



OREGON BOARD OF ACCOUNTANCY
COMPLAINTS COMMITTEE
PUBLIC SESSION MINUTES
September 26, 2014

3218 Pringle Rd SE #110
Salem, OR 97302

2nd Floor Conference Room

503-378-4181

Committee Members Present

Rob Nicklos, CPA (Chair)
Haley Lyons, CPA
Chris Walter, CPA
Joe Sullivan, CPA
Fred Peterson, CPA
William Holmes, CPA
Kent Bailey, CPA
Josh Dunlap, CPA

Staff

Martin Pittioni, Executive Director
Noela Kitterman, CPA, Investigator
Theresa Gahagan, CPA, CFE Investigator
Bethany Reeves, Compliance Specialist

Board Liaison

Larry Brown, CPA

Board Counsel

Susan Bischoff, AAG

Guests

None

1. Call to Order

Mr. Nicklos called the public session to order at 8:42 a.m. and announced the meeting was being recorded.

2. Review and Approval of Agenda

Director Pittioni requested to remove agenda item 5.A off the Public Session Agenda, and put it on the Executive Session Agenda. Chair Nichols approved this request.

3. Approval of Minutes

A. BOACC Public Session Minutes, July 14, 2014

Committee Action: Moved by Mr. Bailey and carried to accept the minutes as written.

Vote: 8 ayes – unanimous

B. BOACC Public Session Minutes, July 30, 2014

Mr. Nichols recused himself from the discussion and vote on the July 30, 2014 BOACC minutes, since he was not present at that meeting.

Committee Action: Moved by Mr. Bailey and carried to accept the minutes as written.

Vote: 7 ayes, 1 abstention (Nichols)

4. Review of Board Action of August 11, 2014

Mr. Brown reported that the Board substantially agreed with all committee recommendations except as follows:

On Marilyn Morrissey, the BOACC said low penalty violation, but the Board voted that there was insufficient evidence for making a preliminary finding of violation.

In the case of David Raskin, the Board differed with the BOACC only with respect to finding the solicitation letter as a violation of the Public Communication Rule, not Professional Misconduct.

In the case of Doug Selby, where a mother and daughter were the managing members of an S-corporation, Mr. Selby provided notes from his original meeting with the mother, where he noted that he had discussed S-corporation election back then. He assured the Board the notes were prepared at the time of the discussion. The Board found insufficient evidence for making a preliminary finding of violation for not communicating with the daughter, because he did communicate with the Tax Matters Partner.

In the case of Carol Bopp, the Board substantially agreed with the BOACC. The BOACC added an additional recommendation for objectivity to the recommended potential violations. However, the Board did not make a motion for the objectivity violation because the contractual agreement between the Home Owner's Association (HOA) and the management company provided indemnification with regard to money received by the management company. Once the cash was collected, it was the responsibility of the management company. The BOACC did not have this information. Due to this indemnification, the fraud was committed against the management company, not the HOA client. Disclosing would have been a best practice, but the Respondent was told not to by law enforcement and the contract provided no risk to the HOA.

Director Pittioni added that Mr. Brown and he had gone to the Legislative Emergency Board to request additional spending authority, and secured approval for additional expenditures.

5. November Meeting Schedule, 2014

Mr. Pittioni requested the permission from the chair to look at the BOACC meeting schedule from now until the end of 2015. A handout of the tentative Board schedule and suggested BOACC dates was distributed. Mr. Pittioni discussed the expected increase in the number of cases which will be sent to the BOACC, particularly between now and February, 2014. He asked if the members could schedule a meeting in December, 2014 and also January 2015. After discussing their schedules and the options, the BOACC agreed to hold a meeting on December 12, 2014 and tentatively reserved January 16, 2015. The cases heard at that BOACC meeting will not come to the December 15, 2014 Board meeting, but will be held to the first Board meeting in 2015.

Looking ahead to 2015, Martin proposed scheduling many meetings now, and then canceling them if they were not needed, rather than scheduling half a dozen or so, and then needing to add more on short notice if there were many cases to be heard. The general consensus from the group was that two-day BOACC meetings would create a burden on the members. They would prefer long days. Another suggestion was to create a Tax subgroup to consider the tax cases, and an Audit subgroup to consider audit cases. However, at least one member felt collaboration and various points of view provided better outcomes. Another suggestion was that simple cases could be reviewed by one member of the BOACC, and if they member agreed the case was straightforward, that case could be brought straight to the Board. Yet another suggestion was to hold phone meetings for simple cases. The members were supportive of a regularly scheduled phone meeting once a month, which could be canceled if there was no need. Several members said Friday morning would be a good time for them to schedule phone meetings.

Mr. Pittioni said that the dates may need to be revised if the proposed Board meeting dates were to change. He asked members with any scheduling conflicts to please email the dates they were unavailable to Bethany Reeves, and to remember that any two-day meetings tentatively scheduled for Thursday-Friday would only be held on the later date (the Friday). Mr. Pittioni expressed gratitude to the BOACC for their hard work and willingness to schedule extra meetings.

6. Convene Executive Session

Public session adjourned at 9:27 a.m., and executive session was convened pursuant to ORS 192.660(2)(f). Public session was called to order again at 2:08 p.m.

7. Committee Recommendations

A. Case #09-072CNK

Committee Action: Moved by Mr. Bailey and carried to find that there is **sufficient** evidence to make a preliminary finding of five violations of OAR 801-030-0010, Competence and Technical Standards:

1. AU 314 – Understanding the entity and its environment and assessing the risks of material misstatement (multiple instances)
2. AU 339 - Audit Documentation (multiple instances)
3. AU Section 333 – Management representations (multiple instances)
4. AU Section 318 – Performing audit procedures in response to assessed risks and evaluating the audit evidence obtained (multiple instances)
5. AU 337 – Inquiry of a client’s lawyer (multiple instances)

VOTE: 7 ayes, 1 abstention (Holmes)

Committee Action: Moved by Mr. Bailey and carried to find that there is **sufficient** evidence to make a preliminary finding of violation of OAR 801-030-0010, Competence and Technical Standards, AU Section 311, Supervision (multiple instances)

Comments: Chair Nichols noted that given the level of lack of documentation throughout the entire audits, it is an indication of lack of supervision in the file. Mr. Bailey agreed that the documentation of supervision is weak.

VOTE: 7 ayes, 1 abstention (Holmes)

Discussion: Mr. Peterson commented that when considering what penalties would be appropriate, the Board should consider the facts that the firm had a clean peer review in their most recent peer review, and that the firm already had significant penalties in another disciplinary matter for similar conduct that took place around the same. Chair Nichols agreed.

B. Case #12-052NK

Committee Action: Moved by Mr. Dunlap and carried to find that there is **insufficient** evidence to make a preliminary finding of violations of OAR 801-030-0010(1)(b), Due Professional Care (1 instance)

VOTE: 8 ayes – unanimous

C. Case #13-020

Committee Action: Moved by Mr. Peterson and carried to find that there is **insufficient** evidence to make a preliminary finding of violations of OAR 801-030-0020(1), Professional Misconduct.

VOTE: 8 ayes – unanimous

D. Case #13-021

Committee Action: Moved by Mr. Dunlap and carried to find that there is **insufficient** evidence to make a preliminary finding of violations of OAR 801-030-0020(1), Professional Misconduct.

VOTE: 7 ayes, 1 abstention (Peterson)

8. Announcements and Adjournment

Chair Nichols announced asked if anyone had any questions or announcements. As there were none, Chair Nichols adjourned the meeting at 2:24 p.m.