

OREGON BOARD OF ACCOUNTANCY
Minutes, February 9, 2009

3218 Pringle Road SE #110

Salem, OR 97302

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

Board Members Present

James Gaffney, CPA, *Chair*
Ray Johnson, CPA, *Vice-Chair*
Roberta Newhouse, CPA, *Treasurer*
Stuart Morris, PA
Kent Bailey, CPA
Jessie Bridgham, CPA
Eric Lind, *Public Member*

Guests Attending

Johana Matanich, Asst. Attorney General
Cheryl Langley, OSCPA
Janice Essenberg, CPA, OSCPA
Timothy Steers 10:00 a.m.
Janell Howard, CPA 8:20 a.m.
Cheryl Giddy 10:00 a.m.

Staff Members

Pat Hearn, *Executive Director*
Noela Kitterman, *Investigator*
Kimberly Bennett, *Committee Coordinator*
Joyce Everts, *Committee Coordinator*
Heather Shepherd, *Committee Coordinator*

1. CALL TO ORDER

A quorum being present, Chair Gaffney called the meeting to order at 8:20 a.m.

2. APPROVAL OF MINUTES

A. December 15, 2008 Board Meeting

Mr. Gaffney would like the minutes to be amended to indicate that the Fischer Hayes matter was sent back to committee to review the entire contractual agreement, not just the fee arrangement.

BOARD ACTION: Moved by Johnson and carried to approve the December 15, 2008 Board minutes as amended.

VOTE: 7 ayes

3. REPORT OF CHAIR

No report

4. REPORT OF VICE CHAIR

A. Work Session Topics

Mr. Johnson distributed a list of discussion items to consider at the next work session meeting. The work session will be held in Eugene, possibly at the University of Oregon campus. Board members were encouraged to let staff know of any additional discussion items.

5. REPORT OF TREASURER

A. November and December 2008

Mr. Hearn indicated that the Board is pretty much on track as far as the budget. The biggest impact on the surplus is the double payroll from December through March for the Executive Director position.

6. LEGAL

A. Other

1. Hanson Vaughan Consent Order Report

On December 15, 2008, the Board assessed a \$500 civil penalty for violation of OAR 801-030-0015(1), Confidential Client Information and required Vaughan provide the Board with a written report that describes safeguards implemented by the Firm to prevent another occurrence of this nature. The Board also assessed a \$1,000 civil penalty for violation of OAR 801-030-0010(b), General Tax Standards and OAR 801-030-0010(4), Tax Standards.

The Board reviewed and approved a letter from Brian Vaughan describing the new Firm policy that describes safeguards implemented by the Firm to prevent another occurrence of this nature.

2. Sherman Young & Associates PC

On December 15, 2008 the Board assessed a \$1,000 civil penalty for violation of OAR 801-030-0020(13) and OAR 801-030-0020(13)(a) Non-Disclosure Agreement, with the exception that no violation will be found if Leavitt provides the Clients with a waiver as cited in 801-030-0020(13)(b). Failure to provide the Client with the waiver will result in findings of violations of OAR 801-030-0020(13) and OAR 801-030-0020(13)(a) Non-Disclosure Agreement and imposition of a \$1,000 civil penalty.

Board Discussion: *The Board reviewed a release agreement submitted by Sherman Young & Associates PC.*

BOARD ACTION: Moved by Johnson and carried to approve the release agreement.

VOTE: 7 ayes

7. COMPLAINTS

A. Acceptance of Complaints Committee Minutes for January 16, 2009 meeting

BOARD ACTION: Moved by Johnson and carried to accept the January 16, 2009 Complaints Committee minutes and to approve the Consent Agenda. Janell Howard, Rhonda Antell, Linda Schade, Geffen Mesher & Co., Timothy Steers and Alice Howe Chaloux were removed from the Consent Agenda.

VOTE: 7 ayes

B. Consent Agenda

1. Complaint Investigations

- | | |
|------------------|-----------|
| a. Janell Howard | 08-10-031 |
| b. Rhonda Antell | 08-11-033 |
| c. Linda Schade | 08-11-034 |

d. Joshua Morin 08-12-036

2. Other

- a. Geffen Mesher & Co.
- b. Edd Doorn 06-04-015
- c. Timothy Steers 07-11-033

3. Defer

- a. Alice Howe Chaloux 08-07-020
- b. Mort Bohn 08-09-029

C. Items Removed from Consent Agenda

1. Rhonda Antell 08-11-033

On October 9, 2008 Antell was found guilty in King County WA (Seattle) Supreme Court of a felony for "Identity Theft in the Second Degree" and a non-felony for "Cyber stalking".

Antell's actions of opening two Internet accounts and posting information on the Internet about other persons without their knowledge or consent would cause a reasonable person to have substantial doubts about Antell's honesty, fairness and respect for the rights of others.

ALLEGED VIOLATION(S)

ORS 673.170(4)

OAR 801-030-0020(1) Professional Misconduct

Committee Recommendation: The Committee recommended a stayed revocation so long as Antell completes the terms of her probation with the state of Washington (therapy) and there are no additional similar actions (identity theft) for up to five (5) years for violation of OAR 801-030-0020(1)(b) and ORS 673.170(4).

Rhonda Antell and Marc Blackman, Esq. arrived at the meeting at 9:30 a.m. Mr. Gaffney recused himself from the discussion. Mr. Blackman stated that, when the Complaints Committee reviewed material showing the peculiar circumstances and the steps taken to resolve the matter, there was a motion to recommend a stayed suspension. At that time, Blackman requested a length of time for the suspension to be stayed; then the motion changed to a stayed revocation.

Mr. Blackman requested that the Board consider suspension rather than revocation. He further stated that it has been two years since the incident and Ms. Antell has been working with her doctor for the past year.

Mr. Hearn provided a proposed stipulated order stating that Mr. Blackman and Ms. Antell had agreed to the terms.

Mr. Gaffney recused himself from the discussion and from voting as Ms. Antell's husband (now divorced) did some personal work for Mr. Gaffney.

BOARD ACTION: Moved by Johnson and carried to approve the proposed stipulated order finding violations of ORS 673.320(4) and OAR 801-030-0020(1)(b), imposing a five year stayed suspension, provided there are no additional violations of ethics and Washington Court requirements are completed.
VOTE: 6 ayes, 1 abstained (Gaffney)

2. Linda Schade 08-11-034

On August 12, 2002, February 11, 2004, March 3, 2006 and January 22, 2008 the Board received firm registrations for Schade's firm. Schade represented on the four registration forms that she would apply for or enroll in a peer review program. Schade did not enroll in a peer review program. Schade issued compilation reports for years 2002 through 2007.

ALLEGED VIOLATION(S)

ORS 673.170(2)(a)(C) Fraud or deceit in obtaining or applying for a registration under ORS 58.345 or 673.160

OAR 801-030-0020 (1) Professional Misconduct

OAR 801-050-0020 Peer Review Enrollment and Participation in a Peer Review Program

Committee Recommendation: Moved and carried to recommend 12 additional hours of Ethics for violation of ORS 673.170(2)(a)(c) and assessing an \$11,000 civil penalty as follows:

\$7,000 for Violation of OAR 801-050-0020:

- \$1000 for year ending 1998
- \$1500 for year ending 2001
- \$2000 for year ending 2004
- \$2500 for year ending 2007

\$4,000 for violation of OAR 801-030-0020 (\$1,000 x 4)

Board Discussion: *The Board considered the civil penalty amount and noted that the cost of having the peer reviews would be more than the recommended civil penalty. They considered a stayed revocation stating that if she is in violation of peer review standards again, the Board will revoke.*

BOARD ACTION: Moved by Johnson and carried to assess 12 additional hours of Ethics for violation of ORS 673.170(2)(a)(C), issue a stayed revocation for four (4) years (2 renewal periods) and if there is a peer review violation during that time the license will be revoked and assess \$11,000 in civil penalties as recommended by the Complaints Committee.

VOTE: 7 ayes

3. Janell Howard 08-10-031

Ms.Howard went to Wal-Mart to shop for groceries and school supplies. While Howard was at the checkout counter she asked the cashier to add two gallons of milk to her purchase. Howard then re-entered the store with her purchased and bagged merchandise to pick up the two bottles of milk. When Howard exited the store, a Wal-Mart security employee stopped her. The security employee found items in Howard's shopping cart that Howard did not purchase. Wal-Mart reported the incident to the police department.

ALLEGED VIOLATION(S)

ORS 673.170(4) Disciplinary Action, Grounds

OAR 801-030-0020(1) Professional Misconduct

Committee Recommendation: No violation of ORS 673.170(4) and no violation of OAR 801-030-0020(1).

***Board Discussion:** Ms. Bridgham recused herself from discussion and from voting as Ms. Howard is a personal acquaintance of Ms. Bridgham. The Board noted that the police said there was insufficient evidence and Wal-Mart did not press charges.*

BOARD ACTION: Moved by Johnson and carried to find no violation.

VOTE: 6 ayes, 1 abstain (Bridgham)

4. Geffen Mesher & Co.

Geffen Mesher & Co (GM) provided public accounting services for a business (Company); GM resigned from that professional relationship when they could not obtain requested information from Company that would allow GM to continue preparing Company's financial statements. Investors filed suit against Company and GM.

A Complaints Committee member reviewed Geffen Mesher & Co documents and stated that he would not recommend opening a complaint on technical merits. He stated that the 2001 financial statements were altered without GM's knowledge.

***Board Discussion:** Mr. Gaffney recused himself from discussion and from voting. Mr. Gaffney worked on this case with Moss Adams. The Board reviewed the report from the Complaints Committee and concurred with the committee recommendation.*

BOARD ACTION: Moved by Johnson and carried to find no violation.

VOTE: 6 ayes, 1 abstained (Gaffney)

5. Timothy Steers

07-11-033

Following the December 15, 2008 Board meeting, the board investigator discovered that Steers is not enrolled in Peer Review with the OSCP and Mack Roberts & Co LLC did not perform any pre-issuance reviews for Steers.

Mr. Steers arrived at the meeting at 10:00 a.m. and Cheryl Giddy, investigative consultant, attended the meeting by phone conference. Steers explained his personal circumstances that led to the current situation. Steers noted that he now has heightened professional skepticism, he has made a change in audit personnel and either he does the audits or he hires them out.

Steers made the following comments:

- Steers entered into an agreement with Tim Huff at Mack Roberts & Company for pre-issuance reviews
- Steers is in the process of completing four audits and has made arrangements for reviews of each
- Steers has not enrolled with the OSCP Peer Review Program
- Steers misspoke when he advised the Board investigator that he was enrolled in peer review
- Tim Huff performed a review of two of the four audits that he performed last year. It was a cursory review
- Tim Huff did not issue a report, there was no engagement letter, the Firm did not send Steers a bill; Steers spoke with Huff on the phone
- Steers spoke with Vaughn Schneider at Mack Roberts & Company about arrangements to complete pre-issuance reviews for Steers.

Giddy's investigation concurred with the PCAOB findings. Giddy stated that:

- support is lacking in the work papers
- there is not enough information in the files to support the audit
- Steers' agreements were verbal
- There was no hard evidence.

Giddy's opinion is that professional skepticism is missing.

Board Discussion: *The Complaint Committee's initial recommendation was based on information from Steers that he was enrolled in peer review and that pre-issuance reviews had been completed. We now know Steers is not enrolled in a peer review program and pre-issuance reviews have not been completed. The Complaint Committee recommendation was tempered by untruths. The Board is concerned about Steers' lack of documentation and his honesty. The Board considered revocation and suspension.*

BOARD ACTION: Moved by Johnson and carried to negotiate a consent order with Steers to limit his practice to tax and non-attest services. Steers will withdraw from all current audit engagements and provide the Board with evidence of such withdrawal.

VOTE: 7 ayes

6. Alice Howe Chaloux 08-07-020

Alice Howe Chaloux agreed to provide forensic accounting services to Department of Human Services, Office of Investigations and Training. Howe Chaloux's engagement included a review of cable and telephone bills, late fees, costs of transportation and to determine if residents were charged for property damages. Department of Human Services terminated their agreement with Howe Chaloux when she failed to respond to emails or complete the engagement.

Howe Chaloux's continuing professional education is in tax related services. Howe Chaloux's experience in forensic accounting consisted of providing services to one client who suspected a bookkeeper of embezzlement.

ALLEGED VIOLATION(S)

OAD 801-030-0010 (1) General Standards.

(a) Professional Competence

(b) Due Professional Care

OAD 801-030-0015(2)(b) Requested Records

OAD 801-030-0020(1) Professional Misconduct

Committee Recommendation: Defer to research AICPA Consulting Standards.

Board Discussion: *The Committee recommended deferral because they wanted to research professional standards for Forensic engagements. When the committee questioned Chaloux as to which set of standards she intended to use upon accepting the engagement, she did not understand that she needed to follow a specific set of professional standards.*

After the Complaints Committee meeting, Ms. Chaloux phoned the investigator and stated that she had researched the various standards and then understood what the committee was talking about. Ms. Chaloux proposed that she restrict her practice to tax and requested the Board to be lenient when assessing a penalty.

The Board concurred that Ms. Chaloux would benefit from additional CPE. They discussed restricting Ms. Chaloux's practice to tax, assessing pre-issuance reviews of attest work, and assessing a civil penalty.

BOARD ACTION: Moved by Johnson and carried to assess a \$1,500 civil penalty for violation of OAR 801-030-0010(1)(a) Professional Competence; \$1,500 civil penalty for violation of OAR 801-030-0010(1)(b) Due Professional Care; 24 additional hours of CPE in forensic accounting; restrict her practice to tax with the understanding that if she does attest work, she is required to have pre-issuance

reviews on the first three (3) attest documents; if she does forensic accounting work she must obtain a Certified Fraud Examiner (CFE) certificate.

VOTE: 7 ayes

D. Old Business

1. Fischer Hayes and Associates

Defer and report at the Board meeting in May 2009.

8. REPORT OF EXECUTIVE DIRECTOR

A. Legislative Update

1. Mobility (no handout)

Mr. Hearn indicated that as of Friday, February 6, 2009, nothing had been introduced to the Legislative assembly. Cheryl Langley will let us know as soon as she hears any news.

2. SB 274 (no handout)

SB 274 is a bill that would affect all regulatory agencies. This bill would allow the Administrative Law Judge to issue the final order in legal matters on the Boards behalf. The potential fiscal impact could be substantial. Johana Matanich, AAG said the Governor was likely to oppose this bill.

3. HB 5001

This is the Boards budget bill. It is set for hearing on February 16, 2009. Mr. Johnson will accompany Mr. Hearn at the hearing. The budget is pretty straightforward with no additional personnel or programs. Mr. Hearn indicated that there is no additional money in the budget request for the online licensing project. The legislature originally approved \$150,000 for this project and to date the Board has spent \$65,000.

B. NASBA Executive Director Orientation

Mr. Hearn attended a new Executive Director orientation at NASBA headquarters in Nashville, Tennessee. He indicated that the trip was very valuable and explained the many resources available to the Board through NASBA.

9. PUBLIC COMMENTS

None

10. REPORT OF OAIA

Mr. Morris reported that he has approached a Public Accountant (PA) about filling his position on the Board. He has not had a response yet.

11. REPORT OF OSCPA

Ms. Essenberg distributed a newsletter published by the OSCPA regarding the Boards' rule amendments as well as the schedule for their "round table" stops around the state.

12. OLD BUSINESS

A. Pre-issuance Review Task Force Update

Mr. Bailey reviewed the consulting engagement 'Sample Letter to the Board of Accountancy'. The Board complimented Mr. Bailey and the pre-issuance review taskforce for their work on the pre-issuance review letter and the pre-issuance review process. Mr. Bailey will meet with the pre-issuance taskforce to finalize the letter.

B. Proposed New By-Law for CPE Committee

CPE Committee Discussion: Committee members are concerned that the Board changed the charge of the CPE Committee without the members accepting the new responsibility. Members were concerned that the new responsibility may cause conflict within their position for the firms that they are associated with. Mr. Bailey explained to the committee that they are not charged with determining if there is a violation of the Oregon Revised Statutes or Oregon Administrative Rules. If it is determined that there is a possible violation, the file will be referred to the Complaints Committee for the normal investigation process. The committee members want to take this information to their firms and determine if there is any potential conflict of interests that would require them to resign from the committee before they review the cases. The committee is scheduled to meet again on May 5, 2009. The committee will be prepared to review the cases at that meeting if the Board will accept the delay. If the Board does not accept the delay, the committee would recommend that all cases be transferred to the Complaints Committee.

BOARD ACTION: Moved by Bailey and carried to refer By-Law back to CPE committee for review.

VOTE: 7 ayes.

13. CONTINUING PROFESSIONAL EDUCATION COMMITTEE

A. Report of CPE Committee

1. Recommendations

a. Roland G. Cunningham

Defer; applicant completed application using "x" in the different subject areas for each CPE program. The application indicates 2 CPE hours in Single Audit Act & related. OAR 801-020-0690 requires an applicant to obtain a minimum of 4 CPE hours per required subject matter. The Committee reviewed the table of contents for *Auditors Risk Assessment* and determined that it is not clear how Audits of State and Local Government is part of the course. The committee recommends that this course be denied for admission to the Roster of Municipal Auditors.

b. Robert C. Gaslin

Accept; the applicant completed the requirements for the municipal audit roster, as required by OAR 801-020-0690.

c. Robert Ruck

Accept; the applicant completed the requirements for the municipal audit roster, as required by OAR 801-020-0690.

d. Diane D. Welter

Defer; applicant completed courses:

- a. Planning & Designing a High Quality Audit, and
- b. Substantive Testing & Auditing Internal Controls

The Committee reviewed the tables of contents for each program and determined that it is not clear how these programs relate to municipal auditing. The committee recommends that these courses be denied. The applicant is now 8 CPE hours short of having the required 40 CPE hours for admission to the Municipal Roster.

BOARD ACTION: Moved by Bailey and carried to accept committee recommendations.

VOTE: 7 ayes.

14. PEER REVIEW OVERSIGHT COMMITTEE

The committee did not meet since the last Board meeting

15. QUALIFICATIONS COMMITTEE

A. Report of Qualifications Committee

1. Recommendations

- a. Jialing Chan/Approve
- b. Austin Dilling/Approve
- c. Pamela Ulbricht/Approve

BOARD ACTION: Moved by Newhouse and carried to accept committee recommendations.

VOTE: 7 ayes.

2. Approval of Applications

- a. CPA Certificates/Permits
17 CPA applications
- b. PA Licenses/Permits
0 applications
- c. Firm Registrations
13 Firm Registration applications
- d. Substantial Equivalency Approval
16 Substantial Equivalency applications

BOARD ACTION: Moved by Newhouse and carried to accept applications.

VOTE: 7 ayes.

16. CPA EXAM

A. NASBA, Request for Comments

NASBA is reviewing all aspects of the CPA examination and is soliciting comments from state boards, both positive and negative.

17. CODE OF PROFESSIONAL CONDUCT

No meeting held.

18. NEW BUSINESS

A. 2009 Oswald West Award

Mr. Gaffney would like to nominate Lynne Angland, a CPA who died in a tragic traffic accident. Ms. Angland was very involved in the profession. The OSCPA will help the Board with guest list etc.

B. Accreditation: Regional vs. National

A candidate for the CPA examination requested the Board review their administrative rules regarding accepting only regionally accredited colleges or universities. The candidate graduated from a nationally accredited college. The Department of Education does not distinguish between the two.

Mr. Johnson indicated that regional accreditation is much more rigid and thorough than national accreditation. He would like to do some research on the process for national accreditation and discuss further at the May meeting.

19. PROCESS OBSERVER REPORT

Mr. Lind reported that the meeting went very smoothly and he was happy to adjourn early. He would like to remind the Board to inform guests that they are being recorded.

20. NEXT MEETING

Date: May 17, 2009 Work Session
May 18, 2009 Board Meeting

Location: Eugene, Oregon

Time: 9:00 Work Session on May 17, 2009
8:00 Board Meeting on May 18, 2009

21. ADJOURN

The meeting adjourned at 12:40 p.m.