

Dishonesty, fraud or gross negligence in the practice of public accountancy

Ms. Liz is estate representative for Ms. Nice who died in October 2001. Ms. Nice trusted and relied upon Mr. Brown, CPA (Brown) to provide tax advice and services. While finalizing the estate, Ms. Liz discovered that the Internal Revenue Service (IRS) had not received all tax payments submitted for tax years 2000 and 2001, nor had a tax return been filed for year 2000. Ms. Liz checked with the Oregon Department of Revenue (DOR) and discovered the same. Copies of checks written to IRS and DOR were ordered from the bank, and it was discovered that Brown endorsed and deposited the checks into his bank accounts.

After investigation it was determined that from about March 22, 2001 through September 12, 2001, Brown converted to his own account a total of \$28,326 in checks signed by Ms. Nice and intended for payment of taxes to IRS and DOR. Brown never transferred funds from his bank accounts to either the IRS or DOR in payment of taxes owed by Ms. Nice. Brown prepared and on March 13, 2001 signed the 2000 federal and state income tax returns. Brown delivered the returns to Ms. Nice, she signed and Brown promised to drop them in the mail. Ms. Nice received her copy, but IRS and DOR did not receive returns.

BOARD ACTION:

ORS 673.170(2)(b) – Dishonesty, fraud or gross negligence in the practice of public accountancy

\$5,000 civil penalty for each check misappropriated

Six checks at \$5,000 each: \$30,000

OAR 801-030-0020(1)(b) – Professional misconduct – conduct causing reasonable doubts about the individual’s honesty, fairness and respect for the rights of others:

Six checks at \$5,000 each: \$30,000

\$60,000

Misappropriation of funds and professional misconduct:

REVOCATION OF LICENSE

Dishonesty, fraud or gross negligence

The Board received information that Mr. Jay Green, CPA (Green) was formerly known as John Grey. John Grey (Grey) legally changed his name to Jay Green sometime between 1980 and 1989. Grey entered a guilty plea to two felony charges for possession of a controlled substance in 1987.

Jay Green sat for the CPA exam and was granted an Oregon CPA certificate and permit on October 23, 1995. Green did not disclose either the felony convictions or his former name on any application made to the Board for the exam or licensing, or on any renewal form.

Green worked as a controller in private industry. His last employer filed a civil suit against Green alleging breach of contract and breach of duty of good faith and fair dealings (appropriating company information to his own use and benefit, and manipulating the books in order to show a profit by creating a false invoice earning Green a bonus), breach of duty of loyalty (showing his potential partner the financial records of the employer) and conversion of property (charging the employer's credit card for unauthorized purchases and taking items from the employer's premises for his personal use. A summary judgment was issued against Green on each of these charges. Green's CPA permit lapsed for failure to complete required CPE.

Green is the owner of ABC Tax Services, an unregistered accounting firm, which advertises in the yellow page directory. This advertisement includes misleading information stating that the firm has "Certified Public Accountants & Business Advisors specializing in individuals and small business."

BOARD ACTION:

ORAR 801-030-0010(1) and (3) – Competence and technical standards:

\$5,000 civil penalty for manipulation of books to create
false revenue for the purpose of creating a bonus (GAAP): \$ 5,000

ORS 673.170(2)(b) – Dishonesty, fraud or gross negligence in the practice of public accountancy, and OAR 801-030-0020(1)(a) – Professional misconduct:

\$5,000 civil penalty for each of six occurrences of
conversion of funds, (6 x \$5,000), and; 30,000

\$5,000 civil penalty for appropriating to his own benefit confidential
information pertaining to clients of his employer: 5,000

ORS 673.160(1)(a) and (b) – Registration of business organizations;

ORS 673.320(4) – Permit or registration required;

OAR 801-010-0345 – Registration of business organizations:

\$5,000 civil penalty for offering public accounting services in an
unregistered firm: 5,000

OAR 801-030-0020(4)(a)(b) and (e) – Public communications and advertising:

\$5,000 civil penalty each for misleading advertisings of an unregistered firm on office sign and yellow page advertising (2 x \$5,000): 10,000

\$5,000 civil penalty for each of two occurrences of misleading advertising by the use of plural "Certified Public Accountants" on office sign and yellow pages advertising: (2 x \$5,000): 10,000

ORS 673.320(3) – Use of title or designation "Certified Public Accountant", "Public Accountant", "CPA" or "PA":

\$5,000 civil penalty for holding out while lapsed by display of business sign: 5,000

\$5,000 for holding out on resume, prior to date of certification: 5,000

Total Recommended Civil Penalties: \$75,000

ORS 673.170(2)(a)(A) – Fraud or deceit in obtaining or applying for a certificate:

Revocation of License

Summary of Committee Recommendations:

Revocation of license and civil penalties of \$75,000

Holding out as a Certified Public Accountant

The Board learned that D. Brown (Brown) listed his business, XYZ Bookkeeping Service, in the yellow pages under the section titled Certified Public Accountants. This listing occurred in telephone directories for two consecutive years. Brown is not a CPA.

BOARD ACTION:

Falsely representing to the public that he is licensed as a certified public accountant and/or public accountant for the practice of public accountancy in Oregon in violation of ORS 673.320(4)

\$2,000 Civil Penalty for two yellow page listings (\$1,000 each)

**Registration of Business Organizations
Public Communications and Advertising**

XYZ Associates (XYZ) submitted a letter to the Board on letterhead that listed the names of eight CPAs. Two of the eight CPAs are not included on the firm's registration form. XYZ letterhead did not disclose that one of the CPAs is inactive. The letterhead included "PC" after the names of four of the eight CPAs. The professional corporations listed on the letterhead are not registered with the Board as firms.

XYZ letterhead listed the following business organizations:

- Mr. X CPA, PC
- Mr. Y CPA, PC
- Mr. Z CPA, PC
- Mr. A CPA, PC

Publication of these business organizations on firm letterhead constitutes holding out to clients as a business organization engaged in the practice of public accountancy. None of the professional corporations listed above are now, or have ever been registered as firms with the Board of Accountancy.

The names of Mr. Z and Mr. A on XYZ letterhead indicates that they are employed by or owners of XYZ. Mr. Z and Mr. A are not employees or owners of the firm. By including these names on XYZ letterhead, XYZ is presenting information that is false and misleading.

Mr. Z renewed his license as inactive during June 2002. Mr. Z stated that he did not hold out as a CPA after June 30, 2002 and was not responsible for XYZ letterhead on which his name was listed. Mr. A stated that he was not responsible for XYZ letterhead on which his name was listed.

BOARD ACTION:

ORS 673.160 – Registration of Business Organizations

ORS 673.320(4) – Permit or Registration Required

Unregistered Professional Corporation listed on XYZ letterhead

Mr. X, CPA \$ 2,500

Mr. Y, CPA \$ 2,500

OAR 801-030-0020(4) – Public Communications and Advertising

XYZ Associates \$2,500

Total \$7,500

Professional Misconduct – respect for the laws of the state and nation

Workman was an employee of Silverman, CPA. Silverman's payroll policy was to issue payroll checks on the 10th of each month. Silverman issued payroll checks to Workman after the 10th of the month. Silverman also issued payroll checks to Workman when there were insufficient funds to cover the checks.

Workman received 14 payroll checks after the maximum time allowed by the Oregon Board of Labor and Industry (BOLI). Silverman disregarded BOLI payday rules in issuing late paychecks. By failing to issue payroll checks to employees timely, Silverman displayed conduct that would cause a reasonable person to have substantial doubts about Silverman's honesty, fairness and respect for the rights of others or for the laws of the state and nation.

BOARD ACTION:

OAR 801-030-0020(1)(a) and (b) – Professional Misconduct, civil penalty for each violation of BOLI requirements:

14 violations of OAR 801-030-0020(1)(a) and (b), at \$1,000 each	\$14,000
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Civil Penalty for Holding Out as Certified Public Accountant

D. Jones (Jones) stated he was a certified public accountant on a resume submitted to a potential employer. The employer discovered that Jones's license lapsed four years prior to the date of the interview when Jones failed to renew. Jones did not indicate on the resume that his license was lapsed. Jones misrepresented himself by using the designation on his resume to obtain employment.

BOARD ACTION:

Civil Penalty for Holding Out as Certified Public Accountant
Assessed a civil penalties of \$1,000 for violation of ORS
673.320(3)

Professional Misconduct and Failure to Respect the Laws of the State

The Board received a notice of Oregon tax liens posted in a newspaper against Ms. White, CPA (White) for \$164,524 by Department of Consumer and Business Services (DCBS). Ms. White failed to carry Worker's Compensation coverage from June 8, 1995 through April 8, 1999 and was assessed penalties. The lien was settled by a bank garnishment.

Lapse of Worker's Compensation insurance coverage is a violation of ORS Chapter 656.017

BOARD ACTION:

Civil penalty of \$3,000 for violation of OAR 801-030-0020 (1) (b), Professional Misconduct and Failure to Respect the Laws of the State