

Oregon State Board of Tax Practitioners

Board Meeting Minutes

Meeting Date: July 11, 2013

Time: 9:08 a.m. – 2:17 p.m.

Location: Morrow Crane Building, Salem, Oregon

Attendees: Janis Salisbury (Chair)
 Joe Lovato (Vice-Chair)
 Kinsey Miller (Board Member)
 Dorothy Hudson (Board Member)
 Jess Gutierrez (Board Member)
 Michael Addington (Board Member)
 Nutan Arora (Board Member)

Guests: Randy Shimek, H & R Block
 Beverley Diercks, OATC
 Mamie Carter, Jackson Hewitt
 Dale Marino, ORSEA
 Susan Parks, OAIA
 Patricia Logan, OATC

Staff: Ron Wagner, Executive Director
 Monica J. Walker, Senior Compliance Specialist
 Jane Billings, Exam & Education Coordinator
 Marika Garvey, Licensing Specialist

ITEM		ACTION / DISCUSSION
Salisbury called the meeting to order at 9:08 a.m.		
Roll called	Board members present: Addington, Miller, Gutierrez, Arora, Lovato, Salisbury, and Hudson (excused).	
New Board Member	Salisbury began with an introduction and welcome of the new Board member, Kinsey Miller, of Salem. Salisbury swore in Miller as the new Board member.	
Executive Session		
<small>To discuss information exempt from public disclosure under ORS 673.730(4). Pursuant to 192.660(2)(f). This Executive Session is closed to members of the public.</small>		
Executive Session 9:12 a.m. – 10:59 a.m.		
Board Meeting Break 10:59 a.m. – 11:12 a.m.		
Compliance Report		
Reported by Monica J. Walker	Complaints reported from January 1, 2013, through July 10, 2013. General statistics: <i>9 Cases reported on during Executive Session</i> <i>8 Cases needing Board action/vote</i> Waivers to be voted on <i>1 License waiver needing Board action/vote</i> General statistics <u>111 Total complaints as follows:</u> 79 Closed 16 Open investigations	

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9 Mediated
7 Pending investigations

Out of these totals

14 Complaints in which licensees were educated into compliance
10 Complaints which resulted in Board action
2 Complaints which the Board has authorized action to be taken

General counts/information on complaints

37 Unlicensed/unregistered activity
24 Competency/services
17 Advertising
14 DC/RC/supervision requirements
14 Other entities
8 Return of records
6 Failure to file a return
3 Fraudulent activity
3 Failure to notify of changes to information
3 Confidentiality
2 CE audit requirements
1 Signature requirements
1 Posting of fee schedules

Settlement Agreement Update/Status

Accounts paid in full: Robert G. Dooley. (\$250)

On payment plan with the Board: Albert Bentley, Damon Mayer, Daria Nelson, Fausta O. Garcia, Pamela Miles, Tirsia Villanueva Fong-Guien, and William Baumeister.

Other Compliance Business

Update on Carol May Jones of Lowell, OR – The Board office received a foreclosure complaint from the Department of Justice. The Board has a lien of \$69,000, which is considered “unsecured,” and fourth on the list of entities to be repaid. Per advice from Kelly Gabliks, AAG, it is likely the Board will not see any payment from this.

Walker reported she will send a recruitment notification to all licensees via e-mail for the upcoming Rules Advisory Committee meeting scheduled for Wednesday, August 28, 2013.

Walker presented a report that contained the proposed temporary fee decreases to the Board and opened discussion on filing the temporary rule to decrease fees for licensed tax preparers and business registrations. The outcome of the discussion was to withdraw the May 9, 2013, vote and conduct a re-vote for a temporary rule which includes the reason and conditions of the temporary rule.

Motion: Hudson moved that the Board withdraw the May 9, 2013, motion to reduce the license fee for the LTC, LTP, business registration, and the combo registration each by \$10 per year for license renewal effective August 1, 2013.

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	<p>Motion passed. Ayes: Gutierrez, Salisbury, Hudson, Addington, Arora, Miller, and Lovato.</p> <p>Motion: Due to an unexpected and temporary revenue surplus, Hudson moved that the Board adopt a temporary rule change effective as of August 5, 2013, for a \$10 decrease in the following fees:</p> <p>Oregon Administrative Rule 800-020-0025(4)(5)(7)(8)(11)(17) and (18) conditioned upon the Board's ending balance remaining at a sufficient level to operate the agency. Should the Board's ending balance decrease below sufficient operating funds, the fees would revert to the fee structure currently being assessed.</p> <p>Motion passed. Ayes: Hudson, Lovato, Addington, Miller, Arora, Gutierrez, and Salisbury.</p>
<p>Notices of Intent</p>	
<p>Anyvon Tax Service, LLC Gresham, OR</p>	<p>Motion: Gutierrez moved that the Board issue a Notice of Intent to Impose Discipline and Right To Hearing to Anyvon Tax Service, LLC of Gresham, Oregon for:</p> <p>Ninety-three (93) violations of ORS 673.615(1), for preparing, advising, or assisting in the preparation of personal income tax returns for valuable consideration without being licensed or exempt from licensure at \$100 per violation;</p> <p>One (1) violation of ORS 673.643(1) and OAR 800-025-0020(1), for failing to register a tax preparation business at \$100; and</p> <p>Three (3) violations of ORS 673.700(7) and OAR 800-010-0050 for advertising in the form of printed, broadcast or electronic material that makes known professional tax services at \$50 per violation.</p> <p>Motion passed. Ayes: Miller, Lovato, Salisbury, Arora, Hudson, Gutierrez, and Addington.</p>
<p>Craig Childs Beaverton, OR</p>	<p>Motion: Gutierrez moved that the Board issue a Notice of Intent to Impose Discipline and Right To Hearing to Craig B. Childs owner of Craig B. Childs Tax Service of Beaverton, Oregon for:</p> <p>All violations of ORS 673.615(2) found, for preparing, advising, or assisting in the preparation of personal income tax returns in Oregon for another for valuable consideration without the supervision of a licensed tax consultant, or a person described in ORS 673.610(2) or (4) at \$500 per violation.</p> <p>Motion passed. Ayes: Arora, Addington, Hudson, Gutierrez, Lovato, Salisbury, and Miller.</p>
<p>JoAnne Leigh Troutdale, OR</p>	<p>Motion: Gutierrez moved that the Board issue a Notice of Intent to Impose Discipline and Right To Hearing to JoAnne Leigh of Troutdale, Oregon, pursuant to OAR 800-025-0050(4) for:</p> <p>All violations of ORS 673.615(2) found, for allowing a licensed tax preparer to</p>

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	<p>prepare, advise, or assist in the preparation of personal income tax returns in Oregon for another for valuable consideration without the proper supervision of a licensed tax consultant or a person described in ORS 673.610(2) or (4) at \$500 per violation;</p> <p>One (1) violation of ORS 673.615, 673.700(1) and OAR 800-025-0060(1) for failure to comply with Consultant in Residence requirements at \$2,500; and</p> <p>One (1) violation of ORS 673.615, 673.700(1) and OAR 800-025-0040(4) for failure to comply with Designated Consultant requirements at \$2,500.</p> <p>Motion passed. Ayes: Arora, Addington, Miller, Hudson, Lovato, Gutierrez, and Salisbury.</p>
<p>Jackson Hewitt Tax Service #2113 Newport, OR</p>	<p>Motion: Gutierrez moved that the Board issue a Notice of Intent to Impose Discipline and Right To Hearing to Gerald Breunig and Diane Rohrbach owners of SonDi & Associates, LLC dba Jackson Hewitt Tax Service #2113 of Newport, Oregon, pursuant to OAR 800-025-0040(2) for:</p> <p>Thirty-one (31) violations of ORS 673.615(2) and OAR 800-025-0050(2), for allowing a tax preparer who has not had at least 240 hours and one (1) year’s tax return preparation experience during the previous three (3) year period; prepare, advise or assist in the preparation of tax returns without the immediate, onsite supervision of more experienced personnel at \$1,000 per violation;</p> <p>Four (4) violations of ORS 673.643 and OAR 800-025-0060(1) for failure to comply with Consultant in Residence requirements at \$500 per violation; and</p> <p>One (1) violation of ORS 673.643 and OAR 800-025-0060(7), for failing to notify of changes to the status of its Resident Consultant(s) within 15 business days of the change at \$300.</p> <p>Motion passed. Ayes: Miller, Lovato, Addington, Salisbury, Arora, Gutierrez, and Hudson.</p>
<p>Mamie Carter Gresham, OR</p>	<p>Motion: Gutierrez moved that the Board issue a Notice of Intent to Impose Discipline and Right To Hearing to Mamie I. Carter, Designated Consultant for SonDi & Associates, LLC dba Jackson Hewitt Tax Service #2113 of Newport, Oregon, pursuant to OAR 800-025-0040(2) for:</p> <p>Thirty-one (31) violations of ORS 673.615(2) and OAR 800-025-0050(2), for allowing a tax preparer who has not had at least 240 hours and one (1) year’s tax return preparation experience during the previous three (3) year period; prepare, advise or assist in the preparation of tax returns without the immediate, onsite supervision of more experienced personnel at \$1,000 per violation;</p> <p>Four (4) violations of ORS 673.643 and OAR 800-025-0060(1) for failure to comply with Consultant in Residence requirements at \$500 per violation; and</p> <p>One (1) violation of ORS 673.643 and OAR 800-025-0060(7), for failing to notify of changes to the status of its Resident Consultant(s) within 15 business days of the change at \$300.</p>

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	<p>Motion passed. Ayes: Lovato, Hudson, Addington, Miller, Arora, Gutierrez, and Salisbury.</p>
<p>James Amos Salem, OR</p>	<p>Motion: Gutierrez moved that the Board issue a Notice of Intent to Impose Discipline and Right To Hearing to James Amos, Resident Consultant for SonDi & Associates, LLC dba Jackson Hewitt Tax Service #2113 of Newport, Oregon, pursuant to OAR 800-025-0040(2) for:</p> <p>Four (4) violations of ORS 673.643 and OAR 800-025-0060(1) for failure to comply with Consultant in Residence requirements at \$500 per violation.</p> <p>Motion passed. Ayes: Addington, Miller, Gutierrez, Salisbury, Hudson, Lovato, and Arora.</p>
<p>Marcela Nelson Happy Valley, OR</p>	<p>Motion: Gutierrez moved that the Board issue a Notice of Intent to Impose Discipline and Right To Hearing to Marcela L. Nelson of Happy Valley, Oregon for:</p> <p>One (1) violation of the Code of Professional Conduct - ORS 673.700(7) and OAR 800-010-0025(6) for failing to make available or return within a reasonable time to the client, personal papers or source material in the manner furnished to the licensee by the client at \$1,000; and</p> <p>Two (2) violations of ORS 673.705(7) and OAR 800-010-0042 for failing to respond in writing to communications from the Board within 15 business days of the date of the request at \$1,000 per violation.</p> <p>Motion passed. Ayes: Hudson, Salisbury, Lovato, Gutierrez, Miller, Arora, and Addington.</p>
<p>Minutes</p>	
<p>Approval of meeting minutes</p>	<p>Motion: Lovato made a motion to approve the May 9, 2013, Board meeting minutes as presented to the Board.</p> <p>Motion passed. Ayes: Salisbury, Gutierrez, Hudson, Arora, Lovato, Addington, and Miller.</p> <p>Board meeting minutes are located on the Tax Board Web site at: http://www.oregon.gov/OBTP/Meeting_Minutes.shtml</p>
<p>Administration Report</p>	
<p>Budget reported by Ron Wagner</p>	<p>The projected revenue for the biennium to date, July 1, 2011 through May 31, 2013 is \$1,052,000. The actual revenue to date \$1,044,821. Our actual revenue to date is \$7,179 less than the projected revenue to date. The projected expenses for the biennium to date, July 1, 2011 through May 31, 2013 are \$1,062,500. The actual expenses to date are \$1,037,429. Our actual expenses to date are \$25,071 less than the projected expenses. The Board's ending balance at 5/30/2013 is \$514,771.</p> <p>The biennium ended June 30, 2013. The actual revenues and expenditures for June 2013 have not yet been recorded. Wagner expects actual revenues for the biennium to be very close to our projected revenues, and actual expenses for the biennium to be</p>

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	<p>approximately \$20,000 - \$30,000 less than projected expenses.</p> <p>The Board's budget is now formal and approved. SB 5542 passed. The Governor signed it in June.</p> <p>The office remodel is almost complete, with the new cabinets scheduled to arrive in the next week.</p> <p>The online registration development is underway. The contract with NIC has been reviewed several times. They should begin with the exam applications.</p> <p>The Scantron contract has been reviewed and signed as well. Billings sent out reminders to the proctor sites to get their invoices in. Garvey has been working to get the bills wrapped up to close out the prior biennium.</p>
Public Comment	
	<p>There were no public comments.</p>
New Board Member	
<p>Introduced by Janis Salisbury</p>	<p>Salisbury introduced the Board's new public member to the public, Kinsey Miller. Miller is originally from Britain. She is working as a psychotherapist and is honored to be a part of the Board.</p>
Waiver Requests	
<p>Jiryis Alyateem Sheridan, OR</p>	<p>Motion: Hudson moved to deny consultant licensure to Jiryis Alyateem based on the Business Practices Committee's review of the circumstances surrounding his conduct regarding his licensure as a certified public accountant with the Oregon Board of Accountancy, as per ORS 673.700(9) and (10).</p> <p>Motion passed. Ayes: Addington, Gutierrez, Miller, Hudson, Arora, Salisbury, and Lovato.</p>
Exam and Education Report	
<p>Reported by Jane Billings</p>	<p>The pass rate statistics for the past 3 months are:</p> <p>April Preparers = 14% Consultants = 100% CSO = 33%</p> <p>May Preparers = 0% Consultants = 17% CSO = 100%</p> <p>June Preparers = 33% Consultants = 40% CSO = 100%</p>

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	<p>Bringing the percentage year to date at:</p> <p>Preparers = 50% Consultants = 38% CSO = 50%</p> <p>Proctor site inter-agency agreements and 80-Hour Basic Tax Course sponsor applications are continuing to come in.</p> <p>Preparation for the consultant CE audit has been made. The list of licensees were pulled back in March. Billings mailed out 201 consultant audit letters, thirteen of which are currently in lapsed status and will be monitored and audited if they reactivate their licenses.</p> <p>PSU is a contracted proctor site for the 2013-2014 exam period. Billings hopes this will compensate for the loss of PCC-SE. An advantage to having PSU is their accessibility to TriMet and the Max line; however parking will be a bit more difficult due to their downtown Portland location.</p> <p>Chemeketa Community College McMinnville campus is now on board as a proctor site for the 2013-2014 exam period. Billings visited their site on June 4th and was very impressed. Their campus will not only be available to individuals in McMinnville, but will make it possible for potential candidates from Newberg, Yamhill, Gaston, Carlton, Sherwood, and Sheridan.</p> <p>As suggested at the last Board meeting, Billings contacted Phoenix University and Warner Pacific College, while these sites declined the agencies offer to establish an interagency agreement to provide a regular proctor site, they did offer the possibility of allowing the Board to rent a classroom if available and allowing the Board to proctor an exam ourselves. This is certainly a possibility and something to consider.</p> <p>Billings believes that the Board Administered Exam to be held at CCC on Saturday December 7th will have a higher attendance rate than in the past couple years.</p>
<p>Lunch 12:06 p.m.</p>	
<p>Salisbury reconvened the meeting at 12:53 p.m.</p>	
<p>Licensing Report</p>	
<p>Statistics reported by Marika Garvey</p>	<p>Licensee numbers appear to be increasing because these statistics are just a snapshot of the comparison from last year. But compared with the year before, the numbers are similar and more consistent. This is because the workflow this year has been smoother without the blocks of waiting for licensees to receive a PTIN or get into compliance with the Department of Revenue.</p>

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Exam and Education Report (continued)

Reported by
Jane Billings

Preparer Item Writing Committee (P-IWC) Update

Twenty volunteers came to the Board office on June 12th and 13th to review and update all the preparer exam questions to 2012 tax law. They wrote approximately 20 new questions. A number were new volunteers, along with some experienced volunteers able to assist and make the process more understandable. She expressed her thanks for each one.

Consultant Test Takers Update

May 22nd and 23rd Barb Jenkins, the Board's Exam Consultant, came to the Board office to pull questions for four versions of the consultant exam. On June 20th four volunteers came to the Board office to each take a version of the exam. After the exam each met with Barb to discuss any concerns they had. Billings is in the process of compiling the new version of the consultant and CSO exams based on 2012 tax law and getting them ready for printing and release on August 1st.

On July 24th and 25th Barb will pull the questions for the five versions of the preparer exam. Billings has five test takers scheduled to come in on August 8th.

Board Work Session Update

The Board had an opportunity to review the P-IWC work product over the past two days - reviewing and updating the suggestions made. Thank you to our volunteers: Vona Pease, Mary Sue Walker, and Stephanie Cumpton, who were available to answer questions and share comments with the Board on both days. There were 14 new questions written during the Board work sessions, and 14 of the 20 written during the P-IWC were added to the preparer exam pool for a total of 28 new questions. The Board also reviewed the exam reference sheet one final time. No changes were made to the subject categories that would increase or decrease the percentage of questions in the various subject categories on the preparer exam.

As discussed at an earlier Board meeting, beginning September 1, 2013, when the new preparer exam is officially released, the allowable source documents for the open book exam will be reduced to include only the following publications:

FEDERAL:

- Pub. 17
- Pub. 850 – English-Foreign Language Glossary of Words and Phrases
- Federal Form 1040 Instructions (not forms booklets)

OREGON:

- Pub. 17-1/2 (Oregon)
- Oregon Income Tax Full-Year Resident Form 40 and Instructions – Schedules OR-ASC and WFC
- Oregon Income Tax Part-Year Resident/Nonresident Form 40N, Form 40P – Schedule WFC-N/P and Instructions
- Oregon Administrative Rules, Chapter 800: 800-010-0015 through 800-030-0050
- Oregon Revised Statutes, Chapter 673: 673.605 through 673.990

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	<p>Motion: Lovato moved that the Board accept the changes and additions made to the preparer exam pool of questions discussed at the Board’s work session held on July 9th and 10th.</p> <p>Motion passed. Ayes: Arora, Lovato, Miller, Salisbury, Addington, Gutierrez, and Hudson.</p>
	<p>Instructors Workshop Update/Discussion Billings would like to contact Jennifer Webster in the next couple weeks to firm up plans for the Instructors Workshop on Wednesday, August 14th at Clackamas Community College in Wilsonville. A draft outline was provided for the Board for review. Attempts have been made to contact instructors by e-mail, over the phone, and in person, but so far Billings has been unable to get anyone to commit to being on a panel. Billings believes the Board would like to continue with the tradition of devoting at least the final half hour for Board question and answers. Jennifer is willing to be flexible in her presentation, if there are specific topics to include. Billings requested a confirmation from Board members that will be present and available for the panel discussion. Salisbury noticed that Webster’s timeline and what the brochure indicated was different, but the Board members agreed that the subject matter was acceptable.</p> <p>CE Review Hera’s Income Tax School (Hudson reviewed) Sponsor is approved through CTEC, but two courses based specifically on Oregon need Board’s approval, since CTEC will not approve them.</p> <p>Motion: Hudson moved that the Board approve the continuing education request from Hera’s Income Tax School for the course <i>Oregon Filing Basics</i> for four (4) hours as reviewed and recommended by Board member Dorothy Hudson.</p> <p>Motion passed. Ayes: Lovato, Hudson, Gutierrez, Salisbury, Miller, Arora, and Addington.</p> <p>Motion: Hudson moved that the Board approve the continuing education request from Hera’s Income Tax School for the course <i>Filing an Oregon Tax Return</i> for four (4) hours as reviewed and recommended by Board member Dorothy Hudson.</p> <p>Motion passed. Ayes: Gutierrez, Arora, Miller, Addington, Hudson, and Salisbury. Nays: Lovato.</p> <p>Salisbury brought up the discussion about 80-hour basic course sponsors from out of state. She is interested in the precedent set. When the sponsor does not have an Oregon presence they do not have to go through the Department of Education. They do still have to apply, cover all the material, and send a course outline and any text or materials provided to students. Vocational school is not an accredited university. A basic course sponsor can be a private firm, but the instructors need to be licensed, CPA, or approved by a waiver. A private firm in Oregon would have to follow Department of Education guidelines.</p>
<p>Board Meeting Break 1:36 p.m. – 1:42 p.m.</p>	

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Executive Recruitment	
<p>Twyla Lawson State of Oregon HR</p>	<p>Lawson facilitates executive appointments for boards and commissions. There were 13 applicants, and 11 met the minimum qualifications. A selection panel of three Board members reviewed the applications and selected six individuals to interview. Two of them moved forward after reference checks, and last week one of the two was appointed to lead another agency. The final candidate was interviewed with staff, and Lawson asked the Board, if based on the interviews, they cared to move forward or where they would like to go from here.</p> <p>Motion: Hudson moved that the Board take public testimony about the possible appointment of Bill McMillen as the Board’s next executive director.</p> <p>Motion passed. Ayes: Arora, Addington, Miller, Hudson, Gutierrez, Salisbury, and Lovato.</p> <p>There were no public comments or discussion.</p> <p>Motion: Hudson moved that the Board offer the position of executive director to Bill McMillen and authorize the Chair to work with DAS in all negotiations associated with this offer.</p> <p>Motion passed. Ayes: Miller, Salisbury, Arora, Gutierrez, Hudson, Lovato, and Addington.</p> <p>When a start date is known there will be a communication about the transition.</p>
Public Comment	
	<p>There were no public comments.</p>
Other Business	
<p>Enrolled Agent Rule Change</p>	<p>Enrolled agents (EAs) who have not previously been licensed as a preparer in Oregon and wish to take the consultant-state-only (CSO) portion of the consultant exam, are now required to have 360 hours of experience before they can become a licensed tax consultant. The legislation did not pass, but the rule does not have a conflict with the statutes. Wagner asked for a discussion about suggestions or alternatives. He shared a letter from licensee Linders, President of OrSEA.</p> <p>EAs can use work experience outside of Oregon. Addington gave an example of someone he knew who was an accountant from the Ukraine and had never prepared a return in the United States, but wanted to jump right in and take the EA exam. If she passed, she would fit in that category and could get the license with no experience. This is a concern because the license authorizes opening a business, supervising, and training preparers.</p> <p>Lovato suggested a temporary preparer permit to attempt to obtain hours allowing EAs to qualify for the exam, but the Board does not have any authority to issue a license to someone who has not passed the exam first. Concern was expressed that it just opens the door for more exceptions. It is such a rare situation.</p>

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Contacting Board Members	Addington brought up the topic of protocol regarding Board members contacting each other about controversial issues. He feels that the whole Board should be copied by e-mail on such communications.
Outreach Meeting	
September 26, 2013 Wilsonville, OR	Addington suggested considering inviting the public as one way to build public awareness. He felt that it wouldn't be much more of an additional expense other than notification. Hudson felt that there needed to be a purpose for the public to be there. The Board members discussed what to cover during the Licensee Luncheon hour of continuing education. Salisbury noted that rules might be highlighted, supervision, reduction of fees, and a refresher on statutes. Hudson and Walker will cover the DC/RC and supervision issue for a half hour. Salisbury will cover compliance.
Board Roster	Add Miller to the Administration Committee, and Arora to Business Practices Committee. Contact Salisbury by e-mail first.
Adjournment	Salisbury adjourned the Board meeting at 2:17 p.m.

Next meeting:

September 26, 2013

Holiday Inn, Wilsonville, Oregon