



**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**

27 January 2012

The meeting of the Tennessee State Board of Accountancy convened in the Andrew Johnson Tower, Nashville, TN on Friday, January 27, 2012 at 8:30 a.m.

Board members present were: Stan Sawyer, Chair; Bill Blaufuss; Troy Brewer; Shannone Raybon; Don Royston, Vice-Chair; Lisa Stickel, Secretary; Casey Stuart; Doug Warren; and Trey Watkins.

Board members absent were: Kenneth Cozart and Jennifer Brundige.

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

Others present were: Brad Floyd, TSCPA President, arriving at 11:00a.m.; Linda Biek, NASBA, arriving at 1:00 p.m.

Mr. Sawyer called the meeting to order and made the following announcements:

- This meeting was properly posted on the web on 18 January 2012
- Members should sign their Conflict of Interest forms
- Board officers will be elected at the next Board meeting; nominations should be submitted to Mark Crocker

The Chair then asked the Board members to review the minutes from the 13 September 2011 and 21 October 2011 meetings. Mr. Stuart moved to adopt the minutes from the 13 September 2011 meeting. Motion seconded by Mr. Royston and approved, with Mr. Blaufuss abstaining. Mr. Royston moved to adopt the minutes from the 21 October 2011 meeting. Motion seconded by Mr. Stuart and unanimously approved.

Mr. Sawyer called on Mr. Crocker to present the Executive Director's Report. A copy of the report is included as Attachment A.

Board of Examiners Report:

Mr. Warren presented the BOE Report. A copy of the report is included as Attachment B.

NASBA Communications Committee

Ms. Stickel reported the Committee met on December 19, 2011 in New Orleans. NASBA has doubled the budget of the Communications Committee due to the volume of work. The Nominations Committee will meet in Nashville in May.

NASBA Relevance and Effectiveness Committee

Mr. Crocker read Ms. Brundidge's report. The State Board Relevance and Effectiveness Committee met in December 2011 and decided to continue the three sub-committees. Ms. Brundige will continue to serve on the Legislative sub-committee, currently focused on developing model literature to educate legislators on the effectiveness and structure of State Boards. The committee has distributed surveys to Executive Directors of State Boards and State Societies regarding communication and cooperation in matters of mutual interest.

With no action required on either report, this concluded the NASBA Committee Reports.

The Board then moved on to Formal Hearings.

Formal Hearings

The Administrative Law Judge was the Honorable Lynn England. Attorneys for the State were Mr. Whittaker and Ms. Betty. The first cases to be presented were those in which an Agreed Order has been signed. None of the three respondents was present.

The first case to be heard was Docket Number 12.19-113464A concerning Teresa Driver, CPA license number 12059, firm permit number 2347, of 1112 Weston Drive, Mount Juliet, TN 37122.

Ms. Driver is charged with operating as a CPA on an administratively closed license and failure to pay the Professional Privilege Tax. Ms. Driver originally appeared before the Board at the September 2011 meeting and was granted a continuance in order to confer with counsel.

Agreed Order: Ms. Driver must pay a Civil Penalty of \$2,300.00, all past due fees, and a filing fee of \$200.00. The payment arrangement agreed upon is a payment of \$500.00 by 27 February 2012 and \$400.00 per month thereafter. Ms. Driver must further reinstate her license to Inactive status, close her firm permit within 180 days and complete two hours of State-Specific Ethics education. Ms. Driver agrees that failure to timely complete these requirements will result in automatic revocation of her license. The Agreement has been signed by Ms. Driver and her attorney, Donald Capparella.

Mr. Warren moved to approve the Agreed Order. Mr. Royston seconded and the motion passed unanimously.

The next case to be heard was Docket Number 12.19-112461A concerning David W. McAdams, license number 14333, of 98 Timber Creek Drive, Cordova, Tennessee 38018. Mr. McAdams is charged with advertising as a CPA with an administratively closed license. Mr. McAdams was not represented by counsel.

Agreed Order: Mr. McAdams must pay a Civil Penalty of \$2,010, past due fees of \$890.00, and filing costs of \$200.00; he must further reinstate his license to Inactive status within thirty days. Failure to comply will result in revocation of license. Mr. Royston moved to accept the Agreed Order. Ms. Stickel seconded and the motion passed unanimously.

The next case to be heard was Docket Number 12.19-113466A, concerning Jamie Singleton, license number 17663, of 402 Central Avenue East, Springfield, Tennessee 37172. Mr. Singleton is accused of failure to file personal and business tax returns.

Agreed Order: Mr. Singleton has remitted \$1500.00 in Civil Penalties. He must further complete two penalty hours of state-specific CPE within 90 days. Mr. Singleton is publicly censured by the Board and his personal license shall be on probation for two years. Mr. Royston moved to accept the Agreed Order. Mr. Warren seconded and the motion passed unanimously.

Ms. Betty then presented Professional Privilege Tax cases to the Board.

The first such case was Docket Number 12.19-113129A, concerning Richard Carl Vance, license number 19909, of Carmel, California. Mr. Vance is accused of failing to pay the required Professional Privilege Tax. Mr. Vance has now paid all Professional Privilege Taxes due.

Agreed Order: Mr. Vance must pay a Civil Penalty of \$500.00 and all costs associated with prosecution and investigation within six months. Mr. Warren moved to accept the Agreed Order. Ms. Stickel seconded and the motion passed unanimously.

The next case to be heard was that of Anita Lavalley, license number 13225, of Spicewood, Texas. Ms. Lavalley is accused of failing to pay the required Professional Privilege Tax. Ms. Lavalley is currently paying the required Professional Privilege Tax through timely payments to the Department of Revenue.

Agreed Order: Ms. Lavalley must pay a Civil Penalty of \$500.00 and hearing costs of \$200.00 within twelve months, beginning on 1 February 2012. Failure to comply will result in the revocation of her license. Mr. Royston moved to accept the Agreed Order. Ms. Stickel seconded and the motion passed unanimously.

Ms. Betty presented a Request for Continuance for Docket Number 12.19-133166A, concerning Ajayi A. Adedire, license number 14713, of 4905 Deerhaven Drive, Antioch,

Tennessee 37013. Mr. Adedire is accused of failing to pay the required Professional Privilege Tax. Mr. Adedire has been working full time as a missionary in Haiti. The organization for which Mr. Adedire works has rendered to the Department of Revenue a check that has not yet been processed. The continuance was granted. A full transcript of these proceedings is attached as Exhibit 1.

Docket Number 12.19-113123A was heard with the Honorable Lynn England presiding. The members of the Board identified themselves for the record, and Mr. Sawyer decreed that a Quorum was established.

Ted Lane Rutledge, license number 12713, of 1326 Richmond Avenue, Orlando, Florida 32820 is accused of failing to pay the required Professional Privilege Tax.

The State was represented by Ms. Laura Betty as Chief Counsel for the Department of Commerce and Insurance. Mr. Rutledge was not present and was not represented by counsel.

Ms. Betty presented evidence of notification of the Motion for Continuance, Order of Continuance and the State's amended Witness and Exhibit list sent to Mr. Rutledge. Judge England found that Ms. Betty has proved Service of Notice of today's hearing. Mr. Royston moved to grant the State's motion of Default and to go forward with the hearing. Mr. Stuart seconded and the motion passed unanimously with a roll call vote. All members of the Board affirmed that they have no prior knowledge of this matter nor have they received any communication written or oral regarding this matter.

The Board heard the testimony of two witnesses—Mark Crocker, Executive Director of the Tennessee State Board of Accountancy, and Kathy Smith from the Department of Revenue. The State asserted that Mr. Rutledge's failure to pay the Professional Privilege Tax is a violation of Tennessee Accountancy Act Rules and Tennessee Law regarding the payment of Professional Privilege Tax.

Mr. Warren stated the Findings of Fact and moved to adopt. Mr. Royston seconded and the motion passed unanimously with a roll call vote.

The State requested that Mr. Rutledge be ordered to pay all costs associated with prosecution, investigation, and hearing and that his Tennessee CPA license be suspended for a period of five years or until all delinquent taxes and costs are paid in full. Mr. Warren then stated the Conclusion of Law. Mr. Royston moved to accept the Conclusion. Ms. Raybon seconded and the motion passed unanimously with a roll call vote.

Mr. Warren moved to accept the State's recommendation for suspension of Mr. Rutledge's CPA license, number 12713, for a period of five years or until Professional Privilege taxes owed by the Respondent for 2009 and 2010 are paid in full and to assess against the Respondent all Prosecutorial and Hearing costs associated with the case. Mr. Royston seconded and the motion passed unanimously with a roll call vote.

Mr. Sawyer presented the Policy Statement. Ms. Stickel moved to adopt the Policy Statement. Mr. Blaufuss seconded and the motion passed unanimously with a roll call vote.

Mr. Warren moved to amend the Penalty Phase as follows: "...license be suspended for a period of five years or until all delinquent taxes and costs are paid in full, whichever is less." Mr. Royston seconded and the motion passed unanimously with a roll call vote.

A full transcript of the hearing is attached as Exhibit 2.

This concluded this session of Formal Hearings

### Board Committee Reports

#### Licensing Committee

In the absence of Ms. Brundige, Mr. Stuart stated that the Licensing Committee recommends approval for six state-specific Ethics courses. Mr. Stuart moved to approve these courses. Mr. Brewer seconded and the motion passed unanimously. The Committee reconsidered approval of the Certified Equity Professional. Discussion revealed an adequate amount of study in accountancy and related areas. Mr. Stuart moved to approve the program. Ms. Raybon seconded and the motion passed unanimously.

This concluded the Licensing Committee Report.

#### Law and Rules Committee

The Committee recommended formalizing the Retired status by a Rule change. After discussion, Ms. Stickel moved to allow Mr. Whittaker to draft language addressing a Rule change to be reviewed at the next meeting. Mr. Royston seconded the motion and it passed unanimously.

The Board then addressed the license status of Retired Over 70. In order to make this designation more comparable to actual retirement age, Mr. Warren moved for Mr. Whittaker to draft language for one Retired status, with licensees between the ages of 55 and 65 to still pay renewal fees; those 65 and over to be exempt from renewal fees, if not practicing. Mr. Royston seconded and the motion passed unanimously.

Ms. Stickel moved to amend the previous motion to include language allowing those retired at age 65 or over to keep their wall certificates. Mr. Royston seconded and the motion passed unanimously.

The Board then addressed enforcement of the 30-hour education requirement. After discussion of proper notification for prospective candidates, Ms. Stickel moved that upon the effective date of the Rule change regarding the 30-hour education

requirement, those candidates who have already been approved to sit for the exam will be grandfathered in. Others will have one year from the effective date of the Rule change to comply. Mr. Royston seconded and the motion passed unanimously.

The Board then discussed strengthening the mobility law, basing mobility on state of residence rather than state of employment. The Board decided that no action is necessary at this time.

The next topic concerned the expiration of applications for initial licensure. Ms. Stickel moved to set an expiration date of one year for applications for initial licensure. Mr. Blaufuss seconded and the motion passed unanimously.

The Board then discussed expiration of CPA Exam scores, which do not currently expire. Ms. Stickel moved to set an expiration of ten years on CPA Exam scores. Mr. Royston seconded and the motion passed unanimously. Mr. Whittaker will include language allowing applicants to request extensions.

The Board then turned to those licenses that have been expired for one year or more. Ms. Stickel moved to automatically revoke those licenses that have been expired for more than one year. Mr. Stuart seconded and the motion passed unanimously.

The Committee brought to the Board's attention the lack of specific tax CPE requirements. The Board will review the requirements of other states.

This concluded the Law and Rules Committee Report.

There followed additional discussion of extending the May meeting for a day, with Committee meetings on Wednesday and Board meetings on Thursday and Friday to accommodate Formal Hearings.

#### Probable Cause Committee

Status Report: Mr. Mills presented a report on the current status of open complaints as well as comparatives from three prior committee meeting dates.

A copy of the report is included as Attachment C.

#### Legal Report:

Mr. Whittaker presented the Probable Cause Report and the following actions were taken.

Regarding complaint numbers L11-ACC-RBS-2011025951, L11-ACC-RBS-2011025921, L11-ACC-RBS-2011025931 and L11-ACC-RBS-2011025941, the recommendation was to place these complaints in Litigation Monitoring Status. Mr. Royston moved to accept the recommendation. Mr. Blaufuss seconded and the motion passed unanimously.

Regarding complaint number L11-ACC-RBS-2011028191, the recommendation was to place the complaint in Litigation Monitoring Status. Mr. Royston moved to accept the recommendation. Mr. Blaufuss seconded and the motion passed unanimously, with Mr. Warren recused.

Regarding complaint numbers L11-ACC-RBS-2011027601 and L11-ACC-RBS-2010037041, the recommendation was to place these complaints in Litigation Monitoring Status. Mr. Royston moved to accept the recommendation. Mr. Blaufuss seconded and the motion passed unanimously, with Mr. Warren recused.

Regarding complaint number L11-ACC-RBS-2010028661, the recommendation was for a Formal Hearing with authority to settle by Consent Order upon payment of a Civil Penalty. Mr. Royston moved to accept the recommendation. Mr. Blaufuss seconded and the motion passed unanimously, with Mr. Warren recused.

Regarding complaint numbers L11-ACC-RBS-2011020971, L11-ACC-RBS-2011023491, and L11-ACC-RBS-2011007421, the recommendation was for a Formal Hearing for the revocation of the Respondent's license with authority to settle by Consent Order. Mr. Royston moved to accept the recommendation. Mr. Blaufuss seconded and the motion passed unanimously.

Regarding complaint numbers L11-ACC-RBS-2011010931 and L11-ACC-RBS-2011010921, the recommendation was for a Formal Hearing for the revocation of the Respondent's license with authority to settle by Consent Order. After discussion, Mr. Warren moved to accept the recommendation. Mr. Blaufuss seconded and the motion passed unanimously.

Regarding complaint numbers L11-ACC-RBS-2011009811, L11-ACC-RBS-2011025961, L11-ACC-RBS-2011027341, L11-ACC-RBS-2011023421, L11-ACC-RBS-2011032481, L11-ACC-RBS-2011032261, L11-ACC-RBS-2011004921, the recommendation was for a Formal Hearing with authority to settle by Consent Order. Mr. Royston moved to accept the recommendation. Mr. Warren seconded and the motion passed unanimously.

Regarding complaint numbers L11-ACC-RBS-2010035761, L11-ACC-RBS-2011032431, L11-ACC-RBS-2011032461, L11-ACC-RBS-2011032741, L11-ACC-RBS-2011019301, L11-ACC-RBS-2011023861, and L11-ACC-RBS-201023851, the recommendation was to close these complaints with Letters of Warning. Mr. Royston moved to accept the recommendation. Mr. Warren seconded and the motion passed unanimously.

Regarding complaint numbers L11-ACC-RBS-2007051251, L11-ACC-RBS-2008007141, and L11-ACC-RBS-2011022251, the recommendation was to dismiss these complaints. Mr. Royston moved to accept the recommendation. Ms. Stickel seconded and the motion passed unanimously.

Mr. Royston thanked the Board staff for their work in processing these complaints.

This concluded the Probable Cause Committee Report.

A copy of the Legal Report is included as Attachment D.

Formal Hearing

The Board heard Docket #12.19-115148A, regarding Howard Mercer, of 662 West Avenue, Crossville, TN 38555. Mr. Mercer is charged with having had his right to practice before the IRS suspended for failure to file personal tax returns.

The State was represented by Mr. Chris Whittaker. Mr. Mercer was present and was not represented by counsel.

Mr. Whittaker presented for the Board's approval an Agreed Order, with the following terms. Mr. Mercer will pay a Civil Penalty of \$1,700.00 within 90 days and his CPA license will be placed on probation for a period of two years. Mr. Warren moved to accept the terms of the Agreed Order. Mr. Royston seconded and the motion passed unanimously.

Executive Committee Report

Mr. Crocker presented the proposed FY13 Budget. After discussion, Mr. Warren moved to approve the proposed budget, with Mr. Royston seconding. Votes were cast as follows:

Shannone Raybon	Yea	Don Royston	Yea	Bill Blaufuss	Nay
Lisa Stickel	Yea	Doug Warren	Yea	Troy Brewer	Yea
Stan Sawyer	Yea	Casey Stuart	Yea	Trey Watkins	Nay

The FY13 Budget is approved by the majority. A copy of the Budget is included as Attachment E.

The Board then discussed the Rule regarding setting licensing fees. After discussion, Mr. Warren moved for the matter to be sent back to the Executive Committee to be addressed at the May meeting. Mr. Royston seconded and the motion passed unanimously.

Mr. Sawyer announced that two candidates for the NASBA Vice President position have requested support from the Board. After discussion, the Board concluded that they don't have enough information about either candidate to vote on a recommendation. Mr. Sawyer stated that each Board member is free to write a letter of support on behalf of either candidate.



The Board then discussed the proposed legislation regarding administrative changes to the Board of Accountancy. Mr. Floyd and Ms. Biek each spoke against the legislation. Mr. Royston moved to oppose the proposed changes, with Ms. Stickel seconding.

Votes were cast as follows:

Shannone Raybon	Yea	Don Royston	Yea	Bill Blaufuss	Yea
Lisa Stickel	Yea	Doug Warren	Yea	Troy Brewer	Yea
Stan Sawyer	Yea	Casey Stuart	Yea	Trey Watkins	Nay

The motion was approved by the majority.

#### Old Business

The issue of international firms issuing financial statements without proper licensure was tabled until the next meeting.

#### New Business

Mr. Whittaker presented a scenario of an integrated firm operating without proper licensure. Mr. Royston moved that the Board stay with its original interpretation of the Rule that a licensed CPA must practice out of a licensed firm, with Ms. Stickel seconding. Votes were cast as follows, with Mr. Sawyer and Mr. Watkins recused:

Shannone Raybon	Yea	Doug Warren	Yea	Troy Brewer	Yea
Lisa Stickel	Yea	Casey Stuart	Nay		
Don Royston	Yea	Bill Blaufuss	Yea		

The motion was approved by the majority.

Ms. Stickel moved to apply the prior general vote to the specific case in Mr. Whittaker's presentation, requiring the entity involved to have a firm permit, with Mr. Brewer seconding. Votes were cast as follows, with Mr. Sawyer and Mr. Watkins recused:

Shannone Raybon	Yea	Doug Warren	Yea	Troy Brewer	Yea
Lisa Stickel	Yea	Casey Stuart	Nay		
Don Royston	Yea	Bill Blaufuss	Yea		

The motion was approved by the majority.

Mr. Royston moved that the entity's proposed name does not meet the Board's guidelines and is not approved, with Mr. Brewer seconding. Votes were cast as follows, with Mr. Sawyer and Mr. Watkins recused:

Shannone Raybon	Yea	Doug Warren	Yea	Troy Brewer	Yea
Lisa Stickel	Yea	Casey Stuart	Yea		
Don Royston	Yea	Bill Blaufuss	Yea		

A copy of Mr. Whittaker's education presentation to the Board is included as Attachment F.

A discussion of Inactive licensees continuing to work in tax preparation was tabled.

There being no further business to come before the Board, Mr. Warren moved for adjournment, with Ms. Stickel seconding.