

ARKANSAS STATE BOARD OF PUBLIC ACCOUNTANCY

Robert Redfern CPA, President
Michael M. Watts CPA, JD Secretary
Sherry Chesser CPA, Treasurer
David Vaden CPA



Deana Infield CPA
Denton Woods JD
Jim Gately EdM

Jimmy Corley, CPA
Executive Director

Board Meeting Minutes January 12, 2018

A regular meeting of the Arkansas State Board of Public Accountancy was held in Suite 450 of the Main Street Mall Building on January 12, 2018 with Robert Redfern, President, presiding. Other members of the Board in attendance were: Michael Watts, Jim Gately, Sherry Chesser, David Vaden, Deana Infield, and Denton Woods. Members of the staff in attendance were: Jimmy Corley, Executive Director, Dale Edge, Investigator; Tim Montgomery, Investigator; Mark Ohrenberger, Legal Counsel; Alan Fortney, and Hanna Windley. Also in attendance was Brian Thompson of the Arkansas Society of Accountants and George Foster of the Peer Review Oversight Committee.*

CALL TO ORDER

Mr. Redfern officially called the meeting to order at 9:07 a.m. A quorum was found to be present.

APPROVAL OF MINUTES

A motion was made and seconded to approve the minutes of the November 17, 2017, Board meeting. The motion passed unanimously.

TREASURER'S REPORT

A Motion was made and seconded to approve the November 2017 and December 2017 Treasurer's Reports, as presented. The motion passed unanimously.

COMMITTEE REPORTS

COMPLIANCE

The Compliance Committee has met twice.

Fifteen new complaints:

Request for release from pre-issuance
Holding Records
Unregistered Branch Office
Answered yes to moral character question on 2018 renewal

Two firms sanctioned by another state board
Three out-of-state firms with partners with moral character issues
Three re-licensure request
Three external complaints alleging acts discreditable

Requesting closure of 22 complaints, five by consent orders

- 1) **C12-057 – (205C)** – Allegation of audit fraud. Primary suspect is deceased and no evidence to support CPA involvement. The Compliance Committee recommends a finding of no probable cause to proceed with disciplinary proceedings and closure with no further action.
- 2) **C16-100 – (Surr. Licensee)** – Applicant requested re-licensure. Requested response with regard to the appearance of attest work while not licensed, no response received. The Compliance Committee recommends closure with no further action.
- 3) **C16-118– (Cert. # 395C)** – DOL referral. Firm has completed two successful Peer Reviews. The Compliance Committee recommends a finding of probable cause to proceed with disciplinary proceedings but closure of the complaint with no further action.
- 4) **C17-093 – (Cert. # 7959)** – Licensee failed to respond timely to the 2017 CPE Audit. Hearing 17-055 was held November 17, 2017. Licensee was assessed a \$1,000.00 penalty and suspended until payment of penalty and documentation of completion of a 120 hours of CPE. Requesting closure.
- 5) **C17-096 – (Cert. #7808)** – Licensee failed to respond timely to the 2017 CPE Audit. Hearing 17-049 was held November 17, 2017. Licensee was assessed a \$750.00 penalty and given until November 27, 2017 to provide acceptable CPE documentation or he would be suspended. Requesting closure.
- 6) **C17-098 – (Cert. # 5734)** – Licensee convicted of tax evasion. Licensee has requested to surrender CPA certificate in-lieu-of further disciplinary action. Compliance Committee recommends a finding of probable cause to proceed with disciplinary proceedings and recommends acceptance of surrender affidavit.
- 7) **C17-105 – (Cert. # 7726)** – Licensee failed to obtain CPE with regard to QR failure and failed to resolve CPE audit. Hearing 17-054 was held November 17, 2017. Licensee was assessed a \$1,500.00 penalty and CPA certificate 7726 was revoked. Requesting closure.
- 8) **C17-114 – (Cert. # 5869)** – Licensee failed the 2017 CPE Audit and requested an appeal. CPE Committee denied appeal and submitted to Compliance department for further review of CPE documentation. Licensee has now submitted valid CPE documentation but not enough to pass the CPE Audit. The Compliance Committee recommends a finding of probable cause to proceed with disciplinary proceedings and closure of the complaint via the proposed compliance statement. Compliance Statement has been signed and \$1,095.00 penalty collected.
- 9) **C17- 118 – (Cert. #8159R)** –Licensee failed to timely respond to 2017 Quality Review. Licensee provided mitigating documentation of health issues as for his failure to respond. Compliance Committee recommends a finding of probable cause to proceed with disciplinary proceedings and closure with no further action

- 10) **C17- 127 – (Cert. # 181C)** – External complaint with regard to work performed by Licensee. The Compliance Committee recommends a finding of no probable cause to proceed with disciplinary proceedings and closure with no further action.
- 11) **C17- 131 – (Cert. # 8474)** – External complaint with regard to Licensee actions. The Compliance Committee recommends a finding of no probable cause to proceed with disciplinary proceedings and closure with no further action.
- 12) **C17- 132 – (Firm Cert. # 363P)** – Licensee Firm has acknowledged having a partner who has been sanctioned by another State Board. Compliance Committee recommends a finding of no probable cause to proceed with disciplinary proceedings and closure of the complaint.
- 13) **C17- 133 – (Firm Cert. # 84LC)** – Licensee Firm has acknowledged having a non-CPA merger partner who has a previously undisclosed 2003 criminal conviction. Compliance Committee recommends a finding of no probable cause to proceed with disciplinary proceedings and closure of the complaint.
- 14) **C17- 134 – (Firm Cert. # 878C)** – Licensee Firm sanctioned by SC Board. Firm has made timely notification. Sanction was related to 2016 sanction by AL Board regarding DOL referral. Compliance Committee recommends a finding of no probable cause to proceed with disciplinary proceedings and closure of the complaint.
- 15) **C17- 135 – (Firm Cert. # 265LC)** – Licensee Firm self-reported that it failed to acknowledge a partner being sanctioned by another state on prior year renewal. Compliance Committee recommends a finding of probable cause to proceed with disciplinary proceedings but recommends closure with no further action.
- 16) **C17- 136 – (Firm Cert. # 68LP)** – Licensee Firm has acknowledged having a partner (not licensed in AR) who now has a criminal conviction. Compliance Committee recommends a finding of no probable cause to proceed with disciplinary proceedings and closure of the complaint.

A motion was made and seconded to accept the Compliance Committee's recommended findings and proposed resolutions as to items 1 through 16, listed above. The motion passed unanimously.

Release from Pre-Issuance

- 17) **C17- 138 – (Firm Cert. # 68LP)** – Licensee requesting release from 2013 pre-issuance review of all reports. Pre-issuance reviewer has reviewed one audit and (16) reviews with no changes for two quarters. Recommending release from pre-issuance review.

A motion was made and seconded to accept the Compliance Committee's recommended findings and proposed resolutions as to C17 - 138. The motion passed unanimously.

Consent Orders

- 1) **C17-120- Consent Order (8410/871C)** – Respondent participated in the 2017 Quality Review. Respondent received a first time fail classification for a review. Respondent is required to complete 16 additional hours of A&A CPE in compilation and review. In lieu of completing 16 hours of CPE in comp and review, Respondent has agreed to discontinue performing attest and compilations. 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 no longer perform attest and compilations. 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 C17-138. The motion passed unanimously.

- 2) **C17-126 – Consent Order (Cert. 0372)** – Respondent participated in the 2017 Quality Review. Respondent received a first time fail classification for a review. Respondent is required to complete 16 additional hours of A&A CPE in compilation and review. In lieu of completing 16 hours of CPE in comp and review, Respondent has agreed to discontinue performing reviews. 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 no longer perform reviews. Requesting closure by Consent Order.

A motion was made and seconded to accept the Compliance Committees' recommended finding and proposed resolution and to close C17-126. The motion passed unanimously.

- 3) **C17-128 – Consent Order (Cert. 2155)** – Applicant surrendered license in good standing January 18, 2017. Applicant has requested to reinstate to license to practice. Applicant has completed 142.5 hours of CPE, 8 hours A&A, 6 hours of Ethics, 108 hours of Tax, and 20.5 hours of Other. The study types consist of 140.5 hours of group and 2 hours self-study. Applicant has signed consent order and agreed to pay current year renewal fees of \$110.00. 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 C17-128. The motion passed unanimously.

- 4) **C17-130 – Consent Order (Cert. 5156)** – Applicant failed to respond to the 2007 Quality Review and surrendered CPA certificate in-lieu-of further Board action in June 2009. Applicant has requested to reinstate to license to inactive status. Applicant has signed consent order and agreed to pay current year renewal fee and \$1,000.00 penalty totaling \$1,055.00. 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 C17-130. The motion passed unanimously.

- 5) **C17-137 – Consent Order (Cert. 6984R)** – Applicant's license expired December 31, 2015 and applicant surrendered CPA certificate September 2017. Applicant has requested to reinstate to license to practice. Applicant has completed 121 hours of CPE, 8 hours of Ethics, 106 hours of Tax, and 7 hours of Other. The study type consist of 117 hours of group and 4 hours self-study. Applicant has signed consent order and agreed to pay current and 2016 and 2017 prior year renewal fees totaling of \$330.00. 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 C17-137. The motion passed unanimously.

Other Issue

C17- 123 – (Non-Licensee) – Non-Licensee Firm located in AR issued a review. Firm is a repeat offender: in 2013, firm was offering auditing services to the public and said they would stop. We are preparing to follow up with non-licensee but wanted to confirm whether or not the Board approved of proceeding with legal action if necessary.

A motion was made and seconded to authorize Board staff to send an investigation letter asking firm to desist. The motion passed unanimously.

OLD BUSINESS

Finalize Peer Review Rule

A motion was made and seconded to approve Peer Review rules with recommended amendments and Executive Director proposed changes. The motion passed unanimously.

NEW BUSINESS

CPE Waiver Request

A motion was made and seconded to approve an exemption of 12 hours of CPE for Lamar Moore due to medical reasons. The motion passed.

Financial Interest Statements

Discussion was made about the required Financial Interest Statements for Board members. They were requested to complete them by January 31, 2018.

Expense Reimbursement Authorization:

A motion was made and seconded to authorize reimbursement expenses for Board members during 2018. The motion passed unanimously.

OTHER BUSINESS

Inactive Status Discussion / Guidance

A motion was made and seconded to direct Mr. Ohrenberger to draft language for an exemption concerning volunteer programs and Inactive status CPAs. The motion passed unanimously.

Discussion was made about whether attorneys can hold an Inactive CPA license and still provide tax work. The Board was unsure and wished to speak about this further at the next Board meeting. The Board directed staff to find out what other states do about this particular issue before the next Board meeting.

Discussion was made concerning the following question: Can a CPA hold an Active license in another state and have an Inactive license in Arkansas? The Board stated that per Board Rules this would not be allowed.

Rule 13.7 & Rule 13.8 were discussed and a motion was made and seconded to strike the new Rule 13.8(c)(4) and to change Rule 13.8(c) to read as follows "For purposes of this section the term 'association with accounting work' shall include, but is not limited to, the following." The motion passed unanimously.

Legal Update

Mr. Ohrenberger gave a legal update to the Board concerning the following cases:

Michael Jones vs. ASBPA: Jones has filed a petition for judicial review of the Board's final hearing order. The Board has filed the administrative record with the court. The parties have agreed on a briefing schedule under which both sides will present their written arguments to the court over the coming months. Mr. Ohrenberger will be glad to provide documents or answer more detailed or specific questions to any board member seeking such information.

Medical Marijuana Declaratory Order: Since U.S. Attorney General Jeff Sessions rescinded certain Obama-era Department of Justice memoranda relating to the prioritization of criminal enforcement of state-authorized marijuana businesses, questions have arisen concerning the impact that DOJ changes might have on the declaratory order the Board issued regarding the potential application of the Public Accountancy Act to Board licensees who provide professional accounting services to clients in the state-authorized medical marijuana industry. Mr. Ohrenberger reviewed the text of the declaratory order with the Board and advised that current events have not required reconsideration of the order.

Peer Review Oversight Committee Update

Mr. George Foster presented the committee's findings to the Board and answered any questions the Board members had.

*Mr. Foster arrived at 9:45 a.m. and left at 9:53 a.m. after his presentation.

0.5 CPE hours

Under Board rules, 0.5 CPE hours are not allowed on their own, but due to increased interest in Nano-Learning, the Board has decided to, at a later date, discuss the possibility of changing Rule 13 concerning CPE hours.

REVIEW OF LICENSING ACTIVITY

Mr. Corley presented to the Board the Licensing Activity Report.

ADJOURNMENT

A motion was made and seconded to adjourn. The motion passed. The meeting adjourned at 1:30 p.m.