Oregon Board of Accountancy
BOARD MEETING PUBLIC SESSION MINUTES
February 5, 2013

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

BOARD MEMBERS:

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

BOARD STAFF:

Martin Pittioni, Executive Director
Kimberly Fast, Executive Assistant
Noela Kitterman, Investigator
Heather Shepherd, Committee Coordinator
Susan Bischoff, Assistant Attorney General

GUESTS:
Jason Orme, OSCPA Representative
Sherrie McPherson, OSCPA Representative
Suzanne Feigum *(2:54 p.m.)*

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1. CALL TO ORDER/ANNOUNCE RECORDING

Ms. Bridgham called the meeting to order at 8:30 and announced the Board would convene in Executive Session pursuant to ORS 192.660(2)(f)(h).

Reconvened in public session at 12:38 p.m.

2. APPROVAL OF BOARD MINUTES
A. December 17, 2012

The Board minutes were reviewed and Ms. Ferguson has some minor edits.

BOARD ACTION: Moved by Ms. Newhouse and carried to approve the minutes with Ms. Ferguson's edits.
VOTE: 7 ayes.

3. REPORT OF CHAIR
A. Upcoming NASBA Conferences

The Board would like Mr. Pittioni to attend the NASBA Executive Directors conference in Tucson Arizona in March 2013. They also encouraged him to attend NASBA U, which is a new program established to introduce state boards to the many services that NASBA can provide to their member boards.

Ms. Bridgham announced that she will be attending the Western Regional meeting. Mr. Pittioni, as the new Executive Director, may be eligible for a scholarship, staff will research. Both Mr. Brown and Ms.

Newhouse will also attend. Ms. Newhouse is a committee member on the CPA Examination committee.

4. REPORT OF VICE-CHAIR

No report

5. REPORT OF TREASURER

A. Cash Flow Statement

The reports indicate that the Board is down 10% in revenue; however, the numbers were projected out as straight line which is not effective since the Board has a big surge of revenue during the renewal months.

The Board noticed an increase in legal fees; Mr. Pittioni explained the reason, in part, was due to director change and the IT project. Legal counsel will be more integrated into the Board processes on the front end to ensure orders are written properly and cases are handled in a manner that will avoid higher costs.

6. REPORT OF THE EXECUTIVE DIRECTOR

A. General Updates

Mr. Pittioni explained that the central government fees have increased significantly. The fees are currently being assessed and the introduction of competitive pricing is being discussed. Traditionally, the fees were just accepted and no thought was given as to how they were determined.

It was reported that the Office Specialist 2 recruitment period has closed and 25 applicants have been referred to the Board for review. A selection criterion was submitted to DAS HR and approved. Staff will assess the candidates based on the criteria to determine those applicants eligible for an interview. The recruitment for the Administrative Specialist 2 is currently open and will close mid-February.

B. Extension Request – Linda Schade

Ms. Schade requested the Board allow her an 8-day extension to complete the CPE hours required under the Stipulation and Order she signed in February 2011. Ms. Schade sent the proof of completion forms for the CPE she had completed, and after review by Ms. Kitterman, it appears that she is only required to obtain 2 more hours.

BOARD ACTION: Moved by Ms. Newhouse and carried to grant an 8 day extension to Ms. Schade to complete the required CPE.
VOTE: 5 ayes; 2 nays (Wright and Ferguson)

7. NEW BUSINESS

A. NASBA Vice-Chair Nominations

The Board reviewed recommendations made for various candidates for NASBA's Vice Chair. The Board was not familiar with the candidates and therefore did not make a recommendation.

B. Roxann Strong

In December, the Board directed staff to withdraw the order by default against Ms. Strong. The Withdrawal Order has been executed and delivered to Strong, and negotiation re on-going to structure a negotiated settlement to the case.

C. Mel Ussing

A complaint was opened on April 17, 2012 after receiving information that Mr. Ussing was preparing income tax returns and using the CPA designation CPA while his license was in lapsed status. The Board found that he was indeed in violation and entered into a Proposed Stipulation and Order on December 10, 2012 which proposed the suspension of his license and civil penalties of $20,000.

Later in December, the Board received information that Mr. Ussing was undergoing treatment for leukemia and is not in a condition where he would be able to attend a hearing. Mr. Ussing has voluntarily returned his wall certificate to the Board office and is actively working on selling his practice.

The Board agrees to resolve by stipulation that the Board will suspend the civil penalties if proof of the sale of his firm is received by the Board office and the stipulation will also note that Mr. Ussing is resigning his license.

D. Mark Neuman Request

Mr. Grover, attorney for Mark Neuman, sent a request to Ms. Bischoff for the board to consider allowing Mr. Neuman the ability to prepare tax returns under the employ of a licensed CPA. The letter indicates that he will not hold himself out as a CPA or solicit customers. The Interim Stipulation and Order signed by Mr. Neuman states that he cannot practice. Ms. Bischoff states that for all intents and purposes his license is suspended and therefore allowing him to practice would be in direct conflict with the administrative rules and the signed order. The Board will take no action on this request.

E. Richard Donaca

Mr. Donaca is under a consent order that requires that he have pre-issuance reviews. He has completed two and has two in process. After reviewing the order during the meeting, it is unclear if Mr. Donaca needs to request an extension. The Board directed staff to review the order further to determine if Donaca needs to seek an extension.

8. OLD BUSINESS

No old business was discussed.

9. PUBLIC COMMENT

No members of the public presented comments.

10. REPORT OF OAIA

The representative from the OAIA was not present at the meeting

11. REPORT OF OSCPA

Mr. Orme reported that the CPE schedule for spring is on the website. The President from AAA is writing a thesis on ethics and requested that the OSCPA provide him with membership information in order for him to survey licensees.

Mr. Graham asked Mr. Orme his thoughts on changing the renewal date for licensees. The society has indicated that May and June is an ideal time for CPAs to obtain the necessary CPE for the June deadline. Mr. Orme indicated that in his view it would be best to maintain the current June 30 deadline for renewal. He understood the workload issues for Board staff, but for the practitioners June is preferred. The dates are well known and it works with the seasonal deadlines CPAs contend with.

12. COMPLAINTS COMMITTEE

A. Minutes of January 11, 2013

The minutes were presented for information only, however, an edit was recommended.

B. Executive Session Items

1. Tom Glogau, CPA, Charles Swank, CPA and Grove Mueller & Swank PC #12-041CI

BOARD ACTION: Moved by Mr. Brown to find that there is <u>insufficient</u> evidence to make a preliminary finding of violation of OAR 801-030-0010(1), (2) and (3), General and Technical Standards.
VOTE: 7 ayes.

Tom Glogau, CPA, Charles Swank, CPA and Grove Mueller & Swank PC #12-042CI

BOARD ACTION: Moved by Mr. Brown and carried to find that there is <u>insufficient</u> evidence to make a preliminary finding of a violation of OAR 801-030-0010(1), (2) and (3), General and Technical Standards.
VOTE: 7 ayes

2. **Tracy Stelling**
   #12-056CI

BOARD ACTION: Moved by Mr. Brown and carried to find that there is insufficient evidence to make a preliminary finding of a violation of OAR 801-030-0005(2), Integrity and Objectivity.
VOTE: 6 ayes, 1 opposed (Graham)

BOARD ACTION: Moved by Mr. Brown and carried to find that there is insufficient evidence to make a preliminary finding of violation of OAR 801030-0010(1)(b), Due Professional Care.
VOTE: 6 ayes, 1 opposed (Bridgham)

BOARD ACTION: Moved by Mr. Brown 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.

The Board would like to encourage the licensee in this case to consider taking CPE specifically in areas of employment tax, partnership entities, and pass-through entities.

3. **Mary Ann Daniel**
   #12-068NK

BOARD ACTION: Moved by Mr. Brown and carried to find that there is sufficient evidence to make a preliminary finding of violation of ORS 673.320(3), use of the CPA designation without an active Oregon permit.
VOTE: 7 ayes.

Direction on penalty assessment is on the lower end.

4. **Timothy Steers**
   #12-071NK

BOARD ACTION: Moved by Mr. Brown and carried to find that there is sufficient evidence to make a preliminary finding of a violation of ORS 673.320(3), use of CPA designation without an active Oregon permit.
VOTE: 7 ayes

The respondent in this matter has had previous disciplinary action and was suspended when using the CPA designation. The respondent prepared and signed multiple tax returns while suspended. The Board is recommending revocation for this matter plus maximum civil penalties.

5. **Shrikant Vajratkar**
   #12-075NK

BOARD ACTION: Moved by Mr. Brown and carried to find that there is sufficient evidence to make a preliminary finding of violation of ORS 673.320(3), use of CPA designation without an active Oregon permit.
VOTE: 7 ayes.

This case involved a non-CPA who used the CPA designation in an email. The direction of the Board is to assess lower end civil penalties.

6. **Lincoln Bach**
   #12-061NK

BOARD ACTION: Moved by Mr. Brown and carried to find that there is sufficient evidence to make a preliminary finding of violation for ORS 673.320(3), use of CPA designation while not license in Oregon.
VOTE: 6 ayes, 1 nay (Wright).

This case involved the use of the CPA designation on a company website. Once notified, the CPA designation was immediately removed. Civil penalties should be on the low end.

7. **Jiryis Alyateem**
   #12-044NK

BOARD ACTION: Moved by Mr. Brown and carried to find that there is sufficient evidence to make a preliminary finding of violation of OAR 801-030-0020(1), Professional Misconduct regarding initial license application.
VOTE: 7 ayes.

BOARD ACTION: Moved by Mr. Brown and carried to find that there is sufficient evidence to make a preliminary finding of violation of OAR 801-030-0020(1), Professional Misconduct, for providing false information regarding employment/supervision of a license applicant applying for CPA license in another state. **VOTE:** 7 ayes.

BOARD ACTION: Moved by Mr. Brown to find that there is sufficient evidence to make a preliminary finding of violation of OAR 801-030-0020(1), Professional Misconduct for falsifying the number of supervised experience hours for spouse applying for a license in another state.
VOTE: 2 ayes, 5 nays (Graham, Crackenberg, Ferguson, Wright and Bridgham). Motion Failed.

BOARD ACTION: Moved by Mr. Brown and carried to find that there is insufficient evidence to make a preliminary finding of violation of ORS 673.160, failure to register as a firm.
VOTE: 7 ayes

BOARD ACTION: Moved by Mr. Brown and carried to find that there is sufficient evidence to make a preliminary finding of violation of ORS 673.455, failure to register for a peer review.
VOTE: 7 ayes.

The direction of the Board is to revoke the license and assess maximum civil penalties.

C. ANNUAL REPORT

The annual report was reviewed. It was noted that the Complaints committee may need up to four new members for 2013.

13. PROPOSED CASE SETTLEMENTS

A. Kent Guy

The proposed settlement for Mr. Guy is as directed by the Board with the exception of a suspension of part of the civil penalties. The order also provides that the respondent obtain approval of a counselor and mentor group. The counsel for the respondent provided documentation showing the respondent is in financial hardship. If respondent complies with the terms of the order, the penalty suspension will hold.

BOARD ACTION: Moved by Ms. Newhouse and carried to accept the terms of the proposed stipulation and order.
VOTE: 7 ayes.

B. Scott Whitney

The Department of Consumer and Business Services opened a criminal case against Mr. Whitney. Part of the plea to resolve the case was that he would give up his CPA license. Mr. Whitney has sent the Board his original certificate.

BOARD ACTION: Moved by Ms. Newhouse and carried to accept the terms of the proposed stipulation and order.
VOTE: 7 ayes.

C. Gary Burroughs

No discussion occurred in Public Session in this matter.

D. Alison LLC

Alison LLC was found in violation of ORS 673.320(4), using the CPA designation without the required firm registration. The respondent disputes this Board finding and asserts that the violation was inadvertent and corrected in a timely matter. The order requires respondent to pay a $500 civil penalty within 10-days from the date of the order.

BOARD ACTION: Moved by Ms. Newhouse and carried to approve the Stipulation and Order as written.
VOTE: 7 ayes.

E. David Sheets

Mr. Sheets signed the Stipulation and Order provides that Mr. Sheets' license be suspended for one-year and pay $10,000 civil penalty.

BOARD ACTION: Moved by Ms. Newhouse and carried to accept the Stipulation and Order as written.
VOTE: 7 ayes.

14. CONTINUING PROFESSIONAL EDUCAITON COMMITTEE

A. Minutes of January 8, 2013

Provided as information only.

Mr. Crackenberg pointed out that there were no applications to approve, as they were all deferred. The committee struggles with applicants not obtaining proper courses to admit them to the municipal roster. The committee continues to defer applications and believes that possibly enacting a mentoring program may help with this. It was determined that applicants have a difficult time finding courses that qualify for the state and local government category. The society gets calls from licensees asking for guidance on which courses qualify to meet the requirements and there seems to be no clear answer. The Board would like to review the requirements for admittance to the roster and determine if changes need to be made.

B. 2012 Annual Report

The committee will need two additional members before the end of the year.

15. PEER REVIEW OVERSIGHT COMMITTEE

A. Minutes of January 17, 2013

Minutes were provided for information only.

The committee discussed the personal service contract between the Board and the OSCPA. The society serves as the administrator of the peer review program with oversight from the AICPA. The OSCPA has an equivalent peer review program that provides services to those entities that are not members of the AICPA. The Board, together with the OSCPA and the AG's office are working on the development of a contract between the society and the Board for administrating the peer review program for those not members of the AICPA.

There is some clarifications to be made to the contract, but it is moving along.

B. 2012 Annual Report

The Peer Review Oversight committee will require 2 members to replace those members whose terms are expiring.

16. QUALIFICATIONS COMMITTEE

A. Minutes of January 9, 2013

The minutes are provided for information only. Mr. Graham indicated that he would not be available to attend the upcoming committee meeting due to a conflict. Ms. Newhouse is willing to phone in if needed.

B. Consent Agenda

1. Recommendations for Approval

a. Alan Anderson
b. Bradley Olsen
c. Anne Vindell (Hinkel)

2. Approval of Applications

a. 28 CPA Applications
b. 3 Firms

BOARD ACTION: Moved by Mr. Graham and carried to approve the applicants listed above for licensure.
VOTE: 7 ayes

C. Applications for Discussion

1. Michael Davidson

Mr. Davidson received his experience with both Jones and Roth and Bishop French. Jones and Roth verified competency in the areas: A, B, C, F and G. While employed at Bishop French, Mr. Davidson was directly supervised by a licensed CPA who did not have a continuous 5-year active license due to a break in licensure status. A qualified CPA verified the applicant had achieved competency in D and E. The committee determined that the supervision provided by the secondary CPA was not direct supervision and therefore, competencies D and E, although verified by a supervisor, where not considered.

BOARD ACTION: Moved by Mr. Graham and carried to accept the committee recommendation to find that there was <u>insufficient</u> evidence to make a preliminary finding that the applicant has met the minimum qualifications for initial licensing per OAR 801-010-0065.
VOTE: 7 ayes

2. Andrew Gettman

Mr. Gettman achieved his experience, for the most part at Moss Adams and Musician's Friend, Inc. While employed at Moss Adams, he achieved competency in A, C and G. While employed at Musician's Friend, Inc., Mr. Gettman was able to achieve the remaining competencies as verified by his supervisor licensee. Upon review by Ms. Teixeira, committee member assigned to this file, she determined that the support for competency "E" was insufficient.

BOARD ACTION: Moved by Mr. Graham and carried to accept the committee recommendation find that there is insufficient evidence to make a preliminary finding that the applicant has met the minimum qualifications for initial licensing per OAR 801-010-0065.
VOTE: 7 ayes

17. CPA EXAMINATION

A. International Testing

The Oregon Board of Accountancy is allowing CPA examination candidates to test out of the country at NASBA examination contractor (Prometric) sites if they so choose.

B. Grading Error

It was reported by NASBA and the AICPA that there was an error in coding two of the task-based simulations and an issue with the answer key of a multiple choice question that impacted scoring of examinations. Overall, 29 jurisdictions were impacted, including one candidate in Oregon. NASBA and the AICPA are fielding the phone calls and will reach out to those candidates that were impacted. They will be offering monetary consideration for the incident.

The meeting adjourned at 4:42 p.m.