

Connecticut State Board of Accountancy
May 2, 2006
Minutes

Chairman Reynolds called the meeting to order at 8:35 A.M. in the second floor conference room, 30 Trinity Street, Hartford.

Present:

Thomas F. Reynolds, CPA, Chairman
Richard P. Bond
James Ciarcia
Philip J. DeCaprio Jr., CPA
Leonard M. Romaniello, Jr., CPA
Richard Sturdevant
Michael Weinshel, CPA

Members Absent

Richard Gesseck, CPA
Berthann Jones

Staff Members Present:

David L. Guay, Executive Director
Rebecca E. Adams, Esq., Legal Counsel

Motion made by Michael Weinshel to accept and approve the Minutes of the April 4, 2006 State Board of Accountancy meeting, seconded by Leonard Romaniello, all voted in favor.

In a review of Board operations Executive Director Guay briefed the Board on the operations of the Board.

NASBA Regional Meeting June 21-24

- Five Board Members planning on attending and the office has received some items for reimbursement.

- o Jim Ciarcia
- o Dick Gesseck
- o Dick Sturdevant
- o Len Romaniello
- o Mike Weinshel

- Draft of the Connecticut Board Highlights response has been circulated. The document also serves as the outline for the Roll Call of the States at the Regional meeting.

May 24, 2006 Retreat meeting in Newtown

- Dick Sturdevant provided a menu to choose a lunch selection
- Lorraine Sachs of NASBA will be joining the Board

May 8, 2006 Certificate awards

- Certificates ready, working with Art Renner of the CT Society on the list. Board members questioned the continuing practice of having the Secretary of the State sign the CPA Certificates.

United States Mail

- The Secretary of the States Office is transitioning from picking up, sorting the mail for all the agencies at 30 Trinity St. No final solution. Leaves only the computer switch and router in the Secretary of the State's Computer room and the phone system as the only connections left with the Secretary of the State.

Records retention

- Ended the use of temp employee – ending due to budget constraints
- More records destroyed on April 21, 2006
- Still have the enforcement files to review with Attorney Adams

Computers

- Old computers have been wiped clean and have been placed as available in the State's surplus system along with the old fax machine, boxes and file folders.
- Issues remain with the licensing database, working on resolutions
- Beginning on-line licensing push
- Still having difficulties getting items up on the web site.
- New instruction pages are being created for the web.
- Philip DeCaprio asked that the data files be presorted alphabetically
- Executive Director planning a meeting of all the IT Stakeholders

Motion made by Michael Weinshel and seconded by Philip DeCaprio to approve the May 2, 2006 list of individual applications for CPA Certificate, Registrations and CPA Licenses, all voted in favor.

Two Firm Permit to Practice Applications; the late renewal of the firm permit to practice for the firm of Best Practice, and the initial firm permit to practice application for the firm of Fraud & CPA Services, were tabled after discussion for staff to communicate the Board's position that the proposed firm names are misleading under Section 20-280-15c (p) of the Board's Regulations. The Board reviewed an email from Mr. Michael DeHaas, owner of Fraud & CPA Services asking for the Board to approve the firm name. Executive Director Guay informed the Board that he had a telephone conversation with Mr. Laiching Sun owner of Best Practice, Inc., in which Mr. Sun asked if he could apply under Best Practice, Inc., DBA Laiching Sun, CPA. Board members expressed concern as

to the form of practice for Best Practices, Inc., and concern over whether Fraud & CPA Services included the LLC designation. Executive Director Guay, explained the short comings of the licensing data, including the data entry of certain information. The Board also reviewed the January 2005 meeting minutes and found that discussion was held on Best Practices, Inc, concerning the form of practice and not on the question of the firm name.

Motion made by James Ciarcia and seconded by Richard Sturdevant to approve the remaining May 2, 2006 list of Firm Permit to Practice applications, all voted in favor.

Chairman Reynolds noted that the agenda lists two new inspection reports have been received from the Public Companies Accounting Oversight Board (PCAOB) and are available for Board member inspection and review. Board members commented on the ongoing discussions, in particular at the National Association of State Boards of Accountancy (NASBA), as noted by Board member James Ciarcia, a member of a NASBA Committee working on the issue.

Chairman Reynolds moved to the next item on the agenda a draft response to the American Institute of Certified Public Accountants on new Diagnostic reports for CPA Exam Candidates. By consensus the Board agreed to the draft response.

May 2, 2006

ENFORCEMENT DOCKET

A. Requesting Authority to Schedule Compliance Meeting

1. 2006003-2889 E. Reuel Stoltz

Unethical conduct

Notice was sent on 3/23/2006 providing Mr. Stoltz with a copy of the complaint from Attorney Darby alleging that Mr. Stoltz improperly borrowed \$3,000 from his tax client, an 80 year old gentleman named Theodore Lindquist, in 2002 that he never repaid, and asking that he respond within 30 days. Legal Counsel called and left several messages for Mr. Stoltz. He has not responded.

Attorney Adams Requested authority to schedule a compliance meeting providing notice of possible charges for violation of statutory and regulatory law governing licensees, including sections authorizing the Board to suspend or revoke a license and certificate for discreditable acts, fraud, dishonesty, and failure to respond to the Board communication within 30 days.

Michael Weinshel made a motion to authorize and schedule a compliance meeting in the matter of 2006003-2889 E. Reuel Stoltz, seconded by Leonard Romaniello, all voted in favor

B. Requesting Subpoena Authority and Marshal Service of Notice of Compliance Meeting

**David Searles – Failure to return client records
2005008-2813, 2005058-2877, 2006002-2888**

Mr. Searles is “AWOL”. His business telephone has been disconnected and all mailings from the Board and his clients have come back unclaimed and undeliverable. These clients need their records returned and the Board needs to accomplish successful delivery of a Notice of Compliance Meeting in order to proceed with this matter.

Requesting authority to issue a subpoenas for return of records in all three matters and have the Marshal serve a notice of compliance meeting at the same time.

James Ciarcia made a motion to authorize and schedule a compliance meeting in the matter of 2005008-2813, 2005058-2877, 2006002-2888 David Searles, seconded by Richard Bond, all voted in favor

C. Requesting Board Input

2005042–2860 Gary Bennett

Temporary suspension of officer director service by the SEC

Proposed settlement agreement sent, in discussions regarding terms.

I originally suggested suspension of his Certificate for a period of time coterminous with the SEC suspension of the respondent’s right to serve as an officer or director of a public company. After some investigation, I have determined that Mr. Bennett was the initiator of the investigation into Gerber Scientific. He requested they investigate what he believed to be insider trading by a number of high level employees. Upon SEC investigation, the SEC determined that there were a number of reporting errors on financial statements. The SEC used this as leverage against the company in the insider trading case. The cases made by the SEC against Mr. Bennett and Mr. Demko were based upon settlement with Gerber whereunder, Gerber reversed its assertion that any mistakes made in financial statements were not material. Mr. Bennett was the only party investigated serving as an officer/director and so he offered to settle for a suspension of that right.

The Board dismissed the matters against other licensees related to this matter because we did not have any legal authority to proceed. The only difference in this case is the suspension as an officer/director. Our statutory authority extends to that type of practice limitation. However, his rights to practice as a CPA were not limited. Our rights to suspend and revoke are provided in order to protect the public. I do not see any service to the public in suspending Mr. Bennett’s license or Certificate. I am requesting Board

input regarding penalties that would serve the public interest and be appropriate in this case.

The Board directed Attorney Adams to find out if the financial statements were restated.

2005060-2879 Glen Belush

Settlement with IRS including suspension of IRS practice through July 1, 2006

Copies of his correspondence provided at the meeting.

Mr. Belush failed to file his personal returns with the IRS in the years 2001, 2002, and 2003 and was late filing several other returns. He was not delinquent in paying his taxes but was delinquent filing returns.

The IRS did not impose a fine and provided him 6 months to file all three delinquent returns. He filed them all within 3 months of the settlement. Mr. Belush forwarded correspondence regarding the series of unfortunate events leading to his delinquency, including death of family members, illness, and a number of other personal matters.

Since Mr. Belush's suspension from IRS practice concludes in 2 months, and he is currently representing clients whom would be negatively influenced if the Board suspended his Certificate right now, I am seeking Board input regarding what discipline would be appropriate and asking that you tailor penalties to fit this situation in order protect his current clients as well as the public.

Suggestions include, CPE (in addition to the 40 hours) in the area of ethics and tax, civil penalties, and passing the AICPA ethics examination in 2006 with a minimum score of 90%, performing the Connecticut 4 hour ethics CPA immediately, and/or a short suspension.

The Board suggested contacting the IRS about any reinstatement before the Board will take up the matter again.

D. Requesting Settlement Approval

2005039-2856 Michael Mezzapelle

Failure to obtain firm permit

Mr. Mezzapelle began operating as Mezzapelle & Associates, LLC in 2003 but did not obtain a firm permit until 2005. The enforcement file was opened after he applied for a permit. He has submitted a check in the amount of \$150 as well as the signed agreement.

Attorney Adams Requested Settlement Approval.

Philip DeCaprio made a motion to approve the proposed settlement in the matter of 2005039-2856 Michael Mezzapelle, seconded by Leonard Romaniello, all voted in favor.

2004009-2526 Marshall Weiss

Unauthorized Use of Title

Mr. Weiss is not a Connecticut licensee. In 2004, he advertised as “a tax accountant in a Regional CPA Firm”. A Settlement Agreement was negotiated with him in 2004 and presented to the Board in 2005. The Board asked that the settlement be renegotiated to add a \$100 civil penalty to the cease and desist order. I revised the settlement and he agreed to that settlement. He sent a check in the amount of 100 as well as the signed agreement.

Attorney Adams Requested Settlement Approval.

Philip DeCaprio made a motion to approve the proposed settlement in the matter of 2004009-2526 Marshall Weiss, seconded by Leonard Romaniello, all voted in favor.

E. Requesting Dismissal

2005062-2881 Lorenzo Mendizabal – lack of jurisdiction Conviction for Tax Fraud

New York CPA convicted of falsified his family’s tax returns. He is not a Connecticut Licensee.

Attorney Adams Requested Dismissal

James Ciarcia made a motion to dismiss the matter of 2005062-2881 Lorenzo Mendizabal for lack of jurisdiction, seconded by Richard Bond, all voted in favor. The Board also directed Attorney Adams to notify New York of the matter.

2005007-2812 Politi and Magnifico, CPAs, LLC – no probable cause/no violation Fee Dispute

The complainant wanted her fees to be contingent on her refund. Since she only received a \$32 refund she did not want to pay the \$200 fee for tax preparation. Mr. Politi sent her a letter clearly explaining the situation, including why that type of arrangement would be illegal. She agreed that they had discussed fees prior to her engagement of the firm.

Attorney Adams Requesting Dismissal

James Ciarcia made a motion to dismiss the matter of 2005007-2812 Politi and Magnifico, CPAs, LLC – no probable cause/no violation, seconded by Leonard Romaniello, all voted in favor.

F. Status Reports Provided by Attorney Adams

1. 2004248-2794 Kessler & Co. LLC (year of review was 2003) (formal charges authorized in April for failure to submit QR)

Upon further review of the file, I found that the Certified Notice of Compliance Meeting had been returned unclaimed. I sent a new cover letter, notice of compliance meeting, and proposed settlement by both certified mail, return receipt requested, and first class mail. The Notice of Compliance schedules a Compliance Meeting for May 19, 2006.

These mailings meet the UAPA requirements for providing a licensee with notice and an opportunity to show compliance. In the event that compliance is not rendered at the meeting, I will issue formal charges as approved by the Board at its April 2006 meeting..

**2. 2006009-2897 Steven Morgante
Compliance Meeting Scheduled**

3. and 4. Both of the following respondents inquired regarding our jurisdiction to prosecute if they voluntarily surrendered their certificates. A meeting with the licensing chief of the AGs office resulted in determination that we may refuse to accept the surrender and proceed.

2005051-2870 Ronald Safran (sent proposed settlement regarding surrender of certificate and license and notice of compliance meeting)

KPMG Partner temporarily suspended from practice by the SEC for his involvement in the overstatement of XEROX earnings.

2005050-2869 Michael Conway (sent settlement regarding surrender of certificate and notice of compliance meeting)

KPMG partner temporarily suspended from practice by the SEC for his involvement in the overstatement of XEROX earnings.

Attorney Adams reported her discussion with AAG Richard Lynch about the subject of voluntary surrendering of certificates or licenses. It is a settled point of law that the Board does not have to accept voluntary surrender of a certificate or license, and if the complaint file had been established prior to an attempt to voluntarily surrender, the action may still move forward. Attorney Adams further reported the suggestion that regulations be drafted to further define licensee as including anyone who has held a license or certificate within a period of eighteen months.

Executive Director Guay further supported Attorney Adams on how significant a development this is and further pointed out that Attorney Lynch is in another unit of the Attorney General's office than the Special Litigation Unit to which the Board is currently assigned, and suggested that at some point in time it may be appropriate to petition the Attorney General to reassign the Board to Attorney Lynch's Unit .

5. 2004008-2525 - Neil Gerhardt

Unauthorized practice and use of title.

Pursuant to the discussion at last month's meeting – I have noticed a Compliance Meeting to determine the extent of his violations. A subpoena was served on him in 2004 requiring that he provide the Board with copies of any and all instances in which he utilized the term "CPA" or practiced as a CPA. In my cover letter, I explained that I am now enforcing that subpoena and will refer the matter to the Attorney General for enforcement in Superior Court if that becomes necessary.

7. 2005036–2852 Comer, Nowling and Associates PC.

Unauthorized practice and use of title.

A Notice of Compliance Meeting and proposed settlement of civil penalty of \$650 for 2 years of firm permit fees and \$250 for each violation has been sent in response to the discussion in April.

8. 2005041–2858 Lutz and Carr

Unauthorized practice and use of title.

A Notice of compliance meeting and proposed settlement of \$575 for 1 year of firm permit fees and \$250 for each violation has been sent in response to the discussion in April.

Under 2006 Legislative update Attorney Adams and Executive Director Guay reported that Raised Senate Bill Number 65 An Act Concerning the Educational Requirements for Applying to take the Certified Public Accountants Exam had been completely amended and passed by the Senate to now require a study of the issue of certification requirements. Arthur Renner, Executive Director of the Connecticut Society of CPA's provided further background as to how the substitute language came to be.

James Ciarcia offered that we, the Board, don't have the resources to conduct the study and suggested we inform the Legislature that it will take a significant appropriation to conduct the study. Richard Sturdevant strongly objected to the bill and the burden it places on the Board, similar sentiments were expressed by Michael Weinshel.

Richard Sturdevant made a motion that the State Board of Accountancy be on record opposing Senate Bill 65 as amended, because it would be impossible to conduct the study without additional appropriations, seconded by James Ciarcia, all voted in favor.

Attorney Adams reported that Raised House Bill Number 5682 An Act Concerning Public Accountants has been passed and is awaiting the Governor's signature.

Attorney Adams further reported that the budget has passed along with a last minute amendment suggested by Executive Director Guay to clarify what funds would be rolled over and that the position count would be increased to five.

Under any other business Michael Weinshel noted that the April Journal of Accountancy has listed a new pronouncement out by AICPA as to client records and believes the Board should review it in the next few months. Executive Director Guay suggested we add it to the May 24, 2006 Agenda, and was directed by the Board to forward copies.

Under public comment Arthur Renner, Executive Director of the Connecticut Society of Certified Public Accountants (CSCPA) spoke about the effort of the

Ethics Committee of the CSCPA in reviewing the Institute's (American Institute of Certified Public Accountants) and the Board's code of ethics and the report of that effort is being forwarded to the State Board of Accountancy after a vote of the CSCPA Board. Mr. Renner also spoke of inquiries being made from individuals in the corporate, private sector about non-public accounting experience, and thus encourage the Board to review non-public experience.

Mr. Renner would also request statistics from the Board on certificates and licenses issued. Executive Director indicated that would not be a problem.

Mr. Renner also spoke about the Society's upcoming meeting at which Connecticut CPA Certificates would be awarded.

The Board under public comment heard from Professor Andrew J. Rosman, Ph.D., CPA, Director of the University of Connecticut School of Business Administration Master of Science and Internship Programs in Accounting, Dr. Rosman also asked for any information that could be provided about individuals taking the exam and suggested that two questions be brought to NASBA, one about Prometric and the GMAT exam and second a question about the capacity of Prometric testing centers in Connecticut.

A motion to adjourn the meeting was moved by James Ciarcia and seconded by Richard Sturdevant, all voted in favor. The meeting was adjourned at 10:59 A.M.