

ARKANSAS STATE BOARD OF PUBLIC ACCOUNTANCY

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Robert Redfern CPA, Secretary
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David Vaden CPA
Lloyd Franklin CFE
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Jimmy Corley, CPA
Executive Director

Board Meeting Minutes November 18, 2016

A regular meeting of the Arkansas State Board of Public Accountancy was held in Room 109B of the Donald W. Reynolds Center for Business and Economic Development on the campus of the University of Arkansas at Little Rock, 2801 South University Avenue, Little Rock, Arkansas on November 18, 2016 with Jeremy Watson, President, presiding. Other members of the Board in attendance were Michael Watts, Robert Redfern, Jim Gately, Sherry Chesser, and David Vaden. Members of the staff in attendance were: Jimmy Corley, Executive Director; Dale Edge, Investigator; Tim Montgomery, Investigator; Mark Ohrenberger, Legal Counsel; Alan Fortney, Tiffany Frisby, April Murphy, Jessica Olsen, Trista Saylor, and Hanna Windley. Also in attendance were Brian Thompson of the ASA; Rebecca Kane, Hearing Officer*; and Susan Whitson, CCR*.

CALL TO ORDER

Mr. Watson officially called the meeting to order at 9:02 a.m. A quorum was found to be present.

PUBLIC HEARING

The Board moved immediately to a Public Hearing concerning the following case:

H16-058 Albert Hammons – Respondent did not appear at hearing. Board found Respondent failed to complete four (4) hours of Ethics over thirty-six (36) month period with regard to his 2015 license renewal. Board found that Respondent failed to respond to a certified mailing from the Board. Respondent is assessed a civil penalty of one thousand (\$1,000.00) dollars, Respondent's certificate as a Certified Public Accountant is hereby suspended until such time as the above penalty is paid and he has obtained the four (4) hours of ethics that he has not gotten, in addition to his normal CPE. In addition, Respondent shall pay administrative hearing cost of one hundred seventy-five dollars (\$175.00) for a total payment of one thousand one hundred seventy-five dollars (\$1,175.00),

Public Hearing H16-057 Jerry J. Luker was not held. Jerry J. Luker – Respondent did not appear. Board Legal Counsel Mark Ohrenberger, presented to the Board a synopsis of the complaint along with Mr. Luker's written response and request to surrender AR CPA certificate 2364. Mr. Ohrenberger asked if the Board wished to accept the surrender –in lieu of further disciplinary action or whether the Board would prefer to move forward with a hearing at a later date. The

Board agreed to accept Mr. Luker's surrender-in-lieu of request. A written transcript of Mr. Ohrenberger presentation to the Board was established.

*Susan Whitson Court Reporter and Rebecca Kane Hearing Officer left at the close of the hearings.

APPROVAL OF MINUTES

A motion was made and seconded to approve the minutes, subject to corrections, of the September 30, 2016 Board meeting. The motion passed unanimously.

TREASURER'S REPORT

A motion was made and seconded to approve the September and October 2016 Treasurer's Report, as presented. The motion passed.

COMMITTEE REPORTS

AUDIT

Nothing to report at this time, but a report will be presented to the Board in January.

COMPLIANCE

The Compliance Committee has met one time.

Seventeen new complaints:

- Applicant with dishonesty issues.
- Licensee with criminal charges.
- CPA with Quality Review issues.
- DOL Referral.
- Reinstatement of Revoked License.
- Firm holding records.
- CPA with CPE issues.
- Two CPA firms with Billing Issues.
- Three Failure to Respond to the 2016 CPE Audit.
- Five Failure to Respond to the 2016 Quality Review.

Requesting closure of 16 complaints; Four by Consent Order

- 1) **C13-023 – (Unregistered Firm)** – Unlicensed firm. Licensee is not holding company out to the public. Compliance Committee recommends a finding of no probable cause to proceed with disciplinary proceedings and closure of the complaint.

- 2) **C15-111 – (Cert. # 6047)** – Licensee reported completing CPE hours for renewal year 2015 when, in fact, they were not completed. Hearing 16-003 was held Sept. 30, 2016. CPA certificate was revoked. Requesting closure.
- 3) **C16-015 – (Unregistered Firm)** – Unlicensed firm. Licensee is not holding company out to the public and has removed CPA from company name. Compliance Committee recommends a finding of no probable cause to proceed with disciplinary proceedings and closure of the complaint.
- 4) **C16-038 – (Cert. # 1994)** – Licensee failed to renew individual Arkansas CPA certificate for 2016, misstated 3 different QR year responses, and failed to acknowledge attest work performed for 8 annual renewals. Hearing 16-059 was held Sept. 30, 2016. CPA certificate was revoked. Requesting closure.
- 5) **C16-065 (Cert. # 8356R)** – Licensee failed to renew license and became lapsed April 1, 2016. Compliance Committee recommends a finding of probable cause to proceed with disciplinary proceedings and recommends closure based on the licensee’s request to take retired status.
- 6) **C16-087 – (Cert. #4143)** – Licensee failed to renew individual Arkansas CPA certificate for 2016. Hearing 16-060 was held Sept. 30, 2016. CPA certificate was suspended, required to complete additional CPE and assessed a \$5,000 penalty. Requesting closure.
- 7) **C16-097 – (Non-Licensee)** – Non-Licensee using term accountant. Non-Licensee has ceased use of term. Committee recommends a finding of no probable cause to proceed with disciplinary proceedings and closure of the complaint.
- 8) **C16-098 – (Applicant)** – Applicant with felony conviction seeking Board wavier for licensure. Hearing 16-056 was held Sept. 30, 2016 waiver was granted. Requesting closure.
- 9) **C16-105 – (Non-Licensee)** – Void licensee listed as CPA on employer’s website. Website has been corrected, CPA removed. Committee recommends a finding of no probable cause to proceed with disciplinary proceedings and closure of the complaint.
- 10) **C16-110 – (Unregistered Firm)** – Unlicensed firm. Licensee holding out with an unlicensed firm since July 2015. Applicant submitted firm application to Board October 12, 2016. Compliance Committee recommends a finding of probable cause to proceed with disciplinary proceedings and closure via the proposed compliance statement. Compliance Statement has been signed and \$110.00 penalty collected.
- 11) **C16-111 – (Applicant)** – Applicant failed to disclose criminal charge on license application. Compliance Committee recommends a finding of probable cause to proceed with disciplinary proceedings and closure via the proposed compliance statement. Compliance Statement has been signed and \$250.00 penalty collected.

- 12) **C16-123 – (234LC)** – Out of state firm. Licensee failed to respond timely to 2016 Quality Review. Compliance Committee recommends a finding of probable cause to proceed with disciplinary proceedings and recommends closure based on the licensee's request to surrender firm certificate.

A motion was made and seconded to accept the Compliance Committee's recommended findings and proposed resolutions as to items 1 through 12, listed above. The motion passed unanimously.

CONSENT ORDERS

- 1) **C16-062 – Consent Order (Cert #6708)** – Lapsed Licensee failed to renew for 2016, was notified by certified letter to reinstate or surrender license. Licensee did not respond to Board letter. Notice of Hearing was issued. In addition, per the 2015 CPE Audit, respondent was deficient four (4) hours of ethics. The Compliance Committee recommends a finding of probable cause to proceed with disciplinary proceedings and closure via the proposed consent order. Licensee has signed consent order and agreed to pay current year inactive fee (2016), late fees, and a \$1,000 penalty of a total of \$1,105.00. Requesting closure by consent order contingent on receipt of the monies noted above.

A motion was made and seconded to accept the Compliance Committee's recommended finding and proposed resolution and to close C16-062. David Vaden recused himself from the vote, because of conflict of interest. The motion passed unanimously.

- 2) **C16-104 – Consent Order (Cert # 8102R)** – Respondent's current status is Retired. Respondent failed to respond to a MO CPA Board inquiry and Respondent's MO CPA license was revoked. Respondent failed to notify the AR Board of the revocation in a timely manner. The Compliance Committee recommends a finding of probable cause to proceed with disciplinary proceedings and closure via the proposed consent order. Respondent has signed a consent order and agreed to maintain his AR certificate on Retired status and to never request an upgrade of his CPA license status to License to Practice or Inactive Status. Requesting closure by Consent Order.

A motion was made and seconded to accept the Compliance Committee's recommended finding and proposed resolution and to close C16-104. The motion passed unanimously.

- 3) **C16-107 – Consent Order (Cert #4547)** – Applicant failed to renew for 2007 through 2009 and in 2010 certificate became void. Applicant has requested re-licensure to License to Practice. Applicant has completed 120 hours of CPE, 58 hours A&A, 6.5 hours Ethics, 13 hours Tax, and 42.5 hours Other. Study type consist of 69 group hours and 51 self-study. Licensee has signed consent order and paid current year LTP fee (2017), prior year fees and late fees (2007-2009) for a total of \$635.00. Licensee has also agreed to renew timely for the next three (3) years. Requesting closure by Consent Order.

A motion was made and seconded to accept the Compliance Committee's recommended finding and proposed resolution and to close C16-107. The motion passed unanimously.

- 4) **C16-129 – Consent Order (Cert # 854C)** – Respondent received a substandard classification for an Audit on its 2014 QR. Respondent received a fail classification for an Audit on its 2016 QR. Based on the 2014 substandard finding and the 2016 failed finding, the Compliance Committee recommends a finding of probable cause to proceed with disciplinary proceedings and closure via the proposed consent order. Respondent has signed a consent order and agreed, in lieu of pre-issuance review, to discontinue performing audit services. Requesting closure by Consent Order.

A motion was made and seconded to accept the Compliance Committee's recommended finding and proposed resolution and to close C16-129. The motion passed unanimously.

Permission to issue Notice of Hearing

Requesting permission to issue three (3) Notice of Hearings, if needed.

C16-115 – (5021) – Licensee has received second consecutive fail on QR and has not responded to a certified letter. Compliance Committee recommends a finding of probable cause to proceed with disciplinary proceedings and issuance of a notice to the licensee for a formal hearing before the Board.

C16-126 – (3670) – Licensee failed to respond to 2016 QR and a 30-day certified letter. Compliance Committee recommends a finding of probable cause to proceed with disciplinary proceedings and issuance of a notice to the licensee for a formal hearing before the Board.

C16-128 – (Applicant) – Applicant has submitted an application to the Board for a certificate and original license as a Certified Public Accountant in the State of Arkansas. During licensure process, the Compliance Committee became aware of Applicant's past conviction and determined Applicant's licensure application could not be approved unless applicant obtained a waiver from the Board pursuant to Ark. Code Ann. § 17-12-303(f). It is expected Applicant will be submitting to the Board a written request for a waiver pursuant to Ark. Code Ann. § 17-12-303(f).

A motion was made and seconded to grant permission to issue a Notice of Hearing if needed to the cases listed above with proposed resolutions. The motion passed unanimously.

CPE COMMITTEE

Based on findings from the 2016 CPE Audit, the CPE Committee is requesting closure of the following 13 CPE complaints. All by Compliance Statement:

- 1) **CE16-008 – (CERT # 3847)** – Licensee was deficient 1 hour ASBPA specific Ethics CPE. The CPE Committee recommends a finding of probable cause to proceed with disciplinary proceedings and closure via the proposed compliance statement. Compliance Statement has been signed and \$125.00 penalty paid.

- 2) **CE16-011 – (CERT # 3701)** – Licensee was deficient 3 hours Content CPE. The CPE Committee recommends a finding of probable cause to proceed with disciplinary proceedings and closure via the proposed compliance statement. Compliance Statement has been signed and \$100.00 penalty paid.
- 3) **CE16-018 – (CERT # 9169)** – Licensee was deficient .5 hours CPE. The CPE Committee recommends a finding of probable cause to proceed with disciplinary proceedings and closure via the proposed compliance statement. Compliance Statement has been signed and \$100.00 penalty paid.
- 4) **CE16-047 – (CERT # 8130)** – Licensee was deficient 1 hour Ethics CPE. The CPE Committee recommends a finding of probable cause to proceed with disciplinary proceedings and closure via the proposed compliance statement. Compliance Statement has been signed and \$125.00 penalty paid.
- 5) **CE16-073 – (CERT # 8178)** – Licensee was deficient 25.5 hours CPE. The CPE Committee recommends a finding of probable cause to proceed with disciplinary proceedings and closure via the proposed compliance statement. Compliance Statement has been signed and \$255.00 penalty paid.
- 6) **CE16-149 – (CERT # 8765R)** – Licensee was deficient 2 hours Accounting and Attest CPE. The CPE Committee recommends a finding of probable cause to proceed with disciplinary proceedings and closure via the proposed compliance statement. Compliance Statement has been signed and \$100.00 penalty paid.
- 7) **CE16-164 – (CERT # 7134)** – Licensee was deficient 12 hours CPE and 1 hour ASBPA specific Ethics CPE. The CPE Committee recommends a finding of probable cause to proceed with disciplinary proceedings and closure via the proposed compliance statement. Compliance Statement has been signed and \$245.00 penalty paid.
- 8) **CE16-192 – (CERT # 6432)** – Licensee was deficient 39.5 hours CPE, 47 hours Content CPE, and 1.5 hours Ethics CPE. The CPE Committee recommends a finding of probable cause to proceed with disciplinary proceedings and closure via the proposed compliance statement. Compliance Statement has been signed and \$1,052.00 penalty paid.
- 9) **CE16-238 – (CERT # 9190)** – Licensee was deficient 4 hours Content CPE. The CPE Committee recommends a finding of probable cause to proceed with disciplinary proceedings and closure via the proposed compliance statement. Compliance Statement has been signed and \$120.00 penalty paid.
- 10) **CE16-245 – (CERT # 4421)** – Licensee was deficient 2 hours CPE and 1 hour Group CPE. The CPE Committee recommends a finding of probable cause to proceed with disciplinary proceedings and closure via the proposed compliance statement. Compliance Statement has been signed and \$100.00 penalty paid.
- 11) **CE16-265 – (CERT # 5624)** – Licensee was deficient 45 hours CPE, 46 hours Content, and 2 hours Ethics. The CPE Committee recommends a finding of probable cause to proceed with

disciplinary proceedings and closure via the proposed compliance statement. Compliance Statement has been signed and \$1,200.00 penalty paid.

- 12) **CE16-280 – (CERT # 898)** – Licensee was deficient 16 hours Group CPE. The CPE Committee recommends a finding of probable cause to proceed with disciplinary proceedings and closure via the proposed compliance statement. Compliance Statement has been signed and \$480.00 penalty paid.
- 13) **CE16-290 – (CERT # 7732)** – Licensee was deficient 5 hours Content CPE. The CPE Committee recommends a finding of probable cause to proceed with disciplinary proceedings and closure via the proposed compliance statement. Compliance Statement has been signed and \$150.00 penalty paid.

A motion was made and seconded to close items 1 through 13, listed above. The motion passed unanimously.

2016 CPE Audit Update:

Three hundred six (306) licensees were chosen for the 2016 CPE Audit. Seven (7) were removed due to for various reasons. Of the two hundred ninety-nine (299) licensees audited, eighty-one (81) were Acceptable, one hundred eighty-eight (188) were Acceptable with Changes, twenty-seven (27) Failed, and three (3) never responded, so were handed over to compliance. Those who did not fail have been notified and their audits have been closed. Of the twenty-seven (27) who failed, thirteen (13) have paid their penalties.

OLD BUSINESS

None

BREAK

A break was given to the Board members at 10:45 a.m. The Board meeting was brought back to order at 10:55 a.m.

NEW BUSINESS

CPE Waiver Request

Mr. Jimmy Corley presented the case of Ms. Judy Williamson, license number 5007, to the Board. Ms. Williamson requested that the Board waive her 2016 CPE Audit penalties, amounting to \$935, because of her medical history.

After much discussion and deliberation a motion was made and seconded to deny Ms. Williamson's CPE penalty waiver. Michael Watts recused himself from the vote, because of a possible conflict of interest. The motion passed unanimously.

NASBA request for data – CPA pipeline research project

Mr. Corley presented NASBA's request for Arkansas data concerning the statistics of CPA exam candidates for NASBA's 2016-2017 Candidate Pipeline Survey. Questions were raised about how Arkansas compares to the rest of the nation concerning candidate drop-out rates. Mr. Alan Fortney will look into Arkansas's exam candidates' drop-out rates to determine a comparison.

A motion was made and seconded to allow NASBA to access certain Arkansas data concerning the CPA exam. The motion passed unanimously.

Records Release Discussion

Mr. Corley presented before the Board the following question:

Under section 302 of our Code of Conduct, in certain cases records can be withheld if there are outstanding fees owed to the licensee. The question is what if previous years' information/work has been paid for? For example, if the 2014 tax return has been completed and paid for and the 2015 return has been completed but not paid for, does the client have a right to documents related to the 2014 return?

The Board discussed this question and the effects it has on CPAs. Although there were some differing opinions, the Board decided that according to current rules, if a client paid a CPA for work done, the CPA must provide paperwork and records pertaining to that work.

NASBA Focus Questions

Led by Mr. Corley, the Board answered a questionnaire sent to the Board from NASBA.

ASBPA Ethics Discussion

The Board discussed the Arkansas State Board Ethics course. Questions were brought up about how often it should be updated and refreshed so that CPAs could take it more than once every three years. It was agreed that the staff should request that the vendor allow our CPAs to take the online course once every year instead of once every three years.

ADJOURNMENT

A motion was made and seconded to adjourn. The motion passed. The meeting adjourned at 11:32 a.m.