

**BOARD OF ACCOUNTANCY
MEETING MINUTES**

Meeting Date: February 5, 2013
Meeting Location: Androscoggin Room, State of Maine - Gardiner Annex, Northern Avenue, Gardiner, Maine
Time Meeting Began: 8:05 a.m.

Roll Call of Officers:

The following members were present. No members were absent.

Peter Chandler
Michael Nickerson
Tracy Harding
Brian Perkins
Geoffrey Gattis

Staff Present:

Catherine Carroll, Administrator
Jeffrey Frankel, Staff Attorney
Jenny Dalbeck, Board Clerk

AAG Present:

Robert Perkins

Chair Peter Chandler called the meeting to order.

Board Meeting Minutes

A motion was made to accept the November 13, 2012 minutes as written.

Motion: Michael Nickerson
Second: Brian Perkins
Unanimous

Introduction of Maine State Auditor Pola Buckley

Ms. Buckley introduced herself to the members of the Board as the State's new auditor.

Election of Board Chair

A motion was made to re-elect Peter Chandler as Board Chair.

Motion: Tracy Harding
Second: Mike Nickerson
Abstained: Peter Chandler
Motion Carried

A motion was made to elect Mike Nickerson as Complaint Officer

Motion: Peter Chandler
Second: Geoffrey Gattis
Abstained: Mike Nickerson
Motion Carried

Complaint Officer's Report

2006-ACC-2512 – Bob Perkins presented a complaint filed against an individual for allegedly practicing without a license. Bob Perkins recommended to the Board that the complaint not be referred to the Attorneys General Office due to lack of evidence substantiating the case. A motion was made to dismiss this complaint.

Motion: Tracy Harding
Second: Mike Nickerson
Unanimous

2006-ACC-2530 – Bob Perkins presented a complaint regarding a licensee whose firm was required to have a peer review. A motion was made to table action on the complaint, and to have Mr. Perkins further investigate the current situation and provide a status report to the Board.

Motion: Brian Perkins
Second: Mike Nickerson
Unanimous

2011-ACC-7286 – Bob Perkins presented a request to re-open a complaint that was dismissed by the Board last year on the basis that disciplinary action was unreasonable because the licensee wanted to persuade a client on something the client was not supportive. A motion was made to not reopen the case on the grounds of insufficient evidence to warrant further investigation.

Motion: Tracy Harding
Second: Mike Nickerson
Unanimous

2012-ACC-7971 – Bob Perkins presented a case in which a licensee admitted to misuse of a client's funds. The Board viewed this to be a case of conduct adversely out of character of a CPA, gross negligence of due care, and dishonesty. The Board wished to seek further information through an adjudicatory hearing to develop an understanding of the events that took place causing a complaint to be filed. A motion was made to proceed to hearing with no consent agreement offered pursuant to 32MRSA §12273-A (4)(5)(6) and 10MRSA §8003 (5) (5-A).

Motion: Tracy Harding
Second: Brian Perkins
Unanimous

2012-ACC-8036 – Bob Perkins presented a complaint on an individual being unlicensed during an interim period and poorly handling a filing extension. The Board determined that the evidence in the record, however, did not suggest that the case

requires disciplinary action. A motion was made to dismiss the case and send a letter of guidance to the licensee that stays in the file for five years.

Motion: Brian Perkins
Second: Tracy Harding
Unanimous

2012-ACC-8587 – Bob Perkins presented a complaint in which the licensee allegedly incorrectly filed returns for a client in 2007 and 2010. In examining the details of the complaint, the Board questioned whether there was due care in getting the business done or lacking attention in following procedures correctly. A motion was made to dismiss the case in that the licensee's errors were not sufficient for disciplinary measures.

Motion: Tracy Harding
Second: Mike Nickerson
Recused: Brian Perkins
Motion Carried

2012-ACC-8611 – A motion was made to dismiss the case. No discussion.

Motion: Tracy Harding
Second: Brian Perkins
Recused: Mike Nickerson
Motion Carried

Adjudicatory Hearing

Larisa Shmulyan – The Board heard Ms. Shmulyan's appeal on whether grounds exist for the preliminary denial by NASBA of her November 26, 2012 request for a new Notice to Schedule (NTS) for the REG section of the certified public accountant license examination. A motion was made to deny Ms. Shmulyan's appeal on the basis that she did not meet the required 150 semester hours of education as set forth in 32 MRSA §12228(3) and Board Rules, Chapter 3 §3. Specifically, Ms. Shmulyan needed to demonstrate the required 15 hours of accounting, auditing and ethics, with at least three hours of auditing and three hours of accounting. The Foreign Academic Credentials Service's (FACS) review of Ms. Shmulyan's educational qualifications, dated December 10, 2012, indicated that she had obtained 150 semester hours of education but had not obtained the required 15 hours in accounting, auditing and ethics with at least three hours in accounting and three hours in auditing, hence, she did not have the "conditional credit" or a valid NTS. [Reference Public Law Chapter 478, effective February 29, 2012] The Board upheld NASBA's policy whether an applicant has "conditional credit" or a valid NTS. Otherwise precedence for others to take advantage of the previous loophole in the law, prior to the change made in 2012, could be generated.

Motion: Tracy Harding
Second: Michael Nickerson
Unanimous

NASBA Nomination for Vice Chair

The Board decided to not nominate anyone. No action was taken.

Discussion Concerning What Can be Counted Toward CPEs

The Board discussed course time and exam time and all were in agreement that course time can be counted toward CPEs but exam time cannot be counted toward CPEs.

Administrator's Report

Catherine Carroll updated the board members on their terms status and briefed them on the department's so-called quorum legislation. Catherine had nothing to report on budget. She reported her exploration with other states that have recently adopted an education requirements model that individuals meet specific accounting content rather than specific accounting course titles; an education model similar to what the board is considering in its Chapter 5 rulemaking proposal.

Staff Attorney Jeff Frankel presented the modified language in Chapter 5 per the board's discussion at their last meeting. A motion was made to begin the rulemaking process and to schedule a hearing at the next board meeting on May 22, 2013.

Motion: Tracy Harding
Second: Brian Perkins
Unanimous

Other Business

None.

Adjournment

The meeting adjourned at 1:55 p.m.

Respectively submitted,

Jenny Dalbeck
Board Clerk