

**OREGON BOARD OF ACCOUNTANCY
PUBLIC BOARD MEETING MINUTES
Monday, December 17, 2012**

Board of Accountancy 2nd Floor Conference Room, 3218 Pringle Rd SE, Salem, OR 97302

BOARD MEMBERS:

Roberta Newhouse, CPA, *Chair*
Jessie Bridgham, CPA, *Vice Chair, 5:16 pm*
Ann Ferguson, CPA, *Treasurer*
Roger Graham, *Public Member*
Larry Brown, CPA
Scott Wright, CPA
Al Crackenberg, PA

BOARD STAFF:

Martin Pittioni, Executive Director
Kimberly Sisk, Executive Assistant
Noela Kitterman, Investigator
Susan Bischoff, AAG
Heather Shepherd, Cte. Coordinator

GUESTS:

Sherri McPherson, OSCPA
Jason Orme, OSCPA
Stuart Morris, OAIA

Working Lunch Provided

1. CALL TO ORDER/ANNOUNCE RECORDING

Ms. Newhouse called the meeting to order at 1:33 p.m. and announced the meeting was being recorded.

2. APPROVAL OF BOARD MINUTES

- A. October 21, 2012
- B. October 22, 2012
- C. November 6, 2012

BOARD ACTION: Moved by Mr. Wright and carried to approve the minutes with corrections identified.

VOTE: 7 ayes.

3. REPORT OF CHAIR

Ms. Newhouse reported that she and Mr. Pittioni attended the OSCPA Professional Update Conference in Portland. Mr. Pittioni gave an informative presentation to the participants that included a disclosure regarding the Board's IT project and inability to offer on-line licensure renewals as promised.

Ms. Newhouse also reported on her attendance the NASBA Annual Conference. She reported that Florida and Washington have moved away from a direct supervision requirement that includes documentation and back-up, in favor of moving to a verification only system. In addition, she noted that the rule revision task force should review the UAA section on inactive status. It addresses and incorporates retired license status with the inactive status.

NASBA encourages state Boards to use social media to reach out to its licensees and also offers assistance for development of newsletters.

The NASBA Executive Directors Conference is scheduled for March in Tucson, Arizona. Ms. Newhouse would like Mr. Pittioni to attend. The conference is very informative and a key training opportunity for Mr. Pittioni. Board staff will determine if there is a scholarship for first time Executive Director's as there is for first time Board members.

BOARD ACTION: Moved by Ms. Newhouse and carried to approve travel for Mr. Pittioni to attend the NASBA Executive Directors conference in Tucson, Arizona.

VOTE: 7 ayes.

4. **VICE CHAIR REPORT**

No report given

5. **TREASURER REPORT**

The Board was given the latest cash flow statement that includes the October actual expenses. Mr. Pittioni pointed out that the Board's accountant at DAS has been reassigned and we have a new accountant, Jenny Carson-Phillips. Ms. Carson-Phillips has been processing the Boards' payment vouchers for the past few years and is familiar with the Agency.

6. **EXECUTIVE DIRECTORS REPORT**

Mr. Pittioni reported that he has met with each staff member to get a better understanding of roles and responsibilities of each person. When the vacancy for the Office Specialist 2 position (OS2) happened, a decision was made by the former Executive Director to distribute those duties to current staff and leave the position vacant. Mr. Pittioni, after meeting with staff, has determined that the licensing portion of the Board operations needs to be fully resourced.

Mr. Pittioni and Ms. Sisk are currently working with a team from DAS on how to improve the management and oversight of the current FileMaker database, and partner with DAS more fully in that respect. FileMaker 8.5 is the current version the Board is working with. DAS has indicated to Board staff that DAS has generally been very successful in upgrading from FileMaker v8.5 to FileMaker v12. This newest version of FileMaker will be hosted on a secure server at the State Data Center (SDC), and will allow for the opportunity to do some website interfacing.

The current system is backed-up nightly by tape and a copy is taken off site weekly. The planned database move to the SDC server environment ensures full compliance with applicable IT policies, and moves

responsibility for backup from Board staff to SDC. At the advice of DAS, staff is implemented a manual backup system alternative with encrypted memory sticks, until the move to the SDC server is completed. Board members directed that the previous tape back-ups be turned over to DAS for secure disposal.

7. NEW BUSINESS

A. Election of 2013 Board Officers

BOARD ACTION: Moved by Ms. Newhouse and carried to elect Ms. Jessie Bridgham as Board Chair, Mr. Larry Brown as Vice-Chair and Mr. Scott Wright as Treasurer for 2013.

VOTE: 7 ayes.

B. Board Committee Liaison Appointments

Mr. Graham and Mr. Crackenberg will continue to serve on their current committees; CPE for Mr. Crackenberg and Qualifications for Mr. Graham. Mr. Brown will serve as the liaison for the Complaints committee and Mr. Wright will serve as liaison for the Peer Review Oversight Committee.

C. 2013 Meeting Calendar

The Board members reviewed the listing of all Board and committee meetings for 2013. No revisions were made. The list is attached and made a permanent part of these minutes.

D. Committee Member Appointments

The Qualifications committee has one vacancy to fill, and they are requesting an additional member. The Peer Review Oversight Committee has one vacancy to fill. The Board office will send a request for volunteers using the email blast system.

E. Board Planning

Mr. Pittioni drafted a bullet point outline in a PowerPoint document as a starting point for what the Board should focus on in the coming months. Items such as Board member training, Board member structure, review of the statutes and administrative rules were all included in the document. Due to the number of planning items on the horizon, the Board would like to add a planning day to the February meeting. Board members agreed to meet both February 4 and 5.

10. REPORT OF OAIA

Mr. Morris reported that there has been an upsurge of courses and membership in the past few months.

11. REPORT OF OSCPA

Mr. Orme reported that the OSCPA and its members appreciated the presentation made by Ms. Newhouse and Mr. Pittioni at the 2012 Professional Update Conference. Upcoming CPE provided by the society will be posted in February and they look forward to working with the Board during the upcoming legislative session.

7.

E. Board Planning Continued

Mr. Graham and Mr. Brown wrote a memo to the Board regarding some ongoing concerns that need to be discussed at the Board level.

Mr. Graham, liaison for the Qualification Committee noted that at the last meeting the Committee used new language for approving or denying applications submitted for licensure. Applications will be handled much like complaint cases in which the committee will find that there is either sufficient or insufficient evidence to recommend approval of an application. If additional information is needed, the Committee can defer the application. The Board denied two applications at the October 2012 meeting; they would like to give those individuals the opportunity to withdraw their application.

BOARD ACTION: Moved by Mr. Wright and carried to amend the denial notification for both Peter Jensen and Honor Boerigter to allow them the option of withdrawing their application in lieu of denial.

VOTE: 7 ayes.

Mr. Graham stated that the individuals on the Qualifications committee struggle just as the Board does when some members see flexibility in the rules and some do not. At the last Board meeting, the Board referred a file to the committee asking them to determine and make a recommendation as to the applicant's supervisor licensee eligibility. The supervisor license was licensed continuously for 5 years, other than a period of about 4 months, in which her license was lapsed. This was a determination as to consecutive, as the rules state, or continuous, which allows some flexibility and may speak more to the intent of the rules. The Committee voted to accept the supervision that was provided by this licensee.

The committee concurred and voted that they will no longer review applications where the supervisor does not have continuous licensing. The Board wants the Committee to review all applications, regardless of the qualification of the supervisor licensee. The Board will determine an exception, if any, should be granted.

The Qualifications committee also requested that the Board make a formal determination on whether or not CPE credit would be allowed for serving on the committee.

BOARD ACTION: Moved by Mr. Graham and carried to allow CPE credit for all committee members with the hours to be discussed at the next Board meeting.

VOTE: 1 aye, Wright; 5 nays, Newhouse, Brown, Ferguson, Crackenberg and Bridgham; 1 abstention, Graham

Ms. Newhouse will review the other state Boards of Accountancy to determine if any states allow CPE credit when serving on Board committees.

16. QUALIFICATIONS COMMITTEE

A. Minutes of November 14, 2012

Minutes provided for information only.

B. Consent Agenda

1. Recommendations for Approval
 - a. Jacob Davis
 - b. Rea Meyer
 - c. Jessica Walling
2. Approval of Applications
 - a. 59 applications for CPA Certification
 - b. 5 Initial firm registrations

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

VOTE: 7 ayes.

C. Applications for Discussion

1. Lori Miller

Ms. Miller was employed at Iberdrola Renewables for 12 months and her supervisor licensee indicated she had shown competency in all seven areas. The committee thought the write-up supporting competency C, Experience in preparing working papers that contain sufficient relevant data to support analysis and conclusions and Competency D, Understanding transaction streams and information systems were both weak. In addition, Ms. Miller received supervision from a supervisor that did not oversee her work on a regular basis. The supervisor licensee that signed off indicated that they met approximately one hour per month.

The Committee found that there was insufficient evidence to make a preliminary finding that Ms. Miller has met the minimum qualifications for initial licensing.

BOARD ACTION: Moved by Mr. Graham and carried to deny the application submitted by Lori Miller. The Board will allow the option for Ms. Miller to withdraw her application.

VOTE: 7 ayes.

D. Certificate of Experience Forms: Revised 2012

The Certificate of Experience forms all used by supervisor licensees to document experience for applicants. The forms were revised and reorganized to help supervisor licensees better understand how to complete and document the experience.

8. OLD BUSINESS

B. OBARS Board Decisions – Implementation Update

The Board reviewed the proposed Settlement and Mutual Release Agreement between the Board and GL Solutions.

BOARD ACTION: Moved by Ms. Bridgham and carried to accept the Settlement and Mutual Release Agreement and issue a check for \$35,000 payable to GL Solutions.

VOTE: 7 ayes.

12. COMPLAINTS COMMITTEE

B. Executive Session Items

1. 12-004NK – Richard Ray

Mr. Richard Ray prepared and submitted an application for the Oregon Tax Amnesty to the Oregon Department of Revenue (DOR) for tax years 2004 through 2007 on behalf of his client. The DOR granted amnesty for these tax years and provided a due date of January 19, 2010; the client's returns for 2007 were not completed by that deadline and therefore, penalties and interest were assessed.

In August or September 2010, the client provided Mr. Ray with a personal tax organizer for 2007, but the client refused to sign the engagement letter. On October 12, 2010, Mr. Ray formally disengaged from preparing the 2007 corporate and individual tax returns. Mr. Ray's records indicated that he did not bill the client or his companies for the services related to the 2007 tax returns.

The client filed a claim with Mr. Ray's insurance company for the penalties he was assessed by the IRS. The claim was denied.

The client made threats that he would make negative comments regarding Mr. Ray on a radio program he has on KPAM. Mr. Ray sent the Board and KPAM's general manager a letter to provide notice of the client's potential complaint. The General Manager does not recall receiving any of the client's confidential information from Mr. Ray.

The Complaints Committee recommended the Board find that there is insufficient information to find a violation in this matter.

BOARD ACTION: Moved by Ms. Bridgham and carried to find that there is insufficient evidence to make a preliminary finding of violation of both OAR 801-030-0010(1)(b), Due Professional Care and OAR 801-030-0015(1), Confidential client information.

VOTE: 7 ayes.

2. 12-014NK – James Clapsaddle

An estranged couple who have two minor children were divorced in October 2011 after being separated since 2010. Mr. Clapsaddle had a personal relationship with the wife and her children because she lived with him during and after the time she and her former husband were in the process of getting a divorce.

Mr. Clapsaddle amended the couple's joint 2010 tax return and prepared the wife's 2011 tax return after the couple's divorce. Mr. Clapsaddle recommended that the wife purchase an exemption from her former husband for one of the two children. The wife provided Mr. Clapsaddle with her divorce papers and after review, Mr. Clapsaddle determined that she met the requirements to claim both children. While the husband was still considering the offer to purchase the exemption, Mr. Clapsaddle prepared and filed the wife's 2011 tax return claiming both children. When the husband rejected the offer and filed his 2011 tax return he discovered that the exemption had already been claimed by his former wife, and consequently his tax return was rejected by the IRS. The husband questioned Mr. Clapsaddle on the exemption and received what he considered unprofessional responses.

BOARD ACTION: Moved by Ms. Bridgham and carried to find that there is sufficient evidence to make a preliminary finding of violation of OAR 801-030-0005(2), Integrity and Objectivity.

VOTE: 1 aye (Crackenberg) 6 nays. Motion Fails.

BOARD ACTION: Moved by Ms. Brigham and carried to find that there is insufficient evidence to make a preliminary finding of violation of OAR 801-030-0020(1), Professional Misconduct.

VOTE: 7 ayes.

BOARD ACTION: Moved by Ms. Brigham and carried 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: 7 ayes.

3. E. Ronald Isakson - #12-013NK

Mr. Isakson prepared a personal and business tax return for his client for the year ending 2010. Mr. Isakson could not complete the return until the client provided additional information, including bank statements. The additional information required was submitted in bits and pieces over a period of time and the bank statements were not received until January 2012.

The client suggested that missing income from the bank statements would amount to approximately \$16,000 and asked Mr. Isakson to complete the return with that amount. The client indicated that if the amount was incorrect, an amended return could be filed. Mr. Isakson did not complete the tax return until the missing bank statements were received. Once received, the statements indicated that there was actually about \$88,000 in reportable income. Before the return was completed, the client terminated the engagement and retrieved the documents.

The client was upset that Mr. Isakson did not return his retainer, therefore this complaint was more of a billing dispute which the Board has no jurisdiction over.

BOARD ACTION: Moved by Ms. Bridgham and carried to find that there is insufficient evidence to make a preliminary finding of a violation of OAR 801-030-0010(1)(a), Professional Misconduct and OAR 801-030-0010(b), Due Professional Care.

VOTE: 7 ayes.

4. Gary Burroughs – #12-055NK

Mr. Burroughs provided services to his client and the clients business. He issued an invoice for the services provided in May 2012, which was not disputed. The client delayed payment of the invoice until July. On July 2, 2012, Mr. Burroughs called the company to ask when he could expect payment and was told that the check had been prepared and was awaiting signature. At that time, Mr. Burroughs asked the office manager for the check number and the amount of the check.

On July 3, 2012, while checking the bank account activity online, the office manager discovered a check in the amount of \$2,395 had already cleared the company's bank account. Mr. Burroughs had created and negotiated a check that looked exactly like a client check, the only difference was the signature line stated "NO SIGNATURE NEEDED". Coincidentally, Mr. Burroughs had requested that his client authorize him to make drafts on the company's checking account four weeks prior. The client denied the request.

Mr. Burroughs indicated that this complaint, in his opinion, was a billing and collection matter only. He states that he had done this type of transaction with business in the past and also uses it with several other clients of his.

The complaint also states that Mr. Burroughs was paid a \$3500 retainer for his services. When the client terminated Mr. Burroughs' services, he requested the return of the company's records as well as the retainer. Board members asked Mr. Burroughs if the \$3500 retainer had been returned to the company; it has not. Mr. Burroughs believes that return of the retainer is not necessary, since he is still willing to provide services to the client.

Mr. Burroughs was asked about the entry of a small claims judgment against him on December 12th. He stated that he was not aware of any judgments against him.

BOARD ACTION: Moved by Ms. Brigham and carried to find that there is sufficient evidence to make a preliminary finding of a violation of OAR 801-030-0020(1), Professional misconduct.

VOTE: 7 ayes.

Board members discussed direction to staff for a potential settlement of the matter. Board members agreed that the conduct was egregious and directed staff to seek a settlement with a three year suspension payment of a \$5,000 civil penalty and additional continuing professional education in ethics.

5. Case #12-044NK

The Board will defer this matter to the February 5, 2012 meeting.

13. PROPOSED CASE SETTLEMENTS

A. Matthew O'Donnell

The Board was presented with a Proposed Stipulation and Order for Mr. O'Donnell. Mr. O'Donnell used a firm name that was not in compliance with the Board rules. The order requires him to pay \$15,000 in civil penalties and \$2,000 for reimbursement of the cost of the investigation. Mr. O'Donnell signed the Stipulation and Order on November 29, 2012.

BOARD ACTION: Moved by Mr. Graham and carried to accept the Proposed Stipulation and Order.

VOTE: 7 ayes.

14. CONTINUING PROFESSIONAL EDUCATION COMMITTEE

A. Minutes of November 6, 2012

Minutes were provided for informational purposes only.

B. Municipal Auditor Application

1. Approvals
 - a. Robin Peile
 - b. Mark Housen

BOARD ACTION: Moved by Ms. Ferguson and carried to approve the applicants listed above for the Municipal Auditor Roster.

VOTE: 7 ayes.

2. Applications for Discussion
 - a. Jerrell Tucker

Mr. Tucker applied for the Municipal Auditor license in February 2012. The CPE Committee reviewed his application and courses over the course of several meetings, however, the additional information requested of Mr. Tucker was never submitted.

The CPE Committee recommends to the Board that the application be found insufficient and allow Mr. Tucker to withdraw the application and reapply when he meets the qualifications.

BOARD ACTION: Moved by Ms. Ferguson and carried to find that there is insufficient evidence to make a preliminary finding that the applicant has met the minimum CPE requirements for admission to the municipal audit roster per OAR 801-020-0690. The Board will allow the option for Mr. Tucker to withdraw his application.

The Board meeting adjourned at 5:05 p.m.