

MINUTES
S. C. Department of Labor, Licensing & Regulation
Board of Accountancy
Board Meeting
9:00 a.m., Thursday, December 2, 2010
SYNERGY OFFICE PARK, KINGSTREE BUILDING, ROOM 108
110 CENTERVIEW DRIVE, COLUMBIA, S.C. 29210

1. Call to Order

Bobby R. Creech, Jr., CPA, Chairman called the board meeting of the South Carolina Board of Accountancy to order on December 2, 2010, at 9:07 a.m., with a quorum present. Other Board members present were: Mark T. Hobbs, CPA, Vice Chair, Robert Baldwin, CPA; Donny Burkett, CPA; Anthony Callander, CPA, Secretary, Wendell Lunsford, CPA, and Malane Pike, Esq.

Staff members participating in the meeting included: Doris Cubitt, Administrator; Michael R. Teague, Administrative Assistant, and Amy Holleman, Administrative Specialist. LLR employees attending the meeting included: Sandra Dickert, Administrative Assistant; Steve Freshley, Investigator; Dean Grigg, Associate Hearing Counsel; Suzanne Hawkins, Assistant General Counsel; Jamie Saxon, Hearing Advice Counsel.

Mr Creech announced that this meeting is 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.

Mr Hobbs led all present in a moment of silence and the Pledge of Allegiance.

2. Consideration of excuses for absences of Board Members

Mr Creech noted Mr Callander would be arriving late.

3. Adoption of Agenda

MOTION

Mr Hobbs made a motion the Board adopt the agenda as presented. Mr Baldwin seconded the motion. Ms Cubitt stated the approval of the 2012 meetings reflects the June 9, 2011 meeting has been cancelled and rescheduled for July 19-20, 2011. The motion carried unanimously.

4. Approval of Minutes of Meeting held on October 18, 2010

MOTION

Mr Hobbs made a motion the Board approve the minutes of the October 18, 2010 meeting. Mr Burkett seconded the motion, which carried unanimously.

5. Hearings

A. Complaint against Henry Specht, CPA #1988 – Case #2008-31

This matter was recorded by a court reporter in order to produce a verbatim transcript should one be necessary.

Ms Hawkins stated that Mr Specht has stipulated to all the allegations in the complaint. She also wanted to clarify on the amended complaint that the Board already disciplined Mr Specht in 2005 regarding the failure to file his personal income taxes. The

purposes of today's hearing are the revocation of Mr Specht's North Carolina CPA license and the Audits he subsequently issued after the revocation.

Mr Specht did want to clarify to the Board that he does not have a felony as mentioned in the Amended Complaint; it was a misdemeanor for failure to file corporate and personal taxes. The assertions by the IRS of evasion and intent to deceive were subsequently disregarded in the court proceedings.

Mr Specht stated that his firm is located in Myrtle Beach, SC. He and the firm never held out to North Carolina clients. All the audits performed were for Home Owner Associations which were managed out of Myrtle Beach, they came about the engagements over a time of 15 to 20 years and were separating from these engagements as opportunities arose. During this time, they were also grappling with the issue of Mobility; it appeared that South Carolina was ahead and adopted Mobility before North Carolina.

Mr Specht stated that his firm does good work and has a specialty in non-profit work. The firm never accepted another North Carolina client except for these HOAs. Always received a clean opinion regarding Peer Review and all the things that you would want to see in a firm.

Mr Hobbs asked what the make-up of Mr Specht's firm, number of staff, hours.

Mr Specht indicated the firm mainly deals with Audits, about 80%, 6,000 to 7,000 chargeable hours a year. The firm has five staff members; the youngest staff member has been with the firm for 11 years. Only one office.

Mr Creech asked if the firm issued Audit Reports while under suspension for North Carolina entities. Mr Specht answered no. Mr Creech then asked if 10 or 11 Audit Reports for North Carolina entities were issued, based on the second order, to which Mr Specht replied correct. Mr Creech inquired if these were issued while under suspension in North Carolina. Mr Specht stated that he hoped he understood the question and answered yes. Mr Specht also included that the engagements were portable and that no on-site work was required. Any communications were handled either by email or phone.

Based on Mr Specht's earlier statement Mr Hobbs asked is the North Carolina order, where it states felony, is correct. Mr Specht stated that it is not true, that is not correct. He went on to explain during the North Carolina proceedings he had explained to the Board that the issue with the IRS was a misdemeanor not a felony. That point did not register with the North Carolina Board. It was clearly indicated that there was not a felony, or evasion or intent to deceive. Mr Hobbs pointed out that the current order from Ms Hawkins also refers to a felony. Mr Specht stated that was why he clarified earlier that there was no felony or acts of dishonesty. Mr Hobbs stated that he heard earlier that Mr Specht had stipulated that everything in the order was correct.

Mr Creech interjected that the Memorandum of Agreement Ms Hawkins presented states "Respondent has been convicted of a felony, or of a crime with an element of dishonesty or fraud, under the laws of the United States, of this state, or of any other state..." Mr Creech asked whether Mr Specht had been convicted of a crime with an element of dishonesty or fraud. Mr Specht replied that during the sentencing portion of

the proceedings, the question came up whether or not the actions of the company that Mr Specht's firm was filing for were involved in any evasion and or intent to deceive, had that been the case a stronger penalty would have been imposed. The judge deliberate on that and disregarded that point as there was no indication that there was evasion or intent to deceive, so the answer to your question is no.

Mr Hobbs asked whether the firm employees any other licensed CPAs. Mr Specht replied only one under a contract basis.

Mr Creech inquired whether Mr Specht has evidence of adjudication from a couple of years ago. Mr Specht stated that he assumed that it was forwarded to the legal counsel of the Board at that time and does not have any paperwork.

Mr Baldwin asked whether Mr Specht could currently practice before the IRS in which Mr Specht replied no.

Mr Hobbs asked if Mr Specht has a copy of his Peer Review report. Mr Specht did indicate that he did and would retrieve a copy from his car if needed. Mr Hobbs did indicate that it would be needed.

Mr Creech indicated that Mr Specht signed a Consent Suspension with the IRS from practicing. Mr Creech asked if Mr Specht agreed to them. Mr Specht indicated that yes he did as worded in the consent. Mr Creech also asked if Mr Specht does any tax work. Mr Specht stated yes mostly corporate or non-profit work.

Mr Callendar inquired about the audits for the 10 or 11 entities; were any of the audits withdrawn. Mr Specht replied yes and included that clients were notified of the situation.

Ms Pike wanted clarification as to the years the audit reports were issued. Mr Specht stated all in 2007. Mr Creech verified in 2007 and Mr Specht stated yes then amended his statement as engagements for 2007 and issued in 2010. Ms Hawkins stated she had copies of the audits if the Board would like them. Mr Baldwin then inquired based on earlier testimony that neither you nor your staff entered the state of North Carolina in which Mr Specht replied correct they received all information from clients through the mail.

Mr Creech inquired if Mr Specht had any evidence how the audits were withdrawn and client notification. Mr Specht stated that there is no written notification.

Ms Pike inquired about the IRS charges; did Mr Specht actually enter into an agreement with the IRS and did he not stand trial. Mr Specht stated there was not a trial. Ms Pike then stated by entering into this agreement instead of being charged with a felony you were charged with a misdemeanor in which Mr Specht replied yes. Ms Pike asked if the original charge was a felony charge in which Mr Specht replied yes. Ms Pike then asked Ms Hawkins if she had any evidence of this in her file in which Ms Hawkins replied no. It was in the 2005 order and is not part of this hearing today.

Ms Hawkins wanted to clarify that the North Carolina license was permanently revoked in January 2007. The audit reports were issued in 2008.

MOTION

Mr Burkett made a motion the Board move forward to the next case prior to going to executive session to discuss this case. Mr Hobbs seconded the motion which carried unanimously.

- B. Complaint against Kenneth Pujdak, CPA #3076 – Case #2009-28
Memorandum of Agreement

This matter was recorded by a court reporter in order to produce a verbatim transcript should one be necessary.

MOTION

Mr Hobbs made a motion the Board consider this matter in executive session. Mr Baldwin seconded the motion which carried unanimously.

Executive Session

MOTION

Ms. Pike made a motion the Board enter executive session to seek legal advice. Mr Hobbs seconded the motion which carried unanimously.

Return to Public Session

MOTION

Mr Burkett made a motion the Board return to public session. Mr Hobbs seconded the motion which carried unanimously.

Mr Creech noted for the record no official action taken was taken during executive session.

Henry Specht, CPA #1988 – Case #2008-31

MOTION

Ms. Pike made a motion the Board revoke Mr Specht's license, that the Board accept the Memorandum of Agreement, that the Board issue a public reprimand with a \$10,000.00 fine to be paid within one year of this order. Mr Burkett seconded the motion which carried unanimously.

Kenneth Pujdak, CPA #3076 – Case #2009-28

MOTION

Mr Hobbs made a motion the Board accept his voluntary surrender of his certificate and he will be subject to the Board's discretion if he ever applies for reinstatement. Mr Burkett seconded the motion which carried unanimously.

6. Complaint & Investigative Activity – Office of Investigation & Enforcement

- A. Number of Open Complaints

Mr Freshley stated there are currently 16 active cases in OIE. He noted the oldest case is 891 days old and the youngest case is 14 days old. He noted OIE has received 30 complaints regarding the accountancy profession since January 1, 2010. He also noted OIE has closed 28 cases since January 1, 2010.

- B. Case Dismissals

Four cases are being recommended for dismissal 2010-2, 2010-3, 2010-4 and 2010-11 and one case is being recommended for formal complaint.

MOTION

Mr Hobbs made a motion the Board approve the IRC report. Mr Burkett seconded the motion which carried unanimously.

7. Information Update

- A. Chairman's remarks
Mr Creech stated the Board held a work session on December 1, 2010. He feels the Board accomplished a good deal. He noted another work session meeting is scheduled for July 2011.
- Mr Burkett asked for a list of action items with deadlines from the work session meeting.
- B. Advisory opinions (Sharon Dantzler – Office of General Counsel)
No advisory opinions given during this meeting.
- C. Legislative update (Sharon Dantzler – Office of General Counsel)
No legislative update was given during this meeting.
- D. Office of General Counsel
Ms Hawkins stated there is one new case in OGC. There are a total of three cases currently in OGC of which two would be heard during this meeting.
- E. Office of Information Services Report
Ms Cubitt stated 23 licenses have been issued since the October 19, 2010 meeting. She noted the renewal period is now ongoing and will move through January 31, 2011. She noted 1,062 licensees have renewed online. There are currently 7,603 active licensees. She presented the members with a list of individuals who have been licensed.
- Ms Cubitt provided the members with two financial reports. She noted one report is for the last fiscal year (July 1, 2009 through June 30, 2010) and the second report is for July, August, September, and October 2010. The reports reflect the revenue and the expenditures for each month. She noted the projected revenue at this point is \$1,000,000.00
- F. Administrator's Report (Doris Cubitt)
Ms Cubitt stated the work session meeting held on December 1, 2010 was very productive. She thanked the members for attending the work session meeting.

8. Old Business

Consideration of Joseph Phipps' Licensing Application
This matter was recorded by a court reporter in order to produce a verbatim transcript should one be necessary.

MOTION

Mr Hobbs moved to carry this matter to executive session. Mr Burkett seconded the motion which carried unanimously.

9. New Business

A. Appearances

1. Consideration of Mr Rex O'Steen's CPE concerns

Mr O'Steen has been receiving his continuing education through self-study and has received the required amount of continuing education. He received an e-mail in July 2010 from the Office of Licensure and Compliance informing him of the limit of 20 self-study hours which would count toward the continuing education requirement. He had indicated that it seemed unfair to change the requirement in the middle of the reporting period.

Ms Cubitt stated the Board has ruled that if an individual has already purchased and completed a self-study course, the course would count toward this year's continuing education credit. However, from this point forward there is a limit of 20 hours of self-study programs which count toward continuing education.

2. Consideration of Mr Joel Gibbons' Reciprocity Application

This matter was recorded by a court reporter in order to produce a verbatim transcript should one be necessary.

Mr Creech recused himself from participating and voting in this matter and turned the meeting over to Mr Hobbs.

Ms Cubitt indicated that everyone has a statement from Mr Gibbons describing the related incidents. She also stated that her authority only extends to one incident; any others had to be reviewed by the Board.

The Board informed Mr Gibbons it would discuss this matter in executive session and render a decision later in the meeting.

Tony Callander arrived at 9:38 a.m.

3. Consideration of Mr Jonathan Hood's request to extend REG expiration date.

Mr Baldwin recused himself from participating and voting in this matter.

Ms Cubitt stated Mr Hood has been approved to sit for the exam. He has passed the REG. He has had medical issues with his back and had surgery in November 2009. She further stated the REG expires in January 2011. The pain is such that he cannot sit for long periods of time and must stand or lay down. He contacted Vocational Rehabilitation which has made accommodations to his work place which allows him to stand for most of the day and has recommended a special chair which allows him to sit for longer periods of time. He is asking for the Board's approval to take the next portion of the exam in January 2011. He had wanted to take the third section of the exam in May and the fourth section of the exam in July. He is asking to be allowed for one more testing window in case he has to re-take a section and is asking the window be extended to November 2011. He has a doctor's excuse.

Ms Cubitt stated the Board has the option to grant, deny or extend the request. She noted the Board makes consideration of serious medical conditions. She believes he has missed three to four months of work.

Executive Session

MOTION

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

Return to Public Session

MOTION

Ms. Pike made a motion the Board return to public session. Mr Burkett seconded the motion which carried unanimously.

Mr Creech noted for the record that no official action was taken during executive session.

Consideration of Mr Joel Gibbons' Reciprocity Application

MOTION

Ms. Pike made a motion the Board grant to Mr Gibbons as a reciprocal license, that the license be placed on a probationary basis, that probationary basis being that he will appear before the Board at the two year renewal to show he is qualified to practice and his qualification to practice will be within the Board's discretion at that point. This will be a private matter and will not be a public matter and will not be placed on the website. Mr Hobbs seconded the motion, which carried unanimously.

Mr Creech abstained from voting in this matter.

Consideration of Joseph Phipps' Licensing Application

MOTION

Ms. Pike made a motion the Board grant licensure to Mr Phipps, that the license be placed in probationary basis, that the probationary basis be that he will appear before the Board at the two-year renewal to show he is qualified to practice and his qualification to practice will be within the Board's discretion at that point. This will be a private matter and will not be a public matter and will not be placed on the website. Mr Hobbs seconded the motion, which carried unanimously.

Mr Callander abstained from voting in this matter.

Consideration of Mr Jonathan Hood's request to extend REG expiration date

MOTION

Mr Burkett made a motion the Board extend his time on the expiration of the sections he has passed until November 30, 2011. Mr Callander seconded the motion which carried unanimously.

Mr Baldwin abstained from voting in this matter.

B. Regulation/Legislative Committee – Donald Burkett

- 1. Peer Review/Communications Committee– Mark Hobbs**
 - a. Peer Review Update
 - b. Communications Update

These matters were discussed during the December 1, 2010 work session.

- C. Report of Education/Experience Committee – Malane Pike**
No reported information.
- D. Report of CPE Committee – Malane Pike**
No reported information.
- E. Report of Examination/CBT Committee – Anthony Callander**
No reported information.
- F. Other Professional Issues Committee – Wendell Lunsford**
No reported information.
- G. Report of Qualification for Licensure Committee – Anthony Callander**
No reported information.
- H. Report of Character and Fitness Committee – Robert Baldwin**
No Reported Information
- I. Approval of 2012 Board Meeting Dates**
The June 9, 2011 date was cancelled and rescheduled for July 19-20, 2011.

The Board reviewed the following proposed 2012 meeting dates.

January 25, 2012	April 26, 2012	June 21, 2012
August 23, 2012	September 20, 2012	December 6, 2012

The Board changed the September 20, 2012 meeting to November 1, 2012.

- J. NASBA Focus Questions**
The Board reviewed and answered NASBA focus questions.
- 10. Public Comments**
No public comments were made during this meeting.
- 11. Adjournment**
MOTION
There being no further business to be discussed at this time, Mr Hobbs made a motion the meeting be adjourned. Ms. Pike seconded the motion which carried unanimously.

The December 2, 2010 meeting of the SC Board of Accountancy adjourned at 12:30 p.m.

Respectfully submitted,



Doris E Cubitt, CPA
Administrator

Approved at the January 26, 2011 Board Meeting.



Bobby Creech, CPA, Chair



Anthony Callander, CPA, Secretary