



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

MINUTES OF THE
NOVEMBER 17-18, 2010
CBA MEETING

Crowne Plaza Irvine
 17941 Von Karman Ave.
 Irvine, CA 92614
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Roll Call and Call to Order.

President Manuel Ramirez called the meeting to order at 1:04 p.m. on Wednesday, November 17, 2010 at the Crowne Plaza Hotel in Irvine. The CBA members heard Agenda Items I – VI. The CBA members convened into executive closed session at 2:55 p.m. to deliberate Agenda Item III.A., and at 4:01 p.m. to deliberate Agenda Item III.B. The CBA members then convened into closed session at 4:17 p.m. to deliberate Agenda Items III.C. – E. The meeting reconvened into open session at 4:25 p.m., and the meeting adjourned at 4:46 p.m. CBA President Ramirez reconvened the meeting to order at 9:00 a.m. on Thursday, November 18, 2010, and the meeting adjourned at 12:15 p.m.

CBA Members

November 17, 2010

Manuel Ramirez, President	1:04 p.m. to 4:46 p.m.
Sally Anderson, Vice President	1:04 p.m. to 4:46 p.m.
Marshal Oldman, Secretary-Treasurer	Absent.
Diana Bell	Absent.
Rudy Bermudez	1:33 p.m. to 4:46 p.m.
Michelle Brough	1:04 p.m. to 4:46 p.m.
Angela Chi	Absent.
Donald Driftmier	1:04 p.m. to 4:46 p.m.
Herschel Elkins	1:04 p.m. to 4:46 p.m.
Louise Kirkbride	1:04 p.m. to 4:46 p.m.
Leslie LaManna	1:04 p.m. to 4:46 p.m.
Robert Petersen	1:04 p.m. to 4:46 p.m.
David Swartz	Absent.
Lenora Taylor	1:04 p.m. to 4:46 p.m.

CBA Members

November 18, 2010

Manuel Ramirez, President	9:00 a.m. to 12:15 p.m.
Sally Anderson, Vice President	9:00 a.m. to 12:15 p.m.
Marshal Oldman, Secretary-Treasurer	9:00 a.m. to 12:15 p.m.
Diana Bell	Absent.
Rudy Bermudez	9:02 a.m. to 11:30 a.m.
Michelle Brough	9:00 a.m. to 12:15 p.m.
Angela Chi	Absent.
Donald Driftmier	9:00 a.m. to 12:15 p.m.
Herschel Elkins	9:00 a.m. to 12:15 p.m.
Louise Kirkbride	9:00 a.m. to 12:15 p.m.
Leslie LaManna	9:00 a.m. to 12:15 p.m.
Robert Petersen	9:00 a.m. to 12:15 p.m.
David Swartz	Absent.
Lenora Taylor	9:00 a.m. to 12:15 p.m.

Staff and Legal Counsel

Patti Bowers, Executive Officer
Dan Rich, Assistant Executive Officer
Rich Andres, Information Technology Staff
Veronica Daniel, Board Relations Analyst
Paul Fisher, Supervising Investigative CPA
Dominic Franzella, Manager, Licensing Division
Lauren Hersh, Information and Planning Officer
Rafael Ixta, Chief, Enforcement Division
Vincent Johnston, Outreach Analyst
Nick Ng, Manager, Administration Division
Deanne Pearce, Chief, Licensing Division
LaVonne Powell, Legal Counsel, Department of Consumer Affairs (DCA)
Carl Sonne, Deputy Attorney General, Department of Justice
Matthew Stanley, Legislation/Regulation Analyst

Committee Chairs and Members

Nancy Corrigan, Chair, Peer Review Oversight Committee (PROC)
Fausto Hinojosa, Chair, Qualifications Committee (QC)

Other Participants

Tracy Brady, Court Reporter
Rom De Guzman, Petitioner
Gil DeLuna, DCA
Humberto Flores, Administrative Law Judge (ALJ)
Phyllis Gallagher, Counsel for Petitioner
Ed Howard, CPIL

Joe Petito, The Accountants Coalition
Gary Porter, Petitioner
Jonathan Ross, The Accountants Coalition
Hal Schultz, California Society of Certified Public Accountants (CalCPA)
Jeannie Tindel, CalCPA
Mary Work, Counsel for Petitioner

I. Roll Call and Call to Order.

CBA President Ramirez called the meeting to order at 1:04 p.m. on Wednesday, November 17, 2010.

II. Report of the President.

A. Update on Peer Review Implementation.

Mr. Ixta provided an overview of the memorandum for this item **(see Attachment 1)**.

Mr. Ramirez inquired regarding the status of testing to validate the self-certification of attest services. Mr. Ixta stated there are plans to outreach to those who have not responded and provide notification that failure to respond may be cause for discipline. Mr. Ixta further stated that the Enforcement Division is researching options to properly validate the self-certifications.

B. DCA Legal Presentation – Litigation Against CBA Members **(LaVonne Powell)**.

Ms. Bowers introduced LaVonne Powell, newly-assigned legal counsel for the CBA.

This item was deferred and took place after Agenda Item II.C.

C. Resolution for Retiring CBA Member.

It was moved by Ms. Anderson, seconded by Mr. Driftmier and carried by those present to adopt the resolution for retiring CBA Member Andrea Valdez. Ms. Taylor abstained.

The CBA then heard Agenda Item II.B., DCA Legal Presentation – Litigation Against CBA Members.

Ms. Powell provided an overview of the memorandum for this item **(see Attachment 2)**.

Ms. Kirkbride inquired if there are any circumstances regarding litigation where board members would be required to obtain private legal counsel.

Ms. Powell stated if there was a determination made by the Attorney General's (AG) Office in consultation with the CBA that the board member clearly acted outside of his/her duties, he/she would not be represented by the AG's Office and should retain private legal counsel.

D. 2011 CBA Meeting Locations.

It was moved by Mr. Petersen, seconded by Ms. Taylor and unanimously carried by those present to adopt the 2011 CBA meeting dates with an amendment to relocate the March meeting to Southern California and the September meeting to Northern California.

E. CBA Member Committee Interest Survey.

Mr. Ramirez requested that CBA members provide completed interest surveys to CBA staff by December 8, 2010.

F. Discussion on Legal Opinions Regarding Loans to the General Fund.

Mr. Rich provided an overview of the memorandum for this item **(see Attachment 3)**.

Mr. Driftmier stated that he would like to see the outstanding loans to the General Fund listed on the CBA financial statement as a receivable. Mr. Rich stated there is a separate attachment to the current financial statement, which shows a detailed account of all outstanding loans. Mr. Rich further stated that CBA staff will continue to track and report this information to the CBA.

Mr. Petersen stated that he was in favor of the loans being listed on a separate schedule.

Ms. Taylor inquired if the CBA could go back and request payment terms on previous loans. Mr. Ramirez stated he would like staff to research and provide clarification regarding the terms of repayment. Mr. Ramirez further stated that if repayment terms cannot be secured on previous loans, the CBA should then seek repayment.

Ms. Kirkbride stated the real issue is whether the CBA is able to operate with loans in place. Ms. Kirkbride inquired regarding what would happen if the CBA were to run out of funds to operate. Mr. Ramirez stated in that event, the CBA would be required to either raise its fees, or request repayment of the loans.

Mr. Howard suggested that the CBA request repayment, providing detailed analysis regarding the affect the loans have on the CBA and consumer protection. Mr. Driftmier stated the CBA should also build in

the continued request for funds to be allocated to the ICPA position.

Mr. Ramirez requested for CBA staff to further research this issue and provide the CBA with a recommendation regarding this matter.

III. Petitions, Stipulations, and Proposed Decisions [Closed Session Government Code Section 111269(c)(3)]. Petition Hearings are Public Before the CBA with a Subsequent Closed Session.

A. Gary A. Porter – Petition for Modification of Probation.

Mr. Porter appeared before the CBA members to petition for 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. Rom De Guzman – Petition for Reinstatement of Revoked Certificate.

Mr. De Guzman appeared before the CBA members to petition for reinstatement of his revoked certificate.

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

C. Felix Wasser – Proposed Decision.

D. Richard M. Large – Stipulated Settlement.

E. Jack Garrett – Stipulated Settlement.

CBA members considered agenda items III.C. – E. in closed session.

IV. Report of the Vice President.

A. Recommendation for Appointment of Enforcement Advisory Committee (EAC) Chair.

It was moved by Mr. Bermudez, seconded by Mr. Petersen and unanimously carried by those present to accept the proposed recommendation and appoint Cheryl Gerhardt as Chair of the EAC. Ms. Taylor and Mr. Driftmier were temporarily absent.

B. Recommendation for Appointment of EAC Vice Chair.

It was moved by Mr. Bermudez, seconded by Ms. Brough and

unanimously carried by those present to accept the proposed recommendation and appoint James Rider as Vice Chair of the EAC. Ms. Taylor and Mr. Driftmier were temporarily absent.

- C. Recommendation for Appointment of Qualifications Committee (QC) Chair.

It was moved by Mr. Bermudez, seconded by Mr. Elkins and unanimously carried by those present to accept the proposed recommendation and reappoint Fausto Hinojosa as Chair of the QC.

- D. Recommendation for Appointment of QC Vice Chair.

It was moved by Mr. Bermudez, seconded by Ms. Kirkbride and unanimously carried by those present to accept the proposed recommendation and reappoint Maurice Eckley as Vice Chair of the QC.

- V. Report of the Secretary/Treasurer.

- A. Discussion of Governor's Budget.

- B. FY 2010/2011 First Quarter Financial Report.

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

Mr. Ramirez stated that per DCA, the hiring freeze would remain in effect for the remainder of the year. Mr. Ramirez further stated it does not appear that any exceptions are being made regarding the freeze.

Mr. Driftmier inquired if the CBA is currently authorized to hire contractors. Ms. Bowers stated there are contracted consultants in place; however, the CBA is prohibited from hiring any new contractors at this time.

Mr. Ramirez inquired regarding the status of the licensing fee reduction. Ms. Bowers stated the regulation is currently with the Department of Finance for review.

- C. Options for Reporting Financial Information.

Mr. Ng provided an overview of the memorandum for this item **(see Attachment 5)**.

Ms. Kirkbride suggested that the CBA work with other boards/bureaus to determine and adopt best practices in reporting financial information.

Mr. Bermudez complimented the efforts of CBA staff in the preparation of

this information.

Ms. Anderson complimented staff's efforts and stated she is in favor of incorporating a breakdown by department. Ms. Anderson stated she is also in favor of the five-year summary with charts.

Mr. Ramirez complimented staff's efforts and suggested utilizing the current format and incorporating the five-year summary with an annual projection.

VI. Public Comments.

No public comments were received.

VII. Roll Call and Call to Order.

CBA President Ramirez called the meeting to order at 9:00 a.m. on Thursday, November 18, 2010.

VIII. Report of the Executive Officer.

A. Update on 2010/2012 CBA Communications and Outreach Plan.

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

Ms. Anderson inquired if there are ideas to increase the number of followers of CBA on Twitter. Ms. Hersh stated the Outreach Committee is working on outreach to educators at colleges and universities.

Mr. Ramirez requested for staff to provide the CBA with information regarding the best usage of Twitter at the January 2011 CBA meeting. Mr. Ramirez stated the CBA should have an opportunity for input regarding the messages being relayed to the public.

B. DCA Director's Report.

1. Update on Hiring Freeze.
2. Performance Measures.
3. Update on BreEZe.

Agenda Items B.1. – 3. were deferred and took place after agenda item VIII.F.

C. CBA Succession Plan.

Ms. Bowers provided an overview of the memorandum for this item **(see Attachment 7)**.

No comments were received regarding this item.

D. CBA Annual Report.

Mr. Johnston provided an overview of the memorandum for this item **(see Attachment 8)**.

Mr. Ramirez stated that the format and contents of the Annual Report are exceptional.

E. Sunset of Section 5050(b) – Temporary and Incidental Practice.

Mr. Stanley provided an overview of the memorandum for this item **(see Attachment 9)**.

Mr. Petersen expressed concern regarding the potential interruption in service to California consumers who may be serviced by a provider presenting practicing under temporary and incidental practice. Mr. Stanley stated there will need to be outreach to consumers and providers.

Mr. Oldman inquired if there is a potential solution via emergency regulations. Mr. Stanley stated that in order to promulgate emergency regulations, the circumstances would need to fall under the category of health and safety. Ms. Bowers stated the alternate temporary solution for providers is the practice privilege authority.

Mr. Bermudez suggested a special meeting to discuss the topic of mobility.

CBA members further discussed this matter and options for notification to the public.

Ms. Anderson suggested a short term solution for the CBA to publicize notification on the CBA Web site and in the long term, to review practice privilege to determine if flexibility is there.

Mr. Bermudez suggested the CBA should discuss the topic of mobility in its entirety. It was determined by Mr. Ramirez that the discussion on mobility would take place on the first day of the January 2011 CBA meeting.

Ms. Bowers stated that staff will draft proper notice to inform licensees of changes so they can comply without creating mass panic. Ms. Bowers further stated that staff will explore where the notice should be displayed.

Mr. Ross offered his assistance in drafting of the notice.

Mr. Ramirez requested CBA staff to handle the drafting of the notice to licensees and provide a copy to CBA members for review and comments.

F. Consideration of Adoption of Proposed Regulation – Peer Review Provider Reporting Responsibilities.

Mr. Stanley provided an overview of the memorandum for this item **(see Attachment 10)**.

It was moved by Ms. LaManna, seconded by Ms. Taylor and unanimously carried by those present to adopt the proposed regulation.

The CBA then heard Agenda Items under VIII.B., DCA Director's Report.

1. Update on Hiring Freeze.

Mr. DeLuna stated the hiring freeze is still in effect and the exception process is very stringent.

2. Performance Measures.

Mr. DeLuna stated the performance measures will be posted on the DCA's Web site by the end of November 2010. Mr. DeLuna further stated that the performance measures will be updated on a quarterly basis.

3. Update on BreEZe.

Mr. DeLuna stated the BreEZe project is moving forward on schedule. He stated that the first phase is scheduled for rollout in December 2012. Mr. DeLuna thanked CBA staff for participating in this project.

Ms. Bowers stated that she was advised by Bill Young that it was highly unlikely that the CBA's exception requests would move forward and receive approval.

Mr. Ramirez expressed concern regarding public protection considering the staffing in the Enforcement Division is below 50 percent. Mr. DeLuna stated that he would provide follow up to Ms. Bowers regarding this matter.

G. Update on Current Projects List (Written Report Only).

There were no comments received for this item.

IX. Report of the Licensing Chief.

A. Report on Licensing Division Activity.

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

There were no comments received for this item.

X. Report of the Enforcement Chief.

A. Report on Status of Enforcement Matters.

1. Enforcement Case Activity and Status Report.

Mr. Ixta provided an overview of this item **(see Attachment 12)**.

Ms. Bowers advised CBA members that enforcement timeframes are being tracked and advertised on the DCA's Web site. Ms. Bowers further stated this will become a significant issue if the CBA does not receive some relief in terms of staffing in the Enforcement Division.

Mr. Ramirez requested an additional column be added to the report to indicate an average days to close for all cases.

2. Aging Inventory Report.

Mr. Ixta provided an overview of this item **(see Attachment 13)**.

Ms. Kirkbride suggested publishing the median and mean regarding case aging.

3. Report on Citations and Fines.

Mr. Ixta provided an overview of this item **(see Attachment 14)**.

Mr. Ixta stated that staffing issues have affected the CBA's ability to issue citations and fines.

Mr. DeLuna suggested that the CBA look into the DCA's mediation program for an interim solution to the less egregious matters.

4. Reportable Events Report.

Mr. Ixta provided an overview of this item **(see Attachment 15)**.

There were no comments received for this item.

B. Update on Enforcement Improvements.

Mr. Ixta provided an overview of the memorandum for this item **(see Attachment 16)**.

There were no comments received for this item.

C. Report on Implementation of Enforcement Performance Measures.

Mr. Ixta provided an overview of the memorandum for this item **(see Attachment 17)**.

There were no comments received for this item.

XI. Committee and Task Force Reports.

A. Report of the Enforcement Program Oversight Committee (EPOC).

1. Report of the November 17, 2010 EPOC Meeting.
2. Discussion on Probationers Being Required to Pay for the Cost of Probation Monitoring.

Mr. Elkins stated that the EPOC reached a consensus to recommend to the CBA that no changes be made to the current process.

3. Discussion of Documents Served with Accusations/Statements of Issue.

Mr. Elkins stated that the EPOC reached a consensus based on the current information and documents provided that licensees should be able to understand his or her rights and the disciplinary process.

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

1. Report of the November 17, 2010 CPC Meeting.
2. Discussion on Whether Existence of Liability Insurance Should be a Mitigating Factor in Enforcement Actions.

The CBA took no action on this item.

C. Report of the Legislative Committee (LC).

1. Report of the November 17, 2010 LC Meeting.
2. Update on Bills Which the CBA Has Taken a Position.

3. Proposed Legislation – Retirement Status.

It was moved by Ms. Brough, seconded by Mr. Bermudez and carried by those present to adopt the LC’s recommendation that the CBA sponsor the proposed language. Mr. Petersen opposed.

4. Proposed Legislation – Restatements.

It was moved by Ms. Brough, seconded by Mr. Bermudez and carried by those present to adopt the LC’s recommendation that the CBA sponsor the proposed language as modified by the LC to also include restatements that are solely the result of changes in law, rules, or standards. Mr. Elkins abstained.

5. Proposed Legislation – Peer Review Sunset Extension.

It was moved by Ms. Brough, seconded by Ms. Anderson and unanimously carried by those present to adopt the LC’s recommendation that the CBA sponsor the proposed language.

6. Proposed Legislation – Webcast Exemption.

It was moved by Ms. Brough, seconded by Mr. Bermudez and carried by those present to adopt the LC’s recommendation that the CBA sponsor the proposed language with direction to staff to correct language to specify which matters can be on the agenda. Ms. Kirkbride, Mr. Elkins, and Mr. Petersen opposed.

7. Proposed Legislation – Loans to the General Fund.

It was moved by Ms. Brough, seconded by Mr. Bermudez and carried by those present to adopt the LC’s recommendation that the CBA sponsor the proposed language. Ms. Kirkbride abstained. Mr. Petersen opposed.

D. Report of the Accounting Education Committee (AEC).

There was no report for this item.

E. Report of the Ethics Curriculum Committee (ECC).

There was no report for this item.

F. Report of the Peer Review Oversight Committee (PROC).

1. Report of the November 9, 2010 PROC Meeting.

Ms. Corrigan stated that the PROC held its inaugural meeting on

November 9, 2010 and was provided an overview and presentation on the peer review process. Ms. Corrigan stated the PROC will be meeting next in January 2011 and continue its efforts towards meeting its mission.

G. Report of the EAC.

1. Report of the November 4, 2010 EAC Meeting.

This item was deferred to take place at the January 2011 CBA meeting.

H. Report of the QC.

There was no report for this item.

XII. Adoption of Minutes

A. Draft Minutes of the September 22-23, 2010 CBA Meeting.

This item was deferred to take place at the January 27-28, 2011 CBA meeting.

B. Draft Minutes of the September 22, 2010 CPC Meeting.

It was moved by Ms. LaManna, seconded by Mr. Oldman and carried by those present to approve the draft minutes of the September 22, 2010 CPC meeting. Ms. Brough and Mr. Elkins abstained. Mr. Bermudez was temporarily absent.

C. Draft Minutes of the September 22, 2010 EPOC Meeting.

It was moved by Mr. Elkins, seconded by Mr. Oldman and carried by those present to approve the draft minutes of the September 22, 2010 EPOC meeting. Ms. Brough abstained.

D. Minutes of the May 6, 2010 EAC Meeting.

It was moved by Mr. Oldman, seconded by Ms. Taylor and carried by those present to approve the draft minutes of the May 6, 2010 EAC meeting. Ms. Brough and Mr. Elkins abstained.

XIII. Other Business.

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

1. Update on AICPA State Board Committee.

There was no report for this item.

B. National Association of State Boards of Accountancy (NASBA).

1. Update on NASBA Committees.

a. Accountancy Licensee Database (ALD) Task Force.

Ms. Bowers stated there are 46 states either participating or committed to participating in ALD, and over half a million records of licensees in the ALD system. Ms. Bowers stated that NASBA plans to launch ALD to the public in the first quarter of 2011.

b. Board Relevance & Effectiveness Committee.

Mr. Oldman stated the Board Relevance & Effectiveness Committee has completed and passed on its Report on Board Independence to NASBA. Mr. Oldman stated that he believes that NASBA will promote this effort for all states.

c. Compliance Assurance Committee.

There was no report for this item.

d. Global Strategies Committee.

Mr. Bermudez stated the Global Strategies Committee has not met. Mr. Bermudez stated that he attended NASBA's Annual Meeting and the emphasis was focused on NASBA's role internationally and mobility.

e. Uniform Accountancy Act Committee (UAA).

Mr. Driftmier stated the UAA concluded its discussions regarding CPA firm names. Mr. Driftmier further stated this topic will no longer be pursued.

f. UAA Mobility Implementation.

There was no report for this item.

2. NASBA Regional Director's Focus Questions.

Mr. Rich provided an overview of the memorandum for this item **(see Attachment 18)**.

It was moved by Mr. Bermudez, seconded by Mr. Driftmier and unanimously carried by those present to approve recommended

responses to the NASBA Regional Director's Focus Questions.

XIV. Officer Elections.

A. President.

It was moved by acclamation and unanimously carried to elect Ms. Sally Anderson as President of the CBA.

B. Vice President.

It was moved by acclamation and unanimously carried to elect Mr. Marshal Oldman as Vice President of the CBA.

C. Secretary/Treasurer.

It was moved by acclamation and unanimously carried to elect Ms. Leslie LaManna as Secretary/Treasurer of the CBA.

XV. Closing Business.

A. CBA Member Comments.

CBA members expressed thanks to Mr. Ramirez for his service as President and welcomed new CBA officers.

Mr. Ramirez expressed his appreciation to staff and outgoing CBA members.

B. Comments from Professional Societies.

Ms. Tindel and Mr. Howard expressed thanks to Mr. Ramirez for his dedication and service.

C. Public Comments.

No public comments were received.

D. Agenda Items for Future CBA Meetings.

1. CPC Charge Regarding International Delivery of the Uniform CPA Examination.

No additional agenda items were received.

E. Press Release Focus.

1. Recent Press Releases.

Ms. Hersh stated she will issue an immediate post-CBA meeting press release regarding the officer elections and a separate press release regarding the temporary and incidental matter.

XVI. Adjournment.

President Ramirez adjourned the meeting at 12:15 p.m. on Thursday, November 18, 2010.

Manuel Ramirez, President

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.