

Board of Accountancy  
April 26 & 27, 2012

Tampa Airport Marriott  
Tampa International Airport  
Tampa Florida 33607

Thursday & Friday, April 26, & 27, 2012

The meeting was called to order at 1:10 p.m. by Ms. Borders-Byrd, Chair and recessed at 4:06 p.m.; on April 26, 2012, reconvened at 9:00 a.m. on April 27, 2012. The roll was called by Ms. Kelly, Division Director, and reflected the following persons present:

**BOARD MEMBERS**

Teresa Borcheck	Present	
Cynthia Borders-Byrd	Present	
Maria E. Caldwell	Present	
David L. Dennis	Excused Absence 4/26	Present 4/27
William Durkin	Present	
M.G. Fennema	Present	
Steve Riggs	Present	
Eric Robinson	Present	
H. Steven Vogel	Excused Absence 4/26	Present 4/27

**STAFF**

Veloria Kelly	Present
June Carroll	Present

Mary Ellen Clark, Assistant Attorney General and Board Counsel was present. Eric Hurst, Prosecuting Attorney, Department of Business and Professional Regulation was present. Court Reporter was Sandra Davis Camp.

**1. Approve Board Minutes**

A. March 9, 2012

Motion was made by Mr. Durkin, seconded by Mr. Riggs, to approve. Upon vote, the motion passed unanimously.

**2. OGC Action Request**

A. HEAD, JERRY LYNN – 2011-025890

Ms. Caldwell, Ms. Borders-Byrd and Mr. Riggs were recused.

Mr. Durkin chaired.

Motion was made by Mr. Robinson, seconded by Mr. Dennis, that a right to hearing was waived. Upon vote, the motion passed unanimously. Motion was made by Mr. Robinson, seconded by Ms. Borcheck, to adopt the findings of fact and adopt the law as set forth in the administrative complaint. Upon vote, the motion passed unanimously. Motion was made by Mr. Robinson, seconded by Ms. Borcheck, to suspend until such time as Mr. Head appears before the Board, and demonstrates that he has returned all records in dispute, cost in the amount of \$194.04 due within thirty days of date of Final Order. The Board specifically reserves jurisdiction to impose any additional discipline deemed appropriate at the time Mr. Head appears before the Board in this matter. Upon vote, the motion passed unanimously.

### **3. Petitions for Variance or Waiver**

#### **A. ALFARO, JOSE, JR.**

Motion was made by Mr. Dennis, seconded by Dr. Fennema, to deny petition for variance or waiver. Upon vote, the motion passed unanimously.

#### **B. ALVAREZ, ELIZABETH**

Ms. Alvarez withdrew her petition for variance or waiver request.

#### **C. DOUGLASS, WILLIAM**

Mr. Douglass was present.

Motion was made by Mr. Riggs, seconded by Mr. Robinson, to approve petition for variance or waiver. Upon vote, the motion passed unanimously.

#### **D. FINKELSHEYN, JACOB**

Mr. Finkelshteyn was present.

Motion was made by Mr. Riggs, seconded by Dr. Fennema, to deny petition for variance or waiver of Rule 61H1-27.0041 and approve petition for variance or wavier of Rule 61H1-27.002(2). Upon vote, the motion passed unanimously.

#### **E. KOPETMAN, RAQUEL**

Motion was made by Mr. Durkin, seconded by Ms. Borcheck, to approve petition for variance or waiver. Upon vote, the motion passed unanimously.

#### **F. THOMSON, LENNY**

Motion was made by Mr. Robinson, seconded by Mr. Dennis, to deny petition for variance or waiver. Upon vote, the motion passed unanimously.

#### **4. Now Meets Requirements**

##### **A. DICKSON, ROSELINE**

Motion was made by Mr. Riggs, seconded by Mr. Robinson, to reconsider, vacate previous denial and approve. Upon vote, the motion passed unanimously.

##### **B. WILSON FYNE, CHARLENE ANN MARIE**

Motion was made by Mr. Riggs, seconded by Mr. Robinson, to reconsider, vacate previous denial and approve. Upon vote, the motion passed unanimously.

#### **5. Exams- Recommended Denial (do not meet requirements)**

Mildred C. Fonseca                      Deficient three (3) semester hours of upper division business law.

Motion was made by Mr. Robinson, seconded by Dr. Fennema, to deny. Upon vote, the motion passed unanimously.

Franz Vade Olivar                      Deficient 15 semester hours of graduate level courses from an accredited institution, of which six (6) semester hours must be in accounting courses, and three (3) semester hours of taxation; these courses must be taken after admission to graduate school. Also deficient three (3) semester hours of business law to include coverage of contracts, torts and uniform commercial code.

Motion was made by Mr. Robinson, seconded by Dr. Fennema, to deny. Upon vote, the motion passed unanimously.

#### **6. Exams – Considerations**

Jose A. Canas                              Applicant charged with attempt and conspiracy of drugs on February 28, 2000, he was sentenced to 37 months prison and 36 months supervised release. All sanction have been satisfied. Applicant charged with attempted criminal possession of a weapon on September 28, 2003, sentenced to two (2) years prison and five (5) years of post release supervision. All sanctions have been satisfied. Application complete on March 13, 2012.

Mr. Canas was present.

Motion was made by Mr. Robinson, seconded by Mr. Durkin, to approve for convictions only. Upon vote, the motion passed with Mr. Riggs voting no.

Finees Casado

Applicant charged with two counts of unauthorized practice of law and two (2) counts of theft by deception in connection to unauthorized practice of law on August 15, 2006. Trial pending in Massachusetts scheduled for November 2011. Applicant charged with two (2) counts of unauthorized practice of law on June 12, 2007; paid fine; placed on two (2) years probation and two (2) years administrative probation. All sanctions have been satisfied. Applicant charged with false statement in notice of appearance to immigration Judge on August 21, 2007; paid fine placed on three (3) years probation. All sanctions have been satisfied. Applicant charged with two counts of theft by deception in connection to unauthorized practice of law on October 10, 2007; paid fine; placed on two (2) years probation and two (2) years administrative probation.

Applicant appeared before the board at the December 2, 2011 meeting, where the board voted to continue until all information from the courts regarding charges was available. Documentation requested has been received by board staff. Unknown if all sanctions have been satisfied. Applicant has not met educational requirements to sit for the CPA exam.

Motion was made by Mr. Robinson, seconded by Mr. Durkin, to deny. Upon vote, the motion passed unanimously.

Natalie Ann Kracmer

Applicant charged with battery on July 16, 2001; adjudication withheld community control. All sanctions have been satisfied. Charged with possession of marijuana under 20 grams on September 24, 2001; adjudication withheld community control. All sanctions have been satisfied. Charged with possession of marijuana under 20 grams on November 30, 2001; adjudicated delinquent supervised. All sanctions have been satisfied. Charged with resisting/obstruct office without violence on July 5, 2002; adjudicated delinquent community control. All sanctions have been satisfied. Charged with possession of tobacco product by a minor on July 22, 2002; adjudicated guilty. All sanctions have been satisfied. Charged with retail theft on November 15, 2003; charges dismissed. All sanctions have been satisfied. Charged with leaving the scene of accident with property damage on October 20, 2004; guilty – adjudication withheld. All sanctions have been satisfied. Application complete on March 27, 2012.

Motion was made by Mr. Robinson, seconded by Mr. Dennis, to approve for convictions only. Upon vote, the motion passed unanimously.

Dennisse E. Lecaro

Applicant was charged with petit theft on September 30, 2008; nolle pros. All Sanctions have been satisfied. Application complete on February 9, 2012.

J Motion was made by Mr. Robinson, seconded by Mr. Dennis, to approve for convictions only. Upon vote, the motion passed unanimously.

Justin A. Valanty

Applicant charged on April 1, 1998 with driving while intoxicated; guilty plea. All sanctions have been satisfied. Applicant charged on April 15, 2001 with driving while intoxicated; guilty plea. All sanctions have been satisfied. Application complete on March 21, 2012.

Mr. Valanty was present.

Motion was made by Mr. Riggs, seconded by Dr. Fennema, to approve for convictions only. Upon vote, the motion passed unanimously.

Carlos A. Valencia

Applicant charged with driving while license suspended/cancelled/revoked on November 1, 2001; license suspended for one (1) year, probation. All sanctions have been satisfied. Charged with petit theft on September 1, 2005; theft class, adjudication withheld. All sanctions have been satisfied. Charged with DUI on September 1, 2006; license suspended for one (1) year, DUI classes, probation. All sanctions have been satisfied. Charged with misdemeanor reckless driving on July 1, 2011; license suspended for six (6) months, counseling, DUI classes, probation. All sanctions have been satisfied. Application complete on February 9, 2012.

Mr. Valencia was present.

Mr. Valencia withdrew his application.

Jason J. Yeaman

Applicant charged with possession of marijuana over 21 grams and possession of alcohol under 21 on January 25, 1998, served 120 days in jail. All sanctions have been satisfied. Applicant charged with possession of marijuana under 21 grams on October 3, 2000, served 49 days in jail, paid fine. All sanctions have been satisfied. Applicant charged with driving while license suspended on October 10, 2004, adjudicated guilty, served six (6) months probation. All sanctions have been satisfied. Applicant charged with possession of cocaine and possession of drug paraphernalia on August 26, 2006, adjudication withheld, completed all terms of probation. All sanctions have been satisfied. Application complete on February 16, 2012.

Motion was made by Mr. Robinson, seconded by Ms. Borcheck, to deny based on good moral character F.S. 473.323 (l). Upon vote, the motion passed unanimously.

## **7. Endorsement – Considerations**

Tyler Andrew Abercrombie                      Applicant was charged with attempted obstruction of a police officer on September 14, 2002; guilty plea, 12 months court supervision, fine, court cost and five (5) days of Sheriff Work Alternative program. All sanctions have been satisfied. Applicant is deficient requirements.

Motion was made by Mr. Durkin, seconded by Ms. Caldwell, to approve. Upon vote, the motion passed unanimously.

## **8. Maintenance and Reactivation – Consent Agenda – Staff Approvals**

Motion was made by Mr. Robinson, seconded by Mr. Durkin, to approve those listed. Upon vote, the motion passed unanimously.

## **9. Maintenance and Reactivation – Requests to Reactivate**

Manuel J. Becerra                                      Mr. Becerra's license reverted to delinquent status on January 1, 2010 for failure to submit the continuing professional education (CPE) hours. His license reverted to null and void on January 1, 2012.

Mr. Becerra was present.

Motion was made by Mr. Dennis, seconded by Mr. Riggs, to approve extending the delinquent status for six (6) months in order to reactivate under the unusual hardship provision. Upon vote, the motion passed unanimously.

Marian Sue Clifford                                      Ms. Clifford's license reverted to delinquent status on January 1, 2008 for failure to submit the CPE hours, a passing score on the laws and rules exam and the license renewal fee. Her license reverted to null and void on January 1, 2010.

Motion was made by Mr. Dennis, seconded by Dr. Fennema, to approve extending the delinquent status for six (6) months in order to reactivate under the unusual hardship provision. Upon vote, the motion passed unanimously.

Moshe Edery    Mr. Edery's license reverted to delinquent status on January 1, 2005 for failure to submit the CPE hours, a passing score on the laws and rules exam

and the license renewal fee. His license reverted to null and void status on January 1, 2007

Mr. Edery was present.

Motion was made by Mr. Dennis, seconded by Mr. Durkin, to move license status to delinquent, to allow Mr. Edery to reactivate under the amnesty provision. Upon vote, the motion passed unanimously.

Jeffrey H. Foster

Mr. Foster's license reverted to delinquent status on January 1, 1997 for failure to submit the CPE hours, a passing score on the laws and rules exam and the license renewal fee. His license reverted to null and void status on January 1, 1999.

Motion was made by Mr. Dennis, seconded by Mr. Durkin, to move license status to delinquent, to allow Mr. Foster to reactivate under the amnesty provision. Upon vote, the motion passed unanimously.

### **10. Maintenance and Reactivation – Considerations (do not meet requirements)**

Cristina Conde

Ms. Conde was approved to reactivate her null and void license at the June 17, 2011 board meeting. She was given a deadline of December 17, 2011 to complete 280 continuing professional education (CPE) hours with 40 in accounting and auditing and four (4) in board approved ethics and no more than 20 in behavioral subjects. Ms. Conde has submitted certificates evidencing completion of 38 hours of CPE. Due to work constraints she is requesting additional time, until September 30, 2012, in order to complete the remaining hours.

Motion was made by Mr. Dennis, seconded by Dr. Fennema, to approve until September 30, 2012. Upon vote, the motion passed unanimously.

David E. Parker

Mr. Parker was approved to reactivate his null and void license at the October 7, 2011 board meeting. He was given a deadline of April 6, 2012 to complete 280 CPE hours with 40 in accounting and auditing and four (4) in board approved ethics and no more than 20 in behavioral subjects. Mr. Parker indicates that by the end of April he should have over 70 hours in accounting and auditing and is requesting until July 6, 2012 to complete the remaining hours.

Motion was made by Mr. Dennis, seconded by Ms. Borcheck, to approve until July 6, 2012. Upon vote, the motion passed unanimously.

## **11. Maintenance and Reactivation – Voluntary Relinquishment**

Brooks-Roberson, Constance Marie	26802
Himrod, Jeffrey D.	42027
Roberson, Linda Joyner	9580
Van Arsdall, Eleanor F.	37441
Wagoner, Richard A.	38927

Motion was made by Mr. Durkin, seconded by Mr. Robinson, to approve those listed. Upon vote, the motion passed unanimously.

## **12. Deceased Practitioners**

There was a moment of silence for those listed.

## **13. Temporary Permits**

Motion was made by Mr. Durkin, seconded by Ms. Borcheck to ratify the list on pages one (1) and two (2). Upon vote, the motion passed unanimously. Motion was made by Ms. Borcheck, seconded by Mr. Durkin, to send to enforcements those listed on page three (3). Upon vote, the motion passed unanimously.

## **14. Reports**

### **A. COMMITTEE ON ACCOUNTING EDUCATION - 3-7-2012**

Dr. Fennema reported.

Motion was made by Mr. Durkin, seconded by Ms. Caldwell to ratify the minutes. Upon vote, the motion passed unanimously.

### **B. SECOND QUARTER FINANCIALS - 3-20-2012**

Mr. Dennis reported.

Mr. Dennis informed the board that he meet with Larry Hurley the Department of Business and Professional Regulation's Chief of Finance and Accounting to discuss the Board of Accountancy's financial statement. Mr. Dennis let the board know that there are three (3) options available to the board to reduce excess dollars in the board's trust fund. The first being a \$25.00 fee holiday to include only individual licenses, the second being a \$25.00 fee holiday for individual and firm licenses, and the third \$50.00 fee holiday to include individual and firm licenses. They all require the board to notice Rule 61H1-31.001 – Fees for rule development. The board determined they would like to see this item back on the June 2012 agenda for further discussion.

Mr. Dennis let the board know that there is a problem with minority scholarships regarding the disbursement of the funds. Chapter 473.3065 states that the

money for scholarships is to be disbursed annually, however it is done biannually. Historically the Minority Assistance Program has been under spent. The board discussed reducing the amount from the renewal fees that go into the minority scholarship fund, or increase the amount of money given for the scholarships. Ms. Kelly is going to discuss with Mr. Hurley the options of reducing the amount of renewal fee that goes into this program.

#### C. PROSECUTING ATTORNEY - PROSECUTING REPORT

Mr. Hurst reported.

### 15. Administrative

#### A. RULES REPORT – ASSISTANT ATTORNEY GENERAL

Ms. Clark reported.

Ms. Clark informed the board that Rule 61H1-27.001 – College or University Requirements became effective on February 6, 2012, and at this time there are no rules under development.

#### B. OFARR OPT-IN NOTIFICATION

Motion was made by Mr. Robinson, seconded by Ms. Caldwell, to voluntarily comply with the Governors Executive Order, to cooperate with the Office of Fiscal Accountability and Regulatory Reform in reviewing rules. Upon vote, the motion passed unanimously.

#### C. RULES SUMMARY

61H1-26.002 Minimum Capitalization or Adequate Public Liability Insurance for Florida Firms with the Exception of a Sole Proprietorship

Motion was made by Ms. Caldwell, seconded by Ms. Borcheck to bring the following draft language back before the board at their June 7, 2012 meeting, and prepare a Statement of Estimated Regulatory Costs (SERC).

A Florida firm, with the exception of a sole proprietorship, shall not engage in the practice of public accounting in this state unless:

(1) Assets in excess of liabilities and professional liability insurance combined are at least equal to \$50,000 per shareholder, officer, member, or partner and any Florida licensed certified public accountant to a maximum of \$2,000,000 or

(2) It has an irrevocable letter of credit of at least equal to \$50,000 per shareholder, officer, member, or partner and any Florida licensed certified public accountant to a maximum of \$2,000,000, which meets the following criteria:

(a) The responsibility for repayment of any sums disbursed under the letter of credit is not an obligation of the Florida firm, its owners, or any entity affiliated with the Florida

firm;

(b) The letter of credit contains an “evergreen clause,” which automatically renews the letter of credit unless the issuer of the letter of credit notifies the Florida firm and the Board within sixty (60) days of the decision not to renew; and

(c) The letter of credit is issued by a financial institution authorized to do so under applicable state or federal banking laws; or

(3) No change.

~~(4) For purposes of subsection 61H1-26.002(1), F.A.C., financial statements prepared to substantiate the excess of assets over liabilities must be submitted to the Board with the application for licensure. These Financial statements must be prepared in accordance with Generally Accepted Accounting Principles and Work-in-Process may be considered as an unbilled receivable together with an appropriate evaluation allowance.~~

*Rulemaking Authority 473.304, 473.309 FS. Law Implemented 473.309 FS. History—New 12-4-79, Formerly 21A-26.02, Amended 10-20-86, Formerly 21A-26.002, Amended 11-30-93, 5-23-94, 6-10-96, 10-6-96, 12-30-97, 9-21-00, 12-10-09,\_\_\_\_\_.*

Upon vote, the motion passed unanimously.

#### 61H1-26.003 Licensure of Florida Certified Public Accountant Firms

Motion was made by Ms. Caldwell, seconded by Mr. Vogel, to approve the following language for rule development, and determined there would not be an impact on small business.

##### 61H1-26.003 Licensure of Florida Certified Public Accountant Firms.

Every Florida firm and non-Florida firm required to be licensed pursuant to Section 473.3101(1)(a), F.S., shall be certified for licensure by the Board on a biennial basis, and shall furnish its firm name, addresses and telephone numbers of main office ~~and any branch offices in Florida~~ as well as the names of all licensed professional staff and all non-licensed owners. Said firms must also disclose whether any non-certified public accountant owners have convictions or findings of guilt, regardless of adjudication, of a crime in any jurisdiction and judgment or settlements of civil lawsuits, or having been acted against including denial of licensure by any regulatory agency by a court or regulatory agency and any other matters which show a lack of good moral character. (good moral character is defined in Section 473.308(6)(a), F.S.).

*Rulemaking Authority 473.304, 473.3101 FS. Law Implemented 473.3101 FS. History—New 12-4-79, Amended 2-3-81, Formerly 21A-26.03, Amended 6-4-86, Formerly 21A-26.003, Amended 2-3-94, 12-30-97, 1-26-10,\_\_\_\_\_.*

Upon vote, the motion passed with Mr. Robinson voting no.

#### 61H1-26.004 Changes by Firms

Motion was made by Ms. Caldwell, seconded by Ms. Borcheck to bring the following draft language back before the board at their June 7, 2012 meeting, and prepare a SERC.

**61H1-26.004 Changes by Firms.**

(1) No change.

(2) In the event of the formation of a new sole proprietorship, partnership, corporation or limited liability company or a change in the name of a sole proprietorship, partnership, corporation or limited liability company, such sole proprietorship, partnership, corporation or limited liability company shall, within thirty (30) days of the event, become certified for licensure by the Board in accordance with Rule 61H1-26.003, F.A.C., and pay the license fee required by subsections 61H1-31.001(5) and (6), F.A.C.

*Rulemaking Authority 473.304, 473.3101 FS. Law Implemented 473.3101 FS. History—New 12-4-79, Amended 2-3-81, Formerly 21A-26.04, Amended 6-4-86, Formerly 21A-26.004, Amended 11-3-97, 7-16-98, 8-17-98, 1-31-05, 8-28-06, 1-26-10\_\_\_\_\_.*

Upon vote, the motion passed unanimously.

**61H1-27.0041 One Year of Work Experience**

Motion was made by Mr. Vogel, seconded by Dr. Fennema, to notice for rule development and that there would be no adverse effect on small business. Upon vote, the motion passed unanimously.

**61H1-29.003 Experience for Licensure by Endorsement**

Motion was made by Dr. Fennema, seconded by Mr. Vogel, to notice for rule development and that there would be no adverse effect on small business. Upon vote, the motion passed unanimously.

The following rules were continued until the June, 2012 board meeting.

61H1-29.002(4) & (6)	Temporary License
61H1-29.0025(3)	Temporary License – Electronic Practice
61H1-31.001	Fees
61H1-33.0032(3)(i)	Board Approval of CPA Ethics Continuing Education by Providers
61H1-33.0033(3)	Continuing Professional Education
61H1-33.006(1)	Inactive or Delinquent Florida Certified Public Accountants Who Desire to become Active Licensees

The Board discussed F.S. 455.32- Management Privatization Act. Board Members agreed to begin a feasibility study. Those that will participate in the study are; board members, Mr. Marshall Gunn, and Mr. James Thielen.

**D. BOARD OF ACCOUNTANCY STATISTICS**

This was an informational item.

**E. CONSIDER BOARD'S POSITION - ARTICLE ON PRIVATE COMPANY FINANCIAL STANDARDS**

This was continued until the June board meeting.

F. DISCUSSION REGARDING TURBO TAX

The board discussed whether or not Turbo Tax and other similar companies that are advertising in Florida are meeting the mobility requirements. Staff was instructed to send a letter checking on their services, and if they are not meeting mobility requirements a preliminary investigation will be opened.

G. REMARKS FROM EXECUTIVE DIRECTOR

Ms. Kelly reported.

Ms. Kelly discussed the various NASBA Committees, and if the board wanted to support Dr. Charles Calhoun.

Motion was made by Mr. Durkin, seconded by Dr. Fennema, to continue and support Dr. Calhoun in his endeavors with NASBA. Upon vote, the motion passed unanimously.

**16. NASBA**

A. 11Q4 STATE BOARD SUMMARY

This was an informational item.

B. CALL FOR 2012 AWARDS COMMITTEE NOMINATIONS

This was an informational item.

C. CALL FOR NASBA BOARD OF DIRECTORS AND  
NOMINATING COMMITTEE; 2012-2014

This was an informational item.

D. CPA EXAMINATION - REVISED RETEST POLICY

This was an informational item.

E. HR3606-S1933 (JOBS ACT)

This was an informational item.

F. RELEASE OF PEER REVIEW OVERSIGHT REPORTS

This was an informational item.

G. VICE CHAIR ANNOUNCEMENT; 2012-2013

This was an informational item.

**17. FICPA**

A. DISCUSSION

Mr. Johnson was present for this item along with Ms. Green. Both Mr. Johnson and Ms. Green participated in the dialog regarding rules updates, privatization issues, and the minority scholarship program.

**18. AICPA**

A. AICPA PRESIDENT'S MARCH 28, 2012 TESTIMONY TO CONGRESS

This was an informational item.

**19. Other Business**

There was none at this time.

**20. Future Meetings**

This was an informational item.

**21. Adjourn**

Meeting was adjourned at 12:57 p.m.

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Cynthia Borders-Byrd, Chair