

Oregon State Board of Tax Practitioners

Board Meeting Minutes

Meeting Date: January 7, 2010

Time: 9:07 a.m. – 3:38 p.m.

Location: Morrow Crane Building, Salem, Oregon

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

Guests: Nancy Hubbard, OSTC
 Susan Parks, OAIA
 Judith Wilkins, OATC
 Linda Thomas
 Kelly M. Gabliks, DOJ

Staff: Ron Wagner, Executive Director
 Monica J. Walker, Senior Compliance Specialist
 Jane Billings, Exam & Education Coordinator
 Marika Dwyer, Licensing Specialist
 Dian Coleman, Public Affairs Specialist

ITEM	ACTION / DISCUSSION
Twombly called the meeting to order at 9:07 a.m.	
Roll called	Board members present: Salisbury, Hudson, Johnston, Ellsworth, VanAtta, Gutierrez, and Twombly.
Approval of meeting minutes	<p>Twombly allowed Board members a moment to review the previous meeting minutes. Ellsworth noted that the Board Chair and Vice Chair designations need to be corrected on the November 5, 2009, minutes.</p> <p>Motion: Hudson made a motion to accept the September 23, 2009, Board meeting minutes as reviewed by the Board. Motion passed. Ayes: Salisbury, VanAtta, Johnston, Gutierrez, Hudson, Ellsworth, and Twombly.</p> <p>Motion: Hudson made a motion to approve the November 5, 2009, Board meeting minutes with proposed changes by the Board. Motion passed. Ayes: Ellsworth, Salisbury, VanAtta, Gutierrez, Hudson, Johnston, and Twombly.</p> <p>Board meeting minutes are located on the Tax Board Web site at: http://www.oregon.gov/OTPB/Meeting_Minutes.shtml</p>
Administration Report	
Budget reported by Ron Wagner	<p>Wagner referred to the financial BRIO report and the forecasts for the 2009-2011 biennium included in the Board member handbooks. He reviewed the running balances as the projected figures became actuals for the five months since the start of the biennium.</p> <p>The projected revenues for the biennium to date are \$222,100. We are \$23,000 ahead</p>

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	<p>of projections with actual biennium to date revenues of \$245,156. The projected expenses for the biennium to date are \$230,000. We are on target with projections with actual biennium to date expenses of \$237,533.</p> <p>The collections process with DOR (Oregon Department of Revenue) is working. An individual asked for a payoff date in order to attain a loan. Wagner confirmed that DOR takes a percentage (12%) of the collection for a service fee. VanAtta was concerned about the numbers being adjusted by \$100,000, and Wagner plans to look into that and then e-mail the Board members.</p>
Communication Plan	<p>Wagner anticipated having Amit Mehta for 14 weeks, but unfortunately ended up with only seven weeks. Dian Coleman was hired to fill in, and has been able to hit the ground running. Coleman shared that although the timing to get publicity has been rushed, it is a good time to have media most receptive – it’s tax time! She is working on a communications plan that includes short and long term goals for the Board. She plans to do some surveying to include what Board members feel is important. Another larger survey plan over the coming years beginning with a baseline survey which the Board could refer back to every five years.</p> <p>Wagner and Coleman created a matrix of project proposals and ideas about communications, contacts, costs, prep time, comments and target dates, etc. This was distributed to Board members. Coleman has also written press releases and contacted people directly to place information. She is concentrating on doing the things that cost nothing and can be done right away, such as piggy-backing on blogs.</p> <p>Ellsworth shared that the City of Hillsboro sends out an e-publication that highlights hot topics. She will forward this to other Board members. Coleman agreed that everything the Board can do will help. Wagner has been doing quite a few presentations, and was on the Channel 8 News, taking advantage of every opportunity to get the word out. The Tax Board’s licensee “Look-Up” posted on Channel 8’s news links was the most visited over the past two days. Wagner shared about the cease and desist order in Eugene and that Channel 8 News felt it might be a good story to follow up on.</p> <p>Discussion followed about using Facebook or Twitter. These forms of social media would require a full time person available to respond on the Tax Board’s behalf. Mehta suggested that the Board do advertising on Facebook and focus on the Oregon demographic. The benefits of using social media must be weighed with the extensive effort required to use it. The Board discussed the extent that consumer protection is educating the public, and the most strategic use of resources. Johnston recommended figuring out what funds are needed, then setting it up as a budget item for the next biennium.</p>
National Licensing	<p>The Board discussed the media attention on national licensing, and the concern about whether Oregon licensees would be grandfathered in. Wagner spoke with Karen Hawkins, Director of the Office of Professional Responsibility with IRS, who worked with Commissioner Shulman on the public forums. They had positive things to say about Oregon’s program and hold it in very high regard, but they will be excluding only attorneys, EAs, and CPAs, with no mention of Oregon licensees at all. Wagner</p>

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	<p>followed up with Richard Goldstein, Office of Associate Chief Counsel. Shulman wanted to make recommendations by the year's end and approached with procedural changes rather than legislative that had gone nowhere in the previous ten years. The timeline for implementation is uncertain. Once the testing is developed and in place, all practitioners will have three years from that date to meet the testing requirements. Hawkins mentioned there is an administrative practice procedural act rights and obligations that does not allow a governmental agency to put further restrictions upon groups that already have some regulations over them, for example CPAs and attorneys. But the IRS can expand testing to individuals using PTIN (preparer tax identification number) if data is collected showing the need for this testing. State law can not supersede federal law.</p> <p>Salisbury noted there will be an issue that will need some public relations. The law has changed from unlicensed preparers being able to work and have the CPA they work for sign their returns because the primary preparer of the return needs to sign the return now, not the supervisor. She says most CPA firms are under the impression that it doesn't matter if their preparers are licensed or not.</p> <p>Wagner shared that the word got out that California preparers were going to be exempt, so Hawkins was planning to write a summary responding to this, and the Board can use this language to address issues that come up. He would like to have this response posted on the Board's Web site.</p>
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Board Meeting Break 10:40 a.m.-10:55 a.m.

Rule Making Update and Discussion

<p>Reported by Jane Billings</p>	<p>The rule making hearing took place on December 22, 2009, and there were no attendees. There was one written comment, concerning OAR 800.010.0025 Integrity and Objectivity, and a couple of minor grammar changes. The suggestion was to propose language to include "all state tax return filings." The reasoning being that if someone owed taxes in another state the Board would not want to issue them a license in Oregon. Billings briefly summarized the rules for the Board members.</p> <p>Motion: Salisbury made a motion to accept the rules as proposed as presented. Motion passed. Ayes: Ellsworth, Johnston, Hudson, VanAtta, Twombly, Gutierrez, and Salisbury.</p>
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Exam and Education Report

<p>Reported by Jane Billings</p>	<p>The Board administered exam was held at Chemeketa Community College on December 12, 2009. There were 215 people registered and 185 attended – pretty good considering the weather. Of the 30 people who could not make it, over half have already rescheduled their exams – many taking it at the Tax Board office. The exam went well with eleven volunteers and five staff. Most people finished on time, so there wasn't a long line at the end of the exam like last year.</p> <p>Statistics were distributed to Board members. There were approximately 137 fewer applications than last year. There were an extremely low percentage of consultants. Preparers are doing well – more are passing with higher scores. During the December exams, there were 303 preparers who scored over 80%, and three out of four state-</p>
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	<p>only applicants scored over 80%. Consultant exam scores remained much lower.</p> <p>It was suggested that the preparers and the consultants get different color coded materials for easy identification at the exams, and to have all the consultants sit at the same table, that way they wouldn't be distracted by all the open book materials of the preparers.</p> <p>Hudson is reviewing continuing education from Jackson Hewitt. One course is still outstanding because Johnston was unable to locate it with the online search. Billings will contact the sponsor and have the course resubmitted. The Tax Incentives for Home Ownership Part 1 & 2 were approved for four hours each by Hudson.</p> <p>There was a frequently missed question in the General Information Booklet (page 24) that April Gutierrez of Pacific Northwest Tax Service brought to the Board's attention. The Board reviewed it and felt that it should be taken out because there was not enough information to answer the question.</p> <p>The CE audit for the preparers has been sent out to 192 licensees, and they are responding steadily. They are due February 1, 2010.</p>
Licensing Report	
Statistics reported by Marika Dwyer	The numbers of consultants and preparers are increasing over all. There are a lot of new preparer applications coming in right now.
Waiver Requests	
License Waiver for DC/RC, Glenda Horton, Gateway Tax Service	<p>The Business Practices Committee reviewed this waiver this morning.</p> <p>Motion: Gutierrez moved that the Board approve Glenda Horton's request for the waiver to be allowed through May 31, 2010. Motion passed. Ayes: Ellsworth, Johnston, Hudson, Salisbury, VanAtta, Gutierrez, and Twombly.</p>
Outreach Meetings	
Ron Wagner	<p>Wagner surveyed the Board for input about the effectiveness of outreach meetings. The Ontario Board meeting did not draw licensees as hoped. Hood River was a much better turn out. It was mentioned that November might be a better month, but the weather was a concern. If licensees feel there is more of a reason to go they may attend regardless. It was suggested to go simpler this year with a more central populated area, such as Eugene or Bend. The Board agreed to let Wagner decide the location for this year's outreach meeting.</p>
Lunch 11:53 a.m.	
Twombly reconvened the meeting at 12:31 p.m.	
Executive Session	
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 12:31 p.m.-2:10 p.m.	
Compliance Report	
Reported by Monica	There are 15 total cases. One case file went to the Oregon Department of Revenue for

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J. Walker	collection. There are three Notices of Intent pending. There are two pending Settlement Agreements and Stipulated Final Orders. Four cases that need Board action, one field visit case, and two cases that are closed. Walker has earmarked several businesses and practitioners for visits in the off season, dealing with general issues such as unlicensed activity, unregistered businesses, alleged lack of supervision, discounts without fee schedules posted, and newly licensed individuals.
Cease and Desist Orders	
Carol M. Jones, Lowell, OR	Motion: Salisbury moved that the Board reconsider the motions made in Case No. 398, in regards to Carol M. Jones, during the September 23, 2009, Board meeting. Motion passed. Ayes: Gutierrez, VanAtta, Ellsworth, Johnston, Hudson, Twombly, and Salisbury.
Notices of Intent	
Carol M. Jones, Lowell, OR	Motion: Salisbury moved that the Board ratify the Notice of Intent to Impose Discipline served on Carol M. Jones on December 23, 2009, for her unlicensed activity. Motion passed. Ayes: VanAtta, Twombly, Gutierrez, Johnston, Ellsworth, Hudson, and Salisbury.
Jeanie M. Pitner, Battleground, WA	Motion: Salisbury moved that the Board authorize the issuance of a Notice of Intent to Impose Discipline and Right To Hearing 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 Jeanie M. Pitner of Battleground, Washington. Motion passed. Ayes: Hudson, Twombly, VanAtta, Ellsworth, Gutierrez, Johnston, and Salisbury.
Hispanic Solutions Center, Medford, OR	Motion: Salisbury moved that the Board authorize the issuance of a Notice of Intent to Impose Discipline and Right To Hearing 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 Hispanic Solutions Center of Medford, Oregon. Motion passed. Ayes: Gutierrez, Johnston, Twombly, Hudson, VanAtta, Ellsworth, and Salisbury.
Peter J. Guagliardo, Portland, OR	Motion: Salisbury moved that the Board authorize the issuance of a Notice of Intent to Impose Discipline and Right To Hearing 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 Peter J. Guagliardo of Portland, Oregon. Motion passed. Ayes: Gutierrez, VanAtta, Ellsworth, Johnston, Hudson, Twombly, and Salisbury.
Kathleen Bedell, Woodburn, OR	Motion: Salisbury moved that the Board issue a Notice of Intent to Revoke the Preparer License of Kathleen Bedell (License #5837-C) for violating the provisions

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	<p>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 673.705(1); obtaining or attempting to obtain a license by fraudulent representation and one (1) violation of the Code of Professional Conduct - ORS 673.700(7) and OAR 800-010-0042; failing to respond to the Board's request for information.</p> <p>Motion passed. Ayes: Ellsworth, Hudson, VanAtta, Twombly, Johnston, Gutierrez, and Salisbury.</p>
<p>Executive Session <small>To discuss examination candidate question and comment forms. This information is exempt from public disclosure pursuant to 192.660(2)(f), this Executive Session is closed to members of the public.</small></p>	
<p>Executive Session 2:35 p.m.-3:16 p.m.</p>	
<p>Exam Questions</p>	
Exam Credit	<p>Motion: Hudson moved that the Board credit the exam two questions as discussed in Executive Session.</p> <p>Motion passed. Ayes: Gutierrez, Ellsworth, Johnston, Twombly, VanAtta, Salisbury, and Hudson.</p>
<p>Board Meeting Break 3:18 p.m.-3:31 p.m.</p>	
<p>Other Business</p>	
Newsletter	<p>VanAtta and Ellsworth complimented the authors of the newsletter articles and Dwyer for putting it together.</p>
CE Audits	<p>Twombly suggested having a way to earmark these CE audits during renewals, sooner than during peak tax time when it's difficult to find a replacement for a licensee out of compliance. Board members and staff agreed this might be better since many licensees have CE out to list for renewal and other licensees insist on sending the actual certificates along with their renewals anyway. Problems with licensees fudging some CE hours because they know they will not be audited, and with the licensees who end up completing CE late were discussed. Walker suggested that the burden to verify CE be on the individual employers.</p>
Director Evaluation	<p>The Board has been informed that it is not required at this time, so the evaluation will be handled at the May Board meeting.</p>
Board Appointments	<p>VanAtta's second term ended May 31, 2009, although she graciously agreed to continue until a replacement could be found. Johnston's second term will end January 31, 2010. The Board's efforts to get replacements were put off by the Governor's office due to opposition by the OAIA. The two names will be forwarded on for confirmation by the Senate during the special session next month. They are Dee Williams of Salem, OR, and Margaret Atchison of Bend, OR. Wagner wanted to remind folks in the future to fill out applications to be a Board member completely. He said that although some licensees were well qualified, the applications were filled out at a minimal level.</p>
<p>Adjournment</p>	

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Twombly adjourned the Board meeting at 3:38 p.m.

Next meeting:

May 13, 2010

Morrow Crane Building, Salem, Oregon