



**OREGON BOARD OF ACCOUNTANCY**  
**COMPLAINTS COMMITTEE**  
PUBLIC SESSION MINUTES  
July 14, 2014

3218 Pringle Rd SE #110  
Salem, OR 97302  
2<sup>nd</sup> Floor Conference Room  
503-378-4181

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

**Committee Members Present**

Rob Nicklos, CPA (Chair)  
Haley Lyons, CPA  
Kent Bailey, CPA  
Joe Sullivan, CPA  
Fred Peterson, CPA  
Josh Dunlap, CPA

**Excused Absence**

Bill Holmes, CPA  
Chris Walter, CPA

**Guests**

None

**Staff**

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

**Board Liaison**

Larry Brown, CPA

**Board Counsel**

Susan Bischoff, AAG

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- 1. CALL TO ORDER** – Rob Nicklos convened the Public Session of the July 14, 2014 Complaints Committee at 8:34 a.m.
  - 2. Review and Approval of Agenda**  
No changes noted for the draft agenda
  - 3. Approval of Minutes**
    - A.** The BOACC reviewed the May 9, 2014 BOACC Public Session minutes. On page 2, second full paragraph, it was noted that “in additional” should be “In addition”.

**Committee Action:** Moved by Ms. Lyons and carried to approve the minutes with the correction of the typo as noted on page two.

**Vote:** 6 ayes - Unanimous

**4. Review of Board Action of June 1 and June 2, 2014**

Mr. Brown reported that the case involving an energy audit in Enterprise, Oregon was not heard by the Board. A case had been opened against another CPA in connection with that same matter. The Board did hear two cases that the BOACC had not considered. Members of the Board expressed concern that the BOACC would feel their role had been short circuited, but Mr. Brown told the Board that the BOACC case load was so heavy the members of the BOACC would not mind. The Board did make a decision on the two cases that went straight to them, with the idea that they were straightforward enough to go directly to the Board, but felt that the specifics in those cases were complicated enough after all that it would have been better for the BOACC to have considered them before bringing them to the Board. The Board was open to staff bringing very simple cases straight to the Board for consideration in the future. The Board either unanimously or near-unanimously followed all of the BOACC recommendations. The

Board requested the BOACC to vote on every allegation, even if the BOACC recommendation is for insufficient evidence for finding a violation.

Director Pittioni said that the Board did a lot of work on the budget. He further said that all of the policy pieces connected to the budget initiatives relate to compliance. He said the Board approved a budget request to make the second investigator position permanent and to continue using contract investigators. The Board also directed Director Pittioni to seek Legislative Emergency Board (E-Board) authority for more spending, because of the cost of the contested cases, without additional spending authority there would not be any funds for contract investigator work for the rest of the biennium. He said he would go before the E-Board in September, and that he is working to gain the support of the OSCPA on the proposal.

## 5. Old Business

**A. Annual Report** - Director Pittioni distributed the chronological Disciplinary Action Report (DAR) that showed all of the disciplinary cases concluded from January 1, 2011 to the present. He said he would bring more detailed statistical information to the next meeting. He said the DAR shows how much work the Agency has done over the past few years to resolve cases. The document was available for free to the public in both chronological and alphabetical order on the website, and represents a huge improvement of having disciplinary information available by phone call to the investigator. He also discussed how the Agency is not currently publicizing revocations, but might do that again in the future. He said issuing press releases for revocations was a Board policy but is not required. Mr. Bailey added that back when the Agency started issuing press releases, they were sent to newspapers in the local area where the revoked CPA practiced. The purpose was to help protect the public, so people in the local area would know the CPA's license had been revoked.

## 6. Convene Executive Session Pursuant to ORS 192.660(2)(f)

Public session was adjourned and the executive session was convened at 8:54 a.m.

## 7. Complaints Committee Recommendations

Public session was reconvened at 2:34 p.m.

### Case #12-040

**Committee Action:** Moved by Mr. Peterson and carried to recommend that there is **sufficient** evidence to make a preliminary finding of violation of OAR 801-030-0005(2)(a), Integrity and Objectivity.

**Vote:** 6 ayes - Unanimous

**Comments:** BOACC recommended to the Board that this is a low-level violation. Director Pittioni noted that this was another situation involving divorcing clients. Mr. Bailey added if a licensee were to keep both clients, he should talk to both clients about the filing options before filing the return. Mr. Sullivan urged licensees to obtain written waivers of conflict of interest, and Mr. Bailey suggested having both the clients and their respective attorneys sign waivers. Director Pittioni said staff would tell the Respondent that the BOACC viewed the problem as a lack of communication resulting from the lack of waivers of conflict of interest.

**Case #12-043**

**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 concealing his true identity and impersonating a taxpayer.

**Vote:** 6 ayes - Unanimous

**Comments:** Mr. Bailey said he fears the Respondent will continue to do this if given the opportunity, and he thought the penalty should be very high, perhaps even revocation. He thought a high penalty would impress the Respondent with the seriousness with which the Board views this conduct. Mr. Dunlap did not think the penalty should be that high. Each member was asked how they thought the penalty should be, on a scale of 1 -10. Most members said 7, but Mr. Bailey said 10 and Mr. Peterson said 8 or 10. Mr. Bailey said he thought revocation could be proposed as a way of getting the Respondent's attention.

**Case #12-058**

**Committee Action:** Moved by Mr. Peterson and carried to recommend that there is **sufficient** evidence to make a preliminary finding of violation of OAR 801-010-0345(2), Registration of Sole Proprietors.

**Vote:** 6 ayes – Unanimous

**Committee Action:** Moved by Mr. Peterson and carried to recommend that there is **sufficient** evidence to make a preliminary finding of violation of OAR 801-050-0020(1), Peer Review Enrollment Requirement.

**Vote:** 6 ayes – Unanimous

**Committee Action:** Moved by Mr. Peterson and carried to recommend that there is **sufficient** evidence to make a preliminary finding of violation of OAR 801-050-0020(4), Peer Review Participation.

**Comments:** It was noted that it appeared that the Respondent had missed two peer review periods.

**Vote:** 6 ayes – Unanimous

**Committee Action:** Moved by Mr. Peterson 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.

**Vote:** 6 ayes – Unanimous

**Committee Action:** Moved by Mr. Peterson and carried to recommend that there is **sufficient** evidence to make a preliminary finding of violation of OAR 801-030-0005(2)(a), Integrity and Objectivity, for accepting a 2<sup>nd</sup>-year audit, knowing there was fraud discovered during a different audit which she would not be able to disclose.

**Vote:** 6 ayes - Unanimous

**Committee Action:** Moved by Mr. Peterson and carried to recommend that there is **insufficient** evidence to make a preliminary finding of violation of OAR 801-030-0010(2), Auditing Standards.

**Vote:** 6 ayes - Unanimous

**Comments:** This conduct was thought by the BOACC to be fairly egregious.

**Case #12-067**

**Committee Action:** Moved by Mr. Peterson and carried to recommend that there is insufficient evidence to make a preliminary finding of violation of OAR 801-030-0010(1)(b), Due Professional Care (with regard to the tax returns prepared for the client).

**Vote:** 6 ayes – Unanimous

**Committee Action:** Moved by Mr. Peterson and carried to recommend that there is insufficient evidence to make a preliminary finding of violation of OAR 801-030-0015(2)(b), Requested Records.

**Vote:** 6 ayes – Unanimous

**Comments:** None

**Case #13-007**

**Committee Action:** Moved by Mr. Dunlap and carried to recommend that there is:  
insufficient evidence to make a preliminary finding of violation of ORS 673.160(1) and/or (2), Failure to Register a Business Organization of Certified Public Accountants,  
and  
sufficient evidence to make a preliminary finding of violation of OAR 801-030-0020(6)(a)(A), Plural Firm Names.

**Vote:** 6 ayes – Unanimous

[Note: the correct reference to the Plural Firm Name violation should have been: OAR 801-030-0020(6)(c)(A), but due to a typographical error in the material provided to the BOACC, the motion was moved and carried as OAR 801-030-0020(6)(a)(A), Plural Firm Names. - BOA Staff]

**Committee Action:** Moved by Mr. Dunlap 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.

**Comments:** Mr. Peterson noted that the problem was the references to “accountants” that could cause a person to think the firm employs multiple CPAs.

**Vote:** 6 ayes – Unanimous

**Committee Action:** Moved by Mr. Dunlap and carried to recommend that there is insufficient evidence to make a preliminary finding of violation of OAR 801-050-0020(1), Requirement to Enroll in Peer Review.

**Vote:** 6 ayes – Unanimous

**Comments:** The BOACC thought, if so found by the Board, the egregiousness of the plural name violation should be low, and egregiousness of the public communications and advertising violation should be mid-range.

**Case #13-011**

**Committee Action:** Moved by Mr. Bailey and carried to recommend that there is insufficient evidence to make a preliminary finding of violation of OAR 801-030-0005(2), Integrity and Objectivity.

**Vote:** 6 ayes – Unanimous

**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 giving away the client file.

**Vote:** 6 ayes – Unanimous

**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 accessing confidential client information with the CPA's knowledge or the clients' knowledge.

**Comments:** Mr. Dunlap said the Respondent was in a difficult situation, and he believe the Respondent wanted to do the right thing. The Respondent said his actions were not financially motivated.

**Vote:** 6 ayes – Unanimous

**Committee Action:** Moved by Mr. Bailey and carried to recommend that there is a single violation stemming from:

**sufficient** evidence to make a preliminary finding of violation of OAR 801-030-0020(7), Board Communications and Investigations.

and,

**sufficient** evidence to make a preliminary finding of violation of OAR 801-030-0020(1), Professional Misconduct, for solicitation of clients.

**Comments:** This recommendation is that one act, sending the letter, violated two separate rules at the same time, but is only one violation. Mr. Dunlap said he does not think the Respondent intended the letter to be misleading. Mr. Bailey said he was kind of in the middle.

**Vote:** 6 ayes – Unanimous

#### **Case #14-011**

**Committee Action:** Moved by Mr. Peterson 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 submitting false information on the Firm Registration Renewal form,

and,

**insufficient** evidence to make a preliminary finding of violation of OAR 801-030-0020(6)(c), Plural Firm Names.

**Vote:** 6 ayes – Unanimous

**Comments:** None

#### **Case #14-012**

**Committee Action:** Moved by Mr. Peterson and carried to recommend that there is **sufficient** evidence to make a preliminary finding of a violation of OAR 801-030-0020(1), Professional Misconduct, for submitting false information on a Firm Registration Renewal Form.

**Vote:** 6 ayes – Unanimous

**Comments:** The BOACC thought there was a very low level of egregiousness, and recommended the Board consider issuing a non-disciplinary "letter of censure".

## **8. Announcements**

Director Pittioni led a discussion of what possible alternate dates could work, in case the BOACC needs an additional meeting. The members of the BOACC agreed to keep July 30, 2014 on their calendars as a meeting date, with the understanding that if there would not be enough completed cases to make it worth their time, the July 30<sup>th</sup> meeting would be replaced with a different meeting on a later date. They also raised the idea of possibly having a subcommittee composed of only audit-experienced BOACC members have a meeting of only audit-related cases. Ms. Bischoff advised that even if only a subgroup of BOACC members were to meet for the purpose of making recommendations to the Board, that meeting would be a public meeting.

**The public session adjourned at 3:34 p.m.**