



OREGON BOARD OF ACCOUNTANCY
COMPLAINTS COMMITTEE
PUBLIC SESSION MINUTES
January 16, 2015

3218 Pringle Rd SE #110
Salem, OR 97302

1st Floor Conference Room

503-378-4181

Committee Members Present

Josh Dunlap, CPA
Kent Bailey, CPA
Bill Holmes, CPA
Joe Sullivan, CPA
Haley Lyons, CPA
Jessie Bridgham, CPA

Excused Absences

Chris Walter, CPA
Nancy Young, CPA

Guests Present for All or Part of Public Session

None

Staff

Martin Pittioni, Executive Director
Noela Kitterman, CPA, Investigator
Theresa Gahagan, CPA, CFE, Investigator
Bethany Reeves, Compliance Specialist

Board Liaison

Larry Brown, CPA

Board Counsel

Susan Bischoff, AAG

1. Call to Order

Acting Chair Mr. Dunlap called the public session to order at 8:32 a.m. and announced that the meeting was being recorded.

2. Review and Approval of Agenda

No changes were made to the agenda.

3. BOACC Leadership Elections

A. Election of the Vice Chair

Committee Action: Moved by Mr. Dunlap and carried to appoint Chris Walter as Vice Chair.

Vote: 6 ayes – unanimous, 0 – nays

B. Election of the Chair

Committee Action: Moved by Mr. Sullivan and carried to appoint Josh Dunlap as Chair.

Vote: 5 ayes – unanimous, 0 – nays, 1 – abstain (Dunlap)

Discussion: Mr. Sullivan noted the Mr. Dunlap has done a good job as the Vice Chair. Several members voiced agreement.

4. Approval of Minutes Time – 8:07 am

A. BOACC Public Session Minutes, November 7, 2014

B. BOACC Public Session Minutes, January 6, 2015

There were no comments on the November 7, 2014 minutes.

Chair Dunlap commented that he was not at the January 6, 2015 meeting, so he could not review the January 6 minutes. Investigator Gahagan noted that she was incorrectly listed as being present at the January 6 meeting.

Committee Action: Moved by Ms. Lyons and carried to accept both public session minutes with the change to the January 6, 2015 minutes as noted.

Vote: 6 ayes – unanimous, 0 – nays

5. Old Business - Review of Board Actions from December 15, 2014

Mr. Brown reported that the Board agreed with virtually all of the Complaints Committee recommendations. He said that the Board differed in the Edison agreed-upon-procedures (AUP) matter. The Board concurred that there was insufficient evidence of Professional Misconduct. And the Board concurred that there was sufficient evidence for a violation of Integrity and Objectivity, but not for Subordination of Professional Judgment. The primary issue was that Mr. Edison did not sign the report, so the evidence supported a preliminary finding of violation of Integrity and Objectivity better than a violation for lack of independence. Mr. Brown commented that the Board agreed with the BOACC that Business Energy Tax Credit (BETC) confirmation letters are attest work. Mr. Pittioni noted that while the Board did not make a preliminary finding of violation on the land purchase, it planned to issue a letter of concern to the Respondents. Mr. Bailey commented that with respect to the land purchase, he had initially thought there was a violation, but the information presented by the Respondents at the BOACC meeting changed his mind.

Mr. Brown further added that in an effort to educate the Board's licensees, he would write an article for the OSCPA newsletter about AUPs and also conflict of interest issues for divorcing couples. Ms. Bridgham added that Board staff will talk to the Oregon Department of Energy about the need for practitioners who prepare BETC confirmation letters to be registered as public accounting firms. Mr. Bailey added that the 66 practitioners who prepared BETC letters but did not treat them as AUPs need to be educated on the requirements of the standards.

6. New Business – GovSpace Update and Implementation

Ms. Reeves briefly described how GovSpace is an electronic collaboration tool, approved by the State because of the security features. She said that the goal is to find an electronic means of distributing meeting materials that would be faster, more efficient, and more secure than the current method of distributing data discs by FedEx. She noted that Board staff can set the "permissions" for each user to access the BOACC group, and that permissions may be rescinded at any time. Board staff can also upload and delete posted information, so access to the information is very tightly controlled. Ms. Gahagan added that the privacy settings of the BOACC group on GovSpace is so high that general users of GovSpace cannot even see that the BOACC group exists. Mr. Pittioni noted that the BOACC is testing this tool out, and if it proves to be useful, it will be rolled out to the Board and the other committees.

The members participating in the GovSpace pilot test group provided feedback on their experience. Ms. Lyons noted that it is easy to use. Mr. Sullivan commented on the similarities between GovSpace and Facebook, and noted that there are more features and capabilities in GovSpace than

Microsoft Dropbox. The members said it is helpful to receive notification emails when materials are available to download, and requested Board staff continue alerting them via email.

7. Convene Executive Session #1

Public session adjourned at 8:57 am, and executive session was convened pursuant to ORS 192.660(2)(h), for the purpose of receiving advice from counsel on Threatened or Potential Litigation..

8. Convene Executive Session #2

At 9:05 am, a second executive session was convened pursuant to ORS 192.660(2)(f), for the purpose of examining exempt public records.

9. Committee Recommendations

A. Case #13-047

1. **Committee Action:** Moved by Ms. Bridgham and carried to recommend that there is **insufficient** evidence to make a preliminary finding of violation of OAR 801-030-0020(1), Professional Misconduct, for not responding to a court order.
Discussion: None
Vote: 6 ayes – unanimous, 0 – nays
2. **Committee Action:** Moved by Ms. Bridgham and carried to recommend that there is **insufficient** evidence to make a preliminary finding of violation of OAR 801-030-0015(2), Client records and working papers.
Discussion: None
Vote: 6 ayes – unanimous, 0 – nays

B. Case #14-002

1. **Committee Action:** Moved by Mr. Bailey and carried to recommend that there is **sufficient** evidence to make a preliminary finding of violation of OAR 801-030-0020(6)(c), Plural Firm Names.
Discussion: None
Vote: 6 ayes – unanimous, 0 – nays
2. **Committee Action:** Moved by Mr. Bailey and carried to recommend that there is **sufficient** evidence to make a preliminary finding of violation of OAR 801-030-0020(1), Professional Misconduct, for submitting an inaccurate firm registration.
Discussion: None
Vote: 6 ayes – unanimous, 0 – nays

Discussion of the Egregiousness of the Violation(s): Mr. Dunlap thought the actions were mid-level violations, because the Respondent’s intent when submitting an inaccurate firm registration could not be known. In his view the recurring inaccuracies on the firm registration were much more serious than the firm name issue. Mr. Bailey agreed the firm name issue was not very serious, but thought the Professional Misconduct issue due to the repeated conduct of providing inaccurate information to the Board had a high level of egregiousness.

C. Case #14-008

1. **Committee Action:** Moved by Mr. Bailey and carried to recommend that there is **sufficient** evidence to make a preliminary finding of violation of OAR 801-030-0020(6)(c), Plural Firm Names.

Discussion: None

Vote: 6 ayes – unanimous, 0 – nays

Discussion of the Egregiousness of the Violation(s): Ms. Bridgham said the actions had a low level of egregiousness.

D. Case #14-020

1. **Committee Action:** Moved by Ms. Lyons and carried to recommend that there is **sufficient** evidence to make a preliminary finding of violation of ORS 673.320 use of terms certified public accountant, public accountant, C.P.A. or P.A. (multiple violations)

Discussion: None

Vote: 6 ayes – unanimous, 0 – nays

2. **Committee Action:** Moved by Ms. Lyons and carried to recommend that there is **sufficient** evidence to make a preliminary finding of violation of OAR 801-010-0345, Registration of Business Organizations, when representing to a Credit Union that Respondent had performed public account work that “constituted more than a “Compilation” but was short of a “Review.”

Discussion: None

Vote: 6 ayes – unanimous, 0 – nays

3. **Committee Action:** Moved by Ms. Lyons and carried to recommend that there is **sufficient** evidence to make a preliminary finding of violation of OAR 801-030-0020(1), Professional Misconduct, for unauthorized use of a client’s credit card.

Discussion: None

Vote: 6 ayes – unanimous, 0 – nays

4. **Committee Action:** Moved by Ms. Lyons and carried to recommend that there is **sufficient** evidence to make a preliminary finding of violation of OAR 801-030-0020(7) Board communications and investigations, for not responding to Board communications during the pendency of the investigation. (multiple violations)

Discussion: None

Vote: 6 ayes – unanimous, 0 – nays

5. **Committee Action:** Moved by Ms. Lyons and carried to recommend that there is **sufficient** evidence to make a preliminary finding of violation of OAR 801-050-0020, Peer Review Enrollment and Participation in Peer Review Program.

Discussion: Ms. Lyons noted that this violation was for the same action for which the BOACC had already recommended a violation of failure to register a business organization under OAR 801-010-0345.

Vote: 6 ayes – unanimous, 0 – nays

Discussion of the Egregiousness of the Violation(s): There was consensus that the actions were extremely egregious, and that revocation of the Respondent's license would be appropriate.

E. Case #14-028

- 1. Committee Action:** Moved by Mr. Holmes and carried to recommend that there is **sufficient** evidence to make a preliminary finding of violation of OAR 801-030-0010(1)(b), Due Professional Care, for failure to assess if a client's business revenue from a foreign country should be included on a tax return.
Discussion: None
Vote: 6 ayes – unanimous, 0 – nays
- 2. Committee Action:** Moved by Mr. Holmes and seconded to recommend that there is **sufficient** evidence to make a preliminary finding of violation of OAR 801-030-0005(2) Integrity and Objectivity, for failure to assess whether business revenue from a foreign country should be included on a tax return.
Discussion: Mr. Holmes noted that this motion related to the preparation of a tax return knowing or suspecting the information is inaccurate or incomplete and not obtaining sufficient relevant data to confirm.
Committee Action: Mr. Holmes revised his motion as follows: Mr. Holmes motioned to recommend that there is **sufficient** evidence to make a preliminary finding of violation of OAR 801-030-0005(2) Integrity and Objectivity AND OAR 801-030-0010(1)(d), Sufficient Relevant Data, for failure to assess whether a client's business revenue from a foreign country should be included on a tax return. Ms. Bridgham seconded the revised motion.
Discussion: No comments were made on the revised motion.
Vote: 6 ayes – unanimous, 0 – nays
- 3. Committee Action:** Moved by Mr. Holmes and carried to recommend that there is **sufficient** evidence to make a preliminary finding of violation of OAR 801-030-0020(8), Business transactions with clients.
Discussion: Mr. Dunlap noted that it was not limited to one transaction, but was for multiple transactions.
Vote: 6 ayes – unanimous, 0 – nays
- 4. Committee Action:** Moved by Mr. Holmes and carried to recommend that there is **sufficient** evidence to make a preliminary finding of violation of OAR 801-030-0015(2)(b), Responsibilities to clients and client records.
Discussion: None
Vote: 6 ayes – unanimous, 0 – nays
- 5. Committee Action:** Moved by Mr. Holmes and carried to recommend that there is **sufficient** evidence to make a preliminary finding of violation of OAR 801-030-0020(1), Professional Misconduct.
Discussion: It was noted that there were multiple violations related to billing and preparation of tax returns and other actions.
Vote: 6 ayes – unanimous, 0 – nays

6. **Committee Action:** Moved by Mr. Holmes and carried to recommend that there is sufficient evidence to make a preliminary finding of violation of OAR 801-030-0020(6)(a), False and misleading firm names.

Discussion: Mr. Dunlap asked why the evidence for this allegation should be viewed as sufficient, when the BOACC had that same day viewed similar evidence in other cases as being insufficient. Ms. Bischoff replied that it was not the firm name itself which was of concern, but the “tagline” of “Certified Public Accountants and Business Advisors” and “Certified Public Accountants” under the firm name (on letterhead, invoices, and other stationery) which was misleading. There was consensus that the “tagline” is plural, but there was discussion over whether the “tagline” was part of the firm name, and would therefore fit under this OAR. Mr. Bailey commented that the “tagline” was not part of the firm name, but was instead a matter of public communications, so he could not support this violation.

Vote: 5 ayes, 1 – nays (Bailey)

7. **Committee Action:** Moved by Mr. Holmes and carried to recommend that there is sufficient evidence to make a preliminary finding of violation of OAR 801-030-0020(4), Public communications and advertising.

Discussion: None.

Vote: 6 ayes – unanimous, 0 – nays

Note: The BOACC took no action with regard to the allegation of OAR 801-030-0020(6)(c), Plural Firm Names.

Discussion of the Egregiousness of the Violation(s): None.

F. Case #14-056

1. **Committee Action:** Moved by Mr. Bailey and carried to recommend that there is insufficient evidence to make a preliminary finding of violation of OAR 801-030-0020(1), Professional misconduct AND OAR 801-030-0020(4) Public communications and advertising.

Discussion: None.

Vote: 6 ayes – unanimous, 0 – nays

10. Announcements and Adjournment

Mr. Brown announced that this would be his last meeting as the Board Liaison to the Complaints Committee. He thanked the members of the BOACC for their service.

Chair Dunlap adjourned the meeting at 2:15 pm.