

THE VIRGINIA BOARD OF ACCOUNTANCY

MEETING MINUTES

The Virginia Board of Accountancy (BOA) held a regular meeting on Friday, November 22, 2002, in Meeting Room A of the Courtyard by Marriott – Richmond West, 6400 West Broad Street, Richmond, Virginia 23230. The following members were present:

Carole M. Hersch, CPA, Chairman
Howard L. Rogers, Vice Chairman
Ellis M. Dunkum, CPA, Immediate Past Chairman
Jon E. Bischel
Barbara S. Pocalyko, CPA
Harry D. Dickinson, CPA
Jane M. Little, CPA

The Board staff present for the entire meeting included:

Nancy Taylor Feldman, Executive Director
Mark D'Amato, Administrative Staff Assistant

The Board staff present for a portion of the meeting included:

Mary Charity, Licensing Coordinator

Also in attendance for the entire meeting were:

Richard B. Zorn, Senior Assistant Attorney General
Stephanie Peters, Vice President, Virginia Society of Certified Public Accountants
Erin Collins, Government Relations Manager, Virginia Society of Certified Public Accountants
Joseph Brown, National Society of Accountants

Chairman Hersch called the meeting to order at 10:05 a.m. She welcomed those in attendance to the meeting.

Call to Order

The Board recognized the work of Ms. Charity on the Board's Biennial Report for the Fiscal Years 2000 to 2002.

Chairman Hersch determined that a quorum was present.

Determination of Quorum

Chairman Hersch introduced Ms. Jane M. Little, CPA, the new Board member, who is an independent consultant for non-profit and valuation organizations. The other members welcomed her to the Board.

**Introduction of New
Board Member – Jane
M. Little, CPA**

Upon a motion by Mr. Dunkum, and seconded by Mr. Dickinson, the Board approved by unanimous vote the agenda as amended. The members voting “**AYE**” were Ms. Hersch, Mr. Rogers, Mr. Dunkum, Mr. Bischel, Mr. Dickinson, Ms. Pocalyko, and Ms. Little.

Approval of Agenda

The Board’s Final Agenda was as follows:

Call to Order
Determination of Quorum
Introduction of New Board Member – Jane M. Little, CPA
Approval of Agenda
Public Comment Period

A. Approval of Minutes from September 24 and 25, 2002 Board Meeting

B. Regulatory Review:

1. 18 VAC 5-21-10 et seq. – Amend Existing Regulations
2. 18 VAC 5-30-10 et seq. – Repeal CPE Sponsor Registration Regulations
3. 18 VAC 5-21-170 D – Petition for Rulemaking – Retaining CPE Records

Lunch

C. Legislative Proposal for 2003 General Assembly Session

D. Enforcement:

1. Cases:
 - a. File Number 2002-D16 (Jones)
 - b. File Number 2002-D19 (Winston)
 - c. File Number 2002-E5 (Sprinkel)
2. Update on Arthur Andersen (File Number 2002-D21)
3. Reinstatement Policy and Procedure
4. Committee Report
Harry D. Dickinson, CPA, Committee Chairman

E. Old Business:

1. Discussion of Non-Licensed Owners of CPA Firms
2. Board Meeting Dates

Sign Conflict of Interest Forms
Complete Travel Expense Vouchers

Adjournment

Chairman Hersch opened the floor for public comment.

With no members of the public wishing to address the Board about an issue of concern to them, the Chairman moved to the next item of business.

Upon a motion by Mr. Dickinson, and seconded by Ms. Pocalyko, the Board approved by unanimous vote the minutes as amended from the Board meeting on September 24 and 25, 2002. The members voting “**AYE**” were Ms. Hersch, Mr. Rogers, Mr. Dunkum, Mr. Bischel, Mr. Dickinson, Ms. Pocalyko, and Ms. Little.

The Board reviewed a revised draft of proposed changes to its regulations. Upon a motion by Mr. Dunkum, and seconded by Vice Chairman Rogers, the Board by unanimous vote moved to (i) approve Draft #5 of the proposed changes to the regulations as amended by the decisions made by the Board; (ii) request the staff to prepare Draft #6 incorporating the aforementioned decisions; and (iii) request the staff to distribute Draft #6 to the Board members for their review of the wording of the aforementioned changes with receipt of any comments due back to the Board office within 5 business days of receipt of Draft #6. The members voting “**AYE**” were Ms. Hersch, Mr. Rogers, Mr. Dunkum, Mr. Bischel, Mr. Dickinson, Ms. Pocalyko, and Ms. Little.

The Board also requested that the Enforcement Committee review the assessment of a cost reimbursement in enforcement cases, and report back to the Board.

The Board recessed from 11:10 a.m. to 11:25 a.m.

**Public Comment
Period**

**A. Approval of
Minutes from
September 24 and 25
Board Meeting**

**B. Regulatory Review:
1. 18 VAC 5-21-10 et
seq. – Amend Existing
Regulations**

Board Recess

The Board, as required by Section 209 of the Sarbanes-Oxley Act of 2002, made the independent determination of the applicability of the standards for 'non-registered' firms (in the context of the Act). The Board decided that it would not apply these standards to these firms.

B. Regulatory Review:
1. 18 VAC 5-21-10 et
seq. – Amend Existing
Regulations (Cont'd)

The Board recessed from 12:10 p.m. to 12:50 p.m. for lunch.

Lunch

The Board discussed the repeal of the CPE Sponsor Registration Regulations. With no public comment being submitted as a result of the publication of the Notice of Intended Regulatory Action (NOIRA) in the Virginia Register, upon a motion by Mr. Bischel and seconded by Vice Chairman Rogers, the Board authorized by unanimous vote the filing of the Proposed Regulation. The members voting "AYE" were Ms. Hersch, Mr. Rogers, Mr. Dunkum, Mr. Bischel, Mr. Dickinson, Ms. Pocalyko, and Ms. Little.

B. Regulatory Review:
2. 18 VAC 5-30-10 et
seq. – Repeal CPE
Sponsor Registration
Regulations

The Board discussed the petition for rulemaking filed by Richard H. Agnew, Jr. about the Board's 2002 Regulation 18 VAC 5-21-170 D titled "Requirement for retaining records." His petition requested that the Board adopt recording procedures similar to those required by members of the Virginia State Bar. With no public comment being submitted as a result of the publication of the Petition in the Virginia Register, upon a motion by Mr. Dunkum and seconded by Mr. Dickinson, the Board agreed by unanimous vote to issue a written decision to deny the rulemaking petition based upon the prohibitive costs that would result for the regulants. The members voting "AYE" were Ms. Hersch, Mr. Rogers, Mr. Dunkum, Mr. Bischel, Mr. Dickinson, Ms. Pocalyko, and Ms. Little.

B. Regulatory Review:
3. 18 VAC 5-21-170 D
– Petition for
Rulemaking –
Retaining CPE
Records

The Board was informed that the office of the Secretary of Commerce and Trade (SCT) had not yet notified the Board office about the status of their legislative proposal for the 2003 General Assembly session.

C. Legislative Proposal
for 2003 General
Assembly Session

In the matter of **File Number 2002-D16, Board v. Carl A. Jones**, the Board reviewed the Enforcement Committee Report, consisting of the Committee's findings, conclusions, and sanction, which was sent and offered to Mr. Jones. Mr. Jones did not appear at the meeting in person, by counsel, or by any other qualified representative.

D. Enforcement:
1. Cases:
a. File #2002-D16 –
Carl A. Jones

Upon a motion by Mr. Dunkum, and seconded by Vice Chairman Rogers, the Board accepted by majority vote the Committee's findings that Mr. Jones had violated: (1) the Board's **2001 Regulation 18 VAC 5-21-120 F** for not exercising due professional care in the performance of professional services; and (2) **§ 54.1-2006** of the Code of Virginia, 1950, as amended, for violating any provision of a regulation promulgated by the Board. The Board also accepted the sanction to assess a monetary penalty of **\$200**. The members voting "AYE" were Ms. Hersch, Mr. Rogers, Mr. Dunkum, Mr. Bischel, and Ms. Little. Mr. Dickinson and Ms. Pocalyko did not participate in the discussion and vote.

In the matter of **File Number 2002-D16, Board v. Tiffany L. Winston**, the Board reviewed the Enforcement Committee Report, consisting of the Committee's findings, conclusions, and sanctions, which was sent and offered to Ms. Winston. Ms. Winston did not appear at the meeting in person, by counsel, or by any other qualified representative.

**1.b. File #2002-D19 –
Tiffany L. Winston**

Upon a motion by Mr. Dunkum, and seconded by Vice Chairman Rogers, the Board accepted by majority vote the Committee's findings that Ms. Winston had violated: (1) the following subsections of the Board's **2002 Regulation 18 VAC 5-21-120**: (i) subsection **A**, for not exercising sensitive professional and moral judgment in all activities; (ii) subsection **C**, for not performing all professional responsibilities with the highest sense of integrity, maintaining objectivity and freedom from conflicts of interest in discharging professional responsibilities, and avoiding knowingly misrepresenting facts or inappropriately subordinating his judgment to others; and (iii) subsection **M**, for committing acts discreditable to the profession; and (2) **§ 54.1-4413** of the Code of Virginia, 1950, as amended, for: (i) dishonesty, fraud, or gross negligence in the practice of public accountancy; (ii) violating any provision of a regulation promulgated by the Board; and (iii) violating any standards of conduct or applicable standard of practice promulgated by the Board. The Board also accepted the sanctions, as amended: (i) the immediate consensual revocation of her CPA certificate; (ii) she shall not apply for a CPA certificate for a period of no less than five years from the entry date of the Order, after which, she must submit an initial application, pay the requisite fees and meet all eligibility requirements; and (iii) she shall return her wall certificate, with all framing and matting material removed, within thirty days of the entry date of the Order. The members voting "AYE" were Ms. Hersch, Mr. Rogers, Mr. Dunkum, Mr. Bischel, and Ms. Little. Mr. Dickinson and Ms. Pocalyko did not participate in the discussion and vote.

In the matter of **File Number 2002-E5, Board v. James G. Sprinkel**, the Board reviewed the Enforcement Committee Report, consisting of the Committee's findings, conclusions, and sanctions, which was sent and offered to Mr. Sprinkel. Mr. Sprinkel did not appear at the meeting in person, by counsel, or by any other qualified representative.

**1.c. File #2002-E5 –
James G. Sprinkel**

The members agreed that in future cases the Enforcement Committee should document in the Board's case decision the rationale for the Committee's recommended action. They stated that the Board is striving for consistent disciplinary actions. Further, with the advice of legal counsel, the Board decided that in those matters where the disciplinary action may differ in a substantial manner from the actions previously taken by the Board on similar matters, it is critical to identify with specificity the reasons for the differing action.

In this case, involving a felony conviction related to the profession of accountancy, the respondent, Mr. Sprinkel, voluntarily advised the Board about the matter prior to the imposition of the conviction, and fully cooperated throughout its resolution. Also, the facts in the case record indicate that although Mr. Sprinkel did give a false statement and did not immediately correct his statement regarding the preparation of client documents for 1992, he did not appear to intentionally give a false statement to the U.S. Internal Revenue Service.

Upon a motion by Mr. Bischel, and seconded by Vice Chairman Rogers, the Board accepted by majority vote the Committee's findings that Mr. Sprinkel had violated: (1) the Board's **2002 Regulation 18 VAC 5-21-120 M** for committing acts discreditable to the profession; and (2) **§ 54.1-4413** of the Code of Virginia, 1950, as amended, for violating any provision of a regulation promulgated by the Board. The Board also accepted the sanctions: (i) the assessment of a monetary penalty of \$500; (ii) his CPA certificate shall be placed on probation for a period of no less than two years; and (iii) he shall provide a quarterly report to the Board from his probation officer, which shall detail his compliance with the terms and conditions of his probation. The members voting "**AYE**" were Ms. Hersch, Mr. Rogers, Mr. Dunkum, Mr. Bischel, and Ms. Little. Mr. Dickinson and Ms. Pocalyko left the room and did not participate in the discussion and vote.

Mr. Zorn presented a copy of the Consent Order, which had been signed by the attorney for Arthur Andersen LLP, and included some changes. He requested that the Board review the changes and decide whether they were acceptable. Chairman Hersch thanked Mr. Zorn for all of his hard work to bring this matter to conclusion.

2. Update on Arthur Andersen (File Number 2002-D21)

Upon a motion by Mr. Dickinson, and seconded by Ms. Pocalyko, the Board agreed by unanimous vote to accept the signed Consent Order, as amended, and, once the original signed Order had been received, to authorize the Chairman to sign it. The members voting “**AYE**” were Ms. Hersch, Mr. Rogers, Mr. Dunkum, Mr. Bischel, Mr. Dickinson, Ms. Pocalyko, and Ms. Little.

The Board reviewed the new reinstatement policy and procedures, which included the issuance of licensure agreements with additional requirements, such as the need to earn CPE credits.

3. Reinstatement Policy and Procedure

Upon a motion by Mr. Dickinson, and seconded by Mr. Bischel, the Board approved by unanimous vote the reinstatement of the presented cases (**File #2002-R01: Estela Maria Aizcorbe, File #2002-R02: Rosario E. Igharas, File #2002-R03: Martin Edward Kinlaw, File #2002-R04: Kim Marie Forte, File #2002-R05: Stella Parker, File #2002-R06: Tracie L. Coleman, File #2002-R07: Gregory M. Boryan, File #2002-R08: Arin Ray Trush, and File #2002-R09: Joe Lewis, Jr.**), the resultant agreements for licensure, and, if the agreements were not accepted, the offering of an Informal-Fact Finding Conference (IFF) to review the case. The members voting “**AYE**” were Ms. Hersch, Mr. Rogers, Mr. Dunkum, Mr. Bischel, Mr. Dickinson, Ms. Pocalyko, and Ms. Little.

Upon a motion by Mr. Dickinson, and seconded by Mr. Bischel, the Board agreed by unanimous vote to authorize the Executive Director to approve future reinstatements through agreements for licensure to which the established policies apply, and to address any questions, first, to the Enforcement Committee, and, second, to the Board. The members voting “**AYE**” were Ms. Hersch, Mr. Rogers, Mr. Dunkum, Mr. Bischel, Mr. Dickinson, Ms. Pocalyko, and Ms. Little.

The Board reviewed and accepted the report from the Enforcement Committee as presented by Mr. Dickinson, the Chairman of the Committee.

4. Committee Report – Harry D. Dickinson, CPA, Committee Chairman

The Board discussed a letter received from Mr. Hall of Keiter, Stephens, Hurst, Gary & Shreaves, who had written to the Board about the Employee Stock Ownership Plan (ESOP) being set up at his firm. The members agreed that since a proposal or recommendation to change the Board's regulations had not been presented, then a decision on this issue could not be made.

E. Old Business:
1. Discussion of Non-Licensed Owners of CPA Firms

The Board agreed to keep the next meeting scheduled for December 11, 2002, which would be held at the Manor House at Kings Charter, and to schedule two additional meetings on January 8 and February 6 in 2003.

2. Board Meeting Dates

Chairman Hersch asked the members to complete their conflict of interest forms.

Sign Conflict of Interest Forms

Chairman Hersch asked the members to complete their travel expense vouchers.

Complete Travel Expense Vouchers

With no further business coming before the Board, upon a motion by Vice Chairman Rogers, and seconded by Mr. Dickinson, the meeting was adjourned by unanimous vote at 3:45 p.m. The members voting "AYE" were Ms. Hersch, Mr. Rogers, Mr. Dunkum, Mr. Bischel, Mr. Dickinson, Ms. Pocalyko, and Ms. Little.

Adjournment

Carole M. Hersch, CPA, Chairman

COPY TESTE:

Nancy Taylor Feldman, Executive Director