

OREGON BOARD OF ACCOUNTANCY
Minutes, August 7, 2006

3218 Pringle Road SE #110

Salem OR 97302

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

Board Members Present

James Gaffney, CPA, *Chair*
Lynn Klimowicz, CPA, *Vice-Chair*
Kent Bailey, CPA, *Treasurer*
Anastasia Meisner, *Public Member*
Jens Andersen, CPA
Ray Johnson, CPA, *by phone 8:30 a.m.*
Stuart Morris, PA

Staff Members

Carol Rives, *Administrator*
Noela Kitterman, *Investigator*
Kimberly Bennett, *Committee Coordinator*
Joyce Everts, *Committee Coordinator*
Heather Shepherd, *Committee Coordinator*

Guests Attending

Johanna Matanich, Asst. Attorney General, *1:00 p.m.*
Shawn Range, BAM Analyst, DAS
Karey Schoenfeld, OSCPA Representative
Cheryl Langley, OSCPA
Ivan Besemann, OAIA Representative
Tom Glogau, Grove Mueller & Swank PC, *9:30 a.m. - 10:10 a.m.*
Charles Swank, Grove Mueller & Swank PC, *9:30 a.m. - 10:10 a.m.*
Robert Edwards, Grove Mueller & Swank PC, *9:30 a.m. - 10:10 a.m.*

1. CALL TO ORDER

A quorum being present, Chair Gaffney called the meeting to order at 8:30 a.m. Chair Gaffney welcomed Mr. Besemann as the new OAIA Liaison. Anastasia Meisner was appointed process observer.

2. APPROVAL OF MINUTES

A. Board Meeting, May 20, 2006

BOARD ACTION: Moved by Morris and carried to approve the May 20 meeting minutes.

VOTE: Chair Gaffney did not vote; 6 ayes

B. Work Session, May 21, 2006

BOARD ACTION: Moved by Morris and carried to approve the May 21 meeting minutes with the correction to indicate that Mr. Jim Aldrich was in attendance.

VOTE: Chair Gaffney did not vote; 6 ayes

C. Board Meeting, May 22, 2006

BOARD ACTION: Moved by Morris and carried to approve the May 22 meeting minutes.

VOTE: Chair Gaffney did not vote; 6 ayes

3. REPORT OF CHAIR

A. NASBA

1. Authorize Travel to Annual Meeting

The Annual Meeting is scheduled October 29 to November 1, 2006 in Atlanta, Georgia.

BOARD ACTION: Moved by Morris and carried to approve registration fees for two Board members and the Administrator plus travel expenses to attend this conference.

VOTE: Chair Gaffney did not vote; 6 ayes

4. REPORT OF VICE CHAIR

A. Work Session

1. Fall Work Session, Cannon Beach

The Board suggested that the following topics be included on the agenda:

- Compare license status options
- What services may an inactive licensee perform in a public accounting firm
- Licensing requirements for out of state practitioners
- Board cash reserves, what amount is appropriate
- Colorado Board – letter to FASB
- Guidance for Peer Review committee on procedures for reviewing PCAOB Reports
- Prioritize aspects of Ethics development

5. REPORT OF TREASURER

A. Financial Reports

Bailey reviewed the June, 2006 financial report and noted that revenues are \$199,011 over projection and expenditures are \$51,722 under projections. It was noted that June of Fiscal Year-1 always reflects the highest fund balance of the biennium with revenues decreasing and expenses increasing in Fiscal Year-2.

The Board noted that a reduction in office rent was negotiated. They also discussed the need for increased allocation for an increased number and complexity of complaint cases and the Board's increased oversight of Peer Review Audit Reports. Bailey will work with Board staff to develop an estimated budget increase.

The Board discussed using a portion of reserve funds to pay for an audit of the Board of Accountancy. It was concluded that the Department of Administrative Services provides internal control and oversight of the Board's financials and a Board audit is not necessary.

6. REPORT OF ADMINISTRATOR

A. 2007-09 Agency Request Budget and Policy Packages

1. Budgets compared 99-01 through 07-09

The Board reviewed an eight year comparison of Board budgets.

The Administrator explained two policy packages (Essential Budget package 060 and Policy Package 101 for IT project) for the 07-09 Agency Request Budget. Package 060 moves allocated funds from one category to another to accommodate higher AG fees. Package 101 for IT project is an estimate of what on-line licensing will cost the Board.

The Board also discussed the basis for calculating 07-09 Revenue.

B. 2007-09 Performance Measures

The Joint Ways and Means Subcommittee of the 2005 legislative session requested the Board to present revised or new performance measures and targets to replace the two performance measures that were not approved.

The two new performance measures are:

- PM 3 Percent of complaints that result in disciplinary action.

PM 4 Percent of contested cases resolved by consent agreement prior to formal hearing.

Both measures were approved by the Joint Legislative Audit Committee in July 2006.

BOARD ACTION: Moved by Klimowicz and carried to approve the new performance measures for 2007-09.

VOTE: Chair Gaffney did not vote; 5 ayes 1 excused (Johnson)

C. Standards and Practices for Boards and Commissions

The Department of Administrative Services (DAS) and the Legislative Fiscal Office (LFO) have developed a *best management practice* performance measure for Boards and Commissions. Once the performance measure is adopted by the Joint Legislative Audit Committee, the identified agencies will be required to include these as part of the 2007-09 agency requested budget.

The Board will need to schedule this as a work session topic for 2007.

D. Customer Survey Results

See item 6.L.

E. Comment on Proposed Legislative Proposal

The Board of Property Tax Appeals is considering proposed legislation to simplify the administration of the appeal process by broadening the definition of those people who qualify to sign petitions and appear on behalf of petitioners at the Board of Property Tax Appeals hearings.

Board Discussion: *It appears that CPA/PA's will be required to obtain written permission from the client and include a copy with any petition that is filed with the BOPTA. This could create an unnecessary expense for the client.*

BOARD ACTION: Moved by Klimowicz and carried to confirm the Administrator's response letter dated June 26, 2006 and notify the BOPTA that the proposal seems to be an unnecessary requirement that would cost the client more in fees for generating the document, and in many cases may not be convenient to obtain.

VOTE: Chair Gaffney voted; 5 ayes 2 excused (Johnson, Bailey)

F. Licensee Renewals Reporting Multiple DUI Convictions

The current CPA/PA renewal application asks licensees if they have been subject to disciplinary action by any regulatory authority since the last renewal period or if the individual has been convicted of a crime within the last 10 years (other than minor traffic violations).

Board Discussion: *In the absence of complaints regarding professional services, the Board cannot determine whether an individual has a substance abuse problem that is affecting their fitness to practice public accountancy. Also, does the Board have authority to take disciplinary action against an individual who has not caused harm while practicing public accountancy? A Board letter may be appropriate based on the pattern of violations disclosed under the self reporting requirement. The Board also noted difficulties in taking disciplinary action against an individual who has received or is receiving treatment for a substance abuse problem.*

The Board expressed concern about the conviction for driving with a suspended license. While not directly related to the practice of public accounting, it does not reflect well on the licensee's respect for Oregon Motor Vehicle laws. However, it was also observed that chances are very high that every one of us disobeys rules every day, which does not necessarily indicate a disregard for the law in general.

BOARD ACTION: Moved by Klimowicz to send a letter of concern thanking each licensee for disclosing the DUI convictions, and stating that even though there is more than one violation for use of alcohol, the Board has no information that alcohol has affected the licensee's ability to perform public accounting services for clients.

VOTE: Chair Gaffney did not vote; 2 ayes (Klimowicz, Bailey) 4 no (Andersen, Johnson, Meisner, Morris)

G. Committee Membership

1. Fred Erickson, CPC Committee

Mr. Erickson was approved by the Board at the May 22, 2006 meeting as a new CPC committee member. Mr. Erickson has agreed to the appointment on the Code of Professional Conduct Committee.

BOARD ACTION: Moved by Andersen and carried to appoint Mr. Erickson to the Code of Professional Conduct Committee.

VOTE: Chair Gaffney did not vote; 5 ayes 1 excused (Johnson)

2. Scott Daniels, PRO Committee

Mr. Daniels is an employee of AKT in charge of the firms peer review audits. The committee recommends Mr. Daniels to the Board for appointment to the Peer Review Oversight Committee.

BOARD ACTION: Moved by Bailey and carried to appoint Mr. Daniels to the Peer Review Oversight Committee.

VOTE: Chair Gaffney did not vote; 5 ayes 1 excused (Johnson)

H. 2003-05 Report, AG and OAH Fees

The Board reviewed the cases that have legal fees associated with the disciplinary action. The worksheet does not include penalties that were processed administratively without legal fees associated with the disciplinary action.

I. Board Member Positions

1. Public Member – December 31, 2006

Jeff Grub, Eric Lynn and Benny Won have all indicated an interest in serving as the public member to the Board.

BOARD ACTION: Moved by Klimowicz and carried to submit all three names to the Governor's office for consideration.

VOTE: Chair Gaffney did not vote; 5 ayes 1 excused (Johnson)

2. CPA Position – December 31, 2006

Mr. Gaffney will complete his second term as a Board member December 31, 2006.

Board Discussion: *Mr. Gaffney was asked if he would consider serving a third term on the Board. Mr. Gaffney accepted the invitation and his name has been provided to the Governor's office. The OSCP is supporting this reappointment and informal communication with the Governor's office confirms that the Governor will appoint Mr. Gaffney to a third term on the Board. The terms of four current Board members will expire within a three year period. The Board discussed ideas on adjusting the end of terms so that new members will have an opportunity to learn from experienced members.*

J. Administrative Rule Revisions

1. Division 010

a. 801-010-0065 Supervisor Licensee

The Board reviewed changes to the supervisor licensee requirement that were approved at the May meeting. The rule is being modified to address applicants whose supervisor licensee is an independent contractor or consultant.

b. 801-010-0080 Substantial Equivalency

The Board requested changes to this rule at the May meeting. The rule has been modified to address applicants applying for substantial equivalency and the two standards under which applicants establish verification of eligibility.

c. 801-010-0340 Non Licensee Ownership

Revision to this rule was discussed at the May Board meeting. This rule is modified to allow an extension of time when a licensed owner of a firm dies or other unforeseen circumstances occur that prevent the firm from meeting the requirements of non-CPA ownership.

BOARD ACTION: Moved by Morris and carried to approve revisions to OAR 801, Division 010.

VOTE: Chair Gaffney did not vote; 6 ayes

2. Division 020

a. 801-020-620 Municipal Audit Bid Requirements

This section of Division 020 is modified to clarify which members of a firm may bid on municipal audits in the name of the firm.

BOARD ACTION: Moved by Morris and carried to approve the changes to OAR 801, Division 020 as presented.

VOTE: Chair Gaffney did not vote; 6 ayes

3. Division 030

a. 801-030-0010

The Complaints Committee discussed changes to Division 030 that describes standards that licensees are required to follow. The committee believes tax standards should be included. The Board reviewed proposed changes prepared by Larry Brown, CPA Complaints Committee member.

BOARD ACTION: Moved by Andersen and carried to approve the changes to OAR 801, Division 020 as presented.

VOTE: Chair Gaffney did not vote; 6 ayes

4. Division 040

a. 801-040-0010 Ethics Requirement

The Board reviewed changes to the ethics requirement to ensure that examples provided in the courses include rules and case laws that are relevant to all licensees, including those in industry, government and education.

BOARD ACTION: Moved by Klimowicz and carried to approve the changes to OAR 801, Division 020 as presented.

VOTE: Chair Gaffney did not vote; 6 ayes

K. Cease & Desist Proposals

1. James W. Rose

James W. Rose, PA, LTC (Company) is not a registered public accounting firm in Oregon. James W. Rose (Rose) is not licensed as a public accountant or certified public accountant in Oregon. On February 23, 2005 Company issued a review report on financial statements for a client. The report issued by Company did not use ORS 673.325 safe harbor language.

Board Discussion: *Cease and Desist authority was intended to allow the Board to act quickly to prevent continued activity that could be harmful to the public. The Board discussed issuing a Cease & Desist Order before the complaint goes to the Complaints Committee. Issuing a Cease and Desist Order followed by a Notice for other possible violations could cause confusion. Board staff and counsel will discuss available alternatives and will draft a cover letter stating that the Board may bring additional action related to the complaint.*

BOARD ACTION: Moved by Andersen and carried to issue a Cease & Desist Order as soon as practical and refer the complaint against Rose to the Complaints Committee.

VOTE: Chair Gaffney did not vote; 6 ayes

2. Koberstein & Associates

Koberstein & Associates (Company) is not a registered public accounting firm in Oregon. Cecil Koberstein (Koberstein) is not licensed as a certified public accountant or public accountant. On February 23, 2005 Company issued a review report on financial statements for a client. The report issued by Company did not use ORS 673.325 safe harbor language.

Board Discussion: *Koberstein is father-in-law to James Rose. Koberstein submitted a letter to the Board that stated he was unaware that his name with the CPA designation was used in correspondence. James Rose explained that the letter with Koberstein's computer generated signature and CPA designation were printed from 'QuickBooks'. The Board determined that there is conflicting evidence that requires investigation.*

BOARD ACTION: Moved by Andersen and carried to refer the complaint to the Complaints Committee for review.

VOTE: Chair Gaffney did not vote; 6 ayes

3. Pacific Tax Services (Gerry McReynolds)

Pacific Tax Services (Company) is not a registered public accounting firm in Oregon. Gerry McReynolds is not licensed as a certified public accountant in Oregon. Company issued a report on financial statements for a client on January 7, 2005. The report issued by Company did not include ORS chapter 673.325 safe harbor language.

BOARD ACTION: Moved by Klimowicz and carried to issue a Cease & Desist Order and refer the complaint to the Complaints Committee.

VOTE: Chair Gaffney did not vote; 6 ayes

L. Renewal Cycle Request

The Board received a suggestion that the Board extend the deadline for CPE reporting to July 31, so that licensees can include last minute courses on their renewal form. The CPE tracking service provided by NASBA and future plans for on-line licensing could remove licensee concerns regarding the June 30 deadline. No changes are recommended at this time.

M. Willamette University CPM Program

Carol Rives will begin the final quarter of this program on September 15.

N. Individual Substantial Equivalency Eligibility Policy

Board considered a policy for substantial equivalency applications. The policy establishes standards for licensees of a licensing jurisdiction that is not determined to be substantially equivalent and who apply for authority under substantial equivalency to provide public accounting services to Oregon clients based on the licensee's individual qualifications. This policy will be posted on the Board website.

BOARD ACTION: Moved by Klimowicz and carried to approve the policy regarding substantial equivalency.

VOTE: Chair Gaffney did not vote; 5 ayes, 1 excused (Johnson)

O. FASB & AICPA Propose Joint Committee for Changing Standards for Private Companies

Defer to October 2006 Board meeting.

P. Jim Pike P.A. – Annual Request

Each year Mr. Pike requests approval for a temporary office during tax season. Mr. Pike stated in his letter that he will not offer or facilitate Refund Anticipation Loans or Refund Anticipation Checks at the Oregon location during this coming tax season.

BOARD ACTION: Moved by Bailey and carried to approve temporary office location.

VOTE: Chair Gaffney did not vote; 5 ayes, 1 excused (Johnson)

Q. 2007 Proposed Meeting Schedule

A calendar with proposed Board meeting dates was provided to Board members to review and notify staff of conflicts.

R. Resignation of Jane Ryan

Ms. Ryan sent the Board a letter of resignation and her wall certificate on August 2, 2006. There are allegations pending in Multnomah County against Ms. Ryan that include embezzlement of approximately \$100,000 from either a client or an employer. Ms. Ryan has made restitution of the entire amount. Dennis Shen, Multnomah County District Attorney questioned whether a settlement agreement could include resignation of Ms. Ryan's CPA certificate and whether the Board would bring additional action against Ms. Ryan.

Because this case is still pending, it is confidential. The Board would like to maintain access to this case and therefore will accept the resignation and state that acceptance of the resignation does not preclude the Board from further investigation.

BOARD ACTION: Moved by Klimowicz and carried to accept recommendation pending further investigation by the Board counsel.

VOTE: Chair Gaffney did not vote; 5 ayes, 1 excused (Johnson)

7. PUBLIC COMMENTS

None

8. REPORT OF OAIA

Mr. Besemann did not have current OAIA activities to report. Mr. Besemann is a past President of OAIA and has served on Board of Accountancy committees in previous years.

9. REPORT OF OSCPA

Schoenfeld reported that the OSCPA legislative policy committee expressed concerns regarding some of the Board's legislative concepts.

1. PA Member Position

The OSCPA will submit revisions to say a "qualified PA" and to require that an additional CPA be appointed rather than an additional public member.

2. Substantial Equivalency

No position taken at this time.

3. Firm Ownership

The language needs to be defined as to who gets the extension of time.

4. Disciplinary Action

The OSCPA will oppose this concept. It is unlikely that the society could support any modification of this concept.

10. OLD BUSINESS

A. Grove Mueller & Swank PC

Thomas Glogau, CPA, Charles Swank, CPA, and Robert Edwards, CPA with Grove Mueller & Swank PC (GMS) arrived at the Board meeting in person at 9:30 a.m.

The Board Investigator gathered additional information requested by the Board. The Investigator met with Edwards and Swank, spoke with Brandi Gibbons (GMS former employee) and Nancy Young (Secretary of State's office).

The cash disbursements workpaper was initialed by Robert Edwards and dated March 11, 2004, while other field audit workpapers were initialed and dated prior to December 2003. It was noted that some finalizing workpapers were initialed in February 2004.

Gibbons, was employed by GMS from July 2002 until January 2004. During Gibbons interview with Board Investigator, Gibbons noticed that her initials were not on the cash disbursements workpaper, and for that reason concluded that she did not work on the audit. Gibbons did not provide any information related to the "conclusion" written at the bottom of the cash disbursements workpaper. Swank assured the Board that Gibbons was assigned to the audit and performed field work, supervised by Bob Edwards. Swank stated that the Firm had no reason to be unhappy with Gibbons work.

The Board asked who wrote and initialed the workpapers. Edwards stated that he initialed and dated the workpapers after adding a scope description as requested by Secretary of State. After making the change to the workpaper, the original document was discarded.

The Board asked who wrote the notes in the margin (two different notes) on the copies of documents that were submitted to the Board with the original complaint. Swank responded that the hand written notes are not on the workpapers in their office and that the notes were added by someone outside of GMS before the workpaper was submitted to the Board. The original workpaper included only Edwards' initials and the March 11th date.

The Board inquired about alternative sample procedures used during the audit. Swank explained that when they discovered that there were five (5) checks with missing documentation, the level of materiality was lowered to \$1,000, stating further that lowering the level of materiality is an acceptable alternative procedure.

Glogau added that Swank, Edwards and Glogau had numerous conversations about alternative procedures that would be used with Secretary of State Audit Division, but those discussions were not documented.

Swank stated that the firm agrees with three (3) of the four (4) listed violations:

- #1. failure to supervise – agree
- #2: failure to adequately document alternative procedures - agree
- #3. failure to use due professional care - disagree
- #4: failure to document – agree (same as #2)

Thomas Glogau, CPA, Charles Swank, CPA, and Robert Edwards, CPA left the Board meeting at 10:10 a.m.

Board Discussion: *The Board requested further information from Brandi Gibbons, Jason Stanley and Ryan Dempster to clarify the conclusion written on the cash disbursements workpaper, and to determine who wrote the notes on the same documents. The Board discussed procedures that should be used when an auditor finds lack of documentation in an audit sample. Swanks office asserted that alternative steps were taken to verify disbursements, but today they said they did not do them. The Board commented on the original cash disbursements workpaper and the fact that it was destroyed. The Board suggested that it may be necessary to open a complaint against Gibbons.*

11 CONTINUING PROFESSIONAL EDUCATION

A. Report of CPE Committee

- 1. No meeting held

B. Consent Agenda

- 1. Recommendations
 - a. None

- 2. Municipal Auditor Applications

- a. Janine R. Salisbury

- COMMITTEE RECOMMENDATION: Accept; the applicant completed the requirements for the municipal audit roster, as required by OAR 801-020-0690.

- b. Sherry Paulson

- COMMITTEE RECOMMENDATION: Accept; the applicant completed the requirements for the municipal audit roster, as required by OAR 801-020-0690.

- c. James O'Connell

- COMMITTEE RECOMMENDATION: Accept; the applicant completed the requirements for the municipal audit roster, as required by OAR 801-020-0690.

- d. Irina Stein

- COMMITTEE RECOMMENDATION: Accept; the applicant completed the requirements for the municipal audit roster, as required by OAR 801-020-0690.

- e. Crystal Albiar

- COMMITTEE RECOMMENDATION: Accept; the applicant completed the requirements for the municipal audit roster, as required by OAR 801-020-0690.

C. Items Removed from Consent Agenda

- 1. None

BOARD ACTION: Moved by Klimowicz and carried to accept the Consent Agenda.

VOTE: Chair Gaffney did not vote; 5 ayes, 1 excused (Johnson)

12. PEER REVIEW OVERSIGHT

A. Report of Peer Review Oversight Committee

1. Acceptance of Minutes August 1, 2006

BOARD ACTION: Moved by Andersen and carried to accept the minutes of August 1, 2006.

VOTE: Chair Gaffney did not vote; 5 ayes, 1 excused (Johnson)

B. Consent Agenda

1. Recommendations

a. Scott Daniels, CPA, PRO Committee Member

BOARD ACTION: Moved by Andersen and carried to accept the consent agenda.

VOTE: Chair Gaffney did not vote; 5 ayes, 1 excused (Johnson)

13. COMPLAINTS COMMITTEE

A. Report of Complaints Committee

1. June 15, 2006

BOARD ACTION: Moved by Bailey and carried to approve the minutes as corrected to indicate that the vote for the Dunning case was 5 ayes, 1 nay (Aldrich), 2 excused (Henarie, Armstrong) and eight (8) hours of CPE in *'Estates and Trust'* was recommended for Eugene Stewart.

VOTE: Chair Gaffney did not vote; 5 ayes, 1 excused (Johnson)

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

VOTE: Chair Gaffney did not vote; 5 ayes, 1 excused (Johnson)

B. Consent Agenda

1. Recommendations

- | | |
|-------------------------|-----------|
| *a. David T. Wilson Jr. | 06-01-003 |
| *b. Shari A. Wulf | 06-02-006 |
| c. Pablo Safronchik | 06-03-008 |
| *d. Eugene Stewart | 06-03-010 |
| *e. Holland & Brooks | 06-04-016 |
| *f. Michael W. Holland | 06-04-017 |
| *g. Jeffrey Edwards | 06-05-019 |
| h. Debra Randall Dimone | 06-05-020 |
| *i. Jerry Dunning | 06-05-023 |

**Items moved to 11.C. for discussion*

C. Items Removed from Consent Agenda

1. 13.B.1.a. David T. Wilson, Jr. 06-01-003

David Wilson (Wilson) agreed to prepare tax returns for Client and her mother (Mother). Wilson delayed preparation of Mother's tax return and did not respond to Client's telephone messages or e-mails.

ALLEGED VIOLATIONS:

Responsibilities to Clients

801-030-0015(2) Client records and working papers.

(b) Requested records. Licensees are required to furnish the following records to a client or former client, upon request, within a reasonable time after such request:

(A) In response to a client's request for client records, made within a reasonable time, that occurs prior to issuance of a tax return, financial statement, report or other document prepared by a licensee, the licensee shall furnish to the client or former client any accounting or other records belonging to or obtained from or on behalf of the client that the licensee received for the client's account or removed from the client's premises.

Wilson did not respond to Client's telephone and e-mail inquiries requesting that Wilson return Mother's tax documents. Wilson returned the documents after Client filed a complaint with the Board.

Other Responsibilities and Practices

801-030-0020 (1) Professional misconduct.

(a) A licensee shall not commit any act or engage in any conduct that reflects adversely on the licensee's fitness to practice public accountancy.

(b) Professional misconduct may be established by reference to acts or conduct that would cause a reasonable person to have substantial doubts about the individual's honesty, fairness and respect for the rights of others or for the laws of the state and the Nation. The acts or conduct in question must be rationally connected to the person's fitness to practice public accountancy.

In February 2005, Wilson agreed to prepare tax returns for Client and Mother. Wilson did not timely complete Mother's tax return.

Client left telephone and e-mail messages inquiring about the status of Mother's tax return, but Wilson did not respond. When Client filed a complaint with the Board, Wilson delivered Mother's tax return.

Wilson's conduct would cause a reasonable person to have substantial doubts about his honesty, fairness and respect for the rights of others.

OAR 801-030-0020(7) Board communications and investigations.

(b) Licensees who receive any Board communication requesting the licensee to provide a written response shall:

(A) Provide a written response to the Board within 21 days of the date the Board communication was mailed,

(B) Respond fully and truthfully to inquiries from and comply with all Board requests.

(c) The Board of Accountancy shall provide written notice to licensees of complaints filed against the licensee and of any Board investigation that affects the licensee. Licensees who receive notice of a complaint investigation:

(A) Shall cooperate fully with all Board investigations, including any request to appear to answer questions concerning such investigations, and

(B) Shall not engage in any conduct or activity that would hinder or obstruct a Board investigation.

Wilson did not timely submit a written response to the Board's notice of complaint. A timely response was due on or before February 2, 2006. Wilson's response was received February 9, 2006, after the Board Investigator left a message with a relative requesting that Wilson contact the Board.

INVESTIGATOR SUMMARY (Maximum civil penalty is \$5,000 per violation)

Responsibilities to Clients

801-030-0015(2) Client records and working papers.

(b) Requested records

Did not return client records after requests on
October 17, 2005
December 7, 2005

Other Responsibilities and Practices

801-030-0020 (1) Professional misconduct

Did not timely complete Mother's tax return
Did not respond to telephone and e-mail messages

OAR 801-030-0020(7) Board communications and investigations

Did not timely respond to Board communications

Committee Discussion: Wilson's response does not refute the client's allegations. Wilson was not clear when corresponding with the client regarding information that Wilson needed and Wilson did not return client emails or phone messages. Wilson did not timely submit a written response to the Board's notice of complaint. The Board Investigator left a message with a relative requesting that Wilson contact the Board.

COMMITTEE RECOMMENDATION: Moved and carried to recommend a \$2,500 civil penalty for violation of 801-030-0015(2) Client records and working papers; a \$2,500 civil penalty for violation of 801-030-0020 (1) Professional misconduct; and a \$1,000 civil penalty for violation of OAR 801-030-0020(7) Board communications and investigations.

Board Discussion: *Wilson did not have enough information to complete Client's tax returns and the lack of communication with the client is problematic. However, Wilson's January 3, 2006 email to the Board implied that since no taxes were owed by the client, it is acceptable to file client's tax return at anytime. Wilson did not timely respond to a Board communication.*

BOARD ACTION: Moved by Bailey and carried to assess a total civil penalty of \$6,000 for violations of:

1. OAR 801-030-0015(2) Client records and working papers (\$2,500);
2. OAR 801-030-0020 (1) Professional misconduct (\$2,500);
3. OAR 801-030-0020(7) Board communications and investigations (\$1,000).

VOTE: Chair Gaffney did not vote; 4 ayes, 1 nay (Klimowicz), 1 excused (Johnson)

2. 13.B.1.b. Shari A. Wulf

06-02-006

On March 16, 2004 Washington State Board of Accountancy opened an investigation against Shari A. Wulf (Wulf) for use of the CPA designation without a valid Washington state individual CPA practice license.

On June 28, 2004 Wulf submitted the application to renew her Oregon permit to practice public accountancy. On question 12 of the renewal application Wulf answered "no" when asked if she was "subject to an investigation by any regulatory authority".

ALLEGED VIOLATIONS:

ORS 673.170(2)(a)(D) Fraud or deceit in obtaining or applying for a permit

Wulf checked "No" on the 2004 Renewal Application and Report of Continuing Education during the time that an active investigation by Washington State Board of Accountancy was in progress.

Wulf stated in her response that she did not think that the investigation by the Washington State Board of Accountancy applied when she answered the questions on the application.

Wulf did not truthfully answer the questions on the 2004 renewal application.

INVESTIGATOR SUMMARY (Maximum civil penalty is \$5,000 per violation)

ORS 673.170(2)(a)(D) Fraud or deceit in obtaining or applying for a permit

Violation for not truthfully answering a question on the 2004 Renewal Application.

Committee Discussion: Wulf had knowledge of the Washington investigation, yet failed to inform the Oregon Board of Accountancy on the renewal application.

COMMITTEE RECOMMENDATION: Moved and carried to recommend a \$2,500 civil penalty for violation of ORS 673.170(2)(a)(D) Fraud or deceit in obtaining or applying for a permit.

Board Discussion: *The Board considered whether the recommended \$2,500 civil penalty is too low for the violation of lying to the Board.*

BOARD ACTION: Moved by Bailey and carried to assess a total civil penalty of \$2,500 for violation of ORS 673.170 (2)(a)(D) Fraud or deceit in obtaining or applying for a permit.

VOTE: Chair Gaffney voted; 4 ayes. 2 nays (Klimowicz, Andersen), 1 excused (Johnson)

3. 13.B.1.d. Eugene Stewart

06-03-010

Eugene Stewart (Stewart) prepared Client's 2002 income tax return. Client received notices from the Internal Revenue Service (IRS) that annuity income was reported incorrectly and that additional taxes, penalties and interest were due.

ALLEGED VIOLATIONS:

OAR 801-030-0010 Competence (1) Competence. *A licensee shall not undertake any engagement for the performance of professional services which the licensee cannot reasonably expect to complete with due professional competence, including compliance, when applicable, with sections (2) and (3) of this rule.*

Stewart did not report income from an annuity that Client inherited from his grandfather. As a result, IRS and Department of Revenue assessed Client penalties and interest.

Stewart stated that he thought that the income was taxed in the estate and tax free to Client. It was not until he met with Client and reviewed the IRS notice and additional paperwork provided by Client that Stewart realized the income was taxable to Client.

When Stewart prepared Client's 2002 tax return, Stewart believed that the annuity was tax free. Stewart later agreed that the annuity was taxable, and repaid Client for IRS and Department of Revenue interest.

OAR 801-030-0020(1) Professional Misconduct

(a) A licensee shall not commit any act or engage in any conduct that reflects adversely on the licensee's fitness to practice public accountancy.

(b) Professional misconduct may be established by reference to acts or conduct that would cause a reasonable person to have substantial doubts about the individual's honesty, fairness and respect for the rights of others or for the laws of the state and the Nation. The acts or conduct in question must be rationally connected to the person's fitness to practice public accountancy.

Stewart did not respond to Client's November 29, 2005 letter. Stewart said that he did not respond because he was busy and the letter fell to the bottom of his pile. Stewart's acts or conduct would cause a reasonable person to have substantial doubts about Stewart's honesty, fairness and respect for Client's rights.

INVESTIGATOR SUMMARY (Maximum civil penalty is \$5,000 per violation)
OAR 801-030-0010 Competence

Stewart did not report taxable annuity income on client's tax return

OAR 801-030-0020(1) Professional Misconduct

Stewart's failure to respond to Client's letter would cause substantial doubts about Stewart's honesty, fairness and respect for the rights of others.

Committee Discussion: *Stewart's response to the Board indicates that he does not understand the law regarding the reporting of taxable annuity income on tax returns. Stewart did not respond to client's letter until after the complaint was filed with the Board.*
COMMITTEE RECOMMENDATION: Moved and carried to recommend a \$1,000 civil penalty for violation of OAR 801-030-0010, Competence; and a \$1,000 civil penalty for violation of OAR 801-030-0020(1) Professional Misconduct.

Board Discussion: *There was no discussion.*

BOARD ACTION: Moved by Bailey and carried to assess a \$1,000 civil penalty for violation of OAR 801-030-0010, Competence; and a \$1,000 civil penalty for violation of OAR 801-030-0020(1) Professional Misconduct, and assess eight hours of CPE in Estates and Trust.

VOTE: Chair Gaffney did not vote; 5 ayes, 1 excused (Johnson)

4. 13.B.1.e. Holland & Brooks 06-04-016

Holland & Brooks LLP (Firm) performed public accounting and tax services and held out as a registered firm from October 1, 2005 through May 19, 2006. During this same time period, Firm's 50% partner, Michael Holland did not have an active permit. Firm did not notify the Board that Firm name changed on October 1, 2005, and did not timely renew Firm registration on or before January 1, 2006.

ALLEGED VIOLATIONS:

ORS 673.160 Registration of business organizations.

- (1) *Business organizations of certified public accountants or of public accountants shall register with the Oregon Board of Accountancy if the business organization: (b) Holds itself out to clients in this state or the public in this state as a business organization engaged in the practice of public accountancy.*

OAR 801-010-0345

A business organization organized for the practice of public accountancy shall register with the Board as a firm if the business organization engages in any of the following activities in this state:

(b) Holds out to clients or to the public that the business organization is in any way engaged in the practice of public accountancy.

Holland & Brooks LLP held out to clients and to the public that Firm was registered to provide public accounting services when Firm displayed "Holland & Brooks LLP" on its business sign, on letterhead and envelopes, in the paid preparer box of tax returns, in a display advertisement in the yellow pages, and when answering the telephone.

Holland & Brooks LLP was not registered from October 1, 2005 through May 19, 2006 when it held out to clients and the public that it was a business organization engaged in the practice of public accountancy.

ORS 673.320(4)

A business organization shall not assume or use the title or designation "certified public accountant" or the abbreviation "C.P.A.", or any other title, designation, words, letters, abbreviation, sign, card or device tending to indicate that the business organization is composed of certified public accountants unless the business organization is registered under ORS 673.160.

Holland & Brooks did not notify the Board when Firm name and ownership changed from Holland Dahlen & Brooks CPAS LLP to Holland & Brooks LLP. If Firm had notified Board that Firm name and ownership changed, Board would have informed Firm that Firm could not register until Michael Holland held an active permit.

Holland & Brooks LLP did not renew its registration as a firm or notify the Board of a name change when Firm received a firm renewal notice in November 2005. Firm did not submit a renewal application until after Firm received a letter of complaint from the Board.

"Holland & Brooks LLP" assumed or used the title "certified public accountant" or the abbreviation "CPA", or designation, words, sign, and devices that tended to indicate that the business was composed of licensed certified public accountants from October 1, 2005 through May 18, 2006, during which time the firm was not registered as a public accounting firm and was not eligible for registration as a public accounting firm.

Non-CPA and non-PA Ownership of Business Organizations

801-010-0340 (1) Requirements of non-CPA or non-PA ownership.

The ownership of a business organization, defined in ORS 673.010 and registered as a firm under ORS 673.160 and OAR 801-010-0345, that is lawfully engaged in the practice of public accountancy in this state, may include owners who are not licensed as certified public accountants or public accountants if the following conditions are met: (a) Licensed certified public accountants and public accountants shall, in the aggregate, directly or beneficially, hold ownership of more than half of the equity capital and a majority of voting rights; (b) If the business organization has its principal place of business in this state and performs public accountancy services in this state, licensees under the provisions of ORS 673.150 or ORS 673.100 shall, in the aggregate, directly or beneficially, hold ownership of more than half of the equity capital and a majority of voting rights; (c) The business organization shall designate in writing a permit holder under ORS 673.150 who shall be

responsible for the management and registration of the business organization in this state; (d) A permit holder under ORS 673.150 shall have ultimate responsibility for each financial statement attest service engagement performed in this state; (e) Non-licensee owners shall be material participants in the business of the firm or an entity affiliated with the firm; (f) Non-licensee owners may be natural persons or legal entities provided that each ultimate beneficial owner of an equity interest in such entity shall be a natural person who materially participates in the business conducted by the firm. (g) Non-licensee owners shall not hold themselves out as certified public accountants or public accountants. (h) Business organizations with non-CPA or non-PA ownership that are registered under OAR 801-010-0345 shall comply with the requirements for peer review as provided in ORS 673.455 if such business organization performs attestation or compilation services. (i) For purposes of this rule, "material participation" means an activity that is regular, continuous and substantial. (2) Registration. A business organization with non-licensee ownership that is registered in this state under OAR 801-010-0345 shall certify at the time of registration and at each renewal that the business organization is in compliance with the provisions of this rule. (3) CPA designation. A business organization, of which the majority ownership is held by individuals licensed as public accountants under ORS 673.100, may not use the term "CPA firm" or any similar name that would indicate that a majority of the owners of the firm hold CPA certificates issued under ORS 673.040.

Firm was not lawfully engaged in the practice of public accountancy from October 1, 2005 through May 18, 2006 when Firm ownership did not consist of licensed certified public accountants or public accountants that owned more than half of the equity capital and the majority of voting rights. During this period of time, Michael Holland whose permit was lapsed, held a 50% ownership interest in Firm.

OAR 801-030-0020(4)

A licensee shall not use or participate in the use of any form of public communication, including advertising or solicitation by direct personal communication, having reference to the licensee's professional services which contains a false, fraudulent, misleading, or deceptive statement or claim. A false, fraudulent, misleading, or deceptive statement or claim includes, but is not limited to, a statement or claim which: (a) includes a misrepresentation of fact; (b) Is likely to mislead or deceive because it fails to make full disclosure of relevant facts;

Holland & Brooks LLP communicated to the public a false, fraudulent, misleading, or deceptive statement or claim that it was registered to perform services as a public accounting firm when Holland & Brooks LLP displayed a sign, used firm letterhead, and listed Holland & Brooks in a yellow page advertisement under Accountants – Certified Public.

Holland & Brooks further communicated to the public a false, fraudulent, misleading, or deceptive statement or claim in the yellow page advertisement that Michael Holland was an active CPA and that Christopher Dahlen CPA was associated with the firm of Holland & Brooks LLP.

OAR 801-030-0020(6) (a) False and misleading firm names.

(A) Licensees shall not practice public accountancy under a firm name which is misleading in any way as to the legal entity or organization of the firm, or as to the persons who are owners or managers of the firm, or as to any matter restricted by section (4) of this rule. (B)

A firm name shall not include false or misleading language about the business form of the firm, the nature of the services provided or the identity of individual members of the firm, and shall not include information about, or indicate an association with, individuals who are not members of the firm;

Firm owners, Michael Holland and Craig Brooks and Holland & Brooks LLP offered public accounting services under a false and misleading firm name when Firm did not register with the Board of Accountancy and when certified public accountants, or public accountants did not hold more than a 50% ownership interest.

OAR 801-030-0020(6) (e) Firm Names

A business organization registered as a firm under ORS 673.160 shall provide the following information to the Board:

(B) Written notice of any change of firm name, firm address or firm ownership within 30 days of such change.

Firm violated the requirement to notify the Board of a change in firm name and firm ownership when Firm did not provide written notification that Christopher Dahlen withdrew as a partner from Firm and that Firm name changed to Holland & Brooks LLP on or about October 1, 2005.

INVESTIGATOR SUMMARY (Maximum civil penalty is \$5,000 per violation)

ORS 673.160 Registration of business organizations

OAR 801-010-0345

Failed to register as a firm or to renew firm

ORS 673.320(4)

Assumed or used the certified public accountant designation without registration on:

- a. Building sign;
- b. Telephone greeting;
- c. Yellow page display advertisement;
- d. Letterhead and envelope return address;
- e. Individual income tax returns;

OAR 801-010-0340 (1) Requirements of non-CPA or non-PA ownership

During the period that Holland's permit was lapsed, he was not eligible to be a 50% owner of a CPA firm

OAR 801-030-0020(4)

Advertised a false, fraudulent or misleading statement or claim by displaying a business sign and yellow page advertisement

OAR 801-030-0020(6)(a) False and misleading firm names

From October through May firm name indicated that Holland was a licensed CPA when in fact he was not

OAR 801-030-0020(6)(e) Firm Names

Failed to submit written notification of change of firm ownership and firm name

Committee Discussion: *Michael Holland and Craig Brooks changed the firm name to Holland & Brooks LLP on October 1, 2005 and continued to provide public accounting services. Holland and Brooks did not notify the Board of the change of firm ownership and firm name or apply for registration as Holland & Brooks LLP until May 2, 2006. Christopher Dahlen was no longer associated with the firm, however the firm continued to advertise Dahlen in a yellow page advertisement. While the firm was not registered, they held out to the public by using the firm name Holland & Brooks LLP as follows: Building sign; Telephone greeting; Yellow page display advertisement; Letterhead and envelope return address; and Individual income tax returns.*

Also, firm partner Michael Holland, did not hold an active CPA permit when the firm held out to the public as Holland & Brooks LLP and performed accounting and tax services as Holland & Brooks LLP. The Department of Revenue confirmed that Holland signed at least nine tax returns while in lapsed status. The Committee discussed the variety of violations and concluded that some should be combined.

Investigator will request information on attest and compilation services issued by Firm while not registered.

COMMITTEE RECOMMENDATION: Moved and carried to recommend a total civil penalty of \$8,000, detailed as follows:

- \$4,000 for violation of OAR 801-010-0345, Failure to register as a firm or renew firm and OAR 801-030-0020(6)(e), Failure to submit written notification of change of firm ownership and firm name
- \$2,000 for violation of OAR 801-010-0340(1), Requirements of non-CPA and non-PA ownership and OAR 801-030-0020(6)(a), False and misleading firm names
- \$2,000, for violation of ORS 673.320(4), Assumed or used the certified public accountant designation without registration on: building sign, telephone greeting, yellow page advertisement, letterhead and envelope return address and individual income tax returns and OAR 801-030-0020(4) for violation of Public communications and advertising.

Board Discussion: *The firm submitted a list of financial statements prepared and issued during the time that the firm was not registered. This list was not available when the Complaints Committee met. Firm did not notify the Board of the change of firm ownership and firm name or apply for registration as Holland & Brooks LLP until May 2, 2006.*

BOARD ACTION: Moved by Bailey and carried to assess a total civil penalty of \$12,000 as follows:

- 1) \$2,000 civil penalty for violation of ORS 673.160, OAR 801-010-0345, failure to register as a firm and OAR 801-030-0020(6)(e), failure to submit written notification of change of firm ownership and name;
- 2) \$2,000 civil penalty for violation of ORS 673.320(4), OAR 801-030-0020(4), assumed or use of the certified public accountant designation without registration on a building sign, telephone greeting, yellow page display advertisement, letterhead and envelope return address, preparer box of individual income tax returns;
- 3) \$4,000 civil penalty for violation of OAR 801-010-0340(1), did not meet the requirements of a non-CPA ownership when a lapsed and unlicensed partner owned 50% of accounting firm
- 4) \$4,000 civil penalty for violation of ORS 673.320(1), issued financial statements without firm registration.

VOTE: Chair Gaffney did not vote; 4 ayes; 1 abstained (Meisner), 1 excused (Johnson)

5 13.B.1.f. Michael W. Holland 06-04-017

Michael Holland (Holland) prepared individual income tax returns and held himself out as a certified public accountant while his permit was lapsed.

ALLEGED VIOLATIONS:

ORS 673.170(2)(a) Fraud or deceit in obtaining or applying for a permit under ORS 673.150

Holland stated in answer to question 12 of his reinstatement application that he did not hold himself out as a CPA while lapsed.

Holland used the CPA designation while lapsed on the cover letter submitted with his reinstatement application, on the paid preparer section of Oregon tax returns and in a display advertisement listed in the Bend yellow pages.

ORS 673.320 Permit or registration required

(3) A person shall not assume or use the title or designation "certified public accountant," or the abbreviation "C.P.A.," or any other title, designation, words, letters, abbreviation, sign, card or device tending to indicate that the person is a certified public accountant, unless the person holds a valid certificate of certified public accountant issued under ORS 673.040 and a permit issued pursuant to ORS 673.160.

Michael Holland used the title or designation "certified public accountant," or the abbreviation "CPA" or other device that tended to indicate that he was a certified public accountant when he prepared and signed tax returns using permit 7393, mailed a cover letter to the Board signed "Michael W. Holland, CPA" and listed his name in a yellow page display advertisement for Holland & Brooks LLP, all during the period that permit 7393 was lapsed.

INVESTIGATOR SUMMARY (Maximum civil penalty is \$5,000 per violation)

ORS 673.170(2)(a) Fraud or deceit in obtaining or applying for a permit under ORS 673.150

Fraud or deceit in applying for a permit – stated that he did not hold out as a CPA during the time that he was lapsed, when in fact Holland used the CPA designation in a letter to the Board, advertisements and in the paid preparer section of tax returns.

ORS 673.320(3) Permit or registration required

Holland held out as a certified public accountant when he:

Signed 9 tax returns

Signed a letter "Michael W. Holland, CPA"

Used the CPA designation in a firm yellow page advertisement

Committee Discussion: When Holland did not complete 80 hours of CPE with his June 30, 2005 renewal application, he was notified that he was required to submit 80 hours prior to September 1, 2005 or his permit would lapse. The Committee concurred that Holland knew that he was in lapsed status and delayed renewing his CPA permit, in disregard of Oregon Administrative Rules. Holland prepared and signed at least nine individual income tax returns after July 1, 2005 while his permit was lapsed. Holland's name was displayed with the CPA designation in a yellow page advertisement for Holland & Brooks LLP while Holland's permit was lapsed. Holland submitted a cover letter with the

reinstatement application signed "Michael W. Holland, CPA". Holland stated in answer to question 12 of the reinstatement application that he did not hold out or use the CPA designation while his permit was lapsed. Misrepresentation on an application is a very serious matter. Board Investigator will research if Holland signed financial statements or did attest work while in lapsed status. Investigator will collect evidence of attest work that Holland completed in the first part of 2006 to determine if his name is listed in the letterhead.

COMMITTEE RECOMMENDATION: Moved and carried to recommend revocation, stayed for four (4) years if there are no violations within the four (4) year period; assess a \$15,000 civil penalty for three (3) violations of ORS 673.170(2) (a) Fraud or deceit in obtaining or applying for a permit under ORS 673.150; and eight hours of Ethics CPE in addition to an article not less than 2,500 words in how to comply with firm licensing requirements in Oregon to be posted on the Board website, or complete 16 hours of Ethics CPE.

Board Discussion: *Holland prepared, signed and used permit number 7393 on at least nine individual income tax returns, displayed his name with the CPA designation on a sign and in a yellow page advertisement all while his permit was lapsed. Holland also submitted a letter to the Board with the "CPA" designation while lapsed.*

BOARD ACTION: Moved by Bailey and carried to issue:

- revocation, stayed for four (4) years if there are no other violations during the four (4) year period;
- assess a \$15,000 civil penalty for three (3) violations of OAR 673.320(3) holding out as a CPA while in lapsed status.
- eight hours of Ethics CPE in addition to an article not less than 2,500 words in how to comply with firm licensing requirements in Oregon to be posted on the Board website, or complete 16 hours of Ethics CPE.

VOTE: Chair Gaffney did not vote; 4 ayes, 1 abstained (Meisner), 1 excused (Johnson)

6. 13.B.1.g. Jeffrey Edwards

06-05-019

Jeffrey Edwards (Edwards) reinstated permit 2495 to inactive status upon discovering that he could not use the description "inactive" with a lapsed permit.

ALLEGED VIOLATIONS:

ORS 673.320(3) Permit or registration

A person shall not assume or use the title or designation "certified public accountant" or "CPA" or any other title, designation, words, letters, abbreviation, sign, card or device tending to indicate that the person is a certified public accountant, unless the person holds a valid certificate of certified public accountant issued under ORS 673.040 and a permit issued pursuant to ORS 673.150.

Edwards held himself out as an "Inactive" certified public accountant on a resume while his permit was lapsed.

Edwards reinstated as "Inactive" when he discovered that he could not use the description "Inactive" with a lapsed permit.

INVESTIGATOR SUMMARY (Maximum civil penalty is \$5,000 per violation)

ORS 673.320(3) Permit or registration

Violation of use of permit while lapsed.

Committee Discussion: Edwards self reported when he discovered that it is a violation of Board statutes to use the description "Inactive" with a lapsed permit. When he changed employment, he used "inactive" on his resume.

COMMITTEE RECOMMENDATION: Moved and carried to recommend a civil penalty of \$500 for violation of ORS 673.320(3) Permit or registration required.

Board Discussion: *There was no discussion.*

BOARD ACTION: Moved by Bailey and carried to assess a \$500 civil penalty for violation of ORS 673.320(3) Permit or registration required.

VOTE: Chair Gaffney did not vote; 5 ayes, 1 excused (Johnson)

7. 13.B.1.i. Jerry Dunning

06-05-023

In March, 2006, Client sent his 2005 tax documents to Jerry Dunning (Dunning). In April, Client attempted to contact Dunning to inquire about the status of the tax return. Dunning did not respond to Client's telephone messages; e-mails or FAX transmissions.

ALLEGED VIOLATIONS:

Other Responsibilities and Practices

OAR 801-030-0020 (1) Professional misconduct.

(a) A licensee shall not commit any act or engage in any conduct that reflects adversely on the licensee's fitness to practice public accountancy.

(b) Professional misconduct may be established by reference to acts or conduct that would cause a reasonable person to have substantial doubts about the individual's honesty, fairness and respect for the rights of others or for the laws of the state and the Nation. The acts or conduct in question must be rationally connected to the person's fitness to practice public accountancy.

1. Dunning filed an extension and stated that he contacted Client after he received Client's April 15, 2006 voice message.

2. Dunning stated that he did not respond to Client's e-mails and FAX transmissions because his computer was not working.

3. Dunning contacted Client after he received the letter of complaint.

4. Dunning told Client that he intends to complete the tax return and return Client's documents prior to the extended filing date.

OAR 801-030-0020(9) Notification of change of address, employer or assumed business name. Licensees are required to maintain a current record with the Board of the information described in this rule, and to provide written notice to the Board of any change in such information within 30 days of such change. Written notice required under this rule may be provided by US mail, private delivery service, fax transmittal, e-mail or personal delivery. The information required under this rule will not be accepted over the telephone: (a) Licensee's current business and residential addresses. If the number of a post office box, mail drop or pick-up service is provided for either address, the licensee must also provide the physical address; (b) The name and address of licensee's current employer; and (c) Any

assumed business name used by licensee, if licensee is conducting the practice of public accountancy under an assumed business name.

Dunning did not notify the Board of a change of address within 30 days of such change.

INVESTIGATOR SUMMARY (Maximum civil penalty is \$5,000 per violation)

OAR 801-030-0020(1)(a) and (b) Professional Misconduct

Failed to respond to client's requests for information

OAR 801-030-0020(9) Notification of change of address

Failed to notify the Board of change of address

Committee Discussion: When Dunning received notice of the complaint, he called the client. Dunning stated that his address in Washington is temporary and that the address on file with the Board is correct.

COMMITTEE RECOMMENDATION: Moved and carried to recommend a \$5,000 civil penalty for violation of OAR 801-030-0020(1) (a) and (b) Professional Misconduct.

Board Discussion: *Dunning did not contact Client causing the client to become concerned that his tax return would not be completed timely. Dunning contacted Client only after receiving the Board's letter. Dunning stated that he is temporarily living in Washington, and that his permanent residence is in Oregon. Investigator will contact the Department of Revenue to determine if Dunning is filing resident and non-resident tax returns.*

BOARD ACTION: Moved by Bailey and carried to assess a \$5,000 civil penalty for violation of OAR 801-030-0020(1) (a) and (b) Professional Misconduct.

VOTE: Chair Gaffney did not vote; 5 ayes, 1 absent (Johnson)

14. LEGAL

A. Report of Legal Items

1. Proposed Consent Orders

a. Lance Barrett

Board Discussion: *Barrett submitted a proposal to request that the civil penalty be reduced from \$10,000 (\$5,000 for each violation counting by plan year) to a total of \$2,000 (\$1,000 for each plan year).*

Board does not agree. Complaints Committee recommendation reduced the total amount that could be imposed if the Board counted each employee contribution, and multiplied by the number of months that contributions were not made.

\$2,000 does not adequately address the severity of the violations. Barrett failed to deposit the employees' contributions (amounts that were withheld from their paychecks) to their Simple IRA accounts as he was entrusted to do.

Barrett's Simple IRA plan has a 3% matching requirement. Barrett did not deposit either the matching contribution or the portion that was withheld from the employee's salary. The fact that Barrett informed employees in advance does not mitigate harm.

BOARD ACTION: Moved by Klimowicz and carried to deny the proposed consent order.

VOTE: Chair Gaffney did not vote; 5 ayes, 1 absent (Johnson)

b. General Business Solutions

Board Discussion: *General Business Solutions did not submit a written consent order for Board review. Matanich stated that General Business Solutions would enter into a settlement agreement admitting four (4) violations provided there are no civil penalties assessed and the Board issues a release of all prior violations.*

BOARD ACTION: Moved by Morris and carried to deny the proposal.

VOTE: Chair Gaffney did not vote; 5 ayes, 1 absent (Johnson)

c. Rostad & English

No motion for the Board at this time.

d. Mark Brown

Board Discussion: *Brown submitted a proposed consent order in which Brown stipulates to a stayed revocation for seven (7) years, a concurrent suspension for one year, completes 32 hours of CPE, pays a \$25 000 civil penalty at \$5,000 per year and will not offer investment advice.*

BOARD ACTION: Moved by Klimowicz and carried to accept the proposed consent order.

VOTE: Chair Gaffney did not vote; 5 ayes, 1 absent (Johnson)

e. Ronald Hoyt

Board Discussion: *Hoyt proposes to pay a \$500 civil penalty of a total civil penalty of \$5,000 with \$4,500 stayed during the SEC suspension and Hoyt will leave his CPA permit in lapsed status during the SEC suspension.*

BOARD ACTION: Moved by Morris and carried to deny the proposed consent order.

VOTE: Chair Gaffney did not vote; 5 ayes, 1 absent (Johnson)

f. Paul Roberts

Board Discussion: *Board reviewed the Consent Order in which Roberts is required to have Peer Review for the period ending October 2004 and the period after October 2004 and will pay a \$1,000 civil penalty for failure to report the termination of peer review enrollment as required by OAR 801-050-0020(4)(b).*

BOARD ACTION: Moved by Klimowicz and carried to ratify the consent order.

VOTE: Chair Gaffney did not vote; 5 ayes, 1 absent (Johnson)

2. Proposed Orders from OAH

a. Clare Gove

Board Discussion: *Gove did not renew the firm registration on or before December 31, 2005 and did not notify the Board to terminate the firm registration. Gove continued to perform public accounting services as "Clare D Gove CPA PC" after December 31, 2005. Gove was issued a \$500 Civil Penalty Notice on April 23, 2006. Gove thought the penalty was unfair and requested an Administrative Hearing. The Administrative Law Judge issued a proposed order that requires Gove to pay the \$500. Page three of the Proposed Order needs correction to read "accidental death of a spouse".*

BOARD ACTION: Moved by Klimowicz and carried to accept the consent order.

VOTE: Chair Gaffney did not vote; 5 ayes, 1 absent (Johnson)

B. Other

1. Todd Knapp Petition for Judicial Review

Knapp filed a petition to appeal the final order issued by default.
No action required.

15. QUALIFICATIONS COMMITTEE

A. Report of Qualifications Committee

1. Acceptance of Minutes

a. No meeting held

2. Approval of Applications

a. CPA Certificates/Permits: 59 CPA Certificates

b. PA Licenses/Permits: None

c. Firm Registrations 22 Registrations

d. Substantial Equivalency 17 Authorizations

BOARD ACTION: Moved by Meisner and carried to approve all applications.

VOTE: Chair Gaffney did not vote, 5 ayes, 1 excused (Johnson)

C. Emily King

The Qualifications Committee did not hold a meeting, however, Mr. Ashford sent his recommendation for approval to committee members via email. Ms. King gained her experience with the following employer:

Xerox 14 mos. All competencies

Ms. King passed the CPA Exam on February 28, 2006. Mr. Ashford reported that the write up for this file was very well documented.

BOARD ACTION: Moved by Meisner and carried to approve the application of Emily King.

VOTE: Chair Gaffney did not vote; 5 ayes, 1 excused (Johnson)

16. CPA EXAM

A. CBT Statistics

Statistics for the CBT examination were reviewed by the Board for their information only.

B. Score Notices – AICPA

Craig Mills, Executive Director of Examinations at the AICPA reported that there were no scores that needed to be re-reported for the January/February 2006 testing window.

C. New Format for Diagnostic Performance Reports

The AICPA has developed a new candidate diagnostic performance report that will give candidates more meaningful feedback as to their performance on the examination.

17. CODE OF PROFESSIONAL CONDUCT

A. No meeting held

18. NEW BUSINESS

A. OAIA Request for Assistance

No action required at this time.

If the IRS should contact the Board, the OAIA requests Board of Accountancy support for Oregon Public Accountants in showing that Oregon Public Accountants are required to follow the same statutes and rules as Oregon Certified Public Accountants.

B. NASBA CPE Tracking

Ms. Yordanos Dumez presented a new tool that NASBA has available for CPAs to help track and ensure compliance with continuing professional education requirements. The tool allows an individual to track multiple state requirements and will indicate when out of compliance. This will also be available for State Boards to use so long as the licensee gives permission for Board access. Both firms and individuals may subscribe. Once NASBA has data for all 55 jurisdiction in the database, NASBA will promote this tool.

C. FASB Proposal & NASBA Response

Item is deferred to the Code of Professional Conduct Committee to report at the fall work session.

19. PROCESS OBSERVER REPORT

There was some duplication on the agenda. The Board had good discussion although the agenda was long and items were moved around.

20. NEXT MEETING

Date: October 1, 2006 Work Session 8:00 a.m.
October 2, 2006 Board Meeting 8:00 a.m.
Location: Hallmark Resort Cannon Beach
1400 South Hemlock Street
Cannon Beach, OR 97110
503.436.0324

21. ADJOURNED

There being no further business, the meeting adjourned at 6:40 p.m.