



## Oregon Board of Accountancy

3218 Pringle Rd. SE #110 Salem, OR 97302

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

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### BOARD MEETING PUBLIC SESSION MINUTES

February 5, 2016

Board of Accountancy Office, 2<sup>nd</sup> Floor Conference Room  
Salem, Oregon 97302

#### Present:

Scott Wright, CPA, Chair  
John Lauseng, CPA, Vice-Chair  
Lynn Kingston, CPA  
Larry Brown, CPA  
Roger Graham, Public Member  
Al Crackenberg, PA

#### Staff:

Martin Pittioni, Executive Director  
Susan Bischoff, AAG  
Anthony Truong, CPA, Investigator  
Theresa Gahagan, CPA, Investigator  
Kimberly Fast, Licensing Manager  
Joel Parks, Compliance Specialist

#### Guests:

Sherrri McPherson, OSCPA  
Jay Richardson, OSCPA  
Ron Johanesen, CPA, OAIA (out at 11:51 a.m.)

#### Excused:

Candace Fronk, CPA, Treasurer

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#### 1. CALL TO ORDER/ANNOUNCE RECORDING OF MEETING/REVIEW AGENDA

The Board convened in Public Session at 8:30 a.m. Mr. Brown announced the meeting was being recorded.

#### 2. APPROVAL OF BOARD MINUTES

##### A. December 7, 2015 Public Board Minutes

**BOARD ACTION:** Moved by Mr. Lauseng and carried to approve the minutes as written.

**VOTE:** 6 ayes (1 excused, Fronk)

#### 4. PUBLIC COMMENT

There was no public comment.

#### 5. REPORT OF THE OSCPA

Mr. Richardson reported that the OSCPA along with the American Institute of Certified Public Accountants (AICPA) and the Chartered Institute of Management Accountants (CIMA) are engaging in discussion to bring the professions together. The OSCPA Board has adopted a resolution to adopt the venture. There are approximately 20 state societies that have yet to approve. The merger will allow

both the CIMA and AICPA to take advantage of each other's strengths which they hope will create a new global management accounting designation.

The OSCP will soon be changing directors and therefore Amy Dale will be appointed to serve as the Board liaison at the next meeting. The Circle of Excellence Awards banquet is scheduled for May 4 in Wilsonville.

#### **6. REPORT OF THE OAIA**

Mr. Johanesen reported that the OAIA continues to have successful CPE courses, including IRS and state and local updates.

#### **7. REPORT OF CHAIR**

Mr. Wright advised members that Mr. Graham and Mr. Crackenberg's second Board terms will expire at the end of May 2016. The Governor's office has determined that Board members may only serve two terms. The two positions expiring are the most difficult to fill and Board members are encouraged to think of any possible candidates who may be interested.

Mr. Brown, former Board Chair reported that the evaluation of Mr. Pittioni has now been completed with delays driven by DAS Human Resources staff. Mr. Brown has suggestions on how this process can be better handled in the future.

Mr. Wright noted that the agendas and minutes will now include the Board's mission statement and will also reference the statute pertaining to public interest, ORS 673.015.

#### **8. REPORT OF VICE CHAIR**

Mr. Lauseng reported that he was grateful for the lively discussion at the last Board meeting regarding inactive and retired licensee statuses. Mr. Lauseng, Mr. Pittioni, Ms. Bischoff and Ms. Fast met and worked through various scenarios and are currently working on a frequently asked questions document for the Laws and Rules committee and Board review.

#### **9. REPORT OF TREASURER**

Ms. Fronk was unable to attend this meeting due to an unexpected medical issue and therefore Mr. Lauseng, former Board Treasurer provided the report to the Board. He noted that some of the projections are higher than the Legislatively Adopted Budget due to the fee increase by rule. Those rule changes still need to be formally adopted by the Legislature. Mr. Pittioni advised the members that the Board's fee increases are included in a larger bill that includes many agencies.

The Board's personnel services were under budget, including with projected salary adjustments, but the state-wide increases in spending authority adjustments are pending legislative approval and thus have not yet been reflected in the numbers provided by Department of Administrative Services. Mr. Brown asked about the flat fee agreement the Board currently holds with the Department of Justice and how the fees paid correlate with the services provided. The Board would like a comparison of the amount billed vs the amount of services used at the next meeting.

## **10. REPORT OF EXECUTIVE DIRECTOR**

Mr. Pittioni reported that in reference to the upcoming term expirations of Mr. Crackenberg and Mr. Graham that he received information from the Governor's office that the new administration will continue the previous administration's policy of a two-year term limit. The Governor's office also stated that Mr. Stuart Morris had submitted an application for the public accountant opening on the Board. The two vacancies on the Board due to expiration of second terms will not occur until May 31, however, ideally the replacements will be nominated by the time the Board meets in May and could thus attend in May as observers, and could become official Board members after that time, pending legislative confirmation scheduled to occur later in May.

Mr. Lauseng asked how public members have been identified in the past, noting that it will be hard to find a public member that has no vested interest in the profession. The Board has had attorneys, bankers and insurance agents serve as public members in the past.

The collaboration between the Board of Tax Practitioners, Department of Revenue (DOR) and the Board have continued. The Board and DOR are working on a pilot program to exchange a list of licensees who hold a retired, inactive, revoked, lapsed or suspended license for comparison against the DOR data to help ensure only properly licensed practitioners file tax returns with DOR. This collaboration is possible due to improved coordination between the Boards and DOR, and the improved IT capabilities that have come in line at DOR.

Mr. Pittioni stated that the staff is continuing to work on providing more online services to licensees.

## **11. NEW BUSINESS**

### **A. NASBA Nomination for Vice Chair**

NASBA has opened up nominations for the Vice Chair position. Raymond Johnson, former Board Chair has requested the Oregon Board support a nomination for him for this position. The Board will submit a nomination to NASBA on behalf of Mr. Johnson.

### **B. Comments on UAA Exposure Draft for Retired Status**

Mr. Pittioni obtained approval from AICPA/NASBA to submit exposure draft comments by February 8, 2016 notwithstanding the published comment deadline of February 2, 2016. After discussions with the Board Chair and Mr. Lauseng, Chair of the Laws and Rules Committee, Mr. Pittioni has drafted comments to be submitted to NASBA for Board review.

Specifically the letter states that the approach taken by the UAA committee to exclude any compensated activity for retired CPAs seems to be a contrast to the noted service such individuals can provide to their communities. He noted that the Oregon Board is considering excluding activity that is subject to a professional standard rather than on a compensatory basis.

The Board agreed to send the drafted response to NASBA. Mr. Brown expressed concern about the continuing uncertainty of where the Board will come out on clarifications of what work retired status licensees are or are not permitted to do.

### **C. Requests for Potential Placeholders for 2017 Legislative Concepts**

Mr. Pittioni explained the process for agencies to have a legislative concept presented to the legislature. A placeholder describes the idea of what the Board would like to achieve, but states that specific language is still being developed.

One possible placeholder is to allow in statute the ability to allow an additional public member to serve on the Board if a Public Accountant cannot be found. This potential concept stems from the dwindling number of actively licensed Public Accountants in Oregon, and the restriction of one Board position to that license type. There was no consensus by Board members on the substance, expect that it may better serve the Board to look at the appointment statutes as whole, and that it was not necessary to address this issue already in the 2017 legislative session. Mr. Pittioni indicated that based on that discussion he would not move forward with submitting placeholder request

Another possible placeholder to consider is whether or not the Board wishes to pursue semi-independence. Staff has contracted with Nancy Young, CPA and former Secretary of State Audits Division auditor to review the Board's current internal controls and make recommendations for improvements. After completion of that work, Ms. Young will also be able to provide additional recommendations on risk management of internal controls should the Board become semi-independent in the future. The Board has discussed this topic at previous Board meetings outlining the various layers of information that it would need to assess the business case for such a change in status, the consequences for risk management, and the political feasibility.

The Board would need to provide authority to Mr. Pittioni to reach out to the Executive Branch asking for a placeholder on this topic, in order to keep the option for the Board alive to formally request a legislative concept after its May 2016 Board meeting. Mr. Pittioni has been transparent with DAS that this conversation is taking place Mr. Wright was in favor of moving forward with a placeholder, however, Mr. Graham stated and Mr. Crackenberg agreed, that the concept appears to be self-serving and may not be in the best interest to the public. Ms. Kingston indicated she did not have a strong opinion one way or the other at this time due to the fact that she was not a Board member when the Board had their previous discussions. Mr. Brown asked Mr. Pittioni if there is political risk involved in just asking for the placeholder. Mr. Pittioni advised he did not believe that to be the case. The Board authorized Mr. Pittioni to move forward with submitting a placeholder request.

Mr. Pittioni advised the Board that Board statutes currently do not authorize the sharing of information in any pending complaint investigation information with other regulatory agencies, including the Internal Revenue Service (IRS) and/or law enforcement. The only way the Board can allow records on a current investigation case to be shared with such regulatory or law enforcement entities is for the requesting agency to issue a subpoena for records to the Board. Mr. Pittioni drafted a concept to allow collegial information sharing with regulatory agencies and law enforcement during the pendency of an investigation, notwithstanding the language legislatively inserted into ORS 673.170 in May 2011 that prohibits the Board to release records during the pendency of an investigation. The language provided in the early draft is narrowly written as a separate statutory section proposal and thus avoids opening up any existing Board of Accountancy statutes.

Mr. Crackenberg responded that he did not feel that having a regulatory agency have to go through the subpoena process as being a problem. Ms. Bischoff advised that even if the Board receives a subpoena for records, this would not provide access to all the discussion regarding the case. Mr. Wright reminded the group that the statute was put in place to protect a licensee from having a frivolous complaint become public information.

Ms. Bischoff stated that the Board currently has a case where information has been requested by a Federal Grand Jury. When she and Mr. Pittioni met with representatives from that agency there was very little that could be shared with regards to our interactions with the licensee due to the current statute.

After further discussion by the Board, Mr. Pittioni was not authorized to submit a legislative concept on this issue, but was authorized to submit a placeholder request for a legislative concept, which will allow the Board to make a final decision at its May 2016 meeting on submission of a concept. Mr. Crackenberg was opposed.

## **12. OLD BUSINESS**

### **A. Request for Direction on Penalties in Notice: Holdner, Backstrom, Baum & Co #14-041, 14-042 and 14-043**

Mr. Pittioni and Ms. Kitterman met with Mr. Holder and Ms. Baum regarding a proposed settlement agreement in December 2015. This discussion occurred significantly after the Board provided direction on settlement, because one of the respondents had some health issues and negotiations were put on hold until her health improved. At the meeting in December the settlement was presented in line with the terms as directed by the Board, which in the Board's view were very moderate and lenient. Respondent's expressed appreciation towards staff for the extension of time to discuss settlement, at the same time Respondent Holdner was firm in his insistence that he had done nothing wrong. Respondents requested additional time in December to respond to the settlement offer of the Board.

The response ultimately received in January 2016 was very aggressive in tone. Mr. Brown reminded Board members that not all partners agree and the settlement should be separated between the respondents; one for Holdner, one for Baum and one for their firm. The Board asked staff to draft separate Notices, and leave open the door for separate settlements. The Notices should propose maximum civil penalties as is customary for when the Board issues a Notice. Ms. Bischoff would like the Board to consider adding a suspension proposal, and expressed concern that the court case in this matter found that Mr. Holdner and Ms. Baum failed in their fiduciary duties while handling the trust in question. Board members did not want to add on a suspension at this point in the case.

Mr. Lauseng requested to be excused for a brief portion of the Board meeting, and Chair Wright agreed.

## **13. CONSIDERATION OF SETTLEMENT PROPOSALS**

### **A. Leon M. Fu / Case #14-055**

The settlement before the Board does not reflect the direction from the Board, it has been drafted as a non-disciplinary consent agreement. This case deals more with administrative matters and a very nominal penalty. A consent agreement is not disciplinary, however, it is in the public domain. This agreement stipulates that Mr. Fu take 4 hours of ethics CPE.

**BOARD ACTION:** Moved by Mr. Brown and carried to accept the proposed consent agreement as prepared.

**VOTE:** 5 ayes, 2 excused (Lauseng, Fronk)

**B. Settlement proposal in Board case 13-034**

This item was removed off the agenda.

**C. Mark Sayler / Case #14-060**

Mr. Sayler's case was handled in the same manner as Mr. Fu, where a consent agreement was drafted requiring Mr. Sayler to take 4 hours of Ethics CPE.

**BOARD ACTION:** Moved by Mr. Brown and carried to accept the proposed consent agreement.

**VOTE:** 5 ayes, 2 excused (Lauseng, Fronk)

**D. Jamie Hammock / Case #14-063**

This item was deferred later today after executive session, since information concerning this agenda item was received late last evening (February 4, 2016)

**15. CPE COMMITTEE**

**A. Minutes of January 5, 2016 – information only**

**B. Recommendations for Approval to Municipal Roster**

- 1. Sai Cheung**
- 2. William Palmer**
- 3. Keith Simovic**

Ms. Kingston noted that Mr. Simovic is a current employee of Moss Adams and she will abstain from voting.

**BOARD ACTION:** Moved by Mr. Graham and carried to approve the above named applicants for the municipal roster.

**VOTE:** 4 ayes, 1 abstention (Kingston), 2 excused (Lauseng, Fronk)

The CPE Committee discussed their current role of only reviewing and approving municipal license applications. The committee believes that staff is capable of reviewing these types of applications and recommends the committee disband. The Committee requested the Board discuss this at its meeting in May.

**14. PEER REVIEW OVERSIGHT COMMITTEE**

**A. Minutes of January 20, 2016 – information only**

The committee is still is determining its recommendations for how to follow up on how to proceed with peer review reports that receive a fail or pass with deficiencies outcome. Chair Bridgham drafted an amended version of guidance document originally prepared by NASBA with an initial proposed set of modifications for Oregon. The committee reviewed the draft in depth and made adjustments to the

document which will be reviewed at the next meeting. PROC Committee member Mr. Griffin and Mr. Pittioni met with Jim Brackens, CPA, Vice President of Ethics and Practice Quality at the AICPA. At that meeting it became apparent that the AICPA has taken a much difference stance on peer review results in that they are no longer treating this process as an educational process but more as a remedial process. In the past, firms had a chance to fix their issues within 3 peer review reporting periods, 9 years. That timeline has been tightened to 2 peer review reporting periods, 6 years. If the firm has consistent issues, that are for the most part repeating errors, they will be dropped from the peer review program. Boards of Accountancy were not informed when a firm was dropped, but rather had to search the FSBA system to determine that outcome. As of last week, the NASBA sent a list by email to all Boards noting which firms had been dropped from the peer review program.

## **16. QUALIFICATIONS COMMITTEE**

### **A. Minutes of January 6, 2016 – *information only***

### **B. Recommendations for Approval**

- 1. Terry Miley-Mayhead**
- 2. Katharine Snell**
- 3. Aria Bettinger**
- 4. Brett Davis**

**BOARD ACTION:** Moved by Mr. Graham and carried to approve the list of applicants approved by the Qualifications committee for issuance of a CPA license.

**VOTE:** 6 ayes.

### **C. Recommendation for Denial**

#### **1. Danika Tanning**

The Board was provided with the write-up from the Qualification committee member, Patrick Brown who assigned to review Ms. Tanning's application. In the evaluation Mr. Brown describes her deficiencies in the competencies stem the lack of complexity in her responsibilities, in addition, there does not appear to be a clear justification of direct supervision of the candidate by the approving supervisor licensee.

**BOARD ACTION:** Moved by Mr. Graham and carried to allow Ms. Tanning to withdraw her application for licensure or deny her application.

**VOTE:** 6 ayes

Mr. Graham proposed that Ms. Haley Fish be approved to join the Qualifications committee as a new member. Ms. Fish is currently working with the City of Canby in a municipal role. She has been licensed in Oregon since 2008.

**BOARD ACTION:** Moved by Mr. Graham and carried to approve Ms. Fish to serve on the Qualifications Committee.

**VOTE:** 6 ayes

It was also noted that Gary Homsley is interested in serving on the BOACC. Mr. Homsley is a partner with Grant Thornton LLP.

**BOARD ACTION:** Moved by Mr. Graham and carried to approve Mr. Homsley to serve on the BOACC.

**VOTE:** 6 ayes

## 17. RATIFICATION REQUESTS

A. CPA Certificates/Permits

B. Firm Registrations

**BOARD ACTION:** Moved by Mr. Graham and carried to approve the list provided and attached to these minutes for initial licensing.

**VOTE:** 6 ayes

**BOARD ACTION:** Moved by Mr. Graham and carried to approve the list of firm registrations on the list provided and attached to these minutes.

**VOTE:** 6 ayes.

## 18. EXECUTIVE SESSION UNDER AUTHORITY OF ORS 192.660(2)(f)(h)

Public Session was adjourned at 12:21 p.m. and the Board convened to Executive Session under the authority of ORS 192.660(2)(f)(h)

Public Session reconvened at 5:25 p.m.

## 13. CONSIDERATION OF SETTLEMENT PROPOSALS

### D. Jamie Hammock / Case #14-063

The Board members reviewed the proposed settlement agreement for Mr. Hammock.

**BOARD ACTION:** Moved by Mr. Graham and carried to approve the settlement as written.

**VOTE:** 6 ayes

## 19. MOTIONS ON CASES HEARD IN EXECUTIVE SESSION

Mr. Brown reported that at the last BOACC meeting while giving the Board update on the cases voted on, the committee members had very strong reactions with respect to the Boards actions on two cases, #14-063 – Jamie Hammock and Case 14-029, which both arose out of the Chambers Hammock matter.

Specifically the concerns were surrounding the interpretation of the definition for integrity and objectivity. Some members believe the rule relates specifically to the dealings with clients as opposed to external/internal control functions. The BOACC found a violation for integrity and objectivity with regard to the respondent not reporting that payments were not being made to the employees IRA accounts; the Board did not concur with the finding and found no violation for integrity and objectivity.

The BOACC would like the Board to reconsider their vote on this matter. When reviewing the rules for integrity and objectivity, some read that it covers only clients and does not address the internal functions of a firm. Mr. Pittioni suggested asking the LRC to review this rule to eliminate any contradictions, and Board members concurred this would be appropriate.

**A. Patricia R. Kaseberg / PR Kaseberg CPA PC / Case #14-003**

**BOARD ACTION:** Moved by Mr. Brown and carried to find that there is sufficient evidence to make a preliminary finding of a violation of OAR 801-050-0020(1), Peer Review Enrollment (2011 Edition) for accepting multiple engagements to prepare financial statements without being enrolled in peer review.

**VOTE:** 6 ayes

**BOARD ACTION:** Moved by Mr. Brown and carried to find that there is insufficient evidence to make a preliminary finding of a violation of OAR 801-040-0010(8), Business transactions with clients (2014 edition) for engaging in a business transaction with a client without providing full written disclosure of the differing interests to the client and obtaining the client's consent in writing prior to the time the business transaction was accepted.

**VOTE:** 6 ayes

Discussion: The Board suggests mid-level penalties and at least 24 hours of CPE in SSARS 21, Compilation and Reviews and preparation of personal financial statements.

**A. Mike W. Nicholls / Case #15-041**

Mr. Larry Brown recused himself from discussion and voting on this matter; he has a personal relationship with the respondent.

This case revolved around a complaint filed for not completing a tax return and not returning records to the client. As a result of this, it was also determined that the licensee was lapsed and his firm was terminated.

**BOARD ACTION:** Moved by Mr. Graham and carried to find that there is insufficient evidence to make a preliminary finding of a violation of OAR 801-030-0010(1)(b), Due Professional Care.

**VOTE:** 5 ayes, 1 abstention (Brown)

**BOARD ACTION:** Moved by Mr. Graham and carried to find that there is insufficient evidence to make a preliminary finding of a violation of OAR 801-030-0015(2)(b), Requested Records.

**VOTE:** 5 ayes, 1 abstention (Brown)

**BOARD ACTION:** Moved by Mr. Graham and carried to find insufficient evidence to make a preliminary finding of a violation of OAR 801-030-0020(1), Professional Misconduct.

**VOTE:** 5 ayes, 1 abstention (Brown)

**BOARD ACTION:** Moved by Mr. Graham to find that there is insufficient evidence to make a preliminary finding of a violation of OAR 801-030-0020(6)(b)(A), Board Communications and Investigations (January 2015 edition).

**MOTION WITHDRAWN.**

**BOARD ACTION:** Moved by Mr. Lauseng and carried to find that there is sufficient evidence to make a preliminary finding of a violation for failure to register his firm, Use of the CPA designation while lapsed and OAR 801-030-0020 (6)(b)(A), Board Communications and Investigations.

**VOTE:** 5 ayes, 1 abstention (Brown)

Discussion: The Board appreciates Mr. Nicholls working to address his health issues and working on those not interfering with his work in the future. Board members noted that harm to the public was brief and that Mr. Nicholls has taken steps to reinstate his individual license and reinstate his firm registration. The Board believes given the very specific mitigating circumstances in this case a non-disciplinary letter of concern is appropriate to resolve it.

#### **B. Case #15-064**

This was a case where the person assisted in a report to a governmental agency and allegedly used private information in his report. The person the information pertained to filed the complaint.

**BOARD ACTION:** Moved by Mr. Brown and carried to find that there is insufficient evidence to make a preliminary finding of violation of OAR 801-030-0010(1)(b), Due Professional Care.

**VOTE:** 6 ayes.

#### **C. William Burwell / Case #15-059**

The BOACC did not review this case.

**BOARD ACTION:** Moved by Mr. Brown and carried to find that there is sufficient evidence to make a preliminary finding of violation of ORS 673.320(3), Use of term Certified Public Accountant.

**VOTE:** 6 ayes.

**BOARD ACTION:** Moved by Mr. Brown and carried to find that there is sufficient evidence to make a preliminary finding of violation of OAR 801-030-0020(4), Public Communications and Advertising.

**VOTE:** 6 ayes

Board Discussion: The Board believes these findings warrant a low penalty, perhaps a letter of concern. Mr. Graham went on the record to state that he is bothered by the fact that through reciprocity we license someone who has had no experience required to obtain their CPA license and we grant that same person a full CPA license in Oregon. The LRC will take this into consideration when reviewing the rules.

**E. Millington Zwygart / Case #15-068**

The BOACC did not review this case. The Firm has Oregon licensed municipal auditors, however, the firm did not register in Oregon before they performed a municipal audit. Although the firm was unaware they needed to register the firm, they did take timely and proper steps in licensing their individual licensees for a municipal license before performing the municipal audit.

**BOARD ACTION:** Moved by Mr. Brown and carried to find that there is sufficient evidence to make a preliminary finding of violation of OAR 801-010-0345, Requirement to register as a Firm in Oregon.

**VOTE:** 6 ayes

Board Discussion: The Board believes this violation warrants a small civil penalty.

**F. Lawrence H. McNamara / Case #15-069**

The BOACC did not review this case. Mr. McNamara holds a California CPA license, however he did not seek licensure in Oregon and held out as a CPA while living and working in Oregon.

**BOARD ACTION:** Moved by Mr. Brown and carried to find that there is sufficient evidence to make a preliminary finding of a violation of ORS 673.320(3), Use of term Certified Public Accountant in Oregon on his website, letterhead and emails.

**VOTE:** 6 ayes.

Board Discussion: While this case is not egregious it was troublesome. The Board believes that this violation warrants a small civil penalty and additional CPE.

**G. Case #15-070**

This case was not reviewed by the BOACC. This licensee planned to retire his license, however in doing so placed his firm in violation of plural name rules. He then reinstated the license back to active status.

**BOARD ACTION:** Moved by Mr. Brown and carried to find that there is insufficient evidence to make a preliminary finding of violation of ORS 673.310(3), Use of the term Certified Public Accountant without holding a valid permit.

**VOTE:** 4 ayes; 2 nays (Lauseng, Wright)

**BOARD ACTION:** Moved by Mr. Brown to disregard previous action and replace with a motion to administratively closing the case.

**VOTE:** 5 ayes, 1 nay (Graham)

**20. ADJOURNMENT AND ANNOUNCEMENT OF NEXT MEETING**

The meeting was adjourned at 7:07 p.m.