



**Oregon Board of Accountancy
Public Work Session Minutes
December 9, 2013**

Board Members:

Jessie Bridgham, CPA, Chair (by phone)
Larry Brown, CPA, Vice Chair
Roberta Newhouse, CPA (left 6:20 p.m.)
Al Crackenberg, PA
Roger Graham, Public Member
John Lauseng, CPA
Scott Wright, CPA, Treasurer

Guests:

Phyllis Barker, OSCPA
Stuart Morris, OAIA
Alan Adams

Board Staff:

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

1. CALL TO ORDER

Chair Bridgham asked Vice Chair Larry Brown to run the meeting because she could participate in the meeting only by phone. Mr. Brown called the meeting to order at 12:41 p.m. and announced the meeting was being recorded.

2. APPROVAL OF BOARD MINUTES

- A. October 20, 2013 Public Session minutes
- B. October 21, 2013 Public Session minutes

The minutes were reviewed, a few editorial corrections were noted on the October 21 minutes that Board staff will fix.

BOARD ACTION: Moved by Mr. Lauseng and carried to approve the minutes.

VOTE: 6 ayes, 1 abstention (Newhouse)

3. REPORT OF THE CHAIR

Chair Bridgham attended the NASBA Annual Conference in October. She reported that the presentations were informational, particularly the presentation on the education process and the issues universities are facing. Past Board Chair, Raymond Johnson gave a presentation on ethics that was very good and well received. Ms. Newhouse commented that she encourages Board members to attend NASBA meetings to keep involved and make a difference in Oregon.

4. REPORT OF VICE-CHAIR

Vice-Chair Brown and Director Pittioni gave a presentation at the OSCP Professional Issues Update earlier in the month. Topics included the laws and rules task force work, the purpose of the Board versus the Society, upcoming legislative changes, availability of the disciplinary action report and the fact that more and more complaints are coming in for holding out and professional misconduct. One individual expressed interest in serving on a Board committee.

5. REPORT OF THE TREASURER

The cash flow for the biennium was presented for Board review by Treasurer Wright who explained that at this point in the biennium there are still a lot of variables. Some line items that are known amounts such as facilities, state government changes etc., others are projected on a straight-line basis. Director Pittioni stated that there is still significant information mission on the personnel side with respect to the supplemental spending allocation to state agencies to cover the cost of compensation increases for the 2013-15 biennium.

6. REPORT OF THE EXECUTIVE DIRECTOR

Director Pittioni informed the Board that Heather Shepherd is currently on a job rotation with the Board of Tax Practitioners and Marika Garvey from the Board is currently working in her position. This was a voluntary rotation and initially lasts for 6 months unless terminated sooner. Mr. Pittioni is redesigning the position descriptions for the licensing team and has received the initial approval from DAS Human Resources.

On the Legislative side, the exemption proposal for licensees and their employees from the Private Investigator licensure requirement has seen significant progress since the last Board meeting and it is expected that the OSCP will have a legislator sponsor a single bill for the 2014 session reflecting the cooperation between the Board of Accountancy, Department of Public Safety Standards and Training and the OSCP on this issue.

The ongoing project to exchange information with the NASBA ALD/CPAVerify is still underway and expected to be completed by January. Initial work has been done on updating the Boards licensee look-up and should coincide with the launch date for the ALD. Staff is in the planning states of a single source focused solution for on-line renewals only. The project is delayed until the licensee lookup and NASBA work is completed, as well as the firm audit project.

The compliance team had a successful contract investigator training webcast on November 15, 2013. Mr. Pittioni and Ms. Bethany Reeves attended a training on accounts receivable. The staff is working closely with the Department of Revenue on collecting unpaid debt.

7. NEW BUSINESS**A. Secretary of State Audit Division Proposed Rules**

Ms. Bischoff has reviewed the proposed rules and has concerns. The proposal removed the definition of accountant and use the term accountants rather than CPAs. Ms. Bridgham commented on some additional concerns, including the budgetary schedules language and ambiguity caused by the proposed changes in definitions. The Board directed Pittioni to approach the Secretary of State Audit Division with a request that the comment period for the rules be extended. The Board is not comfortable with language that affects the individuals they regulate being drafted without proper input from the licensing agency. If the request for extension is not granted Mr. Crackenberg will guide a taskforce to include Ms. Bridgham, Ms. Bischoff, and CPE Committee Chair Rob Moody and Mr. Pittioni to assemble timely comments on behalf of the Board.

B. Lay Representative

The Board of Accountancy has authority under certain circumstances to allow staff to represent under a contested case. The Department of Justice is going through a statewide process and looking to each agency and giving the option of either deleting or expanding the right or to withdraw the authority all together. The Board has only used this option once in the past 10-12 years and therefore is a low priority. The Board agreed to keeping our language on this matter status quo and revisiting in the future. Mr. Pittioni was directed to respond to the Department of Justice accordingly.

C. Committee Vacancies & Appointments

The Board was given a matrix of each committee and their membership. There are several vacancies amongst the committees and a list of potential committee members to consider. The Board staff will continue recruitment efforts and keep the Board apprised.

D. Board Officer Elections

The Board has traditionally elected officers for the upcoming year in December. The Board members as well as the current Board officers have agreed to continue serve another year. Ms. Bridgham will continue to serve as Chair, as well as Larry Brown as Vice-Chair and Scott Wright as Treasurer.

Board Action: Moved by Ms. Newhouse and carried to continue the current Board officers for 2014.

E. Report from Laws and Rules Task Force

Minutes from the October 16, 2103 Laws and Rules Task Force meeting were distributed for Board review. Mr. Lauseng reported that the task force has prioritized items, with the most substantial change is creating a new statute following the UAA which give more authority to the board and removes some of the specificity with respect to fees etc. Another significant change is to the definition of attest which is something the task force recommends, however, the task force is not recommending moving forward on firm mobility at this time.

The language regarding firm registration has been discussed briefly and Mr. Lauseng will work with Board staff on language to present to the task force.

There has been significant discussion on the different licensing paths. The task force is recommending that applicants be required to demonstrate their own experience which is a significant change. The recommendation is that applicants, regardless of how they achieved their experience (CPA firm, industry, government or other professional standards) will need to document, in writing, how the competencies were achieved. This will shift the burden of writing up the documentation of experience from the supervisor licensee to the applicant, modeled after the approach taken by the state of Nevada. Mr. Graham is working on a document to improve the connection between the questions asked about the experience of the applicant with the licensure path of the applicant. The experience forms used now are currently geared toward public accounting experience only and doesn't address standards for experience gained outside the public accounting realm.

In addition, the task force is considering allowing exam candidates to sit for the CPA examination with 120 semester hours, rather than 150. The 150 hour must be achieved prior to licensure with timelines built in.

The task force has discussed the confidentiality of complaint cases and when and how to be more transparent in public session. The Board currently discusses the case in executive session and simply votes in public session without having a discussion on the substance of the case. The spirit of the statute change for complaint cases was to protect the people that had complaints that were unfounded and protect unfounded complaints from public disclosure.

8. OLD BUSINESS

A. Comment on UAA Firm Mobility Exposure Draft

The Board reviewed Director Pittioni's draft response on behalf of the Board. Board members agreed the draft reflected the Board's position that the Board is unified in its opposition to inclusion of firm mobility in the 7th edition of the UAA, based on opposition by some Board members on policy grounds and opposition by other Board members based on lack of information on the impact of firm mobility. The Board authorized Pittioni to submit the comment to the UAA committee as drafted.

B. Rule Amendments filed with the Secretary of State's Office

The Board has submitted a rule change to use NASBA's International Evaluation Services as the sole evaluation credentialing agency for Board applicants.

C. Complaint Follow-Up

1. Doug Meyers, #12-022
2. David Sheets, #12-062 and #13-017

The Cease and Desist Order for David Sheets has been mailed and Mr. Meyers was sent a final order by default.

D. Board Member Vacancies

Mr. Pittioni met with the Governor's office to discuss filling the vacancy of Roberta Newhouse's position. The basic message from the Governor's office is that they are looking for quality members and are not as concerned with the time it takes to achieve that. They want Boards to keep in mind the preferred criteria, which include geographical location, gender diversity and other forms of diversity.

E. Report from George Fox University Outreach

Mr. Crackenberg reported that he gave a presentation at George Fox University. A senior accounting student gave a presentation on ethics that was well done. Mr. Crackenberg encourages more outreach to colleges and universities.

9. PUBLIC COMMENTS

There were no public comments.

10. REPORT OF THE OAIA

Mr. Morris reported that the OAIA is wrapping up the educational season and gearing up for the tax update courses. Mr. Morris mentioned that the OAIA membership is increasing and that is encouraging.

11. REPORT OF THE OSCPA

Ms. McPherson thanked Mr. Pittioni and Mr. Brown for their presentation at the Professional Updates event earlier in the month. The society is in the midst of a lot of educational courses with many web offerings as well as in person trainings. They are busier than they have ever been. Ms. McPherson appreciates being included in the Laws and Rules Task Force and contributing to the work.

12. COMPLAINTS COMMITTEE**A. Minutes of November 18, 2013**

The minutes were distributed to members for information only.

B. Executive Session Items**1. Kenneth Allen, Case #13-024**

BOARD ACTION: Moved by Ms. Newhouse and carried to find that there is insufficient evidence to make a preliminary finding of violation of OAR 801-030-0010(1), General and Technical Standards and OAR 801-030-0010(2), Auditing Standards.

VOTE: 7 ayes.

2. Pauly Rogers and Co. PC, Case #13-023

BOARD ACTION: Moved by Ms. Newhouse and carried to find that there is insufficient evidence to make a preliminary finding of violation of OAR 801-030-0010(1), General and Technical Standards and OAR 801-030-0010(2), Auditing Standards.

VOTE: 7 ayes.

3. Allen Adams, Case #11-050NK

Mr. Lauseng recused himself from the discussion and voting. This case pertains to a business deal that went bad, there was a separation of parties and a finding by a jury of civil fraud and also a guarantee of a loan, which at the time of the loan, the licensee knew repayment was not possible.

BOARD ACTION: Moved by Ms. Newhouse and carried to find that there is sufficient evidence to make a preliminary finding of violation of OAR 801-030-0020(1), Professional Misconduct.

VOTE: 6 aye, 1 abstention (Lauseng)

BOARD ACTION: Moved by Ms. Newhouse and carried to find that there is sufficient evidence to make a preliminary finding of violation of OAR 801-030-0020(8), Business Transactions with Clients.

VOTE: 6 aye, 1 abstention (Lauseng)

BOARD ACTION: Moved by Ms. Newhouse to find that there is sufficient evidence to make a preliminary finding of violation of OAR 801-030-0005(2), Integrity and Objectivity.

VOTE: 2 ayes (Bridgham, Brown), 4 nays (Graham, Wright, Crackenber and Newhouse). MOTION FAILED

BOARD ACTION: Moved by Ms. Newhouse and carried to find that there is insufficient evidence to make a preliminary finding of violation of OAR 801-010-0345(5), Notification to Board.

VOTE: 6 ayes, 1 abstention (Lauseng)

The Board believes the actions in this case are egregious especially since there is a jury verdict with a fraud conviction in this matter. The Board advised Pittioni that it may be willing to stipulate a suspension of the license for a minimum of 6 months if Mr. Adams is willing to settle the matter, in addition

4. Kevin Sundberg, Case #12-029NK

Mr. Graham will be recusing himself from discussion and voting; Mr. Sundberg is a former student.

BOARD ACTION: Moved by Ms. Newhouse to find that there is sufficient evidence to make a preliminary finding of violation of OAR 801-030-0020(1)(b), Professional Misconduct.

VOTE: 6 ayes, 1 abstention (Graham)

BOARD ACTION: Moved by Ms. Newhouse to find that there is sufficient evidence to make a preliminary finding of a violation of OAR 801-030-0015(2)(b), Requested Records.

VOTE: 6 ayes, 1 abstention (Graham)

The Board advised Pittioni that it would be willing to stipulate to CPE and a civil penalty of not more than \$1,000.

5. Kurt Hagerman, Case# 12-065NK

BOARD ACTION: Moved by Ms. Newhouse to find that there is sufficient evidence to make a preliminary finding of multiple violations of OAR 801-030-0020(1)(b), Professional Misconduct. There are several violations of this rule, including, but not limited to, manipulating income, falsifying records and related to a charitable organization and receiving loans from clients.

VOTE: 7 ayes.

BOARD ACTION: Moved by Ms. Newhouse to find that there is sufficient evidence to make a preliminary finding of multiple violations of OAR 801-030-0020(7)(b)(B), compliance with Board requests and truthfulness by failing to timely respond to Board requests, and by contemporaneously creating accounting records and tax returns requested by the Board

VOTE: 7 ayes.

BOARD ACTION: Moved by Ms. Newhouse to find that there is sufficient evidence to make a preliminary finding of multiple violations of OAR 801-030-0020(7)(c), by hindering or obstructing a Board investigation.

VOTE: 7 ayes.

BOARD ACTION: Moved by Ms. Newhouse to find that there is sufficient evidence to make a preliminary finding of multiple violations of OAR 801-030-0020(8), business transactions with clients.

VOTE: 7 ayes.

Discussion: Mr. Hagerman has submitted a resignation of his CPA license. Mr. Graham would rather his license be revoked and assess civil penalties. The Board believes significant civil penalties are appropriate, but are willing to stay some of the penalties if Mr. Hagerman ceases to engage in any type of accounting work, especially for the charity. Engaging in accounting services would cause the Board to assess any stayed penalties.

6. Ben Reddaway, Case #12-072NK

BOARD ACTION: Moved by Ms. Newhouse that there is sufficient evidence to make a preliminary finding of multiple violations of ORS 673.320(3), use of the CPA designation while lapsed.

VOTE: 7 ayes.

Ben Reddaway, Cases #12-072NK, #13-005 and #13-006

BOARD ACTION: Moved by Ms. Newhouse and carried to find sufficient evidence to make a preliminary finding of multiple violations of ORS 673.320(3), Use of the CPA designation while lapsed. .

VOTE: 7 ayes.

BOARD ACTION: Moved by Ms. Newhouse and carried to find sufficient evidence to make a preliminary finding of multiple violations of OAR 801-030-0010(1), Due Professional Care, OAR 801-030-0015(2), Requested Records, OAR 801-030-0020(1), Professional Misconduct, OAR 801-030-0020(7), Board Communications and OAR 801-030-0020(9), Notice of Change of Address.

VOTE: 7 ayes.

Board members are in favor of revocation of Mr. Reddaway's CPA lapsed license and imposition of significant civil penalties.

7. David Hooff, Case #13-003

BOARD ACTION: Moved by Ms. Newhouse 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 while license is lapsed.

The respondent in this case was listed on a website stating he was a licensed CPA. It is a current problem with social media and internet that the Board will address further in the future. The Board advised Mr. Pittioni that it may be willing to stipulate to a lower end civil penalty with a letter of censure.

VOTE: 6 ayes, 1 nay (Wright)

8. Douglas Hudelson, Case #13-035

BOARD ACTION: Moved by Ms. Newhouse and carried to find that there is sufficient evidence to make a preliminary finding of multiple instances of violation of ORS 673.320(3), Use of the CPA designation while lapsed.

VOTE: 7 ayes.

BOARD ACTION: Moved by Ms. Newhouse and carried to find that there is sufficient evidence to make a preliminary finding of violations of ORS 673.320(4), Use of the CPA designation by a business organization, one violation of OAR 801-030-0010(1)(b), Due Professional Care, multiple violations of OAR 801-030-0020(1), Professional Misconduct, and one violation of OAR 801-030-0020(7), Board communications.

VOTE: 7 ayes.

Mr. Hudelson prepared over 300 tax returns while his license was lapsed. The Board advised Mr. Pittioni that revocation of Hudelson's license and significant civil penalties should be assessed. But, if Mr. Hudelson should choose to negotiate a settlement, they may be willing to agree to an 18 month – 2 year suspension of his license and \$20,000 in civil penalties.

9. William Holdner, Case #12-064NK

BOARD ACTION: Moved by Ms. Newhouse 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

10. Kurt Hagerman, Case #12-059NK

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

COMMENTS: Mr. Wright commented that this case had to do with an error related to failure to deduct mortgage interest on a tax return, and said that it appeared to be a simple mistake.

VOTE: 7 ayes

13. PROPOSED CASE SETTLEMENTS**A. Mark Neuman**

Director Pittioni advised the Board members that Mr. Neuman will be sent to prison shortly. Mr. Neuman's attorney has indicated that Mr. Neuman is unable to pay civil penalties, and therefore, the Board should consider accepting the stipulated resignation in lieu of revocation with no penalty. The previous stipulation assessed \$100,000 in civil penalties. This proposal has not yet been put into a format in which it could be signed and agreed to by the parties. It is best to resolve this case prior to Mr. Neuman being sent to prison and therefore, the Board will consider a settlement document formalizing a stipulated resignation as soon as possible.

B. Richard Donaca

Mr. Donaca's attorney has contacted the Board and advised that Mr. Donaca has sold his CPA practice to Barnett & Company LLP effective November 12, 2013, however, Mr. Donaca intends to continue working for Mr. Barnett as an independent contractor. The attorney indicated that Mr. Donaca will agree to a restricted license that will prohibit him from accepting attestation engagements of audits and reviews.

Mr. Pittioni is concerned that Mr. Donaca may not understand that a restricted license will prevent him from working in a CPA firm. Mr. Brown was comfortable allowing Mr. Donaca to do work on attestation engagements so long as there was adequate supervision and that he was not signing any of the reports. The Board also discussed the option of revoking his municipal auditor license.

C. Update on Cherina Hart

The Board reviewed the case of Cherina Hart at the August meeting. We have since discovered that she has been performing attestation and compilation work and has not been enrolled in a Peer Review program. The Board staff requested a copy of her 2003 through 2013 client list with a description of the types of services she provided to each of them. The list included approximately 40-50 compilations. Mr. Pittioni will take this new information into account when negotiating a settlement with Ms. Hart's attorney.

14. CONTINUING PROFESSIONAL EDUCATION COMMITTEE**A. Minutes of November 26, 2013**

The minutes were distributed for information only.

B. Municipal Auditor Applications

1. Tammy Laird
2. Jeffrey Johnson

BOARD ACTION: Moved by Mr. Wright and carried to accept the applications for admission to the Municipal Auditor Roster for both Tammy Laird and Jeffrey Johnson.

VOTE: 7 ayes.

15. QUALIFICATIONS COMMITTEE**A. Minutes of November 13, 2013**

The minutes were distributed for information only.

B. Consent Agenda**1. Recommendations for Approval**

- * a. Allyn Kirkham
- b. Nadya Kozyreva-White
- c. Dustin Poland
- d. Kari Russill
- e. Hanh Le
- f. David Teirney

BOARD ACTION: Mr. Graham moved and it was carried to approve the consent agenda with the exception of Allyn Kirkham who was removed from the consent agenda for discussion.

VOTE: 7 ayes.

Mr. Graham explained that the consent agenda that the Board receives has been inconsistent lately. This is in part due to the new process of issuing licenses for applicants receiving their experience through a public accounting firm and are not reviewed by the Qualifications committee. Once the applicant has been approved, they are sent an invoice to pay for the pro-rated licensing fees. This triggers a license number and the database pulls this applicants for Board approval, although they are not officially licensed. Once the payment is received, the applicant is given a CPA status and expiration date, and when the next list is pulled for Board approval, they are listed again. Board staff will work on this issue and provide a listing of all applicants that are pending approval by the Board.

2. Approval of Applications

- a. 39 CPA Certificates
- b. 0 PA Licenses
- c. 11 Firm Registrations

BOARD ACTION: Moved by Mr. Graham and carried to approve the individuals and firms on the list provided to Board members, subject to completion of the application process (future payment)

VOTE: 7 ayes.

3. Applications for Discussion

a. Michael Davis

The Qualifications committee recommends denial of the application for certification submitted by Mr. Davis. Mr. Wright questioned why the committee did not defer and ask for further information on the applicant. Mr. Graham explained that the experience was so insufficient that asking for more information would not have provided the necessary assurance that the competencies had been met.

BOARD ACTION: Moved by Ms. Newhouse and carried to find that there is insufficient evidence to demonstrate Mr. Michael Davis has achieved competency in the seven core areas.

VOTE: 7 ayes.

b. Allyn Kirkham

Ms. Kirkham obtained her experience working for the IRS. There was discussion on this file as to whether the supervisor licensee had the ability to terminate employment. Ms. Kirkham's supervisor had influence on her employment, however, would not have the ultimate decision. The Board has reviewed at least three IRS applicants recently and the supervisory role has been slightly different on each.

BOARD ACTION: Moved by Ms. Newhouse and carried to find that there is sufficient evidence to demonstrate that Ms. Kirkham has met the qualifications for the CPA license.

VOTE: 4 ayes, 3 nays (Wright, Newhouse, Lauseng)

16. Peer Review Oversight Committee

No meeting held

17. CPA EXAMINATION

Nothing to report

18. ADJOURNMENT

The meeting was adjourned at 6:35 p.m. The next Board meeting is a work session focused on consideration of recommendations from the Laws and Rules Task Force for 2015 legislative session initiatives, scheduled for January 10, 2014 at the Board office.

