

Connecticut State Board of Accountancy
April 1, 2003
Minutes

Chairman Blum called the meeting to order at 9:30 A.M. in the second floor conference room in the Office of the Secretary of the State, 30 Trinity St. Hartford CT.

Present :

Bernard Blum, CPA, Chairman
James Ciarcia
Philip J. DeCaprio Jr., CPA
George Veily, CPA
Michael Weinshel, CPA

David L. Guay, Executive Director
Diane Ruggia, Board Staff
Stephanie Sheff

David Hemond, Chief Attorney for The Connecticut Law Revision Commission
Arthur Renner, Executive Director Connecticut Society of Certified Public Accountants

Motion made by George Veily and seconded by Michael Weinshel to approve the initial certificate applications and the initial and reinstatement applications for registrations and licenses, all voted in favor. The certificates, registrations and licenses approved at the April 1, 2003 meeting are incorporated into these minutes by attachment.

Motion made by Michael Weinshel and seconded by George Veily to approve initial and reinstatement applications for firm permits to practice, all voted in favor. The permits approved at the April 1, 2003 meeting are incorporated into these minutes by attachment.

Attorney Kozik presented the enforcement docket for April 1, 2003.

Case 668

Attorney Kozik summarized case and recommended approval of proposed settlement. Case involves an elderly holder of Conn. CPA certificate who has practiced in Conn. without a permit since Jan. 1, 1995, and a license since January 1, of 1996. He has not kept up with CE. Practice appears to be limited to accounting and tax, no financial reporting. He claims history of ill health for self and wife. Practice appears to be shrinking.

Settlement prohibits him from using title and doing any financial reporting. Can continue to do taxes but cannot sign as CPA. If he violates settlement, \$6600 in past due license fees and civil penalty becomes due and payable. Board not prevented from imposing further sanctions for future violations.

Philip DeCaprio made a motion to approve the proposed settlement, George Veily seconded.

Bernard Blum, CPA, Chairman	Yes
James Ciarcia	Yes
Philip J. DeCaprio Jr., CPA	Yes
Sandra Schork	Absent
George Veily, CPA	Yes
Michael Weinschel, CPA	Yes
James Quinn	Absent

Case 682

Attorney Kozik summarized case and recommended approval of proposed settlement. This case is the second Cendant case for this Board. Kearney was director of financial reporting for one of business units involved in fraud. Kearney eventually learned of fraud and participated in it but did not initiate it. At least 5 levels of management above him allegedly involved in fraud. People in three levels above him have pleaded guilty to criminal charges. Top two participants, including CEO, scheduled for trial. Kearney made about \$30,000 by selling stock at values inflated by the fraud. Others made millions.

When fraud came to light after merger that created Cendant, Inc., Kearney fully cooperated with special committee of Board of Directors, Postal Inspectors, and US Attorney to uncover and prosecute the fraud. No criminal charges were filed against him, apparently because of his cooperation. The SEC revoked his right to practice before it until July 13, 2005 and forced him to disgorge his \$30,000 profits, plus interest, but imposed not civil penalty.

Because he participated in fraud and profited from it, his certificate is revoked by the settlement. Because he cooperated in exposing and prosecuting the fraud, the settlement gives him the opportunity to demonstrate his rehabilitation and reapply for his certificate after July 13, 2005. One year prior to reapplication he must pass an ethics exam. The Board is under no obligation to grant reinstatement.

George Veily made a motion to approve the proposed settlement, Philip DeCaprio seconded.

Bernard Blum, CPA, Chairman	Yes
James Ciarcia	Yes
Philip J. DeCaprio Jr., CPA	Yes
Sandra Schork	Absent
George Veily, CPA	Yes
Michael Weinschel, CPA	Yes
James Quinn	Absent

Case 2391

Attorney Kozik recommended dismissal for the reasons set forth in the attached letter.

James Ciarcia made a motion to dismiss the case, Philip DeCaprio seconded.

Bernard Blum, CPA, Chairman	Yes
James Ciarcia	Yes
Philip J. DeCaprio Jr., CPA	Yes
Sandra Schork	Absent
George Veily, CPA	Yes
Michael Weinschel, CPA	Yes
James Quinn	Absent

Chairman Blum opened discussion on SB 1035, An Act Concerning White Collar Crime Enforcement, The Connecticut Uniform Securities Act and Corporate Fraud Accountability by noting that every member should have received a copy of the bill and the testimony presented at the Banks Committee on March 18, 2003. Chairman Blum noted that the bill was amended by the Banks Committee and referred to the Judiciary Committee. Chairman Blum provided a brief overview of the bill, noting Section 33, provides a five-year records retention requirement. Section 34, requirement for a Corporate Officer to certify to the accuracy of the financial statements, Chairman Blum commented that many corporations are very small and may be relying on their accountant to produce the financial statements. Chairman Blum further noted that the powers of the Board are greatly increased. Attorney Kozik added that he did not have a copy of the bill in front of him, but that most of what Chairman Blum noted are already current statute.

Chairman Blum further noted that the bill as amended calls for two additional Board members, one public member and one licensee. Also noting that the bill was amended from its original call for \$100,000 penalties to a maximum penalty of \$50,000.

Chairman Blum noted that the Office of the Chief States Attorney testified on the bill, in particular calling for the study of the profession by the Board of Accountancy mandated in Section 38.

Chairman Blum further noted that Board member George Veily also testified as an individual, on his own, not representing the Board, and directed the members to a copy of his testimony in the material provided. In summary, Chairman Blum commented that from the testimony he's read and the original bill, it seems to be the start of a cascading downward that will affect the firms other than those that do public audits.

Mr. Veily asked to put a little more emphasis on Section 38, and proceed to read the testimony he gave on this section of the bill.

A general comment seems in order concerning Sec. 38 of the proposed Bill (Page 26 of the draft) which provides that the Board of Accountancy shall conduct a study and make recommendations for strengthening its oversight of licensees, as defined in Section 20-279b of the General

Statutes, who audit publicly held corporations. The board shall submit a report on its findings and recommendations to the Governor and the General Assembly no later than January 1, 2004 in accordance with the provisions of Section 11-4a of the General Statutes.

That is in effect rewriting the accounting laws as Mr. Veily interprets it. Noting that they order that responsibility, but don't provide any means that it should be accomplished through additional funding. Mr. Veily questioned whether that meant Executive Director Guay or the Members of the Board would be doing the study. Mr. Veily noted the often-made comment from Executive Director Guay that you can pass any law, but if you don't fund it, you might as well not pass the law.

Mr. Veily further read from his Testimony.

The Connecticut Law Revision Commission has been charged with making a review of the laws and regulations affecting the practice of accountancy in the state. Meetings of the Commission have been held, papers have been submitted to the Commission by the staff of the Board, by the Connecticut Society of Certified Public Accountants, and a representative of the Commission has been regularly attending the meetings of the Board.

It would seem to be in order that care should be exercised to avoid duplication of these two groups in carrying out their responsibilities.

Mr. Veily further informed the Board that he had informed the Secretary of the State through her Deputy, Maria Greenslade of the provision mandating the study, because, according to Mr. Veily, she has some responsibility for the Law Revision Commission being charged with a study of the Connecticut Accounting Laws. Mr. Veily noted that he should have suspected that through her Deputy Maria Greenslade that she's way ahead of us. Mr. Veily then read from the written testimony that Secretary of the State Susan Bysiewicz submitted to the Banks Committee.

The sections that I ask the Committee to refer to the ongoing Law Revision Commission study are:

- Section 33: Sets a time of five years for the retention of audit review or other engagement work papers by Certified Public Accountants
- Section 35: Sets the violation of Section 10a(g) of the Securities Exchange Act of 1934 as Connecticut law
- Section 36: Makes the violations of sections 31-35 of this act a civil right of action, giving private party who is injured the right to sue based upon violations of Sections 31-35
- Section 37: Makes it a crime to file any fraudulent accounting report
- Section 38: Mandates a study of the Accounting profession by the State Board of Accountancy (the "Board")
- Section 39: Changes the composition of the Board to a majority of public members
- Section 40: Increases the civil penalty the Board may impose to \$100,000
- Section 41: Increases the civil penalty the Board may impose to \$100,000

Section 42: Sets a time of five years for the retention of audit papers by Certified Public Accountants for publicly held companies

Mr. Veily concluded with comments that as it stands right now, based upon the draft of the bill, this Board has the responsibility by the end of this year to re-write the accountancy laws.

Chairman Blum asked David Hemond, Chief Attorney for The Connecticut Law Revision Commission if he would like to comment.

Mr. Hemond noted the funding for Beth Cook, the Intern for the Commission was terminated, of the three attorney's for the Commission, one is now working for the Legislative Commissioners Office and David Biklen and David Hemond willing be taking the early retirement, which raises serious questions about what the Commission's capability is going to be.

Board member Philip DeCaprio asked his fellow Board members what they were going to do if the bill passes and the Board is unable to perform the study.

Chairman Blum noted that a message should be sent to the Judiciary Committee. Mr. Veily noted that he could not have said it plainer or more delicately then he had in his testimony to the Banks Committee.

Mr. Weinshel made a motion that the Board should adopt and send to the Judiciary Committee George Veily's statement from his testimony to the Banks Committee as follows:

A general comment seems in order concerning Sec. 38 of proposed Senate Bill 1035 (Page 26 of the draft) which provides that the Board of Accountancy shall conduct a study and make recommendations for strengthening its oversight of licensees, as defined in Section 20-279b of the General Statutes, who audit publicly held corporations. The board shall submit a report on its findings and recommendations to the Governor and the General Assembly no later than January 1, 2004 in accordance with the provisions of Section 11-4a of the General Statutes.

The Connecticut Law Revision Commission has been charged with making a review of the laws and regulations affecting the practice of accountancy in the state. Meetings of the Commission have been held, papers have been submitted to the Commission by the staff of the Board, by the Connecticut Society of Certified Public Accountants, and a representative of the Commission has been regularly attending the meetings of the Board.

It would seem to be in order that care should be exercise to avoid duplication of these two groups in carrying out their responsibilities.

Mr. DeCaprio seconded the motion.

Chairman Blum asked Mr. Veily whether he wanted to include anything about funding in the motion. Mr. Veily noted that when he first read Section 38 of SB 1035 he got uptight about no funding and noted that he then called Executive Director Guay, who advised about the wrong time to be asking for more funds. Mr. Weinshel noted that if the bill passes and becomes law we'll have to go back and ask for additional funding, but that's not what we're asking for. Mr. Weinshel noted we are asking that the Law Revision Commission finish the task. Executive Director added that there would be a fiscal note attached to the bill.

Mr. Ciarcia asked one last time if the motion was to send the last three paragraphs of George Veily's testimony to the Banks Committee to the Judiciary Committee.

Upon hearing no further discussion, Chairman Blum called for a vote.

Bernard Blum, CPA, Chairman	Yes
James Ciarcia	Yes
Philip J. DeCaprio Jr., CPA	Yes
Sandra Schork	Absent
George Veily, CPA	Yes
Michael Weinshel, CPA	Yes
James Quinn	Absent

Chairman Blum noted for the record that Executive Director Guay has provided a copy of an Accounting Today article entitled, "Keeping the cascade from becoming a flood".

Chairman Blum opened continued discussion with regard to the Board's communication to the Connecticut Law Revision Commission on reform.

Mr. Weinshel raised an issue he held from the previous meeting due to Attorney Kozik's absence. Mr. Weinshel asked Attorney Kozik to explain what code of ethics does a Connecticut Licensee follow. Noting that the AICPA has recently revised its rules of independence, Mr. Weinshel followed his initial question with a second question of which independence rules does a Connecticut Licensee follow.

Attorney Kozik began by indicating the starting place, of course, is the Statute, with some Regulations in place with respect to a code of ethics. To the extent there is a conflict between those and any other set of rules, the regulations and statute would prevail and control. Attorney Kozik further commented that if a licensee were doing SEC work, that individual would follow rules promulgated by the SEC and as they come into place the rules promulgated by the Public Companies Accounting Oversight Board. For non-SEC work, the Board would look for guidance from the AICPA Code of Ethics, unless the Board has a contrary rule. Attorney Kozik further commented that the Board has the regulatory authority to look to the pronouncements of other Boards and professional

groups. Based upon a question from Mr. Weinshel, Attorney Kozik further commented that in his experience the Connecticut Legislature has shown reluctance to pass regulations that incorporate by reference the pronouncements of outside bodies.

Mr. Weinshel queried Attorney Kozik about the new AICPA rule on independence, and asked whether we are following that new rule. Attorney Kozik responded, that if the AICPA rule is in effect and either Connecticut Law or Federal Law does not contradict them, the AICPA rule would be appropriate guidance.

Mr. DeCaprio noted that Professional standards that Connecticut CPA's follow are not in the Statute. Attorney Kozik noted that he usually enforces the standards based upon the negligence provisions in the Board's Statutes, because negligence under standard law is the failure to adhere to the appropriate standard of care, then the AICPA standards for everything become evidence of the appropriate standard of care.

Mr. Weinshel next queried Attorney Kozik about enforcement from the standpoint of resources and what should the Board recommend to the Connecticut Law Revision Commission to speed up enforcement procedures, either by a change of law, or more personnel, or is it a resource issue. Attorney Kozik responded that it is a resource issue, a resource issue on two levels. Attorney Kozik commented that the Board needs another hand simply to do the work, such as a paralegal, and two, the Board needs to have the resources for experts. Attorney Kozik also reminded the Board that he is not a full time Board staff member and expects with the recent layoffs and early retirements to be spending more and more time on other than Board business.

Mr. Weinshel also asked Attorney Kozik if the enforcement area of the Board would be better off under the Attorney General's Office. Attorney Kozik replied, "No." Mr. Weinshel further queried Attorney Kozik whether; a single full time attorney for the Board is adequate to do enforcement. Attorney Kozik replied, "No." Further discussion was held between Attorney Kozik and Mr. Weinshel on the plus and minus of interns.

The Board reviewed the NASBA Regional Directors Focus Questions, due to NASBA by April 4, 2002. The Board provided direction to Executive Director Guay and directed he complete the questions and forward to NASBA. A copy of the questions and responses is incorporated into these minutes by attachment.

A review of the AICPA Ethics Exposure Draft was tabled by consensus until the next meeting.

A short discussion was held on the issue of mandating an annual or periodical ethical behavior training as part of the continuing professional education requirement. No action taken.

A motion to approve the minutes of the March 4, 2003 Board meeting was made by James Ciarcia and seconded by George Veily, all voted in favor.

Board member George Veily brought up the matter of the certificate application of Mr. James Bernhardt. Mr. Veily had made a motion at a previous meeting to approve his experience as provided and documented and appropriate for the Board's purposes. A question has been raised as to whether it is legally possible for the Board to do that, with Attorney Kozik determining it is not legally possible. A copy of Attorney Kozik's memo is incorporated into these minutes by attachment.

Mr. Veily recalled that he previously read a letter to the Board that he had written to the National Association of State Boards of Accountancy as to whether this could be an incipient problem throughout the country. He further noted that it is going to be more and more difficult to meet the letter of our rules and regulations to verify experience. Mr. Veily further noted that Attorney Kozik in his response wrote, "that this may well require revisiting our regulations". Mr. Veily asked that the Board not lose sight of this issue.

Arthur Renner, Executive Director Connecticut Society of Certified Public Accountants informed the Board under public comment that they had testified on SB 1035 & SB 1034. On March 20, 2003 the CSCPA Board of Governors came up with the list of five names to be sent to the Governor for appointment to the State Board.

Richard Gesseck
Lawrence Handler
Bradley Kronstat
Thomas Reynolds
Leonard Romaniello

A motion to adjourn the meeting was made by James Ciarcia, and seconded by George Veily, all voted in favor. Meeting was adjourned at 11:25 a.m.