

**BOARD RETREAT
DECEMBER 4, 2017**

The Accountancy Board of Ohio held its Board Retreat on December 4, 2017 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 Gero, CPA (Chair), James Gottfried CPA (Vice-Chair), Michael Guinigundo, (Secretary), Margaret Gilmore, CPA (Member), Kenya Watts (Member), Gerald Weinstein, CPA (Member), and John Soucie, CPA (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 Scott Wiley, President and CEO; and Laura Hay, Executive Vice President of the Ohio Society of Certified Public Accountants (OSCPA); Thomas Zaino, attorney at law, and Richard Farrin, attorney at law, of the law firm of Zaino, Hall & Farrin, LLC; Robert Fay, CPA, past Chair of the Board and Trustee of the Ohio CPA Foundation; Karen West, CAE, Executive Director of the Ohio CPA Foundation; and David K. Dennis, CPA.

Mr. Gero called the meeting to order at 1:00 p.m., and welcomed the guests in the audience.

ISSUES UNDER DISCUSSION FOR 2018

Mr. Gero invited Ms. Hay to speak on recent inquiries regarding personal liability of Board members, and Mr. Zaino offered an opinion on the potential for personal liability for disciplinary actions taken by the Board against Ohio-licensed CPAs pursuant to the Board's statutes and rules. Mr. Zaino and Mr. Farrin then responded to questions from the Board.

The Accounting Careers Awareness Program (ACAP), represented by Robert Fay and Karen West, presented history and information on the program. Ms. West presented an overview of student representation and the impact this program has on those interested in accounting as a career. ACAP reviewed survey results of its alumni, and their outreach to those alumni as well as other students interested in accounting. Currently, ACAP seeks to expand the Accounting Careers Leadership Program (ACLPL), a three-day immersion program for diverse accounting majors or those interesting in pursuing an accounting degree, as well as an ACAP summer program in a regional setting for those students unable to attend ACAP in Columbus. In order to maintain and further develop ACAP, Ms. West and Mr. Fay requested the Board increase its donation to the program by \$25,000 per year. The Board asked questions about how to focus the program in a way to maximize the number of participants who ultimately obtain CPA certification. Mr. Gottfried noted that the biennial budget has already been approved through fiscal year 2019, which may delay the Board's commitment of additional funds.

Mr. Gero brought to the Board members' attention the issue of confidentiality as relates to non-compliance with laws and regulations (NOCLAR). The American Institute of Certified Public Accountants (AICPA) and National Association of State Boards of Accounting (NASBA) are reviewing their standards in relation to changes in requirements. Mr. Patterson stated that the Board would be required to act in accordance with any request received in line with Ohio law.

Accountancy Board of Ohio
Minutes of Board Meeting December 4-5, 2017

Mr. Patterson pointed out that the Board has been taking out education assistance fees from licensing fees, when they should have, by statute and rule, been adding the education assistance fee to the cost of licensing fees. Mr. Patterson will consult with office of budget management to determine ways the additional money can be used. Mr. Patterson stated that the finance committee meets in both February and July and could discuss this issue. Mr. Guinigundo moved that the education assistance fund keep the allocations at the same level as last year, as expenses are starting to go higher than ever before. Mr. Gottfried seconded, and the motion passed 7-0.

Mr. Patterson discussed the Board's provision to exempt certain licensees from licensing requirements, specifically licensees who are currently out of the country. In conjunction with the Ohio Society of CPAs, these licensees will be notified of any change in requirements and work with licensees to meet those requirements. Both this and the fee increase were discussed for implementation beginning with the 2018 renewal cycle.

A vote was taken to approve the 2018 meeting dates and move the annual meeting from November 2018 to October 2018. Mr. Gottfried moved to approve the 2018 board meeting dates and change the date to October 19, 2018, Mr. Guinigundo seconded, and the motion carried 7-0.

EXECUTIVE SESSION

Mr. Gero 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). Ms. Gilmore moved, and Mr. Gottfried seconded. Roll call vote was Ms. Gilmore, yes; Mr. Weinstein, yes; Mr. Guinigundo, yes; Mr. Gottfried, yes; Ms. Watts, yes; Mr. Soucie, yes; and Mr. Gero, yes.

After returning from executive session, the Board voted 7-0 to adjourn.

**DECEMBER 5, 2017
BOARD MEETING**

The Accountancy Board of Ohio reconvened December 5, 2017 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 Gero, CPA (Chair), James Gottfried, CPA (Vice-Chair), Michael Guinigundo, CPA (Secretary), Margaret Gilmore, CPA (Member), Kenya Watts, CPA (Member) and Gerald Weinstein, CPA (Member), and John Soucie, CPA (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 Ken Bishop, President and CEO of NASBA; Theodore Long, NASBA's Chair for 2017-18; Tom Kenny, Director of Communications, NASBA; Jim Carroll, past Board chair; David Dennis, CPA; Laura Hay, Executive Vice President and Barbara Benton, Vice President of Government Relations of the OSCP.

Mr. Gero called the meeting to order at 9:00 a.m., and welcomed the guests in the audience. Mr. Gero opened the meeting with the Pledge of Allegiance.

**PRESENTATION BY NASBA'S
KEN BISHOP AND TED LONG**

Mr. Gero introduced Ken Bishop, President and CEO; and Ted Long, current Chair of NASBA. Mr. Long thanked the Board for their hospitality and for the instrumental leadership of the Ohio Board through the various changes in NASBA and the profession. He noted that NASBA has expanded its physical space and hopes it will be a benefit to all. Mr. Long spoke about new regulations on the horizon and NASBA's plans to address issues with the shift toward data analysis and information technology, and needs of the CPA profession.

Mr. Bishop spoke to the Board about NASBA's expansion and the ability to tap into new avenues of communication. They hope to offer CPE and other instructive modules, bringing in subject matter experts to share their insights via the NASBA website. The increased size of NASBA facilities will provide an opportunity to provide meeting space. Mr. Bishop also spoke to the changing skill set of the CPA profession and reliance on non-CPA experts to create and maintain the integrity of computerized data analytics systems. This reliance on non-traditional CPA skill sets is leading to an exploration of a new pathway to CPA without adulterating traditional requirements. The industry is hiring more data technologists and along with that, fewer traditional CPAs at major firms. Mr. Bishop stated his intent for the CPA profession to get ahead of the trend, and to provide a way to regulate data technologists by providing them a path to becoming a CPA. NASBA is exploring changes to be made, being as transparent as possible, with input, feedback and pushback on this process.

Additional spending for state Boards has been allocated by NASBA, Mr. Bishop said, to \$10.3 million over the next six years. Looking into NOCLAR, NASBA will partner with AICPA to expedite the process and communicate with state Boards. Mr. Bishop also addressed the CPA/CGMA issue and cautioned states that if they allow the use of the CGMA designation, they change their statutes to do so, and regulate CGMAs. He strongly recommended enforcing the laws on the books, and to address this issue proactively. NASBA, Mr. Bishop said, will lead in providing guidance and resources to state Boards on data analytics and other enforcement issues. They are tapping into the pioneers of data analytics to provide leadership on creating regulations.

Mr. Bishop and Mr. Long then responded to questions from the Board.

Mr. Bishop thanked the Ohio Board for its hospitality and the level of interaction and discussion that happens when the Ohio Board and NASBA meet.

PASSING OF THE GAVEL

Mr. Gero thanked the Board and passed the gavel to incoming Board Chairman, James Gottfried.

REQUEST FOR WAIVER OF LATE FEES

BEECHER HALE CPA & ASSOCIATES

Mr. Hale's letter requesting a waiver of the \$150 late fee due to non-renewal of his firm registration was read into the record.

Accountancy Board of Ohio
Minutes of Board Meeting December 4-5, 2017

JIBRAN TARIQ, CPA

Mr. Tariq's letter requesting waiver of the \$750 late and back fees due to non-renewal of his Ohio permit was read into the record.

Executive Director's Report

Mr. John E. Patterson, Executive Director for the Accountancy Board spoke regarding the allocation of an additional \$100,000 to the educational assistance fund for both Fiscal Year 2018 and Fiscal Year 2019.

INFORMATION REPORTS AND UPDATES

Budget and Financial Report

Education Assistance Report

Rules Update

Donna Oklok, Investigations Supervisor, reported that public comments on the proposed changes to the return to practice rules were still pending receipt by the Lieutenant Governor's office.

Investigative Update

OLD BUSINESS

Status of Past Hearings

Rachel Huston, Senior Assistant Ohio Attorney General, reported that no appeals have been filed since the last Board meeting. No appeal was filed with the Ohio Supreme Court in the Millard case, and it is officially closed.

Approval of the October 20, 2017 Board Meeting Minutes

Upon motion by Mr. Weinstein, seconded by Ms. Gilmore, the Board voted to approve the minutes of the October 20, 2017 Board Meeting. Motion carried 7-0.

CHAIR'S REPORT

Mr. Gottfried reminded the members of committee assignments included in the meeting packets. Committee meetings will be held at stated times, and any changes will need to be posted prior to the meeting date. He spoke about the upcoming 2018 NASBA meetings. Board members should have completed Ohio Ethics Commission training, and should notify Ms. Fithen of completion.

A discussion of ACAP's request for additional money was initiated by Mr. Gottfried. Ms. Gilmore stated she would like to see additional statistics on how many ACAP students do eventually become CPAs, and if that shows progress for the purpose of the program. Mr. Gero's review of the Board's statutes and rules, he said, means that the Board is free to fund these kinds of endeavors, and he would like to see some sort of matching from the OSCPA. Mr. Weinstein stated the focus of ACAP was previously broader, introducing

at-risk students to business and accounting careers, in addition to the CPA path, and that these students being successful college students could be seen as a success. Ms. Watts said ACAP is some participants' first exposure to college. She would like to see more of a focus on maintaining and developing relationships with college-age students who are following a business or accounting careers. Mr. Patterson addressed a question about funding sources, and Mr. Patterson said he would check on the ability to move monies from the operating fund to the educational assistance fund.

Mr. Gottfried opened a discussion of NASBA's enforcement expectations, and asked that staff report on the investigative procedures of other states, as well as report on Board cases which are opened but do not result in additional action. Mr. Gero asked about the current investigatory process with audits reported deficient by the DOL and prospective means to address audit quality through the peer review process. These reports will be referred to the disciplinary committee and presented to the Board.

FORMAL HEARING: PATRICK A. DIPIETRO, CPA / DIPIETRO & GOTTESMAN, CPAS

Mr. Gottfried opened a disciplinary hearing at 10:54 a.m. pursuant to Chapter 119 of the Revised Code. The Board charged Mr. DiPietro with a violation of sections 4701.16(A)(9) and (A)(11), concerning failure of a CPA certificate obtain firm registration; and failure of a public accounting firm to comply with section 4701.04 of the Revised Code. Mr. DiPietro was in attendance and was represented by James Leo, attorney. Attorney Leo requested the Board continue Mr. DiPietro's hearing, as the issues of peer review are in the process of resolution with OSCPA. Under oath, Mr. DiPietro waived his confidentiality clause with OSCPA. Mr. DiPietro and Attorney Leo agreed to proceed with the hearing as scheduled.

Ms. Huston introduced State's exhibits A, 1 through 31; B, 3 through 6; and C, 1 and 2. Ms. Huston made an opening statement. Ms. Huston called Ms. Faith Ottavi as a witness; and Ms. Laura Hay as a witness. Attorney Leo presented the case for Mr. DiPietro and introduced Respondent's exhibits A through X, pages 1 through 54. Mr. DiPietro then spoke and was questioned by the Board.

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

FORMAL HEARING: RICHARD A. FIDLER, CPA / FIDLER & FIDLER, CPAS

Mr. Gottfried opened a disciplinary hearing at 12:02 p.m. pursuant to Chapter 119 of the Revised Code. The Board charged Mr. Fidler with a violation of sections 4701.16(A)(2) and (A)(10), concerning dishonesty, fraud, or gross negligence in the practice of public accounting, and conduct discreditable to the public accounting profession, specifically Ohio Administrative Code chapter 4701-11-09 (C)(10), regarding failing to file a tax return or failing to remit taxes collected on behalf of others in a timely manner. Mr. Fidler was in attendance and was represented by counsel, J. Matthew Fisher, attorney.

Ms. Huston introduced State's exhibits A, 1 through 21; B, 1 through 48; and C, 1-119. Respondent exhibits 1, 1 through 7; 2, 1 through 7; 3, 1 through 4; 4, 1 through 3; 5, 1 through 4; 6, 1 through 24; 7, 1 through 25; 8, 1; and 9, 1-2. Ms. Huston made an opening statement, followed by Mr. Fisher. Ms. Huston called Mr. John Patterson as a witness. Complainant Dr. Alba Michelle Gonzalez, DVM was then called as a witness, followed by Ms. Donna Oklok as a witness. Attorney Fisher presented the case for Mr. Fidler. Mr. Fidler spoke and was questioned by the Board.

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

FORMAL HEARING: JEFFREY S. HAMMEL, CPA

Mr. Gottfried opened a disciplinary hearing at 2:05 p.m. pursuant to Chapter 119 of the Revised Code. The Board charged Mr. Hammel 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. Hammel was in attendance and represented by counsel, James McGovern, attorney.

Ms. Huston introduced State's exhibits A, 1 through 6 and B, 1 through 14. Mr. McGovern made an opening statement and introduced Respondent's exhibits 1, 1 through 5; 2, 1 through 6; 3, 1; 4, 1; 5, 1; and 6, 1. Mr. Hammel then spoke and was questioned by the Board. Ms. Sandra Hannah, counsel for Mr. Hammel during his SEC trial, was called as a witness for the respondent via telephone. Mr. Francis Hagerty, a former co-worker of Mr. Hammel, was also called as a witness for the respondent via telephone.

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

FORMAL HEARING: DONALD L. BRACKENHOFF, CPA

Mr. Gottfried opened a disciplinary hearing at 3:28 p.m. pursuant to Chapter 119 of the Revised Code. The Board charged Mr. Brackenhoff with a violation of section 4701.16(A)(1) of the Revised Code, concerning fraud and deceit in obtaining an Ohio permit. Mr. Brackenhoff was in attendance and was not represented by counsel.

Ms. Huston introduced State's Exhibit(s) A, 1 through 13; and B, 1 through 8. Ms. Huston called Mr. John Patterson and Ms. Charlene Nortey as witnesses. Mr. Brackenhoff then spoke and was questioned by the Board.

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

**FORMAL HEARING: ANDREW B. ZELENKOFKSKE
(Goldman)**

Mr. Gottfried opened a disciplinary hearing at 3:53 p.m. pursuant to Chapter 119 of the Revised Code. The Board charged Mr. Zelenkofske 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 (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. Zelenkofske was not in attendance.

Ms. Huston introduced State's exhibits A, 1 through 3 and B, 1 through 6.

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

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

LATE FEE WAIVER REQUESTS

Upon the motion by Ms. Gilmore, and seconded by Mr. Soucie, the Board voted to deny the requests for waiver of late filing fees and/or back fees for Beecher Hale CPA & Associates and Jibrán Tariq.

Motion carried 7-0 on a roll call vote.

Patrick A. DiPietro, CPA / DiPietro & Gottesman, CPAs (Case #2017-50)

Upon the motion by Ms. Gilmore, and seconded by Mr. Gero, the Board voted to revoke the CPA certificate and firm registration of Mr. DiPietro and DiPietro & Gottesman, CPAs. He cannot apply for reinstatement prior to receipt of the OSCP resolution of peer review.

Motion carried 7-0 on a roll call vote.

Richard A. Fidler, CPA / Fidler & Fidler, CPAs (Case 2015-35/36)

Upon the motion by Ms. Gilmore, and seconded by Mr. Gero, the Board voted to revoke the CPA certificate and firm registration of Mr. Fidler and Fidler & Fidler, CPAs. He cannot apply for reinstatement prior to satisfaction of the Franklin County Common Pleas Court judgment.

Motion carried 7-0 on a roll call vote.

Jeffrey S. Hammel, CPA (Case 2017-36)

Upon the motion by Ms. Gilmore, and seconded by Ms. Watts, the Board voted to revoke the CPA certificate of Mr. Hammel. He cannot apply for reinstatement prior to meeting the requirements of the SEC Order.

Motion carried 7-0 on a roll call vote.

Donald L. Brackenhoff, CPA (Case 2017-44)

Upon the motion by Ms. Gilmore, and seconded by Mr. Guinigundo, the Board voted to revoke the CPA certificate of Mr. Brackenhoff, but stay the revocation subject to the completion of the following conditions by February 5, 2018:

Accountancy Board of Ohio
Minutes of Board Meeting December 4-5, 2017

- 1) Submission of a fine of \$2,500;
- 2) Documentation of 120 CPE credits completed between 2014-2016, and/or
- 3) Submission of a penalty of \$10 per hour for any deficient CPE credits earned in 2017

Motion carried 7-0 on a roll call vote.

Andrew B. Zelenkofske (Case 2017-56)

Upon the motion by Ms. Gilmore, and seconded by Ms. Watts, the Board voted to revoke the CPA certificate of Mr. Zelenkofske. He cannot apply for reinstatement prior to compliance with the Eastern District of Pennsylvania U.S. District Court judgment.

Motion carried 7-0 on a roll call vote.

EXECUTIVE SESSION

Mr. Gottfried 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). Mr. Guinigundo moved, and Mr. Gero seconded. Roll call vote was Mr. Gero, yes; Ms. Gilmore, yes; Mr. Guinigundo, yes; Mr. Soucie, yes; Ms. Watts, yes; Mr. Weinstein, yes; Mr. Gottfried, yes.

After returning from executive session, and upon motion by Mr. Gero, seconded by Mr. Weinstein, the Board voted to adjourn.

Motion carried 7-0.

James D. Gottfried, Chair

Margaret A. Gilmore, Secretary