



Item 20.A.  
Public Board Meeting  
December 7, 2015

OREGON BOARD OF ACCOUNTANCY  
COMPLAINTS COMMITTEE  
PUBLIC SESSION MINUTES  
November 13, 2015

3218 Pringle Rd SE #110

Salem, OR 97302

2<sup>nd</sup> Floor Large Conference Room Morrow Crane Building

503-378-4181

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**Committee Members Present**

Josh Dunlap, CPA Chair  
Kent Bailey, CPA  
Bill Holmes, CPA  
Joe Sullivan, CPA  
Nancy Young, CPA  
Haley Lyons, CPA  
Marissa Nelson, CPA

**Staff**

Martin Pittioni, Executive Director  
Theresa Gahagan, CPA, CFE, Investigator  
Noela Kitterman, CPA, Investigator  
Joel Parks, Compliance Specialist

**Board Counsel**

Susan Bischoff, AAG

**Members Excused**

Jessie Bridgham, CPA

**Board Liaison**

Scott Wright, CPA

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**1. Call to Order**

Chair Dunlap called the public session to order at 8:32 a.m. and announced that the meeting was being recorded.

**2. Review and Approval of Agenda**

The committee approved the Agenda.

**3. Approval of Minutes**

**A. Corrected August 28, 2015 BOACC – Public Session**

**Discussion:** Mr. Pittioni mentioned that there was a corrected version of the August 28, 2015 BOACC Minutes that was sent out after the original email. The second corrected version is the version the BOACC should use to determine its approval of the minutes.

**Committee Action:** Moved by Mr. Bailey and carried to accept the August 28, 2015 BOACC Meeting public session minutes as corrected.

**Vote:** 7 ayes

**4. Old Business**

**A. Report from the October 19, 2015 Board Meeting**

Mr. Wright reported that the Board had discussed the multiple cases against Mr. Ternberg, who had received multiple complaints. Six of these investigations were seen by the BOACC and two additional investigations involving allegations that did not surface until after the BOACC meeting went directly to the Board. The Board found multiple violations for multiple counts in the cases connected to Mr. Ternberg. Mr. Pittioni informed the BOACC that it has been impossible to get any response from Mr. Ternberg. If Mr. Ternberg does not respond to the Notice that was issued by November 19<sup>th</sup>, he will

default and his license will be revoked with civil penalties attached. The Board discussed different options for notifying the public when a license is revoked so that the public can easily find it.

Mr. Wright discussed the Blodgett Mickelson and Naef case. There was sufficient evidence of a failure to follow auditing standards in this case. When Mr. Blodgett and Mr. Mickelson addressed the Board, they mentioned that some things have changed in their audit procedures. The Board wanted to understand what changes have been made. In addition, the Board suggested that this firm change their Peer Reviewer. Historically, this firm had been subject to Peer Review and had passed each Peer Review. Mr. Pittioni said that Mr. Blodgett and Mr. Mickelson are “active, constructive and very cooperative.” Mr. Wright said that if this firm has improved their processes, the Board would consider imposing less sanctions on the firm. Mr. Holmes asked how Mr. Blodgett and Mr. Mickelson went from saying they had done nothing wrong to saying they would make all these changes. Mr. Pittioni said there was an elongated wake up and education process taking place here. Ms. Bischoff added that Mr. Blodgett and Mr. Mickelson have retained counsel.

## **5. New Business**

### **A. Disciplinary Action Report (DAR)**

Mr. Pittioni deferred the Disciplinary Action Report because the document is not ready yet. The updated product will be published by the next meeting. The current DAR that was published on the Board’s website is through March and this updated DAR will go through November.

### **B. 2016 Meeting Schedule**

Mr. Pittioni brought up the 2016 Meeting Schedule dates for review and discussion. Mr. Pittioni would like the BOACC to set aside two meeting dates in January in case it is needed for the quantity of cases that are coming.

Mr. Dunlap said these dates do not affect him since this is his last meeting. Ms. Lyons said she will probably not attend the April meeting. Ms. Young said the two back to back dates in January might be a challenge because that is budget crunch time. Mr. Pittioni said that the BOACC can look at doing the 15<sup>th</sup> meeting and only do the 8<sup>th</sup> meeting if it is absolutely necessary. Ms. Nelson said that she will be out of town on the 15<sup>th</sup>. The 8<sup>th</sup> would be better.

### **C. Staffing**

Mr. Pittioni said that as of Tuesday, there is confirmation that the investigator position has been filled. The new investigator is Anthony Truong, a CPA in Louisiana who works for the Legislative Audit Office there.

## **6. Convene Executive Session / Public Session Reconvened**

At 8:52 am, executive session was convened pursuant to ORS 192.660(2)(f), for the purpose of examining exempt public records. After the executive session concluded, public session was reconvened at 1:25 pm.

## 7. Committee Recommendations

### A. Case #14-063

**Committee Action:** Moved by Mr. Holmes and carried to recommend that there is insufficient evidence to make a preliminary finding of violation of OAR 801-030-0020(8) Business Transactions with Clients.

**Discussion:** None.

**Vote:** 7 ayes – unanimous

**Committee Action:** Moved by Mr. Holmes and carried to recommend that there is sufficient evidence to make a preliminary finding of multiple violations of OAR 801-030-0005(2) Integrity and Objectivity, for subordinated judgement (to the judgement of the firm's other partner).

**Discussion:** Mr. Dunlap explained that his voting reflects his literal interpretation of the rule and not his expectation of how the rule should be applied. Mr. Holmes was unclear on what the interpretation of the rule should be and he will let the lawyers sort that out.

**Vote:** 4 ayes – 3 Nays (Dunlap, Nelson and Lyons)

**Committee Action:** Moved by Mr. Holmes and carried to recommend that there is sufficient evidence to make a preliminary finding of multiple violations OAR 801-030-0020(1) Professional Misconduct, for exhibiting acts or conduct that would cause a reasonable person to have substantial doubts about the individual's honesty.

**Discussion:** None.

**Vote:** 7 ayes – unanimous

**Committee Action:** Moved by Mr. Holmes and carried to recommend that there is insufficient evidence to make a preliminary finding of violation of OAR 801-030-0010(1)(a) Competence and Technical Standards, for undertaking professional engagements that required the competence he was not exhibiting with regard to his own K-1 and Firm.

**Discussion:** None.

**Vote:** 7 ayes - unanimous

**Recommendation to the Board:** The BOACC discussed and decided that these violations were the highest level of egregiousness. Mr. Bailey was not convinced that the Respondent would change his actions today, so if the severity is high, he should not be licensed. The firm where the Respondent works should be notified that the Respondent's supervision needs to be at a higher quality than it was before. Ms. Young felt that the Respondent did not care about his employees and as long as he was getting paid, he did not care if his employees were getting paid. Mr. Holmes pointed out that this was not his first violation regarding dishonesty and acts of professional misconduct.

### B. Case #15-026

**Committee Action:** Moved by Ms. Young and carried to recommend that there is sufficient evidence to make a preliminary finding of multiple violations of OAR 801-030-0005(2) Integrity

and Objectivity, for subordinated judgement (to the judgement of the firm's majority partner) and OAR 801-030-0020(1) Professional Misconduct, for exhibiting conduct that would cause a reasonable person to have substantial doubts about her honesty, fairness and respect for the rights of others.

**Discussion:** None

**Vote:** 7 ayes - unanimous

**Recommendation to the Board:**

The BOACC discussed this case and felt that the failure to pay timely the employee deferrals was a high level of severity. Respondent knew that the Employee's Benefit Payments were not being paid on time. There was a lot of discussion and some disagreement about whether the Respondent's knowledge of the firm partner's re-characterizations of the firm's tax returns was a high level of severity. Some members stated that once Respondent became aware of re-characterizations of the tax return, Respondent's responsibility was to tell the client they needed to file an amended return and tell the other partner, your tax return is wrong. The Respondent was not present for the BOACC meeting and so was not available to answer any questions, so it was hard to judge the level of severity for this violation.

**C. Case #14-025**

**Committee Action:** Moved by Ms. Young and carried to recommend that there is insufficient evidence to make a preliminary finding of violation OAR 801-030-0010(2) Auditing Standards, for not complying with AU Section 315, Communications Between Predecessor and Successor Auditors.

**Discussion:** None

**Vote:** 7 ayes - unanimous

**D. Case #13-029**

**Committee Action:** Moved by Ms. Young and carried to recommend that there is insufficient evidence to make a preliminary finding of violation OAR 801-030-0010(1)(b) Due Professional Care and/or 801-030-0010(1)(c) Planning and Supervision; and OAR 801-030-0020(1) Professional Misconduct.

**Discussion:** None

**Vote:** 7 ayes - unanimous

**E. Case #14-058; 15-032 and 15-051**

**Committee Action:** Moved by Mr. Bailey and carried to recommend that there is sufficient evidence to make a preliminary finding of at least three violations OAR 801-030-0010(1)(b) Due Professional Care; OAR 801-030-0010(4) Tax Standards; OAR 801-030-0020(7) Board Communications and Investigations; (2012 Edition) OAR 801-030-0015(2)(b) Records Requests; ORS 673.320(5) Use of the PA title or designation while lapsed.

**Discussion:** None

**Vote:** 7 ayes - unanimous

**Recommendation to the Board:** The BOACC discussed and decided it was the highest level of severity.

**F. Case #15-038**

**Committee Action:** Moved by Ms. Young and carried to recommend that there is insufficient evidence to make preliminary finding of violation of ORS 673.160(1)(a) Registration of Business Organization and ORS 673.320(3) Use of the CPA designation.

**Discussion:** None

**Vote:** 7 ayes - unanimous

**Recommendation to the Board:** NA

**Committee Action:** Moved by Ms. Young and carried to recommend that there is sufficient evidence to make preliminary finding of violation of ORS 673.220 Inactive Status and OAR 801-005-0010(28) Lapsed when providing public accounting services.

**Discussion:** Mr. Holmes voiced some confusion on which ORS and OARs were being violated in this case. Ms. Young said the issue is that the Respondent practiced while not properly licensed, whether it be Lapsed or Inactive. The BOACC agreed that they would combine the time the Respondent was Lapsed and Inactive and make the motion that during that time period, the Respondent practiced without an Active license and not reference the specific rules or statutes.

**Committee Action:** Ms. Young amended her motion to recommend that there is sufficient evidence that Licensee practiced while not properly licensed from the period of January 1, 2015 through July 8, 2015. The amended motion was carried.

**Discussion:** The BOACC discussed severity of the violation and agreed it was the lowest severity.

**Vote:** 7 ayes - unanimous

**Recommendation to the Board:** None

**8. Announcements and Adjournment**

The next BOACC meetings scheduled are January 8, 2015 and January 15, 2015. BOA staff will advise BOACC members which of the two dates will be used for the next BOACC meeting, or if there is a need for both meeting dates. Chair Dunlap adjourned the meeting at 1:50 pm.