

Competence - Preparation of Tax Return

Mr. and Mrs. Client donated an old house to the fire department for a training exercise during 2001. The fire department burned the donated house. Green, CPA prepared Client's 2001 tax return, and took a charitable contribution deduction for the appraised value of the donated house.

Department of Revenue (DOR) notified Client that DOR would audit their tax return for 2001. Client contacted Green CPA and asked if Green would represent Client during the DOR audit. Green CPA told Client that they didn't need to be represented and instructed Client to represent themselves before DOR.

DOR disallowed the charitable contribution of the donated house. When Client told Green CPA that DOR disallowed the charitable contribution for the house, Green CPA did not question the findings of the DOR auditor, but instead prepared an amended federal tax return for Client at no cost.

Green CPA took inconsistent positions when he prepared the original tax return and when he prepared the amended Federal tax return without verifying the validity of the tax deduction.

BOARD ACTION:

Violation of Oar 801-030-0010(1) Failure to complete an engagement with due professional competence

Competence and Other Professional Standards

Able CPA provided professional services to Mrs. Frank during a divorce settlement. Able also prepared a business valuation of a dental practice owned by Mrs. Frank's husband. The valuation was prepared for use in the divorce proceedings.

The business valuation of the dental practice was not prepared according to professional standards or similar pronouncements by a generally recognized authority. Instead, it was found that Able did not properly use industry statistics and had an overall lack of knowledge of standards. Able held out to Mrs. Frank that he could perform services that he was not competent to perform.

BOARD ACTION:

Violation of OAR 801-030-0010(1) Competence

Violation of OAR 801-030-0010(4) Other professional standards

Competency and Auditing Standards

ABCD, Inc. retained Green CPA as their new auditor. Blue CPA was the predecessor auditor. Blue did not receive a successor inquiry from Green.

Because Green was employed by Blue the previous year, and was the “in-charge” auditor for ABCD, Inc., Green believed he had full knowledge of ABCD, Inc.’s facts and circumstances and for that reason did not make the successor inquiry to Blue, the predecessor auditor.

Blue agreed that Green was on the audit team the previous year, but because Green was not a partner Green did not have complete knowledge about ABCD, Inc.

BOARD ACTION:

Violation of OAR 801-030-0010(1) Competence and (2) Auditing Standards

Green violated AU 315

Holding out as a Certified Public Accountant

In 1973, Green passed the CPA exam and held a CPA certificate issued in Maryland. Green did not renew his Maryland CPA certificate when it expired in 1974.

When Green moved to Oregon he did not apply for an Oregon CPA permit. Green's letterhead included the following information:

Green, certified public accountant, 1973

BOARD ACTION:

Violation of ORS 673.320(3) Use of title or designation
"Certified Public Accountant" or "CPA":

Integrity and Objectivity

Brown CPA provided tax services to Mr. and Mrs. Taylor for the last 14 years of their marriage. Brown CPA had knowledge of financial information that related to both husband and wife based on Brown's prior services to Mr. and Mrs. Taylor.

When the couple decided to divorce, Brown CPA accepted an engagement from Mr. Taylor to assist him with consultation and tax matters related to the divorce proceedings.

Brown CPA prepared the final joint tax return for Mr. and Mrs. Taylor after the date of the divorce.

While Brown CPA represented the couple, Brown CPA was also representing Mr. Taylor with services that were related to the divorce proceedings. These separate services were adversarial to Mrs. Taylor.

Brown CPA did not request permission of Mrs. Taylor to represent only Mr. Taylor. Brown CPA accepted the engagement with Mr. Taylor even though it was adverse to Mrs. Taylor.

Brown CPA violated the rule on integrity and objectivity by accepting a separate engagement from Mr. Taylor which was adversarial to his engagement with Mr. and Mrs. Taylor.

BOARD ACTION:

Violation of OAR 801-030-0005(2) Integrity and Objectivity

Notification of Assumed Business Name

White registered his firm name as "White CPA PC". White did not use the registered name "White CPA PC" on letterhead, business cards or when answering the telephone. Instead, White used "Accounting Services" on letterhead, business cards and when answering the telephone. "White CPA PC" did not notify the Board of the assumed business name "Accounting Services".

BOARD ACTION:

Violation of OAR 801-030-0020(10)(c) Notification of assumed business name

**Permit or registration required
Permit suspended**

Jones, CPA prepared tax returns for individuals and used his permit number while permit was lapsed. Jones also used the name of his terminated firm on these same tax returns. Jones did not respond timely to a Board letter requesting information about the complaint.

Jones permit was suspended when Jones failed to pay civil penalties assessed by the Board for violations of statutes and rules.

First Action:

BOARD ACTION:

Violation of ORS 673.320(3) Use of title or designation

Violation of ORS 673.320(4) Permit or registration required

Violation of OAR 801-030-0020(7) Failure to respond to Board communications

Second Action:

BOARD ACTION:

Violation of ORS 673.170(2)(m) Failure to pay civil penalties

Professional Misconduct; and Business transactions with clients

Smith CPA prepared tax returns for Mr. Rich. Smith borrowed \$7,500 from Mr. Rich. The \$7,500 loan from Mr. Rich to Smith was evidenced by a promissory note stating the terms of repayment. The promissory note did not state that Smith would not be bound by the Professional Code of Conduct for CPAs, or that Smith may place his own interests above those of Mr. Rich regarding payment of the promissory note. The note did not fully disclose the conflict of interest existing between Mr. Rich and Smith.

The promissory note, standing alone, was not sufficient to provide the disclosure that the CPA and the client had differing interests which may present a conflict with regard to payment of the promissory note.

Smith did not pay the promissory note within the terms of the agreement. Failure to pay the note according to the terms is a breach of contract which demonstrated a disregard for the rights of Mr. Rich who loaned the funds to Smith in good faith, fully expecting that Smith would honor the promissory note. Smith's failure to pay the money to Mr. Rich as promised would cause a reasonable person to have substantial doubts about Smith's honesty, fairness and respect for the rights of others.

BOARD ACTION:

Violation of OAR 801-030-0020(1)(a) and (b) Professional misconduct
Violation of OAR 801-030-0020(9)(a) Business transactions with clients

Dishonesty, fraud or gross negligence in the practice of public accountancy

Brown, CPA obtained a power of attorney to provide financial assistance to Ms. Frail who was in a nursing home. After Ms. Frail died, the estate's executor discovered unexplained withdrawals of funds that occurred during the time that Brown held power of attorney for Ms. Frail. The executor also discovered that nursing home expenses and pharmacy bills remained unpaid during the time that Brown held power of attorney for Ms. Frail.

Brown was also appointed treasurer of a youth club. As treasurer, Brown was responsible for the club's accounting and tax reporting. When Brown was replaced with another treasurer, the successor treasurer was unable to account for approximately \$60,000 that Brown reported as "cash in bank" on the club's financial statement.

The Board requested a response from Brown. Brown failed to respond to the board communication.

BOARD ACTION:

ORS 673.120(2)(b) Dishonesty, fraud or gross negligence in the practice of public accounting. ORS 673.170(2)(c)

Misappropriation of funds

ORS 673.170(2)(c)(A) Lack of ability or fitness

Breach of fiduciary responsibility

OAR 801-030-0020(1)(a) and (b) Professional misconduct

Substantial doubts about honesty fairness and rights of others

OAR 801-030-0020(7) Board communications and investigations

Civil penalty for failure to respond to

Board communications

Holding out as a Certified Public Accountant Professional misconduct – State tax defaults

Murphy neglected to file tax returns or pay state income tax liabilities for tax years 1996 through 1999. Department of Revenue notified the Board of Accountancy, under the authority of ORS 305.385. The Board suspended Murphy's CPA permit until such time that Murphy filed tax returns and paid outstanding taxes to Department of Revenue.

During the time that Murphy's permit to practice was suspended, Murphy held himself out as a CPA when he signed 75 individual income tax returns, displayed his CPA wall certificate, and used business cards that included the CPA designation.

BOARD ACTION:

First Action – Violation of OAR 801-030-0020(12) State tax default

Second Action – Violation of ORS 673.320(3) Use of title or designation

“Certified Public Accountant” or “CPA”: