

MINUTES

SC Department of Labor, Licensing & Regulation
Board of Accountancy

Board Meeting

1:00 P.M., Monday, July 18, 2011
SYNERGY OFFICE PARK
KINGSTREE BUILDING, Room 108
110 CENTERVIEW DRIVE
COLUMBIA, S.C. 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 July 18, 2011, at 1:00 p.m., with a quorum present. Other Board members present were: Mark T. Hobbs, CPA, Vice Chair, Anthony Callander, CPA, Secretary, Wendell Lunsford, Accounting Practitioner, David Nichols, Accounting Practitioner, Gary Forte, Mr Donald Burkett, CPA, Mr Bob Baldwin, CPA, and Ms Malane Pike, Esq.

Staff members participating in the meeting included: Doris Cubitt, Administrator, Michael R. Teague, Administrative Assistant, Amy Holleman, Administrative Specialist, and Wendi Elrod, Program Assistant. LLR employees attending the meeting included: Dean Grigg, Advice Attorney - Division of Legal Services.

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.

Mr Hobbs led all present in the Pledge of Allegiance.

2. Consideration of Board Member Excused Absences

None

3. Adoption of Agenda

MOTION

Mr Burkett made a motion that the Board adopt the agenda as presented. Mr Callander seconded the motion which carried unanimously.

4. Approval of Minutes of Meeting held on April 28, 2011

MOTION

Mr Hobbs made a motion that the Board approve the minutes of the April 28, 2011, meeting. Mr Burkett seconded the motion which carried unanimously.

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

- A. Consideration of Consent Agreement and Other Special Matters
None
- B. Number of Open Complaints
Ms Cubitt stated that there are 14 open complaints. There are two cases that will receive a Letter of Caution. The oldest complaint is 188 days.
- C. Case Dismissals
None

6. Information Update

- A. Chairman's remarks
Mr Creech gave an update regarding NASBA's Eastern Regional Meeting in Point Clear, Alabama. He said that there was a lot of information regarding Communications. The UAA Committee also provided information as to the many changes to the UAA.
- B. Advisory opinions (Dean Grigg – Division of Legal Services)
Mr Grigg introduced himself to the Board as the new Advice Council to the Accountancy Board as a result of changes within DLS.

No Report
- C. Legislative update (Dean Grigg – Division of Legal Services)
No Report

Ms Cubitt pointed out that she spoke with Mr Grigg after the Workshop earlier regarding the statutory and regulatory changes. Mr Grigg stated that the SC Association of CPA's would need to be the organization to draft and find sponsorship the legislation.
- D. Office of General Counsel
No Report
- E. Office of Information Services Report
Ms Cubitt stated that the Board currently has 7,044 licenses and registrations. Since the last Board meeting there have been 49 CPA licenses (Reciprocity and Initial), and 16 Firm registrations (In and Out-of-State) issued, and 11 reinstatements have been granted.
- F. Administrator's Report (Doris Cubitt)
Ms Cubitt said that she will provide an electronic copy of the information provided at NASBA's Eastern Regional conference in Point Clear, AL to those Board Members that were not able to attend.

Ms Cubitt will be attending NASBA's Compliance and Assurance Committee meeting in Charleston on Aug 15-17. The meeting will center on other State Board's best practices. Mr Hobbs will also be attending.

7. Old Business

A. Consideration of Strayer's Accounting Courses

A court reporter recorded this proceeding in order to produce a verbatim transcript should one be necessary.

Dr Wendy Howard, Dean of the School of Business, Strayer University, introduced herself, the Accounting Department Chair, Mr John Ray, and Dr Peter McDaniel, Dean of the Greenville, South Carolina Campus. Their goal is to provide the Board some understanding regarding one of the concentrations of Strayer's Masters of Accounting program. Mr Ray was going to show the Board what it is like to take this course online through Strayer's portal, and show the similarities to other courses of the Masters of Sciences program and also show a portion of the CPA Exam Review courses through the Continuing Education arm of Strayer.

Mr Ray went to the students portal and explained to the Board all of the available information as if they were taking the course. He and Dr Howard explained in detail the options for research and exercise problems.

Mr Callander asked Dr Howard if any other Boards of Accountancy have denied these courses as part of the accounting concentration for licensure. Dr Howard stated South Carolina was the only Board questioning the courses.

The Board members expressed that they felt that the material was repetitive or duplicative of the required courses which include Financial Accounting, Managerial Accounting, Tax and Audit.

At the end of their presentation Ms Cubitt provided additional information from a survey of other State Boards stating there are some who would not accept courses if they are duplicative or repetitious.

B. Consideration of requests to refund/waive Reinstatement fees.

A court reporter recorded this proceeding in order to produce a verbatim transcript should one be necessary.

Mr Raymond Schmitz, CPA #7613, appeared before the Board to explain further the reasoning why he did not register his home as a firm. Mr Creech asked whether or not Mr Schmitz requested a Firm Registration form as indicated in the July 29, 2008 Board letter to Mr Schmitz. Mr Schmitz said he was not aware he had to register as he is a

sole practitioner and operates out of his house. He indicated that he did not receive a Firm Registration form so he did not believe that he had to complete one. Mr Hobbs asked whether or not the issue of registering a firm came to light during his Peer Review. Mr Schmitz stated that a Peer Review is being conducted right now. Mr Schmitz added that in Kansas a Peer Review is not needed if you provide compilation without disclosures. Mr Hobbs informed Mr Schmitz that South Carolina requires firms to have a Peer Review 18 months after the issue of the first report. Mr Schmitz wanted to point out that no paperwork was provided to him. It should not be upon the licensee to hunt for information on the Internet.

C. Consideration of Mr Bethea's Initial CPA Experience

Ms Cubitt stated that Mr Bethea works here in South Carolina as the Controller for BKI in Greenville, and his direct supervisor works in DeSoto, TX. All work was routed through Mr Wall (now Mr Renken) who hires, fires, and distributes work. Mr Bethea's package includes a letter from Mr. Renkin detailing Mr. Bethea's experience under his supervision; and there is a letter from Mr. Wall detailing Mr. Bethea's experience under his supervision. Mr. Renken, who is Mr. Bethea's current supervisor, was licensed in TX as a CPA on 11/21/1981, and, per the TX Board of Accountancy website, his license is current through 1/31/2012. Mr. Bethea has worked under the direct supervision of a licensed CPA as the Controller at BKI since September 24, 2007, and he would like the Board to accept his work experience for licensure.

Mr Burkett asked Mr Bethea if he had anyone working with him or as a subordinate. Mr Bethea said there is a CPA that works for him. He also has another individual in the UK as a Chartered Accountant. Ms Pike asked Mr Bethea to clarify when he passed the CPA Exam. Mr Bethea stated 1985. At the time it was a personal goal to pass the CPA Exam and he has been employed in industry since then. Mr Hobbs asked whether Mr Bethea had taken any CPE courses. Mr Bethea stated no; however, he did complete an accounting course to meet the educational requirements to license. Mr Burkett made the observation that it appears that Mr Bethea has been heavily involved in accounting throughout his career.

8. New Business

Appearances

1. Consideration of Mr Phillip Ollar's Appeal of Experience Denial

A court reporter recorded this proceeding in order to produce a verbatim transcript should one be necessary.

Ms Cubitt stated Mr Ollar has worked at Drake Software in Franklin, NC, since May 24, 2010. He believes his work experience as a Tax Analyst in the Tax Development Group at Drake Software qualifies him to hold out to the public as a CPA in the state of SC (he lives in Greenville). He also believes that the 280 hours of work he did as an independent contractor (he owned his own company) under Carolyn Williams CPA

and at Ravinder Jerath PC, also as an independent contractor, in which he worked with the outside auditors at CBH to qualify him to be a CPA in SC. Ms Pike reviewed Mr Ollar's work experience, and she determined that his experience is software development and not the type of work that would qualify one to hold himself out to the public as a CPA. Ms Cubitt stated, to the best of her knowledge, the Board has never issued an original CPA license before based on tax software development alone and contract work has not been acceptable to the Board in the past for original CPA certificates, though, the Board did accept work done through AccounTemp on an applicant seeking Reciprocity from TN at the January 2011 meeting. That applicant was originally licensed in 2009 (TN), and he had 48% of experience requirement met in teaching university courses. Additionally, his work experience was through a temporary agency, not through his own business.

Mr Ollar wanted to clarify the contracting jobs. He stated that the first contract position was with Carolyn Williams, CPA LLC in Simpsonville, SC. Mr Ollar said that obtaining a CPA license is a career change for him. He had his own business prior and Ms Williams was his CPA for the business. He was not sure why the Board does not consider contract work as acceptable experience. He referenced the IRS Publication 15-A, Employee or Independent Contractor. Facts that provide evidence of the degree of control and independence fall into three categories: behavioral control, financial control, and the type of relationship of the parties. Under the vast majority of the IRS rules he would be an employee of Carolyn Williams. She had very strong behavioral control of what he was doing. The only factor that leans toward being a contractor is the permanency of the relationship. His engagement was purely a temporary relationship, a 6-week contract. Mr Ollar then quoted, "The extent to which services performed by the worker are a key aspect of the regular business of the company. If a worker provides services that are a key aspect of your regular business activity, it is more likely that you will have the right to direct and control his or her activities. For example, if a law firm hires an attorney, it is likely that it will present the attorney's work as its own and would have the right to control or direct that work. This would indicate an employer-employee relationship." This was the exact situation that he had with Carolyn Williams and with the assignment he did with Cherry Bekaert & Holland. Mr Creech asked if Mr Ollar was making the statement that he was an employee of Ms Williams. Mr Ollar said no, he was making the statement that for most of the common-law rules, he would qualify as employment; however, the permanency of the relationship allows her to consider him to be a 1099 Contractor. His understanding is the reason that the Board does not accept this type of relationship is because there is not appropriate behavioral control. In other words direct my work, hire, fire, transfer etc... Ms Williams had all of that ability in her role as supervisor. Mr Ollar referenced Ms Cubitt's

mention of Mr Damon Hilton's temporary experience, which he considers the same because he was not a direct employee of the CPA firm. Mr Ollar believes it to be the same exact situation. Mr Baldwin asked what the function of VPO Services, Inc. was Mr Ollar said it was a contingency based recruiting firm from 1998 to present. He is transitioning from an independent recruiter to an accountant.

Mr Ollar described the work at Drake Software. His position is as a Tax Analyst responsible for the Tax aspect of the software. Drake has approximately 300+ employees, with 60 in the Tax Development Group. Those 60 are made up of programmers, testers, and tax analysts. He is one of the 19 tax analysts who are responsible for the tax part of the software. They are the tax experts for every line of every form that they are responsible for. They work together with the programmers to make sure they understand what amounts need to come out to on each line. Their primary activity is tax research. For example, with a state apportionment project where they go through each state and heavily research their requirements for apportionment and develop a large module for data entry for all the states. So, for each tax analyst they have to become intimate with the apportionment laws for each state, make sure the software handles it properly. It is a pure tax position. They introduce new forms and make sure the tax calculations on the forms are correct. They accomplish that by reviewing tax returns through a large database. They create tax returns for all the different scenarios. When customers have issues in the field, they send in the tax returns which are reviewed to make sure the software is handling them properly and either fix the software based on the issue or inform the customer of why it is right. There are six tax analysts at Drake that are CPAs and six are Enrolled Agents. The rest are tax professionals. After speaking with several tax analysts that are licensed through North Carolina they mentioned they were licensed solely based on their experience with Drake. The North Carolina statute is different than South Carolina; however, in this respect they both are very similar. The North Carolina Experience form with an option that states, "One year of experience in the field of accountancy under the direct supervision of a properly licensed CPA." Mr Baldwin asked Mr Ollar if his direct supervisor at Drake was a CPA. Mr Ollar said yes, all the 17 months of experience is under the direct supervision of a CPA. Ms Cubitt informed the Board that North Carolina has several paths for experience. One of the paths does not require supervision to be under the direct supervision of a CPA, where South Carolina only has one path and that is to be under the direct supervision of a CPA. Ms Pike asked if Mr Ollar does any programming. Mr Ollar said that he is not a programmer at all. Ms Pike asked that his position mainly requires tax research. Mr Ollar said yes. Mr Ollar summarized by stating the totality of his experience included 13.7 months at Drake software as a tax analyst, seven-weeks with

Carolyn Williams CPA LLC as a tax preparer, six-weeks under Doug Cates at Cherry Bekaert Holland performing a forensic audit, three-years performing his own accounting and statement preparations for VPO Services, Inc, the 2010 work he did on the side by preparing individual and Sub Chapter "S" returns, 8 years of experience handling tax matters for VPO and working with Carolyn Williams CPA, LLC, and other manufacturing experience mostly with inventorying and control which would be relevant if he had an opportunity in auditing. The totality of the experience compares very favorably to that of a recent accounting graduate who passed the CPA Exam just after graduation and whose total experience equals 12-months of experience at a CPA firm. Ms Cubitt asked when he had passed the CPA Exam. He stated November 30, 2009. Mr Creech asked if he was an Enrolled Agent. Mr Ollar said no. Mr Creech stated that Mr Ollar is not an Enrolled Agent and he did do tax work on the side. Mr Ollar said correct, and he does of a Prepare Tax Identification Number (PTIN).

2. Item 8(B)(2) - Consideration of Ms Monica Moore's Kerr Business School Transfer Credit to Strayer University

Ms Cubitt said that Ms Moore was not able to attend. Ms Moore took some courses at Aiken Technical College, which is a regionally accredited college, which were transferred to Strayer. She also took courses from Kerr Business College, which is not regionally accredited, equaling 22.5 quarter hours that were also transferred into Strayer. If the Board does not allow these hours she would be seven semester hours short of the 120 semester hour requirement to sit for the CPA Exam.

The Board requires all the semester hours to be from a regionally accredited institution and Strayer being regionally accredited, transferred non-accredited hours into their program. Mr Burkett asked whether this is not a question about a course, but whether courses can be transferred. Ms Cubitt said the Board's concern is the total hours, because without them she will not meet the requirement to sit for the CPA Exam.

Executive Session

MOTION

Mr Callander made a motion the Board discuss all previous matters in executive session to seek legal advice. Ms Pike seconded the motion which carried unanimously.

Return to Public Session

MOTION

Mr Hobbs made a motion that the Board return to public session. Mr Baldwin seconded the motion which carried unanimously. Mr Creech stated that no votes were taken while in executive session.

MOTION

Ms Pike made a motion that the Board deny the following courses from Strayer University: ACC 575 – Business Law & Tax, ACC 576 – Auditing & Business Concepts, ACC 577 – Comprehensive Financial Accounting, since they are duplicative of other accounting courses. Mr Burkett seconded the motion which carried unanimously.

MOTION

Ms Pike made a motion that the Board cannot grant relief regarding the firm reinstatement fee of \$500 as the statute does not allow such relief. Mr Callander seconded the motion which carried unanimously.

MOTION

Ms Pike made a motion that the Board accept Mr Bethea's experience to qualify for licensure. Mr Callander seconded the motion which carried unanimously.

MOTION

Ms Pike made a motion that the Board accept Mr Ollar's experience to qualify for licensure. Mr Callander seconded the motion which carried unanimously.

MOTION

Ms Pike made a motion on Item 8(B)(2) of the agenda, Ms Monica Moore's college credit, that the Board allow the following courses as credit: ACC 100 - Accounting 1, ACC 206 - Accounting 2, ACC 303 - Intermediate Accounting 1, and ACC 304 – Intermediate Accounting 2 and deny ACC 307 – Federal Taxation, and ACC 350 – Cost Accounting all from Aiken Technical College. The Board is also denying the Accounting Elective from Kerr Business College. Mr Callander seconded the motion which carried unanimously.

MOTION

Ms Pike made a motion on Item 10 of the agenda, that the Board authorizes Ms Cubitt, in her position as Board Administrator, to attend all NASBA Regional, Executive Director, and Annual meetings. In addition she is also authorized to be an active member of any NASBA Committees and to attend any meetings related to the committee's as necessary. Mr Hobbs seconded the motion which carried unanimously.

9. Election of Officers

MOTION

Mr Burkett made a motion to the Board to elect Mr Hobbs as Chair, Mr. Baldwin as Vice Chair, and Mr Callander as Secretary. Ms Pike seconded the motion, which carried unanimously.

10. Public Comments

None

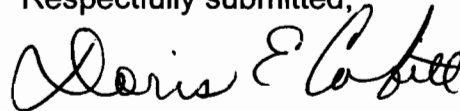
11. Adjournment

MOTION

There being no further business to be discussed at this time, Mr Hobbs made a motion the meeting be adjourned and to reconvene at 9am on Wednesday, July 20, 2011. Mr Lunsford seconded the motion which carried unanimously.

The July 18, 2011 meeting of the SC Board of Accountancy adjourned at 5:04 p.m.

Respectfully submitted,



Doris E Cubitt, CPA
Administrator

Approved at the August 18, 2011 Board Meeting.


Mark Hobbs, CPA, Chair