

NEBRASKA BOARD OF PUBLIC ACCOUNTANCY  
140 N. 8<sup>th</sup> Street, Suite 290, Lincoln, Nebraska

Minutes  
November 16, 2005

**DRAFT The minutes are not final until approved at the January 5-6, 2006 Board meeting.**

**Wednesday, November 16, 2005: The published meeting start time was postponed from 8:30 a.m. to 10:00 a.m. due to inclement weather.**

**1. General**

- A. Call to Order and Roll Call.** The Nebraska Board of Public Accountancy (Board) was called to order at 10:24 a.m. on Wednesday, November 16, 2005 with Chair H. Dean Graf, CPA presiding. The roll was called with the following members present: H. Dean Graf, William Nuckolls, Jim Titus, Doug Skiles, Kate King Wu, and Tom Obrist. Members Anne Fuhrman and Richard Zacharia were absent. Also present were Executive Director Dan Sweetwood, Staff members Kelly Ebert and Jo Lowe. The meeting was held at the Board Office at 140 N. 8<sup>th</sup> Street, Suite 290, Lincoln, Nebraska.
- B. Approval of Meeting Agenda for November 16, 2005.** Moved by Obrist, seconded by King Wu, to approve the agenda for the November 16, 2005 meeting. On a roll call vote, Members Graf, King Wu, Nuckolls, Obrist, Skiles, and Titus voted aye. Members Fuhrman and Zacharia were absent. Motion #1 carried.
- C. Approval of Minutes from September 19, 2005.** Moved by Obrist, seconded by King Wu, to approve the Board minutes from the September 19, 2005 meeting. On a roll call vote, Members Graf, King Wu, Nuckolls, Obrist, Skiles, and Titus voted aye. Members Fuhrman and Zacharia were absent. Motion #2 carried.

**1. Public Comment Period (15 minute period)**

No members of the public were present.

**3. Consent Agenda**

- A. Published Notice of Meeting.** Moved by Obrist, seconded by King Wu, to approve the consent agenda. On a roll call vote, Members Graf, King Wu, Nuckolls, Obrist, Skiles, and Titus voted aye. Members Fuhrman and Zacharia were absent. Motion #3 carried.
- B. Approval of Disbursements.** Board Secretary Nuckolls reviewed the disbursement reports that were prepared by staff. Staff will continue to provide reports requested by Board members, such as a balance sheet and monthly year-to-date comparison reports. Disbursements for August, September, and October 2005 were approved.
- C. Review of Board Budget Status Report.** The Budget Status Report was provided, and Executive Director Sweetwood reported on the FY 06 budget.
- D. Office Management Report.** The Office Management Report was provided.

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**4. Report of the Chair**

- A. Report of the Chair.** Chair Graf gave the report. Locations for the NASBA events will be added to the Board calendar.
- B. Update On Strategic Initiatives.** Chair Graf reported on the NASBA Strategic Initiative Committee meeting. NASBA will be working to become more involved in setting accounting standards for the profession. The Nebraska Board committee structure was identified as a best practice. Chair Graf made the suggestion that regional legislative committees should be set up to assist adjoining states with proposed legislation.
- C. Attendance at the NASBA Executive Director's Conference, Feb. 2006.** Moved by Obrist, seconded by Skiles, to approve the attendance of Executive Director Sweetwood and Administrative Assistant Kelly Ebert at the NASBA Executive Director's/ Staff Conference to be held in February, 2006. On a roll call vote, Members Graf, King Wu, Nuckolls, Obrist, Skiles, and Titus voted aye. Members Fuhrman and Zacharia were absent. Motion #4 carried.
- D. Report on To Do List.** There was no report at this time.
- E. Other Miscellaneous Items.** There were no miscellaneous items at this time.

**Brian Stevenson, Nebraska.gov General Manager addressed the Board (see 11. B,C)**

**Closed Session**

**Closed Session.** Moved by King Wu, seconded by Obrist, that the Board go into closed session at 12:01 p.m., for the purpose of discussing enforcement cases and personnel issues. On a roll call vote, Members Graf, King Wu, Nuckolls, Obrist, Skiles, and Titus voted aye. Members Fuhrman and Zacharia were absent. Motion #5 carried.

**Return to Open Session.** Moved by King Wu, seconded by Obrist, that the Board return to open session at 1:05 p.m. On a roll call vote, Members Graf, King Wu, Nuckolls, Obrist, Skiles, and Titus voted aye. Members Fuhrman and Zacharia were absent. Motion #6 carried.

**5. Report of Enforcement of Professional Conduct Committee**

- A. Rodney Zwygart Appeal Update.** Executive Director Sweetwood reported that the District Court of Lancaster County affirmed the Board's final order for Mr. Zwygart issued in November of 2003. Board members were provided with a copy of the judgment.
- B. Recommended Approval of Stipulation Order and Waiver of Hearing for Sheryl Brenn.** Moved by Obrist, seconded by Skiles, to approve the Stipulation & Consent Order and Waiver of Hearing for alleged violation of probationary agreement issued in September 2004 (Public Accountancy Act 1-148 (3) Violation

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of probationary agreement.), which was agreed to and signed by Sheryl Brenn. On a roll call vote, Members Graf, Nuckolls, Obrist, Skiles, and Titus voted aye. Members Fuhrman, King Wu and Zacharia were absent. Motion #7 carried.

- C. **Open Case /LMCO Update.** Chair Graf reviewed the open cases.
- D. **Recommended Closure of Enforcement Cases.** Moved by Nuckolls, seconded by Obrist, to close cases #001.014 and #05-05. In case #001.014 both CPAs involved were found not guilty in federal court on various charges brought in a civil action by the U.S. Securities Exchange Commission (SEC). In case #05-05 the Inactive registrant was the subject of a private reprimand by the office of the Counsel on Discipline/ State Supreme Court. The Board concluded this was a sufficient penalty, and the letter will be included in the Board file. On a roll call vote, Members Graf, Nuckolls, Obrist, Skiles, and Titus voted aye. Members Fuhrman, King Wu, and Zacharia were absent. Motion #8 carried.
- E. **Report on To Do List.** There was no report at this time.
- F. **Other Miscellaneous Items.** There were no miscellaneous items at this time.

**6. Report of Continuing Professional Education (CPE) Committee**

- A. **Report of the Committee.** Committee Chair Nuckolls presented the report. The Committee reviewed a total of 231 courses from September 2, 2005 to November 14, 2005. The Committee also reviewed the program sponsor application submitted by the JPMorgan Asset Management. The Committee forwarded the reinstatement application of Jack Lee III to the Licensing Committee for review and approval. The Committee also reviewed the 2004/2005 CPE reporting forms in preparation for the December mailing. Executive Director Sweetwood and Staff Kelly Ebert are attending ethics courses being offered and reporting feedback to the Committee.
- B. **Ratification/Denial of Staff Program Qualification Evaluations.** Motion out of Committee to approve 229 courses and deny 2 courses reviewed from September 2, 2005 to November 14, 2005 and to approve JPMorgan Asset Management as a CPA Program Sponsor. On a roll call vote, Members Graf, King Wu, Nuckolls, Obrist, Skiles, and Titus voted aye. Members Fuhrman and Zacharia were absent. Motion #9 carried.
- C. **Report on To Do list.** The To Dos are listed in the Committee Report.
- D. **Other Miscellaneous Items.** There was no report at this time.

**7. Report of Education & Exam (E&E) Committee**

- A. **Report of the Committee.** Committee Chair Skiles gave the report.
  - 1.) **E & E Issues.** The Committee recommended a certificate be issued to a grade transfer applicant from another state based on PAA 1-114.
  - 2.) **Education and Exam Information Exchange, Oct. 7, 2005.** Chair Skiles reported that the Education and Exam Information Exchange and the Education Advisory Committee meetings on October 7, 2005 were successful,

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and thanked the staff for organizing the events. Fourteen educators attended in person or by telephone. Positive feedback was received as questions and information regarding the CBT was exchanged with those in attendance.

- 3.) **CBT Update.**
  - a.) **Current Window Exam Scores.** Chair Skiles reported that all exam scores for the July – August 2005 window have been received. Chair Skiles presented a comparison graph of the statistics for all exam windows he prepared with Board members.
  - b.) **CPA Exam issues.** The monthly CBT status report is reviewed by the Executive Director especially for CPRs. Various articles and reports on the CBT were provided to the Board for review.
- 4.) **Proposed UAA Rules 5-1 and 5-2 Rules Change.** The proposed rules will not go forward as drafted. A committee will be formed by NASBA to review the rules and make further recommendations including the possibility of less specificity of course subject areas and one ethics course.
- B. **Recommended approval of James Koehn, Chadron State College, to EAC.** Motion out of Committee to approve James Koehn's appointment to the EAC. On a roll call vote, Members Graf, King Wu, Nuckolls, Obrist, Skiles, and Titus voted aye. Members Fuhrman and Zacharia were absent. Motion #10 carried.
- C. **Exam Score Ratification.** Motion out of Committee to approve exam scores for the July – August 2005 window. On a roll call vote, Members Graf, King Wu, Nuckolls, Obrist, Skiles, and Titus voted aye. Members Fuhrman and Zacharia were absent. Motion #11 carried.
- D. **Report on To Do List.** There was no report at this time.
- E. **Other Miscellaneous Items.** There were no miscellaneous items at this time.

**8. Report of the Legislative Committee**

- A. **Report on Proposed Legislative Re-write Status.** Chair Graf reported on the progress of proposed legislation involving substantially equivalent provisions. Discussions with other states at the recent NASBA Annual meeting and further discussion within the committee exposed areas of the legislation that could create dissent and controversy as proposed. Dan Vodvarka, Nebraska Society of CPAs (NSCPA) President, was present to discuss the proposed legislation. After sharing the draft legislation with other entities, Mr. Vodvarka indicated concern was also raised with the proposed legislation. Mr. Vodvarka's impression is that there is not a good state statute upon which to model Nebraska law at this time. As proposed, the substantial equivalency provision deals with practice privilege and certification, and could create two levels of standards for certification for those who apply in Nebraska and those applying through reciprocity. After further discussion, staff was directed to ask for an attorney general's opinion on the Board's enforcement jurisdiction over someone engaging in temporary practice within current provisions as listed in PAA 1-163. Staff was also directed to draft definitions for temporary practice, incidental practice as indicated in 1-

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- 163 to be possibly included in future Board Rules & Regulations. Moved by Titus, seconded by King Wu, not to proceed with the draft legislation, and to continue to work through the rule making process for temporary practice and good moral character provisions. On a roll call vote, Members Graf, King Wu, Nuckolls, Obrist, Skiles, and Titus voted aye. Members Fuhrman and Zacharia were absent. Motion #12 carried.
- B. **Report on To Do List.** There was no report at this time.
  - C. **Other Miscellaneous Items.** There were no miscellaneous items at this time.

**9. Report of Quality Enhancement Program (QEP) Committee**

- A. **Report of the Committee.** In the absence of Committee Chair Fuhrman, Executive Director Sweetwood reported that they participated in a conference call on Oct. 6 2005, with NASBA's Compliance Assurance Committee (CAC). The CAC purpose is to share best practices and to review the oversight role of state boards in the quality assurance and peer review programs. A discussion on the Nevada CPA Society's oversight role of Nebraska Peer Review was held. Board Chair Graf encouraged each Board member to recruit reviewers for the 2006 QEP.
- B. **Report on To Do List.** There was no report at this time.
- C. **Other Miscellaneous Items.** There were no miscellaneous items at this time.

**10. Report of the Licensing Committee**

- A. **Report of the Committee.** Committee Chair Titus gave the report. On the Deloitte and Touche firm license issue, Mr. Ezzell's first attempt at the rule language was a good start. The Committee concluded that the rules must be changed to require regulation of the firms and their affiliates where material participation in an affiliate is used to justify parent/sub ownership, which would require any affiliated entities to meet the ownership and equity percentage requirements. A conference call between Mr. Ezzell and the committee to discuss the issues is set for Thursday, December 1, 2005. The Committee reviewed guidelines created to help firms with naming, advertising, and the practice of public accountancy services. Further discussion and creation of the guidelines continues.
- B. **Public Hearing to Return Surrendered Certificate to Good Standing for Tina Wheeler.** At 4:05 p.m., the hearing for Tina Wheeler commenced, with exhibits entered into the record. Wheeler was not present to answer questions, but provided a letter of explanation to the Board. The hearing ended at 4:10 p.m. Moved by Skiles, seconded by King Wu, to return her CPA certificate to Good Standing, with a \$125 administrative fee for staff processing. On a roll call vote, Members Graf, King Wu, Nuckolls, Obrist, Skiles, and Titus voted aye. Members Fuhrman and Zacharia were absent. Motion #16 carried.

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- C. **Ratification of initial permits to practice issued, certificates issued, firm permits.** Motion out of Committee to approve the permits to practice, certificates, and firm permits, issued between September 17, 2005 and October 19, 2005. On a roll call vote, Members Graf, King Wu, Nuckolls, Skiles, and Titus voted aye. Members Fuhrman, Obrist, and Zacharia were absent. Motion #13 carried. Moved by Titus, seconded by Skiles, to approve the permits to practice, certificates, firm permits, and reinstatements issued between October 19, 2005 and November 14, 2005. On a roll call vote, Members Graf, King Wu, Nuckolls, Obrist, Skiles, and Titus voted aye. Members Fuhrman and Zacharia were absent. Motion #14 carried.
- D. **Reinstatements to Active Permit, Inactive Retired Affidavits, Surrendered Certificates.** See Motion #14.
- E. **Graeve Garrelts Denham & Bruce Firm Name Request.** Following the approval of the Form of Practice rule change, the Committee is still concerned with the new name, due to confusion in marketing, but doubt there is enough grounds to deny the fictitious name. However, they are concerned that advertising/marketing of firms that provide a multitude of services not by licensed CPA firms, could be misleading to the public. The Board discussed the possibility of using disclosure forms to be signed by the client, to help distinguish between licensed CPAs who are under regulation and other providers of firm services who are not CPAs and not regulated. This could likely be done without new regulation. CPAs holding out in a licensed CPA firm would not be required to use disclosure forms. Moved by Titus, seconded by Skiles, to approve the firm name change to Orizon CPAs, LLC subject to future disclosure requirements due to Board concern that advertising/marketing may be misleading to the public. On a roll call vote, Members Graf, King Wu, Nuckolls, Obrist, Skiles, and Titus voted aye. Members Fuhrman and Zacharia were absent. Motion #15 carried.
- F. **Report of To Do List.** There was no report at this time.
- G. **Other Miscellaneous Items.** There were no miscellaneous items at this time.

**11. Report of Executive Director**

- A. **Report on the NASBA CBT/Public Trust Conference.** Executive Director Sweetwood provided a written report on the conference. A listing of CBT issues, as brought forth at the conference, is being monitored and followed up on by NASBA.
- B. **Nebraska.gov Update provided by Brian Stevenson, General Manager.**
- C. **NOL Update.** Following a major restructuring, Mr. Stevenson reported that the Board's database and online CPE project had priority. Project teams will soon be in place to implement, launch, and maintain Nebraska.gov projects. They would make every effort to be ready to beta test the new system by Jan 1, 2006.
- D. **Staffing and General Office Issues.** After a requested review of Kelly Ebert's position by the ED to state personnel, the ED was notified her position was upgraded from a Staff Assistant II position to that of Administrative Assistant I.

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The ED reported Kelly will receive a salary adjustment to reflect her new position. The ED also reported that NBPA staff attended the NSCPA Annual Fall Conference and thanked the NSCPA for providing a booth for staff. Staff reported numerous CPAs stopped by to receive information on Board programs.

- E. Report on To Do List.** There was no report at this time.
- F. Other Miscellaneous Items.** There were no additional miscellaneous items.

**12. New Business**

- A. National Association of State Boards of Accountancy (NASBA) Items.**
  - 1.) **NASBA Annual Meeting Review.** Board members felt it was one of the best annual meetings. NASBA Regional Director Bob Pearson is serving his last term. Board members were encouraged to consider applying for the opening. ED Sweetwood will research the process for Board members interested in joining a NABSA Committee. ED Sweetwood has been appointed to the NABSA Executive Directors Committee for 2005-2006.
  - 2.) **NASBA 2005 Meeting dates and locations.** The NASBA Regional meeting will be May 31- June 2, 2006 in San Francisco, CA. The NASBA Annual Meeting will be October 29 – November 1, 2006 in Atlanta, GA.
  - 3.) **NASBA FYIs.** Various articles relating to NASBA were noted.
- B. Other Miscellaneous Items.** Various articles were noted related to the CPA profession as provided by staff.

**13. Adjournment**

Moved by Obrist, seconded by King Wu, to adjourn the meeting at 4:55 p.m. on Wednesday, November 16, 2005. On a roll call vote, Members Graf, King Wu, Nuckolls, Obrist, Skiles, and Titus voted aye. Members Fuhrman and Zacharia were absent. Motion #17 carried.

Respectfully submitted by,

William Nuckolls  
Board Secretary