

October 25, 2004

OREGON BOARD OF ACCOUNTANCY
AMENDED MINUTES

Hood River Best Western
Hood River, Oregon

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

Board Members Present

Stuart Morris, PA, *Chair*
James Gaffney, CPA *Vice-Chair*
Lynn Klimowicz, CPA, *Secretary-Treasurer*
Jens Andersen, CPA
Kent Bailey, CPA
~~Alan Steiger, CPA~~
Anastasia Meisner, Esq., *Public Member*

Staff Members

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

Guests Attending

Doug Henne, *OSCPA Representative*
Jim Aldrich, *OAIA Representative*
Ray Johnson, CPA

~~Cheryl Langley, *President, OSCP*~~
Christine Chute, *AAG*
Gerald Burns, *CPA*

1. CALL TO ORDER

The meeting was called to order at 8:51 a.m.

A. Appoint Process Observer

Lynn Klimowicz was appointed process observer.

B. Introduction of Guests

Guests were introduced and welcomed to the meeting.

2. APPROVAL OF MINUTES

A. August 23, 2004, with amendment showing that Jens Andersen attended the entire meeting.

BOARD ACTION: Approve the minutes with the amendment.

Vote: 7 ayes

3. REPORT OF CHAIR

A. NASBA

1. Report, Annual Conference

The 2004 conference was held in Chicago, Illinois, and 50 jurisdictions were represented which is the largest attendance of any NASBA conference. The 2005 Western Regional Conference will be held in Anchorage, Alaska, June 22-25. The Annual Conference will be held in Tucson, Arizona October 30 through November 2, 2005.

Since the Ethics requirement differs in all regions, there is expectation that states will coordinate the requirements.

Bailey attended a panel discussion presented by four standard setters entitled 'What Does the Public Expect'. The interplay with respect to PCAOB, IFAC and ASB standards was discussed.

A proposed national Accountants Licensing Database (ALD) will be useful, however privacy and accessibility are issues. If NASBA relies solely on social security numbers for database input, Oregon will not be able to contribute to the data, but will be able to receive data.

2. NASBA/Oregon CBT contract

Deferred until NASBA reviews and comments on the contract.

B. Administrative Rulemaking hearing

1. November 17, 2004, 10:00 am to noon, Board office

C. Action from Executive session

1. See Legal Section 12

D. Moss Adams Ethics Oversight

1. NASBA recognized Moss Adams for their 'top down' approach to Ethics.

4. **REPORT OF VICE CHAIR**

A. Peer Review Task Force Preliminary Report

The Board reviewed the Report and made the following revisions:

1. Self Reporting Requirements:

In order for the Board to evaluate the significance of the results of the peer reviews that are required of all licensees, and for the Board to consider participating in the resolution of issues and corrective actions identified by the peer review process, a firm that receives any of the following Peer Review results is required to inform the Board in writing within 45 days of receiving acceptance from a peer review report acceptance body (RAB) of such reports:

- One (1) adverse system review report
- Two consecutive modified ~~and/or adverse~~ system review reports,
- Two consecutive adverse engagement review reports,
- Two consecutive report review reports with "significant issues" as defined by the AICPA Peer Review Board requirements,
- An adverse engagement review following a modified engagement review, or
- Any combination of the above

At the time of reporting to the Board, the firm should provide the reports, any related letter of comments (LOC), any letter prescribing corrective actions from a RAB, the firm's letter of response, and a letter from the firm to the Board indicating actions taken to the reporting date related to the requirements of the RAB and any other matters it deems important to the Board's understanding of the materials submitted.

2. Reporting Requirements with Firm Registration Renewal:

Each firm shall be required to certify, in its biennial registration, that the peer review report received during the two-year licensing period then ending did not trigger the self-reporting requirement. Additionally, for the first licensing period required of each firm after implementation of the provisions, the firm should be asked to provide the following information for ~~each of the firm's last three~~ the firm's most recent peer review reports: (1) the period(s) covered by the peer review, (2) the type of review, (3) the nature of the report, and (4) the date of the peer review.

This requirement is suggested to give the Board statistical information to build a database to evaluate peer reviews in the state. The first-year requirement is inserted to allow a first-year benchmark that can be used to evaluate if the licensee understands the requirements.

3. Board Monitoring Functions:

Modify report to clarify Board authority to initiate inquiries or investigations based on the reporting requirement. The Board will review submitted reports and may initiate further investigation when necessary. The reporting requirement alone will not constitute a basis for disciplinary action.

The Board expressed appreciation to the committee members who participated on the Task Force.

BOARD ACTION: Moved by Gaffney and carried to return the preliminary Peer Review Task Force Memorandum dated 10/11/04 to the Peer Review Task Force as revised.

Vote: 7 ayes.

B. Refund Anticipation Loans – HB 3381

BOARD ACTION: Moved by Gaffney and carried to approve and support a legislative bill, if proposed to protect consumers with regard to loans offered on anticipated tax refunds.

Vote: 7 ayes.

5. REPORT OF SECRETARY-TREASURER

A. Financial Reports

1. August 2004

A. Klimowicz reviewed the 2004 August report and compared the figures with last years report.

6. REPORT OF ADMINISTRATOR

A. Expedited Complaint Investigation: Union-Baker ESD

The Board received information regarding financial fraud at Union Baker ESD. A complaint against the ESD auditor was opened and a request for bids was issued for a consultant to review the audit for 2002 and 2003.

B. Legislative Concepts, drafts: 2005

LC 306: ORS 673.220 -- Inactive Permit

This concept eliminates the word "retired" from the statute that authorizes inactive status.

BOARD ACTION: Moved by Andersen and carried to approve legislative concept 306.

Vote: 7 ayes.

LC 308: ORS 673.455 – Confidentiality of PR Reports

Protects Peer Review Reports that are received by the Board from public disclosure, with certain exceptions:

The Board would like to strike the first subsection in Section 2 which states that this change applies only to reports completed on or after the effective date of this 2005 act. Legal counsel supported the change. The OSCPA will discuss the concept at their meeting in November and advise the Board if there are any concerns.

BOARD ACTION: Moved by Andersen and carried to approve Legislative Concept 308 with the

changes noted in Section 2. The Board wants to strike the first subsection in Section 2.
Vote: 7 ayes.

LC 307: ORS 673.010 – Requirements to Conduct Peer Reviews

This concept allows CPAs licensed in other states to conduct peer review of CPAs or PAs licensed in Oregon. This rule was inadvertently put in the law in 1999. There is no known opposition to this concept.

BOARD ACTION: Moved by Gaffney and carried to approve Legislative Concept 307.

Vote: 7 ayes.

LC 304: ORS 673.170 – Cease and Desist Authority

This concept allows the Board to issue cease and desist orders for violations of accountancy laws. Specifies notice requirement and authorizes injunction and civil penalties. This concept allows the Board more authority over non-licensees practicing without a license. It was noted that Page 5 line 16 should be changed to 21 days rather than 20 to be consistent with the Board rules.

BOARD ACTION: Moved by Gaffney to approve Legislative Concept 304 with changes to the response date from 20 days to 21 days.

Vote: 7 ayes.

C. Request to Waive 16-hour CPE Penalty

Licensee did not complete an ethics program from a Board registered sponsor before the deadline on June 30, 2004. Licensee called the OSCP for guidance on how to obtain a course for the ethics requirement and was only told that if the program was going to be independent study, the program must be NASBA QAS approved. The licensee completed a course from the AICPA. The AICPA is not a registered Ethics sponsor. The licensee requested the 16 hour CPE penalty be waived and was denied administratively. The licensee is requesting the Board to waive the 16 hour CPE penalty.

BOARD ACTION: Moved by Gaffney and carried to deny the waiver of the 16-hour CPE penalty.

Vote: 7 ayes.

D. ALJ Request to Publish Board Orders on Internet

The Office of Administrative Hearings plans to post on the ALJ website its proposed orders and final orders that are issued for each. This will promote the spirit of open government and also provide a record of agency decisions. The Board agreed that posting final orders is appropriate so long as there is no legal reason for confidentiality.

E. Applicants for CPE Committee Membership

The CPE committee will have two vacancies as of January 1, 2005. The committee requested staff to send a solicitation regarding the openings at the September CPE committee meeting. The Board received two recommendations from the solicitation: William Barker, Talbot Korvola & Warwick LLP, and Joshua Purington, Boldt Carlisle & Smith CPA LLC.

BOARD ACTION: Moved by Klimowicz and carried to accept both recommendations for the CPE committee.

Vote: 7 ayes.

F. Pike Request for Temporary Tax Location

Each year Mr. Pike requests approval for a temporary office during tax season. This year Mr. Pike also disclosed that he is soliciting Refund Anticipation Loans. The Board is interested in the fees charged and the procedures for issuing such loans. Board rules require that commission fees be disclosed.

BOARD ACTION: Moved by Andersen and carried to approve temporary office location, however request information from Mr. Pike regarding Refund Anticipation Loan procedures, fees and disclosures.

Vote: 7 ayes.

G. Governor's Principles – Based Budget

The Governor's Principle Based Budget document is for information only.

H. Tax Deals 4 Wheels (Tax Refund Anticipation Loan)

The Board received a phone call from the state of Virginia requesting information regarding setting up a tax preparation station in automobile lots, so that tax refunds can be received by the car dealership to be used as the down payment for the vehicle.

Board Discussion: The Board questioned whether or not the licensee receives commissions on loans and kickbacks from the automobile dealership. If the staff of the dealership is not an employee of the licensee, then the staff must be licensed. The Board does not have detailed information about how such offices will operate.

BOARD ACTION: Staff will send a letter to the licensee warning him of licensing requirements.

Vote: 7 ayes.

I. Licensee Comments re: Renewal Process

A licensee wrote to the Board requesting review of the renewal process and the fees associated with new licensees. The licensee believes that the Board should renew licensees on a two-year cycle beginning with the date they are licensed rather than prorating fees and CPE. The Board believes the current system meets the needs of licensees and administrative requirements and thanked the licensee for these comments.

J. File Retention Inquiry

A licensee asked the Board for guidance regarding records retentions policies. The licensee's client requested that the licensee turn over the original working papers to the client at the time that the licensee would normally destroy them. The Board agreed that the licensee should seek legal advice regarding original work papers and file retention policies.

7. REPORT OF OAIA

Infocus donated a prototype computer projector to the organization; it was stolen from the office before it was used. Mr. Aldrich will talk with the organizations legislative committee to get assistance with the Board's legislative concepts including lobbyist support.

8. REPORT OF OSCPA

The proposal to have uncontested elections for the Board of Directors has been mailed and is passing with an 84% approval rate. There have been several town hall meetings around the state that have been well received. There are several community service projects around the state as well as career outreach to the high schools. Elections for new officers was announced.

9. CONTINUING PROFESSIONAL EDUCATION

A. Report of CPE Committee

- 1. Acceptance of Minutes**
 - a. September 21, 2004**

BOARD ACTION: Moved by Gaffney and carried to accept the minutes of September 21, 2004.
Vote: 7 ayes.

B. Consent Agenda

- 1. Recommendations**
 - a. None

- 2. Municipal Applications**

- a. James Hough**

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

- b. Lorie Lyn Pope, (deferred from June 15, 2004)**

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

- *c. Tiffanie R Soper, (deferred from June 15, 2004)**

- d. Jeff Eschen**

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

- e. Bonnie Joe Bair**

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

- f. Alan S Fudge**

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

- g. Brent M Gunderson**

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

- h. Michele Heckel**

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

- i. Lyn Marie Smith**

Jessie Bridgham recused herself from the discussion and voting.

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

- j. Stephen E Ashby**

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

k. Amanda Visser

Jessie Bridgham recused herself from the discussion and voting.

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

l. Cathi G McNutt

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

**Item 9.B.2.c. moved to 9.C. for discussion*

BOARD ACTION: Moved by Gaffney and carried to accept the consent agenda with the exception of items removed.

Vote: 7 ayes.

C. Items Removed from Consent Agenda

9.B.2.c. Tiffanie R Soper

Committee Discussion:

a. Municipal Audit Roster CPE Requirement

Ms. Soper claimed 16.5 hours for an in-house CPE program sponsored by the firm. Ms. Soper was an instructor for parts of the program. The committee does not believe that Ms. Soper or the other instructors were qualified instructors because none are licensed municipal auditors and the programs related to municipal audit.

If Ms. Soper provides the additional CPE before the November 2, 2004 CPE meeting, staff will fax to committee members for review and recommendation. Committee requested staff to advise each individual listed on program matrix as well as the firm, Isler & Company, that a CPE program must have qualified instructor to be eligible for CPE credit.

b. General CPE Credit

The 16.5 CPE hours for the in-house CPE program are not eligible for general CPE credit for any of the members of the firm who were in attendance because the instructors were not qualified to teach the class.

COMMITTEE RECOMMENDATION: **Deny**; 16.5 CPE hours are not eligible towards Ms. Soper's municipal auditor application. Staff to advise applicant that all CPE must be from a qualified instructor.

***Board Discussion:** Teaching a course is a good way to learn. Employees of a firm may qualify as a CPE instructor by background, training, education or experience, even though the licensee may not be a partner of the firm. In this case, the individual instructors were apparently not qualified or the firm would not have deemed it necessary to have a partner present to answer questions (per matrix provided). The in-house program does not qualify for CPE credit for any program participants unless the instructors are qualified.*

BOARD ACTION: Moved by Gaffney and carried to accept the committee recommendations.

Vote: 7 ayes

10. PEER REVIEW OVERSIGHT

A. Report of Peer Review Oversight Committee

1. Acceptance of Minutes

a. No meeting held

- B. Consent Agenda**
 - 1. Recommendations**
 - a. None

11. COMPLAINTS COMMITTEE

- A. Report of Complaints Committee**
 - 1. Acceptance of Minutes**
 - a. October 1, 2004**

BOARD ACTION: Klimowicz moved and it was carried to accept the minutes of October 1, 2004.
Vote: 7 ayes.

B. Consent Agenda

BOARD ACTION: Klimowicz moved and it was carried to accept the consent agenda with the exception of items removed.

Vote: 7 ayes.

1. Complaint Investigations

- a. John G. Holtz, CPA 02-03-018
- *b. Lance Brant, CPA 02-03-022
- c. Donald Kirby, CPA, PC 02-03-024
- 02-11-069
- *d. Hanson & Associates 02-09-061
Brian Vaughn, CPA
- e. David R Gregg, CPA, PC 02-10-067
- f. Melvin E. Ussing 03-03-007
- g. Phil James, CPA 03-05-019
- h. Ronald Neve, CPA, PC 03-06-026
- i. George Douglass, CPA 04-02-006
- j. Marlene Colbath, CPA 04-02-008
- *k. Randall A McCord, CPA 04-07-062
- l. Carol Brooks 04-07-066
- *m. Gary Franklin, CPA 04-08-073

****Items 11.B.1.b., 11.B.1.d., 11.B.1.k. and 11.B.1.m moved to 11.C. for discussion***

- C. Items Removed from Consent Agenda**
 - 11.B.1.b. 02-03-022 Lance Brant, CPA**

ALLEGED VIOLATIONS:

- ORS 673.170(4) Disciplinary actions, grounds
- OAR 801-030-0020(1) Professional misconduct

Brant was CFO for Central Oregon Independent Health Services for approximately five (5) years. A disagreement occurred and Brant was terminated. After his termination, Brant allegedly threatened some of the employees and a police

report was filed. The company discovered inaccuracies in recording stock options and the company notified Brant to repay the difference, which he did. Brant signed a confidential settlement agreement with the company. Brant filed a lawsuit against the company for violating the settlement agreement by filing a complaint with the Board.

INVESTIGATOR RECOMMENDATIONS:

ORS 673.170(4) Disciplinary actions, grounds Close – no violation

OAR 801-030-0020(1) Professional misconduct

Civil penalty for violation of professional misconduct \$5,000

Litigation Monitoring Agreement for continued litigation between Brant and COIHS.

COMMITTEE DISCUSSION: Brant was overpaid for stock options. The stock record book was not kept on the premises for awhile, but was brought on site during the past few months. Brant claims that stock options were overpaid because the check was cut quickly. Brant should have known how many shares of stock he owned. The committee discussed the possibility that Brant was terminated because he was acting as a whistleblower; however, even if that were true, it would not excuse his conduct afterwards or his acceptance of overpayment for stock options. He may have thought that he had some claim against the company and could use the money as leverage. Nevertheless Brant returned the money upon demand.

Brant sent inappropriate and threatening e-mails to employees. In a post 9-11 world, threatening to blow up a building is serious. Brant's first attorney fired Brant because Brant would not follow attorney advice.

Brant says his reputation in Bend is tarnished, and that is where he grew up, however, he is now opening his own business in Bend.

If Brant took ownership of the financial statements, if he signed them, then he is responsible. If Brant did not sign, then that may be a way out for him. If PWC did the audit, their ledger would indicate how many shares were outstanding. If Brant was CFO, he cannot just say he relied on the audit.

COMMITTEE RECOMMENDATION: It was moved and carried to assess a \$5,000 civil penalty for misconduct and a \$5,000 civil penalty for competence and request investigator get additional information for the Board. Additional information to obtain before the Board meeting: a copy of handbook of stock transactions to determine if the CFO is responsible for signing off; PWC and/or company 2000 and 2001 representation letter for the audit; representation letters and financial statements for 2000 and 2001.

Board Discussion: *Andersen recused himself and left the room during the discussion. Andersen is mentioned in a second complaint, which staff has not yet reviewed.*

Brant sent the email to all employees, which is in excess of 20 people. The investigator requested additional information from Central Oregon Independent Health Services, but they did not respond. Since the Committee requested additional information, the investigator should return the case to the committee for a recommendation. If the additional information is still unavailable, return the case to the Committee for their recommendation without the additional information. The Committee is directed also to

consider Brant's dishonesty for sending the emails. Is it one violation for sending emails to 20 employees, or are there 20 different violations?

BOARD ACTION: Klimowicz moved and it was carried to defer to the Committee for further consideration and recommendation.

Vote: 6 ayes, 1 abstention (Andersen)

11.B.1.d. 02-09-061 Hanson & Associates, Brian Vaughn, CPA

ALLEGED VIOLATIONS:

OAR 801-030-0010 (1) Competence

OAR 801-030-0020 (1) Professional Misconduct

Richard and Evelyn Kelley (Kelley) donated an old house to the fire department for a training exercise. The fire department burned the house and clients took a charitable contribution tax deduction. Kelley stated that a friend told them that they could donate the house to the fire department for a "learn and burn" exercise and take the donation as a tax deduction. Kelley called Vaughn to confirm. Vaughn suggested they first have the house appraised. The Department of Revenue (DOR) audited the clients and disallowed the deduction. Kelley contacted Vaughn for assistance and Vaughn told client that he "did not see any benefit" from assisting Kelley with the audit. Vaughn stated that he does not have any research or supporting documentation for the donation and that he relied on Kelley's information.

INVESTIGATOR RECOMMENDATION:

OAR 801-030-0010 (1) Competence

Civil penalty for failure to complete an engagement with due professional competence	\$5,000
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OAR 801-030-0020 (1) Professional Misconduct

Civil penalty for failure to respect a client's rights	\$5,000
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COMMITTEE DISCUSSION: Vaughn's records should show the details of the conversations. Baker found a similar 1993 case that allowed a deduction for the house. Vaughn did not do enough research. Kelley is not paying Vaughn to take the word of a state auditor if IRS denies a deduction. Vaughn should know the laws before filing. Vaughn cannot rely on the client for tax information. Vaughn took inconsistent positions when he prepared the original tax return and when he prepared the amended Federal tax return. A tax return preparation is one engagement while representation at an audit is another engagement which a CPA may or may not accept. It appears that Vaughn was not trying very hard to work for Kelley. The harm is that the client had to pay taxes that they may not have had to pay if they knew it would not be deductible.

COMMITTEE RECOMMENDATION: Moved and carried to assess a penalty of \$5,000 for Professional misconduct and no violation for competence.

Board Discussion: *Hanson & Vaughn (Hanson) prepared federal and state tax returns for a client that included a deduction for the donation of a house to the fire department for a "Learn and Burn". Hanson relied on the client's statement that the deduction was legitimate, and apparently did not research the deduction. The deduction*

was denied by the Department of Revenue and when the client told Hanson that they wished to appeal, Hanson responded that there was no reason for Hanson to accompany the client to the appeal, and offered to prepare an amended federal return for no charge. Hanson did not provide the client with any supporting evidence to demonstrate the legitimacy of the deduction on appeal.

Due professional competence requires, at a minimum, sufficient research to verify whether the deduction was allowable. There is no evidence that Hanson performed research to support an independent decision regarding the deduction. In fact, Hanson took inconsistent positions regarding the tax return. First Hanson prepared the tax return with the deduction. Later when the deduction was denied by DOR and the client wanted to appeal the denial, Hanson made no effort to defend the deduction. Even though it was evident that the client was relying upon Hanson's professional judgment for appeal, Hanson provided no support for the appeal. Instead Hanson offered an amended federal return that conceded the position that the deduction was not allowable.

BOARD ACTION: Gaffney moved and it was carried to assess Hanson and Associates a \$500 civil penalty for violation of OAR 801-030-0010. Hanson & Vaughn failed to provide due professional competence when they did not adequately research a tax deduction during the preparation of the tax return, and they failed to provide the client with information in defense of the tax deduction for the appeal of the DOR decision to deny the deduction.

Vote: 7 ayes

11.B.1.k. 04-07-062 Randall A McCord, CPA

ALLEGED VIOLATIONS:

ORS 673.320(3) Permit or registration required

Randall McCord (McCord) was mailed a renewal application by the Board in May 1999. McCord did not submit the renewal application and his permit lapsed on September 1, 1999. McCord submitted a reinstatement application in July 2004. On the reinstatement application McCord included a statement that he held out as a CPA. McCord had a previous violation for holding out in 1994.

INVESTIGATOR RECOMMENDATIONS:

ORS 673.320(3) Permit or registration required

Civil penalty of \$1,000 per for holding out as a CPA

(6 years x \$1,000)

\$6,000

COMMITTEE DISCUSSION: He did self report. Committee discussed if we count licensing years or calendar years. It was determined that licensing years should be counted, for a total of five (5) years.

COMMITTEE RECOMMENDATION: It was moved and carried to recommend a civil penalty of \$5,000; \$1,000 per year for five years.

BOARD ACTION: Klimowicz moved and it was carried to accept the committee recommendation.

Vote: 7 ayes

11.B.1.m 04-08-073 Gary Franklin, CPA

ALLEGED VIOLATIONS:

ORS 673.320(3) Permit or registration required

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

Gary Franklin (Franklin) submitted an incomplete renewal application to the Board on June 30, 2004. Franklin's permit lapsed on September 1, 2004. The Board requested additional information from Franklin, but Franklin failed to respond to Board request.

INVESTIGATOR RECOMMENDATIONS:

ORS 673.320(3) Permit or registration required

Civil penalty for holding out as a CPA while lapsed \$1,000

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

Civil penalty for failure to respond to Board communication
dated July 8, 2004 1,000

No violation for failing to respond to Board communication
dated August 19, 2004.

Total civil penalty \$2,000

COMMITTEE DISCUSSION: After reviewing the case, the committee agreed with investigator recommendations.

COMMITTEE RECOMMENDATION: Moved and carried to assess a \$1,000 civil penalty for holding out as a CPA while in lapsed status and assess a \$1,000 civil penalty for failure to respond to Board communication dated July 8, 2004.

BOARD ACTION: Klimowicz moved and it was carried to accept the committee recommendation.

Vote: 7 ayes

D. Old Business

1. Bruce Tabor (Complaints Committee meeting 8/6/04)

a. 03-04-015

ALLEGED VIOLATIONS:

OAR 801-030-0020(10)(c) (2003 edition) Notification of change of address,
employer or assumed business name

OAR 801-030-0005(2) Integrity and objectivity

Alta Fetterman (Fetterman) and Bill Shields (Shields) cohabitated, until their relationship ended in early 2003. For 8 years, Fetterman and Shields retained Bruce Tabor (Tabor) to prepare their separate income tax returns. When the relationship ended Tabor agreed to continue as their tax preparer. Fetterman gave Tabor interest and property tax information she received from the mortgage lender. Tabor allowed the interest and tax deduction on Shields tax return without discussing his decision with Fetterman.

INVESTIGATOR RECOMMENDATIONS:

OAR 801-030-0020(10)(c) (2003 edition) Notification of change of address, employer or assumed business name	
Civil penalty for failing to notify the Board of an assumed business name	\$ 100
OAR 801-030-0005 (2) Integrity and objectivity	
Civil penalty for accepting an engagement adverse to a client about whom Licensee had previously obtained confidential client information	<u>\$ 5,000</u>
Total civil penalties	\$ 5,100

COMMITTEE DISCUSSION: The committee noted that mortgage payments were made from a joint account during the time the couple cohabitated. Tabor did not have an inherent conflict. Both Shields and Fetterman were Tabor's clients and he received information from both parties. Tabor completed the returns based on the client's collective information and prepared the returns correctly.

COMMITTEE RECOMMENDATION: Moved and carried to recommend a letter of concern for poor communication and assess a civil penalty in the amount of \$500 for failure to notify the Board of an assumed business name.

Board Discussion: *The Board requested additional information related to the complaint against Bruce Tabor (Tabor). Specifically why Bill Shield called Alta Fetterman (Fetterman) and told her that she would not have the deduction for mortgage interest on their home.*

Tabor believes that Shield's call to Fetterman was a coincidence. Tabor discussed the deduction with Shield during a consultation and since Shield had evidence that he made the mortgage payments, Tabor told Shield that he would get the mortgage deduction. Tabor explained that the couple was in the middle of a lawsuit.

The Board believes there is no evidence to support a violation of

OAR 801-030-0005 (2) Integrity and objectivity.

BOARD ACTION: Moved and carried to assess a civil penalty in the amount of \$500 for failure to notify the Board of an assumed business name.

Vote: 7 ayes.

2. Parrott Partnership (Complaints Committee meeting 8/6/04)

a. 02-11-071

ALLEGED VIOLATIONS:

801-030-0020 (4) Public communications and advertising

The Board received information that The Parrott Partnership LLP (Partnership) was ranked in 2001 and 2002 by *The Business Journal* as having 13 and 14 CPAs. Firm renewal forms filed by Partnership represent that the firm employed six licensed CPAs in 1999 and 2001.

INVESTIGATOR RECOMMENDATIONS:

801-030-0020 (4) Public communications and advertising

Civil penalty for each year Partnership overstated the number of CPAs working for the firm. (2 at \$500 each)

\$1000

COMMITTEE DISCUSSION: The committee discussed the owner's responsibility to know current Board rules regarding public communications advertisements.

COMMITTEE RECOMMENDATION: Moved and carried to recommend a civil penalty of \$5,000, (two violations at \$2,500 each).

Vote: 3 ayes, 2 excused (Piels, Baker), Aldrich out of room

Board Discussion: *The Investigator contacted various firms to determine their method of counting the number of employees and the answers were diverse. The Board could recommend a question for the Business Journal to ask the firms so the Journal would receive comparable responses. The Business Journal could also obtain this information from the Board.*

BOARD ACTION: No action against Parrott Partnership. Send a letter to the Business Journal advising them how to get improved firm employee numbers and write a comment for the Board of Accountancy Newsletter.

Vote: 7 ayes.

Klimowicz advised the Board of a possible need to change the Ethics rule that prohibits licensees from entering a settlement agreement that would exclude the Board from obtaining records. It was decided to defer this topic to the May 2005 Board meeting.

12. LEGAL

A. Report of Legal Items

1. Proposed orders after hearing:

a. Randy Hunt

The Board did not receive a proposed order and there was no action by the Board.

2. Proposed Consent Orders

a. Christopher Dye

The Board issued a notice of proposed civil penalty of \$1,000 to Christopher Dye for failure to comply with AU 315 when he did not justify departures from auditing standards, in violation of OAR 801-030-0010(2). Dye submitted a consent order proposing a civil penalty of \$500 and 8 hours of continuing professional education to be submitted to the Board on or before December 31, 2004.

b. Dale Glasser

No action was taken.

B. Other

1. Robert Shatzen

Shatzen was suspended from the practice of law for 120 days, effective September 8, 2004.

2. Theresa Wilcox

A copy of the newspaper article reporting that Wilcox was arrested in Grants Pass was distributed to the Board.

3. Jerome Caplan

A signed consent order was sent to Mr. Caplan. Mr. Caplan is on a payment plan.

4. Fred Carter

Carter did not agree to the Boards counter proposal which included a pre-issuance review of future audits. Mr. Carter stated that he prepares a limited number of non-profit audits, but believes that a pre-issuance review requirement would be a financial hardship for him. Absent a consent order to do a pre-issuance review, the Board directs counsel to proceed with hearing under original notice and reject consent order previously presented. A new hearing date will be scheduled.

5. PCAOB Inspection Reports

NASBA issued a memo requesting state Boards to sign an "Acknowledgement and Agreement" if they wish to receive confidential portions of inspection reports issued by PCAOB. Legal counsel noted that Oregon agencies may withhold any "public records or information the disclosure of which is prohibited by federal law or regulations."

13. QUALIFICATIONS COMMITTEE

A. Report of Qualifications Committee

1. Acceptance of Minutes

a. September 24, 2004

BOARD ACTION: Moved by Bailey and carried to accept the minutes from the September 24, 2004 Qualifications Committee.

Vote: 7 ayes.

B. Consent Agenda

1. Recommendations

a. Hilary Craig 04-06-006

Ms. Craig gained her experience with the following employers:

Stevens & Neuman	5 mos	A, D, F only
Shackleford Hanson & Parr	9 mos	A, D, F only
Summit Accommodations	9 mos	All competencies

Ms. Craig passed the CPA Examination in November 2003. Ms. Craig worked primarily on taxes when working for the two public accounting firms before moving to Summit Accommodations which is a Section 1031 company. Mr. Selid noted that the write up on competencies was very well documented.

COMMITTEE RECOMMENDATION: Approve

b. Katherine Simpson 04-08-007

Ms. Simpson gained her experience with the following employer:

Columbia River Bank	21 mos	All competencies met
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Ms. Simpson passed the CPA Exam in November 2003. Ms. Simpson's employer provided an extensive summary of experience. The reviewer recommends approval.

COMMITTEE RECOMMENDATION: Approve

2. Other

a. Jin Chin Letter

Ms. Chin sent a letter requesting a three year extension to complete her experience. Ms. Chin works for the Department of Revenue and her supervisor

licensee retired. The Department has not hired her replacement and therefore there is no one available to act as supervisor licensee for Ms. Chin.

The committee requested staff send Ms. Chin a letter suggesting that she find work outside the Department to gain her experience and also suggest that she have the supervisor licensee sign off on what she has to date for her experience.

COMMITTEE RECOMMENDATION: Deny request for extension.

3. Approval of Applications

a. CPA Certificates/Permits

34 Certificates

b. PA Licenses/Permits

None

c. Firm Registrations

13 Registrations

d. Substantial Equivalency Authorizations

1 Authorization

**Items moved to 13.C. for discussion*

C. Items Removed from Consent Agenda

1. None

14. INDEPENDENCE COMMITTEE

Gaffney

A. Approval of Minutes

1. October 18, 2004

BOARD ACTION: Moved by Gaffney and carried to accept the minutes from the October 18, 2004 Independence Committee.

Vote: 7 ayes.

15. CPA EXAM

A. CBT Focus Groups

The Board reviewed a letter from Joe Cote, NASBA regarding strategic planning efforts of the Steering Group. NASBA would like to solicit candidates for research and marketing purposes. The Board does not object to NASBA contacting Oregon candidates.

B. Exam Scoring Error

There was a scoring error for the April/May testing window. Scores for 63 candidates were changed from fail to pass. No Oregon candidates were affected by the error.

C. CBT Exam Items

The AICPA reported that there were flawed items in the exam administration. The flaws occurred in the simulation portion of the exam. Information needed to answer specific questions did not appear making the items unanswerable. Since only one response is affected in each item, the impact on the test is minimal. They are reviewing the problem and will inform Boards once an outcome is reached.

D. Site Visit

The Board reviewed procedures for site visits to the Prometric Testing Centers. Jens Andersen will visit the Eugene center, Ray Johnson and Anastasia Meisner will visit the Portland centers.

E. CBT Exam Status

The AICPA reported information regarding the first two testing windows under the CBT exam. The report included exam volume and passing rates. All sections average a 44% pass rate.

F. CBT Volume Problems

The CBT Exam services agreement provides that the annual volume of testing affects the amount charged per hour of testing. At this point, the volume requirements for maintaining the current fees have not been met. States are asked to promote the CPA exam to help raise awareness. Oregon sent a letter to previous exam candidates who have not yet applied under the CBT exam.

16. OLD BUSINESS

- a. None

17. NEW BUSINESS

Mr. Morris requested that staff purchase name plates for Anastasia Meisner and Ray Johnson.

18. PROCESS OBSERVER REPORT

Ms. Klimowicz reported that the voices were low and difficult to hear at times. The Board is working well as a group while making decisions.

19. NEXT MEETING

Date: December 13, 2004
Location: Board of Accountancy
3218 Pringle Road SE #110
Salem, OR 97302
Time: 8:00 am