

**STATE OF MICHIGAN  
DEPARTMENT OF ENERGY, LABOR & ECONOMIC GROWTH  
BUREAU OF COMMERCIAL SERVICES  
LICENSING DIVISION**

2501 Woodlake Circle, Okemos, Michigan 48864-5955

**Board of Accountancy**

**BOARD MEETING MINUTES**

May 15, 2009

In accordance with the Open Meetings Act, 1976 PA 267, as amended, the Board of Accountancy met in Regular Session on May 15, 2009, at the Department of Energy, Labor & Economic Growth, Bureau of Commercial Services, 2501 Woodlake Circle, Conference Room 1, Okemos, Michigan. The business meeting was called to order by Chairperson Beth Bialy at 9:08 a.m.

**1. ROLL CALL**

Present:	Beth Bialy, Chair	Professional Member
	Richard G. David	Professional Member
	Mary Miller	Public Member
	Stephen H. Epstein	Professional Member
	Sally Fedus, Secretary	Public Member
	Neil DeBoer	Professional Member
	Carla Sledge	Professional Member
	Thomas R Weirich Vice-Chair	Professional Member
Staff:	Joyce Karr	Licensing Director
	Carol Flores	Licensing Administrator
	Stacie Bayes	Assistant Licensing Administrator
	Angela Diro	Acting Board Secretary
	Ann Paruk	Enforcement Staff
	Stephen Gobbo	Legal Affairs Director
	Tom Cantrell	DIT/Michigan Business One Stop
	Michael Lockman	Assistant Attorney General
	Tom Scallen	Assistant Attorney General
Visitors:	John Lindley	MACPA
	Walt Koziol	MACPA
	Darian Neubecker	Petitioner

## **2. ADDITIONS TO OR DELETIONS FROM AGENDA**

Ms. Bialy stated the Department would like to move Agenda item 5A "AAG Michael Lockman Presentation" to follow after 5D1 "Hearing Reports-Michael J. Reamer". An addition of 7B "NASBA Request For Recommendations Of Participation On Subcommittee" was added to the agenda. Ms. Bialy requested that the Board receive a one page summary on each Agenda item. Ms. Karr stated that the Department will provide these at future meetings.

## **3. MICHIGAN BUSINESS ONE STOP**

Ms. Karr introduced Mr. Cantrell from the Department of Information Technology. Mr. Cantrell provided a 25 minute presentation introducing Michigan Business One Stop. Mr. Epstein inquired on how well the program has been received. Mr. Cantrell replied that the program has been well received, and they continue to make improvements. Mr. DeBoer asked if existing businesses are able to use this site. Mr. Cantrell replied that there are limited benefits for existing businesses, but they are enhancing the site to provide additional services for existing businesses. Ms. Sledge requested the time frame for processing the applications. Mr. Cantrell stated that currently the processing time is approximately 30-120 days but the State is researching ways to improve the process time.

## **4. APPROVAL OF MINUTES FROM MEETING HELD JANUARY 23, 2009**

Ms. Fedus requested that a correction be made regarding "Roll Call: Present - Board Members" to indicate that Ms. Cogen Lipton was not present at the meeting. Also under "New Business" 5Aii, David Trzybinski; remove the word "every" and replace with "ever".

**MOTION:** It was moved by Mr. Weirich and seconded by Ms. Fedus to approve the minutes for the January 23, 2009 Board meeting with the above changes. Motion passed unanimously.

## **5. NEW BUSINESS**

### **B. PETITION**

#### **i. Darian L. Neubecker**

Ms. Flores stated that Mr. Neubecker applied for relicensure and was denied due to lack of good moral character. She indicated that he was initially granted a license in 2006 in which he disclosed previous convictions. It was noted that Mr. Neubecker disclosed the previous convictions as well as the convictions committed between the initial application and the current relicensure application and that his new conviction elevated the status to a felony. Mr. Neubecker appeared before the Board.

**DISCUSSION:** Ms. Fedus asked if Mr. Neubecker was trying to get his felony expunged. Mr. Neubecker replied that the way the current law is written that it is not an

option for him. Discussion was held regarding the renewal process and Good Moral Character conditions.

**MOTION:** It was moved by Mr. Epstein and seconded by Ms. Miller to approve Mr. Neubecker's application for relicensure. The motion carried with Ms. Bialy and Mr. Weirich abstaining. The Department concurred.

## C. STIPULATIONS

### i. Duane Kurtis Higgins

A signed stipulation and formal complaint were presented to the Board in the matter of Duane Kurtis Higgins for violation of a provision of Article 7 of the Occupational Code, 1980 PA 299, as amended; contrary to MCL 339.734(f) and (i).

Discussion: Ms. Bialy asked the Department to provide the Board with perspective on SEC matters. Mr. Gobbo reminded the Board that licensees are not giving admission to any factual items but settle with the SEC. The SEC then refers the complaints over to the various States indicating that they will give the States access to their records if they want to open their own investigation. He indicated that it would be helpful if the Board had a consensus regarding the "for cause" language and a legislative change would allow for a violation to exist if the licensee was disciplined by some other appropriate governmental/judicial agency.

Mr. Epstein indicated that he would like to see a more timely process whereby as soon as a settlement is handed down, the Board is able to take action concurrently.

**MOTION:** It was moved by Ms. Fedus and seconded by Mr. Weirich to accept the stipulation as written. The motion carried with Ms. Sledge abstaining.

### ii. Nicholas S. Difazio

A signed stipulation and formal complaint were presented to the Board in the matter of Nicholas S. Difazio for violation of a provision of Article 7 of the Occupational Code, 1980 PA 299, as amended, contrary to MCL 339.734 (f) and (i).

Discussion: Ms. Bialy stated the only difference from the previous stipulation is the fine.

**MOTION:** It was moved by Mr. David and seconded by Mr. DeBoer to accept the stipulation as written. The motion carried with Ms. Sledge abstaining.

Ms. Bialy stated that the letter she received from the AICPA included 3 names, Higgins, Difazio and Calimino. She asked the status of Mr. Calimino. Ms. Flores replied that it has been referred to the Enforcement Division and it will depend on whether he is licensed in Michigan.

## **C. HEARING REPORTS**

### **i. Michael J. Reamer**

**MOTION:** It was moved by Ms. Fedus and seconded by Mr. Weirich to receive the Hearing Report on Michael J. Reamer. The motion carried.

Discussion: Ms. Bialy stated that Kromm Sales Inc. clearly incurred more costs than the \$5,200.00 due to the extra legal fees. Mr. David stated that the records should also be returned.

**MOTION:** After discussion, it was moved by Mr. David and seconded by Mr. DeBoer that:

- 1) Respondent pay a fine totaling \$5,000.00 (\$2,500.00 for the fraud violation, \$2,500.00 for the records violation);
- 2) Return all original books and records belonging to Kromm Sales, Inc., to Robert D. Kromm within (60) days of the date of the mailing of the final order;
- 3) Pay restitution payable to Kromm Sales Inc. in the amount of \$5,200.00 multiplied by the prime rate as of May 15, 2009 running from January 1, 2006 to the date of the restitution payment.
- 4) Suspension of license for 2 years;
- 5) Fine and restitution must be payable within sixty (60) days of the date of the mailing of the final order; and,
- 6) Failure to comply within sixty (60) days will result in revocation of license.

The Motion passed unanimously.

Ms. Bialy stated that the Department has requested to move to item 7A "Reciprocity Applications" before Mr. Lockman Presentation due to staff timing issues.

## **RECIPROCITY APPLICATIONS**

Ms. Bayes requested the Board's input regarding applicants applying for licensure from other states. She indicated that the applicant must provide proof that the applicant's original certificate as a certified public accountant was secured on the basis of requirements that the board determines are equivalent to the standards required for qualification in this state at the same time the applicant was issued his or her original certificate.

She indicated that previous statutory language allowed the applicant to provide evidence that they have since obtained the experience since original licensure. Ms. Flores stated that we are currently required to review the requirements at the time an applicant was originally licensed and therefore, wish to ask the Board for advice regarding what it considers to be "equivalent".

Ms. Bialy questioned why applicants do not just apply as a new applicant if they meet the current standards. Ms. Bayes replied that the problem is that if they were originally

licensed, for example, in 1980 with the 120 hours and the current standard is 150 hours. Mr. David asked that the department bring a proposal to the Board. Ms. Karr stated that the Department will bring a proposal to the Board at its next meeting.

Mr. David informed the Department and questioned why the Qualifying Experience Form states "Audit/Compilation/Review". Ms. Karr stated that the Department will review the form.

### **AAG MICHAEL LOCKMAN PRESENTATION**

Mr. Lockman stated that Ms. Karr requested that he provide an "orientation" presentation to all the Occupational Boards as required by statute. He informed the board that the Attorney General lawyers are lawyers to all of State Government and in this particular case, to the Bureau of Commercial Services. The Office of the Attorney General (AG Office) provides the board with legal services, information, advice and opinions. He informed the board that if it had a request of the AG Office it must be made through the Bureau as the AG Office does not directly represent the Boards. He indicated that the board may present its request to the Licensing Administrator or Licensing Director. If they are unable to handle your request internally they will submit the request to the AG Office. He noted that he would appear from time to time at Board meetings at the request of the Licensing Director.

He informed the board that the AG Office has involvement with complaints from the beginning to the end. There are 14 Occupational Code Boards subject to Articles 1-6 with volunteer and appointed members. The legal regulation of the 14 occupations falls mainly on the Department.

Mr. Lockman indicated that a question that came up earlier in the board's discussion regarding how it may send "a message" regarding the board viewpoint on issues. He indicated that a Board sends its message by either accepting or rejecting a stipulation. If a Board rejects a stipulation it sends a message to staff that the Board feels there should be a more severe penalty.

Ms. Bialy inquired about the procedure for the petitioner discussed earlier in regard to the Department's concurrence and what happens if it does not concur. Mr. Lockman replied that if the Department does not concur, the denial stands and a license would not be issued.

## **6. OLD BUSINESS**

### **A. UPDATE REGARDING SEC RELATED COMPLAINTS**

Ms. Bialy stated that this item has been discussed throughout the meeting and offered the idea of a forming a subcommittee to discuss changes to the statute.

**MOTION:** After discussion, Mr. Epstein moved to form a subcommittee with members of committee being Ms. Bialy, Ms. Miller, when appointed the new Board Member who is an attorney and a Department Representative. Mr. Lindley from the

MACPA was also invited to participate. Ms. Sledge seconded and the motion passed unanimously.

## **B. COMPLAINT INQUIRY**

### **i. Jeffery Risius**

Ms. Flores stated at the last meeting Mr. David inquired about the status of Mr. Risius complaint. The complaint was open against Mr. Risius on 3/1/2003. The Department procedure was to send an Advisory to Mr. Risius to discontinue the practice until licensed, the complaint was closed 5/7/2007. Mr. Gobbo stated that he had spoken to Mr. Carr in regards to Mr. Risius and was informed that at the time of complaint there were department practices in place at that time regarding unlicensed activity. He indicated that Mr. Carr was not inclined to reopen the complaint because it fell under a previous policy, however, Mr. Carr wanted the Board to be assured that if a new complaint came in, Board Members may be asked to participate in the process.

### **ii. Randy K. Lane**

Ms. Flores stated that the Licensing Division requested a complaint be opened for Mr. Lane's failure to reply to our request for CE verification for the time period of 6/30/2004-6/30/2005. The Board had asked the Department to look into the CE issue as a result of a Stipulation that was previously presented to them.

## **C. TRAVEL**

### **i. NASBA, New Board Member Training**

Ms. Flores stated that Ms. Sledge and Mr. DeBoer are scheduled to attend NASBA June Regional Conference, New Board Member Training. NASBA has also provided funds for the Board Chairperson Beth Bialy to attend. She also indicated that Department staff would also be represented at the meeting.

### **ii. Travel Insurance**

Ms. Flores stated that after further review, the Department found that Board Members are not covered by liability insurance when traveling to and from Board meetings or Board business (i.e. Compliance Conference, etc.). Board members are covered, however, if they are injured on State property.

## **7. ITEMS FOR CONSIDERATION FROM BOARD MEMBERS OR DEPARTMENT**

### **B. NASBA Recommendation To Serve on AICPA Committee**

Ms. Bialy pointed out that there was information in each member's folder regarding the recommendation to serve on an AICPA committee. Ms. Flores stated that the deadline is today but if someone is interested she would email Mr. Pierson to request an extension.

Mr. David asked if the Board is able to get the transcripts regarding Mr. Sheets. Mr. Lockman stated we have requested them.

Ms. Bialy stated that Mr. David's term is coming to an end and he is not looking for reappointment. She asked Mr. David if he was willing to stay on until someone can be appointed to the position. Mr. David replied he would stay on until a successor could be appointed.

## **8. PUBLIC COMMENT**

Mr. Lindley stated that they recently had the Member Advisory Symposium and on behalf of the MACPA would like to express their gratitude to the Department for attending and their presentation. A few upcoming events are the next Member Advisory Symposium is scheduled for 9/22/2009 and Awards Dinner is scheduled for 10/5/2009.

## **9. NEXT MEETING**

The next scheduled meeting of the Board of Accountancy will be held on August 14, 2009 at 9:00 a.m.

## **10. ADJOURNMENT**

There being no further business to be brought before the Board at this time, Ms. Bialy entertained a motion to adjourn.

MOTION: It was moved to adjourn the meeting by Mr. Epstien and seconded by Mr. Weirich. The motion passed unanimously. The meeting was adjourned at 12:32 p.m.

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Sally Fedus, Secretary

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Date

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Recording Secretary

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Date