

OKLAHOMA ACCOUNTANCY BOARD
MINUTES OF MEETING AND HEARINGS

October 23, 2009

The Oklahoma Accountancy Board (OAB) convened in regular session on Friday, October 23, 2009, 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:

Carlos Johnson, CPA, Chair
Janice L. Gray, CPA, Secretary
Barbara Ley, CPA, Member
E.B. St. John, PA, Member

Also in attendance at the meeting: Staff: Edith Steele, Executive Director; Nicole Prieto Johns, Deputy Director; Matthew Sinclair, Barbara Walker, Dana Reyna, and Linda Ruckman, Board staff members. Randall Calvert, Special Prosecutor for the OAB, was present for relevant segments of the meeting.

Agenda Item #1a -- Call To Order: At approximately 9:02 a.m. Chair Johnson called the meeting to order.

Agenda Item #1b -- Declaration of Quorum: Chair Johnson declared a quorum.

Agenda Item #1c – Announcement of Legal Meeting Notice: Deputy Director Prieto Johns 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 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: Chair Johnson noted that Members Biswell, Petete, and Volturo were not present and that each had an excused absence.

Agenda Item #2 – Announcement of Visitors: Deputy Director Prieto Johns read the names of the visitors present. Guests in attendance: Daryl Hill and Jeff Frable, CPAs, representing the Oklahoma Society of Certified Public Accountants (OSCPA); Dean Taylor, representing the Oklahoma Society of Accountants (OSA); and Assistant Attorney General John Crittenden. Eugene K. Bertman and Debra McCormick, Rubenstein, McCormick & Pitts; and Stephen Knoy, Applicant, as well as spouse, Lisa Knoy, were present for the hearing segment of the meeting.

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

Agenda Item #4 – Consent Agenda: The Consent Agenda contained five items for the OAB's consideration; (1) Approve the minutes of the September 25, 2009, OAB Meeting; (2) Take official notice of the OAB's Statement of Receipts and Disbursements for the Month ended September 30, 2009; (3) Approve the verification of the administrative posting to the OAB's records and certification of scores for Window 3/2009 Examination (June-July 2009); (4) Take official notice of the experience verification applications which have been approved by the Deputy Director; and (5) Approve the actions taken by the Deputy Director on applications and registrations filed since the previous meeting. (Appendix 1)

With regard to the minutes of the September 25, 2009, Board meeting, it was noted that agenda item No. 5b should be corrected to show that Mr. Crawford is a member of the Board's Peer Review Committee and that agenda item No. 6 should indicate that the Outreach Committee will also try to schedule a Board meeting on another college campus during the second semester.

It was noted that the Receipts and Disbursements reports provided this month were CORE System reports and that the internal format that had been developed was not used. It was noted that once the currently vacant accounting position is filled, the Board will continue to receive the monthly reports in the accustomed format.

Executive Director Edith Steele left the meeting at 9:20 a.m. and did not return.

There was discussion regarding the firm name of Ultimate HR – Ultimate Challenge, PLLC, listed on the report of Registration Activity Since the Previous Board Meeting under Initial Registrations of CPA Professional Limited Liability Companies. Concern was expressed that the firm name could be perceived as misleading to the public. This item was deferred. Assistant Attorney General Crittenden will research the statutes and rules and report back to the Board next month as to whether there are any provisions that would prohibit use of such a name. It was discussed that the Rules Committee should consider proposed rules with regard to unusual/misleading names.

Gray moved to approve the Consent Agenda with the corrections that were identified for the Minutes of the September 25, 2009, meeting of the OAB; with the comments noted for the record regarding the Statement of Receipts and Disbursements; and with the deferral of action on the initial registration of "Ultimate HR – Ultimate Challenge, PLLC," until review by legal counsel to determine if the name is in accordance with the provisions of State statutes and the Board's administrative rules. Second by St. John.

Affirmative votes: St. John, Johnson, Gray and Ley. Absent: Biswell, Petete, and Volturo.

Case No. 1773 – Show Cause In the Matter of the Application to Reinstate the CPA certificate of Stephen Jerrel Knoy: This matter came on for hearing at 9:30 a.m. The members of the Oklahoma Accountancy Board present were seated on the hearing panel.

Assistant Attorney General John Crittenden advised the Board. The Applicant was present and was represented by counsels, Eugene Bertman and Debra McCormick. The Applicant testified on his own behalf.

Special Prosecutor Randal Calvert represented the State. No witnesses were called on behalf of the State.

The purpose of the hearing was to consider the Application to Reinstate submitted by Stephen Jerrel Knoy. The Applicant also failed to report CPE for calendar year 2006.

Counsel for the Applicant moved that Exhibits 1 through 30 be admitted as evidence, and Special Prosecutor Calvert had no objections. Chair Johnson accepted the Exhibits as evidence.

Gray moved to adopt as the Board's Findings and Conclusions of Law, the Special Prosecutor's Statement of Allegations and Charges Against the Respondent; to reinstate Mr. Knoy's certificate with a five-year probation; that Mr. Knoy must continue to attend weekly Alcoholics Anonymous meetings; that Mr. Knoy must provide quarterly reports from a professional counselor, with the counselor being subject to the approval of the Executive Director; that costs be assessed in the amount of \$3,166.57; that costs must be paid prior to reinstatement of the certificate; that if a payment plan is requested it will not exceed one year; and that the CPE Mr. Knoy has taken will qualify to meet the 120-hour CPE requirement for returning to active status for the 2006-2007-2008 three-year cycle and that 22 hours would qualify for the current three-year cycle beginning January 1, 2009. Second by St. John.

Affirmative Votes: St. John, Gray, Johnson, and Ley.
Absent: Biswell, Petete, and Volturo.

The proceedings and the individual votes of the members were conducted in open session. The evidence is contained in Docket File No. 1773.

Case No. 1614 – Hearing in the Matter of Wesley H. Colwell, CPA, Certificate No. 8825: This matter came on for hearing at 10:42 a.m. The members of the Oklahoma Accountancy Board present were seated on the hearing panel.

Assistant Attorney General John Crittenden advised the Board. Respondent was not present and was not represented by legal counsel.

Special Prosecutor Randall Calvert represented the State. No witnesses were called on behalf of the State.

The Special Prosecutor presented a Consent Order signed by the Respondent under the following terms: 1) Respondent's actions as alleged in Count I of the Formal Complaint, if proved, would constitute violations of Section 15.14B (2) (5) & (6) of the Oklahoma Accountancy Act and OAC 10:15-39-9(1) (3) (4) (5) & (7); 2) Respondent's actions as alleged in Count II of the Formal Complaint, if proved, would constitute violations of Section 15.14B(2) (5) & (6) of the Oklahoma Accountancy Act and OAC 10:15-39-9(1) (3) (4) (5) & (7); 3) Respondent's actions as alleged in Count III of the Formal Complaint, if proved, would constitute violations of Section 15.14B(2) (5) & (6) of the Oklahoma Accountancy Act and OAC 10:15-39-9(1) (3) (4) (5) & (7); 4) Without admitting or denying the allegations contained in the Formal Complaint, except as to jurisdiction, Respondent offers to surrender Certificate No. 8825 issued to Wesley H. Colwell, CPA, for revocation in lieu of further disciplinary proceedings. The Board accepts the Respondent's offer to surrender Certificate No. 8825 for revocation in lieu of further disciplinary proceedings. Respondent will surrender his CPA wall certificate to the Board; 5) Respondent is assessed a fine in the amount of \$3,000; 6) Any failure of Respondent to comply with any of the terms of this Consent Order shall result in an immediate hearing before the Board. In addition, a proven violation of this 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 Law; 7) Respondent agrees not to violate the Act or Board's Rules in the future; 8) Respondent and the Board acknowledge that the Board has stated for the record that all violations of the Act of the Board's Rules are viewed as very serious in nature. Any further violations by Respondent will be grounds for the Board to convene a hearing to determine Respondent's eligibility to retain any Certified Public Accountant's certificate, license and/or permit to practice public accounting which may, at that time, be held by the Respondent; and 9) A copy of this Consent Order shall be on file in the Board's offices and shall be made available to any person who inquires and requests access to the Board's records. Further, notice of these proceedings shall be reported by press release and in the Board's Bulletin, and as otherwise deemed appropriate by the Board.

Exhibits 1, 2, 3, 3a through 3c, 4, and 5 were admitted by Chair Johnson.

Motion by Ley to accept the Consent Order subject to the return of the wall certificate or an affidavit of lost certificate prior to the actual signing of the Consent Order by the Chair.
Second by St. John.

Affirmative Votes: St. John, Gray, Johnson, and Ley.
Absent: Biswell, Petete and Volturo.

The proceedings and the individual votes of the members were conducted in open session. The evidence is contained in Docket File No. 1614.

Case No. 1736 – Hearing in the Matter of Sherry Lee Benham Machens, CPA, Certificate No. 2568 - Revoked: This matter came on for hearing at 10:55 a.m. The members of the Oklahoma Accountancy Board present were seated on the hearing panel.

Assistant Attorney General John Crittenden advised the Board. Respondent was not present and was not represented by counsel.

Special Prosecutor Randall Calvert represented the State. No witnesses were called on behalf of the State.

The purpose of the hearing was to consider the Administrative Law Judge's recommendations that: 1) Respondent's certificate which was revoked "administratively" pursuant to 15.14(E)(2) of the Act, should also be revoked for "cause" for Respondent's violation of Section 15.35(C) of the Act, and Section 10:15-30-5(a) and (b) of the Board's Rules; 2) Should Respondent apply for reinstatement, Respondent must meet her burden of proof at a show cause hearing, and have completed "Professional Ethics: AICPA's Comprehensive Course" with a score of 90% or better, which was taken no earlier than ninety (90) days prior to applying for reinstatement. All costs and fines must be paid prior to applying for reinstatement; 3) Respondent should be assessed a fine of \$1,000 for each offense of not timely responding to the Board in violation of Section 10:15-39-8(b) of the Board's Rules, for a total fine of \$2,000; 4) Respondent should be assessed all costs of this matter, including but not limited to attorney fees, investigation costs, hearing officer costs, renting of special facilities costs, and court reporter costs; 5) Respondent should be required to pay all fines and costs within thirty (30) days from the effective date of the final order; 6) These Findings of Fact, Conclusions of Law and Recommendations should be considered at the next available Board meeting; and 7) A copy of the Board Order should be on file in the Board's offices and should be made available to any person who inquires and requests access to the Board's records. Further, notice of these proceedings should be reported by press release and in the Board's Bulletin, and as otherwise deemed appropriate by the Board.

Special Prosecutor Calvert moved for admission of Exhibits A, B, B1 through B12, and C. At the recommendation of Assistant Attorney General Crittenden, Chair Johnson accepted the Exhibits.

Motion by Ley to accept the Administrative Law Judge's Findings of Fact, Conclusions of Law, and Recommendations as the Board's order; that fines be assessed in the total amount of \$2,000.00; that costs be assessed in the amount of \$2,833.15; and that all fines and costs must be paid within 30 days from the effective date of the final order. Second by St. John.

Affirmative Votes: St. John, Gray, Johnson, and Ley.
Absent: Biswell, Petete and Volturo.

The proceedings and the individual votes of the members were conducted in open session. The evidence is contained in Docket File No. 1736.

Case No. 1752 – Hearing in the Matter of Anne Marie Bevers, CPA, Certificate No. 15277: This matter came on for hearing at 11:06 a.m. The members of the Oklahoma Accountancy Board present were seated on the hearing panel.

Assistant Attorney General John Crittenden advised the Board. Respondent was not present and was not represented by counsel.

Special Prosecutor Randall Calvert represented the State. No witnesses were called on behalf of the State.

The purpose of the hearing was to consider the Administrative Law Judge's recommendations that: (1) Respondent should be assessed a fine of \$2,500 for failing to complete two (2) hours of ethics, and failure to furnish evidence of the course claimed, in violation of Section 10:15-30-5(a) and (e) of the Board's Rules; 2) Respondent should be assessed all costs of this matter, including but not limited to attorney fees, investigation costs, hearing officer costs, renting of special facilities costs, and court reporter costs; 3) Respondent should be required to pay all fines and costs within thirty (30) days from the effective date of the final order; (4) These Findings of Fact, Conclusions of Law and Recommendations should be considered at the next available Board meeting; and 5) A copy of the Board Order should be on file in the Board's offices and should be made available to any person who inquires and requests access to the Board's records. Further, notice of these proceedings should be reported by press release and in the Board's Bulletin, and as otherwise deemed appropriate by the Board.

Special Prosecutor Calvert moved for admission of Exhibits A, B, B1 through B17, and C. Chair Johnson accepted the Exhibits as presented.

Special Prosecutor Calvert moved that the Board accept as Exhibit D a document submitted by Respondent requesting a payment plan for any fines/costs assessed. Chair Johnson accepted the Exhibit.

Gray moved that the Board accept the Findings of Fact and Conclusions of Law of the Administrative Law Judge; that Certificate No. 15277 of Ann Marie Bevers be suspended until all required CPE is current and documentation provided; that when the CPE documentation is provided the reinstated certificate would be on probation for 5 years from the time of reinstatement; that Ms. Bevers' CPE be included in an annual audit during the probationary period; that costs in this matter be assessed in the amount of \$2,312.20; that fines be assessed in the amount of \$2,500.00; and that payment of costs and fines may be made in monthly payments over a period of 24 months, with payment to begin after completion

of payment of previous costs and fines assessed as long as they are brought current. Second by St. John.

Affirmative Votes: St. John, Gray, Johnson, and Ley.
Absent: Biswell, Petete, and Volturo.

The proceedings and the individual votes of the members were conducted in open session. The evidence is contained in Docket File No. 1752.

Agenda Item #5 – Discussion and possible action of Professional Services contract for Paul Muret, CPA, as an investigator for the OAB at a fee of \$150 per hour: In the absence of Vice Chair Biswell, Chair Johnson addressed this item. Chair Johnson noted that the Executive Director has reviewed the qualifications of Mr. Muret and that it is the recommendation of both the Executive Director and the Chair of the Enforcement Committee that the OAB enter into a professional services contract with Mr. Muret as an investigator.

St. John moved to accept the Executive Director's recommendation to contract with Paul Muret, CPA, as an investigator for the OAB at an hourly rate of \$150. Second by Gray.

Affirmative Votes: St. John, Gray, Johnson, and Ley.
Absent: Biswell, Petete, and Volturo.

Agenda Item #6 – Discussion and possible action on report from Outreach Committee: Member Ley addressed this Item. She reported on efforts being made to invite professors and students to the Board meeting that will be held on the OSU campus in November. It was noted that Suzanne Jolicoeur, Manager of State Relations for the AICPA, will be visiting at the November Board meeting. Member Ley noted that there had been previous discussions about working with the East Central University Marketing Department on a new logo, etc. Member Ley did not think that anything would come from that this semester, but some things could possibly be done during the second semester.

Member Ley reported that there is a need to purchase banners to utilize in some of the outreach programs. There was discussion regarding the possible development of an Accountancy Board logo.

Member Ley discussed the drafts of the two newsletters that are being prepared, the *Candidates' Corner* and *Bulletin*. It was discussed that there are a few corrections to the draft of *Candidates' Corner* that are being made. Member Ley also noted that due to the large volume of material, only 2007 enforcement actions would be included in the current issue of the *Bulletin*. Member Ley further explained that subsequent issues would contain enforcement actions for 2008 and 2009, and that once caught up, enforcement actions would be included quarterly. Member Gray suggested that an explanatory notation be made as to what issues will contain the 2008 and 2009 enforcement actions. It was also discussed that the *Bulletin* has been sent to legal

counsel for review and there could be some amendments that will be made with regard to the enforcement actions. Chair Johnson noted for the record that all facts, dates, etc., need to be proofed against the current records of the OAB.

Motion by Ley, Chair of the Outreach Committee, to receive the report of the Outreach Committee and to authorize the issuance of the *Candidates' Corner* and the *Bulletin* with the amendments discussed. Second by Gray.

Affirmative Votes: St. John, Gray, Johnson, and Ley.
Absent: Biswell, Petete, and Volturo.

Agenda Item #7 – Discussion and possible action on report from the Legislative Committee: Member Gray addressed this item. She reported that the Committee has a meeting scheduled for November 9, 2009, to discuss an initial draft of prospective legislation.

Agenda Item #8 – Discussion and possible action on report from the Rules Promulgation Committee: Chair Johnson stated that Member Volturo is not present and has an excused absence. Chair Johnson deferred discussion and action on this Agenda Item until the November Board meeting.

Agenda Item #9 – Discussion on Sunset Review Process: This item was addressed by Chair Johnson. It was discussed that Board approval of the OAB's response is not required, but input from the Board is being requested.

Agenda Item #10 – New Business: There was no new business discussed.

Agenda Item #11 – Executive Director's Report: In the absence of the Executive Director, Chair Johnson reported that he is working with the Executive Director on the issue of whether the posting of a registrant's certificate status can be changed from "revoked" to "deceased" when a certificate has been administratively revoked but it is later learned the registrant is deceased. He stated that this may require a rule or statute change.

Chair Johnson reported that he is aware of and approved the two contracts authorized by the Executive Director between \$2,500 and \$10,000 since the preceding Board meeting as follows:

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| James Farris Associates | Not to exceed \$5,000 |
| Dell Marketing (3 computer workstations) | \$3,585 |

Agenda Item #12 – Deputy Director's Report: Deputy Director Prieto Johns addressed the following issues:

- Strategic Plan – The third draft has been submitted to the Audit and Budget Committee for Review.
- Personnel Manual – A draft has been submitted to the Personnel Committee for review.

- RFP for Enterprise Software – The Office of State Finance Request for Proposal (RFP) for the statewide enterprise software system closed on October, 13, 2009. The Agency has not yet heard anything from OSF. Chair Johnson requested a list of respondents with the amount of their proposals be obtained from DCS.
- Reinstatements Research – A question was raised in the previous Board meeting regarding whether or not the Board is compelled to have a show cause hearing. A show cause hearing is required only when it is included in the Administrative Law Judge's Recommendations and when the Recommendations are fully adopted by the Board.
- Independent Contractor's Use of the DCS Trip Optimizer – A question was raised as to whether independent contractors have to use the DCS Trip Optimizer. The Oklahoma Central Purchasing Act, 74 O.S. Section 85.45I that relates to the Trip Optimizer, states that if using a personal vehicle is part of one's regular duties, they are not required to use the Trip Optimizer. Therefore, independent contractors would not need to use the Trip Optimizer. The OAB's investigators and contractors are currently opting to be reimbursed for their hourly rate rather than the travel expenses.

Agenda Item #13a – Chair's Report: Chair Johnson introduced the two new OAB staff members present, Dana Reyna, Assistant CPE Coordinator, and Linda Ruckman, Licensing Coordinator. It was noted that there is currently a posting for an accountant position, the primary function of which will be financial reporting, and there will be other duties as assigned. He reported that the annual meeting of NASBA begins November 1, 2009. Chair Johnson and Members Gray, Ley and Petete will attend. He also reported that he worked with the Executive Director to engage the firm of James Farris and Associates to perform a 360° process evaluation which involves getting input from the staff, the Executive Director and Deputy Director regarding the duties and responsibilities of the Executive Director and Deputy Director and the performance thereof. Chair Johnson noted he appointed an ad hoc committee of Janice Gray, Barbara Ley and himself to meet with Mr. Farris and work out the process, etc.

Agenda Item #13b – Announce date and location of the next meeting: Chair Johnson reported that the next meeting of the Oklahoma Accountancy Board will be held at 8:30 a.m. on Friday, November 20, 2009, at 201 Conoco Phillips OSU Alumni Center, Jones Seminar Room, Stillwater, OK 74078-7043.

Agenda Item #14 – Adjourn: There being no further business to come before the OAB, at 12:40 p.m. Chair Johnson adjourned the meeting.

Carlos E. Johnson, Chair

ATTEST:

Janice L. Gray, Secretary

APPENDIX 1

APPLICATIONS FOR CERTIFICATION (Successful Candidates):

| | |
|-------|-------------------------|
| 16685 | Cristy A. Jones |
| 16688 | Heather Nicole Nichol |
| 16715 | Evan Glenn West |
| 16717 | Kari Lynn Easson |
| 16719 | Priyanka Garg |
| 16727 | Michael A. Grismore |
| 16729 | Ryan Brent Hunt |
| 16730 | Rozemarijn Tarhule-Lips |
| 16731 | Mary Delores Teal |
| 16732 | Chase Riant Rankin |
| 16734 | Marcy Nichole Carel |
| 16738 | Lee Elliott Jeffries |

APPLICATIONS FOR RECIPROCAL CPA CERTIFICATES:

Rosemarie Cassidy
Lonnie Alan Smith
W. Sid Lawrence

APPLICATIONS FOR REINSTATEMENT OF CPA CERTIFICATES:

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| 2768 | Benjamin F. Stout |
| 4903 | Richard Joseph Roberts |

INITIAL REGISTRATIONS OF CPA LIMITED LIABILITY PARTNERSHIPS:

Porter Keadle Moore, LLP (Georgia)
Heard, McElroy & Vestal, LLP (Louisiana)
Moseley & Riddle, LLP (Texas)

INITIAL REGISTRATIONS OF CPA PROFESSIONAL LIMITED LIABILITY COMPANIES:

Robert P. Young PLLC

CERTIFICATES SURRENDERED BY REGISTRANTS:**CPAs:****No Longer Practicing in Oklahoma:**

| | | |
|---------------------|----------------------|-------------------------|
| Carol S. Simmons | Certificate No. 6056 | Issued January 29, 1982 |
| Kenneth A. Simmons* | Certificate No. 6057 | Issued January 29, 1982 |

*Surrender not accepted, certificate was previously revoked on August 31, 2009.

Retired:

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| Justin E. Vogt | Certificate No. 430 | Issued December 30, 1944 |
| Billie J. Durham | Certificate No. 13482 | Issued August 5, 1996 |
| Carl J. Coombs | Certificate No. 1234 | Issued February 11, 1958 |

PAs:**Retired:**

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| Robert Earnest Burrows | License No. 632 | Issued April 18, 1969 |
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DECEASED REGISTRANTS:**CPAs:**

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| Edward Jimmy Brock | Certificate No. 2514 | Issued July 30, 1971 |
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DISSOLVED FIRMS:

CPA Partnerships: None

CPA Corporations: None

CPA Limited Liability Companies: None

5351.

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