

**ACCOUNTANCY BOARD OF OHIO  
MINUTES OF JUNE 3, 2011 MEETING**

The Accountancy Board met on June 3, 2011 in Room East B 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: Greta Russell, CPA (Chair), Maggie Houston, CPA (Vice Chair), W. Michael Fritz, CPA (Secretary), Mark LaPlace (Immediate Past Chair), James Landaker, CPA (Past Chair), Robert Fay, CPA (Member), Michael Comer, CPA (Member), James Carroll, CPA-Inactive (Member), and Adriana Sfalcin (Public member).

Representing the Board staff were Ronald Rotaru, Executive Director, Robert Joseph, CPA, Assistant Director, and Jesse Dixon, Board Investigator. Board counsel present was John Patterson, Esq., representing the office of the Attorney General.

Present in the audience were Laura Hay, CPA, Chief Operating Officer of the Ohio Society of Certified Public Accountants (OSCPA), and Joseph Skoda, CPA, representing the Ohio Association of Independent Accountants.

Ms. Russell called the meeting to order at 10:00 a.m., and welcomed the guests in the audience.

**APPROVAL OF THE APRIL 2011 BOARD MEETING MINUTES**

Upon motion by Ms. Houston, seconded by Mr. Landaker, the Board voted to approve the minutes of the April 29, 2011 Board meeting. Motion carried 9-0.

**REPORT ON PROPOSED RULES**

Mr. Joseph noted that the rules approved by the Board for filing on April 29, 2011 were filed on May 5, 2011. He added that the public hearing concerning the rule changes would be held in the Board office on June 7, 2011. Assuming no adverse comments at the public hearing, the rules would then be considered by the Joint Committee on Agency Rule Review on June 20, 2011 at 1:30 p.m. in Room 121 of the Statehouse.

**INFORMATION REPORTS AND UPDATES**

***NASBA REPORT***

Mr. Rotaru said that the NASBA regional meetings would be held later in June 2011. He noted that Ms. Russell and Mr. Joseph would be attending the Western Regional Meeting in Omaha, Nebraska. He added that he would be attending the Eastern Regional Meeting in Point Clear, Alabama, and noted that four Board members planned to be in attendance at that meeting.

**BUDGET AND FINANCIAL REPORT**

Mr. Joseph presented the budget report and said the House of Representatives passed the fiscal year 2012-2013 budget bill with the same appropriation for the Accountancy Board as designated in the Governor's Executive Budget recommendation. The budget recommendation reduced the operating

funds appropriation for the Board by \$22,800 for fiscal year 2012 and \$23,500 for fiscal year 2013. He produced a chart of Board expenses for fiscal year 2011 ending June 30, 2011, and noted that since the cutoff for expenditures was June 6, 2011, the expenses as presented in the report would differ only slightly from the actual expenses for the fiscal year.

Mr. Rotaru remarked that both the budget hearings for the Accountancy Board in the House of Representatives and Senate were short and to the point, with only one question asked by members of the respective committees.

Mr. Joseph reported that the Board's request for additional appropriation for the education assistance program of \$50,000 was approved by the Controlling Board on May 23, 2011. He added that \$10,000 of this amount was earmarked for scholarship expenses for fiscal year 2011 and \$40,000 was encumbered for the Accounting Career Awareness Program (ACAP) for fiscal year 2012. This leaves a total of \$190,000 available in fiscal year 2012 for individual education assistance grants.

Mr. Joseph concluded by stating that the Board converted a part-time position to full time in fiscal year 2011. Due to various charges from the part-time service, the conversion did not cost much more than when the employee was part time. He added that, although the Board has vacancies in its staff roster, due to the budget those positions were not likely to be filled.

### **INVESTIGATIONS REPORT**

Mr. Joseph noted that, for both the firm registration and continuing education verification, the hearings on the last few licensees not in compliance would be held either at the current Board meeting or the next Board meeting.

Mr. Joseph said that the Board no longer sends reminder notices to CPAs who fail to renew their licenses due to a 1999 change in the accountancy law. He added that, although the late fee increases for these licensees every month, the Board does take action against licensees who have been found to be practicing public accounting without the proper license.

Mr. Rotaru said that the OSCP recently sent notices to licensees who failed to renew their licenses with the Board, and that it was likely that a large number of licensees would be on the July 2011 Board meeting agenda to request a waiver of the late fees.

Mr. Joseph said that the Board also has a "retired" status for those licensees who are retired and no longer wish to obtain a license. These licensees must use the designation "CPA-Retired."

### **EDUCATION ASSISTANCE PROGRAM REPORT**

Mr. Joseph said that the bulk of the education assistance report was part of the earlier budget report. He added that commitment applications continue to be submitted, and that the grants outstanding would not be paid until July 1, 2011.

Ms. Houston said that the program for minority students known as "Aspire" that is partly funded by the Board through ACAP was held at Cuyahoga Community College in May 2011 was a success.

Ms. Houston added that students need to be made aware that the Board's education assistance program only reimburses college tuition expenses up to reaching the course requirements for the CPA examination.

Mr. Fritz suggested that the education assistance committee could meet to consider this issue and others related to the education assistance program.

### **OLD BUSINESS**

There was no old business to discuss.

### **NEW BUSINESS**

#### ***ETHICS REQUIREMENT FOR BOARD MEMBERS AND STAFF***

Mr. Rotaru said that Governor Kasich has extended the mandatory yearly ethics requirement to all state employees. The Governor in his executive order said that agencies may use the DVD provided by the Ohio Ethics Commission to fulfill the requirement.

#### ***OSCPA BOOKLET ON BECOMING A CPA***

Mr. Fay noted that the OSCPAs has published a new version of the booklet "Becoming a CPA in Ohio," and said that it was an excellent document.

#### ***CANDIDATES SITTING IN OTHER STATES***

Ms. Houston noted that several students at Wright State University have informed her that they plan to sit in Kentucky and forego the master's degree program, since Kentucky permits candidates to sit for the CPA examination with 120 college semester credits.

#### **FORMAL HEARING: JAMES W. SCHMIDT**

Ms. Russell opened a disciplinary hearing at 10:47 a.m. pursuant to Chapter 119 of the Revised Code. James W. Schmidt was charged with a violation of section 4701.16(A)(6) of the Ohio Revised Code, pertaining to Mr. Schmidt's conviction in the Court of Common Pleas of Greene County, Ohio of unlawful interest in a public contract, soliciting or receiving improper compensation, ethics conflict of interest, and unauthorized use of public property. All the crimes for which Mr. Schmidt was convicted were misdemeanors. Mr. Schmidt requested a hearing in a timely manner and he was present at the hearing. Mr. Schmidt was represented at the hearing by Mr. S. Michael Miller, Esq.

Mr. Patterson said that counsel for Mr. Schmidt presented a document for Board consideration that was marked Respondent's Exhibit 1. He presented documents marked State's Exhibit A for Board consideration. Mr. Miller did not object, and Ms. Russell accepted both exhibits.

Copies of Respondent's Exhibit 1 were then passed out to the Board members.

Mr. Patterson called Mr. Schmidt as a witness, and asked that he be sworn in. Mr. Schmidt took the oath. Mr. Patterson reviewed documents in State's Exhibit A with Mr. Schmidt. Mr. Schmidt replied in the affirmative that he paid the \$10,000 fine assessed by Greene County, paid the \$12,500 restitution to the Ohio Ethics Commission, and completed 200 hours of community service. Mr. Schmidt said that his community control period of three years was unsupervised.

In response to questions from Mr. Miller, Mr. Schmidt reviewed his biographical information and the events leading up to the conviction.

Mr. Schmidt then reviewed the items in Respondent's Exhibit 1. He noted that he also was an attorney, and that he served as Greene County Treasurer for almost seven four-year terms.

In response to questions from Board members, Mr. Schmidt reviewed the circumstances leading up to his convictions and indicated the type of professional work he was doing. He noted that he only signed two tax returns as a CPA.

Mr. Patterson said that the Board has jurisdiction to act in this matter.

Mr. Miller concluded by summarizing the issues related to the case and requested that the Board render a decision favorable to Mr. Schmidt.

Ms. Russell concluded the hearing.

### **FORMAL HEARING: PATRICK J. HAYNES**

Ms. Russell opened a disciplinary hearing at 11:24 a.m. pursuant to Chapter 119 of the Revised Code. Patrick J. Haynes was charged with a violation of sections 4701.16(A)(3), 4701.16(A)(9), and 4701.16(A)(11) of the Ohio Revised Code, pertaining to unlawful practice, failure to obtain an Ohio permit, and failure to comply with the firm registration requirements. Mr. Haynes requested a hearing in a timely manner and he was present at the hearing.

Mr. Patterson and Mr. Haynes waived opening statements.

Mr. Patterson called Mr. Haynes as a witness, and asked that he be sworn in. Mr. Haynes took the oath. Mr. Patterson reviewed documents in State's Exhibit A with Mr. Haynes. Mr. Haynes said that, in response to a Board cease and desist notice in October 2010, he removed references to the CPA designation from his business premises after requesting an extension of time to do so. He added that he did not have control over his various listings in telephone books.

In response to questions from Board members, Mr. Haynes said the term "cpa" is still part of his website address. Mr. Haynes remarked that his son maintains his website and that he could not change the website address name. He added that his website is only maintained occasionally. He concluded by stating that it was his plan to continue doing tax returns as a non-CPA since maintaining the CPA license was too expensive.

Mr. Patterson called Mr. Dixon as a witness, and asked that he be sworn in. Mr. Dixon took the oath. In response to questions, Mr. Dixon indicated that, as of the date of the hearing, Mr. Haynes had

not altered his website address and he has a radio advertisement on his website that indicates Mr. Haynes is a CPA.

Mr. Patterson moved for the acceptance of State's Exhibit A. Mr. Haynes did not object, and Ms. Russell accepted the exhibit. Mr. Patterson said that the Board has jurisdiction to act in this matter.

Ms. Russell concluded the hearing.

### **REINSTATEMENT HEARING: MELISSA SCHMIDT**

Ms. Russell opened a reinstatement hearing at 11:53 a.m. Present at the hearing was Melissa Schmidt, whose CPA certificate and firm registration were revoked by the Board on August 8, 2008 pursuant to Ohio Revised Code section 4701.06(A)(11) then in effect, pertaining to the failure of Ms. Schmidt's public accounting firm, Schmidt & Associates, to comply with the firm registration requirements specified in section 4701.04 of the Revised Code.

Mr. Patterson noted that the only duty of the Board at a reinstatement hearing was to listen to Ms. Schmidt's request for reinstatement. Mr. Patterson added that the Board has three options:

- Take no action, leaving Ms. Schmidt's CPA certificate in revoked status;
- Reinstatement Ms. Schmidt's CPA certificate, or
- Reinstatement Ms. Schmidt's CPA certificate subject to the fulfillment of certain conditions.

Ms. Schmidt requested that the Board consider reinstatement of her CPA certificate since her firm is back in good standing and the other owner of the firm is in good standing.

The Board then asked questions of Ms. Schmidt.

Ms. Russell closed the hearing.

### **FORMAL HEARING: HENRY LOUIS CREEL**

Ms. Russell opened a disciplinary hearing at 12:01 p.m. pursuant to Chapter 119 of the Revised Code. Henry Louis Creel was charged with a violation of section 4701.16(A)(11) of the Ohio Revised Code, pertaining to failure of Mr. Creel's public accounting firm to comply with the firm registration requirements. Mr. Creel requested a hearing in a timely manner and he was present at the hearing.

Mr. Patterson and Mr. Creel waived opening statements.

Mr. Patterson called Mr. Creel as a witness, and asked that he be sworn in. Mr. Creel took the oath. Mr. Patterson reviewed documents in State's Exhibit A with Mr. Creel. Mr. Creel said that he has not yet received a final acceptance letter for his peer review.

In response to questions from Board members, Mr. Creel said that he believed all requirements for his peer review were complete.

Mr. Patterson called Ms. Hay as a witness, and asked that she be sworn in. Ms. Hay took the

oath. In response to questions, Ms. Hay indicated that the OSCP had not yet received sufficient information from the peer reviewer.

Mr. Patterson moved for the acceptance of State's Exhibit A. Mr. Creel did not object, and Ms. Russell accepted the exhibit. Mr. Patterson said that the Board has jurisdiction to act in this matter.

Ms. Russell concluded the hearing.

#### **FORMAL HEARING: BRYAN M. MOON**

Ms. Russell opened a disciplinary hearing at 12:22 p.m. pursuant to Chapter 119 of the Revised Code. Bryan M. Moon was charged with a violation of section 4701.16(A)(11) of the Ohio Revised Code, pertaining to failure of Mr. Moon's public accounting firm to comply with the firm registration requirements. Mr. Moon requested a hearing in a timely manner but he was not present at the hearing.

Mr. Patterson waived his opening statement, called Mr. Rotaru as a witness, and asked that he be sworn in. Mr. Rotaru took the oath. Mr. Patterson reviewed documents in State's Exhibit A with Mr. Rotaru. Mr. Rotaru indicated that Mr. Moon's firm registration expired in 2010.

Mr. Patterson called Mr. Dixon as a witness, and asked that he be sworn in. Mr. Dixon took the oath. In response to questions, Mr. Dixon indicated that the notice for the hearing was personally served at his business address.

Mr. Patterson moved for the acceptance of State's Exhibit A, and Ms. Russell accepted the exhibit. Mr. Patterson said that the Board has jurisdiction to act in this matter.

Ms. Russell concluded the hearing.

#### **FORMAL HEARING: TAX WARRIORS/CHARLES ZAGARA**

Ms. Russell opened a disciplinary hearing at 12:27 p.m. pursuant to Chapter 119 of the Revised Code. Charles Zagara was charged with a violation of section 4701.16(A)(11) of the Ohio Revised Code, pertaining to failure of Mr. Zagara's public accounting firm, Tax Warriors, to comply with the firm registration requirements. Mr. Zagara did not request a hearing in a timely manner but he was present at the hearing.

Mr. Patterson waived his opening statement, called Mr. Zagara as a witness, and asked that he be sworn in. Mr. Zagara took the oath. Mr. Patterson reviewed documents in State's Exhibit A with Mr. Zagara. After discussion with Mr. Zagara, Mr. Patterson recommended that the hearing be continued until the next Board meeting. Ms. Russell agreed and closed the proceeding.

#### **FORMAL HEARING: GALL & ASSOCIATES, INC./STEVEN W. GALL**

Ms. Russell opened a disciplinary hearing at 12:36 p.m. pursuant to Chapter 119 of the Revised Code. Steven W. Gall was charged with a violation of section 4701.16(A)(11) of the Ohio Revised Code, pertaining to failure of Mr. Gall's public accounting firm, Gall & Associates, Inc., to comply with the firm registration requirements. Mr. Gall did not request a hearing in a timely manner but he was

present at the hearing.

Mr. Patterson waived his opening statement, called Mr. Gall as a witness, and asked that he be sworn in. Mr. Gall took the oath. Mr. Patterson reviewed documents in State's Exhibit A with Mr. Gall. Mr. Gall indicated that, although he neglected to alter the sign on his business premises, he had completed his peer review.

In response to questions from Board members, Mr. Gall said that he would complete all his requirements within 30 days, including continuing education required for the renewal of his Ohio permit.

Mr. Patterson moved for the acceptance of State's Exhibit A, and Mr. Gall did not object. Ms. Russell accepted the exhibit. Mr. Patterson said that the Board has jurisdiction to act in this matter.

Ms. Russell concluded the hearing.

#### **FORMAL HEARING: MICHAEL S. FAIR**

Ms. Russell noted that the hearing for Michael S. Fair was continued until the July 8, 2011 Board meeting.

#### **FORMAL HEARING: ROBERT J. HUSTON**

Ms. Russell opened a disciplinary hearing at 12:50 p.m. pursuant to Chapter 119 of the Revised Code. Robert J. Huston was charged with a violation of sections 4701.16(A)(4) and 4701.16(A)(1) of the Ohio Revised Code, pertaining to failure to complete the continuing education verification requirements and fraud or deceit in obtaining an Ohio permit. Mr. Huston did not request a hearing in a timely manner and he was not present at the hearing.

Mr. Patterson waived his opening statement, called Mr. Rotaru as a witness, and asked that he be sworn in. Mr. Rotaru took the oath. Mr. Patterson reviewed documents in State's Exhibit A with Mr. Rotaru. Mr. Rotaru indicated that Mr. Huston did not complete the continuing education verification requirement.

Mr. Patterson moved for the acceptance of State's Exhibit A, and Ms. Russell accepted the exhibit. Mr. Patterson said that the Board has jurisdiction to act in this matter.

Ms. Russell concluded the hearing.

#### **FORMAL HEARING: TERRY LYNN JOHNSON**

Ms. Russell noted that the hearing for Terry Lynn Johnson was cancelled as he came into compliance with the continuing education verification requirements.

#### **FORMAL HEARING: JOSEPH J. MERRELLI, JR.**

Ms. Russell opened a disciplinary hearing at 12:54 p.m. pursuant to Chapter 119 of the Revised

Code. Joseph J. Merrelli, Jr., was charged with a violation of sections 4701.16(A)(4) and 4701.16(A)(1) of the Ohio Revised Code, pertaining to failure to complete the continuing education verification requirements and fraud or deceit in obtaining an Ohio permit. Mr. Merrelli did not request a hearing in a timely manner and he was not present at the hearing.

Mr. Patterson waived his opening statement, called Mr. Rotaru as a witness, and asked that he be sworn in. Mr. Rotaru took the oath. Mr. Patterson reviewed documents in State's Exhibit A with Mr. Rotaru. Mr. Rotaru indicated that Mr. Merrelli did not complete the continuing education verification requirement.

Mr. Patterson moved for the acceptance of State's Exhibit A, and Ms. Russell accepted the exhibit. Mr. Patterson said that the Board has jurisdiction to act in this matter.

Ms. Russell concluded the hearing.

### **FORMAL HEARING: CARLA A. REUSSER**

Ms. Russell noted that the hearing for Carl A. Reusser was cancelled as he came into compliance with the continuing education verification requirements.

### **REQUESTS FOR WAIVER OF LATE FILING FEES**

#### ***DEBORAH LIGGETT, INC.***

Ms. Liggett requested a waiver of the \$300 late fee applicable to the late renewal of her firm registration because she did not recall receiving a renewal notice.

#### ***DONALD DIETERLY***

Mr. Dieterly requested a waiver of the \$500 late fee applicable to the late renewal of his Ohio permit due to various employment issues.

#### ***KPM TAX & ACCOUNTING***

Ms. Dana J. Cavender requested a waiver of the \$300 late fee applicable to the late renewal of her firm registration due to various health problems.

#### ***SCOTT BORNEMANN***

Mr. Bornemann requested a waiver of the \$1,250 late fee applicable to the late renewal of his Ohio permit because he inadvertently failed to renew on time.

### **EXECUTIVE SESSION**

Upon motion by Mr. LaPlace, seconded by Mr. Landaker, the Board voted to recess into executive session to discuss the requests for waiver of late fees and confidential investigative cases with Mr. Patterson. Motion carried 9-0 on a roll call vote. After discussion, the Board returned to

general session. Ms. Sfalcin left at the end of the executive session and was not present for the Board decisions.

## **BOARD DECISIONS**

### ***LATE FEE WAIVER APPEALS***

Upon motion by Mr. Fritz, seconded by Mr. Comer, the Board voted to deny the appeals of the following licensees for waiver of the late filing fee:

- Deborah Liggett, Inc.
- Donald Deiterly
- KPM Tax & Accounting
- Scott Borneman

Motion carried 8-0 on a roll call vote.

### ***DISCIPLINARY HEARING: JAMES W. SCHMIDT***

Upon motion by Mr. Fritz, seconded by Mr. Fay, the Board voted to revoke the CPA certificate of James W. Schmidt, with the provision that he may not apply for reinstatement for one year. Motion carried 8-0 on a roll call vote.

### ***DISCIPLINARY HEARING: PATRICK HAYNES***

Upon a motion by Mr. Fritz, seconded by Mr. Comer, the Board voted to revoke the CPA certificate of Patrick Haynes. Motion carried 8-0 on a roll call vote.

### ***REINSTATEMENT HEARING: MELISSA SCHMIDT***

Upon a motion by Mr. Fritz, seconded by Mr. Comer, the Board voted to reinstate the CPA certificate of Melissa Schmidt, subject to payment of a \$1,500 fine and completion of a course in professional standards and responsibilities approved by the Board. Motion carried 8-0 on a roll call vote.

### ***DISCIPLINARY HEARING: HENRY LOUIS CREEL***

Upon motion by Mr. Fritz, seconded by Mr. Comer, the Board voted to revoke the CPA certificate of Henry Louis Creel, but to stay the revocation subject to payment of a \$1,000 fine and completion of all peer review requirements by September 30, 2011. Motion carried 8-0 on a roll call vote.

### ***DISCIPLINARY HEARING: BRYAN M. MOON***

Upon motion by Mr. Fritz, seconded by Mr. Fay, the Board voted to revoke the CPA certificate and firm registration of Bryan M. Moon. Motion carried 8-0 on a roll call vote.

***DISCIPLINARY HEARING: TAX WARRIORS/CHARLES ZAGARA***

Upon motion by Mr. Fritz, seconded by Mr. Fay, the Board voted to continue the hearing for Charles Zagara and the public accounting firm of Tax Warriors until the next Board meeting. Motion carried 8-0 on a roll call vote.

***DISCIPLINARY HEARING: GALL & ASSOCIATES, INC./STEVEN GALL***

Upon motion by Mr. Fritz, seconded by Ms. Houston, the Board voted to revoke the CPA certificate of Steven Gall and the firm registration of Gall & Associates, Inc., but to stay the revocation subject to payment of a \$500 fine and completion of all Ohio permit and firm registration requirements by July 30, 2011. Motion carried 8-0 on a roll call vote.

***DISCIPLINARY HEARING: ROBERT J. HUSTON***

Upon motion by Mr. Fritz, seconded by Ms. Houston, the Board voted to revoke the CPA certificate of Robert J. Huston. Motion carried 8-0 on a roll call vote.

***DISCIPLINARY HEARING: JOSEPH J. MERRELLI, JR.***

Upon motion by Mr. Fritz, seconded by Mr. Landaker, the Board voted to revoke the CPA certificate of Patrick J. Merrelli, Jr.. Motion carried 8-0 on a roll call vote.

**NASBA NOMINATING COMMITTEE RECOMMENDATION**

The Board agreed to recommend Maggie Huston as a member of the NASBA Nominating Committee.

The Board adjourned.

---

**GRETA J. RUSSELL, CHAIR**

---

**W. MICHAEL FRITZ, SECRETARY**