

**CALIFORNIA BOARD OF ACCOUNTANCY**

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DEPARTMENT OF CONSUMER AFFAIRS
CALIFORNIA BOARD OF ACCOUNTANCY

FINAL

MINUTES OF THE
SEPTEMBER 19, 2008
BOARD MEETING

The Westin San Diego
 400 West Broadway
 San Diego, CA 92101
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I. Call to Order.

President Donald Driftmier called the meeting to order at 8:32 a.m. on Friday, September 19, 2008, and the Board and Administrative Law Judge (ALJ) James Ahler heard Agenda Item XII.A. The Board convened into closed session at 9:45 a.m. to deliberate Agenda Item XII.A. The Board then considered Agenda Items XII.B.-H. The meeting reconvened into open session at 10:46 a.m., and adjourned at 3:18 p.m.

Board MembersSeptember 19, 2008

Donald Driftmier, President	8:32 a.m. to 3:18 p.m.
Robert Petersen, Vice President	8:32 a.m. to 3:18 p.m.
Rudy Bermúdez, Secretary-Treasurer	8:38 a.m. to 3:18 p.m.
Sally Anderson	8:32 a.m. to 3:18 p.m.
Richard Charney	8:32 a.m. to 2:07 p.m.
Angela Chi	8:32 a.m. to 3:18 p.m.
Lorraine Hariton	8:32 a.m. to 3:18 p.m.
Louise Kirkbride	8:32 a.m. to 3:18 p.m.
Leslie LaManna	8:32 a.m. to 3:18 p.m.
Bill MacAloney	8:32 a.m. to 3:16 p.m.
Marshal Oldman	8:32 a.m. to 3:18 p.m.
Manuel Ramirez	8:32 a.m. to 3:18 p.m.
David Swartz	8:32 a.m. to 3:18 p.m.
Lenora Taylor	Absent
Stuart Waldman	Absent

Staff and Legal Counsel

Marisa Becerra-Garcia, Executive Analyst
Patti Bowers, Chief, Licensing Division
Paula Bruning, Executive Assistant
Gary Duke, Legal Counsel, Department of Consumer Affairs
Dominic Franzella, Renewal Coordinator
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, Acting Executive Officer
George Ritter, Legal Counsel, Department of Consumer Affairs
Theresa Siefert, Manager, Administrative Division
Matthew Stanley, Legislative/Regulation Analyst
Liza Walker, Practice Privilege Coordinator

Committee Chairs and Members

Harish Khanna, Chair, Administrative Committee
Tracy Garone, Chair, Qualifications Committee

Other Participants

Hon. James Ahler, Administrative Law Judge
Mike Duffy, Ernst & Young, LLP
Julie D'Angelo Fellmeth, Center for Public Interest Law (CPIL)
Elliott J. Fills, Certified Public Accountant (CPA)
Ed Howard, CPIL
Tracy Logan, CPIL
Glen Morinaka
Carl Olson
Richard Robinson, E&Y, DT, PWC, KPMG, GT
Edward A. Rose, Jr., Attorney at Law
Gregory Santiago, Legislative Analyst, Department of Consumer Affairs
Hal Schultz, California Society of Certified Public Accountants
Val Sheehan, Val Sheehan Consulting
Jeannie Tindel, California Society of Certified Public Accountants
David B. Tolkan, Society of California Accountants
Laura Zuniga, Deputy Director, Policy and Legislative Review, Department of Consumer Affairs

II. Board Minutes.

The draft Board minutes of the July 25, 2008, Board meeting were adopted on the Consent Agenda (See Agenda Item XIII.C.).

III. Report of the President.

Mr. Driftmier read a card submitted by Tim Hedinger, Director of Internal Audits at PRIDE Industries, commending Delia Tómas for her hard work, as well as her prompt and excellent customer service.

IV. Report of the Vice-President.

A. Proposed Resolution for Retiring Administrative Committee (AC) Member Daniel R. Matter.

Mr. Petersen reported the retirement of AC member Daniel Matter. Mr. Petersen further stated the Board's appreciation of his hard work.

B. Proposed Resolutions for Retiring CPA Qualifications Committee (QC) Members.

Mr. Petersen reported the retirement of QC members Janet Rosman and Michael Williams, who was a former Vice Chair of that committee. Mr. Petersen further stated the Board's appreciation of their hard work.

It was moved by Mr. Swartz, seconded by Mr. Ramirez, and unanimously carried to adopt the resolutions for retiring committee members Daniel Matter, Janet Rosman and Michael Williams.

V. Report of the Secretary-Treasurer.

A. Consideration of the Frequency of Financial Statement Reports.

Mr. Bermúdez requested that this agenda item be tabled for discussion at the upcoming Board retreat in order to have a more comprehensive review of the budget, as well as the budget process.

B. 07/08 Year-End Financial Statement.

Mr. Bermúdez reported that as of June 30, 2008, the Board has an 18.4 month reserve (**see Attachment 1**). One item not reflected in this financial statement is the previous loan that the Board made to the General Fund, as well as the current \$14 million loan, including interest, that will be borrowed by the Administration. Mr. Bermúdez stated that these numbers should be reflected in order to know the Board's true financial condition.

Mr. Rich stated that the fiscal sheet indicated the 2002 General Fund loan of \$6,000,000, as well as the 2003 General Fund loan of \$270,000. The fiscal sheet also noted what the authority was for the Board to make these loans per the Budget Act, and also indicated the estimated earnings based on the pooled money investment account that these

loans are earning until such time they are paid back. The Conclusion and Status of Reserves on page two of the fiscal sheet reflected that \$14 million will be borrowed from the Accountancy Fund Reserve in the next fiscal year; however, this loan was not reflected in the current financial statement since it reflected information as of June 30, 2008.

Mr. Bermúdez inquired as to the amount of the Accountancy Fund Reserve once the \$14 million is deducted. Mr. Rich stated it will be approximately \$11 to \$12 million, which will be an approximately 12-month reserve.

Mr. MacAloney inquired as to why the interest rate for the 2002 and 2003 loans was so low, and Mr. Rich stated that was the rate in effect at the time the loans were made.

Mr. Driftmier stated that licensee fees constitute the loans made to the Administration. He further stated that the Board's funds can be taken by the Administration at any time; and that in the second legal opinion issued by DCA and received by the Board, it was reported that the loans can be refunded when there is no longer a need by the General Fund.

Ms. Hariton inquired if there is any way to get the money refunded if the Board were to enter into a financial crisis. Ms. Hariton further stated the Board should re-consider reducing the license fees. Mr. Driftmier stated that Board staff can research this issue. Mr. Ramirez stated the need to lower the Accountancy Fund Reserve by four million dollars, and to reduce license fees for one year. Mr. Ramirez further stated his understanding of the state regulations is that if at any time the annual reserves become less than 11 months, the Board may petition for repayment of the loan.

Ms. Anderson stated that she is reluctant to reduce the license fees due to the need to adequately staff the Enforcement Program.

Mr. Driftmier requested that Board staff research the issue after the \$14 million deduction to determine the actual reserve. He further requested that staff take a studied approach to make future fiscal predictions, and stated his irritation with the Administration for taking the Board's money while the Board is attempting to provide consumer protection.

Ms. Kirkbride suggested communicating with other boards within the Department of Consumer Affairs (DCA) to determine an approach on how to deal with excessive reserves. She would also like to see a detailed report on how the Board's money is spent to issue more accurate budget forecasts. Mr. Driftmier and Mr. MacAloney stated their agreement.

Mr. Driftmier further stated that the Board will continue to do the best it can with what it has, and this issue does not interfere with the work the Board intends to continue doing.

Ms. Hariton stated that the Board should proceed with obtaining outside consultants to meet the enforcement needs for next year, as well as have staff draft a budget analysis of the Enforcement Program's revenue. She further requested that staff draft a recommendation on reducing the license fees for one year, based on the assumption that the Enforcement Program will utilize outside consultants. She stated the need to proceed with the current known facts, and that staff should return with a budget assessment containing ideas on how to reduce the license fees at the next Board meeting.

Mr. Rich stated the need to consider the reduction of license fees, and that the Board has been considering these fees for some time. He stated that the Ethics Education and Licensing Frequency Task Force (EELF) had decided against reducing the reserve by adjusting license fees. Mr. Rich stated that Board staff will be able to construct an analysis; however, there would be no way to forecast the budget due to any unforeseen extraordinary occurrences.

Mr. Ramirez stated the need for financial details, and requested more concise financial statements to facilitate better decision-making by the Board.

Mr. Swartz stated that the Board may need a good reason to reduce the fees for one year. Mr. Rich stated that a change in regulations would need to be submitted to reduce the fees.

Mr. MacAloney stated his agreement with conducting a study on the Board's budget.

Ms. Kirkbride requested that Board staff determine what the long-term reporting would be in regards to the Board's budget.

Ms. Anderson agreed with Ms. Kirkbride, and indicated that she believed this may be a good subject to discuss at the upcoming Board retreat. She further stated that she would like to see a balance sheet, which details the Board's assets and net income. She would like projects, such as imaging hardcopy files to electronic copy, to be included in the analysis to better predict the Board's ability to accomplish goals. She would like to see a three to five year budget forecast.

Mr. Bermúdez stated that the Board submitted a bill to increase the Investigative CPA salary, and it was opposed by the DCA. He further reported that the Conference Committee believed that if the Administration were to borrow money from the Board, the consumer is

entitled to greater protection and they would increase the monies in a trailer bill for the Board's Investigative CPAs; however, that was not able to get into the Conference Committee in time before the meeting began. Mr. Bermúdez stated that the Department of Personnel Administration (DPA), as well as the DCA will need to justify their actions before Budget Subcommittee 4 regarding the reason there are not enough Investigative CPAs to provide consumer protection. He stated that the Board must proceed in utilizing all avenues, even if it is something that individuals in other departments may be opposed to. He stated that the Board should not make itself available to criticism by doing absolutely nothing, and that the Board needs to continue to make efforts even if it brings displeasure to individuals.

Mr. Bermúdez further stated that a Legislative Committee meeting was not scheduled because he was told that it was not within the Board Operations Manual (BOM). He stated that the BOM does not define the parameters the Board shall operate upon, but it is to be used as a guideline. Mr. Bermúdez stated that it only defines who constitutes the membership, as well as the issues that can be approached by the Board. He stated that if the Board wishes to conduct a meeting, it can conduct a meeting.

Dr. Charney stated that the DPA, the DCA and legislation have always been the roadblocks to obtaining the necessary enforcement personnel, as well as recruiting additional staff. He is hopeful that the Board will be able to move forward with the Investigative CPA salary increase.

Mr. Carl Olson inquired as to whether KPMG was ordered to pay interest upon their \$1 million fine. Mr. Newington stated that interest penalties were not a stipulation in the Order.

Ms. Hariton stated that she is concerned with the Board's budget surplus, and additional information is required. Mr. Rich stated his frustration with trying to separate the policy versus administrative issues, and re-iterated that Board staff will be able to conduct a budget study. Mr. Rich then respectfully withdrew his application for the vacant Executive Officer position.

Ms. Kirkbride expressed her concern with issuing action items to Board staff without considering the possible implications. She further expressed her willingness to work in a sub-group to offer assistance to the staff, in the hopes that the Board would be in a better position to consider and deliberate issues at subsequent meetings. Mr. Driftmier stated that this issue can be discussed at the upcoming Board retreat.

VI. Report of the Executive Officer.

A. Update on Board Staffing.

Mr. Rich reported that the Board currently has nine vacancies. Since the previous Board meeting, five positions were filled, and five additional positions have become vacant. There is one vacancy in the Executive Unit, three Office Technician vacancies in the Administrative Division, one vacancy in the Licensing Division, and four vacancies in the Enforcement Program.

B. Report of Options By Which the Board Can Work More Effectively in the Legislative Environment.

Mr. Rich introduced Matthew Stanley, the Board's new Legislative/Regulation Analyst. Mr. Stanley's first day with the Board was September 1, 2008, and Mr. Rich indicated that he has proven to be a valuable asset since that time.

Laura Zuniga, Deputy Director of the Policy and Legislative Review at DCA, provided Board members with a PowerPoint presentation hand-out that related to the legislative process (**see Attachment 2**). She stated that DCA would like all boards and bureaus to submit any legislation they are planning to sponsor within the upcoming year to the Department.

Mr. Rich reported that there are four bills Board staff are currently working on. These bills have not yet been delivered to DCA's legislative office, but they relate to peer review, ethics, the Investigative CPA salary increase and restatements. Mr. Rich further reported that the issue of mobility is not currently on the agenda, but it is on the Board's Action Plan and will be deliberated at a future Board meeting.

Mr. Driftmier stated that Assembly Members Ma and Niello would like to see the legislation regarding mobility move forward. Mr. Swartz inquired into whether Board members should meet with them beforehand. Mr. Bermúdez stated that the Board needs to go to the Legislative Counsel and draft spot language in November for completion by December, which would be in time for a January submission. He stated that it would be best for the Board to obtain low bill numbers as fast as possible to be heard before the Senate, since the proceedings are heard by file number. He stated that it was his understanding that the Board would be submitting bills related to ethics, peer review, 150 hours, mobility, the Investigative CPA salary increase, and fee reduction, if necessary. He also stated that a spot bill could be created in regards to the mobility issue. Mr. Bermúdez stated that language needs to be developed, and that it will be heard through the committee process before going before the full Board. He stated the language would then be dropped into a spot bill to go before the Legislative Counsel.

Ms. Hariton stated that it was her understanding that the issue of mobility will be brought back before the Committee on Professional Conduct (CPC) and that there is no longer a bill the Board needs to agree on.

Mr. Petersen agreed, but stated that does not mean the Board cannot have a spot bill and drop something in later; however, the Board has not yet agreed on the issue of mobility. Mr. Petersen requested that the language regarding the 150 hours be placed in a separate bill apart from mobility.

Mr. Driftmier stated that the legislation regarding mobility was approved and went before Assembly Members Ma and Niello. He further stated that DCA opposed it before it was even a bill. He further stated that responses were received by the Judiciary Committee, and that the Board was not powerful enough to continue at the time so the bill was pulled. Mr. Driftmier further stated that the Board is able once again to discuss what had already been agreed upon. He stated that Assembly Members Ma and Niello wish to see this bill move forward, whether or not the Board sponsors the legislation. Mr. Driftmier stated that he agrees with the idea of placing it in a spot bill.

Ms. Hariton inquired as to whether mobility can be added to the list of bills identified by Mr. Rich. Mr. Driftmier agreed. Ms. Kirkbride stated her belief was that this issue should be brought before the full Board, and not the CPC. Ms. Hariton stated that it was agreed by the Board to bring the issue back to the CPC before bringing it to the full Board. Mr. Swartz requested the Board issue a spot bill or placeholder, so that a January submission may be made. Mr. Stanley stated that the DCA's deadline for ideas, not bills, is Wednesday, September 24, 2008. Ms. Zuniga stated that DCA requests all ideas be submitted in advance, so that the DCA may bring policy issues before the Governor. She further noted that the bill language may change. Mr. Stanley then reported that the six ideas that will be submitted are peer review, restatements, the Investigative CPA salary increase, ethics, mobility and 150 hours.

Ms. Hariton requested that this list be circulated amongst the full Board to create greater visibility. Mr. Ramirez stated his agreement with Ms. Kirkbride regarding bringing the issue of mobility back before the full Board, and not the CPC. He suggested that this issue be placed on the agendas for the next two Board meetings, with appropriate time allocated.

Ms. Zuniga stated that communication is key to legislation being approved. She also stated that bills should always be viewed through the Board's primary goal of consumer protection. Mr. Swartz inquired as to what the odds are of the Board getting the Investigative CPA legislation through. Ms. Zuniga indicated that she cannot officially state a position, but that the Governor had previously expressed concerns with that

legislation. She stated that the concerns dealt with the impact on state government, and that they are concerned with any legislation that circumvents collective bargaining or that may set precedent for other agencies. She further stated her understanding that this Board has its own funds; however, other entities may not, particularly those that are General Fund.

Ms. Kirkbride inquired as to how Board members may be able to determine the Governor's position on bills on a routine, consistent basis.

Ms. Zuniga stated that there is a process utilized by DCA. This process dictates that proposed legislation go first through the department, then to the State and Consumer Services Agency, before submission to the Governor's Office. Once the legislation is approved, the DCA then adopts an official position, which they relate to Board staff via written correspondence.

Mr. Swartz inquired as to the status of the collective bargaining agreement that was part of what had been previously submitted to DCA. Ms. Zuniga stated that she will research and relay the status to the Board. Mr. Ramirez stated that the Board has made attempts to improve communication with DCA, and will conduct a presentation next week regarding future proposed legislation. He also stated that the Board will make every effort to follow DCA's process, and if DCA requires additional information, to please contact either himself or Mr. Driftmier. Ms. Zuniga stated that comments and input will be provided at that time, and that it is imperative to obtain constructive feedback.

Mr. Santiago stated that he encourages the Board to meet with all stakeholders before introducing any legislation, and offered general advice; such as communicating with opponents of a bill and identifying their concerns, and entertaining extensive communication with all interested parties.

Mr. Santiago also reported that the only boards that hold Career Executive Assignment (CEA) positions for legislation are the Medical Board and the Contractors' State License Board (CSLB). Professional Engineers' Assistant Executive Officer handles that board's legislation, the Pharmacy Board employs a Staff Services Manager, Barbering and Cosmetology Board employs an Associate Governmental Program Analyst, and Registered Nursing employs a Nursing Education Consultant.

He further reported that the Medical Board took position on 30 bills in the last legislative year, and tracked 60 more. The CSLB took position on 10 bills, and tracked 35. Barbering and Cosmetology did not sponsor any bills last year, but took positions on 12. Registered Nursing did not sponsor any bills, but took positions on approximately 20. The Pharmacy

Board sponsored one bill, while the Professional Engineers did not sponsor any; however, it did take positions on approximately 9.

Ms. Anderson inquired as to whether or not DCA extends communication specifically to Board members, or simply to Board staff. Ms. Zuniga stated that DCA communicates predominantly to Board staff, but will be happy to communicate directly with Board members.

Mr. Bermúdez inquired whether or not DCA would be supportive in converting the Board's Legislative Analyst position to a CEA position. Ms. Zuniga stated that is outside of her area of expertise. She also stated that there are currently two boards that utilize CEAs; however, those two boards are much larger than this Board, which is a consideration. She further stated that the CEA is like an exempt position in government, and that it is not exactly civil service. She explained that it is easier to appoint and dismiss a CEA.

Mr. Bermúdez clarified that a CEA position is an at-will position that reports directly to the Board. Ms. Zuniga stated that a CEA would report either to the Board or to the Executive Officer. Mr. Ramirez stated his understanding that DCA has overall control over whether or not the Board can obtain a CEA. He also respectfully requested that DCA seriously consider allowing the Board to obtain a CEA position, and asked for the Department's assistance.

C. Department of Consumer Affairs' Management Academy Nominee.

Mr. Rich stated that DCA instituted a program as a part of the Workforce Succession Plan, which encourages employee growth and retention of talent in order to preserve organizational knowledge. Mr. Rich also stated that DCA requested nominees, and Ms. Siepert was nominated and accepted into the program. Ms. Siepert stated that the program is scheduled in three segments, each lasting two days. She stated that she will participate in a group that will present an activity from the DCA's Strategic Plan to the Executive Team on the final day. She further stated that both Mr. Duke and Ms. Zuniga are also participating in the program.

D. Update on the October 2008 Board Member Retreat.

Ms. Sheehan will be the facilitator for the upcoming October 2008 Board member retreat. Ms. Siepert extended her gratitude to Ms. Sheehan for her appearance at the Board meeting, considering that Ms. Sheehan's contract is not in place due to the state budget issues and indicated that she had paid her own travel expenses. Ms. Sheehan stated that she has 17-18 years of experience working with various public and private sector organizations. She obtained her Master's Degree in Health Education, and has received extensive training on how to train and motivate others. She further stated that prior to starting her own consulting firm, she

managed an organizational development program and worked with executives in non-profit organizations. She further stated that she most recently facilitated last year's Strategic Planning Retreat for DCA.

Ms. Sheehan stated that her role is to help organizations stay focused on their mission; the mission is paramount. She stated that the mission is the umbrella under which all work takes place. She further stated that with the departure of the Board's Executive Officer, Carol Sigmann, leadership transition is one of the pertinent issues to take place at the upcoming retreat, as well as to conduct an organizational assessment, with an emphasis on Board staff development. Ms. Sheehan stated that this retreat will provide an opportunity to enhance knowledge and skills, will enhance the Board's ability to function as a governing body, as well as build lines of communication.

Ms. Hariton inquired into the advantages and disadvantages of conducting this retreat without an Executive Officer. Ms. Sheehan stated that there is no perfect time to conduct a retreat; issues constantly arise, and this issue will be addressed at the upcoming retreat.

Ms. Kirkbride stated her hope that Ms. Sheehan will exercise discipline in preparing a list of the issues most critical to the Board, so that Board staff are not inundated with an overabundance of action items. Ms. Sheehan responded that she will institute a consensus process to identify the most critical issues.

Mr. Bermúdez inquired into whether Ms. Sheehan recommended a follow-up retreat to review the prior retreat's success. Ms. Sheehan stated that this retreat will be the Board's focus, but that following up is an important factor to determine its success. She further stated that not having an Executive Officer in place at the time of the retreat is a challenge, but it may also mean a smoother transition for the incoming Executive Officer.

Ms. Sheehan stated that the agenda will be based on the organizational assessment findings, which will be determined by conducting confidential telephone interviews with Board members and staff. She emphasized that honesty and candidness is critical, and that the information will be fully confidential. She further stated that Ms. Siefert sent an email earlier this week to the Board members containing focus questions regarding Board members' desired outcome for this retreat. She also clarified that the Board members will have an opportunity to review the agenda before finalization, and she also provided a hand-out providing sample retreat goals (**see Attachment 3**). Ms. Sheehan stated that she will additionally issue a final report documenting the outcome of the retreat.

Ms. Siefert reported that in addition to conducting individual telephone interviews with Board members, Ms. Sheehan would also conduct

telephone interviews with the Board's managers to gather and collate a vast array of information.

E. 2009 Board Member Retreat Proposed Venue and Dates.

Ms. Kirkbride requested that the October 2009 retreat not be held the third weekend in October. Ms. Siepert stated that she will email the Board members regarding potential dates and availability for a retreat in October 2009. She also stated that two days will currently be allocated; the schedule is yet to be determined, although the Board members agreed to schedule the retreat on a Thursday and Friday. Ms. Hariton requested that the retreat be conducted in Northern California, and Board members agreed on either Napa, Carmel, or Asilomar. Ms. Siepert cautioned the Board members that hotels in Napa or Carmel may not be able to offer the state rate of \$84 per night for lodging.

F. Report on Licensing and Exam.

Ms. Bowers indicated that it was her belief that the Board employs extremely talented staff, and she expressed her appreciation. She further expressed that Board staff has established an outstanding reputation within DCA. She also stated her appreciation for Delia Tómas' hard work, and reported that a bulletin board has been placed outside of the Executive Officer's office containing staff compliments received from the public.

Ms. Bowers reported that the Licensing Division Activity Report is a four-month snapshot of the workload impacting the Licensing Division (**see Attachment 4**). In August 2008, the Examination Unit maintained a processing timeframe of 34 days for first-time sitters, and five days for repeat candidates, which is a slight increase. Ms. Bowers stated that the primary reason for the increase was due to one permanent vacancy in the unit, as well as the loss of seven temporary staff due to the budget crisis.

Ms. Bowers further stated that the Guam Prometric test center experienced a problem, where six California candidates were impacted during the third testing window. She stated that those candidates took the exam, but it was the fourth quarter test. Ms. Bowers stated that these candidates were given a choice of immediately re-testing, or waiting for the fourth quarter for their tests to be scored and released. She stated that the National Association of State Boards of Accountancy (NASBA) will reimburse the candidates for any out-of-pocket expenses that may be incurred. She further stated that four of the candidates have opted to re-test, and Board staff is currently working with those candidates to re-schedule them for the examination; however, the decision of the remaining two candidates is as of yet unknown. Ms. Bowers stated that the test scores for those candidates who agree to

receive them in the fourth quarter will not be released until November/December.

Ms. Bowers stated that the Initial Licensing Unit currently has a processing timeframe of 25 days for CPA applications. This timeframe has decreased as a result of weekly monitoring. She also stated that there is currently no backlog in the Initial Licensing Unit.

The Renewal Unit reviewed 2,689 continuing education worksheets in August, of which 140 deficiencies were identified, and 100 of those submitted compliance responses.

Mr. Petersen inquired as to the timeframe for a response from licensees regarding deficient applications. Ms. Pearce stated that deficiency notices are mailed, along with a timeframe of 30 days to respond. She stated that if the Board does not receive a response, a second deficiency notice is then sent, with a timeframe of an additional 30 days. She added that if there is still no response, then the licensee is referred to the Enforcement Program, thereby constituting an overall timeframe of 60-75 days.

Ms. Bowers reported that the Practice Privilege Unit issued one administrative suspension order.

The Client Services Unit launched an online customer service survey on July 1, 2008. Board staff received 81 responses, and Ms. Bowers anticipated providing Board members a sample of the types of survey responses received at the November 2008 Board meeting. Ms. Kirkbride inquired as to whether or not Board staff coordinated with DCA regarding this survey. Ms. Bowers stated that this particular survey was conducted independent of the Department. Ms. Kirkbride stated her concern with the uniform criteria each board within DCA employs regarding the Department's customer service expectations. Ms. Bowers stated that she is currently participating in a DCA work group related to their strategic plan, and one item is the identification of performance measures for all boards and bureaus to establish uniformity. She also stated that Board staff was requested to peruse the Board's internal reports to serve as samples.

VII. Report of the Enforcement Chief.

A. Report on Status of Enforcement Matters.

1. Activity and Status Reports.

Mr. Newington reported that the number of new complaints filed for the current fiscal year was 177, of which 95 were opened by the Administrative Assistant and the Associate Governmental Program

Analyst (AGPA). He stated that these cases were atypical of the normal enforcement matters, so the total number of new complaints is inflated. He further stated that the 224 pending cases as of September 8, 2008, is also inflated due to those cases currently being assigned to the Administrative Assistant and the AGPA.

Mr. Newington stated that these cases involve auditing continuing professional education, and the Enforcement Program instituted a project to review licensees operating in a corporate format to ensure they are registered with the Board. He stated that these licensees were identified through inspection of the California Secretary of State website. The Board has been issuing cease and desist letters and citations in aggravated cases to bring them into compliance.

He stated that seven accusations were filed for the two-month period of the current fiscal year, 110 cease and desist letters were issued, and the number of formal disciplinary matters acted on by the Board was four.

Mr. Newington reported that there are currently 31 cases assigned to the Attorney General's Office; 10 are undergoing the preparation for an accusation, and 21 are in the post-accusation phase. There are 65 cases currently undergoing probation monitoring.

2. Major Case Summary.

Mr. Newington reported that there are four items listed as open matters in the major case category.

3. Report on Citations and Fines.

Mr. Newington reported that as of September 5, 2008, three fines were issued this fiscal year for a total of \$4,000. The total receivable balance is \$33,783 in outstanding citations.

4. Reportable Conditions Data.

Mr. Newington reported that as of September 8, 2008, 40 reportable events were received; 33 of those reportable events are restatements, with 11 related to publicly-traded companies.

VIII. Regulations.

A. Update on Regulations (**see Attachment 5**).

IX. Committee and Task Force Reports.

A. Administrative Committee (AC).

1. Draft Minutes of the May 1, 2008, AC Meeting.

The draft minutes of the May 1, 2008, AC meeting were adopted on the Consent Agenda (See Agenda Item XIII.C.).

2. Report on the August 7, 2008, AC Meeting.

Mr. Khanna reported that the last AC meeting was held on August 7, 2008, in Burlingame, California, in which 11 cases were reviewed and approved. He also stated that there was a lengthy discussion on peer review, and that at least three members provided good, solid input. He reported that the next meeting will be held on November 6, 2008, in Los Angeles, California.

Mr. Ramirez inquired as to whether or not the committee members feel they are equipped to fulfill the functions of screening peer review reports. Mr. Khanna stated that half of the committee feels they are qualified to review the reports.

B. CPA Qualifications Committee (QC).

Mr. Petersen reported that Ms. Garone has been asked to extend her term as Chair of the QC, and she has agreed.

Mr. Driftmier suggested that all Board members attend a QC meeting for general information on the various duties of the QC.

C. Committee on Professional Conduct (CPC).

1. Draft Minutes of the July 24, 2008, CPC Meeting.

The draft minutes of the July 24, 2008, CPC meeting were adopted on the Consent Agenda (see Agenda Item XIII.C.).

2. Report on the September 18, 2008, CPC Meeting.

Mr. Ramirez reported that the CPC met the previous day to discuss and take action on the following agenda items.

3. Reconsideration of the Draft Peer Review Report to the Legislature.

Mr. Ramirez reported that Board staff incorporated changes to the Peer Review Report requested by the Board at its previous meeting. He also reported that Board staff recommended a change on page 23

regarding transparency.

Mr. Ramirez further reported that public comments were received from CPIL that indicated several concerns with the report, which included the lack of a definition of peer review. Mr. Ramirez stated that Board staff was directed to address those concerns.

The CPC recommended that the Board approve the Peer Review Report, including clarifying language on page 23 and inserting a more clear definition of peer review into the Introduction.

Ms. D'Angelo Fellmeth provided the Board with her concerns in written copy (**see Attachment 6**). She stated that the Legislature has defined the role of the AC, and any legislation drafted by the Board should respect that existing law.

Mr. Driftmier stated that the Board does not intend to change the role of the AC. Mr. Ramirez stated that this issue was taken into consideration early on, and that legal counsel was consulted to ensure its legality. Mr. Petersen stated that Ms. D'Angelo Fellmeth's comment regarding "you do not have a functioning Enforcement Program" was incorrect, and he voiced his objection to this statement.

Mr. Bermúdez stated that it may prove beneficial in the pursuit of the Investigative ICPA salary increase if Ms. D'Angelo Fellmeth expressed her criticism of the DCA and the DPA for not supporting the Board in this endeavor. Ms. Fellmeth stated that she has previously urged legislators, as well as the Administration to increase the size of the Board's enforcement staff, as well as to increase the salaries of the Investigative CPAs. She stated that she has tried her hardest, and pays special attention to this topic as a law professor.

It was moved by Mr. Swartz, seconded by Mr. Oldman, and carried to approve the Peer Review Report with the noted changes. Dr. Charney was temporarily absent.

Mr. Rich stated that two Board members will need to review the Peer Review Report before submission to the Legislature. Mr. Ramirez and Mr. Petersen stated that they will review the report.

Mr. Rich also inquired as to the delivery of the report to the Legislature. He stated that Board members may be able to deliver the report during the lunch period of the Special Recruitment Committee for the Executive Officer meeting that will be held on Monday, September 29, 2008, in Sacramento. Mr. Petersen stated his objection to delivering the report during the lunch hour. It was decided that Ms. Hariton, Mr. Ramirez and Mr. Stanley will coordinate to implement a delivery plan to the Legislature on September 29,

2008.

4. Further Discussion of Revised Statutory and Regulatory Language Related to Peer Review.

Mr. Ramirez reported that Board staff presented the CPC with an action plan and a projected timeline for legislation and regulation adoption to implement a peer review program. He further reported that the CPC discussed meeting personally with DCA and legislative staff to present the Peer Review Report. Mr. Ramirez reported that Board staff was directed to prepare talking points in advance of anticipated meetings.

The CPC recommended that the Board adopt the action plan recommended by Board staff.

It was moved by Mr. Ramirez, seconded by Mr. Driftmier, and carried to accept the CPC's recommendation with regards to the statutory and regulatory language related to peer review as presented by staff. Dr. Charney was temporarily absent.

5. Further Discussion of Enforcement Staffing Needs and Costs Analysis Related to Peer Review.

Mr. Ramirez reported that Board staff reviewed previous discussions and presented a memorandum containing two options, along with their associated costs.

The CPC recommended that the Board proceed with staff's recommendation outlined in Option 1 of the memorandum. Option 1 directs that Enforcement investigations should be pursued whenever two consecutive reviews result in "fail" reports, or when a single "fail" report documents egregious unprofessional conduct that warrants immediate investigation.

It was moved by Mr. Ramirez, seconded by Mr. Oldman, and carried to approve the CPC's recommendation to proceed with Option 1 of the memorandum. Dr. Charney was temporarily absent.

6. Consideration of the Elimination of the Option for Obtaining CPA Licensure with General Accounting Experience.

Mr. Ramirez reported that the CPC discussed at length the elimination of the option for obtaining licensure with general accounting experience. He stated that public comment was offered in support, as well as in opposition.

The CPC recommended to the Board that the general experience requirement be retained at this time, and the Board concurred with the CPC's recommendation.

D. Legislative Committee.

1. Draft Minutes of the July 24, 2008, Legislative Committee Meeting.

The draft minutes of the July 24, 2008, Legislative Committee meeting were adopted on the Consent Agenda (see Agenda Item XIII.C.).

2. Update on Legislation.

a. SB 963 (Ridley-Thomas) – Regulatory Board: Operations.

Ms. Hariton reported that the legislative session is closed, and this bill is currently with the Governor's Office.

b. SB 1869 (Lowenthal and Negrete McLeod) – Local Agencies: Redevelopment.

Ms. Hariton reported that the legislative session is closed, and this bill is currently with the Governor's Office.

E. Enforcement Program Oversight Committee (EPOC).

There was no report on this agenda item.

F. Ethics Education and Licensing Frequency Task Force.

1. Draft Minutes of the July 24, 2008, EELF Task Force Meeting.

The draft minutes of the July 24, 2008, EELF Task Force meeting were adopted on the Consent Agenda (see Agenda Item XIII.C.), with a typographical correction on page 7.

2. Report on the September 18, 2008, EELF Task Force Meeting.

Ms. Anderson reported that the EELF Task Force met the previous day to discuss and take action on the following agenda items.

3. Consideration of the Proposed Changes to the Current Ethics Education Requirements for License Renewal.

a. Content of Ethics Courses.

Ms. Anderson reported that the Task Force considered various

staff recommendations related to separating regulatory and ethics education, and it was supportive of staff's recommendation.

The Task Force recommended to the Board that the ethics and regulatory continuing education be bi-furcated. The Task Force also recommended that the course content for regulatory continuing education would emphasize articles in the California Accountancy Act and Regulations specific to licensees in public practice, require licensees complete the course a minimum of once every six years, that the course be a minimum of two hours, and that the Board maintain a pre-approval process.

The Task Force recommended to the Board that the course content for ethics continuing education would continue to cover nationally recognized codes of conduct, with an emphasis on the relation of codes and professional responsibilities, and offer case-based instruction with a focus on real-life situational learning. The Task Force recommended that the instruction include additional topics on ethical dilemmas facing the accounting profession, business ethics, ethical sensitivity and consumer expectations.

b. Length and Frequency of Ethics Courses.

The Task Force further recommended that licensees complete a minimum of four hours of ethics training once every two years.

c. Board Pre-Approval of Ethics Courses.

The Task Force recommended that Board pre-approval of ethics courses be abolished.

It was moved by Ms. Anderson, seconded by Mr. Oldman, and carried to approve the Task Force's recommendation. Dr. Charney was temporarily absent.

Mr. Petersen stated his desire to award one hour of continuing education credit for every hour of committee service, not to exceed 30 hours for any two-year reporting period, to AC and QC members. Mr. Petersen then stated that other states employ this practice. Ms. Anderson stated that instructors receive half-credit, and is uncertain about awarding a full hour. She requested that Board staff research this issue, and Mr. Driftmier stated that the Board will address this issue at the next Board meeting.

4. Consideration of Delivery Methods for the Professional Conduct and Ethics Courses.

Ms. Anderson reported that the Task Force considered staff's

recommendation to maintain all delivery methods for ethics education courses. During deliberation, the Task Force considered the present passing rate of 90 percent for self-study examinations.

The Task Force recommended that the Board adopt staff's recommendation to maintain all delivery methods for ethics education, while maintaining a 90 percent passing rate for self-study examinations.

It was moved by Ms. Anderson, seconded by Mr. Ramirez, and carried to maintain all delivery methods for ethics education, while maintaining a 90 percent passing rate for self-study examinations. Dr. Charney was temporarily absent.

5. Consideration of an Annual Continuing Education Requirement for License Renewal.

Ms. Anderson reported that the Task Force considered the addition of an annual hourly requirement for continuing education. During discussion, Task Force members considered staff's recommendation to require 20 hours of continuing education, with the completion of a minimum of 10 hours of technical subject matter. Ms. Anderson also reported that licensees indicated that the majority of continuing education courses are presented in either four or eight hour increments; therefore, to ease the burden on licensees, the Task Force recommended a 12-hour technical requirement.

The Task Force recommended that the Board adopt a 20-hour annual continuing education completion requirement, with a minimum of 12 hours in technical subject matter.

It was moved by Ms. Anderson, seconded by Ms. Chi, and carried to adopt a 20-hour annual continuing education requirement, with a minimum of 12 hours in technical subject matter. Ms. LaManna was opposed. Dr. Charney was temporarily absent.

Mr. Petersen inquired as to the effective date of these changes. Ms. Bowers stated that Board staff will bring regulatory language for review to the next Task Force meeting, which will be presented to the Board thereafter. Mr. Swartz inquired into the projected implementation date. Mr. Franzella stated that it will tentatively be placed onto the rulemaking calendar for implementation by January 2011.

X. Appeals – Personal / Written.

A. Personal Appeals – None.

XI. Recommendations of CPA Qualifications Committee.

A. Personal / Written Appeals – None.

XII. 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. Glen Morinaka – Petition to Reinstate Revoked Certificate.

The Board and ALJ James Ahler heard the petition. The ALJ will prepare the decision.

B. Duane F. Ferguson – Stipulated Settlement.

The Stipulation in the matter of the Accusation filed against Duane F. Ferguson was adopted.

C. Jack F. Van Haaster – Stipulated Settlement.

The Stipulation in the matter of the Accusation filed against Jack F. Van Haaster was adopted.

D. David M. Snyder and Snyder Accountancy – Proposed Settlement.

The Proposed Settlement in the matter of the Accusation filed against David M. Snyder and Snyder Accountancy was adopted.

E. Douglas Wachtel – Proposed Settlement.

The Proposed Settlement in the matter of the Accusation filed against Douglas Wachtel was adopted.

F. Rick Allen Stockton – Default Decision.

The Decision in the matter of the Accusation filed against Rick Allen Stockton was adopted.

G. Dale A. Affonso – Stipulated Surrender.

The Stipulated Surrender in the matter of the Accusation filed against Dale A. Affonso was adopted.

H. Laurence Miller – Stipulated Settlement.

The Stipulated Settlement in the matter of the Accusation filed against Laurence Miller was adopted.

XIII. Other Business.

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

1. Update on AICPA State Board Committee.

Mr. Driftmier reported that the committee, as well as NASBA, continued administering the examination, despite the fact that their contract had been temporarily suspended due to the budget crisis. He further reported that he participated in a telephone conference last week with members of the Board of Examiners, and the examination will be amended to include international reporting standards.

B. National Association of State Boards of Accountancy.

1. Update on NASBA Committees.

a. Compliance Assurance Committee.

There was no report on this agenda item.

b. Peer Review Committee.

Mr. Petersen stated that he is scheduled to attend a meeting in Boston on October 26, 2008.

c. Accountancy Licensee Database Task Force.

There was no report on this agenda item.

d. Legislative Support Committee.

There was no report on this agenda item.

2. Proposed Responses to NASBA's Regional Directors' Focus Questions.

Ms. Hersh expressed her gratitude to both the Licensing Division, as well as the Enforcement Program for their assistance, and requested input from Board members, specifically to Question One: "What Steps is Your Board Taking to Familiarize Members with National Standards?" (**see Attachment 7**). She requested that Board members submit their responses via electronic copy. She further

stated that she took the liberty to include enforcement issues as one response to Question Five: "Are There Any Ways in Which NASBA Can Assist Your Board at the Present Time?" Ms. Hariton requested that Ms. Hersh include the issues of cross-border practice and a uniform licensee database in her response. Mr. Driftmier stated that Ms. Bowers has been working diligently on the database issue, and he reported that two to three additional states are participating in the project.

C. Consent Agenda.

It was moved by Mr. Swartz, seconded by Ms. LaManna, and carried to adopt the consent agenda, with the one edit to the July 24, 2008, EELF Task Force minutes on page 7 (see Attachment 8). Dr. Charney and Mr. Oldman were temporarily absent.

D. Consideration of Mr. Carl Olson's Rulemaking Petition Regarding Restatements.

Mr. Duke stated that at the February 25, 2008, Board meeting, Mr. Olson presented a petition regarding adopting a regulation. Mr. Duke further stated that Mr. Newington provided a staff recommendation to decline Mr. Olson's petition.

Mr. Olson submitted a petition that requests licensees to report all restatements for publicly-held companies, and that the Board keep all submitted restatements (**see Attachment 9**). Mr. Olson also suggested that the Board consider implementing a policy for consideration of petitions at its November 2008 Board meeting.

Mr. Driftmier stated that the Board's current involvement is appropriate, and there is no need for further involvement.

Mr. Newington stated that Mr. Olson's request goes beyond California's licensees. Mr. Swartz reported that according to the Securities and Exchange Commission, less than two percent of restatements were actual issues, and he did not see a purpose for this petition.

It was moved by Mr. Swartz, seconded by Ms. Anderson, and carried to deny Mr. Olson's rulemaking petition regarding restatements. Dr. Charney was temporarily absent.

E. Board Member Comments.

Mr. MacAloney reported his resignation effective November 2008, and stated that the November Board meeting will be his last. He expressed his gratitude to the Board, as well as to the staff.

Mr. Ramirez stated his appreciation to Ms. Anderson for the work she has conducted on the EELF Task Force, as well as to Mr. Driftmier.

Ms. Anderson stated that she is excited to advance the Board's legislative agenda, and extended her gratitude to Mr. Ramirez and Ms. Hariton.

Ms. Chi expressed her gratitude to Mr. MacAloney.

Mr. Swartz and Ms. LaManna wished Mr. MacAloney luck in his future endeavors.

Ms. Hariton expressed her well wishes to Mr. MacAloney, along with her appreciation of Ms. Anderson.

F. Comments from CalCPA Representative.

No comments were received.

G. Comments from SCA Representative.

Mr. Tolkan commended the Board for its outstanding work.

H. Public Comments.

Mr. Carl Olson made a statement to the Board regarding its mission, consumer protection, and the federal Public Company Accounting Oversight Board, and provided the Board with a written copy of his comments (**see Attachment 10**).

I. Agenda Items for Future Board Meetings.

No comments were received.

XIV. Adjournment.

President Driftmier adjourned the meeting at 3:18 p.m. on Friday, September 19, 2008.

Donald Driftmier, President

Rudy Bermúdez, 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.