

OREGON BOARD OF ACCOUNTANCY
BOARD MINUTES
August 23, 2010

Board of Accountancy

Large Conference Room

Salem OR

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

BOARD MEMBERS:

Dr. Ray Johnson, CPA, *Chair*
Roberta Newhouse, CPA, *Vice Chair*
Jessie Bridgham, CPA, *Treasurer (9:53 a.m.)*
Kent Bailey, CPA
Ann Ferguson, CPA
Al Crackenberg, PA
Dr. Roger Graham, *Public Member*

BOARD STAFF:

Pat Hearn, Executive Director
Kimberly Bennett, Exec. Assistant
Noela Kitterman, Investigator

GUESTS:

Stuart Morris, PA, OAIA Representative
Cheryl Langley, OSCP Representative
Debbie Hollingsworth, CPA, OSCP Representative
Konrad Capeller, CPA *(9:35 a.m. by phone)*
Gerald Burns, CPA *(9:35 a.m. by phone)*
John Gregor, CPA *(10:25 a.m.)*
Donald Vanlue, CPA *(10:40 a.m.)*
Richard Lefor, CPA *(1:30 p.m.)*
Janet Savarro, Budget Analyst *(1:00 p.m.)*

1. CALL TO ORDER

Chair Johnson called the meeting to order at 9:08 a.m., and announced the meeting was being recorded. Roger Graham was asked to serve as process observer for this meeting. Representatives from both the OAIA and the OSCP were welcomed.

2. APPROVAL OF MINUTES – June 28, 2010
July 23, 2010

BOARD ACTION: Moved by Mr. Bailey and carried to accept the minutes as written.
Vote: 6 ayes, 1 absent (Bridgham)

3. REPORT OF CHAIR

A. Meeting with the OSCP

The Oregon Society of Certified Public Accountants has been on record as opposing the Board's seeking semi-independence in the upcoming legislative session. Mr. Bailey, Ms. Newhouse, Mr. Hearn and Dr. Johnson met with representatives from the

OSCPA to discuss the relative issues and concerns. The Board will continue open conversation with the society regarding independence and try to move forward on legislation. The OSCPAs has stated that they will oppose any discussion of consolidation of the Board into an “umbrella” agency and will also oppose fund “sweeps”.

B. Inactive Status

The issue of inactive status has been discussed for the past year. Mr. McConnel from the OSCPAs and Chair Johnson met to review the statutes and align them to the administrative rules. The term “inactive” is not currently part of the UAA. The revisions submitted for review allow an inactive CPA to use the title on correspondence and business cards so long as it is followed by the term ‘inactive’. Ms. Newhouse stated that the line is much clearer if inactive licensees do not use the term “CPA” in any way. Ms. Ferguson agreed.

Chair Johnson would like to move discussion on this topic to the fall work session.

C. NASBA Annual Meeting

Chair Johnson requested approval from the Board for himself, Mr. Hearn and Ms. Newhouse to attend the NASBA Annual meeting in San Antonio, Texas in October 2010.

BOARD ACTION: Moved by Dr. Graham and carried to approve the travel for all three individuals.

VOTE: 7 ayes

D. Complaints Committee Input to Board

The Complaints Committee would like guidance from the Board regarding how to communicate the severity of each violation, so that the Board can better assess the proper penalties. The Board does not believe terminology is necessary, but rather, Complaints Committee meeting minutes that are detailed enough to provide the Board with a sense of how the committee came to their conclusions and more accurately indicate the committee’s feelings as to the egregiousness of potential violations.

The Board would like to discuss, at the fall work session, possible questions that the committee can answer as part of their discussion, such as, what are the primary factors they considered, are there mitigating factors and are there aggravating factors?

4. REPORT OF VICE CHAIR

The fall work session will be held in Sunriver, Oregon. Ms. Bennett has made lodging arrangements for Board members.

5. REPORT OF TREASURER

The Board deferred this item for discussion under 8.A.

6. COMPLAINTS COMMITTEE

A. Minutes of July 30, 2010 (Information Item)

B. Complaint Investigations

Action Item

(1) Consent Agenda

a. Frederick Koontz

09-109CNK

The complainant requested that the respondent prepare estate tax returns for the estate of her husband. The respondent was the reviewing partner for the client. The return did not have a non-testamentary disclaimer form attached. The respondent claims that the disclaimer was received after the return was reviewed.

The committee reviewed the investigation report prepared by Noela Kitterman and also had the opportunity to ask questions of the respondent, who attended the meeting. The committee determined that there is not sufficient evidence to make a preliminary finding of a violation and that the matter should be dismissed.

b. Delores McKittrick

10-021CNK

It was alleged that Ms. McKittick influenced her client to select an insurance policy through the licensee's husband, who is an insurance representative. The client ultimately chose a new insurance policy and cancelled the policy she held with the complainant.

Ms. McKittrick and the client attended the July 30, 2010 Complaints Committee meeting. The client was upset that a complaint had, more or less, been filed on her behalf when she did not have anything but positive interaction with Ms. McKittrick.

The committee reviewed the investigation report prepared by Ms. Kitterman and listened to comments from the licensee and her client. The committee

determined that there is insufficient evidence to make a preliminary finding of a violation and that the matter should be dismissed.

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

VOTE: 7 ayes

C.	Investigations for Discussion	Action Item
(1)	Michael Bell & Co PLLC Konrad Capeller	09-039CNK

Konrad Capeller is a licensed CPA and a municipal auditor. He is a shareholder in the firm of Michael R. Bell & Co. PLLC located in Spokane, Washington. Mr. Capeller conducted an audit of the Morrow County Health District, DBA Pioneer Memorial Hospital, Heppner, Oregon. The Oregon Secretary of State, Audits Division provides oversight of the work product of licensed municipal auditors through periodic technical reviews. The alleged inaccuracies noted by the Audits Division are based on the results of their review of the annual financial statements of the Morrow County Health District for the fiscal years ended June 30, 2007 and June 30, 2008.

Gerald Burns, CPA was contracted by the Board to conduct the investigation on this matter. Mr. Burns and Mr. Capeller joined the meeting by phone conference at 9:35 a.m.

There were a moderate number of deficiencies and omissions with professional standards relating to the presentation and disclosures in the financial statements. Most of the omissions and deficiencies go to the core of the GASB "intersection" with FASB. Individually, some of the deficiencies and omissions may be considered to be immaterial non-compliance with the related professional standards. However, in the aggregate, the deficiencies and omissions indicate an insufficient understanding of the interplay of GASB and FASB standards as they relate to presentation and disclosures in the financial statements.

Mr. Capeller expressed concern regarding the investigator's quantitative approach on materiality. The referenced disclosures don't apply to material items. Mr. Capeller disagreed that the firm collectively missed a lot of disclosures. The missed disclosures are not sufficient to find the conclusions that have been made by the investigator.

The Audit's Division did not require that the financial statements in question be restated and reissued.

Discussion: The Board asked Mr. Capeller why he would submit an 'adequate' report rather than a 'perfect' report. Mr. Capeller stated that the standards don't require CPA's to be good nor perfect, but rather adequate. Mr. Capeller also stated that, if a restatement of the financials would have been required, that he certainly would have done things differently.

There is no harm to the public in this matter; however, the line between violation and no violation is very fine. The Board asked if the complainant had taken any additional CPE to better understand the standards. Mr. Capeller stated that he had not, and that this was not a matter of lack of knowledge, that the disclosures were collectively immaterial, and it was a deficiency in the firm's quality control.

BOARD ACTION: Moved by Ms. Newhouse and carried to accept the committee recommendation that there is insufficient evidence to make a preliminary finding of violation and that the matter be dismissed.

VOTE: 4 ayes (Ferguson, Crackenberg, Graham, and Newhouse)
3 nays (Bailey, Bridgham and Johnson)

(2) Debra Blasquez

09-110CNK

Client requested that Koontz & Perdue prepare the tax returns for the client's husband's estate. Blasquez, a partner in the firm, completed the estate tax return, but did not attach the Non-Testamentary Disclaimer form. The Non-Testamentary Disclaimer form was intended to pass client's husband's assets through to a revocable trust. Client and client's attorney attempted to contact Blasquez over a period of several months. Blasquez did not respond to correspondence or telephone calls from either the attorney or the client.

ALLEGED VIOLATIONS:

OAR 801-030-0010 (1) General Standards
OAR 801-030-0020 (1) Professional misconduct.

The committee recommended that there is insufficient evidence to make a preliminary finding of a violation of OAR 801-030-0010 (1)(a), Professional competence and OAR 801-030-0010 (1)(b), Due Professional Care.

In addition, the committee recommended there is sufficient evidence to make a preliminary finding of a violation of OAR 801-030-0020 (1)(a) and (b), Professional misconduct for failing to respond to correspondence from client's attorney and for failing to return telephone calls and e-mails received from client.

Discussion: The Board asked staff why the committee did not agree with the recommendation of the investigator. Ms. Kitterman explained that, because the attorney was so tardy in providing the information, Ms. Blasquez was not guilty of due professional care; however, there was concern that she did not return client calls.

BOARD ACTION: Moved by Ms. Newhouse and carried to accept the committee recommendation.

VOTE: 7 ayes

(3) Donald Vanlue

10-016CNK

Client obtained individual, business and estate accounting and tax services from Mr. Vanlue. The client's new CPA found that Mr. Vanlue underreported income on the estate tax return.

Vanlue offered to pay the interest because he wanted to take responsibility for his part in underreporting income on the tax return. Upon further review, he determined that it was not his fault and he decided against refunding the amount of interest to the client.

The substance of the underreported income was capital gains, dividends and interest. After preparing the return, no information came to Vanlue's attention that would indicate he had underreported the estate's income. Vanlue looked through his files and determined that the client did not give him the information to report the income, therefore, it was not his fault that the income was not reported. He was still willing to accept responsibility and pay some of the interest due.

Vanlue uses checklists, engagement letters and organizers to assist in obtaining all pertinent information from clients. He found nothing unusual or different about preparing this estate tax return.

ALLEGED VIOLATIONS:

General and Technical Standards

OAR 801-030-0010(1), General Standards

OAR 801-030-0020(1), Professional misconduct

Discussion: Mr. Vanlue was present at the Board meeting. Mr. Vanlue stated that he did, in fact, ask the client if there was more information for her return in which she emphatically stated there was not. Mr. Bailey stated that it is the licensee's responsibility to ask questions when client files are questionable.

BOARD ACTION: Moved by Ms. Newhouse to accept the committee recommendation that there is sufficient evidence to make a preliminary finding of a violation of OAR 801-030-0010 (1)(b), Due professional care and insufficient evidence to make a preliminary finding of a violation of OAR 801-030-0020(1)(a) and (b), Professional misconduct.

VOTE: 7 ayes.

The Board advised the Executive Director that the violation does not warrant a maximum civil penalty.

(4) Todd Gray

09-081NK

Mr. Gray participated by phone at 10:15 a.m. Mr. Gray represented to a company that he was an active Oregon CPA. It came to the company management's attention that

Mr. Gray has never held a CPA license in Oregon. Mr. Gray modified his ex-wife's certification letter to show his name.

Gray stated that he had no justification for using someone else's license number. He has never done anything like this in the past. It was disrespectful to the profession and he should have known better.

ALLEGED VIOLATION:

ORS 673.320(3) Permit or registration

The complaints committee recommended that there is sufficient evidence to make a preliminary finding of a violation ORS 673.320(3), Permit or registration.

Discussion: The Board asked Mr. Gray if he was or has ever been a member of the OSCPA. He stated he has not. Mr. Gray stated that he is currently unemployed, but has updated his resume and is no longer holding out as a CPA.

BOARD ACTION: Moved by Ms. Newhouse and carried to find that there is sufficient evidence to make a preliminary finding of violation of ORS 673.320(3).

VOTE: 7 ayes.

The Board agreed that a civil penalty as well as a cease and desist order would be appropriate in this matter.

(5) Richard Lefor

09-098CNK

Mr. Lefor attended the Board meeting in person at 1:30 p.m. Mr. Hearn recused himself from discussion or any participation in this matter as Mr. Lefor prepared his personal income tax returns for 2007 and 2008.

Mr. Lefor had a client who indicated that a 1099 form she had received was incorrect. Subsequently, the licensee did not include the income from that 1099 in the client's tax return.

The IRS sent the client a notice of underreported income for the amount reported on the 1099 that was allegedly incorrect. A corrected 1099 was not issued nor should have been issued. The client authorized the disbursements.

Mr. Lefor represents that, when he prepared the tax return, he used his best professional judgment. The client told him that the distributed amount from one of her retirement accounts was incorrect. He thinks that the client should have known the amount she withdrew. The client reviewed and signed the return without the 1099 income. In hindsight, it would have been a wiser choice to include the income and then subtract the amount out of the tax return.

The Complaints Committee recommended that there is sufficient evidence to proceed with a preliminary finding of a violation of OAR 801-030-0010(1)(b), Due professional care for failing to follow up on the issuance of a corrected 1099.

Board Discussion: The Board believes that Mr. Lefor should have known that, if he was aware of an incorrect 1099, he should have followed through with some action. The Board does not think this is a systemic problem.

BOARD ACTION: Moved by Ms. Newhouse and carried to find that there is sufficient evidence to proceed with a preliminary finding of a violation of OAR 801-030-0010(1)(b), Due professional care, for failing to follow up on the issuance of the corrected 1099.

VOTE: 7 ayes

The Board believes the penalty should be 'modest'. Mr. Lefor has shown that he is aware of the mistake and the Board is assured that he has learned from this experience.

7. PROPOSED CASE SETTLEMENTS

Action Item

A. Paveena Wong

The Board reviewed a proposed settlement agreement for a case opened in May 2008 against Ms. Paveena Wong. Mr. Hearn described the history of this case. The Board originally proposed a two-year suspension and a \$10,000 civil penalty. The settlement proposal offered a 12-month suspension and a \$7,500 civil penalty and 24 additional hours of CPE in order to reinstate her license after the 12-month time period had expired. In addition, a licensee must supervise any tax preparation services performed while suspended.

The Board questioned the reason for settling with Ms. Wong as her violations were so egregious. Ms. Wong has been threatening bankruptcy if her livelihood is compromised. The Board does not want to reduce the period of suspension and wants to approve whomever Ms. Wong chooses to serve as her supervisor.

BOARD ACTION: Moved by Mr. Bailey and carried to reject the settlement offer presented.

VOTE: 7 ayes

8. REPORT OF EXECUTIVE DIRECTOR

Hearn

A. 2009-11 Projected Ending Fund Balance

The Board was required to submit an updated ending balance estimate to the Legislative Fiscal officer. The Board has four potential expenditures which will greatly reduce our ending balance. These items include legal fees for five

pending contested case hearings, the acquisition of online licensing system, the cost of hiring contract investigators and replacement of the Mac computers with PCs. This information, along with the estimated costs for each was submitted on August 6, 2010.

B. 2011-13 Board of Accountancy Agency Request Budget

Ms. Janet Savarro, Budget Analyst with the Department of Administrative Services was present. She overviewed the budget process with the Board. Ms. Savarro indicated that the State of Oregon has an estimated revenue shortfall of 2.5 billion dollars for the 2011-13 biennium. Because of this, state agencies may face a 5.5% cut on personal services and an elimination of the inflation factor.

The review of the Board of Accountancy's budget request is almost complete. Ms. Savarro will make her recommendation to the Governor's staff. Depending on her recommendation, the Board may need to appeal.

C. Peer Review Waiver Request

Stephanie Studebaker-DeYoung sent the Board a request to waive the peer review requirement; she closed her public accounting firm. Ms. Studebaker-DeYoung has indicated that she intends on keeping her active license but any future employment will be in private industry rather than in public accounting.

BOARD ACTION: Moved by Johnson and carried to waive the current peer review requirement if she is in fact employed in industry. If Ms. Studebaker-DeYoung enters public accounting at any time in the future, she will be required to have a peer review within 18-months of re-entry.

VOTE: 7 ayes.

D. Branch office Request – Molatore, Scroggin, Peterson & Co LLP

The firm Molatore, Scroggin, Peterson & Company LLP sent an email to the Board requesting guidance on making a request to the Board for a waiver of the branch office rules. They had a CPA at their branch office. That person is no longer employed with the firm. They are proposing to have a non-CPA staff the branch office. Relevant Oregon Administrative Rules state that a branch office must have a full time licensed CPA. At this point, the firm is non-compliant with the rules. Staff will send them a letter stating that they must comply with the rules.

Firm branch offices will be discussed in detail at the fall work session scheduled for the first week in October.

9. PUBLIC COMMENTS
None

10. REPORT OF OAIA

Mr. Morris reported that the OAIA's continuing education courses are well attended despite the bad economy.

11. REPORT OF OSCPA

The OSCPA is developing a professional issues update, which is a pilot program aimed at replacing the "Tour Stop" presentations. This program will be available on DVD to universities around the state and will be presented as a webinar.

12. OLD BUSINESS

A. John Gregor

Mr. Gregor attended the Board meeting. Mr. Hearn reviewed the chronology of events regarding Mr. Gregor's practice in recent years. Ms. Bridgham recused herself from discussion. She stated that Mr. Gregor filed a complaint against her employer.

Mr. Gregor submitted work papers to the Board for review. Mr. Bailey and Ms. Ferguson each reviewed the submitted work papers and gave a report of their findings to the Board. They both found significant deficiencies in the work papers including failure to plan and supervise, due professional care, lack of audit evidence, management representations, subsequent events, test with client, audit strategy, understanding entity and internal controls and consideration of fraud.

Mr. Gregor stated he considers the pre-issuance reviewers as part of his "team". He relies on their input and, therefore, does not spend time looking at the level of detail.

The Board expressed concern to Mr. Gregor that it appears that the comments from peer reviewers and pre-issuance reviewers are not being considered or learned from for future use, but rather relied on to catch the mistakes. The work is going out with errors that are later caught in reviews.

The Board sees significant departures from standards and a lack of quality control.

BOARD ACTION: Moved by Mr. Bailey and carried to find that there is sufficient evidence to proceed with a Notice of Intent for violation of OAR 801-030-0010(1) and (2) general standards and auditing standards.

VOTE: 6 ayes, 1 abstention (Bridgham)

Discussion: The Board is also concerned about the competencies of Mr. Gregor's staff. Although Mr. Gregor viewed the pre-issuance reviewer as a member of the "team", there appears to be a lack of guidance to the staff. The Board has required pre-issuance reviews for Mr. Gregor for many years now and it is obviously not working. There are multiple civil penalties for multiple violations as well as the possibility of revocation. This is among the most severe cases the Board has seen. The Board would like to proceed quickly since the risk to the public is high.

13. CONTINUING PROFESSIONAL EDUCATION

A. Minutes of July 27, 2010 (Info)

Mr. Bailey pointed out that all fraud courses have been removed from the CPE grid. The CPE Committee requested Board staff to expand the information on the grid to emphasize that the grid is only to be used as a tool when the CPA is planning to obtain a municipal auditor license. It is the applicant's responsibility to review the course information and determine if it meets the basic requirements for a municipal license.

The consent agenda shows that most of the municipal auditor applications reviewed at the meeting were either denied or deferred. This was because the applicants were using a fraud course to meet the GAFR column requirement. Staff has sent letters to the applicants asking for additional information on the course they took and to explain why they feel it qualifies.

B. Consent Agenda

(1) Committee Recommendations Secretary of State – Audits Division Report Review Letters

- a. Simpson & Company PC
- b. Richard W Donaca CPA

(2) Approval of Municipal Auditor Applications

- a. Melissa S Andal, *Defer*
- b. Sarah Elizabeth Bishop, *Defer*
- *c. William M Buffington, **Deny**
- d. Russell C Cramer, *Defer*
- e. Amy E Crawford, *Defer*
- f. Jonathan David Grover, *Defer*
- *g. Danielle Marie Grove, **Deny**
- h. Robert W Hamilton, *Approve*
- i. Mary Christina Jones, *Approve*
- j. Sheila Joy Landis, *Defer*
- k. Kari Jean Ott, *Defer*
- l. James D Piper, *Defer*

- m. Jennifer M Teeter, *Defer*
- n. Cara Renee Kness, *Defer*
- o. Jared Isaksen, *Deferred from May 4, 2010, Approve*
- *p. Wendy Liniger, *Deferred from May 4, 2010, Deny*

BOARD ACTION: Moved by Mr. Bailey and carried to approve the consent agenda.

VOTE: 7 ayes.

14. PEER REVIEW OVERSIGHT COMMITTEE

A. Minutes of July 14, 2010 (Info)

Stuart Morris, PA, OAIA representative, serves on the Peer Review Oversight Committee. He alerted the Board to a discovery that licensees who act as consultants are doing what appear to be 'agreed upon procedures' that are not getting picked up for peer review. Board members will discuss this topic at the work session in October.

15. QUALIFICATIONS COMMITTEE

A. Minutes of June 2, 2010 (Info)

B. Consent Agenda

Action Required

- (1) Recommendations
 - a. April Hla Khaing/Approve
 - b. Shauna McKinney/Approve
 - c. Derron Moreland/Approve
 - d. Kandra Schmeltzer/Approve
- (2) Approval of Applications
 - a. CPA Certificates/Permits
 - b. PA Licenses/Permits
 - c. Firm Registrations

BOARD ACTION: Moved by Ms. Ferguson and carried to accept the consent agenda.

VOTE: 7 ayes.

16. CPA EXAM

A. IFRS

Testing on IFRS will begin in January 2011. There has been discussion among the states as to whether or not candidates are ready for the change. Chair Johnson asked

for open discussion from the Board to determine if a collective opinion should be submitted to AICPA/NASBA.

Dr. Graham, stated that he had been teaching IFRS for 2 years at Oregon State University. He believes that it is not as hard to comprehend as everyone thinks and that candidates will do just fine. The base knowledge of US GAAP is there and IFRS will change only a small fraction of what they already know.

B. International Testing – No discussion

C. Exam Statistics (Info Only)

17. CODE OF PROFESSIONAL CONDUCT
No Meeting Held

18. NEW BUSINESS
None

19. PROCESS OBSERVER REPORT

Dr. Graham stated that the Board was timely with their discussion.

20. The meeting adjourned at 4:20 p.m. The next meeting will be held on October 3-4, 2010, in Sunriver, Oregon.