

NEBRASKA BOARD OF PUBLIC ACCOUNTANCY

140 N. 8th Street, Suite 290, Lincoln, Nebraska

Minutes
July 15, 2009

Draft Minutes. Minutes are not approved until the next Board meeting.

1. General

- A. Call to Order and Roll Call.** The Nebraska Board of Public Accountancy (Board) was called to order at 8:40 a.m. on Wednesday, July 15, 2009 with Chair Jim Titus, presiding. The roll was called with the following members present: Jim Titus, Anne Fuhrman, Tom Obrist, Doug Skiles, Michael Wassinger, and Jim Rieker. Members Kate King Wu and Richard Zacharia were absent. Also present were Executive Director Dan Sweetwood and Staff members Kelly Ebert, Jo Lowe and Board Intern Jeff Paesl. The meeting was held at the Board Office at 140 N. 8th Street, Suite 290, Lincoln, Nebraska. Chair Titus noted the location of the notebook containing the Public Open Meeting Act, along with it being posted on the wall, and asked if anyone present needed an agenda or had any questions regarding the law.
- B. Approval of Meeting Agenda for July 15, 2009.** Moved by Obrist, seconded by Wassinger to approve the agenda for the July 15, 2009 meeting. On a roll call vote, Members Titus, Fuhrman, Skiles, Rieker, and Wassinger, voted aye. Members Zacharia and King Wu were absent. Motion #1 carried. Member King Wu arrived at 8:42.
- C. Approval of Minutes from May 4, 2009.** Member King Wu noted a certificate number correction. Moved by Obrist, seconded by King Wu, to approve the Board minutes as corrected from the May 4, 2009 meeting. On a roll call vote, Members Titus, Fuhrman, Skiles, King Wu, Rieker, Wassinger, and Obrist voted aye. Member Zacharia was absent. Motion #2 carried.

2. Public Comment Period (15 minute period)

- 10:00 Agenda Item 5.A. Public Hearing for Complaint #07-07 Michael Wilcox.** Hearing Officer Jim Titus opened the hearing at 10:00 am. Mr. Wilcox was present and represented by attorney Thomas Culhane. Board attorney Robert Gruit was present representing the Board. The hearing ended at 2:35 pm.

3. Consent Agenda

- A. Published Notice of Meeting.** Moved by Obrist, seconded by Skiles, to approve the consent agenda. On a roll call vote, Members Titus, Fuhrman, Skiles, King Wu, Rieker, Wassinger, and Obrist voted aye. Member Zacharia was absent. Motion #3 carried.
- B. Approval of Disbursements.** Board Secretary Fuhrman reviewed the disbursements for April and May of 2009. She indicated the disbursements were in order.

NEBRASKA BOARD OF PUBLIC ACCOUNTANCY

140 N. 8th Street, Suite 290, Lincoln, Nebraska

Minutes

July 15, 2009

- C. **Review of Board Budget Status Report.** The Budget Status Report was provided. Executive Director Sweetwood addressed the completion of Fiscal Year 2009 as of June 30, 2009. He also handed out historical information on the Board's cash fund, expenditures, and revenue. ED Sweetwood indicated it appeared total expenditures for FY09 including final encumbrances would fall somewhere around \$420,000. Increases in expenditures from FY08 to FY09 include additional information technology spending to support a state mandated email conversion, online renewal backend support and fees, Board server support, and remote access fees. Other areas include legal support for major enforcement cases and the need for an additional intern support during the processing of renewal license applications, the QEP program and the CPE audit process. Board revenues for FY09 were \$386,708. It was noted the Board's goal of reducing the Board's cash fund, as recommended by the State Auditor, continues. As of June 30, 2009 the Board's cash fund of \$592, 273 was decreased from \$620, 884 the year before. It was also noted that with the passage of LB 31, the Mobility Bill, a further decrease in Board revenue could be experienced.
- D. **Office Management Report.** The Office Management Report is in the process of being calculated and will be available in September.

4. Report of the Chair

- A. **Report of the Chair.** Chair Titus gave the report. He noted that Members Skiles and Zacharia had been reappointed to the Board for another four-year term by the Governor.
- B. **Election of 2009-2010 Board Officers.** Ballot results: Chair Doug Skiles, Vice-Chair Michael Wassinger, Secretary Anne Fuhrman. New officers will be effective at the September Board meeting. All were noted for their dedication to the Board and the CPA profession.
- C. **LB 533 Changes to Board Expense Policies.** As a result of passage of LB 533, Board members were alerted to changes in the reimbursement policy:
- 1.) expenses over \$5 require a receipt for reimbursement
 - 2.) reimbursement requests must be received by the Board office within 60 days of the expense.
- Staff will amend the Board's Travel Policies to reflect LB 533 changes.
- D. **Review of Performance Card Surveys.** Sixty seven responses were received and comments were very favorable. Board members commended staff for the comments and the positive office atmosphere.
- E. **Review Board Calendar.** The calendar was reviewed. The next Board meeting is scheduled for September 17-18, 2009.
- F. **Report on To Do List.** There was no report at this time.

NEBRASKA BOARD OF PUBLIC ACCOUNTANCY

140 N. 8th Street, Suite 290, Lincoln, Nebraska

Minutes
July 15, 2009

Closed Session

Closed Session. Moved by Obrist, seconded by King Wu, that the Board go into closed session at 9:25 a.m., for the purpose of updating the Board about current open enforcement cases and disciplinary matters. On a roll call vote, Members Titus, Fuhrman, Skiles, King Wu, Rieker, Wassinger, and Obrist voted aye. Member Zacharia was absent. Motion #4 carried. Chair Titus restated that the purpose for the closed session was to update the Board about current open enforcement cases and disciplinary matters.

Return to Open Session. Moved by King Wu, seconded by Obrist, that the Board return to open session at 9:52 a.m. On a roll call vote, Members Titus, Fuhrman, Skiles, King Wu, Rieker, Wassinger, and Obrist voted aye. Member Zacharia was absent. Motion #5 carried.

5. Report of Enforcement of Professional Conduct Committee

A. Open Case/LMCO Update. ED Sweetwood reviewed the open cases in the absence of Committee Chair Zacharia.

Following the hearing held for Michael Wilcox, moved by Rieker, seconded by King Wu, for violation of 1-137(4) and Title 288 Chapter 5.007.01 Acts Discreditable to the profession, the Board ordered a two-year suspension, placed Michael Wilcox on 5 years probation to run concurrently, and imposed a civil penalty of \$7500. He also must:

- a) provide his Board issued Certificate and current Active Permit to Practice to the Board office during the suspension;
- b) continue to participate in required continuing professional education (CPE) as required for return of his credentials at the end of his suspension. He must continue to submit his CPE courses to the Board as required within Chapter 8 of Title 288 and
- c) complete an additional 4 hours of ethics above and beyond the required 4 hours of ethics within the regular 80-hours of CPE required for renewal of an active permit.

The Board directs the Board Attorney to prepare the Decision and Order with Findings of Fact and Conclusions of Law to be consistent with the motion and the findings of Acts Discreditable as generally alleged in the Complaint, including lack of need to apply collateral estoppel as the board found on the underlying facts; that Wilcox failed to make proper disclosures to a client relative to an investment opportunity, including his financial position in the property, that it was under foreclosure and he was being sued on a personal guaranty; that Mr. Wilcox signed the "investment letter" (exhibit 60 in court transcript); that respondent directed Wheatfield LLC to reimburse him \$100,000 knowing that Wheatfield would be unable to reimburse the investment monies of his client Dryden without substantial risk as Wilcox knew only \$145,000 had

NEBRASKA BOARD OF PUBLIC ACCOUNTANCY

140 N. 8th Street, Suite 290, Lincoln, Nebraska

Minutes
July 15, 2009

been raised of \$500,000 needed, no commitments of additional cash had been made and that Dryden was entitled to a full refund if the \$500,000 was not raised; that Wilcox withdrew the remaining \$9,256.80 from Wheatfield account on or about October 14, 2004 when it was clearly known the business venture would not happen and Dryden was demanding his money back as promised; and Wilcox emailed Dryden in September, 2004 that Dryden's money had been invested in another nursing home pending his approval, when Wilcox knew it had in fact been paid to Wilcox. On a roll call vote, Members Titus, Fuhrman, Skiles, King Wu, Rieker, Wassinger, and Obrist voted aye. Member Zacharia was absent. Motion #9 carried.

Moved by Fuhrman, seconded by Skiles, that staff send a letter directly to Mr. Walsh in response to his letter and the Board's Order as affirmed by the Nebraska Supreme Court which includes: 1) Mr. Walsh will provide full payment to the Board of \$3000 by August 15, 2009; 2) be required to attend 4-hours of ethics (as he is in Inactive status); 3) and must comply with the Board's Order and follow regulations that require him to place "Inactive Registrant" behind all use of the term CPA including letterhead. On a roll call vote, Members Titus, Fuhrman, Skiles, King Wu, Rieker, Wassinger, and Obrist voted aye. Member Zacharia was absent. Motion #11 carried.

- B. Recommended Closure of Enforcement Cases.** Motion out of Committee to recommend that the Board close case:

04-15: By special appointment of the Board, a CPA (member) reviewed the lawsuit for the Committee. The review included a meeting with the firms managing partner and the partner in charge, inspection of work papers, and submission of a detailed response regarding the matter. Upon conclusion of the review, no areas of negligence were noted on the part of the CPA firm. On a roll call vote, Members Titus, Fuhrman, Skiles, King Wu, Rieker, Wassinger, and Obrist voted aye. Member Zacharia was absent. Motion #10 carried.

- C. Report on To Do List.** There was no report at this time.

6. Report of Continuing Professional Education (CPE) Committee

- A. Report of the Committee.** Committee Member Obrist gave the report in the absence of Committee Chair Zacharia. The Committee reviewed a total of 73 courses from April 22, 2009, to June 25, 2009 with 73 approved and no courses denied. The Committee reviewed individuals with insufficient CPE hours. Those who have not submitted CPE by July 1, 2009 will be referred to the Licensing Committee. The Committee reviewed the staff's evaluation of reinstatement applications and referred the list to the Licensing Committee. Staff updated the Committee on the 2009 CPE Audit process which was not completed due to the number of extensions requested. The Committee discussed the large number of extensions requested for this licensing period. Staff was requested to Quick Poll other states to see if they allow extensions or what they do for people who request extensions. The CPE Rules and Guidelines were reviewed at Mahoney State Park, as they were last year, with any other staff recommendations for revisions provided to the Committee. The issue of keeping the required ethics CPE interesting and current was discussed with Nebraska Society of CPAs President Dan Vodvarka.

NEBRASKA BOARD OF PUBLIC ACCOUNTANCY

140 N. 8th Street, Suite 290, Lincoln, Nebraska

Minutes

July 15, 2009

- B. Ratification/Denial of Staff Program Qualification Evaluations.** Motion out of Committee to recommend Board approval of 73 courses reviewed from April 22, 2009, to June 25, 2009. On a roll call vote, Members Titus, Fuhrman, King Wu, Rieker, Wassinger, and Obrist voted aye. Members Zacharia and Skiles were absent. Motion #6 carried.
- C. Ratification of CPE Sponsor.** There were no CPE sponsor requests.
- D. Report on To Do list.** The To Dos are listed in the Committee Report.

Closed Session

Closed Session. Moved by King Wu, seconded by Rieker, that the Board go into closed session at 2:47 p.m., for the purpose of deliberations on the public hearing for Michael Wilcox. On a roll call vote, Members Titus, Fuhrman, Skiles, King Wu, Rieker, Wassinger, and Obrist voted aye. Member Zacharia was absent. Motion #7 carried. Chair Titus restated that the purpose for the closed session for the purpose of deliberations on the public hearing for Michael Wilcox.

Return to Open Session. Moved by Rieker, seconded by King Wu, that the Board return to open session at 4:28 p.m. On a roll call vote, Members Titus, Fuhrman, Skiles, King Wu, Rieker, Wassinger, and Obrist voted aye. Member Zacharia was absent. Motion #8 carried.

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

- A. Report of the Committee.** Committee Chair Skiles gave the report. Review of the Board's survey of successful exam candidates continues. Chair Skiles pointed out that progressively fewer students are taking the CPAES exam tutorial. One educational issue dealt with a student who needed approval for a course to meet a subject area requirement. Motion out of Committee to approve the KSU Ag – Economics course to meet the subject area requirement for microeconomics because the body of course work included economics in various forms and was substantially equivalent to Nebraska institutions course descriptions. On a roll call vote, Members Titus, Fuhrman, Skiles, King Wu, Rieker, Wassinger, and Obrist voted aye. Member Zacharia was absent. Motion #12 carried. Another candidate will need to provide a 25% letter regarding a course in Business Communications to meet the subject requirements. The AICPA BOE, CBT Exam Steering Group, and Candidate Care reports were presented to the Committee.
- B. Approval of CPA Exam Scores.** Motion out of Committee to recommend Board approval of April – May 2009 Exam scores. On a roll call vote, Members Titus, Fuhrman, Skiles, King Wu, Rieker, Wassinger, and Obrist voted aye. Member Zacharia was absent. Motion #13 carried.
- C. Report on To Do List.** There was no report at this time.

NEBRASKA BOARD OF PUBLIC ACCOUNTANCY

140 N. 8th Street, Suite 290, Lincoln, Nebraska

Minutes

July 15, 2009

8. Report of the Legislative Committee

- A. **Report on Legislation.** Chair Titus indicated that he and Member Skiles met with Board Attorney Gruit and staff. Mr. Gruit and staff will continue to meet and draft regulations for the Committee to review. The Board will review the drafts at the September Board meeting. The Mobility Work Group will then review the draft for additional comment. The goal is to have the final draft before the Board at the November meeting for final discussion and approval.

9. Report of Quality Enhancement Program (QEP) Committee

- A. **Report of the Committee.** Committee Chair Fuhrman reported. The Committee met for a very long and intense day to review the 150 reports. Letters will go out to firms with Type 3 & 4 reports. Motion out of Committee for Board approval of the 2009 QEP report results. On a roll call vote, Members Titus, Fuhrman, Skiles, King Wu, Rieker, Wassinger, and Obrist voted aye. Member Zacharia was absent. Motion #14 carried. Firm QEP survey postcard results were provided to the Committee. Chair Fuhrman commented that the Committee will review the final firm survey questions at their next meeting in more detail. This will assist in their recommendations to the Board regarding the future of the program.
- B. **Report on To Do List.** There was no report at this time.

10. Report of the Licensing Committee

- A. **Report of the Committee.** Chair Obrist gave the report. The Committee discussed a potential firm dropping the firm name and practicing under the membership organization name only. The Committee reviewed an application from a firm using "Inc." in the title. The request was denied. The Committee reviewed a website for misleading use of the CPA designation. Staff will contact the firm to review those items that could be misleading to the public. The Committee determined that the governmental experience requirement listed in PAA 1-136.02 (b) refers to the Nebraska Dept. of Revenue and Auditors office.
- B. **Reciprocal Certificate Issuance.** Motion out of Committee to recommend the Board determine the direction for revising the Title 288 Rules to be consistent with the PAA regarding reciprocal certificates in "original state" (Rules) or "in full force and effect ... of any state" (PAA). The motion was tabled until a later date.
- C. **Use of Online Verification.** One state uses only online verification of licensure. Motion out of Committee to recommend Board approval to allow use of state entity digital signature for verification of exam and licensure. On a roll call vote, Members Titus, Fuhrman, Skiles, King Wu, Rieker, Wassinger, and Obrist voted aye. Member Zacharia was absent. Motion #15 carried.
- D. **Ratification of initial permits to practice issued, certificates issued, firm permits.** Motion out of Committee to approve the permits to practice, certificates, and firm permits, issued between May 5 and July 13, 2009. On a roll call vote, Members Titus,

NEBRASKA BOARD OF PUBLIC ACCOUNTANCY

140 N. 8th Street, Suite 290, Lincoln, Nebraska

Minutes

July 15, 2009

Fuhrman, Skiles, King Wu, Rieker, Wassinger, and Obrist voted aye. Member Zacharia was absent. Motion #16 carried.

- E. **Reinstatements to Active Permit, Inactive Retired Affidavits, Surrendered Certificates.** Motion out of Committee to approve the reinstatements, inactive - retired affidavits, and surrendered certificates received between May 5 and July 13, 2009.

Reinstatements:	Deanne Platter	Tualatin OR
	Suzanne Rasmussen	LaVista NE
Inactive - Retired affidavits:	Byron Bissell	Omaha NE
	Robert Anthony	Urbandale IA
	Robert Hatten	Lakeville MN
	Roger Whitney	Omaha NE
	Robert Kehm	Overland Park KS
	Verlyn Obering	Franklin NE
	W. Rex Woods	Belleville KS
	Dean Heerman	Lincoln NE
	Robert Boumann	Arvada CO
	Dean Jungers	Bellevue NE
	George Barry	Paradise Valley AZ
	Judith Quam	Elk Point SD
	Patricia Labarbera	Cary NC
	Carol Genrich	Pacific Grove CA
	Dwight Youngman	Omaha NE
	Javaine Miller	Villages FL
	John Shank	Denver CO
	Michael McCreery	Venice FL
	Richard Jungck	Kansas City MO
	Ronald Peters	Mill Spring NC
	Mary Davis	Omaha NE
	Patricia Hofmeister	Missouri Valley IA
	Tom Larsen	Lincoln NE
	James Guretzky	Omaha NE
	James Martin	Lincoln NE
	Raymond Hruby	Quail Valley CA
	Denise Puriton	Livingston TX
Surrendered Certificates:	Robert Beckwith	Greenville SC
	Angela Stock	Fargo ND
	Robert Porter	Casper WY
	Rex D. Ball	Hays KS

On a roll call vote, Members Titus, Fuhrman, Skiles, King Wu, Rieker, Wassinger, and Obrist voted aye. Member Zacharia was absent. Motion #17 carried.

- F. **Review of 2009 Licensing Renewal Process.** The lists of non-renewed individuals and firms were provided to the Board. Certified cease and desist letters were mailed to the individuals. About 33% used the online applications for this renewal period.

NEBRASKA BOARD OF PUBLIC ACCOUNTANCY

140 N. 8th Street, Suite 290, Lincoln, Nebraska

Minutes

July 15, 2009

- G. **Report on To Do List.** There was no report at this time.

11. Report of Executive Director

- A. **NASBA Western Regional Conference Report.** The report was provided to the Board. All who attended agreed it was an educational meeting.
- B. **NASBA Executive Director's Committee /ALD Task Force.** ED Sweetwood has been asked to chair both committees for NASBA. He will be attending meetings at NASBA the first week of August.
- C. **Board Budget/Fiscal Year 2009 Summary.** See agenda item 3C.
- D. **Nebraska.gov Report.** The Board's online renewal went fairly well with 33% of CPAs renewing online. Back end issues for staff continue to be problematic including processing time and reconciliation of online renewals. Meetings have continued with Neb.gov and work has begun on a rewrite of the system to assist in an improved environment for staff to complete tasks. The current Neb.Gov staff has been helpful in this process.
- E. **Staffing & General Office Issues.** The new intern is Jeff Paesl, an accounting honors student from UNL. ED Sweetwood recognized staff members Jo Lowe, Kelly Ebert, Richard Christensen, and Jeff Paesl for the dedication and hard work over the last three months including the annual permit renewals, online program issues, CPE audit, QEP program, and end of year reports. It is only because of this dedication that the Board's Performance Survey reports reflect the high satisfaction with the office as reported.

12. New Business

- A. **National Association of State Boards of Accountancy (NASBA) Items.**
- 1.) **NASBA Regional Meeting/Discussion of Conference.** See agenda item 11A.
- 2.) **Attendance at NASBA Annual Meeting, Phoenix AZ, Nov. 1-4, 2009.** Moved by Fuhrman, seconded by King Wu that based on the wealth of knowledge gained at the NASBA Western Regional Conference, and in anticipation of follow-up discussions to be held at the annual meeting, the value of contacts with other states' board members and discussions on current issues facing the profession and the boards, all Board members and the ED be approved to attend the NASBA annual meeting in Phoenix AZ, Nov. 1-4, 2009. On a roll call vote, Members Titus, Fuhrman, Skiles, King Wu, Wassinger, and Obrist voted aye. Members Zacharia and Rieker were absent. Motion #18 carried.
- 3.) **NASBA Exposure Draft: "Proposed Statement on Standards for Accounting and Review Services."** The draft was provided to the Board.
- 4.) **NASBA FYIs.** Articles related to NASBA were provided to the Board.
- B. **Other Miscellaneous Items.** Various articles were noted related to the CPA profession as provided by staff.

NEBRASKA BOARD OF PUBLIC ACCOUNTANCY
140 N. 8th Street, Suite 290, Lincoln, Nebraska

Minutes
July 15, 2009

13. Adjournment

Moved by Obrist, seconded by King Wu, to adjourn the meeting at 5:37 pm on Wednesday, July 15, 2009. On a roll call vote, Members Titus, Fuhrman, Skiles, King Wu, Wassinger, and Obrist voted aye. Members Zacharia and Rieker were absent. Motion #19 carried.

Respectfully submitted by,

Anne K. Fuhrman,
Board Secretary