



Oregon Board of Accountancy

3218 Pringle Rd. SE #110 Salem, OR 97302

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BOARD MEETING PUBLIC SESSION MINUTES

October 19, 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,
Al Crackenberg, PA

Staff:

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

Guests:

Phyllis Barker, OSCPA
Stuart Morris, OAIA
Jay Richardson, OSCPA
Mark Miedema, DAS Budget Analyst

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

The Board convened in Public Session at 8:33 a.m. Mr. Brown announced the meeting was being recorded. It was noted that the minutes of September 30, 2015 were not available for review and that item 3B, delegated authority and the settlement proposal under item 12B for Carol Bopp would be deferred.

2. APPROVAL OF BOARD MINUTES

A. August 3, 2015 Public Board Minutes

BOARD ACTION: Moved by Mr. Wright and carried to approve the minutes as written.

VOTE: 7 ayes.

B. September 30, 2015 Public Board Minutes

Minutes were not available for review.

3. BOARD WORK SESSION ITEMS

A. STRATEGIC PLANNING – INITIAL FIRST STEPS

The Board reviewed documents from previous strategic plans and an example from the California Board of Accountancy at the previous meeting for examples of what should be considered when developing a strategic plan. Mr. Brown believes previous plans have been mostly staff driven and a greater level of Board involvement, including also from any new Board members appointed in 2016, would seem appropriate. Board members considered whether an external facilitator should be used for helping the Board develop a plan at the May 2016 Board meeting, and decided to proceed with Board doing its own facilitation internally.

B. DELEGATED AUTHORITY

Ms. Bischoff and Mr. Pittioni continue to work on the delegated authority piece and hope to have a draft to the Board soon.

11. NEW BUSINESS

C. & D. UPDATE ON STATE GOVERNMENT SERVICE CHARGES 2016 SESSION – RULE BASED FEE INCREASE RATIFICATION

Mr. Mark Miedema, the DAS CFO Policy and Budget Analyst assigned to the Board, joined the Board meeting to discuss the increase in State government services charges. He explained that part of the increase in IT charges is related to a cost overhead reallocation to ensure that small agencies are not subsidized by larger ones, and another part of the increase is related to building an equipment reserve. Mr. Miedema explained that when the State Data Center (SDC) was created in the late 1990's it was initially funded out of bond proceeds but that funding structure did not provide for future replacement funding for the equipment purchased. This has resulted in the need for the SDC to build a reserve. The 2016 legislature will review the budget for DAS again and this may result in a decrease in some of the much higher charges now being assessed to agencies.

Mr. Miedema also addressed the Board's fee increase that was approved by the 2015 Legislature, and the follow-up rule amendments that increased other Board fees by rule. The legislature must approve the fee increases that were put into rule by means of a fee ratification bill.

9. REPORT OF TREASURER

A. CASH FLOW REPORT

Mr. Lauseng reported that the Board received 2.2 million which included the statutory fee increases but not the rule based increases that went into effect on October 1, 2015. Personnel services are currently projected to be over budget by \$4,500 for the 2015-17 biennium, however, does not include additional personnel services expenditure authorization that will be allocated by DAS as authorized by the Legislature to all state agencies to cover personnel cost increases for 2015-17, which for BOA should total between \$25,000 and \$30,000. Mr. Miedema reported that as part of the legislative process and the contracts negotiated by the unions there will be an increase in wages, which at this point will be a 2.25% cost of living increase (COLA) effective December 15, 2015 and likely be 2.75% effective in December 2016.

Professional services are projected to be under by approximately \$53,000 which include continuing Ms. Kitterman's services for another year. Internally the Board has some vacancies which has allowed the Board to actually have enough to continue to pay for Ms. Kitterman's part-time services for a one-year period out of its personnel budget without dipping into the reserve set up for this in the Professional Services line item.

The Board has a \$1.15 million beginning balance and based on projections will end the biennium at the same level, due to the additional revenue from the statutory and rule-based fee increases built into the revenue projections.

B. LONG TERM RECEIVABLES

Mr. Pittioni also addressed the Boards questions on long-term receivables which was discussed at the August 3, 2015 Board meeting. Ms. Gahagan tracks the receivables and reported that the Board has collected \$31,000 which is a significant increase than in the past. There is still a significant amount of uncollectable or long term debt, around \$240,000. The Board would like to get information on private collection agencies and also would like information on the process of "writing-off" debt.

Mr. Lauseng volunteered to work with Ms. Gahagan on an aging report for Board review.

4. PUBLIC COMMENT

There was no public comment.

5. REPORT OF THE OSCPA

Mr. Richardson reported that the OSCPA participated in a career showcase and the annual recruiting event on October 1, 2015, there were 230 students registered. The OSCPA Educational Foundation has provided over 2 million dollars to students and \$100,000 was issued in scholarships. Their CPE schedule is in full swing. Mr. Pittioni and Mr. Brown will speak at the OSCPA Professional Issues Update event on December 9, 2015 in Wilsonville.

6. REPORT OF THE OAIA

Mr. Morris reported that they are all thankful the tax season has ended and are working very hard on their CPE schedule. They are reporting an increase in participation in their CPE courses.

7. REPORT OF THE CHAIR

Mr. Brown reported that he attended a Western Regional Board Chair conference which provided additional updates on the status of the Department of Labor (DOL) and the American Institute of Certified Public Accountants (AICPA) with regards to ERISA audits and proposed peer review changes. This will be discussed later on the agenda today. Mr. Brown also mentioned that there are several states with budget concerns and he is grateful that Oregon was able to successfully work with the OSCPA to increase fees in order to maintain current service levels. Mr. Lauseng will attend the NASBA Annual conference in October.

8. REPORT OF THE VICE CHAIR

Mr. Wright reported that Mr. Pittioni and Ms. Gahagan and Mr. Wright, met with the Department of Energy (DOE) to assist in development of DOE's proposed rules that affect DOE Energy Incentive Programs where CPAs assist clients with tax credit applications to DOE. The meeting was very beneficial in ensuring that DOE proposed rules for this program for the CPA's work product would align DOE's definitions of "attest" and "independence" with current Board definitions, professional standards and rules.

10. REPORT OF EXECUTIVE DIRECTOR

Mr. Pittioni reported that he continues to have discussions with DAS HR on the need to explicitly recognize the need for a CPA as a minimum qualification for the investigator position. The second licensing recruitment will close tonight, October 19 and it appears there is a sizable pool of applicants. The investigator recruitment is at the finalist stage and 2nd interviews will most likely take place on November 2, 2015.

Renewals for 2015 are completed. Approximately 242 licensees lapsed. The CPE audit is not quite completed yet for those sent pre-renewal. The post-renewal audit will be mailed out in the next couple weeks.

Collaboration with the Department of Revenue, the Tax Board and the Board of Accountancy has continued with primary focus on building systematic exchanges of disciplinary data. The Department of Revenue is working with their IT group for system upgrades to implement this process.

13. PEER REVIEW OVERSIGHT COMMITTEE

The Board called Jessie Bridgham, Chair of the PROC committee to join in the conversation at 10:19 a.m.

A. Minutes

1. October 8, 2015 – for information only

Minutes were distributed to the Board this morning.

B. Committee Update

The PROC is recommending to the Board that firms should no longer have the option to "opt-out" of posting results of their peer review on the Facilitate State Board Access (FSBA) website.

The committee also discussed, in length, firms who receive two consecutive failed peer reviews. The peer review reports are provided to the Board by the firms and in some instances are obtained by staff via the FSBA website. This information is not considered confidential. The committee discussed how much additional information they should request of firms who receive consecutive failed reports and whether or not the additional information received should be public record. Additionally, should the PROC recommend remedial action to the Board for these firm if the information provided supports such action. The PROC is not comfortable asking for additional information if the information will later become public record.

The PROC will review the firms with consecutive failures or pass with deficiencies at their next meeting and determine if the problems were the same or if there were separate issues. The PROC wants Board direction on whether peer review results should lead to disciplinary action.

The Laws and Rules Committee (LRC) also discussed this issue at their last meeting due to possible statutory changes that may need to be drafted if information received in regards to peer review should be held as confidential.

The AICPA is suggesting that Boards get involved after multiple failures. There are differing opinions on whether peer review should remain educational and remedial or if it should become more punitive. The PROC would like the peer review program to remain educational and remedial, however the PROC would like the option of following up with firms who have consecutive failures and have the ability to keep that communication confidential until it is determined the matter should be referred to the Complaints Committee.

Mr. Brown believes that if the PROC discusses a firm where additional information is obtained that discussion should be confidential. If a firm has had the same issues on both failed reports that is a concern and needs to be reviewed closely. However, if a firm receives a failed report and the previous peer review was also a fail but the failures were for different reasons that is not as serious or concerning. Mr. Brown commented that the PROC should deal with the issues and not refer to the BOACC who already have a full case load. Mr. Pittioni and Ms. Bischoff drafted some language to create a hybrid PROC committee where remedial sanctions or disciplinary action can be assessed. If a case was referred to the BOACC the non-disclosure rules would apply and unless a decision was made that there was a violation, those records would be sealed and confidential.

The Board wants the PROC to discuss these issues further and make a recommendation to the Board on how they would like to handle failed and pass with deficiencies going forward.

14. LAWS AND RULES COMMITTEE

A. Minutes

1. June 4, 2015 – information only
2. July 27, 2015 – defer to next meeting

B. Report from Committee Chair

Mr. Lauseng reported that the committee had to defer a few of its meetings due to staff changes at BOA during the renewal season. The LRC had a very productive meeting and hope to have draft rule language for review at the December Board meeting. The committee discussed allowing candidates to sit for the CPA exam prior to obtaining the 150 semester hours of education. Ms. Kingston did some research and the committee determined that this is not something they want to pursue.

The committee discussed rule amendments to the reinstatement requirements, proration of municipal auditor initial permit fees, resignation of license and the referrals from the PROC.

Ms. Bischoff drafted rules regarding good standing and retired and inactive definitions. There was a lot of head way made on these items at the meeting and will be discussed in further detail at their next meeting.

15. CPE COMMITTEE

A. Minutes of September 22, 2015 – information only

B. Recommendations for Approval to Municipal Roster

- 1. Fechtner, Ronald**
- 2. Leppert, Jeremiah**
- 3. Miley, Daniel**
- 4. Apken, Matthew**

BOARD ACTION: Moved by Mr. Crackenberg and carried to approve the applicants listed above for admission on the municipal audit roster.

VOTE: 7 ayes.

The Board noticed that the committee discussed whether or not the CPE committee is necessary. The Board will review this when developing the strategic planning document in May.

16. QUALIFICATIONS COMMITTEE

A. Minutes of September 23, 2015 (for information only)

Mr. Graham noted that there was discussion by the committee that the submissions from applicants for licensure have continued to decline since the rules were changed requiring the applicants to write the narratives rather than the supervisor licensees. There have been several occasions where applications are deferred and the applicant is required to resubmit with additional documentation and examples.

The role of the Board of Accountancy is to protect the public through entrance requirements, education and experience.

Mr. Daniels application was presented to the committee at three meetings. The committee worked very hard with Mr. Daniels to guide him and help him provide examples that would prove to the committee that he had met each of the seven competencies. In the end, the committee voted unanimously to allow the applicant to withdraw his application or be denied. None of the competencies were clearly demonstrated with specific concern on risk assessment.

B. Recommendations for Approval

- 1. Beltz, Aimee**
- 2. Hines, Derek**
- 3. Manlove, David**
- 4. Meaderds, Angelo**
- 5. O'Banion, James**
- 6. O'Connor, Nikolai**
- 7. Dukeminier, Jack**
- 8. Grose, Dale**
- 9. Shipley, Lane**

BOARD ACTION: Moved by Mr. Wright and carried to approve the applicants for initial licensure as listed above.

VOTE: 7 ayes.

C. Recommendations for Denial

- 1. Daniels, Jack**

See discussion above under the minutes

BOARD ACTION: Moved by Mr. Wright and carried to accept the committee recommendation to deny the application submitted by Mr. Daniels and allow him to withdraw his application.

VOTE: 7 ayes.

17. RATIFICATION REQUESTS

- A. CPA Certificates/Permits**
- B. Firm Registrations**

Mr. Graham noted that there were 15 applicants from Russia working for Ernst & Young and seeking reciprocity from the state of Maine. It is troubling that reciprocity applicants are easily pushed through for licensure when Oregon applicants have to provide much more documentation for obtaining a license. Mr. Graham would like the Board to set standards that are equal among reciprocity and Oregon residents seeking a license.

BOARD ACTION: Moved by Mr. Wright and carried to approve the list provided and attached to these minutes for initial licensing.

VOTE: 7 ayes.

Mr. Lauseng wanted to advise the Board that initial discussions have been had to discuss the possibility of semi-independence for the Board. Analysis is being done now so that it can be discussed with enough information for a proper discussion at the Board level.

Mr. Graham noted that Megan Kurz has joined the Qualifications committee, however, the Board has not formally voted on her appointment.

BOARD ACTION: Moved by Mr. Wright and carried to approve Ms. Kurz's appointment to the Qualifications Committee

VOTE: 7 ayes.

12. CONSIDERATION OF SETTLEMENT PROPOSALS

A. Darren M. Hall / Case #14-052

The Board gave direction to the Executive Director on settlement options for this case and the presented settlement addresses those directions for the most part (95%). This case involves misrepresentations to the Board during the application process and failure to be honest with the BOACC regarding a self-disclosed embezzlement.

Opposing counsel suggested a 30-60 day suspension as opposed to the Board's original direction of a revocation (some members were not opposed to a suspension). The respondent has disclosed that he left public accounting and is now working in a non-accounting role in private industry. The proposed settlement directs Mr. Hall be suspended for a period of 2-years and specifies specific issues that he must demonstrate before he is granted a reinstatement from suspended status.

There were ongoing issues he failed to disclose in regards to action taken by the Maine Board of Accountancy and a loan transaction that he is heavily in arrears to paying back. The settlement also addresses the fact that Mr. Hall may not practice accounting in Oregon at all, including in private industry.

BOARD ACTION: Moved by Mr. Wright and carried to accept the proposed settlement agreement for Darren M. Hall in case # 14-052.

VOTE: 7 ayes

B. Carol A. Bopp / Case #12-058

This settlement draft was not ready for Board consideration and thus deferred to a future Board meeting.

Chair Brown adjourned public session at 1:00 p.m. and convened in Executive Session
Chair Brown reconvened public session at 3:57 p.m.

19. MOTIONS ON CASES HEARD IN EXECUTIVE SESSION

A. Case #13-043

This case was not presented to the BOACC and came directly to the Board. The allegation was the licensee lied on his application for licensure and gave other false information to the Board. There was no evidence found during the investigation to substantiate the allegations.

BOARD ACTION: Moved by Mr. Wright 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.

B. Jay Ternberg / Ternberg & Coombs LLP, Case #'s: 15-007, 15-008, 15-009, 15-018, 15-036 and 15-045

All the above cases related to dealing with clients, status of tax returns, allegations of embezzlement and failure to respond to Board communications.

BOARD ACTION: Moved by Mr. Wright and carried to find that there is sufficient evidence to make a preliminary finding of multiple violations of OARs and ORSs as they apply to public accounting, as recommended by the Board of Accountancy Complaints Committee (BOACC). *A copy of the BOACC minutes is attached hereto and incorporated herein by reference.*

VOTE: 7 ayes

BOARD ACTION: Moved by Mr. Wright and carried to find that there is insufficient evidence to make a preliminary finding of failure to participate in Peer Review as required by OAR 801-050-0020 Peer Review Enrollment.

VOTE: 7 ayes

With regard to the cases not previously heard by the BOACC, it was moved by Mr. Wright and carried to find that there is sufficient evidence to make a preliminary finding of violations of OAR 801-030-0020, Professional Misconduct; OAR 801-030-0010(1)(b), Due Professional Care;

OAR 801-030-0015(2), and Client Records and Working, dealing with professional misconduct for unauthorized withdrawal of trust funds, failure to perform duties, and for failure to respond to requests for records and working papers.

VOTE: 7 ayes

The Board directed the Executive Director to seek revocation of Mr. Ternberg's license and provide the investigation to the law enforcement contacts in the Portland area.

C. Tom Blodgett; Brent Mickelsen; Blodgett Mickelsen & Naef PS / Case 13-034

Even though the Firm and Mr. Mickelsen are the only respondents registered the Board, to the extent the Board found any violations, Mr. Mickelsen and Mr. Blodgett were notified they will be individually responsible as well as the firm. It was noted that the firm was using outdated audit standards and needs to get up to date information to properly audit. Special interest was noted in the firms risk assessment and internal control skills.

BOARD ACTION: Moved by Mr. Wright and carried to find that there is sufficient evidence to make a preliminary finding of violation of OAR 801-030-0010(1) General Standards (2011 edition) for the 2010 audit performed.

VOTE: 7 ayes.

The Board directed the Executive Director to help the respondents understand that at some point during the last 15 years auditing standards have changed and it is the Board's opinion that the respondents were auditing under standards that were probably appropriate in the early 2000s but are no longer the standards that would apply to audits. The Board agrees with the recommendations of the BOACC, however the CPE should be specific to Risk Assessment, Internal Control considerations as part of an audit and required audit documentation. In addition the Board wants to have someone come to review the firm's Quality Control documents as well as four of the firm's Oregon audit files and make recommendations for improvement and have the firm respond with how they've implemented these recommendations. Finally, the Board wants to see the firm change peer reviewers.

D. Grove Mueller Swank case

Mr. Pittioni provided a brief update on the Grove Mueller & Swank case, 09-072CNK. A memorandum of understanding was drafted and 6 audit engagements were selected by the task force. Grove Mueller & Swank was required to hire 2 peer reviewers to conduct post issuance reviews of the 6 engagements. The two reviewers received the engagement work papers for review, one received them on 9/22/2015 and the other received them on 10/13/2015. It was estimated that the reviews could be completed in approximately 2 weeks.

Ms. Bischoff added that the Board requested the firm provide information on the staff members who worked on the SunWest audit engagements and that information was required to be provided to the Board on July 20, 2015. Board staff will confirm that the information was received.

18. ADJOURNMENT AND ANNOUNCEMENT OF NEXT MEETING

The meeting was adjourned at 4:30 p.m.

