

**OREGON BOARD OF ACCOUNTANCY**  
**August 22, 2005 Minutes**  
**3218 Pringle Road SE #110**  
**Salem OR 97302**  
**503-378-4181**

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

**Board Members Present**

Stuart Morris, PA, *Chair* (arrived at 12:55 p.m.)  
Lynn Klimowicz, CPA  
Jens Andersen, CPA  
Kent Bailey, CPA  
Ray Johnson, CPA  
Anastasia Meisner, *Public Member*

**Staff Members**

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

**Excused**

James Gaffney, CPA

**Guests Attending**

James Aldrich, PA, OAlA Representative  
Stephen McConnel, CPA, OSCPA Representative  
Christine Chute, AAG  
Cheryl Langley, OSCPA  
Brooks Peacock  
Robert Creamer, CPA  
Kevin Sundberg, CPA  
James Rigos, Attorney

1. **CALL TO ORDER** The meeting was called to order at 9:23 a.m.
  - A. **Appoint Process Observer** Ray Johnson was appointed process observer.
  - B. **Introduction of Guests**

2. **APPROVAL OF MINUTES**
  - A. **May 2005, Work Session and Board Meeting**

**BOARD ACTION:** Moved by Andersen and carried to approve the minutes of the May 22, 2005, work session and minutes of the May 23, 2005, Board meeting.  
**VOTE:** Acting Chair Klimowicz did not vote; 4 ayes, 2 excused (Morris, Gaffney)

- B. **June 6, 2005, Board meeting**

**BOARD ACTION:** Moved by Johnson and carried to approve the minutes.  
**VOTE:** Acting Chair Klimowicz did not vote; 4 ayes, 2 excused (Morris, Gaffney)

3. **REPORT OF CHAIR**
  - A. **NASBA**

1. **Nominations: Regional Directors)**
    2. **NASBA Conferences, Travel Authorization**
      - a. **Annual Conference**

**BOARD ACTION:** Moved by Johnson and carried to approve travel for the Board Chair, the administrator, and an additional Board member to attend the annual meeting in October.  
**VOTE:** Acting Chair Klimowicz did not vote; 4 ayes, 2 excused (Morris, Gaffney)

- b. **CBT Symposium** NASBA will sponsor one administrator and one Board member to attend the CBT conference. Mr. Johnson volunteered to attend.

**BOARD ACTION:** Moved by Meisner and carried to authorize travel for Mr. Johnson and the administrator to attend the meeting.

VOTE: Acting Chair Klimowicz did not vote; 4 ayes, 2 excused (Morris, Gaffney)

**c. Center for Public Trust**

Mr. Johnson volunteered to attend this one-day meeting following the CBT Symposium.

**BOARD ACTION:** Moved by Meisner and carried to authorize travel and meeting fee for Mr. Johnson to attend the meeting.

VOTE: Acting Chair Klimowicz did not vote; 4 ayes, 2 excused (Morris, Gaffney)

**3. Highlights NASBA Executive Meeting**

Ms. Rives provided highlights of the Executive Directors Conference.

**4. NASBA Bylaws, Proposed Changes**

**BOARD ACTION:** Moved by Meisner and carried to appoint Mr. Morris as the Board delegate to approve the proposed changes.

VOTE: Acting Chair Klimowicz did not vote; 4 ayes, 2 excused (Morris, Gaffney)

**5. Exposure Draft, UAA Provisions**

Ms. Rives mailed a letter on behalf of the Board informing NASBA that this item will not be discussed until the fall work session.

**BOARD ACTION:** Defer to the October 16, 2005 work session agenda.

**6. Report from Regional Conference**

Ms. Rives reported that NASBA announced the formation of the Compliance Assurance Review Board (CARB). Steve McConnel explained that the function of the CARB is to ensure that the peer review programs are in compliance with peer review standards. CARB would issue a report similar to the report issued by the Exam Review Board (ERB). The fees incurred by CARB to perform oversight would be generated from fees that firms pay for peer review. Not all states appear to be interested in a program of this nature. It is possible that NASBA will conduct a pilot test with five states. Oregon would benefit from a program like this.

Ms. Klimowicz reported that Texas requires exam candidates to complete an ethics course prior to sitting for the exam. The course is available through local colleges and is different from the CPE ethics course.

**7. Focus Questions**

Ms. Rives drafted responses to the NASBA focus questions.

**BOARD ACTION:** Moved by Andersen and carried to approve the Oregon response to the Regional Directors' Focus Questions.

VOTE: Acting Chair Klimowicz did not vote; 4 ayes, 2 excused (Morris, Gaffney)

**4. REPORT OF VICE CHAIR**

**A. October Work Session**

The October work session and regular Board meeting will be held at the Hilton Hotel in Eugene, Oregon October 16 and 17, 2005. The following topics were suggested:

1. NASBA – Oregon CBT contract

2. Record retention: question whether a legislative concept is necessary based on new attest requirement
3. Compare license status options; what services may an inactive licensee perform in a CPA firm
4. Consider Ethics rule prohibiting confidentiality agreements
5. Firm name questions
6. UAA, Exposure draft dated August 1, 2005
7. Pursuing additional investigation resources
8. Substantial Equivalency; mobility issues
9. Legislative concept ORS 673.410(d); change to be a Public Accountant or Public member
10. Ethics requirement for non-CPAs who have ownership in a CPA firm
11. E-mail addresses; may non-licensees have the CPA designation in the domain portion if it is part of the firm's domain.

## **5. REPORT OF SECRETARY-TREASURER**

### **A. Financial Reports**

Bailey reviewed the 2005 May and June financial reports and noted that at the end of the biennium licensing and exam fees were below budget while civil penalty collections and personal services expenditures were over budget.

**BOARD ACTION:** Moved by Bailey and carried to accept the budget reports.

**VOTE:** Acting Chair Klimowicz did not vote; 4 ayes, 2 excused (Morris, Gaffney)

### **B. Review Administrator Transactions for 2001-2003 and 2003-2005**

Department of Administrative Services (DAS) policy recommends that agencies provide annual review of expense reimbursements paid to the Administrator. Rives explained that all expense reports have three levels of review: the first review is by staff for appropriate revenue codes, the second review is by either the Administrator or a Board member and the final review is by DAS/accounting division.

**BOARD ACTION:** Moved by Johnson and carried to approve Administrator transactions for the 2001-2003 and 2003-2005 biennium.

**VOTE:** Acting Chair Klimowicz did not vote; 4 ayes, 2 excused (Morris, Gaffney)

### **C. 2005-2007 Legislatively Approved Budget**

The Legislature approved seven (7) full-time equivalent positions and reduced the Board expenditure limitation by about \$89,000 based on reductions in the PERS contribution rate, Department of Justice fees, and other reductions to administrative charges. The Joint Subcommittee did not approve three performance measures. BOA will present revised performance measures and targets to the Joint Legislative Audit Committee in August 2006 for review and approval.

## **6. REPORT OF ADMINISTRATOR**

### **A. Administrative Rules**

#### **1. Division 001**

Christine Chute, AAG, recommended adding language to Division 001 regarding the requirement for respondents in administrative actions to state claims and defenses on which respondent relies before administrative hearings. Under this rule individuals

who fail to put all claims and defenses in writing prior to the hearing will be presumed to waive such claims. The Board approved this rule in May. Chute also recommends removing the words "of penalty" after "notice" so that the requirement is not limited to notices for assessment of civil penalties, but for all notices issued by the Board.

**BOARD ACTION:** Moved by Bailey and carried to accept changes to Division 001.

VOTE: Acting Chair Klimowicz did not vote; 4 ayes, 2 excused (Morris, Gaffney)

## 2. Division 005

All sections of Division 005 were previously approved by the Board except for clarification of the definitions for attest, fees and peer review. "Reports on internal control effectiveness" was added to the definition. Mr. Johnson stated that there are a variety of engagements that should be covered by this definition and suggested looking at PCAOB standards. Johnson drafted language that keeps the Board consistent with other standards.

**BOARD ACTION:** Moved by Johnson and carried to accept changes to Division 005 with additional revisions as discussed.

VOTE: Acting Chair Klimowicz did not vote; 4 ayes, 2 excused (Morris, Gaffney)

## 3. Division 010

The Board reviewed additional changes to Division 010 Substantial Equivalency provisions submitted by Steve McConnel. McConnel expressed concern regarding the amount of time required for a practitioner licensed in another state to obtain authorization to practice in Oregon. Ms. Rives responded that the turnaround time is usually within 24 hours. The Board is also researching ways to provide an interactive website application to expedite the process further.

**BOARD ACTION:** Moved by Johnson and carried to approve modifications presented.

VOTE: Acting Chair Klimowicz did not vote; 4 ayes, 2 excused (Morris, Gaffney)

## 4. Division 020

The only change in Division 020 is correction of a rule citation.

**BOARD ACTION:** Moved by Andersen and carried to approve Division 020.

VOTE: Acting Chair Klimowicz did not vote; 4 ayes, 2 excused (Morris, Gaffney)

## 5. Division 030

The Board reviewed proposed changes to Division 030. Revisions to clarify the public communications and advertising provisions were drafted by counsel. Clarification was also added to the rule regarding false and misleading firm names to specify that a business organization is defined to mean the type of organization that is required to be registered with the Oregon Secretary of State. Proposed modifications to plural firm name rules were postponed to the fall work session.

The continuing violations rule was revised to specify that continuing violations that persist after written notice from the Board are subject to a separate penalty for each day of the continuation, while the continuance of the violation prior to the notice will be subject to a single penalty.

**BOARD ACTION:** Moved by Andersen and carried to approve all proposed changes to Division 030 with the exception of the plural firm names (801-030-0020 (6)(c)).

VOTE: Acting Chair Klimowicz did not vote; 4 ayes, 2 excused (Morris, Gaffney)

## **6. Division 040**

Amendments to the ethics requirement rule are proposed to clarify the reporting period. Ms. Klimowicz suggested adding the words "complete and" for further clarification. Other changes include pro-rating the 24 hour annual requirement for reinstatement licensees. The number of CPE hours required for the first renewal following reinstatement will be pro-rated for the year of reinstatement.

**BOARD ACTION:** Moved by Meisner and carried to approve proposed changes to Division 040.

VOTE: Acting Chair Klimowicz did not vote; 4 ayes, 2 excused (Morris, Gaffney).

## **7. Division 050 Report from Peer Review Task Force**

Andersen reported that the Peer Review Task Force is not prepared to recommend "Principles based Peer Review Standards" to the Board. The task force thinks it would be very difficult to develop a set of standards that all peer review sponsors can achieve. They have concern about resources required to develop this concept, and also that no other state has taken this approach.

Rives introduced additional revisions to OAR 801-050-0080, *Minimum Standards for Peer Review Programs*, stating that this is an alternative approach to a principals based standard. This approach recognizes the AICPA Peer Review Standards as the benchmark against which other peer review programs may be measured. Programs that are substantially equivalent to the AICPA standards would also be approved. This approach allows the Board flexibility to approve peer review programs that may have some variance from the AICPA standards.

The Board reviewed the definition of "significant issues" in OAR 801-050-0010(12). After discussion, the Board asked to have the Peer Review Task Force provide additional input regarding the definition.

The Board agreed with revisions to 801-050 0035 presented by the OSCP and approved the revisions to 801-050-0080 that suggest an alternative approach for peer review standards.

### **B. Delegated Authority**

Item deferred to October 17, 2005 Board meeting.

### **C. Legislative Report**

Item deferred to October 17, 2005 Board meeting.

### **D. Firm Request for Seasonal Branch Office**

Each year Mr. Pike requests approval for a temporary office during tax season. Mr. Pike stated in his letter that he will not offer or facilitate Refund Anticipation Loans or Refund Anticipation Checks at the Oregon location during this coming tax season.

**BOARD ACTION:** Moved by Bailey and carried to approve temporary office location.

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

### **E. Sturgis Voting Procedures**

No discussion.

### **F. Signature Authority for Expenditures**

No discussion

### **G. Certificate of Public Management Class**

Ms. Rives has been accepted in the Certified Public Management program.

### **H. CPA Application with Conviction**

The Board received an application for CPA certificate under reciprocity from Brooks Peacock. Mr. Peacock previously held a license in Utah and now holds a Washington certificate and meets Oregon's requirements for reciprocity. As a result of a Stipulation dated January 3, 2005, entered by the Utah Board, Mr. Peacock surrendered his license in Utah. The conduct that resulted in the stipulation was also the subject of a criminal prosecution. A "plea of abeyance" was entered by Mr. Peacock on a third degree felony theft charge, which may be dismissed in April 2006 if he complies with conditions imposed by the Court. There are no other disciplinary matters reported by the Utah licensing Board. There are no disciplinary actions in Washington except an open file that is based on the January 3, 2005 stipulation.

Mr. Peacock was disciplined in Oregon for holding out as a CPA in Oregon without an Oregon license. His business cards with the CPA designation were made available to the public in the reception area of the office where he is employed.

Mr. Peacock attended the meeting to respond to Board questions.

***Board Discussion:** After discussion with Mr. Peacock the Board expressed apprehension about licensing an individual who is not in good standing with his "home" state, and who entered a plea of no contest to a third degree felony charge. The Board will consider an application when the plea in abeyance is resolved.*

**BOARD ACTION:** Moved by Johnson and carried to deny the application submitted by Brooks Peacock.

VOTE: Acting Chair Klimowicz did not vote; 4 ayes, 2 excused (Morris, Gaffney)

**I. Committee Vacancies.** Deferred to October Board meeting.

### **J. Letter of Appreciation to Linda McLaughlin**

The Board received a letter from a CPA Certification applicant expressing appreciation for the courteous and helpful service that was provided by Ms. McLaughlin through the licensing process.

### **K. CPA Application, Experience Question**

The Board reviewed an application for licensure from Josh Snoddy whose employer made statements on the certification of experience that the applicant cheated on timesheets and lied on his unemployment application. The employer signed off on all but two competencies. The applicant has the required number of months of experience and the subsequent employer signed off on all competencies.

The applicant responded to his former employers comments in a letter and provided his employment journal for the Board to review. Ms. Rives asked the employer to submit a more detailed letter explaining his allegations. There has been no response.

***Board Discussion** The Board received only brief statements from the employer and a detailed response from the applicant. The applicant adequately answered questions raised by the employer. Without the additional information from the employer, there are not sufficient facts to justify denial.*

**BOARD ACTION:** Moved by Andersen and carried to approve the application for certification.

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

#### **L. Conviction Approval for Licensing**

Tonya Krzeminski, CPA Certificate applicant, was convicted of a felony for fraudulent use of a credit card in 1991. Ms. Krzeminski sat for the CPA exam in Oregon and disclosed the conviction with each application. The Board noted that this happened fourteen years ago, and since that time Ms. Krzeminski has had no problems.

**BOARD ACTION:** Moved by Bailey and carried to accept the application for licensing.

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

#### **M. Renewal Statistics**

The Board reviewed renewal statistics from the 2005 renewal period. The statistics include total number of licensees and the number of lacking letters that were mailed.

#### **7. REPORT OF OAIA**

No report.

#### **8. REPORT OF OSCPA**

No report.

#### **9. CONTINUING PROFESSIONAL EDUCATION**

##### **A. Report of CPE Committee, August 2, 2005**

##### **1. Acceptance of Minutes**

**BOARD ACTION:** Moved by Andersen and carried to accept the minutes of August 2, 2005.

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

##### **B. Consent Agenda**

##### **1. Recommendations for Committee Membership**

\*a. Laura D Fisher, CPA, *Hough & Macadam LLC*

\*b. James C Lanzarotta, CPA, *Moss Adams LLP*

**BOARD ACTION:** Moved by Bailey and carried to accept the consent agenda.

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

##### **2. Municipal Auditor Applications**

a. Sang H Ahn

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

b. Richard C Bailey

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

c. Debra L Blasquez

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

d. Rina M Byrne

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

e. Edwin A Coburn

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

f. Jonathan Gillen

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

g. Jason A Link

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

h. Susan Marks

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

i. Mick R Poole

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

j. Bradley D Smith

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

k. Richard Winkel

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

**BOARD ACTION:** Moved by Bailey and carried to accept the Municipal Auditor applications.

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

**C. Items Removed from Consent Agenda**

**1. B.1.a. Laura D Fisher, CPA, *Hough & Macadam LLC***

**2. B.1.b. James C Lanzarotta, CPA, *Moss Adams LLP***

**BOARD ACTION:** Moved by Johnson and carried to appoint Ms. Fisher and Mr. Lanzarotta to the Continuing Professional Education Committee.

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

**10. PEER REVIEW OVERSIGHT**

**A. Report of Peer Review Oversight Committee**

**1. Acceptance of Minutes**

**a. July 26, 2005**

Deferred to October 17, 2005 Board meeting.

**B. Consent Agenda**

**1. Recommendations**

**a. Letter to National Society of Accountants**

Deferred to October 17, 2005 Board meeting.

**11. COMPLAINTS COMMITTEE**

**A. Report of Complaints Committee**

**1. Acceptance of Minutes**

**a. June 17, 2005**

**BOARD ACTION:** Moved by Johnson and carried to accept the minutes of June 17, 2005 as corrected.

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

## 2. Investigation Summary – information only

### B. Consent Agenda

**BOARD ACTION:** Andersen moved and it was carried to accept the consent agenda.

**VOTE:** Acting Chair Klimowicz did not vote; 5 ayes, 1 excused (Gaffney)

#### 1. Complaint Investigations

- \*a. Jerry Bounds, 02-02-012
- \*b. Peter Heitkemper, 02-10-066
- \*c. Ben Smith, 04-09-080
- \*d. Mark Wiese, 04-10-085
- e. Edward Arevalo, 05-05-010 *No violation*
- \*f. Edward Culp, 05-05-013
- \*g. J. Paul Kenote, 05-05-014
- \*h. Christine Clemmer, 05-04-009

*\*Items moved to 11.C. for discussion*

### C. Items Removed from Consent Agenda

#### 11.B.1.a. Jerry Bounds, 02-02-012

ALLEGED VIOLATIONS:

ORS 673.320(1)

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.

Jerry Bounds collaborated with a licensed CPA to perform the audit for National Postal Mail Handlers Union, Division of LIUNA-AFL-CIO and Northwest Nutrition Services (NW). Bounds submitted a bill to the clients under his name with no reference to the CPA who would review and sign the audit report. Bounds does not hold a CPA permit in Oregon.

INVESTIGATOR RECOMMENDATION(S):

Issue a Letter of Concern to Bounds for misleading Union and NW when he did not clearly state that he is not a Certified Public Accountant and when he submitted the bill for audit services in his name without reference to the CPA who would be responsible for the audit report.

COMMITTEE DISCUSSION: Bounds is not a CPA. Bounds has contracted with at least two different licensed CPAs who assumed responsibility for Bounds' work. The committee recommends that the circumstances and misleading activities of this investigation be reported as a Frequently Asked Question on the Board's website.

COMMITTEE RECOMMENDATION: Moved and carried to recommend a letter of concern.

**Board Discussion:** *A letter of concern is appropriate.*

**BOARD ACTION:** Bailey moved and it was carried to approve the committee recommendation.

**VOTE:** Acting Chair Klimowicz did not vote; 5 ayes, 1 excused (Gaffney).

**11.B.1.b. Peter Heitkemper, 02-10-066**

ALLEGED VIOLATIONS:

ORS 673.160(1): All CPAs who perform attestation or compilation services in Oregon must be registered with the Board.

ORS 673.320(4): Restricts a business from assuming or using a title or designation that indicates that it is composed of CPAs unless they are registered with the Board under ORS 673.160(A) above.

OAR 801-050-0020: All businesses that perform attestation or compilation services are required to participate in a peer review program. The peer review program must be obtained every three years.

OAR 801-030-0010(1)-(2): (1) a licensee may not undertake any engagement that the licensee cannot reasonably expect to complete with due professional competence and (2) a licensee "not permit their name to be associated with financial statements in such a manner as to imply that the licensee is independent with respect to such financial statements unless the licensee has complied with applicable generally accepted auditing standards."

OAR 801-030-0020(1): Professional Misconduct

OAR 801-030-0020(6)(d)(A): Assumed Business Names

Peter Heitkemper collaborated with Jerry Bounds to audit Northwest Nutrition Service, a not for profit organization. Department of Education (DOE) required that Northwest obtain an annual audit to comply with USDA funding requirements. DOE discovered that Northwest paid Bounds, an unlicensed individual, for the 2000 audit.

INVESTIGATOR RECOMMENDATION(S):

Asses civil penalties in the total amount of \$64,000 as follows:

ORS 673.320(4); Use of the CPA designation without registration.

\$1,000 civil penalty for each of four years (1996, 1997, 1998, 1999), and  
\$5,000 for year 2000. Total: \$9,000

OAR 801-050-0020; Failure to participate in a Peer Review Program.

\$1,000 civil penalty for each of four years (1996, 1997, 1998, 1999), and  
\$5,000 for year 2000. Total: \$9,000

OAR 801-030-0010(1): Competence

Inadequate Continuing Professional education required to perform an audit in compliance with Government Audit Standards.

\$1,000 civil penalty for year 1999 and  
\$5,000 for year 2000. Total: \$6,000

ORS 673.170(2)(b) Fraud or Deceit in obtaining a permit

1999 license renewal \$1,000

OAR 801-030-0005; Integrity and Objectivity

Subordinating licensee's judgment to the judgment of others

Year 1999 \$1,000

Year 2000 \$5,000

OAR 801-030-0010(1):Competence

Undertaking an engagement that licensee cannot reasonably expect  
to complete with due professional competence \$33,000

COMMITTEE DISCUSSION: Heitkemper did not meet the "yellow book" CPE requirements for performing not for profit audits. There are a number of audit deficiencies with respect to management letters and engagement letters. There are no memoranda in the working papers that would compensate for not having an engagement letter. John Barker, attorney for Heitkemper, submitted a settlement proposal in which Heitkemper admits that he is not competent to perform audits. The committee discussed a revocation, to be stayed so long as Heitkemper complies with the terms of a consent order; pays a civil penalty and complies with a restriction from performing attest and compilation services directly or through others for Oregon clients. The committee discussed the following civil penalties: Holding out, \$5,000; Peer Review violation, \$5,000; insufficient CPE, \$5,000; Fraud, \$1,000 and Competency, \$7,000, for a total civil penalty of \$23,000.

COMMITTEE RECOMMENDATION: Move and carried to recommend revocation to be stayed so long as Heitkemper does not perform attest and compilation services directly or through others for Oregon clients and assess civil penalties of \$23,000.

**Board Discussion:** *The committee discussed gross negligence as a basis for civil penalty. The recommendation from the committee is a stayed revocation and if Heitkemper violates the terms of the order, his license will be revoked.*

**BOARD ACTION:** Johnson moved and it was carried to approve the committee recommendation.

VOTE: Acting Chair Klimowicz did not vote; 5 ayes, 1 excused (Gaffney).

**11.B.1.c. Ben Smith, 04-09-080**

ALLEGED VIOLATIONS:

OAR 801-030-0010: Professional Competence

In the course of preparing tax returns for client, Smith did not advise Client about a tax credit available to parents of disabled children and incorrectly reported traditional IRAs that were converted to Roth IRAs. Internal Revenue Service (IRS) and Oregon Department of Revenue (DOR) notified Client of additional taxes owed on the converted IRA, and assessed penalties and interest for late payment of taxes described above. Smith submitted a signed Consent Order, offering to pay a \$2,500 civil penalty for violation of OAR 801-030-0010.

COMMITTEE DISCUSSION: The committee discussed the \$2,500 civil penalty offered by Smith and whether additional CPE in individual tax is appropriate.

COMMITTEE RECOMMENDATION: Moved and carried to recommend a civil penalty of \$1,000 and 16 hours of continuing education in individual tax in addition to the 80 required hours.

**BOARD ACTION:** Andersen moved and it was carried to approve the committee recommendation.

VOTE: Acting Chair Klimowicz did not vote; 5 ayes, 1 excused (Gaffney).

**11.B.1.d. Mark Wiese, 04-10-085**

ALLEGED VIOLATIONS

OAR 801-030-0015(1)(a) Confidential client information, Prohibited disclosures.

(Husband) and (Wife) were tax clients of Mark Wiese (Wiese). Husband and Wife separated. Husband gave his original tax documents to Wiese and asked Wiese to keep his documents separate and confidential from Wife. Wiese did not keep Husband's documents separate and confidential but instead gave Husband's documents to Wife.

INVESTIGATOR RECOMMENDATION(S):

OAR 801-030-0015(1) Confidential client information.

(a) Prohibited disclosures.

Civil penalty for disclosure of confidential client information                      \$5,000

COMMITTEE DISCUSSION: Even though Wiese's confidentiality agreement was with the husband, Wiese gave the original documents to wife. Wiese had a responsibility to ask the husband if he agreed that Wiese could give the documents to the wife. Even though the husband told Wiese that the couple may reconcile, Wiese should have verified with the husband before giving the wife confidential information.

COMMITTEE RECOMMENDATION: Moved and carried to assess a civil penalty of \$1,000.

**Board Discussion:** *The Board received a letter from wife stating that she was on the telephone with Husband and Weise when Husband agreed to have Weise deliver Husband's documents to Wife. Based on this new information, the Board concluded that there is no violation.*

**BOARD ACTION:** Morris moved and it was carried to close as no violation.

VOTE: Acting Chair Klimowicz did not vote; 5 ayes, 1 excused (Gaffney).

**11.B.1.f. Edward Culp, 05-05-013**

ALLEGED VIOLATIONS:

OAR 801-030-0010 (1): Competence and Technical Standards

Edward Culp prepared 2004 income tax return for clients (husband and wife). Clients learned that Culp miscalculated the tax owed to South Carolina and IRS, and Culp found that he did not consider tax due to Oregon. Culp informed Clients of the following: No tax liability was due to South Carolina. \$6,000 would be refunded; Tax of \$6,590 was due to IRS; Tax of \$7,009 was due to Oregon.

Clients took tax information to another Certified Public Accountant who completed the returns and made the following determination: Clients should not have paid estimated taxes of \$6,000 to South Carolina; South Carolina would refund \$10,261; tax of \$5,937 was owed to IRS; and tax of \$5,937 was owed to Oregon.

Culp submitted a signed Consent Order, offering to pay a \$500 civil penalty and complete 16 additional hours of Continuing Professional Education (CPE) in individual income tax preparation for violation of OAR 801-030-0010 (1).

COMMITTEE RECOMMENDATION: Moved and carried to recommend the Consent Order offered by Culp, imposing a \$500 civil penalty and 16 hours of additional CPE in individual income tax.

**BOARD ACTION:** Johnson moved and it was carried to accept the consent order.

VOTE: Acting Chair Klimowicz did not vote; 5 ayes, 1 excused (Gaffney).

**11.B.1.g. J. Paul Kenote, 05-05-014**

ALLEGED VIOLATIONS:

Responsibilities to Clients

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

(b) Requested records

In 2000 client left her tax records with J. Paul Kenote. Kenote told client that he would need more information before he could complete the tax work. Due to personal problems, client did not provide the additional information to Kenote. Five years later, client contacted Kenote to request that he return her records. Kenote did not return client's records in a timely manner.

INVESTIGATOR RECOMMENDATION:

Responsibilities to Clients

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

(b) Requested records

\$5,000 civil penalty for not providing client records \$5,000

COMMITTEE DISCUSSION: Client waited five (5) years to request her records. Kenote did not return client's records until after he received notice from the Board.

COMMITTEE RECOMMENDATION: Moved and carried to reduce the civil penalty to \$500 for record retention violation.

**Board Discussion:** *It was suggested to change the wording of the committee minutes from "reduce" the civil penalty to "recommend" a civil penalty.*

**BOARD ACTION:** Andersen moved and it was carried to approve the committee recommendation.

VOTE: Acting Chair Klimowicz did not vote; 5 ayes, 1 excused (Gaffney).

**11.B.1.h. Christine Clemmer, 05-04-009**

ALLEGED VIOLATIONS:

ORS 673.320(3): Permit or Registration Required

On March 30, 2005, Christine J. Clemmer submitted a Reinstatement Application to the Board. The application used an e-mail address that included the CPA designation.

INVESTIGATOR RECOMMENDATION:

ORS 673.320(3): Permit or Registration Required

Civil penalty for holding out as a CPA \$1,000

COMMITTEE DISCUSSION: Clemmer should not have used the CPA designation as part of her e-mail address while her license was lapsed.

COMMITTEE RECOMMENDATION: Moved and carried to recommend a \$1,000 civil penalty.

**Board Discussion:** Meisner suggested that notice of potential violations based on an e-mail address or website domain be published on the website. The Board will discuss this issue at the work session in October 2005.

**BOARD ACTION:** Johnson moved and it was carried to approve the committee recommendation.

VOTE: Acting Chair Klimowicz did not vote; 5 ayes, 1 excused (Gaffney).

## 12. LEGAL

### A. Report of Legal Items

#### 1. Proposed Consent Orders

##### a. Kevin Sundberg

Kevin Sundberg and Attorney Jim Rigos arrived at 2:05 p.m. Rigos stated that Sundberg was planning to resign from employment with Barrett, but decided to wait until after tax season because Sundberg believed it would be a hardship on Barrett & Company PLLC. During his employment, Sundberg started moonlighting, in the belief that there was no real cost to Barrett. Sundberg collected fees of \$6,000 from his moonlighting clients while employed by Barrett. Sundberg acknowledged that he made an error, and that he used Barrett's computers and software for his moonlighting activities and that he did not remove Barrett's tax preparer identification number on the tax returns for his clients. Rigos contends that Sundberg's clients will suffer if his license is suspended. Rigos told the Board about two legal cases that he believes are similar; however they were not Oregon cases. When Barrett and Sundberg severed their employment relationship, Barrett requested that Sundberg pay the firm \$40,000. This amount was based on Barrett's investment in Sundberg's training and the potential liability to the firm for the tax returns prepared over the firm name. Rigos stated that Sundberg would like to avoid a hearing, but he is prepared to introduce two expert witnesses who will testify that suspension is too harsh. Rigos proposed that the Board censure Sundberg, assess a civil penalty of \$22,000, impose a two year probation period, and require additional CPE in ethics and other subjects that the Board deems appropriate.

**Board Discussion:** The issue in this case is honesty. Counsel advised that if the Board accepted the proposal and later received a complaint against Sundberg, the Board could impose an immediate suspension, prior to an investigation.

**BOARD ACTION:** Morris moved and it was carried to reject the proposed offer.

VOTE: Acting Chair Klimowicz did not vote; 5 ayes, 1 excused (Gaffney).

##### b. Jerome Levey

A stipulated order for Levey was presented to the Board in which Levey agrees to pay a \$1,250 civil penalty and to provide clear and accurate information when he offers extended tax service or similar audit services to clients.

**BOARD ACTION:** Andersen moved and it was carried to approve the stipulated final order.

VOTE: Acting Chair Klimowicz did not vote; 5 ayes, 1 excused (Gaffney).

##### c. Paula Hickey – no item

### B. Other

#### 1. Donald Sherry appeal of Board order – information only

**2. NASBA notice re: KPMG LLP – defer to October 17, 2005.**

**13. QUALIFICATIONS COMMITTEE**

**1. Consent Agenda**

**BOARD ACTION:** Moved by Meisner and carried to approve the applications for certification, firm registrations and substantial equivalency authorizations.

Vote: Acting Chair Klimowicz did not vote; 5 ayes, 1 excused (Gaffney).

**Approval of Applications**

**a. CPA Certificates/Permits**

63 Certificates

**b. PA Licenses/Permits**

None

**c. Firm Registrations**

29 Registrations

**d. Substantial Equivalency Authorizations**

10 Authorizations

**14. CPA EXAM**

**A. State Concerns Regarding CBT**

The Board reviewed letters from AICPA, NASBA and various state boards, regarding the examination. States are not satisfied with responses that AICPA, NASBA, and Prometric have provided to concerns voiced by state Boards. State Boards continue to express concern about the announced increase in the cost of the exam. The increase is required because the volume of exam sections that were tested in the first year of CBT did not meet the projections on which contract fees were based.

The AICPA provided a written response to the six major concerns submitted by state boards and stated that communication is a priority that they will continue to improve.

**B. CBT Volume Reports**

A summary of candidate volume was presented to the Board.

**C. Comparison of Costs to Other Professional Licenses**

AICPA prepared a paper comparing the CPA exam with other professional licensing exams in California, Illinois, Missouri, Texas and Virginia. The professions included architecture, dentistry, engineering, law, medicine, nursing and pharmacy. The report concluded that the cost of CBT is reasonable compared to other professions.

**D. Score Reporting**

The AICPA has developed an accelerated score release schedule for the July/August 2005 testing window. The new schedule will consist of two waves of scores reporting, and test scores will be released earlier for candidates who test in the first month of the testing window. The AICPA will work to improve the score reporting process.

**15. CODE OF PROFESSIONAL CONDUCT COMMITTEE**

No meeting held.

**16. OLD BUSINESS**

**A. Lance Brant, 02-02-022** – Deferred to October 2005 Board meeting

**17. NEW BUSINESS**

None

**18. PROCESS OBSERVER REPORT**

Mr. Johnson reported that the agenda was extensive and there were time constraints because of visitors who attended the Board meeting, and the afternoon Oswald West Award ceremony. The Board got bogged down with tough issues relating to administrative rule revisions. There was some struggle with getting the motions correct. For the most part, the Board did well.

**19. NEXT MEETING**

Date: Work Session, October 16, 2005  
Board Meeting, October 17, 2005  
Location: Eugene, Oregon  
Time: Work Session begins at 10:00 a.m.

**20. ADJOURNED**

There being no further business, the meeting was adjourned at 3:45 p.m.

**21. 4:00 OSWALD WEST AWARD, Presentation Ceremony**

The Oregon Board of Accountancy presented the first Oswald West Award to Catherine Pollino, State Auditor in the Garden Room of the Morrow Crane Building. The Board was honored to have descendants of Governor Oswald West attending the ceremony, including Ms. Jean McHugh, daughter of Governor West, Deborah McHugh-Gibson, granddaughter, Alison Kelly, great granddaughter, and Carolyn Frosaker, great granddaughter. Special guests in attendance were Bill Bradbury, Secretary of State, Hardy Myers, Attorney General, Thomas Butler, State Representative, John E. Pollino, Esq, Judith Bennington, CPA, Ronald Rawls, CPA, Stephen McConnel, CPA, James Aldrich, PA, and Cheryl Langley, OSCPA.