Oregon Board of Tax Practitioners

Public Board Meeting Minutes
Board Offices, 3218 Pringle Rd SE Ste 120, Salem Oregon
January 8, 2015

Mission: The Board of Tax Practitioners protects consumers by ensuring that Oregon tax professionals are competent and ethical in their professional activities.

Board Members:

Joe Lovato, LTC, Chair
Nutan Arora, LTC
Michael Addington, LTC
Janis Salisbury, LTC
Susan Gallagher-Smith, LTC
Dorothy Hudson, LTC -excused
Vacant, Public Member

Board Staff:

Bill McMillen, Executive Director
Kyle Martin, Assistant Attorney General
Heather Shepherd, Compliance Specialist
Jane Billings, Exam & Education Coordinator
Shari Barrett, Licensing Specialist

CALL TO ORDER

Chair Lovato called the public session to order at 9:11 a.m. Roll call was completed. Chair Lovato closed the public session at 9:13 a.m. to convene in Executive session pursuant to ORS 192.660(2)(f). Executive session is closed to members of the public.

Chair Lovato reconvened public session at 12:46 p.m.

Public Session

Minutes of Nov approved.

2014 compliance report (presented by Heather Shepherd, Compliance Specialist)

- General Statistics 119 complaints, currently 22 open investigations, 2 pending, 47 closed, 5 mediated, 10 pending action
- General count: 70 unlicensed and unregistered, 26 advertising, 21 other entities, 29 competency, 8 return records, 10 supervision from Designated Consultant/Resident Consultant for failure to notify of changes, 5 fraudulent, 2 confidentiality, 6 CE audit requirements. Revised documentation and tracking procedures have resulted in a lower counts compared to 2013.

Case #507 Motion 1 Case 507 Portland – Motion passed 5 out of 5

Moved by Gallagher-Smith that the Board withdraw Notice of Intent to impose discipline decided at November 6, 2014 board meeting in Case # 507.

Motion 2 Case 507 Portland – Motion passed 5 out of 5

Moved by Gallagher-Smith that the Board issue an Order to Cease and Desist regarding Case # 507**,** an unlicensed individual per ORS 673.730(5) and to assess civil penalties per

ORS 673.730(6) for violating the provisions of Oregon Revised Statute 673.615(1), Oregon Revised Statute 673.643(1):

- 282 violation(s) of ORS 673.615(1) unlicensed activity at $ 250 per violation, and
- Three (3) violation(s) of ORS 673.643(1) and OAR 800-025-0020(1) failure to register a business at $100.00 per year.

Case #508 Motion 1 Case #508 Portland – Motion passed 5 out of 5

Moved by Gallagher-Smith that the Board withdraw Notice of Intent to impose discipline decided at November 6, 2014 board meeting.

Motion 2 Case #508 Portland – Motion passed 5 out of 5

Moved by Gallagher-Smith that the Board issue a Notice of Intent to Impose Discipline and Right To Hearing regarding Case # 508**,** an unlicensed individual for violating the provisions of Oregon Revised Statute 673.615(1), Oregon Revised Statute 673.643(1), Oregon Revised Statute 673.700(7), Oregon Administrative Rule 800-010-0050 and Oregon Administrative Rule 800-025-0020(1) as well as include in the Notice, an Intent to Discipline and Right to Hearing for:

- 506 violation(s) of ORS 673.615(1) unlicensed activity at $250.00 per violation, and
- Two (2)violation(s) of ORS 673.643(1) and OAR 800-025-0020(1) failure to register a business at $100 per year

Case #511 Notice of Intent Case #511 Dallas – Motion passed 5 out of 5

Moved by Gallagher-Smith that the Board dismiss Case #511.

Case #512 Notice of Intent Case #512 Happy Valley – Motion passed 5 out of 5

Moved by Gallagher-Smith that the Board dismiss Case #512

Case #513 Notice of Intent Case #513 Gresham – Motion passed 5 out of 5

Moved by Gallagher-Smith that the Board dismiss Case #513

Case #514 Notice of Intent Case #514 Portland – Motion passed 5 out of 5

Moved by Gallagher-Smith that the Board issue a Notice of Intent to Impose Discipline and Right To Hearing regarding Case # 514, a licensed tax consultant for violating the

provisions of Oregon Revised Statute 673.615(1), Oregon Revised Statute 673.643(1) and Oregon Administrative Rule 800-025-0020(1) as well as to include in the Notice, an Intent to Discipline and Right to Hearing for:

- 40 violation(s) of ORS 673.615(1) unlicensed activity at $250.00 per violation
- Two (2)violation(s) of ORS 673.643(1) and OAR 800-025-0020(1) failure to register a business at $100.00 per year

Case #515 Notice of Intent Case #515 Salem – Motion passed 4 out of 5
Dissenting vote: Lovato

Moved by Gallagher-Smith that the Board dismiss Case #515.

Case #516 Notice of Intent Case #516 Gresham – Motion passed 5 out of 5

Moved by Gallagher-Smith that the Board issue a Notice of Intent to Impose Discipline and Right To Hearing regarding Case # 516, a licensed tax business and licensed tax preparer for violating the provisions of Oregon Revised Statute 673.615(1)&(2), Oregon Revised Statute 673.643, Oregon Administrative Rule 800-010-0050(6) and (7), Oregon Administrative Rule 800-025-0040 and Oregon Administrative Rule 800-025-0060 as well as include in the Notice, an Intent to Discipline and Right to Hearing for:

- 81 violation(s) of ORS 673.615(1) unlicensed activity at $250 per violation
- One (1) violation(s) of ORS 673.615(2) and OAR 800-025-0050 Preparer without required supervision at $1,000 per violation
- Two (2) violation(s) of ORS 673.700 and OAR 800-010-0050(6)&(7) advertising & solicitation at $50 per advertisement
- One (1) violation(s) of OAR 800-025-0040 Designated Consultant at $1,000 per violation
- One (1) violation(s) of OAR 800-025-0060 Consultant in Residence at $1,000 per violation

Case #517 Notice of Intent Case #517 McMinnville – Motion passed 5 out of 5

Moved by Gallagher-Smith that the Board issue an Order to Cease and Desist regarding Case # 517, an unlicensed individual per Oregon Revised Statute 673.730(5) and to assess civil penalties per ORS 673.730(6) for violating the provisions of Oregon Revised Statute 673.615(1), Oregon Revised Statute 673.643(1) and Oregon Revised Statute 673.705(2)&(5) for:

- 31 violation(s) of ORS 673.615(1) unlicensed activity at $500 per violation
- One (1)_violation(s) of ORS 673.643(1) and OAR 800-025-0020(1) failure to register a business at $200 per year
- 31 violation(s) of ORS 673.705(2)&(5) prohibited acts at $500 per violation

Case #518 Notice of Intent Case #518 Dayton – Motion passed 5 out of 5

Moved by Gallagher-Smith that the Board issue a Notice of Intent to Impose Discipline and Right To Hearing regarding Case # 518, a licensed tax preparer for violating the provisions of Oregon Revised Statute 673.655, Oregon Administrative Rule 800-015-0010(1) 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(s) of OAR 800-015-0015(2) audit, required documentation and sanctions at $100 per violation.

Case #519 Notice of Intent Case #519 Medford – Motion passed 4 out of 5
Dissenting vote: Lovato

Moved by Gallagher-Smith that the Board issue a Notice of Intent to Impose Discipline and Right To Hearing regarding Case # 519, a licensed tax preparer for violating the provisions of 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(s) of OAR 800-015-0015(2) audit, required documentation and sanctions at $100 per violation and accept the surrender of license

Case #520 Notice of Intent Case #520 Eugene – Motion passed 5 out of 5

Moved by Gallagher-Smith that the Board issue a Notice of Intent to Impose Discipline and Right To Hearing regarding Case # 520, a licensed tax preparer for violating the provisions of Oregon Revised Statute 673.655, Oregon Administrative Rule 800-015-0010(1) 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(s) of OAR 800-015-0015(2) audit, required documentation and sanctions at $100 per violation

Examination Review

Ms. Billings related the statistics reflecting the pass rates for November and December 2014. The cumulative pass rate reports for Preparer, Consultant and Consultant State only now reflects rates from 2010 through December 2014.

- 201 applicants registered to attend Board administered exam December 6, 2014.
  - 13 no shows or cancellations
  - Of the 188 test takers, 98 passed and 90 failed – pass rate of 49%.
    - Total applicants to sit for exam in prior years:
      2013=151, 2012=136, 2011=127, 2010=157

The exam for December 2015 will be held at the same location (Winema Place at CCC)

Saturday, December 12, 2015. This will be the 2nd Saturday of the month.

Continuing Education Audit

The Preparer audit began in November. 177 Preparers were notified they were chosen for the random audit.

- 84 documentation reviewed and notified of compliance 12/8/14
- 68 documentation reviewed and notified of compliance 12/24/14
- 14 submitted incomplete documentation
  - 3 were forwarded to Compliance and reviewed by Board today
  - 11 non-compliant and will be forwarded to Compliance for various reasons.

Rulemaking

Ms. Billings led the Board through a discussion of the rule changes recommended by the Board Advisory Committee, staff and public comment.

Rulemaking hearing was held December 16, 2014. 9 public comments received. Board reviewed related to comments received.

Rules reviewed include:

OAR 800.010.0015 ; OAR 800.020.0030 (2)(3); OAR 800.015.0010(11); OAR 800.020.0015(9)(b); OAR 800.025.0040(6)(a); OAR 800.020.0015; OAR 800.015.0015(3)(h); OAR 800.010.0015(7)(b)(c)(e); OAR 800.010.0015(6); OAR 800.010.0015(5)

Summary of changes:

In addition to general housekeeping revisions and changes made to clarify rule language the following changes became effective:

OAR 800-010-0015(5) – Definitions Further defines "Designated Consultant" and the responsibilities of these individuals.

OAR 800-010-0050(6) & (7) – Advertising and Solicitation

Additional options included for the purposes of business or individual advertising.

OAR 800-015-0005 – Basic Education

Replaces the Oregon Department of Education with the Higher Education Coordinating Commission who currently has over site of all vocational schools.

OAR 800-015-0010 – Continuing Education

Requires that all licensees take a minimum of 2 hours within the annually required 30 hours of continuing education in the subject areas of professional conduct and ethics.

Defines what types of programs provided through Board approved sponsors would be acceptable.

OAR 800-020-0030(2) & (3) – Licenses – Renewals and Reactivation

Tax Practitioners are prohibited from practicing until official renewals have been processed.

Chair Lovato closed the public session and adjourned the meeting at 3:19 p.m.