OKLAHOMA ACCOUNTANCY BOARD

MINUTES OF MEETING

October 19, 2007

The Oklahoma Accountancy Board (OAB) convened in regular session on Friday, October 19, 2007 in the Board Room of the Water Resources Board at 3800 N Classen, Oklahoma City, Oklahoma. A recording of the meeting is on file in the OAB office. Members present at the meeting:

Tom Volturo, Representing the Public, Chairman
Vicky Petete, CPA, Vice Chair
Wade Biswell, CPA, Secretary
Janice L. Gray, CPA, Member
Carlos Johnson, CPA, Member
E.B. St. John, PA, Member
Barbara Ley, CPA, Member

Also in attendance at the meeting: Staff: Edith Steele, Executive Director, Donita Graves, Colin Autin and Barbara Walker, Board staff members; Guests: Patty Hurley representing the Oklahoma Society of Certified Public Accountants (OSCPA); Kellie Gowdy and Dean Taylor representing the Oklahoma Society of Accountants (OSA); and Assistant Attorney General John Crittenden.

Agenda Item #1a -- Call To Order: At 8:35 a.m. Chairman Volturo called the meeting to order.

Agenda Item #1b -- Declaration of Quorum: Chairman Volturo declared a quorum.

Agenda Item #1c – Announcement of Legal Meeting Notice: Executive Director Steele confirmed the 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 OAB's office and outside the building and meeting room in compliance with the Open Meeting Act.

Agenda Item #1d – Announcement of Absences and Action, if Necessary, to Determine Whether Absence(s) Was Unavoidable Pursuant to Title 59, Section 15.3.B.5: Member Johnson was present but absent at the meeting's convening. All other members were present.

Agenda Item #2 – Announcement of Visitors: Executive Director Steele read the names of the visitors present.

Agenda Item #3 – Public Comment Period: Executive Director Steele advised the OAB she had not received any written requests or had been informed by any member of the public wishing to speak before the OAB.

Agenda Item #4 – Consent Agenda: The Consent Agenda contained 4 items for the OAB's consideration. (1) Approve the minutes of the September 28, 2007 OAB Meeting; (2) Approve the transfer of the computer system security cabinet to the Office of State Finance; (3) Approve the list for verified experience of successful candidates for certification; (Appendix 1) and (4) Approve the actions taken by the Executive Director on applications and registrations filed since the previous meeting. (Appendix 1)

> Petete moved the Consent Agenda be approved; Biswell second. Affirmative votes: St. John, Gray, Petete, Volturo, Biswell and Ley. Absent: Johnson.

Member Johnson returned to the meeting at 8:38 a.m.

Agenda Item #5 – Discuss and Act on Recommendations by the Enforcement Committee: Vice Chair Petete presented a written summary of investigative files and administrative actions taken, with recommendations for the disposition of each.

> Petete moved for the Administrative Consent Orders in Case Nos. 1684 and 1685 be approved as presented; Ley second. Affirmative votes: St. John, Johnson, Gray, Petete, Volturo, Biswell and Ley.
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> Petete moved for File Nos. 1363, 1367, 1375, 1384, 1395 and 1398 to be closed; Gray second. Affirmative votes: St. John, Johnson, Gray, Petete, Volturo, Biswell and Ley.
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> Petete moved for File Nos. 1360, 1390 and 1455 to be closed; Gray second. Affirmative votes: St. John, Johnson, Gray, Petete, Volturo, Biswell and Ley.

Administrative Consent Orders:

Case No. 1684 – The CPA Group, P.C.

The Respondent in this case was originally referred to the Enforcement Committee for failure to respond to the Peer Review Coordinator's request for submission of the firm's accelerated peer review report. Although the firm subsequently did submit the copy of the report, the response was not timely. For failure to respond as required in Oklahoma Administrative Code 10:15-39-8(b), an Administrative Consent Order is being offered in this case which provides that Respondent is fined $1,000, assessed costs in the amount of $370.21, and a copy of this ACO will be sent to the Missouri State Board. In addition, any failure of the Respondent to comply with any of the terms of this Order shall result in an immediate hearing before the Board and a proven violation of this Administrative Consent Order, the Act, or the Board's Rules authorizes the Board to take such other and further action as the Board may deem appropriate under the Act.

Case No. 1685 – Mike Estes, P.C. and Michael Lee Estes, CPA

The Respondents in this case self reported to the OAB a disciplinary action taken by the Texas State Board of Public Accountancy as a result of a HUD-REAC referral. Respondents violated Section 15.14B of the Oklahoma Accountancy Act and Oklahoma Administrative Code 10:15-39-9(7). An Administrative Consent Order is being offered in this case which provides for a four-year probation which during this time they must annually notify the OAB of compliance with the Agreed Consent Order in Complaint No. 03-10-171 from the Texas State Board of Public Accountancy. In addition, any failure of the Respondent to comply with any of the terms of this Order shall result in an immediate hearing before the Board and a proven violation of this Administrative Consent Order, the Act, or the Board's Rules authorizes the Board to take such other and further action as the Board may deem appropriate under the Act.

Files to Close:

File Nos. 1363, 1367, 1375, 1384, 1395, and 1398 – Non-Registrants, Former Registrants or Registrants without valid permits to practice.

The individuals or entities were listed in the AT&T Yellow Pages under the headings "Accountants – Certified Public" or "Accountants – Public". Cease and Desist letters were sent by the Executive Director. Responses were received which indicated that each individual or entity understood the violation and complied with the requirements of the cease and desist letters which included sending letters to the telephone company instructing it to remove the listings from these categories. The responses satisfied the EC so it recommends the files be closed.

File Nos. 1360 and 1390 – Non-Registrants

The individuals or entities were listed in the AT&T Yellow Pages under the headings "Accountants – Certified Public" or "Accountants – Public". Cease and Desist letters were sent by the Executive Director; however, the letters were returned by the United States Postal Service as non-deliverable. Staff verified that the telephone numbers were no longer working numbers and that the entities were no longer located at the address listed. Since it appears that these non-registrants are no longer in business, the EC recommends the files be closed.

File No. 1455 – CPA

The registrant self reported on the individual reporting form a 2004 arrest on several charges which included possession of drug paraphernalia, attempted cultivation of controlled substance, possession of controlled substance and possession of a firearm while committing a felony. All charges were dismissed and the record was expunged. The CPA failed, however, to notify the OAB of the arrest on prior filings with the OAB. The EC recommends the file be closed but with notification to the CPA that the prior filings were answered inappropriately.

Files to be assigned to the Administrative Law Judge:

Subchapter 10:15-37-6(e) of the Oklahoma Administrative Code provides "Hearings will be conducted by one (1) of the following methods, ***as determined by the Board*** (emphasis added): (3) By an attorney licensed to practice law in this state appointed by the Board to act as a hearing examiner or Administrative Law Judge"

The Vice Chairman recommends the following files be heard before the Administrative Law Judge:

None

Agenda Item #6 – Discuss and Act on Attorney General Opinion 07-24 and its Affect on the OAB: Assistant Attorney General Crittenden presented a report regarding his analysis of existing case law involving the distinction between discretionary authority and ministerial authority. Discussion followed among the OAB members as to what duties constituted the delegation of authority and what duties were considered ministerial acts in such areas as purchasing, committees, letters to national organizations within the accounting profession, members speaking on behalf of the OAB, and the hiring and firing of personnel. No action was taken on this item.

Agenda Item #7 – Discuss and Act on Report from the Legislative Committee: As Chairman of the Legislative Committee, Member Johnson stated that the committee will present a more detailed report regarding its recommendations at the November meeting. No action was taken on this item.

Agenda Item #8 – Discuss and Act on Recommendations from the Policy Manual Ad Hoc Committee: As Chair of the Policy Manual Ad Hoc Committee, Vice Chair Petete addressed the committee's proposed changes.

Policy Nos. 1992-02, 1993-13, 1999-03, 2000-04, 2000-08 and 2001-16:

> Gray moved to approve these six policies to be recommended to be promulgated as rules but to be approved as continuing policies with the changes as recommended by members Petete and Biswell until action is taken by the rules committee and once they become rule it would automatically be eliminated as a policy; Johnson second. Affirmative votes: St. John, Johnson, Gray, Petete, Volturo, Biswell and Ley.
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> Gray moved to defer Policy No. 1993-14 until the November meeting; Johnson second. Affirmative votes: St. John, Johnson, Gray, Petete, Volturo, Biswell and Ley.

Policy Nos. 2001-14 and 2005-03:

Petete moved for the two policies presented continue to be ratified as a policy but be considered being changed from a policy to a statute; Gray second. Petete offered an amendment that only Policy 2001-14 (OSBI Background Checks) be ratified as policy and be considered being changed from a policy to a statute; Gray accepted the amendment. Affirmative votes: St. John, Johnson, Gray, Petete, Volturo, Biswell and Ley.

Petete moved for Policy No. 2005-03 to be addressed and considered to be made into statute even though the OAB cannot ratify it as a policy at this point; Ley second. Affirmative votes: St. John, Johnson, Gray, Petete, Volturo, Biswell and Ley. Affirmative votes: St. John, Johnson, Gray, Petete, Volturo, Biswell and Ley.

Policy Nos. 0000-01, 0000-02, 1993-01, 1993-08, 1994-08, 1995-03, 1996-01, 1996-02, 1996-04, 1996-05, 1999-07, 2001-02, 2001-05, 2001-06, 2001-07, 2001-15, 2002-01, 2002-02, 2002-04, 2004-01, 2004-02, 2004-03, 2006-01, 2007-02, 2007-03:

Petete moved that all policies presented under the Remain Active section be ratified and continued to be used as a policy other than the two specific policies addressed -- Policy No. 2000-08 which a motion has previously been made for it to be considered as a rule and Policy No. 2002-01 which is to be deleted; Johnson second. Affirmative votes: St. John, Johnson, Gray, Petete, Volturo, Biswell and Ley.

Policy Nos. 1995-07, 1997-01, 2002-03, 2004-04, 2005-02:

Petete moved that the policies presented behind the Tab: Recommended to be Modified or Amended be approved as amended; Gray second. Affirmative votes: St. John, Johnson, Gray, Petete, Volturo, Biswell and Ley.

Policy 1995-07 - as amended:

POLICY ON ENFORCEMENT OF THE CHILD SUPPORT STATUTE

The Board recognizes that Title 43, Sections 139 et seq., of the Oklahoma Statutes, as amended 1995, requires the Board to join with the Courts in enforcing the child support statute of this State. The following, based on the guidelines of the statute, shall be the Board's administrative policy. In addition to the guidelines of the statutes:

~~1. Upon receipt by the Board of a Court order directing the Board to suspend or revoke the license of a registrant who is not in compliance with an order of support, or to~~

~~place the registrant on probation, the Board staff shall immediately, without hearing or review by the Board *[Ref. Title 43, Section 139.1G]*:~~

~~A. Notify the registrant in writing of the suspension or revocation of the CPA certificate or PA license, and permit, if applicable, or of the imposition of probation, effective the date reflected in the Court's order. *[Ref. Title 43, Sections 139.1.F.2. and 139.1.G].* Other appropriate parties shall also be notified in writing of the Board's action. *[Ref.Title 43, Sections 139.1.F.5]*~~

~~B. Enter the suspension, revocation or probation on the Board records. The registrant shall be required to surrender the wall document and permit, if applicable, to the Board for the term of suspension or revocation. *[Ref: Title 43, Section 139.1.F.3 and F.4]*~~

~~2.~~ 1. If the Board receives an order of suspension or revocation for a person who is not registered, the Board shall immediately notify the Court in writing that the Court's order is not enforceable through the Board.

~~3. Any fees paid by the registrant to the Board for issuance, renewal or maintenance of a certificate, license or permit shall not be refunded to the registrant. *[Ref. Title 43, Section 139.1.H.1]*~~

~~4.~~ 2. Upon receipt by the Board of a Court order directing the Board to terminate the order of suspension or revocation or to terminate the probation of the registrant, the Board staff shall immediately restore the registrant to good standing status on its records and notify the registrant and other appropriate parties in writing of the Board's action. In the case of suspension or revocation, the Board shall return any certificate, license or permit which was surrendered by the registrant.

Policy 1997-01 – as amended

POLICY CRITERIA FOR SIGNATURES
ON DOCUMENTS SUBMITTED TO THE BOARD

~~It shall be the policy of the Board to require all documents and forms which must be signed to bear a cursive signature in the English language, or a printed signature in the English language in instances where printing is the customary signature of the individual.~~

~~The Board staff is authorized to decline to accept any document which is signed in a foreign language and to require the individual to sign in accordance with this policy.~~

Legal counsel recommends this policy be styled after the requirements of passport applications. Federal instructions are as follows:

You should sign your full name without abbreviating it or using initials. The signature must be legible. Your application may be returned to you if it is not signed. If you cannot sign your name in English, sign in your native language. If you are unable to write in any language, sign your name with an "X".

Policy 2002-03 – as amended:

POLICY ON PUBLIC NOTICE OF ENFORCEMENT ACTIONS

The Board will make public notice of ~~all~~ enforcement actions taken by the Board whether by Administrative Consent Order, Consent Order or by a Board Administrative Hearing. In the public notices, the Board will set forth the violative act(s) of the Respondent(s) and the sanction(s) imposed.

All Board actions which result in imposed sanctions, including suspension or revocation of a CPA certificate, PA license, and/or permit to practice will be published. Public notifications will be published in the Board's *Bulletin* and will be posted on the Board's Website. Public notifications ~~will~~ may also be disseminated through the press release service of the Oklahoma Press Association or other appropriate news agency.

Each public notification will identify the Respondent(s) involved by name and city, provide a summary of the wrongful act(s), and any sanction(s) imposed by the Board. Facts of each summary will be taken directly from the Administrative Consent Order, Consent Order or the Board's Order resulting from the Board's Administrative Hearing regarding the case.

Policy 2004-04 – as amended:

OKLAHOMA ACCOUNTANCY BOARD (OAB)
FAIR LABOR STANDARDS ACT PERSONNEL POLICY

I.

It is the policy of the OAB to adopt and implement the Fair Labor Standards Act (FLSA), 29 U.S.C. 201 et seq., and the Oklahoma Personnel Act, O.S. Title 74 § 840-1.1 et seq. as it affects this policy including the Merit Rules as they apply to the OAB and relevant court decisions.

The OAB shall:

- Cooperate with any and all other State agencies and appointing authorities in the States efforts to maintain compliance with the Fair Labor Standards Act.

- Train appropriate personnel in the requirements and provisions of the FLSA Act and the Oklahoma Personnel Act.

5005.

- Stay abreast of changes in the legal requirements of the FSLA Act and the Oklahoma Personnel Act.

Information on the FLSA, as provided by the Wage and Labor and Hour Division of the U.S. Department of Labor, and the Oklahoma Personnel Act and Merit Rules shall be on file within this agency.

This policy shall be subject to revision as needed in order to maintain compliance with the FLSA and Oklahoma Personnel Act regulations as they apply to the OAB.

II.

Exemptions

The following are exempt position titles within this agency. Whether positions are exempt or non-exempt from the provisions of the FLSA is based on an analysis of the provisions of the FLSA Act and its regulations as it relates to the work performed. All other agency positions not listed are non-exempt.

Position Title	Statement of Status
Executive Director	Exempt
Deputy Director	Exempt

III.

Recordkeeping

The OAB shall maintain an accurate timekeeping system to record hours employees are actually at work or are required to be on duty in compliance with FLSA, the Oklahoma Personnel Act and the policies of OAB.

Employees shall be required to inform supervisors of any time worked in excess of the work hours established and such time must first have been authorized by administration. Both the employee and supervisors must sign and date the record as an indication of their agreement as to the time worked.

IV.

Establishment of the Workweek

The OAB has established the following as the normal workweek for all employees:

Saturday through Friday

Work Hours

Beginning Time:	~~8:30~~ 8:00 AM Monday thru Friday
Ending Time:	5:00 PM Monday thru Friday
Lunch:	30 Minutes (employee completely relieved from duty)

V.

Non-Exempt Overtime Compensation

The OAB shall allow non-exempt employees compensation time according to the FLSA. Accrued compensatory time must be used before the employee may use annual leave unless the employee will otherwise lose the annual leave. Payments for overtime for non-exempt employees may be permitted as budgetary provisions allow, if requested by the employee.

VI.

Exempt Employees Overtime Compensation

The OAB shall not pay exempt employees compensation for overtime work performed. Exempt employees may be provided time off with the following stipulations:

The compensatory time off must be taken as authorized by the OAB.

- Compensatory time may only be given on an hour-for-hour basis, one hour off for each hour of overtime worked.

VII.

Overtime

Any overtime work shall be properly compensated as required by this policy; however, any employee will be subject to disciplinary action for working overtime without proper authorization from the supervisors.

Upon the employee's termination, accrued compensatory time shall be paid for non-exempt employees.

Policy 2005-02 – as amended:

POLICY FOR CERTIFICATION OF EXAMINATION SCORES

The Executive Director will be responsible for the verification of the score postings to the OAB records ~~using the same methodology as used by OAB members.~~ The scores would then be considered official. The scores and names of successful candidates would then be ratified by the OAB on the Consent Agenda at the next scheduled meeting.

Policy Nos. 1992-01, 1992-03, 1992-07, 1993-02, 1993-03, 1993-04, 1993-05, 1993-06, 1993-07, 1993-09, 1993-10, 1993-12, 1993-15, 1993-16, 1993-17, 1993-18, 1993-21, 1994-01, 1994-02, 1994-03, 1994-04, 1994-05, 1994-06, 1994-07, 1994-09, 1994-10, 1994-11, 1995-01, 1995-02, 1995-05, 1995-06, 1996-03, 1996-06, 1996-09, 1997-02, 1998-01, 1998-02, 1998-03, 1998-05, 1999-01, 1999-02, 1999-05, 1999-06, 1999-10, 2001-11, 2002-05, 2003-03, 2005-01, 2005-04, 2005-05:

> Petete moved that all policies presented behind the Section: Recommended to be Revoked be revoked; Johnson second. Affirmative votes: St. John, Johnson, Gray, Petete, Volturo, Biswell and Ley.

Agenda Item #9a – Discuss and Act on Recommendations from the Peer Review Committee on Initial and Renewal Qualifications of Sponsoring Organizations: As Chair of the Peer Review Oversight Committee, Member Gray addressed this item.

> Gray moved that the sponsoring organizations that are listed in the report on recommendation for the sponsoring organizations re-approval that all of those listed both in the first section Arkansas, California, Colorado, Florida, Kansas, Missouri, Mississippi, Nevada, Tennessee, Alabama Illinois, Indiana, Iowa, Montana, New York, Oklahoma and Texas be re-approved as sponsoring organizations; Petete second. Affirmative votes: St. John, Johnson, Gray, Petete, Volturo, Biswell and Ley.
>
> Gray moved to accept the Peer Review Committee and the Peer Review Oversight Committee's recommendation that Georgia be approved as a sponsoring organization; Johnson second. Affirmative votes: St. John, Johnson, Gray, Petete, Volturo, Biswell and Ley.

Agenda Item #9b – Discuss and Act on Quarterly Report from the Peer Review Committee: Peer Review Coordinator Colin Autin summarized the quarterly report. Member Gray requested that a comparison of previous quarterly reports regarding peer review activity be included in future quarterly reports. Chairman Volturo noted that future quarterly reports from the Peer Review Committee will be forwarded to the OAB's Peer Review Oversight Committee prior to being forwarded to the OAB. No action was taken on this item.

Agenda Item #10a -- Discuss and Act on Request from NASBA to Assign a Communications Officer: Executive Director Steele addressed this item.

> Gray moved for Wade Biswell to be the OAB's Communication Officer; Petete second. Affirmative votes: St. John, Johnson, Gray, Petete, Volturo, Biswell and Ley.

Agenda Item #10b – Discuss and Elect the Designated Voting Representatives for the NASBA Annual Meeting:

Johnson moved for the designated voting representative to be Chairman Tom Volturo; St. John second. Affirmative votes: St. John, Johnson, Gray, Petete, Volturo, Biswell and Ley.

Gray moved for Vice Chair Petete to serve in the capacity as an alternate voting representative; St. John second. Affirmative votes: St. John, Johnson, Gray, Petete, Volturo, Biswell and Ley.

Agenda Item #11 – Director's Report: Executive Director Steele addressed the following issues:

- Administrative Assistant Holley Whitman's resignation.
- An outline of reports and filings required from the OAB to other state agencies.
- Fieldwork for the OAB's annual audit of the financial statements is almost completed.
- CPA Examination Review Board's management letter for the 2006 CPA Examination year.

Secretary Biswell requested that the 2008 Budget Request be presented at the November Board meeting.

Agenda Item #12a – Chair's Report: Chairman Volturo did not present a report.

Agenda Item #12b – Next Meeting Date Announced: The next OAB meeting is scheduled for 8:30 a.m., Friday, November 9, 2007 at the Water Resources Board Room, 3800 N Classen Blvd, 2nd Floor, Oklahoma City, OK.

Supplemental Agenda Item: Discuss and Act on Request from AICPA and NASBA to Approve the Distribution of Updated Diagnostic Reports for some Recent CPA Examination Candidates: Executive Director Steele and Member Gray addressed this item.

Gray moved that the OAB approve the distribution of the updated diagnostic reports to Oklahoma candidates; Petete second. Affirmative votes: St. John, Johnson, Gray, Petete, Volturo, Biswell and Ley.

Agenda Item #13 – New Business: No new business.

5009.

Agenda Item #14 – Adjournment: There being no further business to come before the OAB, at 10:16 a.m. Chairman Volturo called for a motion to adjourn the meeting.

Gray moved to adjourn; Johnson second. Affirmative votes: St. John, Johnson, Gray, Petete, Volturo, Biswell and Ley.

_____
Tom Volturo, Chairman

ATTEST:

_____
Wade Biswell, Secretary

APPENDIX 1

CERTIFICATES SURRENDERED BY REGISTRANTS:

CPAs:

No Longer Residing In Oklahoma:

Douglas Wayne Shaffer, Certificate No. 8054 issued January 31, 1985

No Longer Practicing In Oklahoma:

Joe Clarence Lambiotte, Certificate No. 7176-R issued December 15, 1983

INDIVIDUALS AUTOMATICALLY REVOKED:

As a result of non-compliance with Title 68, § 238.1 and Section 15.14 of Oklahoma Statutes:

Not in Compliance with the Oklahoma Tax Commission:

CPAs:

4009	DALE E. STEINKUEHLER
7397	WINSTON D. SHIPLEY
7825	DALE L. HAGEMAN
13893	CINDY J. MELTON KINER
15679	POWELL WARREN COOKE
15979	HUMA SADIQ MAHMOOD
16009	PAUL CHRISTOPHER GARCIA, JR.

DECEASED REGISTRANT:

CPA:

Gary Mason Bush, Certificate No. 8190 issued July 26, 1985

DISSOLVED FIRM:

CPA Corporation:

Gary M. Bush, C.P.A., P.C.

5011.

Applications Approved: The OAB took official notice of the following experience verification applications which have been approved by the Executive Director:

Name

Kristen Diane Merkle
Matthew C. Smith
Jerod Wayman Stanton

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

APPLICATIONS FOR CERTIFICATION (Successful Candidates):

16356	Christopher Allen Carr
16373	Batbayar Delger
16375	Shelby Marie Mann

APPLICATIONS FOR RECIPROCAL CPA CERTIFICATES:

16384-R	Logan S. Abrams
16385-R	Richard Thomas Allison

APPLICATIONS FOR PRACTICE PRIVILEGES IN ACCORDANCE WITH SUBSTANTIAL EQUIVALENCY (Based on State SE Recognition):

Peggy M. Arrivas (California)
Ryan Burns (Nevada)
Thuy Trang Dinh Hoang (New York)
Edward William Kay (New York)

APPLICATIONS FOR REINSTATEMENT OF CPA CERTIFICATES:

2547	Nicki Ann Mezger
8551	Perry Eugene Haywood
8840	Robert Bruce Dimmick
12587	Anthony Jerome Proctor
13463	Kathleen F. Carter

REVOCATION OF CPA CERTIFICATE RESCINDED:

13689	Kevin Patrick Heatherman

INITIAL REGISTRATION OF A CPA PROFESSIONAL CORPORATION:

William P. Tucker, C.P.A., P.C.

INITIAL REGISTRATIONS OF CPA PROFESSIONAL LIMITED LIABILITY COMPANIES:

CCK Capital Strategies, PLC
Lauhon & Halley, PLLC
Michael E. Deeba, PLLC

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