

Connecticut State Board of Accountancy
May 05, 2009
Minutes

Chairman Thomas F. Reynolds called the meeting to order at 08:31 A.M. at the State Board of Accountancy, Conference Room 2B, 30 Trinity Street, Hartford, CT 06106.

Present:

Thomas F. Reynolds, CPA, Chairman
Richard P. Bond
James S. Ciarcia
Philip J. DeCaprio, Jr., CPA, CrFA, CVA, ABV
Richard H. Gesseck, CPA
Richard L. Sturdevant
Martha S. Triplett, Esq.
Michael Weinshel, CPA

Staff Members Present:

David L. Guay, Executive Director
Rebecca E. Adams, Esq.
Angel D. Acevedo, Office Assistant

Absent:

Leonard M. Romaniello, Jr., CPA, CITP, MST

A motion was made by Richard Gesseck and seconded by Michael Weinshel to add items 12a. A Discussion of the NASBA Regional Directors Report & 12b. Nomination of NASBA Regional Director to the agenda of the May 05, 2009 Board Meeting.

A motion was made by Richard Bond and seconded by Michael Weinshel to approve the minutes of the April 07, 2009 Board Meeting. All voted in favor; no votes against and no abstentions.

Executive Director's Operations Update and Review:

Budget

- Tentative Agreement with the Unions on employee concessions and job security
- Appropriations Committee proposed budget restores the agency and funding
- Minority Caucus Alternative Budget proposes Board merger into Department of Consumer Protection
- Personal Services Reduction Plan is being submitted, reduction submitted is the requested \$7500 in overtime funding in each year FY10 & FY11.
- Attended Commissioner's meeting with the Governor on April 23, 2009
- Allotment Modifications – Deferral of Purchases. Section 3 of Public Act 09-2 “An Act Concerning Deficit Mitigation Measures for the Fiscal Year Ending June 30, 2009” requires the Secretary of the Office of Policy and Management to reduce contract expenditures by \$50.0 million and defer purchases, including equipment by \$8.0 million in executive branch agencies. The amount associated with the deferral of purchases that needs to be deducted from the Board's fourth quarter Other Expenses allotment is \$868

CPA Certificate Ceremony

- Reminder that the Society has informed us that the next ceremony will be June 09, 2009

Information Technology

- Continuing to have database outages and issues from being moved to a new server, met with DoIT on April 21, 2009 and agreed to new testing of staged version to establish yet again another baseline. This testing is currently ongoing and has stopped initial certification, licensing, registration and permitting until completed.
- Staff attended Webinars on the NASBA Accountancy Licensing Library on April 09, and 23, 2009.

Licensing

- CPE audit prep continues – would like Board advice on how to handle large firm responses that the firm's tracking and list system is all the documentation. Suggesting we require the firm to provide the documents required by regulation that the vendor keep.
 - (b) In order to support the reports that may be required of participants, the sponsor of group or self-study programs should retain for at least three years
 - appropriate records of attendance or participation,
 - (2) outline of the course (or equivalent),
 - (3) date(s),
 - (4) location,
 - (5) names and qualifications of instructors, and
 - (6) number of CPE contact hours.
- Continue to handle billing issue with Global Payments our credit card processor
- Assisted the Department of Education with establishing the use of credit cards.

Personal

- I spoke on Sunday, April 26, 2009 as the Key Note Speaker for the Fairfield University Induction Ceremony for Beta Alpha Psi
- I have filed my 2009 Ethics Statement of Financial Interests

NASBA

- Invitations have been sent out for The 2009 NASBA Eastern Regional Meeting to be held in Indianapolis, Indiana June 17 – 19, 2009. Reminder that any reimbursement by NASBA must meet Connecticut's Ethics Laws. We can not just accept a scholarship for attending a conference, but may be reimbursed for necessary expenses for speaking or participation

State Register and Manual

- Request for changes or revisions to the 2009 edition of the State Register and Manual has been received, if you have any changes in how you would like to be listed please let me know.

Travel

- Received a press inquiry from NBC 30 about how much the Board had spent on out of state travel since May of 2008 (None). As required, kept the Governor's office informed.

Facility

- Completed the facilities management survey required by the Department of Public Works

June Meeting Agenda So Far

1. Open discussion
2. CSCPA Analysis of Connecticut Accountancy Statutes and Regulations – A Final Review
3. CPE documentation (added per Len on April 29, 2009)
4. Firm Names (should have been reflected on original list)
5. Board meeting materials and the use of laptops (added per Dick S. on April 30, 2009)
6. Review of the Legislation that allows CPA's to receive third party payments from financial services providers (added per Dick S. on April 30, 2009)
7. Registration of all non-CPA's who offer tax preparation services (added per Dick S. on April 30, 2009)

The Board reviewed and noted, for the record, CPA Certificate Registration, CPA License & Firm Permit applications approved by the Executive Director April 07, 2009 through May 04, 2009.

A motion was made by Richard Gesseck and seconded by Phillip DeCaprio to table Mr. James A. Lagana's application for a Firm Permit to Practice using the name 'Accounting & Auditing Services, Inc.' All voted in favor; no votes against and no abstentions.

A motion was made by Philip DeCaprio and seconded by Martha Triplett to approve Ms. Maria Morrocco's application for a Firm Permit to Practice using the name 'Accountant on Call, LLC.' All voted in favor; no votes against and no abstentions.

A motion was made by Philip DeCaprio and seconded by James Ciarcia to approve an application for extension of Ms. Bonnie J. Soucy's conditional credits for the period ending January 31, 2010. Motion passed with Richard Bond, James Ciarcia, Philip DeCaprio, Richard Gesseck, Thomas Reynolds, Richard Sturdevant, and Martha Triplett voting in favor; Michael Weinshel voted against and no abstentions.

A motion was made by Philip DeCaprio and seconded by Richard Bond to table a request from CPA Examination Services concerning whether, or not CPA Exam Prep Courses would count as accounting courses in order satisfy the requirements to sit for the CPA Examination. All voted in favor; no votes against and no abstentions.

The following PCAOB Inspection Reports were received and noted, for the record, by the Board:

- 2008 Inspection of PricewaterhouseCoopers, LLP
- 2008 Inspection of Deloitte & Touche, LLP

Nancy Hayes, the Chair of the CSCPA Review Committee, briefly addressed the Board in regards to a new web-based program which would track all of the quality reviews online and if

the Firm so chooses they could even post their quality reviews online. Ms. Hayes will continue to keep the Board posted as more information becomes available.

In the experience regulations update, Attorney Adams informed the Board that the deadline for review has lapsed, therefore, she has resubmitted a draft of the Experience Regulations to the Attorney General's Office. Once, draft is reviewed she will then forward it to the Regulations Review Committee.

In a brief discussion of the NASBA Regional Directors Report, Chairman Reynolds encouraged the other Board Members to review the findings of the report as it is interesting to note the way Directors from other Board's responded to the survey.

Michael Weinschel made a motion for the CT State Board of Accountancy to nominate Andrew DuBoff of New Jersey as the Northeast Representative to NASBA's Regional Directors Committee. The motion was seconded by Philip DeCaprio. All voted in favor; no votes against and no abstentions.

Public Session- Enforcement Agenda

A. Requesting Settlement Approval

2009010-3181 Mubaied - reinstatement of individual license
\$250 penalty, lapse in license, and CPE earned by June 30, 2008.

2009012-3183 Dahmke- reinstatement of individual license
\$250 penalty, lapse in license, and CPE earned by June 30, 2008.

2009013-3184 Guidotti - reinstatement of individual license
\$250 penalty and CPE earned by June 30, 2008.

2009020-3191 Lucci - reinstatement of individual license
\$250 penalty, lapse in license, and CPE earned by June 30, 2008.

2009022-3193 McGoldrick - reinstatement of individual license
\$250 penalty and CPE earned by June 30, 2008.

2009024-3195 Amador - reinstatement of individual license
\$250 penalty, lapse in license, and CPE earned by June 30, 2008.

2009030-3203 Walt - reinstatement of individual license
\$250 penalty, lapse in license, and CPE earned by June 30, 2008.

2009031-3204 Phillips - reinstatement of individual license
\$250 penalty, lapse in license, and CPE earned by June 30, 2008.

2009036-3210 Nadler - reinstatement of individual license
\$250 penalty, lapse in license, and CPE earned by June 30, 2008.

2009037-3211 McGuire - reinstatement of individual license
\$250 penalty, lapse in license, and CPE earned by June 30, 2008.

2009014-3185 Greene
\$250 penalty, lapse in license, and CPE earned by June 30, 2008.

2009015-3186 Greene
\$100 penalty and lapse in permit.

2009016-3187 Sauer
\$250 penalty, lapse in license, and CPE earned by June 30, 2008.

2009049-3223 Fabrizi – reinstatement of individual license
\$250 penalty, lapse in license, and CPE earned by June 30, 2008.

2009050-3224 Fabrizi – reinstatement of firm permit
\$100 penalty and lapse in permit.

A motion was made by James Ciarcia and seconded by Michael Weinschel to approve all of the above pending settlement agreements. All voted in favor; no votes against and no abstentions.

B. RECOMMENDING AND REQUESTING DISMISSAL

2007009-2970 Smolin – KPMG partner located in Stamford Connecticut who marketed tax shelters subsequently declared illegal by the IRS.

At the compliance meeting held on March 10, 2009, Counsel found the following to be supported by credible evidence: Mr. Smolin was a tax partner in KPMG LLP in Stamford, CT until 2004, when he retired from that firm. In 1998/1999, KPMG tax leadership that KPMG had created certain tax shelter investments and he was asked to offer these tax shelters to sophisticated clients who were interested in the product. KPMG leadership and tax partners responsible for creating the products, he was not one of those, informed partners throughout the firm that these investments were created by the highest qualified tax partners in the firm working together with outside tax lawyers and other professionals, such as bankers and investment advisors. Mr. Smolin did mention the product to clients and two clients indicated interest. Both clients and Mr. Smolin attended the Presidio marketing presentations where the Presidio representatives made their pitch. Neither client asked him to purchase the product. After retiring from KPMG in 2004 he became managing director of Wilmington Family Office, where he provides financial planning services to individuals. Neither the US DOJ nor the IRS investigated or in any way included or implicated Mr. Smolin as part of the proceedings against KPMG and its responsible partners.

Recommend dismissal – No probable cause due to failure to find a violation

A motion was made by Richard Sturdevant and seconded by Martha Triplett to dismiss enforcement case # 2007009-2970 against Mr. Smolin without prejudice. Motion passed with Richard Bond, James Ciarcia, Richard Gesseck, Thomas Reynolds, Richard Sturdevant, and Martha Triplett voting in favor; Philip DeCaprio & Michael Weinschel voted against and no abstentions.

C. REQUESTING BOARD ISSUE SUBPOENAS

Requesting Board Issue Subpoenas for work papers, checklists, all documentation relied upon or utilized in the performance of audits or reviews of financial statements related to Bernard Madoff Investments and Feeder funds:

2009027-3198 Teplitzky & Company – audit failure, negligence, lack of independence, and lack of competence. Teplitzky and Company performed the 2007 and 2008 US Department of Labor mandated ERISA compliance audit for the Orthopaedic Specialty Group of Fairfield, Connecticut. The Audit required sampling of 5% of the securities of the fund and all securities were held by BMI.

2009017-3188 McGladrey & Pullen – negligence in performance of audit/audit failure
In 2007, McGladrey performed the audit for Maxim, including auditing the Absolute Return Fund, which was a Madoff related fund.

2009018-3189 Goldstein Golub Kessler – negligence in performance of audit/audit failure
In 2006, Goldstein Golub Kessler performed the audit for Maxim, including auditing the Absolute Return Fund, which was a Madoff related fund.

2009019-3190 KPMG, LLP – negligence in performance of audit/audit failure
KPMG performed audits of the financial statements Rye and Tremont funds.

2009051-3225 BDO Seidman - negligence in performance of audit/audit failure. BDO Seidman performed audits of the financial statements various funds, which were wholly or partially invested with Madoff.

A motion was made by Philip DeCaprio and seconded by James Ciarcia to approve the issuance of subpoenas for work papers, checklists, all documentation relied upon or utilized in the performance of audits or reviews of financial statements related to Bernard Madoff investments and feeder funds for the parties listed above. All voted in favor; no votes against and no abstentions.

D. WITHDRAWAL OF REQUEST FOR REISSUANCE OF CERTIFICATE AND REINSTATEMENT OF LICENSE PURSUANT TO SETTLEMENT

2003012-2450 Kenneth Wilchfort

Certificate and License surrendered pursuant to settlement, eligible for reinstatement when restored to practice by the SEC. Requested reinstatement along with Mr. Rabinowitz; has withdrawn due to immediate and permanent retirement.

No official vote was taken, but noted by the Board for the official record.

E. REQUEST FOR REISSUANCE OF CERTIFICATE AND REINSTATEMENT OF LICENSE PURSUANT TO SETTLEMENT

Marc Rabinowitz surrendered Certificate #8173 and License #7107 pursuant to the settlement he entered into with the Board. Mr. Rabinowitz became eligible for reinstatement when restored to practice by the SEC.

The Board approved settlement with Mr. Rabinowitz on July 10, 2007, as follows:

2003012-2451 Marc Rabinowitz

“The SEC alleged that Mr. Rabinowitz, a partner at Ernst & Young LLP, failed to detect that CUC and Cendant's financial statements were not presented in conformity with GAAP. Mr. Rabinowitz's 4 year suspension has expired. He is currently applying for restoration of his SEC practice rights.

Settlement Approved for surrender of Certificate pursuant to Board Order, with application for reinstatement allowed but not automatically granted upon reinstatement by the SEC, and payment of \$2,200 in Board costs associated with this case. “

Mr. Rabinowitz paid the \$2,200, has been reinstated by the SEC, and is in compliance with his Connecticut settlement terms and now request reinstatement pursuant to the terms of the settlement.

Counsel recommends reinstatement.

A motion was made by Richard Sturdevant and seconded by Philip DeCaprio to approve the application for reinstatement of Mr. Marc Rabinowitz's Reciprocal CPA Certificate & Initial CPA License. Motion passed with Philip DeCaprio, Thomas Reynolds, Richard Sturdevant, Martha Triplett, Michael Weinshel voting in favor; Richard Bond & Richard Gesseck recused themselves; James Ciarcia voted against and no abstentions.

F. FORMAL HEARING: PETITION FOR REISSUANCE OF CERTIFICATE AND REINSTATEMENT OF LICENSE PURSUANT TO CONN. GEN. STAT. SECTION 20-281F.

Philip Madonna : The Board revoked his certificate March 04, 2003 after formal hearing based upon conviction of a felony. He has requested reinstatement based upon the statute set forth below and a hearing is scheduled

Sec. 20-281f. Suspension or revocation of registration, certificate, license or permit. Refusal to renew. Reinstatement. (a) In any case where the board has suspended or revoked a registration, certificate, license or a permit or refused to renew a certificate, license or permit, the board may, upon application in writing by the person or firm affected and for good cause shown, modify the suspension, or reissue the certificate, license or permit.

A motion was made by Philip DeCaprio and seconded by Michael Weinshel to deny the reissuance of Mr. Madonna's certificate and the reinstatement of his license. All voted in favor; no votes against and no abstentions. Richard Gesseck recused himself.

A motion was made by Philip DeCaprio and seconded by Michael Weinshel to enter into the Executive portion of the Board meeting at 11:23 A.M. to review cases where litigation is pending. All voted in favor; no votes against and no abstentions.

A motion was made by Philip DeCaprio and seconded by Michael Weinshel to close out the Executive portion of the Board meeting at 11:44 A.M. All voted in favor; no votes against and no abstentions.

Motion made by Philip DeCaprio and seconded by James Ciarcia to adjourn the May 05, 2009 Board Meeting of the Connecticut State Board of Accountancy at 11:44 A.M. All voted in favor; no votes against and no abstentions.