



Oregon Board of Accountancy Public Board Meeting Minutes June 14, 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
Al Crackenberg, PA
Roger Graham, Public Member
John Lauseng, CPA
Roberta Newhouse, CPA

Board Staff:

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

Guests:

Sherri McPherson, OSCPA
Jerome "Tonk" Fischer, CPA (1:13 p.m.)
Stewart Hayes (12:30 p.m.)
Gordon Hanna, Attorney (1:19 p.m.)
Stephen Joye (1:19 p.m.)
Dean Allen, CPA (1:21 p.m.)

Jeffrey Hart, CPA
Anne Prior, CPA

1. CALL TO ORDER

Chair Bridgham called the meeting to order at 8:30 a.m. and announced the meeting was being recorded.

2. APPROVAL OF PUBLIC BOARD MINUTES

A. May 6, 2013

BOARD ACTION: Moved by Mr. Wright and carried to approve the minutes with noted corrections.

VOTE: 7 ayes.

3. REPORT OF CHAIR

A. Board Member Re-Appointments

Mr. Pittioni reported that Roger Graham, public member and Al Crackenberg, Public Accountant member, were re-appointed by the Governor's office to serve their second 3-year term.

B. NASBA Regional Meeting Report

Jessie Bridgham, John Lauseng, Larry Brown, Roberta Newhouse and Martin Pittioni attended the NASBA Regional meeting held in New Orleans, Louisiana. All reported it was a very informative meeting and also quite a bit of follow-up that the Board needs to be aware of. Firm mobility was a prominent topic at the conference, as well as the Private Company Council (PCC), the AICPA exposure draft *Proposed Financial Reporting Framework for Small and Medium-sized Entities (FRF-SME proposal)*, and the AICPA exposure draft on non-attest

compilation for the *Proposed Statement on Standards for Accounting and Review Services (proposed SSARS for Compilation Engagements)*.

Mr. Lauseng attended the new Board member orientation and reported that it was very beneficial in learning his role as a Board member and learning more about the services that NASBA provides to state Boards. Mr. Pittioni attended the executive director's discussion where the topic of online licensing and the possibility of NASBA developing tools for small Boards to aid with IT project solicitation and management. NASBA is looking into starting a pilot project for an online solution with a member board.

4. REPORT OF VICE-CHAIR

Mr. Brown volunteered at the May meeting to develop a draft presentation that may be used to address university students as an outreach program for the Board. He compiled a topic list and distributed to Board members for their review and comments. Mr. Crackenberg was contacted by a George Fox University professor requesting such a presentation for his students. Mr. Crackenberg and Mr. Brown will work together to develop a presentation.

Mr. Brown also reported that he contacted Mr. Bill Holmes to ask if he would be interested in serving on the Complaints Committee. Mr. Holmes was honored and is excited to begin. Mr. Brown will continue his recruitment efforts for the other committees.

5. REPORT OF TREASURER

Mr. Wright reviewed the cash flow statement for the Board. Mr. Wright reported that based on actuals through April 2013, the Board was projected to expend \$1,793,232 for the biennium ending June 30, 2013, against projected income of \$1,818,762. Wright noted that due to the cyclical nature of the Board's income from annual renewals in June, the revenue projection was not based on a straight-line projection instead was based on actuals received in in May and June from the previous renewal cycle. Mr. Wright reviewed additional line items with the Board.

6. REPORT OF EXECUTIVE DIRECTOR

Mr. Pittioni reported that the budget was signed by the Governor on June 13, 2013. Heather Shepherd will be out beginning June 26 for medical reasons, and due to the influx of renewals at that time, the Board office has re-hired Troy Custer on a limited duration basis to help with the workload.

Mr. Pittioni is working with DAS Human Resources on the Financial Investigator recruitment. He advised the Board of HR rule that states if the Board recruits for a limited duration position, and does not say in the recruitment announcement that the Board is seeking permanent funding for the position in its 2015-17 budget request, then the position must go out for a new recruitment if permanent funding is obtained, thus potentially losing the valuable employee who may had been filling the position in the interim. To avoid this, Pittioni is requesting that the Board allow him to include the Board seeking permanent funding language in the announcement, and to consider that accordingly during development of the agency's 2015-17 budget request. The Board would like Mr. Pittioni to proceed with in the direction of seeking permanent financing in the future for this position, and to reflect that accordingly in the recruitment announcement.

Mr. Pittioni and Ms. Fast continue to work with the NASBA and our IT consultant on initiating connectivity to the Accountancy Licensee Database (ALD) and CPAverify. The goal is to enable an automatic nightly upload to these systems to ensure the most accurate data.

As of June 13, 2013, the Board office had processed 621 renewal applications. There has been some feedback from inactive licensees regarding the requirement to obtain CPE to maintain their status. Mr. Wright requested information from the Board office regarding the differences between a licensee who resigns their license as opposed to letting it lapse. Board staff will work on a comparison sheet to post on the Board's website.

7. NEW BUSINESS

A. Anita Patil – 8-year rule extension request

Ms. Patil sent a request to the Board to consider extending the 8-year requirement to become license. Ms. Patil passed the CPA exam as an Oregon candidate in May 2004. It has not been the policy of the Board in recent years to approve this type of request.

B. AICPA Ethics Codification Changes

Board members were sent a link to the AICPA exposure draft regarding the AICPA Ethics Codification changes that are being proposed. There was also a presentation at the NASBA Western Regional meeting in New Orleans. The Board would like staff to post this information to the website and link to the exposure draft.

C. Rule Task Force Report

Over the course of the past nineteen months, Board members and Board staff have found several instances where there is conflict between the statutes and the rules, ambiguity, or confusion as to the intent of the rules. A task force was formed to review the statutes and rules and provide comments to the full Board on inconsistencies, improper references, and ambiguity. The document came just days prior to the meeting and the members have not yet had the opportunity to fully analyze the task forces' suggestions. This item will be brought back to the August meeting for discussion.

8. OLD BUSINESS

A. Interim Stipulation and Order for Richard Donaca #10-091CNK

In December 2011, the Board issued an Interim Stipulation and Order to Richard Donaca requiring he meet certain criteria; he has not complied with the Order. Mr. Donaca was to have five pre-issuance reviews of engagements performed in 2012; he has completed three of the five. The fourth pre-issuance review was found to have several concerns and recommendations. The reviewer noted fourteen compliance requirements that needed to be addressed, and Mr. Donaca issued the audit report without making all the necessary corrections.

The Interim Stipulation and Order states that if the review was found to have significant findings, the Board may impose additional sanctions to be determined. Ms. Kitterman contacted Mr. Donaca on June 3, 2013 and he indicated that he was in the process of trying to sell his practice. The Board would like proof of the sale prior to June 30, 2013.

BOARD ACTION: Moved by Ms. Newhouse and carried to find sufficient evidence of a violation of the terms outlined in the Interim Stipulation and Order and direct staff to negotiate or move forward with a Notice.

VOTE: 6 ayes, 1 nay (Wright)

9. PUBLIC COMMENTS

None

10. REPORT OF THE OAIA

None

11. REPORT OF THE OSCPA

Ms. McPherson reported that she had also attended the NASBA Regional Meeting and found it to be very informative. The society is working on the Professional Issues Update conference scheduled for early December. She would like to formally invite both Ms. Bridgham and Mr. Pittioni to attend and make a presentation. Ms. McPherson indicated that Mr. Pittioni recently attended a large firm steering committee meeting that is held only once or twice a year. She received very positive feedback from the firms on Mr. Pittioni's attendance and his transparency.

The Circle of Excellence banquet was held in May and Oregon had a recipient of the Elijah Watt Sells Award, a very prestigious recognition.

12. COMPLAINTS COMMITTEE

A. Complaints Committee Minutes of May 14, 2013
Information only.

B. Executive Session Items

1. **Case #11-063CI – Jerome Fischer**
Case #11-064CI – Fischer Hayes & Associates PC

BOARD ACTION: Moved by Mr. Wright and carried to find there is sufficient evidence to make a preliminary finding of violation for OAR 801-030-0005(2) Integrity and Objectivity for Case# 11-063CI and Case# 11-064CI

VOTE: 7 ayes.

BOARD ACTION: Moved by Mr. Wright and carried to find there is sufficient evidence to make a preliminary finding of violation for OAR 801-030-0010(1)(a), Professional Competence, for Case# 11-063CI and Case# 11-064CI.

VOTE: 6 ayes, 1 opposed (Wright).

BOARD ACTION: Moved by Mr. Wright and carried to find there is sufficient evidence to make a preliminary finding of violation for OAR 801-030-0010(1)(b), Due Professional Care for Case# 11-063CI and Case# 11-064CI.

VOTE: 7 ayes.

BOARD ACTION: Moved by Mr. Wright and carried to find there is sufficient evidence to make a preliminary finding of violation for OAR 801-030-0010(1)(c), Planning and Supervision for Case# 11-063CI.

VOTE: 5 ayes, 2 opposed (Wright, Crackenber)

BOARD ACTION: Moved by Mr. Wright and carried to find there is sufficient evidence to make a preliminary finding of violation for OAR 801-030-0010(1)(c) Planning and Supervision for Case# 11-064CI

VOTE: 6 ayes, 1 opposed (Wright)

BOARD ACTION: Moved by Mr. Wright and carried to find there is sufficient evidence to make a preliminary finding of violation for OAR 801-030-0010(1)(d), Sufficient Relevant Data for Case# 11-063CI.

VOTE: 4 ayes (Newhouse, Lauseng, Graham, Bridgham), 3 opposed (Wright, Brown, Crackenberg)

BOARD ACTION: Moved by Mr. Wright and carried to find there is sufficient evidence to make a preliminary finding of violation for OAR 801-030-0010(1)(d), Sufficient Relevant Data for Case# 11-064CI.

VOTE: 5 ayes, 2 opposed (Wright, Crackenberg)

BOARD ACTION: Moved by Mr. Wright and carried to find there is sufficient evidence to make a preliminary finding of violation for OAR 801-030-0010(4), Tax Standards for Case# 11-063CI.

VOTE: 3 ayes, (Graham, Newhouse, Lauseng) 4 opposed (Wright, Bridgham, Brown, Crackenberg). Motion Failed.

BOARD ACTION: Moved by Mr. Wright and carried to find there is sufficient evidence to make a preliminary finding of violation for OAR 801-030-0010(4), Tax Standards for Case# 11-064CI.

VOTE: 5 ayes, 2 opposed (Wright, Crackenberg)

BOARD ACTION: Moved by Mr. Wright and carried to find there is sufficient evidence to make a preliminary finding of violation for OAR 801-030-0010(5), Other Professional Standards, failure to comply with SSARS, Section 80, for Case# 11-063CI.

VOTE: 7 ayes

BOARD ACTION: Moved by Mr. Wright and carried to find there is sufficient evidence to make a preliminary finding of violation for OAR 801-030-0010(5), Other Professional Standards, failure to comply with SSARS, Section 80, for Case# 11-063CI, for Case# 11-064CI.

VOTE: 7 ayes

BOARD ACTION: Moved by Mr. Wright and carried to find there is sufficient evidence to make a preliminary finding of violation for OAR 801-030-0020(8), Business Transactions with Clients for Case# 11-063CI.

VOTE: 6 ayes, 1 opposed (Crackenberg)

BOARD ACTION: Moved by Mr. Wright and carried to find there is sufficient evidence to make a preliminary finding of violation for OAR 801-030-0020(8), Business Transactions with Clients for Case# 11-064CI.

VOTE: 7 ayes

BOARD ACTION: Moved by Mr. Wright and carried to find there is sufficient evidence to make a preliminary finding of violation for OAR 801-030-0020(1), Professional Misconduct for Case# 11-063CI.

VOTE: 7 ayes

BOARD ACTION: Moved by Mr. Wright and carried to find there is sufficient evidence to make a preliminary finding of violation for OAR 801-030-0020(1), Professional Misconduct for Case# 11-064CI.

VOTE: 7 ayes

Mr. Graham proposed a civil penalty of \$28,000 for Jerome "Tonk" Fischer, however the Board believes Mr. Fischer has been more egregious in his acts than the firm and proposed \$40,000. The firm, Fischer Hayes & Associates LLC should have a monetary penalty as well as required CPE. Although the current partners were not associated with the firm when some of the violations occurred, they cannot be separated from the fines assessed.

2. Case #12-028NK – Sidney Hodges, Jr.

BOARD ACTION: Moved by Mr. Wright and carried to find there is sufficient evidence to make a preliminary finding of violation for ORS 673.320(3), assumed or used the title or designation “certified public accountant” or the abbreviation “CPA” for the following periods of time:

July 1, 2010 – March 12, 2012 and

July 1, 2012 – Present

VOTE: 7 ayes

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

VOTE: 7 ayes.

The Board believes that Mr. Hodges was very egregious in his actions. His license was lapsed for 20-1/2 months, renewed for 3-1/2 months and then he let it lapse again and continued to practice. He is still in lapsed status as of the date of the meeting. The Board believes Mr. Hodges’ license should be revoked.

BOARD ACTION: Moved by Ms. Newhouse and carried to issue a Cease and Desist Order to Mr. Sidney Hodges Jr.

VOTE: 6 ayes, 1 opposed (Wright)

3. Case #13-008 – Hodges & Hart LLC

BOARD ACTION: Moved by Mr. Wright and carried to find that there is sufficient evidence to make a preliminary finding of a violation of ORS 673.160(5), Registration of business organizations.

VOTE: 7 ayes.

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

VOTE: 6 ayes, 1 opposed (Crackenberg).

BOARD ACTION: Moved by Mr. Wright and carried to find that there is sufficient evidence to make a preliminary finding of a violation of OAR 801-030-0020(4), Public Communications.

VOTE: 6 ayes, 1 opposed (Crackenberg).

When discussing possible sanctions, the Board members were hopeful that Mr. Hart and Ms. Prior would have made some significant progress in cleaning up the firm registration since they appeared at the Complaints Committee meeting on May 14, 2013. Ms. Bridgham informed Mr. Hart and Ms. Prior that the Board would be within their authority to issue a \$5000 civil penalty for every report that had been issued in the past 47 months. While the Board believes that there was some unintentional lack of action on the two remaining partners, they do not believe that they were flaunting the rules, they have been knowingly been operating in violation.

If the remaining partners can develop a suitable operating agreement, it may mitigate the severity of the sanctions. The Board would like to see *significant* progress by the August 12, 2013 Board meeting and have the senior partner expelled.

13. PROPOSED CASE SETTLEMENTS**A. Jiryis Alyateem, Case# 12-044NK**

A Proposed Settlement Agreement and Stipulated Final Order was mailed to Mr. Alyateem for his consideration. The terms of the Order indicated that Mr. Alyateem's CPA license would be revoked and he would pay civil penalties of \$12,500.

Mr. Alyateem's attorney, Susanne Feigum submitted a proposal that was presented to the Board on May 6, 2013. They proposed that Mr. Alyateem work under the supervision of a CPA until he obtained the requisite experience, complete additional CPE and pay a \$5,000 civil penalty. The Board rejected the proposal.

Another proposal was submitted for consideration at the June 14, 2013 meeting. It proposes that Mr. Alyateem will relinquish and return his CPA license, send a Board approved letter to his clients, provide the Board with a list of his clients and proof of mailing the approved letter and sell his practice by July 15, 2013. When the proposal was submitted, Mr. Alyateem had a contract to sell. The buyer has since rescinded his offer. He claims that there is another buyer he is now working with.

The Board would like to move forward with revocation and civil penalties.

14. CONTINUING PROFESSIONAL EDUCATION COMMITTEE

- A. Minutes of April 23, 2013
Information only

- B. Municipal Auditor Applications
 - 1. Approvals
 - a. John Michael Barnett
 - b. Michael D. Downs
 - c. Gurumakh Khalsa
 - d. Marilyn Gayle Klampe
 - e. Jason Tinder
 - f. Adam Davis
 - g. Craig Mayers

All applications were approved at the May 6, 2013 Board meeting.

15. Peer Review Oversight Committee

- A. Minutes from May 16, 2013
Information only
- B. Personal Services Contract: OSCPA Peer Review Program

The committee has reviewed the many iterations of this contract at past meetings. The OSCPA has reviewed and Phyllis Barker of the OSCPA recommended removal of a sentence in the contract which Karen Johnson, AAG agreed to. The final draft will be presented to the PROC at their meeting in July. Mr. Wright reported that the Peer Review committee is looking to the Board for guidance on what their role should be. The committee was created statutorily and the Oregon Administrative rules state that the role is to oversee the contractor that provides peer review for CPAs. Members on the committee would like to expand their role. Ms. Bischoff suggested pre-issuance and post-issuance reviews and evaluation of reviews that found significant findings. The Board will discuss further at the August meeting.

16. Qualifications Committee

- A. Minutes of April 25, 2013
- B. Minutes of May 1, 2013
Information Only
- C. Approval of Applications
 - 1. 41 CPA Certificates
 - 2. 0 PA Licenses
 - 3. 10 Firm Registrations

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

VOTE: 7 ayes

- D. Applications for Discussion

1. Clint Fairchild

Mr. Fairchild gained his experience at Jeld-Wen Inc. Mr. Fairchild's supervisor licensee provided a written explanation on his competencies which was reviewed by Mr. Charles Landers, committee member assigned to this file. Mr. Landers contacted the supervisor licensee, Brad Elam, requesting further information and specific examples of work performed by Mr. Fairchild that would substantiate experience in competencies B – G. The committee reviewed the additional information and determined that the scope of Mr. Fairchild's experience did not provide sufficient experience in the areas of risk assessment or the assessment of an entity's objectives.

BOARD ACTION: Moved by Ms. Newhouse and carried to find that there is insufficient experience to grant Mr. Fairchild a CPA license at this time. The Board would like to offer Mr. Fairchild the option of withdrawing his application for licensure.

VOTE: 7 ayes.

2. Heather Robison

Ms. Robison's application was reviewed by the committee who found that there was insufficient experience to grant her a license. Ms. Robison was supervised by an individual licensed in Nebraska who has recently retired. Board staff requested further information from Ms. Robison's supervisor licensee, however, he never responded. Board staff recently was able to locate the supervisor and has sent the request again, and if received, will be presented at the next committee meeting.

Board Discussion: Mr. Graham discussed the different avenues available to applicants to gain qualifying experience: audit/attest, other professional standards, and industry/government. Within those options the requirements for the applicant varies greatly. An applicant that applies with experience gained through audit and/or attest work has no additional requirement to explain how they achieved the competencies or examples of specific projects as opposed to the other two options. Applicants who gain experience in private industry/government must go through an intensive review process by the Qualifications committee. Currently there is not a formal review process for applicants applying under "other professional standards". Applicants in this category are currently reviewed by Board staff. Mr. Graham would like further discussion on this topic at the August meeting.

17. CPA Examination

- A. Top 10 Scores on CPA Examination taken April 2012 – March 31, 2013
Information only

The meeting adjourned at 4:20 p.m.

DRAFT