OKLAHOMA ACCOUNTANCY BOARD

MINUTES OF MEETING AND HEARINGS

April 27, 2001

The Oklahoma Accountancy Board convened in regular session on Friday, April 27, 2001 in Suite 165, 4545 N. Lincoln Boulevard, Oklahoma City, Oklahoma. Notice of the meeting was filed with the Secretary of State and the agenda for the meeting was posted in the reception area of the Board's office in compliance with the Open Meeting Act. A tape recording of the meeting is on file in the Board office. Members present at the meeting:

Harold L. Russell, Chairman
Archer M. Honea, Vice Chairman
Tom Dugger, Secretary
James A. Nickles, Member
Vernon Askew, Member
Patrick Anderson, Member
Carlos E. Johnson, Member

In attendance at the meeting: Edith Steele, Deputy Director; Douglas Price, Assistant Attorney General and legal counsel to the Board; and Donita Graves and Barbara Walker, Board staff members. Daryl Hill, Executive Director, and Rusty Hale, CPA, liaison, represented the Oklahoma Society of CPAs. Also present for relevant segments of the meeting were Rick Chamberlain, Special Prosecutor and staff member Jim Shepherd.

Call To Order: At 8:45 a.m. Chairman Russell called the meeting to order and declared a quorum present. Mr. Anderson was not present for the convening.

Mr. Anderson arrived during discussion of the Consent Agenda.

Consent Agenda: The Consent Agenda contained 9 items for the Board's consideration: (1) Approve the minutes of the February 23, 2001 Board meeting; (2) Authorize the purchase of a new electronic marking machine (check endorser) and surplus the old machine; (3) Ratify policy on projects' approval by the Executive Committee; (4) Ratify clarification of escalated permit fees as provided in OAB 10:15-27-9(b); (5) Ratify amendment to the policy authorizing OSBI record checks for criminal history files; (6) Take official notice of the final status report of the CPE audit; (7) Take official notice of the Board's financial statement for the nine months ended March 31, 2001; (8) Take official notice of the examination application files acted on by the Executive or Deputy Director; and (9) Take official notice of the files acted on by the Deputy Director since the previous meeting.

Mr. Nickles requested clarification regarding the $39,000 over estimate revenue on the permit fees and the expenditures on the computer programmer. The Deputy Director explained that the escalated permit fees are not budgeted and she only forecasts the revenue based on the number of registrants who are required to apply for the permit. She also explained that the computer programmer expenditure is for the conversion of the Board's databases to SQL Server, which will allow Access to become more stable and to run faster. As staff continues to add more registrants and grades to the database, Access will start to slow down and become unstable.

He also requested information on one of the examination applications, which was returned because her degree was not posted on the transcript. He expressed concern because the Board's policy allows a candidate to get a letter from the college proving that a degree was held. The Deputy Director explained that the applicant did not send any proof of her degree and therefore the application could not be accepted.

Secretary Dugger questioned the item on the OSBI record background check on all initial examination applicants who answered affirmative to the morals question. The Board discussed the limitation of the proposed policy and amended it by removing the word "initial" so that the policy includes all examination applications.

Mr. Johnson suggested that the Board also run a background check on each successful candidate before the CPA certificates are issued. Vice Chairman Honea commented that the Board could do that on a one-year trial basis and asked that a different policy be drafted for the successful candidate background check.

> Honea moved that the policy on OSBI background checks be amended by adding Examination Candidates in bold type, and adding the words "This policy shall also apply to all examination candidates who answer positively to the criminal question unless a background check has previously been completed on that candidate", Johnson second. Unanimous affirmative vote.

POLICY ON OSBI BACKGROUND CHECKS

Examination Candidates:

This policy shall also apply to all examination candidates who answer positively to the criminal question unless a background check has previously been completed on that candidate.

Reinstatement Applicants:

This policy applies to all CPAs and PAs applying for reinstatement, whether he/she cancelled the certificate/license or the certificate/license was revoked or suspended.

As part of the initial processing of a reinstatement application, the Board's registration clerk will submit a written request to the Oklahoma State Bureau of Investigation (OSBI) for a record check into the criminal history files.

If the OSBI has no criminal history information on file for the applicant, the registration clerk will continue processing the reinstatement application. A copy of the OSBI's response will be part of the applicant's file.

Staff was instructed to draft a policy in accordance with the discussion on background checks of successful candidates.

Askew moved to approve the Consent Agenda as discussed; Nickles second. Unanimous affirmative vote.

MAY 2001 APPLICATION DISAPPROVAL LIST

Initial Applicants:	Reason for Disapproval by Executive or Deputy Director
Frank F. Schwartzott	Lacks 2/3 of an hour of accounting coursework.
Thomas Henry Gann	Lacks 3 semester hours of accounting coursework.
Troyce Alexander	Application received after filing deadline.
Joan Carlton	Lacks 15 semester hours of accounting coursework.
Shirley Jones	Not a resident.
Delmar Correll	Lacks 3 semester hours of accounting coursework.
Supplemental Applicant:	
Eric Scism	Application received after filing deadline (remains active candidate)
Re-Examinees:	
Tena Harding	Application received after filing deadline (will be inactivated)
Mitzi Groves	Application received after filing deadline (remains active candidate)
Gary Casey	Application received after filing deadline (will be inactivated)
Deborah Fletchall	Application received after filing deadline (will be inactivated)
Christopher Horvath	Application received after filing deadline (remains active candidate)

3963.

Applications Returned in Accordance with Board Policy:

Kwabena Boadu	Initial; Transcript not official (appl rcvd 3/5)
Abdul Khan	Initial; Degree not posted (appl rcvd 3/5).
Mary Mullen	Initial; Degree not posted (appl rcvd 3/5).
Alicia Kemper	Re-examinee; fee not enclosed (appl rcvd 3/5).

Hearing in the Matter of Harry J. Schaffer, III and H. J. Schaffer III, CPA, P.C., an Oklahoma Corporation

This matter came on for hearing at 9:05 a.m. The members of the Board present were seated on the hearing panel. Douglas Price, Assistant Attorney General, represented the Board. Rick Chamberlain, Special Prosecutor, advised the Board that the Respondent has asked for a continuance of 30 days, or the next Board meeting, and he recommends that the request be granted.

> Askew moved to grant the continuance; Johnson second. Unanimous affirmative vote.

Hearing in the Matter of Lyn Joseph Magdalena, Suspended CPA

This matter came on for hearing. The members of the Board present were seated on the hearing panel. Douglas Price, Assistant Attorney General, represented the Board. Rick Chamberlain, Special Prosecutor, presented the State's case. Respondent was not present, nor was he represented by counsel. Evidence was presented that Respondent received proper notice of the hearing. The purpose of the hearing was to determine whether Respondent violated the Consent Order entered in Case No. 1444 by his failure to pay administrative prosecution costs, fines and late fees, to complete 8 hours of pre-approved CPE, specifically in the area of Ethics and to timely file tax returns. Respondent was also alleged to have violated another Board Order in Case No. 1455-4, whereby his certificate was suspended for two years, by his failure to surrender the CPA certificate to the Board's custody. Barbara Walker, the Board's CPE Coordinator, was called as a State's witness.

> Nickles moved to go into Executive Session; Askew second. Affirmative votes: Dugger, Askew, Nickles, Honea, Russell, Anderson and Johnson.

> Dugger moved to come out of Executive Session; Askew second. Affirmative votes: Dugger, Askew, Nickles, Honea, Russell, Anderson and Johnson.

Anderson moved that the Board issue an Order finding that all allegations in this Complaint have been proven by clear and convincing evidence, that the complaint be amended to conform to the evidence presented as to Count 1 to find that the Respondent has been grossly negligent in the practice of accountancy in violation of Section 15.14.B.2 of the Oklahoma Accountancy Act. Further, that the Complaints found in Counts 2, 3 and 4 have been proven by clear and convincing evidence, and that the Board revoke Magdalena's certificate and assess a fine of $10,000 for each Count and the appropriate costs for prosecution of this matter. These costs and fees are in addition to the fines and costs previously assessed in other matters; Askew second. Affirmative votes: Johnson, Anderson, Russell, Honea, Nickles, Askew and Dugger.

Anderson moved to authorize the Special Prosecutor to pursue collection; Nickles second. Affirmative votes: Johnson, Anderson, Russell, Honea, Nickles, Askew and Dugger.

The proceedings and the individual votes of the members were conducted in open session and were recorded by a court reporting service. The evidence is contained in Docket File No. 1462.

Administrative Actions Taken: Vice Chairman Honea presented a written summary of investigative files and administrative actions taken, with recommendations for disposition of each.

ADMINISTRATIVE ACTIONS

Case No. 1463 – Examination Applicant

An Administrative Consent Order is being offered in this case which provides that the Respondent shall be allowed to sit for examination, subject to a probation period beginning with the effective date of the Order and ending June 30, 2005. In the event the Respondent successfully passes the examination, she will receive a CPA certificate and may apply for a permit to practice.

Honea moved to approve the Administrative Consent Order entered in Case No. 1463; Nickles second. Unanimous affirmative vote.

Case No. 1464 – Examination Applicant

An Administrative Consent Order is being offered in this case which provides that the Respondent shall be allowed to sit for examination, subject to a probation period

beginning with the effective date of the Order and ending June 30, 2004. In the event the Respondent successfully passes the examination, he will receive a CPA certificate and may apply for a permit to practice.

> Honea moved to approve the Administrative Consent Order entered in Case No. 1464; Dugger second. Unanimous affirmative vote.

Case No. 1465 – Examination Applicant

An Administration Consent Order is being offered in the case which provides that the Respondent shall be allowed to sit for examination, subject to a probation period beginning with the effective date of the Order and ending June 30, 2005. In the event Respondent successfully passes the examination, he will receive a CPA certificate and may apply for a permit to practice public accounting.

> Honea moved to approve the Administrative Consent Order entered in Case No. 1465; Anderson second. Unanimous affirmative vote.

Investigative Files Closed:

File No. 222 – Ann L. Lewallen, Nonregistrant

At the Vice Chairman's request, a cease and desist letter was issued 11/15/2000 by the Special Prosecutor for her use of the designation "PA" in conjunction with her name on a compilation report filed as a part of a licensing application with a state agency. Prior to receiving the letter she was made aware, through telephone conversations with the former Executive Director and the licensing agency, that such usage constitutes a violation of the statute. When she failed to respond, the Special Prosecutor sent a follow up letter on 12/23/2000. She has finally responded.

File No. 223 – Jan Green

Information was received that this individual was holding out in a Midwest City Yellow Page listing under "Certified Public Accountant". However, it was later discovered that this listing was actually for "Janice Greene" who is, in fact, a CPA. The shortened and misspelling of Ms. Greene's name caused the misunderstanding.

File No. 231 – Lauren M. Walls, Nonregistrant

A newspaper article promoted Ms. Walls as a Certified Public Accountant in connection with a local practitioner's business ad. Ms. Walls has subsequently applied for reciprocity and a permit to practice public accounting.

File No. 98-02-03 – Robert L. McGee, CPA

Complainant alleged Mr. McGee completed his 1995 tax return with numerous errors which resulted in his having to pay penalties and fees to the IRS. A lawsuit was filed in this matter. The Vice Chairman had requested that the lawsuit be monitored before any disciplinary action would be considered. The Board has been notified that Mr. McGee passed away 2/21/2001.

File No. 01-03-04 – Cheryl Smith, CPA

Complainant alleged Ms. Smith refused to furnish copies of the payroll tax reports for 1997 after numerous requests. Ms. Smith has now complied with the request and the client is satisfied.

> Anderson moved to ratify actions by Vice Chairman; Johnson second. Unanimous affirmative vote.

Requests to Lift Certificate Suspensions: **Case No. 1455-1** - K. Christopher Blevins' certificate was suspended at the January 19, 2001 CPE Audit Hearing for failure to substantiate the CPE claimed on the permit application. He has now provided the proper documentation and staff recommends that the suspension be lifted.

> Askew moved to approve the reinstatement of Mr. Blevins' certificate; Johnson second. Unanimous affirmative vote.

Case No 1448-4 - Kathleen Ann Barnes' certificate was suspended on September 29, 2000 for failure to renew her permit to practice. She has subsequently reported the required 40 hours of CPE and applied for the permit. Staff recommends the suspension be lifted.

> Nickles moved to approve the suspension lifted; Johnson second. Unanimous affirmative vote.

Board Position Formulated for Chicago Delegation: The Board discussed the various resolutions issued by the Texas, New York, California and numerous other Boards regarding the cost, security, the maintenance of a candidate database, and the contract between the AICPA and Prometrics, who is the provider of the on-line examination. These various resolutions questioned certain aspects which have led to a meeting on May 10 in Chicago for purposes of discussion by all Boards. There has been no input allowed by the Boards, some of which will have administrative problems because the AICPA refuses to divulge the contract specifications.

> Nickles moved to authorize the Chairman to write a letter taking the same position as the Texas, California and New York Resolutions and stating that it is Oklahoma's position as well, in that Oklahoma has been raising these same concerns for two years but received no response. All information which is available to the Chairman, including the Board's comments, should be included in the letter; Anderson second. Unanimous affirmative vote.

Vice Chairman Honea pointed out some minor differences in Oklahoma's position because the California Resolution supports the computerized examination but the Texas and New York Resolutions do not, and he does not necessarily agree with computerizing the examination. Chairman Russell indicated that he has recommended to NASBA that a feasibility study be made of the computerized examination costs. The Board also discussed the trust issue because the AICPA does not want to share information with the Boards from the studies they made. Mr. Nickles pointed out that it is the Board's responsibility to administer the examination, regardless of who the vendor is, and the AICPA cannot have absolute control because the ultimate responsibility is the Board's. Vice Chairman Honea suggested that the following areas be addressed in the Board's letter: 1) the Oklahoma Accountancy Board is charged with protecting the public and therefore all aspects of the examination must be under the Oklahoma Accountancy Board jurisdiction; 2) even if the Oklahoma Accountancy Board delegates, it still must retain responsibility for the content and all other aspects of the examination; 3) suggest that all activities be suspended relating to the computerization until such time as concerns can be worked out; 4) suggest that NASBA be called upon to begin the process, not to disenfranchise the AICPA because they must be included, locating other potential examination providers, which may include in-house (NASBA or some other organization under the control of NASBA) with Board jurisdiction maintained; 4) the candidate database should be exclusive to the states and not released to the AICPA under any circumstances; 5) No contracted company will provide the same level of concern in administering the exam as the profession itself; 6) if the services are transferred from AICPA to NASBA, i.e., one sole source provider to another, the Boards may ultimately have the same problems; 7) …and the computerization process, with the accompanying lack of consistent information coming from the AICPA; 8) beginning with the May 1999, the examination is no longer uniform, because the AICPA began the Examination "A" and "B" versions, it is proposed that the word "Uniform" be dropped and use the verbiage "psychometrically equivalent" or "equivalent"; and 9) use of fingerprints to identify the candidates. Chairman Russell commented on the powerful California special interest groups who has for many years believed that the AICPA giving the examination is a conflict of interest.

Chairman Russell suggested that the move to computerize the examination should be deferred until the costs can be controlled.

Mr. Askew urged the Board to consider the national examination given to individuals other than CPAs for the Oklahoma PA examination in the future.

Reponses to AICPA for Briefing Paper #2 and Proposed Content and Structure Papers: Since the responses are not due until June and July, these agenda items were deferred to the next meeting

Alternative Tulsa Examination Site Needed for November 2002: The Tulsa Convention Center has notified the Board that a large convention is leasing the entire convention center except the arena area. At first, staff was willing to accept giving the examination in the arena as has been done in the past. However, consideration must be given for parking, hotel availability and the noise factor, so staff is asking permission to seek an alternative examination site. Several alternative locations were suggested by the members.

> Johnson moved to give staff permission for staff to search for locations; Nickles second. Unanimous affirmative vote.

Amendment to Examination Application Question: Staff requested permission to remove the question from the examination applications concerning the candidate sitting next to another candidate who is a co-worker, spouse or friend. Staff attempted to chart the examination room layout with the overwhelming responses to the question and could not feasibly accommodate all of the requests; neither examination room is large enough. Staff also noted several responses which could not be accommodated, such as “everyone who works with me”, etc. Mr. Johnson stated that the question is for a valid concern and should remain on the application but staff should only respond to legitimate requests. Chairman Russell commented that the question as written is too broad, and suggested the question be rewritten. Staff is to work with Doug Price on the wording to be used.

Examination Site Assignments: Since representatives from the AICPA and Prometric are visiting Oklahoma sites, Vice Chairman Honea will be at the Tulsa site on Wednesday and on call for Thursday. Mr. Dugger will be at the Oklahoma City site on Thursday and on call Wednesday. Vice Chairman Honea also commented that Barbara Walker will be going to the Tulsa site and the Deputy Director will be at the Oklahoma City site.

Examination Review Board Letter on Review of November 2000 Examination: The letter from Ronnie Rudd on the review of the November 2000 examination by NASBA’s Examination Review Board was noted by the Board.

Report on Legislation Which May Impact the Board: The Deputy Director summarized the legislative bills which include issues such as the repeal of the Oklahoma Tax Commission compliance, telephone answering requirements, travel reimbursement amendments, personnel matters, website requirements and budgeting.

Report on Expanded Website Capability: Jim Shepherd, the Board’s webmaster, reported that the Board’s website will soon have on-line completion capabilities. Until the portal is finalized and the State recognizes e-signatures, on-line registration is still not available. For now, the registrants and candidates will be able to complete the forms on-line, print off, sign and submit.

Firm Name Structures: Two firms recently registered and the staff questioned whether their name structures are allowed under the Board's rules. Staff discussed their concerns with Doug Price, who suggested that the Board review and rule. The Board discussed past actions on firm names.

One firm is Union Financial CPAs, Inc., A Professional Corporation. This firm appears to be a franchise. Mr. Johnson commented that Union Financial is not a CPA firm. Chairman Russell suggested that Mr. Henderson was trying to gain from Union Financial with his CPA firm name. Mr. Nickles agreed that it could be misleading to the public.

> Nickles moved not to allow Mr. Henderson to register Union Financial CPAs, Inc., A Professional Corpor-ation because it can be misleading to the public; Askew second. Unanimous affirmative use.

Another firm, OC&H, PC is the first initials of the dissolved firm, Onstott, Craddick & Hyde, CPAs, Inc. Ms. Hyde is the only shareholder remaining. The Board agreed that this name issue is more complicated because of firms which have used deceased and former partner names for many years.

> Honea moved to allow OC&H, PC to register as such as long as she doesn't use "CPA" in a plural form; Anderson second. Affirmative votes: Johnson, Anderson, Honea, Nickles, Dugger and Russell. Negative vote: Askew.

Publication of Executive Director's Resignation: Chairman Russell issued an official announcement which was drafted with the aid of Doug Price.

> Dugger moved to publish the announcement in the next newsletter; Honea second. Unanimous affirmative vote.

He informed the Board that he has appointed a task force to evaluate the candidates for the Executive Director position. The Board members appointed are Vice Chairman Honea, who is the chair, Tom Dugger, vice chairman, and Vernon Askew. Other task force members are Tom Gray; Bill Horne, Jr.; Fred van Wieren; Sam Cole; Gay Minnix; and Sam Hunsaker. The task force will review all applications and recommend at least three candidates for the Board to consider. Travel expenses for a limited number of the applicants (two or three) was authorized.

Mr. Russell discussed his meeting with Pam Warren, Cabinet Secretary, and Oscar Jackson, Director of the Office of Personnel Management (OPM). A job description is being drafted which includes the following elements: serving public interest; examination; enforcement; registration; relationships with board members; entities; other governmental agencies; professional agencies (NASBA); and administrative relationships. OPM has indicated they may make the job description generic for all agencies.

New Business – NASBA Regional Director Nomination: Because Mike Conaway is now NASBA Vice President, the Southwest Regional Director position is open. Chairman Russell spoke of his support of Vice Chairman Honea for nomination to that position.

> Johnson moved to support Archer Honea for nomination as SW Regional Director; Dugger second. Unanimous affirmative vote.

Chairman Russell left the meeting before the discussion of the following item.

NASBA Nomination for Director At Large: Vice Chairman Honea summarized the background of this nomination and read the draft of the letter of nomination. He suggested that because he is on the nominating committee, it would be better for all members to sign the letter in lieu of just his signing it.

> Askew moved to approve the letter as read; Dugger second. Unanimous affirmative vote.

Chairman Russell returned to the meeting during the Executive Session.

Executive Session to Discuss Certain Staff Salary Increases and Preliminary Job Description for Executive Director Position:

> Johnson moved to go into Executive Session; Askew second. Unanimous affirmative vote.
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> Dugger moved to come out of Executive Session; Johnson second. Unanimous affirmative vote.
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> Johnson moved to increase the annual salary of James Shepherd by 10% effective May 1; Askew second. Unanimous affirmative vote.
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> Honea moved that the Deputy Director's compensation, as long as she is responsible for doing the duties of the Executive Director, for the period inclusive from the period she started until she stops be increased to a rate equivalent to $55,000 annual salary; Askew second. Unanimous affirmative vote.

Certificate Cancelled by Registrant's Request: **CPA:** Jack Douglas Stockton, Certificate No. 702, issued August 7, 1950.

Deceased Registrants: **CPAs:** Wm. J. Barnes, Jr., Certificate No. 1595, issued July 27, 1962; Michael Dennis Cloud, Certificate No. 3326, issued January 27, 1975; Melvin Loyd McElroy, Certificate No. 554, issued August 16, 1948; William Clement McGrew, Certificate No. 495, issued July 26, 1947; Janet E. Orsak, Certificate No. 8669, issued January 23, 1986 and W.W. Rostet, Certificate No. 283, issued November 18, 1935. **PAs:** Frank J. Dvorak, License No. 56, issued June 24, 1968 and Leruew Manuel Haymon, License No. 650, issued April 18, 1969.

Applications and Registrations Approved: The Board took official notice of the following applications and registrations, which have been approved by the Deputy Director:

Applications for Reciprocal CPA Certificates:

Cert No.	Name
15051-R	Allen B. Bell
15052-R	Sarah Beth Clinton
15053-R	Rose A. Hartle
15054-R	William T. Hinton
15055-R	George C. Kotridis
15056-R	Christie E. Lovell
15057-R	Louis M. Rovner
15058-R	Elizabeth Miles Spencer
15059-R	Lauren Mary Walls
15060-R	Twana Welch

Applications for Reinstatement of CPA Certificates:

7015	Tamara Lorece Runnels
8457	Kathleen Ann Barnes
11994	Gary Brian Ellis
12443	K. Christopher Blevins
12560	Julia A. Moler

Initial Registrations of CPA Professional Corporations:

Angela D. Doyle, CPA, P.C.
James L. Ridley CPA, P.C.
Kelly K. Daviee, CPA, P.C.
OC & H, P.C. (*Board Approved)
Stephen Anderson P.C.

Initial Registration of a CPA Professional Limited Liability Company:

Varney & Associates, CPA'S, L.L.C.

Adjournment: There being no further business to come before the Board, at 12:38 a.m. Chairman Russell called for a motion to adjourn.

Askew moved to adjourn the meeting; Honea second. Unanimous affirmative vote.

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Harold L. Russell, Chairman

ATTEST:

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Tom Dugger, Secretary