OKLAHOMA ACCOUNTANCY BOARD

MINUTES OF MEETING AND HEARINGS

December 14, 2001

The Oklahoma Accountancy Board convened in regular session on Friday, December 14, 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:

Archer M. Honea, Chairman
Tom Dugger, Vice Chairman
James A. Nickles, Secretary
Harold L. Russell, Member
Carlos E. Johnson, Member
E.B. St. John, Member

In attendance at the meeting: Edith Steele, Deputy Director; Douglas Price & Dan Connally, Assistant Attorney Generals and legal counsels to the Board; and Donita Graves, Board staff member. Daryl Hill, Executive Director represented the Oklahoma Society of CPAs. Jim Nolen, Lee Weeden and Peggy Johnson represented the Oklahoma Society of Accountants. Rick Chamberlain, Special Prosecutor, Robert Cole, Attorney, Don Cooke, Attorney, Charles Swinford Powell, Respondent, Joey Shambles, Respondent, Micheline Nader, Randy Jobe, and Audrey Sayre were also present for relevant segments of the meeting.

Call To Order: At 8:38 a.m. Chairman Honea called the meeting to order and declared a quorum present. Secretary Nickles and Ms. Timmons were absent. He noted and explained Ms. Timmons' absence which was excused.

Consent Agenda: The Consent Agenda contained 4 items for the Board's consideration: (1) Act on the minutes from the November 16 Board meeting; (2) Authorize travel for the Deputy Director and Legal Counsel to attend NASBA's Administrators' and Legal Conferences February 10 – 13, 2002 in San Diego, California; (3) Authorize travel for appropriate members and staff to attend FARB seminar February 7 – 10, 2002, in Las Vegas, Nevada; and (4) Take official notice of the files acted on by the Deputy Director since the previous meeting.

Mr. Russell asked what kind of organization FARB was and if the Board was a member. Deputy Director Steele replied that the Board had not been asked to become a member. Chairman Honea read selected topics on the conference's agenda.

Johnson moved to approve the consent agenda as presented; Russell second. Unanimous affirmative votes.

Secretary Nickles arrived at the meeting.

<u>Executive Director Position:</u>

> Johnson moved to go into Executive Session; St. John second. Unanimous affirmative votes.
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> Dugger moved to come out of Executive Session; Nickles second. Affirmative votes: Honea, Dugger, Nickles, Russell, and St. John.

Mr. Johnson was absent when motion was made to come out of Executive Session.

Mr. Price noted for the record that the Board discussed the Executive Director search as allowed by the Open Meeting Act and that the Board did not take any votes or other action.

> Russell moved that the Chairman and Vice Chairman be empowered to employ a search firm to continue the search for an Executive Director; Johnson second. Unanimous affirmative votes.
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> Russell amended motion to include Secretary Nickles to be empowered to employ a search firm since he is a Board officer; Johnson seconded the amended motion with Secretary Nickles' acceptance of such inclusion. Unanimous affirmative votes.

<u>Administrative Actions Taken:</u> Vice Chairman Dugger presented a written summary of investigative files and administrative actions taken, with recommendations for the disposition of each.

Investigative Files:

File No. 227 – David Krueger – Non-Registrant

The complainant, who is a relative of Mr. Krueger, alleges that Mr. Krueger is holding out as a CPA. The title "CPA" did appear in Mr. Krueger's website for a company called DFKL which appears to be some type of consulting firm. Mr. Krueger had previously been a CPA from the states of Missouri and Indiana. The Special Prosecutor, in his investigation of this matter, has determined that there is insufficient evidence for prosecution. The Vice Chairman recommends this file be closed.

File No. 229 – Joy Kettler Tax Service – Non-Registrant

Ms. Kettler issued an audit for the Rural Water District #2, Grady County. She did not sign the report as a CPA or PA. In accordance with Section 15.27.A.1. of the Oklahoma Accountancy Act and the Board's policy, since this is her first offense, the Special

Prosecutor sent her a Cease and Desist letter which explained the violation which had occurred. Based on review of prior files this is consistent with actions taken under similar circumstances. Ms. Kettler responded that she now understands the violation and will not perform any more audit services. Her response satisfied the Vice Chairman. He recommends a letter be sent to the Grady County Rural Water District #2 informing them of the provisions of the Oklahoma Accountancy Act and that the file be closed.

File No. 236 – Padgett Services (Broken Arrow) – Non-Registrant

This company is listed in the Broken Arrow Yellow Pages under the heading "Accountants". A Cease and Desist letter was sent to the company by the Special Prosecutor. Mr. Joe Smith responded that he was unaware that he had violated the Oklahoma Accountancy Act and sent a letter to the telephone company instructing them to remove his listing from "Accountants" and, instead, list the company under the heading "Accounting & Bookkeeping Services". His response satisfied the Vice Chairman and he recommends the file be closed.

File No. 246 – McConnell, Jones, Lanier & Murphy, LLP – Unregistered Firm

This firm is located in Missouri City, Texas. Staff sent the firm an advisory letter when a registrant indicated that he was coming into Oklahoma to serve clients as an employee of the firm. The firm failed to respond to staff's first and second notice. A Cease and Desist letter was sent by the Special Prosecutor. The firm responded that the registrant indicated that he was coming into Oklahoma in anticipation of receiving work on an RFP. The registrant stated that the firm did not receive the work and therefore, has not come into Oklahoma to perform any services. Their response satisfied the Vice Chairman and he recommends the file be closed.

File No. 247 – Terry & Stephenson, P.C. – Unregistered Firm

This firm is located in Denver, Colorado. Staff sent the firm an advisory letter when a registrant indicated that he was coming into Oklahoma to serve clients as an employee of the firm. The firm failed to respond to staff's first and second notice. A Cease and Desist letter was sent by the Special Prosecutor. The firm has now properly registered so the Vice Chairman recommends the file be closed.

File No. 248 – Keller & Owens, LLC – Unregistered Firm

This firm is located in Overland Park, Kansas. Staff sent the firm an advisory letter when a registrant indicated that he was coming into Oklahoma to serve clients as an employee of the firm. The firm was registered in Oklahoma, but as a partnership, not as an "LLC". The firm failed to respond to staff's first and second notice. A Cease and Desist letter was sent by the Special Prosecutor. The firm has now properly registered so the Vice Chairman recommends the file be closed.

Secretary Nickles asked for clarifications on File No. 227. Vice Chairman Dugger responded.

Russell moved to approve Vice Chairman's recommendation to close files; Johnson second. Unanimous affirmative votes.

Act on Proposal to Revise the Board's Interpretation of the Continuing Education Ethics Requirement: Vice Chairman Dugger presented a handout and addressed the revisions. Secretary Nickles asked whether Item 2 should be expanded and not be limited to law and securities. Mr. Russell provided as a point of clarification the example of the ethics courses he has attended as a trustee at St. Anthony's Hospital. Mr. Johnson asked Secretary Nickles if he wanted Item 2 to be more specific as it pertains to financial services for example. Secretary Nickles replied that he was referring to governmental accounting organizations. Vice Chairman Dugger reminded the Board that there is a CPE Committee and if a question arose to this issue, it would be brought before the committee.

Russell moved to adopt policy with regard to its intepretation of CPE requirement; Nickles second. Unanimous affirmative votes.

Interpretation of Continuing Education Ethics Requirement
OAC 10:15-29-4(c)

"Unless exempted by 10:15-29-10, every permit holder shall complete at least two (2) hours of professional ethics CPE as a part of the 40 hour requirement. The ethics CPE requirement shall be effective for compliance periods beginning within calendar year 2001 and for each compliance period thereafter."

The Board shall interpret this rule in the following manner:

1. Two hours of professional ethics pertaining to the practice of public accounting must be included on every application for permit filed on or after January 1, 2002.

2. The requirement may be met by courses from other licensed professional disciplines that relate directly to the practice of public accounting, such as law and securities.

3. The requirement may be met by courses on ethical codes in jurisdictions other than Oklahoma's.

4. The requirement may **NOT** be met in segments of fewer than 50 minutes' duration.

5. If the certificate of completion does not specify the nature and number of credit hours earned for professional ethics or unless it is clear from the course description that the subject matter meets the requirements for professional ethics credit, the permit holder must submit documentation that clearly demonstrates that the requirement of 10:15-29-4(c) has been met.

Hearing in Case No. 1471 – Charles Swinford Powell, CPA: This matter came for hearing at 9:24 a.m. The members of the Board present were seated on the hearing panel. Dan Connally, Assistant Attorney General, represented the Board. Rick Chamberlain, Special Prosecutor, represented the State. Mr. Powell was present and represented by counsel, Don Cooke, Attorney. The purpose of the hearing was to determine whether Respondent violated Section 15.14(H) of the Oklahoma Accountancy Act by failing to notify the Board within 30 days of a change in employment, Section 15.14B(6) of the Oklahoma Accountancy Act and OAC 10:15-39-7(b)(B) by refusing to return client's records, Section 15.14A(A) of the Oklahoma Accountancy Act by rendering professional services to a client in matters relating to accounting procedure and to the recording, presentation or certification of financial information or data, and by keeping books and preparing financial statements or reports as part of bookkeeping services for the client, and Section 15.11(A) of the Oklahoma Accountancy Act by holding himself out as a Certified Public Accountant and/or a CPA without a valid permit to practice. Special Prosecutor Chamberlain presented a consent order for the Board's consideration.

> Nickles moved to go into Executive Session; Johnson second. Affirmative votes: St. John, Russell, Nickles, Dugger, Honea, and Johnson.
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> Nickles moved to come out of Executive Session; Russell second. Affirmative votes: Johnson, Honea, Dugger, Nickles, Russell and St. John.

Mr. Connally noted for the record that the Board deliberated Case No. 1471 and that during deliberation the Board took no votes or other official action as that term is defined in the Open Meeting Act. At the request of the Board, Special Prosecutor Rick Chamberlain and Assistant Attorney General Dan Connally were asked to be present during the Executive Session.

> Nickles moved to not accept the Consent Order as presented; Russell second. Affirmative votes: Johnson, Honea, Dugger, Nickles, Russell and St. John.

At the Chairman's request, all copies of the Consent Order were returned to Special Prosecutor Rick Chamberlain.

Witnesses called by the State included Randy Jobe and Micheline Nader. Respondent was called as a witness.

The Board adjourned for lunch break at 12:36 p.m. and reconvened at 2:34 p.m.

Mr. St. John left the meeting.

Continuation of the Hearing in the Matter of Charles Swinford Powell, CPA: With the exception of Mr. St. John, the same members of the Board previously seated were present.

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

Mr. Connally noted for the record that the Board deliberated Case No. 1471 and that during deliberation the Board took no votes or other official action as that term is defined in the Open Meeting Act.

> Nickles moved that based on the evidence presented in the matter of Charles Swinford Powell, Case No. 1471, the allegations set forth in counts 1, 3, & 4 have been proven by clear and convincing evidence; Johnson second. Affirmative votes: Johnson, Honea, Dugger, Nickles and Russell.
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> Nickles moved that based on the findings, respondent is to be fined $500.00 for Count 1; $5,000.00 for Count 3; and $5,000.00 for Count 4 in addition to administrative recovery costs. Fines and costs are to be paid in increments, with the first half due on January 31, 2002 and the balance due on May 31, 2002; in addition the Respondent shall complete the 8-hour AICPA CPE course in the subject matter of ethics and must be completed by June 30, 2002; Russell second. Affirmative votes: Johnson, Honea, Dugger, Nickles and Russell.
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> Johnson moved to adjourn the hearing; Nickles second. Unanimous affirmative vote.

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. 1471.

Show Cause Hearing in the Matter of Case No. 1476 - Joey Mitchell Shambles, revoked CPA: This matter came on for hearing at 4:05 p.m. The members of the Board present were seated on the hearing panel. Douglas Price from the Attorney General's office represented the Board. Rick Chamberlain, Special Prosecutor, represented the State. Respondent was present but not represented by counsel. The purpose of the hearing was to determine whether the Respondent's certification should be reinstated. The Respondent's certificate had been revoked in August 1994 for failure to register. Respondent testified on his own behalf.

Russell moved to reinstate Joey Mitchell Shambles' certificate based on good cause; Nickles second. Affirmative votes: Johnson, Honea, Dugger, Nickles, and Russell.

Nickles moved to adjourn hearing; Russell second. Unanimous affirmative votes.

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. 1476.

Hearing in the Matter of Case No. 1473 - Brady L. Buchan, CPA: The members of the Board present were seated on the hearing panel. Douglas Price from the Attorney General's office represented the Board. Rick Chamberlain, Special Prosecutor, represented the State. Respondent was not present and was not represented by counsel. Chamberlain requested a continuance because the Respondent's attorney was ill.

Nickles moved to defer this matter to the January Board Meeting; Johnson second. Unanimous affirmative votes.

Discussion of Draft of AICPA/NASBA/Prometric Examination Contract and Ratify the Voting Delegates at January 9, 2002 Meeting: Chairman Honea announced a special meeting to be held on December 27, 2001. The meeting will be limited to discussing the examination contract and approving language for the proposed rules as proposed by the Rules Committee. He asked Mr. Johnson if he knew the status of the contract and if it had been signed by any of the parties. Mr. Johnson replied in the negative.

Chairman Honea also mentioned that several Executive Directors and Chairmen from other state boards requested the Oklahoma Board's opinion on the contract. He suggested that any comments from the Board be sent to the Deputy Director who will compile them and then forward them to the Chairman. Vice Chairman Dugger reminded the Board of his teleconference with the Southwest Region on Monday at 10:00 a.m. and invited Board members to e-mail comments to him prior to the teleconference. Mr. Russell offered the comment that NASBA be asked to provide an outline of what NASBA considers to be the key points of the contract. Price concurred. Vice Chairman Dugger stated that he would mention this comment during the teleconference.

Chairman Honea mentioned the meeting of Executive Directors held in New Orleans last week and asked what issues were discussed. Deputy Director Steele replied that the meeting was not so much about the examination contract but the procedures of handling the contract, particularly as it pertains to the administration of fees. Chairman Honea asked if Oklahoma had been invited to the meeting. Deputy Director Steele replied in the negative. Chairman Honea stated that Annette Harmon from Nebraska

and Susan Somers from Kansas were not invited. Mr. Russell asked what states were invited. Chairman Honea replied that he did not know and asked the Deputy Director where she received her information about this meeting. Deputy Director Steele replied that Bob Brooks from the North Carolina Board had told her. Mr. Russell asked if Mr. Brooks had been invited. Deputy Director Steele replied in the affirmative. Mr. Russell asked what states were invited and what states attended the meeting. Deputy Director Steele replied that she would obtain that information.

Act on Staff's Proposed Record Storage Project: Deputy Director Steele stated that the Board was out of file space and that the digital imaging project as outlined in the strategic plan is still a couple of years away from implementation. Secretary Nickles asked what needed to be done. Deputy Director Steele replied that since registrant files cannot be destroyed, outdated material from these files will be put in boxes and taken to storage. She stated that when the digital imaging project is launched the information in storage will be scanned first.

Mr. Johnson left the meeting.

Chairman Honea offered as a point of clarification that the material in question is information not referred to on a regular basis. Deputy Director Steele confirmed this and stated that only the original application and the last 5 years of registration forms will be kept in the files at the office. Secretary Nickles asked if actions would be kept in the registrant files. Deputy Director Steele confirmed that consent orders and any material of that nature will remain in the registrant files.

Chairman Honea asked if a note will be included in all registrants files as to what portions of the files are located off-site. Deputy Director Steele stated that a note will be put in each registrant file that older material from the file has been stored off-site.

> Dugger moved to adopt proposal as amended to include that actions must be kept in registrant file; Nickles second. Affirmative votes: Honea, Dugger, and Nickles. Negative vote: Russell. Motion carried.

Act on Proposed Meeting Schedule for Calendar Year 2002: Mr. Russell mentioned the proposed March 1st Board meeting and a potential conflict as it pertains to the March 15th deadline. Chairman Honea suggested holding a meeting in February due to legislative issues. Secretary Nickles asked about the deadline for having a Board meeting after the rules hearing. Deputy Director Steele replied that after the rules hearing, there is no time deadline. Chairman Honea addressed the scheduling conflicts of the CPE Conference, the Executive Directors meeting, and the FARB Conference in February. Deputy Director Steele stated that the March 1st Board meeting had already been announced in the rules intent notice filed with the Secretary of State.

> Nickles moved to adopt schedule; Dugger second. Affirmative votes: Honea, Dugger, and Nickles. Russell passed. Motion carried.

Investigator Contract with Jimmy Williams, CPA: Vice Chairman Dugger stated that he needed an additional investigator for an enforcement case he is working on and that the two CPA investigators under contract with the Board have a conflict of interest.

> Dugger moved to authorize contract with Jimmy Williams; Nickles second. Unanimous affirmative votes.

Poll Registrants About Current Issues: Secretary Nickles commented that it might benefit the Board to know where its registrants stood on current issues facing the profession. Mr. Russell questioned what kind of issues registrants would be asked about. Secretary Nickles expressed concern that by grandfathering the Public Accountants, the Oklahoma Society of Accountants (OSA) might cease to exist and this might not be in the best interest of the public or the profession. Chairman Honea suggested polling a statistical sample. He added that a poll could be done in the form of an informal individual survey of a sufficient sample size. Mr. Russell mentioned the potential problems with phrasing the questions properly in a neutral manner. Secretary Nickles expressed concern that most registrants do not know what the issues facing the profession are. Mr. Russell concurred. Chairman Honea suggested that if the Board is intending to send a poll to its registrants, the Board should be the appropriate party to phrase the questions. Mr. Russell proposed hiring a polling firm or a university to draft the wording of the questions. Secretary Nickles commented that the Board members can identify the issues and work out the wording to the questions. Deputy Director Steele asked when the Board wanted the poll to be sent out to registrants. Vice Chairman Dugger suggested that the poll be sent once the OSCPA's draft of legislative proposals is reviewed by the Board. Secretary Nickles suggested the poll be in the form of a questionnaire that could be sent in to the Board. Mr. Russell cautioned that the response would not be scientifically balanced since not enough responses will likely be received. Vice Chairman Dugger concurred and added that most polls have a 7% response.

> Dugger moved that the Executive Committee be authorized to formulate whatever appropriate questions the Board feels necessary for registrants to be polled on as requested by Mr. Nickles on the Supplemental Agenda; Nickles second. Unanimous affirmative votes.

Next Meeting Date Announced: The next Board Meeting is a special meeting scheduled for 8:30 a.m., December 27 at the Board office in Oklahoma City.

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

4069.

Applications for Reciprocal CPA Certificates:

15240-R	William E. MaGee
15241-R	Dale E. Schaefer
15242-R	Gregory B. Swango

Application for Reinstatement of a CPA Certificate:

14861	Brian T. Lawson

Initial Registrations of CPA Professional Corporations:

Christopher E. Brown, Inc.
Heath & Bott, P.C.
O. Christopher Meyers, C.P.A., Inc.
Patricia M. Brandon, C.P.A., P.C.
W. Brian Puckett, CPA, P.C.

Adjournment: There being no further business to come before the Board, at 4:43 p.m. Chairman Honea called for a motion to adjourn.

Nickles moved to adjourn the meeting; Dugger second. Unanimous affirmative vote.

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Archer M. Honea, Chairman

ATTEST:

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James A. Nickles, Secretary