

NEBRASKA BOARD OF PUBLIC ACCOUNTANCY

140 N. 8<sup>th</sup> Street, Suite 290, Lincoln, Nebraska

Minutes

September 18, 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 8:35 a.m. on Friday, September 18, 2009 with Chair Doug Skiles, presiding. The roll was called with the following members present: Doug Skiles, Anne Fuhrman, Jim Titus, Kate King Wu, Tom Obrist, Michael Wassinger, Richard Zacharia, and Jim Rieker. Also present were Executive Director Dan Sweetwood and Staff members Kelly Ebert, and Jo Lowe. The meeting was held at the Board Office, 140 N. 8<sup>th</sup> Street, Suite 290, Lincoln, Nebraska. Chair Skiles 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. Ken Brauer, Nebraska Association of Independent Accountants (NAIA), was also present.
- B. Approval of Meeting Agenda for September 18, 2009.** Moved by King Wu, seconded by Titus to approve the agenda for the September 18, 2009 meeting. On a roll call vote, Members Skiles, Wassinger, Fuhrman, King Wu, Rieker, Obrist, Titus, and Zacharia voted aye. Motion #1 carried.
- C. Approval of Minutes from July 15, 2009.** Moved by King Wu, seconded by Rieker, to approve the Board minutes from the July 15, 2009 meeting. On a roll call vote, Members Skiles, Wassinger, Fuhrman, King Wu, Rieker, Obrist, Titus, and Zacharia voted aye. Motion #2 carried.

**2. Public Comment Period (15 minute period)**

Ken Brauer, NAIA, reported that an Omaha accountant was elected District Governor for the organization.

**9:30 am Agenda Item 5.A. Public Hearing for Robert Wiggins.** Hearing Officer Jim Titus opened the hearing at 9:35 am. Mr. Wiggins was present and represented himself. Board attorney Robert Gruit was present and represented the Board. Chair Skiles recused himself. The hearing concluded at 10:15 am.

**3. Consent Agenda**

- A. Published Notice of Meeting.** Moved by King Wu, seconded by Zacharia, to approve the consent agenda. On a roll call vote, Members Skiles, Wassinger, Fuhrman, King Wu, Rieker, Obrist, Titus, and Zacharia voted aye. Motion #3 carried.
- B. Approval of Disbursements.** Board Secretary Fuhrman reviewed the disbursements for June and July of 2009. She indicated the disbursements appeared to be in order, noted and explained items with higher than usual expenses, and commented that the reconciliation for credit card renewal payments provides some challenge.

NEBRASKA BOARD OF PUBLIC ACCOUNTANCY

140 N. 8<sup>th</sup> Street, Suite 290, Lincoln, Nebraska

Minutes

**September 18, 2009**

- C. **Review of Board Budget Status Report.** The Budget Status Report was provided.
- D. **Office Management Report.** The Office Management Report was provided.

**4. Report of the Chair**

- A. **Report of the Chair.** Chair Skiles gave the report.
- B. **Recognition of Former Chair Titus.** Member Titus was recognized by the Board and staff for his three years as Chair of the Board. He was honored with a Board plaque for his service. The Chair gavel was also passed.
- C. **2009-2010 Committee Appointments.** Committee appointments were made by Chair Skiles. There were no changes in membership from the previous year. Chair Skiles noted that Member Kate King Wu will become Chair of the Education & Examination Committee and that Member Titus will remain Chair of the Legislative Committee.
- D. **Set future Board meeting dates.** Meeting dates were set for 2010: Jan. 6 – 7, Mar. 18, May 6-7, July 15-16, Sept. 16-17, and Nov. 18-19.
- E. **Review Board Calendar.** 2010 NASBA meeting dates were added.
- F. **Report on To Do List.** There was no report at this time.

**Closed Session**

**Closed Session.** Moved by King Wu, seconded by Wassinger, that the Board go into closed session at 9:08 a.m., for the purpose of updating the Board about current open enforcement cases and to discuss disciplinary matters. On a roll call vote, Members Skiles, Wassinger, Fuhrman, King Wu, Rieker, Obrist, Titus, and Zacharia voted aye. Motion #4 carried. Chair Skiles restated that the purpose for the closed session was to update the Board about current open enforcement cases and to discuss disciplinary matters.

**Return to Open Session.** Moved by Titus, seconded by King Wu, that the Board return to open session at 9:25 a.m. On a roll call vote, Members Skiles, Wassinger, Fuhrman, King Wu, Rieker, Obrist, Titus, and Zacharia voted aye. Motion #5 carried.

**Closed Session**

**Closed Session.** Moved by King Wu, seconded by Fuhrman, that the Board go into closed session at 10:25 a.m., for the purpose of deliberating the public hearing for R. Wiggins. On a roll call vote, Members Skiles, Wassinger, Fuhrman, King Wu, Rieker, Obrist, Titus, and Zacharia voted aye. Motion #7 carried. Chair Skiles restated that the purpose for the closed session was to deliberate the public hearing for R. Wiggins.

**Return to Open Session.** Moved by Rieker, seconded by Titus, that the Board return to open session at 10:47 a.m. On a roll call vote, Members Skiles, Wassinger, Fuhrman, King Wu, Rieker, Obrist, Titus, and Zacharia voted aye. Motion #8 carried.

NEBRASKA BOARD OF PUBLIC ACCOUNTANCY

140 N. 8<sup>th</sup> Street, Suite 290, Lincoln, Nebraska

Minutes

September 18, 2009

**5. Report of Enforcement of Professional Conduct Committee**

- A. Open Case/LMCO Update. Committee Chair Zacharia reviewed the open cases. Moved by Zacharia, seconded by King Wu, to reinstate the certificate of Robert R. Wiggins upon conditions of complying with the Public Accountancy Act and Title 288 Rules and Regulations, and completing the inactive registration.**

BEFORE THE STATE BOARD OF  
PUBLIC ACCOUNTANCY OF THE STATE OF NEBRASKA

STATE OF NEBRASKA, ex. rel., STATE BOARD OF	)	
PUBLIC ACCOUNTANCY OF THE STATE OF	)	
NEBRASKA ,	)	DECISION, FINDINGS OF FACT, CONCLUSIONS OF
	)	LAW AND ORDER
Complainant,	)	
	)	
vs.	)	
	)	
ROBERT R. WIGGINS,	)	
	)	
Respondent.	)	
	)	

On the 18<sup>th</sup> day of September, 2009, a formal hearing was held at the request of Robert R. Wiggins (Respondent) for reinstatement of his CPA certificate. The hearing was conducted by Jim Titus, Board Member. The Board was represented by Robert T. Gruit. The Respondent appeared personally without counsel. The following Board Members were present and participated in the hearing: Jim Titus, Anne Fuhrman, CPA, Kate King Wu, CPA, Tom Obrist, CPA, Michael Wassinger, CPA, and Jim Rieker. Board Chair Douglas Skiles recused himself from the hearing. Exhibits 1-9 were offered and received without objection from the Respondent.

Upon consideration of the request filed by the Respondent, the Board finds as follows:

- I. The Board finds that it has authority pursuant to § 1-150 of the Public Accountancy Act to reinstate the Respondent's CPA Certificate.
- II. Upon consideration of the evidence presented by the Respondent and by the attorney for the Board, the Board finds that the evidence justifies a reinstatement of the Respondent's CPA Certificate. The Board finds that the Respondent has testified that since 1993 he has demonstrated compliance with the Board Rules and Regulations and with the provisions of the Public Accountancy Act. Accordingly, the Board finds that it should exercise its authority pursuant to §1-150 and that the Respondent has made a sufficient showing to warrant reinstatement as set forth herein.
- III. The suspension of the Respondent's Nebraska CPA Certificate imposed in the Board's Order of March 19, 1993 should be vacated and set aside.
- IV. The vacation of the revocation of the Respondent's CPA Certificate is based upon the Respondent's representations to the Board that he has complied with and that he will continue to comply in all respects with the provisions of the Nebraska Accountancy Laws and all Rules and Regulations of the Board, and shall also complete, submit, and have accepted by the Board an In-active Registration within 30 days.
- V. All of the above-mentioned Board Members except Chair, Douglas Skiles, participated in this decision and voted in favor of this decision and order.

WHEREFORE, it is ordered that the revocation of the Respondent's CPA Certificate is vacated and it is further ordered that the Respondent's CPA Certificate is reinstated upon the condition that the Respondent shall also complete and submit to the Board an In-active Registration within 30 days of the Order and upon the condition that the Board accepts such In-active Registration.

IT IS SO ORDERED.

Dated this \_\_\_\_\_ day of September, 2009.

STATE BOARD OF PUBLIC ACCOUNTANCY  
OF THE STATE OF NEBRASKA, Complainant

NEBRASKA BOARD OF PUBLIC ACCOUNTANCY

140 N. 8<sup>th</sup> Street, Suite 290, Lincoln, Nebraska

Minutes  
September 18, 2009

BY: \_\_\_\_\_  
Michael Wassinger, CPA, Vice-Chairperson

On a roll call vote, Members Wassinger, Fuhrman, King Wu, Rieker, Obrist, Titus, and Zacharia voted aye. Member Skiles abstained. Motion #9 carried.

Moved by Titus, seconded by King Wu, to adopt the Wilcox Decision and Order.

BEFORE THE STATE BOARD OF  
PUBLIC ACCOUNTANCY OF THE STATE OF NEBRASKA

STATE OF NEBRASKA, ex. rel.,	)	
STATE BOARD OF PUBLIC	)	
ACCOUNTANCY OF THE STATE OF	)	
NEBRASKA,	)	
	)	
Complainant,	)	
	)	
VS.	)	DECISION AND ORDER
	)	
MICHAEL E. WILCOX,	)	
	)	
Respondent.	)	

On July 15, 2009, a formal hearing was held on the Amended Complaint of the Nebraska State Board of Public Accountancy (Board) against Michael E. Wilcox (Wilcox), Respondent. Robert T. Gruit appeared on behalf of the Complainant. The Respondent appeared personally and with his attorney, Thomas J. Culhane. The Hearing Officer conducting the hearing was Jim R. Titus, Board Chair.

All members participating in this decision and voting in favor of this Decision and Order are Chair Jim Titus, Douglas Skiles, CPA, Anne Fuhrman, CPA, Kate King Wu, CPA, Tom Obrist, CPA, Michael Wassinger, CPA, and Jim Rieker. Member Richard Zacharia, CPA was absent.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Findings of Fact and Conclusions of Law of the Board are attached to this Decision and Order and are made a part hereof. The Findings of Fact and Conclusions of Law attached hereto are expressly adopted by the Board and the same are deemed to be the Findings of Fact and Conclusions of Law of the Board.

DECISION AND ORDER

The Board finds that the Respondent violated § 1-137(4) of the Public Accountancy Act, and further violated the Board's Rules and Regulations (Title 288, Chapter 5-007.01 (Acts discreditable.)) as set forth in the Findings of Fact and Conclusions of Law attached hereto. The complaints against Respondent as alleged in paragraphs V and VII of the Amended Complaint shall be dismissed for the reasons set forth in the Findings of Fact and Conclusions of Law.

The Board further finds:

1. The Respondent's Certificate and current Active Permit to Practice shall be suspended for two (2) years from the effective date of this Order.
2. The Respondent shall be placed on probation subject to the Board's rules and regulations and subject to the Public Accountancy Act until the successful completion of Respondent's probation as set forth below. The terms and conditions of probation shall be as follows:
  - a. The Respondent shall be placed on probation on the effective date of this Order for five (5) years from the effective date of this Order.
  - b. The Respondent shall comply in all respects with all provisions of the Nebraska accountancy laws and all rules and regulations of the Board.
  - c. The Respondent shall timely respond to all inquiries from the Board or the Board's representatives and shall timely file all required documents with the Board.

NEBRASKA BOARD OF PUBLIC ACCOUNTANCY

140 N. 8<sup>th</sup> Street, Suite 290, Lincoln, Nebraska

Minutes

September 18, 2009

- d. The initial two (2) years of the period of probation shall run concurrently with the suspension.
3. The Respondent shall pay a civil penalty of \$7,500.00 within 30 days of the effective date of this Order.
4. The Respondent shall also:
  - a. provide the Board his 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. Respondent must continue to submit his CPE courses to the Board as required within Chapter 8 of Title 288.
  - c. complete an additional 4-hour course in ethics above and beyond the required 4 hour course on ethics within the regular 80 hours of CPE required for renewal of an active permit.

WHEREFORE, IT IS THEREFORE ORDERED, ADJUDGED AND DECREED:

1. The Respondent's Certificate and current Active Permit to Practice shall be suspended for two (2) years from the effective date of this Order.
2. The Respondent shall be placed on probation subject to the Board's rules and regulations and subject to the Public Accountancy Act until the successful completion of Respondent's probation as set forth below. The terms and conditions of probation shall be as follows:
  - a. The Respondent shall be placed on probation on the effective date of this Order for five (5) years from the effective date of this Order.
  - b. The Respondent shall comply in all respects with all provisions of the Nebraska accountancy laws and all rules and regulations of the Board.
  - c. The Respondent shall timely respond to all inquiries from the Board or the Board's representatives and shall timely file all required documents with the Board.
  - d. The initial two (2) years of the period of probation shall run concurrently with the suspension.
3. The Respondent shall pay a civil penalty of \$7,500.00 within 30 days of the effective date of this Order.
4. The Respondent shall also:
  - a. provide the Board his 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. Respondent must continue to submit his CPE courses to the Board as required within Chapter 8 of Title 288.
  - c. complete an additional 4-hour course in ethics above and beyond the required 4 hour course on ethics within the regular 80 hours of CPE required for renewal of an active permit.
5. The complaints against Respondent as alleged in paragraphs V and VII of the Amended Complaint are dismissed.

IT IS SO ORDERED this \_\_\_\_ day of September, 2009.

STATE BOARD OF PUBLIC ACCOUNTANCY  
OF THE STATE OF NEBRASKA, Complainant

BY:

\_\_\_\_\_  
Douglas W. Skiles, CPA, Chairperson

On a roll call vote, Members Skiles, Wassinger, Fuhrman, King Wu, Rieker, Obrist, and Titus voted aye. Member Zacharia abstained. Motion #10 carried.

NEBRASKA BOARD OF PUBLIC ACCOUNTANCY

140 N. 8<sup>th</sup> Street, Suite 290, Lincoln, Nebraska

Minutes

September 18, 2009

- B. Recommended Closure of Enforcement Cases.** Motion out of Committee to recommend that the Board close case:  
**#09-07** Litigation was filed against the CPA firm by a client after an employee had embezzled from the business for the second time. The firm provided improved internal control measures and recommended an audit be conducted and the employee not be re-hired after the first incident. The EC reviewed the settlement documents and recommended the matter be closed.  
On a roll call vote, Members Skiles, Wassinger, Fuhrman, King Wu, Rieker, Obrist, Titus, and Zacharia voted aye. Motion #6 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 Chair Zacharia gave the report. The Committee reviewed a total of 128 courses from June 26, 2009 to September 8, 2009, with 125 approved, no courses denied, and three forwarded to the Board for review. The Committee reviewed the staff evaluation of one reinstatement application and referred the application to the Licensing Committee. The Board was asked to look at three courses outside the technical course description for guidance in possibly settings limits and/or course hours per reporting period. The Board recommended the Committee continue to monitor the courses as the number of this type of course requested for CPE is a small percentage of all courses submitted and taken by CPAs. The Committee reviewed a Quick Poll of other states use of extensions for completing CPE. No decision was made on revising CPE extensions. The Committee will continue to review CPE extensions for next year and make recommendations to the Board.
- B. Ratification/Denial of Staff Program Qualification Evaluations.** Motion out of Committee to approve 125 courses from June 26, 2009 to September 8, 2009. On a roll call vote, Members Skiles, Wassinger, Fuhrman, King Wu, Rieker, Obrist, Titus, and Zacharia voted aye. Motion #11 carried. Moved by Zacharia, seconded by Obrist, to approve three courses in question. On a roll call vote, Members Skiles, Wassinger, Fuhrman, King Wu, Rieker, Obrist, Titus, and Zacharia voted aye. Motion #13 carried.
- C. Ratification of CPE Sponsor.** Motion out of Committee to approve HRD Initiatives, LLC (S09-6) and AGA- Lincoln Chapter (S09-7) as CPE program sponsors. On a roll call vote, Members Skiles, Wassinger, Fuhrman, King Wu, Rieker, Obrist, Titus, and Zacharia voted aye. Motion #12 carried.
- D. Report on To Do list.** The To Dos are listed in the Committee Report.

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

- A. Report of the Committee.** Committee Chair King Wu gave the report. Review of the Board's survey of successful candidates continues. Motion out of Committee to recommend Board approval of the reciprocal certificate applicant's course work as substantially equivalent to the requirements in PAA per Rules Chapter 9 003.05B. On a

NEBRASKA BOARD OF PUBLIC ACCOUNTANCY

140 N. 8<sup>th</sup> Street, Suite 290, Lincoln, Nebraska

Minutes

September 18, 2009

roll call vote, Members Skiles, Wassinger, Fuhrman, King Wu, Rieker, Obrist, and Titus voted aye. Member Zacharia was absent. Motion #14 carried. The Committee discussed various Committee and NASBA reports regarding the exam. The EAC meeting is scheduled for Oct. 23, 2009, and possible agenda items were suggested.

- B. **Approval of CPA Exam Scores.** No exam scores were available at this time.
- C. **Report on To Do List.** There was no report at this time.

**8. Report of the Legislative Committee**

- A. **Report on Legislation.** Board Attorney Gruit and the Board reviewed proposed Rules changes and discussed areas of question. Dan Vodvarka, Nebraska Society of CPAs was present. The official first draft of the proposed changes to the Rules will be available for the CPA Mobility Work Group to review on Oct. 13, 2009. Formal presentation of Rule changes will take place at the November Board meeting.

**9. Report of Quality Enhancement Program (QEP) Committee**

- A. **Report of the Committee.** Committee Chair Fuhrman reported that written responses were received from 12 Type 4 reports and 24 Type 3 reports. Motion out of Committee to accept the ratings for 2009 QEP. On a roll call vote, Members Skiles, Wassinger, Fuhrman, King Wu, Rieker, Titus, and Zacharia voted aye. Member Obrist was absent. Motion #15 carried.  
Chair Fuhrman indicated a sub-committee is being formed to initially review and discuss possible recommended changes to the program in the future. This would include review of other State Boards of Accountancy that have adjusted their programs based on Mobility. Motion out of Committee to recommend Board approval of Midwest MicroSystems to provide lap-tops for the 2010 QEP. Motion withdrawn. After discussion, staff was directed to research the costs associated with the use of laptops including the possible purchase options and determine if a new bid process for the program be initiated. Executive Director Sweetwood noted the hard work of the QEP Committee in completing the program for 2009.
- 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 reviewed an issue statement regarding a reciprocal certificate applicant. Motion out of Committee that reciprocal certificate applicants be granted licensure even if they are not currently licensed in their original state of issuance, and that Board attorney Gruit review and consider changing the regulation Chapter 9 003.05A to strike the contradictory language to PAA 1-124. On a roll call vote, Members Skiles, Wassinger, Fuhrman, King Wu, Rieker, Obrist, Titus, and Zacharia voted aye. Motion #16 carried. The Committee reviewed the listing of permit non- renewals since 2006 for revocation.

NEBRASKA BOARD OF PUBLIC ACCOUNTANCY

140 N. 8<sup>th</sup> Street, Suite 290, Lincoln, Nebraska

Minutes

September 18, 2009

Motion out of Committee to recommend the Board initiate revocation hearings for individuals with active permits not renewed since 2006 per PAA 1-137.9(a.). On a roll call vote, Members Skiles, Wassinger, Fuhrman, King Wu, Rieker, Obrist, Titus, and Zacharia voted aye. Motion #18 carried. The complaint process language is being reviewed to be made available to the public on the Board's website. Verification of US citizenship has been added to all certificate applications per LB 403.

**B. 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 July 16 and September 17, 2009. On a roll call vote, Members Skiles, Wassinger, Fuhrman, King Wu, Rieker, Obrist, Titus, and Zacharia voted aye. Motion #19 carried.

**C. 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 July 16 and September 17, 2009.

Reinstatements:	George B. Morgan	Winter Garden, FL
Inactive - Retired affidavits:	Keith Graeve	Omaha NE
	Lyle Marquis	Gretna NE
	E. Alan Terry	Denver CO
Surrendered:	Nathan Haws	South Jordan, UT

On a roll call vote, Members Skiles, Wassinger, Fuhrman, King Wu, Rieker, Obrist, Titus, and Zacharia voted aye. Motion #20 carried.

**D. Ratification of Mutual Recognition Agreement with New Zealand Chartered**

**Accountants.** Motion out of Committee to ratify the Mutual Recognition Agreement with New Zealand Chartered Accountants. On a roll call vote, Members Skiles, Wassinger, Fuhrman, King Wu, Rieker, Obrist, Titus, and Zacharia voted aye. Motion #17 carried.

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

**11. Report of Executive Director**

**A. Firm Administrators Workshop, October 21, 2009.** ED Sweetwood provided a draft of the proposed workshop. The workshop was developed in response to several CPA firm administrator recommendations to Board staff. The goal is to record the session involving Board staff presentations on Board programs. The detailed presentations would be available on the Board's website or to anyone interested in Board programs. Staff is working with Nebraska ETV on the use of video conference locations throughout the state to watch the presentations live and for recording purposes.

**B. Report on NSCPAs Leadership Meeting, Aug. 21, 2009.** ED Sweetwood was invited to meet with the Nebraska Society of CPAs leadership at Mahoney State Park. For several years, Sweetwood has annually met with Society leadership to cover areas of



NEBRASKA BOARD OF PUBLIC ACCOUNTANCY

140 N. 8<sup>th</sup> Street, Suite 290, Lincoln, Nebraska

Minutes

**September 18, 2009**

mutual interest including the recent changes to the Public Accountancy Act/ Mobility and proposed amendments to the Board's regulations. It was noted that the Board and the Society continue to have a strong working relationship.

- C. Nebraska.gov Update.** ED Sweetwood commented on future higher DAS/IMS costs associated with revamping the online component for CPE and licensing reporting. Board staff is pleased with the current Nebraska.gov team and hopeful the online systems will continue to be improved.
- D. Staffing & General Office Issues.** There was no report at this time.
- E. Report on To Do List.** There was no report at this time.

**12. New Business**

- A. National Association of State Boards of Accountancy (NASBA) Items.**
  - 1.) NASBA: ALD Committee Update** ED Sweetwood reported a Nebraska ALD Team has been developed and has been meeting with NASBA ALD representatives over the course of the last month. After noting security concerns, Midwest Microsystems representative Jim Lowe was invited to NASBA Headquarters to review and comment on NASBA security protocols. It is anticipated Nebraska will join the ALD soon.
  - 2.) NASBA Focus Questions** ED Sweetwood received feedback and will prepare the Focus Questions.
- B. Other Miscellaneous Items.** Various articles were noted related to the CPA profession as provided by staff.

**13. Adjournment**

Moved by King Wu, seconded by Titus, to adjourn the meeting at 3:17 pm on September 18, 2009. On a roll call vote, Members Skiles, Wassinger, Fuhrman, King Wu, Rieker, Obrist, Titus, and Zacharia voted aye. Motion #21 carried.

Respectfully submitted by,

Anne K. Fuhrman  
Board Secretary