

November 3 – 4, 2016
Board of Accountancy

Tampa Westshore Marriott
Tampa, Florida

Thursday, November 3, 2016

The meeting was called to order at 1:00 p.m. The Pledge of Allegiance was recited; Introduction of Board; the roll was called by Veloria Kelly, Division Director, and reflected the following persons present:

BOARD MEMBERS		STAFF	
Cynthia Borders-Byrd	Present	Veloria Kelly	Present
Maria E. Caldwell	Excused Absence	Denise Graves	Present
David L. Dennis	Present		
M.G. Fennema	Present		
Tracy Keegan	Present		
James Lane	Present		
Steve Riggs	Present		
Eric Robinson	Present		
H. Steven Vogel	Present		

Mary Ellen Clark, Senior Assistant Attorney General and Board Counsel was present. C. Erica White, Chief Attorney, Department of Business and Professional Regulation; Rosanna Bronhard, Senior Attorney, Department of Business and Professional Regulation was present. Court Reporter was Rob Darling.

2. OGC Final Action

A. Brandenburg, Clement 2015-028548

Mr. Dennis, Ms. Keegan and Mr. Robinson were recused.

Dr. Fennema chaired.

Ms. Dilla, attorney for Mr. Brandenburg was present.

Motion was made by Mr. Riggs, seconded by Ms. Borders-Byrd, to reject stipulation. Counter offer was made by Mr. Riggs, seconded by Ms. Borders-Byrd, to impose a fine of \$2,500.00 and administrative costs of \$237.83, to be due within thirty (30) days of Final Order, Reprimand, licensee shall complete the sixteen (16) hours of CPE in Accounting and Auditing, which may not count towards the re-establishment period, Pre-issuance review and shall not be permitted to issue any work product in the area of Auditing and/or Attestation until review has been completed. Ms. White informed Board that Respondent has had a pre-issuance review, and shall submit to the Board office within thirty (30) days of Final order entry. Both Respondent and the consultant shall appear before the Board immediately following submission of the report and the Respondent must submit written request and appear before the Board prior to termination of practice restriction. Count three (3) of the Administrative Complaint is dismissed. Upon vote, the motion passed unanimously.

B. Byrd-Compton, Jessica 2015-026662

Case continued to the January meeting.

C. Cecere, Michael 2015-028655

Mr. Dennis, Ms. Keegan and Mr. Robinson were recused.

Dr. Fennema chaired.

Mr. Cecere was present.

Motion was made by Mr. Riggs, seconded by Mr. Vogel, to reject stipulation. Counter offer was made by Mr. Riggs, seconded by Dr. Fennema, to impose a fine of \$1,500.00 and administrative costs of \$135.11, to be due within thirty (30) days of Final Order, Reprimand, submit proof of enrollment in peer review within thirty (30) days of Final Order, licensee shall complete the sixteen (16) hours of CPE in Accounting and Auditing within ninety (90) days of Final Order, which may not count towards the re-establishment period, Respondents professional practice shall be reviewed for any services specified in 473.302(8)(a) F.S., within six (6) months entry of the Final Order and the next employee benefit plan shall be subject to a pre-issuance review by a Board approved consultant. The consultant shall submit a written report to the Board office at the conclusion of the practice review. Upon vote, the motion passed with Mr. Vogel opposing.

Mr. Cecere accepted the counter stipulation.

D. Levinson, Marc 2015-028714

Mr. Dennis, Mr. Robinson and Ms. Keegan were recused.

Dr. Fennema chaired.

Mr. Levinson and Mr. Tornincasa, Esquire was present.

Motion was made by Mr. Riggs, seconded by Ms. Borders-Byrd, to accept stipulation. Upon vote, the motion passed unanimously.

E. Puissegur, Frank 2015-028793

Mr. Dennis, Ms. Borders-Byrd and Ms. Keegan were recused.

Dr. Fennema chaired.

Motion was made by Mr. Riggs, seconded by Mr. Robinson, that Respondent waived their right to request a hearing in which there is a disputed issue of material fact, because he failed to file an Election of Rights form, or otherwise established a disputed issue of material fact pursuant to Rule 28-106.111, F.A.C. Upon vote, the motion passed unanimously. Motion was made to adopt the allegations of fact and conclusions of law in the Administrative Complaint as the findings of fact, and conclusion of law of the Board. Upon vote, the motion passed unanimously. Motion was made by Mr. Lane, seconded by Mr. Riggs, to impose a fine of \$1,000.00 and administrative costs of \$301.78, to be due within thirty (30) days of Final Order and Reprimand. Upon vote, the motion passed unanimously.

F. Dircks, Tommi Gene 2015-032518

Mr. Dennis, Ms. Keegan and Mr. Robinson were recused.

Dr. Fennema chaired.

Motion was made by Mr. Riggs, seconded by Ms. Borders-Byrd, to acknowledge that Respondent requested through Election of Rights form to have a hearing not involving any disputed issues of material fact. Upon vote, the motion passed unanimously. Motion was made Mr. Lane, seconded by Ms. Borders- Byrd, to adopt the allegations of fact and conclusions of law in the Administrative Complaint as the findings of fact, and conclusions of law of the Board. Upon vote, the motion passed unanimously. Motion was made by Mr. Riggs seconded by Mr. Lane, to impose a fine of \$1,200.00 and administrative costs of \$228.12, to be due within thirty

(30) days of Final Order, Reprimand and suspension until corrected. Upon vote, the motion passed unanimously.

G. Tarras, William Joseph 2014-039956

Mr. Dennis, Ms. Keegan and Mr. Robinson were recused.

Dr. Fennema chaired.

Motion was made by Mr. Riggs, seconded by Ms. Borders-Byrd, to accept stipulation. Upon vote, the motion passed unanimously.

H. Wieselthier, Marc 2015-050619

Mr. Tornincasa, Esquire was present.

Mr. Dennis, Ms. Keegan and Mr. Robinson were recused.

Dr. Fennema chaired.

Motion was made by Mr. Riggs, seconded by Ms. Borders-Byrd, to acknowledge that Respondent requested through Election of Rights form to have a hearing not involving any disputed issues of material fact. Motion was made Mr. Riggs, seconded by Ms. Borders- Byrd, to adopt the allegations of fact and conclusions of law in the Administrative Complaint as the findings of fact, and conclusions of law of the Board. Upon vote, the motion passed unanimously. Motion was made by Mr. Lane seconded by Ms. Borders-Byrd, to impose revocation. Upon vote, the motion passed unanimously.

I. Adams, Edward A. 2016-005957

Ms. Borders-Byrd, Ms. Keegan and Mr. Lane recused.

Motion was made by Mr. Riggs, seconded by Mr. Robinson, to accept stipulation of Voluntary Relinquishment of license, with no leave to ever reapply as a Certified Public Accountant in the State of Florida. Upon vote, the motion passed unanimously.

J. Bradley, Deborah A. 2015-047829

Ms. Borders-Byrd, Ms. Keegan and Mr. Lane were recused.

Ms. Bradley was present.

Motion was made by Mr. Riggs, seconded by Mr. Robinson, to acknowledge that Respondent requested through Election of Rights form to have a hearing not involving any disputed issues of material fact. Motion was made Mr. Riggs, seconded by Mr. Robinson, to adopt the allegations of fact and conclusions of law in the Administrative Complaint as the findings of fact, and conclusions of law of the Board. Upon vote, the motion passed unanimously. Motion was made by Mr. Riggs seconded by Mr. Robinson, to impose a fine of \$2,000.00, to be due within twelve (12) months of Final Order and administrative costs of \$235.61, to be due within thirty (30) days of Final Order, Respondent shall complete eighty (80) CPE hours plus eighty (80) penalty hours for a total of one hundred sixty (160) CPE hours for the 2012-2014 re-establishment period and Respondent shall submit proof of CPE compliance for 2014-2016 and 2016-2018 re-establishment periods. Also, complete one (1) additional hour in Accounting and Auditing and four (4) additional hours in Florida Board Approved Ethics for the 2012-2014 period by December 31, 2016. The CPE penalty hours may not count towards the regular eighty (80) hours CPE requirement. Upon vote, the motion passed with Dr. Fennema and Mr. Vogel opposing.

J. Bradley, Deborah A. 2015-047829

Ms. Borders-Byrd, Ms. Keegan and Mr. Lane were recused.

Ms. Bradley was present.

Motion was made by Dr. Fennema seconded by Mr. Robinson, to reconsider the previous penalty imposed for Ms. Bradley. Upon vote, the motion passed unanimously. Motion was made by Mr. Riggs seconded by Dr. Fennema, to impose a fine of \$2,000.00, to be due within twenty four (24) months of Final Order and administrative costs of \$235.61, to be due within thirty (30) days of Final Order and the other previous penalties remain unchanged. Upon vote, the motion passed unanimously.

K. Hammatt, Kristine 2016-011020

The case was continued to the December meeting.

L. Lim, Sanghee Olivia 2015-002303

Mr. Dennis, Ms. Keegan and Mr. Robinson were recused.

Dr. Fennema chaired.

Motion was made by Mr. Riggs, seconded by Ms. Borders-Byrd, to acknowledge that Respondent requested through Election of Rights form to have a hearing not involving any disputed issues of material fact. Upon vote, the motion passed unanimously. Motion was made Mr. Riggs, seconded by Ms. Borders-Byrd, to adopt the allegations of fact and conclusions of law in the Administrative Complaint as the findings of fact, and conclusions of law of the Board. Upon vote, the motion passed unanimously. Motion was made by Mr. Riggs seconded by Ms. Borders-Byrd, to impose a fine of \$2,000.00 and administrative costs of \$235.61, to be due within thirty (30) days of Final Order, Suspension until all deficient and penalty CPE hours are completed. Respondent shall complete the eighty (80) makeup/missing CPE hours plus eighty (80) penalty hours for a total of one hundred sixty (160) CPE hours and submit proof of those hours for the 2011-2013 re-establishment period, and Respondent shall submit proof of CPE compliance for 2013-2015 and 2015-2017 re-establishment periods. The CPE penalty hours may not count towards the regular eighty (80) hours CPE requirement. Upon vote, the motion passed unanimously.

M. Moscow, Louisa Cheng 2015-028713

Mr. Dennis, Ms. Keegan and Mr. Robinson were recused.

Dr. Fennema chaired.

Ms. Moscow and Mr. Chauncey, Esquire was present.

Motion was made by Mr. Riggs, seconded by Ms. Borders-Byrd, to acknowledge that Respondent waived their right to request a hearing in which there is a disputed issue of material fact. Upon vote, the motion passed unanimously. Motion was made to adopt the allegations of fact and conclusions of law in the Administrative Complaint as the findings of fact, and conclusion of law of the Board. Upon vote, the motion passed unanimously. Motion was made by Mr. Riggs, seconded by Ms. Borders-Byrd, to impose a fine of \$2,500.00 and administrative costs of \$192.16, to be due within thirty (30) days of Final Order. Reprimand, practice restricted to areas other than services as provided in section 473.302(8)(a) F.S. If in the future Respondent desires to have this restriction lifted, Respondent shall submit a written request to the Board, together with satisfactory evidence of having completed sixty (60) hours of continuing professional education in the area of accounting and auditing. The hours required herein shall be in addition to those required for regular renewals and shall not be eligible for use toward meeting the requirements of any reestablishment period. Respondent shall personally appear before the Board at the time her request to have the practice restriction lifted is considered. Upon vote, the motion passed with Mr. Lane and Dr. Fennema opposing.

N. Otto, Evelyn Lung 2015-000961

Mr. Dennis, Ms. Keegan and Mr. Robinson were recused.

Dr. Fennema chaired.

Motion was made by Mr. Riggs, seconded by Mr. Lane, to accept stipulation of Voluntary Relinquishment of license, with no leave to ever reapply as a Certified Public Accountant in the State of Florida. Upon vote, the motion passed unanimously.

O. Nelson, Brett Gardner

2015-002965

Mr. Dennis, Ms. Keegan and Mr. Robinson were recused.

Dr. Fennema chaired.

Motion was made by Mr. Riggs, seconded by Ms. Borders-Byrd, that Respondent waived their right to request a hearing in which there is a disputed issue of material fact, because he failed to file an Election of Rights form, or otherwise established a disputed issue of material fact pursuant to Rule 28-106.111, F.A.C. Upon vote, the motion passed unanimously. Motion was made Mr. Riggs, seconded by Ms. Borders-Byrd, to adopt the allegations of fact and conclusions of law in the Administrative Complaint as the findings of fact, and conclusions of law of the Board. Upon vote, the motion passed unanimously. Motion was made by Mr. Riggs seconded by Mr. Lane, to impose a fine of \$1,000.00 and administrative costs of \$237.14, to be due within thirty (30) days of Final Order. Respondent shall complete thirty (30) makeup/missing penalty CPE hours plus thirty (30) penalty hours for a total of sixty (60) CPE hours and submit proof of those hours for the 2011-2013 re-establishment period, and license shall be suspended until completion of outstanding CPE hours have been completed. Submit proof of CPE compliance for 2013-2015 and 2015-2017 re-establishment periods. The CPE penalty hours may not count towards the regular eighty (80) hours CPE requirement. Upon vote, the motion passed unanimously.

P. Pinchock, Wanda

2015-002448

Mr. Dennis, Ms. Keegan and Mr. Robinson were recused.

Dr. Fennema chaired.

Motion was made by Mr. Riggs, seconded by Mr. Lane, that Respondent waived their right to request a hearing in which there is a disputed issue of material fact, because she failed to file an Election of Rights form, or otherwise established a disputed issue of material fact pursuant to Rule 28-106.111, F.A.C. Upon vote, the motion passed unanimously. Motion was made to adopt the allegations of fact and conclusions of law in the Administrative Complaint as the findings of fact, and conclusion of law of the Board. Upon vote, the motion passed unanimously. Motion was made by Mr. Riggs, seconded by Ms. Borders-Byrd, to impose a fine of \$2,000.00 and administrative costs of \$276.98, to be due within thirty (30) days of Final Order, Reprimand, Respondent shall complete the eighty (80) makeup/missing penalty CPE hours plus eighty (80) penalty hours for a total of one hundred sixty (160) CPE hours and submit proof of those hours, license shall be suspended until completion of outstanding CPE and penalty hours for the 2011-2013 re-establishment period, and submit proof of having completed all required hours of CPE compliance for 2013-2015, and 2015-2017 re-establishment periods. The CPE penalty hours may not count towards the regular eighty (80) hours CPE requirement. Upon vote, the motion passed unanimously.

Q. Travez, Mark Steven

2015-002504

Mr. Dennis, Ms. Keegan and Mr. Robinson were recused.

Dr. Fennema chaired.

Motion was made by Mr. Riggs, seconded by Mr. Lane, that Respondent waived their right to request a hearing in which there is a disputed issue of material fact, because he failed to file an Election of Rights form, or otherwise established a disputed issue of material fact pursuant to Rule 28-106.111, F.A.C. Upon vote, the motion passed unanimously. Motion was made to adopt the allegations of fact and conclusions of law in the Administrative Complaint as the findings of fact, and conclusion of law of the Board. Upon vote, the motion passed unanimously. Motion was made by Mr. Riggs, seconded by Mr. Lane, to impose a fine of \$500.00 and administrative costs of \$287.42, to be due within thirty (30) days of Final Order, Respondent shall complete the sixteen (16) makeup/missing penalty CPE hours plus twenty (20) penalty hours for a total of thirty-six (36) CPE hours and submit proof of those hours within ninety (90) days of Final Order and submit proof of having completed all required hours of CPE compliance for 2013-2015, and 2015-2017 re-establishment periods. The CPE penalty hours may not count towards the regular eighty (80) hours CPE requirement. Upon vote, the motion passed unanimously.

R. Camilo, Victoria 2015-017352

Mr. Dennis, Ms. Keegan and Mr. Robinson were recused.

Dr. Fennema chaired.

Motion was made by Mr. Riggs, seconded by Ms. Borders-Byrd, that Respondent waived their right to request a hearing in which there is a disputed issue of material fact, because he failed to file an Election of Rights form, or otherwise established a disputed issue of material fact pursuant to Rule 28-106.111, F.A.C. Upon vote, the motion passed unanimously. Motion was made by Mr. Riggs, seconded by Ms. Borders-Byrd, to adopt the allegations of fact and conclusions of law in the Administrative Complaint as the findings of fact, and conclusion of law of the Board. Upon vote, the motion passed unanimously. Motion was made by Mr. Lane, seconded by Mr. Riggs, to dismiss the Administrative Complaint and no penalty imposed. Upon vote, the motion passed unanimously.

S. Worley, Michelle S. 2015-002524

Mr. Dennis, Ms. Keegan and Mr. Robinson were recused.

The case was continued until the February meeting.

14. Reports

A. Prosecuting Attorney Report

Ms. White reported.

Ms. White gave the Board stats on how many licensed and unlicensed cases are under investigation as well as how many are being reviewed by legal.

The meeting was recessed at 4:34 p.m. by Mr. Dennis.

Friday, November 4, 2016

The meeting was reconvened at 8:30 a.m. The Pledge of Allegiance was recited; Introduction of Board; the roll was called by Veloria Kelly, Division Director, and reflected the following persons present:

BOARD MEMBERS
Cynthia Borders-Byrd

Present

STAFF
Veloria Kelly

Present

Maria E. Caldwell	Present	Denise Graves	Present
David L. Dennis	Present		
M.G. Fennema	Present		
Tracy Keegan	Present		
James Lane	Present		
Steve Riggs	Present		
Eric Robinson	Excused Absence		
H. Steven Vogel	Present		

Mary Ellen Clark, Senior Assistant Attorney General and Board Counsel was present. Rosanna Bronhard, Senior Attorney; Department of Business and Professional Regulation, was present. Court Reporter was Rob Darling.

1. Approve Board Minutes

- A. September 22-23, 2016

Motion was made by Ms. Keegan seconded by Ms. Borders-Byrd, to approve minutes. Upon vote, the motion passed unanimously.

3. Petition for Variance or Waiver

- A. Bune, Myroslava

Ms. Bune was present.

Motion was made by Mr. Lane, seconded by Mr. Keegan, to grant the Petition for Variance or Waiver for permanent variance based on petitioner completed thirty three (33) hours instead of fifteen (15) hours graduate level courses. Twenty one (21) hours were completed post baccalaureate degree including a three (3) hour tax course that was deemed as upper level. Upon vote, the motion passed with Dr. Fennema opposing.

- B. Feist, Tella Babadi

Motion was made by Mr. Riggs, seconded by Ms. Borders-Byrd, to grant the Petition for Variance or Waiver for permanent variance. Upon vote, the motion passed unanimously.

- C. Jones, William D.

Motion was made by Ms. Keegan, seconded by Ms. Borders-Byrd, to grant the Petition for Variance or Waiver for permanent variance. Upon vote, the motion passed unanimously.

- D. Owi, Simon

Mr. Owi was present.

Motion was made by Ms. Caldwell, seconded by Mr. Riggs, to grant the Petition for Variance or Waiver for permanent variance. Upon vote, the motion passed unanimously.

4. Reconsiderations

- A. Perez, Frank

Mr. Perez and Mr. Kalish, Esquire was present.

Mr. Perez withdrew his motion for petition for reconsideration at the meeting.

5. Exams – Considerations

A. Anderson, Lesley

Motion was made by Ms. Borders-Byrd, seconded by Ms. Caldwell, to request the applicant waive the 90 day requirement and appear before the Board. If the applicant does not waive the 90 day requirement, the application will be denied based on F.S. 473.323(3)(a). Upon vote, the motion passed unanimously.

B. Bargraser, David Jose

Mr. Bargraser was present.

Motion was made by Dr. Fennema, seconded by Ms. Borders-Byrd, to approve for convictions only. Upon vote, the motion passed unanimously.

C. Hall-Mena, Stanley

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

D. Hanson, Ginger

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

E. Irick, Andrew

Mr. Irick was present.

Motion was made by Mr. Lane, seconded by Mr. Riggs, to approve for convictions only. Upon vote, the motion passed with Mr. Vogel and Dr. Fennema opposing.

F. Rinder, Larry

Motion was made by Ms. Borders-Byrd, seconded by Ms. Caldwell, to request the applicant appear before the Board. If the applicant does not appear, the application will be denied based 473.323(1)(c). Upon vote, the motion passed unanimously.

G. Rodriguez, Tracy

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

H. Spidel, Misty

Ms. Spidel was present.

Motion was made by Dr. Fennema, seconded by Mr. Dennis, to approve to sit for exam, not convictions. When applicant applies for licensure, all background material must go before the Board for approval. Upon vote, the motion passed unanimously.

I. Sudusky, Zachary T.

Mr. Sudusky was present.

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

J. Tribble, William Clayton

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

6. Exams – Do Not Met Requirements

A. Barker, Kayla

Ms. Barker was present.

Ms. Barker withdrew her applicant from the agenda.

7. Endorsements – Considerations

A. Keppel, Grant G.

Motion was made by Ms. Caldwell, seconded by Ms. Borders-Byrd, to approve for convictions only. Upon vote, the motion passed unanimously.

B. Sklar, Jeffrey Scott

Mr. Sklar was present.

Motion was made by Ms. Caldwell, seconded by Ms. Borders-Byrd, to approve for convictions only. Upon vote, the motion passed unanimously.

8. Maintenance And Reactivation - Staff Approvals

Motion was made by Ms. Borders-Byrd, seconded by Ms. Keegan, to approve those listed. Upon vote, the motion passed unanimously.

9. Maintenance And Reactivation – Considerations

A. Celorio, Ricardo

Mr. Celorio was present.

Motion was made by Ms. Caldwell, seconded by Ms. Keegan, to approve for reactivation and extend the deadline to September 30, 2016. Upon vote, the motion passed unanimously.

10. Maintenance And Reactivation – Requests to Reactivate

Item removed from agenda

11. Maintenance And Reactivation - Voluntary Relinquishment

Motion was made Ms. Keegan, seconded by Mr. Riggs, to approve those listed. Upon vote, the motion passed unanimously.

12. Deceased Practitioners

There was a moment of silence.

13. Temporary Permits

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

14. Reports

A. Committee on Accounting Education Meeting Minutes September 6, 2016

Motion was made by Ms. Keegan, seconded by Mr. Riggs, to ratify the recommendations of the Committee. Upon vote, the motion passed unanimously.

D. Rules Report – Assistant Attorney General

Ms. Clark informed the Board; because all rulemaking previously in progress had been completed at the time of the last report in September, 2016, there was nothing new for a rules report.

Rules for Discussion

a) 61H1-27.0041 One Year of Work Experience

61H1-27.0041 One Year of Work Experience.

(1) With the exception of an applicant who completes the requirements of Section 473.308(3), F.S., on or before December 31, 2008, and who passes the licensure examination on or before June 30, 2010, an applicant must document one year of work experience. One year of work experience shall be held and understood to mean the provision of any type of service or advice involving the use of accounting, attest, compilation, management advisory, financial advisory, tax, or consulting skills as verified by the verifying certified public accountant, commencing after the completion of 120 semester or ~~180~~ 160 quarter hours from an accredited college or university with a concentration in accounting and business courses or after the applicant has passed the licensure examination in another state or territory of the United States and has either been licensed as a certified public accountant or has met licensing requirements for that state or territory. The experience must either average at least twenty (20) hours a week over no more than one hundred and four (104) weeks or average no more than forty (40) hours a week over no more than fifty-two (52) weeks. Reasonable vacation time and sick leave or other required absences may be permitted. The verifying certified public accountant, in her or his report to the Department, shall verify that the applicant rendered such services for a minimum of 2,000 hours gained over a period of not less than fifty-two (52) or more than one hundred and four (104) weeks. The sequence of the experience is considered immaterial, that is, whether the experience was secured before or after taking the examination, or partly before the examination and partly after the examination, provided the two periods combined equal at least one year.

Motion was made by Ms. Caldwell, seconded by Ms. Borders-Byrd, to notice and approve text presented. Upon vote, the motion passed unanimously. Motion was made by Dr. Fennema, seconded by Ms. Borders-Byrd, that the proposed rule would not have an adverse impact on small business or likely to directly or indirectly increase regulatory cost to any entity (including government) in excess of \$200,000 in the aggregate in Florida within one year after the implementation of the rule. Upon vote, the motion passed unanimously.

b) 61H1-36.004 Disciplinary Guidelines; Range of Penalties; Aggravating and Mitigating Circumstances

61H1-36.004 Disciplinary Guidelines; Range of Penalties; Aggravating and Mitigating Circumstances.

(1)(a) The board sets forth below a range of disciplinary guidelines from which disciplinary penalties will be imposed upon practitioners guilty of violating Chapter 473, F.S. The purpose of the disciplinary guidelines is to give notice to licensees of the range of penalties which will normally be imposed upon violations of particular provisions of Chapter 473, F.S. The disciplinary guidelines are based upon a single count violation of each

provision listed. The brief description of each violation is provided for quick reference and is not meant to convey all elements of any given statutory provision; the full language of each statutory provision cited must be consulted in order to determine the conduct involved. All penalties at the upper range of the sanctions set forth in the guidelines, i.e., suspension, revocation, etc., include lesser penalties, i.e., fine, probation or reprimand which may be included in the final penalty at the board's discretion.

(b) Standard probationary terms will include, as applicable, a review of the licensee's practice, including analysis of selected financial statements (including working papers), restriction of the scope of the licensee's practice and review of internal controls put in place by the licensee in order to eliminate the violation. All of the above will usually include the use of a CPA consultant employed by the Department of Business and Professional Regulation or approved by the Board and will usually require the licensee to assume the cost of the consultant's activities. Additional continuing education may also be required of a licensee where deficiencies in a particular practice area are noted. In all cases of probation or suspension a report showing compliance with the terms of the final order must be received and accepted by the Board prior to the termination of the probation or suspension. Other specific terms of probation or suspension may be imposed, as necessary, by the Board.

(2) The following disciplinary guidelines shall be followed by the board in imposing disciplinary penalties upon licensees for violation of the below mentioned statutes and rules:

VIOLATION	PENALTY RANGE	
	MINIMUM	MAXIMUM
(a) Attempting to procure license by bribery or fraudulent misrepresentation (Sections 455.227(1)(h), 473.323(1)(b), F.S.)	Revocation and \$5,000 fine if licensed (denial of license and refer to State Attorney if not licensed)	
(b) CPA License disciplined by another jurisdiction (Sections 455.227(1)(f), 473.323(1)(c), F.S.)	Same penalty as imposed in other jurisdiction or imposition of same range of penalties as those set forth in those rules for the same type of violation.	
(c) Criminal conviction relating to accountancy (Sections 455.227(1)(c), 473.323(1)(d), F.S.)	Misdemeanor: Reprimand	Reprimand and \$5,000 fine
		one (1) year suspension and two (2) year probation
	Felony: One (1) year suspension; two (2) year probation	Revocation and \$5,000 fine
	\$5,000 fine	
(d) Knowingly making or filing false report (Sections 455.227(1)(g), (1)(l), 473.323(1)(e), F.S.)	Reprimand one (1) year probation	Revocation and \$5,000 fine Reprimand, one (1) year
(e) Fraudulent, false, deceptive or misleading advertising (Section 473.323(1)(f), F.S., Rule 61H1-24.001, F.A.C.)	\$250 fine	probation and \$5,000 fine
(f) Incompetence (mental or physical	Suspension until ability to	

impairment)	practice	
(Section 473.323(1)(g), F.S.)	proved, followed by probation	
(Rule 61H1-36.001(3), F.A.C.)		
(g) Fraud, deceit or misleading (Sections 455.227(1)(a), (m), 473.323(1)(g), (k), F.S.)	Reprimand, one (1) year suspension; two (2) years probation and \$5,000 fine	\$5,000 fine and revocation
(h) Negligence or misconduct	\$250 fine	Reprimand and one (1) year
		probation (continuing education
		and review of practice at
1. Technical standards and professional competence		licensee's expense and limited area of practice)
(Sections 455.227(1)(o), 473.315, F.S.; Rule 61H1-21.006 and Chapter 61H1-22, F.A.C.)		
2. Lack of independence	Reprimand,	Reprimand, one (1) year
(Sections 473.315, 473.319, 473.3205, F.S.; Rule 61H1-21.001, F.A.C.)	one (1) year probation with review of practice and continuing education	suspension, two (2) years probation and review of practice and continuing education
3. Commissions and contingent fees	Reprimand	One (1) year suspension,
(Rules 61H1-21.001, 61H1-21.003, 61H1- 21.005, F.A.C.)		two (2) years probation \$5,000 fine
4. Client records disposition	\$250 fine	Suspension until records are
(Rule 61H1-23.002, F.A.C.)		returned
(i) Practicing on suspended or revoked license	Revoke if previously suspended;	
(Section 473.323(1)(i), F.S.)	refer to State Attorney if previously	
	revoked	
(j) Practicing on inactive or delinquent license	Reprimand and fine based on length	
(Sections 455.271, 473.323(1)(i), F.S.)	of time in practice while inactive;	
	\$100/month or \$5,000 maximum (penalty will require licensure or cease practice)	
(k) Licensees practicing in an unlicensed firm	Reprimand and \$100 per maximum	
(including sole proprietors) or otherwise in	of \$5,000 and suspension of right	
violation of Sections 473.309, 473.3101, and	to practice until corrected	
473.323(1)(g), F.S.; Rule 61H1-26.001, F.A.C.		
(l) Suspension of right to practice in front of any	Same penalty as imposed by agency	
state or federal agency	or imposition of same range of	
(Sections 455.227(1)(f), 473.323(1)(j), F.S.)	penalties as those set forth in those	

	rules for the same type of violation	
(m) Lack of Good Moral Character (Section 473.323(1)(l), F.S.)	Reprimand; and one year probation	Revocation
(n) Failure to pay fines or administrative cost imposed by final order or citations set for in Rule 61H1-36.005, F.A.C.	\$100 per month late fee for every month the licensee is late to a maximum of \$5,000	Revocation
(o) Violation of CE requirements (Section 473.323(1)(a) by 473.312 or 473.323(1)(h), 455.227(1)(q), F.S., by Rule 61H1-33.003 and/or 61H1-33.0035, F.A.C.)	Reprimand, probation, make up missed CEs and penalty CEs	Suspension and \$1,000 fine
(p) Violation of client Confidentiality (Section 473.323(1)(a) or 455.227(1)(q), F.S., by Rule 61H1-23.001, F.A.C.)	Reprimand, probation, and \$1,000 fine	Suspension and \$5,000 fine
(q) Misleading or deceptive name (Section 473.323(1)(a) by 473.321, F.S.)	Reprimand, probation, and \$1,000 fine	Suspension and \$5,000 fine
(r) Violation of Sections 473.323(1)(a) by 473.322, F.S.:		
1. Present license of another as one's own (Section 473.322(1)(d), F.S.)	Reprimand, probation, and \$1,000 fine	Suspension and \$5,000 fine
2. Give false or forged evidence to Board or member thereof (Section 473.322(1)(e), F.S.)	Reprimand, probation, and \$1,000 fine	Revocation and \$5,000 fine
3. Use or attempt to use license that has been suspended, revoked, or placed on inactive or delinquent status (Section 473.322(1)(f), F.S.)	Reprimand, probation, and \$1,000 fine	Revocation and \$5,000 fine
4. Employ unlicensed persons to practice public accounting; aiding or assisting unlicensed practice public accounting (Section 473.322(1)(g), F.S.)	Reprimand, probation, and \$1,000 fine	Suspension and \$5,000 fine
5. Conceal information relative to violations of Chapter 473, F.S. (Section 473.322(1)(h), F.S.)	Reprimand, probation, and \$1,000 fine	Suspension and \$5,000 fine
(s) Failure to provide legally-required written disclosure to client or public (violation of Section 473.323(1)(m), F.S.)	Reprimand, probation, and \$1,000 fine	Suspension and \$5,000 fine
(t) Violation of Section 473.323(1)(a) by 455.227(1), F.S.:		
1. Improper influence on client (Section 455.227(1)(n), F.S.)	Reprimand, probation, and \$1,000 fine	Revocation and \$5,000 fine
2. Improper delegation of professional responsibilities (Section 455.227(1)(p), F.S.)	Reprimand, probation, and \$1,000 fine	Suspension and \$5,000 fine
3. Improper interference with investigation or disciplinary proceeding (Section 455.227(1)(r), F.S.)	Reprimand, probation, and \$1,000 fine	Revocation and \$5,000 fine
4. Failure to perform statutory/legal obligations (Section 455.227(1)(k), F.S.)	Reprimand, probation and \$1,000 fine	Suspension and \$1,000 fine
(u) Failure to maintain current address (violation of Sections 455.275, 455.227(1)(q), and 473.323(1)(h), F.S., by violating Rule 61H1-26.005, F.A.C.)	Reprimand and \$500 fine	Suspension and \$1,000 fine

(v) Standards for assembly of financial statements (violation of Sections 455.227(1)(q) and 473.323(1)(h), F.S., by Rule 61H1-20.0053, F.A.C.)	Reprimand, probation, and \$1,000 fine	Suspension and \$5,000 fine
(w) Violation of Sections 473.323(1)(h) and 455.227(1)(q), F.S., by Rule 61H1-25.001, F.A.C. Same as subparagraph (t)2.	Reprimand, probation, and \$1,000 fine	Suspension and \$5,000 fine
(x) Minimum capital (violation of and Sections 455.227(1)(q) and 473.323(1)(h), F.S., by Rule 61H1-26.002, F.A.C.)	Reprimand, probation, \$1,000 fine and corrective action. Must document required capital	Suspension and \$5,000 fine
(y) Licensure of firm names and changes (violation of Sections 455.227(1)(q) and 473.323(1)(h), F.S., by Rules 61H1-26.003 and 61H1-26.004, F.A.C.)	Reprimand, probation, \$100/month fine and corrective action. Must document licensure	Suspension and \$5,000 fine
(z) Failure to report discipline violation (Section 455.227(1)(i), F.S.)	Reprimand, probation, and \$1,000 fine	Suspension and \$5,000 fine
(aa) Failure to timely report being convicted or found guilty of, or entering a plea of nolo contendere or guilty to, regardless of adjudication, a crime in any jurisdiction (more than 30 days late) (Section 455.227(1)(t), F.S.)	Reprimand	Suspension and \$5,000 fine
(bb) Failure to obtain continuing professional education hours (Section 473.312, F.S., Rule 61H1-33.003, F.A.C.)		
First Offense		
NUMBER OF HOURS LACKING		
1 to 16 hours	\$500 fine, makeup missing hours plus 20 additional penalty hours, in same category as those missed, if missing hours are ethics, penalty hours would consist of accounting/auditing, within 90 days of final order, must submit proof of compliance for next two renewal periods	\$1,000 fine, makeup missing hours plus 20 additional penalty hours, in same category as those missed, if missing hours are ethics, penalty hours would consist of accounting/auditing, within 90 days of final order, must submit proof of compliance for next two renewal periods
17 to 80 hours	\$1,000 fine, makeup missing hours plus additional penalty hours equal to the number of those missed, within same category as those missed, suspension until all hours are completed, must submit proof of compliance for next two renewal periods	<u>Suspension</u> , \$2,000 fine, makeup missing hours plus additional penalty hours equal to the number of those missed, within same category as those missed, suspension until all hours are completed , must submit proof of compliance for next two renewal periods

Second Offense		
NUMBER OF HOURS LACKING		
1 to 16 hours	\$500 fine, makeup missing hours plus 20 additional penalty hours, in same category as those missed, if missing hours are ethics, penalty hours would consist of accounting/auditing, suspension until all hours are completed, must submit proof of compliance for next two renewal periods	\$1,000 fine, makeup missing hours plus 20 additional penalty hours, in same category as those missed, if missing hours are ethics, penalty hours would consist of accounting/auditing, suspension until all hours are completed, must submit proof of compliance for next two renewal periods
17 to 80 hours	\$2,000 fine, makeup missing hours plus additional penalty hours equal to the number of those missed, within same category as those missed, suspension until all hours are completed, must submit proof of compliance for next two renewal periods	Suspension, \$2,500 fine, makeup missing hours plus additional penalty hours equal to the number of those missed, within same category as those missed, suspension until all hours are completed, must submit proof of compliance for next two renewal periods
(cc) Failure to enroll in peer review program when required (Sections 473.323(1)(a) and 473.3125(4), F.S.)	Suspension until enrollment and a reprimand.	<u>\$2,000 fine.</u>
<u>(dd) Utilizing CPA designation without having an active license. 473.323(1)(a) through a violation of 473.322(1)(b), F.S.</u>	<u>Reprimand, completion of four penalty hours of Board-approved ethics continuing professional education hours</u>	<u>Suspension and \$500 fine.</u>
<u>(ee) Performing work described in s. 473.302(8)(a), F.S., (i.e. – audits, reviews, and compliations) without an active license and/or licensed firm. 473.323(1)(a) through a violation of 473.322(1)(b), F.S.</u>	<u>Reprimand, \$500 fine, completion of four penalty hours of Board-approved ethics and eight penalty hours of Accounting and Auditing continuing professional education hours</u>	<u>Suspension and \$1,000 fine, completion of eight penalty hours of Accounting and Auditing continuing professional education hours</u>

(3) The Board shall be entitled to deviate from the above-mentioned guidelines upon a showing of aggravating or mitigating circumstances by clear and convincing evidence presented to the Board prior to the imposition of a final penalty.

(a) Aggravating circumstances; circumstances which may justify deviating from the above set forth disciplinary guidelines and cause the enhancement of a penalty beyond the maximum level of discipline in the guidelines shall include but not be limited to the following:

1. History of previous violations of the practice act and the rules promulgated thereto.
2. In the case of negligence; of the magnitude and scope of the engagement and the damage inflicted upon the general public by the licensee's misfeasance.
3. Evidence of violation of professional practice acts in other jurisdictions wherein the licensee has been disciplined by the appropriate regulatory authority.

4. Violation of the provision of the practice act wherein a letter of guidance as provided in Section 455.225(3), F.S., has previously been issued to the licensee.

5. Multiple convictions of violations of the same provision of Chapter 473, F.S., or the rules promulgated thereto contained in the same administrative complaint.

(b) Mitigating circumstances; circumstances which may justify deviating from the above set forth disciplinary guidelines and cause the lessening of a penalty beyond the minimum level of discipline in the guidelines shall include but not be limited to the following:

1. In cases of negligence, the minor nature of the engagement in question and lack of danger to the public health, safety and welfare resulting from the licensee's misfeasance.

2. Lack of previous disciplinary history in this or any other jurisdiction wherein the licensee practices his profession.

3. Restitution of any damages suffered by the licensee's client.

4. The licensee's professional standing among his peers including continuing education.

5. Steps taken by the licensee or his firm to insure the non-occurrence of similar violations in the future.

6. The degree of financial hardship incurred by a licensee as a result of the imposition of fines or the suspension of his practice.

7. Cooperation with the Department of Business and Professional Regulation and the Board including understanding and admission of the violation by the Respondent.

Rulemaking Authority 455.2273, 473.304 FS. Law Implemented 455.277, 455.2273, 473.323 FS. History—New 1-7-87, Amended 9-16-87, 8-25-88, 6-18-91, 12-30-91, Formerly 21A-36.004, Amended 12-7-93, 5-23-94, 8-16-99, 1-31-05, 7-28-10, 5-6-15, 9-30-15, _____.

Motion was made by Dr. Fennema, seconded by Ms. Borders-Byrd, to notice and approve text presented. Upon vote, the motion passed unanimously. Motion was made by Dr. Fennema, seconded by Ms. Borders-Byrd, that the proposed rule would not have an adverse impact on small business or likely to directly or indirectly increase regulatory cost to any entity (including government) in excess of \$200,000 in the aggregate in Florida within one year after the implementation of the rule. Upon vote, the motion passed unanimously.

15. Administrative

A. Authorization for Interstate of Exchange Materials

Item was not addressed.

B. Board of Accountancy Statistics

This was an informational item.

C. Clay Ford Scholarship Statistics

This was an informational item.

D. Remarks from the Executive Director

Ms. Kelly thanked the Board for allowing her to attend the NASBA 109th Annual meeting in Austin, Texas. Ms. Kelly informed the Board during one of the breakout sessions one (1) idea discussed is to encourage more participation at Board meetings by college students, such as offer extra credit by the accounting professors for those students attending the disciplinary portion of the meetings. The speaker also said it was extremely important to follow-up the Board meeting encounter with on campus visit by the Executive Director or even members of the Board to discuss what the students saw and heard at the disciplinary hearing.

E. Update from Board Members/Staff Serving on NASBA Committees

Ms. Clark thanked the Board for allowing her to attend the NASBA Annual meeting in Texas. Ms. Clark informed the Board she attended the Regulatory Law Conference in Chicago in September and reminded the Board that Department of Business and Professional Regulation has signed a letter with the Attorney General's office to provide legal representation but not insurance for damages.

Mr. Dennis asked Ms. Kelly to follow up with the Deputy Secretary and Secretary on the status of purchasing insurance.

Mr. Dennis informed the Board that he attended the NASBA Annual meeting in Austin, Texas and all fifty-five (55) jurisdictions were present at the Annual meeting this year.

Mr. Dennis informed the Board he was reappointed to the UAA committee.

Ms. Caldwell informed the Board she remains the CPE Committee Chair for NASBA.

16. NASBA

A. Focus Questions Florida Responses - FYI

This was an informational item.

B. Practice Continuation Resource Document – Discussion

This was an informational item.

17. FICPA

Jennifer Green and Paul Brown were present.

Ms. Green informed the Board the FICPA has been working on the Florida Tax Credit Scholarship letter with Mr. Lane. Ms. Green informed the Board, the State Legislative Policy Committee (SLPC) will meet in the near future and she will keep the Board informed of the updates as they become available. Mr. Brown informed the Board that Peer review documents are not public until the review has been accepted by the Committee and Administrating Entity (AE). Mr. Brown informed the Board it could take up to eighteen (18) months for acceptance process to take place.

18. AICPA

A. Peer Review Update – FYI

This was an informational item.

Additions agenda

Motion was made by Ms. Borders-Byrd, seconded by Ms. Caldwell, to approve the additions to the agenda for good cause shown. Upon vote, the motion passed unanimously.

1. Continuing Education Ethics Provider - Consideration

A. Western CPE- Four (4) hour Ethics course

Motion was made by Mr. Dennis, seconded by Mr. Vogel, to deny the application based on old rules used in the material presented. Upon vote, the motion passed unanimously.

19. Old Business

None at this time.

Motion was made by Ms. Borders-Byrd, seconded by Ms. Caldwell, to approve the additions to the agenda for good cause shown. Upon vote, the motion passed unanimously.

1. Continuing Education Ethics Provider - Consideration

- A. Western CPE- Four (4) hour Ethics course

Motion was made by Mr. Dennis, seconded by Mr. Vogel, to deny the application based on old rules used in the material presented. Upon vote, the motion passed unanimously.

19. Old Business

None at this time.

20. Other Business

- A. Florida Tax Credit Letter

Motion was made by Dr. Fennema, seconded by Ms. Borders-Byrd, to accept the context of the revised letter. Upon vote, the motion passed unanimously.

- B. Delegation of Authority to Accept Service of Process

Motion was made by Ms. Borders-Byrd, seconded by Mr. Lane, to approve the Delegation of Authority. Upon vote, the motion passed unanimously.

- C. CPE Committee

Mr. Dennis appointed Mr. Vogel to CPE Committee to replace Mr. Robinson and ask Mr. Vogel to Chair the CPE Committee. Mr. Vogel accepted.

21. Future Meetings

The Board agreed to start future meetings at 9:00 a.m. and requested the Executive Director to consider moving some of the 2017 meetings to locations around the state including South Florida.

22. Adjourn

Mr. Dennis adjourned the meeting at 12:33 p.m.



David Dennis, Chair