

Oregon State Board of Tax Practitioners

Board Meeting Minutes

Meeting Date: July 14, 2011

Time: 9:04 a.m. – 2:20 p.m.

Location: Morrow Crane Building, Salem, Oregon

Attendees: Dorothy Hudson (Board Chair)
 Janis Salisbury (Vice-Chair)
 Alan Twombly
 Toni Ellsworth
 Jess Gutierrez
 Margaret Atchison
 Dea Williams

Guests: Dale Marino, ORSEA
 Louis Wampler
 Judith Wilkins, OATC
 Susan Parks, OAIA
 Nancy Hubbard, OSTC
 Randy Shimek
 Linda Thomas
 Jack Goldberg

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

ITEM	ACTION / DISCUSSION
Hudson called the meeting to order at 9:04 a.m.	
Roll called	Board members present: Williams, Atchison, Salisbury, Gutierrez, Ellsworth, Twombly, and Hudson.
Approval of meeting minutes	<p>Motion: Salisbury made a motion to approve the May 12, 2011, Board meeting minutes with the changes as presented by the Board. Motion passed. Ayes: Ellsworth, Williams, Atchison, Hudson, Gutierrez, Twombly, and Salisbury.</p> <p>Board meeting minutes are located on the Tax Board Web site at: http://www.oregon.gov/OBTP/Meeting_Minutes.shtml</p>
Administration Report	
Budget reported by Ron Wagner	<p>The projected revenue for the biennium to date, July 1, 2009 through May 31, 2011 is \$1,051,172. The actual revenue-to-date is \$1,112,738. Our actual revenue-to-date exceeds the projected revenue by \$61,566. The projected expenses for the biennium to date, July 1, 2009 through May 31, 2010 are \$979,500. The actual expenses-to-date are \$971,434. Our actual expenses-to-date are less than the projected expenses by \$8,066. We have \$45,093 left in our budget for June expenditures. I expect that we will have approximately \$4,000 - \$6,000 of unspent expenditure limitation (the amount to Board has been approved to spend in the biennium) at the end of the biennium.</p> <p>The Board's ending balance as of May 31, 2011 is \$431,210. The projected ending balance for the end of the biennium, June 30, 2011, is \$475,000.</p> <p>Our expected revenues for the biennium are expected to be \$1,199,738. Our</p>

Oregon State Board of Tax Practitioners

Board Meeting Minutes

	<p>projection or total revenues for the biennium were \$1,138,000, so we will be about \$61,000 higher in revenues. Our expenditure limitation for the biennium was \$1,016,527, so the difference between our revenues and our expenditures will be about \$183,000.</p> <p>The new computers were delivered in the '09-'11 biennium but we did not take possession until after the new biennium started so they will be expensed in the new biennium.</p> <p>Wagner reminded the Board about its decision to decrease the fee for the initial application for preparers, which will reduce revenues by \$30-40,000. Wagner shared the BRIO reports with projections for the new biennium. The new allotment is \$1,001,741, up about \$85,000.</p> <p>Previously Gutierrez had asked about fines, forfeits and interest, which were \$34,325. Wagner anticipates it will be closer to \$40,000 for the '11-'13 biennium.</p> <p>Computers continue to have connectivity issues. A new fiber line to the State Data Center is planned and would improve matters tremendously.</p> <p>Salisbury and Gutierrez were both reappointed for another 3-year term.</p> <p>The Board's budget bill did pass, as well as our agency sponsored bill, increasing the number of hours required to sit for the LTC exam from 780 to 1100, and requiring the PTIN.</p> <p>Things change a little bit with new leadership. There's a new Governor, and a new director of Administrative Services, the new COO for the state, Michael Jordan. The new board and commissions appointment person is Kendal Clausen.</p> <p>The change to the statute requiring licensees to include their Board issued license number in all advertising generated a couple of questions. What about little league t-shirts and team sponsors? What about signs on buildings? These will not be required to include the license number. Wagner will share any other oddball inquiries and will check with the Construction Contractor's Board as well.</p> <p>Wagner contacted the Oregon College of Art and Craft, Portland, to involve students in designing a Board logo. There was only one submission. Wagner suggests using LogoBee through the Web.</p>
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Exam and Education Report	
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<p>Reported by Jane Billings</p>	<p>May and June pass rates were included in the Board binders; preparer exam was 51%, and consultant exam 21%, and the consultant state only 59%. Gutierrez sparked a discussion about whether the open book exam improved scores.</p> <p>Applications are still being received for proctor sites and basic 80-hour course sponsors.</p> <p>The Board discussed ways to help examinees with English as their second language, and the possibility of having a testing service come present to the Board.</p>
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Oregon State Board of Tax Practitioners

Board Meeting Minutes

	<p>The Instructor Workshop will be August 9, 2011. There is a positive response with over 50 attendees signing up. The Board discussed the format of the panel portion of the Workshop, and considered having attending instructors with good pass rates share their input.</p> <p>On June 10, 2011, four volunteers came in to take the consultant exam.</p> <p>Consultant exams are at the printers now and will be released on August 1, 2011.</p> <p>The Preparer Item Writing Committee (IWC) of 20 volunteers reviewed and updated all preparer exam questions and wrote approximately 30 new ones.</p> <p>Billings thanked Glen Branfield, IWC member, for volunteering to answer questions at the Board preparer exam work session.</p> <p>There were 33 new questions added to the preparer exam pool, but no changes made to the subject categories. Publication 596 - Earned Income Credit was denied, but Form 4797 Instructions will be added to the list of source documents.</p> <p>Motion: Ellsworth moved to accept the changes and additions made to the preparer exam pool of questions as discussed at the Board’s work sessions held on July 12-13, 2011. Motion passed. Ayes: Atchison, Twombly, Hudson, Gutierrez, Williams, Salisbury, and Ellsworth.</p> <p>Motion: Ellsworth moved to include Form 4797 Instructions to the preparer exam as acceptable source documents as agreed at the Board’s work sessions held on July 12-13, 2011. Motion passed. Ayes: Williams, Twombly, Atchison, Ellsworth, Hudson, Gutierrez, and Salisbury.</p> <p>Rule changes going into effect February 1, 2012, have been filed, and all Board members were provided a copy of the most current rules. The advertising rule will go into effect July 1, 2012.</p> <p>The Board discussed one licensee’s concerns about the changes in supervision hours of first year preparers, and how keeping track of hours might work.</p> <p>The consultant CE audit is ready to go and Billings is working on the audit for the preparers. Some CE sponsors have called regarding advertising in the Tax Board Bulletin newsletter, and the Board discussed how to handle that.</p>
Board Meeting Break 10:14 a.m.-10:29 a.m.	
Licensing Report	
Statistics reported by Marika Dwyer	Preparer numbers are decreasing a bit because there is an increase in preparers being inactive or in lapsed status. There were more branches opened, but less businesses. There were more retirees for both preparers and consultants. Overall the total numbers are consistent.
Business Practices Committee Report	
Alan Twombly	The Committee met yesterday to discuss mobile endorsement. The question is “at

Oregon State Board of Tax Practitioners

Board Meeting Minutes

	<p>what point does the practitioner need to get a branch registration?” They may not even have a physical location, e.g., going door to door, or to a senior center. The Committee is leaning toward having a mobile endorsement on the consultant’s license that allows them to sort of be a portable tax office, they discussed requiring four years experience in tax preparation, carrying the physical license, having a bond and background check, yearly renewal, and providing contact information for the licensee and the Board. It was felt that more than ten returns would indicate a branch. The licensee must own a business or be working under a business and be in good standing. More research is being done on how much this will cost the Board. There was a lengthy discussion about the need for this endorsement and what the goal of this service would be. This is still in the preliminary stages of consideration.</p>
<p>Public Comment</p>	
Nancy Hubbard	Hubbard asked for clarification regarding actions performed away from the office, such as picking up the tax return, requiring this mobile endorsement.
Linda Thomas	Thomas felt that practitioners don’t consider themselves as unscrupulous, and that the Board should be finding unscrupulous activities without needing to have endorsements of mobility and placing additional restrictions on how to best serve clients.
<p>Executive Session <small>To discuss information exempt from public disclosure under ORS 673.730(4). Pursuant to 192.660(2)(f). This Executive Session is closed to members of the public.</small></p>	
<p>Executive Session 11:02 a.m.- 12:30 p.m.</p>	
<p>Lunch</p>	
<p>Hudson reconvened the meeting at 12:53 p.m.</p>	
<p>Compliance Report</p>	
Reported by Monica J. Walker	<p>Walker added Jamasa Sattler of Madras, Oregon, to the list of compliance reporting handouts.</p> <p>Complaints reported from January 1, 2011, through July 12, 2011. General statistics:</p> <ul style="list-style-type: none"> 90 Total cases 8 Reported during Executive Session 13 Action Taken 7 Need Board action/vote 22 Open investigations—currently gathering evidence, evidence in review 14 Pending and waiting for additional information 13 Mediated 28 Closed <p>General counts/Information on complaints:</p> <ul style="list-style-type: none"> 55 Unlicensed/unregistered activity 17 Competency in Services

Oregon State Board of Tax Practitioners

Board Meeting Minutes

	<ul style="list-style-type: none"> 13 DC/RC/Supervision Requirements 11 Return of records 5 Advertising 4 Other entities 3 Posting of fee schedules 2 Fraudulent Activity 2 Signature Requirements 1 Failure to file a return <p>The newsletter article will cover the season's findings in more detail and include things that licensees can do to ensure compliance.</p>
Notices of Intent	
Daniel J. Cleary Albany, OR	<p>Motion: Salisbury moved that the Board issue a Notice of Intent to Impose Discipline and Right To Hearing to Daniel J. Cleary of Albany, Oregon for:</p> <p>Eighteen (18) 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; and</p> <p>One (1) violation of ORS 673.643(1) and OAR 800-025-0020(1)(a and b) for failing to register a tax preparation business at \$100.</p> <p>Motion passed. Ayes: Twombly, Ellsworth, Atchison, Gutierrez, Salisbury, Hudson, and Williams.</p>
Jeff Durkee Salem, OR	<p>Motion: Salisbury moved that the Board authorize the issuance of a Notice of Intent to Impose Discipline and Right To Hearing to Jeff Durkee of Salem, Oregon for:</p> <p>All violations of ORS 673.615(1) found for preparing, advising, or assisting in the preparation of personal income tax returns for valuable consideration without being licensed or exempt from licensure for up to \$5,000 per violation;</p> <p>One (1) violation of ORS 673.643(1) and OAR 800-025-0020(1)(b) for failing to register a tax preparation business at \$100; and</p> <p>One (1) violation of ORS 673.643 and OAR 800-010-0050 for advertising in the form of printed, broadcast or electronic material that makes known professional tax services at \$50 per violation.</p> <p>Motion passed. Ayes: Ellsworth, Atchison, Gutierrez, Salisbury, Hudson, Williams, and Twombly.</p>
Aracely Hernandez Hillsboro, OR	<p>Motion: Salisbury moved that the Board authorize the issuance of a Notice of Intent to Impose Discipline and Right To Hearing to Aracely Hernandez of Hillsboro, Oregon for:</p> <p>All violations of ORS 673.615(1) found for 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; and</p>

Oregon State Board of Tax Practitioners

Board Meeting Minutes

	<p>One (1) violation of ORS 673.643(1) and OAR 800-025-0020(1)(b) for failing to register a tax preparation business at \$100.</p> <p>Motion passed. Ayes: Atchison, Gutierrez, Salisbury, Hudson, Williams, Twombly, and Ellsworth.</p>
Vote to Establish Civil Penalty Amount – Additional Violation – Existing Case	
<p>Steven Townsend Portland, OR</p>	<p>Motion: Salisbury moved that the Board assess Steven J. Townsend of Portland, Oregon a civil penalty for:</p> <p>One (1) violation of the Code of Professional Conduct - ORS 673.700(7) and OAR 800-010-0042 for failing to respond in writing to communications from the Board within 15 business days of the request at \$100.</p> <p>Motion passed. Ayes: Gutierrez, Salisbury, Hudson, Williams, Twombly, Ellsworth, and Atchison.</p>
Retraction of 05/12/11 Vote Based on Additional Evidence Received	
<p>Jamasa Sattler Madras, OR</p>	<p>Motion: Salisbury moved that the Board amend by retracting the following portions of their May 12, 2011, authorization to issue a Notice of Intent to Impose Discipline and Right To Hearing to Jamasa Sattler of Madras, Oregon:</p> <p>One (1) violation of ORS 673.643(1)(b) and OAR 800-025-0040(1) for failing to designate and operating a business without a designated consultant at \$2,000; and</p> <p>One (1) violation of ORS 673.643(1) and OAR 800-025-0020(1)(a and b) for failing to register a tax preparation business at \$100.</p> <p>Motion passed. Ayes: Hudson, Twombly, Atchison, Ellsworth, Williams, Gutierrez, and Salisbury.</p>
Retraction of, and Addition to 05/12/11 Vote Based on Additional Evidence Received	
<p>Alice McCullough Bend, OR</p>	<p>Motion: Salisbury moved that the Board amend by retracting the following portion of their May 12, 2011, authorization to issue a Notice of Intent to Impose Discipline and Right To Hearing to Alice McCullough of Bend, Oregon:</p> <p>One (1) violation of ORS 673.643(1)(b) and OAR 800-025-0040(4) for acting as a designated consultant for more than one business without a waiver from the Board at \$500.</p> <p>AND –Salisbury moved that the Board authorize the addition of the following violation to the Notice of Intent to Impose Discipline and Right To Hearing voted on during the May 12, 2011, board meeting for Alice McCullough of Bend, Oregon:</p> <p>One (1) violation of ORS 673.643(1) and OAR 800-025-0030(1) for failing to register a tax preparation branch office at \$100.</p> <p>Motion passed. Ayes: Hudson, Williams, Twombly, Ellsworth, Atchison, Gutierrez, and Salisbury.</p>

Oregon State Board of Tax Practitioners

Board Meeting Minutes

Request for Case Dismissal	
Kimberlee Lomas Hillsboro, OR	Salisbury reported no vote was needed because the Board decided to keep the action taken in May.
Waiver Requests	
William Housman Portland, OR	<p>Motion: Salisbury moved to approve the waiver of one hour of continuing education for the 2011 renewal of licensee number 0607-C, William E. Housman of Portland, Oregon, per OAR 800-015-0010(13).</p> <p>Motion passed. Ayes: Twombly, Hudson, Williams, Atchison, Gutierrez, Ellsworth, and Salisbury.</p>
Robert Keating West Linn, OR	<p>Motion: Salisbury moved to deny preparer licensure to Robert Kevin Keating due to a history of conduct resulting in conviction of crimes involving Burglary of a Dwelling, Grand Theft and Assault as per Oregon Revised Statute 673.700 (4)(a) and (b).</p> <p>Motion passed. Ayes: Twombly, Ellsworth, Atchison, Gutierrez, Salisbury, Hudson, and Williams.</p>
Other Business	
Dea Williams	Williams feels the Board needs to be careful about what is reported to be continuing education (CE) at conventions. It is up to the sponsoring group to make sure that the topics covered qualify for CE.
Outreach Meeting	
Ron Wagner	Wagner confirmed the reservation for September 29, 2011, at the Shilo Inn, Newport, Oregon. This is a beautiful location that will accept the government per diem rates. The lunch menu is currently being decided.
Executive Session	
To discuss information exempt from public disclosure under ORS 673.730(4). Pursuant to 192.660(2)(f). This Executive Session is closed to members of the public.	
Executive Session 1:20 p.m.- 2:20 p.m.	
Adjournment	
Hudson adjourned the Board meeting at 2:20 p.m.	

Next meeting:
 September 29, 2011
 Shilo Inn, Newport, Oregon