

**BOARD OF PUBLIC ACCOUNTANCY**  
Professional and Vocational Licensing Division  
Department of Commerce and Consumer Affairs  
State of Hawaii

MINUTES

Date: Friday, January 8, 2016

Time: 8:30 a.m.

Place: King Kalakaua Conference Room  
King Kalakaua Building  
335 Merchant Street, 1<sup>st</sup> Floor  
Honolulu, Hawaii 96813

Present: Nelson K.M. Lau, CPA, Chairperson  
Gregg M. Taketa, CPA, Vice-Chairperson  
Darryl T. Komo, CPA, Member  
Gabriel Lee, Member  
Edward L. Punua, CPA, Member  
John W. Roberts, CPA, Member  
Carleton L. Williams, CPA, Member  
Rodney J. Tam, Deputy Attorney General ("DAG")  
Laureen M. Kai, Executive Officer  
Lori Nishimura, Secretary

Guests: None.

Agenda: The agenda for this meeting was filed with the Office of the Lieutenant Governor, as required by Hawaii Revised Statutes ("HRS") section 92-7(b).

Call to Order: There being a quorum present, the meeting was called to order at 8:30 a.m. by Chairperson Lau.

Additions/Revisions to Agenda: None.

Approval of Minutes of the December 18, 2015 Board Meeting: The Executive Officer informed the Board that the minutes of the December 18, 2015 meeting were not finalized. The minutes will be available within thirty days after the December 18, 2015 meeting date, as required pursuant to HRS section 92-9, and

will be on the February 5, 2016 meeting agenda for the Board's review and approval.

Executive  
Session:

At 8:32 a.m., it was moved by Vice-Chairperson Taketa, seconded by Mr. Punua, and unanimously carried to enter into Executive Session to consider and evaluate personal information relating to individuals applying for licensure in accordance with HRS section 92-5(a)(1), and to consult with the Board's attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities in accordance with HRS section 92-5(a)(4).

EXECUTIVE SESSION

At 9:48 a.m., it was moved by Vice-Chairperson Taketa, seconded by Mr. Lee, and unanimously carried for the Board to move out of Executive Session.

Chairperson Lau acknowledged the arrival of Mr. Komo and DAG Tam during the Executive Session.

Chairperson Lau announced that the meeting would be recessed to discuss and deliberate on the following adjudicatory matters pursuant to HRS chapter 91:

Chapter 91, HRS,  
Adjudicatory  
Matters:

- A. In the Matter of the Certified Public Accountant's License of Stanley L. Thornton, aka Stanley M. Thornton; ACC 2009-2-L

DAG Tam reiterated the summary of the Hearings Officer's Finding of Fact, Conclusions of Law and Recommended Order; Exhibit "A" regarding Stanley L. Thornton, aka Stanley M. Thornton. He stated that Mr. Thornton was served with a lawsuit from his former client for penalties and interest paid by his client because Mr. Thornton filed his 2004 to 2006 tax returns late; and default judgment was

entered in favor of his client and against Mr. Thornton in the principal amount of \$24,634.23 as of March 31, 2008. As of November 3, 2015, the judgment has not been satisfied and Mr. Thornton did not appeal the judgment. As of July 6, 2015, Mr. Thornton has not reported the 2008 Judgment in writing to the Board. RICO alleges that Mr. Thornton failed to comply with the provisions of HRS sections 436B-19(7), 436B-19(8), 436B-19(16), 436B-19(17), and 466-9(b)(10), and HAR section 16-71-64.

- The Hearing Officer recommended that Mr. Thornton's license be revoked and that any relicensure be conditioned upon him satisfying the underlying judgment.

At the previous Board meeting, the Board deferred decision making on the Hearing Officer's Recommended Order. A lengthy discussion ensued.

DAG Tam noted that HRS section 466-9 specifies the sanctions the Board may impose on licensees. DAG Tam commented that should the Board impose a lower or lesser sanction than the Hearings Officer's Recommended Order, the Board will need to draft a Board's Final Order ("BFO"); however if the Board imposes a higher or greater sanction, then the Board would have to issue a Proposed Final Order and allow the parties to file exceptions and a statement in support (as well as request to present oral argument).

After discussion, it was moved by Mr. Lee, seconded by Mr. Komo, and unanimously carried to approve and adopt the Hearings Officer's Findings of Fact and Conclusions of Law, and modify the Hearings Officer's recommended sanctions by:

- Suspending Mr. Thornton's license for one year (the suspension will start on the date the BFO is signed);
- Requiring any reinstatement of his license to be conditioned upon him completely satisfying the underlying judgment of \$24,634.23; and
- Fining him \$1000.00, which is payable within the one (1) year period of suspension.

At 10:20 a.m., the Board reconvened its scheduled Meeting and immediately recessed the meeting.

At 10:27 a.m., the Board reconvened its scheduled meeting. It was noted that Mr. Punua had not returned to the meeting.

Applications for  
CPA Certification:

After discussion, it was moved by Vice-Chairperson Taketa, seconded by Mr. Lee, and unanimously carried to approve the following applications for certification:

1. COOK, Timothy M.
2. HARRIS, Kandy G.
3. LARSON, Derrick A.
4. NEWTON, Ekaterina A.
5. SMITH, Elizabeth J.A.K.

Ratification of  
2014-2015  
Individual CPA  
Permits to Practice:

After discussion, it was moved by Vice-Chairperson Taketa, seconded by Mr. Komo, and unanimously carried to ratify the approval of the following 2014-2015 individual CPA Permits to Practice:

1. DENT, Ryan J.
2. GARRISON, Kellen T.
3. MATSUSAKA, Marissa

Ratification of  
2016-2017  
Individual CPA  
Permits to Practice:

After discussion, it was moved by Vice-Chairperson Taketa, seconded by Mr. Lee, and unanimously carried to ratify the approval of the following 2016-2017 individual CPA Permits to Practice:

1. CAVE, Richard S.
2. HARTMAN, Douglas R.
3. KOIDA, Hiroyuki
4. KOLTERMAN, Kory R.
5. TOKUMOTO, Tyler T.
6. WILLIAMSON, Aaron M. Jr.

After discussion, it was moved by Vice-Chairperson Taketa, seconded by Mr. Lee, and unanimously carried (Chairperson Lau recused himself from the vote) to ratify the approval of the following 2016-2017 individual CPA Permit to Practice:

1. SZABO, Scott R.

At 10:30 a.m., Mr. Punua stepped back into the meeting.

Ratification of Issued Firm Permits to Practice:

After discussion, it was moved by Vice-Chairperson Taketa, seconded by Mr. Lee, and unanimously carried to ratify the approval of the following issued Firm Permits to Practice:

1. JOY K NAKAGAWA
2. KERRY K YONESHIGE
3. DURYEA & ASSOCIATES CPAS LLC
4. BRAD K CPA LLC
5. PEGGY J KING CPA LLC
6. CHANG & COMPANY CPA INC
7. SHERRY GABRIELE LLC
8. DAPHNE D YANCEY
9. KEITH T SHIMIZU CPA INC
10. LAWRENCE D RODRIGUEZ LLC
11. ROUNTREE COUNSULTING INC
12. CLAYTON MASUDA
13. DARIN K MIJO
14. CENTRAL PACIFIC ACCOUNTING INC

Ratification of Approved Firm Name:

After discussion, it was moved by Vice-Chairperson Taketa, seconded by Mr. Lee, and unanimously carried to ratify the approval of the following firm names:

1. David A. Houde CPA PC
2. Vivian K. Johnson, CPA LLC

Chairperson's  
Report:

A. National and Industry Update

1. Provision of Accounting Services to Marijuana Businesses - Update

Discussion ensued on the Board's proposed response to the letter received from Robert Kawahara of Kawahara & Co. CPAs, LLC that had requested guidance from the Board on issues relating to a CPA or CPA firm providing accounting services to marijuana businesses. The Board acknowledged that while Act 241 (2015) authorizes the State Department of Health to issue licenses to at least eight (8) medical marijuana dispensaries ("MMD") statewide, it is still illegal under federal law to possess, cultivate, or distribute marijuana. The Board acknowledged that there is a conflict between Hawaii and federal law on this matter.

The Board reached consensus to provide the following response to Mr. Kawahara and to all inquiries relating to the provision of accounting services to marijuana businesses in the State of Hawaii:

"The Board believes that, in general, a Hawaii licensed CPA and/or a CPA firm that has a Hawaii permit to practice should not be subject to disciplinary action under Hawaii Revised Statutes chapter 466 for solely providing CPA services to an MMD or a marijuana business in another state where the marijuana business is legal; provided that the CPA and/or CPA firm is only

assisting the MMD or a marijuana business in another state where the marijuana business is legal to comply with the requirements of state (including but not limited to Act 241) and federal laws (excluding the Controlled Substances Act).

The Board notes that the decision to provide CPA services to an MMD or a marijuana business in another state where the marijuana business is legal is a business decision for Hawaii licensees and permit holders. The Board cautions all Hawaii licensees and permit holders to carefully consider the risks and uncertainty involving federal enforcement of its applicable drug (and other) laws to these types of businesses. As such, the Board recommends that a Hawaii licensee or permit holder interested in providing CPA services to an MMD or marijuana business in another state where the marijuana business is legal consult with private legal counsel prior to providing such services.”

Chairperson Lau provided an update to the situation relating to the online renewal program for the CPA firm permits to practice that had been discussed at the Board’s December 18, 2015 meeting. Mr. Lau reassured the Board that the Board’s decisions relating to the technical difficulties experienced by the online renewal program had been implemented in their entirety: (1) the online renewal program for Firm Permits to Practice had been disabled at 4:00 p.m. on December 18, 2015; (2) the deadline for the renewal of CPA firm permits had been extended from December 31, 2015 to January 31, 2016; (3) on December 18, 2015, a notice had been posted on the Board’s website, providing

instructions on accessing hard copy renewal applications; and (4) requests to the Hawaii Association of Public Accountants and the Hawaii Society of Certified Public Accountants had been sent to ask that the information be communicated to their members.

Standing Committee

A. Peer Review

1. 2016 Notice to CPA Firms - Update

Committee Chairperson Taketa stated that the draft of the 2016 reminder postcard mail-out to firms concerning the new peer review law that Executive Officer Kai provided to Board members at the previous meeting had been amended to reflect the following sponsoring organizations that had been approved by the Board at its December 18, 2015 meeting: (1) the American Institute of CPAs ("AICPA"); and (2) the AICPA National Peer Review Committee. He further stated that the mail-out is scheduled to be sent as soon as possible.

B. Legislation and Rules

Committee Chairperson Williams provided a handout of the 2016 Legislative session calendar to all Board members.

1. Proposed Amendments to HRS Chapter 466, Relating to Immunity for Members of the Peer Review Oversight Committee

Committee Chairperson Williams reported that the proposed amendments to HRS section 466-42 that provide for the reimbursement of applicable expenses and provide immunity from civil liability for members of the Peer Review Oversight Committee ("PROC") that had



been included in the DCCA administrative bill package was not included in Governor Ige's administrative bill package.

After discussion, it was moved by Committee Chairperson Williams, seconded by Vice-Chairperson Taketa, and unanimously carried to approve the proposal as drafted and as previously approved by the Board, and to delegate to Committee Chairperson Williams the authority to request that this proposal be introduced by State Representative Isaac Choy in the upcoming Legislative session.

2. Proposed Amendments to HRS Chapter 466, Relating to Peer Review, Including a Definition of "Hawaii Attest Engagement" or "Hawaii Attest Work", and for Housekeeping Purposes

Discussion ensued on the proposed definition of "Hawaii attest work" or "Hawaii attest engagement", and it was noted that the "housekeeping" amendments would not be a part of these amendments, but, rather in the Board's third proposal relating to clarification of the Hawaii Supplement to the Peer Review Report.

Committee Chairperson Williams reported that he had reviewed the pertinent provisions of the Uniform Accountancy Act and the Board's statute in drafting the proposal that had been provided to the Board. The addition of this definition would clarify the peer review law and the requirement that a CPA firm's peer review include at least one Hawaii attest engagement. The Board discussed adding the verbiage "domiciled in this State" to clarify that this type of entity is included in this new definition.

After discussion, it was moved by Committee Chairperson Williams, seconded by Vice-Chairperson Taketa, and unanimously carried to approve the amended draft as discussed and to delegate to Committee Chairperson Williams the authority to request that this proposal be introduced by State Representative Choy in the upcoming Legislative session.

3. Proposed Amendments to HRS Chapter 466, Relating to Peer Review, to Clarify the Provisions Relating to the Hawaii Supplement to the Peer Review Report

Discussion ensued on the provisions relating to the Hawaii Supplement to the Peer Review Report. It was again noted that the "housekeeping" amendments that had been discussed by the Board would be included in this proposal.

There was considerable discussion relating to the proposed amendment to HRS section 466-43(a)(1), which would repeal the requirement that a peer reviewer for the Hawaii supplement be licensed in Hawaii with a Hawaii permit to practice. Board members expressed concern that this amendment would be opposed by certain stakeholders, thereby jeopardizing the other amendments in the proposal.

After discussion, it was moved by Committee Chairperson Williams, seconded by Vice-Chairperson Taketa, and unanimously carried to approve the proposed amendments as discussed and to delegate to Committee Chairperson Williams the authority to request that this proposal be introduced by State

Representative Choy in the upcoming Legislative session. In general, the proposed amendments would delete the requirement that a peer reviewer be licensed in Hawaii and have a Hawaii permit to practice while conducting the main (or big) peer review; however, a peer reviewer performing the Hawaii Supplement would still need to be licensed in Hawaii and have a Hawaii permit to practice.

C. Ethics

1. Inquiry Regarding Commissions, Referral Fees, and Contingency Fees - Update

Discussion ensued on the Board's draft response to the letter received from Tabitha Mitchell of Provisor LLC on inquiries regarding the acceptance of commissions by a CPA. Ms. Mitchell inquired whether she would be in violation of Hawaii Administrative Rules ("HAR") section 16-71-61(c)'s prohibition against CPAs paying a commission to obtain a client or accepting a commission for a referral to a client of products or services of others, if she received real estate commissions in several different scenarios, involving her work as a CPA and as a real estate salesperson.

After careful consideration and based solely on the information Ms. Mitchell provided, the Board voted to respond to her inquiries relating to her acceptance of commissions, based on the provisions of HAR section 6-71-61(c) which clearly prohibit a CPA from receiving a commission for the referral to a client of products or services of others.

It was noted that the Board's response to Ms. Mitchell's inquiry represents interpretations that are for informational and explanatory purposes only. These interpretations are not official opinions or decisions, and are not to be viewed as binding on the Board. A formal determination will be given if a petition for declaratory ruling is submitted pursuant to HAR chapter 16-201.

D. Communications

Committee Chairperson Lee had no report.

E. Continuing Professional Education

Committee Chairperson Punua had no report.

F. Mobility

Committee Chairperson Taketa had no report.

G. Uniform CPA Examination

Committee Chairperson Williams provided a summary of the NASBA Jurisdiction Reports for the 4<sup>th</sup> quarter 2015 testing window. He stated that Hawaii's pass rate was 37.3%, third lowest of all 55 states and jurisdictions; Utah had the highest passing rate at 63.1%. He remarked that the passing pattern appears to be cyclical across all states and jurisdictions with the 4<sup>th</sup> quarter testing window posting the lowest passing rates.

Open Forum: None.

Board of Public Accountancy  
Minutes of the January 8, 2016 Meeting  
Page 13

Next Board Meeting: Friday, February 5, 2016  
8:30 a.m.  
King Kalakaua Conference Room  
King Kalakaua Building  
335 Merchant Street, 1<sup>st</sup> Floor  
Honolulu, Hawaii 96813

Announcements: None.

Adjournment: There being no further discussion, the meeting adjourned at 10:55 a.m.

Taken and recorded by:

/s/ Lori Nishimura

\_\_\_\_\_  
Lori Nishimura, Secretary

Reviewed and accepted by:

/s/ Laureen M. Kai

\_\_\_\_\_  
Laureen M. Kai, Executive Officer

LMK:ln

02/03/16

[ X ] Minutes approved as is.

[ ] Minutes approved with changes. See Minutes of \_\_\_\_\_.