

North Dakota State Board of Accountancy
Meeting Notes: 2/28/08 7:30 am Conference call

The meeting began at 7:30 am. Participants: Harold Wilde, Rick Lee, Ron Johnke, George Kelly, Nikki Schmaltz, Jim Abbott.

NOMINATION OF WIDMER (for NASBA Vice-Chair)

Nikki moved to nominate Harris Widmer; seconded by George; Jim will check with Harris for any biography updating. Carried unanimous.

COMPLAINTS

2007-3. Jim raised the question of pursuing the issue of potential underpaid tax. We do not know how the payments were treated; they could be a partner distribution. George moved to close the case; second by Rick; carried unanimous.

2007-5. It did not appear there was wrongdoing. Rick moved to close; second by Nikki; carried unanimous.

2007-2. The group raised various points: the CPA not having prepared 5500s (therefore a supervision issue), the court case had no admission of guilt, and its findings were not criminal, a CPA should optimize their client's tax position, even as a CPA firm owner you do not need to be knowledgeable in all matters, provided you engage competent staff. Also mentioned were the individuals who actually did prepare the 5500s and not check about plan updates, the best form of recourse is the court system, we cannot defend any sanctions against the CPA, sending a letter sharing concerns and suggestions, we cannot substantiate wrong-doing in the case; we do not adequate basis for discipline.

Jim will draft a closing letter, share with Harold; it will be sent to our attorney for review. George moved to close the case, with a letter; Rick seconded; carried without objection; with Ron abstaining.

Jim mentioned counterclaims: a person signing the CPA's name, poor internal control, files taken & stored off site. We do not have a formal complaint; these issues will not be pursued.

Adjourned at approximately 8:10.

Secretary

Date

North Dakota State Board of Accountancy
3/26/08 Meeting Notes 7:30 am conference call

The meeting began at about 7:30 am. Participants: Harold Wilde, Rick Lee, Ron Johnke, George Kelly, Nikki Schmaltz, Sherre Sattler, Ken Tupa, Jim Abbott.

RULE CHANGES

Jim provided background. There were three issues of concern for the Rules Committee – peer review, board stipends and concentration. Ken confirmed that the peer review change is probably no longer a concern. Harold supported leaving the changes as proposed, unless the Committee mandates change in June. He indicated that business is more complex, and our job is to protect the public. Ken commented on the potential value of being flexible with the Committee's concerns.

Rick moved to only amend one proposal (i.e. leave the stipend daily rate at \$300, but retain the proposed \$2000 cap); second by Ron; carried unanimous. Harold will plan to be at the next Rules Committee meeting.

MAY MEETING DATE

Set for June 5 at 1 pm, with lunch at noon.

OTHER ITEMS

Jim mentioned three items – the complaint about the exam fingerprinting requirement, NASBA nominations, and the May 19 Exam conference.

ADJOURNED: 8:10 am.

Secretary

Date

North Dakota State Board of Accountancy
June 5, 2008 Meeting Notes 1 pm meeting

The meeting began at 12:35. Participants: Harold Wilde, Rick Lee, Ron Johnke, George Kelly, Nikki Schmaltz, Jim Abbott, Mandy Carlson.

OFFICERS: Rick moved to retain the current officer slate – Harold as president, Ron as Secretary; George second; carried unanimous.

MINUTES: Nikki moved approval of the minutes from the Nov. 16, Feb. 28, and March 26 meetings; second by George; carried unanimous.

FINANCIAL REPORT (3/31/08)

It was suggested that Jim report from time to time, on the status of our reserves. Jim will check on the licensure fees of other states. Expenses (checks 12204 to 12423) were approved on motion by Rick; second by Nikki; carried unanimous.

BUDGET: George moved approval of the budget as presented; second by Ron; carried unanimous.

STAFF COMPENSATION

The group had discussion, while Mandy and Jim were out of the room. Compensation was agreed to as proposed from the Joint Compensation group. The Board will not be participating in the incentive compensation program; it would be tough within a compliance environment.

Harold mentioned that comments about the staff are always positive, and that Mandy has received several accolades. Jim will check on the open record status of the contents of personnel files. It was mentioned that we can charge for time spent making copies [responding to records requests]. Jim will report to the Society group tomorrow, about the Board's agreement with salaries, and intention to not participate in the incentive system.

LAW CHANGES

Jim will follow up with the law firm re. our proposed changes / questions. Discussion. No other changes were proposed.

NASBA DELEGATE: There was no objection to Rick serving as the voting delegate for the upcoming meeting.

RULES COMMITTEE MEETING: Harold & Jim will be present. Jim will provide comments for Harold by tomorrow. There is only 6 months now before the new concentration would become effective. Ron moved that if possible, the effective date be extended by one year; second by Rick; carried unanimous.

EDUCATION CREDITS: We will accept classes taken on a “pass/fail” basis. We will hold fast to the 150 credit requirement, rather than accept an applicant who is at 149 credits.

NASBA NOMINATIONS: No action was taken on two candidates for NASBA roles – Flowers and Mickelson.

NEXT MEETING: Friday, Sept. 12, at 12:30 pm (lunch at 12), at the GF BradyMartz office.

EXAM INPUT TO NASBA: There is concern about the difficulty level of the Exam. The content is quite advanced and considerable detail is expected. No formal comments will be shared.

AUDITOR SELECTION: Ron moved to accept the Drees, Risky & Vallager audit proposal, for 2008 through 2011, pending satisfactory performance; second by Rick; carried unanimous.

PEER REVIEW: A report from Dick Brammel was provided just before the meeting. Rick and Jim are to check about oversight at the regional NASBA meeting. We will address the issue in the September meeting. One firm is a year late in submitting their peer review; Nikki moved that the firm must complete its peer review and submit documents by year-end, or their certification will be revoked. We expect proof of reviewer engagement proof within 30 days. Second by Rick; carried unanimous. The timeframe for the firm’s next review is not to be extended.

Jim indicated that various material is available.

CANDIDATE REQUESTS: There was a request for an extension of part life, due to an accident. There was no objection to denying the request. The new approach to pass/fail classes applies to foreign applicants also. A grade transfer applicant has work experience with a water authority in Barbados. There was no objection to disallowing this experience. Another grade transfer, from Germany, has an educational record that doesn’t show principles-level credits; the evaluation company cannot specify which are elementary. We will assume that six credits would be principles content. A potential applicant has law school credits, but these will not be allowed to count.

COMPLAINTS

A complaint was received, outside our jurisdiction; we will not open a complaint in such cases.

PHONE LISTINGS:

For listings under “accountant and bookkeeping”, the group was agreeable with pursuing only those with “accountant” and “accounting” in their business name. One entity will be asked to not list itself under such a heading [without a disclaimer], or under an LPA heading. A government entity listed under an “LPA” heading will be asked to not

do so. Another party will be asked to include a disclaimer, in light of advertising accounting services.

Jim will send notes to the group about the recent Exam conference.

Adjourned at about 3 pm.

Secretary

Date

The meeting began at 12:37 pm.

Participants: Harold Wilde, Ron Johnke, George Kelly, Nikki Schmaltz, Rick Lee, Jim Abbott

MINUTES (6/5/08)

Approved on motion by Rick; second by Nikki; carried unanimous.

FINANCIAL MATTERS

The Board's financial reserves are now at approximately 50% of expenses (our target is 60%). A travel expense was mentioned as needing to be coded to prepaid. George moved approval of expenses (checks 12424 to **12628**); second by Ron; carried unanimous.

PEER REVIEW

Ron, Harold and Jim will decide on the selection of an oversight coordinator. There was discussion about the coordinator not being able to report about specific details to the board. In the past we have been receiving peer review reports, and will not be doing so now. Harold suggested we not require the coordinator to sign the AICPA non-disclosure agreement.

USE OF "ACCOUNTANT"

A firm had inquired about listing some of their personnel as "accountants". Legal counsel considered the practice not acceptable, and this approach will be followed by the board. Jim will notify the firm.

LICENSE FEES

The fees of other states had been collected and included in the agenda packet.

LAW CHANGES

There was no disagreement on the bill going to the Legislature as an agency bill. Comments included the sentiment that lobbying is more appropriate from the Society, gaining sponsors from the relevant committee (possibly the Senate IBL Committee). There was no decision as to helping fund legislative costs of the bill.

COMPLAINTS

2008-1. Closed, on motion from George, second by Rick, and carried unanimous.

2008-2. Closed, on motion by Nikki, second by Ron; carried unanimous.

2008-3. Close, on motion by Rick; second by Nikki; carried unanimous.

2008-4. (National firm legal cases). No action was initiated.

2007-2. Rick moved to re-open the case; second by Nikki. The group discussed the case; comments included: the recent documents include material not yet seen by the Board, earlier the focus was whether the accountant was acting as plan administrator and it appears he was, court documents from another matter are not directly relevant. Issues include competence, customer service, and the accountant's relationship with his former firm. Harold and Jim will meet with legal counsel (such issues as discipline, case merits, assistance with correspondence, public notice, using court findings). We will provide the two recent information

packets and the material which the board had at the time of its earlier decision. The board will reconvene for a final decision. Harold will notify the complainant that based on the new information, the case was reopened, and we will communicate about the final decision.

AN AICPA MONITORING CASE

We will close this matter.

PHONE DIRECTORY LISTING

A firm is listed under accountants, but their name does not indicate a claim to be accountants. We will notify them that they are listed in a misleading category, but no response will be required.

MISSING ACCOUNTANT

Nikki will contact another Fargo accountant, to ask what they might know about the situation. George will contact the missing accountant's wife.

AVAILABLE MATERIAL

Various materials were on hand, available for review. Jim informed the group about further information related to an individual who objects to fingerprinting in order to write the CPA Exam.

NEXT MEETING: Oct. 6, 8 am, by phone.

Secretary

Date

The meeting began at 8:01 am. Participants were Harold Wilde, Ron Johnke, George Kelly, Nikki Schmaltz, Rick Lee, Jack McDonald, Jim Abbott

COMPLAINT 2007-2

The group discussed the case, which includes such issues as lack of work papers, untimely client notice, negative court findings, implied negligence from agreeing to pay reparations, competence to supervise certain work, contradictions re provision of tax advice and plan administration. Wilde will contact a CPA witness for verification.

COMPLAINT 2008-6

The group addressed the case. The accountant is inaccessible to clients and has not renewed. Abbott will contact clients about filing letters, and he will also prepare a letter detailing what has occurred. He will send details about the accountant to McDonald. Johnke moved that McDonald issue a complaint letter via process server, that Abbott hire an investigator to attempt contact and that Wilde be authorized to move forward with seeking an injunction if there is no action. Second by Lee; carried unanimously.

COMPLAINT 2007-2 - continued

Johnke moved to suspend the accountant's certificate for 2 years, require 120 hours of CPE relevant to the practice (including 16 in ethics) plus reimbursement of the cost of our contracted investigator and a \$1000 fine; seconded by Schmaltz; unanimous. The CPE is not to include current program courses.

COMPLAINT 2008-5

Legal counsel mentioned limiting the investigation, and a degree of protection surrounding comments made in a legislative environment probably preventing civil court action. Jim Woy of Butte MT was mentioned as an investigator. There was no objection to such an engagement and the related costs. Johnke moved to engage an investigator; seconded by Lee; unanimous. Also mentioned was notifying the complainant of receipt and plans to engage an investigator, and sending the complaint to the CPAs with notice of intent to use an investigator and invitation to respond.

APPLICATION

An applicant had been evaluated as having a graduate degree, but only 120 hours. He will need to accumulate 150 hours of education.

ADJOURNED, at 9:47 am.

Secretary

Date

The meeting began at 4:01. Participants were Harold Wilde, Ron Johnke, George Kelly, Nikki Schmaltz, Rick Lee, Mandy Harlow, Jim Abbott

MOBILITY BILL

Two issues were discussed – the reference to 75%, and the Jan. 2012 open window for education. We will check into the rationale for the Jan. 2012 item, so we know its importance if it becomes an issue during the legislative process. Rick moved to approve the bill for submission to the Legislature, with one change (deleting the 75% grade sentence in 43-02.2-04(6)); second by Ron; carried, with all in favor.

EDUCATIONAL ISSUES

The group was agreeable with removing our present interpretation that business law qualifies only under other business regardless of rubric. Instead, we will allow up to 3 credits of business law in the accounting section of the concentration, and other law classes within the “other business” portion if they have a business, management, finance or marketing rubric or one of these terms in the course title.

The group also was agreeable with the following approach:

We will require an independent evaluation, by an NACES member, for courses taken outside of the U.S. and Canada. However, when an accredited [or acceptable] U.S. school has accepted a student with foreign education into a graduate program, we will honor that decision and consider the candidate as having a baccalaureate degree. We will require an English listing of the foreign courses taken, with semester credit values, in order to determine total credits, and those credits which will count toward the concentration.

Comments were made about states allowing writing the Exam at 120 hours and large firms not finding value in the 150 requirement.

A non-university CPA review course was not considered acceptable to count as college credits.

COMPLAINTS

2008-5. There was no objection to spending funds as needed to pursue this matter.

2007-2. The group was agreeable with allowing until Jan. 15 for a response to our complaint.

2006-12. We have not yet received an agreement letter.

2008-6. Jim will send the firm notice that a response is still due to the Board. Ron moved to revoke the CPA's certificate Dec. 1, if we do not receive a suitable response to our complaint; second by Rick. Harold, Ron and Jim will determine whether the response is satisfactory.

Carried unanimous.

OVERDUE RENEWALS

The issue was raised of having a standing revocation process for out-of-state non-renewals. Staff will provide details to the Board of the present approach used for overdue renewals. The issue will be addressed in the next meeting. Mention was made of having a rule requiring payment of legal fees.

NEXT MEETING: Monday, Jan. 26, 2009, at 4 pm.

ADJOURNED: 5:04 pm

Secretary

Date