



Oregon Board of Tax Practitioners

Public Board Meeting Minutes

May 8, 2014

Mission: The Board of Tax Practitioners protects consumers by ensuring that Oregon tax professionals are competent and ethical in their professional activities.

Board Members:

Janis Salisbury, LTC, Chair
Joe Lovato, LTC, Vice-Chair
Michael Addington, LTC
Nutan Arora, LTC
Dorothy Hudson, LTC
Kinsey Miller, Public Member

Excused:

Susan Gallagher-Smith, LTC

Board Staff:

Bill McMillen, Executive Director
Kelly Gabliks, Assistant Attorney General
Monica J. Walker, Senior Compliance Specialist, 9:20 am
Jane Billings, Exam & Education Coordinator
Heather Shepherd, Licensing Specialist

Guests:

Mamie Carter, LTC, JacksonHewitt
Beverley Diercks, LTC, OATC
Dale Marino, LTC, ORSEA
Merry VanAtta, LTC, OAIA
Krista McDowell, Legislative Fiscal Office
Marisa Barto, LTP

1. CALL TO ORDER

Chair Salisbury called the public session to order at 9:07 a.m. Roll call was completed.

2. Amendments to proposed agenda

Chair Salisbury reported to the Board regarding her testimony at the Senate Finance Committee in Washington, DC on April 8, 2014.

The Board members thanked Chair Salisbury for being able to travel to Washington, DC and represent the Oregon Board of Tax Practitioners.

3. Administration Report

a. Budget Update

Mr. McMillen provided the Board members with the current budget and financial update. Mr. McMillen has worked with DAS regarding the cash flow and cycles of the Board. At this time, it appears that the Board is in-line with the projected budget for the biennium. Board staff are making a conscious effort to be conservative.

b. Office Update

Mr. McMillen reported that the job rotation between The Oregon Board of Accountancy (BOA) and The Oregon Board of Tax Practitioners (OBTP) ended on April 30. On May 1, Ms. Garvey became a permanent employee of BOA and Ms. Shepherd became a permanent employee of OBTP.

Mr. McMillen reported on the progress that has been made on researching a replacement database. The current database is a small but complicated database with many tables with the same type of information that is retrieved or displayed in various manners which does not allow for a complete data export. Once the database is updated, staff members should be able to export data and create various reports. Mr. McMillen looked at another small agency and the database application that they use. Their database application appeared user friendly and would accommodate the requests of staff members. At this time, it appears that Mr. McMillen may have to go to the E-Board to request the funds from the OBTP reserves. Mr. McMillen will continue to update the Board on the progress of this project.

The state has been conducting a managerial reclassification. The goal is to convert the managerial positions to match market compensation. This statewide reclassification could bring changes to middle management staff.

c. Possible Rule Modifications

Board members were provided with a possible list of rule revisions from staff. Mr. McMillen asked the members to review the information and be prepared for discussion at the July 2014 Board meeting.

4. Licensing Report

Ms. Shepherd provided the licensee statistics for February, March and April 2014. Ms. Shepherd reported that she had worked with the database contractor to build a report that would include the newly issued licensees. When Ms. Shepherd ran the report, the report included the consultant licensees who had recently renewed.

5. Executive Session

Chair Salisbury closed the public session at 9:39 a.m. to convene in Executive Session pursuant to ORS 192.660(2)(f). The Executive Session is closed to members of the public.

Chair Salisbury called the public session meeting back to order after conclusion of the Executive Session at 12:43 p.m.

6. Public Session**a. Approval of Board Minutes January 9, 2014**

BOARD ACTION: Minutes are approved as printed.

VOTE: 6 ayes; 1 excused (Gallagher-Smith)

Mr. Lovato and Mr. Addington announced that they will not be in attendance at the July 2014 Board Work Session or Meeting.

7. Compliance Report

a. Status Update

Ms. Walker provided the general compliance statistics for the 2014 current year to date statistics. The Board has received 94 total complaints. Of those cases, the Board has:

36 Open investigations
7 Pending Investigations
5 Mediated
46 Closed

2 complaints have resulted in Board action and 7 complaints where the licensee was educated into compliance.

b. Disciplinary Cases Votes(s)

Advertising Violations

Various location

BOARD ACTION: Moved by Ms. Hudson and carried that the Board issue a Notice of Intent to all individual who were found to be in violation of ORS 673.700(7) and OAR 800-010-0050 for failing to include his or her license number or the business registration number on an advertisement at \$ 50 per violation.

The following is the potential list of individuals who will receive a Notice of Intent for a violation of ORS 673.700(7) and OAR 800-010-0050:

Rosa Maria Ayala	Robert McAllister	Huong T. Nguyen
Diana M. Cina	Laura E. Waggoner	Danny Yeh
Leslee Armstrong, LTC, EA	Judy L. Smelcer	Paulina Q. Le
Jack Pound	Katherine R. Clark	De D. Nguyen
Gary L. Plagmann	Howard E. McGee Jr.	Patricia S. Fellows
Rex A. Peterson	Vickie L. Baker	

VOTE: 6 ayes; 1 excused (Gallagher-Smith)

Horalia Anaya-Cruz

Woodburn, Oregon

BOARD ACTION: Moved by Ms. Hudson and carried that the Board issue a Notice of Intent to Revoke the Prepared License of Horalia Anaya-Cruz (License #31533-P) for violating the provisions of Oregon Revised Statute 673.655 and Oregon Administrative Rule 800-015-0015 as well as include in the Notice, an Intent to Discipline and Right to Hearing for:

One (1) violation of ORS 673.655 and OAR 800-015-0015 for failing to comply with continuing education requirements at \$300;

One (1) violation of ORS 673.705(1) for obtaining her tax preparer license by fraudulent means when she attested to having completed at least 30 hours of continuing education and failed to provide proof of completion at \$500; and

One (1) violation of ORS 673.705(7) and OAR 800-010-0042 for failing to respond to the Board's notifications of audit at \$100.

VOTE: 6 ayes; 1 excused (Gallagher-Smith)

Jeffrey A Caton

Happy Valley, Oregon

BOARD ACTION: Moved by Ms. Hudson and carried that the reconsider the revocation of the Consultant License of Jeffrey A. Caton (License #5260-C) for violating the provisions of Oregon Revised Statute 673.655 and Oregon Administrative Rule 800-015-0015 and allows licensure with the stipulation that Mr. Caton submits an additional 18 hours of continuing education needed for the 2014-2015 renewal of his consultant license no later than 5:00 p.m. May 31, 2014.

VOTE: 1 aye (Addington); 5 naves (Salisbury, Hudson, Lovato, Miller, Arora); 1 excused (Gallagher-Smith)

Motion Failed

New Edge Tax Service, Inc

dba Jackson Hewitt Tax Service #2477

Owner: Uwenedimoh "Wayne" E. Ntekpere

Vancouver, Washington

BOARD ACTION: Moved by Ms. Hudson and carried that the Board issue a Notice of Intent to Impose Discipline and Right to Hearing to New Edge Tax Service, Inc. dba Jackson Hewitt Tax Service #2477 / Owner: Uwenedimoh "Wayne" E. Ntekpere of Vancouver, Washington for:

One (1) violation of ORS 673.643 & OAR 800-025-0023(1), for failing to report the termination of his business within 15 business days of the termination at \$50; and

Five (5) violations of ORS 673.643 & OAR 800-025-0030(5)(c), for failing to report the closing of a branch office within 15 business days of the closure at \$50 per violation.

VOTE: 6 ayes; 1 excused (Gallagher-Smith)

Anyvon Tax Service, LLC

Gresham, Oregon

BOARD ACTION: Moved by Ms. Hudson and carried that the Board enter into a Settlement Agreement and Stipulated Final Order with Anyvon Tax Service, LLC of Gresham, Oregon to assess civil penalties in the amount of \$2,000, pursuant to 673.700(1)(7) and 673.735(1) for:

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;

One (1) violation of ORS 673.643(1) and OAR 800-025-0020(1), for failing to register a tax preparation business; and

Three (3) violation(s) of ORS 673.700(7) & OAR 800-010-0050 for advertising in the form of printed, broadcast or electronic material that makes known professional tax services.

VOTE: 6 ayes; 1 excused (Gallagher-Smith)

JoAnne Leigh

Troutdale, Oregon

BOARD ACTION: Moved by Ms. Hudson and carried that the Board enter into a Settlement Agreement and Stipulated Final Order with JoAnne Leigh of Troutdale, Oregon to assess civil penalties in the amount of \$5,500, pursuant to 673.700(1)(7) and 673.735(1) for:

Five-Hundred Fifty Eight (558) violations of ORS 673.615(2), for allowing a licensed tax preparer to 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);

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; and

One (1) violation of ORS 673.615, 673.700(1) and OAR 800-025-0040(4) for failure to comply with Designated Consultant requirements.

VOTE: 6 ayes; 1 excused (Gallagher-Smith)

Diana Kay Cotter

Spray, Oregon

BOARD ACTION: Moved by Ms. Hudson and carried that the Board enter into a Settlement Agreement and Stipulated Final Order with Diana Kay Cotter of Spray, Oregon to assess civil penalties in the amount of \$1,250, pursuant to 673.700(1)(7) and 673.735(1) for:

Eighteen (18) 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; and

Four (4) violations of ORS 673.643(1) and OAR 800-025-0020(1), for failing to register a tax preparation business.

VOTE: 6 ayes; 1 excused (Gallagher-Smith)

Jackson Hewitt Tax Service #2113

Newport, Oregon

BOARD ACTION: Moved by Ms. Hudson and carried that the Board enter into a Settlement Agreement and Stipulated Final Order with Gerald Breunig and Diane Rohrbach owners of SonDi & Associates, LLC dba Jackson Hewitt Tax Service #2113 of Newport, Oregon to assess civil penalties in the amount of \$4,162.50, pursuant to 673.700(1)(7) and 673.735(1) for:

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;

Four (4) violations of ORS 673.643 and OAR 800-025-0060(1) for failure to comply with Consultant in Residence requirements; and

One (1) violation of ORS 673.643 & 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.

VOTE: 6 ayes; 1 excused (Gallagher-Smith)

Mamie I. Carter

Gresham, Oregon

BOARD ACTION: Moved by Ms. Hudson and carried that the Board enter into a Settlement Agreement and Stipulated Final Order with Mamie I. Carter Designated Consultant for SonDi & Associates, LLC dba Jackson Hewitt Tax Service #2113 of Newport, Oregon to assess civil penalties in the amount of \$4,162.50, pursuant to 673.700(1)(7) and 673.735(1) for:

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;

Four (4) violations of ORS 673.643 and OAR 800-025-0060(1) for failure to comply with Consultant in Residence requirements; and

One (1) violation of ORS 673.643 & 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.

VOTE: 6 ayes; 1 excused (Gallagher-Smith)

James R. Amos
Salem, Oregon

BOARD ACTION: Moved by Ms. Hudson and carried that the Board enter into a Settlement Agreement and Stipulated Final Order with James R. Amos Resident Consultant for SonDi & Associates, LLC dba Jackson Hewitt Tax Service #2113 of Newport, Oregon to assess civil penalties in the amount of \$250, pursuant to 673.700(1)(7) and 673.735(1) for:

Four (4) violations of ORS 673.643 and OAR 800-025-0060(1) for failure to comply with Consultant in Residence requirements.

VOTE: 6 ayes; 1 excused (Gallagher-Smith)

Jay Jones
Woodburn, Oregon

BOARD ACTION: Moved by Ms. Hudson and carried that the Board enter into a Settlement Agreement and Stipulated Final Order with Jay Jones of Woodburn, Oregon to assess civil penalties in the amount of \$5,000, pursuant to 673.700(1)(7) and 673.735(1) for:

Thirty-seven (37) 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; and

Three (3) violation(s) of ORS 673.643(1) and OAR 800-025-0020(1), for failing to register a tax preparation business.

VOTE: 6 ayes; 1 excused (Gallagher-Smith)

Dana M. Kilthau

Prineville, Oregon

BOARD ACTION: Moved by Ms. Hudson and carried that the Board enter into a Settlement Agreement and Stipulated Final Order with Dana M. Kilthau owner of M & J Specialty Services of Prineville, Oregon to assess civil penalties in the amount of \$3,300, pursuant to 673.700(1)(7) and 673.735(1) for:

Twenty-six (26) 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;

Four (4) violations of ORS 673.643(1) and OAR 800-025-0020(1), for failing to register a tax preparation business; and

Three (3) violations of ORS 673.700(7) & OAR 800-010-0050, for advertising in the form of printed, broadcast or electronic material that makes known professional tax services.

VOTE: 6 ayes; 1 excused (Gallagher-Smith)

AmaLee Chambers

Lincoln City, Oregon

BOARD ACTION: Moved by Ms. Hudson and carried that the Board enter into a Settlement Agreement and Stipulated Final Order with AmaLee Chambers member of Q-Tax and Bookkeeping Service, Inc. of Lincoln City, Oregon to assess civil penalties in the amount of \$2,000, pursuant to 673.700(1)(7) and 673.735(1) for:

Eighteen (18) 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; and

One (1) violation of ORS 673.700(7) & OAR 800-010-0050, for advertising in the form of printed, broadcast or electronic material that makes known professional tax services.

VOTE: 6 ayes; 1 excused (Gallagher-Smith)

Marisela Rodelo

Boardman, Oregon

BOARD ACTION: Moved by Ms. Hudson and carried that the Board enter into a Settlement Agreement and Stipulated Final Order with Marisela Rodelo of Boardman, Oregon to assess civil penalties in the amount of \$3,600, pursuant to 673.700(1)(7) and 673.735(1) for:

Thirty-Five (35) 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; and

One (1) violation of ORS 673.643(1) and OAR 800-025-0020(1), for failing to register a tax preparation business

VOTE: 6 ayes; 1 excused (Gallagher-Smith)

Steven Wacker
Clackamas, Oregon

BOARD ACTION: Moved by Ms. Hudson and carried that the Board enter into a Settlement Agreement and Stipulated Final Order with Steven Wacker of Clackamas, Oregon to assess civil penalties in the amount of \$5,000, pursuant to 673.700(1)(7) and 673.735(1) for:

Twenty-two (22) violation(s) 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; and

Two (2) violation(s) of ORS 673.643(1) and OAR 800-025-0020(1), for failing to register a tax preparation business.

VOTE: 6 ayes; 1 excused (Gallagher-Smith)

Authorization to Sign Notices of Intent

BOARD ACTION: Moved by Ms. Hudson and carried that the Board delegate authority to the Executive Director to sign Notices of Intent regarding a licensee's failure to comply with advertising requirements per OAR 800-010-0050 (6) & (7). The Executive Director's authority to handle administratively and issue a Notice of Intent is limited to only those matters where the Board has received written evidence to conclude that the licensee has failed to list the appropriate license and/or registration number on an advertisement.

VOTE: 6 ayes; 1 excused (Gallagher-Smith)

Establishment of Set Amounts for Advertising Violations:

BOARD ACTION: Moved by Ms. Hudson and carried that the Board establish the following set amounts for violations of OAR 800-010-0050(6) & (7), failing to list the appropriate license and/or registration number on an advertisement(s):

1st offense = \$50

2nd offense = Board review

VOTE: 6 ayes; 1 excused (Gallagher-Smith)

8. Public Comment

None

9. Exam and Education Report

a. Examination Update, including Instructor Pass Rates

The 2014 year to date examination reports were presented to the members by month. Also shared with the Board were the pass rates from March 1, 2013 to Feb 28, 2014 including Instructor Pass Rates for this period.

Ms. Billings notified the Board members that when the instructor pass rate information was prepared and mailed, some instructors contacted the Board regarding the information received regarding his or her students. Based on the information and research conducted, it appears that the database did not retain the information recorded for instructors. Ms. Billings is unsure how this could have occurred based on the requirements during the database entry.

Board staff has discussed developing a survey that would be sent to individuals who complete an 80-hour basic course. The survey would have general questions regarding the instructor and course content. The survey would also allow an individual to include a text statement to the Board.

The proctor site agreements have been mailed to all current sites. The information mailed also requested all expired exams as well as any outstanding invoices.

The Continuing Education (CE) sponsor packets have been mailed to the current sponsors who are not part of CTEC, IRS or NASBA.

b. CE Update Discussion, including the CE Audit Update

Ms. Billings provided the Board with a variety of complications that she continues to come against when completing the CE Audit. Ms. Hudson questioned if it is necessary for Board staff to continue to attempt to contact a licensee rather than sending notice of any issues and require the licensee to clear the deficit. If the licensee cannot clear the deficit or ignore the Board letters, the information should be given to the Senior Compliance Specialist for possible disciplinary action.

c. Department of Education Report

The State of Oregon has created Higher Education Coordinating Commission (HECC). This new Commission is responsible for regulating, which includes licensure, of private career and trade schools in Oregon. Institutions that offer the 80-hour basic tax preparer course will be regulated by this agency.

d. C-IWC Update

Ms. Billings reported that the Consultant Item-Writing Committee volunteers met on April 24 & 25, 2014 to review and update existing exam questions to 2013 tax law and to write new questions for the Consultant Exam.

e. Board Work Session Update

Ms. Billings reported that on May 6 & 7, 2014 the Board held a work session reviewing the work product of the Consultant Item-Writing Committee. Volunteers from the committee present to assist the Board with any questions were Patricia King, LTC, Joanne Vetter, LTC and Donna Ragan, LTC. The Board approved 29 of the new questions written by volunteers of the C-IWC along with writing 22 new additional question. Review and updates were made to the exams reference sheet. The Board also added the following source documents to the list of Consultant Study Guides:

IRS Publ. 54 Tax Guide for US Citizens and Resident Aliens Abroad, IRS Publ. 523 and IRS Form 6251 Instructions

It was also reported that Barbara Jenkins, LTC and Board Exam Consultant will be in the office on May 26 & 27, 2014 to pull questions for assembling of the 2014 Consultant Exams.

On June 4 & 5, 2014, the Preparer Item Writing Committee will be in the office to review and update existing questions and write new questions for the Preparer Exam.

Four Volunteer Consultant test-takers will come to the office on June 13th to take a version of the consultant exam.

11. Waiver Requests

Melodi R. Molt was granted a waiver for a Resident Consultant for Melodi R. Molt of Burns, Oregon. The temporary approval was issued on February 11, 2014 and expired on April 15, 2014.

BOARD ACTION: Moved by Ms. Hudson and carried to ratify the acceptance of the Resident Consultant waiver request for Melodi R. Molt of Burns, Oregon through April 15, 2014, per the Business Practice Committee's temporary approval issued on February 11, 2014.

VOTE: 6 ayes; 1 excused (Gallagher-Smith)

12. Public Comment

Mr. Dale Marino requested time to speak about volunteer tax preparers. Mr. Marino thanked the Board for the volunteer work but continues to raise concern regarding the

qualifications of volunteers assisting programs such as CASH-OR and AARP who are technically practicing without a license. Mr. Marino encourages the Board to pursue the requirement that volunteers in these different organization be required to be licensed as tax practitioners. The errors made on tax returns is causing harm to members of the public in Oregon.

Mr. Addington commented that a recent report from the GAO's office indicates that approximately 50% of tax returns completed by unlicensed volunteers have an error.

13. Other

Chair Elections

Chair

Mr. Addington nominated Ms. Hudson as the next Chair for the Board. Ms. Hudson nominated Mr. Lovato.

Ms. Hudson declined the nomination as Board Chair.

BOARD ACTION: Moved by Ms. Hudson and carried to elect Mr. Joe Lovato as Board Chair.

VOTE: 6 ayes; 1 excused (Gallagher-Smith)

Vice-Chair

Mr. Lovato nominated Ms. Arora as the Board Vice-Chair.

BOARD ACTION: Moved by Mr. Lovato and carried to elect Ms. Nutan Arora as Board Vice-Chair.

VOTE: 6 ayes; 1 excused (Gallagher-Smith)

Tax Board Bulletin Newsletter

This is a reminder that the next newsletter is scheduled for July 2014. Ms. Salisbury will prepare an article regarding her experience testifying before the Senate Finance Committee in Washington, DC. Mr. McMillen will send a list of article ideas to the Board members.

Outreach Meeting Discussion – Dates & Location

Mr. McMillen has been in contact with Department of Revenue (DOR) and IRS on partnering for the September outreach meeting. The Board members are interested in

traveling to the southern region of the state. Mr. McMillen with work with DOR and IRS for meeting locations in the region.

14. Adjournment

The meeting adjourned at 3:11 p.m. The next meeting is scheduled July 10, 2014 at the board office in Salem, Oregon.