



**DEPARTMENT OF CONSUMER AFFAIRS**  
**CALIFORNIA BOARD OF ACCOUNTANCY**  
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**DEPARTMENT OF CONSUMER AFFAIRS**  
**CALIFORNIA BOARD OF ACCOUNTANCY (CBA)**

**MINUTES OF THE**  
**JANUARY 20-21, 2010**  
**CBA MEETING**

The Hilton Irvine  
 18800 MacArthur Blvd.  
 Irvine, CA 92612  
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Roll Call and Call to Order.

President Manuel Ramirez called the meeting to order at 10:30 a.m. on Wednesday, January 20, 2010 at the Hilton Irvine, and the CBA members heard Agenda Items I – IV. The CBA members convened into closed session at 12:25 p.m. to deliberate Agenda Items IV.B. – F, and into executive closed session at 1:26 p.m. to deliberate Agenda Item IV.A. The meeting reconvened into open session at 1:39 p.m., and the meeting adjourned at 3:52 p.m. CBA President Ramirez reconvened the meeting to order at 8:33 a.m. on Thursday, January 21, 2010, and the meeting adjourned at 11:15 a.m.

CBA Members

January 20, 2010

Manuel Ramirez, President	10:30 a.m. to 3:52 p.m.
Sally Anderson, Vice President	10:30 a.m. to 3:52 p.m.
Marshal Oldman, Secretary-Treasurer	10:30 a.m. to 3:52 p.m.
Rudy Bermúdez	11:45 a.m. to 3:52 p.m.
Michelle Brough	10:30 a.m. to 3:52 p.m.
Angela Chi	10:30 a.m. to 3:52 p.m.
Donald Driftnier	10:30 a.m. to 3:52 p.m.
Herschel Elkins	2:20 p.m. to 3:52 p.m.
Louise Kirkbride	10:30 a.m. to 3:52 p.m.
Leslie LaManna	10:30 a.m. to 3:52 p.m.
Robert Petersen	10:30 a.m. to 3:52 p.m.
David Swartz	10:30 a.m. to 3:52 p.m.
Lenora Taylor	10:30 a.m. to 3:52 p.m.
Andrea Valdez	10:30 a.m. to 3:52 p.m.

CBA Members

January 21, 2010

Manuel Ramirez, President	8:33 a.m. to 11:56 a.m.
Sally Anderson, Vice President	8:33 a.m. to 11:56 a.m.
Marshal Oldman, Secretary-Treasurer	8:33 a.m. to 11:56 a.m.
Rudy Bermúdez	8:33 a.m. to 11:56 a.m.
Michelle Brough	8:33 a.m. to 11:56 a.m.
Angela Chi	8:33 a.m. to 11:56 a.m.
Donald Driftmier	8:33 a.m. to 11:56 a.m.
Herschel Elkins	8:33 a.m. to 11:56 a.m.
Louise Kirkbride	8:33 a.m. to 11:56 a.m.
Leslie LaManna	8:33 a.m. to 11:56 a.m.
Robert Petersen	8:33 a.m. to 11:56 a.m.
David Swartz	8:33 a.m. to 11:56 a.m.
Lenora Taylor	8:33 a.m. to 11:56 a.m.
Andrea Valdez	8:33 a.m. to 11:56 a.m.

Staff and Legal Counsel

Patti Bowers, Executive Officer  
Dan Rich, Assistant Executive Officer  
Rich Andres, Information Technology Staff  
Veronica Daniel, Executive Analyst  
Gary Duke, Legal Counsel, Department of Consumer Affairs (DCA)  
David Hansen, Systems Administrator  
Scott Harris, Deputy Attorney General, Department of Justice  
Lauren Hersh, Information and Planning Officer  
Vincent Johnston, Special Projects Analyst  
Kris McCutchen, Manager, Licensing  
Deanne Pearce, Chief, Licensing Division  
Matthew Stanley, Legislation/Regulation Analyst  
Kathy Tejada, Manager, Enforcement

Committee Chairs and Members

Fausto Hinojosa, Chair, Qualifications Committee (QC)  
Harish Khanna, Chair, Enforcement Advisory Committee (EAC)

Other Participants

Humberto Flores, Administrative Law Judge (ALJ)  
Kenneth Hansen, KPMG, LLP  
Suzanne Jolicoeur, American Institute of Certified Public Accountants (AICPA)  
Kimberly Kirchmeyer, Board Relations, DCA  
Eric Marck Klein, Petitioner  
Louis Miramontes, KPMG, LLP

Sarina Mohan, Center for Public Interest Law  
Gregory Newington, Subject Matter Expert  
Carl Olson  
Pilar Onate-Quintana, KP Public Affairs, Deloitte, KPMG, PWC, E&Y, GT  
Joe Petito, The Accountants Coalition, E&Y, DT, PWC, KPMG, GT  
Richard Robinson  
Jonathan Ross, KP Public Affairs, Deloitte, KPMG, PWC, E&Y, GT  
Hal Schultz, California Society of Certified Public Accountants (CalCPA)  
Jeannie Tindel, CalCPA  
David Tolkan, Society of California Accountants (SCA)

I. Roll Call and Call to Order.

CBA President Ramirez called the meeting to order on January 20, 2010.

II. Public Comments.

Mr. Robinson announced his retirement, and thanked the CBA for the honor of 15 and a half delightful years. Mr. Robinson announced Mr. Ross and associate, Ms. Onate-Quintana, as his replacements. Mr. Ramirez thanked Mr. Robinson for his service to the CBA and the consumers of California.

Mr. Olson presented a written statement regarding the Washington State Board of Accountancy lawsuit, the Governor's budget for healthcare boards, and restatements (**See Attachment 1**). Mr. Ramirez requested the matter of the Washington State Board be researched further by the staff and provide information to members at the next CBA meeting.

III. Report of the President.

A. Report of the December 21, 2009 Executive Roundtable.

Mr. Ramirez stated there was an Executive Roundtable to discuss a CBA succession plan for 2010. Mr. Ramirez stated the great successes of the CBA over the past few years can be attributed to great leadership by Mr. Petersen, Mr. Driftmier, and Mr. Swartz. Mr. Ramirez further stated if there are CBA members with ideas and perspective on initiatives to please communicate with CBA Leadership.

B. Proposed Resolution for Retiring Investigative CPA, Larry Knapp.

This agenda item was deferred to a future meeting.

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

Mr. Duke stated that Mr. Olson submitted a letter in August 2009, requesting a regulation be adopted requiring the CBA to post a chart of

restatements on the CBA Web site. Mr. Duke stated that Mr. Olson's proposed language was not in proper form of a regulation as provided under the Administrative Procedure Act. Mr. Duke further stated that he did not consider Mr. Olson's letter a petition for rulemaking, and invited Mr. Olson to submit alternate language for this request. Mr. Duke stated that Mr. Olson suggested Section 5063(b)(1) as the referred statute for his request. Mr. Duke stated this request may be accomplished by establishing Board policy regarding the posting of restatements and does not require a regulation to do so. Mr. Duke further stated this matter is being presented before the CBA for decision.

Mr. Olson presented a written statement regarding regulation consideration (**See Attachment 2**). Mr. Olson stated he did not receive a response to his request within the 30-day requirement. Mr. Duke stated his request was responded to within the required timeframe by Ms. Bowers, as she requested this item be deferred to DCA Legal Counsel.

Ms. Anderson stated there may be a misconception that every restatement is an enforcement opportunity. Ms. Anderson requested staff to provide information at the next CBA meeting regarding how the CBA came to its decision regarding this matter. Mr. Swartz stated the CBA previously unanimously agreed that it does not need to retain this information, and that restatements are not valid for enforcement action. Mr. Ramirez concurred with Ms. Anderson's request and directed staff to provide relative meeting minutes to be included with information at the next CBA meeting.

D. Announcement of New Committee and Liaison Appointments.

Mr. Ramirez announced the new CBA committee and liaison appointments for 2010 (**See Attachment 3**).

E. Recommendation for Appointments to the Peer Review Oversight Committee (PROC).

Ms. Bowers stated the CBA solicited membership to the PROC in its UPDATE publication and received three applications to date. Ms. Bowers encouraged CBA members to assist in recruiting suitable candidates for the PROC. Mr. Ramirez concurred with Ms. Bowers and urged licensee members to assist with recruiting efforts.

Mr. Ramirez stated the meeting will move forward with agenda items and return to the time certain enforcement action items upon arrival of a court reporter.

Mr. Ramirez stated he and Ms. Anderson met with DCA Director, Brian Stiger, regarding discussion of furloughs and budget impact.

Mr. Ramirez stated that Mr. Stiger was receptive regarding a proposal to reduce CBA licensing fees to mitigate the costs associated with peer review.

The CBA members discussed procedures and the timeline of establishing regulations to reduce licensing fees. This item was further discussed under the Secretary/Treasurer's report.

VI. Report of the Vice President.

A. Recommendation for Appointments to the Enforcement Advisory Committee (EAC).

This Agenda Item was deferred to a future meeting.

B. Recommendation for Appointment to the Qualifications Committee (QC).

This Agenda Item was deferred to a future meeting.

VII. Report of the Secretary/Treasurer.

A. Discussion of Governor's Budget.

Mr. Oldman provided an overview of the memorandum for this item **(See Attachment 4)**.

Mr. Rich stated the Executive Order S-01-09 and the Governor's budget were released this morning and executive staff received notification from the DCA requesting all boards to show how they intend on achieving the five percent additional salary savings for the last four months of this Fiscal Year (FY) 2009/10 and FY 2010/2011. Mr. Rich stated this will be problematic for the CBA considering the additional five percent salary savings is in addition to the already budgeted salary savings of four percent. Mr. Rich stated there is not currently a budget for proctors or temporary help, therefore not much of a salary savings has taken place up to this point. Mr. Rich stated that CBA will need a plan on how to accomplish this and report the impact on programs as a result. Mr. Rich stated that he and Ms. Bowers will have to do some strategic planning in order to meet this directive. Mr. Rich further stated the CBA is not cutting positions, but holding positions vacant to accommodate the salary savings.

Mr. Ramirez stated that there should be savings and higher surplus due to furloughs. Mr. Rich stated the savings due to furloughs do not count towards this savings effort. Mr. Oldman stated it was his understanding that the furloughs result in a 15% cut and the Executive Order is requesting an additional five percent, therefore we are essentially operating at 80%.

Mr. Swartz commented that the CBA is a special fund and it is interesting that the Governor's Office did not take this into consideration during the budget process. Mr. Swartz further stated this is an unfortunate situation that the CBA must now force this on to our program areas and that the CPA community will be affected. Mr. Swartz inquired if the CBA could look into an exemption. Ms. Bowers stated the DCA is looking into an exemption for the department as a whole. Ms. Bowers further stated it is her understanding that contact has been made with the Governor's Office regarding this matter.

Ms. Taylor inquired how the salary savings affect the state. Mr. Duke stated there is an indirect benefit when it comes to cash flow for the year and that it allows the state to do short-term and long-term borrowing.

Mr. Bermudez inquired if the CBA has experienced additional costs as a result of the furloughs. Mr. Rich stated along with the three days there was also a decision to not allow any overtime. Mr. Rich stated there are certain IT functions that require overtime in order to perform specific after hour tasks. Mr. Rich further stated that generally no overtime is being authorized.

Ms. Brough inquired if the CBA should pursue exemption on its own. Ms. Bowers stated going out on our own for these types of requests are discouraged due to the political sensitivity. Ms. Bowers further stated DCA has indicated it is appropriately addressing this situation.

Ms. Kirkbride stated the CBA could be more helpful to Ms. Bowers and staff by analyzing some of the alternatives and assisting her in moving forward in compliance with these directives rather than trying to find a way around them.

Mr. Ramirez stated the CBA acknowledges the financial crisis and, based on conversations with the DCA Director, because we are forced to cut costs, savings should be passed on to our licensees. Mr. Ramirez expressed concern that if the CBA continues to increase its reserve balance, millions of dollars may be loaned the General Fund as a result. Mr. Ramirez further stated this is an opportunity for the CBA to assist licensees at a time when they will be faced with the additional costs related to peer review.

**It was moved by Mr. Swartz, seconded by Ms. Kirkbride and unanimously carried by those present to direct staff to begin the regulatory process specifically with regard to the reduction of licensing fees for a period to be determined, for an amount to be determined, and for draft regulation to be presented at the March CBA meeting.**

1. Report on Medical Association Lawsuit.

Ms. Hersh reported that the California Medical Association lawsuit hearing has been set for January 29, 2010. Ms. Hersh stated she will keep the CBA updated as information becomes available.

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

A. Eric Mark Klein – Petition for Reduction of Penalty/Modification of Probation.

Mr. Klein appeared before the CBA members to petition for reduction of penalty/modification of his probation.

ALJ Humberto Flores and the CBA members heard the petition and convened into executive closed session to deliberate the matter. ALJ Flores will prepare the decision.

B. Susan Rachele – Default Decision.

The Default Decision in the matter of Susan Rachele was adopted.

C. Charles Anderson – Stipulated Settlement.

The Stipulated Settlement in the matter of Charles Anderson was adopted.

D. Elana Mae Mitchell – Default Decision.

The Default Decision in the matter of Elana Mae Mitchell was adopted.

E. Shane H. Traveller – Stipulated Settlement.

The Stipulated Settlement in the matter of Shane H. Traveller was adopted.

F. William Edward Himmelman – Proposed Decision.

The Proposed Decision in the matter of William Edward Himmelman was adopted.

V. Regulations.

A. Regulation Hearing Regarding Sections 39, 40, 41, 42, 43, 44, 45, 46, 48, 48.1, 48.2, 48.3, 48.5, and 48.6 Specific to Peer Review.

Mr. Duke stated that the California Board of Accountancy, pursuant to the authority vested by Sections 5010, 5076, and 5076.1 of the Business and Professions Code, authorizing the Board to amend, adopt, or repeal regulations for administration and enforcement of the Chapter 1 of Division 3 of the Business and Professions Code, is considering changes as follows:

Adopting sections 39, 40, 41, 42, 43, 44, 45, 46, 48, 48.1, 48.2, 48.3, 48.5, and 48.6 of Title 16 of the California Code of Regulations.

Mr. Duke stated for the record, the date today is January 20, 2010 and the time is approximately 1:40 p.m. Mr. Duke further stated the hearing is being held at the Hilton Irvine Hotel, 18800 MacArthur Blvd., Irvine, California.

Mr. Duke stated the notice for the hearing on these proposed regulations was published by the Office of Administrative Law. Mr. Duke stated that interested parties on the CBA mailing list have been notified of today's hearing. Mr. Duke stated the language of the proposed regulations has been mailed to those who requested it and has been available upon request by other members of the public, and was posted to the CBA Web site. Mr. Duke further stated a number of copies of the proposed regulations are available at the back of the room.

Mr. Duke stated the CBA has received written comments on the proposal and those comments are being entered into the official record of the proceedings. Mr. Duke stated the CBA shall be provided and shall consider all written comments received up until 5:00 p.m., today January 20, 2010. Mr. Duke stated anyone who wishes to comment in writing but does not want to speak today is welcome to do so. Mr. Duke further stated if the CBA receives written comments on the proposed regulations, the comments will be acknowledged and entered into the official record of the rulemaking proceedings.

No public comments were received.

1. Consideration of Adoption of Proposed Regulation Sections 39, 40, 41, 42, 43, 44, 45, 46, 48, 48.1, 48.2, 48.3, 48.5, and 48.6 Specific to Peer Review.

**It was moved by Ms. Taylor, seconded by Ms. Chi and unanimously carried by those present to adopt the proposed regulations, with addition of the word "attestation" to the current description, and including all other staff recommendations.**

**It was moved by Ms. Taylor, seconded by Mr. Driftmier and unanimously carried by those present to direct staff to move forward with issuing a 15-day re-Notice to address the CBA-adopted regulations, and to move forward with completion of the rulemaking file for submission to the Office of Administrative Law,**

**pending no adverse comments being received.**

B. Regulation Hearing Regarding Sections 38, 47, and 48.4 Specific to Peer Review.

Mr. Duke stated that the California Board of Accountancy, pursuant to the authority vested by Sections 5010, 5076, and 5076.1 of the Business and Professions Code, authorizing the Board to amend, adopt, or repeal regulations for administration and enforcement of the Chapter 1 of Division 3 of the Business and Professions Code, is considering changes as follows:

Adopting Sections 38, 47, and 48.4 of Title 16 of the California Code of Regulations.

Mr. Duke stated for the record, the date today is January 20, 2010 and the time is approximately 1:58 p.m. Mr. Duke further stated the hearing is being held at the Hilton Irvine Hotel, 18800 MacArthur Blvd., Irvine, California.

Mr. Duke stated the notice for the hearing on these proposed regulations was published by the Office of Administrative Law. Mr. Duke stated that interested parties on the CBA mailing list have been notified of today's hearing. Mr. Duke stated the language of the proposed regulations has been mailed to those who requested it and has been available upon request by other members of the public, and was posted to the CBA Web site. Mr. Duke further stated a number of copies of the proposed regulations are available at the back of the room.

Mr. Duke stated the CBA has not received written comments at this. Mr. Duke stated the CBA shall be provided and shall consider all written comments received up until 5:00 p.m., today January 20, 2010. Mr. Duke stated anyone who wishes to comment in writing but does not want to speak today is welcome to do so. Mr. Duke further stated if the CBA receives written comments on the proposed regulations, the comments will be acknowledged and entered into the official record of the rulemaking proceedings.

No public comments were received.

1. Consideration of Adoption of Proposed Regulation Sections 38, 47, 48.4, and 48.6 Specific to Peer Review.

**It was moved by Ms. Anderson, seconded by Ms. Taylor and unanimously carried by those present to adopt the proposed regulations, including staff recommendations, and directing staff to move forward with issuing a 15-day re-Notice to address the CBA adopted regulations, and to move forward with completion of the rulemaking file for submission to the Office of Administrative Law, pending no adverse comments being received.**

VIII. Report of the Executive Officer.

A. Update on Current Projects List.

Ms. Bowers presented a handout detailing the projects currently assigned to CBA staff **(See Attachment 5)**.

B. Prior Names Posted to Web Site License Look-up.

Ms. Pearce provided an overview of the memorandum for this item **(See Attachment 6)**.

Ms. Kirkbride inquired if it is common for licensees with enforcement action to have multiple names under which they have conducted business. Ms. Pearce stated she would research and provide an update regarding this matter.

C. Update on the 2010-2012 CBA Strategic Plan.

Mr. Rich presented the memorandum for this item **(See Attachment 7)**.

D. Report on Web Crawler Testing.

Mr. Hansen presented the memorandum for this item **(See Attachment 8)**.

Ms. Taylor inquired if the topic of posting accusations on the CBA Web site could be placed on the agenda for the next CBA meeting. Mr. Ramirez stated this item will be considered for an upcoming agenda.

Mr. Ramirez inquired how many search engines are available for research. Mr. Hansen stated there are over twenty search engines; the top search engine is Google, Yahoo is second and Microsoft Bing is third. Mr. Hansen stated that Yahoo was not considered for this research due to inconsistencies with its platform. Mr. Ramirez expressed concern that only four search engines were included in this research and requested that the research be expanded to the top ten search engines to include the Internet Archive.

The CBA members discussed this matter and requested staff to provide stated policies from each of the key search engines in lieu of conducting more research. It was also determined that the topic of posting accusations to the CBA Web site will be revisited at the March 2010 CPC meeting.

E. Educational Presentation – Initial Licensing and Role of the Qualifications Committee.

Ms. McCutchen provided an educational presentation relating to initial licensing, and Mr. Hinojosa presented the role and responsibilities of the Qualifications Committee **(See Attachment 9)**.

Ms. Kirkbride inquired as to how long on average it takes for an applicant to complete the full process of licensure. Ms. McCutchen stated the CBA expectation is for a 30-day internal processing time. Ms. Bowers concurred, stating to go beyond a 30-day processing timeframe would be unacceptable. Ms. Bowers further stated that the processing timeframes are closely monitored and if the 30 days are exceeded, staff are advised to take action and adjustments are made accordingly.

Mr. Hinojosa stated the QC will discuss further defining in regulation the general accounting experience and defining supervision at its upcoming meeting on January 27, 2010.

Ms. Anderson inquired as to what happens when a supervisor comes before a Section 69 review and it is determined that the applicant did not have the required experience. Mr. Hinojosa stated the signor and/or supervisor will receive communication from the CBA requesting them to come up to standard and they would be required to reappear before the committee. Mr. Hinojosa stated escalated matters would potentially be referred to the CBA Enforcement Unit.

Mr. Bermudez inquired regarding accepting credit card payments via the CBA Web site. Ms. Bowers stated the DCA is currently piloting a project to implement this service. Ms. Bowers stated as an interim there is opportunity for us at the board level to honor credit card payments; however, IT staff resources had to be reprioritized due to the focus on efforts surrounding peer review. Ms. Bowers further stated the project will resume once the IT workload subsides.

Ms. Chi inquired regarding the difference of the general experience license and licensees with attest experience. Ms. Bowers stated the CBA Web site reflects the type of experience the individual satisfied to become licensed. Ms. Bowers also stated there are Web site instructions indicating licensees with general experience cannot perform attest services. Ms. Bowers further stated the CBA considered whether there should be two separate licenses and it was decided to keep only one and provide an explanation on the CBA Web site.

- F. Educational Presentation – Pre Accusation Enforcement Remedies for Interim Suspension of the Practice of Accountancy: Interim Suspension Orders (Bus. & Prof. Code Section 494); Penal Code Section 23 (PC 23) Appearances in State Criminal Proceedings; and, Civil Injunctions (Bus. & Prof. Code Sections 125.5, 125.8 and 5122).

Mr. Harris provided an educational presentation on this item. Mr. Harris stated that pre accusation enforcement remedies are of particular importance in egregious matters where the public's interest in the area of health, safety, and welfare outweigh the vested rights of the licensee. Mr. Harris stated that a license cannot be suspended based on allegations and that evidence is required. Mr. Harris stated evidence at this stage would need to be equivalent to what would be needed at the time of an accusation. Mr. Harris stated there are three basic tools available to the CBA: Interim Suspension Orders (ISO), Penal Code Section 23 (PC 23), and Civil Injunctions.

Mr. Harris stated an ISO is an administrative remedy which is available to every agency at DCA and achieved by filing a petition for interim suspension of a license. Mr. Harris stated ISOs are not just for suspensions, but can be used to petition for restrictions, *i.e.* no auditing as resolution of administrative action, or requirements on the license, *i.e.* convicted DUI offenders to undergo random testing in the interim period until the accusation is adjudicated. Mr. Harris stated once a petition is filed, there is a need for evidence not only of the alleged violation but that the public is severely in danger by the licensee's continued practice and a certain burden of proof must be met. Mr. Harris stated there is a need to demonstrate by clear and convincing evidence that the standard of preponderance of the evidence has been met and found that more likely than not, or 50.1 percent, that violations occurred and that continued practice of the licensee is a health and safety concern. Mr. Harris stated that once an ISO is filed, the CBA must file an accusation within 15 days and be prepared to go to hearing upon receipt of a notice of defense from the licensee. Mr. Harris stated from the day of issuance there may be as little as 45 days to have the matter heard by an ALJ. Mr. Harris further stated the practical reality is that a full investigation file needs to be created and verified by the enforcement division and the Attorney General's (AG) Office to substantiate the allegations and prove by clear and convincing evidence that the CBA may actually revoke or discipline the licensee.

Mr. Harris stated that civil injunctions are another useful tool; however, the matter must be egregious and demonstrate irreparable harm and serious injury that is going to continue to occur.

Mr. Harris stated that PC 23 appearances are only applicable to state court proceedings when there is a pending matter and a crime has been committed that is substantially related to the practice of accountancy. Mr. Harris stated that PC 23 allows state agencies and the AG's Office to appear in state court to make recommendations to the judge about conditions on bail and probation regarding their profession. Mr. Harris stated the criminal judge does not have jurisdiction over the license, only over the individual, and by case law we know that they have jurisdiction over those individuals' professional activities. Mr. Harris stated there

must be evidence, and notice must be provided to the licensee to inform that the CBA will appear. Mr. Harris further stated the prosecutor needs to be in agreement that a case calls for some sort of vocational restriction.

Mr. Petersen expressed concern over client files that become abandoned due to unforeseeable circumstances. Mr. Petersen inquired if the CBA has the capacity to handle these records and assure an orderly transition of information from one accountant to the next. Mr. Petersen requested for this topic to be placed on a future agenda.

Ms. Kirkbride thanked Mr. Harris for the presentation. Mr. Ramirez thanked Mr. Harris for the presentation and for continuing to educate the CBA.

G. Update on Peer Review Implementation Plan.

Ms. Pearce provided an overview of the memorandum for this item **(See Attachment 10)**.

Ms. Anderson inquired if there are any concerns with this process as there is still substantial work that needs to be done. Ms. Pearce stated that staff have a good handle on managing all components related to peer review. Ms. Pearce stated that creation of the database is a high priority. Ms. Bowers stated a concern with staffing for peer review considering the five percent salary reduction exercise, which could significantly decrease the available resources that were obtained for the peer review program and as a result, it may impact existing internal processes.

Ms. Kirkbride inquired if there is a back-up plan if the budget situation does not change. Ms. Bowers stated the staffing is approved; however, the positions have not yet been filled and the recent five percent salary savings could potentially affect this program.

The President adjourned the meeting at 3:52 p.m. and stated to reconvene at 8:30 a.m. on Thursday, January 21, 2010.

IX. Roll Call and Call to Order.

CBA President Ramirez called the meeting to order on January 21, 2010.

X. Public Comments.

No public comments were received.

XI. Report of the Licensing Chief.

A. Report on Licensing Division Activity.

Ms. Pearce stated the CBA is maintaining processing timeframes below 30 days for both the examination and licensing units. Ms. Pearce stated that effective January 1, 2010 Pathway 0 is no longer a pathway for licensure; therefore, staff has been working for the past few months on verifying pending applicants and providing additional information through a newsletter and via the Web site. Ms. Pearce stated there are a few vacancies in the Licensing Division. Ms. Pearce announced that Dominic Franzella was promoted to Manager of the Renewal and Continuing Competency and Client Services Units.

B. Discussion on Continuing Education Tracking.

Ms. Pearce provided an overview of the memorandum for this item **(See Attachment 11)**.

Ms. Kirkbride inquired regarding the status of the DCA BreEZe system. Ms. Pearce stated the BreEZe system has been expanded to include more capabilities. Ms. Kirchmeyer stated BreEZe was originally intended to be a component for online renewal payments as well as some other aspects, and is now being completely revamped to replace the CAS system. Ms. Kirchmeyer stated the DCA is currently working on requirements for the Request for Proposal and going through the process of a budget change proposal. Ms. Kirchmeyer further stated the first part is estimated to be rolled out by the end of 2012, and the DCA is also working on a sub-project to bring boards online in the meantime.

Mr. Ramirez inquired as to how long before the CBA will be able to accept credit cards online. Ms. Kirchmeyer stated this project is being tested and there is some concern with taking on the project for too many boards because the back end will require substantial work from the DCA accounting office. Ms. Kirchmeyer stated that hopefully within the next year it will be up and running. Ms. Bowers stated the CBA considered handling the credit card transactions on its own; however, the downside is that it would take resources of IT staff, and based on priorities it is more imperative to focus on peer review efforts at this time. Ms. Bowers further stated that once peer review efforts are complete we can revisit this matter for consideration.

Ms. Kirkbride inquired if the NASBA database checks for irregularities. Ms. Pearce stated that NASBA was taking steps to allow some of the information to be inputted by the provider, at this point it is keyed in by the licensee similar to the current CBA CE worksheets.

Ms. Pearce stated at this time staff is recommending to not move forward with a CBA-specific tracking system and to wait to develop one in concert with the new DCA BreEZe system.

Mr. Ramirez directed staff to continue to investigate alternatives for CE tracking.

Mr. Petersen stated there should be an article in the UPDATE publication on CE tracking systems available and encouraging licensees to look into using them.

Mr. Ramirez requested the CBA discuss some of the deficiencies of CE at a future meeting.

Mr. Ramirez inquired if analyzing 100% use of automated CE is appropriate considering the CBA has seen enforcement issues where 80 hours of CE training have been accomplished in one day. After further discussion, it was the consensus of the CBA members that this analysis is not necessary at this time.

C. Discussion of CBT-e Next Generation of the Uniform CPA Examination.

Ms. Pearce provided an overview of the memorandum for this item **(See Attachment 12)**.

XII. Report of the Enforcement Chief.

A. Report on Status of Enforcement Matters.

Activity and Status Report.

Ms. Tejada reported that as of December 22, 2009 there were 157 open cases in the licensing category and two open cases in the unlicensed category. Ms. Tejada stated in terms of actions, there were 15 new accusations filed, one statement of issues filed, seven citations issued, 38 cease and desist letters, and 15 disciplinary actions taken.

Ms. Bowers stated it is really difficult to predict how long it takes to resolve pending investigations and they are monitored closely in efforts to advance our investigations as quickly as possible. Ms. Bowers further stated the expectation with the rollout of DCA's new performance measures in July 2010 will require all investigations to be concluded within 12-18 months from the time the case is opened, to final decision.

Ms. Tejada further reported that as of December 22, 2009 there were 29 total cases at the Attorney General's Office, and 69 licensees undergoing probation/penalty monitoring.

Mr. Elkins inquired if staffing issues are anticipated in the

technical unit. Ms. Bowers stated there are two ICPA vacancies, and a third with the addition of our peer review program. Ms. Bowers stated the CBA is working with the DCA to expedite offering a new ICPA exam as the candidate list has been exhausted. Ms. Bowers stated the CBA is soliciting individuals to serve as enforcement consultants in an effort to supplement in-house technical investigations.

2. Major Case Summary

Mr. Newington reported that there are three open matters in the major case category as of December 22, 2009.

3. Report on Citations and Fines.

Ms. Tejada reported that as of December 21, 2009, nine fines had been issued for a total of \$15,700. Ms. Tejada stated that “practice without a permit” generates the largest fines.

4. Reportable Events Report.

Ms. Tejada reported that as of December 22, 2009, 77 reportable events had been received with 54 of those restatements, of which the majority comes from government agencies.

B. Consideration of Proposed Revision to Disciplinary Guidelines. Optional Condition of Probation – Prohibition from Accepting New Clients.

This Agenda Item was deferred to a future EPOC meeting.

C. Unlicensed Activity.

Ms. Tejada provided an overview of the memorandum for this item **(See Attachment 13)**.

Ms. Kirkbride recommended staff to contact the Contractor’s State License Board to seek input regarding this matter. Ms. Kirkbride stated that Craigslist is the most common place for unlicensed activity to appear.

XIII. Committee and Task Force Reports.

A. Report of the Committee on Professional Conduct (CPC).

There was no report for this item.

B. Report of the Legislative Committee (LC).

There was no report for this item.

C. Report on the Enforcement Program Oversight Committee (EPOC).

There was no report for this item.

D. Report of the CBA member Guidelines and Procedure (G&P) Manual Committee.

1. Consideration of Proposed Modifications to the CBA Member G&P Manual.

**It was moved by Mr. Oldman, seconded by Ms. Chi and unanimously carried by those present to adopt the recommended modifications to the G&P Manual.**

E. Report of the Enforcement Advisory Committee (EAC).

There was no report for this item.

F. Report of the CPA Qualifications Committee (QC).

There was no report for this item.

XIV. Appeals – Personal/Written

None.

XV. Adoption of Minutes.

A. Draft Minutes of the November 19, 2009 CBA Meeting.

D. Minutes of the November 19, 2009 CPC Meeting.

E. Minutes of the November 19, 2009 LC Meeting.

**It was moved by Mr. Bermudez, seconded by Ms. LaManna and unanimously carried by those present to approve the minutes of all three meetings as a group.**

XVI. Other Business.

A. American Institute of Certified Public Accountants.

1. Update on AICPA State Board Committee.

Mr. Driftmier stated the next meeting for the AICPA State Board Committee will take place in March 2010.

2. Report of the AICPA Western Regional Examination Forum Meeting.

Mr. Petersen stated the meeting was a very enlightening experience and there is information available which he brought back from the meeting for CBA member review.

3. Report on Campbell and Sobek v. PricewaterhouseCoopers, LLP.

Mr. Duke stated in March 2009 in the U.S. Federal District Court, a summary judgment was granted in the matter of *Campbell and Sobek v. PricewaterhouseCoopers, LLP*. Mr. Duke stated this was a result of a labor law dispute regarding overtime pay. Mr. Duke stated the court ruled in a manner of summary judgment that the employees of PricewaterhouseCoopers, LLP, who were not licensed as CPAs, yet were performing attest and accounting services, were not exempt from overtime under the California exemption for executives or as professionals. Mr. Duke stated the district court has taken a very narrow look into what level of supervision is required. Mr. Duke stated this matter may come into play when the CBA goes to discuss the matter of defining supervision and he will keep track of the case and advise the CBA as more information becomes available.

Mr. Ramirez inquired if Mr. Sobek was a CPA candidate who worked at PricewaterhouseCoopers, LLP, who happens to be arguing for overtime. Mr. Duke confirmed that this is the case.

Mr. Petersen stated this is not solely a major firm issue and that during his term as President, he received more phone calls from small firms that were being attacked regarding wage and hour practices than any other subject. Mr. Petersen stated it is his knowledge that these actions are primarily being generated by two law firms in Sacramento that are attacking every accounting firm in the state of California regardless of where they are located in an attempt to win these cases.

The CBA members further discussed this matter and that the CBA does not have jurisdiction regarding wage issues, but does have jurisdiction in the matter of defining supervision, which will be addressed in the near future.

B. National Association of State Boards of Accountancy.

1. Update on NASBA Committees.

a. Uniform Accountancy Act Committee.

Mr. Driftmier stated the committee had not met since his last report.

b. Compliance Assurance Committee.

Mr. Petersen stated there was a telephone conference call and the committee is focused on peer review. Mr. Petersen further stated the Compliance Assurance Committee was impressed with the CBA's efforts in implementing a Peer Review Oversight Committee.

c. Global Strategies Committee.

Mr. Bermudez stated there was a meeting in December 2009, and a conference call on January 20, 2010, and that he was unable to attend as he was traveling to the CBA meeting. Mr. Bermudez stated the December meeting reviewed the goals and initiatives of the committee and they will be further discussed at the March 2010 meeting. Mr. Ramirez stated the Annual Forum of International Accountancy Regulators will be moved to 2011. Mr. Bermudez stated that Ms. Chi was appointed to this committee and that she may have some input to provide. Ms. Chi stated the committee reported on outreach to European countries and that she recommended they reach out to China or India to see how they handle the practice of accountancy.

d. Ethics Committee.

Mr. Ramirez stated his obligation to this committee concluded in December 2009 and for CBA members to notify him if there is an interest to serve on this committee.

e. Legislative Support Committee.

Mr. Oldman stated this committee was folded into a new umbrella committee named Board Relevance and Effectiveness.

Mr. Oldman stated the focus of this new committee is to promote the idea of independent boards of accountancy, independent of the state government system in which they are operating.

f. Education Committee.

Ms. LaManna stated the committee had not met since her last report. Ms. LaManna further stated the committee is currently studying the same report of the Advisory Committee on the Auditing Profession, focusing on the human capital area and will report back to NASBA regarding how recommendations would apply on a practical basis.

g. Accountancy Licensee Database (ALD) Task Force.

Ms. Bowers stated the committee had not met since her last report.

Mr. Rich stated there was a recent request from NASBA regarding nominations for the Vice Chair position for 2010-2011  
**(See Attachment 14).**

Mr. Petersen stated he would like to recommend Mr. Mark P. Harris for the position. Mr. Petersen provided a copy of a written letter to support his recommendation. Ms. LaManna also expressed support for nomination of Mr. Harris.

**It was moved by Mr. Bermudez, seconded by Ms. LaManna and carried by those present to recommend Mr. Mark P. Harris for the position of NASBA Vice Chair for 2010-2011. Mr. Elkins abstained.**

C. Responses to NASBA's Regional Director's Focus Questions.

Mr. Rich presented this as a written report only **(See Attachment 15).**

D. Director's Report.

Ms. Kirchmeyer stated the DCA is focusing on a new Consumer Protection Enforcement Initiative. Ms. Kirchmeyer stated the DCA developed this initiative in an effort to improve enforcement processes to a cycle time of 12-18 months from the time a complaint is received to when a disciplinary action is taken against the licensee. Ms. Kirchmeyer stated that although the initiative is specifically focused on the healing arts boards, the non-healing arts boards are following closely behind in these efforts. Ms. Kirchmeyer acknowledged Ms. Bowers for supporting these efforts by the DCA.

Ms. Kirchmeyer stated that there are three main areas of focus: administrative improvements, staffing and IT resources, and legislative changes. Ms. Kirchmeyer stated that effective July 2010, there will be performance measurement requirements to include statistical information and enforcement case processing timelines. Ms. Kirchmeyer stated the DCA is attempting to establish performance agreements with other state entities such as the AG's Office and Office of Administrative Hearings considering they have a big hand in the process.

Ms. Kirchmeyer stated enhancing enforcement resources is a main focus is the BreEZe project. Ms. Kirchmeyer stated we cannot be improved without providing boards with appropriate tools. Ms. Kirchmeyer further stated the DCA is also looking into a proposal for additional positions for the next budget year to assist in each board's enforcement processes.

Ms. Kirchmeyer stated the DCA is seeking legislative changes to improve the boards' and bureaus' enforcement processes. Ms. Kirchmeyer expressed thanks to Ms. Bowers for the leadership assistance she has provided the DCA in coordinating efforts to establish language for the non-healing arts boards' legislative bill.

Ms. Kirchmeyer requested that, although the CBA is not a healing arts board, the CBA provide a letter of support for this legislation. Ms. Kirchmeyer further stated the DCA would also like to request a letter of support for the non-healing arts boards' legislation as well.

Ms. Kirchmeyer stated the DCA is aware of the difficulties the CBA is facing surrounding recruitment for the Investigative CPA (ICPA) positions and is working with Ms. Bowers to implement continuous testing for these positions in addition to seeking a pay differential.

Ms. Kirkbride stated she is delighted to see that there is an effort to explore the idea of best practices across the boards. Ms. Kirkbride expressed concern relating to the BreEZe project and hopes this project does not fail. Ms. Kirchmeyer stated the DCA is completely aware that there may be problems involved with the process.

Mr. Ramirez thanked Ms. Krichmeyer for her presentation and stated the CBA would like to express its interest in obtaining as much assistance as possible with filling the vacant ICPA positions.

## XVII. Closing Business.

### A. CBA Member Comments.

Mr. Driftmier thanked Ms. Bowers and staff for the materials provided at each CBA meeting. Mr. Driftmier also acknowledged the CBA staff for taking on the roles of supporting initiatives at the department level.

Mr. Petersen stated that he received information from the AICPA relating to a 150-hour curriculum handbook, which contains a lot of historical perspective on development of the 150-hour program. Mr. Petersen further stated he will see that Ms. Bowers receives this handbook as information for the assigned committee.

### B. Comments from California Society of Certified Public Accountants Representative.

No comments were received.

### C. Comments from Society of California Accountants Representative.

No comments were received.

D. Public Comments.

Ms. Jolicoeur stated she is the Manager for State Regulatory Outreach at the AICPA and that her position is a new position designed to work with state boards on issues of concern. Ms. Jolicoeur further stated she is available as a resource to the CBA and attended this meeting to offer her assistance.

E. Agenda Items for Future CBA Meetings.

Mr. Swartz inquired when the topic of mobility would be brought before the CBA. The CBA members further discussed the matter of mobility and concluded it would be an appropriate topic for discussion at its annual CBA Working Conference on October 27, 2010.

Adjournment.

President Ramirez adjourned the meeting at 11:15 a.m. on Thursday, January 21, 2010.

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Manuel Ramirez, President

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Marshal Oldman, Secretary-Treasurer

Veronica Daniel, Executive Analyst, and Patti Bowers, Executive Officer, CBA, prepared the CBA meeting minutes. If you have any questions, please call (916) 561-1718.