

SOUTH CAROLINA DEPARTMENT OF LABOR, LICENSING
AND REGULATION BEFORE
THE BOARD OF ACCOUNTANCY
MEETING MINUTES
9:00 A.M., DECEMBER 1, 2011
SYNERGY BUSINESS PARK, KINGSTREE BUILDING
COLUMBIA, SOUTH CAROLINA

BOARD MEMBERS PRESENT:

Mark T. Hobbs, Chairman

Robert M. Baldwin, CPA, Vice Chairman

Gary F. Forte

Malane Pike, Esquire

Mark S. Crocker, CPA

David C. Nichols

Tanya C. Greenlee, CPA

Wendell E. Lunsford

Donald H. Burkett, CPA

LLR BOARD STAFF:

Doris Cubitt, Administrator

Michael Teague, Administrator

Wendi Elrod, Program Assistant

Amy Holleman, Administrative Specialist

Dean Grigg, Advice Counsel

Suzanne Hawkins, LLR Counsel

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21
22
23
24
25

CONTENTS

Proceedings	3
Certificate of Reporter	243

1 9:20 a.m.

2 MR. CHAIRMAN: This meeting is
3 called to order. Public notice of this meeting
4 was properly posted at the South Carolina

5 MR. CHAIRMAN: I would like to call
6 the meeting to order. The meeting is being held
7 in accordance with the Freedom of Information Act
8 by notice mailed to the State Newspaper,
9 Associated Press, WIS-TV and all other interested
10 persons, organizations or news media. In
11 addition, the notice was posted on the bulletin
12 board at the main entrance of the Kingstree
13 Building.

14 At this time, I'd like Vice
15 Chairman Baldwin to have a moment of silence and
16 the Pledge of Allegiance.

17 V. CHAIRMAN BALDWIN: Bow your
18 heads, please.

19 (Pledge of Allegiance and Prayer)

20 MR. CHAIRMAN: Comments from the
21 Chair, we've got a fairly good agenda today. I
22 think this is the first time since I've been on
23 the Board in 2005 that we've had nine people at a
24 meeting. So it's really kind of neat to see the
25 chairs full. And, Donnie, I don't know if you

1 remember having nine people. I know you've been
2 on the Board longer than me, but it's nice to see
3 a full table, isn't it?

4 MR. BURKETT: It is.

5 MR. CHAIRMAN: So welcome to
6 everyone. No excused absences this time which
7 we're excited about. I'd like everyone here to
8 have a chance to review the agenda and I'd like to
9 approve the agenda with a few modifications, and
10 those few modifications are to move item five
11 right after the minutes and then move item seven
12 right after item five, so a little switching
13 around.

14 And then the only other thing that
15 we probably need to delay or defer is under new
16 business 11A(2), the consent agreement with Roger
17 Long. That consent agreement needs to be
18 reexamined by legal staff, so we need to delay
19 that one.

20 So could I have a motion that we
21 approve the agenda with those revisions?

22 MR. BURKETT: I so move.

23 MR. CHAIRMAN: There's a motion on
24 the floor by Mr. Burkett.

25 MR. FORTE: Second.

1 MR. CHAIRMAN: And a second by Mr.
2 Forte. Any discussion?

3 (No response)

4 MR. CHAIRMAN: All in favor, please
5 say aye.

6 (Response)

7 MR. CHAIRMAN: Any opposed?

8 (No response)

9 MR. CHAIRMAN: Great. Thank you.
10 Approval of the minutes. Has everyone had a
11 chance to review the minutes from the October
12 18th, 2011 Board meeting and do I hear a motion
13 that we approve those minutes?

14 MR. BURKETT: I move that they be
15 approved.

16 MR. BALDWIN: Second.

17 MR. CHAIRMAN: A motion by Mr.
18 Burkett and a second by Mr. Baldwin. Any
19 discussion?

20 (No response)

21 MR. CHAIRMAN: All in favor, please
22 say aye.

23 (Response)

24 MR. CHAIRMAN: Thank you. Approval
25 of the minutes from the November 27th conference

1 call we had last Tuesday. Do I hear a motion if
2 you've reviewed them that we approve those
3 minutes?

4 MR. NICHOLS: So moved.

5 MR. CHAIRMAN: Thank you.

6 MR. BALDWIN: I'll second.

7 MR. CHAIRMAN: Second by Mr.

8 Baldwin. Any discussion?

9 (No response)

10 MR. CHAIRMAN: All in favor, please

11 say aye.

12 (Response)

13 MR. CHAIRMAN: Any opposed?

14 (No response)

15 MR. CHAIRMAN: Thank you, very

16 much. At this time, we will proceed with item

17 number five, consideration of Mr. Abdelaal's

18 request to complete all CPE as self-study, and I'm

19 going to turn it over to Doris at this time.

20 MS. CUBITT: Yes. There's a letter

21 in your packet. And if you could come forward and

22 have a seat up here, Mr. Abdelaal.

23 He's asking for consideration to be

24 able to take his CPE as all self-study and he's

25 given you a letter with his request, and he's been

1 unemployed for a while and is looking for work.
2 And regulation 108 does state that they can only
3 do half or 20 hours as self-study.

4 MR. CHAIRMAN: Would you like to
5 make any comments about your request other than
6 what's in your letter?

7 MR. ABDELAAL: No.

8 MR. CHAIRMAN: Are there any
9 extenuating personal reasons why you can't comply
10 with our regulation?

11 MR. ABDELAAL: I can't afford it
12 otherwise. We've been doing self-study for many
13 years and I can just can't afford this new rule
14 and it's too expensive when you're on a limited
15 income. I can't really lose my license because of
16 this reason. I mean, I just can't afford it right
17 now.

18 I've been doing well with the
19 self-study. It's affordable and reasonable cost.
20 As a minimum, I have found for the other 20 hours
21 was about 1500 to \$2,000. I mean, I just can't
22 afford it. And I see it's just unfair to lose my
23 license because of this new rule.

24 We've been doing self-study for
25 many, many, many years and a lot of states are

1 doing still self-study. So I feel it's just
2 unfair to lose my license because of this new
3 rule. And I just can't afford it. I mean, if
4 there is a way I can get the other 20 hours with a
5 reasonable cost, but I just can't find it.

6 MR. CHAIRMAN: Does the Board
7 members have a question?

8 (No response)

9 MR. CHAIRMAN: No questions?

10 MR. BALDWIN: I want to make a
11 comment and address it. In my experience, there
12 are a number of occasions when other
13 professionals, such as attorneys and insurance
14 parties, offer continuing professional education
15 at no cost. Have you looked at any of that and
16 its active continuing professional education?

17 MR. ABDELAAL: At no cost?

18 MR. BALDWIN: I have seen that.
19 Have y'all?

20 MR. ABDELAAL: I haven't seen --
21 I've never seen that.

22 MR. CHAIRMAN: SCACPA offers four
23 hours of professional issues update for four hours
24 at no charge.

25 MR. ABDELAAL: I've never seen

1 this. I used to get the 40 hours approximate for
2 \$200 with the AICPA and it was reasonable and it
3 was fair and I just can't find any reasonable cost
4 for myself. I can't find it.

5 MS. GREENLEE: Sir, are you a
6 member of SCACPA, South Carolina Association of
7 CPAs? Are you a member?

8 MR. ABDELAAL: I just can't hear
9 it.

10 MS. CUBITT: Are you a member of
11 SCACPA, the South Carolina Association of CPAs?

12 MR. ABDELAAL: No. I used to be a
13 member for many years, but I dropped it because
14 also the cost.

15 MR. CHAIRMAN: And where is your
16 office?

17 MR. ABDELAAL: I don't have an
18 office. I used to teach accounting.

19 MR. CHAIRMAN: So you're an
20 educator?

21 MR. ABDELAAL: The last job I had
22 was with South Carolina State University and
23 through the budget cuts and stuff, they just had
24 layoffs and stuff.

25 MR. CHAIRMAN: But you still have a

1 registered office and you're still practicing?

2 MR. ABDELAAL: Yeah.

3 MR. CHAIRMAN: You are. So you
4 have a registered office and you're practicing --

5 MR. ABDELAAL: No. I don't have a
6 registered office. I never really had one. So my
7 main profession was to teach. I used to work
8 public accounting years ago. Many, many years
9 ago. But the last 10, 15 years, I've been
10 concentrating on teaching.

11 MR. CHAIRMAN: Anybody else have
12 any questions?

13 (No response)

14 MR. CHAIRMAN: I don't hear any.
15 We appreciate you coming. We will be considering
16 your information a little later today and staff
17 will be getting back to you. We'll probably be
18 going into Executive Session maybe later today.
19 I'm not sure when it's going to be, but we'll be
20 getting back to you if that's okay.

21 MR. ABDELAAL: Okay.

22 MR. CHAIRMAN: Thank you, very
23 much, sir.

24 MR. ABDELAAL: Can I leave now?

25 MS. CUBITT: Yes, sir. We'll be in

1 contact with you.

2 MR. ABDELAAL: Okay.

3 MR. CHAIRMAN: Thank you for coming
4 to us. All right. We've got a modified agenda.
5 We're going to go to Complaint and Investigated
6 Activity. I think we've got somebody here to chat
7 with us.

8 INVESTIGATOR: I am the new Chief
9 that has been assigned to the Accountancy Board.
10 We have received 14 complaints this year, we've
11 closed 11 and we have 12 open cases currently.
12 And is that the type of information you want or do
13 you need more details later on for the next
14 meeting?

15 MR. CHAIRMAN: Well, this is your
16 report here, isn't it? That isn't your report?

17 MR. TEAGUE: That's just the issues
18 report from our system that keeps track of the
19 complains that we have.

20 MR. CHAIRMAN: But it's related to
21 what she's talking about, isn't it?

22 MS. CUBITT: Yes, sir. It's out of
23 the same system.

24 MR. CHAIRMAN: Is she familiar with
25 this report? This is how we're used to seeing

1 it.

2 INVESTIGATOR: Okay.

3 MR. CHAIRMAN: Now, I don't know if
4 that's something that you've seen before or what.

5 INVESTIGATOR: I've done those for
6 other Boards. I can do that for you.

7 MR. CHAIRMAN: Well, we have it.
8 So we've got 16 cases status. I just want to make
9 sure we're all on the same page.

10 INVESTIGATOR: I didn't include
11 like pending Board hearing because that month it's
12 out of investigations, it sort of drops off of our
13 screen until we actually have it here.

14 MR. CHAIRMAN: Are the cases about
15 the same as they've been historically or are they
16 up or are they down? Does anybody have a feel for
17 that? Doris, you may be the best person to answer
18 that.

19 MS. CUBITT: I'd say they're about
20 steady. I think they're about steady.

21 MR. CHAIRMAN: They're consistent?

22 MS. CUBITT: Uh-huh.

23 MR. CHAIRMAN: Does anybody have
24 any questions on the report from the investigative
25 group in this handout?

1 (No response)

2 MR. CHAIRMAN: If not, can I hear a
3 motion that we accept this report and its
4 presentation?

5 MR. BURKETT: I so move.

6 MR. CHAIRMAN: A motion made by
7 Mr. Burkett. Is there a second?

8 MS. GREENLEE: I second the
9 motion.

10 MR. CHAIRMAN: A second by Tanya.
11 Any discussion?

12 (No response)

13 MR. CHAIRMAN: All in favor, please
14 say aye.

15 (Response)

16 MR. CHAIRMAN: Any opposed?

17 (No response)

18 MR. CHAIRMAN: Thank you, very
19 much. Thank you, very much for coming and being
20 with us.

21 I think we're heading to -- I think
22 we're set for item number six which is our
23 hearing. Are we all ready for that?

24 (No response)

25 MR. CHAIRMAN: Well, let's proceed

1 with the hearing. I think we've got -- I should
2 have mentioned it in the beginning of the changes
3 in the agenda. Item 6A has been deferred until
4 January 25th, so that will be on that day, January
5 25th. So we have got that determined. And we're
6 supposed to hear a hearing against Mr. Clint
7 Smith, item 6B. Why don't we take a short recess
8 to get everything set up and we'll rejoin and have
9 the hearing, how about that?

10 MS. CUBITT: Okay. That's good.

11 (Recess from 9:23 a.m. to 9:28 a.m.)

12 MR. CHAIRMAN: Let's call this
13 meeting to order. Now, Bucky is our
14 representative on the NASBA Board and we're real
15 excited about him being with us.

16 MR. GLOVER: Thank you for letting
17 me be here. I'm the Mid-Atlantic Regional
18 Director for NASBA and I represent South Carolina,
19 North Carolina, Virginia, Maryland, Delaware and
20 West Virginia and Washington, D.C. And we try to
21 make Board during our term and so I'm making a
22 Board visit in South Carolina, although I feel
23 like that it's almost unnecessary because I've got
24 all my mentors on this Board already, but I'm not
25 at all the meetings and they tell me, you know,

1 what's going on and give me the history, but --

2 MR. BURKETT: We always have to
3 direct North Carolina on what to do.

4 MR. GLOVER: Yeah. We're learning.
5 But I'm here just to follow up a few things and
6 see if there are any questions you have that I can
7 take back to NASBA. You know, we do have a new
8 Director now. David Costello will be retiring, I
9 guess, in about 30 days and Ken Bishop will be
10 taking over.

11 Ken is very pro-active. He is
12 putting in a legislative position. They're
13 actually going to be hiring a professional person
14 to work with State legislative to implement any
15 rule changes you may need or assist with any rule
16 changes or help or advise and those kind of
17 things. And so that's a new position in NASBA and
18 I think it's going to be a good thing for us when
19 we're trying to get matters pushed through
20 legislatively.

21 Second of all, I am the Chairman of
22 the State Board of Relevance and Effectiveness
23 Committee and that committee is charged with
24 trying to get Boards to be more relevant and more
25 effective, and sometimes it's confused with just

1 being autonomous. But the real thrust is to
2 become more relevant and more effective through
3 autonomy, great. But the key is to become more
4 relevant and more effective.

5 We have sent out a survey which
6 Doris has responded to. We are gathering a lot of
7 data and there will be another one coming out that
8 will be going to you as a Board member and also to
9 your state's societies to determine the
10 relationships. Not every state enjoys the good
11 relationship between the Boards that you enjoy and
12 that we happen to enjoy in North Carolina as
13 well.

14 So, again, they're our advocates,
15 we're their advocates. We help improve the
16 profession, us through public protection and the
17 state societies through member enhancement. So
18 those surveys will come out. I would hope that
19 you would respond to that.

20 One other thing that the committee
21 is doing, or NASBA is doing and they've asked our
22 committee to do it is, NASBA does not have
23 national statistics on the amount of enforcement
24 activities. I heard a report today about, you
25 know, the number of cases that have been opened

1 this year, the number of cases that have been
2 closed, the number of cases carrying forward.

3 Surprisingly, as a national
4 spokesbody for public protection, we don't have
5 those statistics from all the states, so we're now
6 beginning that process. NASBA is now beginning
7 that process to gather that data. A lot of
8 semantics. Some states call things differently
9 than we call them and different consent orders
10 differently. But in the end, it's enforcement and
11 that's what we're going to try to gather.

12 With that, we're going to try to
13 come back with ways to be proactively seeking
14 problem CPAs, people who are not doing public
15 protection. I know that our Executive Director
16 does a lot with the IRS. We always have cases
17 about people who haven't paid their 941 taxes,
18 haven't filed their taxes, we have many every year
19 and other states don't have any. So I don't think
20 all the bad taxpayers are in North Carolina. But
21 there are ways to try to give you best practices,
22 if you will, to be more effective and relevant.

23 There is now a request before all
24 the Boards of NASBA to respond to the financial
25 accounting decision to form a Council for the

1 small gap, you know. There was a Blue Ribbon
2 Panel that NASBA participated in very heavily and
3 the recommendation was is FASBY come out with a
4 standard set and body under FASBY to set standards
5 for small companies, privately-held companies.

6 They didn't adopt, the Accounting
7 Foundation didn't adopt the Blue Ribbon Panel
8 exactly. Rather than forming a separate
9 independent Board, they formed a council and that
10 council can -- anything it does can be vetoed by
11 FASBY. That's not exactly what we wanted.

12 The AICPA has come out that they
13 are opposed to the way that that came down. They
14 would like a separate standard setting body. They
15 may even go and try to create their own separate
16 standard setting body.

17 NASBA, on the other hand, said,
18 we're not happy with the way you did it, but we're
19 going to go along with it and allow this council
20 to work for this three-year period. We're going
21 to set in milestones. If you don't get your
22 milestones, there will be a vocal component to it
23 and we are going to encourage you to become
24 effective in setting small standard gaps.

25 So NASBA sent out a request, I

1 believe, for all Boards through this -- if you
2 want to respond and put in your two cent's worth,
3 then please do so. I'm just telling you NASBA's
4 position, is that they're going to go along with
5 the council for now, but a watch and see. If it
6 doesn't become effective and it's slow and
7 inactive, then NASBA will revisit the issue within
8 three years. We encourage you to respond to that.

9 There is one other piece that's
10 going to be coming out soon. It will probably be
11 the first part of the year. The State Board
12 Relevance Committee has decided that they would
13 produce a template for every state to report to
14 every legislature every year its enforcement
15 activities, its licensing activities.

16 It's going to be a tri-fold type of
17 deal. It's a one-page deal. Technically, you can
18 say, this is how many licensees are in your state,
19 how many licensees you added this year, how many
20 applicants there were for the exam and how much
21 enforcement activity you did this year. And the
22 hope is, is that if we let every legislature know
23 about that, then our Boards become more prevalent
24 and more relevant and people will turn to us for
25 public protection activities.

1 And with that, I think that's --
2 Donnie, did I cover what we did at the Board
3 meeting? That's my mentor. But any questions I
4 can take back to NASBA? I live in Monroe, just
5 over the line. I have a house at Wateree so I do
6 practice in South Carolina. But I'm not far away,
7 so anything you have, call me any time and I'll be
8 more than happy to take questions back. Of
9 course, Donnie is on the Board, too, so I'm sure
10 you can use that pipeline as well.

11 MR. CHAIRMAN: I think I have one
12 question. North Carolina is your home state. You
13 all tend to be a lot more pro-active on seeking
14 noncompliance than our state because you have
15 autonomy.

16 One thing I'd be interested in, if
17 you could share with Doris, is maybe your case
18 activities so we can compare it on a pro-rata
19 basis with our state and see how many more on a
20 per licensee basis you have cases than we have.
21 Because I know you all do some searching for tax
22 noncompliance and liens and stuff like that that
23 we've never really pursued.

24 MR. GLOVER: Yeah. We're very
25 pro-active. We have a --

1 MR. CHAIRMAN: Could you address
2 that maybe for a few minutes?

3 MR. GLOVER: Yeah. Bob Wilkes, our
4 Executive Director, has clipping service where if
5 your name is in the paper somewhere or your name
6 is in a suit anywhere in the state, he gets that
7 information and then he will, you know, see if it
8 warrants opening a case or not opening a case. He
9 looks at the North Carolina Department of Revenue,
10 he looks at the -- he gets information from the
11 IRS about liens.

12 Usually, and I'm telling you, we
13 have -- there is about 18,000 licensees in North
14 Carolina, so we're a little bit larger than y'all.
15 But we have many, many more cases. Every year, we
16 have at least four, five, six cases of CPAs not
17 paying their 941 taxes timely, and it comes from
18 that lien, and I know we're not the only one. And
19 we have cases where the CPA didn't file their tax
20 returns. We don't necessarily discipline them if
21 they don't pay their taxes. The 941 tax is
22 different. But on income taxes, we don't
23 discipline. But if they don't file a return, it's
24 a violation in our state, a violation of law.

25 So if your name is in the paper and

1 it's about a suit or a problem, then you're going
2 to get a case opened up on you.

3 I'm sure Bob would share that with
4 you, Doris. I want to say we do 250 to 300 cases
5 a year, maybe. I'll get that information for you,
6 though.

7 MR. CHAIRMAN: 250 to 300 cases?

8 MR. GLOVER: I know right now we've
9 got probably 60 or 70 that are open.

10 MR. CROCKER: That's four times the
11 CPAs so you can divide it by four. But we're
12 still, if you do the math, we're still not
13 pro-rata.

14 MR. GLOVER: Still, not all of
15 them, though as -- you know, there are places that
16 I call that are really the third-party complaints,
17 the problem CPAs and then there's compliance
18 issues with CPEs. Some of those are compliance
19 issues with CPEs.

20 In our state, the way we do -- and
21 I've talked with Virginia and Virginia is
22 contemplating doing this as well and so is
23 Washington, D.C. -- we don't ask the CPA to turn
24 in a listing of all their hours every year of what
25 they took. We sign an affidavit that says, I took

1 my 40 hours, I had my two hours of ethics,
2 required ethics. And it's about five questions;
3 do you self-report any administrative problems,
4 any suits, and things like that.

5 And one of the things that you sign
6 that you did do is your CPE, and then they'll
7 randomly do audits every year and they'll look at,
8 you know, they'll just pick your name out of a hat
9 and then they'll ask you to produce your CPE
10 records. If you can't produce it, it becomes a
11 violation of integrity and not a violation of CPE.

12 So you lose -- traditionally,
13 you'll lose your license for one year in North
14 Carolina if you've lied on your affidavit about
15 having all your CPEs. It's pretty much a standard
16 that you will be suspended for one year. So some
17 of those cases, a lot of those cases are
18 compliance issues, if you didn't register, if you
19 didn't do your CPEs.

20 MR. BALDWIN: Do you ask in those
21 questions, do you timely file all of your federal
22 and state income tax returns?

23 MR. GLOVER: That's going to be
24 added.

25 MR. BALDWIN: It's going to be

1 added?

2 MR. GLOVER: It's hidden in the
3 administrative -- you know, do you have any
4 administrative issues against you, as well as any
5 civil or criminal activity. And that's been kind
6 of a confusion, so we're going to make that
7 clearer. Have you complied with federal and state
8 tax laws.

9 MR. CHAIRMAN: Thank you, very
10 much.

11 MR. GLOVER: Thank you.

12 MR. BURKETT: I want to say one
13 thing. The legislative committee that Mark Harris
14 has set up, I'm in charge of that one for NASBA
15 this year, so we'll see how that goes.

16 MS. CUBITT: Mr. Chairman, the
17 Board has looked at the in-service before and it's
18 expressed an interest in doing that. Bob had
19 given me some information on it. That was with
20 the prior administration and they were not
21 receptive to us doing that. I would be glad to
22 ask to do that now.

23 MR. CHAIRMAN: Why don't we address
24 that. Because we've got some other things we're
25 going to address later on today. Why don't we

1 include that at that time?

2 MS. CUBITT: Okay.

3 MR. CHAIRMAN: But thank you,
4 Doris, for bringing that up. Well, let's have
5 another little, short recess and we'll get ready
6 for our hearing. We'll take a short five-minute
7 break.

8 (Recess from 9:38 a.m. to 9:42 a.m.)

9 MR. CHAIRMAN: I call this meeting
10 to order and this is the matter of Flint Smith.
11 Everyone is reminded the purpose of this hearing
12 is to determine whether the licensee has violated
13 the South Carolina Accountancy Act. Everyone is
14 reminded that these proceedings are being recorded
15 and all witnesses must be sworn before they
16 testify, all remarks should be directed to the
17 Chair.

18 Mr. Smith, are you here?

19 MR. SMITH: Yes, sir.

20 MR. CHAIRMAN: We're glad you're
21 here. Are you being represented by counsel?

22 MR. SMITH: Yes, sir.

23 MR. CHAIRMAN: And who is that?

24 MR. SMITH: Stan Freeman.

25 MR. CHAIRMAN: Stan Freeman?

1 MR. FREEMAN: Yes.

2 MR. CHAIRMAN: Give your address to
3 the court reporter.

4 MR. FREEMAN: Yes. 1777 Bull
5 Street, Columbia, 29226.

6 MR. CHAIRMAN: We're glad you're
7 here to be with us today. At this time, do we
8 need to swear the witness in? Yes. Let's swear
9 the witness in at this time, if you would. I'll
10 turn it over to the court reporter.

11 MR. FREEMAN: I have three
12 witnesses as well.

13 MR. CHAIRMAN: Well, we'll do them
14 one at a time.

15 Whereupon:

16 Flint Smith, having been duly sworn
17 and cautioned to speak the truth, the whole
18 truth and nothing but the truth, testified as
19 follows:

20 MR. GRIGG: And, Mr. Freeman, if
21 you'll state who the other witnesses are and have
22 them stand and be sworn in.

23 MR. FREEMAN: All right. Donn
24 McIntyre.

25 Whereupon:

1 Donn McIntyre, having been duly
2 sworn and cautioned to speak the truth, the
3 whole truth and nothing but the truth,
4 testified as follows:

5 MR. FREEMAN: Barry Boggero.

6 Whereupon:

7 Barry Boggero, having been duly
8 sworn and cautioned to speak the truth, the
9 whole truth and nothing but the truth,
10 testified as follows:

11 MR. FREEMAN: Ketan Patel.

12 Whereupon:

13 Ketan Patel, having been duly sworn
14 and cautioned to speak the truth, the whole
15 truth and nothing but the truth, testified as
16 follows:

17 MR. CHAIRMAN: Ms. Hawkins, do you
18 have any other witnesses --

19 MS. HAWKINS: The State has two
20 witnesses. We have Todd Vaughn.

21 Whereupon:

22 Todd Vaughn, having been duly sworn
23 and cautioned to speak the truth, the whole
24 truth and nothing but the truth, testified as
25 follows:

1 MS. HAWKINS: And Larry Atkins.

2 Whereupon:

3 Larry Atkins, having been duly
4 sworn and cautioned to speak the truth, the
5 whole truth and nothing but the truth,
6 testified as follows:

7 MR. CHAIRMAN: Ms. Hawkins, you
8 have the floor.

9 MS. HAWKINS: Thank you. I'm
10 Suzanne Hawkins for the State. We're here this
11 morning in the matter of Flint Penfield Smith
12 whose license number is CPA2062. What we're here
13 to show you this morning is that Mr. Smith has
14 engaged in some very serious violations of your
15 Practice Act. We're going to show you that he
16 entered an offer plea which has the same effect as
17 a guilty plea to two charges, obstruction of
18 justice and breach of trust over \$5,000.

19 We're also going to show you that
20 he has numerous judgments entered against him in
21 surrounding counties and that he failed to
22 disclose those judgments on his applications for
23 the years 2006, 2007, 2008, 2009 and 2011. After
24 we show you all of those things, we're going to be
25 asking that you revoke his license, preferably

1 permanently, in the interest of the protection of
2 the public.

3 I would also like to address one
4 more issue in my opening. Mr. Smith's attorney
5 has indicated that they would like to attempt to
6 reopen the facts that surround the plea in today's
7 hearing, and I would point you to a 2008 South
8 Carolina Supreme Court case which precludes them
9 from doing so, and that is Zircher v. Bilton. In
10 that case, the State Supreme Court specifically
11 held that when a defendant enters an Alford plea
12 in a criminal matter, he cannot then attempt to
13 reopen the facts or re-litigate the matter in a
14 different setting.

15 We would obviously submit to you
16 that that would apply here and that the plea
17 stands on its own. It is treated as a guilty plea
18 as this Supreme Court case also indicates. And,
19 therefore, we will be objecting to any attempt to
20 reopen the facts underlying the plea. Thank you.

21 MR. FREEMAN: It would be our
22 position on that, your Honor, that it was a nolo
23 contendere plea in which we simply did not contest
24 the facts at that hearing rather than a nol plea.
25 Nolo contendere simply means no contest. We

1 entered that plea specifically so that we could
2 defend here. The cost and expense of that
3 criminal trial was going to be too much, so we
4 entered a nolo contendere plea.

5 MR. CHAIRMAN: Mr. Grigg?

6 MR. GRIGG: For either attorney,
7 that's pretty simple enough to determine. Is
8 there any documentation? Is there a plea sheet or
9 anything that would show what type of plea was
10 entered?

11 MS. HAWKINS: Yes. We do have the
12 sentencing sheets that we'll be introducing, I
13 mean, however you'd like to handle it. I can
14 introduce them with my witness or present them to
15 you now.

16 MR. GRIGG: Well, you don't have to
17 introduce them, but let me see them. I won't let
18 anybody else see him.

19 MS. HAWKINS: Okay. I also have
20 the transcript of the plea hearing which very
21 clearly indicates that it was an Alford plea.

22 MR. GRIGG: You were going to enter
23 them anyway?

24 MS. HAWKINS: I was not going to
25 enter the transcript, but I do have copies of it.

1 MR. CHAIRMAN: Mr. Freeman, you're
2 officially requesting us to open up those other
3 packets?

4 MR. FREEMAN: Yes, we are.

5 MR. CHAIRMAN: Is that what you're
6 making here today?

7 MR. FREEMAN: That's correct.

8 MR. GRIGG: Go ahead and introduce
9 what you've got here, just to make it simpler.
10 Whatever you were going to enter, go ahead and
11 enter them, Ms. Hawkins, and then let me look at
12 it. I won't let the Board look at it yet.

13 MS. HAWKINS: Okay.

14 MR. GRIGG: Mr. Freeman, have you
15 had a chance to look at what she's about to
16 introduce?

17 MR. FREEMAN: No, I haven't. I
18 have repeatedly requested that she provide me with
19 a list of her witnesses and whatever she was going
20 to produce.

21 MS. HAWKINS: I haven't received
22 any such requests.

23 MR. FREEMAN: Those requests were
24 sent to you by email, just like we were notified
25 here. And I can --

1 MS. HAWKINS: If you can produce
2 those emails, there must be some sort of
3 technological glitch because I never received any
4 such request. I would have very quickly and
5 easily and happily responded with all of the
6 documents.

7 MR. GRIGG: Well, we can worry
8 about that in a minute. Let Mr. Freeman see those
9 if he hasn't.

10 MS. HAWKINS: I've given them to
11 him.

12 MR. GRIGG: Oh, okay.

13 MR. FREEMAN: She just handed them
14 me them.

15 MR. BALDWIN: I move that the Board
16 go into Executive Session for the purpose of
17 considering the request concerning opening the
18 facts.

19 MR. CHAIRMAN: There's a motion on
20 the floor. Do I hear a second?

21 MR. LUNSFORD: Second.

22 MR. CHAIRMAN: Any discussion?

23 (No response)

24 MR. CHAIRMAN: All in favor, please
25 say aye.

1 (Response)

2 MR. CHAIRMAN: Any opposed?

3 (No response)

4 MR. CHAIRMAN: If y'all will excuse
5 us for a minute, everyone leave except our advice
6 counsel and we'll be with you shortly to consider
7 this request.

8 (Executive Session from 9:50 a.m.
9 to 10:00 a.m.)

10 MR. CHAIRMAN: Do I hear a motion
11 to come out of Executive Session?

12 MS. PIKE: So moved.

13 MR. BALDWIN: I'll second.

14 MR. CHAIRMAN: There's a motion and
15 a second to come out of Executive Session. All in
16 favor, please say aye.

17 (Response)

18 MR. CHAIRMAN: Any opposed?

19 (No response)

20 MR. CHAIRMAN: Please let the
21 record reflect that no votes were taken during
22 Executive Session.

23 Mr. Freeman, the Board is denying
24 your request to reopen the facts in that case. I
25 will turn it back over to Ms. Hawkins. Are there

1 any other opening comments before we begin?

2 Ms. Hawkins, you're going to go first. Do you
3 have any other opening comments, Mr. Freeman?

4 MR. FREEMAN: No.

5 MR. CHAIRMAN: Thank you, sir.

6 MR. FREEMAN: Well, let me add
7 this. We will want to go in with out character
8 witnesses as well as the complaint, for this Board
9 alleges certain judgments and Mr. Smith's failure
10 to respond to those, I think she had said from
11 2005 on, and we will be offering testimony that
12 all of those judgments have been paid and were
13 paid prior to 2005.

14 MR. GRIGG: And as long as it's
15 part of what's in the complaint that's being
16 alleged against your client and is before the
17 Board today, you can enter testimony into evidence
18 regarding that.

19 MR. FREEMAN: Thank you.

20 MS. HAWKINS: Thank you. My first
21 witness is Todd Bond. Mr. Bond, this will be
22 awkward, but if you could try to direct your
23 answers toward the Board, but I'll stand back
24 here.

25 DIRECT EXAMINATION

1 BY MS. HAWKINS:

2 Q. What's your current position?

3 A. I'm currently chief investigator of
4 Labor, Licensing and Regulation.

5 Q. And how long have you been in that
6 position?

7 A. Since June the 27th.

8 Q. And what did you do before that?

9 A. I was an investigator. I was an
10 investigator for the Accountancy Board,
11 Architects, Engineers, Land Surveyors and a couple
12 of others.

13 Q. And do you know of the respondent,
14 Mr. Smith?

15 A. I do.

16 Q. How do you know of him?

17 A. I was assigned a case with which
18 Mr. Smith was the respondent.

19 Q. And did you investigate that case?

20 A. I did.

21 Q. What did you do as part of your
22 investigation?

23 A. The first thing I normally do is send a
24 letter of notice. A letter informing the
25 respondent of the complaint.

1 Q. And did you do that in this case?

2 A. I did.

3 Q. Is this the letter you're referring to?

4 A. It is.

5 Q. Is that your signature?

6 A. That is.

7 Q. And what's the date on that letter?

8 A. December 8th, 2010.

9 Q. Did you mail this out to Mr. Smith?

10 A. I did.

11 MS. HAWKINS: If I could move this
12 in as State's number 1.

13 MR. CHAIRMAN: Any objection,
14 Mr. Freeman?

15 MR. FREEMAN: So objection to its
16 introduction. Although my client says he never
17 received the letter.

18 MR. CHAIRMAN: So entered.

19 (STATE'S EXH. #1, Letter - 12/8/10, was
20 marked for identification.)

21 BY MS. HAWKINS:

22 Q. Now, Mr. Bond, which complaint does this
23 inform us of, which case number?

24 A. Case number 2010-25.

25 MR. FREEMAN: If I could interrupt

1 just a minute. My client has further reviewed the
2 letter and he did receive it.

3 MR. SMITH: Yeah. I did receive
4 it.

5 MR. CHAIRMAN: Thank you.

6 BY MS. HAWKINS:

7 Q. And did you receive a response from
8 Mr. Smith?

9 A. No, I did not.

10 Q. Did you ask him for a response?

11 A. I did.

12 Q. What was the basis of this complaint,
13 this 2010-25?

14 A. We had learned that judgments had been
15 entered against Mr. Smith in three matters.

16 Q. Okay. And what further investigation
17 did you do in this matter?

18 A. I obtained copies of the judgments. I
19 also looked to see if there were any judgments in
20 any other surrounding counties as well.

21 Q. Okay. Did you find any?

22 A. Yes.

23 Q. Which counties did you look in, or in
24 which counties did you look?

25 A. Just in the lower state. I think

1 Bamberg, Allendale, Barnwell, Jasper, some of
2 those.

3 Q. Okay. Let me show you this document and
4 ask if you recognize it.

5 A. It's a public index printout from the
6 Allendale County Judicial -- the Fourteenth
7 Judicial Circuit.

8 Q. Okay. And what day did you update this
9 information?

10 A. 11/30/2011.

11 Q. Okay. And what does this document
12 indicate?

13 A. That there was a judgment entered for
14 David E. Dawson -- wait, wait, wait. Yes. A
15 judgment entered for David E. Dawson against
16 Mr. Smith in the amount of \$148,000, approximately
17 \$148,000 on August the 2nd of 1999.

18 Q. All right.

19 MS. HAWKINS: If I could enter this
20 in as State's number 2.

21 MR. CHAIRMAN: Any objection,
22 Mr. Freeman?

23 MR. FREEMAN: No objection.

24 (STATE'S EXH. #2, Public Index -
25 Allendale County, was marked for

1 identification.)

2 BY MS. HAWKINS:

3 Q. Mr. Bond, did you look in any other
4 counties as part of your investigation?

5 A. I believe Bamberg and I think I looked
6 in Jasper and Charleston County.

7 Q. Okay. Let me ask if you recognize
8 this.

9 A. It's a public index, a printout from the
10 Second Judicial Circuit in Bamberg County.

11 Q. Okay. And does this packet contain more
12 than one judgment?

13 A. Four judgments.

14 Q. So four in Bamberg County?

15 A. Yes.

16 Q. What are the amounts of those?

17 A. \$25,000, approximately \$58,000 and
18 \$4,700 and 1,000.

19 Q. And on what date did you obtain this
20 information?

21 A. May 5th, 2011.

22 Q. Okay. And can you -- I'm sorry to make
23 you flip through again, but can you give us the
24 dates of those judgments?

25 A. Surely. For the first one, August 20th,

1 **2010, February 2nd, 2011, April 23rd, 1997, and**
2 **April 9th of 2002.**

3 MS. HAWKINS: If I could move this
4 document in as State's number 3.

5 MR. CHAIRMAN: Any objection,
6 Mr. Freeman?

7 MR. FREEMAN: No, sir.

8 (STATE'S EXH. #3, Public Index - Bamberg
9 County, was marked for identification.)

10 BY MS. HAWKINS:

11 **Q. Mr. Bond, I'm going to hand you another**
12 **document. Do you recognize this one?**

13 **A. It's a public index printout from the**
14 **Second Judicial Circuit, Barnwell County.**

15 **Q. And if you could just go through and**
16 **give the date and the amount on each item.**

17 **A. A judgment dated April 14, 1992 in the**
18 **amount of \$30,000. A judgment -- it's a**
19 **disposition date of March 17th, 1995 and a**
20 **judgment in the amount of \$45,000. A judgment**
21 **date of November 27th, 1995 in the amount of**
22 **\$25,000.**

23 **Q. Okay. And on what date did you obtain**
24 **this information?**

25 **A. May 5th, 2011.**

1 MS. HAWKINS: If I could move this
2 in as State's 4.

3 MR. FREEMAN: No objection.

4 (STATE'S EXH. #4, Public Index -
5 Barnwell County, was marked for
6 identification.)

7 BY MS. HAWKINS:

8 **Q. I believe you testified the original**
9 **information was Charleston County?**

10 **A. Yes.**

11 **Q. And are these the Charleston County**
12 **judgments that you first learned of?**

13 **A. Yes, they are.**

14 **Q. And if you could indicate the date and**
15 **amount of each of those.**

16 **A. June 16th, 2003, \$8,700. June 16th,**
17 **2003, \$25,800. May 14th, 2004, \$90,000.**

18 **Q. And on what date did you obtain this**
19 **information?**

20 **A. May 5th, 2011.**

21 MS. HAWKINS: If I could move these
22 in as State's number 5.

23 MR. CHAIRMAN: Any objection,
24 Mr. Freeman?

25 MR. FREEMAN: No objection.

1 MR. CHAIRMAN: Thank you.

2 (STATE'S EXH. #5, Public Index -
3 Charleston County, was marked for
4 identification.)

5 BY MS. HAWKINS:

6 Q. Mr. Bond, did you include in your
7 investigation any analysis of Mr. Smith's license
8 applications?

9 A. I obtained printouts of his license
10 applications.

11 Q. And how did you obtain those copies?

12 A. I received them from the Board staff.

13 Q. Okay. Is this one of those?

14 A. Yes.

15 Q. And for what year is this application
16 submitted?

17 A. It's 2006 when this was submitted.

18 MS. HAWKINS: If I could move that
19 in as State's number 6.

20 MR. CHAIRMAN: Any objection,
21 Mr. Freeman?

22 MR. FREEMAN: No objection.

23 (STATE'S EXH. #6, License Application -
24 12/17/06, was marked for identification.)

25 BY MS. HAWKINS:

1 Q. Mr. Bond, is there a question that
2 relates to outstanding judgments on this
3 application?

4 A. Yes.

5 Q. And what is that question?

6 A. Question number three, since the date of
7 your last renewal application, have you become a
8 party to any civil suit, bankruptcy action,
9 administrative proceeding or binding arbitration,
10 the basis of which is grounded upon an allegation
11 of gross negligence, dishonesty, broad
12 misrepresentation or incompetence.

13 Q. And what was Mr. Smith's answer to that
14 question?

15 A. No.

16 Q. Is this another license application that
17 you obtained from Board staff?

18 A. It is.

19 Q. And what's the date on that?

20 A. November 5th, 2007.

21 MS. HAWKINS: If I could move this
22 in as State's 7.

23 MR. CHAIRMAN: Any objection,
24 Mr. Freeman?

25 MR. FREEMAN: No objection.

1 (STATE'S EXH. #7, License Application -
2 11/5/07, was marked for identification.)

3 BY MS. HAWKINS:

4 Q. Mr. Bond, does the same question appear
5 on the 2007 renewal application?

6 A. It does.

7 Q. And what was Mr. Smith's response?

8 A. No.

9 Q. Is this another license application that
10 you received from Board staff?

11 A. It is.

12 Q. And what's the date on that?

13 A. December 15th of 2008.

14 MS. HAWKINS: If I could move this
15 in as State's number 9.

16 MR. FREEMAN: No objection.

17 MR. CHAIRMAN: Thank you,
18 Mr. Freeman.

19 (STATE'S EXH. #8, License Application -
20 12/15/08, was marked for identification.)

21 BY MS. HAWKINS:

22 Q. Does the same question that you
23 testified to with the 2006 application appear on
24 the 2008 application?

25 A. It does.

1 Q. And what was Mr. Smith's response to
2 that question?

3 A. No.

4 Q. Is this another license application that
5 you received a copy of from the Board staff?

6 A. Yes.

7 Q. And, to your knowledge, what date was
8 this application submitted, or what year?

9 A. I believe this was the 2009 application.

10 Q. And was there a similar question or the
11 same question on this application as on the 2006
12 through the 2008?

13 A. Yes, there is.

14 Q. And what was Mr. Smith's response?

15 A. No.

16 MS. HAWKINS: If I could move this
17 in as State's number 8.

18 MR. CHAIRMAN: Any objection,
19 Mr. Freeman?

20 MR. FREEMAN: No objection. I
21 would ask to clarify, though, how they determined
22 this was 2009.

23 MR. CHAIRMAN: I haven't seen it
24 yet, but, Ms. Hawkins?

25 MS. HAWKINS: Yeah. It was in the

1 order. So, I mean, we guessed that it was the
2 2009 because that was the next renewal in the
3 order that the stack came. But I will agree with
4 Mr. Freeman that there's nothing on the document
5 that indicates 2009. We do know it was an
6 additional application.

7 (STATE'S EXH. #9, License Renewal -
8 2009, was marked for identification.)

9 BY MS. HAWKINS:

10 **Q. And, finally, Mr. Bond, is this another**
11 **license application of Mr. Smith's?**

12 **A. It is.**

13 **Q. And what year is this one?**

14 **A. This is the license renewal for 2011.**

15 **Q. And did Mr. Smith answer yes to any**
16 **question on this application?**

17 **A. He did.**

18 **Q. And what was that?**

19 **A. Question 8, since your last renewal,**
20 **since you last renewed your license, have you been**
21 **charged, arrested, indicted or convicted, pled**
22 **guilty of or pled nolo contendere for a violation**
23 **of any Federal, State or local other than a minor**
24 **traffic violation? And question 9, since you have**
25 **last renewed your license, have you had any**

1 **investigation, formal complaint, disciplinary**
2 **action filed against you by any person, employer**
3 **or licensing Board in any jurisdiction.**

4 MS. HAWKINS: I'm sorry. Can I
5 move this in as State's number 10?

6 MR. CHAIRMAN: Mr. Freeman, have
7 you got any objection as to that exhibit?

8 MR. FREEMAN: No. We don't have no
9 objection. Actually, we would point out number 11
10 --

11 MS. HAWKINS: It looks like he
12 scratched out the yes and initialed it.

13 BY MS. HAWKINS:

14 **Q. Mr. Bond, on question 11, what does it**
15 **appear Mr. Smith responded there?**

16 **A. It appears that yes was checked and then**
17 **scratched through and -- that no was checked and**
18 **there's Mr. Smith's initials beside the no.**

19 **Q. Okay. And did he --**

20 MR. GRIGG: Ms. Hawkins, just a
21 second. I don't think the Chair has actually
22 moved it into evidence.

23 MS. HAWKINS: Oh, I'm sorry.

24 MR. CHAIRMAN: I was going to make
25 sure that Mr. Freeman -- you don't have any

1 problem?

2 MR. FREEMAN: No objection.

3 MR. CHAIRMAN: Okay. Thank you.

4 MS. HAWKINS: Thank you,
5 Mr. Grigg.

6 BY MS. HAWKINS:

7 Q. Mr. Bond, did Mr. Smith furnish any
8 explanation or further information regarding his
9 yes answers?

10 A. He did. He attached to the application
11 an indictment for obstruction of justice and
12 breach of trust with fraudulent intent valuing
13 5,000 or more. And there's a letter as well
14 saying that he has enclosed this letter of
15 explanation and indictments.

16 Q. Okay. So did your investigation of page
17 2010-25 indicate violations of the Practice Act?

18 A. Yes.

19 Q. Do you have knowledge of another case
20 that was, another complaint that was filed against
21 Mr. Smith?

22 A. I do.

23 Q. And what was that and how did it come
24 in?

25 A. I believe we received a call concerning

1 that complaint. Repeat the question again.

2 Q. Was there another complaint filed
3 against Mr. Smith?

4 A. There was.

5 Q. Or opened against Mr. Smith?

6 A. There was another complaint. I believe
7 it was 2011-23. I'm not exactly sure on the
8 number. And it was a -- we received a call
9 concerning -- I can't remember what the other
10 judgments are. It was criminal matters.

11 Q. Okay. In your experience, if a --

12 MR. FREEMAN: Your Honor, I would
13 object to this unless he received the call. If he
14 was the one that talked, then he can testify to
15 it.

16 MS. HAWKINS: I'm not going to ask
17 him about any of the facts of that complaint. I'm
18 just having him establish as someone who had the
19 file that there was a second case. We're not
20 going to get into the facts of that case with this
21 witness.

22 He was the investigator for the
23 Accountancy Board at that point and would have
24 known of any complaints that came in.

25 MR. FREEMAN: And my position is,

1 why bring it up if it's not part of this action?

2 MS. HAWKINS: It is part of this
3 action, but I'll have my next witness address it
4 more for you.

5 MR. CHAIRMAN: I sustain the
6 objection. Ms. Hawkins, you can proceed. I've
7 sustained the objection.

8 MS. HAWKINS: Okay. Thank you.
9 That's all I have for this witness. If you'll
10 answer Mr. Freeman's questions and any that the
11 Board may have.

12 CROSS-EXAMINATION

13 BY MR. FREEMAN:

14 **Q. Mr. Bond, have you ever talked with**
15 **Flint Smith?**

16 **A. No, I have not.**

17 **Q. Okay. And your purpose here today was**
18 **to introduce these documents?**

19 **A. Yes, sir.**

20 MR. FREEMAN: That's all I have.

21 MR. CHAIRMAN: Thank you.

22 REDIRECT EXAMINATION

23 BY MS. HAWKINS:

24 **Q. Mr. Bond, did you attempt to contact**
25 **Mr. Smith?**

1 A. I did.

2 Q. Did he respond to you?

3 A. He did not.

4 Q. And you did not just -- I mean, you were
5 the investigator assigned to this case; is that
6 correct?

7 A. I was.

8 Q. And you just presented the results of
9 your investigation?

10 A. I did.

11 Q. Thank you.

12 MR. CHAIRMAN: Anything else,
13 Mr. Freeman?

14 MR. FREEMAN: No, thank you.

15 MR. CHAIRMAN: Any more questions
16 of this witness, Ms. Hawkins?

17 MS. HAWKINS: No. Would the Board
18 like to ask him any?

19 MR. CHAIRMAN: Any questions for
20 Mr. Bond from any Board member?

21 MS. PIKE: Mr. Bond, how did you
22 attempt to contact Mr. Smith?

23 MR. BOND: By mail.

24 MS. PIKE: And did you do so on
25 more than one occasion?

1 MR. BOND: I believe just once in
2 this case.

3 MR. BALDWIN: Mr. Bond, was
4 Mr. Smith's address on record with the Board of
5 Accountancy?

6 MR. BOND: It was.

7 MR. BALDWIN: Thank you.

8 MR. CHAIRMAN: Do you have any
9 questions?

10 RECROSS-EXAMINATION

11 BY MR. FREEMAN:

12 Q. Just making clear, the only contact or
13 attempt is the letter that was first introduced
14 dated --

15 A. That's correct. Dated December 8th of
16 2010.

17 Q. Okay. Thank you. I wanted to make sure
18 that was clear.

19 MS. HAWKINS: You all have that
20 exhibit, just to clarify.

21 MR. CHAIRMAN: Exhibit number 1, I
22 believe.

23 MS. HAWKINS: Yes.

24 MR. CHAIRMAN: All right. I think
25 we can proceed with the next witness if there are

1 no other questions.

2 MS. HAWKINS: Thank you. My second
3 witness is Larry Atkins.

4 DIRECT EXAMINATION

5 BY MS. HAWKINS:

6 Q. Good morning, Mr. Atkins. What is your
7 current position?

8 A. Chief investigator for the Office of
9 General Counsel.

10 Q. And how long have you been in that
11 position?

12 A. Three years.

13 Q. What did you do before that?

14 A. I was the chief investigator, Office of
15 Investigations and Enforcement.

16 Q. And what agency was that with?

17 A. Department of Labor, License and
18 Regulation.

19 Q. How long did you hold that position?

20 A. Four years.

21 Q. And before that, what was your
22 professional position?

23 A. I was an investigator with the Federal
24 grand jury. And prior to that, I was a special
25 agent, a federal investigator.

1 Q. Okay. Are you familiar with or do you
2 know of the respondent, Mr. Smith?

3 A. By name only.

4 Q. Okay. And how do you know of him?

5 A. I was requested by you to retrieve some
6 records from Bamberg Clerk of Court.

7 Q. Okay. And did you do so?

8 A. Yes, I did.

9 Q. Let me show you two documents and ask
10 you if these are the documents you're referring
11 to.

12 A. (Views documents).

13 Q. Are these the documents that you
14 retrieved from Bamberg County?

15 A. Yes.

16 Q. And what are they?

17 A. These are sentencing documents, or
18 indictments and sentencing documents from Bamberg
19 County versus Flint Penfield Smith.

20 Q. Why are there two of them?

21 A. One is for breach of trust, valued
22 \$5,000 or more. The other is obstruction of
23 justice.

24 Q. And what type of copy did you retrieve
25 from the --

1 **A. Certified true copies.**

2 MS. HAWKINS: If I could move these
3 in as the breach of trust, State's number 11 and
4 the obstruction of justice, State's number 12.

5 MR. CHAIRMAN: Any objection,
6 Mr. Freeman?

7 MR. FREEMAN: No objection.

8 (STATE'S EXH. #11, Breach of Trust, was
9 marked for identification.)

10 (STATE'S EXH. #12, Obstruction of
11 Justice, was marked for identification.)

12 BY MS. HAWKINS:

13 **Q. Mr. Atkins, what do these sentencing**
14 **sheets reflect?**

15 **A. Well, the breach of trust valued --**

16 MR. FREEMAN: Objection. They
17 speak for themselves. I don't think he needs to
18 interpret them.

19 MR. CHAIRMAN: I'll sustain it.

20 MS. HAWKINS: That's fine. The
21 Board can review them. That's all the questions I
22 have for this witness.

23 MR. CHAIRMAN: Any questions,
24 Mr. Freeman?

25 RE CROSS-EXAMINATION

1 BY MR. FREEMAN:

2 Q. Have you ever spoken with Flint?

3 A. No, sir.

4 Q. Okay.

5 MR. FREEMAN: That's all I have.

6 MR. CHAIRMAN: Any questions from
7 any Board members? I think we need a second
8 review of what we have here. Does everybody have
9 a copy of, it's 283 in the top corner, numbered
10 283? Does anybody have any questions after
11 reviewing these documents?

12 (No response)

13 MR. CHAIRMAN: Hearing no
14 questions, I think your witness is excused.

15 MS. HAWKINS: Thank you. The State
16 rests.

17 MR. CHAIRMAN: Mr. Freeman?

18 MR. FREEMAN: Yes. I would first
19 like to call three character witnesses. The first
20 would be Donn McIntyre.

21 MR. CHAIRMAN: All right.

22 MR. GRIGG: Mr. Freeman, could you
23 state his name one more time? I'm sorry.

24 MR. FREEMAN: Donn, D-o-n-n, two
25 Ns, and McIntyre, M-c-I-n-t-y-r-e.

1 DIRECT EXAMINATION

2 BY MR. FREEMAN:

3 Q. Mr. McIntyre, did I accurately give your
4 name and correct spelling?

5 A. Yes, sir, you did.

6 Q. And where do you live?

7 A. I live in Charleston, South Carolina.

8 Q. Okay. How long have you known Flint
9 Smith?

10 A. Two years, sir.

11 Q. And in what capacity?

12 A. He's my friend and also he is my CPA
13 agent, sir.

14 Q. Okay. And do you have an opinion as to
15 his character and honesty?

16 A. Yes, sir. Mr. Flint Smith has always
17 told me, if he did something, he's going to do it.
18 He's reliable and dependable and his character was
19 strong, sir. And if he told me he was going to do
20 it, he did it.

21 Q. All right. Answer any questions
22 opposing counsel might have.

23 A. Yes, sir.

24 MS. HAWKINS: I have no questions
25 for this witness.

1 MR. CHAIRMAN: Okay. Does any
2 Board members have any questions of this witness?

3 (No response)

4 MR. CHAIRMAN: Hearing none,
5 proceed.

6 MR. FREEMAN: Okay. And then I'll
7 call Barry Boggero.

8 MR. CHAIRMAN: Thank you, Mr.
9 McIntyre.

10 MR. MCINTYRE: Thank you, folks.

11 MR. GRIGG: And, Mr. Freeman, if
12 you'll spell his name, too, for me.

13 MR. FREEMAN: B-a-r-r-y
14 B-o-g-g-e-r-o.

15 MR. GRIGG: B-o-g-g-e-r-o?

16 MR. FREEMAN: Yes. But the double
17 Gs are pronounced like a J.

18 MR. GRIGG: Okay. Thank you.

19 DIRECT EXAMINATION

20 BY MR. FREEMAN:

21 **Q. Mr. Boggero, where do you live?**

22 **A. Greenwood, South Carolina.**

23 **Q. All right. And how long have you known**
24 **Flint Smith?**

25 **A. Probably about 20 years.**

1 Q. Okay. And who is Dave Marcum?

2 A. He was a guy I met through Flint back in
3 '08.

4 Q. And he is now deceased?

5 A. That's right.

6 Q. Did you have occasion to go with
7 Mr. Smith, Mr. Marcum and yourself to Keret
8 Patel?

9 A. I don't know where -- who it was, but it
10 was a convenience store in Holly Hill.

11 Q. Okay. And do you recall what occurred
12 at that meeting and what was established between
13 --

14 MS. HAWKINS: I've got to object to
15 this. Mr. Freeman has already been instructed
16 that the facts underlying the plea are not to be
17 reopened. Mr. Patel is the victim in this
18 matter.

19 MR. CHAIRMAN: We were supposed to
20 focus on the character only.

21 MR. FREEMAN: I understand that,
22 but I wanted it on the record. And I knew what
23 the ruling would be, but he is here capable of
24 telling and testifying what actually took place in
25 that transaction. I understand the rule.

1 MR. CHAIRMAN: All right. The
2 objection is sustained. Please proceed.

3 MR. FREEMAN: Thank you.

4 BY MR. FREEMAN:

5 **Q. Do you have an opinion on Mr. Flint**
6 **Smith's character and honesty?**

7 **A. I've known him for 20 years. He does**
8 **what he says he'll do. He's been a help to me in**
9 **business and all doing my accounting.**

10 **Q. And you've heard the testimony that was**
11 **tendered to this Board today?**

12 **A. Yeah.**

13 **Q. Does that change your opinion of him in**
14 **any regard?**

15 **A. Not in my opinion.**

16 **Q. Thank you. Answer any questions**
17 **opposing counsel may have.**

18 MS. HAWKINS: I have no questions
19 for this witness.

20 MR. CHAIRMAN: Does anybody on the
21 Board have any questions for this witness?

22 (No response)

23 MR. CHAIRMAN: Hearing none, I
24 think we're through with this witness. Thank you,
25 very much for your time.

1 MR. BOGGERO: Yes, sir.

2 MR. FREEMAN: I call Ketan Patel,
3 K-e-t-a-n P-a-t-e-l. And the witness has already
4 been sworn.

5 DIRECT EXAMINATION

6 BY MR. FREEMAN:

7 Q. Did I give your accurate name on the
8 record?

9 A. P-a-t-e-l, yeah.

10 Q. Okay. How long have you known Flint
11 Smith?

12 A. I've known him since 1995.

13 Q. Okay.

14 A. 15, 16 years.

15 Q. And he's done work for you and your
16 family?

17 A. He's been doing my accounting since that
18 time.

19 Q. Okay. Are you related to Keret Patel?

20 A. I'm actually not related, but he's like
21 family friend's in-laws.

22 Q. Okay. And if this Board would allow you
23 to testify about Keret Patel, his character and
24 the transaction, could you do so?

25 A. Yes.

1 **Q. Okay.**

2 **A. As I know --**

3 MS. HAWKINS: Wait. Whose
4 character are we talking about? Mr. Patel, the
5 victim?

6 MR. FREEMAN: Mr. Keret Patel.

7 MS. HAWKINS: I've got to object to
8 any testimony about the character of the victim in
9 the first case.

10 MR. CHAIRMAN: You have no
11 objections?

12 MS. HAWKINS: I have to object --

13 MR. CHAIRMAN: Oh, okay.

14 MS. HAWKINS: -- to any testimony
15 about the character of the victim.

16 MR. CHAIRMAN: Sustained.

17 BY MR. FREEMAN:

18 **Q. Could you testify if this Board would**
19 **consider it to his alcoholism?**

20 MS. HAWKINS: Objection.
21 Mr. Freeman is attempting to get around --

22 MR. CHAIRMAN: The objection is
23 sustained. Mr. Freeman, please move on.

24 MR. FREEMAN: Yes, sir. And I
25 don't want to offend the Board, but I've got to

1 establish a record for appeal.

2 BY MR. FREEMAN:

3 Q. Do you know of the honesty and integrity
4 of Flint Smith?

5 A. He's been always honest to me. And
6 other than that, he's always on call. Any time I
7 need, he helps increase businesses.

8 Q. Okay. And what is your opinion of his
9 character and integrity?

10 A. His character has been good. Other than
11 that, I have no idea what's going on.

12 Q. Okay. Now, you've heard what the
13 council has presented, opposing counsel has
14 presented the Board. Does that change your
15 opinion of Flint Smith at all?

16 A. No, sir.

17 Q. Okay. Thank you.

18 MR. FREEMAN: That's all I have.

19 MS. HAWKINS: I have no questions
20 of this witness.

21 MR. CHAIRMAN: Does any Board
22 member have a question?

23 (No response)

24 MR. CHAIRMAN: Okay. Thank you,
25 very much.

1 MR. FREEMAN: Thank you. I'd call
2 Flint Smith.

3 DIRECT EXAMINATION

4 BY MR. FREEMAN:

5 Q. And you have been sworn in.

6 A. Yes, sir.

7 Q. Okay. What I want you to do is take a
8 look at the documents that have been presented.
9 Not this one, but these. The judgment documents
10 and I want you to go over those one by one and
11 tell the Board the status of those.

12 A. Okay. This is going to go back some
13 time because some of these items that have
14 occurred, occurred back in the '80s and '90s,
15 okay?

16 Under the circumstances in these
17 situations that these came up, I was not of a
18 controlling interest in any of these businesses,
19 okay? And because of that, even though I may not
20 have agreed with some of the things that happened
21 in the businesses, I had no control because I was
22 either a minority interest stockholder or one that
23 could not offer any type of difference of opinion
24 where it would count.

25 In the early 1990s, through Mr. Boggero

1 here, I had gotten involved in a marina project in
2 Clemson, South Carolina. In that project itself,
3 I was a 50 percent owner initially and then later,
4 I ended up being a 14 percent owner.

5 In essence, what had occurred was, we
6 did a development project to try to help his
7 sister-in-law and we ended up having to loan money
8 to them individually. And in doing so, we had to
9 take the project over, not to our desire, but to
10 be able to cover some of the debts that were
11 involved in it.

12 The judgments that were originally
13 listed on here, going back to what they sent me,
14 regarding --

15 MR. CHAIRMAN: Which exhibit, if
16 you don't mind?

17 THE WITNESS: I'm looking back at
18 the actual document that shows the different
19 level -- I think it should be in that copy at your
20 office, the ones that have the different charges
21 listed out where I had to respond to them.

22 MR. FREEMAN: Well, you've got to
23 address them as they've presented them here. Do
24 you see these?

25 THE WITNESS: It's a little bit

1 different than this order. Is that going to
2 matter?

3 MR. FREEMAN: No, it won't matter.

4 THE WITNESS: Okay.

5 BY MR. FREEMAN:

6 A. In essence, the documents that they've
7 given us here on judgments with Gwaltney and
8 Darvon Lee and all these different things that
9 were there, all those were items that ended up
10 coming through that Marina project.

11 We had a gentleman by the name of -- I
12 hired a gentleman by the name of Philip Garfinkel
13 who is an attorney out of Charleston to help me
14 clean up these items and fix this back in the
15 latter 1990s, okay? In doing so, Mr. Garfinkel
16 was paid stock and cash a little over \$50,000 by
17 me to get this done.

18 This included going back to these
19 records where there were judgments entered,
20 including Harold Threlkeld, who was our attorney,
21 to obtain that property, that has been paid.
22 Garfinkel went ahead and took it upon himself as
23 part of his payment to me that I made to him --
24 and he's also a shareholder in that operation, as
25 well -- he was supposed to have covered and fixed

1 all these items.

2 Now, in 2009 -- I'm jumping forward a
3 little bit here -- but in 2009 when I -- I had not
4 gone in and done a property transaction in
5 probably 12 years on my record. In 2009, when I
6 went in to do a property transaction to actually
7 help another business that I had that has one of
8 these issues in it with a fellow by the name of
9 Torto, we had an extensive research check done --
10 because they were going to actually take my real
11 estate and use it as collateral -- we had an
12 extensive research done and on that research, none
13 of these items showed up.

14 And we can supply the documents on all
15 this. We went through the Loan Enterprise Bank
16 and nothing showed up. Now, somewhere, somehow,
17 where all this stuff has been dug up from, my
18 understanding was, everything was done and
19 satisfied because Garfinkel was paid to take care
20 of all of those issues and get everything
21 finished, okay?

22 Now, I come up here with all this stuff
23 and I am in complete amazement. Because I went
24 through a 2009 closing, all of these things should
25 have come to the forefront. Not one did, okay?

1 Now, my question is, is that if I paid
2 for this and I've gone through and paid
3 professionals to try to help me secure and clean
4 these things up over the years, how can I do a
5 real estate closing with those items out there?
6 Now, that's my biggest question.

7 The second thing is, is that looking
8 back at these other judgments in here, they've all
9 been paid, that I know of, or have been satisfied
10 and handled by Mr. Philip Garfinkel. Now, he is
11 now dead. I can't change those facts. But that's
12 what his responsibility was.

13 And I would have to say, when I go
14 through a real estate closing and none of these
15 things show up, not Dawson in Allendale, not
16 Finklestein -- or A&R Associates in Charleston
17 show up on my records. If they had, I would have
18 had to have paid them off. And I can produce
19 documents on all those items. Now, because I had
20 not gone in and done any real estate transactions
21 in 12 years, how was I to know some of these items
22 were still out there?

23 The other thing is, is that Craig Harris
24 was paid and when I signed these LLR items, the
25 question is, did I have any this year. And Philip

1 Garfinkel and I talked about those issues in the
2 1990s and coming into the 2000s about, if I had
3 these items on my record, how would I answer them.
4 And he professionally counseled me and told me
5 specifically that, if you did not have anything
6 occur in that year, the answer to any question
7 regarding a lien is no.

8 Now, if I'm supposed to keep up with
9 things that have supposedly been taken care of
10 over the years, which I was told was, and didn't
11 show up at a real estate closing in 2009, I'm
12 answering no to the best of my knowledge of what
13 I've paid for and what I'm supposed to be doing,
14 then I want to know why these items are still out
15 there and how these people can uncover those items
16 and the people that I've paid to straighten these
17 items out and correct -- and to protect my
18 interest as a CPA didn't. And I want to know how
19 the bank could make this loan and do all these
20 things with their closing attorneys and everybody
21 else without being able to do this.

22 Now, so that's why I answered no to
23 those because I was counseled that unless it
24 occurred in that year, that's what my answer
25 should be and that's what I did, okay?

1 Now, there's an item down in Allendale
2 County that we just found out about, is David
3 Dawson. I don't even know who David Dawson is.
4 Now, I see on here that there's John Pencelli
5 involved in this and I don't know whether they
6 sent it to John or whatever, but I had no
7 involvement with that person.

8 The only person that I know of that
9 could have had anything to do with him was a
10 fellow by the name of Michael Hutto that I think
11 went through and got -- he was trying to buy a
12 business down there and all I did was advise
13 Michael Hutto of something. But I had no
14 interaction with this David Dawson.

15 And, again, why didn't it show up at the
16 2009 closing if it was? This is the whole point
17 I'm trying to figure out here myself. That's why
18 I'm very confused about this entire action of all
19 these positions. And I can understand her details
20 and these investigators going and looking, but
21 when you have a real estate closing and it's right
22 there on the records, too, how do they get around
23 that?

24 The other question I have is, if all
25 these people were on the up and up with these

1 judgments and things, why aren't they entered in
2 my home county? All my work is done out of
3 Bamberg. Why are they not in my home county?
4 Very suspicious in my mind. It sounds like
5 there's been some attorneys playing some games.

6 I am going to get to the bottom of this
7 whether I make it through this or not with you
8 all. But I can tell you right now, there's some
9 shenanigans going on here and I will get to the
10 bottom of it now that I know what's going on.

11 But I will say this to you as well. And
12 I know that we're not supposed to talk about this,
13 but my understanding was, I would be able to
14 protect my interest as a CPA in front of this
15 Board under any circumstance.

16 Ethics, my ethics, I have not violated
17 anything. I was lied to by this Cura Patel. And
18 she can sit over there and object about this, but
19 I'm going to ask you on a prayer judgment issue
20 that you hear me out as a man to a Board and a
21 high responsibility I regard as a CPA.

22 MS. HAWKINS: And I will enter that
23 objection, since this Board has already ruled on
24 that issue, that those facts are not going to be
25 reopened here today.

1 MR. CHAIRMAN: The objection is
2 sustained.

3 THE WITNESS: Okay. That means I
4 can't what? I can't speak about it any further?

5 MR. FREEMAN: No.

6 THE WITNESS: Okay. Well, then,
7 how do I explain some of these items that were
8 brought up here? Like, for example, the Patel
9 issue and the note, how am I going to talk about
10 that?

11 MR. GRIGG: Anything that is
12 included in this complaint that has been alleged
13 against you.

14 THE WITNESS: That's the Cura Patel
15 case and that's the note.

16 MR. GRIGG: Okay.

17 THE WITNESS: Okay. That is
18 completely part of this whole thing.

19 MR. GRIGG: But the facts that are
20 set out in this complaint, that there was a plea
21 entered and it gives what the charges were and it
22 gives --

23 MR. FREEMAN: Do you understand why
24 the plea was entered?

25 MR. GRIGG: Sir, that does not

1 matter to this Board. This is not a criminal
2 matter. The criminal matter is closed. You
3 decided to enter a plea and that's between you and
4 the criminal court and the parties involved at
5 that time.

6 The facts behind that, this Board
7 has already said they're not going to get into, so
8 you can't rehash those facts. You can't explain
9 why you did what you did. That's not relevant at
10 this time, the fact that you did it and it's on
11 record. And when I say, did it, I mean, you
12 entered the plea and it's on record.

13 MR. FREEMAN: Well, also, his civil
14 suit is on record. They just didn't present it.

15 MR. GRIGG: Okay. That is not part
16 of this complaint against --

17 THE WITNESS: It is. How is it
18 not? I mean, I'm asking for help here. I'm
19 trying to get this thing straightened out.

20 MR. GRIGG: Well, you just said
21 they didn't present it and I don't see where they
22 present --

23 THE WITNESS: They mentioned the
24 case and the \$125,000 note. And the note, there
25 was a civil case that was entered two months prior

1 and never served me until almost a year later
2 before this thing went to a -- until I was
3 indicted.

4 MR. GRIGG: Okay. And those are
5 facts that would be relevant to that civil suit.

6 THE WITNESS: No. That's the civil
7 suit that's on record that's not here.

8 MR. GRIGG: And those are facts
9 that would be relevant to that civil suit. It
10 would not be relevant to you answering to these
11 judgments that they've alleged --

12 THE WITNESS: But that's on my
13 application here that they're questioning. I've
14 got to be able to respond to this, gentlemen.
15 What you're doing is you're not hearing what I'm
16 asking you. I have got to be able to respond to
17 this issue because it's on here.

18 MR. FREEMAN: Let me ask him a
19 couple of questions.

20 BY MR. FREEMAN:

21 **Q. In the plea -- and I think that was --**

22 MR. FREEMAN: What exhibit number
23 was that?

24 MS. HAWKINS: 11 and 12, I
25 believe.

1 MR. FREEMAN: 11 and 12, the
2 sentence sheet.

3 BY MR. FREEMAN:

4 Q. You were given restitution.

5 A. Correct.

6 Q. And the amount was \$125,000 plus 20
7 percent, \$25,000, the total of \$150,000. How much
8 are you paying monthly?

9 A. \$3160.

10 Q. Okay.

11 A. Actually, 3175 with the county cost.

12 Q. And you have not missed a single
13 payment?

14 A. Not one. I meet the due date every
15 time.

16 Q. Okay.

17 MR. FREEMAN: That's all.

18 THE WITNESS: But how am I going to
19 be able to address that?

20 MR. FREEMAN: You can't address
21 that. They've ruled.

22 THE WITNESS: Okay. So we can't
23 address that. Fine.

24 BY MR. FREEMAN:

25 A. The next item that we have on here -- I

1 hope I satisfactorily answered anything that's
2 happened prior to 2009 as far as these judgments
3 go. I've paid them.

4 Harold Threlkeld was paid. The reason
5 why Harold Threlkeld entered a judgment against
6 us, which is one of your items down there, is
7 because he quoted us a price of \$26,000 to do the
8 case and tried to hit us with 30,000. We had the
9 money to pay Harold Threlkeld, but because he had
10 not honored his scenario to us dealing with Laniel
11 Chapman, his will up there, we held payment. And
12 then he finally agreed to what he agreed to us in
13 writing for \$26,000, Mr. Langhans and myself, and
14 he was paid immediately.

15 We could not control him doing what he
16 did. We were not going to pay somebody something
17 that they made a commitment to us on and then
18 tried to change after the fact, okay? So that
19 answers the situation with Harold Threlkeld, but
20 now, he is dead as well, okay?

21 As far as the only two judgments I have
22 right now, I agree with. Orlando White is one, in
23 which he was helping one of my clients and I
24 guaranteed the note. I shouldn't have done that,
25 but I did it. That's why I owe Orlando White.

1 And he's a very good friend and I feel very badly
2 about that and I would like to pay him as soon as
3 I can. But my assets are tied up on that 2009
4 loan closing right now and I can't get any
5 additional equity to pay these.

6 There's also another judgment that's on
7 there in the name of -- a gentleman by the name of
8 Andrew Pjeter. Andrew Pjeter, right now, is in
9 the process of being sued by me, personally, as
10 part of a contingent that has defrauded myself,
11 one of my clients and one of my business projects
12 for over \$600,000. The FBI is involved in it
13 right now. They're doing the investigation. I've
14 been supplying them with various information on
15 this case.

16 Andrew Pjeter has defrauded me. He put
17 \$25,000 in, had my wife and I sign a note to him
18 which he said was, hey, I'm doing this to protect
19 my interest. He is the broker that was in charge
20 of putting that project together and we have lost
21 \$600,000 because the lender has not returned the
22 funds to-date. And it involves Wachovia Bank and
23 Wells Fargo. That is in process now, okay? So he
24 will be countersued for that money as well and
25 Mr. Freeman here, his firm will be handling that

1 for me.

2 So the two items that I have of Orlando
3 White, I cannot get funding right now. I've been
4 trying to sell my assets, but I can't sell them at
5 this time because nobody is buying land around my
6 subdivision or anywhere. I'm trying to take care
7 of this. I've been trying to take care of this
8 debt to protect myself.

9 Now, I need to go back in here so that
10 you all understand this. I had the funding to
11 take care of the Keret Patel note. I had to loan
12 the funding out to one of the businesses that we
13 had a stock guarantee on in there, okay? So that
14 Patel could exercise it. Which if he had, he
15 would have made \$75,000. But he didn't exercise
16 it.

17 But the problem was, when I borrowed
18 that money in 2009 from Enterprise Bank, I also
19 had to cover a debt to the company that Mr. Patel
20 had a stock option on, which I did do. That
21 gentleman was to return that money in 30 days for
22 me to pay this Keret Patel note off and he is in
23 the process of being prosecuted now by myself and
24 Mr. Freeman's firm and, if we have to, the State.
25 So he has not returned that funding. I would not

1 even be here today with these issues with Keret
2 Patel, period, if he'd have repaid that debt
3 within the 60 days that he has stated.

4 So my situation here, depending on
5 whatever research they want to do, I stand by my
6 2009 loan closing as correcting everything and I
7 don't understand why -- and I can supply all these
8 documents to the Board if they would like them.
9 I'll be more than happy to.

10 As far as David Dawson, I can't answer
11 that. I don't know -- I had no involvement with
12 that man. Why there's a judgment for \$140,000
13 sitting on my records, I don't know. And why we
14 didn't see it in 2009, I'd like to know that, too,
15 as well. I can provide the closing attorney,
16 anybody else that we need to do regarding any of
17 these issues.

18 Threlkeld has been paid, Craig Harris
19 has been paid. If they're sitting on the records,
20 then the attorney that I paid to do this closing,
21 obviously, didn't go to all the columns and write
22 satisfaction down. All these things are paid. I
23 don't have anything that I know is outstanding,
24 other than those two items that are there. Comdoc
25 that was on there, that was Philip Garfinkel's

1 copier down there in his office. Not in my
2 office, in his office. Why I'm tied into that,
3 I -- yes, I paid that off in the 2009 issue with
4 that closing.

5 Now, as far as those items go, as I told
6 you, I answered no because I was advised that
7 unless I had a judgment in that year, I was not to
8 answer yes. Now, if that's a problem, then I've
9 got an advice issue. But, again, the gentleman
10 now is deceased. He died in 2006, as I told you
11 before. So I feel here that -- and I am going
12 after Keret Patel. I'm letting you know that
13 right now. He fraudulently testified. We've got
14 documents from the state, we've got witnesses that
15 have made false statements.

16 MS. HAWKINS: Again, I'm going to
17 have to object to all of this testimony about
18 Mr. Patel.

19 MR. CHAIRMAN: Sustained.

20 THE WITNESS: I'm simply stating
21 the facts of the issue.

22 MR. CHAIRMAN: Do you have any
23 evidence to present?

24 THE WITNESS: I'm sorry?

25 MR. CHAIRMAN: Do you have any new

1 evidence, as far as any exhibits or anything, to
2 back any correspondence with the attorneys that
3 you hired to clean up all these judgments and
4 all?

5 THE WITNESS: I can provide if I
6 needed to. I didn't know I had to have that
7 today. I thought I was supposed to be here to
8 answer to a complaint.

9 MR. FORTE: Mr. Freeman, do you
10 have any exhibits that you want to want to
11 introduce into evidence?

12 MR. FREEMAN: No, I don't. Let me
13 ask him a couple of questions.

14 BY MR. FREEMAN:

15 Q. On your 2011 biannual license renewal,
16 January 21st, 2011, you did accurately answer
17 those questions, did you not? Specifically --

18 A. Specifically -- I'm looking at all of
19 them. Do you want me just to answer 11 or a
20 specific one?

21 Q. 8 and 9.

22 A. Since you last renewed your license,
23 have you been charged, arrested, indicted or
24 convicted and pled guilty or pled nolo contendere
25 for a violation of any Federal, State, local or --

1 **yes. I checked yes.**

2 Q. Okay.

3 A. And then since you last renewed your
4 license, have you had an investigation, a formal
5 complaint, disciplinary action or consent or order
6 filed of you by any of your employer -- person,
7 employer or licensing Board in your jurisdiction?

8 **Yes. And that goes back to this letter.**

9 Q. Okay.

10 A. Okay. And then this one right here,
11 since you last renewed, have you become a party to
12 a civil suit? The reason why I had to change that
13 from yes to no on that, so the Board will
14 understand this --

15 MR. CHAIRMAN: And we're talking
16 about Exhibit 10?

17 THE WITNESS: No. Item 11.

18 MR. FREEMAN: Yeah. Exhibit 10.

19 THE WITNESS: I'm sorry. Yes,
20 Exhibit 10.

21 MR. CHAIRMAN: On the renewal?

22 THE WITNESS: Yes. On the
23 renewal.

24 BY MR. FREEMAN:

25 **A. The reason why I checked that yes**

1 initially is because by that time, I had learned
2 about that civil suit in Bamberg County. But
3 because I was not served with it at that time, I
4 was told to check no, okay? And I did get served
5 with that, but it wasn't until January of 2011.
6 And, again, as I said, they had that civil suit
7 out there where he admitted the note was there two
8 months prior to the indictment. The State
9 overlooked that.

10 MR. FREEMAN: I think that's all we
11 have here.

12 THE WITNESS: Thank you. I
13 appreciate it, Board.

14 MR. CHAIRMAN: Ms. Hawkins?

15 CROSS-EXAMINATION

16 BY MS. HAWKINS:

17 Q. Mr. Smith, do you have with you today
18 any documentation of the settlement or
19 satisfaction of any of these judgments?

20 A. Not in my possession today, I do not.

21 Q. Okay. And how about any documentation
22 of the search that you testified about that showed
23 there were no judgments outstanding?

24 A. That's in the closing papers which I did
25 not bring, but we can provide them.

1 **Q. How about any documentation of the FBI**
2 **investigation you just testified to?**

3 **A. As a matter of fact, I just happen to**
4 **have -- I'm going to let Stan look at it and see**
5 **if we should put this in. And the only reason I**
6 **happen to have this here, if I have it, if I**
7 **didn't take it out --**

8 MR. FREEMAN: We'd offer a copy of
9 this. It comes off of the internet relative to
10 that investigation.

11 THE WITNESS: That's ongoing now.

12 MS. HAWKINS: Is this from a blog?

13 THE WITNESS: Yes. It involves a
14 bank, it involves a number of brokers, it involves
15 a number of professionals. But it's actually
16 taken money that we deposited in trust accounts.

17 MR. GRIGG: Mr. Freeman, if you'll
18 just have him hold on and let's get an objection.

19 THE WITNESS: I'm sorry.

20 MS. HAWKINS: I would object
21 because it's from a blog and I don't see any
22 mention of Mr. Smith in here. I'm not sure how we
23 tie this to judgments against him. Do you want to
24 review it, Mr. Grigg?

25 MR. GRIGG: Mr. Freeman, have you

1 got any response to the objection?

2 MR. FREEMAN: I would just offer it
3 for any probative value it has.

4 MR. CHAIRMAN: I'm going to sustain
5 the objection.

6 BY MS. HAWKINS:

7 A. Then to answer you, ma'am, based on what
8 we just went through.

9 Q. Okay. You received, I think you
10 indicated earlier, you did receive Mr. Bond's
11 letter from February of last year?

12 A. Yes, I did.

13 Q. And in that letter, did he not ask you
14 for any kind of documentation or explanation or
15 response regarding three of these judgments?

16 A. I did call the Board. I did call the
17 Board personally myself. I did not talk to that
18 individual. But if you'll go back, I think it was
19 a recorded conversation and you can just check
20 with them. But I did respond back and let him
21 that know that I was changing attorneys between
22 David Popowski in Charleston and Mr. Stan Freeman
23 and that we would be forwarding him our
24 information on that as soon as we could.

25 Q. And when did you do that?

1 A. Relatively close to that time frame.

2 Q. You forwarded explanations --

3 A. No. I called the Board, okay?

4 Q. Okay. And when you received this letter
5 from Mr. Bond that the Board had information
6 regarding judgments, did you think to go back and
7 double check yourself to see if those judgments
8 were still outstanding?

9 A. As I said to you before, ma'am, we had a
10 2009 closing. None of these things were there.

11 Q. That's not my question, sir. My
12 question is, after you received this letter, did
13 you think perhaps I, myself, should check with
14 Charleston County to see if these judgments are
15 still showing as outstanding?

16 A. No, I did not. I just turned it over to
17 the attorneys.

18 Q. Okay.

19 MS. HAWKINS: I think that's all I
20 have.

21 MR. CHAIRMAN: Any Board questions
22 for Mr. Smith?

23 MR. BURKETT: I've got just a
24 couple of quick questions. I'm looking at -- and
25 I'm not sure which exhibit it is -- but this is a

1 court, General Sessions thing --

2 MR. CHAIRMAN: That's 11 or 12.

3 MR. BURKETT: 11 or 12. And it
4 says date of offense was May 19th, 2010.

5 MR. SMITH: No, that's wrong.

6 MR. BURKETT: Well, explain to me
7 why that's wrong.

8 MR. SMITH: Because the date of the
9 offense was 2008. That's what they're alleging.
10 And that's why I said this whole thing was a
11 sham.

12 MR. CHAIRMAN: This was the
13 obstruction of justice charge. Breach of trust,
14 2008.

15 MR. BURKETT: At the top, it says
16 the date of offense is May 19th, 2010.

17 MR. SMITH: Let me give you a
18 little history real quick on this so you'll know,
19 okay?

20 When they charged me originally --
21 I need to explain this, ma'am -- when they charged
22 me originally, they charged me with stock fraud,
23 okay? That was the first indictment. That's what
24 they indicted me for was stock fraud.

25 MR. BALDWIN: When did that happen,

1 sir?

2 MR. SMITH: They say it happened on
3 May of 2008.

4 MR. BALDWIN: Thank you.

5 MR. SMITH: That was not the case.
6 But then they withdrew -- did they actually
7 withdraw that? Then they withdrew this what, two
8 years later?

9 MR. FREEMAN: I can't testify.

10 MR. SMITH: Whatever it was. And
11 then they came back and then they hit me with the
12 obstruction of justice, which was garbage. And
13 what was that other one? The -- what was this
14 other thing? I don't even know what it is myself,
15 to be honest with you.

16 Obstruction of justice and a breach of
17 trust. There are actually three of these things.
18 I sent them all to the Board. You only got two of
19 them. What happened to the other one with my
20 application? It was attached to it. All three of
21 them were there originally.

22 MS. HAWKINS: I don't think the
23 witness can ask me questions.

24 MR. SMITH: I mean, you're giving
25 us these. Do you just pull out partial --

1 MR. CHAIRMAN: You can pose your
2 comments to the Board. I'm sorry.

3 MR. SMITH: I'm sorry. It's my
4 fault. I didn't realize I couldn't talk to her.
5 I thought we were just communicating.

6 MR. CHAIRMAN: No. You're on the
7 witness stand so you need to talk to us.

8 MR. SMITH: Okay. Excuse me. I'm
9 sorry if I did anything out of order.

10 They then changed it to a breach of
11 trust issue stating that there was never any note
12 established. And so that's the reason why we had
13 to plea what we did because this was too
14 complicated for the court case in Bamberg.
15 Because, obviously, I'm not in agreement with what
16 we had to do. But that's what we had to do
17 because of the issues. That's what it is.

18 They kept changing everything all
19 the time. They didn't stick with what they
20 charged me with originally because it wasn't true.
21 The facts we gave them, we showed them everything.
22 We gave them copies of the note, which he even
23 admits to in his civil trust that was levied
24 before.

25 MR. CHAIRMAN: Mr. Smith --

1 MR. SMITH: I'm sorry.

2 MR. CHAIRMAN: -- let's move --

3 MR. FREEMAN: And for the record,
4 he was responding directly to a question --

5 MR. GRIGG: And he answered it and
6 started to get into the facts again --

7 MR. SMITH: Well, that's what this
8 is. Yes, sir, Mr. Burkett. I'm sorry. That was
9 my first one. Your second question, sir?

10 MR. BURKETT: It's your testimony,
11 if I heard you correctly, that on August 20th of
12 2010, that Orlando White had got a judgment
13 against you for \$25,258, but you had no knowledge
14 of that judgment?

15 MR. SMITH: No, sir. I did have
16 knowledge. I admitted to both of those judgments.
17 The other ones, I did not.

18 MR. BURKETT: But you did admit to
19 that on August 20th, 2010, you knew about that
20 judgment?

21 MR. SMITH: If it's Orlando White,
22 yes, sir.

23 MR. BURKETT: Okay.

24 MR. SMITH: And I've been trying to
25 get him paid but I cannot borrow the money right

1 now. I couldn't borrow it then because of what
2 we've been under with this FBI issue.

3 MR. CHAIRMAN: Any other questions
4 from the Board?

5 MS. HAWKINS: Could I ask one
6 follow-up, a quick follow-up?

7 BY MS. HAWKINS:

8 Q. Mr. Smith, isn't it true that your
9 security fraud indictment was actually nol prossed
10 at the plea hearing in exchange for your Alford
11 plea? It was not withdrawn earlier as you've just
12 testified; is that correct?

13 A. I can't answer that. I don't know. The
14 attorney would have to answer that.

15 MR. SMITH: Stan, could you answer
16 that?

17 BY MS. HAWKINS:

18 Q. Were you present at the -- you were
19 present at the plea hearing.

20 A. Yes. But we don't really know because
21 all three items were all the way around. We don't
22 know. That's what I'm saying. That's why I had
23 to send everything to you because I'm not sure
24 whether they ever did withdraw it.

25 MR. CHAIRMAN: Well, I think since

1 we've ruled that we can't go into those issues, we
2 need to stop those questions, if you don't mind.

3 MS. HAWKINS: Okay. I have nothing
4 further.

5 MR. CHAIRMAN: Mr. Freeman?

6 MR. FREEMAN: The only thing I
7 would ask that you put on the record is that, in
8 spite of the ruling of the Board in Executive
9 Session, there's been numerous questions by
10 members of the Board, as well as counsel and, in
11 my opinion, that opened the door. And I
12 understand your earlier Executive Session ruling,
13 but I think the record is clear that that's's been
14 violated both by counsel and by questions from the
15 Board.

16 MS. HAWKINS: If I could respond.
17 My question related to the plea itself and the
18 circumstances of the plea that Mr. Smith just
19 testified to, not the underlying facts of the
20 plea.

21 MR. CHAIRMAN: We'll have advice
22 counsel comment on that.

23 MR. GRIGG: The Board's ruling,
24 Mr. Freeman, was that your client could not get
25 into the facts of that plea. There's no question

1 it's in the complaint that he did enter a plea.
2 It gives us the date, it gives us what the charges
3 were. We have exhibits that were introduced, the
4 sentencing sheets and indictments, that show what
5 those charges were.

6 Those have been the questions that
7 Mr. Burkett was asking about, was something that
8 was contained, the date that was on the exhibit
9 itself. His questions and what I stopped your
10 client on was when he started getting into the
11 actual facts surrounding that plea and those
12 charges, and we're not going there and I don't
13 believe the Board has allowed that to happen from
14 your side or Ms. Hawkins' side. That's why they
15 stopped her as well. Based on their understanding
16 of her question, they didn't allow her to ask it.

17 So, again, the Board's previous
18 ruling was, we're not going to re-litigate, rehash
19 the facts and the plea that's already occurred.
20 That happened in criminal court, that's not before
21 this Board.

22 What is before this Board is the
23 fact he did enter an Alford plea on -- forgive me,
24 I don't remember the date -- but it states that on
25 March 14th, 2011 and it gives us what he entered

1 that plea regarding. That's what Mr. Burkett was
2 asking about. We didn't allow the conversation to
3 go further than that, nor have we allowed
4 Ms. Hawkins to get past those facts that are
5 already set forth in the complaint and the
6 exhibits that support that.

7 MR. FREEMAN: Okay. The record
8 will speak for itself. And I understand your
9 position.

10 MR. CHAIRMAN: Thank you, sir.

11 MR. SMITH: I just need to ask
12 Mr. Burkett. Mr. Burkett, did I answer that
13 satisfactorily for you?

14 MR. BURKETT: All I asked about was
15 the date.

16 MR. CHAIRMAN: Any other questions
17 or any other comments?

18 (No response)

19 MR. CHAIRMAN: Closing remarks?

20 MS. PIKE: When we conclude this
21 hearing, could I make a motion to go into
22 Executive Session, please?

23 MR. GRIGG: You can, but let's hear
24 the closing remarks first.

25 MR. FREEMAN: If it please the

1 Board, I think that Mr. Smith has been disallowed
2 from telling everything, and we think it puts him
3 in a very bad light by not being able to explain
4 everything that occurred and the witnesses that
5 could testify to Katreel Patel.

6 We feel that, certainly, whatever
7 censure the Board might come up with, it should be
8 certainly less than denying him his continuing to
9 practice, and we'd ask you for full consideration.
10 Thank you.

11 MR. CHAIRMAN: Ms. Hawkins?

12 MS. HAWKINS: Thank you. And thank
13 you for your patience in hearing our case this
14 morning. I'll start off by addressing the issue
15 of the Alford plea and its consequences for Mr.
16 Smith.

17 The State Supreme Court case that I
18 was referring to earlier, *Zircher v. Bilton*, makes
19 it very clear that when a defendant in a criminal
20 case makes the -- has the opportunity for a trial,
21 has the opportunity to answer to the charges and
22 makes the decision with counsel to enter the plea
23 and to gain benefit from that, whatever benefit
24 that may be, they then are estopped from further
25 reopening those facts in any other setting.

1 I would submit to you that the
2 decision to do so, to follow that ruling here
3 today and to prohibit any discussion of those
4 facts is squarely within that holding which is
5 from just three years ago, the State Supreme of
6 South Carolina. It's obviously binding on this
7 Board.

8 The State has shown you today, as I
9 promised you that I would in my opening, some very
10 serious violations of the Practice Act, and more
11 than one very serious violation. The two charges
12 which were pled to, a breach of trust and
13 obstruction of justice, stand on their own and I
14 would submit to you would, on their own, be the
15 basis for a permanent revocation.

16 Mr. Smith is a CPA and, as you all
17 very well know, you have very high standards for
18 your practice and criminal charges involving this
19 kind of financial issue surely fall within those
20 professional standards that have been violated.

21 But then in addition to that, we
22 have 12 judgments over the course of 20 years, 19
23 years, totaling about \$459,000. Even setting
24 aside how many of those were omitted from
25 disclosure to you on the licensure application, I

1 would submit to you that the very fact that a CPA
2 has that many outstanding judgments against him is
3 a violation of your ethics and your standards and
4 should be the basis for discipline.

5 Further, Mr. Smith's argument to
6 you that he relied on others and he relied on some
7 searches that didn't show any judgments against
8 him, I think that that falls short. He had
9 noticed almost exactly a year ago with the
10 December 8th, 2010 letter from Mr. Bond that the
11 Board had gotten information regarding some
12 judgments. He also received this formal complaint
13 in May of this year and he testified he did not
14 think to go and check himself to see if any of
15 those 12 judgments were still outstanding.

16 I would submit to you that he has
17 the responsibility, as the licensee, to make sure
18 to respond to the Board quickly with any
19 documentation that those have been satisfied or
20 settled, but he did not do so. Even here today,
21 he doesn't have any of that documentation.

22 So for all of those reasons, we
23 will submit to you that we've proven all the
24 allegations in our complaint, we've shown you all
25 of the violations set out in our complaint, and we

1 would request the permanent revocation of
2 Mr. Smith's license for the protection of the
3 public of South Carolina. Thank you.

4 MS. PIKE: I'd like to make a
5 motion we go into Executive Session.

6 MR. BURKETT: Second.

7 MR. CHAIRMAN: There's a motion and
8 the hearing is not being concluded. We've got a
9 motion to go into Executive Session and a second.
10 Any discussion?

11 (No response)

12 MR. CHAIRMAN: All in favor, please
13 say aye.

14 (Response)

15 MR. CHAIRMAN: Opposed?

16 (No response)

17 MR. CHAIRMAN: If y'all would
18 excuse us for a few moments.

19 (Executive Session from 11:10 a.m. to
20 11:20 a.m.)

21 MR. CHAIRMAN: I'd like to call the
22 meeting back to order. Do I hear a motion that we
23 reconvene?

24 MR. BALDWIN: I make a motion that
25 we come out of Executive Session.

1 MR. CHAIRMAN: Is there a second?

2 MR. NICHOLS: Second.

3 MR. CHAIRMAN: Any discussions?

4 (No response)

5 MR. CHAIRMAN: All in favor, please
6 say aye.

7 (Response)

8 MR. CHAIRMAN: Any opposed?

9 (No response)

10 MR. CHAIRMAN: Thank you. I'd like
11 the record to reflect that no votes or actions
12 were taken during the Executive Session.

13 MR. GRIGG: Mr. Freeman and
14 Ms. Hawkins, the Board has asked me before they
15 move any further in this case, since there has
16 been, Mr. Freeman, so much made of, right off the
17 bat, your request to reopen the testimony and
18 information from the Alford plea. If you'll
19 remember, at the beginning of the hearing, I asked
20 to review the transcript to see, to clear up
21 exactly what type of plea was entered based on
22 your all's argument.

23 The Board has asked, just for
24 preservation of the record, for both of you,
25 before they go any further, that those two

1 sentences that I looked at where the judge asked
2 what was being entered and you responded,
3 Mr. Smith, everything else redacted but those two
4 sentences. They've asked that that be entered as
5 an exhibit to preserve the record for both
6 parties, to the extent that I advise them on how
7 to respond to your request.

8 So I would like everything else
9 blacked out except, literally, the question from
10 the judge and the answer from Mr. Smith.

11 MR. CHAIRMAN: Is that acceptable
12 to both parties?

13 MR. FREEMAN: Yes.

14 MS. HAWKINS: Absolutely.

15 MR. CHAIRMAN: Thank you, very
16 much.

17 MS. HAWKINS: How many copies do
18 you want us to make?

19 MR. GRIGG: Well, the transcript
20 wasn't actually entered as an exhibit, so the
21 Board has not seen it. I would like a copy for my
22 records and you both probably would want a copy
23 and then, obviously, the court reporter needs a
24 copy. And I will show you all exactly what I
25 looked at.

1 MS. HAWKINS: Could we maybe
2 stipulate to the cover page and that one page
3 redacted?

4 MR. CHAIRMAN: Why don't we just
5 recess for a short five minutes while they get
6 that done. We'll recess for about five minutes.

7 (Recess from 11:25 a.m. to 11:40 a.m.)

8 MR. CHAIRMAN: Let's reconvene the
9 hearing. Mr. Freeman, have you looked at this?

10 MR. FREEMAN: Yes, I have, your
11 Honor.

12 MS. HAWKINS: We've provided you
13 with the cover page and the plea hearing
14 transcript and select portions of pages four and
15 five that clarify the nature of the plea and we
16 would like to enter this in as State's number 13.

17 MR. CHAIRMAN: And, Mr. Freeman, is
18 that correct?

19 MR. FREEMAN: That's correct.

20 MR. CHAIRMAN: All right. Thank
21 you, very much.

22 (STATE'S EXH. #13, Plea, was marked for
23 identification.)

24 MS. PIKE: Mr. Chairman, I would
25 like to make a motion that Mr. Smith's license be

1 permanently revoked and that we impose a \$10,000
2 fine.

3 MR. CHAIRMAN: There's a motion of
4 the floor by Ms. Pike. Is there a second?

5 MR. FORTE: Second.

6 MR. CHAIRMAN: There's a motion and
7 a second. Any discussion?

8 (No response)

9 MR. FREEMAN: Could I just make one
10 statement?

11 MR. GRIGG: Let them vote. Since
12 they've got a motion on the table, let them vote.

13 MR. FREEMAN: Okay.

14 MR. CHAIRMAN: Any discussion by
15 Board members?

16 (No response)

17 MR. CHAIRMAN: All in favor, please
18 say aye.

19 (Response)

20 MR. CHAIRMAN: Any opposed?

21 (No response)

22 MR. CHAIRMAN: Yes, sir, Mr.
23 Freeman?

24 MR. FREEMAN: I would have liked to
25 have had an opportunity to address, a big problem

1 is the \$10,000 fine. And, of course, we will
2 appeal. But there is no way possible he has the
3 capability of paying a \$10,000 fine and I would
4 urge the Board to reconsider that aspect of its
5 determination.

6 He's paying \$150,000 already over a
7 period of several years. And you've heard his
8 testimony, something like \$3200, almost \$3200 a
9 month. So I would urge the Board to reconsider
10 the fine aspect of it.

11 MR. CHAIRMAN: I think we hear you,
12 Mr. Freeman, and we will certainly take it under
13 advisement.

14 Ms. Pike, maybe we should consider
15 reopen this motion and consider the timing of that
16 fine. Would you consider that?

17 MS. PIKE: Yes, Mr. Chairman. I
18 would like for us to go into Executive Session and
19 discuss an issue with regard to that.

20 MR. BALDWIN: I make a motion to go
21 into Executive Session.

22 MR. CHAIRMAN: Okay. A motion to
23 go into Executive Session. Is there any
24 discussion?

25 (No response)

1 MR. CHAIRMAN: All in favor, please
2 say aye.

3 (Response)

4 MR. CHAIRMAN: Any opposed?

5 (No response)

6 MR. CHAIRMAN: No?

7 (Executive Session from 11:43 a.m. to
8 11:48 a.m.)

9 MR. BALDWIN: I move we come out of
10 Executive Session.

11 MR. CHAIRMAN: There's a motion on
12 the floor to come out of Executive Session. Is
13 there a second?

14 MR. BURKETT: Second.

15 MR. CHAIRMAN: We've got a motion
16 and a second. Is there any discussion?

17 (No response)

18 MR. CHAIRMAN: All in favor, please
19 say aye.

20 (Response)

21 MR. CHAIRMAN: Any opposed?

22 (No response)

23 MS. PIKE: Mr. Chairman, I'd like
24 to amend my previous motion. In light of the
25 statements made by Mr. Smith's counsel, the Board

1 has considered his request with regard to a fine.
2 I'd like to make a motion that his license be
3 revoked and that in light of the severity of the
4 charges against him, that the fine be \$10,000 and
5 be payable within 90 days.

6 MR. CHAIRMAN: There's a motion on
7 the floor by Ms. Pike. Is there a second?

8 MR. FORTE: Second.

9 MR. CHAIRMAN: Any discussion?

10 (No response)

11 MR. CHAIRMAN: All in favor, please
12 say aye.

13 (Response)

14 MR. CHAIRMAN: Any opposed?

15 (No response)

16 MR. CHAIRMAN: We conclude the
17 hearing. Good luck to you.

18 MR. FREEMAN: Thank you. I
19 appreciate it.

20 MR. CHAIRMAN: Is Mr. Glover still
21 here?

22 MR. GLOVER: Yes.

23 MR. CHAIRMAN: He forgot to tell us
24 something that he thinks is very important, so I'm
25 going to ask him to please spend a few more

1 minutes with us. Doug has spent a lot of good
2 time with us and we've enjoyed his company. Maybe
3 you can share some other things that you want to
4 share with us.

5 MR. GLOVER: Thank you. I'm sorry
6 I didn't mention this earlier. I had a
7 conversation with NASBA yesterday and, as you
8 know, CPAs and tax preparers have to get a
9 identification number and register with the IRS.
10 And the IRS sent out 21,000 letters, problem
11 preparer letters.

12 If you read the letter and if you
13 got one of those letters and you read it, it
14 sounds like you are a problem preparer. If you
15 read it for the third or fourth time, you are not
16 a problem preparer. You prepare returns that have
17 a lot of problems or type of returns that could
18 have a lot of problems.

19 There's been a big uproar. The
20 association and firms wrote a letter to the IRS.
21 They wrote a letter back saying, you're right, you
22 read it wrong. However, if you got the letter,
23 there must be a reason you get the letter.

24 They're going to be very, very
25 stringent and I've asked NASBA and had discussions

1 with NASBA yesterday as to how we might address
2 this or be part of our Board discussions in
3 January, because some Boards might over react. If
4 you have an audit, if one of your clients is
5 examined and there's a finding, there's a good
6 chance that you might get noted as a problem
7 preparer. And that might a little bit
8 overreaching, but bring that up to you for
9 informational purposes.

10 You may start seeing those out
11 there. Obviously, if you're sanctioned by the IRS
12 not to do work, then that's a different issue.
13 But just note and NASBA is going to try to find an
14 answer or find out what our stand is going to be
15 on it and try to bring it out.

16 MR. CHAIRMAN: Are Boards being
17 copied on any of these letters?

18 MR. GLOVER: Not unless you ask.
19 And I called Bob yesterday, or last week when I
20 started seeing all the email traffic as to whether
21 or not that was considered an administrative
22 issue, that the Board would be looking at as
23 administrative, you know, when you checked off
24 there have been no administrative issues, no
25 judgments, the things that you guys were just

1 hearing about, and so we don't know yet.

2 I don't know how we're going to
3 react in North Carolina, but that's what we're
4 trying to get NASBA is to give us some information
5 on those as to what it really needs.

6 MR. BURKETT: Bucky, how many
7 letters did they send out?

8 MR. GLOVER: The IRS? 21,000. But
9 if you read the letter, if you -- I saw one of the
10 letters. If you get it, you're infuriated. But
11 if you read it and read it again and read it
12 again, the third time you realize they're telling
13 you that you prepare returns that have, the type
14 of returns that have a high risk, Schedules Es,
15 Schedule Ds --

16 MR. BALDWIN: So if you do a lot of
17 highly complex returns, you may get the letter by
18 just doing those?

19 MR. GLOVER: Just by doing those.
20 I mean, they're not really complex. They're Cs,
21 Es -- Schedule C, Schedule E, Schedule Fs. I
22 appreciate it. I'm sorry to interrupt again.

23 MR. CHAIRMAN: Thank you, very
24 much. Okay. We're heading back to our agenda and
25 I think we're at the administrator's report.

1 MS. CUBITT: Thank you,
2 Mr. Chairman. I'm giving y'all copies of the
3 summaries of the financials that were handed out
4 this morning for August, September and October.
5 You know, they haven't closed out November yet so
6 I don't have those. I was attempting to provide
7 you with a complete spreadsheet that comes from
8 SKEES that we get. But it wouldn't let us load it
9 into the members safety site. It wasn't in the
10 right format or something, so I'm going to email
11 those to y'all.

12 There's not anything super secret
13 in it or anything. I mean, under a FOIA request,
14 they're obtainable, so I'm just going to send them
15 to y'all by email so y'all will have those. And
16 if you have any questions out of that, I'll be
17 glad to get you answers.

18 I've got the NASBA Executive
19 Directors meeting is coming up in March and y'all
20 had told me in the past that you would like for me
21 to attend. It's March the 11th to the 14th. It's
22 going to be in San Antonio. And at the same time,
23 they're having a legal conference. You know, at
24 times over the years, advice counsels attended,
25 our attorney member on the Board has attended the

1 legal counsel part of it. So if y'all would vote
2 who you want to go, if you want me to go, if you
3 want Malane to go, whoever you want to go to
4 that.

5 MR. CHAIRMAN: Have you got that
6 travel approved or we have made a motion, we've
7 made motions before about your travel.

8 MS. CUBITT: You made a generic
9 motion at the beginning of the year, but I think
10 they would like to have it for every meeting.

11 MR. CHAIRMAN: Okay. Could someone
12 please consider entertaining a motion for Doris to
13 go to that --

14 MR. TEAGUE: And Malane. Did you
15 want to go or --

16 MS. PIKE: Where is it, Doris?

17 MS. CUBITT: San Antonio.

18 MR. BURKETT: I make a motion that
19 we send both of them.

20 MR. CHAIRMAN: Mr. Burkett makes a
21 motion.

22 MR. NICHOLS: Second.

23 MR. CHAIRMAN: There's a second by
24 Mr. Nichols. Any discussion?

25 (No response)

1 MR. CHAIRMAN: All in favor, say
2 aye.

3 (Response)

4 MR. CHAIRMAN: Any opposed?

5 (No response)

6 MS. CUBITT: That's all I have
7 today.

8 MR. CHAIRMAN: All right. I'm
9 going to turn it over to Tanya and number 10, old
10 business, talking about Continuing Professional
11 Education.

12 MS. GREENLEE: Okay. Reva and I
13 had -- Reva Brennan from SCACPA and I had a very
14 good discussion on the CPE issue regarding the
15 personal development. I know in her letter
16 there's a couple of other things that she asked
17 about, but we focused our discussion mainly on the
18 personal development. And so in light of the
19 fact that we discussed an October meeting, kind of
20 following what NASBA said, I went to the NASBA
21 website and I have included this for you guys.
22 It's the kind of thicker package.

23 But, basically, it looks like that
24 they have 23 subject matter areas. And if you go
25 to the fourth page under personal development, it

1 says, subjects related to the general development
2 of personal skills including, but not limited to
3 personal leadership, group planning and time
4 management. And then everything else is kind of
5 put into a different bucket. And the discussion
6 that Reva and I had was, when they started
7 developing the BCE, they used these 23 fields of
8 study to classify what the presenters were
9 presenting. So it makes it a little bit
10 challenging if you go to a frequently asked
11 questions.

12 Some of these things that are not
13 under personal development for NASBA are under
14 personal development on all websites.

15 MR. BURKETT: Can you say whether
16 that's in here, a website I can pull it up?

17 MS. GREENLEE: I did not print
18 that.

19 MR. BURKETT: I'm asking because I
20 was hoping we could compare it.

21 MR. CHAIRMAN: Are they still out
22 there?

23 MS. GREENLEE: Uh-huh. And while
24 we're pulling that out, I also included for you
25 guys, I looked at, you know, some different

1 statements that they had on the NASBA website
2 based on their standards for a CPE program and I
3 included personal development, kind of the
4 definition of that, to further discuss it. And it
5 says, the field of study that covers such skills
6 as communication, managing the group process,
7 dealing effectively with others, interviewing,
8 counseling and career planning.

9 And then the next handout, it's
10 from the exposure draft dated August 2001 from
11 NASA and the AICPA. And what I found interesting
12 was that the CPAs feels that employment do not
13 limit the need for CPE. CPAs performing
14 professional services need to have a broad range
15 of knowledge, skills and abilities. Thus, the
16 concept of professional confidence may be
17 interpreted broadly. Accordingly, acceptable
18 continuing education encompasses programs
19 contributing to the development and maintenance of
20 professional skills.

21 So I felt that kind of spoke a
22 little bit to the discussion that we had that, you
23 know, if I'm in the industry, does treasury
24 management count, but if I'm not in practice,
25 maybe it doesn't. If you interpret it broadly,

1 maybe even if you're just doing tax returns, you
2 may get questions on treasury management and
3 should you have that skill. So I thought that was
4 an interesting comment in the exposure draft so I
5 wanted to share that with you guys.

6 MR. CHAIRMAN: Let's see if we can
7 get to the problem, which the problem has been in
8 the frequently asked questions has caused a lot of
9 issues.

10 MS. GREENLEE: Yeah. If you're one
11 of the ones, business management, advisory
12 services, there's actually, if I remember
13 correctly, there's a business management
14 organization field of study for NASBA, there's a
15 management advisory services field of study.

16 So those, if you looked at the
17 NASBA website, you might think those should be not
18 personal development, but on our website it looks
19 like it is.

20 MR. BURKETT: Which one again, did
21 you say?

22 MS. GREENLEE: Business management
23 and organization. If you look on page two of the
24 NASBA and management advisory services. I think
25 there's personnel and a HR is one of the areas of

1 study that they have, marketing was one.

2 MR. CHAIRMAN: The bottom line is,
3 we've been much more aggressively categorizing
4 items as personal development. Do we all agree to
5 that that? So what we need to do today is, we
6 need to decide -- I think we voted in October to
7 follow NASBA's guides, didn't we?

8 MS. GREENLEE: Yes. And that's
9 what I pulled, yes.

10 MR. CHAIRMAN: Do you agree with
11 that? Is your recommendation for us to agree with
12 that motion we made --

13 MS. GREENLEE: You know, when I
14 read the exposure draft, it really made me think
15 about the fact that, you know, I've worked in
16 health care, I've worked in public accounting,
17 I've worked now in industry. I get asked
18 questions by a lot of people about a lot of
19 different topics that they assume that you have
20 some knowledge of because you're a CPA.

21 So, in a way, I kind of do.
22 Because I think, you know, just because you work
23 in a specific field, if you are a CPA and you put
24 yourself out there as that, you may need to have
25 some of these skills, but maybe are outside your

1 specific scope in your job. So, you know, I
2 thought that was an interesting comment in the
3 exposure draft and it kind of made me think about
4 that. But I wasn't here for the previous
5 discussion of this issue, so --

6 MR. CHAIRMAN: Yeah. I think we've
7 got some folks here from SCACPA. Do y'all want to
8 comment on this discussion at this time? Are
9 y'all prepared to? You're welcome to if you'd
10 like.

11 MS. HARDWICK: Well, Mr. Chairman,
12 Board of Accountancy members, thank you for the
13 opportunity to do that. We actually, from
14 SCACPA's perspective, we've heard a number of
15 concerns about this particular issues and some
16 that we'll address in just a little bit.

17 But I believe Scott McClelland with
18 Elliott Davis wanted to make some comments and we
19 may have some others that would want to as well.

20 MR. MCCLELLAND: If I may on this
21 particular issue, as far as personal development,
22 I think Tanya hit it pretty much on the head with
23 the audit standards and the way they're changing.
24 The one that most affects me is the specialized
25 knowledge and applications. And if you'd look at

1 the NASBA, that includes evaluation, and the audit
2 standards, or the accounting standards are going
3 to more and more fair value.

4 And as we need to get knowledge of
5 how those things are valued, especially on Level
6 II and Level III investments in order to properly
7 perform our audits, I think it's critical that
8 those be not limited so we can get our training to
9 the point that it meets our clients' needs and so
10 we can effectively audit what's out there. And
11 that's my main concern on this.

12 If you limit me to eight hours of
13 basically evaluation and I'm auditing either in
14 401(k) plans, foundations for many companies and
15 derivatives, we need more training than that, and
16 we're getting more training than that and we'd
17 like it to count.

18 And you could take down the list,
19 other ones that you can also apply there. I mean,
20 statistics, I mean, that's the basis of sampling.
21 I mean, all those can be effective, depending on
22 what's your tree and where you're, you know,
23 applying your profession are directly relevant to
24 the CPA.

25 MR. CHAIRMAN: All right. Thank

1 you. Does anybody else want to add anything on
2 this comment? Walda?

3 MS. WILDMAN: Thank you, Board. I
4 am a small practitioner as opposed to a large
5 firm, but I do do a lot, as Mark knows, in the
6 Yellow Book area. And given the kinds of
7 assessments that we're required to have in our
8 work papers these days regarding the organization
9 and structure of businesses and forensic issues
10 and fraud documentation, I would urge you to not
11 limit those kinds of topics to special personal
12 development.

13 MR. CHAIRMAN: Okay. Thank you.

14 MS. CUBITT: Mr. Chairman, just for
15 background. At one time, I think we were
16 following and had the personal development and we
17 had a lot of questions because people didn't
18 realize what fell into it. And so when the Board
19 looked at it before -- and I can see from comments
20 made and what's up there where specialized things
21 would be applicable because you have a specialized
22 client and you need to know that specialized
23 knowledge to help that client.

24 I think the things that the Board
25 at that time was trying to steer away from were

1 things that dealt with the development of your
2 practice, programs concerning management of your
3 practice, and I agree that the list needs some
4 adjustment.

5 MR. CHAIRMAN: Well, I kind of
6 think we ought to consider just taking that thing
7 out. Can we get it out pretty quick?

8 MS. CUBITT: Uh-huh. Yeah. I
9 mean, it's just a matter of pulling that question
10 and we can replace it with the three things listed
11 here.

12 MR. BALDWIN: I think that's what
13 we should do, don't you? Follow the NASBA, pretty
14 much, follow the NASBA?

15 MS. GREENLEE: If you looked at the
16 North -- I'm thinking it was the North Carolina
17 website, theirs isn't exactly the same and I would
18 almost say that you put in subject areas just as
19 NASBA does, but that's what we're trying to
20 apply.

21 MR. CHAIRMAN: That's my thought,
22 is we just follow NASBA.

23 MR. BALDWIN: I like that. But I
24 want to add the comment that there's a
25 conversation that I had thought through. For some

1 people, one thing is personal knowledge and for
2 others it's absolutely not, as Scott indicated.
3 In the case of someone who's operating in the
4 personal financial planning arena, the PFP
5 division, economics is not personal development
6 just to that point.

7 To the evaluation point you made,
8 if you're working in CVA, et cetera, VVA, you may
9 have an entirely different set of rules in that
10 part of the practice of accountancy. So the only
11 other thought I'm sharing with you is, I think, I
12 wonder -- and maybe this is going to confuse it
13 rather than strictly just saying, here are the
14 NASBA elements, is do we put something in to the
15 effect that personal development depends upon the
16 arena in which you practice and there may be
17 things which are not personal development in your
18 practice.

19 Now, I'm not trying to confuse it.
20 And I'm looking at Donnie because Donnie made that
21 point, I believe, about -- was it PR you were
22 sharing with me, Donnie?

23 MR. BURKETT: It would be the same
24 thing. It's similar to what you're talking
25 about.

1 MR. BALDWIN: So I raise the issue,
2 not to confuse it, but just it seems to me
3 sometimes the question of personal development is
4 strictly a function of where our practice is.

5 MR. CHAIRMAN: The NASBA thing says
6 principle-centered leadership courses, career
7 planning courses and time management. That's
8 personal development. These other things, they
9 apply to their skills they need to have to do
10 their jobs.

11 MS. GREENLEE: And Reva and I had
12 the discussion of, you know, do you do exactly
13 that. And maybe at the outset of every CPA think,
14 they will, you know, it's up to you to determine
15 if this is personal development for you. I think
16 the challenge is, how in the world do you audit
17 that? Because if I submit 40 hours of what I
18 thought were appropriate CPE and then was
19 challenged on that, I'm going to tell you that
20 it's important for my job function.

21 So I think that would be the answer
22 we would get from that. I mean, that would be the
23 only challenge for that, I would think.

24 MS. CUBITT: The overriding
25 principle for CPE is to promote your professional

1 competency. So if anyone was questioned on an
2 audit, then that's where they would make their
3 case as to why this is acceptable.

4 MR. BURKETT: But if their job as a
5 CPA was in charge of personnel, then personnel and
6 HR, to me, would not be personal development.

7 MS. CUBITT: And I can see that.

8 MR. BURKETT: But you can get a
9 list and say that. Economics for somebody who
10 does financial planning would not be personal
11 development at all.

12 MR. CHAIRMAN: Right. That's why I
13 think if we stick with these three --

14 MR. BALDWIN: I guess the message
15 I'm trying to share is, it seems to me that the
16 other thing we should be mindful of is, as we get
17 to that point when we audit, it is going to be
18 question of what your function is if we're getting
19 into a real question with it.

20 MS. BRENNAN: Should we amend the
21 CPE thing so that you have your position on there
22 so that we get an idea of what your position is
23 when we're looking at these?

24 MS. CUBITT: That's a good idea.
25 You list your job, you know, are you vice

1 president of personnel, are you the -- we could
2 add that.

3 MS. GREENLEE: But I still think
4 you're going to have a challenge there, because if
5 you worked at a small company as a controller, you
6 may be over HR, benefits and a bunch of other
7 things, whereas the controller in a large
8 company --

9 MR. CHAIRMAN: You know, it kind of
10 comes back down to ethics, doesn't it?

11 MR. BALDWIN: You're right about
12 that, Mark.

13 MR. CHAIRMAN: You would address it
14 in the ethics course and hope it's going to be
15 development and try to address it there.

16 MR. CROCKER: Okay. What will we
17 have on our website to guide us?

18 MR. CHAIRMAN: Well, we're going to
19 take this down and I'd like to see personal
20 development what's in here, is what I'd like
21 to --

22 MR. CROCKER: And post the 23 items
23 in the description?

24 MR. CHAIRMAN: We could post the
25 whole thing if you wanted to. We're just nailing

1 personal development. I think we could list all
2 the other things if you wanted to, but --

3 MR. CROCKER: I think either post
4 this or give the reference to and have the website
5 to get it, or just give the link to the NASBA
6 website.

7 MR. CHAIRMAN: But this is very
8 helpful here.

9 MS. PIKE: Okay. Wait a minute.
10 Let me make sure I'm understanding what we're
11 saying here. We're saying that this personal
12 development, which is Principle Centered
13 Leadership, Career Planning and Time Management,
14 those are the three things that will be considered
15 personal development at this stage?

16 MR. CHAIRMAN: Yes, ma'am. That's
17 just a suggestion.

18 MR. CROCKER: I think by giving all
19 of this, surely we can find a category for it.

20 MS. GREENLEE: And if it doesn't
21 fall into --

22 MS. PIKE: Yeah.

23 MS. GREENLEE: Because I call it
24 the fluffy stuff.

25 MR. BALDWIN: Would it help -- and

1 the reason I'm raising this question is, would it
2 help us if we stated also that specialized
3 knowledge required for core competencies and
4 credentials or other areas of practice will not be
5 considered personal development? Do you see, I'm
6 going to turn it around.

7 Specialized knowledge is required
8 for core competencies or credentials will not be
9 considered personal development, per se.

10 MS. CUBITT: Let me say something
11 here. In the past, the Board has ruled that if
12 you take courses to be certified as something
13 else, be it in securities or real estate or
14 whatever, we don't allow those in CPE at all.

15 MR. BALDWIN: Correct. I want to
16 distinguish, after receipt of credential. I'm not
17 talking about getting your credential.

18 MS. CUBITT: Well, yeah. If you
19 had a credential in securities, I think that your
20 CPE that you could take that would meet the
21 securities requirement and the CPA requirement.

22 MR. CHAIRMAN: The question was,
23 well, let's talk about the CFE, Certified Fraud
24 Examiner. And, to me, taking classes to be a CFE
25 should qualify as a CPA CFE. That's another

1 credential.

2 MR. BALDWIN: I agree.

3 MR. CHAIRMAN: And we've been
4 sticking by the fact that if it's for another
5 credential, it doesn't count and that's where we
6 might have to use some -- we're going to have to
7 think about that because it's not always another
8 credential. We'll have to look at what the
9 material is. Because if you've got a fraud class
10 that auditors need to know whether it's another
11 credential or not.

12 MS. CUBITT: That's one we looked
13 at recently and we did end up deciding that, yes,
14 it counted as regular as CPE.

15 MR. BALDWIN: That's what I would
16 think.

17 MR. CHAIRMAN: I just bring it up
18 because it's kind of related to that other
19 credentials discussion. So we've got to look at
20 what that other credential is and think about it.

21 MR. BALDWIN: Well, what I like is,
22 I like the idea of let's change the website to
23 this now and if we want to think about it further
24 -- I don't know. What do y'all want to do?

25 MR. CHAIRMAN: I think we need to

1 change the website as soon as possible.

2 MR. BALDWIN: I agree. I agree.

3 MR. BURKETT: I think we need to
4 change the website and we could maybe have a
5 little bit more discussion on this a little bit
6 later. But I am concerned about somebody who
7 specializes in one area and that should be
8 personal development if that's what they're
9 doing.

10 MR. BALDWIN: Right.

11 MR. BURKETT: If I've got somebody
12 that works for me as a financial planner, I want
13 him taking financial planning courses.

14 MR. BALDWIN: Exactly.

15 MR. CHAIRMAN: Can we have a motion
16 to do that?

17 MR. BALDWIN: I'll move that we
18 take down that question and replace it with a
19 proposal Tanya gave us with regards to the NASBA
20 definitions.

21 MR. CHAIRMAN: There's a motion on
22 the floor. Is there a second?

23 MR. NICHOLS: Second.

24 MR. BALDWIN: I'd say put the whole
25 thing rather than wait.

1 MS. GREENLEE: I think, that way,
2 if somebody has taken something, they can see
3 which category it's in.

4 MR. CHAIRMAN: Any discussion on
5 this?

6 MR. CROCKER: So we push this
7 document, so the other things that we allow credit
8 for in addition, like teaching, is that covered
9 elsewhere on the website? And I understand that
10 we allow credit for helping us review --

11 MR. BALDWIN: If you're teaching
12 those courses, the number of hours you're
13 permitted and you're not doing the same thing year
14 after year, my understanding is, yes, it is.

15 MR. CHAIRMAN: Now, what we're
16 trying to do is address an error on our FAQ. So
17 this other discussion of what's allowed is in our
18 actual regulations.

19 MS. CUBITT: It's regulation 108.

20 MR. CHAIRMAN: What we really have
21 is causing a lot of issues because people have
22 signed up for classes they thought were core
23 classes, and then looking at our website, it looks
24 like they're going to short a CPE this year and
25 that's why we're trying to get it decided today.

1 MR. CROCKER: Okay. So we'll post
2 this as a question.

3 MR. CHAIRMAN: It's going to
4 replace that one that's up there. Those examples,
5 hopefully we're going to put that up there
6 and, see, it says we're going to decide today?
7 That's up there now. That's going to be
8 addressed. On the meeting today, they decided
9 this applies to 2011.

10 MR. CROCKER: There's one other
11 thing I would suggest beyond that is, when you
12 first open our website, it has for news, and it's
13 been up there for a while. But when we do
14 something this major, I'd like to see is post that
15 at least temporarily there. Because this is
16 important and it's going to affect a lot of
17 people. And at some point, it can be just be
18 taken off, but --

19 MR. CHAIRMAN: Can you amend your
20 motion to include that to be posted on the Board's
21 --

22 MR. BALDWIN: Sure. I'll amend my
23 motion to do that.

24 MR. CHAIRMAN: Would you accept
25 that as an amendment?

1 MR. BALDWIN: Sure.

2 MR. CHAIRMAN: Now, we've got that
3 discussion, we've got that amended motion on the
4 floor and a second. Any discussion of that?

5 (No response)

6 MR. CHAIRMAN: All in favor, please
7 say aye.

8 (Response)

9 MR. CHAIRMAN: Any opposed?

10 (No response)

11 MR. CHAIRMAN: Okay. Good. Thank
12 you, very much, Tanya. All right. Let's kind of
13 move on. Communication of CPE Audit Results and
14 Impact. Y'all saw that in your information and
15 your certificate for that. And the only thing
16 that bothered me about that when I looked at that,
17 and I didn't see that until I got here this
18 morning, has everybody had a chance to look at it?
19 It's in your stuff. I thought we had more bad
20 ones in the box than we're showing on this list,
21 but, you know, I don't know. Maybe the boxes were
22 just deceiving.

23 But the letters did go out. I had
24 some people that got some letters of the people
25 that we audited for CPE. I think the letters went

1 out last week. Is that right, Doris?

2 MS. CUBITT: They went out
3 Wednesday.

4 MR. CHAIRMAN: Yeah. The letters
5 have gone out. And you can see the statistic of
6 those audit results in your information. Does
7 everybody see that? And I reckon -- and you've
8 got an example letter attached, but we had 178 out
9 of 230 that were good.

10 MR. CROCKER: That doesn't seem all
11 that good.

12 MR. BALDWIN: Well, good for it.

13 MR. CROCKER: Could you tell us
14 what warnings are, or are those considered to be
15 --

16 MR. CHAIRMAN: Why don't we talk
17 about what -- why don't we just cover each one of
18 those, I reckon, the first couple or -- what are
19 the warnings, Doris, 16 warnings?

20 MS. CUBITT: Michael would classify
21 --

22 MR. TEAGUE: In the future, sign
23 your report. In the future, use the report. In
24 the future, include the certificates of
25 completion.

1 MS. CUBITT: Now, we were just --
2 it was a warning, a reminder to them that, well,
3 we accepted this but it wasn't quite right and you
4 need to know in the future you need to dot your
5 I's and cross your T's.

6 MR. CROCKER: And if you had a
7 personal development that you disallowed, would it
8 just go in the second or third category?

9 MS. CUBITT: Yes. Most of the ones
10 in the needing hours were people that took
11 self-study and it was not QAS approved.

12 MR. CHAIRMAN: And, Doris, would
13 you address how you handled them correcting the
14 problem?

15 MS. CUBITT: If they had less than
16 20 hours to make up, we allowed them three months
17 -- well, till the end of March to make up those
18 hours. And if they had more than 40 hours, we
19 allowed them till the end of June to make up the
20 hours.

21 MR. CROCKER: Let ask something
22 about approval. Is that something that would just
23 be posted on the website that they're using --
24 does anybody really know what that is out there in
25 the real world?

1 MS. CUBITT: I didn't hear the
2 first part of the question.

3 MR. CROCKER: Would the average
4 licensee know what that is?

5 MS. CUBITT: Know what QAS is?

6 MR. CROCKER: Yeah.

7 MS. CUBITT: Yes, sir. It's on our
8 questions and --

9 MR. CHAIRMAN: It was in our PIUs.

10 MS. CUBITT: And it's on the form,
11 the CPE reporting form on the back where you list
12 it, self-study, all self-study courses must be QAS
13 approved.

14 MR. CROCKER: And then when you
15 look at the certificate, is there something on
16 there that tells you that it was --

17 MS. CUBITT: That we take it. But
18 if it doesn't say QAS on the certificate, we deny
19 it.

20 MR. CHAIRMAN: And QAS, do you know
21 what it stands for?

22 MR. CROCKER: Well, I do. But I
23 just wonder if the average licensee does.

24 MR. CHAIRMAN: Yeah.

25 MR. CROCKER: And if you receive a

1 solicitation for a course, I'd probably assume
2 that the people know enough to know to have it
3 certified. Well, I mean, I don't think the
4 average licensee is going to go audit the offerer.
5 I'm just throwing that out for consideration.

6 MS. CUBITT: But it's been a
7 requirement for a long time and it's in the
8 regulation.

9 MR. CHAIRMAN: It's in the
10 regulation. There is the Quality Assurance
11 Service responses for self-study courses.

12 MR. CROCKER: Doris, were there
13 many of those?

14 MS. CUBITT: That's almost 20
15 there. Probably 10 or 15 people.

16 MR. BURKETT: So we could
17 extrapolate that out to be five or 600.

18 MS. CUBITT: Yeah.

19 MR. BURKETT: All I would say there
20 is, again, that first view when you open our
21 website, we've considered this to be something a
22 lot of people could understand. That might be a
23 good thing to post.

24 MR. CHAIRMAN: It might be good to
25 post the results of the CPE audits on there and

1 what the major problems were, because everybody
2 needs to know because of those updates.

3 MS. CUBITT: Yeah. We can do a
4 summary, a paragraph-type thing, rather than the
5 actual printout, but to say yes. When we did the
6 audits, these are the most common errors we found,
7 that kind of thing.

8 MR. CHAIRMAN: I think that would
9 be great. Number C under 10 under old business,
10 firm name, we've got Dean Grigg's name down here.

11 MR. GRIGG: Sure. This won't take
12 long. If you all remember, the last time we were
13 actually here, not that conference call that you
14 had recently, but we were looking into whether a
15 d/b/a would be registered with the Secretary of
16 State and we determined -- I think Michael
17 included some information for you that it does
18 not.

19 I think the question then amongst
20 some others that we discussed, but I think the
21 question then maybe came from Mr. Burkett was with
22 the requirements at the Secretary of State
23 regarding trademarks, is there a way to track
24 these d/b/a's maybe by requiring them to be
25 trademarked or something along those lines.

1 I told you I didn't think so but
2 I'd look into it. I've looked at the Secretary of
3 State's website and looked at some of their
4 information in a little more detail, I've spoken
5 with several attorneys here. No is the best
6 answer I can give you. There's nothing in black
7 and white that says you can't.

8 So what we have, trademarks are
9 treated there and what we're trying to do with
10 d/b/a's or what you're interested in doing with
11 d/b/a's, I just don't think we could require
12 someone to get a trademark on a name. Again, like
13 I said at our last meeting, the example I gave
14 was, you know, Dean Grigg d/b/a as something, I
15 just don't think it could be required of me to
16 trademark that name.

17 But what I did do is talk to a
18 couple of other Boards' administrators and lawyers
19 here, other Boards, like Residential Builders,
20 that they also do a lot of d/b/a's and whatnot and
21 how they track it and how they do things, and they
22 actually have in their statute that -- and you all
23 may have something similar, I need to look. I was
24 looking just then and didn't run across it yet.
25 But if you all know of it, tell me or I'll

1 continue to look for it.

2 But what Residential Builders and
3 Contractors and some of these other Boards that
4 deal with d/b/a's on a regular basis do, they
5 actually have in their statute that not only when
6 a person comes to be licensed or registered with
7 the Board, if they plan on using a d/b/a, they
8 have to have that as part of their name licensed
9 with the Board, Dean Grigg d/b/a or whatever my
10 company name would be. And then they have a
11 requirement that if I were to ever change that,
12 within 15 days or 20 days or whatever, I'm
13 required to notify the Board staff so that they
14 can put that in their file and on the computer
15 system that it was a d/b/a, you know, Grigg and
16 Associates or whatever, and now it's going to be,
17 maybe I changed my last name, but now it's d/b/a
18 whatever else.

19 So, Mr. Burkett, while I don't
20 think we can require the trademark as we were
21 talking about, we could work towards something
22 like that. Like I said, I didn't see where you
23 all had similar language in your statute
24 currently. If somebody knows of something that
25 you'd want me to look at, I'd be glad to look at

1 it. But that would be something that I think if
2 you all are serious about wanting to track these
3 d/b/a's, that that might be some language that you
4 want me to look at at some point here in the
5 future, working on adding into your regs or your
6 statute. I think that answers the question.

7 MR. CHAIRMAN: Well, it seems like
8 the issue was, would we allow trade names. And I
9 think we said we would allow a d/b/a or a trade
10 name as long as on their literature, we could
11 trace or track them back to their legal name,
12 their registered firm name or their legal name
13 with the Secretary of State.

14 MR. GRIGG: I think that's
15 correct.

16 MR. CHAIRMAN: So that's what we
17 had said. And that's why we go back to that old
18 motion that I saw Mike had up there a minute ago,
19 saying that we could, on the motion made by me and
20 that we could allow d/b/a's. We didn't want to
21 allow d/b/a's that would hide people from their
22 licensed registered name. That's the main thing.

23 MR. GRIGG: Right.

24 MR. CHAIRMAN: But if somebody is
25 using a name, a d/b/a name, they still have to

1 have on their letterhead who they are as the
2 registered firm. I think that's the rule. I
3 think that's clarifying this rule.

4 So if somebody wants to use some
5 kind of other name, as long as it's not misleading
6 and as long as on their letterhead we know where
7 we can find them in the registered list of firms.
8 Either with the Secretary of State and with us,
9 they should agree. That's kind of clarification,
10 isn't it?

11 MR. GRIGG: Yes. I think you're
12 right.

13 MR. CHAIRMAN: Does that help?

14 MS. CUBITT: Could you make that in
15 the form of a motion?

16 MR. CHAIRMAN: Well, I thought they
17 did -- isn't that it, right there?

18 MS. CUBITT: No. That's an old
19 motion.

20 MR. CHAIRMAN: Isn't that the same
21 thing, though? They must register as their legal
22 name and they have to put their d/b/a name in
23 there. Okay. I'll make a motion that if licensed
24 or registered firms are using a d/b/a name, that
25 all of their stationery and official documentation

1 must refer back to their registered firm name to
2 allow the public to be protected with who the
3 registered firm is.

4 MR. BALDWIN: Second.

5 MR. CHAIRMAN: Any discussion?

6 (No response)

7 MR. CHAIRMAN: All in favor, say
8 aye.

9 (Response)

10 MR. CHAIRMAN: Any opposed?

11 (No response)

12 MR. CHAIRMAN: Thank you. Mark
13 Crocker, I kind of didn't think Mark was going to
14 be here. I'm glad he's here. I'm glad Mark is
15 here, but we're going to defer his discussion
16 until January, if that suits Mark. But he had
17 brought up some comments from looking at --
18 remember at the last meeting, he was going to look
19 at some information on renewing the license
20 renewals because we had a little bit of time for
21 that. Mark, do you want to say anything about it
22 today or --

23 MR. CROCKER: Well, I've spent a
24 good deal of time talking with you and Michael and
25 I would be glad to present some comments at the

1 next meeting, but what I'm left seeing from
2 talking with Michael mostly is, I don't see how
3 Doris, Michael and the staff get everything done
4 that has to be done here. It is amazing. And I
5 don't know what the Board's role in this kind of
6 this kind of thing would be, but if we could find
7 a way to make our system more efficient, spend
8 more time on the things that are important and
9 less time on the things that are less important, I
10 think we can do a better job as a Board.

11 MR. CHAIRMAN: Yeah. Well, I
12 reckon, what Mark suggested to me in some
13 conversations this week is perhaps we ought to
14 kind of take a prior review of what everything
15 staff does and make sure staff is doing everything
16 that the Board thinks the staff is doing and make
17 sure they're not spending time in areas that we
18 don't see that are as risky as others. And we may
19 put that on our agenda for the January discussion.

20 I've talked with Doris about that
21 through some emails about perhaps reviewing that.
22 So we might pare out about an hour or an
23 hour-and-a-half at our January Board meeting to
24 kind of do a, kind of a time analysis and resource
25 analysis of what the Board staff does. And I

1 reckon Mark's question to me was, does Doris and
2 Michael and Amy, do they work for the Board or do
3 they work for LLR. That was a good question and
4 he asked that question I've never really thought
5 about it. And I said, well, I reckon, they kind
6 of work for both.

7 But that's a good question. But I
8 think we want to kind of delve into that at the
9 January meeting and maybe review what staff, the
10 role of staff and maybe try to use technology a
11 little more. I think we're using it fairly well,
12 but maybe we could use it a little better. So
13 thank you, Mark. You all look forward to that in
14 January.

15 Update on peer review follow-up.
16 You've got an example letter. These are the
17 firms. We had about 90 of them that we thought
18 may not be on the peer review role. You've got an
19 example letter under Doris' signature in front of
20 you. That letter went out last Monday and we're
21 getting some responses back. We've got good news
22 to report that a lot of those firms had their peer
23 review administered by the AICPA. But we kind of
24 still think there's going to be 30 or 40 firms
25 probably, 30 or 40 firms that probably haven't had

1 peer reviews and probably should. That's just
2 still my best estimate. Hopefully, we'll know in
3 30 days and we can report to you in January.

4 It's a funny thing, I had a call
5 the other night from somebody who sold a copier to
6 a CPA in Myrtle Beach and he said, I was talking
7 to him and told him I knew you and he said he was
8 in trouble because he had been practicing for four
9 or five years and hadn't had a peer review and he
10 got a letter about a peer review. And I said,
11 well, don't tell me his name. So I'm just saying,
12 there's one example. So I know there's at least
13 one, so we'll see how many more we've got, so it's
14 going to be interesting to see how that works out.
15 We're going to talk a little bit more about peer
16 review a little later.

17 I think that moves us to new
18 business, and we've got a consent agreement to
19 consider, Audrey J. Lennon. Has everyone had a
20 chance to read that concent agreement? Doris, do
21 you want to make some comments on it? Do you
22 think it speaks for itself?

23 MS. CUBITT: It kind of stands --

24 MR. CHAIRMAN: It stands for
25 itself?

1 MS. CUBITT: Yes, sir.

2 MR. BALDWIN: I move we accept the

3 --

4 MR. CHAIRMAN: A motion is made we
5 accept the consent agreement by Mr. Bob Baldwin.

6 Is there a second?

7 MR. LUNSFORD: Second.

8 MR. CHAIRMAN: A second by Mr.

9 Wendell Lunsford. Any discussion?

10 (No response)

11 MR. CHAIRMAN: All in favor, please

12 say aye.

13 (Response)

14 MR. CHAIRMAN: Any opposed?

15 (No response)

16 MR. CHAIRMAN: All right. Thank
17 you. Okay. The next one we will be deferring to
18 January, I hope, Mr. Roger Long. Peer Review and
19 Communications Committee (PROC). I talked to
20 Mr. Chuck Talbert yesterday. You all gave me
21 permission at the last meeting about contacting
22 him about serving as a PROC person, peer review
23 oversight, and he accepted. I'm glad to say he
24 accepted yesterday after about a 35, 40 minute
25 conversation with him. And he had suggested that

1 perhaps Doris and Jim Holloway serve with him. I
2 haven't had a chance to talk with Doris about it.
3 We talked at about 4:30 last night, yesterday
4 afternoon. And I haven't talked to Jim Holloway
5 about it yet, but we're planning to take Jim
6 Holloway to lunch and I told him our game plan of
7 getting the PROC up and functioning and we hope
8 it'll be by this summer.

9 So, I reckon, I'm just presenting
10 this for information. Can you make a motion that
11 we consider talking with Doris and Jim Holloway
12 about being on the PROC committee and getting it
13 established?

14 MR. BALDWIN: I move that the
15 Chairman be authorized to talk to Doris and Jim
16 Holloway concerning the PROC committee.

17 MR. CHAIRMAN: To serve with Chuck
18 Talbot.

19 MR. BALDWIN: Chuck Talbot, right.

20 MS. PIKE: Second.

21 MR. CHAIRMAN: Second? Thank you,
22 very much. Any discussion of that?

23 (No response)

24 MR. CHAIRMAN: Chuck said that he
25 felt more comfortable -- I'll add this to it --

1 Chuck said he felt more comfortable serving if the
2 law is passed that allows that firms couldn't opt
3 out of the peer review program. So we've got it
4 as new law. And he said he'd feel more
5 comfortable if that is passed and we'll have that
6 passed by the time it gets up and running. At
7 least, that's what Dean tells me.

8 All in favor of that motion, please
9 say aye.

10 (Response)

11 MR. CHAIRMAN: Any opposed?

12 (No response)

13 MR. CHAIRMAN: All right. Thank
14 you, very much. Communications, you've got your
15 communications report in your information. If you
16 haven't seen it, we participated. Amy did a great
17 job, Amy Holleman. I didn't mean to leave your
18 name off on my list. I didn't notice it until I
19 looked at it again today. I apologize. But Amy
20 did Rock Hill, Doris did Florence and Myrtle Beach
21 and I took the other five chapters and did it in
22 conjunction with staff and we spoke to 810 CPAs
23 and we told them all about the QAS. But we got
24 810 out of four thousand and some licensees. That
25 was pretty good coverage, I thought. Right at 19

1 percent. We covered 19 percent of our CPA
2 licensees in state with eight stations in default.
3 18.6. So I thought that was pretty good.

4 Now, SCACPA, I don't know of any of
5 you that attended, but it was a four-hour program
6 and we had about an hour of the four-hour program.
7 I sometimes went over. But Erin had me a big old
8 watch up there that I had to stop. She had a gong
9 for me.

10 MR. BALDWIN: And I would like to
11 thank you for your time commitment doing that,
12 because that was a heck of a lot of time and a lot
13 of work. Thank you.

14 MR. CHAIRMAN: Well, it wasn't too
15 bad. But right there in Greenville had 181. But
16 that's the number of CPAs that are in each one.
17 So that was pretty good coverage, I thought.

18 Erin, do you want to say
19 something?

20 MS. HARDWICK: We had one yesterday
21 and then you have two more coming up in December.
22 So there may be a little bit higher number.

23 MR. CHAIRMAN: All right. Any
24 questions on communications? I tried to do a
25 written report. This is the first time I had a

1 written report on it, so I'll try to do better.

2 CPEs back on the front table.

3 We've got some people here still waiting to talk
4 about it, we've got a letter from Reva, we've got
5 a bunch of things to talk about on your item 11,
6 one, two, three, four. Certificate of attendance.
7 NASBA, a quick poll about carryover hours.

8 Let's talk about certificates of
9 attendance first. This was probably one of the
10 hottest things that people talked to me about at
11 the PIU. And when I say PIUs, I'm talking those
12 little conferences. And people ambushed me at the
13 annual summit -- they ambushed me about the annual
14 summit because we are requesting all licensees to
15 turn in actual certificates of all CPEs in
16 conjunction with their CPE report.

17 Now, Doris and I had lunch
18 yesterday and Doris says, well, we always did
19 this. We've always done that and we haven't done
20 it for two years. Because I talked with Chuck
21 about it yesterday and Chuck says, well, I
22 remember when I was Chair, we said that we were
23 going to go with check the box and then audit a
24 sample, and we weren't going to get all of them.

25 But the question becomes, a lot of

1 our licensees do not feel like it's appropriate
2 for them to have to send in all those
3 certificates. In addition, some firms don't even
4 give individual certificates, even though it's in
5 the standard that they're supposed to. Some firms
6 just keep record of those CPE on transcripts, like
7 SCACPA does transcripts.

8 MR. BALDWIN: Standards of NASBA or
9 our standards?

10 MR. CHAIRMAN: The AICPA standard
11 states that sponsors are supposed to give a
12 certificate. But some firms --

13 MS. CUBITT: Our regulations say
14 that also.

15 MR. BALDWIN: Thank you. That's
16 why I wanted to be clear about what standards
17 we're talking about.

18 MR. CHAIRMAN: Standards, we adopt
19 the AICPA standards, so our regulations about that
20 anyway. But some firms have gotten away from
21 that, some national firms have, regional firms.
22 So they have a transcript that people in other
23 states are accepting. So, I reckon, that's an
24 issue. That's the first issue we've got to
25 discuss. And, I reckon, I'm going to ask if any

1 of our guests who have waited here so patiently
2 want to address this issue to begin with.

3 You all have been waiting through a
4 lot of stuff today. Would you all like to go and
5 talk about it?

6 MS. HARDWICK: Yes. Again, thank
7 you for the opportunity to speak. And may I have
8 just a point of personal privilege to say thanks
9 to Ms. Greenlee and to the Board for reconsidering
10 that personal development issue. We really
11 appreciate you doing that because we did hear from
12 a lot of licensees about that particular issue.

13 But about this issue related to
14 certificates, we've got a couple of CPAs here that
15 are probably interested in speaking. One that
16 represents Elliott Davis, the largest firm in
17 South Carolina, and a sole practitioner, and so
18 you really kind of have both spectrums on that.
19 And Tom Childers is Director of Quality Assurance.
20 I'm not sure I got that perfectly right.

21 MR. CHILDERS: Quality Control,
22 that's close enough.

23 MS. HARDWICK: And Walda Wildman
24 who represents sort of the small firms/sole
25 practitioner realm, maybe the two of you all would

1 want to speak briefly about how this is impacting
2 your firm.

3 MS. WILDMAN: Well I appreciate the
4 time to appear before y'all. The only way I even
5 knew this happened was through an email from
6 SCACPA, fortunately, which I caught and then
7 shared with somebody else and we talked.

8 What I, personally, don't
9 understand, and I would think a lot of us who
10 don't have partners in, you know, who spend their
11 whole time monitoring what the requirements are,
12 my problem is, why did this rule just come about
13 in October? I mean, maybe it happened earlier but
14 we sure didn't know about it. And, you know, my
15 personal concern for a lot of small firms is that
16 they're going to be caught after the fact.

17 I mean, okay, if you really want to
18 be inundated with all this paper, great. My
19 office is in the next building so I know how
20 expensive this real estate is and I hope you've
21 made provisions that you're going to receive the
22 10 to 12 cases of paper every year for this stuff,
23 you know. Make provisions in the budget for it,
24 but, okay, let's do it going forward and let's
25 really get the word out.

1 For me, it's not a real pain, but
2 if I had a lot of staff, after the fact, chasing
3 people down who might be out in the field on
4 audits, looking for -- here, hand me your paper
5 that I've got to now send to the Board of
6 Accountancy on your behalf to prove that, you
7 know, you should keep your license. And I'm just
8 really -- Ms. Cubitt, respectfully, I've been
9 practicing in South Carolina now since -- I've
10 been licensed since 1986 and I don't ever remember
11 sending in the certificates themselves to the
12 Board of Accountancy to support my CPE.

13 Now, when Mark does my peer review,
14 he wants to see that kind of thing. And unless
15 I'm just really getting addled as I approach
16 Medicare age, a couple of years ago we went to not
17 having to send anything in unless we were selected
18 for audit. So to come to small firms in October
19 and say, well, not only are we doing away with
20 this standard or this requirement that you don't
21 need to send this stuff in at all, but now you
22 need to send it all in, I -- you know, you all are
23 very competent and highly respected people in our
24 profession in South Carolina and I confess that a
25 number of us out here are a little mystified with

1 what is going on with this short-term
2 notification.

3 I appreciate the opportunity to
4 come.

5 MR. CHAIRMAN: Thank you for being
6 here.

7 MR. CHILDERS: Yeah. We're a
8 slightly larger firm, not quite a national firm.
9 We're a regional firm. And I have talked to some
10 people at Ernst & Young and they are the ones that
11 do not issue actual certificates. We actually
12 issue certificates, but we email them out and it's
13 the responsibility of the individual to print
14 them, file them and then fill out their CPE report
15 form at the end of the year. But ours is tracked
16 through our time management system.

17 You enter the information. When
18 you put in the CPE code, it pops up an additional
19 box where you're required to enter everything from
20 your certificate. At the end of the year, you all
21 just hit a button and print that out. And before,
22 when you filed electronically, it was seamless.
23 It was fast, no administrative time, whatsoever.

24 Now, having to actually print that
25 information out, I'm sure a lot of people aren't

1 going to keep those emails, so we're going to have
2 to regenerate a lot of those certificates again,
3 print it out and send it to the Board. It's going
4 to be a huge administrative burden, not just for
5 us but I think on the staffs that's going through
6 that.

7 It may be easier for you guys to do
8 audits, is what I could think of maybe. But I
9 still think it's a better process to go back to
10 doing it electronically or keep doing it
11 electronically. It just saves a lot of time, I
12 would think, from the staff's point of view and
13 the CPA's point of view.

14 MR. CHAIRMAN: Okay. Thank you.
15 Any other comments from anybody else here? Gale,
16 do you have anything you want to add?

17 MR. BELL: You know, going back to
18 what Walda said, I don't know if I ever remember
19 having to send in all those certificates before.
20 Are you saying I did?

21 MS. CUBITT: Yes, sir. I came in
22 in 2001. They had been sending them in for years,
23 they continued to send them in. It actually was
24 about four years ago, the Board decided that we
25 were going to go to check the box so we didn't get

1 a report at all. And we were kind of on the back
2 end of that from the other states. And as I went
3 to meetings and as we went to meetings, we heard
4 more about checking the box wasn't working in
5 other states and they were going back to requiring
6 that they be sent in.

7 It's real easy for somebody to say,
8 when they're filling out their renewal, have I had
9 40 hours of CE? Yeah, I've got 40 hours, and
10 check the box. When you have to actually put them
11 down and gather up your certificates, you realize
12 that, wait a minute, I'm missing four hours and I
13 need to get those.

14 So it has been a problem in
15 compliance nationally. And hearing that, we
16 decided, or the Board decided to go back to them
17 sending everything in. And we do I guess what you
18 call a desk audit, so we get a lot more coverage.
19 It does take time and we will be calling -- the
20 process was to call on the operations manager
21 center here and they would go through them.
22 They'll check all the addition on it, they'll look
23 for things. I give them a sheet to go by to look
24 for things and they mark things, and then it comes
25 up to me and staff to just check the ones that

1 might have some issues on them.

2 We find a lot of -- when we did it
3 in the past, we did find a good many problems.
4 People hadn't added it up right, didn't have
5 enough hours, their self-study. We've given prior
6 QAS a long time and their self-study was not QAS
7 and we'd notify them, you know, that those hours
8 weren't correct.

9 MS. WILDMAN: I'm sorry to
10 interject here, but listening to this
11 conversation, what Doris was just saying, are we
12 having a communication issue? I do remember
13 sending in the summary forms and I'm sure you --

14 MR. CHAIRMAN: With the detail on
15 the back.

16 MS. WILDMAN: With the detail --

17 MR. CHAIRMAN: And then the front
18 had the carryover from the back. That's what I
19 remember, too.

20 MS. WILDMAN: But what we're now
21 hearing is that the Board wants to see the
22 individual pieces of paper that receive each time
23 we attend a CPE program. Is Ms. Cubitt --

24 MS. CUBITT: And that is correct.
25 That is what we did before and that's how we

1 knew -- if we didn't see those certificates, we
2 wouldn't know whether they were QAS or not if
3 they're self-study.

4 MS. GREENLEE: It was only for
5 self-study, wasn't it?

6 MS. CUBITT: It may have been only
7 for the self-study --

8 (Board Conversation)

9 MR. CHAIRMAN: All right. Let's
10 --

11 MR. BALDWIN: I move we go into
12 Executive Session.

13 MR. CHAIRMAN: Do I have a second
14 on that?

15 MR. BURKETT: Second.

16 MR. CHAIRMAN: Okay. Any
17 discussion?

18 (No response)

19 MR. CHAIRMAN: All in favor, please
20 say aye.

21 (Response)

22 MR. CHAIRMAN: If y'all will excuse
23 us.

24 (Executive Session from 12:45 p.m. to
25 1:15 p.m.)

1 MR. CHAIRMAN: I'd like to call the
2 meeting back into order.

3 MR. BALDWIN: I move we come out of
4 Executive Session.

5 MR. CHAIRMAN: Is there a second?

6 MR. BURKETT: Second.

7 MR. CHAIRMAN: I've got a motion
8 and a second to come out of Executive Session.
9 All in favor say aye.

10 (Response)

11 MR. CHAIRMAN: I would like the
12 record to reflect no votes were made or actions
13 were taken during the Executive Session.

14 We have had an opportunity to
15 discuss the CPE issue, the documentation issue.
16 And, Doris, you referred us back to the law and
17 the regulations and Bob looked that up. Bob, do
18 you have that handy?

19 MR. BALDWIN: Yes, I do.

20 MR. CHAIRMAN: Can you kind of read
21 that to us? Do you want to read it out so
22 everybody can hear?

23 MR. BALDWIN: Okay. Continuing
24 Professional Education is 1-08, as Doris pointed
25 out and what I read was, in order for the

1 self-study hours -- we're talking about the
2 self-study hours -- to qualify, a licensee must
3 submit a certificate of completion supplied by the
4 program's sponsor after the completion of an
5 examination. Only self-study courses registered
6 under Quality Assurance Service of NASBA will
7 qualify. All of the required CPE may be obtained
8 using self-study courses or a certificate of
9 completion.

10 So what I did is, that is the only
11 place I found where the certification of
12 completion is required in the regulations.

13 MR. CHAIRMAN: So with that said,
14 with that in mind, the Board discussed it and
15 we're inclined to require the certificates only
16 for self-study that will indicate QAS approved, so
17 any other CPE will not be required to be sent in
18 with their application.

19 Would anybody like to make a
20 motion?

21 MR. BALDWIN: I'll make that
22 motion. I move we follow our regulation, has the
23 evidence required for the licensing. That doesn't
24 mean -- again, I make the motion we follow our
25 regulation with regards to what must be sent in to

1 the Board. That's the motion.

2 MR. CHAIRMAN: Do we have a
3 second?

4 MR. BURKETT: Second.

5 MR. CHAIRMAN: In discussion, that
6 means for self-study courses, that's the only part
7 that has to be sent in with their renewal.

8 MR. BALDWIN: And that doesn't
9 mean, upon audit, we're not going to ask for
10 certificates of completion. The reason I didn't
11 put that in the motion, I didn't want to confuse
12 the motion. And, clearly, with an audit, we may
13 ask for any evidence we seek for proof that you've
14 attended the education.

15 MR. CHAIRMAN: And, Doris, the
16 reason I don't remember why that is -- that's why
17 I was having a difficult -- I don't think I've
18 taken a lot of self-study and that's why I've
19 never had to send in my certificate. I'm pretty
20 positive that's what our old rule was. You had to
21 send it for self-study only and I was never a
22 self-study guru, so to speak.

23 MS. CUBITT: And, truly, the Board
24 members can't comprehend some of the problems that
25 I've seen because y'all have 60 to 80 hours in the

1 Board every year and you all do all the things
2 exactly right. But we just got around to eating
3 our lunch in there and I would have to say, I
4 think that that's what it was. They had to send
5 in the self-study one.

6 MR. BALDWIN: And one other
7 comment, too, to be clear. When the State
8 Association of CPAs, Elliott Davis or Burkett &
9 Burkett puts on an education, they are still in
10 those requirements of keeping a list, having the
11 evidence, and there are witnesses there that
12 people attended, and that is distinguishable from
13 the self-study requirement where you're by
14 yourself.

15 MS. CUBITT: Right.

16 MR. CHAIRMAN: All right. We've
17 got a motion on the floor and we've got a second
18 for discussion. Any more discussion from the
19 Board?

20 (No response)

21 MR. CHAIRMAN: All in favor say
22 aye.

23 (Response)

24 MR. CHAIRMAN: Any opposed?

25 (No response)

1 MR. CHAIRMAN: All right. Any
2 comments from the audience?

3 MS. WILDMAN: I just have a
4 question. Are they required to send in the
5 reporting form which lists the courses that they
6 took or are they just checking the box stating
7 that they received it --

8 MR. CHAIRMAN: I haven't seen the
9 new --

10 MS. CUBITT: We were asking for the
11 reporting form rather than just check the box.

12 MR. CHAIRMAN: So we want to see
13 the list of the courses they took when they submit
14 it.

15 MS. WILDMAN: Okay.

16 MR. CHAIRMAN: Like it used to be.

17 MR. BALDWIN: Like we all did.

18 MR. CHAIRMAN: That's going back.
19 But no regular CPE. And another issue we visited
20 about a little bit earlier or we were discussing
21 was the issue of transcripts. And we decided -- I
22 think we decided in our discussion that we kind of
23 relied on a lot of transcripts during the audits,
24 the CPE audits that we performed this July. We
25 relied on audit transcripts. And we think if

1 these are audited and we think we've got a problem
2 with transcripts, then it will be up to the staff
3 to go to those firms and perform procedures on
4 those transcripts.

5 But we're not going to say that a
6 transcript shouldn't be accepted. I think that's
7 what our decision was, that we would not force
8 that and that they could accept transcripts. I
9 think that's what we considered, that you can
10 accept transcripts.

11 If you think there's some reason
12 that that transcript may not be valid for some
13 reason, you have the right to investigate it as a
14 staff member. Now, would you like that in a
15 motion, too, or is that okay to have it like
16 that?

17 MS. CUBITT: With direction.

18 MR. CHAIRMAN: With a little more
19 direction. All right. Good.

20 MR. CROCKER: Just one question.

21 MR. CHAIRMAN: Yes, sir.

22 MR. CROCKER: To communicate what
23 we were going to do, did we send both regular mail
24 and email to all the licensees?

25 MR. CHAIRMAN: That's a good

1 question.

2 MS. CUBITT: We did a email, but we
3 did not do regular mail.

4 MR. CROCKER: Because some people
5 that I had talked to were aware of that and some
6 were not. So I couldn't remember how I knew. So
7 what do you think we'd do now to make sure it's
8 clear what we're doing?

9 MS. CUBITT: Normally, we would do
10 an email blast. For those types of things, that's
11 the communication we're using now and we ask
12 everybody to update their email address every time
13 on every renewal form and everything. Some people
14 don't always read all of their email. But on the
15 other hand, when I've mail everything, they'd say,
16 well, yeah, I got it but I didn't open it. But
17 we'll do whatever the Board --

18 MR. CHAIRMAN: Well, Erin might can
19 help us get the word out, too.

20 MS. HARDWICK: We'll supplement
21 what Doris does. We'll help.

22 MR. CHAIRMAN: Is there any way you
23 could put something out to your members or maybe
24 we could get something out to the public
25 accountants? Maybe, Doris, if you could draft

1 something up, maybe, and provide it to both the
2 Society of Public Accountants and to the
3 Association of CPAs and maybe they could help get
4 the word out, too. She said that they would just
5 do an email blast.

6 MR. BALDWIN: But do we have a
7 mailing going out the next 45 days, routine?

8 MR. CHAIRMAN: I don't think so.

9 MR. BALDWIN: Okay. Thank you. I
10 just didn't know.

11 MR. CHAIRMAN: Now, as far as email
12 addresses, do we have some licensees that we do
13 not have email addresses for? And if we do, how
14 do we handled that?

15 MS. HARDWICK: Send them regular
16 mail.

17 MS. CUBITT: We can send them one
18 regular mail. I mean, it's a very, very low
19 number.

20 MR. CHAIRMAN: And if somebody
21 didn't get their email, if does it does get
22 rejected, do we know? Do we send return receipt
23 opened or anything like that with our email line?

24 MS. CUBITT: I don't know if you
25 can with a blast that large.

1 MS. HARDWICK: If an email address
2 is bad, I think it bounces back in the bad. But a
3 problem that we have, and we try to communicate it
4 to people, is they give us their spam address,
5 like what they have from junk, you know. And so I
6 try to explain to them that we're not going to
7 spam their email and it's dropped to literally
8 four or five a year at most.

9 But that, I think, is the reason a
10 lot of people don't get it is because they create
11 mail addresses. Like when they want things like
12 your coupons, they have to submit an email
13 address, you know, they have to do that and that's
14 where they get those.

15 MR. CHAIRMAN: You know that
16 opening page on our website? Maybe we ought to
17 put a headliner on there, make sure your email is
18 correct with the Board of Accountancy. Maybe we
19 ought to do that to try to encourage that.

20 All right. C-2, NASBA quick poll
21 regarding carryover hours. Doris, do you want to
22 chat about that for a second?

23 MS. CUBITT: Someone raised the
24 issue -- it might have been Jim Holloway -- about
25 we allow 20 hours of carry-forward of CPE and he

1 has some concerns about that because maybe the
2 Yellow Book doesn't allow them to carry over any
3 hours and then it gets confusing about the number
4 of hours. And so we did a quick poll to find out
5 the ones that, the states that did carry over and
6 the states that didn't and it was kind of
7 confusing. But we didn't get a response from
8 everybody.

9 MR. CHAIRMAN: This is just really
10 for information.

11 MS. CUBITT: Right. Right.

12 MR. CHAIRMAN: This is just for
13 information. It looks like everybody does a
14 little bit of everything.

15 MS. CUBITT: Yeah. We got 28
16 responses and 10 percent of them said yes, they
17 allow carry forward and --

18 MR. CHAIRMAN: 40 percent --

19 MS. CUBITT: Yeah. 40 percent, 10
20 people, ten states. And 15 said that they do not.
21 And those are some of the comments we got.

22 MR. CHAIRMAN: So this is really
23 just for information, I believe.

24 MS. CUBITT: It is. Because our
25 statute allows for the carry forward and because

1 the issue was raised, we did the quick poll to see
2 if that was something the Board had an interest
3 in, but it is just for information at this point.

4 MR. CHAIRMAN: All right. C-3,
5 Licensee lives and works in another state.

6 MS. CUBITT: We were just asking
7 for some direction on that to make sure that we
8 were on the same page with the Board. It was my
9 understanding that if someone is licensed in North
10 Carolina, works in North Carolina, lives in North
11 Carolina, but they also hold a South Carolina
12 license, that we would accept whatever the other
13 state, the resident state accepted.

14 MR. BALDWIN: So let me ask you a
15 question in reverse. Would North Carolina accept
16 the same for us?

17 MR. BURKETT: Yeah. Most states
18 --

19 MS. CUBITT: Most states do.

20 MR. CHAIRMAN: North Carolina has
21 that in their magazine this time. It says, if
22 you're in compliance with your resident state,
23 even if you have a North Carolina issued CPA
24 certificate, you're okay with us.

25 MS. CUBITT: And even with

1 mobility, people are still retaining some of their
2 certificates in other states.

3 MR. BALDWIN: Right. The reason I
4 want to make sure we have reciprocity in North
5 Carolina is it's helping us be consistent. North
6 Carolina is real funny about their ethics CPE, I
7 know that. So I want to make sure our people are
8 treated the same way on other side.

9 MS. CUBITT: Well, if the other
10 state had a requirement of 20 hours, a minimum of
11 20 hours but 120 over three years, we'd look at
12 that. They'd still have the 40 every year total.
13 But if we looked at them and they did 20 this year
14 in North Carolina and they did 60 this year, we're
15 going to say that they met our requirement, too,
16 because they did 80 over the two years.

17 MR. BALDWIN: Well, I hear two
18 different things. In one ear, I hear that if they
19 meet North Carolina standards, it doesn't matter
20 over here.

21 MS. CUBITT: Well, it is. But
22 that's --

23 MR. BALDWIN: Is that correct?

24 MS. CUBITT: Yeah. I wasn't saying
25 it well, but, yes, you're correct. We're not

1 going to look that deep on them as long as they've
2 met North Carolina's requirements.

3 MR. CHAIRMAN: And that goes for
4 self-study or anything else?

5 MS. CUBITT: Yes.

6 MR. CHAIRMAN: If they're compliant
7 for North Carolina, we're not going to pester them
8 about --

9 MR. BALDWIN: Right.

10 MR. CHAIRMAN: And North Carolina
11 is doing the same thing.

12 MR. BALDWIN: It makes sense.

13 MR. CHAIRMAN: All right. Now, I
14 think we've satisfied that other state issue. Are
15 we okay with that, Michael? Is everybody good?

16 MS. PIKE: Can I be a fly in the
17 ointment here?

18 MR. CHAIRMAN: Yes.

19 MS. PIKE: All right. I'm leaving
20 the regulations. We don't have an exception in
21 our law for that. Are we making new law here?

22 MR. BURKETT: Does anything in
23 mobility cover that? I think that's the
24 question.

25 MR. CHAIRMAN: No. Malane raises a

1 good point. Maybe if you surrendered your South
2 Carolina certificate and follow our rules.

3 MS. PIKE: I know -- and, once,
4 again, this for lawyers -- but I know that I'm
5 licensed in Georgia as well and I have to meet
6 Georgia requirements.

7 MR. BURKETT: Right. But your
8 license, it is completely different. You have to
9 take the Bar exam in that state and you have to do
10 those type of things.

11 MS. PIKE: Yes.

12 MR. BURKETT: It's completely
13 different than our license.

14 MS. PIKE: But we don't have a
15 provision that --

16 MR. BURKETT: I understand that. I
17 mean, but your license requirements are different
18 than CPA license requirements.

19 MS. PIKE: That's very true.

20 MR. BURKETT: But Malane does make
21 the other good point. We have the regulatory
22 authority doing it -- we don't have a regulatory
23 authority. I know the answer to that.

24 MR. CHAIRMAN: Well, what gives us
25 the regulatory authority?

1 MS. PIKE: There are statutory
2 regs.

3 MR. BURKETT: That's right.

4 MR. CHAIRMAN: I'm just asking
5 Doris. I mean, we like the regs. It's a nice
6 fit, it sounds good, doesn't it?

7 MS. CUBITT: But she's correct.
8 It's not in our statute of regs.

9 MR. BURKETT: It doesn't matter,
10 then.

11 MR. CHAIRMAN: So that's what we
12 want to do, but we can't do it. We've got two
13 choices, I reckon. We can look the other way or
14 either put it on the schedule to change our law in
15 the future and keep going like we're doing or --

16 MR. BURKETT: We've already got the
17 law in. We can't add it to what --

18 MR. BALDWIN: That's right.

19 MR. BURKETT: So we need to add
20 that to the list of things we want to consider
21 changing.

22 MR. BALDWIN: So we've changed our
23 answer. They must meet the South Carolina statute
24 for their South Carolina license.

25 MR. CHAIRMAN: Yeah. I don't think

1 we have any choice right now.

2 MR. BALDWIN: I agree.

3 MR. CHAIRMAN: All right. Do we
4 need that in a motion?

5 MS. CUBITT: Really, no. Because I
6 think because it's statute and regs --

7 MR. CHAIRMAN: Not if it's in the
8 law.

9 MR. BALDWIN: Law is law.

10 MR. CHAIRMAN: All right. Number
11 C-4, SCACPA CPE presentation. I know we've
12 covered a lot of SCACPA stuff, but y'all are back
13 for the third time. Three strikes, you're out,
14 right?

15 MS. HARDWICK: Rich wanted this.
16 This is good. We appreciate it. Just the last
17 issue is about the web case versus Webinar. And,
18 currently, it's disallowing CPE that's taken
19 through a Webcast scenario, and what we'd like to
20 do is define what the differences are between
21 Webcast and Webinar and urge you to reconsider
22 perhaps that rule. And I've got with me what I
23 call our resident expert of CPE, Reva Brennan,
24 who's our associate director and has been in
25 charge of CPE for SCACPA for eleven years. She

1 works intimately with all of this on a daily basis
2 and maybe Reva could give us a quick definition
3 between the two and what the differences are. And
4 then I think Tom and maybe Walda as well could
5 speak just briefly to how that could impact or is
6 impacting.

7 MS. BRENNAN: Thank you.

8 Basically, some vendors use Webcast and Webinar
9 interchangeably. With SCACPA, we have vendors
10 that call their products Webinar and some that
11 call them Webcast, but they basically work the
12 same way. But the definition of a Webcast has
13 limited interactivity.

14 So there's interactivity skills but
15 it's just limited, which means, basically, if I'm
16 taking a Webcast and I have a question, I would
17 email that question. It would go to either the
18 moderator, the person who is actually teaching the
19 course, or another person, and that person would
20 provide that question to the instructor, the
21 instructor would read the question and would
22 provide an answer.

23 So it's not an immediate response
24 to what your question would be if you were doing a
25 Webinar, which means you would raise your hand,

1 ask the question and you would get an immediate
2 response. Those, you have to delay in between
3 your question and response for the instructor.

4 So that's basically the difference
5 between a Webcast. They have the same controls in
6 place.

7 MR. CHAIRMAN: Let's focus on the
8 problem at hand.

9 MS. BRENNAN: Okay.

10 MR. CHAIRMAN: You are of the
11 opinion that the Webcast are interactive enough
12 that they should not be counted as just --

13 MS. BRENNAN: That's correct.
14 Because it has the opportunity for you to ask a
15 question just as if you were doing a live class.
16 The instructor is there as he's presenting and it
17 has the controls in place to monitor your
18 attendance just like a Webinar. So there's a code
19 that flashes on the screen that you have to record
20 and at the end of the program, return those codes
21 in order to get the proper credit.

22 MR. CHAIRMAN: So the crux of the
23 issue is whether this Board or not feels like that
24 meets the definition of interactive enough not to
25 be self-study?

1 MS. BRENNAN: Correct. Well,
2 actually, I think, according to the website, it
3 would not even be classified as self-study because
4 self-study has to be QAS approved and live Webcast
5 is not --

6 MR. CHAIRMAN: Yes, sir.

7 MR. MCCLELLAND: I think the main
8 issue is that a lot of the vendors, the AICPA,
9 everybody calls it, you know, online CPE different
10 things. One person may call it Webinar, one
11 person may call it Webcast. I just got an email
12 from the AICPA, they call theirs web events now.
13 And as long as it's interactive, I think it would
14 qualify as CPE.

15 The problem is, the FAQs say that
16 anything called a Webcast is not allowed. So
17 you're going to have a bunch of people, if you go
18 out and audit things, that say, okay, my
19 certificate says Webcast so that's not allowed.
20 And, actually, it may have been an interactive
21 online seminar. And that's really the heart of
22 the matter.

23 MS. PIKE: I thought that Webinar
24 were more interactive Webcasts were.

25 MS. BRENNAN: The only difference

1 is, is that you can ask your question immediately
2 and receive a response. The Webcast, you just
3 have to email your question. So if you're taking
4 a Webinar, you can actually -- I'm sorry. If
5 you're taking your Webinar, you can post -- email
6 or post your question immediately. The presenter
7 can post a question back to you, where with
8 Webcast, you can only email your question.
9 There's no other mode of communication, unless
10 some of them actually allow you to fax or phone
11 your question and then there's someone that will
12 actually get the question to the instructor for
13 you.

14 MS. GREENLEE: At one point, and I
15 don't know if it was Webcast or Webinar, but where
16 they actually ask you questions throughout the
17 process to make sure that you really are listening
18 and that you really are -- where they have said,
19 you got that one right and nobody else did.

20 MS. BRENNAN: That can be done in a
21 Webinar but it can also be done in a Webcast.

22 MS. GREENLEE: Okay. So both of
23 them might be right.

24 MS. BRENNAN: Right. Exactly.
25 It's just a mode of how you pose your question or

1 monitoring attendance is different. Because
2 that's just to monitor attendance. Which what
3 they do in Webcast is, usually, they provide a
4 code that you'll have to return in order to get
5 the credit.

6 MS. GREENLEE: And from a small
7 firm perspective, if y'all don't know the
8 difference between a Webcast and a Webinar, I
9 don't have a senior partner to parse those words
10 with me.

11 MR. BALDWIN: You are the senior
12 partner.

13 MS. GREENLEE: And I don't have
14 time to worry about -- and you all also need to be
15 aware with the Government Audit Quality Center and
16 with the Companion organizations for pension plans
17 which, you know, the AICPA is pushing us all to
18 join this thing. I'm one of the only sole
19 practitioners probably that belongs to the GAQC.
20 But that's the most wonderful CPE I get because --
21 and it's really like having a senior in Washington
22 because you get an opportunity for CPE credits and
23 you're the experts, the guys who go over on behalf
24 of the AICPA to the GAO and talk about clarity
25 and, you know, all that kind of stuff.

1 So I'd hate to have to give that
2 up. And I don't want to have to worry at my
3 age -- we all, as practitioners, have enough
4 definitions, Lord knows, in the Internal Revenue
5 Code to worry about, you know. But we then have
6 to worry about whether we're hitting a Webinar or
7 a Webcast and --

8 MS. BRENNAN: And the NASBA has
9 approved -- in fact, the AICPA as well as some of
10 the other vendors that we use for Webcast for
11 internet group-based study. So they've gone
12 through this process of approval with NASBA.

13 MR. CROCKER: And then you
14 contacted the AICPA and they said the words
15 Webcast and Webinar is the same thing?

16 MS. BRENNAN: Right.

17 MR. CROCKER: So it's just a matter
18 of terminology --

19 MS. BRENNAN: Correct.

20 MR. CROCKER: But you've changed
21 that to say interactive online web base --

22 MS. BRENNAN: Yes. If you just say
23 that you have the controls in place where it's
24 interactive and you have the controls in place to
25 monitor their attendance, regardless if this is

1 called a Webinar or a Webcast, then you've kind of
2 met the standard of what you require for
3 internet-based programming.

4 MR. BALDWIN: It appears to me that
5 his issue has continued to become more and more
6 germane year in and year out because CPEs continue
7 to evolve and, quite frankly, it's evolving at a
8 rapid rate. We may want to think and study this a
9 little bit. I don't want to respond to it today,
10 but I think your point is well taken about what's
11 Webcast, what's Webinar.

12 What does it matter? We've been
13 approached in recent months and our prior meetings
14 where people are coming in and there are ADA
15 issues and stuff like that where they're saying,
16 you know, the only way I can get my education is
17 sitting at a computer when I can sit in front of
18 the computer.

19 I don't know if we want to re-study
20 this, but I can see that if we don't think it
21 through, we could be discussing this at every
22 meeting going forward as we debate the merits of
23 what's a Webinar and what's a Webcast. I just
24 wonder if we should study it more.

25 MR. CHAIRMAN: Well, let me ask

1 you. If we agree that if it's interactive enough
2 and there are controls over attendance, that's
3 okay.

4 MR. BURKETT: Then that's okay.
5 That means it's not self-study.

6 MR. CHAIRMAN: That means it's not
7 self-study and it doesn't have to be QAS approved.
8 So if we just changed our response to say, as long
9 as you've got controls over attendance and
10 interactive, we'd be okay? Now, I'm okay with
11 that.

12 MR. BALDWIN: So we understand
13 interactive, let's just say that the -- let's take
14 an institution of higher education and then create
15 a financial accounting course and they rate you
16 where you type in a question and they have a
17 pre-arranged video answer. I mean, at what point
18 -- I'm just pointing out where it's headed to.
19 Because, frankly, that's what's in the realm of
20 reason in the future in response to continuing
21 special education.

22 MR. BURKETT: But I think that what
23 Mark said is the answer to the questions as we sit
24 here today. My concern is, we've got people
25 trying to fill out --

1 (Board discussion)

2 MR. LUNSFORD: And the fact of the
3 matter is, if it's interactive, they've got to
4 answer questions that -- if it's done at SCACPA,
5 you're keeping attendance, right? So, I mean, to
6 me, that is not self-study.

7 MR. BURKETT: Well, what the
8 problem was, and everybody in this room that were
9 not here, self-study, we had people getting 32 to
10 40 hours a day in self-study.

11 MR. CHAIRMAN: And that's wrong.

12 MR. BURKETT: And that's not going
13 to be tolerated by the Board.

14 MR. CHAIRMAN: Correct.

15 MR. BURKETT: I mean, that's just
16 not going to be tolerated. It's not acceptable.
17 I don't know how you do that.

18 MS. BRENNAN: And one thing that
19 represents interaction that addresses that issue,
20 Bob, is that it's live. The instructor is
21 actually there. It's not a recording so the
22 instructor is there to actually provide that live
23 interaction.

24 MR. BALDWIN: But all I'm sharing
25 with you, and I understand that and I think Mark

1 is right and I think we should go for that answer.
2 But I'm also telling you, I'm having trouble, as
3 it evolves, seeing the difference between
4 self-study, Webinar. To me, it's all blurring
5 together is all I'm sharing with you and I don't
6 see us arbitrating this decision meeting in and
7 meeting out, ultimately. That's all I was
8 saying.

9 MS. BRENNAN: I think with
10 self-study, it requires that you have a test.

11 MR. BALDWIN: Right. Right.

12 MS. PIKE: Okay. I think we've got
13 to go back to the regs here again and we've got to
14 deal with the issues that we've got that the
15 program will qualify -- and I'm in regulation 1-08
16 and I'm in sub-paragraph E. For courses attended,
17 a CPA course must contribute directly to the
18 professional competence, duh, duh, duh, duh. And
19 then it says, program will qualify if the program
20 is conducted by persons whose background,
21 training, education and experience qualifies them
22 as appropriate instructors, discussion leaders or
23 lecturers in the subject matter to the program.

24 An outline of the program presented
25 is prepared in advance and shall be maintained by

1 the sponsor. The program is at least one hour, 55
2 minutes in length, one-half CPE increments equals
3 25 minutes are permitted after acceptance of a
4 given program.

5 Sponsors are to calculate credit
6 hours. A certificate of attendance described in
7 the previous paragraph is given to each
8 participant at the end of the sessions. Records
9 showing compliance with this section are preserved
10 and maintained by the sponsor for a period of at
11 least five years from the date of the presentation
12 of the program.

13 I mean, if we want to add in
14 different requirements, then we need to put them
15 in the reg and follow the reg.

16 MR. CHAIRMAN: That's true.

17 MR. BURKETT: We're not talking
18 about adding requirements. They're trying to get
19 a definition between a -- they're wanting to see
20 if what they're asking qualifies. By what you
21 read to me, it does qualify.

22 MS. PIKE: Well, that's my point.

23 MR. CHAIRMAN: I think it does
24 qualify. What's wrong is our frequently asked
25 questions were too narrow.

1 MR. BURKETT: That's what I'm
2 telling you.

3 MR. CHAIRMAN: I don't think our
4 frequently asked questions are consistent with our
5 reg or our law.

6 MS. PIKE: I think if we want to
7 make it tougher to qualify, then we need to add in
8 requirements for the regulation to change the
9 regulation and then go from there.

10 MS. CUBITT: Does it also come down
11 to the definition of -- because this is for
12 enforcing attendance. You've got to define there
13 whether a Webinar or a Webcast is something they
14 attended.

15 MR. BALDWIN: What's attendance?

16 MR. CHAIRMAN: Well, I think you
17 can attend something through the computer.

18 MS. CUBITT: Well, I do, too.

19 MR. BALDWIN: Well, no. Just as an
20 example, Erin made this very valid point and I
21 shared it with her. Okay. So Mark and Erin
22 recorded the PUI session and now we'll re-Webcast
23 it today and they're available for questions.
24 It's the original video tape. Is that live? I'm
25 just making a point. That's my point about how

1 blurry -- you are available for questions. They
2 are present at a Webcast. You are. So that's why
3 --

4 MS. CUBITT: I think we had said
5 before that if it was archived that it wouldn't
6 count.

7 MR. BALDWIN: And what I'm telling
8 y'all I'm struggling with is, I don't know why.

9 MR. CHAIRMAN: We're changing that
10 now and saying as long as there's rules of who's
11 there and there's participation, they can.

12 MR. BURKETT: But participation is
13 what -- from what she read, participation is what
14 makes a difference.

15 MR. BALDWIN: Right. So I sat in
16 the Southern Federal Tax Institute this year at
17 the back of the room. The lecturer goes on for 50
18 minutes precisely. There's 300 people in the
19 room, no one is asking any questions. We're all
20 there.

21 MR. BURKETT: That's completely
22 different. That's not self-study. That's a
23 completely different issue.

24 MR. BALDWIN: Anyway, I'm just
25 telling y'all that I'm having trouble with where

1 it is. But, to me, the answer is to follow the
2 regulations until such time as we go back and
3 revisit.

4 MR. BURKETT: Can you watch
5 Southern Federal in your hotel room?

6 MR. BALDWIN: Sure.

7 MR. BURKETT: Do you get credit for
8 it?

9 MR. BALDWIN: I don't think so.

10 MR. BURKETT: That's the answer to
11 that question.

12 MR. BALDWIN: It's not
13 interactive.

14 MS. BRENNAN: Right. And they're
15 not monitoring your attendance which is --

16 MR. BURKETT: You can't do that.
17 If you're in your room watching TV and take credit
18 for it, it doesn't count.

19 MR. BALDWIN: I don't do that.

20 MS. PIKE: Doris has a very good
21 point when she says that -- I mean, E is for
22 courses that are attended. And I guess I would
23 think of a course that you attend as being one in
24 which you can ask a question and get a response
25 regardless of the manner by which it could be

1 done.

2 MR. BALDWIN: So John Donnelly and
3 I spoke at South Carolina Law and we spoke here in
4 Columbia and then at the same time, simultaneously
5 by satellite in Charleston and Greenville, the
6 same CLE was continuing. They weren't in the
7 room, they could ask questions. Were they in
8 attendance? And the answer is yes.

9 MR. BURKETT: Because somebody kept
10 the attendance.

11 MR. CHAIRMAN: Because they were
12 controlled, controlled and interactive.

13 MR. BURKETT: If you left, you had
14 to sign out.

15 MR. BALDWIN: Yeah. Total
16 control.

17 MR. BURKETT: That's what I'm
18 saying. That's the difference.

19 MS. PIKE: So with the Webcast and
20 having to email in your question or call in your
21 question, how long roughly does it take to get a
22 question answered? Is it answered during the
23 program?

24 MR. BURKETT: Yeah. It's answered
25 during the program.

1 MS. BRENNAN: It's within a couple
2 of minutes.

3 MR. BURKETT: They're supposed to
4 walk up and bring it to you.

5 MS. BRENNAN: Right. That's
6 exactly what happens.

7 MR. BURKETT: The fact of the
8 matter is, though, it's probably in a lot of
9 instances, there's no difference between a Webcast
10 -- if it's just the terminology, they're
11 absolutely right. If it's interactive, I think
12 that what we were trying to do is make it qualify
13 by what we wrote in the law.

14 MR. CHAIRMAN: I think so, too.

15 MR. BURKETT: Maybe that's not
16 exactly what it says. But if he had control over
17 that, it qualifies.

18 MR. CHAIRMAN: That was our
19 intent.

20 MR. BURKETT: If it's self-study,
21 it's got to be QARS qualified and you're limited
22 to 20 hours. That's the deal. Because we've had
23 a lot of abuses with that, or what we consider
24 abuses.

25 MR. CHAIRMAN: Right. Would

1 anybody like to make a motion?

2 MR. BURKETT: Well, I don't need to
3 make a motion -- I mean, maybe we can. But I
4 think that -- my understanding is, if it's
5 interactive -- and we'll just call it a Webinar or
6 a Webcast. It is what it is if it's interactive
7 and they take attendance.

8 MR. CHAIRMAN: If they're
9 controlled and if it's interactive, you can.

10 MR. BURKETT: I think it qualified
11 by what she read in the law. I mean, you can tell
12 me if you disagree, Malane.

13 MR. CHAIRMAN: So a question may
14 be, our frequently asked question may need to be
15 tweaked a little bit?

16 MS. PIKE: Well, I think where we
17 need to go is we need to fit it into the reg and
18 say that these count as courses that you have
19 attended. These meet the qualifications of
20 courses attended pursuant to regulation 1-08E.

21 MR. CHAIRMAN: And that's assuming
22 they have attendance control and are interactive,
23 those two requirements. And if they do that, they
24 meet the definition of attendance. We don't need
25 a motion. We're all shaking our heads, or speak

1 up. Does anyone want to speak up? Any comments
2 from the audience?

3 MS. CUBITT: Is our question about
4 archived ones still correct?

5 MR. CHAIRMAN: It depends on
6 whether it's interactive and they're controlled.

7 MR. PIKES: If it's archived, it
8 can't be interactive because there's no instructor
9 there to answer your question.

10 MR. CHAIRMAN: All right. We have
11 people standing up in the back of the room.

12 MS. BRENNAN: Actually, it can be.
13 For emphasis, I think Bob even gave the scenario
14 that the PIUs that we did around the state. It's
15 been recorded. But we replay it and that's
16 archived, but Erin or Mark is available to answer
17 any questions. So the people still have the
18 opportunity to email the questions, they monitor
19 attendance and Erin or Mark would respond to their
20 questions.

21 So even though the video is
22 archived, the presenters are actually live and
23 available for their questions when they're doing
24 it.

25 MS. CUBITT: And that kind of goes

1 back to, in the old technology -- I'm really going
2 back far -- they had the tapes and if you just sat
3 down and watched a tape, that didn't count as CPE
4 because it wasn't something you attended. It
5 wasn't live, it didn't have control. But if you
6 got somebody from your firm who had expertise in
7 that area to monitor it and you had conversations
8 and questions and things like that, then you could
9 count it. But it's really basically the same
10 thing.

11 MS. BRENNAN: Right. Because the
12 controls are still in place as well where they
13 monitor their attendance as if it was during the
14 live cast. So the same controls are in place.
15 The video is just a replay of the actual events.

16 MS. PIKE: I can tell you that if
17 you say yes to this, it is consistent with what
18 the appraisers do because I got involved in that
19 at DOR since we were required to provide part of
20 the appraisal training and I had to have that
21 approved by the Appraisal Board here and that's
22 the way that they looked at it.

23 If there was somebody there to
24 answer the questions, then they would approve a
25 previously taped program.

1 MS. CUBITT: We can word that
2 question and make that work.

3 MR. CHAIRMAN: How do you mean?

4 MS. CUBITT: If you're
5 participating in a recast, let's say, of a Webinar
6 or Webcast, and it has a sponsor and you have the
7 things you had before, you have the controls and
8 the interactivity, then, yes, you could get credit
9 Webinar But if you just watch an archived Webinar
10 without the other parts to it, then, no, it
11 doesn't count as CPE.

12 MR. BURKETT: Because I've just
13 watched it, I could always tell I watched it. I
14 could go through till the end of the year and make
15 a list of things I said I watched, just like the
16 guy that gave me a list of the articles he had
17 read.

18 MR. CHAIRMAN: I agree. Okay. So
19 we can handle that? We can address that? Is
20 everybody okay with that?

21 (No response)

22 MR. CHAIRMAN: All right. Good.
23 Anything else?

24 MR. LUNSFORD: I have a general CPE
25 question. You talk about --

1 MR. CHAIRMAN: You cannot get CPE
2 today. Thank you all for being here.

3 MR. LUNSFORD: In reading the hours
4 of credit and the carryovers of credit and we're
5 supposed to be talking about 20 hours of
6 limitation on CPEs in self-study, but you can't
7 carry over self-study, what do you count first?
8 It doesn't say here what you count first.

9 MS. CUBITT: Well, you can't carry
10 over any self-study, so we just let them use 20
11 hours and cut that off. And then everything else,
12 if they had more than 40 hours, we count as a
13 carryover.

14 MR. LUNSFORD: But if you had 20
15 hours of self-study and you had 24 hours of other,
16 you're going to have --

17 MS. CUBITT: You carry 4 hours
18 over.

19 MR. CHAIRMAN: And that should be
20 put on the web, too.

21 MR. LUNSFORD: Yeah.

22 MR. CHAIRMAN: But everybody
23 figures it out, if you think about it. You've got
24 to use self-credit first.

25 MS. CUBITT: Well, if you don't,

1 you might teach yourself.

2 MR. CHAIRMAN: That's correct.

3 MR. BURKETT: I've got one more CPE
4 question. Can you really get a credit for
5 something Mark teaches? I mean, I don't know.

6 MR. CHAIRMAN: We're going to be
7 here for, I don't know -- do we have supper menus?
8 Do we have anything else from SCACPA?

9 MS. HARDWICK: No, thank you.

10 MR. CHAIRMAN: Thank you, so much
11 for your help. We're going on to 11-D,
12 International Qualifications Appraisal Board.
13 Doris, do you want to talk on that for a second?

14 MS. CUBITT: Yes. For those that
15 did attend the annual meeting, there was a formal
16 ceremony for the signing of the agreement with the
17 Qualification Appraisal Board and the Hong Kong
18 Institute of Certified Public Accountants. And,
19 basically, if you're a CPA in that jurisdiction,
20 they can come over here and take the ICWEC and if
21 they pass that, then that you allow them to be
22 licensed in your state.

23 MR. BALDWIN: Hong Kong, right?

24 MS. CUBITT: Hong Kong.

25 MR. CHAIRMAN: This is for

1 information.

2 MS. CUBITT: They would like input
3 back and to which jurisdictions are going to
4 accept it or not. So I think it would be nice to
5 take a vote and you'd have it on the --

6 MS. PIKE: Do we have a provision
7 for that in our statute?

8 MR. BURKETT: I think you asked
9 about the mobility statute.

10 MS. CUBITT: We used to. I think
11 it's still in effect.

12 MR. BALDWIN: Is this mobility or
13 is this licensing in the state?

14 MS. CUBITT: About the only ones we
15 have ever gotten have been Canada --

16 MR. BALDWIN: Chartered, yeah.

17 MR. CHAIRMAN: Shall we table this
18 till January maybe? Donnie, do you want to
19 comment on this?

20 MR. BURKETT: No. I just want to
21 see what y'all have got to say.

22 MR. CHAIRMAN: You know, with all
23 the fish we've got to fry, this doesn't get me too
24 interested. I mean, I'm not too interested in it
25 myself.

1 MR. BALDWIN: Well, when do they
2 want an answer back, Doris? Is it --

3 MR. CHAIRMAN: The answer is
4 whether we accept it or whether we approve it?

5 MS. CUBITT: Yes, sir. Whether we
6 --

7 MR. BURKETT: I think it's probably
8 something, Doris, that you could figure out by
9 going to the regs and let them know, right?

10 MR. BALDWIN: And I want to be
11 clear. So they're asking whether they can be
12 licensed here, right?

13 MS. CUBITT: Yes, sir.

14 MR. BALDWIN: All right. I think
15 we're going to have to look at the statute because
16 I think the statute makes reference to licensing
17 of people from another state, which is the United
18 States, the District of Columbia and any authority
19 outside -- I'm not certain they can be licensed
20 outside the United States.

21 MR. CHAIRMAN: We'd have to change
22 our law, I believe.

23 MR. BALDWIN: Yeah. And, also, if
24 you think about it, I mean --

25 MS. CUBITT: Can we put this on the

1 January meeting and let me have the --

2 MR. BURKETT: That's what I'm
3 thinking you need to do.

4 MR. CHAIRMAN: Maybe Dean and --

5 MS. PIKE: FYI, state means any
6 state in the United States, the District of
7 Columbia, Puerto Rico, the United States Virgin
8 Islands and Guam, except the phrase, this state
9 means the state of South Carolina. So I think we
10 might have a little problem here.

11 MR. BALDWIN: I do, too.

12 MR. CHAIRMAN: We might have to
13 study this for --

14 MR. BURKETT: Well, that's the
15 reason for the question if you've got to do
16 something about it, okay? Or what you think needs
17 to be done about it.

18 MR. CHAIRMAN: Well, let's put this
19 back on the plate for January's meeting.

20 MS. CUBITT: Okay.

21 MR. CHAIRMAN: Let's move on to the
22 LLR Engine Bill changes. Malane?

23 MS. PIKE: I thought that the best
24 way to handle this was to put some of the
25 provisions in front of you and let's have a

1 discussion about those provisions and what issues
2 we all see with those provisions, and then I can
3 take those notes and convert those notes into
4 something to provide to Catherine Templeton. Does
5 that seem acceptable to everybody?

6 MR. CHAIRMAN: It sounds like a
7 good plan to me.

8 MS. PIKE: All right. Then what I
9 have done is, I have looked at both the Engine
10 Bill and the Practice Act. And for those of you
11 who are new on the Board and maybe aren't as
12 accustomed to looking at statutes, state statutes
13 as some of us that have been around a while, let
14 me tell you that a South Carolina statute, first
15 of all, we are in Title 40 of the South Carolina
16 Code. So when you see 40-1-30, 40 is the title
17 number, 1 is the chapter number and 30 is the
18 section number.

19 So the Engine Bill is in Chapter 1
20 and our Practice Act is in Chapter 2, okay? So
21 when you see something that says 40-2-some
22 section, then the 2 indicates that's our
23 Accountancy Practice Act.

24 Okay. The first one is, they are
25 changing the Engine Bill such that the Boards will

1 no longer have input into the renewal date or the
2 length of time a license is valid. Right now, a
3 license is valid for up to two years under the
4 Engine Bill and then renewal dates are established
5 by LLR with the consent of the Board.

6 Now, if you look at our Practice
7 Act, our Practice Act actually says that the
8 renewals are annual. We have put in a change a
9 while back. I don't think that ever got passed.

10 MS. CUBITT: Right.

11 MS. PIKE: And, frankly, we had
12 talked about leaving it as annual because we felt
13 like we at least kept up with our licensees better
14 when we had annual license renewals. So this
15 would take away our authority to determine whether
16 or not we have annual renewals biannual renewals.
17 And there is also a provision in the Engine Bill
18 that we'll get around to in just a minute. But it
19 is a change that says that the Engine Bill will
20 now supersede any other conflicting provision in
21 the Practice Act.

22 So that having been said, this
23 change would trump our provision in our Practice
24 Act that says that we have annual renewals.
25 Comments?

1 MR. BURKETT: We want to be able to
2 decide our own renewal period. That's just a fact
3 of life.

4 MR. CROCKER: Is CPE reporting the
5 same as renewal?

6 MR. CHAIRMAN: No. We have annual
7 CPE renewals.

8 MS. PIKE: Anything else?

9 MR. CHAIRMAN: I think Donnie is
10 right. We'd rather keep our own right.

11 MS. PIKE: So we want to determine
12 our own renewal period and we also want to
13 determine whether it's -- you know, the renewal
14 period is a little bit different than -- the
15 renewal date is different than the renewal period,
16 okay? And before, we got to determine both. And
17 so they're taking both away from us. I want to
18 make that clear.

19 MR. CHAIRMAN: We don't like that.

20 MS. PIKE: Okay.

21 MR. BALDWIN: We don't believe
22 that's in the best interest of the public and the
23 state of South Carolina or the Regulation of
24 Accountants.

25 MR. CROCKER: And that would be

1 both firms and licensees?

2 MR. CHAIRMAN: Yes, sir.

3 MS. PIKE: All right. Moving on,
4 any other comments on that one?

5 (No response)

6 MS. PIKE: All right. In the
7 Engine Bill, 40-1-50(A), what they are proposing
8 is that the authority to hire the administrator
9 will now be vested solely with LLR with no input
10 from the Board. As it reads now, the Director of
11 LLR can pick a candidate from a list of three that
12 the Board submits to the director.

13 So we will no longer have any
14 input. If Doris retires tomorrow or after these
15 amendments are passed, we would have absolutely no
16 input as to who would replace her under these
17 provisions.

18 MR. BURKETT: We want to leave it
19 the way it is.

20 MR. BALDWIN: Agree.

21 MR. CHAIRMAN: When we get that
22 change in our new law, we want our Accountancy Act
23 to trump it.

24 MR. BURKETT: That's what I'm
25 saying.

1 MR. CHAIRMAN: Because, current,
2 we've got --

3 MR. BURKETT: And we want it the
4 way it is in the new law.

5 MR. CHAIRMAN: The new law, that's
6 right. Not with the current. A new law.

7 MS. PIKE: The new proposed law
8 gives one more authority than what's in the
9 current.

10 MS. CUBITT: Oh. Under your new
11 Practice Act?

12 MS. PIKE: Yes.

13 MS. CUBITT: You want a new
14 Practice Act?

15 MR. BURKETT: We want a new
16 Practice Act.

17 MS. CUBITT: Okay.

18 MS. PIKE: Okay. The next
19 provision is also under 40-1-50(A), which is the
20 Engine Bill. It is proposed that the Director
21 will have the sole authority to hire employees of
22 the Board and to determine the appropriate number
23 of employees as well as their qualifications.

24 Right now, the way the Engine Bill
25 read, the Director only has the sole authority to

1 remove the employees.

2 MR. CHAIRMAN: Are you implying
3 that we can currently hire some more people, this
4 Board can, with those statements?

5 MS. PIKE: Well, there are other
6 things that matter here. And just having been an
7 administrator at a State agency, you have to have
8 FTEs in order to hire State employees. There's a
9 whole lot of other ramifications. But if you look
10 just basically at this Engine Bill, it would
11 appear that we might have some input, at least,
12 into hiring additional employees. But the way
13 that they're changing it, we would have none.

14 MR. CHAIRMAN: I got you. We don't
15 like that.

16 MS. PIKE: Okay. Any other
17 comments about it? Anything you want me to say in
18 particular about it, or would you like for me just
19 to handle it?

20 MR. CHAIRMAN: Handle it.

21 MR. CROCKER: What do you think
22 that that implies? That we would have input?

23 MS. PIKE: Yes. I mean, the
24 current implies that we have input. The proposed,
25 we have no input, zero.

1 MR. BALDWIN: My read on this is,
2 just for what it's worth, the belief is efficiency
3 and the fact that this will come providing
4 centralized management making all the decisions
5 with regards to the employees. I would rather
6 state whether it's the Cemetery Board, the
7 Accountancy Board, the Real Estate Board, it
8 doesn't matter. Mainly, that's more efficient.

9 MS. PIKE: But who better to
10 determine the appropriate qualifications for an
11 administrator of this particular Board than the
12 CPAs that are on that Board?

13 MR. CHAIRMAN: You're right.

14 MS. PIKE: Okay. The next
15 provision. Engine Bill again. What is proposed
16 is that compensation and necessary expenses
17 incurred in the performance of duties by personnel
18 assigned to the Board can be paid in a manner
19 prescribed by LLR. Now, hold on a minute. I'll
20 give you my take on this.

21 The current provisions said, these
22 expenses have to be paid as an expense of the
23 Board. What I gather from this is, let's say
24 we've got a Board over here that has spent all
25 their money and they have no more money. We, as

1 the Board of Accountancy, have been good stewards
2 of our money. We have a -- we're flushed with
3 cash. So LLR can come in and take part of our
4 money to fund that other Board. That's the way
5 that I would interpret that to be.

6 MR. CHAIRMAN: Under the current,
7 does that also mean we can grant our Board people
8 that help us, Attorney Grigg here, Christmas
9 bonuses and stuff is valid Board expenses for
10 doing such a good job of serving our Board?

11 MR. GRIGG: Absolutely.

12 MR. CHAIRMAN: Does that mean we
13 could do that?

14 MS. PIKE: No.

15 MR. CHAIRMAN: Why?

16 MS. PIKE: Well --

17 MR. CHAIRMAN: We need some advice
18 counsel on that.

19 MR. GRIGG: I'm in full agreement.

20 MS. PIKE: But, I mean, we have
21 categories of business which can be spent, okay?
22 And those are the state categories and the
23 expenses. And, unfortunately, Christmas bonuses
24 ain't in there.

25 But the part that I think is kind

1 of scary is that, even though LLR in the past has
2 moved the money around, they haven't necessarily
3 had statutory authority to move the money around.
4 And I think that by changing this, it gives them
5 statutory authority to sort of move money around
6 at will.

7 MR. CHAIRMAN: Rob Peter to pay
8 Paul.

9 MS. PIKE: Yeah. So we either
10 spend up all of our money or we dip into somebody
11 else's till or -- what comment would y'all like
12 for me to make about that?

13 MR. CHAIRMAN: I don't agree with
14 it. I mean, I wish we could keep it like we have
15 it. I think we're pretty much -- we're not in
16 favor of that. I'm not.

17 MS. PIKE: We always have a nice
18 little surplus. We'd be sitting ducks for other
19 Boards.

20 MR. CHAIRMAN: True.

21 MS. PIKE: Any comments?

22 MR. BALDWIN: I hate to point out
23 that if you go to the financials, do y'all look at
24 how much cash we have?

25 MR. BURKETT: It doesn't mean

1 anything.

2 MR. BALDWIN: What?

3 MR. BURKETT: That doesn't mean
4 anything.

5 MR. BALDWIN: I realize it's just a
6 number.

7 MR. BURKETT: The past Director is
8 the only Director that tells us it doesn't mean
9 anything.

10 MS. CUBITT: But that is to carry
11 us all through the next year.

12 MR. BALDWIN: Well, I do recognize
13 that. I would like to state one thing as regards
14 to this. This is just my opinion.

15 I believe that -- well, I
16 understand the desirability and why the desire of
17 the Director to go this direction. I believe it
18 goes contrary to the direction that I believe we
19 should be going in which is a more
20 semi-independent Board rather than a dependent
21 Board. So that's my position on it.

22 MS. PIKE: Well, there's no doubt
23 that these changes would put us more under the
24 control of LLR. It gives our Board less autonomy.
25 And as we continue to go through this, you'll see

1 what I'm talking about.

2 MR. BALDWIN: Correct. Which I
3 don't believe is in the best interest for the
4 citizens in the state of South Carolina because I
5 believe our effectiveness in this, and as our
6 friend earlier stated, Bucky, making relevant and
7 correct decisions safeguarding public interest
8 with regards to accountancy be exercised with less
9 control over the Board.

10 MS. PIKE: Okay. All right. The
11 next provision, once again -- and we mentioned it,
12 we made reference to it a few minutes ago. Under
13 the proposed changes to the Engine Bill, the
14 Engine Bill is going to supersede and control in
15 the event of a conflict between the Practice Act
16 and the Engine Bill.

17 There is no similar provision under
18 current law. As a matter of fact, under common
19 law statutory rules of interpretation, you would
20 read the Practice Act and the Engine Bill
21 harmoniously. And that's the way that we have
22 always tried to interpret it.

23 So with that having been said, I
24 have some conflicts. As a result of that, you
25 have to then go back through the entire Engine

1 Bill and the entire Practice Act and then begin
2 looking at the conflicts. And I'll talk to you
3 all about those conflicts that I found in just a
4 moment.

5 All right. There's one last change
6 here that I thought that we would have a problem
7 with. And it's out of 40-1-90(D). If a quorum of
8 the Board -- and a quorum, by the way, is a
9 majority of the sitting members, okay? I.E., not
10 the members present, but the members who are in
11 office, all right?

12 If a quorum of the Board cannot be
13 met due to Board member recusals, a hearing
14 officer will be appointed by the Director or his
15 designee for the final determination of
16 disciplinary matters before the Board.

17 Now, if you look at our Practice
18 Act, 40-2-90(A), while it doesn't specifically
19 address recusals, it states that the Board may
20 designate a hearing officer and it doesn't limit
21 the circumstances in which the Board can appoint a
22 hearing officer.

23 So, once again, a little bit more
24 of our authority is being taken away. Although I
25 will have to say that would -- in order to have

1 enough recusals there to make that effective, we
2 have to have some sort of monumental issue. In
3 the time I've been on the Board, I don't remember
4 us having more than like one or two recusals at
5 any point in time.

6 MS. CUBITT: I don't either. It
7 could come into play on a case where maybe
8 somebody sent out some just mailings to -- because
9 I heard that at some Boards that people have sent
10 out --

11 MR. GRIGG: We had that issue on a
12 previous Board where the respondent in the case
13 took it upon themselves to email every member of
14 the Board and give them some background of the
15 facts as to her case. I won't disagree with what
16 your concern is on.

17 The intent of why this specific
18 thing is put in, to my understanding, is to
19 address that. It's not to limit, in this case,
20 what -- putting aside whether the Director of the
21 Board -- put that issue aside for a second. But
22 as far as the issue as to whether it limits the
23 Board designating a hearing officer for or not,
24 it's not intended to limit any other reason the
25 Board may have for designating a hearing officer.

1 It's more to address that issue.

2 And that's what the proposed -- it
3 is intended to address, is a situation where, as
4 rare as it is, it happens from time to time.
5 Every person in this room is going to have to
6 recuse themselves and cannot preside over that
7 matter, what we do about it.

8 MR. FORTE: It's a tactic.

9 MR. GRIGG: It can be, yes, sir. I
10 mean, I'm not going to say people always do it
11 intentionally. But, sure, that's a possibility.
12 That happened three or four times here in these
13 last few months. I would be more concerned with
14 your concern about this saying by the Director
15 versus by the Board.

16 MR. BURKETT: And that's my only
17 comment. I don't understand why it's there. If
18 the Board can appoint as opposed to the Director,
19 I think that's better.

20 MR. GRIGG: And, again, I think the
21 intent of, or her designee or his designee is for,
22 you know, the Board Administrator can jump up with
23 the Board, which is fine. I'm thinking that's the
24 intent, but I understand the concern over that
25 language. I don't disagree with you.

1 MR. CROCKER: Has anyone thought of
2 where one of the senior judges wrote, whereby
3 Board members of this Board in the event this
4 Board is knocked out, could come back in a
5 temporary setting and stay instead?

6 MS. PIKE: You know, here's a way
7 around it, y'all, I mean, which would be much more
8 powerful for us. We, as the Board, in a
9 non-adversarial setting agree to appoint a panel
10 maybe of three people, non-Board members who are
11 hearing officers in the event that the Board
12 cannot hear the case for whatever reason or
13 doesn't wish to hear the case for whatever reason.
14 And that way, we would have three people.

15 It would not be done after recusals
16 have already been made which would definitely tank
17 the issue. But, you know, done in a situation
18 like this where there are no recusals and there's
19 no -- you know, we don't even have a case before
20 us. So that would be a wonderful way around it
21 other than having the Director to appoint a
22 person.

23 All right. Now we get down to the
24 issues of where the Engine Bill supersedes the
25 Practice Act. And this, I will have to tell

1 y'all, that as I got further into it, I'm no
2 longer concerned about the penalties. I was
3 initially concerned that our penalties would be
4 limited to \$500. But after I got into it and read
5 it, I don't think that's the case. But we do have
6 some other issues.

7 All right. First of all, section
8 40-1-80(A) out of the Engine Bill provides that
9 only the Director can initiate an investigation.
10 And these are not -- these are not provisions that
11 have been amended, but they are now coming into
12 play because the Engine Bill would supersede the
13 Practice Act, okay? So where one supersedes the
14 other, then, you know, I'm looking for situations
15 where the Engine Bill conflicts with our Act and
16 our law would then be changed.

17 Okay. So according to 40-1-80(A),
18 it says that only the Director can initiate an
19 investigation. This may conflict with the Board's
20 right to initiate an investigation under
21 40-2-80(F) in circumstances that the Board has
22 reviewed the professional work of a licensee
23 without a formal complaint or suspicion of
24 impropriety.

25 So we may be precluded in that

1 circumstance. We would not be able to initiate
2 that investigation. We would have to have the
3 Director to initiate that investigation. So, once
4 again, we've got a little bit more of our power
5 pulled away.

6 Section 40-1-80(B) states that --
7 and this is of concern to me -- that the Director
8 may subpoena witnesses. This would conflict with
9 Section 40-2-80(A) which states that the
10 Administrator of the Board may issue subpoenas.
11 Something to be concerned about there. Although
12 the Administrator is an employee of LLR, okay?

13 Section 40-1-80(B) provides a list
14 of actions the Director may take in conducting an
15 investigation. This provision does not provide
16 for any actions at all by the Board. Section
17 40-2-80(B) may conflict with that in that it
18 allows the Board to designate persons of
19 appropriate competency to assist in an
20 investigation.

21 And don't we have somebody that we
22 have appointed in the past to assist in
23 investigations?

24 MR. CHAIRMAN: We do.

25 MS. CUBITT: Jim Holloway is the

1 person that does that.

2 MR. BURKETT: And we wanted that in
3 particular to make sure we had somebody
4 assisting.

5 MS. PIKE: That's right. So that
6 may be a real problem for us.

7 All right. Section 40-1-8583
8 states that the Board may disclose -- and, y'all,
9 this is just semantics -- but just to make sure
10 that we understand here. And this is a flip, all
11 right? 40-1-85(A)(3) of the Engine Bill states
12 that the Board may disclose violations of State or
13 Federal law, to State or Federal law enforcement
14 agencies. And this is out of that new disclosure
15 provision.

16 LLR under that can only disclose
17 information to substance abuse treatment programs
18 or monitoring programs approved by the Board.
19 This conflicts with Section 40-2-80(G) of the
20 Practice Act which gives LLR the right to disclose
21 violations of State or Federal law to State or
22 Federal law enforcement agencies.

23 I guess the way I see it is,
24 disclosures are put back on the Board because
25 that's where the liability exists, if you want to

1 think about it that way.

2 All right. Lastly, Section
3 40-1-90(D) out of the Engine Bill allows the
4 Director to appointment a hearing officer, and we
5 just talked about this, if there's no quorum due
6 to the Board member recusals and that could
7 conflict with 40-2-9(A) which gives the Board the
8 right to appoint hearing officers and doesn't
9 limit those circumstances.

10 There's also language in 40-1-90(A)
11 which may suggest a conflict as well because it
12 allows the Board to appoint hearing officers once
13 again, or a special investigator Board. We talked
14 about that just a minute ago.

15 Now, there are three things that I
16 think y'all need to be aware of and it's just to
17 keep in the back of your mind as this progresses
18 through. First of all, Section 40-1-50(I) of the
19 Engine Bill -- and this is not a change, it's been
20 there -- states that it is the duty of the
21 Director to seek approval of the Board for
22 proposed changes to rules or regulations which
23 affect the practice or service of the Board.

24 What we were told was that
25 Ms. Templeton was not seeking the approval of

1 these Engine Bill changes and these Engine Bill
2 changes do affect our practice, okay? FYI.

3 Number two, in proposed Section
4 40-1-215, it states that the Boards have the
5 authority to promulgate regulations to allow for
6 administrative citations for violations of a
7 particular Practice Act.

8 It states, the regulation shall set
9 forth a fine, a schedule of fines, okay? We don't
10 have a schedule of fines in our regulations, all
11 right? So just FYI, these changes would -- if we
12 adopt regulations, we're going to have to come up
13 with a schedule of fines. Which may not be a bad
14 thing, but something to keep in the back of our
15 minds if this passes.

16 MR. CROCKER: So different than
17 just having a range of fines that we have now?

18 MS. PIKE: We don't have even a
19 range of fines in our regulations. I mean, we say
20 that it'll take up to \$10,000 or up to this. But
21 we have to have a regulation that sets out what
22 the fines are.

23 MS. CUBITT: Does that reference
24 for citations? Because the Boards that issue
25 citations, I know, do that.

1 MR. CHAIRMAN: It says citations
2 for violations, administrative citations. But it
3 specifically talking about citations.

4 MS. CUBITT: So if you do
5 citations, you have to have a range of -- I mean,
6 you have to have the fines set.

7 MR. GRIGG: But you all don't do
8 citations.

9 MR. CHAIRMAN: We don't do
10 citations.

11 MS. PIKE: Okay. So you don't
12 consider anything that we do here as citation?

13 MR. GRIGG: No. It's a specific --
14 it's a citation --

15 MS. PIKE: Okay. Something called
16 a citation?

17 MR. GRIGG: Right.

18 MS. PIKE: All right. Then that
19 won't apply to us. All right. Proposed Section
20 40-1-80(C) says that a person filing a complaint
21 with the Board charging a licensee with a
22 violation of the Practice Act, may file a written
23 motion to withhold his identify from the licensee
24 which is the subject of the complaint, okay?

25 Then it says, the Board must hear

1 and decide this motion within 30 days of filing.
2 That could well fall within a time period when we
3 aren't meeting, so we need to have some sort of
4 provision to meet that 30-day time frame. And
5 maybe this is where we appoint a panel of three.
6 I mean, it's certainly easier finding three
7 people's schedules than the entire Board's
8 schedules.

9 MR. GRIGG: And the only thing I'll
10 say to that, Malane, is, again, I know your
11 schedule makes -- gives you all the authority of a
12 hearing officer. You defined that earlier. Do
13 you all have this three to four panel?

14 MS. PIKE: Well, it would be a
15 hearing officer.

16 MR. GRIGG: Yeah. It couldn't be
17 three. It would have to be one at that point,
18 unless you've got something in the language that
19 says --

20 MS. CUBITT: It does say, or
21 panel.

22 MR. GRIGG: Does it? And that's
23 what I was asking. Does it say panel? Okay.

24 MS. CUBITT: A hearing officer or a
25 panel to conduct hearings or take other actions.

1 MR. GRIGG: Okay. That's what I
2 was asking, if it said panel. So you're fine,
3 then, if it does.

4 MR. BALDWIN: If there's a criminal
5 complaint filed out, a complaint against someone,
6 that's a public matter, isn't it? I mean, this
7 isn't the way laws are done. I mean, aren't you
8 supposed to be able to face your accuser? Just a
9 question.

10 MS. PIKE: We're not discussing
11 Constitutionality here.

12 (Board discussion)

13 MR. BALDWIN: Thank you.

14 MS. PIKE: What do you all do
15 about -- just curiosity -- do you all ever get
16 anonymous complaints?

17 MS. CUBITT: We do if -- the
18 complaint could be anonymous currently if the
19 complaint itself contains enough information for
20 us to do what we need to do. A lot of those are
21 the ones we get where people advertise in the
22 Yellow Pages under CPAs and they're not CPAs and
23 they just send us a copy of the Yellow Pages.

24 If someone wants to make a
25 complaint about substandard work or something,

1 they're going to have to tell us who they are and
2 we have to see the work in order to know whether
3 it was substandard or not.

4 MS. PIKE: So it depends on the
5 nature of the complaint?

6 MS. CUBITT: Uh-huh.

7 MR. GRIGG: And just because
8 something is filed anonymously doesn't mean
9 they'll be able to remain anonymous. I mean, a
10 lot of times, you can't conduct an investigation.
11 You'll see the attorneys will have their witnesses
12 here, you know. The case may die if you refuse to
13 come forward. So just because it's initiated
14 anonymously doesn't mean that it will always
15 forever more be anonymous.

16 MS. CUBITT: It does say that the
17 investigation itself and testimony and documents
18 in support of a complaint that are gathered in the
19 investigation are confidential.

20 MS. PIKE: All right, y'all.
21 That's all that I came up with.

22 MR. CHAIRMAN: Good job, Malane.

23 MS. PIKE: Depending on what y'all
24 want done, I can reconstruct these and ship it
25 back out to everybody for comment. I guess, do we

1 want to do this as a memorandum?

2 MR. BURKETT: How about a
3 resolution?

4 MR. GRIGG: A resolution sounds
5 good, doesn't it?

6 MR. CHAIRMAN: It sounds
7 sufficient.

8 MS. PIKE: Okay. So do you want me
9 to word this as a resolution --

10 MR. GRIGG: No, no. I thought it
11 sounded good, but --

12 MR. FORTE: How about concerns? A
13 memorandum of concerns.

14 MR. CHAIRMAN: I like that.

15 MS. PIKE: All right. Why don't I
16 reconstruct this as a memorandum of concerns.
17 And, Mark, I'll shoot it to you first and then if
18 you tell me everything is okay, I'll shoot it out
19 to everybody.

20 MR. CHAIRMAN: I think it would be
21 good if everybody signed it.

22 MR. GRIGG: I will say this -- and,
23 again, I'm not getting involved in this issue --
24 but I will say that these things are probably
25 heading out the door in the next week or so, so

1 you probably ought to get the concerns pretty
2 quickly.

3 MR. BURKETT: I mean, didn't we
4 kind of give you what we thought?

5 MR. CHAIRMAN: We agree with what
6 you said.

7 MS. PIKE: Okay. Well, Bob, why
8 don't I just shoot it to you then and you read it
9 over and get it back to -- and then you, as the
10 Chairman, should submit it.

11 MR. CHAIRMAN: I'll send it. I'm
12 going to send it to everybody before I sent it,
13 though. I want everybody to read it. Email works
14 pretty fast.

15 MR. CROCKER: With this being so
16 much, would it make sense for us to prioritize and
17 pick the two or three that we really feel strongly
18 about and --

19 MS. PIKE: Well, all of this
20 wouldn't go in there. I mean, you want the major
21 pieces of front to go in there, the ones that
22 really constrict this.

23 MR. CHAIRMAN: Because some of the
24 things -- I'm luke warm about some. But if we all
25 had case we all couldn't serve on, I don't know if

1 I'd have a problem with the Director picking
2 somebody myself, you know. I'm not as hot and
3 cold with that as some of these other things.

4 MS. CUBITT: But wouldn't you want
5 some kind of qualification, like it had to be
6 prior Board members or --

7 MR. BALDWIN: No. Or maybe
8 approved. Maybe have some kind of approval right
9 or something. Just as long as the Board approves
10 somebody that it picks if the LLR is selected.

11 MR. GRIGG: And I don't disagree
12 with your all's concern. But, again, on that, I
13 think -- and, again, I didn't write it and I'm
14 just speculating as to what they wrote. But I
15 think the intent on that is, if you're tainted and
16 specifically biased with a Board member, can you
17 appoint --

18 (Board discussion)

19 MS. CUBITT: Well, back to Malane's
20 point about if you were to form a panel, vote on a
21 panel at a time when you didn't need somebody, and
22 then it should pull it. Whatever happens would
23 have to be done.

24 MR. GRIGG: And, I mean, I
25 understand the concern. That's my best guess

1 reading it as to what the intent is. They've not
2 explained it to me any more than they have you
3 all.

4 MS. PIKE: Well, I would think that
5 our main concerns are everything that's on page
6 one and the top one on page two. And the top one
7 on page two talks about the Engine Bill
8 superseding the Practice Act and, you know, we
9 could --

10 MR. CHAIRMAN: Why don't we just
11 say, we think the Practice Act should supersede
12 the Engine Bill?

13 MS. PIKE: Yes.

14 MR. CHAIRMAN: That's pretty simple
15 on that. Because if not, why do we need the
16 Practice Act? I think that's where they're
17 headed. Nobody has a Practice Act. Everybody
18 just says the Engine Bill.

19 MR. BALDWIN: Again, to me, it
20 seems to be critical in communication with
21 Catherine. No question Catherine's intent to make
22 efficient administration of the process
23 whatsoever. I understand that. But my personal
24 belief again, that it's in the best interest of
25 the public and the regulation of accountancy that

1 we remain semi -- we move toward more of a
2 semi-independent Board because I believe that's in
3 the public interest.

4 It's not a question of efficiency
5 with me. It's a question of what I believe is
6 best for the citizens of the state of South
7 Carolina. And my concern is, is while it may be
8 efficient, I don't believe it will be effective.
9 I think that the reality that the citizens sitting
10 in this room are in a better position to make
11 these judgments than before within LLR. It's that
12 simple for me. Maybe I don't know what I'm
13 talking about.

14 MR. CHAIRMAN: I think I agree with
15 everything you said.

16 MR. BALDWIN: And the reason I said
17 that is because, it's not that I'm in opposition
18 with what Catherine wishes to do. It's just what
19 I believe is in the best interest of the state of
20 South Carolina.

21 MR. CHAIRMAN: Malane?

22 MS. PIKE: Yes?

23 MR. CHAIRMAN: 4190, why can't we
24 say something like she can do it, but the
25 substitutions or the designees needs to come from

1 members of the profession?

2 MS. PIKE: Okay. Does everybody
3 agree with that?

4 MR. BURKETT: Yes.

5 MR. GRIGG: And I think it would.
6 But I understand why you would make to make sure
7 it says that. But I think it would. I don't see
8 an instance where they would ever appoint someone
9 that's not familiar with --

10 MR. CHAIRMAN: I would hope not.
11 Malane, thank you for doing that.

12 MS. PIKE: I will get it done in
13 the next couple of days and get it to you.

14 MR. CHAIRMAN: You email it to me
15 and I'm going to probably shoot it around and let
16 everybody kind of take a peak at it and then I'll
17 sign it and get it to her.

18 MS. PIKE: Okay. I will have it to
19 you in the next few days.

20 MR. CHAIRMAN: Okay. Sounds good.
21 The next item we have on our agenda is 11-F,
22 Consideration of the recording of Executive
23 Session. We talked about it on our conference
24 call and I think we're supposed to consider that,
25 but I think I need a motion.

1 MR. BURKETT: I make a motion that
2 we do not, do not record our conference calls.

3 MS. PIKE: Second.

4 MR. CHAIRMAN: Executive Session.

5 MR. BURKETT: I meant Executive
6 Sessions.

7 MR. CHAIRMAN: There's a motion on
8 the floor by Mr. Burkett that we do not record the
9 Executive Sessions and was seconded by Ms. Pike.
10 Any discussion?

11 MR. GRIGG: Can I ask a point of
12 clarification? Does that motion include any form,
13 court reporter, tape recorder --

14 MR. BURKETT: Any form. No
15 recording, whatsoever. It defeats the purpose of
16 an Executive Session.

17 MS. PIKE: I agree. Should we put
18 that concern in our memo?

19 MR. BURKETT: Well, I'd be happy to
20 amend the motion to say any type of recording.

21 MR. GRIGG: I mean, you said
22 recording and I just wanted to --

23 MR. CHAIRMAN: All right. We've
24 got a motion and we've got a second. You can
25 amend it a little bit. I think, Malane, you agree

1 that --

2 MS. PIKE: I second, yes. I second
3 the amendment.

4 MR. CHAIRMAN: Any discussion on
5 the amended motion and the second?

6 (No response)

7 MR. CHAIRMAN: Hearing none, all in
8 favor, please say aye.

9 (Response)

10 MR. CHAIRMAN: Any opposed?

11 (No response)

12 MR. CHAIRMAN: Okay. Good. Doris,
13 how many focus questions have we got? Because I'm
14 not very focused anymore today. I'm about out of
15 focus.

16 MS. CUBITT: It's only 2:30. Five,
17 really.

18 (Board discussion)

19 MR. CHAIRMAN: The first one, I
20 think what we would find is what Malane said,
21 something related to public oversight of the
22 accounting profession. Are there any research
23 topics? Maybe that. How does your Board find
24 CPAs who are having a -- we don't really search
25 for them too good. We're kind of -- they come to

1 us, right?

2 We don't search for them. We're not like North
3 Carolina. We don't do a lot of searching, do we?

4 MS. CUBITT: We're
5 complaint-driven.

6 MR. CHAIRMAN: We're 911.

7 MR. BURKETT: And the purpose of
8 that question is so you can get back and the Board
9 can see exactly how people are doing.

10 MS. CUBITT: Well, but, now, we do
11 still do the quality review audit, and so we do
12 get some that way.

13 MR. CHAIRMAN: Well, you know,
14 that's something that we're going to talk about in
15 January because, you know, we've been doing that
16 before we had peer review and that's something I
17 want to talk about in January, but that's another
18 day, another battle.

19 But complaint driven, quality
20 assurance program. I think that's about it. We
21 don't do search the IRS records for liens and all
22 that, do we?

23 MS. CUBITT: No, sir. We check the
24 SEC and the PCAOB. We do do those once a month.

25 MR. BALDWIN: We're doing the PCAOB

1 and the SEC?

2 MS. CUBITT: Uh-huh. And the --

3 MR. BALDWIN: And the IRS --

4 MS. CUBITT: Uh-huh.

5 MR. BALDWIN: Good.

6 MS. PIKE: Our Board does not
7 provide a written report, but the agency under
8 which we are umbrellaed provides a report.

9 MR. CHAIRMAN: You know, this is
10 something I was thinking we should do. I was
11 thinking we ought to do an annual report and tie
12 it in with Legislative day and I was going to
13 bring that up in the January meeting. I was going
14 to suggest we do something like that, that
15 addresses that, that addresses our number of
16 licensees and number of complaints, number of --
17 what's happened, what are our major strengths of
18 our Board, what are our weaknesses, you know, kind
19 of lay them out for the Legislature. It's all for
20 transparency. And it also includes some of this
21 budget information we've got in there.

22 MR. BALDWIN: You know, that's a
23 great idea.

24 MR. CHAIRMAN: I think we ought to
25 do that. I think we ought to tie it into the

1 Legislative day.

2 MR. BALDWIN: As their regular
3 rotation.

4 MR. WHITE: Yes. I would say yes.
5 Y'all know how to answer that one there, don't
6 you, Doris, about the rotation of the Board
7 members?

8 MS. CUBITT: Yes. But what about
9 the second part of it?

10 MS. PIKE: Because we have
11 staggered terms.

12 MR. BALDWIN: We have historians
13 with staggered terms.

14 MR. CHAIRMAN: It allows hopefully
15 for consistency. Our Board doesn't find
16 investigators. We don't hire investigators, do
17 we?

18 MR. BURKETT: Michael, one other
19 thing you could do is, you could give the average
20 number of years on the Board as part of the answer
21 to that. You'd have to think it through, but, you
22 know, we may find we have an average of three
23 years' experience on the Board, I don't know.

24 MS. PIKE: You know, y'all, it's a
25 shame to me is that NASBA is willing to give

1 grants for certain research that we don't think
2 up --

3 MR. BURKETT: They didn't have
4 enough grant applications. That's the reason
5 that's on there.

6 MS. PIKE: Well, would you all like
7 for me to give that matter a little bit of thought
8 and see what we could come up with?

9 MR. BURKETT: Certainly. I really
10 think we ought to talk to some of the professors
11 here, too.

12 MR. FORTE: I think educators.

13 MR. BURKETT: The educators and see
14 what they think about it.

15 MS. PIKE: Well, I just think
16 there's some things that we, as the Board, could
17 reflect to be researched that would be helpful.

18 MR. BURKETT: You've just got to
19 have somebody write the grant and send them out
20 to -- and most of them are educators who have got
21 the grants and they're educators on that
22 committee. But they seem to give the grants to
23 educators.

24 MR. CHAIRMAN: Donnie, can you
25 answer number five for us?

1 MR. BURKETT: Well, the reason
2 that's on there is because NASBA is thinking about
3 doing -- and this at my suggestion, doing -- I
4 don't know what, the Webcast or Webinar. She's
5 not paying attention. It may be Webcast or it may
6 be Webinar, trying to do that to help train
7 investigators.

8 They're also thinking about hiring
9 investigators that it can lease out to the states.
10 To get some consistency on how that's done is to
11 train the investigators.

12 MR. CHAIRMAN: I think what they're
13 saying is that State Boards does not have the
14 expertise to evaluate as needed the accounting
15 issues. Our investigator we had here today that
16 testified, he wouldn't deal too good with fair
17 value accounting concepts and stuff. Maybe Jim
18 Holloway wouldn't either, some of the SEC issues.
19 So what they would do is use their expertise to
20 loan out the state investigation.

21 MS. CUBITT: For clients.

22 MR. CHAIRMAN: We would never check
23 the PCAOB's work, you know what I mean?

24 MS. CUBITT: But you can have a
25 complaint that's separate of the PCAOB.

1 MR. CHAIRMAN: You could. But this
2 is about SEC disciplinary actions which generally
3 would be through the PCAOB.

4 MS. CUBITT: Okay. But if the SEC
5 finds something that's wrong and it occurred by a
6 CPA in your state, then that would still come
7 before y'all as a complaint to discipline that
8 CPA. So you would need somebody with the
9 expertise to --

10 MR. CHAIRMAN: To advise us.

11 MS. CUBITT: And to testify in the
12 case to get all the evidence in.

13 MR. CHAIRMAN: That he didn't
14 follow the standards. We don't have that level of
15 expertise now, I don't think. We would probably
16 need that.

17 MS. CUBITT: It would be nice to
18 have it to call on.

19 MR. CHAIRMAN: So, I reckon, the
20 answer to the question is we have not done this,
21 right? We haven't had to investigate any SEC
22 disciplinary matters, right? That I know of.

23 MR. CROCKER: Would we rely on the
24 CPA or the licensee or the firm to tell us that
25 that happened and then we would --

1 MR. BALDWIN: She monitors.

2 MR. CHAIRMAN: She monitors their
3 disciplinary actions. She monitors the IRS and
4 the PCAOB.

5 MR. CROCKER: And that would be in
6 an in-state CPA who is dealing with -- it's
7 headquartered in this state?

8 MR. CHAIRMAN: It could be. It
9 could be. It could be -- I reckon, it could be a
10 CPA licensee serving a CPA that has moved.

11 MS. CUBITT: Well, can't you get
12 into the mobility issue and that the work was done
13 for the client and the client was here and so the
14 CPA was from out of state, and so under mobility,
15 that CPA agrees to our jurisdiction.

16 MR. CHAIRMAN: The work is done
17 here. Are there any concerns that you would like
18 NASBA to address?

19 MR. BURKETT: That's kind of Ken
20 Bishop's questions. He's trying to focus on what
21 can NASBA -- what I'm trying to get him to do is
22 go back to grass roots and why are we here for,
23 you know. And he wants to know if someone's got
24 some concerns, what can they do to help you.
25 We've done a lot of things over the years. We've

1 kind of gotten away from it.

2 Some of the mistakes we made, as
3 you all have already talked about, when we decide
4 to go to events, what the people and organization
5 wants to do. The CPE, some of the things we did.
6 Ken wants to know that.

7 MR. CHAIRMAN: Does anybody have
8 any answers for six?

9 MS. PIKE: Could we go into
10 Executive Session? Just five minutes.

11 MR. CHAIRMAN: Are there any other
12 focus questions after seven? There's a motion on
13 the floor to go into Executive Session. Do I hear
14 a second?

15 MR. BALDWIN: Second.

16 MR. CHAIRMAN: Second by Mr.
17 Baldwin. All in favor, please say aye.

18 (Response)

19 MR. CHAIRMAN: Any opposed?

20 (No response)

21 MS. PIKE: Doris can stay for
22 this.

23 (Executive Session from 2:43 p.m. to
24 3:50 p.m.)

25 MR. CHAIRMAN: I call the meeting

1 back to order.

2 MR. BURKETT: I move that we come
3 out of Executive Session.

4 MR. CHAIRMAN: Is there a second?

5 MR. BALDWIN: Second.

6 MR. CHAIRMAN: All in favor, please
7 say aye.

8 (Response)

9 MR. CHAIRMAN: Any opposed?

10 (No response)

11 MR. CHAIRMAN: All right. Thank
12 you. I'd like the minutes to reflect no votes
13 were taken or any other major decisions made
14 during Executive Session.

15 We had the matter of the gentleman
16 that appeared before us this morning in item
17 number 5, consideration of Mr. Abdelaal's request
18 to complete all CPE as self-study. Do I hear a
19 motion on that matter?

20 MR. LUNSFORD: I move that we deny
21 his request because there is no provision in the
22 law for exceptions.

23 MR. BURKETT: Second.

24 MR. CHAIRMAN: There's a motion and
25 a second. Any discussion?

1 (No response)

2 MR. CHAIRMAN: All in favor, please
3 say aye.

4 (Response)

5 MR. CHAIRMAN: Any opposed?

6 (No response)

7 MR. CHAIRMAN: Thank you, very
8 much. Doris, will you communicate that with him?

9 MR. CUBITT: Yes, sir.

10 MR. CHAIRMAN: Tell him the law
11 does not provide us to grant an exception.

12 MS. CUBITT: Yes, sir.

13 MR. CHAIRMAN: All right. Public
14 comments. No votes may be taken. The public is
15 still here. No comments?

16 We've got some future meetings on
17 the next page or the second page of the agenda.

18 MR. BURKETT: How about on the
19 November 1st meeting is the NASBA annual meeting,
20 and so I would go to that, is in Orlando and it
21 concludes, if my calendar is correct, on October
22 31st, I think.

23 MR. CHAIRMAN: Shall we see if we
24 can possibly move that November date up into
25 October?

1 MR. BURKETT: Well, that's what I
2 was going to -- absolutely. The night before is
3 Halloween and we may want to be out.

4 MR. CHAIRMAN: Michael and Doris,
5 do you think you all could check on some other
6 dates for that?

7 MS. CUBITT: He's going to check
8 right now.

9 MR. CHAIRMAN: You can check live?

10 MS. CUBITT: Uh-huh.

11 MR. BURKETT: But the annual
12 meeting is October 28th through the 31st in
13 Orlando, Florida.

14 MR. CHAIRMAN: How about the 23rd?
15 The 23rd going once -- we can change it again if
16 we don't like the 23rd.

17 MR. BURKETT: That's good. I'm not
18 trying to -- I just don't want anybody to get
19 caught up in --

20 MR. CHAIRMAN: All right. Do we
21 have any other items of business that should come
22 before this Board right now? Any new business?
23 We've already covered old business.

24 (Board discussion)

25 MR. CHAIRMAN: Do we have anything

1 else? If not --

2 MR. CROCKER: I so move we

3 adjourn.

4 MR. CHAIRMAN: There's a motion on

5 the floor.

6 MR. BALDWIN: Second.

7 MR. CHAIRMAN: All right. I have a

8 motion and a second. Any discussion?

9 (No response)

10 MR. CHAIRMAN: All in favor, please

11 say aye.

12 (Response)

13 MR. CHAIRMAN: Any opposed?

14 (No response)

15 (Adjourned at 3:05 p.m.)

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CERTIFICATE OF REPORTER

I, Laura S. DeCillis, Certified Court Reporter and Notary Public for the State of South Carolina at Large, do hereby certify:

That the foregoing Meeting was taken before me on the date and at the time and location stated on Page 1 of this transcript, and that said Meeting was recorded stenographically by me and were thereafter transcribed; that the foregoing Meeting as typed is a true, accurate and complete record to the best of my ability.

I further certify that I am neither related to nor counsel for any party to the cause pending or interested in the events thereof.

I further certify that the original of said transcript shall be hereafter sealed and delivered to the South Carolina Board of Accountancy, Synergy Business Park, Kingstree Building, Columbia, South Carolina, 29210.

Witness my hand, I have hereunto affixed my official seal this 27th day of January, at Columbia, Richland County, South Carolina.

Laura S. DeCillis,
Certified Court Reporter
State of South Carolina at Large.
My Commission expires
August 10, 2015.