

Minutes of the South Carolina Board of Accountancy
Thursday, October 28, 2004, at 9:00 A.M. in Meeting Room 108
Synergy Office Park, Kingstree Building, 110 Centerview Drive
Columbia, South Carolina

Debra A. Turner, Chairman, called the meeting of the South Carolina Board of Accountancy to order at 9:00 a.m. with a quorum present. Other Board members present: Charles L. Talbert, III, Vice-Chairman, Donald H. Burkett, Secretary, K. Brodie Brigman, Jr., Joseph S. Cone, Robert T. Foster, Jamison W. Hinds, and H. McRoy Skipper, Jr.

All Board Members were present. One Board Member position is legally vacant at the present time awaiting appointment by the Governor.

Staff members participating during the meeting included: Doris E. Cubitt, Administrator; Sharon Dantzler, Chief Deputy General Counsel, and Geoffrey Bonham, Assistant General Counsel, LLR-Office of General Counsel; Kathy Prince, Investigator; and Margery McWhorter, Administrative Assistant.

The Chairman announced the meeting was being held in accordance with section 30-4-80 of the South Carolina Freedom of Information Act by notice mailed to The State Newspaper, Associated Press, WIS-TV and all other requesting persons, organizations, or news media. In addition, notice was posted on the bulletin board at the main entrance of the Kingstree Building. The meeting was video taped as part of a pilot program for LLR.

A moment of silence was observed after which McRoy Skipper led all present in the Pledge of Allegiance to the Flag of Our Country.

1. On motion by Brodie Brigman, seconded by McRoy Skipper, and unanimously passed, an agenda was adopted for the meeting.
2. On motion by Donald Burkett, seconded by Jamison Hinds, and unanimously passed, the minutes of the meeting held on Thursday, August 26, 2004, were approved.
3. In lieu of proceeding with a hearing, a motion to stay proceedings pending disposition of civil lawsuit in United States District Court for the District of South Carolina was presented by R. Davis Howser, Esq., representing Gary A. Fruechtenicht, who previously held CPA, Certificate No. 3660, Case No. 57-1253 and Robert Wood, Esq., joined the Respondent in the motion. On motion by Brodie Brigman, seconded by Donald Burkett, and unanimously passed, the Board approved hearing arguments on the motion to stay proceedings.

The Board was represented by Geoffrey R. Bonham, Esq., Eddy L. Lane, Esq., served as Advice Counsel to the Chairman and R. Davis Howser, Esq., represented Mr. Fruechtenicht. After hearing arguments from the attorneys, on motion by Charles Talbert, seconded by Brodie Brigman, and unanimously passed, the Board went into executive session to receive legal information. Upon coming out of executive session on motion by Donald Burkett, seconded by Robert Foster, and unanimously passed, the Chairman announced that no vote had been taken.

Item #3 – Hearing re: Gary A. Fruechtenicht - continued

On motion by Jamison Hinds, seconded by Charles Talbert, and unanimously passed, the Board granted to stay the proceedings against Gary Fruechtenicht until the Board meeting on January 26, 2005, stated that no other continuances will be granted and a fine in the amount of \$500 be assessed to cover administrative costs because the request to stay was only presented the day before the scheduled hearing.

Donald Burkett was excused for the remainder of the meeting

4. A hearing was conducted based on the complaint against Steven K. Stullenbarger, holder of CPA Certificate No. 5035, Case Nos. 57-1200, 57-1201 and 57-1202. The Board was represented by Geoffrey R. Bonham, Esq., Eddy L. Lane, Esq., was Advice Counsel to the Chairman and Mr. Stullenbarger was without an attorney and represented himself. McRoy Skipper recused himself from participating in the proceedings and the voting.

After the testimony of witnesses and the arguments were presented by counsel and rebuttal by Respondent, on motion by Charles Talbert, seconded by Robert Foster, and unanimously passed, the Board went into executive session to receive legal counsel. On coming out of executive session on motion by Jamison Hinds, seconded by Joseph Cone, and unanimously passed, the Chairman announced that no vote had been taken.

On motion by Jamison Hinds, seconded by Brodie Brigman, and unanimously passed with McRoy Skipper abstaining, the Board found as follows:

The Respondent has violated S.C. Code Ann. §40-2-290(A)(9) in that the Respondent has engaged in conduct reflecting adversely upon his fitness to engage in the practice of public accountancy, as evidenced by *inter alia*, the Respondent's failure and refusal to return client records in a timely manner and failure to comply with directives of representatives of the Board;

The Respondent has violated §§40-1-110(k) and 40-2-290(5), in that the Respondent has violated a regulation promulgated by the board under Article 1 of Chapters 1 and 2 of Title 40 of the Code of Laws of South Carolina 1976, as amended, specifically S.C. Code Regs. 1-21(A), by committing acts discreditable to the profession, as evidenced by, *inter alia*, his failure to prepare and/or file tax documents; failure to timely pay taxes and withholding on behalf of clients; failure to communicate with clients; abandonment of clients; request for and acceptance of fees for work not performed; failure or refusal to return client records; and failure or refusal to comply with directives of representatives of the Board;

A. The Respondent shall be suspended from the practice of accountancy for a period of six months.

Item #4 Hearing re: Steven K. Stullenbarger continued

B. The Respondent shall complete forty (40) hours of CPE and one (1) eight-hour course in ethics, principles and professional responsibilities comparable to or as may be offered in the state of North Carolina.

C. The Respondent shall readily and promptly cooperate with any newly retained CPA or other persons assisting Respondent's former clients in resolving issues with the Internal Revenue Service, the South Carolina Department of Revenue or the South Carolina Employment Security Commission.

D. The Respondent shall pay the sum of five-hundred dollars (\$500.00) to the Board to cover administrative costs of investigation and prosecution of this matter, within thirty (30) days of the date of this Order.

5. Executive Session:

On motion by Charles Talbert, seconded by Robert Foster, and unanimously passed, the Board went into executive session to receive legal advice. Upon coming out of executive session on motion by McRoy Skipper, seconded by Charles Talbert, and unanimously passed, the Chairman announced that no vote had been taken

6. Complaint/Investigative Activity:

A. The Board took action as follows:

1. Robert T. Eney, Accounting Practitioner Permit No. 306, Case No. 57-1249.
On motion by McRoy Skipper, seconded by Brodie Brigman, and unanimously passed, the Consent Order was approved as presented. A copy is attached to these minutes and will be made part of the public record.

2. David L. Harper, Accounting Practitioner Permit No. 31, Case No. 57-1214, CPA Certificate No.1645. On motion by McRoy Skipper, seconded by Donald Burkett, and unanimously passed, the Consent Order was approved as presented. A copy is attached to these minutes and will be made part of the public record.

B. On motion by McRoy Skipper, seconded by Jamison Hinds, and unanimously passed the IRC Recommendations to dismiss Case No. 57-1512 and Case No. 2004-5 were approved. A copy is attached to these minutes.

7. Information Update:

A. There were no remarks by the Chairman.

B. There were no advisory opinions.

C. Legislative update. No report since the Legislature is not in session.

Item #7 Information Update: continued

D. The report by Brodie Brigman and Doris Cubitt on the annual NASBA meeting held in Chicago was received as information and contained the following: The Chairman of PCAOB explained what they are doing and how the state boards of accountancy can get involved. A Confidentiality Agreement was sent to the Board. The Board needs to return this signed agreement before the Board can get the second part of the oversite public inspections of the four large firms. By consensus, the Board agreed to sign the Confidentiality Agreement after counsel has approved it.

E. The Administrator's report was received as information.

F. The financial report was received as information.

G. A report on the Positive Enforcement Program prepared by Robert Keisler was distributed to the Board. A copy is attached to these minutes.

8. Old business. There was no old business.

9. New Business:

A. Qualifications for Licensure Committee: On motion by McRoy Skipper, seconded by Jamison Hinds, and unanimously passed CPA Certificates issued August 27, 2004, through October 28, 2004, were approved. (Attachments #1 and 1a)

The initial examination application of Kenneth William Shields that was tabled at the August 26, 2004, meeting was rejected on motion by Brodie Brigman, seconded by Charles Talbert, and unanimously passed. Mr. Shields appeared before the Board to explain his actions and answer questions.

B. Experience/Education Committee: On motion by Jamison Hinds, seconded by McRoy Skipper, and unanimously passed, an upon the recommendation of Jimmy Burkett, CPA, Managing Director MACC/MTAX Programs, Moore School of Business, University of South Carolina, the course DMSB 717 Management Accounting in Global Environment for two semester hours will meet the managerial accounting requirement for three semester hours, as part of the education requirement to sit for the CPA examination.

C. CPE/Renewal Committee: The Committee will have a report for the December meeting.

D. Regulation/Legislative Review Committee: No report.

E. Position Response Committee: McRoy Skipper reported he has responded to several quick polls.

Item #9 New Business: continued

F. Examination Committee: On motion by Joseph Cone, seconded by McRoy Skipper, and unanimously passed, the grades for the July/August 2004 testing window were approved as submitted by NASBA.

Doris Cubitt presented and the Board by consensus approved the request of Francine Morrow to sit as an ADA candidate. She will be given time and a half for each subject for which she applies.

G. Character and Fitness Committee: The Chairman stated that she is awaiting additional information before appointing the third member to this committee. This appointment should be made within a week.

H. The Board will review the Newsletter and notify the Administrator of any changes.

I. The following applications were approved for change in accordance with the requirements of the new accountancy law which was ratified on July 22, 2004: Reciprocity Application, Form 2103, Full Credit Transfer Application, Form 1103, and Emeritus Application, Form 5000.

J. By consensus the Board approved the following dates for the board meetings to be held in 2006: Thursday, January 26; February – no meeting; March – no meeting; Thursday, April 27; May – no meeting; Thursday, June 22; July – no meeting; Thursday, August 24; September – no meeting; Thursday, October 26; November – no meeting; Thursday, December 7.

10. Public Comment: There was no public comment.

11. The next meeting dates are as follows:

For the year 2005: Wednesday, January 26, Room 108; February – no meeting; March – no meeting; Thursday, April 28, Room 108; May – no meeting; Thursday, June 23, Room 108; July – no meeting; Thursday, August 25, Room 108; September – no meeting; Thursday, October 27, Room 108; November – no meeting; Thursday, December 8, Room 108.

Members are to reserve the afternoon before each meeting in the event a hearing is scheduled.

12. The meeting was adjourned at 3:00 pm by the Chairman.

Respectfully submitted,

Doris Cubitt, Administrator

Page 6
October 28, 2004

Approved at the January 26, 2005 Board Meeting.