Minutes **September 8, 2023**

Draft Minutes. Minutes are not approved until the next Board meeting on November 17, 2023.

Friday, September 8, 2023

1. General

- A. Call to Order and Roll Call. The Nebraska Board of Public Accountancy (Board) was called to order at 8:30 a.m. on Friday, September 8, 2023 with Chair Melissa Ruff presiding. The roll was called with the following members present: Melissa Ruff, Jeff Kanger, Christi Olsen, Ken Brauer, Mark Manning, Sarah Borchers, Drew Blossom, and Amy Holzworth. Also present were Executive Director Dan Sweetwood, and staff members Kristen VanWinkle and Heather Myers. The meeting was conducted at the Nebraska State Office Building, 301 Centennial Mall S in the Lancaster Room on the lower level in Lincoln, NE. Chair Ruff noted the location of the notebook containing the Public Open Meeting Act and asked if anyone present needed an agenda or had any questions regarding the law. Also present was Joni Sundquist, Nebraska Society of CPAs President. Board Attorney Jim Titus, Clarence Weber and Julie Sampson were present for the Public Hearing.
- **B.** Approval of Meeting Agenda for September 8, 2023. Moved by Brauer, seconded by Manning, approve the agenda for the September 8, 2023 meeting. On a roll call vote, Members Ruff, Kanger, Olsen, Brauer, Manning, Borchers, Blossom, and Holzworth voted aye. Motion #1 carried.
- C. Approval of Minutes from July 14, 2023. Moved by Kanger, seconded by Blossom, to approve the July 14, 2023 Board minutes. On a roll call vote, Members Ruff, Kanger, Olsen, Brauer, Manning, Borchers, Blossom, and Holzworth voted aye. Motion #2 carried.

2. Public Comment Period (15-minute period)

- **A.** 8:45 a.m. Ms. Joni Sundquist, NE Society of CPAs President CPE Report:
 - Women in Accounting Summit held Aug. 30 at the Crete Carrier Riverview Lodge in Mahoney State Park. Nearly 160 attendees 40 more than last year! Awesome turnout! Excellent reviews received. Of people responding to the survey, the largest age group was 31-39! THANK YOU to their sponsors in the room, that includes Deloitte, a Diamond Sponsor; KPMG, a Platinum Sponsor; and Circle CPA, a Silver Sponsor.
 - Fall Conference & Annual Meeting will be Oct. 30-31 at the Riverview Lodge at Mahoney State Park. An invitation will go out soon.
 - **Two-Day Federal Tax Update** will be Dec. 4-5 at the University of NE at Omaha's Thompson Center.

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- They will be offering another free PTET webcast on Oct. 5.
- **In-person CPE** 6 events remaining this year.
- Society-sponsored webcasts 109 remaining this year!
- That is in addition to the more than **5,000 partner webcasts** they have on their website.
- Working on adding **On-Demand CPE** to their website, but lots of work due to the fact that their database and website have to have the ability to compute and charge state and city sales tax for that to happen.

Board Retreat & Meeting Report:

- A big **thank you to ED Sweetwood** for his presentation during the Society's Board Retreat which was held Aug. 23. Also had John Johnson from NASBA and Marta Zaniewski from AICPA.
- Several maps were displayed providing status of Nebraska regarding important
 initiatives, including: experience, CPE reciprocity and firm mobility. ED Sweetwood
 overviewed the Board's current positions noting that past Boards have reviewed and
 that future Boards will continue to review with the possibility of the formation of a
 task force to make recommendations.
- Society Board did approve the recommendations of the **CPA Exam Task Force** to move forward with legislation to allow candidates to sit for the CPA exam with 120 hours of qualifying college credit.
- Thanks to all of the work done by Jim Titus and the State Board staff, the **120-to-sit legislation** is in the hands of Joshua Christolear, legal counsel for the Banking Committee at the NE Legislature.
- The board also voted to support the 30-month exam testing window.

Pipeline Efforts

- The Society Board also approved a Talent Pipeline Survey to go out to the membership.
- Thanks to a grant from Deloitte, they continued to support UNL's Discover Accounting program for high school students.
- They also helped sponsor breakfast for UNO's Accounting Adventures Camp and Society Past Chairman Ryan Burger of GBE provided a presentation to students.
- Today, they have two member volunteers Nancy Harms from the Bar Assn. and Amy Knust from Eide Bailly – manning a booth at UNL's Professional Development Day.
- They also put the Nebraska Dept. of Education in touch with Sarah Borchers at UNK and Roopa Venkatesh at UNO for presentations to help train high school teachers on emerging trends and topics within the accounting profession. UNO is presenting "Accounting: It's Not Your Parents' Profession Anymore".

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• They are looking for sponsors for this year's "Economics & Accounting Day" through the Nebraska Council on Economic Education, which is currently planned for Nov. 3.

B. Hearing to Return Certificate to Good Standing

10:00 a.m. – **Mr. Clarence F. Weber** - Hearing Officer Melissa Ruff opened the hearing at 10:01 a.m. Board Attorney Jim Titus represented the Board. Clarence Weber was present and produced a witness. The hearing closed at 10:47 a.m.

3. Consent Agenda

- **A. Published Notice of Meeting.** Per Board motion from the July Board meeting, items D-F are added to the Consent Agenda. Moved by Kanger, seconded by Olsen, to approve the consent agenda. On a roll call vote, Members Ruff, Kanger, Olsen, Brauer, Manning, Borchers, Blossom, and Holzworth voted aye. Motion #3 carried.
- **B.** Approval of Disbursements for July and August 2023. Secretary Olsen overviewed the disbursements for the Board reporting no unusual activity for the period.
- **C. Review of Board Budget Status Report.** Secretary Olsen reported on several items. It is early in the fiscal year so no significant items were noted.
- **D.** Ratification of Staff Program Qualification Evaluations. 55 courses from July August 2023 and additional course list from Lutz & Company PC.
- E. Ratification of CPE Sponsor. None
- F. Reinstatements to Active Permit, Inactive Retired Affidavits, Surrendered Certificates.

Reinstatements: none

Inactive - Retired affidavits:

- Mary Aldrich-Knight Lincoln, NE
- Scott Bieber South Sioux City, NE
- Nancy Chase Omaha, NE
- John Kathrein Westminster, CO
- Deborah Schroeder Des Moines, IA
- Barbara Svoboda Grapevine, TX
- Arthur White Tarkio, MO

Surrenders:

- Jadin Bragg Prior Lake, MN
- Julie Hinchcliff Valley, NE
- Richard Lehman Brooklyn Park, MN
- Mario Mckenzie Waxhaw, NC
- Susan McDaniel Big Sandy, TX

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4. Report of the Chair

A. Executive Committee Meeting Report. Chair Ruff gave the report. The committee reviewed drafted regulations and updates to the Public Accountancy Act. They reviewed the Board's budget status and discussed Board fees, noting that at their December meeting they will focus to the Reciprocal Certificate fee as some concern has been expressed by applicants. They were also provided updates on the Thentia project and the committee assignments. The committee also directed staff to continue to research the replacement of office chairs.

B. Ken Brauer: Recognition of 8 years of service to the Board.

RESOLUTION

WHEREAS, Kenneth E. Brauer, served as a Member of the Nebraska State Board of Public Accountancy from 2015 to 2023; and

WHEREAS, Kenneth E. Brauer, during his term as Member of the Board, was a steady influence who always asked good questions and brought up good points. He came to the Board as a public member whereas he was already familiar with the Board due to attending many meetings over the years while representing the Nebraska Society of Independent Accountants. He was able to blend these interests and provide a keen interest in protecting the public. He served his two terms as a member of the Licensing Committee and Chaired the committee for four years. This required that he lead the efforts on alternate forms of experience and approval of unique firm names, which was challenging at times but he rose to the occasion. He was also a member of the Education & Examination Committee. He guided the activities of the State Board as:

| 2015-2016 | Member of the Licensing Committee | 2019-2020 | Chair of the Licensing Committee |
|-----------|-----------------------------------|-----------|----------------------------------|
| | Member of the E&E Committee | | Member of the E&E Committee |
| 2016-2017 | Member of the Licensing Committee | 2020-2021 | Chair of the Licensing Committee |
| | Member of the E&E Committee | | Member of the E&E Committee |
| 2017-2018 | Member of the Licensing Committee | 2021-2022 | Chair of the Licensing Committee |
| | Member of the E&E Committee | | Member of the E&E Committee |
| 2018-2019 | Member of the Licensing Committee | 2022-2023 | Chair of the Licensing Committee |
| | Member of the E&E Committee | | Member of the E&E Committee |

THEREFORE, THE MEMBERS OF THE NEBRASKA STATE BOARD OF PUBLIC ACCOUNTANCY gratefully record their recognition of service of Kenneth E. Brauer adopting the following Resolution:

BE IT RESOLVED, that the Members of the Nebraska State Board of Public Accountancy extend their sincere appreciation to Kenneth E. Brauer for his service as a Member of the Nebraska State Board of Public Accountancy.

BE IT FURTHER RESOLVED, that a copy of this Resolution be incorporated into the minutes of the Board, and further that a copy of this Resolution be presented to him.

Adopted this 8th day of September 2023

by the Nebraska State Board of Public Accountancy

Melissa Ruff, CPA, Chair Nebraska State Board of Public Accountancy

C. Report of the Chair. Chair Ruff gave the report.

- 1. 2023-2024 Committee Appointments. Chair Ruff provided her committee assignments. She noted Member Holzworth will chair the Licensing Committee. She noted Member Olsen was removed from the Peer Review Committee due to serving on many other committees.
- **2. Set Future Board Meeting Dates.** The Board reviewed the proposed meeting dates for 2024. The January meeting will be a virtual meeting as per requirements within LB 83.

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- D. Review and Approve Payment of NASBA Dues. The Board received and reviewed the bill from NASBA for annual dues. A discussion was held regarding the benefits of NASBA and how they are funded. Moved by Olsen, seconded by Borchers, to approve payment of the NASBA annual dues. On a roll call vote, Members Ruff, Kanger, Olsen, Brauer, Manning, Borchers, Blossom, and Holzworth voted aye. Motion #4 carried.
- E. Attendance at NASBA Annual Meeting, Oct. 29 Nov. 1, 2023 New York, NY. Members Ruff, Olsen and Blossom expressed interest in attending the NASBA Annual meeting. ED Sweetwood indicated he is planning to attend, while Staff VanWinkle received a scholarship from NASBA covering her expenses to attend the meeting. Moved by Borchers, seconded by Holzworth, to approve attendance of 3 Board members, ED Sweetwood and Staff VanWinkle (with the use of scholarship funds) to the NASBA Annual Meeting as this is considered to be essential travel. On a roll call vote, Members Ruff, Kanger, Olsen, Brauer, Manning, Borchers, Blossom, and Holzworth voted aye. Motion #5 carried.
- **F. Review Board Calendar.** At this time, the November meeting could still be held virtually if determined appropriate by Chair Ruff.

6. Report of the Licensing Committee

- A. Report of the Committee. Committee Chair Brauer gave the report.

 The committee discussed one Business, Governmental & Academia (BGA) experience application. Motion out of committee to recommend approval of Joseph Brownfield's application. On a roll call vote, Members Ruff, Kanger, Olsen, Brauer, Manning, Borchers, Blossom, and Holzworth voted aye. Motion #6 carried.

 The committee reviewed one request for firm name Legacy Accounting and Consulting, LLC. Motion out of committee to recommend approval of firm name Legacy Accounting and Consulting, LLC. On a roll call vote, Members Ruff, Kanger, Olsen, Brauer, Manning, Borchers, Blossom, and Holzworth voted aye. Motion #7 carried.
 - Staff updated the Board on the status of 2023 Renewals. ED Sweetwood acknowledged Staff VanWinkle & Myers for their continued hard work during this busy time for office staff and for another successful renewal period.
- **B.** Ratification of initial permits to practice issued, certificates issued, firm permits. Moved by Blossom, seconded by Borchers, to approve initial permits to practice issued, certificates issued, firm permits issued from July 14 September 7, 2023. On a roll call vote, Members Ruff, Kanger, Olsen, Brauer, Manning, Borchers, Blossom, and Holzworth voted aye. Motion #8 carried.

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Closed Session

Closed Session. Moved by Blossom, seconded by Olsen, that the Board go into closed session at 10:48 a.m., on Friday, September 8, 2023, for the purpose of discussing today's public hearing to return a certificate to good standing to protect the public interest and/or prevention of needless injury to individuals. On a roll call vote, Members Ruff, Kanger, Olsen, Brauer, Manning, Borchers, Blossom, and Holzworth voted aye. Motion #9 carried.

Prior to going into closed session, Chair Ruff restated the limitation of the closed session, which was to discuss today's public hearing to return a certificate to good standing, read the following statement:

"The Board may go into closed session for the purpose of discussion (no action) on matters involving litigation, personnel, disciplinary matters/enforcement, or matters regarding which the subject matter is otherwise protected under statutory law.

The Board may go into closed session on its own motion; however, it must approve a motion to go into closed session and another one to return to open session. The time in which the Board goes into and comes out of closed session is to be noted in the minutes, and the motion must be passed by a majority vote. The motion to go into closed session must contain the subject matter and reason requiring the closed session.

Prior to closed session, the Board Chair will restate the limitation of the subject matter that may be discussed in closed session and such restatement shall be noted in the minutes. No action items will be voted upon in closed session."

Return to Open Session. Moved by Kanger, seconded by Brauer, that the Board return to open session at 11:40 a.m., on Friday, September 8, 2023. On a roll call vote, Members Ruff, Kanger, Olsen, Brauer, Manning, Borchers, Blossom, and Holzworth voted aye. Motion #10 carried.

5. Report of Enforcement of Professional Conduct Committee

A. Discuss Hearing for Mr. Clarence F. Weber. The Board discussed Mr. Weber's request to return his certificate to good standing following revocation in 2013 for a felony conviction. Moved by Blossom, seconded by Brauer, to approve returning Clarence F. Weber's certificate to good standing pending a new or previous professional sexual risk assessment with evidence of satisfactory completion provided to Board staff to be included in the record. On a roll call vote, Members Ruff, Kanger, Brauer, Manning, Borchers, Blossom, and Holzworth voted aye. Member Olsen voted nay. Motion #11 carried.

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PUBLIC ACCOUNTANCY OF THE STATE OF NEBRASKA

| STATE OF NEBRASKA, ex. rel., STATE BOARD OF |) |
|--|----------------------|
| PUBLIC ACCOUNTANCY OF THE STATE OF NEBRASKA. |) |
| |) |
| Petitioner, |) |
| |) DECISION AND ORDER |
| VS. |) |
| CLARENCE F. WEBER, |) |
| |) |
| Respondent. |) |
| |) |

On the 8th day of September, 2023, a formal hearing was held on the request of Clarence F. Weber, pursuant to §1-150 of the Act, for reinstatement of his certificate of a certified public accountant. The hearing was conducted by the Board Chair, Melissa Ruff, at the Lancaster Room in the Nebraska State Office Building. The Board was represented by Jim R. Titus and the Respondent appeared in person and was not represented by an attorney. All Board members were present and in attendance at the hearing and voted in favor of this Decision and Order.

Exhibits 1-23, except omitted exhibit 3, were offered and received into evidence without objection. Testimony was presented. The records and exhibits properly reflect that notice was properly made on August 3, 2023 to the Respondent for the date and time of the hearing.

DECISION AND ORDER/ FINDINGS OF FACT/ CONCLUSIONS OF LAW

Upon consideration of the matter, the Board finds as follows:

- 1. Respondent's Certificate and permit to practice were previously revoked by the Board in a Consent Order dated December 13, 2013. The Consent Order revocation was based upon Respondent's felony conviction.
- 2. Pursuant to §1-150 of the Act, the Board "may" issue a new certificate to a certified public accountant whose certificate has been revoked. Although the Board finds that it is not required or necessary under the circumstances to refer to Board Rule Ch.6.002.01 et seq. pertaining to Character and Fitness, some guidance may be provided by that Rule (specifically, 002.02(4) and the factors set forth in 002.04).
- 3. The Respondent did commit a serious felony which involved Enticement by Electronic Communication Device, a Class IV felony (a top class) with a child under the age of 16 years.
- 4. The Board finds that the nature and seriousness of the felony conviction was sufficient reasons to revoke the Respondent's certificate initially, but sufficient time has passed since the offense and since the time Respondent was released from probation in 2017 and from the sexual offender registry in January 2023, that Respondent appears to have shown rehabilitation evidencing present character and fitness to qualify to practice public accountancy sufficient for the Board to consent to issue a new certificate pursuant to §1-150, provided Respondent can provide to the Board for inclusion in the record documentary evidence of successful completion of a professional sexual risk assessment.

WHEREFORE, IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that:

- a. Upon provision to the Board of documentary evidence of successful completion of a professional sexual risk assessment, the Respondent's request for reinstatement is granted on the condition that any request for active status shall not require a hearing unless other issues arise which were not known at the date of this hearing, in which case the Board may require a further hearing before the Board.
- b. Staff is directed to issue a reinstated certificate upon compliance by Respondent with the usual administrative

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fees and procedures.

IT IS SO ORDERED.

Dated September 8, 2023.

| STATE BOARD OF PUBLIC ACCOUNTANCY OF THE STATE OF |
|---|
| NEBRASKA, Petitioner. |
| BY: |
| Melissa Ruff, CPA, Board Chair |

Closed Session

Closed Session. Moved by Blossom, seconded by Olsen, that the Board go into closed session at 12:29 p.m., on Friday, September 8, 2023, for the purpose of discussing 16 enforcement cases to protect the public interest and/or prevention of needless injury to individuals. On a roll call vote, Members Ruff, Kanger, Olsen, Brauer, Manning, Borchers, Blossom, and Holzworth voted aye. Motion #12 carried.

Prior to going into closed session, Chair Ruff restated the limitation of the closed session, which was to discuss 16 enforcement cases.

Return to Open Session. Moved by Blossom, seconded by Brauer, that the Board return to open session at 12:49 p.m., on Friday, September 8, 2023. On a roll call vote, Members Ruff, Kanger, Olsen, Brauer, Manning, Borchers, Blossom, and Holzworth voted aye. Motion #13 carried.

- **B.** Open Case/LMCO Update. The Board was updated on case #23-08. Due to the required knowledge of certain standards and guidelines, it is recommended an investigating officer be appointed to this matter. This is allowed per Title 288-Chapter 4-006.01. Motion out of committee to appoint an investigating officer to review the information provided in case #23-08 per Title 288-Chapter 4-006.01. On a roll call vote, Members Ruff, Kanger, Olsen, Brauer, Manning, Borchers, Blossom, and Holzworth voted aye. Motion #20 carried.
- C. Ratification of LMCOs, if any No update.
- D. Recommended Cases to Close -
 - <u>21-08</u> Civil suit alleges CPA provided poor tax advice to a client relating to his estate within a Trust.

The Board discussed case #21-08. Due to the matter being dismissed by the court, it is recommended to close this case. Motion out of committee to close case #21-08. On a roll call vote, Members Ruff, Kanger, Olsen, Brauer, Manning, Borchers, Blossom, and Holzworth voted aye. Motion #14 carried.

<u>22-03</u> - Complainant indicates he has attempted to communicate with the CPA for several months regarding the completion and filing of an estate tax return to no avail. Staff attempted to mitigate the matter and contacted the CPA by telephone and email to respond and communicate with the complainant in which she stated she would. The

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complainant indicated she still not attempt to communicate with him and he had no choice but to file a complaint in the matter.

The Board discussed case #22-03. Due to the former CPA complying with the requirements of the Stipulation & Consent Order issued in March 2023, it is recommended to close this case. Motion out of committee to close case #22-03. On a roll call vote, Members Ruff, Kanger, Olsen, Brauer, Manning, Borchers, Blossom, and Holzworth voted aye. Motion #15 carried.

22-09 - Staff monitored reports from the SEC/PCAOB regarding a large firm's reporting of ethical violations regarding internal/CPE related examinations within the firm.

The Board discussed case #22-09. After monitoring for several months and verifying no Nebraska CPAs nor office in Nebraska were involved in the matter, it is recommended to close this case. Motion out of committee to close case #22-09. On a roll call vote, Members Ruff, Kanger, Olsen, Brauer, Manning, Borchers, Blossom, and Holzworth voted aye. Motion #16 carried.

<u>22-11</u> - A CPA notified the Board office he was recently convicted of a Felony in Douglas County, NE for Terroristic Threats.

The Board discussed case #22-11. Due to the revocation order issued in March 2023 and no further issues with the former CPA, it is recommended to close this case. Motion out of committee to close case #22-11. On a roll call vote, Members Ruff, Kanger, Olsen, Brauer, Manning, Borchers, Blossom, and Holzworth voted aye. Motion #17 carried.

<u>23-01</u> - Board office received information from the Texas based CPA Firm they were sanctioned by the PCAOB for failure to disclose reportable events to the PCAOB. The firm was fined \$25,000.

The Board discussed case #23-01. Due to the Texas Board of Public Accountancy taking action against the firm and confirming no Nebraska CPAs nor clients were involved in the matter, it is recommended to close this case. Motion out of committee to close case #23-01. On a roll call vote, Members Ruff, Kanger, Olsen, Brauer, Manning, Borchers, Blossom, and Holzworth voted aye. Motion #18 carried.

23-05 - The Board was notified the PCAOB disciplined the national CPA firm for failing to disclose certain reportable events.

The Board discussed case #23-05. Due to no Nebraska CPAs nor offices were involved in the matter, it is recommended to close this case. Motion out of committee to close case #23-05. On a roll call vote, Members Ruff, Kanger, Olsen, Brauer, Manning, Borchers, Blossom, and Holzworth voted aye. Motion #19 carried.

7. Report of Continuing Professional Education (CPE) Committee

A. Report of the Committee. Committee Chair Olsen gave the report. Staff and the Committee are continuing to review and revise the CPE Guidelines. Another draft will be presented at a future committee meeting.

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8. Report of Education & Exam (E&E) Committee

A. Report of the Committee. Committee Chair Borchers gave the report.

The committee was provided an update on the status of the credit extensions approved at the July Board meeting. They were also updated on an initiative called the Credit Relief Program which is proposed to help with the pipeline. Since the committee meeting, NASBA held a webinar to answer questions about the program. NASBA is working on pulling state-based data to send to the Boards to help with decision-making. The Board discussed and will wait to make any decisions until that data has been received.

9. Report of the Legislative Committee

- **A. Report on Proposed Legislation:** ED Sweetwood gave the report.
 - 1. Public Accountancy Act Draft Amendments regarding hours to sit for the CPA Exam. The Board was provided a draft of the amendments, which were approved by the Society Board at their August meeting. The Society will move forward in carrying the bill before the Legislature in 2024.
- B. Compliance with LB867 (Index Updates/Policy Changes).
- C. 2022-2023 Rule Project Status. The Board reviewed the proposed amendments. Moved by Borchers, seconded by Kanger, to approve the rule changes as amended and authorize Board staff to set the date for the public rules hearing. On a roll call vote, Members Ruff, Kanger, Olsen, Brauer, Manning, Borchers, Blossom, and Holzworth voted aye. Motion #21 carried.
 - 1. Review amendments to Chapter 4
 - 2. Review amendments to Chapter 6
 - 3. Review amendments to Chapter 13

10. Report of the Peer Review Committee

A. Report of the Committee – Chair Manning gave the report. The committee noted a firm who received two consecutive Peer Review failures and referred the matter to the Board's Enforcement Committee as recommended by NASBA's Compliance Assurance Committee. Chair Manning also reviewed several other pass with deficiencies reports that will be monitored by staff for compliance.

11. Report of the Executive Director

- A. Attendance and Report from NE Society of CPAs Leadership meeting on August 23, 2023. See agenda item 2A.
- **B. Budget Status.** ED Sweetwood updated the Board on the status of the Budget under 3.C.

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- **C.** Thentia Database Update ED Sweetwood updated the Board on the status of the Thentia project. There continues to be some turnover within the company.
- **D.** Staffing & General Office Issues New chairs for the office are being considered to replace the current, older ones.
 - 1. Meeting & Hearing Room Update.

12. New Business

- A. NASBA Items:
 - 1. Report from Central Region Call on August 30, 2023
 - 2. NASBA Quick Poll CPA Exam Review Board State Board Survey
- **B.** Other Miscellaneous Items: FYI articles
 - 1. AICPA letter to NASBA, signed by 69 firms, to support reinstating expired exam credit to help CPA pipeline

13. Adjournment

Moved by Kanger, seconded by Brauer, to adjourn the meeting at 1:55 p.m. on September 8, 2023. On a roll call vote, Members Ruff, Kanger, Olsen, Brauer, Manning, Borchers, Blossom, and Holzworth voted aye. Motion #22 carried.

Respectfully submitted by,

Board Secretary Christi Olsen