

Oregon State Board of Tax Practitioners Board Meeting Minutes

Meeting Date: July 12, 2012

Time: 9:03 a.m. – 3:34 p.m.

Location: Morrow Crane Building, Salem, Oregon

Attendees: Janis Salisbury (Chair)
 Jess Gutierrez (Vice-Chair)
 Toni Ellsworth (Board Member)
 Dorothy Hudson (Board Member)
 Joe Lovato (Board Member)
 Alan Twombly (Board Member)
 Dea Williams (Board Member)
 Kelly Gabliks (DOJ)

Guests: Randy Shimek, H & R Block
 Nancy Hubbard, OSTC
 Judith Wilkins, OATC
 Dale Marino, ORSEA
 Linda Thomas
 Merry Van Atta, OAIA
 Debbie Pillsbury-Harvey

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

ITEM		ACTION / DISCUSSION	
Salisbury called the meeting to order at 9:03 a.m.			
Roll called	Board members present: Williams, Lovato, Salisbury, Gutierrez, Ellsworth, Twombly, and Hudson.		
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 9:06 a.m. – 10:37 a.m.			
Board Meeting Break 10:37 a.m. – 10:53 a.m.			
New Board Member	<p>Salisbury began with an introduction and welcome of the new Board member, Joe Lovato, of Scio. Wagner presented Lovato with a name badge and a Board member manual.</p> <p>Joe Lovato</p> <ul style="list-style-type: none"> • Bachelor of Science in Business and Management from University of Maryland • Masters of Arts in Human Relations from the University of Oklahoma • Retired from the U.S. Army in 1992 • Licensed Tax Consultant since 2006 • Enrolled Agent since 2008 <p>Salisbury swore in Lovato as the new Board member.</p>		

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Compliance Report

Reported by
Monica J. Walker

Complaints reported from January 1, 2012, through July 3, 2012.

General statistics:

- 96 Total cases/complaints
- 10 Reported during Executive Session
- 8 Need Board action/vote
- 13 Open investigations
- 17 Pending and waiting for additional information
- 5 Mediated
- 36 Closed

General counts/information on complaints:

- 44 Unlicensed/unregistered activity
- 15 Other entities
- 14 Competency/Services
- 12 Advertising
- 11 DC/RC/Requirements/Supervision
- 9 Fraudulent activity
- 8 Return of records
- 2 Continuing education audit requirements
- 2 Failure to notify Board of changes to information
- 2 Failure to file a return
- 1 Signature requirements
- 1 Confidentiality
- 0 Posting of fee schedules

Settlement Agreement Statuses

Nguyet Thi Minh Nguyen – Signed, executed and paid in full
Ramiro Rico – Signed, executed and paid in full
Raul Medrano – Signed, executed and paid in full
Albert Bentley – Signed and on payment plan
Daria Nelson – Signed and on payment plan
Fausta Garcia – Signed and on payment plan
Jamasa Sattler – Signed and on payment plan
Pamela Miles – Signed and on payment plan
Steven Townsend – Signed and on payment plan
William Baumeister – On payment plan and waiting for signature
John Robideau – Paid in full and waiting for signature

Rules Coordination

Walker and Billings met to discuss the status and pass on the duties of the Rules Coordinator. Walker plans to send out the recruitment for the Rules Advisory Committee by the end of the month, with the meeting scheduled for September 13, 2012.

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Settlement Agreement	
Damon Mayer Brookings, OR	<p>Motion: Gutierrez moved that the Board enter into a Settlement Agreement and Stipulated Final Order with Damon L. Mayer of Brookings, Oregon, to assess civil penalties in the amount of \$3,676.40 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).</p> <p>Motion passed. Ayes: Hudson, Williams, Salisbury, Lovato, Ellsworth, Gutierrez, and Twombly.</p>
Final Order by Default	
Nicholas Feigner Lake Oswego, OR	<p>Motion: Gutierrez moved that the Board issue a Final Order by Default to Nicholas K. Feigner of Lake Oswego, Oregon for:</p> <p>One (1) violation of ORS 673.615(1), for preparing, advising, or assisting in the preparation of personal income tax returns for valuable consideration without being licensed or exempt from licensure in the amount of \$5,000; and</p> <p>One (1) violation of ORS 673.643(1) and OAR 800-025-0020(1)(a & b) for failing to register a tax preparation business in the amount of \$100.</p> <p>Motion passed. Ayes: Twombly, Ellsworth, Gutierrez, Salisbury, Hudson, Lovato, and Williams.</p>
Notice of Intent	
Keith Altamirano Vancouver, WA	<p>Motion: Gutierrez moved that the Board authorize the issuance of a Notice of Intent to Impose Discipline and Right To Hearing to Keith Altamirano of Vancouver, Washington 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 up to \$5,000 per violation;</p> <p>All violations of ORS 673.700(7) and OAR 800-010-0050, found for advertising in the form of printed, broadcast or electronic material that makes known professional tax services up to \$2,000 per violation; and</p> <p>All violations of ORS 673.643(1) and OAR 800-025-0020(1), found for failing to register a tax preparation business at \$100 per violation.</p> <p>Motion passed. Ayes: Williams, Twombly, Hudson, Gutierrez, Lovato, Salisbury and Ellsworth.</p>
Leander Klein Florence, OR	<p>Motion: Gutierrez moved that the Board authorize the issuance of a Notice of Intent to Impose Discipline and Right To Hearing to Leander F. Klein of Florence, Oregon for:</p> <p>One (1) violation of ORS 673.700(3)(7) and OAR 800-010-0017, for negligence or incompetence in a tax consultant or tax preparer practice and for violation of the code of professional conduct prescribed by the Board up to \$5,000;</p>

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	<p>All violations of ORS 673.700(7) and OAR 800-010-0025(6) found for failure to return records upon written request up to \$3,000 per violation;</p> <p>All violations of ORS 673.690(1) and OAR 800-025-0070(3), found for failure to maintain copies of tax returns/records up to \$1,000 per violation;</p> <p>All violations of ORS 673.700(7) and OAR 800-010-0030(1) found for allowing an employee to operate w/out proper Licensure at \$3,000 per violation; and</p> <p>All violations of ORS 673.700(7) and OAR 800-010-0030(2) found for allowing another to use his tax consultant license at \$3,000 per violation.</p> <p>Motion passed. Ayes: Williams, Twombly, Ellsworth, Hudson, Lovato, Gutierrez, and Salisbury.</p>
<p>Neva Kaufman Irvine, CA</p>	<p>Motion: Gutierrez moved that the Board authorize the issuance of a Notice of Intent to Impose Discipline and Right To Hearing to Neva Kaufman of Irvine, California 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 \$5,000 per violation;</p> <p>All violations of ORS 673.663, found for improper use of the title “Tax Consultant” at \$5,000 per violation;</p> <p>All violations of ORS 673.705(3), found for presenting or attempting to use the license of another at \$5,000 per violation;</p> <p>All violations of ORS 673.705(6), found for engaging in dishonesty, fraud or deception relating to the preparation of personal income tax returns at \$5,000 per violation; and</p> <p>All violations of ORS 673.643(1) and OAR 800-025-0020(1) found for failing to register a tax preparation business at \$100 per violation.</p> <p>Motion passed. Ayes: Ellsworth, Lovato, Twombly, Salisbury, Williams, Gutierrez, and Hudson.</p>
<p>Marilyn Secco Grants Pass, OR</p>	<p>Motion: Gutierrez moved that the Board issue a Notice of Intent to Impose Discipline and Right To Hearing to Marilyn Secco of Grants Pass, Oregon for:</p> <p>Five (5) violations of ORS 673.615(1), 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> <p>Five (5) violations of ORS 673.643(1) and OAR 800-025-0020(1) for failing to register a tax preparation business at \$100 per violation.</p> <p>Motion passed. Ayes: Lovato, Hudson, Twombly, Ellsworth, Williams, Gutierrez, and Salisbury.</p>

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<p>Job Lopez Woodburn, OR</p>	<p>Motion: Gutierrez moved that the Board issue a Notice of Intent to Impose Discipline and Right To Hearing to Job Lopez of Woodburn, 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 \$5,000 per violation;</p> <p>All violations of ORS 673.643(1) and OAR 800-025-0020(1), found for failing to register a tax preparation business at \$2,000 per violation; and</p> <p>All violations of ORS 673.705(6), found for engaging in dishonesty, fraud or deception relating to the preparation of personal income tax returns at \$5,000 per violation.</p> <p>Motion passed. Ayes: Hudson, Salisbury, Lovato, Gutierrez, Ellsworth, Williams, and Twombly.</p>
<p>Withdraw of Notice of Intent</p>	
<p>Ruthann Rose Woodburn, OR</p>	<p>Walker reported that Rose passed away earlier this year.</p> <p>Motion: Gutierrez moved that the Board withdraw the issuance of a Notice of Intent to Impose Discipline and Right To Hearing to Ruthann Rose of Woodburn, Oregon for:</p> <p>One (1) violation of ORS 673.643(1)(c) and OAR 800-025-0023(2) for failure to notify the Board of changes to business contact information within 15 business days at \$100;</p> <p>All violations of ORS 673.700(7) and OAR 800-010-0025(6) found for failure to return records upon written request at \$250 per violation;</p> <p>All violations of ORS 673.700(7) and OAR 800-010-0030(1) found for allowing an employee to operate w/out proper Licensure at \$500 per violation;</p> <p>All violations of ORS 673.700(7) and OAR 800-010-0030(2) found for allowing another to use her Tax Consultant license at \$3,000 per violation; and</p> <p>One (1) violation of ORS 673.700(7) and OAR 800-010-0042 for failure to respond to the Board’s inquiry at \$100.</p> <p>Motion passed. Ayes: Lovato, Ellsworth, Williams, Twombly, Hudson, Salisbury, and Gutierrez.</p>
<p>Administration Report</p>	
<p>Budget reported by Ron Wagner</p>	<p>The projected revenue for the biennium to date, July 1, 2011, through May 31, 2012, is \$483,500. The actual revenue to date \$519,594. Our actual revenue to date exceeds the projected revenue by \$36,094. The projected expenses for the biennium to date, July 1, 2011, through May 31, 2012, are \$511,500. The actual expenses to date are \$474,145. Our actual expenses to date are less than the projected expenses by \$37,355. The Board’s ending balance as of May 31, 2012, is \$526,080. The projected</p>

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	<p>ending balance for the end of the biennium, June 30, 2013, is \$589,000.</p> <p>The Board’s biennial allotment or the amount the Board has been approved by the Oregon legislative Ways & Means Committee to spend is \$1,101,741. We are on track to spend approximately \$950,000, or \$50,000 less than the allotment.</p> <p>Our expected revenues for the biennium are expected to be \$1,137,000. We are projected to have total revenues for the biennium of \$1,050,000. Our total projected revenues are projected to exceed our projected expenses by \$100,000.</p> <p>Shared Client Services, mainly the accounting functions, will be changing their funding model, so this expense may change. Wagner is looking into whether the services can be provided elsewhere for less next biennium.</p> <p>Wagner explained how the “10 Year Plan” will affect the Board and the way state agencies are funded. They will take a fresh look at what services should be provided. The Board falls into their category of “safety committee funding group.” We are included as financial safety, along with the Board of Accountancy and the Real Estate Agency.</p> <p>The Web has moved from TeamSite to SharePoint management systems with the contract with NIC beginning on July 1, 2012. Wagner asked NIC about the Board setting up online registration, and was encouraged to find that it is possible even with the funding concerns. NIC has an option where, rather than pay upfront costs, there’s a pay per transaction fee. He liked the features of being able to pay online and the possibility of printing out the license online as well. Wagner will check with other states that have worked on this with NIC to see what they think about the service, and will look into the possibility of having something in place for exam season.</p> <p>Board members found an error in the Q & A for new advertising rules. “LTP” needed to be taken out because the business or consultant number should be used. Wagner went over the guidelines, explaining that the rule was never intended to place a financial burden on licensees. OBTP license number should be included when advertising the business name. The Board discussed an example of national advertising that a franchisee does not have control over, and agreed that the corporate business registration should be used. Wagner contacted the big three national firms to be sure they are aware of Oregon laws now. Promotional materials, such as pens, T-shirts, calendars, etc., are now grouped with items that do not need to have the license number on them.</p> <p>New advertising rules Q & A can be found at: http://www.oregon.gov/OBTP/docs/pdfs/advertising_rules.pdf</p>
Public Comment	
Linda Thomas	Thomas was wondering if there should be a rule change for including the business registration number for large franchises. She also was concerned about when there is change of ownership that the business number remains the same so that the building signage does not have to be changed.

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Lunch 12:20 p.m.									
Salisbury reconvened the meeting at 12:50 p.m.									
Administration Report									
Budget reported by Ron Wagner	<p>A licensee suggested that the PTIN be added to the fields of the licensee list requests because it would be helpful for cross referencing with federal information. Wagner asked if there was a reason this could not be included. Lovato shared that the number was being used on returns to replace the social security number and that it was being renewed yearly, with no guarantee that the number would stay the same. Wagner will check with the IRS to see if the information can be released, and then see about adding the field to the Board's Licensee Look-Up online.</p> <p>Wagner contacted David Williams, Director of the RTRP Program, about getting copies of the exams. He has not yet received a favorable answer.</p> <p>Rod Justice, Director of Cash Oregon, provided Wagner with statistics about the volunteers increased accuracy rates. The OATC suggested that the Board expand jurisdiction to cover volunteer tax assistance. Wagner shared with the OATC that any one of their representatives could contact a legislator to seek legislation as well.</p>								
Public Comment									
Merry Van Atta	Van Atta recommended that the minutes be accepted "as reviewed" rather than "as amended" because they were not accepted originally.								
Minutes									
Approval of meeting minutes	<p>Motion: Twombly made a motion to approve the May 10, 2012, Board meeting minutes as amended by the Board. Motion passed. Ayes: Salisbury, Gutierrez, Hudson, Williams, Lovato, Twombly, and Ellsworth. A later motion was made by Twombly to approve the May 10, 2012, Board meeting minutes with the changes as reviewed by the Board. Motion passed. Ayes: Hudson, Lovato, Twombly, Ellsworth, Williams, Gutierrez, 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>								
Exam and Education Report									
Reported by Jane Billings	<p>Statistics for the past 2 months for pass rates on exams.</p> <table> <tr> <td>May</td> <td>June</td> </tr> <tr> <td>Preparers = 0%</td> <td>Preparers = 0%</td> </tr> <tr> <td>Consultants = 30%</td> <td>Consultants = 50%</td> </tr> <tr> <td>CSO = 20%</td> <td>CSO = 75%</td> </tr> </table> <p>Year to date Preparers = 44% Consultants = 20% CSO = 45%</p>	May	June	Preparers = 0%	Preparers = 0%	Consultants = 30%	Consultants = 50%	CSO = 20%	CSO = 75%
May	June								
Preparers = 0%	Preparers = 0%								
Consultants = 30%	Consultants = 50%								
CSO = 20%	CSO = 75%								

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Also included is a comparison with the same period from last year.

May 2012 Total Pass Rates

2011 = 27%

2012 = 22%

June 2012

2011 = 50%

2012 = 75%

Proctor site inter-agency agreements and 80 Hour Basic Tax Course sponsors application continue to come in.

Preparer Item Writing Committee met on June 7th and 8th, to review and update all the preparer exam questions to 2011 tax law. They also wrote 54 new questions. There was a fantastic group of 20 volunteers. Billings extended thanks to all of them for their participation.

Barb Jenkins, the Board's Exam Consultant, came to the Board office May 30th and May 31st to pull questions to create four versions of the consultant exam. On June 14th four volunteer consultant test takers came to take a version of the exam. They met with Barb to discuss any concerns they had. Most of them confided that they had not studied at all in preparation of taking the exam, and yet they did a very impressive job. Scores ranged from 62%, to 87%.

The consultant and CSO exams are now compiled and have been sent to state printing. They will be ready for release on August 1, 2012.

The Board members had an opportunity to review Preparer Item Writing Committee (PIWC) work product during their work sessions over the past 2 days. The Board members reviewed not only the questions that IWC members have commented on, but all questions that had a pass rate of less than 30%. Thank you to volunteers, Vona Pease and Barbara Craven for coming in to answer questions, provide input, and share comments with the Board.

Last year it was suggested that the frequently missed questions portion of the work sessions be reviewed at an earlier Board meeting, possibly the May meeting. The reasoning behind this prior discussion may have been due to the volume of work done during the Preparer work sessions. The mini-problems take a longer period of time to review. The Board members agreed that May might be a better time review the frequently missed questions.

Fifty new questions written by the preparer IWC were added to the preparer exam pool along with the additional 28 written by the Board members for a total of 78 new questions. Eight more questions were added to the consultant pool of questions. The Board members reviewed the exam reference sheet one final time. No changes were made to the subject categories that would increase or decrease the percentage of questions in the various subject categories on the preparer exam. No new publications were added to the current list of allowable source documents for the open-book preparer exam.

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	<p>Motion: Hudson made a motion 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 10th and July 11th, 2012. In addition, to include the reviewed and agreed upon “Frequently Missed Questions” in the 2012 edition of the General Information Booklet. Motion passed. Ayes: Twombly, Gutierrez, Ellsworth, Hudson, Williams, Salisbury, and Lovato.</p> <p>Oregon Administrative Rule Filings will be handled by Walker now. She will be heading up the Rules Advisory Committee from this point forward.</p> <p>Changes the Board made to the OAR and ORS that went into effect on July 1, 2012, are now official. The OAR changes included:</p> <ul style="list-style-type: none"> • <i>Increasing the hours of work experience from 780 to 1100 to qualify to take the consultant exam</i> • <i>Requiring license numbers on advertising</i> <p>Statute rule changes:</p> <ul style="list-style-type: none"> • <i>Will make it mandatory that all licensees possess an IRS preparer tax identification number</i> • <i>Increasing the hours of work experience from 780 to 1100 to qualify to take the consultant exam</i> <p>Preparation for the consultant audit has been made. The list of licensees for both the consultants and preparers audits were pulled in March as the Board suggested. Two hundred-ten consultant audit letters are ready to be mailed out at the end of July or beginning of August. Preparer audit letters should be going out in late October, early November.</p> <p>Billings continues to work on the agency’s record retention schedule. She attended an InDesign class in June, a software program currently used for creating forms. She also attended a SharePoint class, which is the new state-wide Web content management program.</p>
Licensing Report	
<p>Statistics reported by Marika Dwyer</p>	<p>Licensee numbers are decreasing, especially consultants. There are less lapsed and inactive consultants, and the business numbers have dropped because of fewer consultants. There is an increase in the number of lapsed preparers. Board members were not surprised at the numbers due to the federal rules, liability, and the impending tests.</p>
Waiver Requests	
<p>Meredith Green Sheridan, OR</p>	<p>Motion: Twombly moved to accept the designated consultant waiver request for Meredith Green of Sheridan, Oregon through May 31, 2013, effective immediately.</p> <p>Motion passed. Ayes: Williams, Lovato, Ellsworth, Salisbury, Twombly, Gutierrez, and Hudson.</p>
<p>Richard Harris Eugene, OR</p>	<p>Motion: Twombly moved to accept the designated consultant waiver request for Richard Harris of Eugene, Oregon through May 31, 2013, per the Business Practice</p>

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	<p>Committee's temporary approval issued on May 23, 2012.</p> <p>Motion passed. Ayes: Lovato, Hudson, Gutierrez, Salisbury, Ellsworth, Williams, and Twombly.</p>
<p>Sharon Reeves Bay City, OR</p>	<p>Motion: Twombly moved to accept the designated consultant waiver request for Sharon Reeves of Bay City, Oregon through May 31, 2013, effective immediately.</p> <p>Motion passed. Ayes: Gutierrez, Williams, Ellsworth, Lovato, Twombly, Hudson, and Salisbury.</p>
<p>Public Comment</p>	
<p>Linda Thomas</p>	<p>Thomas would like her advertisement officially removed from the Board's Web site until her license and business registration numbers are added.</p>
<p>Outreach Meeting</p>	
<p>September 20, 2012 Bend, OR</p>	<p>The Board members discussed what to cover during the Licensee Luncheon meeting. Twombly will share the new advertising rules. Hudson will talk about the issues that should be focused on when studying for exams and about training and mentoring preparers. The whole Board will be involved in the Q & A session.</p>
<p>Other Business</p>	
<p>Password Protection</p>	<p>Hudson asked why the compliance information sent out ahead of time did not need to be password protected in e-mail as Gabliks suggested in a previous meeting. Walker explained it was not necessary to e-mail this time because the Board members were present for the preparer work sessions. However, she will utilize this option for the September meeting.</p>
<p>Tax Board Bulletin Newsletter</p>	<p>Articles are due now.</p>
<p>Board Meeting Break 1:40 p.m. – 1:55 p.m.</p>	
<p>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.</p>	
<p>Executive Session 1:55 p.m. – 3:34 p.m.</p>	
<p>Adjournment Salisbury adjourned the Board meeting at 3:34 p.m.</p>	

Next meeting:
September 20, 2012
Riverhouse, Bend, Oregon