

Accountancy Board of Ohio  
Minutes of Board Meeting November 4, 2016

The Accountancy Board met on November 4, 2016 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 Carroll, CPA (Chair), James Gero, CPA (Vice-Chair), Adriana Sfalcin (Secretary & Public Member), Michael Comer, CPA (Immediate Past Chair), James Gottfried, CPA (Member), Margaret Gilmore, CPA (Member), Michael Guinigundo, CPA (Member) and James Redmond, CPA (Member). Kenya Watts, CPA (Member) was not present.

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 and Barbara Benton, Vice President for Governmental Affairs of the Ohio Society of Certified Public Accountants (OSCPA).

Mr. Carroll called the meeting to order at 10:00 a.m., and welcomed the guests in the audience. Mr. Carroll opened the meeting with the Pledge of Allegiance.

**FORMAL HEARING: DAVID C. DIMENGO, CPA/DIMENGO & BAIL CPAs**

Mr. Carroll opened a disciplinary hearing at 10:02 a.m. pursuant to Chapter 119 of the Revised Code. The Board charged Mr. Dimengo with a violation of section 4701.16(A)(11), concerning failure of a public accounting firm to comply with section 4701.04 of the Revised Code. Mr. Dimengo was in attendance and was not represented by counsel.

Ms. Huston called Ms. Faith Ottavi as a witness and introduced State's exhibits A, 1 through 13; B, 1 through 12; and C, 1 through 5. Mr. Dimengo then spoke and was questioned by the Board.

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

**REINSTATEMENT HEARING: MICHAEL D. COLE**

Mr. Carroll opened a reinstatement hearing at 10:46 a.m. pursuant to section 4701.17 of the Revised Code. Mr. Cole was in attendance and was not represented by counsel.

Ms. Huston called Mr. Cole as a witness and introduced State's Exhibits A, 1 through 4 and B, 1 through 3. Mr. Cole entered Respondent's exhibit 1, 1. Mr. Cole then spoke and was questioned by the Board.

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

**FORMAL HEARING: ANNE M. RIENERTH, CPA**

Mr. Carroll opened a disciplinary hearing at 11:01 a.m. pursuant to Chapter 119 of the Revised Code. The Board charged Ms. Riemerth with a violation of section 4701.16(A)(5) of the Revised Code, concerning conviction of a felony under the laws of any state or of the United States. Ms. Riemerth was in attendance and was not represented by counsel.

Ms. Huston called Ms. Ottavi as a witness and introduced State's Exhibit(s) A, 1 through 11; B, 1 through 21; and C, 1 through 8. Ms. Huston called Ms. Riemerth as a witness. Mr. Riemerth then spoke and was questioned by the Board.

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

**FORMAL HEARING: MICHAEL A. PATRIARCA, CPA**

Mr. Carroll opened a disciplinary hearing at 11:12 a.m. pursuant to Chapter 119 of the Revised Code. The Board charged Mr. Patriarca with a violation of section 4701.16(A)(1) of the Revised Code, concerning fraud and deceit in obtaining an Ohio permit; specifically 4701-15-03 Continuing education reporting. Mr. Patriarca was not in attendance.

Ms. Huston called Mr. Patterson as a witness and introduced State's Exhibit(s) A, 1 through 4; B, 1 through 10 and C, 1 through 3. Ms. Huston then called Ms. Faith Ottavi as a witness.

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

**FORMAL HEARING: LEWIS GARY DAVIS, CPA**

Mr. Carroll opened a disciplinary hearing at 11:56 a.m. pursuant to Chapter 119 of the Revised Code. The Board charged Mr. Davis with a violation of section 4701.16(A)(8), concerning suspension or revocation of the right to practice before any state or federal agency. Mr. Davis was not in attendance.

Ms. Huston called Ms. Ottavi as a witness and introduced State's exhibits A, 1 through 5 and C, 1 through 9.

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

**FORMAL HEARING: DALE L. FREEMAN**

Mr. Carroll opened a disciplinary hearing at 11:27 a.m. pursuant to Chapter 119 of the Revised Code. The Board charged Mr. Freeman with a violation of section 4701.16(A)(5) and (A)(6), concerning conviction of a felony under the laws of any state or of the United States; and conviction of any crime, an element of which is dishonesty or fraud, under the laws of any state or of the United States. Mr. Freeman was not in attendance.

Ms. Huston called Ms. Ottavi as a witness and introduced State's Exhibit(s) A, 1 through 5; and B, 1 through 2. Ms. Huston then called Mr. Patterson as a witness.

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

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

BARRY AHR

Mr. Ahr requested a waiver of the \$300 late fee due to non-renewal of his Ohio registration by December 31, 2015.

INGRID LI

Ms. Li requested a waiver of the \$300 late fee due to non-renewal of her Ohio registration as she was out of the country.

THOMAS LIGUZINSKI

Mr. Liguzinski requested a waiver of the \$900 late fee due to non-renewal of his Ohio permit because of a filing error.

DAVID KOVAL

Mr. Koval requested a waiver of the \$800 late fee due to non-renewal of his Ohio permit because a previous address was listed with the Board.

JONATHAN BATES

Mr. Bates requested a waiver of the \$300 late fee due to non-renewal of his Ohio registration for medical reasons.

### **REQUEST FOR RECONSIDERATION**

Mr. Patterson discussed the closed case review of Jeff Rasawehr vs. Doug Bertke, CPA, and requested the Board take action regarding the repeated filing of unsubstantiated complaints by Mr. Rasawehr against Mr. Bertke.

### **QUASI-JUDICIAL DELIBERATIONS**

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

**BOARD DECISIONS**

**David Dimengo, CPA / Dimengo & Bail, CPAs (Case #2016-24)**

Upon the motion by the Board Secretary Ms. Sfalcin, and seconded by Board Member Mr. Gottfried, the Board voted to revoke the CPA certificate of Mr. Dimengo and firm registration of Dimengo & Bail CPAs, but stay the revocation subject to immediate compliance with the Board's April 5, 2016 cease and desist letter and the completion of the following conditions by June 30, 2017:

- (1) Submission of an acceptance letter from the Ohio Society of CPAs regarding completion of the subject-to requirements outlined in their March 20, 2015 letter;
- (2) A fine of \$1,500;
- (3) Submission of Ohio permit fees, including late fees;
- (4) Completion of 3 hours of a Board-approved professional standards and responsibilities course, specific to Ohio laws and rules.

Motion carried 8-0 on a roll call vote.

**Michael D. Cole (Case #2016-68)**

Upon the motion by Board Secretary Ms. Sfalcin, and seconded by Vice Chair Mr. Gero, the Board voted to reinstate the CPA certificate of Mr. Cole, subject to the completion of the following conditions by December 31, 2017:

- (1) Verification of 120 hours of CPE, including completion of 3 hours of a Board-approved professional standards and responsibilities course, specific to Ohio laws and rules.

Motion carried 8-0 on a roll call vote.

**Anne M. Riemerth, CPA (Case #2016-59)**

Upon the motion by Board Secretary Ms. Sfalcin, and seconded by Vice Chair Mr. Gero, the Board voted to revoke the CPA certificate of Mr. Riemerth, but to stay the revocation subject to the completion of the following conditions by December 31, 2016:

- (1) A fine of \$500;
- (2) Completion of 3 hours of a Board-approved professional standards and responsibilities course, specific to Ohio laws and rules.

Motion carried 8-0 on a roll call vote.

**Michael A. Patriarca, CPA (Case #2016-48)**

Upon the motion by Board Secretary Ms. Sfalcin, and seconded by Board Member Mr. Gottfried, the Board voted to revoke the CPA certificate of Mr. Patriarca.

Motion carried 8-0 on a roll call vote.

**Lewis Gary Davis, CPA (Case #2016-67)**

Upon the motion by Board Secretary Ms. Sfalcin, and seconded by Board Member Mr. Gottfried, the Board voted to revoke the CPA certificate of Mr. Davis.

Motion carried 8-0 on a roll call vote.

**Dale L. Freeman, CPA (Case #2016-62)**

Upon the motion by Board Secretary Ms. Sfalcin, and seconded by Vice Chair Mr. Gero, the Board voted to revoke the CPA certificate of Mr. Freeman.

Motion carried 8-0 on a roll call vote.

**LATE FEE WAIVER REQUESTS**

Upon the motion by Ms. Sfalcin, Board Secretary, and seconded by Board Member Mr. Gottfried, the Board voted to deny the request for waiver of the late filing fee for Barry Ahr.

Motion carried 8-0 on a roll call vote.

Upon the motion by Ms. Sfalcin, Board Secretary, and seconded by Immediate Past Chair Mr. Comer, the Board voted to deny the request for waiver of the late filing fee for Ingrid Li.

Motion carried 8-0 on a roll call vote.

Upon the motion by Ms. Sfalcin, Board Secretary, and seconded by Immediate Past Chair Mr. Comer, the Board voted to deny the request for waiver of the late filing fee for Thomas Liguzinski.

Motion carried 8-0 on a roll call vote.

Upon the motion by Ms. Sfalcin, Board Secretary, and seconded by Immediate Past Chair Mr. Comer, the Board voted to deny the request for waiver of the late filing fee for David Koval.

Motion carried 8-0 on a roll call vote.

Upon the motion by Ms. Sfalcin, Board Secretary, and seconded by Immediate Past Chair Mr. Comer, the Board voted to honor the request for waiver of the late filing fee for Jonathan Bates.

Motion carried 8-0 on a roll call vote.

### **REQUEST FOR RECONSIDERATION**

Upon the motion of Board Member Mr. Gottfried, and seconded by Board Member Mr. Guinigundo, the Board voted to take no action regarding the closed case review of Jeff Rasawehr and Doug Bertke, CPA, and that no further complaints against Mr. Bertke filed by Mr. Rasawehr would be reviewed by the Board.

Motion carried 8-0 on a roll call vote.

### **INFORMATION REPORTS AND UPDATES**

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

Tracey Fithen, Assistant Executive Director for the Accountancy Board, reported that that the current state of the Board's finances were in order.

#### **Education Assistance Report**

Ms. Fithen informed the Board that the education assistance committee needs to vote on the tuition increase for calendar year 2017. Mr. Guinigundo explained how the maximum grant available was calculated, and the allocations will not exceed the available balance in the fund. Upon motion by Mr. Gero and seconded by Ms. Gilmore, the Board voted to approve the tuition increase for calendar year 2017. Motion carried 8-0.

Ms. Fithen noted that the education assistance committee would need to vote on approval of payment to the Ohio Society's ACAP program. Upon motion by Ms. Gilmore and seconded by Mr. Gottfried, the Board voted to contribute \$50,000 to the ACAP fund. Motion carried 8-0.

#### **Rules Update – Approval of Chapter 4701-09, -11, and -19**

Donna Oklok, Investigations Supervisor, reported that the Lieutenant Governor's office completed recommendation memos on September 14, 2016 for rules 4701-09, -11, and -19. The Board issued its response the same day, and filed with JCARR on September 25 and October 5. A public rules hearing was held on October 27, and the rules are anticipated to become effective approximately December 11, 2016.

The Board then held a discussion with regard to amending rules 4701-15-02 and 4701-15-09 to update the CPE requirements for licensees who wish to return to permit status after being in a non-practicing status for more than five years; and changing subject matter requirements for all licensees who wish to obtain a permit. Additional discussion will be placed on the agenda for discussion at the Board's December retreat.

### **Investigative Update**

Ms. Oklok noted that there are currently nine disciplinary cases open, with two pending legal action and one case being re-referred to prosecutor. The 2015 CPE audit process is complete, with one hearing scheduled for the December 2016 meeting related to the 2015 audit.

### **Attest Firm Renewal Update**

The attest firm renewal deadline for 2016 was October 31, 2016. Ms. Oklok reported that as of the Board meeting, a total of 66 firms had not renewed their registration on time. Cease and desist letters and follow up field calls will commence later this month. Ms. Fithen confirmed that this number is lower than in years past.

### **OLD BUSINESS**

#### **Status of Past Hearings**

Rachel Huston, Assistant Ohio Attorney General, reported that there are no appeals that have been filed since the last Board meeting. Oral arguments were scheduled for October 12, 2016 for Cassandra Wiltz; no decision has been rendered. The Court of Appeals rendered a decision confirming the Board's action in the Millard case, with a notice of appeal due November 14, 2016.

#### **Approval of the September 9, 2016 Board Meeting Minutes**

Upon motion by Ms. Sfalcin, seconded by Mr. Gero, the Board voted to approve the minutes of the September 9, 2016 Board Meeting. Motion carried 8-0.

#### **Executive Director's Report**

Mr. John E. Patterson, Executive Director for the Accountancy Board spoke about the planned discussions for the Board retreat: Board policies and procedures, the CGMA designation, and possible fee increases due to budget shortfalls in administrative costs. Additionally, upcoming changes to Ohio's certification requirements need to be evaluated as to the number of credit hours needed to sit for the CPA exam.

### **NEW BUSINESS**

Mr. Gottfried discussed the results of the most recent State Auditor's report. Mr. Gottfried stated the State Auditor issued a clean report and the State Auditor's Management Letter did not indicate any issues but it did include three recommendations. These recommendations were discussed in the Finance and Audit committee meeting prior to the Board meeting and it was agreed they should be noted by the entire Board. First, when the Board enters into executive session the motion to enter into executive session must be carried out on a roll call vote, including the name and vote of each member before entering into executive session. Second, the Board

should ensure the people responsible for recording the minutes are fully aware of the actions that take place during the meeting. And third, Board members should also be aware of the requirements for public meetings and ensure the minutes are properly documented according to these requirements prior to approving them in the subsequent meeting.

The Board's Annual Report is now available for review.

The new committee assignments and 2017 Board meeting schedule are now available.

Mr. Comer reported that the nominating committee, consisting of Mr. Comer and Mr. Guinigundo, selected by a vote of 2-0 the following slate of officers for the Board year 2016-2017:

- Chair-James Gero
- Vice Chair-James Gottfried
- Secretary-Michael Guinigundo

Mr. Comer moved that the slate of nominees be accepted. Ms. Gilmore seconded the motion, and the Board approved the motion 8-0 with a roll call vote.

#### **EXECUTIVE SESSION**

Mr. Carroll called for a roll call vote to go into Executive Session regarding the employment of a public employee pursuant to Ohio Revised Code 121.22(G)(1). Roll call vote: Mr. Comer, yes; Mr. Guinigundo, yes; Mr. Gottfried, yes; Ms. Sfalcin, yes; Mr. Gero, yes; Ms. Gilmore, yes; Mr. Redmond, yes; and Mr. Carroll, yes.

#### **CHAIR'S REPORT**

Nothing to report at this time.

#### **SUMMARY OF BOARD REQUESTS**

No requests from Board members.

Upon motion by Vice Chair Mr. Gero and seconded by Immediate Past Chair Mr. Comer, the Board voted to adjourn.

Motion carried 8-0.

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**JAMES J. CARROLL, CHAIR**

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**ADRIANA SFALCIN, SECRETARY**