West Virginia
Board of Accountancy

405 Capitol Street, Suite 908
Charleston, West Virginia 25301-1744

Jim Justice, Governor

Board Members:
Jon W. Cain, Sr., CPA - President
Louis J. Costanzo, III, CPA - Vice President
Robin M. Baylous, CPA - Secretary
Richard A. Riley, Jr. CPA, PhD, CFE, CFF, Assist. Sec.
Horace W. Emery, CPA
Theodore A. Lopez, CPA

Brenda S. Turley, Executive Director

The Board of Accountancy met on Friday, April 27, 2018 at 9:30 a.m. in the Board Conference Room at 405 Capitol Street, Suite 908, Charleston, WV 25301.

Board Members in Attendance were:
Jon W. Cain, Sr. (via GoToMeeting)
Louis Costanzo, III, CPA
Robin M.Baylous, CPA
Richard A. Riley, Jr., CPA
Horace W. Emery, CPA
Theodore A. Lopez, CPA

Others in Attendance were:
David Gilbert, Assistant Attorney General
Brenda S. Turley, Executive Director
Stefani D. Young, Board Staff
Sara B. Short, Board Staff

The meeting was called to Order by Board President Jon Cain at 9:33 a.m. for which the following actions were made part of the record.

1. Approval of Minutes

Upon motion by Robin Baylous, and second by Lou Costanzo, the Board approved the Minutes of January 19, 2018. Motion carried.

Upon motion by Lou Costanzo and second by Horace Emery, the Board approved the Minutes of the February 16, 2018 Emergency Teleconference. Motion Carried.

2. Complaints

Upon motion by Lou Costanzo and second by Robin Baylous, the Board went into Executive Session at 9:42 a.m. to consider disciplinary matters pursuant to W. Va. Code § 6-9A-4. Motion carried.

Upon motion by Lou Costanzo and second by Robin Baylous, the Board came out of Executive Session at 11:05 a.m.

The Board members took a brief break from 11:05 a.m to 11:20 a.m.

Board members then made the following actions regarding complaint cases part of the record:

- **2016-05** The Respondent in this matter has filed an Appeal before the Supreme Court and is awaiting that decision. However, since no decision was released in the Fall 2017

session as anticipated, upon motion by Lou Costanzo and second by Robin Baylous, Board members approved a draft of a letter to the Hearing Examiner requesting the stay to be lifted and to set a date to continue the Hearing. Motion carried. Let the record show that Jon Cain recused himself in this matter.

- **2017-05** After a review of the Hearing Examiner's recommendation, upon motion by Lou Costanzo and second by Robin Baylous, the Board members voted to adopt the Hearing Examiners Recommendation and **revoke the Respondent's certificate/license**. Motion carried.

- **2017-06** Upon motion by Robin Baylous and second by Lou Costanzo, Board members decided that a letter should be written requiring the Respondent to provide the Complainant with an unmodified copy of the electronic file. If an unmodified copy is not possible, the Respondent would need to provide a detailed listing of all modifications made to the record after the Respondent's termination date. Brenda Turley was directed to draft the letter for the Complaint Chair to review before sending. Motion carried.

- **2017-08** The Respondent signed the *Consent Agreement and Order*. Upon motion made by Robin Baylous and second by Lou Costanzo, the **Board closed this file**. Motion carried. Let the record show that Jon Cain recused himself in this matter.

- **2017-07A**
- **2018-01**
- **2018-03**
- **2018-08**

Since all of these matters involve the same Respondent, upon motion by Robin Baylous and second by Lou Costanzo, the Board directed the Assistant Attorney General to draft an Order revoking the Respondent's CPA Certificate and firm permit. Members also directed the Assistant Attorney General to file an Injunction in circuit court to require the Respondent to change the web site that is using prohibited language for a non-licensee as well as a CPA firm. The Board also directed that the Injunction should include the return of records for 2018-03 and 2018-08. Motion carried.

- **2018-05** The records requested in this case were returned to the Complainant, and upon motion by Robin Baylous and second by Lou Costanzo, Board members **closed this file**. Motion carried.

- **2018-09** Upon motion by Horace Emery and second by Lou Costanzo, board members determined that a Consent Agreement should be offered to the licensee stipulating the same parameters as outlined in the AICPA agreement. If the licensee does not sign the Consent Agreement within 30 days, the matter is to be set for hearing. Motion carried.

- **Peer Review Matters**

Matter #1: Upon motion by Lou Costanzo and second by Robin Baylous, Board members agreed that the licensee should be contacted by a member of the Board to clarify the Peer Review process and to advise the licensee regarding AICPA's Peer Review procedure as administered. Motion carried.

Matter #2: Upon motion by Lou Costanzo and second by Robin Baylous, Board members agreed that the licensee should be contacted by a member of the Board to clarify the Peer Review process and to advise the licensee regarding AICPA's Peer Review procedure as administered. Motion carried.

3. Financial Report / P Card / Budget

- The Board received the *Receipts and Disbursements Report* for the period ending March 31, 2018 as follows:

Beginning Cash Balance, July 1, 2017	$623,538.70
Total Receipts	110, 027.50
Total Disbursements	(293,595.11)
Ending Cash Balance, March 31, 2018	439,971.09

- Upon motion by Lou Costanzo and second by Horace Emery, the Board ratified P-Card purchases for 2018 Q1. Motion carried.

- Upon motion by Lou Costanzo and second by Horace Emery, the Board approved the FY 2019 Budget with two modifications:
  1. Current Expenses - Line Item 3206 - Contractual and Professional - changed from $26,000.00 to $35,000.00
  2. Current Expenses - Line Item 3250 - Attorney (external legal services) - changed from $25,000.00 to $16,000.00

  Motion carried.

4. CPA Examination

- Upon motion by Lou Costanzo and second by Ted Lopez, the Board approved the 2018 Q1 Successful Exam Candidates. Motion carried.

5. Licensing / CPE / Firms

- Board members reviewed the inquiry from Trainer Wright & Paterno, CPAs regarding who needs to file for a firm permit and what type of services the Board would consider as professional services. Upon motion by Lou Costanzo and second by Ted Lopez, the Board members instructed the Executive Director to draft a letter to the firm to advise that, regardless of whether the company has CPA in the name, some of the services indicated in the inquiry do qualify as professional services; therefore, the new business would need a firm permit. This would also require the firm to fall within the naming parameters contained

in the statutes and regulations. Jon Cain to review letter before sending. Motion carried.

- Board staff reported the status of the criminal history record check, as listed below:
  - Board staff will Final File the criminal history record check rule on May 7, 2018.
  - The newest board employee passed the fingerprint check last month.
  - Both doors to the Executive Director's office were fitted with locks last month.
  - The desktop logon to the criminal history record check system will be added only to the Executive Director's desktop in May or June.
  - Board staff is creating special web information regarding the criminal history record check.
  - Board staff is developing a form for use by Board members to advise them that the criminal history record check was performed and the status of the check.

- The Board members reviewed the firm name request from B. Ryan. Upon motion by Horace Emery and second by Robin Baylous, the Board directed the Executive Director to draft a letter to B. Ryan and advise her that the current statutes do not permit the use of the name Northstar as the firm name. The Board President will review the draft correspondence ter before sending. Motion carried.

- Board members reviewed the request from M. Mayfield to utilize the business name Capital Measures PLLC. The Board determined that the licensee could use that name, but if the licensee intends to use the CPA title, she would need to follow the requirement in our statute and regulation. The Executive Director was directed to draft a letter to the licensee and the Board President will review the draft correspondence before sending.

- Board members reviewed the request for information by D. Smalley at Ernst and Young. He asked "For a non-attest client, if use of contingent fee for a claim for a tax refund is permissible under the AICPA Code of Professional Conduct Section, 1.510 Contingent Fees, is it also permissible under the WV Board of Accountancy." Upon motion by Dick Riley and second by Ted Lopez, the Executive Director was directed to quote W.Va. Code § 30-9-26(c) and Board Rules 15.3. in answer to the inquiry. The Board President will review the draft correspondence before sending. Motion carried.

6. Legislative Rules

- Board members were provided with a copy of Board Rules and Rules of Professional Conduct that will be filed on May 7, 2018.

7. Technology

- Board staff advised the Board regarding the current status of the e-licensing system.
  1. The final payment of $26,000 was made in February.
  2. The Board will pay $7,500 annually for maintenance and support.
  3. As a result of changes to the national Gateway system, scores in March did not post

as anticipated. The Board was billed for the time required by the e-licensing provider to manually post the data.

4. Board staff reported that as a result of NASBA's file structure changes, we will need to request a Statement of Work from the e-licensing provider to make changes to the system to allow scores and candidate information to post as anticipated.

The Board broke for lunch at 12:30 p.m. and reconvened at 12:55 p.m.

8. NASBA/AICPA

- Board members reviewed the upcoming national meetings. It was determined that Brenda Turley and Horace Emery would attend the Eastern Regional Meeting, June 5-7, 2018 in Orlando, Florida.
- Dick Riley reported that he had tested the Ethics Program provided by NASBA to determine if it could be used for disciplinary matters. He reported that there were a few technical difficulties, the browser didn't work and sometimes it wouldn't "play". He said there was nothing accounting or accounting firm related in the program. The total time for completion of the modules was 3.75 hours and it gave 4.0 hours of CPE credit. He also indicated that he believed the AICPA Comprehensive Ethics course provided more relevant information for disciplinary requirement purposes.
- Board members reviewed several videos that NASBA created before the Board meeting. The Board agreed that the videos appeared professional. Upon motion by Robin Baylous and second by Lou Costanzo, the Board approved Board staff to work with NASBA to create appropriate videos for the Board's web site. Motion carried.
- Board members reviewed a PowerPoint presentation regarding another pathway to CPA that was presented at the Executive Director's conference in March. Board members determined that there was not enough information yet to make a decision regarding the Board's stance on an alternative pathway to becoming a CPA.
- Board members reviewed the material provided by Sue Lieberum regarding suggested revisions for mandatory Facilitated State Board Access (FSBA). Assistant Attorney General David Gilbert suggested that the Board may want to tweak the Freedom of Information Act (FOIA) to exclude Peer Review Reports. The Board could then change the Accountancy Law to mandate licensees who perform attest or compilation services to allow the Board to look at the Peer Review.

9. Other

- Election of Officers

  Upon motion by Robin Baylous and second by Lou Costanzo, the following officers were elected for the term beginning July 1, 2018:

Jon Cain	President
Robin Baylous	Vice President
Horace Emery	Secretary
Richard Riley	Assistant Secretary

Robin Baylous, Chair and Horace Emery - Complaint Committee member

With no further business to come before the Board, upon motion made by Robin Baylous and second by Lou Costanzo, the meeting was adjourned at 2:18 pm. Board members signed certificates and approved exam and license applications.

We certify that this is a true copy of the Minutes of the West Virginia Board of Accountancy for Friday, April 27, 2018.

Board President	Secretary
Assistant Secretary	Acting Recorder