

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

Minutes
November 12-13, 2009

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

Thursday, November 12, 2009

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 Thursday, November 12, 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, and Jim Rieker. Member Richard Zacharia was absent. 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. 8th 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. Robert Gritmit, Robert Raymond, Edward Tricker, Angela Comeau, Larry Peterson, and Anne Michalski were also present. Robert McChesney arrived at 9:05 am.
- B. Approval of Meeting Agenda for November 12-13, 2009.** Moved by King Wu, seconded by Fuhrman to approve the agenda for the November 12-13, 2009 meeting. On a roll call vote, Members Skiles, Wassinger, Fuhrman, King Wu, Rieker, and Obrist voted aye. Members Zacharia and Titus were absent. Motion #1 carried.
- C. Approval of Minutes from September 18, 2009.** Moved by King Wu, seconded by Wassinger, to approve the Board minutes from the September 18, 2009 meeting. On a roll call vote, Members Skiles, Wassinger, Fuhrman, King Wu, Rieker, and Obrist voted aye. Members Zacharia and Titus were absent. Motion #2 carried.

2. Public Comment Period (15 minute period)

No one was present for the Public Comment Period

5B. Public Hearing for Complaint Case # 06-05 Robert Raymond. Hearing Officer Jim Titus opened the hearing at 9:05 am., Thursday November 12. Robert Raymond was present and represented by Attorney Edward Tricker. Board attorney Robert Gritmit was present and represented the Board. The hearing concluded at 9:30 am, Friday November 13.

3. Consent Agenda

- A. Published Notice of Meeting.** Moved by Fuhrman, seconded by King Wu, to approve the consent agenda. On a roll call vote, Members Skiles, Wassinger, Fuhrman, King Wu, Rieker, and Obrist voted aye. Members Zacharia and Titus were absent. Motion #3 carried.
- B. Approval of Disbursements.** The disbursements for August, September, and October 2009 were tabled until the January 6, 2010 Board meeting due to the lengthy public hearing.
- C. Review of Board Budget Status Report.** The Budget Status Report was provided.

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- 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. Executive Committee Report/ Governor Dave Heineman's "Spending Restraint" letter.** Chair Skiles referenced the Executive Committee meeting on October 19, 2009 in response to Governor Heineman's letter. Minutes of the meeting were provided to Board members. Travel to the NASBA Annual meeting and future travel were discussed. The Committee indicated the Board will follow the recommendations as outlined in the Governor's letter.
- C. NASBA Annual Meeting Report, Phoenix, AZ, November 1- 4, 2009.** Members attending NASBA's annual meeting commented the meeting was very informational and provided insight on the internationalization of the CPA examination, tax preparer registration, and enforcement strategies, among other significant issues facing the profession. The luncheon speaker's identity theft topic was timely, practical, and informative.
- D. Review Board Calendar.** 2010 NASBA meeting dates were added.
- E. 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.** In the absence of Committee Chair Zacharia, Member Rieker gave the report. The Committee reviewed a total of 123 courses from September 9, 2009, to October 25, 2009 with 123 approved and no courses denied. The Committee reviewed and approved the Program sponsor application for Cpethink.com (#S09-8). The Committee discussed and reviewed the CPE Guidelines with the following recommendations:
- The importance of not requesting extensions.
 - Committee discussed allowing no more than 30% of non-technical courses. Below are two versions of this item. One would be in the guidelines and the other in the Title 288, Chapter 8 rules.
 - Guidelines – No more than thirty percent (30%) of required CPE hours are allowed in non-technical areas per licensing period.
 - Rules – Participants requesting renewal or reinstatement shall be allowed no more than 30% of required hours within courses considered non-technical. The Board shall provide guidance on courses considered non-technical and participants may request pre-approval of courses that could be considered non-technical.
- Board staff will continue to monitor the number of non-technical courses.
- B. Ratification/Denial of Staff Program Qualification Evaluations.** Motion out of Committee to approve 123 courses reviewed from September 9, 2009 to October 25, 2009. On a roll call vote, Members Skiles, Wassinger, Fuhrman, King Wu, Rieker, Obrist, and Titus voted aye. Member Zacharia was absent. Motion #5 carried.

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- C. **Ratification of CPE Sponsor.** Motion out of Committee to approve Cpethink.com (#S09-8) as CPE program sponsors. On a roll call vote, Members Skiles, Wassinger, Fuhrman, King Wu, Rieker, Obrist, and Titus voted aye. Member Zacharia was absent. Motion #6 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. The Committee reviewed reports from the BOE, including exam content and skill specifications that will be part of the CBT-e launch in January 2011. The Education Advisory Committee (EAC) meeting was held on Oct. 23, 2009. Items the EAC brought to the Committee's attention were reviewed including revising the PAA 60/90 day provision, levels of accreditation language added to the Rules, and removing the 25% letter option to meet business ethics subject area requirement.
- B. **Approval of CPA Exam Scores.** Motion out of Committee to recommend Board approval of the July – August 2009 CPA Exam Scores. On a roll call vote, Members Skiles, Wassinger, Fuhrman, King Wu, Rieker, Obrist, and Titus voted aye. Member Zacharia was absent. Motion #4 carried.
- C. **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 and was updated on the use of the "inactive registrant" disclaimer in Nebraska in connection with the practice privilege as suggested in Rules revision for Chapter 7.003. The Committee reviewed and approved an issue statement regarding a firm structure approval request. The Committee reviewed the listing of permit non-renewals since 2006 for revocation. December 4, 2009 was set as the date for review of the 2010 renewal applications, review mobility flow chart(s), inactive registrant revocations, and other agenda items.
- B. **Motion out of Committee to Recommend Board Notice of Complaint and Hearing for 2006 Non-renewed Permit Holders per PAA 1-137 (9)(a).** The Board was provided with a list of 9 people for revocation. On a roll call vote, Members Skiles, Wassinger, Fuhrman, King Wu, Rieker, Obrist, and Titus voted aye. Member Zacharia was absent. Motion #7 carried.
- C. **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 September 17 and November 11, 2009. On a roll call vote, Members Skiles, Wassinger, Fuhrman, King Wu, Rieker, Obrist, and Titus voted aye. Member Zacharia was absent. Motion #8 carried.
- D. **Reinstatements to Active Permit, Inactive Retired Affidavits, Surrendered Certificates.** Motion out of Committee to approve the reinstatements, inactive -

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retired affidavits, and surrendered certificates received between September 17, and November 11, 2009:

Surrendered: John Boudreau Bellevue NE

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

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

Moved by King Wu, seconded by Titus to recess the meeting at 9:00 pm, Thursday, November 12, 2009. On a roll call vote, Members Skiles, Wassinger, Fuhrman, King Wu, Rieker, Obrist, and Titus voted aye. Member Zacharia was absent. Motion #10 carried.

Friday, November 13, 2009

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, November 13, 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, and Jim Rieker. Member Richard Zacharia was absent. 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. 8th 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.

5. Report of Enforcement of Professional Conduct Committee

5B. Public Hearing for Complaint Case # 06-05 Robert Raymond. The public hearing for Robert Raymond resumed at 8:30 am, Friday, November 13, 2009. Mr. Raymond was present and represented by Attorney Edward Tricker. Board attorney Robert Gruit was present and represented the Board. The hearing concluded at 9:30 am.

Larry Peterson was also present.

Closed Session

Closed Session. Moved by King Wu, seconded by Wassinger, that the Board go into closed session at 9:47 a.m., on Friday, November 13, 2009 for the purpose of updating the Board about current open enforcement cases, to discuss disciplinary matters, and deliberation on Enforcement Case #06-05. On a roll call vote, Members Skiles, Wassinger, Fuhrman, King Wu, Rieker, Obrist, and Titus voted aye. Member Zacharia was absent. Motion #11 carried. Chair Skiles restated that the purpose for the closed session was to update the Board about

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current open enforcement cases, to discuss disciplinary matters, and deliberation on Enforcement Case #06-05.

Return to Open Session. Moved by Titus, seconded by King Wu, that the Board return to open session at 11:03 a.m., on Friday, November 13, 2009. On a roll call vote, Members Skiles, Wassinger, Fuhrman, King Wu, Rieker, Obrist, and Titus voted aye. Member Zacharia was absent. Motion #12 carried.

5. Report of Enforcement of Professional Conduct Committee

- B. Public Hearing for Complaint Case # 06-05 Robert Raymond.** Following the hearing for Robert Raymond, moved by Titus, seconded by King Wu, to find Robert Raymond violated PAA 1-137 (4) and Title 288 Rules Chapter 5 007.01 Acts Discreditable, and ordered Raymond's Board issued certificate and permit to be revoked, and to dismiss the alleged matter of inappropriate billings in the amended complaint. 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 as the board found on the underlying facts:
1. Continued, repeated, willful failure and lack of action as CEO in payment of employment taxes which he knew were not being paid, as demonstrated by approving other trade payables for payment; failure to call a board or shareholders' meeting to address the issue; and failure to remove himself from the situation which he knew to be against federal law while receiving payments for his services;
 2. Failure to abide by professional standards including use of proper disclosures in preparing reviews and lack of independence in fact and appearance in preparing compilations;
 3. Substantial breach of fiduciary duties to the Evans family pursuant to the jury verdict in the Dawson County Nebraska District Court case, a matter not ruled upon in the Oklahoma case, particularly noting the jury instructions regarding the effect of a finding on any of his defenses.

The Board Attorney shall submit to the Board Chair and the Hearing Officer a draft of the Order for review and revision if necessary by the Board to ensure consistency with the Board's motion and intent for consideration at the Board's January 6-7, 2010 Board meeting. On a roll call vote, Members Skiles, Wassinger, Fuhrman, King Wu, Rieker, Obrist, and Titus voted aye. Member Zacharia was absent. Motion #13 carried.

2. Public Comment Period

Nebraska Society of CPAs President Dan Vodvarka addressed the Board and discussed his attendance at the recent Appropriations Committee meeting with ED Sweetwood. Society leadership had recently met with Governor Heineman to discuss issues affecting the profession and that CPAs were being considered for appointment to several committees by the Governor. He also indicated leadership had reviewed the

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Board's proposed changes to the Title 288 rules and were in general agreement with the proposed changes.

Ken Brauer, representing the Nebraska Society of Independent Accountants Association, reported that an Omaha accountant, Mr. Eric Hansen, is the NAIA District Governor for the organization and received the outstanding District Director award. Hansen met ED Sweetwood at the recent NASBA Board of Directors meeting in Phoenix, Arizona. Brauer also reported his leadership had reviewed the Board's proposed changes to Title 288 rules and were in general agreement with the proposed changes.

8. Report of the Legislative Committee

- A. **Report on Legislation.** The Board reviewed proposed Rules changes and discussed areas of question. Dan Vodvarka, Nebraska Society of CPAs was present along with Ken Brauer, Nebraska Independent Accountants. The Legislative Committee was thanked for their hard work. Moved by Titus, seconded by Rieker, to approve the proposed Rule changes for public hearing on Jan. 6, 2010. On a roll call vote, Members Skiles, Wassinger, Fuhrman, Rieker, Obrist, and Titus voted aye. Members King Wu and Zacharia were absent. Motion #14 carried. Suggestion was made to publicize the proposed changes on the Board's website and through the Society's newsletter.

9. Report of Quality Enhancement Program (QEP) Committee

- A. **Report of the Committee.** Committee Chair Fuhrman reported that there was no report.
- B. **Report on To Do List.** There was no report at this time.

Closed Session

Closed Session. Moved by Obrist, seconded by Fuhrman, that the Board go into closed session at 12:55 p.m., on Friday November 13, 2009 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, Rieker, Obrist, and Titus voted aye. Members King Wu and Zacharia were absent. Motion #15 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 Obrist, seconded by Titus, that the Board return to open session at 1:23 p.m., on Friday, November 13, 2009. On a roll call vote, Members Skiles, Wassinger, Fuhrman, Rieker, Obrist, and Titus voted aye. Members King Wu and Zacharia were absent. Motion #16 carried.

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5. Report of Enforcement of Professional Conduct Committee

- A. **Open Case/LMCO Update.** In the absence of Committee Chair Zacharia, ED Sweetwood reviewed the open cases.
- B. **Public Hearing for Complaint Case # 06-05 Robert Raymond.** See Agenda item 5B on Friday November 13, 2009.
- C. **Recommended Closure of Enforcement Cases:**
 - #09-02- Complaint involved lack of communication by CPA and failing to provide records. The Committee provided feedback to the complainant and CPA. After review the Committee determined that a formal hearing was not necessary.
 - #09-04- Complaint involved a records and fee dispute. The Committee provided feedback to the complainant and CPA. After review the Committee determined that a formal hearing was not necessary.
 - #09-05- Complainant was requested to provide further information and did not.
 - #09-06- Due to time frame of over 15 years ago and efforts to contact the retired CPA were unsuccessful, the Committee recommended the matter be closed.
 - #09-09- Complaint indicated the CPA did not respond to requests for tax information. CPA provided information in the Committee response that assisted in rectifying the matter.
 - #09-10- Complaint indicates the CPA did not respond to requests for personal and business tax information. CPA provided explanation in Committee response that assisted in rectifying the matter. The tax information was provided.Moved by Obrist, seconded by Fuhrman, to close cases #09-02, #09-04, #09-05, #09-06, #09-09, and #09-10. On a roll call vote, Members Skiles, Wassinger, Fuhrman, Rieker, Obrist, and Titus voted aye. Members King Wu and Zacharia were absent. Motion #17 carried.
- D. **Report on To Do List.** There was no report at this time.

11. Report of Executive Director

- A. **Report from NASBA's Annual Meeting** ED Sweetwood reported that based on comments made in the Central Region Meetings regarding letters sent by NASBA leadership on a position and how the annual meeting is conducted, it was recommended that leadership explain and clarify how NASBA makes decisions at a future meeting.
- B. **Budget Update.** ED Sweetwood reported that Governor Heineman's proposed special session budget would remove \$67, 698 from the Board's Cash Fund to the General fund in FY2010. Additionally budget cuts in appropriations and savings of 2.5% (\$10, 612) this year and 5% (\$21,690) in FY2011 would be transferred to the General Fund from the Board's Cash Fund over the two year budget biennium for a total of \$100,000. Another budget cut in re-appropriation of \$16, 206 for FY2010 was also recommended. ED Sweetwood reported that these cuts will cause the FY2010 appropriation to decrease by \$26, 818 and will stress the current year budget noting the anticipated current enforcement case costs. With the anticipated \$100,000 transfer of funds, the Board's three-year plan on reducing the Cash Fund will change and fee

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increases will need to be considered sooner than anticipated. Sweetwood recommended that Member Fuhrman assist in projecting and forecasting Board expenses over the biennium.

C. Staffing & General Office Issues. There was no report at this time.

D. 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.** See agenda item 4B.

2.) **NASBA FYI's.** Articles from NASBA were provided to the Board.

B. Other Miscellaneous Items. Various articles were noted related to the CPA profession as provided by staff.

13. Adjournment

Moved by Titus, seconded by Obrist, to adjourn the meeting at 1:45 pm on Friday, November 13, 2009. On a roll call vote, Members Skiles, Wassinger, Fuhrman, Rieker, Obrist, and Titus voted aye. Members King Wu and Zacharia were absent. Motion #18 carried.

Respectfully submitted by,

Anne K. Fuhrman

Board Secretary