

Accountancy Board of Ohio  
Minutes of Board Meeting February 9, 2018

The Accountancy Board of Ohio (Board) met on February 9 in Room West B & C on the 31st floor of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio with the following members present: James Gottfried , CPA (Chair), James Gero, CPA (Immediate Past Chair), Michael Guinigundo, CPA (Vice-Chair), Margaret Gilmore, CPA (Secretary), Kenya Watts, CPA (Member), James Redmond, CPA (Member), Gerald Weinstein, CPA (Member), John Soucie, CPA (Member), and R. Scott Blake (Public Member).

Representing the Board staff was John E. Patterson, Executive Director, Tracey F. Fithen, Assistant Executive Director and Donna M. Oklok, Investigations Supervisor. Board counsel present was Rachel Huston, Esq., representing the office of the Attorney General.

Present in the audience was Laura Hay, Executive Vice President of the Ohio Society of Certified Public Accountants (OSCPA) and Leigh Bayer, with the office of the Attorney General.

Mr. Gottfried called the meeting to order at 10:01 a.m., and welcomed the guests in the audience. Mr. Gottfried opened the meeting with the Pledge of Allegiance.

**DISCIPLINARY HEARING: MICHAEL J. MARSHALL, CPA**

Mr. Gottfried opened a disciplinary hearing at 10:02 a.m. pursuant to Chapter 119 of the Revised Code. The Board charged Mr. Marshall with a violation of sections 4701.16(A)(5), concerning conviction of a felony under the laws of any state or of the United States; and 4701.16(A)(6), conviction of any crime, an element of which is dishonesty or fraud, under the laws of any state or of the United States. Mr. Marshall was in attendance and represented by counsel, Roger P. Sugarman, attorney.

Mr. Sugarman made an opening statement. Ms. Huston introduced State's exhibits A, 1 through 8 and B, 1 through 8 without objection. Mr. Sugarman entered Respondent's exhibits 1, 1 through 2; 2, 1 through 14; 3, 1 through 8; and 4, 1 through 4. Mr. Sugarman presented the case for Mr. Marshall. Mr. Marshall spoke and was questioned by the Board.

The Board admitted into evidence all exhibits. Mr. Gottfried concluded the hearing.

**FORMAL HEARING: DALE O. HUBER, CPA**

Mr. Gottfried opened a disciplinary hearing at 10:55 a.m. pursuant to Chapter 119 of the Revised Code. The Board charged Mr. Huber with a violation of section 4701.16(A)(9), concerning failure of a CPA certificate or a PA registration to obtain an Ohio permit or an Ohio registration, or the failure of a public accounting firm to obtain a firm registration; and 4701.16(A)(11), concerning the failure of a public accounting firm to comply with section 4701.04 of the Revised Code, specifically Board rule 4701-7-04 concerning practice of public accounting and regulated services. Mr. Huber was in attendance and was represented by counsel, Don Brey and Mike Jewett, attorneys.

Mr. Brey made an opening statement. Ms. Huston introduced State's exhibits A, 1 through 10; B, 1 through 3; C, 1 through 8, and D, 1, without objection. Attorney Brey presented the case for Mr. Huber. Mr. Huber then responded to questions from the Board.

The Board admitted into evidence all exhibits. Mr. Gottfried concluded the hearing.

### **REQUEST FOR WAIVER OF LATE FEES**

#### **TOPE CPA FIRM LLC**

Mr. Tope requested a waiver of the \$150 late fee due to non-renewal of his attest firm registration.

#### **KELLY M. SNYDER**

Ms. Snyder requested a waiver of the \$50 late fee due to non-renewal of her Ohio permit.

#### **WILLIAM HARTSTEIN**

Mr. Hartstein requested a waiver of the \$100 late fee due to non-renewal of his Ohio permit.

#### **TIMOTHY S. SOLT**

Mr. Solt requested a waiver of the \$100 late fee due to non-renewal of his Ohio permit.

#### **LYNN F. KLINE**

Ms. Klein requested a waiver of the \$50 late fee due to non-renewal of her Ohio registration.

#### **CUSICK ACCOUNTING SERVICES**

Mr. Cusick requested a waiver of the \$150 late fee due to non-renewal of his tax/consulting firm registration.

#### **MJ MILLER & CO CPAS LLC**

Mr. Miller requested a waiver of the \$360 late fee due to non-renewal of his attest firm registration.

#### **JASON W. BURTON, CPA**

Mr. Tope requested a waiver of the \$150 late fee due to non-renewal of his attest firm registration.

#### **DANIEL P. BIALEK**

Mr. Bialek requested a waiver of the \$100 late fee due to non-renewal of his Ohio permit.

#### **JOAN A. RIEKE**

Ms. Rieke requested a waiver of the \$50 late fee due to non-renewal of her Ohio permit.

ROBERT L. HESCH

Mr. Hesch requested a waiver of the \$100 late fee due to non-renewal of his Ohio permit.

### **QUASI-JUDICIAL DELIBERATIONS**

Upon Mr. Gottfried's direction, the Board went into quasi-judicial deliberations to discuss the formal hearings and requests for waivers of late fees. After discussion, the Board returned to general session.

### **BOARD DECISIONS**

#### **Dale O. Huber, CPA (Case #2017-58)**

Upon the motion by Board Secretary Ms. Gilmore, and seconded by Mr. Guinigundo, the Board voted to revoke the CPA certificate and Firm registration of Mr. Huber, but to stay the revocation subject to the completion of the following conditions by May 31, 2018:

- (1) A fine of \$1,500;
- (2) A late CPE penalty of \$10/credit for CPE earned in 2017 and 2018; and
- (3) Completion of three (3) credits of a Board approved professional standards and responsibilities course, specific to Ohio laws and rules.

Motion carried 9-0 on a roll call vote.

#### **Michael J. Marshall, CPA (Case #2017-79)**

Upon the motion by Board Secretary Ms. Gilmore, and seconded by Ms. Watts, the Board voted to revoke the CPA certificate and Firm registration of Mr. Marshall. He cannot apply for reinstatement until all court-ordered requirements have been met.

Motion carried 9-0 on a roll call vote.

### **LATE FEE WAIVER REQUESTS**

Upon the motion by Ms. Gilmore and seconded by Mr. Gero, the Board voted to grant the request for waiver of the late filing fee for Tope CPA Firm LLC; Kelly M. Snyder; and MJ Miller & Co. CPAs LLC.

Motion carried 9-0 on a roll call vote.

Upon the motion by Ms. Gilmore and seconded by Mr. Soucie, the Board voted to deny the requests for waiver of the late filing fee for William Hartstein; Timothy S. Solt; Lynn F. Kline; Cusick Accounting Services; Jason W. Burton, CPA; Daniel P. Bialek; Joan A. Rieke; and Robert L. Hesch.

Motion carried 9-0 on a roll call vote.

### **EXECUTIVE DIRECTOR'S REPORT**

Mr. John E. Patterson, Executive Director of the Board spoke about the upcoming eLicense update/training. He also spoke about the upcoming fee adjustment, which will increase operating funds and bring the Board into line with its own rules. Mr. Patterson said that because of the increase in demand on the education assistance fund, the Board will need to look at requirements for the fund in the next biennial budget. Mr. Patterson announced December's Past Chair dinner would again be held at the Columbus Athletic Club. A vote was taken at Mr. Patterson's request to submit a letter supporting Mike Fritz's nomination as Chair of NASBA. Ms. Gilmore moved to approve the letter, with Mr. Weinstein seconding the motion. Motion passed 9-0. On March 9, Mr. Patterson said he will speak to accounting students at Ohio State, and he will be in contact with University of Akron regarding the Board's September meeting. He also reported that monthly meetings are being held between office staff and their supervisor, which will continue on an ongoing basis. Staff have completed sexual harassment training, as well.

### **INFORMATION REPORTS AND UPDATES**

#### **Budget and Financial Report**

#### **Education Assistance Report**

#### **Rules Update – Requirements to Return to Practice**

Ms. Oklok reported that responses have been received in the Common Sense Initiative (CSI) office regarding the proposed return to practice rule changes. The Board's next step is to review the response, amend the business impact analysis (BIA) and offer time for stakeholders to respond. Ms. Oklok noted that CSI is an oversight entity; they ensure comments on rule revision are reviewed and responded to by the agency.

#### **Investigative Update**

#### **Approval of the December 4-5, 2017 Board Meeting Minutes**

Upon motion by Ms. Gilmore, seconded by Mr. Redmond, the Board voted to approve the minutes of the December 4-5, 2017 meeting. Motion carried 9-0.

**OLD BUSINESS**

**Status of Past Hearings**

Rachel Huston, Assistant Ohio Attorney General, reported that there has been one appeal filed in Franklin County Court of Common Pleas, regarding Richard Fidler.

**EXECUTIVE SESSION**

Mr. Gottfried moved for a roll call vote to go into Executive Session for the purpose of discussing pending litigation pursuant to Ohio Revised Code 121.22(G)(3). Roll call vote: Mr. Gero, yes; Mr. Weinstein, yes; Mr. Soucie, yes; Ms. Watts, yes; Ms. Gilmore, yes; Mr. Guinigundo, yes; Mr. Blake, yes; Mr. Redmond, yes; and Mr. Gottfried, yes.

Upon returning from executive session, Mr. Gottfried called the meeting back to order.

**NEW BUSINESS**

Mr. Patterson stated licensees will be notified of the fee adjustment in September.

**CHAIR'S REPORT**

Mr. Gottfried stated the NASBA regional meeting has been set for June 5-7. For those attending, there are new member meetings and scholarships available. Mr. Gottfried spoke about upcoming score delays from AICPA, and any requests to extend the testing window related to a delay in score release would be considered on a case by case basis, as was done for 2017. Ethics reports are due and ethics training is available for Board members, said Mr. Gottfried. Mr. Patterson requested a finalized evaluation for his personnel file.

**SUMMARY OF BOARD REQUESTS**

There were no Board requests.

Upon motion by Mr. Guinigundo and seconded by Ms. Gilmore, the Board voted 9-0 to adjourn.

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**JAMES D. GOTTFRIED, CHAIR**

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**MARGARET A. GILMORE, SECRETARY**