

Minutes of the South Carolina Board of Accountancy  
Thursday, January 22, 2009, at 9AM in Room 108 (Board Meeting)  
Synergy Office Park, Kingstree Building, 110 Centerview Drive  
Columbia, South Carolina

Donald H. Burkett, CPA, Chair, called the Board Meeting of the South Carolina Board of Accountancy to order on January 22, 2009, at 9:00 a.m., with a quorum present. Other Board members present were Mark T. Hobbs, CPA, Bobby R Creech, Jr., CPA John Camp, CPA, Anthony Callander, CPA, Malane Pike, Esq., Wendell Lunsford, Accounting Practitioner, and Gary F. Forte, CIMC.

Staff members participating in the meeting included: Doris Cubitt, Administrator, Michael R. Teague, Administrative Assistant, and Amy Holleman, Administrative Specialist.

Guests in attendance were Erin Hardwick from the SC Association of CPA's (SCACPA), Gale Bell, representing the SC Society of Accountants, and Dan Fritze from Nelson Mullins representing Dow Lohnes Price Tax Consulting Group, LLC.

The Chair announced the meeting was 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, Board Staff posted notice on the bulletin board at the main entrance of the Kingstree Building.

The Board observed a moment of silence after which Mark Hobbs led all present in the Pledge of Allegiance.

1. On motion by Bobby Creech, seconded by Mark Hobbs, and unanimously passed, the Board amended the agenda by moving Staci Ginsburg's CPA Examination application to the beginning of the agenda.
2. On motion by Mark Hobbs, seconded by Malane Pike, with discussion that the September 24, 2008 minutes were correct as transcribed regarding the question to Barbara Derrick concerning amending the budget, Mr. Camp stated that her answer was no versus what was captured in the minutes. After reviewing the transcription tape, Ms. Derrick did indicate that the budget is amendable by the Board. A vote was taken and unanimously passed to accept the December 11, 2008 minutes.
3. John Camp made a motion, seconded by Anthony Callander, to approve Staci Ginsburg's CPA Examination application as a South Carolina candidate. The vote was taken with one Yes vote (John Camp) and seven votes to deny the application. Previously Ms. Ginsburg, who is a resident of North Carolina, applied to sit for the CPA exam as a North Carolina candidate and was denied by the North Carolina State Board of Certified Public Accountant Examiners due to her California's driver's license being in a probation status as a result of two DUI's within 18 months. The SC Board did not want to override the NC Board's decision.
4. Ms. Cubitt stated that Regulation 1-05 concerning In-State Firm Registration was reposted for comments in the Notice for Drafting of Regulation 1-05. The only

comments received were from Mr. Dan Fritze of Nelson Mullins, representing Dow Lohnes Price Tax Consulting Group, LLC (DLP). Ms. Cubitt explained firm locations need to register in order to maintain standards are followed and work is in accordance with professional standards. If a firm is not registered, and the owners were not licensed CPAs, they may apply undue pressure on the CPA to do work that may not meet professional standards, and they may not be as up-to-date on professional standards and do not know all the requirements of a licensee. Mr. Burkett interjected that statute states CPAs must own 66 2/3% of the firm just for that reason.

Ms. Cubitt explained Nelson Mullins proposed changes to Regulation 1-05. She stated draft A, "offers to engage in practice of accounting" has been stricken and replaced with "issues a report". This would indicate that licensees that do anything other than something that would require a report, which would be a compilation, review, an audit, or a prospective financial statement would not have to register as a firm. If the registration of the firm followed these guidelines we wouldn't have the same level of accountability.

Mr. Hobbs noted that licensees are bound by their own professional standards, the firm, by registering, would be bound by the Board's standards allowing for quality control for the firms and licensees. He further stated the firm is ensuring that all the professional standards and all the rules are followed.

Malane Pike identified a problem with DLP's proposed changes. She stated their changes are not consistent with the statute. For example, the definition of the "Practice of Accounting" in Section 40-2-20(15) includes "using or assuming the title "Certified Public Accountant" or the abbreviation "CPA"; however, the proposal does not take that into account. She also stated the statute governing the registration by a firm, Section 40-2-40(B)(1) specifically references use of the title "Certified Public Accountant". She noted their proposal is not consistent with the established statute and that the Board cannot adopt or approve any of the proposed language, even if the members liked the concept.

Mr. Fritz asked that the Board allow him to clarify a few points:

- There is nothing in the Accountancy Act that requires a firm to be registered in the manner in which the regulation has laid out. There is a clear statute that says, if an individual is a firm and the individual is using that CPA title, the individual firm has to register.
- Nelson Mullins concern is the regulation goes beyond the intent of the act. The regulations are legislating, which is not the purpose of regulations. Regulations are to clarify the statute. The statute does not say, in the Nelson Mullins scenario, the firm would have to register. What the firm was doing in modifying Regulation 1-05(A) is to make it fit with the statute.
- If you have a statute that says by using the CPA title, you have to register as a firm, then the regulations didn't have to repeat it. What the firm was attempting to do was work with the regulation to mean something that was consistent with the Act, which is why it was tied back to the attest services.

He does not think that Regulation 1-05(A) is legal. He believes it goes beyond the intent of the Accountancy Act.

Discussion on this matter ensued and included:

- The firm's employees "using or assuming the title of Certified Public Accounting or abbreviation "CPA" when signing a Power of Attorney (POA) on behalf of the firm.
- Nothing in the statute requires an individual using the initials CPA in this manner on a POA for that firm to be registered. When the firm got the initial notice from the Board stating the firm needed to be registered the letter cited a regulation but did not cite a section of the statute. If there was a statute they were citing back to, then it would be different. The firm's view is that the regulations go beyond what the statute is requiring.
- The firm is not using the title of "Certified Public Accountant" and is not an accounting firm. The firm is a tax consulting firm. The individual within the firm is indicating that they are a CPA in filing the POA on behalf of their client. The firm does not hold itself out as a CPA firm. The firm in no way advertises in letterhead, websites, anything that is being a CPA firm. The firm provides tax consulting services.
- The POA is filed with the tax authorities and is not public record. When Nelson Mullins says "hold themselves out they are holding out to the public which is the public, and they sign the POA for the client.
- Their tax consulting services in this case does not involve filing a POA with tax regulatory filing. In some cases they do, but that is not across the board.
- If law firm employs CPAs the attorneys can sign the POA, and do not have to sign as a CPA firm. In this particular case, a group of attorneys own this firm with some ownership of CPAs. But no attorneys are present at the firm location to sign the POAs.
- CPAs who work in industry such as Milliken or Target as a controller or vice president of finance are not holding out to the public, but to their employer and do not have to register. Investment firms with CPAs do not allow their employees to hold themselves out to the public
- The agency investigates complaints based on the statute and regulations.

On motion by Bobby Creech, seconded by Mark Hobbs, and unanimously passed, the Board went into executive session to consult legal counsel.

On motion by John Camp, seconded by Anthony Callander, and unanimously passed, the Board came out of executive session. Board Chair, Donald Burkett stated that no votes were taken while in executive session.

On motion by Mark Hobbs, seconded by Malane Pike, and unanimously passed, to not make any changes to the Regulation 1-05.

Mr. Burkett asked if the Board had until June 2009 to finalize any arrangements for Dow Lohnes Price Tax Consulting Group, LLC firm registration. Ms. Cubitt stated yes.

6. Complaint & Investigative Activity:

- A. Consent agreements and other special matters - None
- B. Open Cases – As Information
- C. Dismissal Report – None

7. Information Update

A. Chair's remarks:

Mr. Burkett recently returned from a National Association of State Boards of Accountancy Board of Directors meeting which they discussed:

- Mobility – Several states have implemented mobility and have found several areas that need to be corrected.
- CPE – NASBA is not going to be involved in become a CPE sponsor.
- Exam – The contract for the CPA Exam is in the process of being renegotiated between AICPA and Prometric. A majority of the state boards feel that the cost of the exam has gotten out of hand.

B. Advisory Opinions: No Report

Legislative Update: Sharon Dantzler briefed the Board that the South Carolina Senate Labor, Commerce and Industry Committee's regulation sub-committee would be holding public hearings on the need and the scope of regulation for all of the Professional Occupational Licensing Boards that fall within their overview, which includes the Board of Accountancy. The only individuals invited to speak are the professional associations. She noted neither the Boards nor any consumer groups have been invited to speak. The Sub-Committee is interested in is whether or not the Boards have too much discretion.

C. The Board received the Administrator's report as information, and the report contained the following:

(1) Advised the Board that there is an upcoming hearing and asked for a determination to convene on the hearing date May, 28, 2009 or the next Board Meeting date, May 7, 2009. The Board decided on May 7, 2009.

(2) Advised the Board that the House, Ways and Means, Sub-Committee Chair Kenny Bingham feels most of the state agencies are taking a 25% - 35% revenue reduction and that LLR should do the same. It was pointed out that the agency's revenue is generated from the licensees. Regardless of funding, state agency funds are still considered state money. Mr. Burkett mentioned that it did not seem prudent that LLR reduced the renewal fees from \$160 for a two year renewal to \$80 for a two year renewal for the recently completed renewal cycle.

(3) Spoke with Jim Holloway concerning Peer Review. It appears that the program is running as needed. There is a Peer Review Committee meeting schedule for January 23, 2009, which Mr. Holloway will attend.

(4) SCACPA had to move the CPA Day at the State House to April 29, 2009 due to legislative session being shortened. The New CPA Oath Ceremony will be held the same day.

(5) A copy of the CPA Exam Services (CPAES) flow chart concerning the CPA exam application was provided to the members. There are two different parts of the process: 1) Registration – CPAES handles all the registration of the candidates for the Board and 2) Gateway – the state boards that handle their own registrations of CPA candidates.

Once the SC candidate submits the completed initial application with the transcripts and fees, CPAES will process the fees, will copy and mail to the Board the application and transcripts for evaluation. Once the evaluation process has been completed an email is sent to CPAES with the candidates identifying information and if they are eligible to sit for the exam. However, if the candidate is not eligible to sit for the exam he/she will be provided with a reason.

Staff's goal for the complete process is four to six weeks. There have been several occasions where it has taken longer, which is sometimes due to not receiving a particular transcript. If any of the Board members are contacted as to why the candidate has not received the Notice to Schedule (NTS) she asked that they contact staff which has the ability to go online and check on the candidate's status.

Mr. Burkett stated that he has heard that the application process appears to be too long and requested the Board staff to track the process and prepare a report for the next Board meeting scheduled for May 7, 2009.

He inquired if CPAES has a dedicated representative for South Carolina. Ms. Cubitt stated that the South Carolina representative also handles Colorado and Connecticut candidates.

Ms. Cubitt briefed the Board of a recent visit to the CPAES offices in Nashville, TN. She was provided a tour of the facility and was shown the application process. According to CPAES, once the application has been received it is date stamped, the fee is processed, the application and transcripts are copied, and mailed once a week to the Board to verify eligibility. When the Board staff reviews the application and transcripts, there appears to be inequities in NASBA's stated process and what is actually happening. Mr. Burkett agreed as based on phone calls he has received.

Discussion on the application ensued and included the following:

- Staff completes the evaluation and eligibility part of the process and notification is done by CPAES.
- The Gateway System is the database that is used to maintain all candidate information; including contact information, eligibility, and test scores. Many State Boards handle their own application process and enter their candidate information and payments into the Gateway System rather than having CPAES handling the process. Once staff provides the list of eligible candidates to CPAES that office will in return send a Notice-to-Schedule to the candidate with their Sections IDs, Launch Codes for the exam, and time frames to take the exam. Once the candidate receives this information, he/she then contacts Prometric to actually schedule the exam dates. CPAES is an affiliate of NASBA and maintains the actual Gateway database in Nashville, TN. The Gateway database is fed information from the Boards, Prometric with attendance records and AICPA with the grades.
- The Board has a contract with CPAES; however the candidate pays the fee to CPAES through an application fee. If the Board did not contract with CPAES to handle the application process would the Board receive the application fee? If the Board received the application fee and processed the application a full time staff person would be required to take upon the additional duties which is unlikely in today's budget crisis. The application fee for a first time candidate is \$135, and re-exams are prorated based on the number of exam sections to be taken. AICPA, Prometric, and CPAES receive appropriations from the application fees. Since staff conducts the actual transcript reviews, the Board receives \$50 per candidate from NASBA from the \$135 application fee.

- Board staff completes the most time consuming part of the process, transcript evaluations which is completed on an equitable basis. Staff closely scrutinizes the application and transcripts. Staff researches course descriptions and verifying that each institution is accredited by a regionally accreditation organization by reviewing the institution's websites. Staff also contacts registrar offices to obtain information not contained on the institution's website. CPAES is only keying in the information into the database.
- Ms. Cubitt just received a book from NASBA which breaks down by each state with statistical information regarding candidates and other information. However, she must first receive permission to use the book
- The application fee is a profit center for CPAES. If the Board owned the application process the application fee could be reduced.
- After we notify CPAES of the candidate's eligibility, a letter is sent to each candidate stating he/she has met the exam requirements and what further documentation is needed in order to obtain licensure. The Board's web site contains Frequently Asked Questions that also provides information regarding courses. Board staff also conducts Pre-Evaluations for those individuals that have yet to apply for the exam. This allows prospective candidates to have a better idea what is specifically need in order to sit for the exam. It is not necessarily publicized too much, because it is very time consuming. Staff would be overwhelmed if everyone that applied wanted a pre-evaluation.
- The Board discussed lack of communication, a frequently asked questions brochure that shows the applicants how the exam and licensing process works would be beneficial. The Board's policy is not to pre-approve courses, just like the Board does not pre-approve CPE. If a candidate calls and asks if a specific course qualifies, the candidate is told it appears that it would qualify.
- The statute and regulations, as well as frequently asked questions, are posted on the web site. Candidates who graduated college six or seven years ago and individuals who switched majors may obtain information regarding specific hours from the web site.
- Staff updates the frequently asked questions to include courses accepted by four year colleges from technical colleges which may count toward the 150 hour requirement.

- Corrections are being made to update the term of office for Mr. Burkett on the Board's web site. All other members' terms are correct.

8. Old Business.

A. Consider recommendation for Recovery Professional Program – Tabled for next meeting

B. Discussion concerning public outreach (Mark Hobbs – Communication) – Tabled for next meeting

9. New Business

Regulation/Legislative Committee

Statute and Regulations changes:

Section 40-2-30 Definitions

After a lengthy discussion the Board adopted Option A to define Firm Registration.

Option A - A licensee who offers to engage in the practice of accounting for compensation by a client other than his or her employer must apply for registration as a firm or be employed or associated with a registered firm.

Option B - A licensee who offers to provide attest services for compensation by a client other than his or her employer must apply for registration as a firm or be employed or associated with a registered firm.

- How does the Board define "Professional Practice" as it pertains to experience policy?

On motion by Mark Hobbs, seconded by Malane Pike and unanimously passed, the Board voted to establish the following policy as it pertains to experience only: "Professional practice" means providing any type of services or advice using accounting, attest, compilation, management advisory, financial advisory, tax or consulting skills whether gained through employment in government, industry, academia, or public practice.

- Internship completed for college credit should not be counted as professional practice. After an individual has earned the basic 24 hours in accounting he/she may complete part-time temporary work, summer work during college or anything within the profession which can be credited toward the experience requirement, unless it is earned for college credit.



- Change the statute to come in-line with LLR's biennial renewal cycle. Added text will be **bolded**.

Section 40-2-250. Renewal of licenses;

(A) A licensee shall file an application for renewal on or before **February 1<sup>st</sup>** ~~January 1<sup>st</sup> of each calendar year~~ biennially.

(D) A license not renewed on or before **February 15<sup>th</sup>** ~~January 1<sup>st</sup>~~ is considered revoked. ~~Continued practice after January fifteenth must be sanctioned as unlicensed practice of accounting.~~

(E) Renewal applications filed or completed **between** after ~~January 15<sup>th</sup>~~ **February 15<sup>th</sup> and March 15<sup>th</sup>** are ~~subject to a reinstatement fee in the amount of five hundred dollars must be accompanied by a reinstatement application and a five hundred dollar reinstatement fee. Renewal applications received after March 15<sup>th</sup> will need the previous mentioned reinstatement application, fee and will be examined more closely for unlicensed practice violations.~~ A person may not practice on a revoked license.

Discussion on the proposed language included:

- The statute does imply the Board moved from annual to biennial licensure. The language in the statute could be reworded regarding biennial licensure when changes to other sections are being proposed.
- For CPE and biannual renewal, some Boards have chosen to do 80 CPE hours. It does not matter if you get them all in the last 2 months. Other Boards prefer that it be 40 in each year. **The consensus of the Board is to continue with 40 CPE hours each year.**
- Licensure has to be renewed by February 1<sup>st</sup>. Then there is a 15-day window from February 1 to February 15 that is provided as a grace period. From February 15 to March 15 is the time frame which allows licensees and registrants to reinstate by paying the \$500 fee, complete the reinstatement application without appearing before the Character & Fitness committee. After March 15<sup>th</sup> the reinstatement would have to be reviewed by the Character & Fitness committee.
- All licensure renewal is due on February 1. The auto revocation would occur on February 15, which allows staff time to mail cease and desist orders. Any renewal which comes in between February 1 and March 15 gets handled just as a late renewal with a fee and the revocation essentially disappears and the individual would not be disciplined for unlicensed practice during that time. However, if a

licensee has not renewed by March 15, the individual is engaged in unlicensed practice.

- Section 40-2-560 and Section 40-2-250, governing accounting practitioners and the renewal of individual licenses and Section 40-2-255 should mention the application the renewal or reinstatement must be in accordance with Section 40-2-250 and Section 40-2-255. This would allow the Accounting Practitioners to reinstate the same way as CPAs.

Mr. Burkett asked whether the Board wants to limit self-study to fifty percent of the 40 hours yearly requirement. Discussion in regard to limiting included that it is necessary to force learning rather than filling a square, that self-study is solely on an individual basis, are less expensive, can be completed in an individual's own time frame, which is helpful to some people and that limiting the hours will force licensees to search out other avenues of obtaining CPE. **The consensus of the Board is to limit self-study CPE to fifty percent, which is 20 hours of the annual 40 hour requirement.**

Mr. Burkett asked the Board to consider limiting the amount of CPE one can obtain to no more than 10 hours in a calendar day. Discussion included that during the final days of December it was not unusual to see licensees obtaining 24 hours in a one day period; which is not conducive to learning. Mr. Callander asked that the Board clarify that a licensee cannot obtain more than 10 CPE hours in a day. **The consensus of the Board is to limit the number of CPE hours a licensee can earn in a calendar day to only 10 hours.**

Discussion ensued regarding Lunch & Learn sessions. Licensees should only take credit for the program and not the time to eat or be served and at least 50 minutes constitutes an hour. It was noted that North Carolina does not allow any kind of learning activity if it involves a meal. **The consensus of the Board is to allow Lunch & Learn type of activities as long as the activity is at least 50 minutes in length not to include the meal.**

Discussion ensued regarding a CPE Ethics requirement but is struggling to decide in which direction to go. Ms. Dantzler stated once the Board drafts the regulation that requires the licensee to obtain the two hours of ethics every three years would be enforceable. However, the Board would have to be generous on what constitutes an ethics course and that pre-approval of courses is one area that the Board does not want to spend time doing. The Board does not pre-approve sponsors and structure, and has historically not pre-approved courses. **Mr. Burkett suggested tabling the Ethics requirement until more definition is determined.**

Discussion ensued concerning an Accounting & Attest (A&A) CPE requirement and included the following topics: eight hours of A&A would be a good requirement; however, yellowbook standards state the requirement that if a staff member worked a certain percentage of their time in federal government audits they must take A&A. It was agreed the Peer Review program covers the A&A requirement. It was noted if an individual signed an audit report and you do not have A&A the person did not comply with the ethical standard of your responsibilities. **The consensus of the Board is not to have an A&A requirement.**

- Reciprocal license

Accept the licensee's experience from another state without asking for further information if the individual has been licensed for more than four years out of the last 10 years. **The Board's consensus is to accept four years of experience within the last 10 years as a CPA.**

- Inactive Status

The Board discussed having the ability to have an Inactive status based on the facts and circumstances.

The Board does not have an inactive status but maintains an emeritus status, which is for those individuals who want to keep their CPA wall certificate, but no longer provides any CPA services for compensation. Discussion included the following topics: that there are several individuals that have changed their profession and wanted to maintain their certificate, individuals that are emeritus cannot complete any tax returns, bookkeeping or use any of their accounting skills for compensation, that language regarding emeritus status in many states, is similar, but when the Board did have an inactive status, close to eighty percent of the individuals that were on inactive status were not eligible. Some individuals were in industry and went inactive to avoid completing the 40 hour CPE requirement, even though they were holding out as a CPA. The Board at the time stated that a CPA is a CPA and the individual had to be current if they were going to call themselves a CPA.

Discussion ensued regarding inactive status for attorneys and reduced CPE for certain criteria in the legal profession for certain criteria, such as if an attorney is 60 years old and has 30 years in the profession.

Discussion ensued regarding individuals who do not practice at the moment but would like to keep their license. The statute states an individual in an emeritus status may not be reinstated as an active license. A licensee can voluntarily surrender their license, not work for a number of years, decide they want to return to the profession, complete the reinstatement process and become active again. If the

licensee has been away for three years or more they must have six months of current experience under the supervision of an active licensed CPA.

**The consensus of the Board is to allow licensees 70 years of age with 30 years of experience to reduce the CPE requirement to only 20 hours per year.**

- **COMPLETE DISQUALIFICATION OF REVOKED CERTIFICATE HOLDERS**

Amend Regulation 1-10 by adding  
(D) A licensee or permit holder shall not employ or associate, directly or indirectly, a person whose license is revoked or suspended by this Board or the Board of Accountancy in any other jurisdiction as an accountant, investigator, tax preparer or in any other capacity connected with the practice of accounting. Employing or associating such a person in the practice of accounting subjects the licensee or permit holder to discipline by the Board.

Mr. Callander asked if this regulation could be enforced and if it is legal. Ms. Dantzler stated the South Carolina Bar has a similar regulation regarding attorneys. **The consensus of the Board to keep the proposed regulation as stated above.**

- 40-2-40 (A) was changed for mobility. The limitation of the term "Accounting Firm" was removed and it is now recommended to have the following language reinserted:

A firm must hold a registration issued pursuant to this section in order to engage in the practice of accounting or to use the title "Certified Public Accountant" or "Accounting Firm".

Ms. Cubitt explained that when the statute changed on June 16, 2008 the changes omitted limiting the usage of the terms "Certified Public Accountant" or "Accounting Firm" to only registered firms. Those unlicensed firms would not be allowed to use such terms. Before the change the Board was able to issue Cease & Desist notices to those unlicensed firms to remove accounting from their firm name. Now, it is omitted completely. When the legislation was written for mobility, the out of state attorneys were not thinking how the omission would impact the public. **The Board's consensus is to reinsert the language into the statute.**

- A. Peer Review Committee: Mark Hobbs

No Report

- B. Report of Education/Experience Committee: Bobby Creech

No Report

- C. Report of CPE Committee: Bobby Creech

No Report

- D. Report of Examination/CBT Committee: Anthony Callander

On motion by Anthony Callander, seconded by Mark Hobbs and unanimously passed, the exam grades for the October/December testing window were reviewed and accepted by the Board. (See Attached)

- E. Other Professional Issues Committee: Wendell Lunsford

No Report

- F. Report of Qualification for Licensure Committee: Anthony Callander

No Report

- G. Report of Character and Fitness Committee: John Camp

No Report

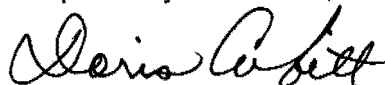
10. Public Comments: None

11. On motion by Mark Hobbs, seconded by Wendell Lunsford, and unanimously passed, the Chair adjourned the meeting at 1:33pm.

12. The next meeting dates are as follows:

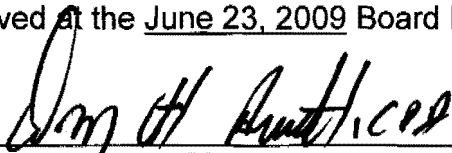
2009	
July	No Board Meeting
July 22, Wednesday (Hearings, if needed)	Room 108
August 27, Thursday (Board Meeting)	Room 108
September	No Board Meeting
October 22, Thursday (Board Meeting)	Room 202-02
November	No Board Meeting
November 12, Thursday (Hearings, if needed)	Room 108
December 3, Thursday (Board Meeting)	Room 108

Respectfully submitted,



Doris Cubitt, Administrator

Approved at the June 23, 2009 Board Meeting.



Donald H. Burkett, CPA, Chair



Mark T. Hobbs, CPA, Secretary