

OREGON BOARD OF ACCOUNTANCY

BOARD MINUTES

May 17, 2010

Eugene Hilton & Conference Center

Eugene, Oregon

The Board of Accountancy protects the public by regulating the practice and performance of all services provided by licensed accountants.

Meeting Schedule

8:00 a.m. Call to Order
8:15 a.m. *Executive Session*
9:00 a.m. Regular Board Meeting
11:30 a.m. Working Lunch

Staff Members

L. Patrick Hearn, Executive Director
Noela Kitterman, Investigator
Kimberly Bennett, Coordinator

Guests

Susan Bischoff, AAG
Cheryl Langlely, OSCP
Debbie Hollingsworth, CPA, OSCP
Suzanne Jolicoeur, AICPA Manager State Regulation & Legislation
– 9:30 a.m. Julia Fitzgerald (Item 6.B.1.a.)
– 9:45 a.m. Dale Jenkins (Item 6.B.1.c.) by phone
– 10:00 a.m. Mark Friel, Atty. for James Jeddelloh (Item 7.B.) by phone
– 10:30 a.m. Charles Paternoster, Atty. for Kenneth Gustafson (Item 6.D.2.) by phone
– 12:15 p.m. Jerald Olsen (Item 6.C.1.)

1. CALL TO ORDER Chair Johnson called the meeting to order at 8:00 a.m., announced the meeting was being recorded, and immediately went into Executive Session pursuant to ORS 192.660(2)(f) to discuss written communication from AAG, Susan Bischoff which was subject to attorney client privilege.

The meeting was called back into order after Executive Session at 9:02 a.m.

Stuart Morris was asked to be process observer. Chair Johnson welcomed the guests from OSCP and introduced Suzanne Jolicoeur, AICPA. Ms. Jolicoeur is the manager for State Regulation and Legislation with the AICPA and visits states to introduce herself and become familiar with individual state issues.

2. APPROVAL OF MINUTES – March 29, 2010 **Action Item** Johnson

BOARD ACTION: Moved by Newhouse and carried to approve minutes of March 29, 2010 as written.

VOTE: 6 ayes.

3. REPORT OF CHAIR

A. NASBA Regional Meeting – June 23-25, 2010/Seattle Washington

Ray Johnson, CPA, Chair, Kent Bailey, CPA Board member, Roberta Newhouse, CPA, Vice-Chair, Ann Ferguson, CPA Board Member, Al Crackenberg, PA, New Board member, Pat

Hearn, Executive Director and Kimberly Bennett, Board staff, will be attending the NASBA Regional Meeting in June. Mr. Johnson and Mr. Bailey are compensated by NASBA since they are speaking at the meeting. Mr. Crackenberg, and Ms. Ferguson are also compensated by NASBA because they are new Board members. The Board is only responsible for the registration and travel fees for Mr. Hearn, Ms. Bennett and Ms. Newhouse.

BOARD ACTION: Moved by Bailey and carried to approve the travel for the above-mentioned individuals.

VOTE: 6 ayes

B. Violation Matrix Meeting

The task force comprised of four board members and board staff held a meeting on April 26, 2010 to discuss and develop a violation matrix. This matrix will be used as guidance for assessing penalties for potential violations.

The task force reviewed matrixes from other state board of accountancy as well as review of the applicable Oregon administrative rules.

One correction was noted. The task forced discussed the fact that it is in the public interest for the Board to develop the violation matrix and to publish an annual report and summary of the discipline identifying the firms and individuals found in violation and the action taken. Board staff will make the correction.

Ms. Bridgham stated that the matrix will be beneficial for the Board members in light of the new process of the Board assessing the penalties for potential violations.

BOARD ACTION: Moved by Newhouse and carried to approve the minutes as corrected.

VOTE: 6 ayes

4. REPORT OF VICE CHAIR

A. Items from Worksession

1. Holding Out/Practice of Public Accountancy

A task force will review the UAA (Uniform Accountancy Act) to determine whether or not the definition of practice of public accountancy should be removed from the Oregon Administrative Rules to keep in line with the UAA. The task force will also make a recommendation on the holding out rule after the review.

2. Inactive Status/Retired Status

The Board requested staff develop an application for individuals requesting "Retired" status. The status of the inactive definition is placed on hold until the task force has a chance to meet and determine if a legislative concept can be introduced for the 2011 Legislative session.

3. Division 010
a) Municipal application fee

The Board directed staff to move forward with the additional fee for application to be included on the municipal roster. Final changes will be approved at the board meeting in October.

b) Firm Late Fee

The Board directed staff to move forward with the rule revision to increase the late fee for firms who register their firm after the December 31 deadline from \$35 to \$175.

c) Increase experience for private industry/government applicants.

The Board is in favor of the increase from one year (2000 hours) to 2 years (4000 hours) and also is in favor of calculated time in hours rather than years. The Board would like staff to research the hour requirement in other states as far as what constitutes an hour (vacation, holiday, personal leave). Staff will report findings at next meeting.

4. LC12000-01 – Confidentiality of Complaints

The Board is in favor of moving forward with this concept and would like to change the language to indicate that the record will be held confidential *until the Notice of Intent* phase.

5. REPORT OF TREASURER Bridgham
- Ms. Bridgham reviewed the Boards revenues and expenditures.
6. COMPLAINTS COMMITTEE Newhouse
- A. Minutes of April 23, 2010 (*Information Item*)
- B. Complaint Investigations **Action Item**
1. Consent Agenda

BOARD ACTION: Moved by Newhouse and carried to approve the consent agenda.

VOTE: 6 ayes

- 9:30 a.m.**
- a. Julia Fitzgerald 09-045CNK
- b. Lisa Bruce 09-049CNK

Mr. Gregor was required to obtain 15 pre-issuance reviews, which he has completed. The complaints committee believes the pre-issuance reviews have not been effective due to the recent failure of a peer review. In addition to the complaints committee cases, the Continuing Professional Education (CPE) Committee has recommended a complaint be opened after reviewing a letter sent by Phil Hopkins from the Division of Audits.

Board Discussion: This is a serious issue. We need to protect the public. With numerous and consistent audit failure reports, the Board needs to take additional steps. Legal counsel believes that, based on the evidence, the Board has sufficient reason to move forward with a Notice of Intent to revoke. If further violations are found in the new cases, the Notice of Intent can be modified to include those. Ms. Bischoff noted that Mr. Gregor has employees and the Board may want to look into their qualifications as well.

(This item was not scheduled to be discussed. Because Mr. Gregor resides in the Eugene area, Ms. Kitterman was requested to phone him and ask if he could appear before the Board to discuss current matters. Ms. Kitterman did so and discovered Mr. Gregor was attending an OSCP conference in the same hotel. Mr. Gregor will appear before the Board at 1:00 p.m.)

1:00 p.m. Mr. Gregor joined the meeting and thanked the board for the opportunity to address any concerns. The Board asked several questions of Mr. Gregor to which he responded.

Because of the history of problems with Mr. Gregor and the fact that his most recent OSCP peer review was a 'failed' report, the Board would like to defer action until the final RAB (Review Acceptance Board) report. The (RAB) required Mr. Gregor to obtain 8 pre-issuance reviews by October 2010; these reviews are in process. The Board requested that Mr. Gregor waive confidentiality and release the documents currently being reviewed by the RAB to the Board. Mr. Gregor agreed to do so. Mr. Bailey would like the work papers, comments and clearance of the comments and the final report for each. Mr. Gregor indicated he was happy to comply.

10:30 a.m. 2. Kenneth Gustafson 09-116CNK

Chip Paternoster, Mr. Gustafson's legal counsel, joined the meeting by telephone at 10:36 to discuss Mr. Gustafson's case.

Mr. Gustafson has represented that his clients gave him permission to deposit and apply their tax refund against their outstanding bill. Gustafson states that he has made similar arrangements with other clients. He provided the Board with the names of two clients who agreed to pay their bill using the funds received from tax refund checks. The complainants in this case say they never gave authority to Gustafson to deposit their refund check.

BOARD ACTION: Moved by Newhouse and carried to accept the committee recommendation that there is sufficient evidence to make a preliminary finding of violation of OAR 801-030-0021(1)(a) and (b) and offer the respondent a contested case hearing.

Discussion: Mr. Paternoster stated that he is confident this matter will be cleared up with further evidence. He stated that, although the agreement for Gustafson to deposit the clients' check was only verbal, it was agreed upon by all parties.

Investigator Kitterman spoke with Mr. Honn, who had provided legal counsel to the complainants (Fowlers) in this case. He said that there had been a conversation about how to receive payment from the Fowlers, but using the refund check was never an option for him. He was going to place a lien on their property, but they filed bankruptcy before he did so.

BOARD ACTION: Newhouse amended her motion to assess the maximum penalties for the three violations and add the possibility of suspension with no duration. Bailey seconded the motion to amend.

VOTE: 6 ayes.

E. Other

1. Morton Bohn 09-115CNK

The Board sent Mr. Bohn a Notice of Intent to revoke his permit to practice. Mr. Bohn responded that he "refused and rejected" the Notice. Mr. Bohn has until May 19, 2010 to request a hearing. The Board will then issue a final order by default.

2. Timothy Steers 09-112CNK

On March 26, 2009 the Board issued a Stipulation and Order to Mr. Steers in which he agreed that he would not provide audit, attest or compilation services for public and non-public entities, either directly or through others. The Board received reliable information that Mr. Steers is in fact providing these services and therefore has violated the terms of the Stipulation and Order.

The Board would like to move forward with an emergency suspension and termination of Mr. Steers firm. The Board will consolidate all pending cases against Steers and include them in the Notice.

BOARD ACTION: Moved by Bailey to consolidate all pending actions and issue an emergency Notice of Intent to Suspend the permit to practice and terminate Mr. Steers firm.

VOTE: 6 ayes.

7. PROPOSED ORDERS

Action Item

10:00 a.m. A. Perkins & Co. PC
Gary Reynolds 06-01-001

Mr. Hearn reviewed the Stipulation and Order for Gary Reynolds and Perkins & Co PC., which was signed by Mr. Grant Jones, Vice President of Perkins & Co. and Gary Reynolds on May 6, 2010.

The Stipulation and Order states that Perkins agrees to pay civil penalties of \$1000 for the violation of ORS 673.345 (1999) and \$1000 for the violation of OAR 801-030-0005(2)(a) (1999) in connection with the 1999 tax shelter transaction. Reynolds agrees to pay civil penalties of \$1000 for the violation of ORS 673.345 (1999) and \$1000 for the violation of OAR 801-030-0005(2)(a) (1999), in connection with the 1999 tax shelter transaction. Perkins agrees to pay civil penalties of \$1000 for the violation ORS 673.345 (1999) and \$1000 for the violation of OAR 801-030-0005(2)(a) in connection with the 2000 tax shelter transaction. Respondent Perkins agrees to pay \$12,500 as reimbursement of a portion of the costs incurred by the Board for its investigation on this matter. All the above penalties must be paid by June 18, 2010.

Perkins agrees that no members of the firm at any time shall accept a commission for a referral to a client of products or services.

BOARD ACTION: Moved by Bailey and carried to accept the Stipulation and Order presented.

Discussion: Chair Johnson asked Mr. Friedman if the clients were aware that the transaction that occurred was in violation of Board statutes and rules. Mr. Friedman said that he personally spoke with the CFO of the client in the 1999 transaction. The client agreed to speak to the board only if they could assure confidentiality. Board legal counsel could not assure the client the level of confidentiality requested, so Mr. Friedman asked the questions on behalf of the Board. Mr. Friedman stated that the clients told him that Reynolds mentioned the possibility of a tax shelter and also his personal reservation about it, the clients understood the risk and still wanted to move forward. The clients stated that they entered into it for a fixed fee. They understood it was a fixed fee and would not be adjusted regarding the outcome of the transaction.

VOTE: 6 ayes.

B. James B. Jeddoloh

Mr. Hearn reviewed the Stipulation and Order for Mr. James Jeddoloh, which states in part that: Mr. Jeddoloh agrees to pay civil penalties of \$1000 for the violation of OR 673.345 (1999) and \$1000 for the violation of OAR 801-030-0005(2)(a) (1999), in connection with the 2000 tax shelter transaction. Jeddoloh also agrees to pay \$10,000 as reimbursement of the portion of the costs incurred by the Board for its investigation of this matter. All civil penalties assessed must be paid no later than June 18, 2010.

BOARD ACTION: Moved by Bailey and carried to accept the proposed Stipulation and Order for James B. Jeddloh.

VOTE: 6 ayes.

C. Alan Griffith

Mr. Hearn reviewed the Stipulation and Order for Mr. Griffith, which states, in part: Mr. Griffith agrees to pay civil penalties of \$1000 for the violation of ORS 673.345 (1999) and \$1000 for the violation of OAR 801-030-0005(2)(a) (1999) in connection with the 1999 tax shelter transaction. Mr. Griffith also agrees to pay civil penalties of \$1000 for the violation of ORS 673.345 (1999) and \$1000 for the violation of OAR 801-030-0005(2)(a) (1999) in connection with the 2000 tax shelter transaction. Mr. Griffith agrees to pay \$5000 as reimbursement of a portion of the costs incurred by the Board for its investigation.

BOARD ACTION: Moved by Bailey and carried to accept the proposed Stipulation and Order for Alan Griffith.

VOTE: 6 ayes.

8. REPORT OF EXECUTIVE DIRECTOR

A. On-line licensing project update

Mr. Hearn reported that the wheels are still turning, yet slowly. The Board submitted a RFP for a project manager to help the Board select the ultimate vendor. There were 6 submissions that came through. Board staff will do a semi-formal evaluation of each of the proposed bids and will have a company selected very soon. Mr. Hearn stated that the project is still scheduled to be complete by June 2011. Mr. Hearn also discussed the potential cost of the project.

B. Report from Executive Directors Conference
March 22 – 24, 2010 Nashville, Tennessee

Mr. Hearn attended the Executive Directors conference in March and indicated that the two hot topics were mobility and fund sweeping. Many boards are facing the same issues as Oregon with regards to these matters. The networking with other Executive Directors was very valuable.

C. Branch Office Request – (Rosenberg)

The Board reviewed a request from Buller, Wuite, Lawlor, Olsson & Rosenberg PC located in Eugene, Oregon with a branch office in Cottage Grove, a waiver of the requirement to have a licensed CPA in the branch office at all times.

The request did not specify the number of hours the licensee would be at the branch office as required by OAR 801-010-0345. Staff will send a letter asking for further information.

BOARD ACTION: Moved by Bridgham and carried to ask the firm for further information.

VOTE: 6 ayes.

D. Board Staff Changes – no item

Joyce Everts, Complaints and Peer Review Committee Coordinator will be retiring effective July 1. Ms. Everts last day in the office will be May 21 as she is using up her vacation and sick leave time. Board staff are working on the recruitment for Ms. Evert's position and also reorganizing the office duties throughout the office. Kimberly Bennett is transitioning into a new position, Executive Assistant.

9. PUBLIC COMMENTS

Suzanne Jolicoeur from the AICPA attending the Board meeting and part of the work session. She is the Manager for the State Regulation and Legislation section of the AICPA. Ms. Jolicoeur is a former Executive Director from the State of Michigan and brings with her extensive knowledge of how state boards operate and the hurdles they must overcome.

Ms. Jolicoeur discussed the examination being offered in foreign countries and that Japan and possibly Dubai or Lebanon are being considered as trial countries to test the process. There are concerns with safety of information and the AICPA is considering having more windows and additional versions to help with these concerns.

10. REPORT OF OAIA
No report.

11. REPORT OF OSCPA

12. OLD BUSINESS

13. CONTINUING PROFESSIONAL EDUCUCATION Bailey

A. Minutes of May 4, 2010 – Information Item

Mr. Bailey noted that the committee developed a grid that shows which courses qualify for the minimum requirements for obtaining a municipal license. There is concern with one of the courses listed and the committee will continue working on the grid.

B. Consent Agenda **Action Item**

Mr. Bailey noted that item 13.B.2.d., Gerald Isakson should be listed as deferred.

BOARD ACTION: Moved by Bailey and carried to accept the consent agenda as corrected.

Board Discussion: Ms. Bridgham asked for clarification on the Secretary of State letters; what does it mean 'refer to the Executive Director'? It means that the letters show enough information that it warrants further investigation by the complaints committee. The complaints committee will then review and determine if a possible violation has occurred.

VOTE: 6 ayes

1. Committee Recommendations
Secretary of State – Audits Division Report Review Letters
 - a. Edison Hurley & Company PC, *No action*
 - b. Jenson & Spratling LLP, CPAs, *Refer to Exec Director*
 - c. Barnett & Moro, P.C., *No action*
 - d. Byers, Neumayer & Bradford, P.C., *Refer to Exec Director*
 - e. Grove Mueller & Swank CPAs
 - i. Oregon Community College Association, *Refer to Exec Director*
 - ii. Oregon School Board Association, *Refer to Exec Director*
 - f. Gregor Professional Corporations, CPAs, *Refer to Exec Director*
2. Approval of Municipal Auditor Applications
 - a. Wendy Lininger, *Defer*
 - b. Linda Hurley, *Accept*
 - c. Anindita Mukherjee, *Accept*
 - d. Jared Isaksen, *Accept*
 - e. Monica Parker, *Accept*
 - f. Bryce Yamamoto, *Accept*
 - g. David Bullock, *Accept*

14. PEER REVIEW OVERSIGHT COMMITTEE

Bridgham

A. Minutes of March 18, 2010 (Information item)

Ms. Bridgham stated that the committee had restated their goals and also developed a flow chart for dealing with the peer review reports received by firms. The information being gathered is being uploaded to the database for future tracking. Ms. Bridgham would like an update on Peer Review Firm Database collection results to be discussed at the fall work session.

B. 2009 Annual PROC Report

C. Committee Member Resignation

Mr. New has resigned from the committee effective immediately. Stuart Morris expressed interest in serving on this committee.

BOARD ACTION: Moved by Bailey and carried to appoint Stuart Morris, PA to serve on the Peer Review Oversight Committee.

VOTE: 6 ayes

15. QUALIFICATIONS COMMITTEE

Ferguson

B. Consent Agenda

Action Required

BOARD ACTION: Moved by Ferguson and carried to approve the consent agenda.

VOTE: 6 ayes.

- (1) Approval of Applications
 - a. CPA Certificates/Permits
 - b. PA Licenses/Permits
 - c. Firm Registrations

- C. Potential New Committee Members
 - 1. Pat Brown, Regence
 - 2. Chuck Landers, Perkins
 - 3. Marcy Lantz, AKT

BOARD ACTION: Moved by Ferguson and carried to approve the three new committee members.

VOTE: 6 ayes.

16. CPA EXAM

A. Exam Statistics

Statistics for the examination were presented for information only.

B. Top Scores – 2009 (Resolutions to be signed)

Resolutions for the top three scores on the CPA examination in 2009 were prepared for Board member signatures.

17. CODE OF PROFESSIONAL CONDUCT

No meeting held

18. NEW BUSINESS

The meeting scheduled for August 16th was changed to August 9th to accommodate Chair Johnson.

19. PROCESS OBSERVER REPORT

Meeting was well run and Mr. Morris appreciates the send off from the Board.

20. The meeting adjourned at 2:25 p.m.

The meeting reconvened at 2:30 to discuss topics not discussed at yesterday's work session.

ITEM 3.C.1. & 2. PERFORMANCE MEASURES

Performance measures were discussed at the February 8, 2010 Board meeting and Mr. Hearn made the revisions and additions as directed by the Board. Mr. Hearn went over each proposed performance measure.

In the past at the spring work session, the Board reviewed its best practices and did a self evaluation. This has not been done in two years. Mr. Hearn presented a 'score card' that had been used in the past. There are items that need to be revised and Mr. Hearn is looking for assistance in the review of this document. A performance evaluation of the Executive Director is one the items that is past due. Mr. Bailey will forward to Chair Johnson material he has from the last performance review of the administrator.

A task force comprised of Newhouse, Bailey and Graham to review the boards strategic business plan and make necessary updates. Chair Johnson would also like the task force to review with the mindset that the board will obtain semi-independence status and integrate any changes that would result.

ITEM 3.D. POSTING DISCIPLINARY ACTION ON BOARD WEBSITE

With a new computer system on the horizon and staff resources at this time, the posting of disciplinary action to the board website is not recommended. The new system will implement safeguards and processes for the uploading of case information available to the public on the website.

ITEM 3.B. 2011 LEGISLATIVE CONCEPTS

The Board submitted a legislative concept for keeping complaints confidential until a certain point in the process. The language proposed stated it is confidential until *final order*, the Board would like it to say, *Notice of Intent phase*. Mr. Hearn will make the revision and present the legislative counsel.

The OSCPA has agreed to introduce a concept for the Board to gain semi-independence status.

Mr. Hearn also suggested a legislative concept to permit a public member, or CPA to fill the position of the Public Member on the Board if no PA member can be found. It took the board nearly a year and a half to find someone to replace Stuart Morris' position on the Board. There

are currently 40 active PA licensees in the state of Oregon. Board members would lean towards a public member filling the position if no PA can be found.

Adjourn at 4:00 p.m.