



## NOTICE OF PUBLIC MEETING

OREGON BOARD OF ACCOUNTANCY 3218 Pringle Rd SE, Salem, OR 97302

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### **PUBLIC BOARD MEETING MINUTES**

**Monday, October 20, 2014**

Oregon State University  
Austin Hall 1<sup>st</sup> Floor Event Room

#### **Present:**

Jessie Bridgham, CPA, Chair  
Larry Brown, CPA, Vice Chair  
Scott Wright, CPA, Treasurer  
Roger Graham, Public Member  
Al Crakenberg, PA

John Lauseng, CPA  
Candace Fronk, CPA  
Martin Pittioni, Executive Director  
Kimberly Fast, Licensing Manager  
Susan Bischoff, Legal Counsel

#### **Guests:**

Harry Bose, OSCPA  
Phyllis Barker, OSCPA  
Devan Esch, CPA  
Ronald Johanesen, CPA, OAIA

Oregon State University Students  
Charles Swank, CPA  
Eric Gross

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#### **1. CALL TO ORDER/ANNOUNCE RECORDING<sup>1</sup>/REVIEW AGENDA**

Chair Jessie Bridgham called the meeting to order at 8:35 a.m. and announced the Board will convene in Executive Session pursuant to authority in ORS 192.660(2)(f)(h) and expect to return to Public Session at approximately 10:00 a.m., or after the conclusion of Executive Session.

Public Session was reconvened at 10:50 a.m.

#### **2. OREGON STATE UNIVERSITY STUDENT PRESENTATION [11:00 – 1:00] \*\*WORKING LUNCH \*\***

Mr. Graham, professor at Oregon State University invited thirteen students, ten who are currently in the MBA program and three under graduate students to join the Board meeting for a presentation on the mission of the Board as well as have face-face interaction with the Board members and staff.

Mr. Graham talked to the students about the history of the Board and the typical items the Board reviews. Students asked questions of Board members and staff regarding the examination, career paths etc. Beta Alpha Psi was represented and welcomed Board members to speak at their engagements. They would also like to see a Board presence on Facebook and Twitter.

#### **3. Deliberation on Contested Case Matters under the authority of ORS 192.690 (Deliberations Closed to the Public)**

The public meeting was closed at 1:00 p.m. and reconvened at 1:32 p.m.

#### **4. PROPOSED CASE SETTLEMENTS**

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**A. Christopher Acarregui / Acarregui Accountancy PC 10-0130CNK**

**BOARD ACTION:** Moved by Mr. Brown to approve the Settlement Agreement and Stipulated Final Order of Revocation in Christopher Acarregui and Acarregui Accountancy matter, Case number 10-130CNK and executed by Mr. Acarregui on September 11, 2014 and direct Board personnel to make scrivener correction in caption of settlement document to reflect the correct case number.

**VOTE:** 7 ayes

The Board thanked Investigator Noela Kitterman and Attorney Susan Bischoff for their hard work and diligence on this case.

Ms. Bischoff drafted a letter for Mr. Acarregui to use to notify his clients that his license has been revoked which is a requirement of the settlement agreement. On the reverse side of the letter, there was a sample file transfer form, however, Board members agreed that portion of the letter should be omitted. The letter should be revised to include reference to IRS Code Section 7216 and the related treasury regulation. Ms. Bischoff also requested delegated authority for the Director to review and approve in consultation with counsel the sale agreement pertaining to the shares in the public accountancy practice owned by Mr. Acarregui and his spouse, and Board members agreed.

**B. A. Darrel Rusth 12-040**

Ms. Gahagan summarized the case in which Mr. Rusth prepared income tax returns for a married couple who later divorced. The wife was advised by her attorney to not file separate income tax returns from her husband. When the wife contacted Mr. Rusth to let him know she wanted to file a joint return, he informed her that her husband was filing as married and separate. It was discovered that Mr. Rusth had used all the couples deductions and exemptions on her husband's tax return including the dependency exemption for the minor child.

Mr. Rusth indicates that he took preparation direction from the husband and his attorney, therefore subordinating his judgment to the judgment of the husband. In addition, he did not maintain objectivity and integrity nor was he free of conflicts of interest.

**BOARD ACTION:** Moved by Mr. Brown to approve the settlement agreement in Case #12-040 with respect to A. Darrel Rusth.

**VOTE:** 7 ayes.

**C. Alan Adams, Jr. 11-050**

Mr. Pittioni explained that he has been working with Mr. Adams attorney for several months to reach a settlement agreement. This case involved a Multnomah County jury finding (Multnomah County Circuit Court, Case No 0809-12896) that Mr. Adams was a party to, for fraudulently misrepresenting a company's assets to Commerce Bank. The Board found Mr. Adams to be in violation of professional misconduct on two occasions, in addition to a violation of Business Transactions with Clients.

The settlement agreement, consistent with Board direction, it requires a six month suspension and assessment of civil penalties, some of which are stayed.

Ms. Bischoff noted that Mr. Adams attorney spoke highly of Mr. Pittioni, noting that he was enjoyable to work with during the settlement process.

**BOARD ACTION:** Moved by Mr. Brown and carried to approve the Settlement Agreement and Stipulated Final Order in case number 11-050NK.

**VOTE:** 7 ayes

**D. David M. Raskin / Accounting Consultant Inc. 13-011**

This case involved a family matter in which a CPA was incarcerated and her uncle, Mr. Raskin, also a CPA was handling her business until she was released. Mr. Raskin was found to have violated Professional Misconduct provisions by providing a file to a client with permission or consent and failing to keep a copy. In addition, he was also found in violation of Board communications and by telling the investigator that he did not solicit clients, when in fact he had solicited her clients by mail.

**BOARD ACTION:** Moved by Mr. Brown and carried to approve the Settlement Agreement and Stipulated Final Order in case # 13-011.

**VOTE:** 7 ayes

**E. W. Howard Goodman 13-012**

Ms. Gahagan summarized the case. Mr. Goodman's license lapsed on July 1, 2009. He reinstated his license effective August 16, 2011 and it then lapsed again on July 1, 2013. Between July 1, 2009 and April 19, 2014, Mr. Goodman prepared 122 Oregon state tax returns and used the CPA designation on each return. Mr. Goodman did not have a valid Oregon CPA license or a license issued by the Board of Tax Practitioners.

In addition, Mr. Goodman had clients that were divorced. He worked on an amendment to the joint tax return without informed consent or written waiver of a conflict of interest. Mr. Goodman misrepresented to the Board how recently he had prepared tax returns for one of the parties which is a professional misconduct violations.

**BOARD ACTION:** Moved by Mr. Brown and carried to approve the Settlement Agreement and Stipulated Final Order for Case # 13-012

**VOTE:** 7 ayes.

**F. Gary Schutz, Case #12-043NK**

Mr. Schutz prepared an amended tax return for a client for 2009, and also prepared tax returns for the client in 2010 and 2011. When Mr. Schutz prepared the 2009 amended return, a refund resulted. When the 2011 income tax return was being prepared, it was discovered that the client did not receive Form 1099-G from the Department of Revenue indicated a refund of taxes had been received as a result of the amended return.

Mr. Schutz contacted the Department of Revenue without obtaining a signature or authorization to serve as the client's Power of Attorney. Mr. Schutz did not identify himself to the DOR customer service representative and answered the DOR agent's questions in such a way the DOR agent believed Mr. Schutz was the actual client.

**BOARD ACTION:** Moved by Mr. Brown and carried to approve the Settlement Agreement and Stipulated Final Order for case # 12-043NK.

**VOTE:** 7 ayes.

**G. David Chambers, Case #14-024**

The Board received notification that Mr. Chambers passed away. The Board opened an investigation on Mr. Chambers, however, it had not be concluded by the time he passed.

**BOARD ACTION:** Moved by Mr. Brown and carried to close case #14-024.

**VOTE:** 7 ayes.

#### **H. Christopher Acarregui, Case #14-053**

A second case was opened against Mr. Acarregui, however, it is recommended that the Board close the investigation due to the revocation of his license earlier in this meeting.

**BOARD ACTION:** Moved by Mr. Brown and carried to close case #14-053.

**VOTE:** 7 ayes.

### **5. COMPLAINTS COMMITTEE**

#### **A. Minutes of September 26, 2014 (information only)**

Mr. Wright asked why the minutes are reflecting the name of the Respondent in cases where it was found to have insufficient evidence. He was under the impression that cases that were found with no violations remained confidential. Other Board members indicated that they were under the same impression.

Ms. Bischoff indicated that all information is public once the Board makes a determination in the matter and recommended to the Board that they continue to publicize the names of licensees even with cases where there was no violation found. The public can call the Board office with a case number and inquire about the case, including the licensee's name.

**BOARD ACTION:** Moved by Mr. Graham and carried to no longer publish the names of individuals whose conduct was found insufficient by the Board.

**VOTE:** 7 ayes.

#### **B. Preliminary Findings Motions**

##### **1. Case #12-052**

This is a case where the complainant filed a complaint that the licensee had not filed the tax return timely and caused the tax payer to incur penalties.

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

**VOTE:** 7 ayes

##### **2. Case #13-020**

This is a case where the licensee was providing services to a married couple. One of the clients passed away and the CPA prepared estate work and billed for the work. He then sent an additional invoice. It was alleged that the CPA was trying to take advantage of the client.

**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

##### **3. Case #13-021**

This is a case where the Board opened a complaint after it appeared that the licensee may have omitted disclosure of a lawsuit. The investigation found that the lawsuit happened after the application was submitted.

**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.

#### **4. Grove Mueller Swank / Charles "Chuck" Swank Case #09-072CNK**

For the years 2004, 2005, 2006, 2007 and 2008, Grove Mueller Swank (GMS) was engaged by Sunwest to audit Assisted Living Facilities with commercial loans. The investigation found that GMS failed to adequately design audit procedures to identify and test compliance with the loan covenants for the loan from Column Financial Inc. This failure also resulted to the incomplete/inadequate disclosures in the financial statements which is a violation of AU 314.03.

In the review of the related party receivables, GMS failed to adequately document the nature, timing and extent of auditing procedures performed to comply with the SASs. The lack of documentation related to the testing of the collectability of related party receivables (could not find any testing) is a violation of AU 339.10.

The investigation also found that GMS failed to obtain representation letters as of the date of the auditor's report, which is a violation of AU 333.09.

In the Legacy Gardens Audit of the 12/31/2006 and 12/31/2007 financial statements, the related party demand notes are classified as a long-term liability instead of a current liability. The lack of testing of the loan covenants required the Mortgage Payable to Column Financial to be reclassified from a long-term liability to a current liability. The failure to re-classify the Mortgage Payable to Column Financial is a current liability causes the presentation of the statements to not be in conformity with GAAP, and in violation of AU 318.69.

**BOARD ACTION:** Moved by Mr. Brown and carried to find that there is sufficient evidence to make a preliminary finding of multiple violations of OAR 801-030-0010, Competence and Technical Standards, AU 314, Understanding the entity and its environment and assessing the risks of material misstatement for performing a global analysis of the audit of financial statements that included multiple entities. The risk required the analysis be at the entity level.

**VOTE:** 7 ayes.

**BOARD ACTION:** Moved by Mr. Brown and carried to find that there is sufficient evidence to make a preliminary finding of multiple violations of OAR 801-030-0010, Competence and Technical Standards, AU 339, Audit Documentation.

**VOTE:** 7 ayes.

**BOARD ACTION:** Moved by Mr. Brown and carried to find that there is sufficient evidence to make a preliminary finding of multiple violations of OAR 801-030-0010, Competence and Technical Standards, AU Section 333, Management Representations. This addresses the dates on management representation letters.

**VOTE:** 7 ayes.

**BOARD ACTION:** Moved by Mr. Brown and carried to find that there is sufficient evidence to make a preliminary finding of a violation of OAR 801-030-0010, Competence and Technical Standards, AU Section 318, Performing Audit Procedures in Response to Assessed Ricks and Evaluating the Audit Evidence Obtained. This ties back to the global analysis and had they been reviewed individually would there indeed be identifiable risks.

**VOTE:** 7 ayes.

**BOARD ACTION:** Moved by Mr. Brown and carried to find that there is sufficient evidence to make a preliminary finding of a violation of OAR 801-030-0010, Competence and Technical Standards, AU 337, Inquiry of a Client's Lawyer. This pertains to the failure to obtain and evaluate a letter or letters from the client's lawyer.

**VOTE:** 3 ayes, Wright, Crackenberg, Lauseng; 4 nays, Bridgham, Brown, Fronk, Graham

**MOTION FAILS**

**BOARD ACTION:** Moved by Mr. Brown and carried to find that there is sufficient evidence to make a preliminary finding of a violation of OAR 801-030-0010, Competence and Technical Standards, AU 311, Supervision. This relates to Mr. Swank, GMS partner failing to adequately supervise the audit.

**VOTE:** 2 ayes, Brown, Crackenberg; 5 nays, Bridgham, Fronk, Lauseng, Graham, Wright

**MOTION FAILS**

*Discussion of sanctions.*

The Board discussed how to best protect the public in this matter. It was agreed that although the firm's most recent peer review resulted in a pass, it would be a good idea to do some post-issuance reviews. The Board agreed that between 5 to 7 audits from October 1, 2013 through the present time. A portion of the civil penalties can be stayed if the reviews are acceptable.

**5. NEW BUSINESS CONTINUED**

**A. Reciprocity Application of Eric Gross**

The Board received a reciprocity application from Mr. Eric Gross on January 28, 2014. Mr. Gross currently holds a Texas active CPA license #091350. On the application form, Mr. Gross disclosed a history, beginning in 1981 and continuing through 1997, of ten arrests which varied from one incident of theft by check, possession of marijuana, and several arrests related to operating a motor vehicle while under the influence of alcohol (DUI). Three of those arrests resulted in dismissals. Six resulted in convictions with fines and probation, and the last one, in 1997, resulted in Mr. Gross being sentenced to serve three years in prison.

Mr. Gross was present at the meeting to answer any questions from Board members. Mr. Gross is currently working for a small company in Wilsonville and has worked there since 2010. Board members reviewed his past actions and addressed the fact that Mr. Gross has been clean and sober for over 17 years.

Board members discussed the matter and had no objections to granting Mr. Gross a license to practice public accounting in Oregon. Staff was advised to continue processing the application. The Board thanked Mr. Gross for appearing in person before the Board.

**6. APPROVAL OF BOARD MINUTES**

**A. August 11-12, 2014**

Board members reviewed the minutes as presented. There were two grammatical changes mentioned.

**BOARD ACTION:** Moved by Mr. Wright and carried to approve the minutes of August 11-12, 2014 with minor changes.

**VOTE:** 7 ayes.

**B. December 9, 2013 – previously approved, request for amendment**

The minutes were revised to include a case not previously noted in the minutes.

**BOARD ACTION:** Moved by Mr. Wright and carried to approve the minutes as revised.

**VOTE:** 6 ayes, 1 abstention (Fronk)

7. **PUBLIC COMMENT**

8. **REPORT OF OSCPA**

Mr. Harry Bose, representative of the OSCPA discussed recent activities of the society including the upcoming Professional Update conference.

9. **REPORT OF OAIA**

Mr. Ronald Johanesen, representing the OAIA reported activities of the OAIA.

10. **CPE COMMITTEE**

**A. Minutes of September 23, 2014 (information only)**

**B. Recommendations for Approval to Municipal Roster**

1. Matthew Hopkins
2. Constance Huntsman

**BOARD ACTION:** Moved by Mr. Crackenberg and carried to approve the two applicants for the municipal auditor license.

**VOTE:** 7 ayes.

11. **QUALIFICATION COMMITTEE**

**A. Minutes**

1. ~~September 24, 2014 (information only) – supplemental~~

**B. Recommendations for Approval**

1. Teddi Nakamoto
2. Michael Davis
3. Laura Carter
4. Natalia Bronner
5. Diane David
6. Noeline Nalujjuna
7. Ian Norgan
8. Kristin Henshen

**BOARD ACTION:** Moved by Mr. Graham and carried to approve the applications for initial licensing.

**VOTE:** 7 ayes.

12. **RATIFICATION REQUESTS**  
**A. CPA Certificates/Permits**  
**B. Firm Registrations**

A list of applicants and firms who were approved since the last Board meeting were presented and ratified by the Board.

**BOARD ACTION:** Moved by Mr. Graham and carried to ratify the applicants and firm registrations as presented.

13. **ADJOURNMENT AND ANNOUNCEMENT OF NEXT MEETING**

Mr. Pittioni proposed that the Board have the upcoming rulemaking hearing on December 11 at 1 p.m. with the possibility of a Board conference call immediately thereafter at 2 p.m. to discuss oral and written comments, and determine whether the proposed rules are ready for final consideration and adoption at the planned December 15, 2014 Board meeting, or alternatively would require additional work into January 2015 before final Board consideration. Mr. Pittioni and Ms. Fast discussed options with the Board on how best to incorporate the still upcoming work by the Qualifications Committee on the proposed Division 10 rules proposals addressing improved language to clarify the required competencies for licensure.

The Board meeting adjourned at 4:00 p.m.