

NEBRASKA BOARD OF PUBLIC ACCOUNTANCY

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

Minutes

January 22, 2010

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

Friday, January 22, 2010

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 Friday, January 22, 2010 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. He also noted the previously scheduled January 6, 2010 meeting was postponed due to adverse weather conditions. Dan Vodvarka, President, Nebraska Society, was also present.
- B. Approval of Meeting Agenda for January 22, 2010.** Moved by Obrist, seconded by King Wu to approve the agenda for the January 22, 2010 meeting. On a roll call vote, Members Skiles, Wassinger, Fuhrman, King Wu, Rieker, Obrist, and Titus voted aye. Member Zacharia was absent. Motion #1 carried.
- C. Approval of Minutes from November 12-13, 2009.** Moved by King Wu, seconded by Wassinger, to approve the Board minutes from the November 12-13, 2009 meeting. On a roll call vote, Members Skiles, Wassinger, Fuhrman, King Wu, Rieker, Obrist, and Titus voted aye. Member Zacharia was absent. Motion #2 carried.

2. Public Comment Period (15 minute period)

Dan Vodvarka, President, Nebraska Society, reported that the Society Board had approved the proposed Rule changes and that he will be present to testify at the Rules Hearing set for March 18, 2010. He thanked the Board staff for working with the Society staff on CPA courses to be offered for 2010. He reported that fewer bills have been introduced in this Legislative session, mentioning two that deal with LLC's and may affect CPA firms. He also indicated the Society would be concerned if any further distributions from the State Board Cash Fund were proposed in the future to be transferred to the State General Fund.

The Board also acknowledged Mr. Vodvarka for his 20 years of service to the Nebraska Society and the CPA profession in Nebraska.

Agenda Item 5 B, 9:00 am: Public Hearing for Revocation of Certificates of Active Permits Not Renewed for Three Years per Public Accountancy Act 1-137.

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Hearing Officer Jim Titus opened the hearings at 9:00 am., Friday, January 22, 2010.

Arnold Reeves: Evidence was entered and accepted into the record. Moved by Obrist, seconded by Fuhrman, to return his certificate to good standing contingent upon filing of inactive registration and payment of fees. On a roll call vote, Members Skiles, Wassinger, Fuhrman, King Wu, Rieker, Obrist, and Titus voted aye. Member Zacharia was absent. Motion #3 carried.

George Sitz: Evidence was entered and accepted into the record. Moved by Obrist, seconded by Rieker, to return his certificate to good standing contingent upon filing of inactive registration and payment of fees. On a roll call vote, Members Skiles, Wassinger, Fuhrman, King Wu, Rieker, Obrist, and Titus voted aye. Member Zacharia was absent. Motion #4 carried.

Mark Chronister: Evidence was entered and accepted into the record. Moved by Obrist, seconded by King Wu, to accept his affidavit of certificate surrender. On a roll call vote, Members Skiles, Wassinger, Fuhrman, King Wu, Rieker, Obrist, and Titus voted aye. Member Zacharia was absent. Motion #5 carried.

Thomas Hoeflerlin: Evidence was entered and accepted into the record. Moved by Titus, seconded by King Wu, to accept his affidavit of certificate surrender. On a roll call vote, Members Skiles, Wassinger, Fuhrman, King Wu, Rieker, Obrist, and Titus voted aye. Member Zacharia was absent. Motion #6 carried.

Kimberly Larson: Evidence was entered and accepted into the record. Moved by King Wu, seconded by Wassinger, to accept her affidavit of certificate surrender. On a roll call vote, Members Skiles, Wassinger, Fuhrman, King Wu, Rieker, Obrist, and Titus voted aye. Member Zacharia was absent. Motion #7 carried.

Sharon Vencil: Evidence was entered and accepted into the record. Moved by Obrist, seconded by King Wu, to revoke her certificate. On a roll call vote, Members Skiles, Wassinger, Fuhrman, King Wu, Rieker, Obrist, and Titus voted aye. Member Zacharia was absent. Motion #8 carried.

Allan Hemmer: Evidence was entered and accepted into the record. Moved by Obrist, seconded by King Wu, to revoke his certificate. On a roll call vote, Members Skiles, Wassinger, Fuhrman, King Wu, Rieker, Obrist, and Titus voted aye. Member Zacharia was absent. Motion #9 carried.

James Eddie: Evidence was entered and accepted into the record. Moved by King Wu, seconded by Wassinger, to revoke his certificate. On a roll call vote, Members Skiles, Wassinger, Fuhrman, King Wu, Rieker, Obrist, and Titus voted aye. Member Zacharia was absent. Motion #10 carried.

The public hearing concluded at 9:15 am, Friday, January 22, 2010.

3. Consent Agenda

- A. **Published Notice of Meeting.** Moved by King Wu, seconded by Wassinger, to approve the consent agenda. On a roll call vote, Members Skiles, Wassinger, Fuhrman,

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King Wu, Rieker, Obrist, and Titus voted aye. Member Zacharia was absent. Motion #11 carried.

- B. Approval of Disbursements.** The disbursements for August, September, and October 2009 were presented. Member Fuhrman reviewed the disbursements and noted items of interest.
- C. Review of Board Budget Status Report.** The Budget Status Report was provided and ED Sweetwood gave an update. He indicated due to the recent major enforcement action taken by the Board, which included substantial legal and expert related costs, the FY 2010 budget will be close to the current appropriation after the 2.5% reduction required by LB1. Board Secretary Fuhrman has agreed to assist staff in monitoring FY2010 budget status reports for the remainder of the year.
- 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. He thanked Board members for cooperation in rescheduling due to weather conditions.
- B. Executive Committee Report.** The Executive Committee met at 7:30 prior to the Board meeting. They discussed the fee schedule, ED's and staff evaluations, handling of future Board travel due to budget constraints, and ED Sweetwood serving as Chair of NASBA's ED Committee.
- C. Approval of Board Fees for 2010.** The Executive Committee recommended Board fees not be increased at this time due to the current economy and the recent transfers of \$100,000 from the Board's cash fund to the Nebraska General Fund as required by last year's special legislative session. Moved by Obrist, seconded by King Wu, to accept the Executive Committee recommendation of no fee increase on the 2010 fee schedule. On a roll call vote, Members Skiles, Wassinger, Fuhrman, King Wu, Rieker, and Obrist voted aye. Member Titus voted nay. Member Zacharia was absent. Motion #12 carried.
- D. Approval to Attend NASBA ED and Legal Counsel Conference, March 21-24, 2010, Nashville, TN.** Due to ED Sweetwood serving as the NASBA Chair for the Executive Directors Committee and host for the ED conference, he requested staff Ebert and Lowe attend the conference to help with administration of the conference. NASBA will cover travel expenses for staff. Staff will pay registration fees. Moved by King Wu, seconded by Obrist, to allow staff to travel to the ED conference in Nashville, March 21-24 with the Board covering conference registration fees. On a roll call vote, Members Skiles, Wassinger, Fuhrman, King Wu, Rieker, Obrist, and Titus voted aye. Member Zacharia was absent. Motion #13 carried.
- E. Review Board Calendar.** There were no changes to the Board calendar.
- F. Report on To Do List.** There was no report this time.

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Closed Session

Closed Session. Moved by King Wu, seconded by Fuhrman, that the Board go into closed session at 10:25 a.m., on Friday, January 22, 2010 for the purpose of updating the Board about current open enforcement cases, and to discuss disciplinary matters including review of the proposed Findings of Fact, Conclusions of Law, and the Decision and Order in NBPA vs. Robert Raymond. On a roll call vote, Members Skiles, Wassinger, Fuhrman, King Wu, Rieker, Obrist, and Titus voted aye. Member Zacharia was absent. Motion #14 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 including review of the proposed Findings of Fact, Conclusions of Law, and the Decision and Order in NBPA vs. Robert Raymond.

Return to Open Session. Moved by Titus, seconded by King Wu, that the Board return to open session at 10:57 a.m., on Friday, January 22, 2010. On a roll call vote, Members Skiles, Wassinger, Fuhrman, King Wu, Rieker, Obrist, and Titus voted aye. Member Zacharia was absent. Motion #15 carried.

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. NBPA vs. Robert Raymond Decision and Order.** Moved by Titus, seconded by King Wu, to adopt the Decision and Order, and to revoke Raymond’s certificate and permit to practice based on the Findings of Fact and Conclusions of Law.

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.)
)
ROBERT C. RAYMOND, CPA)
)
Respondent.)

DECISION AND ORDER

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On November 12 and 13, 2009, a formal hearing was held on the Amended Complaint of the Nebraska State Board of Public Accountancy (Board) against Robert C. Raymond, Respondent. Robert T. Gruit appeared on behalf of the Board, Complainant. Raymond appeared personally and with his attorney, Ed Tricker. The Hearing Officer conducting the hearing was Jim R. Titus, Board Member.

All members participating in this decision and voting in favor of this Decision and Order are Chair Douglas Skiles, CPA, Jim Titus, Anne Fuhrman, CPA, Kate King Wu, CPA, Tom Obrist, CPA, Michael Wassinger, CPA, and Jim Rieker. Member Richard Zacharia, CPA, was not present.

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 Raymond 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 complaint against Raymond based on improperly submitted billings as alleged in paragraph V 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 that Raymond's Certificate and current Active Permit to Practice shall be revoked as of the date of this Order.

WHEREFORE, IT IS THEREFORE ORDERED, ADJUDGED AND DECREED:

1. Raymond's Certificate and current Active Permit to Practice shall be, and hereby are, revoked as of the date of this Decision and Order.
2. The complaint against Raymond based on improperly submitted billings as alleged in paragraph V of the Amended Complaint is dismissed.

IT IS SO ORDERED this ____ day of January, 2010.

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

BY: _____

Doug Skiles, Chairperson

On a roll call vote, Members Skiles, Wassinger, Fuhrman, King Wu, Rieker, Obrist, and Titus voted aye. Member Zacharia was absent. Motion #16 carried.

- C. Public Hearing for Revocation of Certificates of Active Permits Not Renewed for Three Years per PAA 1-137, 9:00 am.** See Public Comment period.
- D. Recommended Closure of Enforcement Cases:**
#09-01- Complaint involved a small business owner concerned with his CPAs work for his business and alleged bias to his former business partner. The Enforcement Committee reviewed the complaint and the CPAs response and provided feedback to

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the complainant and CPA. No further response from the complainant was offered. Moved by Fuhrman, seconded by Wassinger, to close case #09-01. On a roll call vote, Members Skiles, Wassinger, Fuhrman, King Wu, Rieker, Obrist, and Titus voted aye. Member Zacharia was absent. Motion #17 carried.

6. Report of Continuing Professional Education (CPE) Committee

- A. Report of the Committee.** In the absence of Committee Chair Zacharia, Member Obrist gave the report. The Committee reviewed a total of 130 courses from October 25, 2009 to January 21, 2010 with 130 approved and no courses denied. The Committee reviewed and approved the program sponsor application for AGA – Lincoln Chapter (#S10-01) and Sun America Life Insurance Co. (#S10-02). Five reinstatements were referred to the Licensing Committee for approval. The Committee determined 2.5% for the 2009 CPE Audit which increases substantially by adding in the automatic audit of extension requests. Staff CPE Coordinator Ebert addressed the Board regarding requests for CPE extensions, indicated many are repeat individuals, and that it is relatively easy to get approval for an extension without any regulations or guidelines. ED Sweetwood commented that after an extension is approved, many CPAs continue to be out of the regular time line to complete CPE and remain so with no incentive to comply. Extensions also require staff time to administer the request, monitor compliance with CPE, and trigger an automatic audit of all CPE. Several options for remediation were discussed and will be reviewed at the CPE Committee. The Committee determined the Firm Administrators workshop conducted by the Board did not cover technical skills, was not intended for CPE, and will not be allowed for CPE credit. Comments from the new enhanced online CPE reporting system have been very favorable.
- B. Ratification/Denial of Staff Program Qualification Evaluations.** Motion out of Committee to approve 130 courses reviewed from October 25, 2009 to January 21, 2010. On a roll call vote, Members Skiles, Wassinger, Fuhrman, King Wu, Rieker, Obrist, and Titus voted aye. Member Zacharia was absent. Motion #18 carried.
- C. Ratification of CPE Sponsor.** Motion out of Committee to approve AGA – Lincoln Chapter (#S10-01) and Sun America Life Insurance Co. (#S10-02) 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 #19 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. An exam issue involved a candidate being timed out of the exam before it started even though precautions about timing out were evident. Motion out of Committee to recommend the Board forgive the exam sitting session (unburn) but not the fees. On a roll call vote,

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Members Skiles, Wassinger, Fuhrman, King Wu, Rieker, Obrist, and Titus voted aye. Member Zacharia was absent. Motion #20 carried. Review of the Board's survey of successful candidates continues documenting that 72% of candidates are not viewing the exam tutorial. The Committee reviewed the changes to the exam that will be part of the CBT-e launch in January 2011. ED Sweetwood commented that he will be attending four Quality Business Review meetings this year conducted between NASBA, AICPA, and Prometric and will be in a position to discuss any examination issues for the Committee and Board.

- B. Approval of CPA Exam Scores.** Scores for the October – November 2009 exam window will be approved at the march Board meeting.
- C. Report on To Do List.** There was no report at this time.

8. Report of the Legislative Committee

- A. Report on Legislation.** Due to the weather related postponed January 6, 2010 meeting, the Rules hearing requiring a 30 day published notice had to be pushed back to the March 18, 2010 Board meeting.

9. Report of Quality Enhancement Program (QEP) Committee

- A. Report of the Committee.** Committee Chair Fuhrman reported that there was no report. Staff did participate in a conference call regarding access to peer review reports availability on the AICPA's web site.
- 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 whether personal bankruptcy should preclude a person from taking the CPA exam and recommended the Board conduct a discussion of the matter. The Board recommended that staff check the federal bankruptcy courts to determine if the matter included dishonesty, fraud, deceit, or misrepresentation as stated in Rules Chapter 6 002.02 (1). If there was no evidence of dishonesty, fraud, deceit, the individual could take the CPA exam. If possible evidence is presented, staff will provided the information to the Committee for further recommendations. The Board discussed complaints that by-pass the Board and are handled by membership organizations without public sanctions. Member Titus serves on a NASBA task force charged to review what happens to AICPA enforcement cases. Staff is working on the 2010 renewal applications, creating a mobility flow chart(s), inactive registrant revocations, and other agenda items.
- 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 November 12, 2009 and January 21, 2010. On a roll call vote,

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Members Skiles, Wassinger, Fuhrman, King Wu, Rieker, Obrist, and Titus voted aye. Member Zacharia was absent. Motion #21 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 November 12, 2009 and January 21, 2010.

Reinstatements:	Rosemarie Helbling	San Antonio, TX
	Sherry Moorhous	Culbertson NE
	Bruce Vitosh	Odell NE
	Murray Schmoker	Omaha NE
	Linda Stacy	Lincoln NE
Inactive - Retired affidavits:	Elliott Sagehorn	Ogallala NE
	Jack Potts	Kearney NE
Surrendered Certificates:	Joseph Bagel	Chicago IL

On a roll call vote, Members Skiles, Wassinger, Fuhrman, King Wu, Rieker, Obrist, and Titus voted aye. Member Zacharia was absent. Motion # 22 carried.

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

11. Report of Executive Director

- A. ED represent NASBA ED Committee at NASBA Quarterly Board meeting.** ED Sweetwood reported he will be attending several meetings as Chair of the NASBA ED Committee in 2010. Included will be four meetings for the Quarterly Business Review (QBR) for the Uniform CPA Examination at Prometric HQ in Baltimore. He will also be attending the NASBA/AICPA Leadership Summit meeting next month representing state executive directors. He acknowledged staff members Lowe and Ebert for “holding down the fort” while attending these meetings.
- B. Budget Update.** Discussed under 3.C.
- C. Staffing & General Office Issues.** ED Sweetwood reported the Board has successfully transferred active permit information to the Accountancy Licensing Database (ALD) and will continue to include additional information after testing. The CPE Online reporting system has gone well after implementing updates for the 2009 reporting year. He acknowledged staff member Kelly Ebert and the Neb.gov team for the improvements. Also, the Board will begin the process of testing and sending email blasts to licensees to improve communication and cut down on postage costs when appropriate.
- 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 Vice Chair Nomination.** The Board discussed several strong candidates for NABSA Vice Chair. It was decided that the Board should

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support a candidate that has a good chance of success this year. Moved by Titus, seconded by Rieker, to endorse NASBA Board Director Mark Harris, Louisiana, for NASBA Vice Chair. On a roll call vote, Members Skiles, Wassinger, Fuhrman, King Wu, Rieker, Obrist, and Titus voted aye. Member Zacharia was absent Motion #23 carried.

- 2.) **NASBA Committee Reports.** Member Titus reported on the Enforcement Committee Handbook to help Boards with technical expertise, and that a regional expert is available to the Board. He is gathering information on how to access court reports for Boards. Chair Skiles reported that the Education Committee is looking at the 120 – 150 hour requirements for the CPA exam. ED Sweetwood reported he attended his first Board of Director meeting in Savannah, Georgia.

- 3.) **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 King Wu, to adjourn the meeting at 1:12 pm on Friday, January 22, 2010. On a roll call vote, Members Skiles, Wassinger, Fuhrman, King Wu, Rieker, Obrist, and Titus voted aye. Member Zacharia was absent. Motion #24 carried.

Respectfully submitted by,

Anne K. Fuhrman

Board Secretary