

OREGON BOARD OF ACCOUNTANCY
Amended Minutes

August 23, 2004
Athletic Club

Multnomah
Portland, 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 (*arrived 10:30 am*)
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*
Heather Shepherd, *Committee Coordinator*

Guests Attending

Doug Henne, *OSCPA Representative*
Jim Aldrich, *OAIA Representative*
Renee Halpren, CPA
Gary Stachlowski, CPA
Mel Emberland, CPA
Richard Emery, CPA

Cheryl Langley, *President, OSCP*
Christine Chute Johanna Matanich, *Asst.*
Attorney General
Gerald Burns, CPA
Keith Hobson, CPA
Stacy Simpson, CPA
Mark Selid, CPA

1. CALL TO ORDER

The meeting was called to order at 9:25 a.m.

A. Appoint Process Observer

Alan Steiger was appointed process observer.

B. Introduction of Guests

Guests were introduced and welcomed to the meeting.

C. Development of Core Competencies (discussion)

The Board appointed a special task force in 1998 to consider modifications to the experience requirement that would address the increasing difficulty for applicants to obtain attest experience. Members of the 1998 task force were invited to attend the Board meeting to lead a discussion regarding the modifications that resulted in the current requirement to obtain skills in seven core competencies in alternative practice settings. For example, it is no longer required for a CPA or PA applicant to obtain experience in attest, or in a public accounting setting. The discussion provided an opportunity for current members on both the Board and the Qualifications committee to understand the background for these changes.

Stacy Simpson, Chair of the Qualifications committee, began by explaining that the committee reviews a variety of applications that demonstrate the experience requirement in attest as well as industry, government and other professional settings. She explained that some applicants apply for certification in Oregon although they may not plan to

practice in this state. Recently new members on the committee have expressed concern about licensing applicants who “shop” around and/or get experience in “non-traditional” settings.

Ray Johnson, a member of the task force assigned to develop the competencies, explained that there were several reasons for the new requirements. Fewer firms were performing audits, therefore it was increasingly difficult for applicants to obtain audit experience. The profession was (and continues to be) in a period of transition and growth; traditional public accounting firms were beginning to offer non-traditional services that did not include audit. Further, there have always been public accounting firms that specialize in tax, with no audit services; yet these individuals were required to obtain experience in audit. The experience requirement was not testing competency in all professional services. There was little logic in a requirement that did not test the applicant’s competency universally, and that required applicants to obtain experience in areas that would not enhance the services they would be providing to the public.

Gerald Burns, past Board member, explained that the task force set out to broaden the goal posts without lowering the bar and through the process developed seven core competencies. The task force determined that the desired outcome was to develop requirements that would assure certain competencies, or skills that applied to all services provided by a licensed accountant. These skills or competencies are transferable from one practice to another. An applicant who has demonstrated the skill to

“prepare work papers that include sufficient relevant data to support the analysis and conclusions required by the applicant’s work”

has developed a skill that is not restricted to a specific type of service. Rather this skill is readily transferred within the individual’s work experience.

At the time the competencies were developed, the Board was also considering provisions of the Uniform Accountancy Act (UAA). The members of the task force believe that Oregon is producing some of the best CPAs in the country. The public is better served because the competencies prepare Oregon licensees to competently perform the services requested by the client, not just tax and audit services.

2. APPROVAL OF MINUTES

A. May 16, 2004, Worksession

BOARD ACTION: Moved by Steiger and carried to approve the minutes as amended. The amendments provide clarification to legal counsel comments and correct clerical errors.

Vote: 6 ayes, 1 excused (Andersen).

B. May 17, 2004, Board Meeting

BOARD ACTION: Moved by Steiger and carried to approve the minutes as amended. The amendment corrects a clerical error.

Vote: 6 ayes, 1 excused (Andersen).

3. REPORT OF CHAIR

A. Steiger Resignation

Chair Morris commended Alan Steiger for his outstanding service on the Board. Mr. Steiger served as a Board member from January 1, 2000 to August 24, 2004, including two terms as Board Chair. The Board presented Mr. Steiger with a plaque honoring his service on the Board.

B. NASBA

1. Western Regional Report

Carol Rives prepared a memo highlighting the conference held in La Jolla, California. This item will be deferred to the October worksession for further discussion.

2. Eastern Regional Report

Anastasia Meisner prepared a memo highlighting the conference held in Orlando, Florida. This item will be deferred to the October worksession for further discussion.

3. Travel Authorization, Annual Meeting

BOARD ACTION: Moved by Steiger and carried to appoint Chair Morris voting representative and to authorize travel for the Board Chair, Administrator, and an additional member to the Annual Meeting in October.

Vote: 7 ayes.

4. REPORT OF VICE CHAIR

A. October Worksession Location and Discussion Topic

The October worksession will be held at the Best Western in Hood River, Oregon October 24, 2004. The Board meeting will be held October 25, 2004. The following topics were suggested:

1. Reciprocity/Substantial Equivalency review and compare; this item can be removed from the list as the Board has discussed previously.

2. NASBA – state CBT contract

3. Legislative Review and Update; Semi-Independent concept has been withdrawn as the Governor has expressed that he will not support semi-independence.

4. CPE “yes” on certification on renewals

5. Outsourcing accounting services

6. HB 3381, Refund Anticipation Loans

7. Peer Review Task Force Report; preliminary report to be presented.

8. 05-07 Proposed Budget

9. Independence Task Force; this task force has been named a standing committee and reports will be considered on the agenda for future board meetings.

10. DOJ letter re: non-profit audits

5. REPORT OF SECRETARY-TREASURER

A. Financial Report: June 30, 2004

Rives reported that the Board staff is fully staffed. The cost of personal services has increased under new PERS regulations. The budget was built based on the paper and pencil exam, and both revenue and expenditures are reduced under the computerized exam. Therefore projected and actual amounts for the exam vary from the legislative approved budget. The Board requested that expenditure information from the prior biennium be included in future agendas for reference.

6. REPORT OF ADMINISTRATOR

A. Refund Anticipation Loan Bill – HB 3381

Discussion deferred to October 24, 2004 worksession.

B. List Serve Statistics

Using current licensee e-mail addresses available, the June, 2004, Board newsletter was sent electronically to 7,851 licensees via the new BOA subscription service (list serve).

C. KPMG, Investigation Closing Memo

Two complaints were initiated by the Board of Accountancy in June 2002, based on newspaper articles describing class action lawsuits filed under the Securities Exchange Act of 1934. The class action lawsuits alleged that KPMG issued false and misleading financial statements in two audits. Both lawsuits were settled and KPMG contributed large sums of money to the class action settlement funds. The settlement agreements included a statement of no admission of liability or wrongdoing by KPMG. Information was collected for both files, but no formal investigation was conducted because of limited resources available to the Board.

Based on the age of the files and the terms of the settlement approved by the Court, the Administrator recommends that both files be closed with no further action.

BOARD ACTION: Moved by Klimowicz and carried to close both files with no further action.

Vote: 7 ayes.

D. Gerald Burns Letter: Peer Review Task Force

Gerald Burns updated his letter to Carol Rives, dated August 2, 2004, with a letter dated August 20, 2004. Mr. Burns, who is a member of the Peer Review Task Force stated that, although the current Peer Review program provides great value for the Board, the weakness to the program is in the regulation. Peer Review is an expensive requirement placed on licensees, but it does not provide a tool for the Board to use due to confidentiality provisions. OSCP does a good job administering the program, but the Board is left out of the loop. While protecting the public, the Board should be involved in a cooperative non-threatening way.

E. IT Asset Inventory Management Policy (no attachment)

BOARD ACTION: Moved by Klimowicz and carried to accept the policy, a copy of which is attached to the minutes.

Vote: 6 ayes, (Gaffney out of room).

F. Complaints Committee members

The Committee has expressed the need to increase committee membership to nine members. Robert Armstrong, PA, joined the Complaints committee on August 6, 2004. The Board received information from three volunteers willing to serve on the Complaints committee: Larry Brown, Audit Partner, PricewaterhouseCoopers; Dee Mirando-Gould, Audit Senior Manager, PricewaterhouseCoopers and Mark Cruzan, Audit Partner, Ernst & Young.

BOARD ACTION: Moved by Klimowicz and carried to recommend Brown and Cruzan to the complaints committee.

Vote: 7 ayes.

G. Michelle Reyna Letter

Reyna requested that the Board make an exception regarding her request to continue to be grandfathered for the CPA exam under the pre-2000 requirements.

Board Discussion: *Reyna was previously denied the grandfather request in February, 2004. Reyna did not present circumstances that are applicable for exception, therefore the request should be denied, with information regarding the administrative rule that applies to her request.*

BOARD ACTION: Moved by Klimowicz and carried to deny the request.
Vote: 7 ayes.

H. John Brams: Consent Order Article

Brams was allowed to submit a written article in exchange for waiver of \$5,000 of the total civil penalty assessed against him. The article should describe the responsibilities of a certified public accountant when providing estate and trust services for clients and be suitable for publication in a professional journal,

***Board Discussion:** Although Brams took time to research the article, he referenced no codes or state laws, without which the Board questioned whether the article is suitable for publication. It was noted that the article will not be published.*

BOARD ACTION: Moved by Klimowicz and carried to accept the article in lieu of \$5000 civil penalty.

Vote: 6 ayes, 1 abstention (Gaffney).

I. Tribal Relation Policy

Tribal Relations Policy Number 04-026 was developed pursuant to ORS 182.162 through 182.168, provisions that require state agencies to develop and implement tribal relations policies.

BOARD ACTION: Moved by Steiger and carried to accept the policy.

Vote: 7 ayes.

J. Board Member Appointment

Ray Johnson, CPA, was appointed by the Governor to serve on the Board of Accountancy. The appointment has not yet received Senate confirmation.

K. AICPA Comments on UAA Rules

Discussion deferred to October 24, 2004 worksession. The topic was also added to the Peer Review Task Force agenda on August 30, 2004.

L. Ethics Sponsor Registration Renewals

Robert Gordon, PA, addressed a letter to the Board requesting that the annual Ethics Sponsor registration expiration date be moved from May 7 to June 30 to coincide with CPE reporting. The request will be considered to determine whether a change affects the office workloads for the 2005 annual Ethics Sponsor registration.

M. Rule Revisions

OAR 801-040 rule revisions are attached to and made a permanent part of these minutes (Attachment A). Discussion of OAR 801-030-0020(13) will be deferred to the October 24, 2004 work session meeting.

BOARD ACTION: Moved by Steiger and carried to accept the changes made to OAR 801-040 and defer discussion of OAR 801-030-0020(13) to the October 24, 2004 work session meeting.

Vote: 7 ayes.

7. REPORT OF OAIA

Aldrich reported that the tri-state convention held in Richland, Washington during June was a success. The new officers are: Ivan Besemann, President; Sue Robinson, 1st Vice President; Joyce Funkhouser, 2nd Vice President; Darlene Swazey, Secretary and Larry Kjelden, Treasurer.

8. REPORT OF OSCPA

Henne reported the society is preparing for the Peer Review Task Force meeting on Monday. They are in the process of finalizing the town hall meeting that will be held in various cities in Oregon. The society has been asked by the legislature to prepare testimony on the inheritance tax. Members will soon receive a ballot by mail on a proposal to change the by-laws on election of officers. The proposal would form a nomination committee that would make recommendations to the Board.

9. CONTINUING PROFESSIONAL EDUCATION

A. Report of CPE Committee

1. Acceptance of Minutes

a. June 15, 2004

BOARD ACTION: Moved by Steiger and carried to accept the minutes of June 15, 2004.

Vote: 7 ayes.

B. Consent Agenda

1. Recommendations

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

Vote: 7 ayes.

2. Municipal Auditor Applications

a. Jill Fleming

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

b. Amy McHugh

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

c. Lorie Pope

Committee Recommendation: Defer; staff to correspond with the applicant and request qualifications of each instructor for in-house CPE.

d. Kristie Shasteen

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

e. Christin Swayze

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

f. Kevin Bullock

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

g. Tiffanie Soper

Committee Recommendation: Defer; staff to correspond with the applicant and request qualifications of each instructor for in-house CPE.

C. Items Removed from Consent Agenda

1. None

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. June 11, 2004

BOARD ACTION: Klimowicz moved and it was carried to accept the minutes of June 11, 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. Jens Andersen requested removal of one additional item (item 11.B.1.b., Jones and Roth).

Vote: 7 ayes.

1. Complaint Investigations

a. Moss Adams	01-06-017
b. Jones & Roth	02-06-037
c. Holdner & Baum	02-08-049
d. Jim Jones	02-11-073
e. Grant Thornton	03-04-014
*f. Doris Rose	04-03-025
*g. Robert L. Stacy	
Robert L. Stacy	02-01-003
Robert L. Stacy	02-06-039
Robert L. Stacy	02-06-041
Robert L. Stacy	02-07-048
Robert L. Stacy	02-12-074
Robert L. Stacy	03-03-008
Robert L. Stacy	04-04-047
Robert L. Stacy	04-04-052
Robert L. Stacy	04-04-053

**Items 11.B.1.f., 11.B.1.g. and 11.B.1.b moved to 11.C. for discussion*

C. Items Removed from Consent Agenda

11.B.1. b. 02-06-037 Jones & Roth

ALLEGED VIOLATIONS:

OAR 801-030-0015(2) Client records and working papers
OAR 801-030-0020(1) Professional misconduct

Tom Krahmer (Krahmer) and Ann Allen (Allen) owned a small business. When the business failed, Allen delivered business paperwork to Jones & Roth to prepare final taxes and forms. The following spring, Krahmer and Allen took their personal tax returns to Jones & Roth. Jones & Roth prepared a return for the defunct business in addition to returns for Krahmer and Allen. Krahmer and Allen stated that they did not authorize Jones & Roth to prepare a tax return for the defunct business. Jones & Roth refused to release the individual income tax returns until Krahmer and Allen paid for the tax return for the defunct business.

Jones & Roth are not required to give Krahmer and Allen tax returns that were not previously issued. Krahmer and Allen did not ask Jones & Roth to return their original documents. Krahmer and Allen asked Jones & Roth to give them their personal tax returns. When Jones & Roth refused, Krahmer and Allen filed this complaint. The complaint made by Krahmer and Allen is a fee complaint, which the Board does not address. Jones & Roth have not engaged in conduct that reflects adversely on their fitness to practice public accountancy.

INVESTIGATOR RECOMMENDATIONS:

OAR 801-030-0015(2) Client records and working papers Close – no violation
OAR 801-030-0020(1) Professional misconduct Close – no violation

COMMITTEE DISCUSSION: The investigator believed this complaint to be a fee dispute.

COMMITTEE RECOMMENDATION: Accept the Investigator's recommendation.

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

Vote: 6 ayes, 1 abstention (Andersen).

11.B.1. f. 04-03-025 Doris Rose

ALLEGED VIOLATIONS:

ORS 673.320(3) permit or registration required
ORS 673.320(4) permit or registration required
OAR 801-030-0020(7) Board communications and investigations

Doris Rose (Rose) prepared income tax returns and used permit 8750 in year 2002 while in lapsed status. Rose also used an unregistered firm name on tax returns. Investigator stated that Rose did not respond to the CPE audit in a timely manner. Although she later fulfilled the CPE requirement, Rose did not respond to a letter from the investigator and she did not respond timely to the initial complaint. The investigator added an additional \$1,000 for non-response which is not reflected in the investigation report.

Rose assumed or used the title "certified public accountant" and the abbreviation "CPA" when she used permit 8750 on tax returns prepared for tax years 2002 and 2003. Rose assumed or used the business organization name, "Doris Rose CPA PC" on tax returns prepared for tax years 2003 after the firm registration was terminated. Rose submitted a response to the complaint on April 26, 2004. With extensions, a timely response would have been dated on or before April 22, 2004.

INVESTIGATOR RECOMMENDATIONS:

ORS 673.320(3) permit or registration required	
Civil penalty for using permit 8750 on tax returns (2 years at \$5,000 each):	\$10,000
ORS 673.320(4) permit or registration required	
Civil penalty for using Firm name on tax returns (1 year at \$5,000):	5,000
OAR 801-030-0020(7)	
Civil penalty for not responding to Board Communications:	<u>1,000</u>
Total Civil Penalties:	\$16,000

COMMITTEE DISCUSSION: The committee discussed assessing penalties by violation or by complaint. They discussed that she may have been doing audits while in lapsed status because she did not respond to Investigator's request letter. Investigator went to her building, which is a house. It does not say CPA on the house, just her name. We have not found her in the phone book under CPA. Rose reported CPE that she didn't have, so she lapsed. Rives stated that Rose did not have proof of completion for the hours that she reported. It could be misrepresentation or it could be sloppy bookkeeping. After reinstating, Rose reported CPE that she used for reinstatement on the next renewal form. Ultimately Rose took enough CPE to meet the 57 hours that were lacking.

COMMITTEE RECOMMENDATION:

Accept the investigator's report with the additional civil penalty of \$1,000 for the second non-response, for total civil penalties of \$17,000.

BOARD ACTION: Klimowicz moved and it was carried to accept the committee recommendation assessing a civil penalty of \$17,000.

Vote: 7 ayes.

11.B.1. g. Robert L. Stacy (nine complaints)

1. 02-01-003
2. 02-06-039
3. 02-06-041
4. 02-07-048
5. 02-12-074
6. 03-03-008
7. 04-04-047
8. 04-04-052

9. 04-04-053

Stacy was scheduled to be at the committee meeting at 9:10 a.m. He arrived at 9:30 a.m., which was too late to join the committee discussion and answer questions. Stacy left the meeting at 9:35 a.m.

COMMITTEE DISCUSSION: There is a need to determine the actual violation. The committee discussed Stacy's billing policy which states that if a fee dispute should arise, arbitration is the next step. Stacy did not follow the policy, but instead, turned clients over to a collection agency. Stacy declined arbitration to one client who requested arbitration. Stacy's procedure was to bill clients and receive payment for a product the client did not receive. It was stated that invoices typically have more detail than the monthly statements, and suggested that it may be helpful to have the invoices to determine exactly what was being billed.

The Investigator stated that we received some invoices, but have not reviewed them. The Investigator said that the clients do not want their credit ruined, so they pay the bills. One client lost her opportunity for a refund because her amended return was never completed. Stacy prepared the amended return, but would not release it for lack of full payment.

It was noted that Stacy has not lived up to his contractual obligation. Klimowicz stated that the Board is interested in Stacy attending practice management classes and noted that Stacy has changed his billing policy to require 50% of the fee up front.

A question arose as to whether or not the committee can request a peer review of his practice and of the changes Stacy admits to have made. It is important for Stacy to realize that he will have continued oversight.

During the working lunch, the committee read a 1988 Oregon Court of Appeals Case involving an accountant who developed a practice of billing which was found to demonstrate a pattern of behavior that was unfair to clients and in violation of the code of conduct. The Court of Appeals Case involved a CPA who was withholding work pending payment. The case is similar to Stacy's, and resulted in a revocation.

The committee agreed that a civil penalty for not respecting the rights of others should be imposed, along with CPE courses for practice management.

The Committee concurred with Investigator's recommendation. Civil Penalty for not following agreements made with clients: 9 clients at \$5,000 each, for a total of \$45,000. In addition the committee recommends 24 hours of CPE in Management and Accounting Practices. Once the committee decides which CPE courses are applicable to Stacy, specific course selections from Stacy will be approved by the Administrator.

COMMITTEE RECOMMENDATION:

Recommend a civil penalty in the amount of \$45,000 and require 24 hours of CPE in practice management for disciplinary action.

Board Discussion: *The Board recognized that Stacy's clientele is difficult and believes the recommended civil penalty is high. The Board noted that Stacy has made progress in changing the way in which he does business. The Board*

agrees that Stacy should take a course in client acceptance and communication skills. The Board believes that Stacy is trying to correct his errors.

BOARD ACTION: Steiger moved and it was carried to assess a \$1,000 civil penalty per complaint for a total civil penalty of \$9,000 and require 24 hours of continuing education in practice management.

Vote: 7 ayes.

11.2. COMPLAINTS COMMITTEE

A. Report of Complaints Committee

1. Acceptance of Minutes

a. August 6, 2004

Board Discussion: On page 9 of the August 6, 2004 minutes (Krystal Pease), the word 'access' should be 'assess' the civil penalty.

BOARD ACTION: With the above correction, Klimowicz moved and it was carried to accept the minutes of August 6, 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. Theresa Wilcox

*b. Donald Sherry 04-01-004

c. Kurt Hagerman 02-03-025

03-06-023

*d. Christopher V. Dye 02-04-030

e. Mark A. Neuman, CPA 02-09-056

*f. Gwendolyn Hanavan, CPA 02-09-057

*g. Parrott Partnership, LLP 02-11-071

h. John C. Tappon, CPA 03-04-013

*i. Bruce Tabor, CPA 03-04-015

j. Nancy Engst 04-01-003

*k. Krystal Pease, CPA 04-02-005

*l. Michael L. Piels, CPA 04-05-055

m. Nancy L. Congdon 04-06-058

**Items 11.2.B.1.b., 11.2.B.1.d., 11.2.B.1.f., 11.2.B.1.g., 11.2.B.1.i., 11.2.B.1.k. and 11.2.B.1.l moved to 11.C for discussion*

C. Items Removed from Consent Agenda

11.2.B.1.b. 04-01-004 Donald Sherry

The Committee reviewed a letter dated August 3, 2004, from Stephen A. Hutchinson, Counsel for Sherry, requesting leniency. Hutchinson suggested a consent agreement wherein Sherry agrees to stop using "the largest refund

possible with the lowest tax liability” in marketing materials and advertising and agrees to complete Ethics training by the end of 2004.

COMMITTEE DISCUSSION: The Committee recalled that Sherry developed the advertisement in reliance on materials provided in an AICPA CPE program. It was further stated that the Board receives calls from licensees who rely on AICPA statements that programs are eligible for CPE credit even though the course may not meet Oregon CPE requirements. The Board does not approve course content. The Committee agreed that it is difficult to determine which CPE qualifies for Oregon, California, Washington and Idaho, and there is confusion with bordering states with respect to ethics requirements. Oregon does not mandate NASBA registry courses for CPE, but Oregon does mandate NASBA QAS CPE courses for self study. It takes time to look at each course and come to a conclusion that makes sense. Professionals are responsible to know the rules and how to apply that information.

COMMITTEE RECOMMENDATION:

Civil penalty in the amount of \$2,000 (\$1,000 for each violation), and require an additional four (4) hours of ethics to be completed by June, 2005.

Board Discussion: *This same issue was addressed with another licensee in 1998 and was closed with a warning letter. It seems appropriate to assess a civil penalty in the amount of \$500 per violation for a total civil penalty of \$1,000 and require four (4) hours of Ethics.*

BOARD ACTION: Klimowicz moved and it was carried to assess a civil penalty in the amount of \$500 per violation for a total civil penalty of \$1,000 and require four (4) hours of CPE Oregon Ethics.

Vote: 7 ayes.

11.2.B.1.d. 02-04-030 Christopher V. Dye

ALLEGED VIOLATIONS:

OAR 801-030-0010(1) Competence and (2) Auditing Standards

Stewart Parmele (Parmele) was informed by two previous year audit clients that they retained Christopher Dye (Dye) as their new auditor. Parmele, a partner with Michael Piels Certified Public Accountants LLC (Piels) did not receive a successor auditor inquiry from Dye. Dye stated that he was the “in-charge” auditor while employed with Piels, and as such had full knowledge of the facts and circumstances for the audit client, and for that reason did not inquire of the predecessor auditor.

INVESTIGATOR RECOMMENDATIONS:

OAR 801-030-0010(1) Competence and (2) Auditing Standards

Issue a Letter of Concern for violation of AU 315

Christopher Dye joined the committee meeting at 10:05 AM by telephone conference. It was stated that the committee addressed the issues in a prior meeting and that the committee read the investigator’s report and a copy of a letter that was sent to Dye’s client by Piels’. It was suggested that Dye tell the committee about his experience at Piels’ firm to include: the nature of his last role at Piels’ firm;

the circumstances as they relate to his departure from Piels' firm and the nature of communications with Piels' firm as they relate to his becoming the auditor of clients who were previously with Piels' firm.

Dye stated that his position in Piels' office was "in-charge auditor". There were instances when he found deficiencies in audits of clients, and when he brought them to Piels attention, it was apparent that Piels did not want to hear about them. Dye stated that he did the majority of the work; he would oversee other staff when they were brought in. Piels firm had approximately 70 audit clients and Dye stated that he worked on about 60 of those audits; Dye later stated that he did about an audit a week, so maybe he worked on only 30 or 40 of Piels audit clients. Dye was supervised by Stewart Parmele; Dye stated that he did not separate from Piels firm on good terms.

Dye advised that he gained SOWAC as a client approximately one year after he left Piels' firm, in June 2003. Dye said that when Suzi Aufderheide, Board President of SOWAC, received the letter from Piels, she was shocked, she did not know who Piels was since her contact was primarily with Stewart Parmele; Aufderheide was upset that Piels would write to her about hiring an auditor who was unqualified. Dye said that Piels' statements are false as Dye has liability insurance. Dye thinks Piels was attempting to smear his reputation and Aufderheide viewed the letter the same way.

Dye was asked if he complied with SAS 84 by requesting communication from the predecessor auditor when he obtained the SOWAC audit. Dye replied yes. He was further asked if there were differing opinions between SOWAC and Piels office. Dye replied yes, but the letter from Parmele stated that things were resolved to satisfaction and that a single audit was not required in the year he obtained the audit.

Dye was asked about communication before an auditor accepts engagement, and Dye replied as follows: Perhaps I should have called Parmele, but I did not. I had knowledge of the client's previous audit information because I was the "in-charge" auditor while working for Piels' firm. I was the main communicator with these clients. If these clients had an issue, they would call me. I doubt if there was anything going on that I did not know about.

Henarie read a sentence from Piels letter dated August 5, 2004 wherein Piels states that Dye had only one client while working at Piels' firm. Dye responded that none of the clients were his, all the clients were Piels. Dye stated that he had one tax client that was billed under his ID number who was a friend of his wife. None of the audits were "my clients."

Dye was employed with Piels' firm for ten (10) months from July 2000 until April 2001. Dye did not have a non-compete agreement with Piels. Piels let Dye go after Dye had a misunderstanding regarding billing procedures.

COMMITTEE DISCUSSION: Working papers were obtained and reviewed by a committee member. Dye did not communicate with the predecessor auditor. Dye stated that his reason for not communicating with Piels was that he considered himself the predecessor auditor. Dye stated that he was the "in-charge" auditor while employed by Piels. The committee discussed if Dye could obtain enough

information in his role as "in-charge" auditor and compared that information to the requirements of AU 315.

COMMITTEE RECOMMENDATION:

Assess a \$1,000 civil penalty for failure to comply with AU 315, Request for Communication with the Predecessor Auditor.

BOARD ACTION: Steiger moved and it was carried to accept the committee recommendation and assess a civil penalty in the amount of \$1000 for failure to comply with AU 315.

Vote: 7 ayes.

11.2.B.1.f. 02-09-057 Gwendolyn Hanavan, CPA

ALLEGED VIOLATIONS:

OAR 801-030-0010 (1) Competence and Technical Standards

OAR 801-030-0020 (1) Professional Misconduct

Gwendolyn Hanavan (Hanavan) prepared a net operation loss (NOL) carry back on Form 1045 for Susan Mertens (Mertens). The NOL carry back was denied by IRS because it was filed more than 12 months after the year from which the carry back resulted. Hanavan prepared a tax return for 1998, but did not add a business mileage deduction to Mertens' 2000 Schedule C.

INVESTIGATOR RECOMMENDATION:

OAR 801-030-0010 (1) Competence and Technical Standards

Civil Penalty for lack of competency in filing NOL Carry back, and for failure to take a mileage deduction on Schedule C.

\$500

16 hours additional CPE in individual income tax preparation.

These hours in addition to the 80 hours required for renewal

16 hours

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

Civil Penalty for 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

\$500

COMMITTEE DISCUSSION: The committee questioned why Hanavan would complete Form 1045 rather than Form 1040X, after the allowable time period to file Form 1045 had passed. Hanavan carried forward a client's net operating loss to future income when it is required to first be carried back and discussed concern that IRS may reject the client's net operating loss carry forward. The committee questioned whether Hanavan is keeping up with tax laws.

COMMITTEE RECOMMENDATION:

Assess \$1,000 civil penalty for professional misconduct and require 8 hours of CPE in income tax preparation in addition to the normal 80 hours.

BOARD ACTION: Klimowicz moved and it was carried to accept the Investigator's recommendation and assess a civil penalty in the amount of \$1000; \$500 for incompetence and \$500 for professional misconduct plus 16 hours of additional CPE in individual income tax preparation. The CPE hours are in addition to the 80 hours required for renewal.

Vote: 7 ayes.

11.2.B.1.g. 02-11-071 Parrott Partnership, LLP

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) \$1,000

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

COMMITTEE RECOMMENDATION:

A civil penalty of \$5,000, (two violations at \$2,500 each).

Board Discussion: *It appears that the Parrott Partnership is falsely advertising in 'The Business Journal' when they state that they employ 13 and 14 CPAs. The Board database indicates that the Partnership employs six (6) CPAs. Parrott may be counting part time and CPA candidates. CPA firm size definitely matters when receiving the "big jobs" and clients get information from the web to determine who is doing the "big jobs".*

BOARD ACTION: Defer to October, 2004, Worksession. Investigator will review the 2001 and 2002 lists and determine if other firms are falsely advertising the number of CPA employees.

Vote: 7 ayes.

11.2.B.1.i. 03-04-015 Bruce Tabor, CPA

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 Bruce 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	\$5,000
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:

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: *A tax preparer may not take two different positions.*

Tabor should have resigned from the engagement. It appears that Tabor was using information from one client to make a decision regarding the other. Clients rely on confidentiality and integrity.

BOARD ACTION: Defer to next meeting. Investigator will gather more detailed information.

Vote: 7 ayes.

11.2.B.1.k. 04-02-005 Krystal Pease, CPA

ALLEGED VIOLATIONS:

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

Krystal Pease 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."

INVESTIGATOR RECOMMENDATIONS:

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

Civil penalty for violation of public communications and advertising \$5,000

COMMITTEE DISCUSSION: Pease's advertisement is similar to that reviewed in an earlier case. The advertisement is in violation of Board rules. Concern was raised that Pease sent only limited documentation to support that she timely renewed the firm. The Administrator agreed that a submitted check could be lost when it is processed through the lock-box system.

COMMITTEE RECOMMENDATION:

Assess a \$1,000 civil penalty. The penalty amount is consistent with other like penalties recently assessed.

Board Discussion: *To be consistent with similar penalties assessed, refer to the Board comments (11.2.B.1.b.) on page 10 of these minutes.*

BOARD ACTION: Klimowicz moved and it was carried to assess a civil penalty in the amount of \$500 and require four (4) hours of CPE Oregon Ethics.

Vote: 7 ayes.

11.2.B.1.I. 04-05-055 Michael L. Piels, CPA

ALLEGED VIOLATIONS:

801-030-0020(1)(a) and (b) Professional misconduct

Christopher Dye (Dye) submitted a letter written by Michael Piels (Piels). The letter was addressed to a client that Dye obtained from Piels. The letter questioned the recipient's choice of auditors.

INVESTIGATOR RECOMMENDATIONS:

801-030-0020(1)(a) and (b) Professional misconduct

Issue a Letter of Concern for violation of professional misconduct

COMMITTEE DISCUSSION: Helen Wallace, the Executive Director of SOWAC is familiar with the letter from Piels. Wallace stated that they were unhappy with the letter and believed it was "a slap in the face, a slam and uncalled for". SOWAC is happy with Dye's work and communication skills. The committee agreed that the letter from Piels' is inappropriate. The committee discussed the purpose or necessity for this correspondence on an unsolicited basis. Upon request from a client, it may be appropriate to furnish them with a checklist or similar neutral information, however, this situation seems to indicate that the hiring decision was complete, and the client did not solicit advice in the selection process. The implication in the letter is that Dye is not capable of doing the work. Piels letter to SOWAC was disparaging of Dye and showed a lack of respect for SOWAC's decision to hire Dye.

COMMITTEE RECOMMENDATION:

Accept the Investigator's recommendation and issue a Letter of Concern for violation of professional misconduct. Staff will have a Letter of Concern prepared for the Board meeting on August 23, 2004.

BOARD ACTION: Klimowicz moved and it was carried to close with no violation and to send a Letter of Concern to Piels. A Letter of Concern is not considered disciplinary and will not go on his record.

Vote: 7 ayes.

12. LEGAL

A. Report of Legal Items

1. Proposed orders after hearing:

a. None

2. Proposed Consent Orders

a. Gary S. Burroughs

Board Discussion: Legal counsel presented a proposed consent order in which Burroughs agreed to pay a civil penalty of \$100.

BOARD ACTION: Gaffney moved and it was carried to reject the consent order and request Legal Counsel to revise the order with a civil penalty of \$500.

Vote: 7 ayes.

b. Joseph Minniti

Board Discussion: A proposed consent order was presented in which Minniti agrees to a civil penalty of \$10,000, of which \$7,000 will be withdrawn if Minniti completes 24 hours of continuing professional education and the remaining \$3,000 to be paid immediately. The Board discussed whether the amount should be stated as withdrawn or stayed.

BOARD ACTION: Steiger moved and it was carried to accept the consent order.
Vote: 6 ayes, 1 absent (Andersen).

c. John S. Burles

Board Discussion: Legal counsel presented a proposed consent order in which Burles agreed to pay a civil penalty of \$5.

BOARD ACTION: Gaffney moved and it was carried to reject the consent order and request Legal Counsel to negotiate a civil penalty of \$100.

Vote: 7 ayes.

d. Dale H. Glasser

Board Discussion: A proposed consent order was presented in which Glasser agrees to pay a civil penalty of \$4,000, denies having committed any violation, and states that the Board agrees not to publish notice of the Consent Order or the subject matter in the Board newsletter, on the Board website, or any other accounting profession periodical or Internet website.

BOARD ACTION: Steiger moved and it was carried to reject the consent order.

Vote: 7 ayes.

e. Fred Carter

Board Discussion: A proposed consent order was presented in which Carter agrees to a civil penalty of \$9,500, and agrees to complete 16 hours of continuing professional education specified in the Notice. The Board discussed additional sanctions to impose on Carter.

BOARD ACTION: Steiger moved and it was carried to reject the proposed consent order and request Legal Counsel to issue an amended Notice to require that Carter be subject to a pre-issuance qualified review on yellow book audits for the next three years, and that Carter submit his past and current Peer Review report to the Board, in addition to assessing a \$13,000 civil penalty, \$3,500 stayed based on the proposed submissions. Any violation of the consent order will activate the \$3,500 stayed amount.

Vote: 7 ayes.

f. Jerome Caplan

Board Discussion: A proposed consent order was presented in which Caplan agrees to close his office and not open another office, refrain from advertising, remove his name from the buildings kiosk and office sign, destroy all documents stating that Caplan is a CPA, send letters to clients informing them that he is no longer licensed, and surrender his CPA certificate.

BOARD ACTION: Gaffney moved and it was carried to accept the consent order.

Vote: 7 ayes.

g. Jerold Egner

Board Discussion: A proposed consent order was presented in which Egner agrees to revocation of his license, but that he is not subject to a civil penalty.

Egner recently declared bankruptcy and it would be difficult for the Board to collect a civil penalty.

BOARD ACTION: Steiger moved and it was carried to accept the consent order.

Vote: 7 ayes.

3. Other

a. Roy E. Swan

Board Discussion: The Board previously withdrew a final order with Swan when the Board discovered that statements Swan made to the Board during negotiation of a consent order were not true, specifically that Swan was moving out of the state. Legal Counsel provided the Board with evidence that Swan has now relocated to Missouri, obtained a drivers license and a residential property in Missouri.

BOARD ACTION: Steiger moved and it was carried to reinstate the final order by consent.

Vote: 7 ayes.

B. Other

1. None

13. QUALIFICATIONS COMMITTEE

A. Report of Qualifications Committee

1. Acceptance of Minutes

a. June 17, 2004

BOARD ACTION: Moved by Bailey and carried to accept the minutes from the June 17, 2004 Qualifications Committee Meeting.

Vote: 7 ayes.

B. Consent Agenda

1. Recommendations

a. Mark Weintraub 04-05-0005

Mr. Weintraub gained experience with the following employers:

Park Place Entertainment 25 ½ mos Equiv. Experience

Constance Lentz 1 mo No competencies met

Mr. Weintraub passed the CPA Examination in November 2000. Ms. Simpson reported that she reviewed the application file for Weintraub. The applicant's supervisor licensee originally signed off on all competencies except "E", however, later changed her mind and signed off on all competencies. Ms. Simpson asked the supervisor licensee what prompted her to change her recommendation. The supervisor licensee indicated that it was an error on her part. Mr. Weintraub has since been promoted to Assistant Controller. At this time Mr. Weintraub deals mostly with internal audits.

Mr. Emberland and Mr. Carey voiced concerns about licensing applicants who do not live in Oregon or work in Oregon. They are also concerned that licenses are issued to applicants without experience in tax or other typical public accounting tasks. They also

suggested that Board staff conduct background checks on applicants to determine if they have any criminal history.

The committee requested that staff determine how other states verify experience for licensure.

These concerns will be discussed at the Board meeting in August and a report from Kent Bailey will be presented at the September committee meeting.

COMMITTEE RECOMMENDATION: Approve

2. Other

- a. None

3. Approval of Applications

a. CPA Certificates/Permits

69 Certificates

b. PA Licenses/Permits

None

c. Firm Registrations

19 Registrations

d. Substantial Equivalency Authorizations

7 Authorizations

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

C. Items Removed from Consent Agenda

- 1. None

14. CPA EXAM

A. CBT Information

The Board reviewed documents from the Board of Examiners (BOE) regarding the CPA Exam. The letter addresses the passing standards as well as the Examination Review Board (ERB) management letter with responses from the BOE.

B. Quick Poll Response – Prometric Testing Centers

The New Hampshire Board of Accountancy sent a quick poll regarding Prometric testing centers.

C. NASBA Fee Increase for Examination Reviews and Appeals

NASBA sent a letter advising Boards of an increase in fees to candidates for exam review and appeals.

15. OLD BUSINESS

- A. None

16. NEW BUSINESS

Steiger mentioned the following items:

1. PCAOB has completed the first round of large firm inspections. PCAOB is prepared to send reports to states that have completed the confidentiality form. NASBA recommends that state boards check with legal counsel before signing the form.
2. Kennedy Western has filed a suit challenging Oregon law that does not allow a graduate to put the Kennedy college degree on a resume.
3. IQAB is now accepting Chartered Accountants from Ireland.

17. PROCESS OBSERVER REPORT

Steiger reported the discussion on the core competencies went well and within the allotted time. Mr. Steiger commented that some discussions were longer than necessary but, all in all it was a good meeting.

18. NEXT MEETING

Date: October 24-25, 2004
Location: Hood River, Oregon
Time: 9:00 a.m. October 24

19. ADJOURNED

There being no further business, the meeting adjourned at 5:04 p.m.