



REGULATORY AGENCY ACTION

Cecily Bond issued a peremptory writ of mandate declaring that BOA retains jurisdiction to reconsider its prior decision in *In the Matter of the Accusation Against KMG Main Hurdman* (California Board of Accountancy, No. 532). (See CRLR Vol. 9, No. 3 (Summer 1989) p. 37; Vol. 9, No. 1 (Winter 1989) p. 36; and Vol. 8, No. 4 (Fall 1988) p. 41 for background information on this disciplinary action.) The order perfected the Amended Statement of Decision issued by the same court on July 11. The Amended Statement remanded the matter to ALJ Ruth Astle for further evidence and testimony. Although the peremptory writ stated that the Board's Order After Reconsideration (OAR) was consistent with the Board's statutory authority and that it was not contrary to law, the writ ordered the Board to amend its OAR because of limitations which the OAR placed on the evidence and number of witnesses permitted to be heard before ALJ Astle. At its September 22 meeting, pursuant to Government Code section 11126(d), the Board met in closed session in order to amend its OAR to comply with the writ of mandate.

In *Moore v. California State Board of Accountancy*, No. 863037 (San Francisco Superior Court), plaintiffs have appealed the final order entered on May 8. (See CRLR Vol. 9, No. 3 (Summer 1989) p. 37; Vol. 9, No. 1 (Winter 1989) p. 37; and Vol. 8, No. 2 (Spring 1988) p. 40 for background information on this case.) The order enjoins plaintiffs Bonnie Moore and members of the California Association of Independent Accountants (CAIA) who are not licensed as CPAs or PAs from using the term "accountant" in their titles or advertisements. The order does not prohibit such persons from preparing compilation, review, and audit reports unless the preparer uses the term or title "accountant."

At the Board's July 27 meeting, DAG Granen urged the Board to refrain from issuing cease and desist letters to unlicensed practitioners and instead explore alternative approaches to resolving the problem of unlicensed activity. He suggested that CAIA solicit its legal counsel's opinion on how the Board and the CAIA could best work together to enable unlicensed practitioners to continue conducting business under the framework of the court order and injunction.

Prior to the July Board meeting, several legislators convened an informal meeting between CAIA and CSCPA, and recommended that the two trade associations negotiate between themselves an approach which would allow

the unlicensed members of CAIA to continue to conduct business without violating the court order and injunction. On August 8, representatives of CAIA and CSCPA began collaborating on the composition of transmittal letters; the Society of California Accountants (SCA) joined this effort later in the month. Transmittal letters became the focus of the attempted solution because these letters are designed to accompany financial statement prepared by unlicensed practitioners, thereby definitively transmitting to the client the knowledge that the financial service was performed by a person not licensed by the state of California. Consequently, representatives of CAIA, CSCPA, and SCA cooperated in drafting two proposed transmittal letters for use during the pendency of the appeal.

On August 22, the interested legislators held a second informal meeting. In addition to representatives of CAIA, CSCPA, and SCA, the legislators invited Board President Jack Kazanjian, BOA Executive Officer Della Bousquet, and DAG Wilbur Bennett. The lawmakers asked BOA to accommodate CAIA in its good faith attempts to comply with the court injunction, and warned that the legislature prefers not to be forced to act on the matter, for such action might result in a response which is disproportionate to the situation. To this end, the legislators asked the Board to inspect the proposed transmittal letters at the next Board meeting; they urged BOA to approve the proposed transmittal letters so that CAIA members could conduct business without confusion or fear of acting contrary to Board regulations and the threat of being issued cease and desist letters.

Accordingly, the CAIA presented the two proposed transmittal letters at BOA's September 22 meeting. During this presentation, the SCA representatives announced their disapproval of the proposed transmittal letters. This announcement was surprising because the SCA had collaborated with the CSCPA and CAIA in drafting the proposed letters. Instead of approving either of the proposed letters, the Board immediately composed its own draft of a transmittal letter to be used by CAIA members in the conduct of their businesses; BOA unanimously approved its draft.

Once their proposal was rejected, CAIA representatives removed themselves from further participation in the meeting. CAIA representative Joe Greenstreet stated that the Board's action is contrary to the intentions and objectives expressed at the meetings held under the

auspices of the legislature. Due to this impasse, CAIA intends to sponsor a bill which will make significant statutory changes in this area.

RECENT MEETINGS:

At its July 27 meeting, the Board unanimously adopted a new examination policy wherein holders of a Chartered Accountants certificate, in the United Kingdom and Ireland, are deemed to have credentials equivalent to the PEP and CLEP examination for purpose of sitting for the CPA examination.

Earlier this year, BOA staff was tracking approximately 700 open complaints against licensees; approximately 40 of these complaints were opened in 1986. The total number of cases has been reduced to 630 at this writing. At the July meeting, BOA announced that MGT, a management consultant firm, was the successful bidder for the Board's contract for a study of BOA's enforcement program. MGT's main task is to investigate how best to reduce the backlog of enforcement cases, and to this end, MGT will propose an alternate enforcement model. At BOA's September meeting, MGT presented its agenda to the Board, which provides that MGT will complete and deliver its final report to BOA by February 15, 1990.

FUTURE MEETINGS:

February 2-3 in San Francisco.
March 17 in Los Angeles.
May 11-12 in Napa.
August 3-4 in San Diego.

BOARD OF ARCHITECTURAL EXAMINERS

Executive Officer: Stephen P. Sands
(916) 445-3393

The Board of Architectural Examiners (BAE) was established by the legislature in 1901. BAE establishes minimum levels of competency for licensed architects and regulates the practice of architecture. Duties of the Board include administration of the California Architect Licensing Exam (CALE) and enforcement of Board guidelines. BAE is a ten-member body evenly divided between public and professional membership.

MAJOR PROJECTS:

Regulatory Changes. At its June 15 meeting in Sacramento, the Board adopted two regulation packages. (See CRLR



Vol. 9, No. 3 (Summer 1989) p. 37 for background information.) The first package amends regulatory sections 104, 110, and 110.1 and repeals sections 145 and 146, Chapter 2, Title 16 of the California Code of Regulation (CCR). These changes delete all reference to "registered building designers." Pursuant to 1985 legislation requiring registered building designers to be licensed as architects, the term "building designer" is now obsolete. These regulatory changes were approved by the Office of Administrative Law (OAL) on September 6.

The second package amends sections 109, 116, 119, 119.5, 121, 123, 125, and 144. These amendments delete all references to the CALE, and facilitate BAE's administration of the Architectural Record Exam (ARE) of the National Council of Architectural Registration Boards (NCARB) beginning in 1990. (See CRLR Vol. 9, No. 2 (Spring 1989) pp. 44-45 for detailed background information.) At this writing, these regulatory changes have not yet been submitted to OAL for approval.

Licensing Examination. At its June 15 meeting, BAE approved its Executive Committee's recommendation to develop a supplemental oral examination to test content areas not tested by the ARE but required in California. This task will be let by contract to a private vendor. BAE wants the supplemental examination prepared in time to be administered in conjunction with the 1990 ARE.

BAE's return to the national examination process from its independent administration of the CALE was formally approved by NCARB at its annual meeting on June 26. The administrative details of the transition have not yet been formalized. BAE and NCARB are working in conjunction to finalize these details. (See CRLR Vol. 9, No. 2 (Spring 1989) pp. 44-45 for background information.)

LEGISLATION:

The following is a status update on bills discussed in CRLR Vol. 9, No. 3 (Summer 1989) at pages 37-38:

AB 1158 (Bradley) was signed by the Governor on July 19 (Chapter 175, Statutes of 1989). This bill provides that an individual licensed in jurisdictions other than California may be granted reciprocal licensure upon satisfaction of the Board's requirements for licensure. (See CRLR Vol. 9, No. 2 (Spring 1989) pp. 44-45 for detailed background information on this bill.)

The following bills were made two-year bills, and may be pursued when the

legislature reconvenes in January: **AB 1789 (Cortese)**, which, as amended August 21, would give architects, engineers, and land surveyors a specified design professional's lien on property for which a work of improvement is planned, and for which a specified governmental approval is obtained; **AB 459 (Frizzelle)**, which would provide that a previously licensed individual may renew his/her license at any time after license expiration upon payment of the applicable fees, and upon satisfaction of continuing education requirements; and **AB 1005 (Frazee)**, which would require architects to affix on plans a stamp bearing the architect's name, license number, the term "licensed architect," and the renewal date of the license.

FUTURE MEETINGS:

To be announced.

ATHLETIC COMMISSION

Executive Officer: Ken Gray
(916) 920-7300

The Athletic Commission regulates amateur and professional boxing, contact karate, and professional wrestling. The Commission consists of eight members each serving four-year terms. All eight seats are "public" as opposed to industry representatives.

The current Commission members are Bill Malkasian, Raoul Silva, Ara Hairabedian, P.B. Montemayor, M.D., Jerry Nathanson, Thomas Thaxter, M.D., Charles Westlund, and Robert Wilson.

The Commission is constitutionally authorized and has sweeping powers to license and discipline those within its jurisdiction. The Commission licenses promoters, booking agents, matchmakers, referees, judges, managers, boxers, martial arts competitors, and wrestlers. The Commission places primary emphasis on boxing, where regulation extends beyond licensing and includes the establishment of equipment, weight, and medical requirements. Further, the Commission's power to regulate boxing extends to the separate approval of each contest to preclude mismatches. Commission inspectors attend all professional boxing contests.

The Commission's goals are to ensure the health, safety, and welfare of boxers and wrestlers, and the integrity of the sport of boxing in the interest of the general public and the participating athletes.

MAJOR PROJECTS:

Promotional Contracts Drafting Committee. The Commission recently established a committee to develop a process for approving a contractual relationship between a promoter and a boxer (and his manager if he has one). The committee consists of Supervising Deputy Attorney General Ron Russo, Department of Consumer Affairs Legal Counsel Greg Gorges, and Commission Executive Officer Ken Gray. The committee drafted two promotional contracts, one for promoters and non-champion boxers and another for promoters and champion boxers. The committee is awaiting feedback on the proposed contracts from boxing promoters.

Safety Equipment Committee. At the August 25 meeting, Commissioner Hairabedian joined the Committee to replace departing Commissioner Roosevelt Grier. The Committee is reviewing input from various sources on boxing gloves and attempting to locate a UCLA study on boxing gloves. (See CRLR Vol. 9, No. 2 (Spring 1989) p. 45 for background information.)

LEGISLATION:

The following is a status update on bills reported in detail in CRLR Vol. 9, No. 3 (Summer 1989) at page 49:

AB 112 (Floyd) requires the Commission to adopt regulations detailing the criteria for approval of the licensed physician assigned to attend any boxing contest. AB 112 was signed by the Governor on September 15 (Chapter 471, Statutes of 1989).

SB 599 (Montoya) allows the Commission to establish standards for evaluating a professional boxer's boxing ability, and requires reporting of injuries and knockouts. This bill was signed by the Governor on August 2 (Chapter 264, Statutes of 1989).

AB 1040 (Floyd), as amended August 25, deregulates professional wrestling, except for a tax on general admission and closed-circuit telecasts of professional wrestling events. This bill was signed by the Governor on September 24 (Chapter 757, Statutes of 1989).

RECENT MEETINGS:

At its meeting on June 16 in Sacramento, the Commission discussed the need to fill the vacancy created by the dismissal of Martin Denkin. The Commission terminated Denkin, its former Assistant Executive Officer, on June 13 following an investigation into charges of extortion. Mr. Denkin is currently appealing the decision. (See CRLR Vol.