

COMMISSIONS, REFERRAL FEES AND CONTINGENT FEES

Applicable Statutes or Administrative Rules

ORS 673.012

OAR 801-030-0005

OAR 801-030-0005(3) and (4) describe the circumstances when licensees are prohibited from paying or receiving commissions, referral fees and contingent fees. The prohibitions apply when the holder of a permit or any partner, officer, shareholder, member, manager or owner of the firm performs any of the following services:

- audit, review or agreed-upon-procedures of a financial statement;
- examination of prospective financial information, or
- compilation of a financial statement if the compilation report does not disclose a lack of independence between the client and the licensee.

The prohibitions also apply during the period in which the certified public accountant, public accountant or firm is engaged to perform the services listed, including the period that is subject of the report and the period covered by any historical financial statements involved in the listed services.

What is meant by "during the period"

The period of prohibition begins at the time the licensee has accepted an engagement to perform attest or compilation services, includes the period covered by the engagement, and extends through the report date on the engagement.

If the licensee is engaged to do attest or compilation services for a subsequent period, there would be no period of time that the licensee is not covered by this prohibition. The prohibition could extend until it is implicit that the firm is no longer providing attest or compilation services for the client, especially if the firm has been providing such services on an on-going, periodic basis. Issuing a letter of resignation from providing the services would be considered reasonable documentation of the termination.

Disclosure Requirements

OAR 801-030-0005 describes the written disclosure that is required for transactions involving commissions, referral fees or contingent fees that are not prohibited. Licensees are required to keep copies of written disclosures for a period of six years after performance of the services. This requirement is subject to audit by the Board of Accountancy.

CONTINUING VIOLATIONS

Applicable Statutes or Administrative Rules

ORS 673.400

OAR 801-030-0020(13)

The Oregon Board of Accountancy implemented an administrative rule to define conduct that constitutes a “continuing violation.” Implementation of this rule allows the Board to develop fair and consistent penalties for violation that are continuous in nature. Fair and consistent enforcement of the rule will result in more effective public protection. The effective date of this rule is February 1, 2005.

Examples of a continuing violation include misleading advertising that continues over a period of time, or the posting of a sign, or billboard, information on a website or other advertising that wrongfully states or indicates that the individual or firm is licensed to practice public accountancy. Conduct that is completed by a single specific action is not a continuing violation.

Under the proposed rule, continuing violations are subject to a civil penalty for each day that the violation continues. Upon receipt of a complaint or information alleging a continuing violation the Board shall provide written notice of the complaint to the subject of the complaint describing the alleged violation under investigation.

If it is determined that a continuing violation occurred, civil penalties of \$5,000 per day may be imposed for each day that the violation continues **after the date of the notice**. A single \$5,000 penalty may be imposed for the period of violation that occurred prior to the date of notice from the Board.

**MAY A CPA OR PA WORK AS THE EMPLOYEE OF A LICENSED TAX
CONSULTANT
AND SIGN TAX RETURNS USING THE "CPA" OR "PA" DESIGNATION?**

Applicable Statutes or Administrative Rules

ORS 673.320

OAR 801-030-0005

There are no provisions in the Oregon Accountancy Act or Oregon Administrative Rules that prohibit a CPA or PA (licensee) from working for a licensed tax consultant (LTC). However a licensee should consider the following provisions in determining whether or not it is appropriate to use the CPA or PA designation when signing tax returns prepared in the course of such employment:

ORS 670.320 prohibits the use of the title or designations "certified public accountant" or "public accountant" or the abbreviations "CPA" or "PA", or any other title, designation, words, letters, abbreviation, sign, card or device tending to indicate that the person is a certified public accountant or public accountant except by those persons holding a valid CPA certificate or PA license and permit issued under ORS 673.

ORS 670.320 also prohibits any business organization from using the CPA or PA title or designation, 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 or public accountants unless the business organization is registered under ORS 673.160.

OAR 801-030-0005 (5) (a) allows licensees engaged in a business or occupation other than the practice of public accountancy or performance of attestation services to use the "CPA" or "PA" designation in oral or other communication such as business cards, stationery or comparable forms so long as the use of the designation does not indicate in any way that the licensee is authorized to perform public accountancy or attestation services as part of the licensee's other business or occupation.

If the CPA or PA who wishes to sign tax returns using the CPA or PA designation holds a valid, active permit issued under ORS 673, and if the LTC

business organization does not use any terms, descriptions or titles that would indicate that the business organization is composed of CPAs or PAs, the remaining question is whether the use of the CPA/PA designation in a particular instance would indicate to the public that the licensee is authorized to perform public accountancy services as an employee of the LTC. The answer to this question must be determined based on the facts of each situation.

The fact that a CPA is preparing taxes within an LTC firm may not be sufficient by itself to suggest that the licensee is authorized to perform public accountancy or attest services as part of the LTC business. Nevertheless the licensee must determine whether the CPA or PA designation may be used based on the specific circumstances. Facts that may affect the decision are representations made by the LTC, other services performed by the licensee or by the LTC, or whether disclaimers are provided to the client.

QUALIFIED INSTRUCTOR FOR CPE PROGRAMS:

Applicable Statutes or Administrative Rules

ORS 673.165

OAR 801-040-0030(2)(e)

OAR 801-040-0030(2)(e) requires programs to be conducted by a qualified instructor whose background, training, education, or experience makes it appropriate for the person to teach or lead a discussion on the subject matter of the particular program.

The Continuing Education Committee recommends and the Board has approved a minimum of 5 years experience in any area of instruction before one is considered to be a qualified instructor by experience.

An individual who is not approved for the Roster of Municipal Auditors is not qualified to teach CPE programs regarding governmental audits unless the individual can demonstrate expertise by his/her personal background, training, or experience in performing municipal audits.

Licensing Staff Members

Applicable Statutes or Administrative Rules

ORS 673.320

An out-of-state firm with one or more Oregon licensed CPAs provides professional services to clients in Oregon. Other CPAs who are not licensed in Oregon assist with the project. The work project may require the physical presence of unlicensed staff in Oregon. The final work product is signed by an Oregon licensed CPA who is associated with the firm.

Question: Are staff members who do not sign off on final work product required to be licensed in Oregon if they assist with engagements for Oregon clients? The same question is presented when public accounting firms in Oregon assign unlicensed individuals to assist with engagements that are supervised by an Oregon CPA.

Short Answer: No

Discussion: ORS 673.320 requires an Oregon license to perform attest services; ORS 673.320 (11) describes circumstances when professional services may be performed in Oregon by CPAs who are not licensed in Oregon. Neither this section of the statute nor administrative rules consider the licensing requirement for staff members who perform work for an engagement that is supervised (and signed) by a CPA who is licensed in Oregon.

The objective of the licensing requirement is to assure that persons who profess special competence in public accountancy have demonstrated their qualifications to do so. The situation described above presents little risk of harm to the public if the engagement is supervised, reviewed and signed by an Oregon licensee. The scope of authority of staff members working on such engagements should be well-defined and any activities beyond the scope of authority may be unlicensed practice.

Unlicensed staff members should be advised not to provide answers to client questions that are unrelated to the specific engagement. Responding to unrelated questions would be beyond the scope of authority of the engagement, which is unlicensed activity.

Staff members who are licensed in another jurisdiction should also be advised not to hold out as a CPA or PA in Oregon. This can be avoided by including the state of licensing each time the CPA or PA designation is displayed or used.

Licensee Information and Public Record Requests

Applicable Statutes or Administrative Rules

ORS 192.410 – 192.505

The Oregon Board of Accountancy is subject to requirements of the Oregon Public Records Law (ORS Chapter 192). Information that licensees are required to submit as a condition of licensing is a matter of public record. Under Oregon Public Records Law the Board is required to provide a copy of public records upon written request.

Licensees are required to submit both a business and home address to the Board of Accountancy and to designate the official address, to which all correspondence is mailed. Licensees may designate a post office box as the official address so long as a street address is also provided. Only the PO Box is listed as the official address.

In response to a public records request for a list of licensees and their addresses, the Board provides the licensee's official address as it is listed in the Board database.

There is a provision in the public records law that exempts an individual's home address from disclosure only if the individual requesting the exemption can demonstrate that public release of the home address would endanger the personal safety of the individual or the personal safety of a family member residing with the individual.

Licensees who are concerned about privacy but do not qualify under the personal safety exemption may designate their work address or a PO Box as the official address. Neither a business address nor a business e-mail address is protected under ORS Chapter 192.

CLIENT RECORDS AND WORKING PAPERS

Applicable Statutes or Administrative Rules

ORS 673.380

OAR 801-030-0015(2)

Licensees may not withhold client records and working papers based on the client's refusal to pay the licensee's fees.

ORS 673.380 requires licensees to provide to a client or former client any records belonging to or obtained from or on behalf of the client, and a copy of the licensee's working papers, to the extent that the working papers include records that would ordinarily constitute part of the client's records and are not otherwise available to the client.

The requirement to return client records and working papers differs depending on whether or not the licensee has issued the work product that is the subject of the engagement.

- A client's request for return of records that is made within a reasonable time and that occurs **prior to** the issuance of tax return, financial statement, report or other document prepared by a licensee: the licensee shall furnish, within a reasonable time 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.

EXPLANATION: If the CPA or PA received any records owned by the client, the records must be returned. Client records do not include the work product or working papers of the CPA/PA.

- A client's request for return of records that is made within a reasonable time and that occurs **after** the issuance of a tax return, financial statement, report or other document prepared by a licensee: the licensee shall furnish, within a reasonable time to the client or former client:
 1. A copy of a tax return, financial statement, report or other document issued by a licensee to or for such client or former client;
 2. Any accounting or other records belonging to or obtained from or on behalf of the client that the licensee removed from the client's premises or received for the client's account; and

3. A copy of the licensee's working papers, to the extent that the working papers include records that would ordinarily constitute part of the client's records and are not otherwise available to the client.

4. Working papers, for this rule, include but are not limited to all statements, records, schedules, general ledgers, journals, trial balances and depreciation schedules made by a licensee incident to or in the course of rendering services to a client or former client. Working papers are and shall remain the property of the licensee in the absence of an express agreement to the contrary between the licensee and the client.

EXPLANATION: The licensee is required to provide a copy of the work product that was issued for the engagement and return any records obtained from the client. The requirement to return working papers may vary; for example, if the client has a complete accounting system including a general ledger, sub ledgers, a fixed asset accounting process and maintains their own account analysis and reconciliations, only copies of the adjusting entries with explanations and any supporting working papers would be necessary.

The client may have a general ledger, but may depend on the CPA/PA to adjust and close the general ledger. In that event, copies of both adjusting entries, with explanations and any supporting papers, and closing entries would be provided to the client.

If the client does not have a general ledger and only provides the CPA/PA with transaction summaries that the CPA/PA uses to prepare a working trial balance, copies of the adjusted working trial balance, transaction entries, adjusting entries with explanations and any supporting working papers, and closing entries would be provided to the client.

If the CPA/PA prepared the fixed asset depreciation schedule because the client does not have one, or because the CPA/PA adjusted the client's schedule, a copy must be provided.

If the CPA/PA prepared a bank reconciliation because the client did not do one, a copy must be provided.

If the CPA/PA determines and prepares schedules of account balances that the client does not ordinarily prepare, and the CPA/PA reported on such schedules, copies must be provided to the client. Examples of such schedules include, but are not limited to:

Investments

Accounts payable

Prepaid expenses

Accrued liabilities

Owners' equity
Accounts Receivable
Bad Debts

Current portion of long-term debt
Income tax expenses and payable

If the client determined the account balances and provided schedules, copies of the schedules with the CPA/PA notes and conclusions are not required to be provided.

Copies of the CPA/PA notes, or conclusions on any accounts or transactions, are only required to be provided to the client if the account balances or transactions reported on cannot be understood without consulting the CPA/PA notes or conclusions.

The decision whether to provide copies of all or part of the accountant's work papers depends on whether the client's records include the same information as the licensee's work product. The client must have sufficient documentation to explain or prove transactions or events that are reported by the licensee in the client's tax returns or financial statements when called upon to do so. If the documentation is sufficient and can be used for such explanation and proof, copies of work papers are not necessary. If the documents are not sufficient, copies of the appropriate work papers are required.

WHEN IS IT NECESSARY FOR A BUSINESS ORGANIZATION OF CERTIFIED PUBLIC ACCOUNTANTS OR PUBLIC ACCOUNTANTS TO REGISTER WITH THE OREGON BOARD OF ACCOUNTANCY?

Applicable Statutes or Administrative Rules

ORS 673.160

OAR 801-010-0345

"Business organization" includes any form of business organization authorized by law, including a proprietorship, partnership, corporation, professional corporation, limited liability company and limited liability partnership. The requirements to register as a business organization in the practice of public accountancy in Oregon are described in ORS 673.160 and OAR 801-010-0345.

Business organizations of certified public accountants and public accountants are required to register with the Board of Accountancy if they meet any of the following criteria:

1. Use of the terms "certified public accountant" or "public accountant" or any abbreviation for such terms;
2. Holding out to the public as being engaged in the practice of public accounting in Oregon, or
3. Performing attestation or compilation services.

A licensee who performs public accounting services as a sole proprietor is required to register with the Board of Accountancy as a public accounting firm in the following circumstances:

1. If the licensee holds out to clients or to the public that the licensee's public accounting practice is composed of more than one CPA or PA, or
2. If the licensee performs attestation or compilation services.

If you determine that the business organization or public accounting practice is required to be registered with the Board, complete and return the firm registration form with the registration fee of \$100, which is payable by check, Mastercard or Visa. Include a copy of the current registration, if any, that is required to be filed with the Corporate Division of the Office of the Secretary of State, including assumed business name registration, if applicable.

Firm registrations expire on December 31 of each odd-numbered year.

Holding out to the public as a public accounting firm without a valid registration is a violation of ORS 673.160 and OAR 801-010-0345.

The firm registration form is on the Board website, or call (503) 378-4181 extension 22

Non-CPA or Non-PA Ownership of Firms

Applicable Statutes and Administrative Rules

ORS 673.160

OAR 801-010-0340; OAR 801-010-0345;

OAR 801-030-0020 (7)

ORS 673.160(4) allows CPA/PA firms in the practice of public accountancy to include non-CPAs or non-PAs as owners. OAR 801-010-0340 and OAR 801-010-0345 address requirements for Oregon public accounting firms and should be reviewed in their entirety on the BOA website. This worksheet presents an outline of the provisions for non-licensee ownership of public accounting firms, but is not a comprehensive review of the requirements.

Ownership and Management

1. A simple majority of the ownership of a public accounting firm must be held by licensed CPAs or PAs; non-licensees may own no more than 49% of the equity capital and/or voting rights. If the firm's principal place of business is in Oregon and public accounting services are provided in Oregon, a majority of the CPA or PA owners must be Oregon licensees (ORS 673.160).

2. Non-CPA/PA owners of the firm may not hold out as CPAs or PAs.

3. The person who is responsible for supervising attestation or compilation services and who signs financial statements must be an Oregon licensee.

Firm name

OAR 801-030-0020 (7) prohibits the use of any firm name that is misleading as to the organization of the firm or the legal owners or managers of the firm. If the firm name includes the names of non-licensee owners, no form of the CPA/PA designation may be used in the firm name. The letterhead and business cards may include the CPA/PA designation after the name of each CPA/PA. Other designations held by non-CPA/PA members may also be used on letterhead or business cards.

The following examples may be helpful in determining the firm name for a public accounting firm that includes non-licensee owners. In these examples, Jones is a CPA or a PA and Smith is an MBA:

"Jones & Smith, LLC" is ok

BUT:

"Jones & Smith, LLC"
CPA firm (not a part of title, but written below) is not ok

"Jones, CPA, & Smith, LLC" is not ok

"Jones & Smith, Certified Public Accountant" is not ok

"Jones, CPA & Smith, MBA" is not ok

**WHEN IS AN OUT-OF-STATE PUBLIC ACCOUNTING FIRM REQUIRED TO REGISTER
WITH THE OREGON BOARD OF ACCOUNTANCY?**

Applicable Statutes or Administrative Rules

ORS 673.160

OAR 801-010-0345

Business organizations that offer public accounting services in Oregon are required to be registered with the Board. "Business organization" includes any form of business organization authorized by law, including a proprietorship, partnership, corporation, professional corporation, limited liability company and limited liability partnership ORS 673.010(3). The requirements for registration of public accounting firms are described in ORS 673.160.

A business organization with its principal place of business in another state that provides public accounting services to a client or clients in Oregon, may be required to register in Oregon, based on the answers to the following questions.

1. IF THE PUBLIC ACCOUNTING FIRM IS COMPOSED OF ONLY ONE CPA:

a. Does the public accounting firm hold out to Oregon clients or to the public in Oregon that it is composed of more than one CPA? (*Examples of "holding out" may include, but are not limited to: use of telecommunications, letterhead, business cards, invoices, brochures or any form of advertising that the organization is composed of more than one CPA.*)

If No, proceed to 1b.

b. Does the public accounting firm perform attest services for an Oregon client?

If Yes to either 1a or 1b, Registration is required.

2. IF THE PUBLIC ACCOUNTING FIRM IS COMPOSED OF MORE THAN ONE CPA, ANSWER THE FOLLOWING QUESTIONS. If the answer to any question is Yes, Registration is required.

a. Does the business organization use the terms "certified public accountants" or "public accountants" or the abbreviations for such terms in Oregon? **If No, proceed to 2b.**

b. Does the business organization hold out to clients in Oregon or to the public in Oregon as a business organization engaged in the practice of public accountancy in Oregon? (*Examples of "Holding out" to Oregon clients may include, but are not limited to: communication with Oregon clients by telecommunication, letterhead, business cards, invoices, brochures or any form of advertising, that the organization is engaged in the practice of public accountancy.*) **If No, proceed to 2c.**

c. Does the business organization perform attest services for Oregon clients?

If the answer to any part of Question 2 is Yes, registration is required.

Registration is not required if you answer No to every part of Question 2.

If your business organization is required to be registered as a public accounting firm in Oregon, complete and return the firm registration form with the registration fee of \$100, which is payable by check, Mastercard or Visa. Call (503) 378-4181, extension 22 to request a firm registration form or [download](#) from the Board of Accountancy website.

The requirement to register as a business organization with the Oregon Board of Accountancy does not trigger an automatic requirement to register as a foreign business with the Oregon Secretary of State. Registration with the Secretary of State is necessary only if your business organization meets the criteria described in ORS 60.701. For information, call the Oregon Secretary of State, Corporate Division at (503) 986-2200

FIRM NAMES

Applicable Statutes or Administrative Rules

ORS 673.160

OAR 801-010-0345

OAR 801-030-0020(6)

Every business organization or sole proprietor that performs attest services, or uses the terms “certified public accountant” or “public accountant” or any abbreviation for such terms, or holds out to the public as being engaged in the practice of public accounting, is required to be registered as a public accounting firm with the Oregon Board of Accountancy.

False and misleading firm names. The fundamental principle that public accounting firms must keep in mind when considering a firm name relates to the rule that prohibits false and misleading firm names. Firm names that seem to comply with other provisions of the rules must finally be tested by asking the question “Is this name false or misleading to the public?”

Plural firm names. Public accounting firms that have the names of more than one licensed accountant in the firm name must have an equal number of licensed accountants in the firm. Firms that use a plural title or designation, such as “company”, “associates” or “accountants”, must employ at least one licensed person who works at least 20 hours per week in addition to the number of licensees who are named in the title of the firm.

Retired or deceased names. A public accounting firm may continue to include the names of one or more past partners, shareholders, owners or members in the firm name, so long as the firm name is not false or misleading to the public.

Assumed business names. Public accounting firms may use an assumed business name. The assumed business name must be properly registered with the Corporations Division of the Office of the Secretary of State, and notice of the assumed business name must be provided to the Board. If the firm is operating under a registered firm name, such as “Certified Public Accountants, LLC” at the principle place of business, and also operates a separate office under an assumed business name, the second office is considered to be a branch office, and must comply with the requirements for branch offices described in OAR 801-010-0345.

Internet Practice. Public accounting firms that perform or solicit services via a website are required to include information on the website naming the state(s) in which each CPA or PA is licensed to perform public accounting services or provide the name and contact information of an individual who will respond to inquiries regarding individual license information within seven business days.

Expiration. Firm registrations expire on December 31 of each odd-numbered year. The firm registration application is on the Board website, or call (503) 378-4181 extension 22 to obtain a copy.

QAS REQUIREMENT FOR INDIVIDUAL STUDY CPE PROGRAMS

Applicable Statutes or Administrative Rules

ORS 673.165

OAR 801-040-0030(4)

OAR 801-040-0030(2)

Correspondence courses and other individual study programs do not qualify for CPE credit unless both the CPE sponsor and the specific CPE program are approved by the NASBA Quality Assurance Service (QAS).

Licensees need to be aware that non-technical CPE programs are not reviewed by NASBA under the QAS program and are not eligible for CPE credit in Oregon. Even though a sponsor may have received a QAS number (indicating approval of the programs offered by that sponsor) non-technical programs offered by the sponsor are not eligible for CPE credit in Oregon. Non-technical CPE programs are eligible for credit only if they meet the program requirements stated in OAR 801-040-0030(2):

- a. An outline of the program is prepared in advance and preserved
- b. The program is at least one hour (fifty minute period) in length
- c. A record of attendance is maintained by the sponsor
- d. The program is conducted by a qualified instructor whose background, training, education or experience qualify the person to teach or lead a discussion on the subject matter of the particular program.

QAS sponsors are not consistent in the marketing information and proofs of completion that they provide regarding non-technical programs. State Boards of Accountancy vary with regard to the eligibility of programs for CPE credit and many continue to accept non-QAS approved individual study programs. Licensees seeking CPE credit in Oregon should verify with the sponsor if a specific program has been reviewed by QAS before purchasing the program.

There are also some technical programs that are not subject to NASBA QAS review. For example, NASBA may not review annual tax updates if the specific program does not meet the NASBA standards for individual study

programs. Therefore licensees should also be careful to verify that a specific technical program has been reviewed for QAS approval and therefore will be eligible for CPE credit in Oregon. This can usually be confirmed on the sponsor's website, or by calling the NASBA QAS program support office.

Licensees who have purchased and completed individual study programs that do not qualify for CPE credit may wish to advise the sponsor that CPE credit was denied by the State Board. Frequently the sponsor will replace the program with an eligible program at no cost to the licensee.

COMMON ERRORS ON RENEWAL APPLICATIONS

Applicable Statutes or Administrative Rules

ORS 673.150

OAR 801-010-0110

Fees:

1. Application received without the fee or incorrect fee
2. Failure to pay the Municipal Roster fee
3. Checks payable to an incorrect payee (e.g. to OSCPA)
4. Insufficient credit card information or invalid credit card

Address:

1. Failure to include both business and residential address
2. Failure to include a street address when a P. O. Box is used

Miscellaneous:

1. Failure to complete all sections on the renewal form
2. Failure to sign the renewal form
3. Failure to register as a firm, if required under ORS 673.160

CPE:

1. Failure to use the CPE reporting format
2. Failure to submit the required # of CPE hours
3. Failure to report 24 hours in each year of the renewal period
4. Failure to submit the 3-digit NASBA QAS sponsor # for self study
5. Claiming CPE Credit for self study programs that are not offered by NASBA QAS approved sponsors
6. Failure to obtain Ethics from a registered sponsor
(Note: If your principal place of business is outside of Oregon, see applicable ethics requirement)
7. Failure to report CPE that was completed between July 1 and June 30 of the current renewal period
8. Failure to respond to the CPE compliance certification

SUBSTANTIAL EQUIVALENCY

Applicable Statutes or Administrative Rules

ORS 673.153

OAR 801-010-0080

An individual whose principal place of business is not in this state, who has an active license in good standing as a certified public accountant issued by another jurisdiction, and who meets the standards of substantial equivalency, may receive authorization to practice public accountancy in this state, upon application.

An applicant may meet one of the following two standards to establish eligibility under this rule:

(a) The jurisdiction that issued the license on which the application is based is verified to be of substantial equivalency; or

(b) The applicant as an individual meets qualifications that are verified to be of substantial equivalency.

YELLOW BOOK CPE REQUIREMENT

Applicable Statutes or Administrative Rules

ORS 673.165

OAR 801-020-0700(2)

Licensees who are authorized to conduct municipal audits in Oregon under ORS 297.670 are required to complete 24 hours of CPE each renewal period in subjects directly related to governmental auditing and the governmental environment. OAR 801-020-0700 describes subjects that are required for at least 16 of the 24 hour requirement.

GAGAS Standards require 80 hours of CPE every two years. GAO-05-568TG GAGAS CPE provides that auditors who discontinue performing GAGAS audits or attestations services prior to the renewal cycle when the 80 hour CPE requirements are reported, are not required to complete the remaining CPE hours to meet a total of 80 hours. GAGAS cautions that such auditors may prefer to complete the 80 hour requirement if it is reasonably possible that the auditor will perform GAGAS audit engagements in the future.

Oregon licensees are required to report 80 hours of continuing education that were completed during the two-year period prior to each renewal period. The 24 hour CPE requirement for municipal auditors is included in the 80 hours that are required for renewal.

A Licensee who is approved for the Oregon Municipal Roster, and who discontinues performance of municipal audits prior to the licensee's renewal date should provide written notice to the Board within 30 days of the date that such services are no longer provided, and request to be removed from the Municipal Roster. Licensees who provide written notice to the Board are not required to report the 24 hour CPE requirement in governmental auditing subjects at the next renewal date.

Licensees who are removed from the Municipal Roster and who later decide to perform governmental audit services must meet the requirements of OAR 801-020-690.

Public Communications and Advertising

Smith CPA LLC circulated an advertisement in a local newspaper that stated the following:

“Professional Service Warranty which guarantees you the largest refund possible with the lowest tax liability.”

The advertisement guaranteed the reader the largest refund possible with the lowest tax liability. The advertisement did not state or explain how the services could be verified to provide the largest refund or the lowest tax liability.

BOARD ACTION:

Violation of OAR 801-030-0020(4)(c) Public communications and advertising

COMPETENCE AND TECHNICAL STANDARDS

CPA collaborated with Bob Brown (Brown), an unlicensed individual, to audit Children's Nutrition Service (Service), a not-for-profit organization. Department of Education (DOE) required that Service obtain an annual audit to comply with USDA funding requirements. DOE discovered that Service paid Brown directly for the 2000 audit.

CPA, who resides in another state, did not register his firm in Oregon, and did not participate in a peer review program that complied with Oregon requirements.

CPA did not meet the "yellow book" CPE requirements for performing not-for-profit audits. A review of the audit workpapers revealed audit deficiencies.

BOARD ACTION:

ORS 673.170(2)(b) Fraud or Deceit

Revocation is stayed so long as CPA does not perform attest and compilation services directly or through others for Oregon clients;

Civil Penalties in the amount of \$23,000 for violations of the following
ORS 673.320(4); Firm use of the CPA designation without registration

OAR 801-050-0020; Failure to participate in a Peer Review Program

OAR 801-030-0010(1): Competence

Inadequate Continuing Professional education required to perform an audit in compliance with Government Audit Standards.

OAR 801-030-0005; Integrity and Objectivity

Subordinating licensee's judgment to the judgment of others

OAR 801-030-0010(1): Competence

Undertaking an engagement that licensee cannot reasonably expect to complete with due professional competence

COMPETENCE AND TECHNICAL STANDARDS - AUDIT

HUD submitted QAR Reports for two audits performed by CPA for entities covered by the HUD office of Native American Programs (tribal housing authorities). HUD's reports on the two audits identified areas of non-compliance with professional auditing standards.

The following problems were identified:

- limited evidence of review and supervision
- one staff member did not have adequate CPE
- representation letters were missing or insufficient
- inadequate pension disclosure
- Client's statement of cash flows did not conform to GAAP and auditor's reports were not qualified for the departures

BOARD ACTION:

OAR 801-030-0010 Competence and Technical Standards

1. Civil penalty of \$25,000
(\$5,000 for each of five (5) violations described above)
2. Fifteen (15) random pre-issuance reviews over a two (2) year period, performed by a Board approved peer reviewer

COMPETENCY AND TECHNICAL STANDARDS

For a number of years, CPA firm audited ESD financial statements. A fraud audit of ESD financial statements disclosed irregularities in ESD financial information including the reporting of PERS bond obligations and testing of Average Daily Membership (ADM).

PERS Bonds

CPA firm issued a clean opinion on the financial statements of ESD when PERS Bonds were incorrectly classified as a reduction of equity.

In May, 2004 CPA firm auditors were advised in a peer review that PERS Bonds should be classified as a deferred asset not a reduction of equity. CPA firm auditors did not advise ESD to make appropriate disclosures to those relying on the audited financial statements until January 2005. CPA firm did not comply with SAS 98 when CPA firm failed to give timely advice to ESD to make the necessary disclosures to prevent further reliance on the audited financial statements.

Average Daily Membership (ADM) Testing

CPA firm did not provide adequate documentation of Average Daily Membership (ADM) testing. A schedule of students tested was not included in the 2002 or 2003 audit workpapers. The only documentation provided for ADM testing was a memorandum.

The ADM work paper memorandum did not include a record of the documents inspected, confirmations of the items tested or the basis of the final conclusions reached. The audit workpapers did not disclose a reason that the ADM test sample size was reduced from 40 students to 25 students. The ADM memorandum did not comply with documentation requirements of SAS 96.

BOARD ACTION:

801-030-0010 (2) Auditing Standards:

- a. Failure to timely restate PERS Bond as a deferred asset. \$ 5,000
- b. Failure to document testing of Average Daily Membership in audit workpapers. \$ 5,000
- c. Failure to advise Client to issue restated financial Statements disclosing that PERS Bonds were incorrectly reported \$ 5,000
- d. All Audit CPA firm members assessed an

additional 16 hours of audit related CPE.

DISHONESTY - INTEGRITY & OBJECTIVITY

CPA, Director of Finance for a publicly owned company, made journal entries to adjust second and third quarter 2003 financial statements according to a model developed and used by the company. When CPA made the adjustments to the second and third quarter financial statements, CPA did not report to senior management or to the external auditors that the adjustments could result in a misstatement of the financial statements. CPA reported the unsupported journal entries on the fourth quarter financial statements.

CPA made journal entries that were not in compliance with Generally Accepted Accounting Principals. CPA did not discharge the duty owed to the general public when CPA allowed incorrect second and third quarter financial statements to be issued.

BOARD ACTION:

ORS 673 170(2)(c)(A), Dishonesty and Gross Negligence
Suspension for three (3) years
Civil penalty of \$5,000

OAR 801-030-0005 (1) Integrity & Objectivity
Civil penalty of \$5,000

DISHONESTY AND PROFESSIONAL MISCONDUCT

CPA prepared Client's 2004 tax return and net operating loss carry back. Client signed the returns and left them with CPA who agreed to mail them to Internal Revenue Service (IRS) and Department of Revenue (DOR). CPA did not mail the returns. Client questioned CPA when Client did not receive a refund from IRS and DOR. CPA told Client that the returns were mailed, when in fact they were on CPA's desk. CPA told Client that he spoke to an IRS advocate and that Client's refund was in process, which was not true.

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

BOARD ACTION:

ORS 673.170 (1)(F)(b), Dishonesty in the practice of public accounting
Civil penalty of \$5,000

OAR 801-030-0020 Professional Misconduct
Eight (8) hours of CPE in ethics

DISHONESTY FRAUD

While employed by CPA firm, CPA prepared 17 income tax returns for clients who were not clients of the CPA firm. CPA used the employer's tax return preparation software and computer equipment to prepare these tax returns. CPA did not remove the employer's name from the paid preparer section of the tax returns prior to issuing these tax returns to clients. CPA billed the clients using invoices with CPA's name only and kept the fees received for these services.

CPA believed that these clients knew the CPA firm was not responsible for the tax returns even though the employer's name was displayed in the paid preparer section of the tax return.

BOARD ACTION:

ORS 673.170(4) Disciplinary actions, grounds

Dishonesty in the practice of public accountancy - 12 month

SUSPENSION

ORS 673.170(4) Disciplinary actions, grounds

17 returns at \$5,000 each

\$ 85,000

OAR 801-030-0020(b) Professional misconduct

Failure to respect the rights of others

5,000

Total civil penalties

\$ 90,000

Dishonesty, Fraud or Gross Negligence

CPA admitted to taking company funds from CPA's employer, ABC Company, while employed as the bookkeeper. CPA took the money through payroll advances, loans, and personal expenditures using company credit cards and cell phones.

CPA concealed the amount of money taken by making journal entries to shareholder and employee loans. CPA made some repayments of the amounts taken and concealed the repayments by entering the amounts as miscellaneous income.

BOARD ACTION:

ORS 673.170(2)(b) Dishonesty, fraud or gross negligence	
OAR 801-030-0020(1)(a) and (b) Professional misconduct	Revocation
OAR 801-030-0020(1)(a) and (b) Professional misconduct	
Fraudulent use of employer's property including payroll advances, loans and personal expenditures paid for with company funds	\$17,000

FRAUD OR DECEIT IN OBTAINING OR APPLYING FOR A PERMIT

CPA renewed CPA's permit to practice public accountancy in 2003 and 2005. On the 2003 and 2005 renewal applications CPA reported that CPA was not subject to disciplinary action by another regulatory authority. In fact CPA was disciplined by the Oregon State Bar during 2002 and 2004. CPA did not disclose required information on either the 2003 and 2005 renewal applications.

BOARD ACTION:

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

Civil penalty for each of two applications (2,500 x 2) \$5,000

HOLDING OUT AS A CPA

While lapsed, CPA submitted a Reinstatement Application to the Board. The application listed an e-mail address that included the CPA designation as part of the email address, as follows:

JaneBrownCPA@internetprovider.com

BOARD ACTION:

ORS 673.320(3): Permit or Registration Required	
Civil penalty for holding out as a CPA	\$1,000

HOLDING OUT AS A PUBLIC ACCOUNTING FIRM

MNO Company (Company) is not a registered public accounting firm. Company's website advertised the following:

"Our Dental CPA's clearly show you how much money you are making and spending".

Company's website and the business cards used by the controller indicated to the public that public accounting services may be performed through Company. Company was not registered as a public accounting firm when they used the term "Our Dental CPAs" on Company website.

BOARD ACTION:

ORS 673.160(1) Registration of a Business Organization Civil Penalties for failure to register	\$ 5,000
ORS 673.320(4) Civil penalties for four instances of holding out as a Business without Firm Registration (3 x \$5,000)	15,000

LACK OF KNOWLEDGE OR ABILITY TO APPLY PRINCIPLES OR SKILLS

In 2000, CPA invited eight (8) clients to attend a meeting to consider an investment offered by Attorney. Attorney did not disclose to investors that the investments offered by Attorney were unregistered securities. CPA did not independently investigate the offerings by Attorney, but instead relied upon representations made by the attorney.

CPA also learned about investments in a tax shelter described as FDO. This tax shelter is also referred to as "Son of Boss". CPA described the tax shelter to three of his clients, who decided to invest in the FDO. CPA assisted the three clients in investing in the FDO by referring them to a securities broker, and by preparing tax returns to report the FDO.

Five days before CPA described the FDO tax shelter to the three clients, Internal Revenue Service (IRS) issued Notice 2000-44 describing certain tax shelters that IRS deemed to be abusive. The FDO met the description of an abusive tax shelter under IRS Notice 2000-44. CPA did not inform the three clients of IRS Notice 2000-44.

BOARD ACTION:

ORS 673.170(2)(c)(B) Lack Of Knowledge Or Ability To Apply Principles Or Skills

Revocation - stayed for seven (7) years so long as CPA does not violate Board statutes and rules.

Suspension – for (1) year served concurrently with revocation;

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

Civil penalty of \$40,000 for assisting in the promotion or sale of unregistered securities to eight clients (\$5,000 each client)

OAR 801-030-0010(1) Competence

32 hours of Continuing Professional Education in addition to the 80 required for renewal.

PROFESSIONAL MISCONDUCT

According to Department of Labor, most SIMPLE IRA plans are also subject to Title I of ERISA. Under Department of Labor regulations at 29 CFR 2510.3-102, salary reduction contributions to these plans must be made to the SIMPLE IRA as of the earliest date on which the contributions can reasonably be segregated from the employer's general assets, but in no event later than the 30-day deadline described above.

CPA firm was required to make contributions to the financial institution that managed the CPA firm's employee SIMPLE IRA Plan no later than the close of the 30 day period following the last day of the month in which amounts would otherwise have been payable to the employee in cash. CPA firm informed employees that SIMPLE IRA funds would not be deposited on the date required. For a period of two years, CPA firm did not make timely contributions to the financial institution managing the SIMPLE IRA Plan. When CPA firm deposited the funds, CPA firm also deposited interest into each employee's SIMPLE IRA Plan.

BOARD ACTION:

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

\$10,000 civil penalty (\$5,000 per year for two (2) years)

