

BOARD OF ACCOUNTANCY
February 5, 2007 Meeting Minutes

3218 Pringle Road SE #110

Salem OR 97302

*The Board of Accountancy protects the public by regulating
the practice and performance of all services
provided by licensed accountants.*

Board Members Present

Lynn Klimowicz, CPA, *Chair*
Kent Bailey, CPA, *Vice-Chair*
Jens Andersen, CPA, *Treasurer (phone)*
James Gaffney, CPA *(phone)*
Ray Johnson, CPA *(phone-excused at 3:00 pm)*
Stuart Morris, PA *(phone-excused at 1:00 pm)*
Eric Lind, *Public Member*

Staff Members

Carol Rives, *Administrator*
Noela Kitterman, *Investigator*
Kimberly Bennett, *Coordinator*
Joyce Everts, *Coordinator*
Heather Shepherd, *Coordinator*

Guests

Cheryl Langley, OSCPA *(phone)*
Karey Schoenfeld, CPA, OSCPA *(phone)*
Ivan Besemann, CPA, OAIA *(phone)*
Jeffrey Dover, Asst. Attorney General
Gerald Burns, CPA *(phone 1:00 pm)*

1. CALL TO ORDER

A. Appoint Process Observer

A quorum being present, Chair Klimowicz called the meeting to order at 10:10 a.m. Ray Johnson was appointed process observer.

2. APPROVAL OF MINUTES

A. December 11, 2006, Board Meeting

BOARD ACTION: Moved by Morris and carried to approve the December 11, 2006 Board meeting minutes.

VOTE: Chair Klimowicz did not vote; 6 ayes

3. REPORT OF CHAIR

A. Nominations for NASBA Vice Chair 2007

Klimowicz inquired if the Board would like to support Thomas Sadler, CPA, as the 2007 NASBA Vice Chair.

1. **Board Discussion:** *The Board supported Sadler in the past; he is well versed on the issues; he lives in the state of Washington and has been a strong representative for all state boards of accountancy. Oregon welcomed Sadler's work as the Regional Director for the Pacific Region and he has demonstrated leadership skills as a participant on many NASBA committees.*

BOARD ACTION: Moved by Andersen and carried to support Thomas Sadler, CPA as the 2007 NASBA Vice Chair.

VOTE: Chair Klimowicz did not vote; 5 ayes; 1 excused (Morris)

B. Scholarship for Staff Member to Attend CPE Conference

Board Discussion: *NASBA will pay for conference fees and the Board will pay for travel, lodging and meals.*

BOARD ACTION: Moved by Bailey and carried to send the CPE Coordinator to the CPE Conference in Las Vegas.

VOTE: Chair Klimowicz did not vote; 5 ayes; 1 excused (Morris)

4. **REPORT OF VICE CHAIR**

A. **Topics for May Work Session – Eugene, Hilton**

The following items will be added to the agenda for the May 2007 work session:

- Substantial Equivalency and the UAA
- Development of a policy for cost recovery on legal matters
- Implementation and policy for fingerprinting
- Working relationship with the Secretary of State, Division of Audits
- Non-disclosure agreement provisions

Mr. Andersen offered a conference room at Jones & Roth if an additional Board meeting day is scheduled on Saturday May 19, 2007.

5. **REPORT OF TREASURER**

Andersen reviewed the December 2006 financial report and noted that revenues are \$284,932 over projection and expenditures are \$22,402 under projections. The ending balance has increased as revenues increase and Andersen noted that there is very little flux in expenses.

Rives stated that an overview of the 2007-2009 budget was presented to the Joint Committee on Ways and Means and Subcommittee on General Government on January 25, 2007. The Board commented that the graphs attached to the Budget presentation handouts are especially helpful and the 25% increase in licensees in the past 10 years speaks well for the profession. The final Budget presentation is February 14, 2007. Chair Klimowicz agreed to attend the Budget hearing.

6. **LEGAL**

A. **Report of Legal Items**

1. **Proposed ALJ Orders**

a. **Thomas Barrett**

Barrett contracted with an unlicensed tax preparer to review and sign tax returns prepared by the tax preparer. Barrett did not meet with clients; he relied on the tax preparer to obtain adequate and accurate information from tax clients. The Board issued a Notice of Proposed Civil Penalty for \$10,000, for failure to retain copies of client tax returns that Barrett reviewed and signed in years 2003 and 2004, in violation of OAR 801-030-0015(2)(b). The Board also authorized issuance of a Cease and Desist Order if Barrett continues to practice in this manner.

Barrett requested a hearing and the Administrative Law Judge (ALJ) issued a Proposed Order.

Board Discussion: *The Board reviewed the ALJ Proposed Order in which the ALJ found that Barrett did not retain client tax documents for two years and concluded that a civil penalty of \$1,000 is appropriate for each violation of OAR 801-030-0015(2)(b) for a total civil penalty of \$2,000.*

BOARD ACTION: Moved by Bailey and carried to approve the ALJ Proposed Order assessing a total civil penalty of \$2,000 for violation of OAR 801-030-0015(2)(b) for failure to retain 2003 and 2004 client tax documents.

VOTE: Chair Klimowicz did not vote; 6 ayes

b. **Rostad & English**

The Board issued a Notice of Proposed Civil Penalty of \$15,000 (\$5,000 x 3 violations) for failure to protect confidential client information in violation of OAR

801-030-0015(1). An administrative hearing was held, and the ALJ issued a Proposed Order and an Amended Proposed Order, correcting technical errors. The ALJ Proposed Order recommends that Rostad & English be required to pay a civil penalty of \$2,500, based on findings that the Board did not adequately advise the firm of the reasons for Kylo's revocation, and on findings that Rostad & English mitigated harm by cooperating with law enforcement and assisting victims at no cost.

Board Discussion (December 11, 2006): *Legal counsel advised the Board of the following actions available to the Board:*

- *Adopt the Amended ALJ Order*
- *File Exceptions to the findings of the ALJ, and appeal the ALJ Order*
- *File a Second Amended Proposed Order, making substantive changes that are supported by the evidence, and imposing a civil penalty in an amount no greater than the civil penalty in the Proposed Notice. Respondent will have an opportunity to submit Exceptions to a Second Amended Proposed Order.*

Board Discussion (February 5, 2007): *The AAG presented a Consent Agreement from Rostad & English proposing a \$10,000 civil penalty with \$5,000 stayed for two years, subject to the terms of the order, for violations of OAR 801-030-0015(2)(d) failing to adopt reasonable safeguards for the safe custody of working papers and OAR 801-030-0020(1) failing to adopt safeguards to protect working papers.*

BOARD ACTION: Moved by Bailey and carried to approve the Consent Agreement, Stipulation and Order assessing a \$10,000 civil penalty with \$5,000 stayed for two years, subject to the terms of the order, for violations of OAR 801-030-0015(2)(d) and OAR 801-030-0020(1).

VOTE: Chair Klimowicz did not vote; 6 ayes

c. David T. Wilson

David Wilson (Wilson) agreed to prepare tax returns for Client and her mother (Mother). Wilson delayed preparation of Mother's tax return and did not respond to Client's telephone messages or e-mails.

The Board issued a Notice of Proposed Civil Penalty of \$6,000 for violations of: OAR 801-030-0015(2) Client records and working papers (\$2,500); OAR 801-030-0020 (1) Professional misconduct (\$2,500); OAR 801-030-0020(7) Board communications and investigations (\$1,000).

Board Discussion: *Mr. Wilson requested a hearing, which was conducted January 3, 2007. The Board has not received the ALJ proposed order.*

2. Proposed Consent Orders

a. John Gregor

HUD conducted an audit of Gregor's audit engagements that identified the following deficiencies:

- limited evidence of review and supervision of Gregor's audit staff
- one staff member did not have adequate CPE
- representation letters were missing or insufficient
- inadequate pension disclosure
- failure to comply with FASB 95 cash flow statements and lack of documentation for internal control

The Board conducted an investigation and issued a Notice of Proposed Civil Penalty as follows:

- \$25,000 (\$5,000 for each of five (5) violations described above, for violation of OAR 801-030-0010 Competence and Technical Standards, and
- require fifteen (15) random pre-issuance reviews over a two (2) year period to be performed by a peer reviewer approved by the Board.

At the December 2006 Board meeting, the Board approved a proposal submitted by Gregor in which Gregor agreed to obtain no fewer than 15 pre-issuance reviews of audits over a three year period and a \$25,000 civil penalty with \$20,000 stayed.

Board Discussion: *Gregor did not sign the consent order that incorporated the terms of his proposal submitted to the December 2006 Board meeting. AAG has rescheduled a pre-hearing conference in February. No Board action.*

b. Michael Holland

Michael Holland (Holland) prepared individual income tax returns and used the title or designation of certified public accountant while his permit was lapsed.

The Board issued a proposed Notice of Revocation and Civil Penalties:

- Revocation of licensee's permit to be stayed for four (4) years, stay to be contingent upon no finding of violations during the four (4) year period
- Assess a \$15,000 civil penalty for three (3) violations of OAR 673.320(3) holding out as a CPA while in lapsed status
- Require eight hours of Ethics CPE in addition to 80 hours required for renewal, and submit article of not less than 2,500 words describing the reasons that compliance with licensing requirements is important, to be posted on the Board website, or
- Complete 16 hours of Ethics CPE if licensee elects not to prepare article described above.

Board Discussion: *Holland submitted a proposed consent agreement for the Board's consideration. The Board discussed the offer, which included a proposed reduction of the stayed revocation to three years and a reduced civil penalty. It was noted that Holland's license lapsed in 2000 for failure to meet licensing requirements.*

BOARD ACTION: Moved by Bailey and carried to assess the following:

- Stayed revocation for three (3) years so long as Holland complies with all Board statutes and rules during the three year period;
- Civil penalty of \$10,000 for three (3) violations of OAR 673.320(3) holding out as a CPA while in lapsed status
- 12 additional hours of continuing professional education (CPE) in Ethics. The Ethics CPE is subject to the following requirements:
 - a. 12 hours of CPE are in addition to the 4 hours of ethics and the 80 hours that are required for permit renewal;
 - b. Courses must be submitted to the Board for approval in advance;
 - c. The 12 hours are to be completed on or before June 30, 2007 and proof of completion submitted to the Board on or before July 31, 2007.

VOTE: Chair Klimowicz did not vote; 6 ayes

c. Holland & Brooks

Holland & Brooks LLP (Firm) performed public accounting and tax services and held out as a registered firm from October 1, 2005 through May 19, 2006. During this same time period, Firm's 50% partner, Michael Holland did not have an active permit. Firm did not notify the Board that Firm name changed on October 1, 2005, and did not timely renew Firm registration on or before January 1, 2006.

The Board issued a Notice proposing a civil penalty of \$12,000 as follows:

- \$500 civil penalty for violation of ORS 673.160, OAR 801-010-0345, failure to register as a firm and OAR 801-030-0020(6)(e), failure to submit written notification of change of firm ownership and name;
- \$500 civil penalty for failure to timely renew Firm registration in violation of ORS 673.160(1) and OAR 801-010-0345(1).
- \$2,000 civil penalty for violation of ORS 673.320(4), OAR 801-030-0020(4), assumed or use of the certified public accountant designation without registration on a building sign, telephone greeting, yellow page display advertisement, letterhead and envelope return address, preparer box of individual income tax returns;
- \$4,000 civil penalty for violation of ORS 673.160(4), OAR 801-010-0340(1), did not meet the requirements of non-CPA ownership when a lapsed and unlicensed partner owned 50% of accounting firm
- \$5,000 civil penalty for violation of ORS 673.615, 673.610 and 673.320(1) for providing tax, attest and compilation services without firm registration.

Board Discussion: *The Board reviewed a settlement proposal from Holland & Brooks and noted that the Firm regrets its failure to meet firm registration requirements and has taken steps to ensure compliance in the future.*

BOARD ACTION: Moved by Bailey and carried to assess a \$9,500 civil penalty with \$3,500 stayed for three years so long as Holland & Brooks complies with all Board statutes and rules during the three (3) year period, after which payment of the penalty will be waived. Terms of the order are:

- \$500 for failure to submit written notification of a change in firm name and firm ownership within 30 days, in violation of ORS 673.160(6)(a), OAR 801-010-0345(5)(b) and OAR 801-030-0020(6)(e) and for failure to timely renew firm registration, in violation of ORS 670.160(1) and OAR 801-010-0345(1);
- \$2,000 for failure to meet the requirements of non-CPA ownership;
- \$5,000 for providing tax preparation, attestation and compilation services through an unregistered firm, in violation of ORS 673.615, ORS 673.610 and ORS 673.320(1);
- \$2,000 for assuming or using the title "Certified Public Accountant" or "CPA" designation by an unregistered firm in violation of ORS 673.320(4), for using a false or misleading firm name, and for use of public communications and advertisements having reference to Respondent's professional services that include false, fraudulent, misleading or deceptive statements or claims in violation of OAR 801-030-0020(4).

VOTE: Chair Klimowicz did not vote; 6 ayes

3. Other

a. License Application

The Board received an application for CPA certificate and permit to practice public accounting. The applicant reported a felony conviction in 2001 and provided information regarding the conviction.

Board Discussion: *The Board is concerned there may be issues regarding this conviction that could affect Independence in performing public accounting services, and that the individual's trustworthiness could also be called into question. There may also be additional charges or incidents that are not included in current information. The Board requested staff to request updated information.*

b. Jerry Dunning

In March, 2006, Client sent his 2005 tax documents to Jerry Dunning (Dunning). In April, Client attempted to contact Dunning to inquire about the status of the tax return. Dunning did not respond to Client's communications, including telephone messages, e-mails and FAX transmissions.

Board issued a Notice of Proposed Civil Penalty of \$5,000 for violation of OAR 801-030-0020(1) (a) and (b) Professional Misconduct.

Board Discussion: *Dunning has advised the Board that he recently suffered a stroke, that he is still recovering from the effects of the stroke, and that he is not currently able to practice. The Board discussed alternatives to resolve the complaint until Dunning fully recovers from the stroke.*

BOARD ACTION: Moved by Bailey and carried to issue a Consent Order requiring that Dunning shall apply for inactive status immediately and submit medical evidence that he is recovered and capable of providing public accounting services as a condition of reinstatement to active status; assess a civil penalty of \$5,100 for the following violations:

- OAR 801-030-0020(1) Professional Misconduct when Dunning failed to timely respond to Client telephone messages, email and FAX transmissions (\$5,000); and
- OAR 801-030-0020(9) failure to provide Board with written notice of change of address within 30 days of such change (\$100)
- Payment of \$2,500 of the civil penalty shall be stayed conditional upon compliance with the terms of the Consent Order; and payment of the remaining \$2,600 shall be submitted to the Board within six (6) months of the date that licensee's permit is reinstated.

VOTE: Chair Klimowicz voted; 7 ayes

c. Pauly, Rogers and Co., PC and Parry Ankersen, CPA

The Board opened a complaint against Pauly, Rogers and Co., PC related to the audit of City of West Linn. Pauly, Rogers and Co. is represented by Attorney Jeanne Chamberlain who informed the Board that the City of West Linn is considering litigation against Pauly, Rogers and Co. and that the parties have agreed to mediation. The attorney submitted a letter requesting that the Board defer investigation of the complaint until the mediation or litigation is concluded.

The Board opened a second complaint against Parry Ankersen, CPA related to the audit of Portland Public Schools (PPS). The attorney's letter also requested that the Board defer investigation of the complaint against Parry Ankersen.

Jeanne Chamberlain's letter requested that the Board delay the investigations by entering into Litigation Monitoring Agreements (LMA) with Pauly,

Rogers and Co., PC with regard to the West Linn matter and with Parry Ankersen with regard to the Portland Public Schools matter.

Board Discussion: *The Board agreed that an LMA with Pauly, Rogers relating to the City of West Linn audit is appropriate based on mediation efforts. Since there is no evidence of pending litigation with regard to Portland Public Schools, an LMA in that matter is not appropriate at this time.*

BOARD ACTION: Moved by Bailey and carried to commence investigation of the Portland Public School audit and request copies of workpapers for Portland School District. Enter into a Litigation Monitoring Agreement with Pauly, Rogers and Co. regarding the City of West Lynn audit. The LMA shall include the following provisions:

- One year in length with Board's option to renew
- Firm agrees not to enter into a non-disclosure agreement
- Board to receive copies of documents exchanged in discovery
- Board to receive copies of workpapers at the conclusion of mediation or litigation.

VOTE: Chair Klimowicz did not vote; 5 ayes; 1 recused (Johnson)

d. Gerry McReynolds

Pacific Tax Services (Company) is not a registered public accounting firm in Oregon and Gerry McReynolds is not licensed as a certified public accountant or Public Accountant in Oregon. Company issued a report on financial statements for a client on January 7, 2005. The report issued by Company did not include ORS chapter 673.325 safe harbor language.

October 2006, the Board assessed a \$10,000 civil penalty for violation of ORS 673.160 and 673.320(1), Permit or registration required to issue a compilation report and ORS 673.325, Statement allowed without permit or authorization. Staff is requested to send a letter to Tax Board inquiring if they will publish an article in their newsletter or website advising Licensed Tax Consultants not to issue misleading financial reports and advise of the potential civil penalty if they do so. A cease and desist order was issued to McReynolds on September 25, 2006. Mr. McReynolds requested a hearing, which is currently scheduled.

Board Discussion: *Board reviewed a letter in which McReynolds states the following:*

- That he did not know the language was restricted for licensed CPAs
- That he is no longer using unauthorized language on financial reports
- That he prepares tax returns to supplement Social Security income, and that he does not prepare financial statements except as required for tax returns
- That he is not in good health, and that the requirement to pay a \$10,000 civil penalty would be a hardship, and
- That he requests the Board to forgive payment of the civil penalty.

BOARD ACTION: Moved by Bailey and carried to deny McReynolds' request for the Board to forgive the \$10,000 civil penalty.

VOTE: Chair Klimowicz did not vote; 6 ayes

7. COMPLAINTS COMMITTEE

A. Report of Complaints Committee

1. Acceptance of Minutes

BOARD ACTION: Moved by Bailey and carried to accept the January 12, 2007, noting typographical errors, and to approve the Consent Agenda.

VOTE: Chair Klimowicz did not vote; 5 ayes, 1 excused (Morris)

B. Consent Agenda

1. Recommendations

- | | | |
|-----|------------------------|-----------|
| *a. | Talbot Korvola Warwick | 04-01-002 |
| *b. | Paveena Wong | 04-11-089 |
| c. | Kenneth Ribb | 05-11-033 |
| d. | John Fuller | 06-06-025 |
| *e. | PKF CPAS PC | 06-11-044 |

*Items moved to 7.C. for discussion

C. Items Removed from Consent Agenda

1. 7.B.1.a. Talbot Korvola Warwick LLP 04-01-002

At the November 9, 2006 Complaints Committee meeting TKW auditors (auditors) stated that the Aquarium CEO did not disclose construction loans and outstanding construction invoices to TKW. The auditors used the third quarter financial statements for audit planning.

The Committee questioned whether billings for work in progress could have been detected, and if there were vouchers for the fixed assets. Interest payments made to Wells Fargo for a construction loan could have alerted TKW auditors to unrecorded liabilities.

Aquarium's 2001 third quarter financial statements disclosed a \$955,797 loan from a bank; however the year-end financial statements classified the loan as a donation. The auditors did not request written documentation from the client that the bank intended the \$955,797 loan as a donation. The auditors did not obtain verification from the bank that the loan was indeed a donation.

Subsequent to the November 9, 2006 Committee meeting, two committee members met with TKW to gather more information.

Roger Korvola CPA, Angelique Whitlow CPA, Timothy Gillette CPA and Mark Friedman, Esq., arrived at the January 12, 2007, Complaints Committee meeting at 9:10 a.m.

The Committee questioned TKW about construction expenses and asked why they do not correlate with actual project costs. Whitlow commented that the invoices from the construction company are for various projects spanning more than one year and some invoices were expensed. The construction company worked on various aquatic projects concurrently. For that reason, invoices could not be directly tied to actual costs.

The auditors stated that the CEO told TKW that there was no construction in progress, but that construction would begin about one month after year-end. They stated that the CEO took measures to ensure that the invoices to TKW appeared to be valid.

The financial statement did not disclose construction costs at June 1999 year-end, and in June 2000 the construction project was completed. Friedman commented that the CEO misrepresented the facts to TKW. Friedman noted that the CEO was sophisticated and knew how to 'head off' suspicion.

The Committee questioned whether the auditors physically observed the premises to determine whether there was construction activity. TKW responded that they could not see construction activity as a large construction wall screened off construction.

The Committee asked about bank wire transfers and “interest” notations shown on an audit work paper that could have been a red flag for the auditors. Friedman stated that TKW’s attorney made the “interest” notations on workpapers during litigation. TKW stated that there were three (3) different banks with “Security” in the name and that the CEO interchanged the transactions with these banks.

The Committee inquired about the bank loan that was subsequently recorded as a donation without documentation. TKW responded that the CEO was on the Board of the FDICA and was considered to be trustworthy. TKW reported that it was not unusual for the Aquarium to receive donations of \$1 Million.

West Coast Bank held an unsecured loan for the Aquarium. Friedman said that West Coast Bank checked with UCC and discovered another unsecured loan with a different bank and met with a member of the Board of Directors to apprise them of the Aquarium’s additional unsecured loan.

TKW was asked to describe the level of professional skepticism exercised during the audit and to describe how they thought through the audit process. TKW responded that they did not know that they were being lied to. They received information from two sources and believed both to be trustworthy. TKW performed the Aquarium audit since the early 1990’s and during that time, the Aquarium retained the same CEO. Friedman noted that the CEO was convicted for fraud based on altered Aquarium board minutes, forged signatures and false documents.

TKW stated that they have improved their audit procedures; they now complete UCC searches; they use audit software that helps the Firm sort documents, duplicate vendor addresses, etc. If the Firm looks at what we’ve learned from all this ... “we’ve learned a lot”.

Committee Discussion: The Committee considered the overlap between professional judgment and professional skepticism with respect to the bank donation recorded without documentation, and construction work in progress that was not reconciled to total fixed asset additions. The Committee noted that while it may not have been unusual for the Aquarium to receive contributions of \$1,000,000, at the very least TKW should have requested documentation to substantiate changing the loan to a donation. The Committee also notes that perhaps there were just enough oddities to have warranted additional audit work. The Committee discussed: auditor judgment, the massive fraud that occurred at the Aquarium, the fact that the CEO was on the Federal Reserve Board and had a passion for the Aquarium. The Committee agreed that these circumstances could make it difficult to detect fraud.

COMMITTEE RECOMMENDATION: Moved and carried to recommend no violation.

Board Discussion: Roger Korvola, CPA, Angelique Whitlow, CPA and Mark Friedman, Esq., arrived at the Board meeting in person at 10:30 a.m. Ray Johnson, CPA, James Gaffney, CPA and Eric Lind, Public Member recused themselves from the discussion and from voting.

In response to questions regarding the auditors’ exercise of professional skepticism, Ms. Whitlow stated that Phyllis Bell, the Aquarium President and the controller intentionally withheld information from the auditors. Bell had been with the Aquarium for many years, was a Director on the Federal Reserve Bank, and was sophisticated in banking operations. There was no apparent reason for auditor mistrust.

Whitlow commented that during the audit she thought there was an appropriate level of skepticism, but in hindsight, she would have done things differently. She commented that the auditors did not 'dig' deeper into the contribution because there were several contributions in that amount over the years that TKW worked with the Aquarium.

Korvola emphasized that the Firm takes a very serious approach to audit engagements. He called the Board's attention to the Firm's peer review history noting that there has not been even a letter of comments in the last two peer reviews. The Firm also performs municipal audits and the Division of Audits' review of the Firm's municipal audits has had virtually no comments as well.

The Board expressed concern that Firm did not exercise adequate professional skepticism by failing to obtain persuasive evidence when the Firm:

1. Did not confirm or take steps to verify why a bank loan of \$955,797 was subsequently recorded in the financial statements as a contribution
2. Did not confirm construction accounts payable, with the following results:
 - a. Unrecorded construction accounts payable of \$1,379,000 at June 30, 2001 and
 - b. Understated construction costs incurred resulted in \$2 million in unrecorded notes payable at June 30, 2001
3. Did not investigate or document why there was no change in construction in progress reported by Aquarium between June 30, 2000 and June 30, 2001
4. Did not investigate or document that Aquarium's records and financial statements were prepared in accordance with generally accepted accounting principles.

BOARD ACTION: Moved by Bailey and carried to assess a \$3,000 civil penalty for violation of OAR 801-030-0010(2) Accounting Standards – failure to exercise adequate professional skepticism.

VOTE: Chair Klimowicz voted; 4 ayes; 3 abstained (Gaffney, Johnson, Lind)

2. 7.B.1.b. Paveena Wong

04-11-089

Client engaged Paveena Wong (Wong) to provide tax and accounting services. Client stated that Wong changed the name of Client's company without her permission, and did not provide timely tax services. When Client terminated Wong's services, Client stated that Wong did not return her original documents.

ALLEGED VIOLATIONS:

Responsibilities to Clients

801-030-0015(2) Client records and working papers.

(b) Requested records. Licensees are required to furnish the following records to a client or former client, upon request, within a reasonable time after such request:

(A) In response to a client's request for client records, made within a reasonable time, that occurs prior to issuance of a tax return, financial statement, report or other document prepared by a licensee, the licensee shall furnish to the client or former client any accounting or other records belonging to or obtained from or on behalf of the client that the licensee received for the client's account or removed from the client's premises.

Wong did not timely respond to Client's letter, dated May 8, 2002, requesting that Wong return original documents. Wong mailed the documents to Client on December 23, 2004; more than two years after Client requested the documents and after Wong received the letter of complaint from the Board.

OAR 801-030-0020(7) Board communications and investigations.

(b) Licensees who receive any Board communication requesting the licensee to provide a written response shall:

(A) Provide a written response to the Board within 21 days of the date the Board communication was mailed,

(B) Respond fully and truthfully to inquiries from and comply with all Board requests.

(c) The Board of Accountancy shall provide written notice to licensees of complaints filed against the licensee and of any Board investigation that affects the licensee. Licensees who receive notice of a complaint investigation:

(A) Shall cooperate fully with all Board investigations, including any request to appear to answer questions concerning such investigations, and

(B) Shall not engage in any conduct or activity that would hinder or obstruct a Board investigation.

Wong did not timely submit a written response to the Board's notice of complaint. Wong's timely response was due on or before November 29, 2004. Wong's first response to the Board investigation was received December 29, 2004.

OAR 801-050-0020 Participation in Peer Review Program

(2) Public accounting services subject to peer review. *Attest and compilation services that require participation in a peer review program include, but are not limited to: any level of review, audit, agreed-upon procedures, report on a financial statement, examination of prospective financial statements, reports on internal control effectiveness, and compilations of a financial statement.*

Wong's Firm renewal application stated in response to question 9, that Firm performs 5 – 10 compilations for Oregon Clients. Wong submitted a letter to OSCPA that Firm did not perform any compilations for the peer review period ending March 31, 2006. Wong will provide the Board with additional information about this inconsistency prior to the Complaint Committee meeting.

INVESTIGATOR SUMMARY

801-030-0015(2) Client records and working papers.

(b) Requested records

Did not timely return Client's records

OAR 801-030-0020(7) Board communications and investigations

Did not timely submit a written response to Board

OAR 801-050-0020(2) Participation in Peer Review Program

Did not obtain a peer review for period ended March 31, 2006

Paveena Wong and her husband entered the Complaints Committee meeting in person at 10:50 a.m. to answer questions from the Committee members.

With respect to the record retention rule, Wong stated that she simply did not check the rules. She stated that the client did not come to get the records at the expected time of arrival and therefore Wong simply set the records aside. Wong stated that she now knows the rule.

Regarding peer review for the period ended March 31, 2006, Wong stated that she did not perform any compilations for the three (3) year period. On the Firm renewal application, she thought she would be performing five to ten compilations, but in fact did not perform any compilations.

Wong stated that her practice is limited to accounting and tax work; Quick books 'clean-up' and tax returns. Wong stated that during 2006 she did not prepare financial statements.

Wong did remember why she did not respond to Board communication in a timely manner. Wong stated that six months is too long a time to retain client records and she is now monitoring time related issues more closely. Wong left the meeting at 1:20 a.m.

Committee Discussion: Wong previously had a record retention violation and should have learned from that experience. The Committee discussed asking Wong to notarize a letter stating that she did not perform compilations during 2003 through 2006.

COMMITTEE RECOMMENDATION: Moved and carried to recommend issuing a Consent Agreement assessing a \$1,000 civil penalty for violation of: OAR 801-030-0020(7), Board Communications and Investigations; and write a letter to the Board stating that she did not perform compilations from March 2003 through March 2006 and further that she understands reporting to the Board is required if compilations are performed.

Board Discussion: *Wong's 2006-2007 firm renewal application indicated she would perform 5-10 compilations; however, Ms Wong stated that she has not performed any compilations. Wong needs to tell the Board in writing that she did not complete compilations for the years in question.*

BOARD ACTION: Moved by Bailey and carried to issue a Consent Order assessing a \$1,000 civil penalty for violation of OAR 801-030-0020(7) Failure to Respond to Board communication in a timely manner and request a written statement from Wong confirming that she did not perform compilations from March 2003 through March 2006 and that she will comply with Peer Review requirements if she performs attest or compilation services in the future.

VOTE: Chair Klimowicz voted; 6 ayes, 1 excused (Morris)

3. 7.B.1.e. PKF CPAS PC

06-11-044

PKF, Certified Public Accountants, A Professional Corporation (Firm) is a public accounting firm located in San Francisco, California that provided audit services and issued a report dated May 5, 2004 for Rogue Valley Country Club, Inc. (Client #1). Firm was not registered in Oregon, and Firm's audit partner, Richard O'Leary (O'Leary) did not hold a certified public accountant permit or authorization to practice while providing audit services or when issuing the audit report.

ALLEGED VIOLATIONS:

ORS 673.160 Registration of business organizations.

Business organizations of certified public accountants or of public accountants shall register with the Oregon Board of Accountancy if the business organization: (b) Holds itself out to clients in this state or the public in this state as a business organization engaged in the practice of public accountancy, and

OAR 801-010-0345

A business organization organized for the practice of public accountancy shall register with the Board as a firm if the business organization engages in any of the following activities in this state:

(b) Holds out to clients or to the public that the business organization is in any way engaged in the practice of public accountancy.

When Firm displayed PKF Certified Public Accountants, A Professional Corporation on Client #1's audit report, PKF held out to Oregon clients and to the public that Firm was registered in Oregon to provide public accounting services. PKF CPAs PC was not registered when it held out to clients that it was a business organization engaged in the practice of public accountancy.

ORS 673.320(1) Permit or registration required to provide attestation or compilation services or issue report; exceptions; use of terms certified public accountant, public accountant, C.P.A. or P.A.; exceptions

A person or business organization in this state shall not provide attestation or compilation services for or issue a report on financial statements of any other person, firm, organization or governmental unit unless the person or business organization holds a permit or registration issued under ORS 673.010 to 673.457.

Firm provided attest services and issued audit reports on financial statements for Client #1 and Client #2 in years beginning 1999 through 2006 without obtaining Firm registration under ORS 673.010 to 673.457.

ORS 673.320(3)

A person shall not assume or use the title or designation "certified public accountant," or the abbreviation "C.P.A.," or any other title, designation, words, letters, abbreviation, sign, card or device tending to indicate that the person is a certified public accountant, unless the person holds a valid certificate of certified public accountant issued under ORS 673.040 and a permit issued pursuant to ORS 673.150.

Without holding a permit or authorization to practice in Oregon, Richard O'Leary used the title or designation "certified public accountant," or the abbreviation "CPA" or other device that tended to indicate that he was a certified public accountant when he issued audit reports, prepared and signed tax returns, and issued business cards with the CPA designation to Client #1 and Client #2.

ORS 673.320(4)

A business organization shall not assume or use the title or designation "certified public accountant" or the abbreviation "C.P.A.," or any other title, designation, words, letters, abbreviation, sign, card or device tending to indicate that the business organization is composed of certified public accountants unless the business organization is registered under ORS 673.160.

PKF assumed or used the title "certified public accountant" or the abbreviation "CPA", or designation, words, sign, and devices that tended to indicate that the business was composed of certified public accountants beginning on or about December 31, 1998 through December 5, 2006, during which time the firm was not registered as a public accounting firm.

INVESTIGATOR SUMMARY

ORS 673.160, ORS 673.320(1) and OAR 801-010-0345

Provided attest services in Oregon and issued audit reports on financial statements for Oregon clients without Firm registration

ORS 673.320(3)

O'Leary assumed or used the title or designation "certified public accountant," or the abbreviation "CPA" without obtaining a permit or authorization to practice in Oregon.

ORS 673.320(4)

Firm assumed or used the title “certified public accountant” or the abbreviation “CPA” without firm registration in Oregon.

Committee Discussion: The Firm was not licensed in Oregon when they provided audit services for Oregon businesses and issued audit reports.

COMMITTEE RECOMMENDATION: Moved and carried to recommend a \$21,000 civil penalty for the following violations:

- **ORS 673.160, and OAR 801-010-0345**

Firm provided attest services in Oregon for Oregon clients without Firm registration (\$3,000)

- **ORS 673.320(1)**

Firm issued audit reports on financial statements for Oregon clients without registering (\$3,000)

- **ORS 673.320(4)**

Firm assumed or used the title “certified public accountant” or the abbreviation “CPA” without firm registration (\$6,000) (\$3,000 x 2)

- **ORS 673.320(3)**

O’Leary assumed or used the title or designation “certified public accountant,” or the abbreviation “CPA” without obtaining a permit or authorization to practice (\$6,000) (\$3,000 x2)

- **ORS 673.320(1)**

O’Leary issued audit reports for Oregon clients without obtaining a permit or authorization to practice (\$3,000)

Board Discussion: *The firm was not licensed in Oregon when they used the title or designation for certified public accountant, issued audit reports for a client in Oregon.*

BOARD ACTION: Moved by Bailey and carried to issue a \$21,000 Notice of Proposed Civil Penalty as follows:

- **ORS 673.160, and OAR 801-010-0345**

Firm provided attest services in Oregon for Oregon clients without Firm registration (\$3,000)

- **ORS 673.320(1)**

Firm issued audit reports on financial statements for Oregon clients without registering (\$3,000)

- **ORS 673.320(4)**

Firm assumed or used the title “certified public accountant” or the abbreviation “CPA” without firm registration (\$6,000) (\$3,000 x 2)

- **ORS 673.320(3)**

O’Leary assumed or used the title or designation “certified public accountant,” or the abbreviation “CPA” without obtaining a permit or authorization to practice (\$6,000) (\$3,000 x2)

- **ORS 673.320(1)**

O’Leary issued audit reports for Oregon clients without obtaining a permit or authorization to practice (\$3,000)

VOTE: Chair Klimowicz voted; 6 ayes, 1 excused (Morris)

8. REPORT OF ADMINISTRATOR

A. Affirmative Action Report and Policy

The Board reviewed the 2007-09 Affirmative Action Plan that conforms to 2007 requirements. The current Board policy was approved by the Board at its regular Board meeting May 23, 2005. The revised action plan reflects accomplishments in 2005-07 and expectations for the 2007-09 biennium.

BOARD ACTION: Moved by Gaffney and carried to approve the revised Affirmative Action Report and Policy.

VOTE: Chair Klimowicz did not vote; 5 ayes; 1 excused (Morris)

B. Legislative Update

1. SB 182, Firm Ownership Requirements

This bill is moving forward and is scheduled to be presented on the Senate floor this week.

2. HB 2078, Public Accountant Board Position

The Board received a letter from Mr. Addington, EA requesting that enrolled agents be added to this bill to serve on the Board if a PA is not available. The OSCPA has an amendment to substitute a CPA or a public member if a PA is not available. OAIA has expressed an interest in increasing the number of PA members on the Board. Ms. Rives recommended withdrawing the bill based on competing interests expressed by various groups.

BOARD ACTION: Moved by Gaffney and carried to withdraw HB 2078.

VOTE: Chair Klimowicz did not vote; 5 ayes; 1 excused (Morris)

3. HB 2079, Licensing Requirement Clarifications

Mr. Besemann confirmed that the OAIA has no concerns or issues with the provisions in the bill that relate to experience requirements for the public accountant license.

4. HB 2252, Fingerprint Authority for Board Employees

Last session the Board received authority through HB 2157 to request fingerprint records from its licensees. At that time Board employees were not included in the requirement for fingerprinting. The Administrator has requested an amendment to HB 2252 to include authority for the Board to require fingerprints from employees, contractors and vendors.

BOARD ACTION: Moved by Gaffney and carried to move forward with the amendment.

VOTE: Chair Klimowicz did not vote; 5 ayes; 1 excused (Morris)

C. UAA Section 23

1. AICPA Mobility Committee Report *(Gerald Burns joined by phone at 1:00 p.m.)*

The Board reviewed the AICPA Special Committee Report on Mobility and Final Report of Activities and Recommendations, and the AICPA Board consideration of the Special Committee's recommendations. The report was issued by the AICPA Committee to consider barriers to mobility and recommend solutions, and concluded with a unanimous decision to recommend a federally mandated state-based mobility provision. In order for the provision to be effective, it would have to be enacted by Congress.

Board Discussion: *Ms Langley, OSCPA stated that the AICPA is on a mission to escalate mobility as soon as possible because CPAs are practicing in states without being licensed in that state. OSCPA announced their plan to submit a bill based on*

the NASBA/AICPA Exposure draft for revisions to the UAA Section 23 (Substantial Equivalency) and advised that OSCPAs has established a taskforce consisting of Steve McConnel, CPA, the UAA national committee of AICPA and the local legislative policy team to discuss this issue.

Gerald Burns, CPA, noted that the comment period for the UAA Section 23 exposure draft does not expire until May 15, 2007 and suggested that proposed legislation should be delayed at least until comments are received and reviewed. The Board agrees that increased mobility is a desirable goal, but the Board should have time to discuss the merits and concerns related to UAA Section 23 after the comment period has expired. The Board is concerned that if a provision is passed in Oregon before other states have acted, mobility for Oregon licensees would not be enhanced. Concern was also expressed regarding potential enforcement costs without offsetting revenue from certified public accountants who would practice in Oregon under the terms of the exposure draft.

The Board would like to convene a taskforce to study the mobility issue. Gerald Burns, Ray Johnson, Lynn Klimowicz and Kent Bailey volunteered to work on a Board taskforce. The taskforce will work with OSCPAs and NASBA.

OSCPAs stated that they will take the Board's comments back to the legislative committee. OSCPAs intends to move forward with a bill when the comment period is over. Schoenfeld will send the Board a copy of the bill. Klimowicz requested that Schoenfeld provide some factual detail to the Board.

D. Todd Knapp

Client engaged Todd Knapp (Knapp) to do monthly accounting work for client's trucking business and to prepare the 2002 income tax return. Client found discrepancies in the accounting work received from Knapp.

The Board (February 2006) issued a Notice of Proposed civil penalty of \$12,000 for violations of 801-030-0015(2)(d)(C) Working Papers, with one-half the civil penalty waived if licensee completes 24 hours of CPE (compilation and review standards) within the next two years in addition to the required annual 80 hours, and an annual peer review for the next two years to be conducted by a qualified CPA approved by the Board.

Knapp paid the civil penalty and completed 28 additional hours of CPE.

Board Discussion: *The Board reviewed a memo dated January 22, 2007 from Rives (Attachment A). Knapp has completed the first Peer Review and has asked if the requirement for the second Peer Review will be stayed if Knapp limits his practice to SSARS 8 services or below.*

The Board agrees that the peer review may be stayed so long as he is only performing SSARS 8 services. However if Knapp subsequently does higher level work, he will be required to have the second Peer Review. If Knapp has workpapers, there would be a special review that can be used for his peer review requirement. The Board authorized Rives to consult with Harry Bose, CPA regarding the peer review requirements.

E. Progress Report, Database Upgrade

Ms. Rives reported that the database upgrade is in the final stages. Enforcement information is being added to the database. When the project is complete, licensee disciplinary actions will be available to the public on the Board website licensee

search tool. The Board needs to assist in the development of policies regarding disciplinary information reported on the website. Mr. Andersen agreed to work with staff in developing criteria for such policy.

F. Complaints and SOS Audits Division

There are a growing number of complaints against CPAs who audit school districts, cities and other governmental agencies. The Board discussed the possibility of coordinating the Board's investigation procedures with those of Secretary of State Audits Division. Klimowicz suggested that the CPE Committee work with the Division of Audits. This topic will be discussed at the May 2007 worksession.

9. PUBLIC COMMENTS

None

10. REPORT OF OAIA

Besemann questioned whether the Board notifies Certified Public Accountant (CPA) exam candidates when they pass three sections of the exam that the candidate is eligible to apply for the Public Accountant license. Rives responded that candidates are not notified when they pass three sections of the exam. Exam candidates apply under two separate provisions that determine which type of license they are seeking and the exam requirements for that license.

11. REPORT OF OSCPA

Schoenfeld stated that OSCPA is meeting with Board members Johnson and Gaffney to develop a solution regarding the proposed non-disclosure issue. OSCPA is monitoring 25 bills this legislative session. April 2007, Rob Moody will become OSCPA chair and Schoenfeld will be chair elect. Scott R. Wright will be the OSCPA Board liaison.

12. OLD BUSINESS

A. OAIA Request for Board Support

Besemann requested that the Board endorse a letter to the Internal Revenue Service (IRS), Office of Professional Responsibility in Washington D.C. explaining that CPAs and PAs in Oregon are licensed under the same statutes and that Public Accountants should be recognized for practice before the Internal Revenue Service.

BOARD ACTION: Moved by Gaffney and carried to endorse the letter to the IRS.

VOTE: Chair Klimowicz voted; 5 ayes; 2 excused (Morris, Johnson)

B. Kylo Update

Kylo pled guilty to tax evasion, mail fraud and impersonating the government. The loss is estimated at \$1.3 million. A sentencing hearing is scheduled for March 27, 2007 and the IRS is encouraging Board members to testify at the sentencing hearing. Mr. Gaffney volunteered to testify. The Board Investigator will compile statistics for the testimony.

C. Proposal: OAR 801-030-0020(7)(d) (Non-disclosure agreements)

This item is deferred for discussion at the May work session.

13. CONTINUING PROFESSIONAL EDUCATION

A. Report of CPE Committee

a. January 2007 meeting cancelled, however committee members reviewed municipal auditor applications and submitted the following recommendations.

2. Consent Agenda

a. Erin R. Reynolds

COMMITTEE RECOMMENDATION: Accept; the applicant completed the requirements for the municipal audit roster, as required by OAR 801-020-0690.

b. Deborah L. Wilbur

COMMITTEE RECOMMENDATION: Accept; the applicant completed the requirements for the municipal audit roster, as required by OAR 801-020-0690.

BOARD ACTION: Moved by Gaffney and carried to accept the Consent Agenda.

VOTE: Chair Klimowicz voted; 5 ayes, 2 excused (Morris, Johnson)

14. PEER REVIEW OVERSIGHT

A. Report of Peer Review Oversight Committee

1. Acceptance of Minutes

a. November 7, 2006 (Revised)

BOARD ACTION: Moved by Andersen and carried to accept the revised November 7, 2006 PROC minutes.

VOTE: Chair Klimowicz voted; 5 ayes; 2 excused (Morris, Johnson)

b. January 23, 2007

BOARD ACTION: Moved by Andersen and carried to accept the January 23, 2007 PROC minutes.

VOTE: Chair Klimowicz voted; 5 ayes; 2 excused (Morris, Johnson)

***Board Discussion:** The Board received a complaint relating to work performed by a PROC Committee member. The Board is concerned that competence to serve on the committee may be subject to question while the complaint is pending. The Board suggested that those questions would be avoided if the committee member requested a leave of absence from committee service until the complaint is resolved. Andersen agreed to speak with the Committee member and advise Rives of the outcome.*

B. Items Removed from Consent Agenda

1. Consent Agenda: 2nd modified Peer Review Report

In response to the self-reporting rules, a registered firm reported and submitted a second consecutive modified system review report with the firm renewal application. The PROC Committee reviewed the 2000 and the 2003 modified reports, corrective action taken by the Firm, and the Firm's final acceptance letters from the OSCP. The committee concluded that the peer reviewer's comments for 2000 and 2003 were not repetitive and concurred that the 2000 and 2003 issues have been resolved.

The Committee questioned whether the committee should also review the Firm's Peer Review Report for 2006 and corrective actions the Firm took subsequent to the 2000 and the 2003 PR Reports. The Committee suggested that it may be appropriate to inspect the Firm in person if Firm receives a modified Peer Review Report for 2006.

COMMITTEE RECOMMENDATION: The Committee moved to request a copy of the Firm's 2006 Peer Review Report, Letter of Comments, Letter of Response, the RAB corrective action letter and if applicable a copy of the results of the RAB letter and the completion letter from the OSCP.

***Board Discussion:** The Firm has met the requirements under PR reporting rules and responded to all the Committee's requests. The Board determined that it is not necessary to request the Firm's 2006 Peer Review Report and associated*

correspondence. If the Firm's 2006 Peer Review Report is modified, the Board will receive a copy of the Report. The Board concluded that we need to allow the Peer Review System a chance to work.

BOARD ACTION: Moved by Andersen to request a copy of the Firm's 2006 Peer Review Report and related correspondence.

VOTE: Chair Klimowicz voted; 1 aye (Gaffney); 3 nays (Klimowicz, Andersen, Bailey); 2 excused (Morris, Johnson); 1 abstained (Lind)

15. QUALIFICATIONS COMMITTEE

A. Report of Qualifications Committee

- a. No meeting held

B. Consent Agenda

1. Approval of Applications

a. CPA Certificates/Permits

28 CPA Applications

b. PA Licenses/Permits

None

c. Firm Registrations

9 Firm Applications

d. Substantial Equivalency Approval

17 Substantial Equivalency Authorizations

BOARD ACTION: Moved by Chair Klimowicz and carried to approve the applications submitted on the Consent Agenda.

VOTE: Chair Klimowicz voted; 5 ayes, 2 excused (Morris, Johnson)

16. CPA EXAM

A. Policy under Americans with Disabilities Act

The Board reviewed the policy regarding exam candidates who request special accommodations under the ADA. This policy will be posted on the Board's website.

BOARD ACTION: Moved by Gaffney and carried to approve ADA policy.

VOTE: 5 ayes, Chair Klimowicz voted; 2 excused (Morris, Johnson)

17. CODE OF PROFESSIONAL CONDUCT

No meeting held

18. NEW BUSINESS

A. PCAOB Brief

The Board reviewed the *Proposed Standard on Auditing Internal Controls over Financial Reporting and Related Proposals*. Bailey suggested that the Code of Professional Conduct Committee (CPC) might be interested in reviewing the briefs.

B. Pike Letter

The Board reviewed letters from Mr. Pike, a CPA from Weiser, Idaho, requesting to operate a "tax interview location" in Ontario, Oregon. The letters described supervision of the Ontario office and provided the names of employees who will work in the Ontario office.

BOARD ACTION: Moved by Andersen and carried to approve Pike's request.

VOTE: Chair Klimowicz voted; 5 ayes; 2 excused (Morris, Johnson)

19. PROCESS OBSERVER REPORT

Everyone did a good job of identifying themselves which is helpful on phone conferences.

20. NEXT MEETING

Date: May 19, 2007 Board Meeting (tentative)
May 20, 2007 Work Session
May 21, 2007 Board Meeting

Location: Eugene Hilton
66 East 6th Ave, Eugene, OR 97401

Time: 1:00 p.m. Board Meeting on May 19, 2007 (tentative)
8:30 a.m. Work Session on May 20, 2007
8:00 a.m. Exec Session on May 21, 2007
9:00 a.m. Board Meeting on May 21, 2007

21. MEETING ADJOURNED

There being no further business, the meeting adjourned at 3.35 p.m.