# Oregon State Board of Tax Practitioners
## Board Meeting Minutes

**Meeting Date:** September 23, 2009

**Time:** 8:58 a.m. – 4:19 p.m.

**Location:** Holiday Inn, Ontario, Oregon

**Attendees:**
Alan Twombly (Board Chair)
Dorothy Hudson (Vice-Chair)
Marilyn Johnston
Toni Ellsworth
Merry VanAtta
Jess Gutierrez
Janis Salisbury

**Staff:**
Ron Wagner, Executive Director
Monica J. Walker, Senior Comp Specialist/Investigator
Jane Billings, Exam & Education Coordinator

**Guests:**
Susan Parks, OAIA
Judith Wilkins, OATC
Dena Burgess, OATC
Linda Thomas
Larry Lakey
Cheryl Brown
Cathy Johnson
Valerie Dunbar
Cheri Sweeney

| ITEM | ACTION / DISCUSSION |
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| Twombly called the meeting to order at 8:58 a.m. | |
| Roll called. | Board members present: Twombly, Hudson, Johnston, Ellsworth, VanAtta, Gutierrez, and Salisbury. Twombly reminded attendees of Board meeting protocol. |
| Approval of meeting minutes. | **Motion:** VanAtta made a motion to accept the July 23, 2009, Board meeting minutes as reviewed.<br><br>Motion passed. Ayes: Salisbury, Gutierrez, Hudson, VanAtta, Ellsworth, Twombly, and Johnston.<br><br>Board meeting minutes are located on the Tax Board Web site at: http://www.oregon.gov/OTPB/Meeting_Minutes.shtml |
| **Administration Report** | |
| Reported by Ron Wagner | Year-to-date revenue figures were distributed to Board members, showing $1,406,017, with expenses being $992,103. The Board does not actually have a legislatively approved budget yet; there will be an update at the November meeting. |
| Providing e-mail addresses in licensee lists | The change was made on the preparer renewal forms to include a box that can be checked if the licensee is willing to release their e-mail address for tax schools or tax related organizations. So far the interest level has been low. Wagner also noted that the Board could also accept an e-mail request to release a licensee's e-mail address sooner than the next renewal period, and it was suggested that there be a way to indicate interest in this on a new application as well. |
| Office Computer Speed | The office computers have been running slowly, and the IT (Information Technology) people have been doing some studies. Wagner described some of the details about the hub and switches. IT will continue to monitor the office data flow, |

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| | and, if necessary, a second line from Morrow Crane to the State Data Center will be considered. |
| Board Appointments | VanAtta's term finished at the end of June. A request for new Board members went out, and a small number of applicants including those previously interested were considered. There was some opposition from the OAIA (Oregon Association of Independent Accountants) to the names recommended. Recommendations were made based on involvement in the community, years of experience, how the applications were written, their explanation for wanting to be on the Board, and what they could bring to the position. Organizations the applicants represented were not considered. The Governor's Office chose not to take the names forward due to the opposition. It was felt that confirmation of these applicants would be denied. The Board is hoping to reevaluate and get confirmation during the special session in February. Options are to have VanAtta continue to serve on the Board if she is willing, or leave her position vacant. VanAtta has agreed to stay on until a new person is appointed.<br><br>A concern was noted that there are a lot of Board members who are involved in teaching. Wagner stated that OAIA's position was that it could provide an advantage to the students by having instructors or people involved with tax schools on the Board. Previous understanding has been that people couldn't be on the Board and teach the basic 80-hours course. Theory, update, and application information provided in seminars is looked at differently. Walker shared that a few years back the Board voted on this, discussed the issue, and decided that it was not a conflict for continuing education and basic course instructors because executive session could not be discussed outside of the meeting. Hudson brought up the fact that the exam writing committee has many basic instructors on it. Wagner explained that Board members don't have a say about which exam questions are chosen from the bank. He will meet with the Governor's Office to discuss and educate them about the make up of the Board members. |
| Oregon Tax Amnesty Program | This Program runs October 1st through November 19th. The Department of Revenue's Web site has a message in red type that paid tax practitioners need to be licensed. There is a link to the Board's Web site as well. |
| Tax Compliance Pilot Project | There was a piece of legislation passed to do a pilot project on compliance of individuals who do business in the state and are subject to licensing requirements. Should someone be licensed to have a business in Oregon if they haven't filed tax returns? Our licensees would be required to get a compliance approval from the Department of Revenue (DOR) prior to submitting their renewal form. Wagner felt adding this step for our licensees would be unreasonable. After licensees renew, a report can be created to send electronically to DOR where they can match against their compliance database. DOR representative, Eric Smith, will be invited to talk about it at the November Board meeting. After discussion, Board members agreed that the tax industry may not be the representative of regulatory boards that DOR may want. Wagner will forward concerns on to Smith. |
| Board's Jurisdiction | Comments from the Board about jurisdiction:<br>• Currently if you perform the work in Oregon, then you are under the laws.<br>• People across Oregon boundaries were not in our jurisdiction no matter how |

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| | many returns they do.<br>• To prepare Oregon returns you have to be licensed in Oregon.<br>• People who work within the state boundaries, or collect returns here in Oregon, should be under jurisdiction.<br>• Wagner recalls a past Board meeting where the comment was made that someone who could not pass the exam could go to Vancouver, and then wouldn't be under Oregon licensing laws. If they came and collected information in Oregon, then there would be physical presence in Oregon for preparing, advising, or assisting.<br><br>The AG's opinion is that Board's jurisdiction goes to anyone who prepares an Oregon return, regardless of where the return was prepared; i.e., in Oregon or outside of Oregon. Wagner will share with Kelly Gabliks, Assistant Attorney General, how the Board feels. |
| Consumer Protection Awareness | Wagner suggests creating a comprehensive communication plan to decide the most effective ways to reach people. Willamette University hires out graduate interns for special projects. Wagner is working with Amit Mehta starting the first of October. Amit's sole purpose will be to put together a marketing plan for the agency. He will share an update at the November meeting.<br><br>Gutierrez passed around handouts and shared some information about CTEC, the California Tax Education Council. Their public awareness philosophy goes hand in hand with consumer protection. In every single newsletter the Council hits public awareness hard. CTEC is spending about 20% of the total budget on consumer awareness. Discussion covered repetition and exposure strategies.<br><br>Walker shared that the Board's contact information could be included on licensee advertising, such as business cards. |
| Break 10:38 a.m.-11:01 a.m. | |
| **Licensing Report** | |
| Reported by Ron Wagner | Wagner provided a handout to illustrate the trend in licensing with a comparison report including last year's and current statistics. With consultants we are 25 within where we were last year mid-August. Consultants seem to be more consistent year to year than preparers. There are less ineligible consultants this year. Business registrations were slightly lower. Figures are obviously off during the busy renewal period for preparers. There will be more accurate statistics in November. |
| **Exam and Education Report** | |
| Reported by Jane Billings | The latest edition of General Information Booklets, as well as July and August statistics, and a cumulative yearly report, were distributed to Board members. Preparation for the Board administered exam is underway. A room at Chemeketa Community College is reserved for December 12th. The new preparer exam was released on September 1st.<br><br>Walker and Billings met with the Department of Education (DOE) to introduce themselves and clarify the requirements for the basic 80-hours course. They plan to |

have quarterly meetings to address questions and concerns. They talked about what the Department would like to see on certificates in addition to what is required by Administrative Rule.

Billings has sent out the consultant continuing education audits, but the review has not been completed at this time.

Walker and Billings made visits to proctor sites in the Portland area. Site evaluations were distributed to Board members. There were no sites with major issues, or cause for concern. Some of the facilities were suited for electronic testing in the future.

Billings supplied comments from the Instructor's Workshop held on August 4, 2009. She thanked Hudson and Salisbury for their well-received presentations, and shared that there were some good suggestions provided for future workshops.

VanAtta suggested that Billings provide a response to licensees chosen for the CE audit reassuring them that the Board received their information. Billings will look into expanding the letter that goes out with the initial audit.

Salisbury verified that the basic course instructors are confirmed as licensed tax practitioners when going through the DOE. The Board will not approve sponsors until after the DOE has approved. The Board approves the instructors.

There was more discussion about what qualifies as successfully completing the 80-hour course. Walker reported that the rules state that successful completion is up to the sponsor, and make-up work is allowed. Billings has stressed to the instructors to be sure not to pass students unless they are ready to take the exam.

Twombly wanted to verify that proctor sites were making sure that consultant test takers were not using open book. Billings assured him that this was made clear.

### Continuing Education Evaluations

| Sponsor | Course Title | Hours Requested | Hours Approved | Comments |
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| **CCH** | Multistate Corporate Income Taxation: Sales and Use Tax Compliance Issues | **2** | **Denied** | Sales tax has nothing to do with income tax. Must be related to income tax. |

### Continuing Education Evaluations

| Sponsor | Course Title | Hours Requested | Hours Approved | Comments |
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| **Hera's Income Tax School** | 14 Hour Tax Course | **14** | **10** | Easily completed in less time |
| **Hera's Income Tax School** | 2009 Recent Tax Changes | **10** | **5** | Insufficient number of questions |
| **Hera's Income Tax School** | Alternative Minimum Tax | **3** | **2** | |
| **Hera's Income Tax School** | Starting a Business | **3** | **2** | Small reading assignment |
| **Hera's Income Tax School** | Business Use of Your Home | **3** | **2** | Repetitious |

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| Continuing Education Evaluations | **Motion:** Hudson made a motion to approve the continuing education hours from Hera's Income Tax School, as reviewed by the Board. Motion passed. Ayes: Salisbury, Gutierrez, Ellsworth, Hudson, and Twombly. Nays: Johnston and VanAtta.<br><br>**Motion:** Hudson made a motion to accept the continuing education hours provided by CCH as modified by the Board. Motion passed. Ayes: Salisbury, Ellsworth, Johnston, Gutierrez, Hudson, and Twombly. Nays: VanAtta |
| Break for Lunch 11:36-2:00 p.m. | |
| Administrative Rules | Billings handed out the Rules Advisory Committee report for the Board to review at the November Board meeting. |
| **Executive Session**<br>To discuss information exempt from public disclosure under ORS 673.730(3). Pursuant to 192.660(2)(f). This Executive Session is closed to members of the public. | |
| Executive Session 2:02 p.m.-3:29 p.m. | |
| Break 3:29 p.m. – 3:37 p.m. | |
| **Compliance** | |
| Reported by Monica J. Walker | Walker reported on 28 cases: 17 cases pending, 5 cases that were closed, and 6 cases that require Board action. |
| **Cease and Desist Orders** | |
| Carol M. Jones, Lowell, OR | **Motion:** Salisbury moved to retract the Board's original motion, made on April 9, 2009, to issue an Order to Cease and Desist, Assess Civil Penalties and Board's Costs and Notice of Right to Hearing against Carol M. Jones for preparing, advising or assisting in the preparation of personal income tax returns for valuable consideration without being licensed or exempt from licensure.<br>Motion passed. Ayes: VanAtta, Hudson, Johnston, Salisbury, Gutierrez, Ellsworth, and Twombly. |
| Carol M. Jones, Lowell, OR | **Motion:** Salisbury moved to issue an **Amended** Order to Cease and Desist, Assess Civil Penalties and Board's Costs and Notice of Right to Hearing against Carol M. |

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| | Jones for preparing, advising or assisting in the preparation of personal income tax returns for valuable consideration without being licensed or exempt from licensure. Motion passed. Ayes: VanAtta, Hudson, Johnston, Salisbury, Gutierrez, Ellsworth, and Twombly. |
| **Final Orders by Default** | |
| Steven C. Benfield, Newport, OR | **Motion:** Salisbury moved that the Board issue a Final Order by Default to Steven C. Benfield of Newport, Oregon to deny license renewal and assess Board costs for violations of the provisions of Oregon Revised Statute 673.605 through 673.740 and the Oregon Administrative Rules adopted thereunder pursuant to 673.700(1)(7) and 673.735(1).<br>Motion passed. Ayes: Twombly, Hudson, Ellsworth, Gutierrez, VanAtta, Johnston, and Salisbury. |
| **Notices of Intent** | |
| Pete Zambetti, Milwaukie, OR | **Motion:** Salisbury moved that the Board authorize the issuance of a Notice of Intent to Impose Discipline and Right To Hearing to the maximum civil penalty for violations of the provisions of Oregon Revised Statute 673.605 through 673.740 and the Oregon Administrative Rules adopted thereunder pursuant to 673.700(1)(7) and 673.735(1) found against Pete Zambetti of Milwaukie, Oregon.<br><br>Motion passed. Ayes: Gutierrez, Ellsworth, Hudson, Twombly, Johnston, and VanAtta. Nays: Salisbury. |
| Grant McCaslin, Gresham, OR | **Motion:** Salisbury moved that the Board issue a Notice of Intent to Impose Discipline and Right To Hearing to Grant McCaslin of Gresham, Oregon for:<br><br>105 violations of ORS 673.615(1), preparing, advising, or assisting in the preparation of personal income tax returns for valuable consideration without being licensed or exempt from licensure at $250 per violation;<br><br>105 violations of ORS 673.705(2) for representing as licensed when not at $250 per violation;<br><br>One (1) violation of ORS 673.643(1) and OAR 800-025-0020(1)(a & b) for failing to register his tax preparation business at $100; and<br><br>One (1) violation of ORS 673.700(7) and OAR 800-010-0042 for failing to respond in writing to communications from the Board within 15 business days at $100.<br><br>Motion passed. Ayes: Johnston, Salisbury, Gutierrez, Ellsworth, Hudson, VanAtta, and Twombly. |
| Karina Dillree, Salem, OR | **Motion:** Salisbury moved that the Board authorize the issuance of a Notice of Intent to Impose Discipline and Right To Hearing to the maximum civil penalty for violations of the provisions of Oregon Revised Statute 673.605 through 673.740 and the Oregon Administrative Rules adopted thereunder pursuant to 673.700(1)(7) and 673.735(1) found against Karina Dillree of Salem, Oregon.<br>Motion passed. Ayes: Johnston, Salisbury, Gutierrez, Ellsworth, Hudson, VanAtta, and Twombly. |

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| Jay L. Bower, Redmond, OR | **Motion:** Salisbury moved that the Board issue a Notice of Intent to Impose Discipline and Right To Hearing to Jay L. Bower of Redmond, Oregon for:<br><br>294 violations of ORS 673.615(1), preparing, advising, or assisting in the preparation of personal income tax returns for valuable consideration without being licensed or exempt from licensure at $250 per violation;<br><br>294 violations of ORS 673.705(2) for representing as licensed when not at $250 per violation;<br><br>One (1) violation of ORS 673.643(1) and OAR 800-025-0020(1)(a & b) for failing to register his tax preparation business at $100; and<br><br>One (1) violation of ORS 673.700(7) and OAR 800-010-0025(6) for failing to return client records upon written request at $150.<br><br>Motion passed. Ayes: Johnston, Salisbury, Gutierrez, Ellsworth, Hudson, VanAtta, and Twombly. |
| **Waiver Request Updates** | |
| David Stauffer, Portland, OR | Reviewed in July; additional information was forwarded to the Business Practice Committee. CPA revocation was based on dishonesty, fraud and deception. Walker sent a letter denying his waiver request for licensure. |
| Darrell Wagner, Canby, OR | Reviewed in July; because the enrolled agent suspension was so long ago, the Board approved his request for waiver, and his license was issued. |
| Leroy Pittman, Gresham, OR | Gabliks suggested an interim stipulated order, and is working on drawing that up. |
| **Other Business** | |
| Tax Board Bulletin | Ellsworth confirmed that articles need to be in to Dwyer by November 1st in order to have it published by November 15th. Assignments:<br>• Johnston – Retiring from Board<br>• Hudson – Importance of quality continuing education<br>• Ellsworth – New check box on applications allowing e-mail release<br>• Twombly – TS11 doing away with the RAL / Eyes and ears of the Board<br>• Salisbury – Code of conduct |
| Update on Albert Bentley | After reviewing financial statements, Bentley asked for a dismissal of penalty. He will have 13 months of garnishments, and he's asked to only pay $200 rather than $500 while these garnishments are being taken. Wagner and Walker agreed to have Bentley pay $250 each month through November 2010, and then go back to paying the full $500 each month after that. Bentley's case file will be forwarded to DOR for collections if he waivers from the agreement. |
| Boards and Commissions | Wagner briefed the Board about the Governor's options to eliminate, suspend or combine boards and commissions. His possible recommendation was to combine the Tax Board with the Board of Accountancy and put the new entity under the Department of Consumer and Business Services. If this is considered by the |

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| | Legislature, there will be ample notice for people affected to provide comments. |
| **Adjournment** | Twombly adjourned the Board meeting at 4:19 p.m. |

**Next meeting:** November 5, 2009
Salem, Oregon