

**NEBRASKA BOARD OF PUBLIC ACCOUNTANCY  
MEETING MINUTES OF  
JANUARY 7-8, 1999**

**1. General**

**A. Call to Order and Roll Call.** The Board of Public Accountancy was called to order at 1:10 p.m. on Thursday, January 7, 1999, with Chairman Kathleen Smith presiding. The meeting was held at the Anderson Complex at Midland Lutheran College, in Fremont, Nebraska.

The roll was called with the following members present: Kathleen Smith, Nina Kavich, William Gaines, George Klein, Dean Graf, Richard Hoiekvam and David Hunter. Board member Luke Aldy arrived at 2:25 p.m. Also present were staff members Annette Harmon and Mary Shonerd. Visitors during portions of the meeting were Kay Payne and Lyndee Black.

**B. Approval of meeting agenda for the January 7-8, 1999 Board Meeting.** Moved by Hoiekvam, seconded by Klein, that the Board adopt the agenda. On roll call vote, all members present voted aye. Member Aldy was absent. Motion number 1 carried.

**C. Approval of minutes of the November 6, 1998 Board meeting.** Moved by Kavich, seconded by Klein, to approve the meeting minutes as written for November 6, 1998. On roll call vote, all members present voted aye. Member Aldy was absent. Motion number 2 carried.

**3. Presentation from Center for Rural Research & Development**

Kay Payne, the Director from the Center for Rural Research & Development, made an oral presentation of the results of a survey that was mailed to all active permit holders, regarding proposed CPA fee charges.

**Closed Session**

**Closed Meeting.** Moved by Klein, seconded by Graf, that the Board go into closed session at 2:00 p.m. to discuss enforcement issues. On roll call vote, all members present voted aye. Member Aldy was absent. Motion number 3 carried.

Member Luke Aldy arrived at 2:25 p.m.

**Return to Open Meeting.** Moved by Klein, seconded by Gaines, that the Board return to open session at 4:40 p.m. On roll call vote, all members present voted aye. Motion number 4 carried.

**2. Consent Agenda**

**Approval of January 7-8, 1999 Consent Agenda.** Moved by Hunter, seconded by Hoiekvam, to approve the Consent Agenda. On roll call vote, all members present voted aye. Motion number 5 carried.

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**A. Published Notice of Meeting.** Pursuant to call and published notice, the notice of meeting is herewith attached.

**B. Review of Board Budget Status Report.** The Board reviewed the November 30, 1998 Budget Status Report.

**C. Approval of October and November, 1998 disbursements.** The Board reviewed and approved the October and November, 1998 disbursements.

**D. Licensure Report.** The Board reviewed a report on permits and registrations issued as of December 11, 1998. Prior year's statistics were also reviewed for comparison.

**4. Enforcement of Professional Conduct Committee**

**A. Complaint Consent Agenda.** Moved by Klein, with the Committee's recommendation, to approve the Complaint Consent Agenda. On roll call vote, all members present voted aye. Motion number 6 carried.

- 1) Complaint Status Log. The Board reviewed a "log" of complaints received, action taken, monitoring status, etc. No action necessary.
- 2) 97-18 Litigation Against CPA for Negligence. This case was dismissed and a settlement amount of \$1,000 was paid. Each party paid their own attorney costs. Motion to close the complaint.

**B. 98-10 Restated Financial Statements of Company by CPA Firm.** At the Board's November 6, 1998 meeting, it was determined to continue monitoring this case. Moved by Klein, seconded by Kavich, that the complaint be closed. On roll call vote, all members present voted aye. Motion number 7 carried.

**C. 96-14 Lawsuit Filed by two Companies using CPA Firm.** The consultants hired by the Board prepared a written summary of their findings of review of litigation documents for presentation and discussion at the Board's meeting. A copy of the firm's peer review was also reviewed. Moved by Klein, seconded by Gaines, that the Board close the complaint. On roll call vote, all members present voted aye. Motion number 8 carried.

**D. 98-17 Improper Use of CPA Designation by Limited Liability Company.** At the Board's November 6, 1998 meeting it was moved to investigate further to make sure the firm is not a CPA firm practicing public accountancy. Moved by Klein, with the Committee's recommendation, that the Board request an Attorney General's opinion as to whether the LLC's name is in violation of Board law and Rules. On roll call vote, all members present voted aye. Motion number 9 carried.

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**E. 98-05 Violation of Standards in Performance of Audit.** The Board recruited several practitioners to review discrepancies noted from the State Auditor on audit work papers issued by the practitioner. Moved by Klein, seconded by Aldy, that the Board enter into a consent order with the practitioner agreeing that he will not perform any more audits in any practice form, that he will obtain 16 hours of CPE by December 31, 1999 in the areas of compilations and reviews and financial statement disclosures in addition to the normal education requirement; and that he will reimburse the Board for the costs incurred from the outside reviews. If the consent order were violated, he would be subject to disciplinary action. If he does not sign the consent order, he will be brought before the board for an informal hearing. On roll call vote, all members present voted aye. Motion number 10 carried.

**F. 98-06 Violation of Standards in Performance of Audit.** The Board recruited several practitioners to review discrepancies noted from the State Auditor on audit work papers issued by the firm. Moved by Klein, with the Committee's recommendation, that the Board request the workpapers of the audits reviewed. If the results of the workpaper review prove to be unsatisfactory, the firm will be scheduled for an informal hearing. On roll call vote, all members present voted aye. Motion number 11 carried.

**G. Request for Declaratory Order.** The Board reviewed a request for a declaratory order from KPMG Peat Marwick LLP on a proposed name modification. Moved by Klein, seconded by Graf, that the Board inform the firm that the Board will issue a declaratory order at a specified time, which is upon receipt and review of an Attorney General's opinion on the matter. There is no presumption that the name modification will either be acceptable or unacceptable. On roll call vote, all members present voted aye. Motion number 12 carried.

**H. Policies and Procedures on Complaints.** The Board received a compilation of the policies and procedures regarding enforcement matters that have been passed by the Board in the last several years. Moved by Klein, seconded by Gaines, that anonymous complaints received by the Board not be accepted. On roll call vote, all members present voted aye. Motion number 13 carried.

## **5. Executive Reports**

**A. Report from Executive Director.** The Executive Director reported on mailings that were sent out during December, authorization from the Department of Personnel to fill the vacant staff position, and lease renewal of the Board's office space.

**B. Report from Treasurer.** The Board reviewed the Fund Summary Report from November 30, 1998.

**C. Report from Chairman of Board.** The Chairman reported on future monthly Executive Committee conference calls and future enforcement developments.

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**6. Continuing Education Committee**

**A. Ratification of staff program evaluations since last meeting.** Moved by Gaines, with the Committee's recommendation, to approve the recommendations of administrative personnel for courses requesting continuing education credit. On roll call vote, all members present voted aye. Motion number 14 carried.

**B. Update on Receipt of 1998 CPE Reports of Attendance.** It was noted that approximately 24% of the continuing education reports of attendance have been received as of January 6, 1999.

**The Board recessed for the day at 5:45 p.m.**

**Friday, January 8, 1999**

**The Board reconvened at 9:00 a.m. All members were present, as well as Annette Harmon and Mary Shonerd.**

**7. Formal Hearing for Reinstatement of Revoked CPA Certificate – Robert Parsons**

A hearing was held at 9:00 a.m. on January 8, 1999 for the purpose of reinstating a revoked CPA certificate. Board Chair, Kathleen Smith acted as Hearing Officer. The respondent, Robert Parsons was present but not represented by legal counsel. Board member present and participating on this matter were Kathleen Smith, Nina Kavich, William Gaines, David Hunter, George Klein, Luke Aldy, Richard Hoiekvam and Dean Graf.

**9. Informal Hearing – Complaint #98-07 Phone Book Listings.**

An informal hearing was held at 9:30 a.m. on January 8, 1999 on Complaint #98-07 - Phone Book Listings. It was noted that one of the entities in the complaint was present, Gerard Forget of Omaha, and that he requested the hearing take place in open session, on the record. The Board discussed with Mr. Forget his inability as a certificate holder to call himself a CPA or advertise under the "Accountants-Certified Public" listing in the yellow pages. Any proposed conduct involving the use of the CPA designation could be sent to the Board as a Petition for an Agency Declaratory Order.

It was noted that the second entity had responded to the Board via letter and was excused from attending.

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**8. Informal Hearing – Complaint #98-09  
Phone Listings as CPA by Unlicensed Certificate Holder**

An informal hearing had been scheduled for an unlicensed certificate holder for reasons of holding out as a CPA in telephone directories, lack of response to former clients needing records, and a lack of response to Board communication. The Board reviewed a letter received on January 7, 1999 that the certificate holder would not be able to attend. However, one of his former clients was in attendance.

**Closed Session**

**Closed session.** Moved by Klein, seconded by Aldy, that the Board go into closed session at 10:24 a.m. for the purpose of discussing the complaint. On roll call vote, all members present voted aye, except Member Hunter who voted nay. Motion number 15 carried.

**Return to open session.** Moved by Gaines, seconded by Kavich, that the Board return to open session at 11:15 a.m. On roll call vote, all members present voted aye. Motion number 16 carried.

**7. Formal Hearing for Reinstatement of Revoked CPA Certificate – Robert Parsons**

Moved by Klein, seconded by Gaines, that the Board reinstate the CPA certificate of Robert Parsons with the requirement that he register his certificate within 30 days of the date of the Order. On roll call vote, all members present voted aye, except Member Hunter who voted nay. Motion number 17 carried.

**8. Complaint #98-09**

Moved by Klein, seconded by Graf, that the Board find probable cause and file a formal Complaint and Notice of Hearing against Lee Johnson for alleged violations of 1-137(4) Violation of a rule of professional conduct including Chapter 5, Sections 005.02(C) and (D), 007.001, 007.05 and 007.06. On roll call vote, all members present voted aye. Motion number 18 carried.

**9. Complaint #98-07**

It was determined that no action was necessary at this time.

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**10. Examination & Licensing Committee**

**A. Ratification of initial permits to practice issued; certificates issued.** Moved by Aldy, with the Committee's recommendation, to ratify the initial permits to practice and certificates issued by examination and reciprocity. On roll call vote, all members present voted aye. Motion number 19 carried.

**B. Review and Approval of 1999 Examination Applications.** Moved by Aldy, with the Committee's recommendation, that the Board approve the 1999 examination applications. On roll call vote, all members present voted aye. Motion number 20 carried.

**C. Review and Approval of Revised Forms for Certificate Holders and Applicants.** Moved by Aldy, seconded by Kavich, that the Board approve the forms as amended. On roll call vote, all members present voted aye. Motion number 21 carried.

**D. Revision of CPA Certificate.** Moved by Gaines, seconded by Hoiekvam, that the Board continue using the existing CPA certificate until changes to the law have been made. On roll call vote, all members present voted aye, except member Hunter who voted nay. Motion number 22 carried.

**E. Approval of November 1998 CPA Exam Grades.** Moved by Aldy, seconded by Kavich, that the Board approve the November 1998 CPA Examination Grades as issued by the AICPA. On roll call vote, all members present voted aye. Motion number 23 carried.

Moved by Aldy, seconded by Graf, that the Board Chair conduct an office audit of the November 1998 CPA Examination grade procedures. On roll call vote, all members present voted aye. Motion number 24 carried.

**F. Policy to Require Office Registration in Conjunction with Firm Permit Renewal.** Moved by Aldy, seconded by Hunter, that the office registration requirement be changed to be due June 30, that the request for office registration be sent again with the firm permit renewal, and that the fee for additional office locations be prorated to \$25.00 each for the period of January – June, 2000. On roll call vote, all members present voted aye. Motion number 25 carried.

**11. Legislation & Rules Committee**

**A. Proposed Legislation 1999 – Bill Update.** The bill draft requesting changes on the 150 hour Education and graduation date, and changes in non-licensee ownership from 33% to 49% in capital and equity will be introduced in the next session, which began January 6, 1999.

**B. Proposed Rules – CCR Fees Survey.** Moved by Hunter, seconded by Kavich, that the Board reject the proposed rule changes allowing for commissions, section 007.02 of the

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proposed rules. On roll call vote, members Smith, Kavich and Hunter voted aye. Members Hoiekvam, Gaines, Graf, Klein and Aldy voted nay. Motion number 26 failed.

Moved by Hoiekvam, seconded by Graf, that the Board adopt the proposed rules allowing commissions, section 007.02 of the proposed rules. On roll call vote, members Gaines, Hoiekvam, Aldy, Klein and Graf voted aye. Members Smith, Kavich and Hunter voted nay. Motion number 27 carried.

Moved by Hunter, seconded by Kavich, that the Board reject the proposed rules allowing contingent fees, section 005.03 of the proposed rules. On roll call vote, members Smith, Kavich and Hunter voted aye. Members Hoiekvam, Klein, Graf, Aldy and Gaines voted nay. Motion number 28 failed.

Moved by Hoiekvam, seconded by Klein, that the Board accept the proposed rules allowing for contingent fees, section 005.03 of the proposed rules. On roll call vote, members Hoiekvam, Aldy, Gaines, Klein and Graf voted aye. Members Smith, Kavich and Hunter voted nay. Motion number 29 carried.

Moved by Hunter, seconded by Kavich, to reject proposed rules regarding referral fees in section 007.02C and delete any reference to referral fees in the rest of the proposed rules. After discussion, Member Hunter withdrew the motion and Kavich withdrew the second. Motion number 30 was withdrawn.

Moved by Hoiekvam, seconded by Klein, that the Board approve the proposed rules on referral fees in section 007.02. On roll call vote, members Hoiekvam, Graf, Klein and Aldy voted aye. Members Smith, Kavich, Hunter and Gaines voted nay. Motion number 31 failed.

Moved by Klein, seconded by Aldy, that the Board approve the entire proposed rules as promulgated. On roll call vote, members Hoiekvam, Gaines, Graf, Klein and Aldy voted aye. Members Smith, Kavich, and Hunter voted nay. Motion number 32 carried.

Member Hunter excused himself for the remainder of the meeting.

**C. Joint Task Force Update.** Members Hoiekvam and Gaines and Executive Director Annette Harmon were appointed by the Nebraska Society of CPAs to serve on a joint legislative task force. Dick Hoiekvam reported on the last meeting and the request for the Board's input on critical issues that will be discussed at the task force's next meeting on January 29, 1999. The Board discussed regulating accountancy versus public accountancy, preferring a one-tier versus a two-tier licensure system, what and/or who is a CPA, and the current 150 Hour Education rule and Continuing Professional Education. It was noted that both Hoiekvam and Harmon would be attending the January 29, 1999 meeting.

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**12. Quality Enhancement Program**

**A. Procedures for 1999 Review.** First level QEP Reviews are scheduled for the week of May 10, 1999, second level the week of June 7, 1999, and a review of all Type 3 and 4 rated reports the week of June 21, 1999.

**B. Approval of QEP Exemptions.** Moved by Hoiekvam, seconded by Gaines, that the Board approve notifying the firms requesting exemption for 1999, of the exemption approval or denial after review by the QEP Chair, Dick Hoiekvam, and the Vice Chair, Dean Graf. On roll call vote, all members present voted aye. Member Hunter was absent. Motion number 33 carried.

**13. Educational Advisory Committee**

**Report on Educational Advisory Committee.** Nina Kavich reported on the Committee's December 17, 1998 meeting. It was noted there were two vacant appointments on the EAC Committee. Moved by Kavich, seconded by Hoiekvam, that the Board approve the report of the December 17, 1998 EAC meeting. On roll call vote, all members present voted aye. Member Hunter was absent. Motion number 34 carried.

**14. New Business**

**A. Future Meeting Dates.** The next regularly scheduled Board meeting is March 22, 1999 in Lincoln. Future meeting dates are scheduled for May 20-21, 1999 in Lincoln and July 22-23, 1999 in Chadron.

**B. NASBA.**

- 1) Focus Questions. The Board reviewed and answered a set of focus questions from NASBA Regional Director, Phil Gleason.
- 2) UAA Update. The Board reviewed correspondence from NASBA and the California Board of Accountancy regarding concerns with the UAA.
- 3) New Horizons Committee. The Board reviewed communications from NASBA regarding a New Horizons Committee.

**C. Resolution for Robert McChesney.** Moved by Gaines, seconded by Graf, that the Board approve the resolution and plaque commemorating Robert McChesney's years of service to the Board. On roll call vote, all members present voted aye. Member Hunter was absent. Motion number 35 carried.

The Executive Director presented a plaque of appreciation to Richard Hoiekvam for his two years of service as Chairman of the Board.

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Moved by Gaines, seconded by Aldy, that the Board approve the attendance and expenses of Mary Shonerd to attend NASBA's 4<sup>th</sup> Annual CPE Conference on March 28-30, 1999 in Las Vegas, Nevada. On roll call vote, all members present voted aye. Member Hunter was absent. Motion number 36 carried.

**D. In the News.** The Board reviewed various articles of interest. This was for informational purposes only.

**15. Adjournment**

It was moved by Aldy, seconded by Gaines, that the Board adjourn at 2:05 p.m. On roll call vote, all members present voted aye. Member Hunter was absent. Motion number 37 carried.

Submitted by,

William L. Gaines, Jr., CPA  
Secretary