

**OREGON BOARD OF ACCOUNTANCY**

**Minutes, February 6, 2006**

**3218 Pringle Road SE #110**

**Salem OR 97302**

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*The Board of Accountancy protects the public by regulating  
the practice and performance of all services  
provided by licensed accountants.*

**Board Members Present**

James Gaffney, CPA, *Chair*  
Lynn Klimowicz, CPA, *Vice-Chair*  
Kent Bailey, CPA, *Secretary-Treasurer*  
Anastasia Meisner, *Public Member*  
Jens Andersen, CPA  
Ray Johnson, CPA

**Staff Members**

Carol Rives, *Administrator*  
Noela Kitterman, *Investigator*  
Kimberly Bennett, *Committee Coordinator*  
Joyce Everts, *Committee Coordinator*  
Heather Shepherd, *Committee Coordinator*

**Excused**

Stuart Morris, PA

**Guests Attending**

Christine Chute, *Asst. Attorney General*  
Jim Aldrich, PA, *OAIA Representative*  
Cheryl Langley, *OSCPA*  
Rob Moody, CPA, *OSCPA*  
Susan Payne, CPA, *arrived at 11:00 a.m.*  
John Schatz, *arrived at 11:00 a.m.*

**1. CALL TO ORDER**

Chair Gaffney called the meeting to order at 9:11 a.m.

**A. Appoint Process Observer**

Ray Johnson was appointed process observer.

**2. APPROVAL OF MINUTES**

**A. December 12, 2005**

**BOARD ACTION:** Moved by Johnson and carried to approve the minutes as corrected to indicate that Mr. Andersen was excused, not absent during all Board votes. Further revisions to Board discussions are included as attachment A.

**VOTE:** Chair Gaffney did not vote; 5 ayes, 1 excused (Morris)

**3. REPORT OF CHAIR**

**A. NASBA**

**1. Vice Chair Recommendations**

NASBA invited all Boards to submit nominations for NASBA Vice Chair.

**BOARD ACTION:** Moved by Bailey and carried to nominate Gerald Burns as NASBA Vice Chair.

**VOTE:** Chair Gaffney did not vote; 5 ayes, 1 excused (Morris)

**2. Letter from Board of Examiners**

**BOARD ACTION:** Moved by Klimowicz to send a letter to NASBA supporting the Illinois letter dated January 31, 2006 (attachment B) that supports the current examination structure and delivery while simultaneously expressing the concern about performance and organizational issues that need attention.

**VOTE:** Chair Gaffney did not vote; 5 ayes, 1 excused (Morris)

**3. NASBA 2005 Annual Report**

This document is available upon request and at the May 2006 Board meeting.

**4. REPORT OF VICE CHAIR**

**A. Work Session**

**1. Spring Work Session, Bend**

The Board suggested that the following topics be included on the agenda:

- administrative rule prohibiting confidentiality agreements;
- CPE audit selection procedure;
- revised performance measures;
- one year experience requirement;
- procedure for review of PCAOB firm inspection reports,
- substantial equivalency and requirements for services performed in Oregon pursuant to engagements with clients located in another state
- eligibility for authorization when the licensing jurisdiction had not been deemed equivalent
- use of the CPA designation in non-CPA businesses
- cash reserve review prior to legislative session in 2007.

**5. REPORT OF SECRETARY-TREASURER**

**A. Financial Reports**

Bailey reviewed the 2005 – 2007 financial report and stated that the Board has \$60,000 in positive variance due to fines and interest and we are under the expense projection by \$22,000. Bailey noted that the 2003 - 2005 financial report's ending balance is different than the 2005-2007 beginning balance. Rives is researching the variance. No Board action is necessary.

**6. REPORT OF ADMINISTRATOR**

**A. Legislative Concepts**

**1. ORS 673.410**

A legislative concept was developed to allow a public member to fill the public accountant position on the Board in the event that no licensed public accountant is available to serve on the Board. The Board approved the concept.

**BOARD ACTION:** Moved by Johnson and carried to approve the legislative concept to allow a member of the public fill the public accountant position if no public accountants are available.

**VOTE:** Chair Gaffney did not vote; 5 ayes, 1 excused (Morris)

**2. ORS 673.380(5)**

This section clarifies that ORS chapter 673 does not require licensees to retain records longer than required by any other applicable statute. Our administrative rule requires a seven year retention period for audit work papers. There was concern that the administrative rule may exceed the authority of ORS 673.380 if no other authority requires a seven year retention period for audit papers. However it was confirmed that the PCAOB retention requirement for audit work papers is also seven years.

Based on the PCAOB record retention requirement, a legislative concept is not necessary. The administrative rule does not exceed statutory authority.

**3. ORS 673.160**

A legislative concept was presented to address the situation that occurs when firm ownership falls below the 51% requirement because of the death of a partner. The concept allows additional time to meet the ownership requirement in this circumstance. The Board will work through the language for the administrative rules at the spring work session.

**BOARD ACTION:** Moved by Klimowicz and carried to approve the legislative concept for firm ownership.

**VOTE:** Chair Gaffney did not vote; 5 ayes, 1 excused (Morris)

**4. ORS 673.160**

In August a UAA exposure draft was circulated to states allowing an extension until 2012 for individuals who do not have 150 semester hours to qualify under substantial equivalency. The Board strongly opposed the proposal; however it was included in the UAA issued in December 2005. Since the Board links the definition of substantial equivalency in ORS 673 to the UAA, a legislative concept is necessary to avoid the extended deadline.

The Board will be required to evaluate individual credentials in house due to the fact that Credential Net will evaluate against the current UAA. The Board would like to work on developing language at the work session in May, however, a letter to all state Boards and NASBA informing them that Oregon is withdrawing from the UAA must be sent immediately.

**BOARD ACTION:** Moved by Klimowicz and carried to approve the legislative concept and carry forward to the spring work session for language clarification. Notify all state Boards and NASBA of the Boards position.

**VOTE:** Chair Gaffney did not vote; 5 ayes, 1 excused (Morris)

**5. FASB Standards** The Board reviewed a letter written by NASBA to the Financial Accounting Standards Board (FASB) with regard to setting accounting standards for private companies. NASBA recommends that FASB should remain the sole entity for setting US GAAP for both public and privately held companies. The Colorado Board of Accountancy supports NASBA's position.

The Board would like time to consider their position and will defer to either the spring or fall work session.

**B. Yellow Book**

The Board received a letter asking whether the requirement under yellow book rules for CPE is required if a licensee discontinues performing yellow book audits. The Board determined that regulating CPE in these instances would be difficult.

**C. IRS Correspondence**

The IRS determined that Oregon licensed public accountants do not have the same practice privileges before the IRS as an Oregon CPA and therefore may not practice before the IRS under the provisions of Treasury Circular 230. Public Accountants may represent taxpayers, if they are also licensed Enrolled Agents or attorneys, or if they have a relationship to a taxpayer described in Section 10.7(c) of Circular 230.

Jim Aldrich, representative for the OAIA urged the Board to respond to the letter stating that the determination by the IRS only affects licensed public accountants who are licensed under the new standards that went into effect in 2001. The Board requested the OAIA to draft a response letter for Board review at the May work session.

**D. NASBA/State CBT Contract**

The contract between NASBA and the Board for delivery of the CBT examination was presented to the Board for review. The Department of Justice reviewed the proposal.

**BOARD ACTION:** Moved by Johnson and carried to authorize the administrator to sign the contract for the CBT examination with NASBA.

**VOTE:** Chair Gaffney did not vote; 5 ayes, 1 excused (Morris)

**E. Inquiry Regarding Pending Federal Investigation**

The Board reviewed a draft letter to the office of the U.S. Attorney General regarding the pending federal case against former Oregon CPA Harry Kylo. The letter requests the U.S. Attorney General to prioritize the case against Mr. Kylo.

Mr. Kylo's Oregon CPA license was revoked September 30, 2003 on evidence that Kylo embezzled client funds of more than a million dollars that was intended for payment of taxes to the IRS and the Oregon Department of Revenue.

On January 14, 2006, *The Oregonian* published an article that pictured Mr. Kylo in a coffee shop. After publication of this article, many victims of Mr. Kylo called the Board office asking for a status update. The Board cannot bring any new action against Mr. Kylo.

The Board agreed the letter should be sent after review by legal counsel.

**F. Survey Results**

A compilation of the results of an electronic survey that was sent to approximately 300 licensees who renewed in 2005 was presented to the Board. The Board staff received high marks on all questions. The Board congratulated staff on a job well done. These results will be published in the Board newsletter and will also be used for performance measures.

**7. REPORT OF OAIA**

Aldrich reported that the association has implemented a program to reimburse exam fees to candidates who become licensed as Public Accountants.

**8. REPORT OF OSCPA**

Rob Moody, CPA, reported that the 2006 Leadership Conference is May 7-9, 2006. Representative Butler is on the agenda for legislative planning. Tax season is under way and members are looking for ways to recruit new members.

**9. CONTINUING PROFESSIONAL EDUCATION**

**A. Report of CPE Committee**

1. No Meeting Held

**10. OLD BUSINESS**

**A. IRS Notice Regarding Tax Shelters**

The October, 2005 Board meeting included discussion of Oregon firms in violation of IRS Notice 2000-44 and the Board requested staff to send inquiry letters to the firms affected. Responses were received from BDO Seidman, LLP, Perkins & Company P.C. and KPMG. BDO Seidman and Perkins both reported a pending Oregon lawsuit. The Board has a litigation monitoring agreement with Perkins. KPMG responded that no Oregon KPMG partners were involved in marketing the tax shelters covered by the IRS Notice, and that there were no Oregon clients who purchased the tax shelters through KPMG.

**Board Discussion:** *Gaffney understood that KPMG was marketing the tax shelter aggressively and that it was mandatory for KPMG employees to market the shelter. The Board thinks it odd that there are no Oregon clients involved in the tax shelter. The Portland KPMG office stated that they discontinued use of these tax shelters before the IRS notice came out.*

*The Board requested staff to research records of the Federal Court, the Department of Revenue and the IRS. Chute will ask the Department of Revenue Director if any information is available for Board use on this subject.*

**11. PEER REVIEW OVERSIGHT**

1. No Meeting held

**12. COMPLAINTS COMMITTEE**

**A. Report of Complaints Committee**

**1. Acceptance of Minutes**

**a. January 12, 2006**

**Board Discussion:** *With respect to Mark Brown, the Complaints Committee meeting minutes will be corrected to read as follows:*

*Mark Brown: Revocation for violation of ORS 673.170(2)(c)(B), such revocation to be stayed for seven (7) years so long as Brown does not violate Board statutes and rules. The Notice should also include the following:*

- (a) one (1) year suspension served concurrently with stayed revocation;
- (b) civil penalty of \$40,000 for assisting in the promotion or sale of unregistered securities to eight clients (\$5,000 each client), in violation of *OAR 801-030-0005(2), Integrity and Objectivity;*
- (c) 32 hours of CPE for violation of *OAR 801-030-0010(1) Competence*
  - 16 hours of CPE in Code of Professional Conduct in Oregon Ethics,
  - 8 (eight) hours of CPE in Circular 230 and
  - 8 (eight) hours of CPE in tax and tax shelters.

**BOARD ACTION:** Moved by Bailey and carried to accept the consent agenda and the minutes of the January 12, 2006 Complaints Committee meeting, as corrected.

**VOTE:** Chair Gaffney did not vote; 5 ayes, 1 excused (Morris)

**B. Consent Agenda**

**1. Complaint Investigations**

- |     |                   |           |
|-----|-------------------|-----------|
| *a. | Todd Knapp        | 03-10-034 |
| *b. | Corrina Stoneking | 03-06-024 |

c.	Richard Leander	03-07-030
d.	John Dougall	04-07-060
*e.	General Business Solutions	05-10-030
*f.	B. Rupert Koblegarde	05-07-020
*g.	Richard Ray	05-08-022
*h.	Schatz & Co	05-09-024
*i.	Cleary & Gill LLC	05-09-025
*j.	Susan J. Payne	05-09-027

**C. Items Removed from Consent Agenda**

**12. B.1.a. Todd Knapp 03-10-034**

Client engaged Todd Knapp (Knapp) to do monthly accounting work for her trucking business and prepare the 2002 income tax return. Client found discrepancies in the accounting work she received from Knapp.

**ALLEGED VIOLATIONS:**

***Competence and Technical Standards***  
***801-030-0010(1) Competence***

*A licensee shall not undertake any engagement for the performance of professional services which the licensee cannot reasonably expect to complete with due professional competence, including compliance, when applicable, with sections (2) and (3) of this rule.*

Knapp was engaged to provide Client with monthly accounting services for her trucking business. Each month Client submitted invoices and receipts to Knapp. Knapp input the invoices and receipts into his accounting program then returned the Client's original documents along with a monthly financial statement.

Knapp did not retain copies of Client's original documents that were returned each month. Client believes she gave Knapp the information related to the purchase of the truck. Knapp does not recall receiving that information. The evidence is not sufficient to determine whether Client gave Knapp the truck purchase information.

Knapp calculated the SEP IRA based on the financial information provided by Client. Client stated that she gave Sidney Norton the same information that she gave to Knapp. Sidney Norton's accounting is different than Knapp's, and therefore the SEP IRA contribution is also different.

The evidence provided does not support the conclusion that Knapp's SEP IRA calculation was incorrect or that the calculation by Norton was correct.

***801-030-0010(3) Accounting Principles***

(3) Accounting principles. A licensee shall not express an opinion that financial statements are presented in conformity with generally accepted accounting principles if such financial statements contain any departure from such accounting principles which has a material effect on the financial statements taken as a whole, unless the licensee can demonstrate that by reason of unusual circumstances, the financial statements would otherwise have been misleading.

In such a case, the licensee's report must describe the departure, the approximate effects thereof, if practicable, and the reasons why compliance with the principle would result in a misleading statement. For purposes of this rule, generally accepted accounting principles (GAAP) are defined by pronouncements issued by the Financial Accounting Standards Board and its predecessor entities and similar pronouncements issued by other entities having similar generally recognized authority.

Knapp did not obtain an engagement letter from client. Knapp stated that he did not retain copies of the monthly accountant's compilation reports issued to Client. Knapp's financial statements direct the reader to "See Accountant's Compilation Report", but the report is neither attached nor available.

Without a copy of the engagement letter or the accountant's compilation reports, it is unclear what method of accounting was used, whether Knapp was independent and whether Knapp was in compliance with accounting principals when he prepared Client's financial statements. There is no evidence that Knapp prepared or issued the accountant's compilation report.

#### **801-030-0015(2) Client Records and Working Papers**

**(b) Requested Records.** Licensees are required to furnish the following records to a client or former client, upon request, within a reasonable time after such request:

**B)** In response to a client's request for client records, made within a reasonable time, that occurs after the issuance of a tax return, financial statement, report or other document prepared by the licensee, the licensee shall furnish to the client or former client:

**(i)** A copy of a tax return, financial statement, report or other document issued by the licensee to or for such client or former client;

Knapp prepared monthly financial statements for Client. When the Board requested a copy of reports issued for Client, Knapp could not produce the reports that were described on each financial statement. There is no record that Client requested copies of record.

#### **801-030-0015(2)(d)(C) Client Records and Working Papers**

*A licensee shall adopt reasonable procedures for the safe custody of working papers and shall retain working papers for a period sufficient to meet the needs of the Licensee's practice and to satisfy applicable professional standards and pertinent legal requirements for record retention.*

Knapp agreed to provide Client with monthly accounting services and an annual tax return. The purpose of the monthly compiled financial statements was for the preparation of a tax return for Client's trucking business.

Knapp is required to adopt reasonable procedures for the safe custody of working papers that meet the requirements of the Board and other recognized

authorities. Knapp's working papers include financial statements, of which the accountant's compilation report is an integral part.

Knapp did not adopt reasonable procedures to safeguard working papers, and failed to retain copies of the monthly accountant's compilation report.

**INVESTIGATOR SUMMARY (Maximum applicable penalties):**  
ORS 673.320(1) Permit or registration required to provide attestation or compilation services or issue report.

Civil penalty for using review language in an engagement letter, in violation of ORS 673.320(1).

**Committee Discussion:** One Committee member and the Investigator worked on this investigation. Licensee did not have copies of the client's compilation reports, December financial statement or signed engagement letter. Licensee's Peer Review Report indicates that he did not retain the reports. In an effort to protect the public, the licensee needs to have a better understanding of accounting standards.

**COMMITTEE RECOMMENDATION:** Moved and carried to recommend a civil penalty of \$12,000 (\$1,000 for each violation x 12) for violations of 801-030-0015(2)(d)(C) Working Papers, with one-half the civil penalty to be waived if licensee completes 16 hours of CPE (compilation and review standards) over the next two years in addition to the required annual 80 hours, and an annual inspection (peer review) for the next two years by a qualified CPA approved by the Board.

**Board Discussion:** *Knapp did not retain copies of monthly compilation reports issued to clients. The Board discussed the appropriate number of hours and type of CPE as a sanction.*

**BOARD ACTION:** Moved by Bailey and carried to issue Notice of Proposed civil penalty of \$12,000 for violations of 801-030-0015(2)(d)(C) Working Papers, with one-half the civil penalty waived if licensee completes 24 hours of CPE (compilation and review standards) within the next two years in addition to the required annual 80 hours, and an annual peer review for the next two years to be conducted by a qualified CPA approved by the Board.

VOTE: Chair Gaffney did not vote; 5 ayes, 1 excused (Morris)

#### **12. B.1.b. Corrina Stoneking 03-06-024**

Accurate Accounting Services submitted an engagement letter to Client to review fiscal year 2002/2003 and provide recommendations for their financial operation.

**ALLEGED VIOLATIONS:**

**ORS 673.320(1) Permit or registration required to provide attestation or compilation services or issue reports.**

*A person or business organization in this state shall not provide attestation or compilation services for or issue a report on financial statements of any other person, firm, organization or governmental unit unless the person or business*

*organization holds a permit or registration issued under ORS 673.010 to 673.457.*

Stoneking's engagement letter to client stated that she would provide client with "review" services. The wording in the engagement letter could mislead a reader to believe that Stoneking was qualified to provide review services.

Stoneking no longer uses the engagement letter submitted to the client. Stoneking's current engagement letter more accurately reflects Accurate Accounting's services and payment requirements.

INVESTIGATOR SUMMARY (Maximum applicable penalties)  
ORS 673.320(1) Permit or registration required to provide attestation or compilation services or issue reports.

Civil penalty for using review language in an engagement letter in violation of ORS 673.320(1).

Corrina Stoneking (Stoneking) arrived in person at the complaints committee meeting at 11:30 a.m. and left the meeting at 11:55 a.m.

Stoneking stated that the client Board President advised her that the client Board needed an engagement letter for their Board meeting ASAP. Stoneking and Board President immediately found an engagement letter online and completed the letter in one-half hour. Stoneking had not previously developed an engagement letter.

The client was getting ready for an audit and there were line items from their last audit that needed to be corrected. The client Board wanted the auditor to know that they were working on last year's audit findings.

Stoneking stated that she has since changed the engagement letter. A copy of Stoneking's new engagement letter is in the committee packet. She stated that she did not represent herself as CPA. In Corrina's office, the term "review" means to "look over".

Stoneking said that one of the employees, who also keeps the library books, recommended that the Board contract with a personal friend of hers to follow up on the auditor's findings. The Board rejected the idea as they wanted an independent firm. The sequence of events follows: there was a request for work; Stoneking did the work; Stoneking developed a report and then Stoneking submitted the engagement letter.

Stoneking is a member of the Oregon Society of Tax Consultants (OSTC) and will ensure that her engagement letter complies with OSTC standards.

**Committee Discussion:** Stoneking used the terms; review, opinion, examination and reasonable assurance in the engagement letter that she submitted to the client. Stoneking modified an engagement letter that she found on the internet. The question is whether or not Stoneking misled the public by using the above terms. The committee discussed the appearance of interpersonal strife between Stoneking and employees.

**COMMITTEE RECOMMENDATION:** Moved and carried to recommend a Letter of Concern stating that Stoneking came dangerously close to a violation and that

the Committee recommends Stoneking use care when issuing future reports and engagement letters.

**Board Discussion:** *There was no discussion.*

**BOARD ACTION:** Moved by Bailey and carried to issue a Letter of Concern stating that Stoneking came dangerously close to a violation and that she should use care when issuing future reports and engagement letters.

VOTE: Chair Gaffney did not vote; 5 ayes, 1 excused (Morris)

## **12. B.1.e. General Business Solutions 05-10-030**

General Business Solutions (Company) is not a registered public accounting firm in Oregon. Company issued reports on financial statements for Client on June 28, 2004, February 25, 2005, March 26, 2005 and May 10, 2005. The reports issued by Company did not include ORS chapter 673.325 safe harbor language.

### **ALLEGED VIOLATIONS:**

***ORS 673.320(1) Permit or registration required to provide attestation or compilation services or issue report; exceptions; use of terms certified public accountant, public accountant, C.P.A. or P.A.; exceptions***

*(1) A person or business organization in this state shall not provide attestation or compilation services for or issue a report on financial statements of any other person, firm, organization or governmental unit unless the person or business organization holds a permit or registration issued under ORS 673.010 to 673.457.*

Company is not registered under ORS 673.010 to 673.457. Company issued misleading reports on financial statements to a business organization for periods February 25, 2005, and March 26, 2005.

Company described the process used to issue financial statements and explained that the software prints the incorrect compilation report. Company stated that the reports issued for February and March were issued in error, and submitted corrected reports.

Company safeguards are insufficient to prevent Company from issuing misleading reports. Misleading reports issued by Company could cause third party reliance on financial statements that are not issued "in accordance with Statements on Standards for Accounting and Review Services issued by the American Institute of Certified Public Accountants".

### **ORS 673.325 Statement allowed without permit or authorization.**

*The following statement signed by a person who does not hold a permit issued under ORS 673.150 or the authorization granted under ORS 673.153 shall not constitute a report under ORS 673.320, so long as the statement is not accompanied by any wording indicating the person is an accountant or auditor or other language prohibited by ORS 673.310 or 673.320:*

*The accompanying balance sheet of XYZ Company as of (date), and the related statements of income (or retained earnings or cash flow) for the year then ended have been prepared by me (us).*

*The information presented in these financial statements is the representation of*

*management (owners).*

Company did not use the safe harbor language of ORS 673.325 when Company issued reports on financial statements on June 28, 2004, February 25, 2005, March 26, 2005 and May 10, 2005.

INVESTIGATOR SUMMARY (Maximum applicable penalties)

ORS 673.320(1) Permit or registration required

Company issued two (2) reports on financial statements

ORS 673.325 Statement allowed without permit or authorization

Company issued four reports on financial statements without using the statement allowed without a permit or authorization.

**Committee Discussion:** Two reports did not use safe harbor language and four reports were issued without a permit or authorization.

**COMMITTEE RECOMMENDATION:** Moved and carried to recommend a civil penalty in the amount of \$10,000 (\$5,000 x 2) for violation of ORS 673.320(1) plus a civil penalty in the amount of \$20,000 (\$5,000 x 4) for violation of ORS 673.325.

**Board Discussion:** *The Board determined that General Business Solutions may have issued other similar reports and it is therefore prudent to issue a cease and desist order in addition to a civil penalty.*

**BOARD ACTION:** Moved by Bailey and carried to issue Notice of Proposed Civil Penalty in the amount of \$10,000 (\$5,000 x 2) for violations of ORS 673.320(1) plus a civil penalty in the amount of \$20,000 (\$5,000 x 4) for violations of ORS 673.325, and issue an Order to Cease and Desist.

VOTE: Chair Gaffney did not vote; 5 ayes, 1 excused (Morris)

## **12. B.1.f. Rupert Koblegarde 05-07-020**

B. Rupert Koblegarde (Koblegarde) renewed his permit to practice public accountancy in 2003 and 2005. Koblegarde did not answer yes when the Board asked if Koblegarde was subject to disciplinary action by another regulatory authority.

ALLEGED VIOLATIONS:

**ORS 673.170(2)(a)(D)** Fraud or deceit in obtaining or applying for a permit

Koblegarde checked "No" instead of "Yes" on the renewal application in 2003 and 2005. Koblegarde stated in his response that he did not intend to mislead the Board but actually misunderstood the question on the application.

Koblegarde did not truthfully answer the question on the 2003 and 2005 renewal application.

INVESTIGATOR SUMMARY(S) (Maximum applicable penalties)

ORS 673.170(2)(a)(D) Fraud or deceit in obtaining

or applying for a permit

\$5,000

Violation for not truthfully answering a question on renewal application

**Committee Discussion:** The question on the renewal application is clear and licensee should have known that he was required to report.

**COMMITTEE RECOMMENDATION:** Moved and carried to recommend a civil penalty of \$5,000 (\$2,500 x 2) for violation of ORS 673.170(2)(a)(D) Fraud or deceit in obtaining or applying for a permit.

**Board Discussion:** *The Board determined that Koblegarde did not disclose required information on the renewal application.*

**BOARD ACTION:** Moved by Bailey and carried to issue Notice of Proposed civil penalty in the amount of \$5,000 (\$2,500 x 2) for violations of ORS 673.170(2)(a)(D) Fraud or deceit in obtaining or applying for a permit.

VOTE: Chair Gaffney did not vote; 5 ayes, 1 excused (Morris)

**12. B.1.g. Richard Ray 05-08-022**

Client requested that Richard Ray (Ray) prepare their 2003 income tax return. Client filed a complaint when they did not receive return phone calls, their original documents or their 2003 tax return.

**ALLEGED VIOLATIONS:**

**801-030-0020 (1) Professional misconduct.**

*(a) A licensee shall not commit any act or engage in any conduct that reflects adversely on the licensee's fitness to practice public accountancy.*

*(b) Professional misconduct may be established by reference to acts or conduct that would cause a reasonable person to have substantial doubts about the individual's honesty, fairness and respect for the rights of others or for the laws of the state and the Nation. The acts or conduct in question must be rationally connected to the person's fitness to practice public accountancy.*

On October 12, 2004, Ray agreed to prepare Client's 2003 tax return. Ray did not timely complete the return. Ray delayed preparation of the return because Ray did not believe that Client's stock transaction spreadsheet was accurate. Ray did not communicate this concern to Client, but instead mislead Client to believe that the tax return would be sent by FedEx during May 2005. Ray sent Client their tax return after he received the complaint.

Ray's conduct would cause a reasonable person to have substantial doubts about his honesty, fairness and respect for the rights of others.

**INVESTIGATOR SUMMARY (Maximum civil penalty is \$5000 per violation)**

Other Responsibilities and Practices 801-030-0020 (1) Professional misconduct

Did not complete Client's tax return timely, or communicate the reason for the delay.

**Committee Discussion:** Client submitted 32 pages of stock printouts when licensee's time was limited. Licensee assured the client that the tax returns would be forthcoming. The client said that in the past six months they contacted the licensee about 20 times. Licensee submitted the return even though it was incorrect. The return will have to be corrected next year.

**COMMITTEE RECOMMENDATION:** Moved and carried to recommend a \$500 civil penalty for violation of 801-030-0020 (1) Professional misconduct.

**Board Discussion:** Board considered Ray's actions and discussed lack of professional conduct in his communications with client.

**BOARD ACTION:** Moved by Bailey and carried to issue Notice of Proposed \$1,000 Civil Penalty for violation of OAR 801-030-0020 (1) Professional misconduct.

VOTE: Chair Gaffney did not vote; 5 ayes, 1 excused (Morris)

**12. B.1.h. Schatz & Company                      05-09-024**

Schatz & Company, not a registered public accounting firm, advertised "Our Dental CPA's clearly show you how much money you are making and spending".

ALLEGED VIOLATIONS:

**ORS 673.160(1) Registration of a business organization**

*Business organizations of certified public accountants or of public accountants shall register with the Oregon Board of Accountancy if the business organization*

*(a) Uses the terms "certified public accountants" or "public accountants" or abbreviations for such terms in this state;*

*(b) Holds itself out to clients in this state or the public in this state as a business organization engaged in the practice of public accountancy; or*

*(c) Performs attestation or compilation services in this state.*

**OAR 801-010-0345(1)**

**Registration of Business Organizations**

**(1) Requirement to register as a firm.** *A business organization organized for the practice of public accountancy shall register with the Board as a firm if the business organization engages in any of the following activities in this state:*

*(a) Uses the terms "certified public accountant", "CPA", "public accountant" or "PA", or any derivation of such terms;*

*(b) Holds out to clients or to the public that the business organization is in any way engaged in the practice of public accountancy; or*

*(c) Performs attestation or compilation services, as defined by these rules.*

Company's website and the business cards used by Payne indicated to the public that public accounting services may be performed through Schatz & Company. Company was not registered as a firm when they used the term "Our Dental CPA" in the company website.

INVESTIGATOR SUMMARY (Maximum civil penalty is \$5000 per violation)

ORS 673.160(1) Registration of a business organization

OAR 801-010-0345(1) Registration of Business Organizations (1) Requirement to register as a firm

Used the CPA designation on the Company website without a firm registration

**Committee Discussion:** After the complaint was received Schatz & Co changed their website. The committee noted that this case and the Payne case are intermingled. Schatz & Co sent their tax clients to Payne. They combined their services which could mislead the public.

**COMMITTEE RECOMMENDATION:** Moved and carried to recommend a civil penalty of \$5,000 for violation of ORS 673.160(1) (b) Registration of a business organization and holding out plus a civil penalty of \$15,000 (\$5,000 x 3) for violation of ORS 673.320(4)

**Board Discussion:** *John Schatz and Susan Payne entered the Board meeting at 11:05 a.m. Schatz distributed a paper of prepared comments (attachment C). Schatz stated that Schatz & Co. is in the business of management advising and they have never performed accounting services. He stated that the website reference to CPA is intended to advise website readers that Schatz & Co will recommend a CPA for their business, and is in no way intended to mislead the public. Schatz & Co changed their website to delete references to CPAs (attachment D). Schatz stated that Susan Payne, CPA is employed to manage Schatz & Co. holdings and Schatz does not profit from the use of Payne's CPA designation.*

*The Board noted that terms that were in bold on the Schatz & Co website referenced the work that CPAs perform and that the website use of "our dental CPAs" indicates there is an employer/employee relationship.*

**BOARD ACTION:** Moved by Bailey and carried to issue Notice of Proposed Civil Penalty in the amount of \$10,000 for violation of ORS 673.160(1) Registration of a Business Organization and ORS 673.320(4) (\$5,000) and Holding out as a Business without Firm Registration (\$5,000).

VOTE: Chair Gaffney did not vote; 5 ayes, 1 excused (Morris)

**12. B.1.i. Cleary & Gill LLC 05-09-025**

Cleary & Gill LLC issued an auditor's report on the Schedules of Indirect Cost Rates and the Facilities Capital Cost of Money Factor for client company, a company located in Oregon. Cleary & Gill LLC was not registered as a firm at the time that the firm performed attest services for OTAK, Inc.

**ALLEGED VIOLATIONS:**

**ORS 673.160(1) Registration of a Business Organization**

*Business organizations of certified public accountants or of public accountants shall register with the Oregon Board of Accountancy if the business organization*

(a) *Uses the terms "certified public accountants" or "public accountants" or abbreviations for such terms in this state;*

(b) *Holds itself out to clients in this state or the public in this state as a business organization engaged in the practice of public accountancy; or*

(c) *Performs attestation or compilation services in this state.*

**OAR 801-010-0345(1) Registration of Business Organizations**

**(1) Requirement to register as a firm.** *A business organization organized for the practice of public accountancy shall register with the Board as a firm if the business organization engages in any of the following activities in this state:*

(a) *Uses the terms "certified public accountant", "CPA", "public accountant" or "PA", or any derivation of such terms;*

- (b) Holds out to clients or to the public that the business organization is in any way engaged in the practice of public accountancy; or*
- (c) Performs attestation or compilation services, as defined by these rules.*

**ORS 673.320 Permit or Registration Required to provide attestation or compilation services or issue report; exceptions; use of terms certified public accountant, public accountant, C.P.A. or P.A; exceptions.**

*(1) A person or business organization in this state shall not provide attestation or compilation services for or issue a report on financial statements of any other person, firm, organization or governmental unit unless the person or business organization holds a permit or registration issued under ORS 673.010 to 673.457.*

Cleary & Gill LLC held out to clients that it was engaged in the practice of public accountancy when the firm agreed to perform attest services. Cleary & Gill LLC performed attest services and issued a report on Indirect Cost Rates and Facilities Capital Costs of Money Rate for client company, a company located in Oregon.

Cleary & Gill was in violation of requirements to register a firm when the firm performed attest services in Oregon. The firm is in the process of registration, which will be issued in November 2005.

**ORS 673.320(3) Permit required**

*A person shall not assume or use the title or designation "certified public accountant," or the abbreviation "C.P.A.," or any other title, designation, words, letters, abbreviation, sign, card or device tending to indicate that the person is a certified public accountant, unless the person holds a valid certificate of certified public accountant issued under ORS 673.040 and a permit issued pursuant to ORS 673.150.*

At the time that Cleary & Gill issued the auditor's report to client company, partners with Cleary & Gill were not authorized to practice public accountancy in Oregon under substantial equivalency or by reciprocity.

Linda Hall signed and issued the Cleary & Gill audit report. Linda Hall assumed or used the title or designation "certified public accountant" or the abbreviation CPA while representing Cleary & Gill to client company in Oregon.

**INVESTIGATOR SUMMARY (Maximum civil penalty is \$5000 per violation)**

ORS 673.160(1) Registration of a business organization

OAR 801-010-0345(1) Registration of Business Organizations

(1) Requirement to register as a firm ORS 673.320(1) Registration required

Firm did not register the business organization prior to performing attest services in Oregon

ORS 673.320 Permit or registration required

Partner did not hold a valid certificate or permit of certified public accountant.

**Committee Discussion:** The Committee discussed that the auditors did not check Oregon licensing requirements before accepting the engagement, but have since registered the firm and the three partners.

**COMMITTEE RECOMMENDATION:** Moved and carried to recommend civil penalty of \$10,000 for violation of ORS 673.160(1) Registration of a business organization (\$5,000) and ORS 673.320 Permit or registration required (\$5,000).

**Board Discussion:** *The Board requested additional information about Oregon Department of Transportation report wording for compliance with their requirements.*

**BOARD ACTION:** Moved by Bailey and carried to return the case to the Complaints Committee for further investigation. Motion was withdrawn.

**12. B.1.j. Susan J. Payne                      05-09-027**

Schatz & Company, not a registered firm, advertised "Our Dental CPAs clearly show you how much money you are making and spending". Susan Payne is employed by Schatz & Company. Schatz & Company's website advertised Susan Payne (Payne) as a CPA.

**ALLEGED VIOLATIONS:**

**OAR 801-030-0005(5) Improper Use of CPA and PA Designation.**

**(a) Non-public accounting business.** Licensees engaged in a business or occupation other than the practice of public accountancy or performance of attestation services may use the "CPA" or "PA" designation in oral or other communications such as business cards, stationery or comparable forms if the use of the designation does not indicate in any way that the licensee is authorized to perform public accountancy or attestation services as part of the licensee's other business or occupation.

When Payne used the CPA designation on the Company website and on Company business cards Payne indicated to the reader that public accounting services may be performed through Schatz & Company.

When Payne received this complaint, she took immediate steps to correct the website, business cards and use of the CPA designation within Schatz & Company.

INVESTIGATOR SUMMARY (Maximum civil penalty is \$5000 per violation)

OAR 801-030-0005(5) Improper use of CPA and PA designation.

(a) Non-public accounting business

Improper use of the CPA designation

**Committee Discussion:** Licensee represented herself as a CPA to clients when working for Schatz & Co. After the complaint was issued, licensee changed her business cards and does not refer to herself as a CPA when working with Schatz & Co.

**COMMITTEE RECOMMENDATION:** Moved and carried to recommend a \$5,000 civil penalty for violation of 801-030-0050(5) Improper use of CPA and PA designation.

**Board Discussion:** Susan Payne and John Schatz entered the Board meeting at 11:05 a.m. Ms. Payne distributed a paper of prepared comments (attachment E). She stated that she was hired by Schatz & Co to manage Schatz holdings. Schatz then identified a need to help dentists with their bookkeeping and directed Payne to assist them. While working with dentists to set up their chart of accounts and determine cash flow, Payne built a rapport with them. Several dentists requested that she do their tax returns. Payne opened a separate business for tax return preparation services. Payne stated that she is not soliciting additional tax work, nor is she trying to mislead the public. Schatz & Co.'s website was changed and currently there is no reference to indicate that Schatz & Co. is in the CPA business. Payne only advertises in the Dental Society paper.

The Board determined no violation based on the fact that Payne is entitled to use the designation and she used the designation properly.

**BOARD ACTION:** Moved by Bailey and carried to issue no violation.

VOTE: Chair Gaffney did not vote; 5 ayes, 1 excused (Morris)

### 13. LEGAL

#### A. Report of Legal Items

##### 1. Proposed Consent Orders

###### a. Lance Brant

Deferred

###### b. Harold Larsen

**BOARD ACTION:** Moved by Bailey and carried to amend paragraph nine (9) on the Consent Order CO-06-007 to require five pre-issuance reviews of audits for Oregon clients rather than three.

VOTE: Chair Gaffney did not vote; 5 ayes, 1 excused (Morris)

###### c. Seydel Lewis Poe Moeller & Gunderson, LLC

**BOARD ACTION:** Moved by Andersen and carried to approve the revised consent order.

VOTE: 5 ayes, 1 abstained (Bailey), 1 excused (Morris)

#### A. Report of Qualifications Committee

##### 1. Acceptance of Minutes

###### a. January 19, 2006

**BOARD ACTION:** Moved by Meisner and carried to approve the minutes.

VOTE: Chair Gaffney did not vote; 5 ayes, 1 excused (Morris)

#### B. Consent Agenda

**BOARD ACTION:** Moved by Meisner and carried to accept the consent agenda.

VOTE: Chair Gaffney did not vote; 5 ayes, 1 excused (Morris)

##### 1. Recommendations

###### A. Bahr, Kenneth (Carey)

**05-11-009**

Mr. Bahr gained his experience with the following employers:

Jeld Wen      68 mos.      All competencies

PWC            12 mos.      All competencies

Mr. Bahr passed the CPA Exam on August 13, 2005. Mr. Carey reported that the write up for this file was very well documented. Mr. Bahr is the senior

tax executive with overall responsibility for tax advisory and tax compliance projects with Jeld Wen which is a multi-billion dollar company with sales to over 100 foreign countries. The supervisor licensee was very confident in Mr. Bahr's knowledge.

**COMMITTEE RECOMMENDATION:** Mr. Carey moved to accept this application for licensure. Vote: 5 ayes, 2 excused (Emery, Emberland)

**Committee Discussion:** The Committee expressed a preference to receive copies of applicant files with the agenda packet. Currently, staff provides copies to all members when the file is assigned to a specific committee member. In addition, when a file is denied administratively because the applicant has not met the experience requirements, staff will bring it to the committee for review before issuing a denial notice to the applicant.

**B. Collier, Tiffany (Santiago) 05-11-008**

Ms. Collier gained her experience with the following employer:

Springfield Utility Board 109 mos. All competencies

Ms. Collier passed the CPA exam on August 30, 2005. Ms. Collier worked seven years as the general accounting manager and two years as the financial analyst for the Springfield Utility Board. Ms. Santiago reviewed the application and supporting documents and reported that the applicant showed strong knowledge in the competencies. She mentioned that the documentation under risk assessment was not as detailed as the other competencies however, it was acceptable for purposes of licensing.

**COMMITTEE RECOMMENDATION:** Moved by Santiago and carried to approve application. Vote: 5 ayes, 2 excused (Emery, Emberland)

**C. Lees, David (Rawls) 06-01-001**

Mr. Lees gained his experience with the following employer:

M Financial Group 56 mos. All competencies

Mr. Lees passed the CPA exam in November 1999. Mr. Rawls reviewed the documentation provided by the supervisor licensee and recommends approval of the application. Mr. Rawls also noted that the write up was so well documented that it should be used as an example. Staff will contact M Financial for permission to use the write-up as an example to other applicants.

**COMMITTEE RECOMMENDATION:** Moved by Rawls and carried to approve the application of David Lees. Vote: 5 ayes, 2 excused (Emery, Emberland)

**D. Martin, Laura (Emberland) 05-11-0007**

Ms. Martin gained her experience with the following employers:

Lane Community College 19 mos. All competencies

Moss Adams 10 mos. No competencies

Ms. Martin passed the CPA exam in November 2000. Although Mr. Emberland was not available for this meeting, he reported that the write-up on the competencies for this candidate was very strong and he recommends approval.

**COMMITTEE RECOMMENDATION:** Moved by Santiago and carried to approve the application of Ms. Martin. Vote: 5 ayes, 2 excused (Emery, Emberland)

**Committee Discussion:** *The committee thought it would be helpful to have more information about a file review when the committee member who conducted*

*the review cannot be present at the meeting. It was agreed that committee members who are unable to attend the committee meeting at which the committee member is reporting on an applicant file should submit their recommendation on the file to the Board staff and to each committee member by email.*

**2. Approval of Applications issued administratively**

**a. CPA Certificates/Permits**

28 Certificates

**b. PA Licenses/Permits**

None

**c. Firm Registrations**

18 Registrations

**d. Substantial Equivalency Authorizations**

26 Authorizations

**15. CPA EXAM**

**A. CBT Fees**

The Board reviewed a letter from the AICPA regarding the increase in exam fees and the volume of exam sections taken.

**16. CODE OF PROFESSIONAL CONDUCT**

**A. Report of Code of Professional Conduct Committee**

**1. No Meeting Held**

**17. NEW BUSINESS**

**A. None**

**18. PROCESS OBSERVER REPORT**

Voting by objection worked well for this phone conference. When guests attend a meeting, it was helpful for the Board to ask questions and then immediately discuss and move on the complaint as we did today. It is difficult to remember the details of the discussion when the Board waits to move on the complaint until it comes up on the agenda. Also, the individuals involved have the opportunity to hear what the Board is discussing and will not be surprised when they receive a notice of discipline.

**19. NEXT MEETING**

Date: May 20, 2006 Board Meeting, 2:00 p.m.  
May 21, 2006 Work Session, 8:30 a.m.  
May 22, 2006 Executive Session, 8:00 a.m.  
May 22, 2006 Board Meeting, 9:00 a.m.  
Location: Mt. Bachelor Village Resort  
19717 Mt. Bachelor Dr  
Bend, Oregon

**20. ADJOURNED**

There being no further business, the meeting adjourned at 2:53 p.m.