



DEPARTMENT OF CONSUMER AFFAIRS
CALIFORNIA BOARD OF ACCOUNTANCY
 2000 EVERGREEN STREET, SUITE 250
 SACRAMENTO, CA 95815-3832
 TELEPHONE: (916) 263-3680
 FACSIMILE: (916) 263-3675
 WEB ADDRESS: <http://www.cba.ca.gov>



DEPARTMENT OF CONSUMER AFFAIRS
CALIFORNIA BOARD OF ACCOUNTANCY

FINAL

MINUTES OF THE
JANUARY 16, 2009
BOARD MEETING

Hotel Kabuki
 1625 Post Street
 San Francisco, CA 94115
 Telephone: (415) 922-3200
 Facsimile: (415) 614-5498

Roll Call and Call to Order.

Vice President Manuel Ramirez called the meeting to order at 8:30 a.m. on Friday, January 16, 2009 at the Hotel Kabuki. The Board convened into closed session at 8:35 a.m. to deliberate Agenda Items I.A. - E. The meeting reconvened into open session at 9:20 a.m. and adjourned at 4:00 p.m.

Board Members

January 16, 2009

| | |
|---------------------------------------|------------------------|
| Robert Petersen, President | Absent |
| Manuel Ramirez, Vice President | 8:30 a.m. to 4:00 p.m. |
| Lorraine Hariton, Secretary-Treasurer | 8:30 a.m. to 4:00 p.m. |
| Sally Anderson | 8:30 a.m. to 4:00 p.m. |
| Rudy Bermúdez | 8:50 a.m. to 2:23 p.m. |
| Michelle Brough | 8:30 a.m. to 4:00 p.m. |
| Angela Chi | 8:30 a.m. to 4:00 p.m. |
| Donald Driftmier | 8:30 a.m. to 3:44 p.m. |
| Herschel Elkins | 8:30 a.m. to 3:22 p.m. |
| Louise Kirkbride | 8:30 a.m. to 4:00 p.m. |
| Leslie LaManna | 8:30 a.m. to 4:00 p.m. |
| Marshal Oldman | 8:30 a.m. to 4:00 p.m. |
| David Swartz | 8:30 a.m. to 4:00 p.m. |
| Lenora Taylor | 8:30 a.m. to 4:00 p.m. |
| Stuart Waldman | 8:30 a.m. to 4:00 p.m. |

Staff and Legal Counsel

Rich Andres, Associate Information Services Analyst

Marisa Becerra-Garcia, Executive Analyst
Patti Bowers, Executive Officer
Gary Duke, Legal Counsel, Department of Consumer Affairs (DCA)
Dominic Franzella, Renewal Coordinator
Dave Hansen, Staff Information Services Analyst
Scott Harris, Deputy Attorney General, Department of Justice
Lauren Hersh, Information and Planning Officer
Gregory Newington, Chief, Enforcement Division
Deanne Pearce, Licensing Manager
Dan Rich, Assistant Executive Officer
Theresa Siefert, Manager, Administrative Division
Matthew Stanley, Legislation/Regulation Analyst
Liza Walker, Practice Privilege Coordinator

Committee Chairs and Members

Harish Khanna, Chair, Administrative Committee (AC)
Tracy Garone, Chair, Qualifications Committee (QC)

Other Participants

Bruce Allen, California Society of Certified Public Accountants (CalCPA)
Mike Duffey, Ernst & Young, LLP
Kenneth Hansen, KMPG, LLP
Patricia Harris, Deputy Director, Board Relations, DCA
Ed Howard, Center for Public Interest Law (CPIL)
Tracy Logan, CPIL
Carl Olson
Richard Robinson, E&Y, DT, PWC, KPMG, GT
Hal Schultz, CalCPA
Jeannie Tindel, CalCPA
David B. Tolkan, Society of California Accountants
Mellonie Yang, Bureau Chief, Professional Fiduciaries Bureau, DCA

- I. Petitions, Stipulations, and Proposed Decisions [Closed Session
Government Code Section 11126(c)(3)] Petition Hearings are Public Before
the Board with a Subsequent Closed Session.

- A. Gary Porter and Porter & Company – Stipulated Settlement.

- The Stipulation in the matter of the Accusation filed against Gary Porter
and Porter & Company was adopted.

- B. David B. Greenberg – Default Decision.

- The Default Decision in the matter of the Accusation filed against David
B. Greenberg was adopted.

C. William D. McConnaughy – Proposed Decision.

The Proposed Decision in the matter of the Accusation filed against William D. McConnaughy was adopted.

D. Kwang-Ho Lee and Kenny H. Lee CPA Group, Inc. – Proposed Decision.

The Proposed Decision in the matter of the Accusation filed against Kwang-Ho Lee and Kenny H. Lee CPA Group, Inc. was rejected.

E. Richard Birnbaum – Stipulated Settlement.

The Stipulation in the matter of the Accusation filed against Richard Birnbaum was adopted.

II. Report of the President.

A. Introduction of New Board Member, Ms. Michelle Brough, Esq.

Mr. Ramirez introduced the Board's newest member, Ms. Michelle Brough. He reported that Ms. Brough is currently in-house counsel to a large investment management firm in Del Mar, California. He also stated that she serves as Vice-Chairwoman on the Planning Commission for the city of Dana Point, as well as serving on the board for Saddleback College.

Mr. Ramirez stated that she previously served as a Presidential appointee at the U.S. Department of the Treasury as Senior Advisor to the Assistant Secretary for Financial Institutions, where she represented the Assistant Secretary in meetings with White House staff, Congressional Members, Commissioners, Directors, and other high-level employees from the Securities and Exchange Commission, Federal Reserve Board, and other federal financial regulatory bodies. He further stated that she previously served as counsel to the U.S. Senate Banking Committee under Chairman Senator Phil Gramm.

Mr. Ramirez reported that Ms. Brough earned a Masters of Law degree in Securities and Financial Regulation from the Georgetown University Law Center, a Juris Doctor degree from Whittier Law School, where she graduated magna cum laude, and a Bachelor's degree from the University of North Dakota, where she graduated summa cum laude.

B. Report on the Elimination of the Committee on Professional Conduct (CPC) and Enforcement Program Oversight Committee (EPOC).

Ms. Bowers reported that Mr. Petersen issued a memorandum which indicated his concern that the Board's heavy use of committees may have unintentionally become a barrier to thoughtful and open discussion

by the Board as a whole (**see Attachment 1**).

Ms. Bowers further reported that Mr. Petersen's intent was to not re-appoint members to the CPC or the EPOC, but instead utilize task forces, which would consist of two members, one licensee and one public member. She further reported that if the situation so warranted, Mr. Petersen would on occasion establish a task force of more members.

Ms. Anderson and Mr. Swartz stated their disagreement with the elimination of these committees.

Mr. Oldman stated his belief that committees are more effective than task forces.

Ms. Hariton recommended establishing a task force to consider alternatives, and stated her belief that this issue requires careful thought before any decisions are made. Ms. Kirkbride stated her support for periodically reviewing each committee's charter, as well as their structure. She stated her agreement that there are some topics which would be much better dealt with through the use of a task force, and the issue should be carefully considered.

Mr. Waldman stated his belief that the Board would lose its diversity through the elimination of these committees, and he did not agree with the proposed elimination.

Mr. Ramirez stated his belief that committees are highly valuable to the Board, and that the utilization of task forces would not be in the spirit of the Bagley-Keene Open Meeting Act. Mr. Ramirez proposed maintaining the CPC and EPOC, and if those committees wish to make recommendations they may do so in a deliberative format before the entire Board.

Ms. Hariton stated her desire to review the committees' structures.

Mr. Bermúdez stated his opposition to the elimination of these committees. He further stated that the utilization of task forces which include non-Board members is unacceptable. He stated that non-Board members do not have the same responsibilities to ensure public protection that Board members are sworn to uphold.

Mr. Elkins stated that Mr. Petersen should have an opportunity to state his reasons for eliminating the use of committees, and Mr. Oldman agreed.

It was moved by Mr. Oldman and seconded by Ms. Brough to table this issue to the March 2009 Board meeting. Mr. Ramirez, Ms. Anderson, Mr. Bermúdez, Ms. Taylor, Mr. Waldman,

**Mr. Driftmier, and Mr. Swartz opposed. The motion failed.
(Mr. Petersen was absent.)**

Mr. Ramirez reappointed the former members of the CPC, with the replacement of Dr. Charney with Mr. Elkins, and asked Ms. Anderson to act as Chair of the committee. Ms. Anderson agreed.

Mr. Ramirez also reappointed the former members of the EPOC, with the replacement of Mr. MacAloney with Ms. Brough.

Mr. Ramirez stated that these appointments should be temporary and that Mr. Petersen be permitted to appoint permanent members.

Mr. Ramirez further requested that Mr. Petersen make appointments to a task force to analyze the committees' charters and structures.

It was moved by Mr. Ramirez, seconded by Ms. Taylor, and unanimously carried by those present to reappoint the former members of the CPC and EPOC, and the members of the task force to be appointed by Mr. Petersen will report its findings regarding the Board's current committee structure at the next Board meeting.

C. Report on Committee and Liaison Appointments.

Mr. Ramirez reported that there are no new liaison appointments.

D. Qualifications Committee Appointments.

It was moved by Ms. Taylor, seconded by Mr. Driftmier, and unanimously carried by those present to approve the appointment of Mr. Smith to the QC.

It was moved by Mr. Oldman, seconded by Mr. Bermúdez, and unanimously carried by those present to ratify the interim appointments of Ms. Hales and Mr. Reuhl.

E. Discussion of Policy Issues in the Governor's Proposed Budget.

Ms. Bowers reported that the Governor issued Executive Order S-16-08, ordering the Department of Personnel Administration to adopt a plan to implement a furlough of represented state employees and supervisors for two days per month (the first and third Friday of every month) to become effective on February 6, 2009 (**see Attachment 2**). She further stated that she was seeking clarification from DCA regarding how furloughs will impact employees to allow for participation at the Board meetings which land on those Fridays. Ms. Bowers indicated she will advise Board members once that information is received.

Mr. Duke reported that a hearing has been set for January 29, 2009 challenging this Executive Order.

Ms. Bowers reported on the proposed consolidation of the Professional Fiduciaries Bureau (PFB) with the California Board of Accountancy (**see Attachment 3**). Ms. Patricia Harris, Deputy Director of Board Relations at DCA, introduced Ms. Mellonie Yang, Bureau Chief of the PFB. Ms. Yang reported that the PFB regulates fiduciaries that provide services to seniors and other citizens unable to care for themselves, and that professional fiduciaries consist of non-family member professional conservators, guardians, and trustees that manage personal care and/or finances for vulnerable persons. She further reported that legislation was passed in 2006 which issued the licensing mandate. Ms. Yang reported there are currently 297 licensees acting as professional fiduciaries. She reported on the increasing trend of certified public accountants and attorneys entering the profession. She further reported that the bureau's licensing fees are currently at \$400 for application fees, a \$600 licensing fee, and a \$700 annual renewal fee. She stated that the bureau is staffed by four employees and has five advisory members.

Mr. Ramirez requested Ms. Harris' attendance at the March 2009 Board meeting if any decisions are reached regarding this consolidation.

III. Report of the Vice-President.

A. Administrative Committee Appointment.

It was moved by Mr. Bermúdez, seconded by Ms. Taylor, and unanimously carried by those present to approve the appointment of Mr. Robert Lee to the AC.

IV. Report of the Secretary-Treasurer.

A. Update on CBA Current Budget Related Issues.

Ms. Hariton reported that the budget is nearly the same as it was last year, with slight increases related to miscellaneous operating expenses, departmental pro-rata, and Attorney General and Office of Administrative Hearing enforcement expenses (**see Attachment 4**).

VI. Report of the Executive Officer.

A. Organization Chart and Update on Board Staffing.

Ms. Bowers reported that five vacancies were filled since the last Board meeting, and the Board currently has eight vacancies.

B. Report of Existing Projects.

Ms. Bowers provided a handout of the Board's current project list (**see Attachment 5**).

C. Discussion of Sunset Review and the Strategic Plan.

Mr. Rich reported that the Board's current project listing contained an item related to the sunset review process, with the anticipation that the Board will begin execution of a new sunset review report in January 2009 (**see Attachment 6**). Mr. Rich reported that staff was informed by legislative staff that the Board does not need to produce the required report at this time. Mr. Stanley reported that Mr. G.V. Ayers, Consultant of the Senate Business Professions and Economic Development Committee, indicated a bill will be introduced which would implement changes in the sunset review process, and he anticipated passage of this bill.

Mr. Rich reported that the Board's current strategic plan is for 2005-2010 (**see Attachment 7**). He recommended that the Board consider adopting a new strategic plan, as it will allow the Board to have a current plan in place as a foundation for a future sunset review process.

Mr. Rich requested that the Board participate in the development of the strategic plan, and that the effort be coordinated by a contracted facilitator experienced in strategic planning. Mr. Rich also stated that Cindy Kanemoto with DCA's Strategic Organizational Leadership and Individual Development Office, slated to work with the Board on developing a new strategic plan, wished to meet with the Board beginning at the March 2009 Board meeting to discuss strategic planning.

Ms. Kirkbride stated her belief that a five-year strategic plan may be too long, and Ms. Anderson stated her desire that the Board participate in developing the strategic plan. Mr. Rich stated that he anticipated the strategic planning process will commence in May 2009.

Ms. Hariton requested the creation of a task force to better enhance the development of the sunset review report and the strategic plan.

Mr. Ramirez directed Board staff to proceed with the sunset review process, as well as strategic planning. He further recommended a task force be established, with members to be appointed by Mr. Petersen, to work with Board staff to facilitate the sunset review and strategic planning processes. He also directed staff to provide a status report at the March 2009 Board meeting.

Mr. Ramirez further stated the necessity for the Board to be involved with the deliberation and application of each of the processes.

D. Consideration of the Posting of Accusations on the Board's Website.

Mr. Newington reported the Board had not historically posted pending accusations on the Board's website. He offered three options related to the posting of accusations on the website: continuation of the current practice of providing notification of pending allegations within the license look-up feature and furnishing actual accusation documents when they are requested; posting pending accusations through a link to the license look-up feature; or posting all accusations (pending and resolved) and actual Board disciplinary actions through a link to the license look-up feature **(see Attachment 8)**.

Board staff recommended the Board adopt option three, due to the significant transparency of this alternative, as well as the conformity to disclosure practices of the Securities and Exchange Commission and the PCAOB.

Mr. Waldman stated that he has an issue with posting pending accusations on the website, citing concerns with accusations that are withdrawn.

Mr. Duke stated there are issues with posting pending accusations on the Board's website, with web crawlers being amongst them. Ms. Kirkbride then stated that information may be placed in a way that it would be inaccessible to web crawlers, and she supported the idea of posting accusations in its entirety on the website to provide for full disclosure. Mr. Hansen stated that the Board's Information Technology staff would be able to perform this function.

Ms. Anderson stated her desire to post the entire accusation and decision on the Board's website once they are finalized to provide enhanced consumer protection.

It was moved by Mr. Oldman, seconded by Mr. Bermúdez, and carried by those present to maintain the Board's current policy, with the addition that the entire accusation and decision will be posted onto the Board's website once the decision has been finalized. Ms. Kirkbride, Ms. Taylor and Mr. Elkins opposed. Ms. Hariton was temporarily absent.

E. Update on the Document Imaging System for Board Files.

Mr. Andres reported that the back file conversion will cost approximately \$183,000, and will take at least six months. He further reported that establishing a new system would take another 3-4 months, and a timeline had been set for finalization by October 2010. Mr. Andres further stated that DCA has identified a new document imaging process, which is currently in development. He stated that tailoring into this same process

may negate the need for a budget change proposal.

It was moved by Mr. Oldman, seconded by Ms. Taylor, and carried by those present to tailor into DCA's automated electronic documentation system. Ms. Hariton was temporarily absent.

F. Update on the Peer Review Education and Outreach Campaign.

Ms. Hersh provided an update on the Peer Review Education and Outreach Campaign (**see Attachment 9**). She stated that broadcast media outreach is a new addition to be strategically timed in order to introduce mandatory peer review to the public, and it is staff's suggestion that the Board focus on National Public Radio underwrites on Capitol Public Radio as the primary vehicle for broadcast outreach. She estimated the cost to be approximately \$81,000.

Ms. Kirkbride expressed her desire to place a radio talk bit on Capitol Public Radio to enhance the campaign.

It was moved by Mr. Driftmier, seconded by Mr. Bermúdez, and carried by those present to proceed with those items identified in Ms. Hersh's memorandum. Ms. Hariton was temporarily absent.

VI. Report of the Enforcement Chief.

A. Report on Status of Enforcement Matters.

1. Activity and Status Reports.

Mr. Newington reported that 309 new complaints were opened, and 307 were closed.

2. Major Case Summary.

Mr. Newington reported that there are three open major cases.

3. Report on Citations and Fines.

Mr. Newington reported that there are 15 fines, totaling \$14,500. He further reported that the accounts receivable balance is currently at \$38,302.

4. Reportable Conditions Data.

Mr. Newington reported that there are 117 reportable events, of which 95 are in the area of restatements.

VII. Report of the Licensing Chief.

A. Report on Licensing Division Activity.

Ms. Pearce reported that the Examination Unit experienced a decrease in the number of first time applications during the month of November, and the processing time is currently 23 days for first time applicants.

She also reported that the Initial Licensing Unit currently has no backlog, and two unit vacancies were filled since the November 2008 Board meeting.

Ms. Pearce reported that the Renewal Unit began the worksheet review process in June 2008, and staff identified the most common deficiencies. Those deficiencies are incomplete renewal applications and insufficient continuing education in the area of fraud and accounting and auditing hours.

She further reported that the Practice Privilege Unit issued 14 administrative suspension orders, which were due to non-response to Board requests.

She reported that the Client Services Unit is in the final stages of completing the tracking database for certification and public records requests.

B. Update on the Customer Service Survey Response.

Ms. Pearce reported that the client satisfaction survey responses indicated that approximately 72 percent of people who contact the Board are either satisfied or very satisfied with the service they received, while 10 percent are neutral, and two percent indicated "not applicable", which leaves approximately 16 percent of the persons coming into contact with the Board being "not satisfied" with the services they received. She further reported the negative comments made by examination applicants were based on the processing times for first time applications, as well as the time it takes to receive final test scores.

She noted that the timeframes were longer than in recent months as a direct result of the Board losing its temporary help, as well as the Board receiving both a large influx of first-time applications during those months and the largest ever number of scores to process from the July/August 2008 testing window. She reported that the Board redirected staff from other units to work on eliminating backlogs and decrease the processing time. She iterated that the Board has since been able to rehire temporary staff, which has reduced the processing time.

Ms. Bowers stated her belief that customer dissatisfaction can also be attributed to client frustration with the electronic examination provided by the National Association of State Boards of Accountancy (NASBA).

Mr. Ramirez requested that future surveys be revised to include non-certified public accountants in order to gain a more thorough public perspective.

Mr. Elkins stated his concern that the survey was labeled as a “customer service survey”, when the customer is the public, not the licensee. Ms. Pearce stated the terminology will be reviewed and modified.

VIII. Adoption of the Minutes.

A. Draft Board Minutes of the November 20-21, 2008, Board Meeting.

It was moved by Mr. Bermúdez, seconded by Ms. Anderson, and carried by those present to approve the draft minutes of the November 20-21, 2008, Board meeting. Ms. Brough abstained. Ms. Hariton was temporarily absent.

B. Minutes of the November 20, 2008, Legislative Committee Meeting.

It was moved by Ms. Kirkbride, seconded by Ms. Chi, and carried by those present to accept the minutes of the November 20, 2008, Legislative Committee meeting. Ms. Brough abstained. Ms. Hariton was temporarily absent.

C. Draft Minutes of the November 20, 2008, Ethics Education and Licensing Frequency Task Force.

It was moved by Ms. Anderson, seconded by Mr. Oldman, and carried by those present to approve the draft minutes of the November 20, 2008, Ethics Education and Licensing Frequency Task Force. Ms. Brough abstained. Ms. Hariton was temporarily absent.

IX. Regulatory and Statutory Language.

A. Consideration of Regulatory Language Related to Article 12 – Continuing Education.

Mr. Franzella provided the proposed amendments and timeline regarding the Regulations of Article 12 – Continuing Education (CE) (**see Attachment 10**). He stated that due to the impending furlough order, the hearing regarding the proposed regulation may need to be held on March 19, 2009, instead of on March 20, 2009, as was previously anticipated. He reported that staff has taken the necessary steps to ensure that the

rulemaking process can begin by January 20, 2009, which will allow for the necessary 45-day comment period to occur prior to the March 2009 Board meeting. Finally, he stated that Board staff received an email from Mr. Arthur Berkowitz commenting on the new CE requirements.

It was moved by Ms. Anderson, seconded by Mr. Driftmier, and unanimously carried by those present to accept the regulatory language related to Article 12 – Continuing Education.

B. Consideration of Regulatory Language to Define Attest Services and Attest Report.

Ms. Walker provided proposed regulatory language to define attest services for California licensure applicants and attest reports for Practice Privilege holders (**see Attachment 11**).

It was moved by Ms. Anderson, seconded by Mr. Bermúdez, and unanimously carried by those present to accept the proposed regulatory language to define attest services and attest reports.

C. Consideration of Policy Decisions Related to Peer Review Legislation.

Mr. Franzella provided the Board with policy issues related to peer review legislation (**see Attachment 12**). He reported that for the issue paper staff identified five policy issues the Board may wish to consider that may result in drafting modifications to the proposed peer review legislation, specifically the cost of peer review, the definition of peer review and its cost benefit, audit documentation and retention, the standards for peer review, and enforcement actions. He noted that in preparation for this meeting, staff identified an additional policy issue the Board may wish to consider, namely the reduction of the peer reviewer population.

Ms. LaManna proposed providing free continuing education via a web broadcast on how to prepare for peer review, which may help offset the cost.

Ms. Hariton inquired into options the Board has regarding the implementation of a grant process to assist participants in paying for peer review.

Mr. Oldman proposed the possibility of establishing a Board-sponsored tax-deductible charitable foundation for education to assist participants in financing some of the peer review costs. Mr. Bermúdez stated this should be carefully reviewed because he was uncertain of a regulatory agency's ability to offer any sort of scholarship, even through the implementation of a non-profit organization.

Ms. Anderson stated that changing the audit documentation retention practice for peer review is unnecessary, and the Board members agreed not to reference those code sections.

Ms. Chi inquired why staff only met with the parties outlined in the issue paper. Ms. Bowers stated that Board staff met with those parties that voiced concerns with the enforcement aspect of peer view, and if other agencies and/or individuals were to voice concerns, staff would meet with them as well.

Mr. Franzella stated that new legislative language needs to be approved at the March 2009 Board meeting, and he proposed a February 2009 task force meeting. Mr. Swartz proposed bringing this before the CPC to maintain continuity.

Ms. Brough, Ms. Chi, Ms. LaManna, Mr. Driftmier, Ms. Taylor, Mr. Waldman, Mr. Oldman, Mr. Ramirez and Mr. Swartz supported the idea of bringing this issue before the CPC.

Ms. Anderson supported the idea of bringing this issue before the full Board.

Ms. Hariton and Ms. Kirkbride supported the idea of bringing this issue before an appointed task force.

Mr. Bermúdez and Mr. Elkins were temporarily absent. Mr. Petersen was absent.

Staff was directed to coordinate a special CPC meeting for February 2009.

X. Committee and Task Force Reports.

A. Administrative Committee.

There was no report on this agenda item.

B. CPA Qualifications Committee.

Ms. Garone reported that since November 14, 2008, 14 appearances were held, with four personal appearances approved and two not approved, and five Section 69 appearances approved, and three not approved. She also reported that the QC held a meeting on January 14, 2009, where the committee approved the minutes from the October 22, 2008 meeting. She further reported that she introduced the two interim appointments to the QC and that Board staff provided the QC with an update on staffing issues in the Licensing Division. Ms. Garone reported

that the CPA Licensing Applicant and QC Handbooks were reviewed by a subcommittee of the QC. She stated that certain recommendations of the subcommittee were approved, but recommendations defining attest experience requirements were deferred pending legal review. She further reported that the QC decided there was no need for two different wall certificates, and that the QC will discuss the elimination of the option for obtaining a license with general experience at its April 22, 2009 meeting.

C. Legislative Committee.

1. Report of the January 15, 2009, Legislative Committee Meeting.

Ms. Kirkbride reported that the Legislative Committee met to discuss and take action on the following agenda items.

2. Discussion of the Role of the Legislative Committee.

The Legislative Committee recommended that the Board add language to the committee's purpose statement to specifically allow the committee to recommend sponsorship on legislation.

Mr. Bermúdez stated his wish to defer this item until the March 2009 Board meeting to allow for a more global discussion.

Ms. Hariton stated that the scope of the Legislative Committee needs to be reviewed before making any decisions.

It was moved by Ms. Kirkbride, and seconded by Ms. Anderson to approve the Legislative Committee's recommendation. Ms. Kirkbride subsequently withdrew the motion, pending review of the committee's structure.

3. Reconsideration of Legislation to Increase Salaries for the Investigative Certified Public Accountant Series.

The Legislative Committee recommended that the Board withdraw its sponsorship of the Investigative Certified Public Accountant (ICPA) series salary increase through legislation.

Mr. Bermúdez stated that putting this bill into print will create leverage by forcing people to address the issues regarding the ICPAs.

Ms. Hariton stated her desire for Ms. Bowers to continue with her project to conduct a zero-base analysis of the Enforcement Program and suggested that the Board take no action until this is completed. Ms. Bowers reported that an evaluation of the Enforcement Program had commenced, and she anticipated a decision would be made on

the direction to proceed in selecting an outside consultant by the end of this month. She further estimated that an analysis of the Enforcement Program will take approximately three to four months, based on looking at other reports prepared by consultants evaluating other programs.

Ms. LaManna stated her belief that this is the most important issue the Board is currently facing, and that the Board needs additional ICPAs to staff the Enforcement Program.

It was moved by Ms. Kirkbride, and seconded by Ms. Hariton to withdraw Board sponsorship of the ICPA series salary increase. Mr. Ramirez, Mr. Bermúdez, Mr. Driftmier, Mr. Oldman, Mr. Waldman, Ms. Anderson, Ms. Brough, Mr. Elkins, Mr. Swartz, Ms. LaManna and Ms. Taylor opposed. The motion failed.

4. Update on Mobility and the Elimination of Pathway 1.

The Legislative Committee recommended that the Board approve sending a clarifying letter that more accurately depicts the Board's objective related to mobility to Assembly Members Niello and Ma.

It was moved by Ms. Kirkbride, seconded by Mr. Elkins, and unanimously carried by those present to send Assembly Members Niello and Ma a letter clarifying the Board's objective related to mobility.

Mr. Swartz stated his belief that the letter should include language reflecting that the Board had taken steps to show it will support legislation.

Mr. Ramirez directed Board staff to collaborate with Mr. Petersen and Mr. Swartz to ensure the letter represents the intention of the Board, and the letter should be mailed no later than two weeks from the date of the Board meeting.

XI. Appeals – Personal / Written.

A. Personal Appeals.

1. Charleen Bell – Licensing Applicant.

Ms. Charleen Bell, a licensing applicant, appeared before the Board to request the Board to intervene and require Robin Patterson, a California State University, Northridge employee and actively licensed CPA, complete and submit a Certificate of General Experience on her behalf.

Ms. Bell submitted a first-level appeal to Board management on August 1, 2008, along with a request to appear before the QC. The appeal was denied.

Ms. Bell subsequently provided additional information, along with a second appeal request to appear before the QC. Board management reviewed the additional information and scheduled Ms. Bell and Ms. Patterson for an appearance before the QC under Section 69 of the Accountancy Regulations. After extensive review of the documents provided and in-depth interviews conducted with each individual present at the appearance, it was determined there was not enough evidence to show that Ms. Patterson acted in a supervisory capacity to Ms. Bell during Ms. Bell's employment; therefore, Ms. Patterson would not be required to complete and sign a Certificate of General Experience on her behalf.

Ms. Bell appealed the second level decision and appeared before the Board to provide additional documentation and information that she believed substantiated her claim that Ms. Patterson did, in fact, serve in a supervisory capacity.

During Ms. Bell's appeal, the Board listened to testimony from Ms. Bell, her attorney, Mr. Frederick Ray, Ms. Patterson, and Mr. John Darakjy, Ms. Bell's current non-CPA supervisor. In addition, the Board members had an opportunity to review documentation submitted by Ms. Bell, discuss Ms. Bell's position and work responsibilities, as well as the organizational reporting structure of the College.

It was moved by Mr. Oldman, seconded by Mr. Swartz, and unanimously carried by those present to sustain the decision of the QC. Mr. Bermúdez and Mr. Elkins were temporarily absent.

XII. A. American Institute of Certified Public Accountants (AICPA).

1. Update on AICPA State Board Committee.

Mr. Driftmier reported that the Board of Examiners implemented a testing program in the Tennessee area to determine interest in the examination.

2. Information Regarding AICPA Committee Membership.

Ms. Siefert reported that eight Board members and staff are currently participating in NASBA committees, and the only opportunity for public Board member participation is on the Peer Review Board and

the Professional Ethics Executive Committee.

B. National Association of State Boards of Accountancy.

1. Update on NASBA Committees.

a. Uniform Accountancy Act Committee.

Mr. Driftmier stated he is the liaison with this committee and is available to answer any questions.

b. Compliance Assurance Committee.

There was no report on this agenda item.

c. Peer Review Committee.

There was no report on this agenda item.

d. Global Strategies Committee.

There was no report on this agenda item.

e. Ethics Committee.

There was no report on this agenda item.

f. Legislative Support Committee.

There was no report on this agenda item.

g. Education Committee.

There was no report on this agenda item.

h. Accountancy Licensee Database Task Force.

There was no report on this agenda item.

i. Enforcement Practices Committee.

There was no report on this agenda item.

2. Comment on UAA Model Rules Exposure Draft.

Mr. Rich reported that Board staff prepared a response to NASBA regarding comments on the UAA Model Rules, which is due to NASBA by January 31, 2009.

Mr. Ramirez requested that all comments be forwarded to Mr. Rich by January 21, 2009.

It was moved by Ms. Taylor, seconded by Ms. Anderson, and unanimously carried by those present to approve the draft response to the UAA Model Rules exposure draft. Mr. Bermúdez, Mr. Elkins, and Mr. Driftmier were temporarily absent.

C. Discussion and Prioritization of Newly Identified Action Items.

There was no report on this agenda item.

D. Board Member Comments.

No comments were received.

E. Comments from CalCPA Representative.

Mr. Schultz welcomed Ms. Brough.

F. Comments from SCA Representative.

Mr. Tolkan thanked the Board for their work, and welcomed Ms. Brough.

G. Public Comments.

Mr. Olson provided a handout detailing the U.S. Supreme Court decision of U.S. v. Arthur Young & Co. (1984), the Bernard Madoff Ponzi scheme and re-statements **(see Attachment 13)**.

H. Agenda Items for Future Board Meetings.

Mr. Swartz stated he would like to analyze the current definitions of “supervisor/supervision” and “experience”.

Ms. Kirkbride stated she would like to revisit the issues of cross border practice and mobility.

Ms. LaManna stated she would like to research options for providing free continuing education training to licensees using the excess reserve.

Mr. Ramirez stated he would like to analyze the use of committees, their guidelines and establishing a task force relative to that.

Adjournment.

Vice President Ramirez adjourned the meeting at 4:00 p.m. on Friday, January 16, 2009.

Manuel Ramirez, Vice President

Lorraine Hariton, Secretary-Treasurer

Marisa Becerra-Garcia, Executive Analyst, and Patti Bowers, Executive Officer, California Board of Accountancy, prepared the Board minutes. If you have any questions, please call (916) 561-1718.