



**State of Tennessee
Department of Commerce and Insurance
Tennessee State Board of Accountancy
Davy Crockett Tower
500 James Robertson Parkway
Nashville, TN 37243
615-741-2550 or 888-453-6150**

Board Minutes

October 18 and 19, 2012

The meeting of the Tennessee State Board of Accountancy convened in the Andrew Johnson Tower, Nashville, TN on Thursday, October 18, 2012 at 1:00 pm.

Board members present were:, Trey Watkins, Chair; Casey Stuart, Vice-Chair; Bill Blaufuss, Secretary; Vic Alexander; Troy Brewer; Jennifer Brundige; Stephen Eldridge; Henry Hoss; Gabe Roberts; Don Royston; and Stan Sawyer.

Staff members present were: Mark Crocker, Executive Director; Don Mills, Investigator; Ray Butler, Investigator; Jesse Joseph, Prosecuting Attorney; Chris Whittaker, Staff Attorney; Kathy Riggs; and Karen Condon.

Also present was Wendy Garvin, TSCPA

Mr. Watkins called the meeting to order and welcomed the new Board members, asking each member to introduce him- or herself. He then recognized former members Lisa Stickel and Shannone Raybon for their service.

Mr. Watkins made the following announcements:

This meeting was properly noticed by placing information concerning the meeting on the Board's website and on the Department's website on Tuesday, October 9, 2012.

The Board then began the Formal Hearing regarding Robert E. Bell, license number 3250, doing business as Springfield Tax Service, firm permit 1966, 4450 Mount Zion Road, Springfield TN, docket number 12-19-117685A.

With Administrative Judge Lynn England presiding, a Board quorum was established. Mr. Bell was not present and was not represented by counsel.

After establishing proof of notice of service, Mr. Joseph asked that the Board declare the Respondent in default. Mr. Blaufuss moved to grant the State's motion of default, with Mr. Sawyer seconding. The motion passed, with votes cast as follows:

Hoss	No	Watkins	Yes
Alexander	Yes	Blaufuss	Yes
Roberts	Yes	Sawyer	Yes
Eldridge	Yes	Brundige	Yes
Brewer	Yes	Royston	Yes
Stuart	Yes		

Mr. Royston moved to hear the case today as scheduled. Ms. Brundige seconded and the motion was passed unanimously.

Mr. Joseph presented the State's case. After hearing testimony from Donald Mills, TNSBA Investigator, the Board reviewed the proposed Findings of Fact, Conclusions of Law and Proposed Judgment (Attachment A).

The Board heard the following motions:

Mr. Sawyer moved to adopt Finding of Fact #1. Ms. Brundige seconded and the motion passed unanimously.

Mr. Royston moved to adopt Finding of Fact #2. Mr. Sawyer seconded and the motion passed unanimously.

Mr. Alexander moved to adopt Finding of Fact #3. With Mr. Stuart seconding, the motion unanimously passed.

Mr. Royston moved to adopt Finding of Fact #4. Mr. Blaufuss seconded and the motion passed unanimously.

Mr. Sawyer moved to adopt Finding of Fact #5. Mr. Eldridge seconded and the motion passed unanimously.

Mr. Blaufuss moved to adopt Finding of Fact #6. With Mr. Eldridge seconding, the motion unanimously passed.

Mr. Blaufuss moved to adopt Findings of Fact #7 and #8. Mr. Royston seconded and the motion passed unanimously.

Mr. Blaufuss moved to adopt Findings of Fact #9 through #16. Mr. Royston seconded and the motion passed unanimously.

Mr. Royston moved to adopt Findings of Fact #17 through #21. With Mr. Sawyer seconding, the motion unanimously passed.

Mr. Sawyer moved to adopt Findings of Fact #22 through #30. Mr. Stuart seconded and the motion passed unanimously.

Mr. Royston moved to adopt Findings of Fact #31 through #34 as presented. Mr. Sawyer seconded. After discussion, Mr. Roberts moved to amend the motion with the first sentence of # 31 changed as follows:

Respondent knowingly participated along with Ed Hood to separate the depositors from their money.

Mr. Sawyer seconded and the motion passed unanimously.

Mr. Royston moved to adopt Findings of Fact #31 through #34 as amended. With Ms. Brundige seconding, the motion unanimously passed.

Mr. Sawyer moved to adopt the proposed Conclusions of Law. Mr. Stuart seconded and the motion passed unanimously.

Mr. Blaufuss moved to approve the Proposed Judgment:

- Revocation of Mr. Bell's CPA license for a five-year period
- A Civil Penalty of \$110,000.00
- All Investigatory and Hearing costs

With Mr. Royston seconding, the motion unanimously passed.

Mr. Watkins read the Policy Statement and Ms. Brundige moved to approve it. Mr. Sawyer seconded and the motion passed unanimously.

With the conclusion of the Formal Hearing, Mr. Watkins adjourned the meeting until the following day.

Committee meetings commenced at 8:30 AM Friday, October 19, 2012.

Licensing Committee

Committee Members present were Jennifer Brundige, Committee Chair; Troy Brewer; Stephen Eldridge and Henry Hoss.

Others present were Trey Watkins, Board Chair; Don Royston; Vic Alexander; Mark Crocker; Ray Butler; Don Mills; Wendy Garvin; Kathy Riggs and Karen Condon

Item 1: Landon Morris has appealed the voiding of a successful CPA exam score relative to the 200-day rule. Mr. Morris was admitted to sit for the CPA exam under the condition that he would complete his educational requirements within 200 days following the exam. He failed to complete this requirement. After discussion, Mr. Brewer moved to recommend the Board deny his request to have the successful score reinstated.

With Mr. Eldridge seconded and the motion passed unanimously, with Mr. Hoss abstaining.

Item 2: University of Tennessee requested the Municipal Technical Advisory Services Exams be deemed as meeting the requirements under Rule 0020-5-.04(8) for CPE credit of 5 hours per time of exam. After discussion, Mr. Eldridge moved to approve the request. Mr. Hoss seconded and the motion passed unanimously.

After a review of the 2012 CPE Audit Statistics, the Committee meeting adjourned.

Law and Rules Committee

Committee members present were Troy Brewer, Committee Chair; Vic Alexander; Gabe Roberts and Jennifer Brundige.

Other present were Trey Watkins, Board Chair; Don Royston; Henry Hoss; Mark Crocker; Don Mills; Ray Butler; Wendy Garvin; Kathy Riggs and Karen Condon.

The Committee reviewed the wording of proposed changes from the July 2011 and January 2012 meetings:

Language for Proposed Rule Changes First Considered at January 2012 Board Meeting

1.) Establishing a "Retired" License Status - A licensee whose certificate is in good standing shall, upon reaching the age of 55, be eligible to place his or her license in retired status. In order to place a license in retired status, a licensee shall send a written, notarized request to the board requesting that his or her license be placed in retired status. The licensee's request shall include a statement verifying that the applicant does not intend to provide accounting services and does not intend to receive any compensation for providing accounting services while his or her license is in retired status. A licensee whose license is in retired status shall be prohibited from signing any documents as a CPA if the signing of such documents would constitute providing accounting services.

Mr. Roberts moved to recommend the inclusion of the following language to the above Rule change, with Mr. Alexander seconding:

"Licensees granted such an exemption must place the word "retired" adjacent to their CPA title or PA title when used in any written form with the exception of their certificate or registration."

2.) Two Tiers of "Retired" License Status - A licensee between the ages of 55 and 65 who possesses a certificate in retired status shall be required to pay the annual renewal fee required of all certificate holders. A licensee over the age of 65 who possesses a certificate in retired status shall not be required to pay the annual fee required of all certificate holders.

- 3.) Licensees Over 65 in Retired Status May Keep Their Wall Certificate – A licensee who is over the age of 65 and possesses a certificate in retired status shall be allowed to keep his or her wall certificate, and shall not be required to return it to the board.
- 4.) Expiration of Applications for Initial Licensure - All applications for initial licensure shall expire one (1) year from the date of the application for initial licensure.
- 5.) Expiration of CPA Exam Scores - All CPA Exam scores shall expire ten (10) years after the last passing score is earned. However, upon written request by the applicant, the board may, in its sole discretion, grant an extension of the score expiration date for good cause shown.

Language for Proposed Rule Changes First Considered at July 2011 Board Meeting

- 1.) Replacement of "lapsed" license with "expired" license in Rule 0020-5-.04(6) - The most recent rule changes (which went into effect 6/24/12) replaced the word "lapsed" in Rule 0020-1-.08 with "expired". Since Rule 0020-1-.08 references Rule 0020-5-.04(6), all uses of the word "lapsed" in Rule 0020-5-.04(6) must be replaced with "expired" to match the new Rule 0020-1-.08(7).

Mr. Alexander moved to recommend approval of the above change with the correction of the Rule cited to Rule 0020-5-.03 (6), with Mr. Roberts seconding.

- 2.) Addition of language specifically stating that the Board has no jurisdiction over fee disputes - Proposed language for new Rule 0020-4-.03(3) [Grounds for Discipline Against Licensees]: "The Board has no jurisdiction over fee disputes between a licensee and a client. The Board shall not seek to impose discipline against a licensee on the basis of a dispute between the licensee and the client regarding payment of fees by the client for professional services rendered by the licensee.

Mr. Alexander moved to recommend approval of the proposed change, with Mr. Roberts seconding.

The Committee then discussed the scheduling of a Rule-Making hearing at the January 2013 meeting. Ms. Brundige moved to recommend approval of such a hearing to the Board, with Mr. Alexander seconding.

With no further business before the Committee, the meeting was adjourned.

Executive Committee

Committee members present were Trey Watkins, Chair; Casey Stuart, Vice-Chair; Bill Blaufuss, Secretary and Stan Sawyer.

Others present were Don Royston, Gabe Roberts, Henry Hoss, Troy Brewer, Stephen Eldridge, Jennifer Brundige, Mark Crocker, Don Mills, Ray Butler, Chris Whittaker, Wendy Garvin, Kathy Riggs and Karen Condon.

The first item was a review of activities allowed to inactive and retired licensees.

The Committee then reviewed the proposal for new Law and Rule Books. Mr. Stuart moved to recommend approval to the Board for the expenditure of \$22,580.74 for the printing of new Law and Rule Books. Mr. Sawyer seconded and the motion passed unanimously.

The Committee then discussed the Policy to adhere to the new law concerning remedy for licensees who default on student loans. The matter was deferred until the next meeting when Mr. Whittaker will put together more information for the Board.

After reviewing the rewording of Policy II.6 relative to Ethics Education and the new Rule effective June 24, 2012. Mr. Stuart moved to recommend the deletion of Policy II.6. With Mr. Sawyer seconding, the motion unanimously passed.

The Committee then reviewed and discussed the Financial information provided by Mr. Crocker. Mr. Blaufuss noted that future budgets should reflect what the Board needs and what the Board expects to have happen, without the use of inflated and rounded numbers. Mr. Crocker will in future provide more details regarding the method of calculation.

The Committee revisited the idea of reducing licensure fees in order to avoid having a surplus. Mr. Watkins suggested a proposal of the Board's financial situation with a fee reduction. Mr. Crocker will include that information when he prepares the budget.

The Committee then turned to evaluation of the Executive Director. There followed discussion of the evaluation tool and the recommendation of a pay increase made by a prior Committee. The Committee wished to see a more inclusive evaluation process, with input by the entire Board, including a re-working of the evaluation tool by the next meeting. The Committee also tasked Mr. Crocker with evaluating himself, including the setting of goals. The Board will revisit the question of a pay raise after Mr. Crocker's evaluation by the Department of Commerce and Insurance and the reworking of the evaluation tool. Mr. Blaufuss spoke against the necessity of a pay raise for Mr. Crocker.

Mr. Crocker will send blank evaluations forms to the Board via email for review and editing. He will also set goals and objectives for himself and perform a self-evaluation based on the current template. Mr. Sawyer noted that the Board had previously asked Mr. Crocker to compile a list of his duties and responsibilities. Mr. Sawyer asked for that to be provided to the full Board.

New Business

Mr. Blaufuss asked the Committee to consider increasing the number of meetings to six each year. Mr. Watkins suggested that additional meetings would address the backlog of complaints. Mr. Whittaker stated that we should know in a month or so if additional ALJ days will be available. Mr. Blaufuss felt that the July meeting was taken up almost entirely with formal hearings and that little Board business was seen to. Mr. Stuart suggested that the addition of ALJ days would allow more time for Board business during regular meetings.

Mr. Blaufuss asked for a way to rank the priority of importance for Board representation at NASBA and AICPA meetings in order to determine the necessity of travel. Mr. Crocker will prioritize upcoming NASBA meetings for the Board to review.

With the conclusion of business before the Committee, the meeting was adjourned.

Probable Cause Committee

Committee members present were Don Royston, Committee Chair; Bill Blaufuss, Secretary; Gabe Roberts and Stephen Eldridge.

Others Present were Trey Watkins, Chair; Casey Stuart, Vice-Chair; Vic Alexander; Troy Brewer; Jennifer Brundige; Henry Hoss; Stan Sawyer; Mark Crocker; Don Mills; Ray Butler; Chris Whittaker; Kathy Riggs; Karen Condon and Wendy Garvin.

Don Royston convened the meeting and called on Chris Whittaker to present the Legal Report (Attachment B).

Regarding Item 1, Mr. Blaufuss moved to recommend approval with the term of revocation changed from three years to five years. Mr. Brewer seconded and the motion passed unanimously.

Regarding Item 2, Mr. Blaufuss moved to recommend approval to the Board. Mr. Eldridge seconded and the motion passed unanimously.

Regarding Items 3-5, Mr. Roberts moved to recommend approval to the Board. With Mr. Eldridge seconding, the motion unanimously passed.

Regarding Items 6 and 7, Mr. Eldridge moved to recommend approval to the Board with the correction of a typographical error in #6. With Mr. Roberts seconding, the motion unanimously passed.

Regarding Items 8-12 and Item 17 Mr. Blaufuss moved to recommend approval to the Board. Mr. Stuart seconded and the motion passed unanimously.

Regarding Items 13-16 and Items 18-20, Mr. Eldridge moved to recommend approval to the Board. Mr. Roberts seconded and the motion passed unanimously.

Regarding Items 21 and 22, Mr. Blaufuss moved to recommend approval to the Board. There was no second. Mr. Eldridge recommended approval with the reduction of the proposed civil penalty to \$10,000.00. Mr. Blaufuss seconded and the motion passed unanimously.

With no further business at hand, Mr. Royston adjourned the committee meeting.

The Board meeting was called to order at 12:35 by Trey Watkins, Chair.

Mr. Watkins asked the Board to review the minutes from the July 27, 2012 and October 5, 2012 meetings. Mr. Sawyer moved to approve the minutes from both meetings and Mr. Royston seconded. Because the recently-appointed members were not present at the July 27, 2012 meeting, Mr. Sawyer amended his motion, moving to approve the minutes of the July 27, 2012 meeting. Mr. Royston seconded and the motion passed unanimously, with Mr. Alexander, Mr. Eldridge, Mr. Hoss and Mr. Roberts abstaining.

Mr. Sawyer moved to approve the minutes of the October 5, 2012 meeting. With Mr. Royston seconding, the motion unanimously passed.

Mr. Crocker presented the Executive Director's Report (Attachment C). Mr. Stuart moved to approve Mr. Crocker's request to serve on the AICPA State Board Committee. Mr. Blaufuss seconded and the motion passed unanimously.

The Board heard a presentation from representatives from NASBA International Evaluation Services. Mr. Royston moved to approve the service as a vendor option. Mr. Roberts seconded and the motion passed unanimously.

The Board then heard Committee Reports.

Jennifer Brundige presented the NASBA State Board Relevance and Effectiveness Committee Report. The committee held a meeting in Dallas in May, which Ms. Brundige attended via conference call. The committee is compiling results of the survey sent to all State Boards. They are analyzing the data to develop a tool kit to help Board's become more effective and relevant. Mr. Brundige has been re-appointed to the Committee, which is now called the Board Effectiveness and Legislative Support Committee.

Ms. Brundige also presented the Licensing Committee Report. Regarding the request from Landon Morris for an exemption to the 200-day education requirement in retaining his successful score for one part of the CPA exam, the Committee recommended denial of the request.

University of Tennessee requested the Municipal Technical Advisory Services Exams be deemed as meeting the requirements under Rule 0020-5-.04(8) for CPE credit of 5 hours per time of exam. The Committee recommended approval of the request. Ms. Brundige called on Dr. Riggs to present the CPA Audit Report.

Ms. Brundige moved to approve the Committee's recommendations. Mr. Eldridge seconded and the motion passed unanimously.

Mr. Brewer gave an overview of the Law and Rules Committee. The Committee recommended approval of the Rule changes proposed at the January 2012 and July 2011 Board meetings.

Mr. Alexander moved to accept the Committee's recommendations. With Ms. Brundige seconding, the motion unanimously passed.

Mr. Watkins presented the Executive Committee Report. The Committee discussed the evaluation of the Executive Director. The Board then reviewed Rule 0020-5-.03(3) relative to the activities allowed retired licensees and took no action on the matter.

Mr. Sawyer moved to delete Policy II.6 as recommended by the Committee. Mr. Blaufuss seconded and the motion passed unanimously.

Chris Whittaker then presented the Legal Report as evaluated and voted upon by the Probable Cause Committee. All recommended changes had been added to the amended report. Mr. Royston moved to accept the report as amended by the Probable Cause Committee.

Of the 22 complaints presented, the motions resulted in the following:

Civil Penalties Authorized: 4

Amount of Civil Penalties: \$ 36,500.00

Letters of Warning: 9

Letters of Instruction: 0

Dismissal: 4

Consent Orders for License Suspension, Surrender, or Revocation: 6

Informal Conference: 0

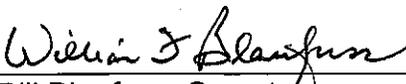
Old Business

Mr. Crocker presented proposed qualifications for those wishing to teach the TNSBA's State Specific Ethics Course. Mr. Alexander moved to accept the proposed qualifications with the addition of language excluding prospective teachers currently under probation or who have been disciplined within the last five years. Mr. Sawyer seconded and the motion passed unanimously.

With no further business before the Board, Mr. Watkins adjourned the meeting.



Trey Watkins, Chair



Bill Blaufuss, Secretary

Attachment A

**STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE**

IN THE MATTER OF:

**ROBERT E. BELL, CPA,
Respondent.
License No. 3250**

Springfield Tax Service
CPA Firm Permit No. 1966
4450 Mt. Zion Road
Springfield, TN 37172

**BEFORE THE TENNESSEE BOARD OF
ACCOUNTANCY**

**Docket No. 12.19-117685A
Case No. L07-ACC-RBS-2007085631**

**STATE'S PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW, AND
PROPOSED JUDGMENT**

Comes now the State of Tennessee, by and through undersigned counsel for the TN Department of Commerce and Insurance, and would respectfully request the Commission to enter the following findings of fact and conclusions of law and discipline against the Respondent in this matter at the conclusion of all of the proof taken at the hearing conducted on October 18-19, 2012.

PROPOSED FINDINGS OF FACT

1. At all times pertinent hereto, the Respondent, Robert E. Bell, has been licensed as a CPA by this Board (License No. 3250), with said license being active and current through December 31, 2012. Respondent also holds a CPA firm permit under the name

Springfield Tax Service (Permit No. 1966), which is active and current through December 31, 2012.

2. In or around the mid-1990's Respondent met William E. ("Ed") Hood, a resident of Springfield, TN. Hood was employed as a financial advisor in the Springfield, TN office of Edward D. Jones & Co. Respondent prepared tax returns for Ed Hood and served as CPA for several of Mr. Hood's Edward Jones clients – including Florence Wilkison, Ruby Roe, Carney and Bonnie Bell, and Karat Patch, Inc., beginning at or around the mid-1990's. Respondent was generally responsible for preparing various federal and state returns for these clients.
3. By January of 2002, Respondent was using the Robert E. Bell Escrow Account at Volunteer State Bank (Acct. # 40-135-8). By October 12, 2005, Respondent had opened the Robert E. Bell Escrow Account at Regions Bank (Acct. # 71-3251-7564). The general purpose for which Respondent set up these two escrow accounts was to handle funds that came in and were disbursed, at Ed Hood's direction. The escrow account at Volunteer State Bank was closed with a zero balance on or around November 30, 2005, and the escrow account at Regions Bank had a balance of \$150.23 on November 30, 2006.
4. These escrow accounts were opened at the request of Mr. Hood, who did not want these funds run through his own personal account. Respondent claims he did not have any specific understanding of what the term "escrow" conveyed, and Respondent did not have any written escrow or trust agreement signed by any of Mr. Hood's clients or by Respondent's own tax clients, which appointed Respondent as an escrow agent or trustee. Ms. Wilkison did execute a Power of Attorney in Respondent's favor in January, 2006.

5. The majority of the funds which were deposited into both of the Respondent's escrow accounts were funds that came in from Ed Hood's Edward Jones' clients. The general practice while these accounts were open was for Mr. Hood to bring checks to Respondent's office or have funds wired in for deposit into these accounts and for Mr. Hood to direct Respondent regarding where he wanted the funds disbursed.
6. However, between 2002 and 2006, not all deposits into and withdrawals from these Robert E. Bell escrow accounts were transactions initiated by Ed Hood. Respondent used funds from these escrow accounts to benefit himself and other businesses which he owned or in which he had a financial interest, including the Second Amendment Gun Shop, Rob's Dinner Bell Restaurant, Springfield Cash Services, Springfield Tax Service, Bobby's Auto Restoration, M & B Properties and Eagle Recovery and Towing. Between January 2002 and the end of November, 2006, Respondent's personal withdrawals and disbursements exceeded his deposits in both escrow accounts by \$748,487.42.
7. According to the Respondent's Volunteer State Bank escrow account statements between January 2002 and November 2005, Respondent had deposits into the account from personal loans and from other bank accounts in his name totaling \$606,254.47. During this same period, Respondent issued checks and made transfers for his personal use and benefit totaling \$1,286,026.08 (withdrawals exceeding deposits by \$679,771.61).
8. According to the Respondent's Regions Bank escrow account statements between October 2005 and November 2006, Respondent had deposits into the account from personal loans and from other bank accounts in his name totaling \$150,671.13. During this same period, Respondent issued checks and made transfers for his personal use and benefit totaling \$219,386.94 (withdrawals exceeding deposits by \$68,715.81).

MATTERS RELATING TO FLORENCE WILKISON

9. In or about 1995, Respondent began preparing the tax returns of Florence Wilkison, upon request of Ed Hood. Respondent's responsibilities were to prepare her federal income tax returns, and at some point, Respondent began to pay some of Ms. Wilkison's bills – including her assisted living fees, storage and dry cleaning costs, and the fees of live-in help for Ms. Wilkison – as requested by Ed Hood. Ed Hood brought Ms. Wilkison's income tax papers to Respondent roughly between the Spring of 1995 through the Spring of 2006, and Respondent prepared her tax returns for calendar years 1994-2004. Respondent states he was unable to prepare her 2005 return because he did not receive enough data from Ed Hood to do so.
10. Between 2004 and 2006, Respondent received a total of \$1,324,454.01 from Ms. Wilkison which was deposited within both of the above escrow accounts, and he only returned \$45,186.57 of these deposits for the benefit of Ms. Wilkison. The smallest deposit from Ms. Wilkison into Respondent's escrow accounts over this period was \$20,000, and the largest single deposit from her was \$239,624.95. All of these deposits from Ms. Wilkison were personal checks brought to Respondent by Ed Hood, certified or cashier's checks issued by Ms. Wilkison's bank, or checks from life insurance companies regarding which Ms. Wilkison had policies. All of the checks written by Ms. Wilkison to Respondent during this period were made payable to "Bob Bell, Trustee", as requested by Ed Hood. Respondent endorsed such checks in the same fashion.
11. Respondent realized that in 2004, Ms. Wilkison was 98 years old. Respondent never met Ms. Wilkison personally, but spoke with her by phone maybe 2 times per year until her death in December, 2006. Respondent was aware by the end of 2006 that he and

Ed Hood had misappropriated in excess of 1.2 million dollars of Ms. Wilkison's funds which had been deposited into these escrow accounts, and that these funds had been diverted for Respondent's and Ed Hood's benefit, yet Respondent took no action to restore Ms. Wilkison's funds or to make her whole in derogation of the fiduciary responsibility he had voluntarily assumed pursuant to the Power of Attorney and by acquiescing in a role as her trustee.

12. Respondent has claimed he was unable to prepare Ms. Wilkison's 2005 federal income tax return because he did not receive enough data – there were allegedly a number of missing 1099s for this year that Respondent did not receive from Ed Hood. However, Respondent had authority by January, 2006 in the way of the Power of Attorney executed in his favor, to obtain duplicate 1099s for Ms. Wilkison or duplicate copies of any other documents necessary to prepare her 2005 return. Respondent did file an extension request for Ms. Wilkison, granting him until October 15, 2006 to prepare the completed 2005 return, but he took no other action to accomplish this by the extended deadline.

13. On August 15, 2007, the estate of Florence Wilkison, through her son and executor, John Wilkison, Jr., filed suit in Davidson County Circuit Court (Probate Division) against Ed Hood, Edward Jones & Company, and Respondent alleging conversion of Ms. Wilkison's funds, for an accounting, and for the defendants to return any funds wrongfully converted or misappropriated.

14. On September 17, 2007, counsel for Ms. Wilkison's estate took the Respondent's deposition in this Davidson County lawsuit. Ed Hood committed suicide the next day, September 18, 2007.

15. In his September 17, 2007 deposition in the suit brought by Ms. Wilkison's estate against him, Respondent testified that he had not performed an accounting of either of these two escrow accounts, nor had he kept any ledger where he kept track of the receipts and disbursements. Respondent also testified at this deposition that he always kept it in his head whose money was whose regarding these accounts, that he always put his own money back into the escrow accounts, and that if he wrote checks from the account for his own use and benefit, the net effect on the accounts was zero.

16. On September 13, 2011, a Default Judgment was entered against Respondent in Davidson County Circuit Court in a 3rd party complaint filed by Edward Jones against Respondent for Indemnity, Contribution, and for an Accounting. The Circuit Court indicated damages would be determined at a later hearing, and Edward Jones claims Respondent's indebtedness to it is \$2,000,000.

MATTERS RELATING TO RICHARD AND RUBY ROE

17. Ed Hood had borrowed money for many years from Richard and Ruby Roe, and Respondent also borrowed money from these individuals - in one instance to finance Respondent's purchase of real estate. Between 2002 and 2006, Respondent received a total of \$527,259.09 from the Roes for deposit into his two escrow accounts. Many of these checks written by the Roes were made payable to "Bob Bell, Trustee", and some with the notation that they were for "loan" or "bond loan".

18. Respondent only returned \$179,937.85 of the escrow deposits made by the Roes to their benefit.

19. Respondent prepared and signed five (5) Promissory Notes agreeing to pay the Roes between 2003 and 2004 as follows:

DATE	PAYEE	AMOUNT	RATE
5/15/03	Ruby Roe	\$160,000.00	8%
8/20/03	Ruby Roe	\$10,000.00	8%
8/20/03	Ruby Roe	\$10,000.00	8%
7/10/04	Ruby Roe	\$5,000.00	10%
11/19/04	Ruby Roe	\$2,000.00	8%
TOTAL		\$187,000	

20. One of the two promissory notes Respondent issued to Ruby Roe on August 30, 2003 for \$10,000 was issued in the name of Springfield Cash Services, Inc., and Respondent signed this note as President of this company.

21. Respondent was aware by the end of 2006 that he and Ed Hood had misappropriated \$347,321.24 of the Roes' funds which had been deposited into Respondent's escrow accounts, and that these funds had been diverted for Respondent's and Ed Hood's benefit, yet Respondent took no action to restore Richard and Ruby Roe's funds or to make them whole, in derogation of the fiduciary responsibility he assumed by acting as trustee over these funds.

MATTERS RELATING TO CARNEY AND BONNIE BELL, KARAT PATCH, AND
THE KARAT PATCH DEFINED BENEFIT PENSION PLAN

22. At least between 2000 and 2006, Respondent was the accountant for Carney and Bonnie Bell personally, for the business operated by Bonnie Bell known as Karat Patch, Inc., a costume and licensed collegiate jewelry business in Springfield, TN, and for the Karat Patch Defined Benefit Pension Plan. Carney Bell was one of Ed Hood's Edward Jones' clients, and Respondent was responsible during this period for performing all duties pertaining to Karat Patch, including assisting with oversight and implementation of the Karat Patch's Defined Benefit Pension Plan.

23. Between 2002 and 2006, Respondent received into his two escrow accounts deposits totaling \$880,525.06 from Carney and Bonnie Bell, Karat Patch, and the Karat Patch Defined Benefit Pension Plan, and Respondent only returned \$413,158.00 of these clients' escrow deposits for their benefit.

24. Respondent was aware by the end of 2006 that he and Ed Hood had misappropriated \$467,367.06 of funds from Carney and Bonnie Bell, Karat Patch, and the Karat Patch Defined Benefit Pension Plan which had been deposited into Respondent's escrow accounts, and that these funds had been diverted for Respondent's and Ed Hood's benefit, yet Respondent took no action to restore these clients' funds or to make them whole, in derogation of the fiduciary responsibility he assumed as accountant for these clients and by acting as trustee over these funds.

25. Respondent was receiving into his Volunteer State Bank escrow account as early as September 2000 wire transfers from Carney Bell's Edward Jones accounts -- characterized as "Customer Loans". On September 8, 2000, Carney Bell, as apparently requested by Ed Hood, wired Respondent \$63,254.00 for deposit into Respondent's Volunteer State bank escrow account.

26. Between 2001 and 2002, Respondent had performed considerable work regarding the compensation numbers and projected contribution for the Karat Patch Defined Benefit Pension Plan and both Respondent and Ed Hood received several memoranda from the Plan Administrator during this period detailing problems with Respondent's work, and with funding deficiencies.

27. As of October 1, 2002, Respondent had failed or refused to respond to the faxes and telephone messages which the Plan Administrator, Jerry Davis, had left Respondent

for a month. The administrator was concerned as of October 1, 2002 that Respondent had filed a 2001 corporate tax return for Karat Patch, Inc., taking a \$50,000 deduction for the pension plan, without providing any back-up information or documentation for concluding that this contribution was deductible. Mr. Davis was trying to help Respondent, and to help Respondent's client avoid severe tax penalties.

28. Mr. Davis became so frustrated by October 1, 2002 with Respondent's failure to respond, he indicated that if he did not hear back from Respondent immediately he would be forced to send an overnight letter to Respondent's client (Karat Patch) and explain that he could not do the required work on the client's Pension Plan Tax Forms which were due October 15, 2002.

29. After this experience with Mr. Davis, Respondent recommended that Karat Patch terminate the services of Jerry Davis as Plan Administrator, which occurred in September, 2003.

30. By August, 2006, Respondent and Ed Hood recommended to Karat Patch and Bonnie Bell that the company terminate its Defined Benefit Pension Plan. Karat Patch did so, and on August 22, 2006, the Plan's annuity with The Hartford was terminated and a check representing the plan proceeds of \$268,167.06 was deposited on August 23, 2006 into Respondent's escrow account at Regions Bank. This action on Respondent's part violated federal ERISA regulations and subjected Karat Patch to severe IRS and U.S. Department of Labor penalties, and consequent financial losses such as the incurring of attorney fees, the loss of interest income and tax liabilities.

OVERVIEW OF RESPONDENT'S ACTIONS

31. Respondent knowingly participated in a Ponzi scheme along with Ed Hood designed to separate the depositors from their money. Respondent's receipt, disbursement and misappropriation of funds resulted in Respondent's personal enrichment, while his clients and other depositors incurred significant losses. The three largest depositors involved in this case – Carney & Bonnie Bell/Karat Patch, Ms. Wilkison, and Ruby and Richard Roe – deposited \$2,732,238.16 into these accounts between 2002 and 2006, and received returns of only \$638,282.42, for total losses of \$2,093,955.74.

32. Respondent failed to act as a fiduciary with respect to these funds deposited and disbursed from his escrow accounts at least from 2002-2006, despite the fact that he endorsed checks as "Bob Bell, Trustee", and despite the fact that he knew he was responsible for handling escrow accounts with funds due many different individuals and entities. Respondent acquiesced in his role as Trustee, and knew he was granted a Power of Attorney by Ms. Wilkison.

33. Respondent recommended the termination of a defined benefit pension plan owned by one of his clients with full knowledge that this transaction would subject his client to severe penalties and interest from both the IRS and the U.S. Department of Labor.

34. Respondent is not a registered broker-dealer or agent in Tennessee and he issued promissory notes in investment transactions which were unregistered securities, conduct which was inconsistent with the requirements of the Tennessee Securities Act of 1980, Tenn. Code Ann. §§ 48-2-101 *et seq.* In addition to the promissory notes Respondent issued to Ms. Roe, he issued three notes to Martha Wilks and Thomas Givens as follows:

DATE	PAYEE	AMOUNT	RATE
7/13/07	Martha Wilks	\$22,000.00	7%

9/13/07	Martha Wilks	\$5,000.00	7%
4/10/98	Thomas Givens	\$40,000.00	10%
TOTAL		\$67,000	

PROPOSED CONCLUSIONS OF LAW

1. Respondent's actions, as set out in numbered paragraphs 3-34 of the foregoing Allegations of Fact, constitute violations of Tenn. Code Ann. § 62-1-111(a)(5), (6), (7), (9), & (10) the relevant portions of which read as follows:

62-1-111. Revocation, suspension or refusal to renew license – Other penalties – Hearings – Procedure – Costs. -

(a) After notice and a hearing pursuant to §62-1-120, the board may revoke any license issued under §62-1-107, §62-1-108, or §62-1-109, or corresponding provisions of prior law; suspend any such license or refuse to renew any such license for a period of not more than five (5) years; reprimand, censure, or limit the scope of practice of any licensee; impose a civil penalty; or place any licensee on probation, all or without terms, conditions, and limitations for any one (1) or more of the following reasons:

(5) Dishonesty, fraud, or gross negligence in the performance of services as a licensee....;

(6) Violation of any provision of this chapter or rule promulgated by the board under this chapter or violation of professional standards;

(7) Violation of any rule of professional conduct promulgated by the board;

(9) Performance of any fraudulent act while holding a certificate or permit issued under this chapter or prior law;

(10) Any conduct reflecting adversely upon the licensee's fitness to perform services while a licensee...

2. Respondent's actions, as set out in numbered paragraphs 3-34 of the foregoing Allegations of Fact, constitute violations of Tenn. Comp. R. & Reg. 0020-03-.02(2), the relevant portion of which reads as follows:

0020-03-.02 APPLICABILITY.

(2) A licensee shall comply with the AICPA Code of Professional Conduct when these rules are silent on any matter.

3. Respondent's actions, as set out in numbered paragraphs 3-34 of the foregoing Allegations of Fact, constitute violations of Tenn. Comp. R. & Reg. 0020-03-.04(1), and 0020-03-.12(1), the relevant portions of which read as follows:

0020-03-.04 INTEGRITY AND OBJECTIVITY.

(1) In the performance of any professional service, a licensee shall maintain objectivity and integrity, shall be free of any undisclosed conflicts of interest, and shall not knowingly misrepresent facts or subordinate his or her judgment to others.

0020-03-.12 DISCREDITABLE ACTS.

(1) A licensee shall not commit any act that reflects adversely on the profession.

4. Respondent's actions, as set out in numbered paragraphs 3-34 of the foregoing Allegations of Fact, constitute violations of Tenn. Comp. R. & Reg. 0020-04-.03(1)(b) & (c), and (2)(b), the relevant portions of which read as follows:

0020-04-.03 GROUNDS FOR DISCIPLINE AGAINST LICENSEES.

(1) The grounds for disciplinary action against licensees, are set out in Tenn. Code Ann. §62-1-111 in both specific and general terms. The general terms of

that provision include but are not limited to the following particular grounds for such disciplinary action.

(b) Dishonesty, fraud or gross negligence include knowingly, or through gross negligence, making misleading, deceptive or untrue representations in the performance of services.

(c) Violations of the Act or of rules promulgated under the Act...

(2) Conduct reflecting adversely upon the licensee's fitness to perform services includes but is not limited to:

(b) Fiscal dishonesty of any kind;

5. Respondent's actions, as set out in numbered paragraphs 3-34 of the foregoing Allegations of Fact, constitute violations of the AICPA Code of Professional Conduct, Article II - The Public Interest, ET Sections 53.01 and 53.03, and Article III- Integrity, ET Section 54.02, which state in pertinent part as follows:

ET Section 53 ARTICLE II - THE PUBLIC INTEREST

53.01 A distinguishing mark of a profession is acceptance of its responsibility to the public. The accounting profession's public consists of clients, credit grantors, governments, employers, investors, the business and financial community, and others who rely on the objectivity and integrity of certified public accountants to maintain the orderly functioning of commerce. This reliance imposes a public interest responsibility on certified public accountants. The public interest is defined as the collective well-being of the community and institutions the profession serves.

53.03 Those who rely on certified public accountants expect them to discharge their responsibilities with integrity, objectivity, due professional care, and a genuine interest in serving the public. They are expected to provide quality services, enter into fee arrangements, and offer a range of services - all in a manner that demonstrates a level of professionalism consistent with these Principles of the Code of Professional Conduct.

ET Section 54 ARTICLE III - INTEGRITY

54.02 Integrity requires a member to be, amongst other things, honest and candid within the constraints of client confidentiality. Service and the public trust should not be subordinated to personal gain and advantage. Integrity can accommodate the inadvertent error and the honest difference of opinion, it cannot accommodate deceit or subordination of principle.

6. Respondent's violations of Tenn. Code Ann. §§ 62-1-111(a)(5), (6), (7), (9), & (10), Tenn. Comp. R. & Regs. 0020-03-.02(2), 0020-03-.04(1), 0020-03-.12(1), 0020-04-.03(1)(b) & (c), and (2)(b), and his violations of the AICPA Code of Professional Conduct, Article II – The Public Interest, ET Sections 53.01 and 53.03, and Article III- Integrity, ET Section 54.02, constitute grounds for the revocation, suspension or censuring of his CPA license issued by this Board and/or the imposition of other lawful discipline, including the imposition of civil penalties pursuant to Tenn. Code Ann. §§ 56-1-308(a), 62-1-111(a), and Tenn. Comp. R. & Reg. 0020-04-.02 [CIVIL PENALTIES]. Respondent's violations also warrant the assessment of investigatory and hearing costs against Respondent pursuant to Tenn. Code Ann. § 56-1-311(a), and Tenn. Comp. R & Reg. 0780-5-11-.01 [ASSESSMENT OF INVESTIGATORY AND HEARING COSTS] of the rules of the Department of Commerce and Insurance.

PROPOSED JUDGMENT

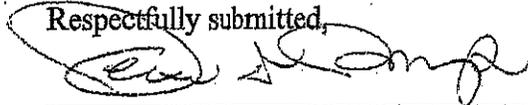
WHEREFORE, the State hereby prays that the Board ORDER, ADJUDGE AND DECREE as follows:

1. The Respondent's license as a Certified Public Accountant (No. 3250) in Tennessee is **REVOKED for a five (5) year period** based on the substantial violations set forth above.

2. Respondent is assessed a civil penalty of one hundred ten thousand dollars (\$110,000.00), for which execution may issue if necessary, representing a \$2,000 penalty per month for the fifty-five (55) month period (April, 2002-November, 2006) wherein Respondent continuously misappropriated funds from his escrow accounts to his own personal use and benefit. Full payment of this assessed civil penalty is a condition precedent which must be met before any future application for reinstatement of his license or for a new license may be filed by Respondent with this Board.

3. Respondent is ASSESSED all investigatory and hearing costs incurred in this matter pursuant to Tenn. Code Ann. § 56-1-308(a) and Tenn. Comp. R. & Reg. 0780-5-11-.01 [ASSESSMENT OF INVESTIGATORY AND HEARING COSTS], for which execution may issue if necessary. Full payment of these investigatory and hearing costs is a condition precedent which must be met before any future application for reinstatement of his license or for a new license may be filed by Respondent with this Board.

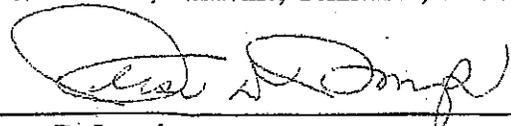
Respectfully submitted,



Jesse D. Joseph, BPR No. 10509
Assistant General Counsel-Litigation
Department of Commerce and Insurance
500 James Robertson Parkway, 5th Floor
Nashville, Tennessee 37243-0569
615-532-3691/Fax: 615-532-4750

Certificate of Service

I hereby certify that I have hand delivered a copy of these proposed Findings of Fact and Conclusions of Law to Respondent, Respondent Robert E. Bell, CPA, Springfield Tax Service, 4450 Mt. Zion Road, Springfield, TN 37172 before the Commission on February 13, 2012, and that I have hand-delivered the original of these Proposed Findings of Fact and Conclusions of Law with the Honorable Lynn England, Administrative Judge, Office of the Secretary of State, Administrative Procedures Division, 8th Floor, Wm. R. Snodgrass Tennessee Tower, Nashville, Tennessee, on this 18 day of October, 2012.

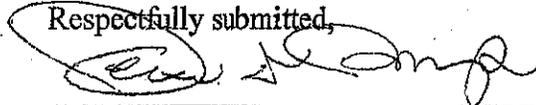


Jesse D. Joseph

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3. Respondent is ASSESSED all investigatory and hearing costs incurred in this matter pursuant to Tenn. Code Ann. § 56-1-308(a) and Tenn. Comp. R. & Reg. 0780-5-11-.01, [ASSESSMENT OF INVESTIGATORY AND HEARING COSTS], for which execution may issue if necessary. Full payment of these investigatory and hearing costs is a condition precedent which must be met before any future application for reinstatement of his license or for a new license may be filed by Respondent with this Board.

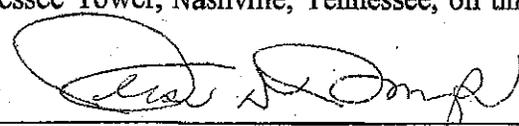
Respectfully submitted,



Jesse D. Joseph, BPR No. 10509
Assistant General Counsel-Litigation
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Jesse D. Joseph



Attachment B

**STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
OFFICE OF LEGAL COUNSEL
Davy Crockett Tower
500 James Robertson Parkway
NASHVILLE, TENNESSEE 37243
Phone: (615) 741-3072
Fax: (615) 532-4750**

MEMORANDUM

TO: TENNESSEE BOARD OF ACCOUNTANCY
FROM: CHRISTOPHER R. WHITTAKER, Assistant General Counsel
SUBJECT: OCTOBER 2012 LEGAL REPORT
DATE: October 19, 2012

Civil Penalties Authorized: 4
Amount of Civil Penalties: \$ 36,500.00
Letters of Warning: 9
Letters of Instruction: 0
Consent Orders for Suspension, Surrender, or Revocation: 6
Placement of Complaints into Litigation Monitoring Status: 0
Informal Conferences Authorized: 0
Dismiss: 4

1. L12-ACC-RBS-2012016141

The complaint alleges that the Respondent pleaded guilty to at least one felony for filing a false tax return(s). The investigation revealed that the Respondent is currently awaiting sentencing, and that there is a strong likelihood that the Respondent will be incarcerated for some period of time.

Recommendation: Formal hearing for the revocation of the Respondent's license with authority to settle via Consent Order upon the Respondent's agreement to the voluntary revocation of his license.

2. L09-ACC-RBS-2009003311

The complaint alleges that the Respondent CPA embezzled more than \$ 200,000 from his now former employer during the course of his employment. The Board previously voted to place this complaint into Litigation Monitoring status pending the outcome of related civil litigation.

The Respondent's former employer filed a claim with its insurance carrier to be reimbursed for the funds that the Respondent allegedly misappropriated, and the employer's insurance carrier paid out approximately \$ 217,000 based on the findings of an investigation conducted by a CPA firm retained by the insurance company to investigate the alleged misappropriation of funds by the Respondent. After making the above-referenced payout to the Respondent's former employer, the insurance carrier filed a subrogation lawsuit against the Respondent seeking to be paid back for the funds it had paid to the Respondent's former employer. That lawsuit was dismissed based on the claim being filed past the applicable statute of limitations, and the court made no findings one way or the other as to the Respondent's alleged misappropriation of funds. However, the insurance carrier provided a copy of its investigative report to the Respondent's former employer, who in turn provided it to the Board for consideration as part of the disposition of this complaint. The insurance carrier's report contains multiple findings that the Respondent misappropriated funds from his former employer, and it made a payout to the employer on that basis. It does not appear that the Board is bound by the disposition of the insurance carrier's lawsuit against the Respondent in deciding the disposition of this complaint.

Recommendation: Remove this complaint from Litigation Monitoring status, and formal hearing for the revocation of the Respondent's license with authority to settle via Consent Order upon the Respondent's agreement to pay a civil penalty in the amount of twenty thousand dollars (\$ 20,000.00) and for his license to be revoked for a period of five (5) years. In light of the amount of the civil penalty sought, the Respondent may request a payment plan in order to pay the civil penalty. The Consent Order shall also include a stipulation that, as part of any future application for reinstatement by the Respondent, he must appear personally before the Board. Failure to complete all requirements of the Consent Order in a timely manner shall result in the automatic revocation of the Respondent's CPA license without the necessity of a formal hearing based on the violations admitted in the Consent Order.

3. L12-ACC-RBS-2012009721

The complaint alleges that the Kansas CPA license of the Respondent CPA was revoked for failure to comply with CPE requirements and for failure to respond to a complaint from the Kansas State Board of Accountancy. Additionally, the Respondent failed to respond to the Tennessee Board this complaint or any attempts to contact her regarding this complaint.

Recommendation: Formal hearing for the revocation of the Respondent's license with authority to settle by Consent Order upon the Respondent's agreement to a voluntary revocation of her license.

4. L12-ACC-RBS-2011019291

The complaint alleges that the Respondent CPA failed to notify the Tennessee Board of the revocation of his CPA licenses in South Dakota and Alabama for failure to timely renew or surrender his certificate in both states. Additionally, the Respondent failed to respond to the Tennessee Board this complaint or any attempts to contact her regarding this complaint.

Recommendation: Formal hearing for the revocation of the Respondent's license with authority to settle by Consent Order upon the Respondent's agreement to a voluntary revocation of his license.

5. **L12-ACC-RBS-2012009911**

The complaint alleges that the Respondent CPA failed to notify the Tennessee Board of the revocation of his CPA license in Arkansas for failure to timely renew his license and for failure to respond to correspondence from the Arkansas State Board of Public Accountancy. Additionally, the Respondent failed to respond to the Tennessee Board this complaint or any attempts to contact him regarding this complaint.

Recommendation: Formal hearing for the revocation of the Respondent's license with authority to settle by Consent Order upon the Respondent's agreement to a voluntary revocation of his license.

6. **L12-ACC-RBS-2012014541**

The complaint alleges that the Respondent CPA was convicted of multiple felonies for theft by conversion and theft by taking. At the conclusion of the Respondent's jury trial, the Respondent was sentenced to three years in prison and an additional 17 years of probation. The Respondent has already signed a Consent Order agreeing to the voluntary revocation of his Georgia CPA license.

Recommendation: Formal hearing for the revocation of the Respondent's license with authority to settle by Consent Order upon the Respondent's agreement to a voluntary revocation of his license. Alternatively, if applicable law allows for it, the Board agrees to seek summary suspension of the Respondent's Tennessee license until he is released from prison.

7. **L12-ACC-RBS-2012018821**

The complaint alleges that the Respondent failed to timely comply with a CPE audit for the 2010-2011 reporting period. During the investigation, the Respondent stated that he is not currently in practice at this time, but that he did complete CPE for the time period in question due to an SEC audit of his employer's company. The Respondent was extended a tentative settlement offer to close his license in good standing with a dismissal recommendation to the Board regarding this complaint if he closed his license in good standing. As of the date of this report, the Respondent stated that he has received the paperwork necessary to complete the closure of his license, and that he is still considering it.

Recommendation: If the Respondent successfully closes his Tennessee license in good standing within thirty (30) days from October 19, 2012 (no later than November 19, 2012), this complaint shall be dismissed. If the Respondent fails to close his Tennessee license within the specified time frame, formal hearing for the revocation of the Respondent's license with authority to settle by Consent Order with a civil penalty of one thousand dollars (\$ 1,000.00), completion of all past due CPE (providing proof of same to the Board), and completion of two (2) penalty hours of Tennessee state-specific ethics CPE within ninety (90) days of October 19, 2012 (no later than January 18, 2013).

8. **L12-ACC-RBS-2012014081**

The complaint alleges that the Respondent CPA failed to notify the Board that her Texas CPA license had been revoked. The investigation revealed that the Respondent's Texas license

was administratively revoked for failure to pay fees, and that the Respondent has no other outstanding allegations of any violation of Tennessee law(s) or rule(s) by the Respondent. The Respondent has agreed to surrender her Tennessee CPA license as part of the disposition of this complaint. As such, this complaint should be closed with a Letter of Warning upon the Board's receipt of the necessary documentation from the Respondent to close her Tennessee license.

Recommendation: Close with a Letter of Warning.

9. L12-ACC-RBS-2012014111

The complaint alleges that the Respondent CPA failed to notify the Board that her Texas CPA license had been revoked. The investigation revealed that the Respondent's Texas license was administratively revoked for failure to pay fees, and that the Respondent has no other outstanding allegations of any violation of Tennessee law(s) or rule(s) by the Respondent. The Respondent has agreed to surrender her Tennessee CPA license as part of the disposition of this complaint, and has already completed the surrender affidavit and returned it to the Board. As such, this complaint should be closed with a Letter of Warning.

Recommendation: Close with a Letter of Warning.

10. L12-ACC-RBS-2012014081

The complaint alleges that the Respondent CPA failed to notify the Board that his Texas CPA license had been revoked. The investigation revealed that the Respondent's Texas license was administratively revoked for failure to pay fees, and that the Respondent has no other outstanding allegations of any violation of Tennessee law(s) or rule(s) by the Respondent. The Respondent has agreed to surrender his Tennessee CPA license as part of the disposition of this complaint. As such, this complaint should be closed with a Letter of Warning upon the Board's receipt of the necessary documentation from the Respondent to close his Tennessee license.

Recommendation: Close with a Letter of Warning.

11. L12-ACC-RBS-2012014081

The complaint alleges that the Respondent CPA failed to notify the Board that his Texas CPA license had been revoked. The investigation revealed that the Respondent's Texas license was administratively revoked for failure to pay fees, and that the Respondent has no other outstanding allegations of any violation of Tennessee law(s) or rule(s) by the Respondent. The Respondent's Tennessee CPA license has been current and in good standing ever since he obtained it. As such, this complaint should be closed with a Letter of Warning.

Recommendation: Close with a Letter of Warning.

12. L12-ACC-RBS-2012011031

The complaint alleges that the Respondent CPA failed to notify the Board that his Texas CPA license had been revoked. The investigation revealed that the Respondent's Texas license was administratively revoked for failure to pay fees, and that the Respondent has no other outstanding allegations of any violation of Tennessee law(s) or rule(s) by the Respondent. The

Respondent has agreed to surrender his Tennessee CPA license as part of the disposition of this complaint, and has already completed the surrender affidavit and returned it to the Board. As such, this complaint should be closed with a Letter of Warning.

Recommendation: Close with a Letter of Warning.

13. L12-ACC-RBS-2011019211

The complaint alleges that the Respondent, a non-licensee company owned by two non-CPAs, used the word "accounting" in the name of their business without proper licensure to do so. As part of the investigation, the Respondent made all necessary changes to its company name and signage in order to comply with the law. As such, no Cease & Desist Letter is necessary, and this complaint should be closed with a Letter of Warning.

Recommendation: Close with a Letter of Warning.

14. L12-ACC-RBS-2011019211

The complaint alleges that the Respondent failed to adequately communicate with a client regarding the status of the client's tax returns. The Respondent admitted that the communication with this client was not up to his normal standards. Mitigating factors are the poor health of the Respondent, the poor health of the Respondent's parents, and the Respondent's two week out of state trip to stay with a friend who had terminal cancer and ultimately passed away. Additionally, the Respondent's client suffered no harm because the Respondent did file for an extension of his client's returns and did complete the returns on time. Further, the client advised the Board that he had come to a mutually agreeable resolution of his concerns with the Respondent.

Recommendation: Close with a Letter of Warning.

15. L12-ACC-RBS-2012005961

The complaint alleges that the Respondent CPA firm issued a substandard audit report to a client. After a thorough investigation of the complaint, it was determined that, although the firm did rely too heavily on the assertions of management, such reliance was not the proximate cause of any adverse consequences to the client. Rather, it appears that the actions of management, including actions by management not in accordance with the client's internal policies and procedures, were the actual cause of any harm suffered by the client.

Recommendation: Close with a Letter of Warning.

16. L11-ACC-RBS-2011025961

This complaint was previously considered by the Board, and at that time, the Board recommended a Consent Order with a \$ 500.00 civil penalty for failure to timely comply with a CPE audit for the 2009-2010 reporting period. Newly discovered evidence indicates that the Respondent had, in fact, completed all CPE required for the above-referenced reporting period in a timely manner as required by law. A major mitigating factor for the delay in the Respondent's

response to the CPE audit was the serious, extended illness and untimely death of her mother. Based on this new information, this complaint should be closed with a Letter of Warning.

Recommendation: Close with a Letter of Warning

17. L12-ACC-RBS-2012009751

The complaint alleges that the Respondent failed to report the revocation of his Texas CPA license to the Board. The investigation revealed that the Respondent's Tennessee license is inactive, and that he is not currently practicing as a CPA because he is a professor at a college. The Respondent further stated that he did not believe he ever had a Texas CPA license, and despite an online listing of the revocation of a Texas CPA license for someone who potentially might be the Respondent, the file does not contain conclusive proof that the revoked Texas CPA license in question actually belongs to the Respondent.

Recommendation: Dismiss the complaint.

18. L12-ACC-RBS-2012016271

The complaint alleges that the Respondent CPA improperly used the CPA designation on an expired Tennessee license. The investigation revealed that the Respondent is employed in the manufacturing sector, that he is not practicing accountancy at this time, and that he has no plans to do so in the immediate future.

Recommendation: Dismiss the complaint, provided that the Respondent closes his Tennessee license no later than the close of business on November 30, 2012. If the Respondent fails to close his license within the specified time period, the Respondent shall be offered a Consent Order with a \$ 500.00 civil penalty.

19. L12-ACC-RBS-2012016231

The complaint alleges that the Respondent committed a discreditable act by not clarifying the terms of engagement. The investigation revealed that, although the Respondent did not have a formal engagement letter, the Respondent did engage in a lengthy exchange of e-mails with the client prior to the engagement, and that the e-mail exchange clearly specified what services were to be performed and how much the Respondent would charge for those services. As such, there appears to be insufficient evidence of any legal violation(s) such that disciplinary action against the Respondent could be supported.

Recommendation: Dismiss the complaint.

20. L12-ACC-RBS-2012017201

The complaint alleges that the Respondent failed to file a client's 2010 tax return and that he failed to adequately communicate with him regarding same. The investigation revealed that the Respondent had, in fact, filed the client's tax return on time and e-mailed it to the client. Additionally, while the Respondent was away from his practice for an extended period of time to attend to multiple serious illnesses in his family, there is no evidence that the client suffered any harm as a result of the Respondent's leave of absence from his practice.

Recommendation: Dismiss the complaint.

21. L11-ACC-RBS-2011010931

22. L09-ACC-RBS-2011010921

These two related complaints were filed against a CPA and the firm in which he is a named partner, and they were previously considered by the Board. The complaints allege that the CPA and his firm breached their respective fiduciary duties to a client by failing to detect several acts of malfeasance by an employee (who was directly supervised by the Respondent CPA), which resulted in harm to the client. Specifically, a non-CPA employee of the firm took client money from one client account and deposited it into another client account on one occasion, failed to file quarterly tax returns for three quarters for one client, and failed to properly account for cash deposits for one client for the same three quarters. The Board's previous consideration of this matter took place before the civil litigation in this matter went to trial. Because the trial has now been completed, the Board must now reconsider these complaints.

At the time of the Board's initial consideration of these complaints, the civil lawsuit against the Respondents was still pending, and there were very serious allegations in the lawsuit. Among the allegations included in the lawsuit were claims of fraud, theft, and violations of the Tennessee Consumer Protection Act. However, all of the most serious claims against the Respondents were dismissed, and the jury awarded no punitive damages to the Complainants (in the Board complaints)/Plaintiffs (in the civil lawsuit), the latter of which tends to indicate that there was no finding of intentional wrongdoing by the Respondents. The jury did award damages to the Complainants/Plaintiffs, but they did so based solely on the malfeasance of the rogue employee, not as a result of any affirmative misconduct by either Respondent. The jury awarded the Complainants/Plaintiffs all sums incurred as a result of tax penalties and interest from the IRS, a refund of the fee paid by the Complainants/Plaintiffs to the Respondent firm for services rendered during the time period in question, and a small amount for emotional/mental distress suffered by the Complainants/Plaintiffs. After speaking with counsel for the Respondents, there are additional mitigating factors to be considered. First, it was the Respondent CPA and his firm which initially discovered the misdeeds of the rogue employee and reported it to the Complainants. Second, the Respondents immediately took corrective action by filing the necessary client tax returns and performing an accounting of the client's cash payables and receivables for the time in question. Third, the Respondents advised the Complainants that they were likely to incur some tax penalties as a result of their employee's failure to timely file the client's quarterly returns, and they offered to work with the IRS to fix the problem and agreed to pay any interest and penalties incurred by the client even before the related civil lawsuit was filed. Fourth, even at trial in the civil litigation (and at all times leading up to the trial), the Respondents admitted some level of negligence and attempted to work out a mutually

agreeable resolution of these issues. Fifth, and finally, the rogue employee in question took extraordinary measures to cover up and hide the malfeasance from her supervisor and employer (including the shredding of certain documents, making up false tax deposit forms, etc.), and the malfeasance was immediately discovered by the Respondents when the rogue employee took a leave of absence to care for her dying husband and the employee's replacement noticed discrepancies in the work of her predecessor.

In discussions with the Respondents' counsel, concern was expressed for the impact that any reportable disciplinary action would have on the firm and on innocent employees and CPAs who had no responsibility or involvement with the issues described herein. The Respondents' counsel advised that, if the firm had to report a disciplinary sanction (especially this kind of sanction) when applying for government contract work, it would cost the firm approximately 40% of its business, resulting in widespread layoffs of innocent employees and CPAs. As a name partner in the firm and as the direct supervisor of the rogue employee, the Respondent CPA feels most directly responsible for the issues that have befallen his firm. Therefore, for the purposes of settlement only, the Respondent CPA is amenable to the possibility of taking the entire disciplinary sanction for these complaints upon himself. In closing, it is noteworthy that the Respondent CPA has practiced for over 30 years without a single complaint being filed against him, and that the Respondent CPA firm has a similarly clean (lack of) complaint history.

Recommendation: Formal hearing for the revocation of the license of the Respondent CPA and the firm permit of the Respondent CPA firm with authority to settle by Consent Order as follows: 1.) The Respondent CPA shall complete 16 penalty hours of CPE relative to practice management within ninety (90) days of the date the Consent Order is executed, and he shall provide proof of same to the Board; 2.) The Respondent CPA's license shall be placed on probation for a period of two (2) years from the date the Consent Order is executed; 3.) The Respondent CPA shall pay a civil penalty in the amount of ten thousand dollars (\$ 10,000.00); in light of the amount of the civil penalty sought, the Respondent may request a payment plan in order to pay the civil penalty; 4.) As part of the settlement, and in light of the Respondent CPA taking full responsibility for the violations at issue in these complaints, the complaint against the Respondent CPA firm is to be dismissed. If the Respondent CPA fails to agree to this settlement offer, both complaints will be set for formal hearing before the Board, and disciplinary action shall be sought against both the Respondent CPA and his firm. Additionally, if the Respondent CPA does accept the above-referenced settlement offer, failure to complete all requirements of the Consent Order in a timely manner shall result in the automatic revocation of the Respondent's CPA license without the necessity of a formal hearing based on the violations admitted in the Consent Order.



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Tennessee State Board of Accountancy

Executive Director's Report

19 October 2012

1. NASBA Activities

105th Annual Meeting



NASBA's Annual Meeting will take place on 28 – 31 October 2012 in Orlando, Florida. I will be traveling one day early (Saturday) to attend two committee meetings. Ms. Mills and Mr. Butler will join me on Sunday for the remainder of the meeting. We will fly home on Wednesday evening (October 31).

2. Investigation for Arkansas

Mr. Mills is continuing to work on this case for the Arkansas State Board of Accountancy. The Respondent has failed to reply to Mr. Mills' requests for additional information. The Executive Director in Arkansas is considering his next move.

3. ALJ Day

It appears that we are not going to be able to schedule an ALJ until after the first of the year. We will schedule an ALJ to hear some of our cases as soon as the 2013 dates of the judges' availability is released.

4. State Holidays

Holidays to be observed before the next regularly scheduled board meeting are:

- Monday, 12 November – Veteran's Day
- Thursday, 22 November – Thanksgiving
- Friday, 23 November – Thanksgiving (in lieu of Columbus Day)



Monday, 24 December – Christmas Eve
Tuesday, 25 December – Christmas
Monday, 31 December – New Year's Eve
Tuesday, 01 January – New Year's Day
Monday, 21 January – Martin Luther King Day

5. License Counts

License Counts are attached. (Attachment A)
I would like to point out that we do not have ANY firms that have not renewed or closed their permits! We have (as of this writing) only 54 CPAs who are delinquent.

6. Proposed Future Meeting Dates:

Friday, 25 January 2013

Friday, 03 May 2013

Friday, 19 July 2013

Friday, 18 October 2013

Friday, 17 January 2014

Friday, 02 May 2014

7. State Board Committee Appointment

I have been asked to serve on the AICPA's State Board Committee, which is a sub-committee of the Board of Examiners. I have accepted this position pending Board approval.

8. Court Appeal

Mr. Edwin Osborne's case was heard by the Board at the July meeting. The Board voted to revoke Mr. Osborne's license and his firm permit and also assessed a civil penalty in the amount of \$4,000.00. Mr. Osborne has filed an appeal in Chancery Court in Davidson County to overturn the Board's ruling. Our legal team will keep us updated on the progress of this case.

9. CPA Exam Performance Summary

Also attached is the CPA Exam Performance Summary for the third quarter of 2012 (Attachment B). Please note that Tennessee ranked 18th in the number of candidates sitting for the exam and that we ranked 21st in passing rates. The jurisdictions with the highest pass rate this quarter were Utah, Oregon, and North Carolina.

Date: 10/12/2012 LICENSE STATUS COUNTS PAGE: 1
1101: Certified Public Accountant

10-APPL IN PROC (TOTAL):	45
11-WITHDREW (TOTAL):	18
12-EXPIRED APPL (TOTAL):	199
13-DENIED (TOTAL):	3
19-PROBATION (TOTAL):	5
20-ACTIVE (TOTAL):	9980
31-INACTIVE (TOTAL):	4155
32-DISABLED (TOTAL):	52
33-ACTIVE MILITARY (TOTAL):	3
34-RETIRED (TOTAL):	157
41-SUSPENDED (TOTAL):	2
45-DELINQUENT (TOTAL):	54
51-RETIRED-OVER 70 (TOTAL):	753
55-EXPIRED LICENSE (TOTAL):	2525
61-CLOSED (TOTAL):	2321
64-REVOKED (TOTAL):	46
80-DECEASED (TOTAL):	2493
88-ADMIN REASON (TOTAL):	122

Date: 10/12/2012 LICENSE STATUS COUNTS PAGE: 2
1101: Certified Public Accountant

Total Number of Records: 22933

*** END OF REPORT ***

Attachment A (1)

Date: 10/12/2012 LICENSE STATUS COUNTS
1102: Licensed Public Accountant

PAGE: 1

12-EXPIRED APPL (TOTAL):	1
20-ACTIVE (TOTAL):	14
31-INACTIVE (TOTAL):	12
34-RETIRED (TOTAL):	2
51-RETIRED-OVER 70 (TOTAL):	15
55-EXPIRED LICENSE (TOTAL):	24
61-CLOSED (TOTAL):	310
64-REVOKED (TOTAL):	1
80-DECEASED (TOTAL):	127
88-ADMIN REASON (TOTAL):	593

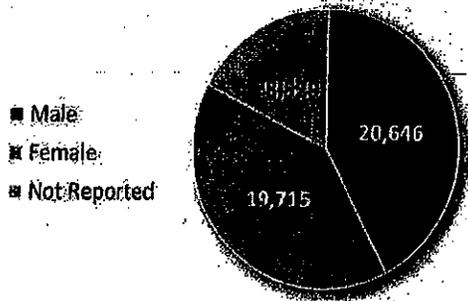
Total Number of Records: 1099

*** END OF REPORT ***

Attachment A (2)

CPA Exam Performance: All Jurisdictions

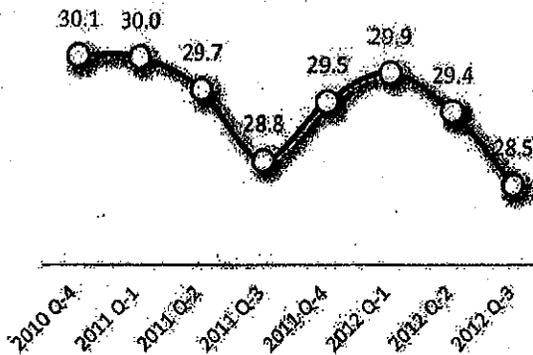
Demographics



Residency

Candidate Count	
In-State Address	37,928
Out-of-State Address	7,020
Foreign Address	3,942
% of Candidates	
In-State Address	77.6%
Out-of-State Address	14.4%
Foreign Address	8.1%

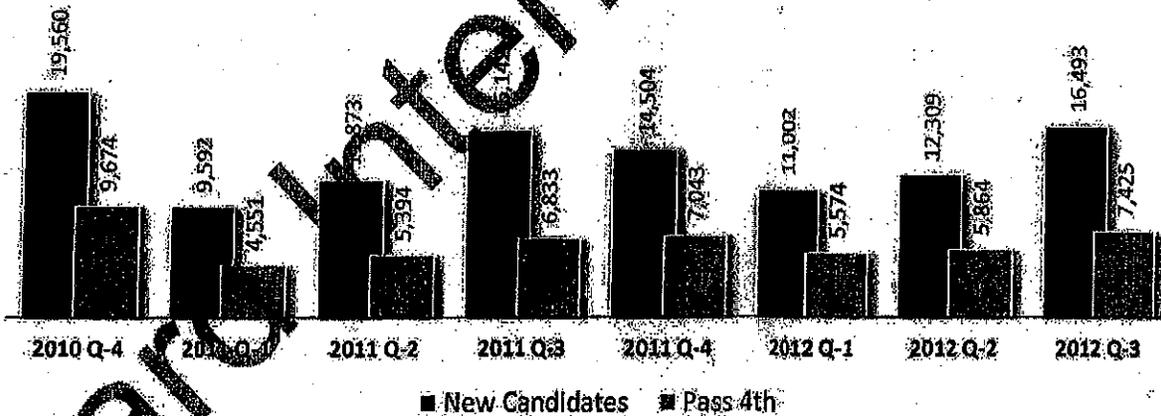
Average Age



Degree Type

Candidate Count	
Bachelor's Degree	34,252
Advanced Degree	6,638
None/Other	8,529
% of Candidates	
Bachelor's Degree	70.1%
Advanced Degree	13.6%
None/Other	17.4%

New Candidates vs Candidates Passing 4th Section



Notes about the Data:

The data used to develop this report was pulled from NASBA's Gateway System, which houses the Uniform CPA Examination's Application and Performance Information for all 55 jurisdictions.

The demographic data related to Age, Gender and Degree Type is provided by the individual candidates and may not be 100% accurate.

2012 Q-3

B(4)

Overall Statistics for Testing Window 2012 Q-3

Jurisdiction	Count Candidates	Count Sections	FT Sections	RE Sections	Average Pass Rate	Average Score	Average Age
Alabama	215	290	175	115	49.0%	71.4	30.4
Alaska	373	564	320	244	41.5%	69.0	31.3
Arizona	489	701	489	262	55.4%	74.4	30.4
Arkansas	219	346	181	165	42.8%	70.9	28.7
California	6,906	9,415	5,292	4,123	48.2%	74.1	29.7
Colorado	1,091	1,638	990	648	55.2%	73.6	29.4
Connecticut	617	854	498	356	52.0%	72.8	26.9
Delaware	525	821	331	490	48.7%	66.4	33.2
District of Columbia	77	104	62	42	39.4%	66.7	31.6
Florida	1,491	2,051	1,364	637	59.1%	75.1	29.9
Georgia	1,657	2,298	1,463	835	55.1%	73.2	29.0
Guam	346	562	270	283	32.2%	66.6	34.4
Hawaii	212	277	168	114	41.5%	70.5	30.1
Idaho	160	222	133	89	48.2%	72.0	30.1
Illinois	2,874	4,447	3,047	1,401	59.5%	75.1	27.4
Indiana	698	1,075	817	358	55.6%	74.3	27.1
Iowa	352	546	333	213	58.2%	74.2	26.1
Kansas	243	377	260	117	60.0%	75.9	27.7
Kentucky	458	622	399	223	54.3%	73.0	29.0
Louisiana	468	604	342	262	55.0%	74.1	28.4
Maine	804	1,238	663	575	44.2%	69.4	31.1
Maryland	926	1,375	919	456	51.6%	72.5	28.2
Massachusetts	1,521	2,268	1,501	767	59.1%	74.9	26.5
Michigan	1,100	1,634	1,107	527	60.5%	75.7	27.5
Minnesota	857	1,463	1,111	352	58.5%	75.0	26.0
Mississippi	179	236	130	106	41.5%	67.8	31.0
Missouri	744	1,212	868	344	59.0%	75.0	26.8
Montana	281	453	275	178	44.4%	69.9	28.6

Jurisdiction	Count Candidates	Count Sections	FT Sections	RE Sections	Average Pass Rate	Average Score	Average Age
Nebraska	180	291	198	93	59.1%	75.2	26.5
Nevada	184	260	159	101	55.8%	73.8	29.9
New Hampshire	1,716	2,442	1,492	950	42.1%	68.9	30.3
New Jersey	1,420	1,960	1,128	832	45.5%	70.3	27.9
New Mexico	191	254	154	100	44.9%	74.0	32.5
New York	5,007	7,285	4,520	2,765	53.1%	73.0	26.9
North Carolina	1,003	1,673	1,161	512	62.8%	76.0	27.8
North Dakota	123	169	104	65	54.4%	72.8	27.5
Ohio	1,447	2,451	1,747	704	53.6%	73.5	27.0
Oklahoma	349	490	283	207	49.4%	71.8	30.5
Oregon	348	489	316	173	63.2%	76.3	29.9
Pennsylvania	1,942	2,813	1,674	1,139	52.7%	73.6	26.6
Puerto Rico	405	528	273	255	31.4%	63.1	28.1
Rhode Island	77	112	67	45	58.9%	78.3	26.9
South Carolina	327	508	341	167	62.4%	75.9	27.5
South Dakota	80	109	63	46	55.1%	73.7	28.7
Tennessee	884	1,242	773	469	55.3%	73.9	29.2
Texas	2,950	4,174	2,481	1,693	56.3%	74.3	29.3
Utah	261	346	240	106	66.5%	77.4	30.7
Vermont	261	431	251	180	46.2%	69.8	27.3
Virginia	1,794	2,907	2,042	865	57.3%	74.6	27.9
Washington	1,205	1,768	1,134	634	54.0%	73.5	30.9
West Virginia	134	185	111	74	38.9%	68.4	28.3
Wisconsin	693	1,098	789	309	62.2%	76.3	26.5
Wyoming	35	41	21	20	43.9%	71.0	28.7

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