MINUTES

South Carolina Board of Accountancy S. C. Department of Labor, Licensing & Regulation Thursday, August 27, 2009, at 9am – Room 108 (Board Meeting) SYNERGY OFFICE PARK, KINGSTREE BUILDING 110 CENTERVIEW DRIVE, COLUMBIA, SC 29210

1. Call to Order

Bobby R Creech, Jr., CPA, Chair, called the board meeting of the South Carolina Board of Accountancy to order on June 23, 2009, at 9:03 a.m., with a quorum present. Other Board members present were: Mark T. Hobbs, CPA, Vice Chair, Donald H. Burkett, CPA, Anthony Callander, CPA, Secretary, Malane Pike, Esq., Wendell Lunsford, Accounting Practitioner, Gary F. Forte, CIMC, and Robert Baldwin, CPA.

Staff members participating in the meeting included: Michael R. Teague, Administrative Assistant, and Amy Holleman, Administrative Specialist. LLR employees attending the meeting included: Randy Bryant, Assistant Deputy Director, Sharon Dantzler, Deputy General Counsel, Suzanne Hawkins, Esq., Sandra Dickert, Administrative Assistant, and Eddye Lane, Advice Attorney. Guests attending were Russell Allen, Monroe Hymans, Erin Hardwick from the SC Association of CPA's (SCACPA), and Gale Bell, representing the SC Society of Accountants.

A. Public Notice

Mr. Creech announced that this meeting was being held in accordance with the Freedom of Information Act by notice mailed to The State Newspaper; Associated Press; WIS-TV and all other interested persons, organizations or news media. In addition, the notice was posted on the bulletin board at the main entrance of the Kingstree Building.

2. Pledge of Allegiance

The Board observed a moment of silence. All present recited the Pledge of Allegiance.

Executive Session

MOTION

Mr. Baldwin made a motion the Board enter executive session to seek legal advice. Mr. Callander seconded the motion, which carried unanimously.

Return to Public Session

When the Board returned to public session Mr. Creech noted that no official action was taken during the time the Board was in executive session.

3. Consideration of Excused Absences of Board Members

All Board members were present

4. Adoption of Agenda

<u>MOTION</u>

Mr. Lunsford made a motion the Board adopt the agenda as written. Mr. Hobbs seconded the motion, which carried unanimously

5. Approval of Minutes of Meeting held on June 23, 2009

<u>MOTION</u>

Mr. Burkett made a motion the minutes of the June 23, 2009 meeting be approved as amended. Mr. Hobbs seconded the motion, which carried unanimously.

6. Complaint & Investigative Activity

A. Consideration of Consent Agreement and other special matters There were no consent agreements or other special matters for the Board's discussion.

B. Number of Open Complaints

C. Approval of case dismissal report (Investigators) There were no items for discussion under this matter.

7. Information Update

A. Chair's Remarks Mr. Creech thanked Mr. Burkett for his work as previous Board Chair.

B. Advisory opinions (Sharon Dantzler – Office of General Counsel) There were no advisory opinions given during this meeting.

C. Legislative update (Sharon Dantzler – Office of General Counsel)

Mr. Creech legislative issues were discussed on August 26th and will be voted on later in the meeting. Mrs. Dantzler stated the draft statutory language should be submitted no later than November 1, 2009 and proposed regulatory language will be published in the October 2009 State Register. Mr. Hobbs questioned Mrs. Dantzler regarding the Accounting Practitioners reinstatement. Mrs. Dantzler stated Mrs. Cubitt left a summary which covered everything.

D. Administrator's Report (Randy Bryant)

Mr. Bryant stated he would be covering for Mrs. Cubitt during her absence.

Mr. Bryant gave the following report:

- Mr. Tsunemori appeared before the Administrative Law Court (ALC) on August 6, 2009 at which time the ALC issued a permanent injunction and a \$10,000 fine.
- Mr. McQuage and Mr. Gambrell are scheduled to appear before the ALC on September 9, 2009.
- Mr. Erwin is scheduled to appear before the ALC on September 24, 2009.
- Two Board members may attend the NASBA annual meeting November 1-4, 2009, in Phoenix, Arizona.
- The U.S. IQAB and the New Zealand Institute of Chartered Accountants (NZICA) have achieved consensus on principles of reciprocity to be recommended to the NZICA and to the individual U.S. State Boards of Accountancy.

Focus Questions The Board discussed five focus questions.

1. Are International Financial Reporting Standards referenced in any way in your statute, rules or regulations? If so, where and how? Should AICPA professional standards now be incorporated by reference in your state's law, then international standards may have automatically been incorporated.

Currently South Carolina statute does not have language that refers to IFRS. We are in the process of including it into the statute and submitting for the 2010 Legislative session.

2. If a CPA's only client is located in a state other than the one identified by the CPA as his/her principal place of business, should the CPA be licensed in the client's state? Should consideration be given to changing the Uniform Accountancy Act to require such licensure?

In 2008, South Carolina incorporated Mobility into its statutes covering this situation.

3. Does your Board support the change in review standards proposed by the AICPA's Accounting and Review Services Committee that would allow practitioners to perform review engagements when independence has been impaired due to performance of internal control services? Please explain why your Board would or would not accept this change.

<u>MOTION</u>

Mr. Burkett made a motion the Board vote in favor of the change. Mr. Callander seconded the motion, which carried unanimously.

4. Will your state's budget problems prevent your Board from being represented at NASBA's Annual Meeting? Are your Board members restricted from traveling to the Annual Meeting? Can your Board accept funding from NASBA to allow your Board to participate?

Currently South Carolina funds two Board members to attend NASBA's Annual Meetings along with the Administrator of the Board.

5. What is happening in your jurisdiction that is important for other State Boards and NASBA to know about?

South Carolina Board of Accountancy is preparing changes to the statutes to include language that will hold licensees accountable to IFRS; license renewals changing from annual to biennial, licenses to be renewed by January 31, 2011; 40 Hours of CPE still to be completed annually but to be reported biennially with renewal; giving Accounting Practitioners the same reinstatement rights as CPAs; and reinstating the prohibition of using the word "Accounting" in a firms name if not registered.

The Board is also amending their regulations to change the requirements to register a firm in South Carolina; to limit self-study CPE to 50% of the 40 hour annual requirement, not allowing self-study hours to carry over to the next year, limiting CPE hours to be earned in one calendar day to only 10 hours, no CPE credit will be allowed for any Lunch & Learn type sessions unless the schedule provides for 50 minutes of instruction after completion of the meal, increasing CPE Hours that Teachers of College/University courses can count toward their 40 hour annual requirement with certain restrictions; and prohibiting a licensee to employ or associate, directly or indirectly, a person whose license is revoked or suspended by this Board or by the Board of Accountancy in any other jurisdiction.

8. Old Business

There was no old business for discussion.

9. New Business

A. Regulation/Legislative Committee – Donald Burkett

The Board reviewed the proposed legislative changes. During the discussion of Regulation 1-05, the Board determined it would rephrase subparagraph "A" to read: "A licensee who offers to engage in the practice of accounting on behalf of any person other than an organization in which the licensee is an officer, employee, partner, member or principal must apply for registration as a firm or be employed or associated with a registered firm." The Board agreed to strike the last paragraph of Section 240 regarding reciprocity for accounting practitioners.

STATUTE CHANGES

Section 40-2-20. Definitions.

(2) "Attest" means providing the following financial statement services:

(a) an audit or other engagement to be performed in accordance with the Statements on Auditing Standards (SAS);

(b) a review of a financial statement to be performed in accordance with the Statements on Standards for Accounting and Review Services (SSARS);

(c) an examination of prospective financial information to be performed in accordance with the Statements on Standards for Attestation Engagements (SSAE); or

(d) any engagement to be performed in accordance with Public Company Accounting Oversight Board (PCAOB) Auditing Standards;

(e) any engagement to be performed in accordance with standards issued by the International Accounting Standards Board.

Section 40-2-250. Renewal of licenses; reinstatement of lapsed licenses.

(A) A licensee shall file an application for renewal on or before January February first of each calendar year.

(D) A license not renewed on or before January February first is considered revoked. Continued practice after January fifteenth must be sanctioned as unlicensed practice of accounting.

(E) Renewal applications filed or completed after January fifteenth are subject to a reinstatement fee in the amount of five hundred dollars between February 15 and March 15 must be accompanied by a reinstatement application and a five hundred dollar reinstatement fee. Reinstatement applications received after March 15 must also be accompanied by a five hundred dollar reinstatement fee and will be examined more closely for unlicensed practice during the period of revocation. A person may not practice on a revoked license.

Section 40-2-255. Renewal of registration; peer reviews.

(A) A registrant shall file an application for renewal <u>biennially</u> on or before January first of each calendar year.

Section 40-2-565. Renewal of licenses.

(A) A licensee shall file an application for renewal on or before February first of each calendar year.

(B) The application for renewal of a license must include:

(1) current information concerning practice status;

(2) a verified continuing education report;

(3) renewal fee.

(C) The verified report of continuing education must document forty hours of acceptable continuing education each calendar year. Not more than twenty percent of the required hours may be in personal development subjects. A licensee is not required to report continuing education for the year in which the initial license was obtained. The board by regulation may provide for the carryover of excess

in which continuing education was not required.

(D) A license not renewed on or before February first is considered revoked. Continued practice after January fifteenth must be sanctioned as unlicensed practice of accounting.

(E) Renewal applications filed or completed between February 15 and March 15 must be

accompanied by a reinstatement application and a five hundred dollar reinstatement fee. Reinstatement applications received after March 15 must also be accompanied by a five hundred dollar reinstatement fee and will be examined more closely for unlicensed practice during the period of revocation. A person may not practice on a revoked license.

(F) For an Accounting Practitioner whose license has lapsed or has been inactive for fewer than three years, the license may be reinstated by applying to the board, submitting proof of completing forty continuing education units for each year the license has lapsed or has been inactive, and paying the reinstatement fee.

REGULATION CHANGES

1-05. Firm registration. (A) A licensee who offers to engage in the practice of accounting for compensation must apply for registration as a firm or be employed or associated with a registered firm. A licensee who offers to engage in the practice of accounting on behalf of any person other than an organization in which the licensee is an officer, employee, partner, member or principal must apply for registration as a firm or be employed or associated with a registered firm.

1-08. Continuing Professional Education. (2) Each person to whom the CPE requirement applies shall complete forty (40) hours of acceptable CPE each calendar year as a condition of obtaining a renewal license.for the licensing period beginning January 1 of the following year.

(a) Not more than twenty (20%) percent (8 hours) of the required hours may be in personal development subjects. Personal development subjects that exceed twenty (20%) percent of the required hours shall not be available for carry-over credit.

(b) Not more than fifty (50%) percent (20 hours) of the required hours may be in self study programs. Self study credits are not available for carry-over credit.

(c) No more than 10 hours of CPE can be earned in a calendar day.

(d) When a meal is scheduled during the educational period, no credit will be allowed unless the schedule provides for 50 minutes of instruction after completion of the meal.

(5) Teaching graduate level accounting courses in an accredited Accounting program qualifies for and is limited to eight (8) hours per calendar year. Teachers of university and college undergraduate and graduate credit courses shall be granted credit at the rate of ten (10) hours for each three (3) semester hour (or prorated equivalent) course taught. Credit shall not be granted for accounting principles, basic financial accounting, basic managerial accounting or any other introductory accounting course, either undergraduate or graduate. Credit shall not be granted for repetitious presentations within a two-year period. Credit for teaching university, college, and graduate credit course shall be limited to twenty-five (25%) of the required hours for a reporting period.

1-10. Professional Standards. (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 by the Board of Accountancy in any other jurisdiction. Employing or associating such a person as an accountant, investigator, tax preparer or in any other capacity connected with the practice of accounting subjects the licensee or permit holder to discipline by the Board.

Executive Session

<u>MOTION</u>

Mr. Burkett made a motion for the Board to enter executive session for legal advice. Mr. Lunsford seconded the motion, which carried unanimously.

Return to Public Session

Mr. Creech announced that no official action was taken during executive session.

<u>MOTION</u>

Mr. Callander made a motion for the Board to approve the legislative changes as discussed and that the changes be published as described to the Board by Mrs. Dantzler. Ms. Pike seconded the motion, which carried unanimously.

B. Peer Review Committee – Mark Hobbs

Mr. Hobbs stated the peer review committee had the annual conference in Florida the first of August. South Carolina had more participants than ever before. Discussion during the conference included changes in peer review. Peer review standards changed in January 2009. Some of the same discussion included firms providing attest services must have more rigorous quality control system in place. Those firms must also have a system in place to identify engagements that should be subject to their own internal quality review. A report from the GAO reflects there is still a problem with auditor quality among independents. A report from the Department of Labor shows there is still a problem with audits. He feels that those firms that are committed to conducting audits will be separated from those firms doing taxes.

The Board thanked SCAPA for all of the association's hard work on peer review.

C. Report of Education/Experience Committee – Bobby Creech

This committee had no report.

D. Report of CPE Committee – Bobby Creech

This committee had no report.

E. Report of Examination/CBT Committee – Anthony Callander

Mr. Callander stated the committee received a request from Denise Bailey, who is taking the CPA Exam. She was involved in an automobile accident making it impossible to complete the Exam at the scheduled time. The individual asks the Board to waive any fees assessed and that she be allowed to use the fees already paid to take the Exam at a later date. Mr Callander is not sure what authority the Board has. The letter also included a Department of Motor Vehicles citation, he assumes, was in regard to the automobile accident.

Mr. Teague stated the six month window ended on July 27, 2009. He further stated the candidate would be able to take the exam in October 2009, and the candidate is asking for a 90 day extension.

<u>MOTION</u>

Mr. Burkett made a motion the Board extend the request to October 31, 2009. Mr. Lunsford seconded the motion, which carried unanimously.

<u>MOTION</u>

Mr. Callander made a motion the Board approve the examination scores. Mr. Burkett seconded the motion, which carried unanimously.

F. Other Professional Issues Committee – Wendell Lunsford

This committee had no report.

G. Report of Qualification for Licensure Committee – Anthony Callander

Consideration to fully reinstate David L. Parks, CPA #2902

<u>MOTION</u>

Mr. Callander made a motion the Board reinstate Mr. Parks' license. Mr. Burkett seconded the motion, which carried unanimously.

H. Report of Character and Fitness Committee – Vacant

This committee had no report.

I. Signature approval on Certificates and License Cards <u>MOTION</u>

Mr. Burkett made a motion the Board continue signing the certificates and license cards as the Board has always signed the documents, with Board members and the Board administrator. Mr. Hobbs seconded the motion, which carried unanimously.

<u>MOTION</u>

Mr. Burkett made a motion to send a letter to the SC Attorney General similar to the one the Pharmacy Board sent expressing their concerns regarding the procedures of the Office of Licensure and Compliance. Mr. Baldwin seconded the motion, which carried unanimously.

10. Kyle Anderson and Jimmy Burkett gave a presentation regarding CPE for Educators

Mr. Kyle Anderson presented the members with a Memorandum to SCACPA and the Board regarding the current regulations and the proposed regulations. They are asking that the teachers of university and college undergraduate and graduate credit courses be granted ten hours of credit toward their 40 hours of credit each year. He wanted to clarify that the change is requested only for four year institutions and would apply only to upper level courses.

Mr. J. Burkett stated these proposals came out of the meeting with the South Carolina Association of Accounting Educators. He pointed out there is a lot of time spent on preparing for these classes, i.e., three hours for every one hour.

Mr. Anderson noted that credit is now given to instructors at master's degree level. He went on to say he is responsible for his CPE report as a CPA and if he is falsifies the report there is grounds for a sanction. It is his duty to ensure the course is qualified.

11. Public Comments

No public comments were made during this meeting.

<u>MOTION</u>

Mr. Lunsford made a motion the Board adjourn for lunch. Mr. Hobbs seconded the motion, which carried unanimously.

The Board adjourned for lunch at 12:15 p.m. and reconvened at 1:00 p.m.

12. Disciplinary Hearings:

(A) SC Board of Accountancy vs Russell Neal Allen, CPA 1303 – OIE Case # 2008-30

A hearing was conducted on the Complaint against Russell Neal Allen, holder of CPA certificate No. 1303, Case No 2008-30. Suzanne Hawkins, Esq., represented the Board, Eddye Lane acted as Advice Counsel to the Chair, and Mr Allen represented himself.

After the testimony of witnesses and the arguments and rebuttals were presented by counsel and rebuttal by Respondents, on motion by Mark Hobbs, seconded by Malane Pike, and unanimously passed, the Board went into executive session to receive legal counsel. On coming out of executive session on motion by Robert Baldwin, seconded by Wendell Lunsford and unanimously passed, the Chair announced that no votes were taken.

<u>MOTION</u>

On motion by Donald Burkett, seconded by Mark Hobbs, and unanimously passed, the Board found the respondent in violation of SC Code Sec 40-2-110(A)(12) and is subjected to the following Orders:

1. The Respondent's license to practice as a Certified Public Accountant in the State of South Carolina shall be and is hereby suspended, and such suspension shall run concurrently with the suspension by the North Carolina State Board of Certified Public Accountant Examiners; and

2. The Respondent shall appear before the Character & Fitness Committee and be determined fit before reinstatement of his license in the state of South Carolina.

3. The Respondent shall pay an administrative fine in the amount of five-hundred dollars (\$500.00) within thirty (30) days of the effective date of this Order.

4. Allowance of the conditions outlined in immediate preceding paragraphs 1, 2 and 3, under which the Respondent will have right of reinstatement of his license to practice in South Carolina, are further conditioned upon Respondent submitting the following to the Board, within ten (10) business days of the effective date of this Order:

i. A copy of the letter sent to the Respondent's and/or Respondent firm's clientele advising of the change of status of his/its practice; and

ii. Proof of the change of entity status from a CPA practice firm to a non-CPA firm with the State of North Carolina; and

iii. Proof that the tax obligations to the Internal Revenue Service which were the subject of the North Carolina suspension have been satisfied.

5. The Respondent shall not have any Certified Public Accountants under his supervision or under his firm's supervision during the period of suspension.

6. Respondent shall comply with the requirements of the North Carolina State Board of Accountancy Consent Order.

(B) SC Board of Accountancy vs Monroe Ralph Hymans, CPA 7526 – OIE Case # 2009-11

A hearing was conducted on the Complaint against Monroe Ralph Hymans, holder of CPA certificate No. 7536, Case No 2009-11. Suzanne Hawkins, Esq., represented the Board, Eddye Lane acted as Advice Counsel to the Chair, and Mr Hymans represented himself.

After the testimony of witnesses and the arguments and rebuttals were presented by counsel and rebuttal by Respondents, on motion by Donald Burkett, seconded by Mark Hobbs, and unanimously passed, the Board went into executive session to receive legal counsel. On coming out of executive session on motion by Donald Burkett, seconded by Anthony Callander and unanimously passed, the Chair announced that no votes were taken.

<u>MOTION</u>

On motion by Anthony Callander, seconded by Mark Hobbs, and unanimously passed, being that Mr Hymans application did not have full disclosure, his license is revoked and is fined \$250. He can submit appropriate documents to the Character & Fitness committee in order to reinstate his license at a later date.

13. Committee Appointments.

<u>MOTION</u>

On motion by Donald Burkett, seconded by Gary Forte, and unanimously passed, the following appointments: Character & Fitness, Robert Baldwin; Education/Experience & CPE, Malane Pike.

14. Adjournment

<u>MOTION</u>

Mr. Baldwin made a motion the meeting be adjourned. Ms. Pike seconded the motion, which carried unanimously.

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| 2009 | |
| 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 2, Wednesday (Board Meeting) | Room 108 |

Future Meeting dates:

Respectfully submitted,

Randall Bryant, Assistant Deputy Director

Approved at the October 22, 2009 Board Meeting.

Bolles Crach CPA Bobby Greech, CPA, Chair Q. Automatic Anthony Callander, CPA, Secretary

August 27, 2009