



Oregon Board of Accountancy Public Board Meeting Minutes August 12, 2013

Board Members:

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

Board Staff:

Martin Pittioni, Executive Director
Susan Bischoff, Assistant Attorney General
Noela Kitterman, Investigator
Bethany Reeves, Compliance Assistant
Kimberly Fast, Licensing Program Coordinator
Kristen Adamson, Licensing Specialist

Guests:

Sherri McPherson, OSCPA
Stuart Morris, OAIA
Tim Filkins, OSCPA
Brad Bingenheimer, CPA

Cherina Hart, CPA
Laura Taylor, Esq.
Zach Brumbelow (3:09 p.m.)
David Hoopes (3:09 p.m.)

1. CALL TO ORDER

Chair Bridgham called the public session meeting to order after conclusion of the Executive Session at 12:24 p.m. and announced the meeting was being recorded.

12. COMPLAINTS COMMITTEE

- A. Complaints Committee Minutes of June 24, 2013. *Information only.*
- B. Complaints Committee Minutes of July 15, 2013. *Information only.*
- C. Board findings on cases

Note: A matrix listing the cases and the possible violations was distributed to all of the Board members. This document is attached hereto and incorporated herein by reference.

1. **Case #12-016CI – Terri Blodgett, CPA**
Case #12-017CI – Moss Adams LLP

BOARD ACTION: Moved by Mr. Brown and carried to find there is INSUFFICIENT evidence to make a preliminary finding of violation in both cases for all charges listed on the matrix:

Case #12-016CI – Terri Blodgett, CPA

OAR 801-030-0010(1)(b), Due Professional Care in the following:

- 1.) Attempt to obtain information to prepare tax returns
- 2.) To timely value the decedents' LLC after receipt of the real property valuations
- 3.) To timely prepare a protective IRS Form 706

Case #12-017CI – Moss Adams LLP

OAR 801-030-0010(1)(b), Due Professional Care in the following:

- 1.) Attempt to obtain information to prepare tax returns
- 2.) To timely value the decedents' LLC after receipt of the real property valuations
- 3.) To timely prepare a protective IRS Form 706

VOTE: 7 ayes.

2. Case #12-070NK – James Peters, CPA

BOARD ACTION: Moved by Mr. Brown and carried to find there is INSUFFICIENT evidence to make a preliminary finding of violation for the rule cited on the matrix:

OAR 801-030-0010(1)(b), Due Professional Care

VOTE: 7 ayes.

3. Case #13-014 – Patricia Harry, CPA

BOARD ACTION: Moved by Mr. Brown and carried to find there is INSUFFICIENT evidence to make a preliminary finding of violation for the rule cited on the matrix:

ORS 673.320(3), Use of the CPA designation without an active license

DISCUSSION: Mr. Wright noted that while this is a tragic case, the Board has not taken the use of the CPA designation lightly in the past. Mr. Brown agreed, but added that he did not recall any other cases where the individual had an active license in another state and the work was performed in another state.

VOTE: 6 ayes, 1 nay (Wright).

4. Case #12-050NK – Boldt Carlisle & Smith CPA LLC

BOARD ACTION: Moved by Mr. Brown and carried to find there is INSUFFICIENT evidence to make a preliminary finding of violation for the rules cited on the matrix:

OAR 801-030-0010(1), General Standards

OAR 801-030-0010(2), Auditing Standards

OAR 801-030-0010(3), Accounting Principles

VOTE: 7 ayes.

5. Case #12-030NK – Diana Flanigan, CPA

BOARD ACTION: Moved by Mr. Brown and carried to find there is INSUFFICIENT evidence to make a preliminary finding of violation for the rules cited on the matrix:

OAR 801-030-0010(1)(b), Due Professional Care

OAR 801-030-0020(7)(b), Failure to provide a written response to the Board within 21 days.

VOTE: 7 ayes.

6. Case #12-060CI – Tracy Stelling, CPA

BOARD ACTION: Moved by Mr. Brown and carried to find there is INSUFFICIENT evidence to make a preliminary finding of violation for the first four rules cited on the matrix:

OAR 801-030-0005(2), Integrity and Objectivity

OAR 801-030-0010(1), General Standards

OAR 801-030-0010(3), Accounting Principles

OAR 801-030-0020(), Professional Misconduct

VOTE: 7 ayes.

BOARD ACTION: Moved by Mr. Brown that there is SUFFICIENT evidence to make a preliminary finding of violation for the last three rules cited on the matrix. Mr. Graham asked that the last three charges be taken individually. Mr. Brown withdrew his previous motion, and made a new motion which was carried to find that there is SUFFICIENT evidence to make a finding of violation of OAR 801-030-0010(5), Failure to comply with SSARS.

VOTE: 7 ayes.

BOARD ACTION: Moved by Mr. Brown and carried that there is SUFFICIENT evidence to make a preliminary finding of violation of OAR 801-050-0020(1), Failure to enroll in peer review.

VOTE: 6 ayes, 1 nay (Graham).

BOARD ACTION: Moved by Mr. Brown and carried that there is SUFFICIENT evidence to make a preliminary finding of violation of OAR 801-010-0345(2), Failure to register a firm.

VOTE: 6 ayes, 1 nay (Graham).

COMMENTS: The BOACC had recommended CPE and suggested that the Respondent would benefit from entering into a mentoring relationship with another more experienced CPA. Members of the Board noted that the violations were not egregious and seemed to be unintentional and happened because of a lack of knowledge on the Respondent's part. Mr. Graham voiced his support for CPE in the area of SSARS, reporting obligations, and compilations. The Board reached consensus that any settlement negotiated by the Director should involve civil penalties at the low end of the spectrum, around \$1,000 for each violation. Ms. Bridgham suggested that reduction of the civil penalties should be dependent upon the Respondent's compliance with the negotiated settlement provisions.

7. Case #12-063NK – Cherina Hart, CPA

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

VOTE: 7 ayes.

BOARD ACTION: Moved by Mr. Brown to find there is SUFFICIENT evidence to make a preliminary finding of violation of OAR 801-030-0010(1)(b), Due Professional Care.

VOTE: 2 ayes (Lauseng, Graham), 5 nays (Wright, Brown, Crackenberg, Newhouse, Bridgham) MOTION FAILED

BOARD ACTION: Moved by Mr. Brown to find there is SUFFICIENT evidence to make a preliminary finding of violation of OAR 801-030-0010(4), Tax Standards.

VOTE: 7 nays - MOTION FAILED.

BOARD ACTION: Moved by Mr. Brown to find there is INSUFFICIENT evidence to make a preliminary finding of violation of the last two rules cited on the matrix:

OAR 801-030-0015(2)(b), Requested Records

OAR 801-030-0020(1), Professional Misconduct

VOTE: 7 ayes.

COMMENTS: Mr. Graham recommended writing a letter of reprimand and require the Respondent to continue the improved practices already implemented in lieu of a financial penalty. Ms. Newhouse disagreed, adding that the violation was significant and there should be at least some minimum civil penalty. Mr. Wright agreed with Ms. Newhouse. Mr. Brown remarked that the BOACC recommended CPE and mentoring and monitoring, and he would support a modest civil penalty. Mr. Lauseng noted that he would support CPE and a requirement for mentoring either with or without a civil penalty. The Board noted the Respondent's professional demeanor during the Respondent's appearance before the Board.

8. Case #11-062NK – John Paul Kenote, CPA

BOARD ACTION: Moved by Mr. Brown and carried to find there is INSUFFICIENT evidence to make a preliminary finding of violation of OAR 801-030-0010(1)(a), Professional Competence.

VOTE: 7 ayes.

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

VOTE: 5 ayes (Brown, Lauseng, Graham, Bridgham, Crackenberg), 2 nays (Wright, Newhouse).

BOARD ACTION: Moved by Mr. Brown and carried to find 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 Mr. Brown and carried to find there is SUFFICIENT evidence to make a preliminary finding of violation of OAR 801-030-0005(3), Prohibited Commissions and Referral Fees.

VOTE: 7 ayes.

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

VOTE: 7 ayes.

BOARD ACTION: Moved by Mr. Brown and carried to find there is SUFFICIENT evidence to make a preliminary finding of violation of OAR 801-030-0010(4), Tax Standards.

VOTE: 7 ayes.

COMMENTS: There was consensus that CPE should be part of the penalties. However, Mr. Graham noted that while these violations involved ethics, there are only so many ethics courses available, and so he is undecided on how much CPE would be appropriate. He also commented that he would support mid to lower civil penalties. In contrast, Mr. Crackenberg noted that he thinks the civil penalties should be the maximum, and the Board should require 16 hours of CPE. Mr. Lauseng commented that he thinks the violations are fairly serious, so he would support mid-range civil penalties and CPE. Mr. Wright and Mr. Brown agreed. Director Pittioni observed that there appeared to be a significant distance between the Board's position and Respondent's position which may make settlement less likely.

Mr. Wright commented that some of the investigation reports prepared by contract investigators are formatted differently than the investigation reports prepared by staff Ms. Kitterman. In addition to minor style issues, there are some differences in the way the information is reported. He requested that Board staff instruct the contract investigators to be dispassionate, factual, concise, and unbiased. He noted that Ms. Kitterman's format is best, with a summary at the end of report listing each possible charge that was investigated, and a recommendation that the evidence either does or does not support a finding of violation for that charge. Mr. Wright said the investigation reports need to be complete and thorough and give a recommendation for each charge that was considered. Director Pittioni responded that Board staff are currently planning a training that will take place in the fall, and the goal is to train each person who conducts investigations on the expectations of the Board, the investigation process, and the format for reports.

2. REVIEW AND APPROVE PUBLIC BOARD MEETING MINUTES

A. July 22, 2013

BOARD ACTION: Moved by Mr. Brown and carried to approve the minutes as presented.

VOTE: 6 ayes, 1 abstention (Wright) Mr. Wright recused himself because he was not present at the July 22, 2013 Board Meeting.

5. TREASURER'S REPORT

Mr. Wright summarized the Board's projected expenditures to the actual expenditures for Fiscal Year 2012-13. Mr. Brown asked if the actual expenditures were close to what the Board had previously presented to the Legislative Ways and Means Committee. Mr. Pittioni responded that the agency had represented to the Budget and Management Division and the Legislative Fiscal Office that the agency would not have a significant change in its ending balance, and the agency results being presented to the Board by Wright now are consistent with that representation.

6. EXECUTIVE DIRECTOR'S REPORT

Director Pittioni updated the Board on a staffing levels. One person is out on medical leave, and a temporary employee had been hired for several weeks to help cover that person's absence. The temporary employee had worked during renewal season and had already ended his assignment with the Board. The absent employee did not have a return to work date yet, but it was expected that it would be in the near future. Pittioni advised that the Financial Investigator limited duration position recruitment

was proceeding with 3 active licensure CPAs interviewed in the first round and a finalist candidate under further consideration.

Pittioni provided an IT update regarding the work paid for by NASBA on connecting the Board's database with NASBA's ALD and CPAverify. Pittioni added that the work on the Board's own licensing look-up and disciplinary information is in its final stage, and that he was switching to a Filemaker-based web display of Filemaker data. Pittioni added that work on a smaller-scale RFP for on-line renewals would resume now that the renewal season was over.

Pittioni concluded by reporting on his attendance at NASBA's Peer review summit in July and advising the Board that his responsibility of also running the State Board of Licensed Social Workers on an interim basis finally concluded on July 14, 2013. Pittioni thanked the Board for its patience in regard to the latter.

8. OLD BUSINESS

A. GIANCARLO POZZI – Case 10-091CNK – Compliance with Stipulated Order Letter

Director Pittioni reviewed how Mr. Pozzi had signed a Settlement Agreement and Stipulated Final Order (Order), but failed to make the July payment according to the terms of the Order. Mr. Pozzi represented to Board staff in an email that he had mailed the payment on July 30th, but the payment did not arrive at the Board office until August 5, 2013, with a postmark of August 2, 2013. According to the terms of the agreed-upon Order, the remaining balance would become due and payable immediately. Upon advice of legal counsel, Mr. Pittioni sent Mr. Pozzi a letter demanding payment in full be received at the Board offices within two (2) business days. No payment was received, instead Mr. Pozzi submitted written communication to the Board insisting that in his view this was a mistake by the Post Office. Board staff drafted with counsel a Notice proposing to suspend Pozzi for a year for failure to comply with the Order, as a basis for discussion at the Board on how to proceed given Mr. Pozzi's failure to comply with the terms of the Order.

One member of the Board asked if this was Mr. Pozzi's first failure to comply with the terms of the Order. Mr. Pittioni explained that the order required Mr. Pozzi to do two things: make monthly payments of \$387.77 for a specified length of time through the ACH automatic withdrawal process and also complete penalty CPE. The Order required the CPE to be completed by the 12-31-2013, so it was not due yet. When the Board attempted to draft the July payment, the ACH withdrawal failed because of lack of funds in the bank account designated for the ACH payments. The Order specified that if an ACH payment were to fail, Mr. Pozzi could remit payment to the Board as long as the payment was received by the Board by the first of the following month (which would be August 1, 2013 in this case). Board staff notified Mr. Pozzi by telephone that the ACH withdrawal had failed, and notified him that he could remain in compliance with the Order by submitting the payment by August 1st. Mr. Pozzi indicated to the staff person that he would send the payment in right away, and also stated in an email on July 30th that he had "mailed" the check. But the check was not received at the Board office until August 5, 2013, and it was postmarked Friday August 2, 2013, not Tuesday July 30, 2013. Subsequently Mr. Pozzi in accordance with the terms of the Order was given two days to make the full payment by Friday

August 9, 2013. Effectively, Pittioni advised that Mr. Pozzi violated the Order by failing on three occasions to make a payment by the required due date.

Mr. Brown expressed strong concerns that a one year suspension was inappropriate. Mr. Wright noted that Mr. Pozzi's apparent lack of seriousness was a bigger issue than his failure to pay. He further noted that Mr. Pozzi committed a violation, then he failed to pay, then the Board gave him time, and he shined us off. Ms. Newhouse commented that failure to have sufficient funds in your business account to cover something you promised to pay is significant. In addition, there was lying and misrepresentations to the Board.

Mr. Brown asked what the proof was that Mr. Pozzi lied to the Board. Mr. Pittioni replied that the email says "I put the check in the mail" on the July 30th, and then it postmarked on August 2nd and received on the 5th. It was not received on or even mailed by August 1st, 2013. Mr. Pozzi was given a chance to make the payment good by the 1st and he didn't. He was given another chance to make it good. That payment needed to be received by the 1st and he mailed it rather than bringing it here, and then he had another opportunity to have the full payment here by Friday the 9th and he didn't do that either.

Mr. Brown expressed disapproval of the proposed suspension, and said that he had had experience with mailing tax documents by the deadline, and then they ended up not postmarked that day, and he was assessed penalties by the IRS. He said this was a first time offence. Mr. Pittioni replied that while it is true this was Mr. Pozzi's first time of the violating the order, this can also be viewed by the Board as just the latest in a series of similar behavior as evidenced by the facts of the underlying case, and that it was up to the Board to determine what frame of reference the Board would deem appropriate. Mr. Crackenberg said he wanted to make sure of the facts – did the Order stipulate that the entire balance became due and payable now. He reminded Mr. Pittioni of the importance of staying within the authority that had been delegated to him by the Board, because Mr. Pittioni speaks for the Board. Mr. Pittioni replied that the Order agreed to by Mr. Pozzi specifically authorized demand for civil penalty payment in full if the second opportunity for making the monthly payment timely was missed, and that as such, that demand for payment in full simply implemented an Order already approved by the Board and agreed to by Mr. Pozzi. Mr. Pittioni also advised that with respect to his waiver of interest and limiting demand to only the full civil penalty principal owed, the question of whether he had had the authority to do that was less clear; his intent was to ensure that the demand letter could withstand any legal challenge.

Mr. Graham said he was sympathetic to both Mr. Brown's point of view and to the staff's point of view, and this latest failure to pay was just one more thing Mr. Pozzi had done. Ms. Newhouse pointed out that Mr. Pozzi agreed to the terms of the Order, and the agreement had been violated. Ms. Bridgham said that she thought the Board would have been more forgiving if the payment had merely been received late, but [the initial ACH withdrawal] was NSF to boot. Mr. Lauseng said that when he has a client who fails to pay as agreed, he considers whether making a demand will make it more or less likely that the client will pay. He added that suspending Mr. Pozzi's license is too harsh.

It was noted that the draft Notice to suspend is a public document, as is the existing Order. The Settlement Agreement and Stipulated Final Order was considered in public session and would be reviewed in public session. Several Board members reviewed copies of the existing Order.

Mr. Brown said that in his view staff time and legal counsel time had been wasted preparing the draft Notice to suspend, and that suspension should not be written into the order. Mr. Pittioni replied that his job was to enforce the existing Order, which stipulated that the balance would be immediately due and payable, and that staff simply had prepared a draft Notice as a basis for discussion on how to proceed. Mr. Brown noted that while the Board does need to enforce its Orders, there is still judgment, and he doesn't think they should suspend Mr. Pozzi.

Legal counsel Ms. Bischoff noted that the suspension proposal really came at her suggestion, not the staff, and that when someone lies or misrepresents facts to the governing body, it is a big problem, and the Board has taken action against people in the past for misrepresentations. Mr. Graham commented that this situation doesn't seem to rise to that level, but staff should not be criticized for bringing this draft proposal to the Board. Mr. Brown agreed that the Board could not let the actions go, but suspension would not be OK.

Several alternative ideas for resolution were proposed, including suspending Mr. Pozzi's license until payment of civil penalties in full, or issuing a Cease and Desist Order, which wouldn't take effect for 30 days. Another suggestion was to put language into future Orders stating that if the Order was violated, the Board will consider suspending the license. Mr. Pittioni commented that even when an Order stipulated that suspension could result from violating the Order, the Board could not simply suspend the license for non-compliance by the Respondent, the Board would still have to prove its case and provide due process including an opportunity for the Respondent to contest the proposed suspension for non-compliance with the Order.

It was noted that although previous Orders may not have stated that directly, the Board still had the option of suspending for violation of an existing Order. Mr. Brown said he assumed that was an option, and he could agree to suspending Mr. Pozzi's license, just not to suspending his license for a year. Ms. Bischoff proposed issuing a Cease and Desist Order ordering Mr. Pozzi to cease from practicing public accountancy until the amount due is paid in full. However, because Cease and Desist Orders take effect in 30 days, this would effectively give Mr. Pozzi 30 days to pay.

Mr. Graham said he thinks the license of Mr. Pozzi should be revoked. Ms. Newhouse noted that Mr. Pozzi broke the agreement. Others commented that they would support an option that provided for 30 days to pay and only suspended Mr. Pozzi until the penalty was paid in full. The Board came to consensus that they would issue the Cease and Desist Order which would suspend Mr. Pozzi's license after 30 days unless the remaining balance and interest was paid in full.

BOARD ACTION: Moved by Ms. Newhouse and carried to issue a Cease and Desist Order that would take effect in 30 days to suspend Mr. Pozzi's license until the remaining balance and interest is paid in full. Director Pittioni was delegated authority to sign this Cease and Desist Order if needed.

VOTE: 7 ayes

10. REPORT FROM OAIA

Stuart Morris, second vice-president of the Oregon Association of Independent Accountants, gave a short presentation on the activities of the OAIA. The OAIA will be presenting many educational events between now and the end of the year. Congress has enacted several new laws that have created the need for additional training, in addition to the huge changes resulting from federal health care reform.

11. REPORT FROM OSCPA

Tim Filkins, Vice Chair of the Oregon Society of Certified Public Accountants, gave a short presentation on the recent activities of the OSCPA. The OSCPA had a busy summer. During the 2013 Legislative Session, the OSCPA reviewed and monitored over 275 bills of interest to the accountancy profession, both bills related to taxes and other professional issues. They also provided support to the Oregon Board of Accountancy in regard to some budget and consolidation bills. They will be holding a program on professional issues in early December, and will be offering many CPE classes starting in October.

13. PROPOSED CASE SETTLEMENTS

A. Hodges & Hart Case #13-008 – Proposed Settlement Agreement and Stipulated Final Order

Mr. Pittioni reviewed with the Board the Settlement Agreement and Stipulated Final Order (Order) signed by Jeff Hart and Ann Prior. Mr. Wright suggested that based on the previous discussion regarding Mr. Pozzi, the Order could be amended to include a stipulation outlining the possible sanctions that might be applied for failure to comply with the Order. However, others felt that the risk of non-compliance in the case was low, and the Board retains the option of applying sanctions for non-compliance even when it is not explicitly stipulated.

BOARD ACTION: Moved by Ms. Newhouse and carried to accept the Stipulated Final Order as presented.

VOTE: 7 ayes

B. Earl Doman #11-052NK – Proposed Stipulation and Order

The Board reviewed the Stipulation and Order (Order) signed by Mr. Doman. Mr. Wright noted that the format of this Order was significantly different than the format of Hodges & Hart's Order just considered by the Board. Ms. Kitterman explained that this is because Mr. Doman's Order was originally drafted some months ago, but Mr. Doman had declined to sign it at that time. However, he finally agreed to sign it now. She told him that all Orders drafted now are similar in format to the one for Hodges & Hart.

BOARD ACTION: Moved by Mr. Graham and carried to accept the final order as presented.

VOTE: 7 ayes

C. Richard Donaca #10-091NK – Review of Interim Stipulated Order

Ms. Kitterman reviewed Mr. Donaca's compliance with the Interim Stipulated Order (Order) issued on December 13, 2011. That Order stemmed from an investigation conducted by Mr. Brown in 2011. Because of multiple problems with audits he had conducted, Mr. Donaca was found to have violated the Auditing Standards in OAR 801-030-0010(2). Mr. Donaca and the Board entered into an Interim

Stipulation and Order that required Mr. Donaca to complete 40 hours of CPE by June 30, 2012; pay civil penalties of \$2,500 by March 15, 2012; and complete 5 pre-issuance reviews prior to April 1, 2013.

Mr. Donaca requested an extension from the Board on June 15, 2012, to extend the due date for the CPE from June 30, 2012 to July 31, 2012. This was granted. Mr. Donaca took the last class to complete the 40 hours of required CPE on August 1st, 2012.

The reviewer was to select five audits to be reviewed from a list of Mr. Donaca's existing audit clients. The reviewer conducted 3 pre-issuance reviews, which had documentation issues identified by the pre-issuance reviewer but corrected before the reports were released by Mr. Donaca. The reviewer provided Mr. Donaca with a list of deficiencies in the 4th audit, but Mr. Donaca never provided the reviewer with the revisions before issuing the audit report. The pre-issuance reviewer was able to later determine that Mr. Donaca had made most of the corrections, but he issued that audit without first submitting the corrections to the reviewer, as required under a pre-issuance review agreement. The engagement reviewer had selected the 5th engagement for review, however, the client did not engage Mr. Donaca to perform this audit. Mr. Donaca didn't inform the pre-issuance reviewer of this situation to allow him to select another audit engagement for a pre-issuance review. Ms. Kitterman obtained a list of all engagements that could have been selected for a pre-issuance review. There were approximately 40 in both 2012 and 2013, so Mr. Donaca's failure to complete a 5th review was not due to only having 4 audits. The Interim Order did not specify whether governmental or non-governmental audits could be used, so any of the audits completed by Mr. Donaca could have been selected for the 5th pre-issuance review.

Mr. Donaca represented that he was in the process of selling his business and his business is currently listed for sale with an agent.

Members of the Board noted that Mr. Donaca had not met the terms of the Interim Stipulated Order, and that to protect the public, he must stop performing audits. Ms. Bridgham noted that it is audit season for governmental audits. Another member questioned whether the Board would have to wait until Mr. Donaca had his next Peer Review before taking action. Because the Order stipulates that the Board may impose additional sanctions against Mr. Donaca for significant findings in the pre-issuance reviews, the Board may take action in the present circumstance.

Mr. Lauseng recommend either suspending Mr. Donaca's license or assessing a civil penalty and/or CPE on risk assessment and requiring him to do another 10 or 15 pre-issuance reviews, and since Mr. Donaca is performing many audits, the pre-issuance reviews should be due soon. It was pointed out that Board statutes only give the Board the authority to require a civil penalty and CPE, which would suggest that requiring pre-issuance reviews could only become part of a sanction when agreed to by means of a Settlement Agreement and Stipulated Final Order. It was suggested that if Mr. Donaca would not agree to the pre-issuance reviews, perhaps his muni-license could be revoked. Another person suggested that every audit should be under pre-issuance review. Another member noted that given the severity of the situation, that would be an appropriate sanction, and that requirement would help create incentive for Mr. Donaca to sell his practice. It was also noted that civil penalties should be minimal, because of the cost of pre-issuance reviews.

There was some discussion of whether Mr. Donaca should be allowed to complete the audits he has already been engaged to perform. Members of the Board were concerned about balancing the needs of the clients to get their audits done, with the clients' needs to have the audits done well, with a need to protect the general public. Members of the Board were in favor of a requirement for 100% pre-issuance reviews.

BOARD ACTION: Moved by Mr. Lauseng and carried to adopt the draft Cease and Desist Order (Order) which take effect in 30 days that would bar Mr. Donaca from providing attestation or compilation services or issuing reports thereon, but modify it to include an option for Mr. Donaca to enter into a new stipulated agreement with the Board which would allow him to continue to perform audit work as long as a pre-issuance review was performed on every audit that has not already had a pre-issuance review, and another modification that failure to comply with the terms of the Cease and Desist Order or a new stipulated agreement could result in further sanctions by the Board.

VOTE: 7 ayes

Note: through this vote, in the Cease and Desist Order the Board made a preliminary finding of:

- A. Failure to comply with the terms of the Interim Stipulation and Order when Respondent failed to complete five pre-issuance reviews on or before April 1, 2013
- B. Failure to resolve the pre-issuance reviewer's reported findings and issues in violation of OAR 801-030-0010(2), Auditing Standards

15. QUALIFICATIONS COMMITTEE

- C. Applications for Discussion
 1. Zachary Brumbelow

Mr. Brumbelow and supervisor licensee Mr. Hoopes joined the meeting by conference call at 3:09 p.m.

Ms. Newhouse reviewed Mr. Brumbelow's application and the discussion from the Qualifications committee. Mr. Brumbelow's file was reviewed initially at the April 25, 2013 Qualifications committee meeting. The committee at that point had been concerned that the experience obtained by the applicant was narrow and requested specific examples of how the applicant achieved competency in "B", Assessing the achievement of an entity's objectives, competency "D", Understanding transaction streams and information systems and competency "F", Decision making, problem solving, and critical thinking in the context of analysis. Mr. Brumbelow works primarily in litigation support, calculating investment profit and loss and interacting with accounting systems to include the calculation of economic damages. Mr. Wilberger, the reviewer for the case, was in charge of the follow-up, and returned to the July 24, 2013 Qualifications committee with a recommendation that based on the additional information received the committee recommend application approval to the Board. Mr. Hoopes, the supervisor licensee also participated by phone at the July 24, 2013 Qualifications committee meeting to support Mr. Brumbelow's qualifications and experience, and answered questions from committee members, with a focus on concerns raised by committee member Mr. Halbirt around the applicant's risk assessment competency. Ultimately the committee split 4-4 on the motion to approve the application with one committee member absent, and thus Mr. Brumbelow's application was forwarded to the Board with no recommendation from the Qualifications committee.

The Board heard further detail from Mr. Hoopes by phone in regards to Mr. Brumbelow's experience, with emphasis on the risk analysis competency, and discussed the matter without reaching a consensus. Some Board members believe that the competencies were not met because the applicant did not have experience working with financial statements or in an internal audit department setting. Others believe that the write up and documentation provided ample proof that the applicant is well qualified. From that perspective, Mr. Brumbelow's experience can be compared to forensic accounting where an applicant could achieve experience that would enable them to perform an audit. Mr. Brumbelow has stated that his goal is to remain in his field and become an expert witness for his company. Board members were torn between the intent of the rules and the strict interpretation of the rules for industry applicants. Industry applicants, at this time, are the only files that are reviewed and scrutinized for the type of experience achieved. There are differences of opinion on how to correlate industry experience with public accounting experience.

BOARD ACTION: Moved by Ms. Newhouse to find that there is insufficient evidence that Zachary Brumbelow has met the competencies necessary for a CPA permit and that the application be denied unless the applicant wishes to withdraw.

VOTE: 2 ayes (Graham, Newhouse) 5 nays (Crackenberg, Wright, Brown, Bridgham, Lauseng). Motion failed.

BOARD ACTION: Moved by Mr. Wright to accept the experience of Zachary Brumbelow as adequate and approve his application for licensure.

VOTE: 4 ayes, 3 nays (Graham, Newhouse, Crackenberg). Motion passed.

Discussion: The Board struggles with applicants who gain experience in industry and have no experience in audit. Ms. Newhouse gained experience in industry, however, she was an integral part of the internal audit team. Mr. Wright commented that adding the requirement to have experience with financial statements would help a lot. Mr. Graham will review the OPS files and develop an objective matrix. He will interpret the competencies in the context of the accounting profession and evaluate how applicants in industry can gain risk assessment in a non-audit environment. This topic will be discussed at the meeting in October meeting and the Board will review the matrix prepared by Mr. Graham.

12.C.

6. Case #12-060CI – Tracy Stelling, CPA

Mr. Wright wanted to state for the record that he believes the attorney for Ms. Stelling, Mr. Churnside, called Mr. Wright's firm to seek advice related to this case. Mr. Wright took the call and the caller mentioned they would like information regarding SSARS and a case that was going before the Board. Mr. Wright informed the caller that he was a member of the Board and was not able to discuss with him.

14. CONTINUING PROFESSIONAL EDUCATION COMMITTEE

A. Minutes of August 1, 2013

Information only

B. Municipal Auditor Applications

1. Paul A. Barnett
2. Steven A. Bergmann
3. Derek Ellerbrook
4. Pedro. J. Nunez Dieguez
5. Kevin Smith
6. Rachel Ann Swanson
7. Quynj-Lam Bui Truong
8. Ashley M. Wolfe
9. Rebecca Berger
10. Mitchell Hansen

BOARD ACTION: Moved by Mr. Crackenberg and carried to approve the applications for municipal auditor licenses.

VOTE: 7 ayes.

15. QUALIFICATIONS COMMITTEE

A. Minutes of July 24, 2013

Information only

B. Consent Agenda

1. Recommendations for Approval
 - a. Casey M. Chapman
2. Approval of Applications
 - a. 64 CPA Applications
 - b. 0 PA Applications
 - c. 12 Firm Registrations

BOARD ACTION: Moved by Ms. Newhouse and carried to approve the consent agenda.

VOTE: 7 ayes.

C. Applications for Discussion

1. Zachary Brumbelow – *discussed and voted on earlier in the meeting*
2. Susan Jing Han
3. Trisha Magallon
4. Heather Robison

BOARD ACTION: Moved by Ms. Newhouse to deny the applications for the three above applicants not already considered by the Board, and offer the candidates the option of withdrawing their application.

VOTE: 7 ayes.

D. Certification Program

1. Lithia Motors Inc.

Mr. Brown commented that he is not comfortable approving certification programs even though it has been done in the past, and that the committee review and action on the program should be sufficient. It was noted that individual applicants from the program would still need to go through the Qualifications committee and Board process on their merits. Board members concurred and will advise the Qualifications committee that the program presented was reviewed and no comments were made.

13. C. Richard Donaca Case #10-091CNK

BOARD ACTION: Moved by Mr. Lauseng to issue a CEASE AND DESIST ORDER (Order) to Richard W. Donaca to not engage in or provide Attestation Services or Compilation Services unless and until the terms of the Interim Stipulated Order are satisfied, and unless a timely request for hearing is made. This Order is to become effective and final on September 12, 2013, which is 30 days from the date the Board's vote to issue the order. As an alternative to the Order, if agreed upon in writing within the next 25 days, Richard W. Donaca will secure pre-issuance reviews on all pending and future engagements; provided, however, if such reviews result in deficiencies or significant findings, the Board may impose additional sanctions including an additional Cease and Desist action.

VOTE: 7 ayes.

The meeting adjourned at 4:32 p.m.