



**BOARD MEETING
PUBLIC SESSION MINUTES
February 2-3, 2015
Board of Accountancy Office, 2nd Floor Conference Room
Salem, Oregon 97302**

Present:

Larry Brown, CPA, Chair
Scott Wright, CPA, Vice-Chair
John Lauseng, CPA, Treasurer
Candace Fronk, CPA
Roger Graham, Public Member
Lynn Kingston, CPA, (until 4 p.m. on February 3)
Al Crackenberg, PA

Staff:

Martin Pittioni, Executive Director
Susan Bischoff, AAG
Noela Kitterman, Investigator
Theresa Gahagan, Investigator
Bethany Reeves, Compliance Specialist
Kimberly Fast, Licensing Manager
Joel Parks, Licensing Specialist

Guests:

Sherri McPherson, OSCPA
Harry Bose, CPA, OSCPA
Dan Parr (1:23 p.m. February 3)

1. CALL TO ORDER/ANNOUNCE RECORDING OF MEETING/REVIEW AGENDA

The Board convened in Public Session at 8:31 a.m. Mr. Brown announced the meeting was being recorded. The minutes will be reviewed later in the meeting.

3. BOARD WORK SESSION DISCUSSION

A. BOARD POLICY DEVELOPMENT ON CPAS SERVING THE LEGALIZED MARIJUANA INDUSTRY IN OREGON

The Board reviewed documents related to the issues regarding legalizing Marijuana that were prepared by the AICPA with input from the Colorado and Washington state CPA societies as well as a documents from the IRS and the Washington State Board of Accountancy.

Mr. Pittioni explained that the Board office and OSCPA have received multiple calls from CPAs with questions about the Board's position on their providing services to Oregon clients that produce and or sell Marijuana. While production and sale of Marijuana is against federal law, these activities are now legal under Oregon law. The Board does not currently have a position on this matter and even when a position is made, there will be still be risk to the practitioners. Licensees are concerned that if they perform work for these types of businesses, the Board will seek disciplinary action since it is against federal law.

Mr. Wright pointed out that in his view the act of providing services to this clientele is not a violation in framework of rules as far as the earnings from sales are concerned. However, the Board believes the deductions for the associated expenses could be considered an act discreditable. As a general rule, all income is taxable, illegal or otherwise, however, certain deductions cannot be claimed for businesses involved with unlawful acts. Certain Board members believed that CPAs would be performing a public service if they ensured that their clients were compliant with tax law, that tax returns were completed properly. Mr. Pittioni suggested a two-step statement that by itself the fact that a CPA is providing services to such a legalized business under state law will not be used by the Board as a basis for a compliance action. Mr. Pittioni suggested the Board take a second step and stop short of encouraging licensees, and instead remind them that they need to do a very careful risk analysis before making such a business decision.

Ms. Bischoff will talk to her colleagues at the Department of Justice to see what other Boards, specifically the Medical Board, are doing in these instances. Ms. McPherson stated that she has promised to call at least three individuals back after this meeting with a decision from the Board.

If a preliminary statement from the Board can be drafted soon, the Board may add it to the March 19th agenda. Ms. Fronk suggested posing scenarios and asking Ms. Bischoff to provide advice. Mr. Pittioni will work with legal counsel on this issue, and advised he would try to bring a refined draft to the second day of the Board meeting.

2. APPROVAL OF BOARD MINUTES
A. December 15, 2014

The minutes distributed this morning for the December 15, 2014 meeting are different than those included with the agenda packet. There were edits to the Edison case that are tracked for Board review.

BOARD ACTION: Moved by Mr. Wright and carried to approve the minutes as amended.
VOTE: 7 ayes

3. BOARD WORK SESSION DISCUSSION
B. 2015 LEGISLATIVE SESSION DISCUSSION

1. SB 272 – Board Bill Update

This bill was referred to the Senate Business and Transportation committee. Mr. Pittioni has asked for an early hearing date and requested at least one Board member testify on the definition of attest. Mr. Lauseng volunteered. There is no Ways and Means referral for this bill, as anticipated.

2. SB 289 – Sunset dates on agencies with 50 employees or less

Mr. Pittioni reported that the Governor's office has submitted this bill which establishes legislative policy of conducting periodic review of state boards, commissions and all other small entities defined as agencies with 50 full time equivalent employees or less within the executive branch, to enhance budget and government efficiency, minimize duplication of effort and enhance efforts of such entities in meeting current needs of Oregonians. SB 289 proposes to appoint a biennial legislative committee to conduct the review, and eliminates all state agencies listed in the bill unless re-authorized by the committee, based on a schedule of sunset dates. The Board of Accountancy is listed in this bill, with a sunset date of June 30, 2018.

The Department of Administrative Services views this as nothing other than part of the continual discussion about how government should be structured. The purpose is to set up a comprehensive process to review the agency and help us do our job better.

Mr. Pittioni reported this is a shift from how the executive branch has approached this issue in the past. Previously the executive branch would negotiate specific consolidation or restructuring proposals targeting specific boards or. This broader is broader and more transparent. Mr. Pittioni added that in other states this type of review rarely leads to elimination of an agency, and instead can serve as an opportunity for a small agency to tell its story outside the budget process, which is a positive. Board members discussed the option of semi-independence status as well as whether or not the Board should consider being proactive and test out whether or not combining the Board of Accountancy with the Tax Practitioners Board is something that would be supported within the affected professions and their stakeholders.

3. SB 5501 – Board Budget Bill / Hearings

The bill is set for hearing on March 19, 2015. Mr. Brown has agreed to attend the hearing and help with the budget presentation with Mr. Pittioni. The fee bill introduced by the OSCPA will most likely be heard by the same committee that is hearing the Board's budget bill.

4. Fee Bill to raise fees in statute

The OSCPA's Board of Directors approved two fee increases for the Board to submit for legislative approval as a statutory change in the form of a fee bill during this legislative session. The bill will propose active license fees be increased from \$160 to \$225 and firm registration fees be increased from \$175 to \$265, reflecting the consensus outcome of the negotiations between OSCPA, OAIA and the Board, with Mr. Wright and Mr. Pittioni representing the Board. An increase in inactive licensees was not included in the bill. The language in the bill allows implementation of the fees prior to January 1, 2016 as long as the license period is for January 1, 2016 or later. The remaining fees for the Board are in rule and can be amended by the administrative rule process.

The 2015-17 budget does not include the fee increase proposals in the bill. The estimates for state government services provided by DAS, beyond the very significant increases for 2015-17, are not yet known for 2017-19 and may change. Current best estimates leave an ending balance for 2017-19 at around \$400,000 – \$600,000 which is much less than in prior years, assuming that the fee bill will be adopted, and assuming that the Board will raise remaining fees by rule administratively by similar levels. Mr. Brown noted that the Board previously had a \$1.55 million ending balance, which is now decreasing sharply in each biennium. Mr. Pittioni stated that the significant increases in the services and supplies budget driven by the sharp increases, in some cases more than doubling, of state government back-end service charges to the Board, mean that the services and supplies portion of the budget is growing far faster than the normal DAS estimate of a 5% increase from one biennium to the next. Based on current demographics and investigation expenses, there is very little cushion built into the proposed budget's ending balance. This means if there was another expensive compliance case, the Board may not be able to withstand the financial burden. With that in mind, the Board had only three options: raise fees, decrease services, particularly compliance services or propose cost-cutting measures such as semi-independence. The latter is not known to be in favor by the executive branch, cutting compliance services is not a real option. Mr. Pittioni advised that no matter what exactly happens, he will be under significant pressure to deliver operational efficiencies including on the licensing side. This will need to include help from DAS in finding alternatives to now much more expensive state government back-end services to the board, or find ways to reduce the cost of those services.

Mr. Pittioni advised that the Board needed to make a policy decision with respect to proposed fee increases by rule that would reflect increases similar to the increases proposed in the fee bill. Specifically, given the still tight fiscal picture even if the statutory fee bill passes, beyond June 30, 2019, the issue is if the Board agrees to put fee increases by rule in place by July 1, 2015, rather than wait until fall rulemaking and delaying impact until January 1, 2016; the difference in impact on revenue is estimated to be about \$48,000. The purpose of this discussion is to determine how much to raise fees by rule and when the fee increases will be effective.

Mr. Pittioni asked Board members for feedback on the potential outline of administrative fee increases provided in the handout, especially with respect to the increase in examination fees. Mr. Wright noted that examination fees had not been changed for about 15 years. Board members discussed exam fee increases and while this portion of the fee increase is minimal to the big picture it was agreed to increase at least the initial exam application fee and keep the fee for returning exam applicants the same. The Board will have the opportunity to discuss this matter again before making a final decision, should the Board authorize rule-making. Board members directed staff to enter rulemaking for the proposed administrative fee increases with an anticipated effective date of July 1, 2015.

D. COMPLIANCE PROCESS DISCUSSIONS

1. Preliminary Inquiries

The Board staff has developed an inquiry process to handle compliance issues more efficiently. This process allows for an inquiry to be done without actually opening a compliance case. When Board staff receives information on a potential case, there are situations where additional information is needed before it can be determined if a case is warranted. Mr. Pittioni would like feedback on the process from members of the BOACC and other that are familiar with the compliance process.

There is nothing in the inquiry process that is meant to adjudicate a violation. The inquiry process is instead a vehicle that allows additional information to be obtained before determining if a full investigation is necessary, or to track progress of a matter where a licensee is taking active steps to establish compliance with Board laws and rules, which then may avoid the need for a full investigation or disciplinary process. The Board was given a flow chart of how Board staff are currently handling the inquiry process. Mr. Graham suggested an addition to the flow chart that would allow inquires to come straight to the Board and by-pass the BOACC. The inquiry process is helpful in that it streamlines the process. Any case moving to full investigation means a minimum 8-16 hours would be spent investigating the case, plus much more process time for staff and volunteers to go through the BOACC and the Board processes before a determination can be made by the full Board. Mr. Pittioni added that procedures for the inquiry process and how inquiries are handled ties into the delegated authority clarification that is also on the agenda for discussion.

It was suggested that a sub-group of the Board and BOACC members (past and/or present) be established regarding the inquiry process and next steps. Mr. Brown suggested that the sub-group should include himself, Mr. Lauseng, Mr. Nicklos and possibly Mr. Bailey.

E. DELEGATED AUTHORITY STRUCTURE – DEVELOPMENT

The delegated authority was discussed at the Laws and Rules Taskforce (LRTF) where statutory changes were made to provide the Board with authority to appoint committees. Currently the only committee with statutory authority is the Peer Review Committee. Assuming the changes to statute are adopted this Legislative session, the Board will have explicit authority to have committees and determine the purpose of each committee.

A Board document, referred to as “Committee By-Laws”, provided an outline of committee structure and the purpose of each committee. Ms. Bischoff commented that she is uncomfortable calling the document “by-laws” and would like to change the name, possibly to “committee framework”.

The Board reviewed the historical delegated authority document and suggested that Mr. Pittioni draft a list of items that he believes should be included in delegated authority. The Board is not prepared to consider the document without knowing first what is actually coming to the Director for approval. Mr. Graham suggested drafting the document into categories, such as licensing, renewals, compliance etc. Ms. Bischoff recommends after the document is adopted, that the Board members review and adopt delegated authority on an annual basis to ensure the document is up to date and still agreeable.

4. PUBLIC COMMENT

There were no public comments

5. REPORT OF THE OSCPA

Mr. Bose reported that the OSCPA Board has completed their strategic plan for 2015-18. Mr. Jay Richardson has been appointed as the new Vice-Chair and will attend the next Board meeting. Mr. Bose thanked the Board members for their hard work and fairness when considering all the different topics. He enjoyed participating in Board meetings.

6. REPORT OF THE OAIA

There was no report from the OAIA

7. REPORT OF THE CHAIR

The Chair had no report

8. REPORT OF VICE CHAIR

The Vice-Chair had no report

9. REPORT OF TREASURER

Mr. Lauseng provided his first report as Treasurer, and reviewed the latest cash flow projections through June 30, 2015 prepared by DAS. The Board questioned the recent credit from the Office of Administrative Hearings (OAH). Mr. Pittioni explained that the OAH overcharged the Board and a refund of the credit was requested and granted, and thus already anticipated in the projections. The Board has ceased entering into new investigation contracts for the remaining months of this biennium to ensure it can stay within the increased spending limitation authority granted by the Legislative Emergency Board last September. Mr. Pittioni advised that the line item projections for the remaining biennium for the attorney general office should be sufficient given the fact that there are no contested case hearings in the pipeline at this point, and if one were to happen, they generally take at least 7-8 months to prepare for and be scheduled for trial, which would therefore not occur until the next biennium.

10. REPORT OF THE EXECUTIVE DIRECTOR

Mr. Pittioni announced that Ms. Kitterman is currently aiming for retirement for July 1, 2015. Mr. Pittioni had reported at prior meetings that with the increased fees being assessed by the State Data Center and DAS IT, staff was working to quickly hire new IT contractors and purchase the equipment necessary to house its own server and not use DAS for IT services at all. Although this is still on the radar, it will be addressed in the next biennium.

The Board has updated the Disciplinary Action Report (DAR) on its website, which includes the full text of Mr. Chris Acarregui's Final Order. This is unlike other disciplinary actions on the DAR that simply have a summary of the action taken. Mr. Acarregui's matter was so complex that a summary wasn't appropriate. Ms. Bischoff encouraged the Board to do the same for all cases.

Mr. Brown noted that many states publish disciplinary action in the local newspapers. Ms. Fronk suggested emailing the DAR links. They could then publish information as they determined necessary. Mr. Lauseng believes that sending this information out using the email system to licensees is also an effective method of getting the information out. The Board agreed that it was not necessary for all disciplinary actions to be sent out by email or sent to newspapers, perhaps only revocations and/or suspensions.

The Board had previously considered a case that also involved a BETC verification letter, and in the process received information from the Respondent about firms that had provided clients with BETC verification letters to the Oregon Department of Energy in 2009. Based on the review of that information, it became clear that the way practitioners handled these types of engagements varied widely. It is the opinion of the Board that such verification letters are an agreed-upon procedure engagement (AUP) and therefore subject to attest standards and peer review. The Board members reviewed a letter drafted by staff intended to be sent to the firms who provided a 2009 letter to DOE that did not meet the standards applicable to an AUP. The letter to firms is not considered disciplinary action, but rather a letter of concern meant to be educative and ensure the profession is clearly aware that going forward the Board's expectation is that these types of engagements are to be treated as AUPs, and thus are subject to attest standards and peer review. Board members made some edits to the letter and directed staff to send the letters to appropriate firms. Mr. Brown advised he would also include this issue in an article he was writing for the OSCPA newsletter.

11. NEW BUSINESS

A. NASBA VICE CHAIR NOMINATION SUPPORT REQUEST – RAY JOHNSON

Mr. Ray Johnson, former Board of Accountancy Board member and former Board Chair, sent a letter to the office requesting the Board nominate him for the NASBA Vice-Chair position.

BOARD ACTION: Moved by Mr. Wright and carried to nominate Mr. Raymond Johnson for the NASBA Vice-Chair position.

B. APPOINTMENT OF LAWS AND RULES COMMITTEE

The Board assembled a group that formed the laws and rules task force last year. After the task force had accomplished their tasks, it was determined that an on-going committee would be beneficial. Mr. Lauseng, mentioned how well the task force members worked together and recommended asking if the task force members would be willing to continue serving on the committee. Mr. Graham indicated that he will not continue serving on the committee, but advised the Board that Mike Halbirt, former chair of the Qualifications committee has shown interest. Mr. Lauseng agreed to continue to chair the committee and Ms. Kingston agreed to serve as a member of the committee.

C. APPOINTMENT OF BOARD LIAISONS TO BOARD COMMITTEES

Mr. Crackenberg currently serves as liaison to the CPE committee and has agreed to continue in that role. Mr. Graham agreed to continue as the liaison for the Qualifications committee. Mr. Wright, formally the liaison to the Peer Review Oversight Committee (PROC) will now be serving as the liaison for the Complaints Committee. Ms. Fronk agreed to act as liaison for the PROC, which currently is inactive. Board staff, along with Ms. Fronk, will discuss the framework and discussion topics this committee needs to address. Mr. Lauseng will continue to Chair the Laws and Rules Committee and Ms. Kingston agreed to serve on the committee. Mr. Wright will make a determination if he will serve at a later time. In the past, Ms. Roberta Newhouse expressed interest in serving on this committee. If Ms. Newhouse agrees to serve on the committee, Mr. Wright indicated that he may step down and only serve the BOACC.

D. JUNE 25, 2015 BOARD MEETING

Mr. Pittioni advised the Board that Mr. Wright is unable to attend the June 25, 2015 scheduled Board meeting. It would be helpful if a Board member could serve as liaison for the BOACC meeting in May so that they can present cases at the June meeting. Mr. Brown agreed, if needed, to continue serving as liaison to the BOACC until after the June 2015 meeting.

The Board agreed to reschedule the Board meeting for Monday, June 29, 2015. This Board meeting will focus on compliance case matters primarily, and is not intended to include reports from licensing committees or have licensing staff in attendance, given their heavy workload around the licensure renewal deadline of June 30.

E. BOARD TRAINING/ATTENDANCE AT THE NASBA WESTERN REGIONAL – JUNE 17-19, 2015

The NASBA Regional meeting will be held June 17-19, 2015 in Coronado, California. Ms. Fronk and Ms. Kingston, new members of the Board will be sponsored by NASBA with all costs covered. Chair Brown and Vice-Chair Wright will also attend and Mr. Lauseng as Treasurer will also attend. Mr. Lauseng has a company office in the area and therefore, some of his expenses will be paid by his employer. Mr. Pittioni advised he may be considering attending as well.

F. KENNETH HO CPA APPLICATION CONSIDERATION

Mr. Ho is employed with Mary Perkins CPA PC. The firm consists of Ms. Perkins and Mr. Ho. The past two peer reviews conducted on the firm have been pass with deficiencies and most recently a failed review. There is concern that Mr. Ho, who gained his experience under the attestation/audit path, may have not received adequate experience based on the fact that the firm continues to have problems with peer review.

Board members noted that the rules do not address instances such as this. The committee asked Mr. Graham his opinion of the quality of the write-up provided by Mr. Ho. Mr. Graham advised the Board that the write-up would not have been accepted by the Qualifications committee, but may be adequate to pass through the review process for the tax path.

BOARD ACTION: Moved by Mr. Wright and carried to find that there is sufficient evidence to approve the CPA license application submitted by Kenneth Ho.

VOTE: 7 ayes

Board members asked Board staff to send a letter to Ms. Perkins outlining concerns on her supervisory role.

12. CPE COMMITTEE

A. MINUTES OF JANUARY 14, 2015

Minutes were provided to Board members for information only.

B. RECOMMENDATIONS FOR APPROVAL

1. Jennifer Darst
2. LeeAnn Nelson
3. Micah Clinger

BOARD ACTION: Ms. Kingston advised the Board she knows Mr. Clinger, however the relationship does not impact her vote. Moved by Mr. Wright to find that there is sufficient evidence to recommend the above named individuals be granted a municipal auditor license.

VOTE: 7 ayes.

13. QUALIFICATIONS COMMITTEE

A. MINUTES OF JANUARY 14, 2015

Minutes were provided to Board members for information only. Mr. Graham noted that the committee had their first instance where the new rules allowing a supervisor licensee to have a break in licensure was used. The supervisor had a 10-day lapse in his license.

He also noted that committee member Rachele Quinn drafted a document outlining committee member expectations. Committee members believe that working with both the supervisor licensee and the applicant provides valuable insight into the level of competency each applicant has gained. Mr. Graham encouraged Mr. Pittioni to review this document when writing summaries for each committee that will replace the current "by-laws".

Mr. Graham has successfully recruited two new members, Mr. Michael Schmidt who is currently employed at Intel. Mr. Schmidt was very helpful when Mr. Graham was drafting industry experience competency forms. Amber White also joined the committee, although was unable to attend the January meeting. Ms. White works in the banking industry. Mr. Graham is currently working with Casey Comers, Financial Director for the City of Milwaukee, and it appears she is also interested in serving on the committee. Christina Tate joined the committee in June 2014, but it appears the Board has not voted on her appointment.

BOARD ACTION: Moved by Mr. Wright to approve Ms. Tate, Ms. Comers, Ms. White and Mr. Schmidt to serve on the Qualifications committee.

VOTE: 7 ayes

B. RECOMMENDATIONS FOR APPROVAL

1. Madhurama Krishnamurthy

BOARD ACTION: Moved by Mr. Wright to find that there is sufficient evidence to grant a CPA license to Madhurama Krishnamurthy.

VOTE: 7 ayes.

C. RECOMMENDATIONS FOR DENIAL

1. Rachel Nishida

The Committee reviewed Ms. Nishida's application for licensure and requested additional documentation to show she had met the competencies. Ms. Nishida was unable to provide enough evidence that she had met the requirements for a CPA license.

BOARD ACTION: Moved by Mr. Wright to deny the application for Ms. Nishida, however, she should be allowed to withdraw her application and reapply at a later date.

VOTE: 7 ayes.

14. RATIFICATION REQUESTS

A. CPA CERTIFICATES/PERMITS

BOARD ACTION: Moved by Mr. Wright to ratify licenses issued.

VOTE: 7 ayes.

B. FIRM REGISTRATIONS

BOARD ACTION: Moved by Mr. Graham to ratify firm registrations issued.

VOTE: 7 ayes.

The following item was added to the agenda under 3.D. Compliance Process Discussion:

3.D.3. PROPOSED AMENDMENT TO OAR 801-030-0020

Mr. Pittioni drafted rule amendments to OAR 801-030-0020, Board communications and investigations. The current rule allows for a respondent to respond to Board communication within 21-days from the date of mailing. The additional language provides for a 10-day response time from a respondent for any follow-up communication.

The purpose of this change is to speed up the complaint process and have more timely responses from licensees. Ms. Fronk and Ms. McPherson were in opposition of this change to rules. Mr. Pittioni will modify the suggested language and present it again the meeting tomorrow, February 3, 2015.

The February 2, 2015 public session meeting adjourned at 4:30 p.m.

February 3, 2015, Public Session was reconvened at 1:23 p.m.

16. COMPLAINTS COMMITTEE / MOTIONS ON CASES

D. CONSIDERATION OF REQUEST TO SET ASIDE DEFAULT: CASE #14-010 DANIEL PARR

Mr. Dan Parr arrived and joined the meeting at 1:23 p.m.

Mr. Brown introduced members of the Board and staff and notified Mr. Parr the meeting was being recorded. Ms. Fronk recused herself from the discussion and voting due to a conflict arising from Mr. Parr's former clients seeking her firm for services.

Mr. Parr's CPA license is currently revoked and his public accounting firm is terminated. Mr. Parr is appearing to ask the Board to reconsider the revocation and allow him to continue practicing.

Mr. Parr apologized to the Board for his behavior. He explained that when his license was up for renewal in 2013 he did not complete the necessary CPE and after his license lapsed he continued to practice. He further admitted that when he acquired the necessary CPE to reinstate his license, he lied on the application form when he indicated he had not practiced while lapsed. Mr. Parr also apologized for ignoring countless Board communications regarding his license status.

Mr. Parr visited the Board office on January 5, 2015 and spoke with Mr. Pittioni and Ms. Gahagan. Mr. Wright asked Mr. Parr if, since the January 5th meeting, had he provided any accounting services. Mr. Parr replied he

had, however, he also pointed out that he told his clients he was not licensed. He also indicated that he only advised clients on tax matters and did not prepare any financial statements.

Mr. Pittioni reminded Mr. Parr of his prior case with the Board where he was found in violation for tax standards and during the investigation of that case he also ignored Board communications. His behavior appears to have become a pattern. Mr. Parr indicated he was shocked by that complaint and believed he had done nothing wrong and therefore did not take the complaint as seriously as he should have.

Ms. Bischoff asked Mr. Parr what *he* thought the Board should do in this matter. Mr. Parr responded that he would like to continue to practice public accounting and be able to provide for his family. He does not intend to do any financial statements and would welcome guidance and regular check-ins by the Board. He is aware that he will have civil penalties to pay and also understands a restricted license may be warranted.

Mr. Parr believes he produces quality work and it is just a matter of staying in compliance with the renewals and communication with the Board. Mr. Brown dismissed Mr. Parr from the meeting after all questions were asked and he was informed that the Board would contact him after deliberating on the facts.

Public Session was recessed at 1:50 p.m. and reconvened at 4:15 p.m.

- A. MINUTES OF JANUARY 6, 2015**
- B. MINUTES OF JANUARY 16, 2015**

Minutes were provided to Board members for information only.

- C. MOTION ON CASES CONSIDERED IN EXECUTIVE SESSION**
 - 1. Case #12-054**

Mr. Wright explained that this is a case where the complainant asked the respondent (CPA) to prepare her income tax returns. The returns could not be filed prior to April 15th. An extension was filed but the respondent didn't calculate the amount of tax required to be paid with the extension. The respondent paid the late payment penalty and discounted his fees for the error. The complainant felt she had been mistreated and thought that the apology from the respondent was insincere.

BOARD ACTION: Moved by Mr. Wright to find that there is INSUFFICIENT evidence to make a preliminary finding of violation of OAR 801-030-0010(1)(b), Due Professional Care.

VOTE: 6 ayes

- 2. Todd Goebel / Accounting Associates CPAs PC, Case #13-033**

This case pertains to a firm that used a plural name without employing the required number of licensed individuals. The owner, Mr. Goebel, was notified that the firm would need to employ a licensed individual who worked a minimum of 20 hours per week to use a plural firm name or change to a singular firm name. Mr. Goebel changed the firm name to come into compliance with the rule.

BOARD ACTION: Moved by Mr. Wright to find that there is SUFFICIENT evidence to make a preliminary finding of violation of OAR 801-030-0020(6)(c), Plural Firm Names.

VOTE: 6 ayes

Board discussion on sanctions: The Board believes this is a low to moderate violation

3. Julia Fitzgerald, Case #13-050

This case pertains to a licensee who let her license lapse, which in turn terminated her firm. While Ms. Fitzgerald's CPA license was in lapsed status, she filed eight tax returns. Ms. Fitzgerald indicated that her employee signed the tax returns, however the tax software placed her name and/or her firm name on the signature block on the returns. Ms. Fitzgerald also used the CPA designation on her email signature line and in her voice answering message during the time period that her license was in lapsed status.

BOARD ACTION: Moved by Mr. Wright to find that there is SUFFICIENT evidence to make a preliminary finding of violation of ORS 673.320(3), use of terms certified public accountant, public accountant, CPA or PA.

VOTE: 6 ayes

Board discussion on sanctions: The BOACC thought the respondent's actions were egregious. Ms. Fitzgerald is doing bookkeeping work and has not reinstated her firm at this point. Board members believe a moderate sanction is appropriate for his case.

4. Melissa Jensen, Case #14-036

Ms. Jensen submitted her individual renewal application and indicated she provided compilation services through her firm, Melissa A. Jensen CPA PC. Her firm was terminated in December 2011. Ms. Jensen was generally unresponsive to Board communication during the investigation.

BOARD ACTION: Moved by Mr. Wright to find that there is SUFFICIENT evidence to make a preliminary finding of violation of OAR 801-010-0345(1), Registration of Business Organization.

VOTE: 6 ayes

BOARD ACTION: Moved by Mr. Wright to find 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

BOARD ACTION: Moved by Mr. Wright to find that there is SUFFICIENT evidence to make a preliminary finding of violation of OAR 801-030-0020(9), Notification of change of address, employer or assumed business name.

Vote: 6 ayes

Board discussion on sanctions: Ms. Fronk noted that Ms. Jensen is no longer practicing but still holds and active license. Mr. Wright noted that Ms. Jensen should have a peer review coming up and believes the Board should remind her of that. Board members agreed to a low civil penalty.

5. Leon Fu, Case #14-055

Mr. Fu renewed his license to inactive status while he was employed in private industry. In January 2012, he began working for United CPAs & Company in Oregon while his license was still inactive. Mr. Fu submitted a reinstatement application in January 2013 and was reinstated in February 2013.

BOARD ACTION: Moved by Mr. Wright to find that there is SUFFICIENT evidence to make a preliminary finding of violation of OAR 801-030-0020(1), Professional Misconduct for practicing public accountancy when not properly licensed to do so under ORS 673.220 (Inactive status).

Vote: 4 ayes, 2 nays (Lauseng, Fronk)

Board discussion regarding sanctions: Board members agreed penalties should be low.

6. Mark Saylor, Case #14-060

Mr. Saylor applied for employment and used the CPA designation on his resumé as well as on his LinkedIn account after his license had been inactive since July 1, 1994.

BOARD ACTION: Moved by Mr. Wright to find that there is SUFFICIENT evidence to make a preliminary finding of violation of ORS 673.320(3), use of term certified public accountant, or CPA.

VOTE: 6 ayes

Board discussion on sanctions: Board members believe Mr. Saylor's actions were low to moderate in severity due to the length of time his license was inactive.

7. Case #13-047

This is a case where the licensee was accused of providing confidential client information during a divorce.

BOARD ACTION: Moved by Mr. Wright to find 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.

VOTE: 5 ayes, 1 nay (Crackenber)

BOARD ACTION: Moved by Mr. Wright to find that there is INSUFFICIENT evidence to make a preliminary finding of violation of OAR 801-030-0015(2), Client records and working papers.

VOTE: 5 ayes, 1 nay (Wright)

Board discussion: The Board agrees that a letter of concern is appropriate in this matter to remind the licensee to be proactive with his clients.

8. George Cornwall, Case #14-020

Mr. Cornwall's license has been lapsed since 2008. During the course of the investigation it was discovered that Mr. Cornwall used the CPA designation on a letter to the complainant's Credit Union. In this letter to the credit union Mr. Cornwall indicated his work for a client constituted "more than a compilation but short of a review". In addition, the Department of Revenue records show that Mr. Cornwall filed nine tax returns while his license was in lapsed status. The complainant also filed a police report on Mr. Cornwall for using his credit card without authorization.

BOARD ACTION: Moved by Mr. Wright to find that there is SUFFICIENT evidence to make a preliminary finding of multiple violations of ORS 673.320(3), use of terms certified public accountant, CPA.

VOTE: 6 ayes

BOARD ACTION: Moved by Mr. Wright to find that there is SUFFICIENT evidence to make a preliminary finding of a violation of OAR 801-010-0345(1), Registration of Business Organization.

VOTE: 2 ayes, 4 nays (Fronk, Lauseng, Graham, Wright) **MOTION FAILS**

BOARD ACTION: Moved by Mr. Wright to find that there is SUFFICIENT evidence to make a preliminary finding of multiple violations of OAR 801-030-0020(1), Professional Misconduct.

VOTE: 6 ayes

BOARD ACTION: Moved by Mr. Wright to find 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

BOARD ACTION: Moved by Mr. Wright to find that there is SUFFICEINT evidence to make a preliminary finding of violation of OAR 801-030-0020(1), Professional misconduct for practicing public accountancy without a license.

VOTE: 3 ayes (Brown, Lauseng, Fronk), 2 nays (Wright, Crackenberg) 1 abstention (Graham)

BOARD ACTION: Moved by Mr. Wright to find that there is SUFFICIENT evidence to make a preliminary finding of a violation of OAR 801-050-0020(1), Peer Review Enrollment and Participation in Peer Review Program.

VOTE: 1 aye (Crackenberg), 5 nays (Brown, Fronk, Lauseng, Graham, Wright) **MOTION FAILS**

Board discussion on possible sanctions: The BOACC recommended revocation of Mr. Cornwall's license. There are multiple violations, however, the unauthorized use of a credit card is most troubling. Mr. Cornwall's license has been lapsed since 2008 and there is plenty of evidence that he has continued to provide public accounting services.

9. Gary Schutz, Case #14-028

This case involves allegations of failure to return client records and working papers, committing professional misconduct, lack of integrity and objectivity, lack of sufficient relevant data needed to perform services and a failure to follow the Board's rules regarding business transactions with clients.

BOARD ACTION: Moved by Mr. Wright to find that there is SUFFICIENT evidence to make a preliminary finding of violation of OAR 801-030-0005(2), Integrity and Objectivity for preparation of a tax return knowing the return was not complete and accurate and preparing as self-prepared.

VOTE: 6 ayes

BOARD ACTION: Moved by Mr. Wright to find that there is SUFFICIENT evidence to make a preliminary finding of multiple violations of OAR 801-030-0010(1)(d), Sufficient Relevant Data.

VOTE: 6 ayes

BOARD ACTION: Moved by Mr. Wright to find that there is SUFFICIENT evidence to make a preliminary finding of violation of OAR 801-030-0015(2)(b), Requested records.

VOTE: 6 ayes

BOARD ACTION: Moved by Mr. Wright to find that there is SUFFICIENT evidence to make a preliminary finding of multiple violations of OAR 801-030-0020(1), Professional Misconduct for failure to deliver timely invoices; signing as Plaintiff on small claims action.

VOTE: 3 ayes (Lauseng, Fronk, Crackenberg), 3 nays (Wright, Graham, Brown) - **MOTION FAILS**

BOARD ACTION: Moved by Mr. Wright to find that there is SUFFICIENT evidence to make a preliminary finding of violation of OAR 801-030-0020(6)(a), False and Misleading Firm Names.

VOTE: 0 ayes, 6 nays – **MOTION FAILS**

BOARD ACTION: Moved by Mr. Wright to find that there is SUFFICIENT evidence to make a preliminary finding of violation of OAR 801-030-0020(4), Public communication for use of the term "Accountants" on letterhead.

VOTE: 6 ayes

BOARD ACTION: Moved by Mr. Wright to find that there is SUFFICIENT evidence to make a preliminary finding of multiple violations of OAR 801-030-0020(8), Business transactions with clients.

VOTE: 6 ayes

BOARD ACTION: Moved by Mr. Wright to find 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 determine if translation service business income should be included on individual tax return.

VOTE: 5 ayes, 1 nay (Graham)

Board discussion on possible sanctions: The Board members agreed that the licensee's actions were egregious and very serious, coupled with the fact that Mr. Schutz was before the Board less than six months ago for integrity issues. The civil penalties should be high and revocation or suspension should be considered when settling this case.

10. Case #14-056

This case involves a licensee who served as a CFO for a number of businesses owned by his employer. The complainant alleged that the licensee inappropriately transferred money from one business to another, harming the complainant.

BOARD ACTION: Moved by Mr. Wright to find that there is INSUFFICIENT evidence to make a preliminary finding of violation of OAR 801-030-0020(1), Professional Misconduct.

VOTE: 5 ayes, 1 nay (Wright)

BOARD ACTION: Moved by Mr. Wright to find that there is INSUFFICIENT evidence to make a preliminary finding of violation of OAR 801-030-0020(4), Public Communications and Advertising.

VOTE: 6 ayes

11. Robert Nelson / Nelson & Company PC, Case #14-002

The firm Nelson & Company is registered with the Board office. Because the firm name includes "& Company" the firm is required to employ at least 1 CPA in addition to the owner of the firm. Mr. Nelson reported on firm renewal applications that both he and Phil Cornett were owners of the firm. It was noted that Mr. Cornett was employed at his own firm, Cornett PC and when asked, claimed he was not an owner of Nelson & Company PC. Mr. Nelson was unable to provide evidence that Mr. Cornett held an ownership interest in Nelson & Company PC.

BOARD ACTION: Moved by Mr. Wright to find that there is SUFFICIENT evidence to make a preliminary finding of violation of OAR 801-030-0020(6)(c), Plural Firm names.

VOTE: 6 ayes

BOARD ACTION: Moved by Mr. Wright to find 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 registrations.

VOTE: 6 ayes

12. The Kingsland Company PC, Case #14-008

The Kingsland Company is a registered firm. The term "Company" requires the firm (prior to January 8, 2015) to employ at least 1 CPA in addition to the owner of the firm. Mr. Kingsland was the only licensed staff person on his firm registration renewals beginning 2008 to 2013.

In 1995 Mr. Kingsland submitted a letter to the Board requesting an interpretation of the use of "Company" in the firm name. Mr. Kingsland was informed that to use the term "Company" he would need to employ at least 1 licensed CPA.

The Board discussed the fact that the rules have recently changed, as of January 8, 2015, that allow the use of the term Company without the requirement of employing an additional CPA, however, Mr. Kingsland was aware of the rules due to his history with the Board.

BOARD ACTION: Moved by Mr. Wright to find that there is SUFFICIENT evidence to make a preliminary finding of violation of OAR 801-030-0020(6)(c), Plural Firm Name.

VOTE: 6 ayes

Board discussion on possible sanctions: The Board believes this is a minor violation and perhaps a Letter of Concern and a low civil penalty is appropriate.

17. SETTLEMENT PROPOSALS

Mr. Pittioni gave an update on the settlements that are currently under negotiation. He noted that staff are pursuing a settlement agreement in Case #14-047 - Keith B. Martin, because the respondent has been criminally convicted and the goal is to avoid a lengthy and laborious contested case process. Mr. Pittioni also added that the respondent's counsel has withdrawn in Case #13-036 – Jerry Olsen. Obtaining a settlement will be more difficult. Staff will begin the process by issuing a Notice.

The following item was added to the agenda:

19. DIRECTION ON INQUIRIES

A. 2014-INQ-114

BOARD ACTION: Moved by Mr. Wright to close Inquiry #2014-INQ-114 without opening an investigation.

COMMENTS: Mr. Wright noted that a complaint related to a trust had been filed. The Complainant alleged that the trustee of a trust had paid himself more than he was allowed and that he was not following other provisions of the trust. The information gathered during the inquiry indicated that the trust granted certain powers to the trustee to spend the money in specific ways, and no information was obtained which indicated that the trustee had acted outside the provisions of the trust. Staff recommended that the inquiry be closed without opening an investigation.

VOTE: 6 ayes – unanimous

Ms. Bischoff counseled the Board that they would not have to formally move and vote on inquiries, but had the option of verbally giving direction to staff to either close the inquiry or open an investigation.

B. 2014-INQ-112

COMMENTS: Mr. Wright said he thought an investigation should be opened into the matter. He said that he appreciated staff attempting to solve the matter quickly, but as the issues were discussed, it seemed appropriate to open an investigation. Mr. Brown agreed, but added because another regulatory body had already investigated the matter from that body's standpoint and the Respondent had admitted to certain conduct, there might be a way to use that information for greater efficiency.

The following item was added to the agenda:

20. DISCUSSION OF DANIEL PARR'S REQUEST TO SET ASIDE THE FINAL ORDER BY DEFAULT IN CASE #14-010

Ms. Fronk recused herself from the discussion due to a conflict arising from Mr. Parr's former clients seeking her firm for services. Ms. Bischoff recommended that, if the Board were to decide to take no action, the record should expressly state that the Board has elected to take no action.

Ms. Bischoff outlined the options facing the Board:

1. Do nothing- the Final Order by Default (FOD) would stay in effect as is.
2. Modify the Final Order by Default by voting today to issue a replacement Final Order by Default. Ms. Bischoff offered to craft a motion that would define what the replacement Final Order by Default. If the Board were to issue a replacement Final Order by Default, Mr. Parr would have 60 days to file an appeal with the Court of Appeals, but the existing Order would be in effect during any appeal.
3. Leave the current FOD in place while negotiating a Settlement Agreement and Stipulated Final Order (Settlement). The Settlement would replace the FOD once it was approved. Since a Settlement is a negotiated agreement, it could include terms where Mr. Parr would agree to waive all appeal rights and judicial review. The current Final Order by Default would remain in place until the Board voted to approve a Settlement.
4. Either a replaced Final Order by Default or a Settlement could include a stayed revocation and stayed penalties, and contain a provision that any violation of the Order/Settlement would result in the stay being lifted so the revocation would immediately be in effect and the full civil penalty would be due.

There was vigorous discussion of this matter for about an hour. Some of the topics addressed by the Board included:

- The severity of Mr. Parr's conduct, including lying to the Board, ignoring Board communications, and blatantly violating various statutes and rules.
- Should this decision be postponed, to give the Board time to examine the options and observe Mr. Parr's conduct?
- Postponing until the next meeting (15 weeks away) would effectively keep Mr. Parr out of business for the entire tax season. Is that the Board's preference?
- Ms. Bischoff recommended that if the Board decides to consider Mr. Parr's request they should not wait until the May Board meeting to make a decision, since they are already past the 60 days.
- Do the members feel Mr. Parr should be able to practice this tax season?
- Would missing this tax season be an appropriate penalty for his conduct?
- Mr. Parr has legal obligations to pay, including alimony and child support. Would preventing Mr. Parr from practicing this tax season "turn him into a criminal"?
- Mr. Parr has already notified his clients that he is not currently licensed, which has caused him to lose some clients. If he were to miss this tax season, he would have to rebuild his business, although he may have an easier time than starting from scratch.
- Should the civil penalties be lowered, and if so, what level would be appropriate?
- Would installment payments over time allow Mr. Parr to pay a large civil penalty, or would they create a risk that he might miss a payment deadline and fall out of compliance?
- Several Board members want strict parameters in place if Mr. Parr is allowed to return to practice.
- Should CPE be part of any negotiated settlement?
- Should the Board restrict his practice?
- Should the Board require a layer of supervision or oversight?

Mr. Wright was strongly opposed to changing the Final Order by Default currently in effect, and spending more resources on this matter. Other Board members disagreed, pointing the lack of evidence that the services by Mr.

Parr were incompetent. Ultimately the Board directed staff to attempt negotiating a replacement agreement within the following framework:

- Giving Mr. Parr a second chance, including if possible finding a way to allow him to still practice this tax season.
- Attempt to negotiate a settlement agreement to replace the FOD currently in effect, because it would allow the FOD to remain in place while negotiations were underway, and eliminate the risk of an expensive appeals process for the new agreement.
- Setting a 7 or 10 year suspension, which would be stayed pending compliance with the Order.
- Staying about half of the \$102,000 in civil penalties, pending compliance with the Order.
- Setting extremely strict compliance requirements with the new Order, such as requiring him to renew his license by June 30 and not allowing him the usual 60 day grace period, registering his firm, making every payment on time and not even one day late, and the Board will be monitoring his activities while his license is revoked.
- Expedite the process – attempt to bring a Settlement signed by Mr. Parr to the March 19, 2015 telephonic Board meeting, or perhaps even earlier if a Settlement can be reached before then.

The Board directed Mr. Pittioni to attempt to negotiate an alternative settlement agreement with Mr. Parr and to review with Mr. Parr the definition of the practice of public accountancy without giving him any legal advice. They also asked Mr. Pittioni to explain to Mr. Parr what services are prohibited for a person with no license.

21. DISCUSSION OF POTENTIAL PROPOSAL TO ALLOW FOR SHORTER 10-DAY RESPONSE TIME FOR SOME BOARD COMMUNICATIONS)

Mr. Pittioni told the Board that in the last rulemaking phase the issue of needing shorter response time frames that 21 days, especially on repeat requests in compliance matters, was not addressed, and asked if the Board would authorize him to enter into rule making on this issue; if so he would begin drafting proposed language. The discussion revealed some comfort with the idea of allowing a shorter 10-day time frames under some circumstances. There was some concern expressed in the ensuing Board discussion about a 10-day time frame for responses in busy season, or with respect responses requiring significant documentation. Ms. Bischoff advocated for shorter time frame than 10 days in certain circumstances, and to consider that the rule currently impacted licensing and investigation communications equally, and that the Board may desire to treat those matters differently with respect to response times. Mr. Brown commented that he wanted to put the ability to extend the 10 day response time on the list of the executive director's delegated authority.

3.B.4 UPDATE ON THE FEE BILL

An updated copy of the fee bill language draft was distributed to Board members, giving specific amounts instead of blank amounts. The language allows the Board to begin collecting the new fees prior to the operative date of January 1, 2016, if the period of licensure begins on or after January 1, 2016, which would impact especially the upcoming firm renewals at the end of 2015 Mr. Pittioni told Ms. McPherson that if the Legislature had questions during the process of advancing the OSCPA fee bill, he would work with Board leadership to assist in providing answers.

3.A. DISCUSSION OF THE BOARD POLICY DEVELOPMENT ON CPA'S SERVING THE MARIJUANA INDUSTRY LEGALIZED IN OREGON

A draft guidance statement was distributed for review by Mr. Pittioni. The statement would not be a change to a Board rule.

The discussion of this matter included:

- Some wanted broader, less specific language.
- Specific suggested edits, such as replacing the word "mere" with the word "solely".

- Capturing the idea of an industry which is in flux, perhaps by using a phrase like “pending federal guidelines” or “at this time”.
- Whether to expand the concept of “under Oregon law” to include any state where the industry is legal.
- Perhaps include a warning about the risk of federal enforcement.

Mr. Pittioni agreed to send a revised draft to Board leadership for review. Board members advised that it would be preferable to resolve this matter by the March 19, 2015 Board conference call. Mr. Pittioni advised he would do further work with Board leadership and Board counsel, and also reach out to the Oregon Liquor Control Commission, which he understood to be the state agency tasked by the Governor’s Office to coordinate all matters relating to Measure 91 implementation.

18. ADJOURNMENT AND ANNOUNCEMENT OF NEXT MEETING

Mr. Wright thanked the Board staff for unexpectedly staying so late.

Chair Brown adjourned the meeting at 7:23 pm.