Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

November 10, 2026

Willie B. Sims, Jr., CPA
Chair, Mississippi State Board of Public Accountancy
5 Old River Place, Suite 104
Jackson, Mississippi 39202

Re: ESOP Trustee Committee Ownership of CPA Firm

Dear Chairman Sims:

The Office of the Attorney General has received your request for an official opinion.

OFFICIAL OPINION

Background

You seek an opinion from our office regarding whether a Certified Public Accountant ("CPA") firm partially owned by an Employee Stock Ownership Plan ("ESOP") Trustee Committee is eligible to obtain and maintain a firm permit from the Mississippi State Board of Public Accountancy ("Board") to practice public accounting. According to your request, a CPA firm held multiple firm permits issued by the Board for several out-of-state offices practicing public accounting in Mississippi. The permits for these locations were amended in 2023 after the firm changed from a limited liability partnership to a professional corporation. In 2025, the Board issued the CPA firm a new firm permit after it established an in-state presence in Mississippi. At the same time, the Board canceled all the previously issued permits for the out-of-state locations, which were then recorded as branch locations of the firm's Mississippi offices. In its application for the in-state permit, the CPA firm reported a 45.19% ownership interest by the firm's ESOP Trustee Committee, which consists of five trustees, all of whom are CPAs. The CPA firm listed the ESOP Trustee Committee ownership interest as a CPA ownership interest on the application for the firm permit. The currently-issued CPA licenses and firm permits issued by the Board will expire on December 31, 2026.

Question Presented

Does the ESOP Trustee Committee's ownership interest in the CPA firm make the firm ineligible to receive or renew a firm permit issued by the Board?

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Brief Response

No. To obtain or maintain a firm permit from the Board, Mississippi Code Annotated Section 73-33-1(4)(a) requires that a CPA firm be wholly owned by natural persons. A natural person is an individual human being. The members of the ESOP Trustee Committee are natural persons who hold legal title to the trust assets and manage those assets for the benefit of participating employees, who are also natural persons. The ESOP Trustee Committee's ownership interest in the CPA firm, therefore, does not render the firm ineligible to hold or renew a firm permit under Section 73-33-1(4)(a).

Applicable Law and Discussion

Any CPA firm "with an office in this state that practices public accountancy" must hold a firm permit issued by the Board. Miss. Code Ann. § 73-33-1(3)(a). Section 73-33-1(4)(a) provides that, "[i]n order to obtain and maintain a firm permit," a CPA firm "shall be required to show" that "[i]t is wholly owned by natural persons and not owned in whole or in part by business entities[.]" The Board's governing statute does not define the phrase "natural persons" as used in Section 73-33-1(4)(a). "All words and phrases contained in the statutes are used according to their common and ordinary acceptation and meaning[.]" *Rankin Co. Bd. of Supervisors v. Lakeland Income Prop.*, LLC, 241 So. 3d 1279, 1283 (Miss. 2018) (quoting Miss. Code Ann. § 1-3-65). When the Legislature has not defined a phrase, it is proper to consult a dictionary to determine its meaning. *City of Tchula v. Mississippi Pub. Serv. Comm'n*, 187 So. 3d 597, 600 (Miss. 2016). The Merriam-Webster Dictionary defines "natural person" as "a human being as distinguished from a person (as a corporation) created by operation of law[.]" MERRIAM-WEBSTER DICTIONARY, https://www.merriam-webster.com/dictionary/naturalperson (last visited Nov. 4, 2026). Thus, pursuant to Section 73-33-1(4)(a), a "natural person" is an individual human being, as opposed to a "business entit[y]," which is an artificial person created and recognized by law.

"An ESOP is a form of employee benefit plan designed to invest primarily in securities issued by its sponsoring company." *Donovan v. Cunningham*, 716 F.2d 1455, 1458 (5th Cir. 1983) (citation omitted). A company forms an ESOP by establishing a trust to hold the assets of the ESOP. *Id.* at 1459 (citation omitted). The company "may then make tax-deductible contributions to the [ESOP] in the form of its own stock or cash." *Id.* "If cash is contributed, the ESOP then purchases stock in the sponsoring company, either from the company itself or from existing shareholders." *Id.* The shares are allocated to individual employee accounts, usually in proportion to the employee's pay and tenure. *See generally* Elizabeth A. Myers & John J. Topoleski, *Employee Stock Ownership Plans (ESOPS): An Overview (2025)*, CONG. RSCH. SERV., IF13104 (Sept. 15, 2025), https://www.congress.gov/crs-product/IF13104. When an employee leaves or retires, the company will buy back the stock allocated to the employee's account, and the employee will typically receive a cash payout. *Id.*

Just like any other trust, an ESOP trust is overseen by one or more trustees who have a fiduciary duty to manage the trust assets for the exclusive benefit of participating employees. *Donovan*, 716 F.2d at 1459 (citing 29 U.S.C. §§ 1102(a)(1), 1103(a)). The trustees hold legal title to the company stock that has been put into the ESOP, while the participating employees have an equitable interest in said stock. *Petersen v. Comm'r of Internal Revenue*, 924 F.3d 1111, 1118-19 (10th Cir. 2019)

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(concluding ESOP trust satisfied IRS definition of trust under which "trustees take title to property for the purpose of protecting or conserving it for the beneficiaries") (quoting 26 C.F.R. § 301.7701–4(a)); *see also* Restatement (Third) of Trusts § 2 (2003) (defining "trust" as "a fiduciary relationship with respect to property, arising from a manifestation of intention to create that relationship and subjecting the person who holds title to the property to duties to deal with it for the benefit of charity or for one or more persons, at least one of whom is not the sole trustee").

According to your request, the ESOP, which holds 45% of the CPA firm's stock, is overseen by a Trustee Committee made up of five CPAs. Your question is whether the ESOP's ownership interest makes the firm ineligible to hold or renew a firm permit from the Board under Section 73-33-1(4)(a). A trust "is not a distinct legal entity, but a fiduciary relationship between multiple people." *N. Carolina Dep't of Revenue v. The Kimberley Rice Kaestner 1992 Fam. Tr.*, 588 U.S. 262, 265 (2019) (citation and quotation marks omitted). The firm's stock that has been contributed to the ESOP is held in trust with legal ownership vested in the five trustees, all of whom are natural persons. And the participating employees who have an equitable interest in the stock held by the ESOP are also natural persons. Accordingly, it is the opinion of this office that the ESOP Trust Committee's ownership interest does not make the firm ineligible to hold or renew a firm permit issued by the Board.

If this office may be of any further assistance to you, please do not hesitate to contact us.

OFFICIAL OPINION

Sincerely,

LYNN FITCH, ATTORNEY GENERAL

By: */s/ Wilson Douglas Minor*

Wilson Douglas Minor
Special Assistant Attorney General