitted the information requested of him in the Order which was subject to Board approval. Mr. Spivey made a motion, seconded by Ms LaVoie, to approve Mr. Viscido for licensure (conditioned). The matter was discussed further. The Board discussed whether or not members who either recused themselves earlier in the process or participated on the Investigative Team should partake in the vote.

Attorney Winters said that since Mr. Graham recused himself due to earlier conversations with the Respondent, and Ms Douglass served on the Investigative Team, they should not participate in the vote. The Board must decide if the conditions were met as required in the Order and vote to either accept or reject Mr. Viscido's submittals. If approved and accepted, Mr. Viscido would be approved for a conditional license. The condition is that he cannot work in public accounting unless he has a supervisor approved by the Board.

Based on the discussion that ensued, Mr. Spivey amended the original motion to include acceptance of the paper Mr. Viscido wrote as compliance with the Order which was seconded by Mr. Cross. Motion passed, 3 - 0. The question was called on the original motion to approve Mr. Viscido for licensure (conditioned). Motion passed, 3 - 0. Mr. Graham and Ms Douglass did not participate in the votes.

- C. The Board reviewed Kirby Scarborough's renewal application. Mr. Scarborough indicated that he would like to keep his license active but requested a waiver of continued professional education due to illness. His physician also provided information to the Board. Based on the information presented, Mr. Spivey made a motion, seconded by Ms Douglass, to deny Mr. Scarborough's renewal application. The Board noted that under 26 V.S.A. § 15 (f) he may retain his CPA designation even though his license remains on inactive status. The question was called and the motion passed unanimously.

8. **Applications** - continued

- D. The Board reviewed the applications listed below and noted that documents were still missing or unacceptable to complete their applications. They will be notified.

Patrick Jawich (Score Transfer) - Mr. Jawich must provide evidence of his supervisors' licensure standing.

Andrea Margrit Koroluk-Sigrist (Examination) - Ms Koroluk-Sigrist indicated that her supervisor is a CPA in Australia. The Board will verify with NASBA if CPA's in Australia are equivalent to CA's of Australia or otherwise approved as supervisors.

Eric Rowley (Endorsement) - Mr. Rowley needs a current verification from New Hampshire and must show the number of required CPE credits within the two years preceding application to Vermont.

Ann-Marie Dion Thompson (Score Transfer) - Ms Thompson needs to submit an evaluation of her foreign education to determine the number of years of experience needed.

Stacey J. Tynion (Endorsement) - Ms Tynion does not have five years of public accounting experience within the previous ten, therefore needs the AICPA's eight-hour ethics course.

9. **Miscellaneous Correspondence**

- a. The Board completed the questionnaire via E-Mail from Tyler Ewer regarding CPE. Mr. Ewer will be referred to the NASBA Registry and Vermont's Web site for more information.
- b. The Board reviewed and noted the letter from John G. Ams, Vice President of the National Society of Accountants, regarding the exposure draft and terminating work on the project.
- c. The Board noted the letter addressed to D. Dean Beddow, AICPA Peer Review Program, from the Washington Board of Accountancy regarding the Exposure Draft.
- d. The Board reviewed the sample cover pages drafted by Ms Douglass. A few suggestions for change were made to the documents. The revised form will expedite the Board's review of applications.
- e. The Board reviewed the letter from Lyle Handfield regarding Certified General Accountants being licensed in the State of Vermont. Based on a brief discussion, the Board concluded that no response was necessary at this time.
- f. The Board reviewed and noted the Fax from Ben Romeiser asking if the Vermont Board will accept the North Carolina Accountancy law course, Ethics Principles and Professional Responsibilities. The Board was unsure if this pertained to CPE requirements or qualifications for licensure in relation to the eight-hour AICPA ethics course. More information is needed before responding.
- g. The Board responded to questions from Lanny Ogle regarding requirements for foreign accountancy firms.

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

- a. The Board noted the AICPA's request for a list of all newly licensed Certified Public Accountants. The Office has been providing this information as requested.

- b. Various questionnaires and FYI documents were noted.

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

- a. The Board responded to a few NASBA Quick polls.
- b. The Board reviewed the Newsletter and discussed the 96th Annual Meeting to be held on 10/26 - 10/29 in Maui, Hawaii. No one is able to attend.
- c. The Board reviewed the letter and information from NASBA requesting that boards adopt the recommendations for the computer-based examination. Mr. Spivey made a motion, seconded by Ms LaVoie, to adopt NASBA's recommendations for the computer-based test. Motion passed unanimously.
- b. The Board responded to various questionnaires and noted FYI documents.

12. **Public Comment** - None to report.

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

- A. The Board noted that the forms for supervisors to complete must be amended to include the 500 hours of attest and 200 hours of audit.
 - B. The Board noted that the current examination fee is \$404 and asked staff to contact CPAES to determine what the examination fee will be as a computer based test.
 - C. Ms Douglass indicated that Mr. Graham, Ms Preston, and she visited the Prometric site in Williston, Vermont on July 31st. She said they currently have 9 stations and are planning to relocate where they will have 15 stations. She indicated that the site had not yet been provided with any information concerning the Uniform CPA examination. She said security appears to be good. She said they indicated that they could accommodate the large number of candidates expected and are willing to increase their hours if necessary.
14. The next meeting is scheduled for **Tuesday, September 23, 2003.**

**Meeting dates in 2003:
October 28, 2003;
November 25, 2003; and December 16, 2003.**

15. There being no further business, Ms LaVoie made a motion, seconded by Mr. Spivey, to adjourn at 2:22 p.m. Motion passed unanimously.

Respectfully submitted,

Carla Preston
Unit Administrator, Office of Professional Regulation