

OREGON BOARD OF ACCOUNTANCY

Minutes, October 2, 2006

**Hallmark Resort Cannon Beach
1400 South Hemlock Street**

**Cannon Beach, OR
503-436-0324**

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

Board Members Present

James Gaffney, CPA, *Chair*
Lynn Klimowicz, CPA, *Vice-Chair*
Kent Bailey, CPA, *Treasurer*
Jens Andersen, CPA
Stuart Morris, PA
Ray Johnson, CPA
Anastasia Meisner, *Public Member*

Staff Members

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

Guests Attending

Karey Schoenfeld, CPA, OSCP Representative
Cheryl Langley, OSCP
Ivan Besemann, CPA, OAIA Representative
Jeffrey Dover, Asst. Attorney General

1. CALL TO ORDER

A. Appoint Process Observer

A quorum being present, Chair Gaffney called the meeting to order at 9:58 a.m. Ray Johnson was appointed process observer.

2. APPROVAL OF MINUTES

A. Board Meeting, August 7, 2006

BOARD ACTION: Moved by Andersen and carried to approve the minutes as corrected to indicate that the \$15,000 civil penalty for Michael Holland be changed from violation of ORS 673.170(2) to violation of OAR 673.320(3) holding out as a CPA while in lapsed status.

VOTE: Chair Gaffney did not vote; 6 ayes

3. REPORT OF CHAIR

A. NASBA

1. Voting Delegate for 99th Annual Conference

BOARD ACTION: Kent Bailey and Ray Johnson will attend the Annual Conference. Moved by Klimowicz and carried to delegate Mr. Kent Bailey as the voting delegate at the 99th Annual Conference.

VOTE: Chair Gaffney did not vote; 6 ayes

2. Western Regional Conference

The Western Regional Conference is scheduled for June 20-33, 2007 at the Cheyenne Mountain Resort in Colorado Springs, Colorado.

3. NASBA Bylaws Revisions

A copy of the revisions was included in the agenda packet. If anyone has comments, they should speak with Mr. Bailey as he will be voting on the revision during the Annual Conference.

4. REPORT OF VICE CHAIR

A. Action from Work Session

1. Administrative Rule Revisions

a. Division 001

All changes were approved as discussed in the work session.

BOARD ACTION: Moved by Andersen and carried to approve changes to Division 001.

VOTE: Chair Gaffney did not vote; 6 ayes

b. Division 005

No additional changes. Moved by Klimowicz and carried to approve changes to Division 005.

BOARD ACTION: Moved by Klimowicz and carried to approve changes to Division 005.

VOTE: Chair Gaffney did not vote; 6 ayes.

c. Division 010

One additional change to include an addition recommended by the Qualifications Committee.

BOARD ACTION: Moved by Klimowicz and carried to approve all changes to Division 010.

VOTE: Chair Gaffney did not vote; 6 ayes.

d. Division 020

No additional changes.

BOARD ACTION: Moved by Klimowicz and carried to approve changes to Division 020.

VOTE: Chair Gaffney did not vote; 6 ayes.

e. Division 030

The Board had no additional revisions from those already made and discussed in the work session.

BOARD ACTION: Moved by Klimowicz and carried to approve revisions to Division 030.

VOTE: Chair Gaffney did not vote; 6 ayes.

f. Division 040

All changes previously approved.

BOARD ACTION: Moved by Klimowicz and carried to approve revisions to Division 040.

VOTE: Chair Gaffney did not vote; 6 ayes.

2. FASB

No discussion.

3. Compare Lapsed and Inactive Status

This item is deferred to the May 2007 work session

Board Discussion: Staff directed to investigate the process used in other states for licensees who choose not to renew their CPA permit.

4. Licensing Requirements

This item is deferred to the May 2007 work session

5. REPORT OF TREASURER

Bailey reviewed the August, 2006 financial report and noted that revenues are \$221,614 over projection and expenditures are \$5,187 under projections. It was noted that the Board has pending complaint cases that could decrease cash reserves by \$500,000.

BOARD ACTION: Moved by Klimowicz and carried to accept the financial report.

VOTE: Chair Gaffney did not vote; 6 ayes

6. REPORT OF ADMINISTRATOR

A. 2007 Meeting Schedule Calendar

The Board will finalize the 2007 meeting dates at the December, 2006 Board meeting. The Board suggested several locations for the May 2007, Board and work session meetings.

B. Guidelines for Working with the Legislature

The Board reviewed the guidelines for working with the Legislature and were advised to contact Rives if they have questions.

C. Administrator Expenses

Rives presented a spreadsheet showing the Administrator's out-of-pocket expenses from October 3, 2005 through June 21, 2006. Rives noted that administrator expenses need to be reviewed annually.

BOARD ACTION: Klimowicz moved and carried to approve Administrator out-of-pocket expenses from October 2005 through June 2006.

VOTE: Chair Gaffney did not vote; 6 ayes

D. 2006 Progress Performance Report (see WS 3.C.2.)

The Board reviewed the Annual Performance Progress Report for the Board of Accountancy during work session on October 1, 2006.

BOARD ACTION: Morris moved and carried to approve the 2006 Progress Performance Report.

VOTE: Chair Gaffney did not vote; 6 ayes

E. Ending Balance (see WS 3.C.3.)

The Board reviewed biennial comparisons for the past ten years (1999-2009). Rives noted that the ending balances change during different phases of the budget process. The Board is aware that the 2005-2007 estimates are in fact –just estimates. The Board concurred that the budget is on target. There are seven (7) complaint cases that could use up to one-half of the fund balance and the proposed IT project will also be expensive. The Board agreed that the balance is appropriate and prudent based on anticipated expenditures.

BOARD ACTION: No action

F. Authority to Assess Costs (see WS 4.B.2)

The Board will revisit this issue at the May, 2007 work session.

G. Length of Board Terms (see WS 4.C.)

The Board decided that a three year term with one extension for a total of six years is appropriate for Board member terms.

H. On-Line License Proposal

Board Discussion: Ms. Rives advised that this is a draft RFP that will be submitted to DAS for review. Board members have concern that this RFP does not include a bullet point that the Board would like to become a paperless office or the impact on staff during implementation.

BOARD ACTION: Moved by Klimowicz and carried to approve the concept of On-Line Licensing and drafting of an RFP for additional review.

VOTE: Chair Gaffney did not vote; 6 ayes

I. Other Legislative Concepts

a. Identity Theft

This is a legislative concept proposed by the Governor that the Board will want to follow closely due to the public record laws. This may put a slight burden on agencies that are required to provide information based on public record laws.

b. Federal Real ID Act

The Act is now in effect and requires State agencies to confirm the identity of individuals before issuing passports, identification cards or driver licenses. State agencies have until 2008 to comply with the Federal regulations.

J. Ethics Requirement Direction

The Board needs to give direction to the Continuing Professional Education and Code of Professional Conduct committees for the expansion of the current professional conduct and ethics course. The joint committee and Board both entertained the idea of having a pre-licensure eight hour program and expanding the current CPE requirement to eight hours every four years.

BOARD ACTION: Moved by Johnson and carried to charge the CPE committee with developing a business plan that will include a program for pre-licensing and CPE.

VOTE: Chair Gaffney did not vote; 6 ayes

7. PUBLIC COMMENTS

None

8. REPORT OF OAIA

Mr. Besemann has no current information to share as he was unable to attend the last OAIA Board meeting.

9. REPORT OF OSCPA

The Society is currently holding "town halls" around the state. The slate for new board members will be mailed to members soon; the officers will begin their office in April 2007.

10. OLD BUSINESS

A. Grove, Mueller & Swank, P.C.

Gaffney recused himself from the discussion. GMS rated the internal control at the State Landscaper Board (SLB) as low risk, when in fact, it was high risk. The SLB had one employee who was responsible for all accounting tasks. Bob Edwards stated that he destroyed the original Cash Disbursements Testing workpaper. Johnson and Bailey volunteered to review the audit workpapers.

BOARD ACTION: Moved by Bailey and carried to issue a Notice to suspend Robert Edwards CPA permit for three (3) years; 16 hours of CPE for each licensee with Grove, Mueller & Swank that are involved in audits; 10% pre-issuance reviews of audits for one (1) year and to assess a total civil penalty of \$25,000 as follows:

- \$20,000 (\$5,000 each for four violations) of OAR 801-030-0010, Competence and Technical Standards:
 - (1) Inadequate evidence of supervision and review of audit workpapers;
 - (2) Inadequate workpaper documentation by failing to describe alternative testing procedures, required by SAS 96, effective May 15, 2002;
 - (3) Failure to document sufficient evidence to support conclusions, required by Generally Accepted Auditing Standards (GAAS);
 - (4) Lack of Due Professional Care in audit procedures.
- \$ 5,000 for violation of OAR 801-030-0015(2)(e), Record Retention.

VOTE: Chair Gaffney (recused); 5 ayes, 1 nay (Klimowicz)

B. Holland & Brooks LLP

On August 7, 2006 the Board approved \$12,000 in civil penalties against Holland Brooks LLP. It was brought to the Board's attention that they may want to consider an additional violation against Holland & Brooks LLP for failure to notify the Board of a name change and use of a plural firm name. The Board's August decision was as follows:

- 1) \$2,000 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;
- 2) \$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;
- 3) \$4,000 civil penalty for violation of OAR 801-010-0340(1), did not meet the requirements of a non-CPA ownership when a lapsed and unlicensed partner owned 50% of accounting firm
- 4) \$4,000 civil penalty for violation of ORS 673.320(1), issued financial statements without firm registration.

BOARD ACTION: Moved by Andersen and carried to add an additional \$2,000 civil penalty for violation of OAR 801-030-0020(4) and (6)(e), Plural Firm Names to Notice N-06-090, for a total civil penalty of \$14,000.

VOTE: Chair Gaffney did not vote; 5 ayes; 1 abstain (Meisner)

11. CONTINUING PROFESSIONAL EDUCATION

A. Report of CPE Committee

1. No meeting was held

12. PEER REVIEW OVERSIGHT

A. Report of Peer Review Oversight Committee

1. No meeting was held

13. COMPLAINTS COMMITTEE

A. Report of Complaints Committee

1. September 7, 2006

BOARD ACTION: Moved by Bailey and carried to approve the September 7, 2006 minutes.

VOTE: Chair Gaffney did not vote; 6 ayes

BOARD ACTION: Moved by Bailey and carried to remove the Michael Piels investigation from the consent agenda and to accept the remaining consent agenda.

VOTE: Chair Gaffney did not vote; 6 ayes

B. Consent Agenda

1. Complaint Investigations

*a. Earl Doman	03-06-025
b. Jerald W Olsen	04-03-040
c. Jessie Bridgham	04-04-051
*d. Gwendolyn McKinnis	04-07-065
e. Michael Piels	04-08-071
f. Gwendolyn McKinnis	04-08-075
*g. Dennis Weldon	05-08-021
*h. Harkcom & Harkcom	06-02-005
*i. Bradley V Hoffman	06-06-027
*j. Gerry McReynolds	06-06-029
Pacific Tax Services	
*k. James W Rose	06-07-032
l. Cecil Koberstein	06-07-033
*m. Michael McCoy	06-05-021

C. Items Removed from Consent Agenda

13.B.1.a. Earl Doman 03-06-025

Earl Doman CPA (Doman) assisted Client with estate planning. Doman formed an LLC for Client and then instructed Client to transfer her assets into the newly formed LLC.

ALLEGED VIOLATIONS:

Competence and Technical Standards

OAR 801-030-0010 (1) Competence

A licensee shall not undertake any engagement for the performance of professional services which the licensee cannot reasonably expect to complete with due professional competence, including compliance, when applicable, with sections (2) and (3) of this rule.

Doman prepared Client's 2001 tax return based on information that he received from Client. Doman stated that Client did not give him a copy of at least one 1099 and when Client called Doman with the amount of income on the 1099, Client did not tell Doman that the 1099 also reported federal withholding.

Doman either made a mistake or did not know about the federal withholding reported on the 1099. Doman may not have asked enough questions to determine if federal withholding was reported on the 1099.

OAR 801-030-0020 (1) Professional misconduct.

(a) A licensee shall not commit any act or engage in any conduct that reflects adversely on the licensee's fitness to practice public accountancy.

(b) Professional misconduct may be established by reference to acts or conduct that would cause a reasonable person to have substantial doubts about the individual's honesty, fairness and respect for the rights of others or for the laws of the state and the Nation. The acts or conduct in question must be rationally connected to the person's fitness to practice public accountancy.

Doman created an LLC for Client then instructed Client to sign the LLC document and transfer title of her property to the LLC. Client stated that she did not prepare the documents herself or hire an attorney to prepare the documents. Doman billed Client for formation of the LLC.

When Doman prepared the LLC for Client, Doman engaged in the practice of law.

INVESTIGATOR SUMMARY (Maximum civil penalty is \$5,000 per violation)

Competence and Technical Standards

OAR 801-030-0010 (1) Competence

No Violation

OAR 801-030-0020 (1) Professional misconduct

Prepared a legal document for client

Committee Discussion: Doman drafted the LLC and instructed client to sign and submit the document. Client consulted others and was advised not to follow through with Doman's instructions. The issue is drafting documents versus tax and/or estate planning. CPAs do not draft legal documents. The committee questioned how many LLC documents Doman has drafted for clients. When Doman advised client regarding property in California, Doman did not consider that client would lose her low property tax status. Client received poor advice from Doman. Investigator noted that there is a pending Doman case that deals with LLC issues.

COMMITTEE RECOMMENDATION: Moved and carried to recommend issuing a Cease and Desist Order, defer the case to combine with the Doman pending case and discuss this case with the Oregon State Bar (Bar).

Board Discussion: *The Board does not have authority to issue a cease and desist with respect to the preparation of legal documents. The Board should refer the potential unlawful practice of law to the Bar and request that the Bar determine if it is the practice of law when Doman recommends and prepares LLC documents for clients.*

BOARD ACTION: Moved by Bailey and carried to defer until the 2006 Doman investigation is reviewed by the complaint committee, and refer the Doman case to the Bar.

VOTE: Chair Gaffney did not vote; 6 ayes

13.B.1.d. Gwendolyn McKinnis 04-07-065

Gwendolyn McKinnis (McKinnis) provided tax, accounting and management services to both Client and Company. Client alleged that McKinnis prepared erroneous financial statements and tax returns and also disclosed confidential client information to a third party without Client's consent.

ALLEGED VIOLATIONS:

801-030-0010 Competence and Technical Standards

(1) Competence. A licensee shall not undertake any engagement for the performance of professional services which the licensee cannot reasonably expect to complete with due professional competence, including compliance, when applicable, with sections (2) and (3) of this rule.

McKinnis did not meet the requirements of AR 100.17 when McKinnis prepared Company's compiled financial statements – income tax basis, without disclosing in the first paragraph of the compilation report that the financial statements were prepared on the income tax basis of accounting.

Because of this omission, the compilation report issued by McKinnis for Company could be misleading to the reader.

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

No licensee or any partner, officer, shareholder, member, manager, owner or employee of a licensee, shall voluntarily disclose information communicated to the licensee by a client relating to and in connection with services rendered to the client by the licensee.

In Consultant's letter to McKinnis, Consultant directed McKinnis to provide corrected financial information to Husband. McKinnis did not give Husband corrected financial information but instead sent a letter to Consultant in which she disclosed information communicated to McKinnis by Client or Husband. Client provided written instruction to McKinnis to send financial information directly to Consultant. McKinnis understood those instructions to include authority to discuss services that McKinnis provided to Client.

McKinnis voluntarily disclosed information communicated to McKinnis by Client and Husband without Client or Husband's consent.

INVESTIGATOR SUMMARY (Maximum civil penalty is \$5,000 per violation)

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

McKinnis issued a compilation report that does not comply with reporting requirements of AR 100.17

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

Prohibited disclosures

No Violation

McKinnis, CPA arrived at the Complaints meeting in person at 1:50 p.m. and left the meeting at 2:05 p.m. McKinnis stated that she verified that all other compilation reports that she prepared are in compliance with AR 100.17 and explained that the compilation report issued to this client is the only one that is incorrect. McKinnis has implemented more checklists to assist her when she reviews her work. When questioned if she would consider associating with another CPA to review her work, McKinnis stated that she has not considered that alternative, but that it could be difficult because Waldport is a distance from other communities.

Committee Discussion: McKinnis issued a compilation report that does not comply with reporting requirements of AR 100.17 and also does not state that McKinnis is not independent. McKinnis' next peer review is scheduled for December 2006. The Committee noted that McKinnis gave some thought to her engagement letter; however, the compilation report is incorrect. McKinnis completed only one A&A course in the past four years. It appears that McKinnis has difficulty keeping current with wording. McKinnis should have more knowledge in A&A – maybe a two or three day course in Accounting and Review.

COMMITTEE RECOMMENDATION: Moved and carried to recommend the following for violation of 801-030-0010(1) Competence and Technical Standards:

- \$500 civil penalty
- 16 additional hours of CPE in Accounting and Review services
- special peer review of five (5) reports, selected by the peer reviewer. The special peer review could be included in the December, 2006 peer review for licensee if the peer reviewer expands the procedure to include five (5) additional reviews.

Board Discussion: *The minutes of September 7, 2006 need to be corrected to reflect the Investigation Report change of an additional violation: OAR 801-030-0015(1)(a) Confidential Client information, Prohibited disclosure:*

BOARD ACTION: Moved by Bailey and carried to accept the Committee recommendation and assess a \$500 civil penalty for violation of OAR 801-030-0010(1) Competence and Technical Standards; 16 additional hours of CPE in Accounting and Review services and have a special peer review of five (5) additional reports added to her upcoming peer review, those (5) reports, selected by the peer reviewer. The special peer review can be included in the December 2006 peer review for licensee if the peer reviewer expands the procedure to include five (5) additional reviews.

VOTE: Chair Gaffney did not vote; 6 ayes

13.B.1.g. Dennis Weldon 05-08-021

Dennis Weldon entered into a Litigation Monitoring Agreement on September 16, 2005. The Board received a letter stating that legal action was completed June 8, 2006.

Dennis Weldon was arrested on charges that he applied for and received hunting licenses and game tags in the name of a his deceased father, variations of the names of other family members and the social security number of another individual.

ALLEGED VIOLATIONS:

Disciplinary actions; grounds ORS 673.170(2)(h) and ORS 673.170(4)

ORS 673.170(2) The Board may take any of the actions described in subsection (1) of this section for any one or any combination of the following causes:

(h) Conviction of any crime, an essential element of which is dishonesty, fraud or misrepresentation, under the laws of any state, of any foreign jurisdiction or of the United States. **ORS 673.170(4)** In addition to the causes in subsection (2) of this section, the Board may take any of the actions described in subsection (1) of this section for dishonesty, fraud or misrepresentation not in the practice of public accountancy.

Weldon used the names of fictitious individuals and actual individuals without their authorization or knowledge to apply for residential hunting licenses and game tags. Weldon used the name of his father to apply for hunting licenses before and after his father's death. Weldon also used the social security number of an individual he did not know without that individual's permission to apply for hunting licenses. Weldon was issued hunting licenses and game tags in the names of other individuals without their permission or knowledge.

Weldon pled guilty to three misdemeanor charges of False Application of State of Oregon Fish and Game Licenses. Weldon was sentenced to probation, community service and paid a fine to Department of Wildlife.

Weldon answered "no" on his 2006 Application when asked if he was convicted of a crime within the past 10 years that he had not previously reported to the Board.

INVESTIGATOR SUMMARY (Maximum civil penalty is \$5,000 per violation)
ORS 673.170(2)(h) and ORS 673.170(4) Disciplinary actions; grounds
Conviction of any crime, an essential element of which is dishonesty under Oregon law.

Committee Discussion: Weldon used the names and social security numbers of at least three (3) individuals, without their knowledge or authorization, to obtain multiple hunting and fishing licenses. Weldon did not disclose on his renewal application that he was convicted of a crime.

COMMITTEE RECOMMENDATION: Moved and carried to recommend Revocation and a \$20,000 civil penalty as follows and send a copy of the notice and order to Mentor Graphics (Weldon's employer):

- \$5,000 for violation of ORS 673.170(2)(a), Fraud or deceit in obtaining or applying for a permit under ORS 673.150
- \$15,000 (\$5,000 x 3) for violation of ORS 673.170(2)(h), Conviction of any crime an essential element of which is dishonesty, fraud or misrepresentation

Board Discussion: *Mentor Graphics submitted a letter to the Board dated September 29, 2006 stating their support of Weldon. Weldon's attorney proposed a one year suspension, \$10,000 civil penalty, 32 hours of additional Ethics CPE and that Weldon submit proof of completion for alcohol treatment. The Board considered the attorney's proposal. Weldon's acts or conduct include dishonesty and fraud, not in the practice of public accountancy. The Board discussed issuing a civil penalty with a potential stay.*

BOARD ACTION: Moved by Bailey and carried to suspend license for three years, assess a \$20,000 civil penalty with \$10,000 stayed with proof of completion of an alcohol treatment program and continue with a weekly alcohol monitoring program for a period of three years, and attend 32 hours of Ethics CPE.

VOTE: Chair Gaffney did not vote; 6 ayes

13.B.1.h. Harkcom & Harkcom 06-02-005

A Litigation Monitoring Agreement was issued June 30, 2004. The Board was notified of a settlement agreement on August 15, 2005.

First National Insurance Company of America, Inc (First National) provided bonding services for a client of Harkcom & Harkcom (Firm). First National filed a civil suit against Firm when Firm's client failed to perform under a construction contract.

ALLEGED VIOLATIONS:

OAR 801-030-0010

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

A licensee shall not undertake any engagement for the performance of professional services which the licensee cannot reasonably expect to complete with due professional competence, including compliance, when applicable, with sections (2) and (3) of this rule.

(2) Auditing standards. A licensee shall not permit the licensee's name to be associated with financial statements in 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. Statements on Auditing Standards issued by the AICPA, and other pronouncements having similar generally recognized authority, are considered to be interpretations of generally accepted auditing standards, and departures there from must be justified when such standards are not followed.

(3) Accounting principles. A licensee shall not express an opinion that financial statements are presented in conformity with generally accepted accounting principles if such financial statements contain any departure from such accounting principles which has a material effect on the financial statements taken as a whole, unless the licensee can demonstrate that by reason of unusual circumstances, the financial statements would otherwise have been misleading. In such a case, the licensee's report must describe the departure, the approximate effects thereof, if practicable, and the reasons why compliance with the principle would result in a misleading statement. For purposes of this rule, generally accepted accounting principles are defined by pronouncements issued by the Financial Accounting Standards Board and its predecessor entities and similar pronouncements issued by other entities having similar generally recognized authority.

Firm was engaged to review Company's June 30, 2001 financial statements for submission to First National for Company's construction performance and payment bonding.

Firm issued an unqualified report on Company's June 30, 2001 financial statements. Company's June 30, 2001 financial statements did not comply with GAAP requirements of ARB 45.

Firm did not perform analytical procedures to verify Company's statement that there was no work in progress at June 30, 2001. Firm accepted Company's representation without verification.

Firm did not adequately inquire or perform analytical procedures to determine that Company's review report should have been modified. In the alternative, Firm should have withdrawn from the engagement. This is required by AR 100.40 when Company financial statements are not in conformity with GAAP.

INVESTIGATOR SUMMARY (Maximum civil penalty is \$5,000 per violation)
801-030-0010 Competence and Technical Standards

Firm did not modify its report or withdraw from the engagement when financial statements were not in accordance with GAAP

Committee Discussion: Firm did not verify that the Company had no work in progress when Firm reviewed Company financial statements. Firm issued a review report without preparing a report on work in progress. A work in progress report is not mandatory, but strongly recommended to complete an analytical review of the jobs completed and the jobs in progress before coming to a conclusion. It was noted that the retained earnings on the Harkcom & Harkcom financial statement dated June 30, 2001 was \$185,000 and the retained earnings beginning of year on the June 30, 2002 Moss Adams financial statement had a negative balance of \$37,000. The Committee would like to see backup for the Moss Adams financial statements.

COMMITTEE RECOMMENDATION: Moved and carried to recommend the following:

- \$5,000 for violation of OAR 801-030- 0010, Technical Competence
- 16 hours of CPE for each Larry (husband) and Laura (wife).
- Pre-issuance review of attest and compilation reports for all construction contractors for one year after the date of the order.

***Board Discussion:** Gaffney recused himself from the discussion. The Board discussed the technical violations that occurred when Harkcom & Harkcom reviewed the client's June 30, 2001 financial statements. The client's June 30, 2002 financial statements were reviewed by a subsequent accountant who made a prior period adjustment that corrected the June 30, 2001 financial statements. The Board suggested that the minutes of the September 7, 2006 Complaints Committee meeting be changed to reflect the first names of the husband and wife (Larry and Laura).*

BOARD ACTION: Moved by Johnson and carried to assess 16 hours of CPE in Accounting and Auditing for each licensee (Larry and Laura); pre-issuance of all attest and compilation financial statements for a period of one year and a \$5,000 civil penalty for each of the following violations of OAR 801-030-0010(1) Competence and Technical Standards, for a total civil penalty of \$20,000:

- Performing inadequate analytical procedures in review engagement (\$5,000)
- Making inadequate inquiries in performance of review engagement (\$5,000)
- Issuing incorrect opinion in review report (\$5,000)
- Inadequate calculation of work in progress (\$5,000)

VOTE: Chair Gaffney recused; 6 ayes

13.B.1.i. Bradley V. Hoffman 06-06-027

Bradley Hoffman (Hoffman) reinstated permit 8422 from inactive to active during the regular renewal period. Hoffman reported to the Board that he used the CPA designation on business cards and e-mails during the time that his permit was inactive.

ALLEGED VIOLATIONS:

ORS 673.320(3) Permit or Registration

A person shall not assume or use the title or designation "certified public accountant" or "CPA" 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.

Hoffman used the CPA designation on business cards and in his e-mail address while his permit was inactive.

Hoffman stopped using the CPA designation on business cards and his e-mail address and did not refer to himself as a CPA until his permit to practice was reinstated in June 2006.

INVESTIGATOR SUMMARY (Maximum civil penalty is \$5,000 per violation)

ORS 673.320(3) Permit or registration

Violation of use of permit while inactive

Committee Discussion: Hoffman self reported through reinstatement process.

COMMITTEE RECOMMENDATION: Moved and carried to recommend a \$500 civil penalty for violation of ORS 673.320(3), Use of permit while inactive

Board Discussion: *There was no discussion*

BOARD ACTION: Moved by Bailey and carried to accept Committee recommendation and assess a \$500 civil penalty for violation of ORS 673.320(3), Use of permit while inactive.

VOTE: Chair Gaffney did not vote; 6 ayes

13.B.1.j. Gerry McReynolds 06-06-029

Pacific Tax Services

Pacific Tax Services (Company) is not a registered public accounting firm in Oregon. Gerry McReynolds is not licensed as a certified 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.

ALLEGED VIOLATIONS:

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, CPA or PA exceptions;

(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.

Company is not registered under ORS 673.010 to 673.457. Company issued a misleading compilation report on a financial statement to a business organization for the year ended October 31, 2004.

Company issued a misleading compilation report by using language published by AICPA. McReynolds, owner of Company, stated that he was not aware that using AICPA language was a violation of Oregon Board of Accountancy statutes and rules.

Misleading reports issued by Company could cause third party reliance on financial statements that are not issued "in accordance with Statements on Standards for Accounting and Review Services issued by the American Institute of Certified Public Accountants".

ORS 673.325 Statement allowed without permit or authorization.

The following statement signed by a person who does not hold a permit issued under ORS 673.150 or the authorization granted under ORS 673.153 shall not constitute a report under ORS 673.320, so long as the statement is not accompanied by any wording indicating the person is an accountant or auditor or other language prohibited by ORS 673.310 or 673.320:

The accompanying balance sheet of XYZ Company as of (date), and the related statements of income (or retained earnings or cash flow) for the year then ended have been prepared by me (us).

The information presented in these financial statements is the representation of management (owners).

Company did not use the safe harbor language of ORS 673.325 when Company issued a compilation report on financial statements for the year ended October 31, 2004.

INVESTIGATOR SUMMARY (Maximum civil penalty is \$5,000 per violation)

ORS 673.320(1) Permit or registration required

Company issued a report on financial statements

ORS 673.325 Statement allowed without permit or authorization

Company issued a report on financial statements without using the statement allowed without a permit or authorization

ORS 673.170(7) and ORS 673.173 Cease and Desist Order

Committee Discussion: McReynolds is not licensed as a certified public accountant or public accountant in Oregon. Pacific Tax Services (Company) is not a registered public accounting firm in Oregon. McReynolds issued a compilation report without using the safe harbor language of ORS 673.325. The Committee considered the length of time McReynolds has potentially been issuing compilation reports and noted that the civil penalty would be much larger if that number were known. The Committee respectfully encourages the Board to uphold the Committee's recommended civil penalty.

COMMITTEE RECOMMENDATION: Moved and carried to recommend a \$10,000 civil penalty for violation of ORS 673.320(1), Permit or registration required (\$5,000) and ORS 673.325, Statement allowed without permit or authorization (\$5,000).

Board Discussion: *Although McReynolds teaches accounting at a Community College, he was unaware that he could not issue compilation reports using the report language prescribed by AICPA or similar language that would imply that he is authorized or competent to issue such a report. Individuals who are not licensed with the Board of Accountancy need to be advised that they cannot use report language that would imply that they are licensed certified public accountants or public accountants. Possibly Tax Board would publish an article in their newsletter or on their website that would advise Licensed Tax Consultants of the language in ORS 673.325 and the potential violation for using misleading language when issuing financial reports. This would give unlicensed individuals additional disclosure that failure to use the language in ORS 673.325 could result in a violation of Board of Accountancy rules.*

BOARD ACTION: Moved by Bailey and carried to accept Committee recommendation and assess a \$10,000 civil penalty for violation of ORS 673.160 and 673.320(1), Permit or registration required and ORS 673.325, Statement allowed without permit or authorization, and staff 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.

VOTE: Chair Gaffney did not vote; 6 ayes

13.B.1.k. James W Rose 06-07-032

James W. Rose, PA, LTC (Company) is not a registered public accounting firm in Oregon. James W. Rose (Rose) is not licensed as a public accountant or certified public accountant in Oregon. On February 23, 2005 Company issued a review report on financial statements for a client. The report issued by Company did not use ORS 673.325 safe harbor language.

ALLEGED VIOLATIONS:

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, CPA or PA; exceptions

(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.

Company is not registered under ORS 673.010 to 673.457. Company issued misleading review reports on financial statements to a business organization for periods ending October 15, 2004 and December 31, 2004.

The reports were misleading because Company used language published by AICPA. Rose, owner of Company, stated that he was not aware that using AICPA language was a violation of Oregon Board of Accountancy statutes and rules.

Misleading reports issued by Company could cause third party reliance on financial statements that are not issued "in accordance with Statements on Standards for Accounting and Review Services issued by the American Institute of Certified Public Accountants".

ORS 673.325 Statement allowed without permit or authorization.

The following statement signed by a person who does not hold a permit issued under ORS 673.150 or the authorization granted under ORS 673.153 shall not constitute a report under ORS 673.320, so long as the statement is not accompanied by any

wording indicating the person is an accountant or auditor or other language prohibited by ORS 673.310 or 673.320:

The accompanying balance sheet of XYZ Company as of (date), and the related statements of income (or retained earnings or cash flow) for the year then ended have been prepared by me (us).

The information presented in these financial statements is the representation of management (owners).

Company did not use the safe harbor language of ORS 673.325 when Company issued reports on financial statements for the periods ended October 15, 2004 and December 31, 2004.

INVESTIGATOR SUMMARY (Maximum civil penalty is \$5,000 per violation)

ORS 673.320(1) Permit or registration required

Company issued two review reports on financial statements

ORS 673.325 Statement allowed without permit or authorization

Company issued two reports on financial statements without using the safe harbor language

ORS 673.170(7) and ORS 673.173 Cease and Desist Order

Committee Discussion: Rose issued two review reports and held himself out as a PA on those reports. Rose also issued a third review report in the name of Cecil Koberstein. Rose admitted that he is responsible for the review report issued in Koberstein's name and requested that the Board take no action against Koberstein. Koberstein is Rose's father-in-law and Rose acquired Koberstein's business when Koberstein retired.

COMMITTEE RECOMMENDATION: Moved and carried to recommend a \$35,000 civil penalty as follows:

- \$10,000 for violation of ORS 673.320 (5), Signing as a PA without a valid license (\$5,000 x 2)
- \$10,000 for violation of ORS 673.320(1), Permit or registration required to provide attestation or compilation services or issue reports (\$5,000 x 2)
- \$10,000 for violation of ORS 673.325, Statement allowed without permit or authorization (\$5,000 x 2)
- \$5,000 for violation of ORS 673.170 (2)(F)(b), Dishonesty, fraud or gross negligence

Board Discussion: *Rose reviewed a client's financial statements and issued two review reports on those financial statements to a third party. Although Rose is not licensed as a PA or CPA in Oregon, he used the designation on the review reports. The Board discussed that Rose is in violation of dishonesty, fraud or gross negligence not in the practice of public accountancy, ORS 673.170(4).*

BOARD ACTION: Moved by Bailey and carried to accept Committee recommendation to assess a total civil penalty of \$35,000:

1. Unlawful holding out as a public accountant ORS 673.320(5) (\$5,000 x 2)
2. Issuing review reports ORS 673.320(1) and 673.325 (\$5,000 x 2)
3. Performing attest or compilation services or issuing reports on financial statements without a permit, ORS 673.160 (\$5,000 x 2);
4. Dishonesty, fraud or gross negligence, 673.170(2)(b) and 673.170(4), (\$5000)

VOTE: Chair Gaffney did not vote; 6 ayes

13.B.1.m. Michael McCoy 06-05-021

Michael McCoy, CPA (McCoy) provided tax and accounting services to Company. Company designs and constructs commercial exhibits that are used at trade shows.

McCoy filed tax returns for Company, on the cash method of accounting. McCoy stated that Company was not restricted from using the cash method of accounting because Company does not have any C corporation partners.

McCoy filed California tax returns for Company but did not file California tax returns for the two S-corporations that owned Company.

ALLEGED VIOLATIONS:

801-030-0010 Competence and Technical Standards

(1) Competence. A licensee shall not undertake any engagement for the performance of professional services which the licensee cannot reasonably expect to complete with due professional competence, including compliance, when applicable, with sections (2) and (3) of this rule.

McCoy analyzed Company's business and recommended the cash method of accounting for income tax purposes. McCoy stated that Company was not restricted from using the cash method of accounting because Company does not have any C corporation partners. In July 5, 2001, McCoy confirmed that Company is allowed to use the cash method of accounting for income tax purposes. When McCoy advised Company to use the cash method of accounting for income tax purposes, McCoy disregarded requirements of Internal Revenue Code section 460, Reg. 1.446-1(a)(4) and 1.446-1(c)(2).

Company changed accounting firms and were advised by the new firm that Company is required to use the accrual method of accounting and that Company should request permission from IRS to change its comprehensive method of accounting from cash to accrual.

McCoy prepared and advised Company to file California partnership income tax returns. McCoy did not file California income tax returns for income that flowed through to the S-corporations or instruct shareholders of the S-corporations to file California state income tax returns. When McCoy's office was questioned about filing California income tax returns for the S-corporations and the shareholders, McCoy's office issued a memo that no California income tax returns were required.

INVESTIGATOR SUMMARY (Maximum civil penalty is \$5,000 per violation)

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

Did not recommend the accrual method of accounting required for income tax purposes. Did not advise S-corporation or shareholders to file California tax returns

Michael McCoy, CPA, Richard Gassner, non-CPA owner in the Firm McCoy & Company, and Jeanne Chamberlain, Esq., Attorney for McCoy arrived in person at the Complaints Committee meeting at 8:20 a.m. and left the meeting at 9:20 a.m.

Baker explained that the responsibility of the Committee is to determine if McCoy lacked competency when McCoy advised Company to use the cash instead of accrual

method of accounting, and also if the owners of Company should have filed tax returns in California.

Chamberlain stated that the investigation report is incomplete in that it does not include a history of Company or clarify that Company changed over a period of time. Originally the cash basis of accounting was appropriate. McCoy agrees that the accrual base accounting method was required at a later date.

Company constructs large exhibits that include large displays like restaurants and elevators. In Company's early years, construction work was completed within one year with little or no inventory at year end. Company was deemed to be a construction company, not a manufacturing company, and the cash method of accounting was appropriate. The owners understood that Company's growth would eventually require a change in the accounting method.

McCoy further explained when Company was formed in 1998 they had one large client. Company's activity occurred from January through July and the cash method of accounting was determined to be the best accounting method.

Chamberlain discussed the May 28, 2004 opinion letter issued by Cosgrave Vergeer Kester. The letter does not analyze the underlying factual issues McCoy considered when making the determination to use the cash method of accounting. Chamberlain suggested that the committee speak with Mr. and Mrs. Roth and Cosgrave Vergeer Kester.

McCoy added that later research determined that Company is a construction company and should report for income tax purposes on the cash basis of accounting. McCoy said that he discussed the gross receipts test with Company and told the owners that Company would be required to switch to the accrual basis of accounting when the company reached \$10,000 in gross receipts.

McCoy stated that Company did not reach the \$10,000 gross receipts test as soon as expected due to financial setbacks caused by the events of September 11th.

One of the owners of Company was Company's controller until the company hired a CPA to fulfill that role. McCoy had regular discussions with the controller about inventory and gross receipts. While McCoy provided services to Company, there were no significant amounts of inventory at year-end, which supports cash basis accounting. As the company grew, year end inventories increased and necessitated the accrual basis of accounting. This did not occur until after Company retained another CPA firm to provide services.

The Committee questioned McCoy about his choice to classify the exhibits as real property instead of personal property in light of the fact that the exhibits are assembled, then disassembled. It doesn't appear that the exhibits are fixed property.

Gassner stated that the exhibits should be classified as real property based on their weight and the fact that the exhibits were not eligible for ITC.

The committee questioned McCoy about his decision that California income tax returns for the S-corporations and their partners were not required. McCoy discussed his research of California tax law and determined that Company had "thin nexus" in California, while the S-corporation and its partners had no California nexus. Company did not have a physical location in California until 2003. The 2003 tax return was prepared by the subsequent accountant.

The committee questioned McCoy about the documentation used to support their positions when advising Company. Gassner agreed to review Company's files for

additional documentation to support their positions and fax that information to the committee by the end of the day.

Committee Discussion: Committee expressed concern that McCoy had no contemporaneous documentation to support the decision that California tax returns were not required for the S-corporation and its partners and also for decision to use cash basis for accounting. Lack of documentation could indicate that McCoy did not adequately research the issues prior to providing client with advice. The Committee discussed the alternatives of sending a letter of concern, assessing additional CPE, waiting for additional information and waiting until someone could interview Roth before making a recommendation. McCoy faxed supplemental information found in client file supporting their discussions and documents supporting McCoy's decision that the client should report on the cash method of accounting.

COMMITTEE RECOMMENDATION: Moved and carried to recommend a Letter of Concern. Brown and Cruzan volunteered to review the letter for technical issues prior to sending it to McCoy.

Board Discussion: Bailey researched the requirements to file tax returns using the cash method of accounting and also the requirements to file tax returns in California, and discussed his findings with the Board.

BOARD ACTION: Moved by Andersen and carried to assess no violation.

VOTE: Chair Gaffney did not vote; 6 ayes

13.B.1.e. Michael Piels 04-08-071

Michael Piels (Piels) prepared tax returns for Client 1, Client 2 and their Company. When an Internal Revenue Service (IRS) auditor disallowed tax deductions for Client 1, Client 2 and Company, Client 1 and Client 2 alleged that Piels gave them bad tax advice and did not advocate on their behalf during the IRS audit.

ALLEGED VIOLATIONS:

Competence and Technical Standards

801-030-0010 (1) Competence

A licensee shall not undertake any engagement for the performance of professional services which the licensee cannot reasonably expect to complete with due professional competence, including compliance, when applicable, with sections (2) and (3) of this rule.

Piels prepared tax returns for Client 1, Client 2 and Company based on information that he received from Client 1 and Client 2. Piels stated that the tax returns were prepared from QuickBooks records prepared by Client. Piels did not request nor was he provided with a complete general ledger;

Tax information for the preparation of tax returns for years 2000, 2001 and 2002 was provided by Clients and was consistent with the 1999 tax year, prepared for Clients by another tax preparer;

Circular 230, section 10.34(c) "*Relying on information furnished by clients*" states that a preparer may rely in good faith without verification upon information furnished by the client.

There is no clear evidence to determine that Piels knew or should have known that Client 1, Client 2 and Company included non-deductible expenses in the totals given to Piels.

It is apparent from the depreciation schedule that Piels was aware of motorcycle deductions on Company tax return. It is not obvious whether Piels knew that the motorcycles were used to race in locations outside of Company's service area, or whether the advertising value of the races increased Company's business.

There is not enough evidence to determine if Piels lacked competency when providing services to Client 1, Client 2 and Company.

801-030-0020 (1) Professional misconduct.

(a) A licensee shall not commit any act or engage in any conduct that reflects adversely on the licensee's fitness to practice public accountancy.

(b) Professional misconduct may be established by reference to acts or conduct that would cause a reasonable person to have substantial doubts about the individual's honesty, fairness and respect for the rights of others or for the laws of the state and the Nation. The acts or conduct in question must be rationally connected to the person's fitness to practice public accountancy.

Client 1 and Client 2 claimed that Piels did not advocate for them or for Company during the IRS audit. The IRS auditor found evidence that Client 1, Client 2 and Company deducted personal expenses on tax returns.

There is no evidence that Piels did not advocate for Client 1, Client 2 and Company during the audit.

Michael Piels, Complaints Committee member, attended the complaints committee meeting in person and left the room after making an opening statement.

Michael stated that the facts in the investigation report are well stated. He added that this client was a learning experience for him and that Piels was lied to in the middle of the audit, at the end of the audit and in fact was lied to all the way through. Michael Piels left the room.

Committee Discussion: In Piels' response he states that he advised his client that an expense could be deducted for income tax purposes if it was a benefit to the business. It appears that the client took advantage of that statement and thought of creative means to justify deductions. Problems with the client arose during the audit when the client did not cooperate in providing supporting documentation. The Committee reviewed 1999 through 2002 tax returns for clients and did not see anything that would cause Piels to raise additional questions, noting that increases in expenses were proportionate with increases in income and depreciation expenses were reasonable. Circular 230 does not require tax preparer to audit information provided by client for tax purposes.

COMMITTEE RECOMMENDATION: Moved and carried to recommend no violation.

Board Discussion: *The Board inquired about the details in the previous complaint made against Piels while he served on the Complaints Committee. That complaint was closed with no violation and the Board sent a Letter of Concern to Piels.*

BOARD ACTION: Moved by Bailey and carried to accept the Committee recommendation to find no violation.

VOTE: Chair Gaffney did not vote; 6 ayes

14. LEGAL

A. Report of Legal Items

1. Proposed orders after hearing
 - a. Rostad & English - deferred
 - b. Suzanne Frum

Board Discussion: *The Administrative Law Judge upheld BOA's position.*

BOARD ACTION: Klimowicz moved and it carried to adopt the ALJ Proposed Order.

VOTE: Chair Gaffney did not vote; 6 ayes

2. Proposed Consent Orders

a. Lance Barrett

Board Discussion: *This is the second consent order proposed by Barrett; it includes all the Board's points, he admits to the findings of facts with the civil penalty reduced to \$8,000. Barrett submitted \$4,000 with remainder due in ten (10) days if Barrett's consent order is accepted by the Board.*

BOARD ACTION: Moved by Johnson to accept the Consent Order.

VOTE: Chair Gaffney did not vote; 6 ayes

b. Thomas Barrett

Board Discussion: *Barrett proposed a Consent Order in which he agrees to pay \$5,000 for each violation with \$4,500 of each penalty stayed if there is no further disciplinary action brought against him within the next three (3) years; he will give the Board an agreement from Jackson Hewitt that Barrett will have access to tax records for a period of 7 years.*

BOARD ACTION: Moved by Morris and carried to accept the above with the exception of no impediment to his license shall be incurred and that Barrett shall obtain a random review of at least 20 tax returns within a period of one year, and shall retain copies of all tax returns that he prepares.

VOTE: Chair Gaffney did not vote; 6 ayes

c. Ronald Hoyt

Board Discussion: *Hoyt proposed that he will agree to a Consent Order with a suspension for three (3) years, a civil penalty of \$10,000 with \$4,000 stayed for three (3) years if there are no violations within the three (3) year period; and Hoyt neither admits nor denies the findings in the Board's order.*

BOARD ACTION: Moved by Klimowicz and carried to accept the terms of the proposed consent order.

VOTE: Chair Gaffney did not vote; 6 ayes

d. Cleary & Gill - deferred

3. Other

a. Todd Knapp Petition for Judicial Review
Information only – Knapp withdrew the petition and paid the penalty.

15. QUALIFICATIONS COMMITTEE

A. Report of Qualifications Committee

1. Acceptance of Minutes

a. September 28, 2006

BOARD ACTION: Moved by Meisner and carried to approve the minutes of September 28, 2006.

VOTE: Chair Gaffney did not vote; 6 ayes.

B. Consent Agenda

BOARD ACTION: Moved by Meisner and carried to accept the committee recommendations.

VOTE: Chair Gaffney did not vote; 6 ayes.

1. Recommendations

a. Barbara Brady 06-09-015

Ms. Brady gained her experience with the following employer:

Lewis & Clark	31 mos.	All competencies
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Ms. Brady passed the CPA Exam on May 22, 2006. Ms. Brady gained her experience while working for Lewis & Clark College as the director of administration for National Crime Victim Law Institute. Mr. Rawls reported that the write-up was very thorough and clearly demonstrated Ms. Brady has gained competency in the seven core competencies.

COMMITTEE RECOMMENDATION: Mr. Rawls moved to accept this application for licensure. Vote: Chair Emery did not vote, 5 ayes, 1 excused (Santiago)

b. Martha Burroughs 06-06-009

Ms. Burroughs gained her experience with the following employers:

Cascadia Behavioral	24 mos.	All competencies
Jones & Roth	24 mos	A & E only

Ms. Burroughs passed the CPA exam in November 1999. Mr. Selid reviewed this file and stated that the applicant has met the competencies while working at Cascadia Behavioral Health.

COMMITTEE RECOMMENDATION: Moved by Selid and carried to approve Martha Burroughs application for certification. Vote: Chair Emery did not vote, 5 ayes, 1 excused (Santiago)

c. Nadezda Chernokhaeva 06-08-014

Ms. Chernokhaeva gained her experience with the following employer:

Global Doctor Ltd.	26 mos.	All competencies
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Ms. Chernokhaeva passed the CPA exam in November 1999. Mr. Ashford reported that the applicant is highly qualified for a CPA certificate. She is based in Beijing China and her supervisor licensee is based in Arizona. Mr. Ashford contacted the employer to discuss the level of supervision she had with the applicant due to the distance. The supervisor licensee stated that they are in close contact with daily emails, monthly reviews, telephone conferences once per week and a two week annual visit. The supervisor licensee also has the authority to hire and/or fire the applicant. The committee believes that the applicant and supervisor licensee meet the qualifications of direct supervision.

COMMITTEE RECOMMENDATION: Moved by Ashford and carried to approve Nadezda Chernokhaeva's application for certification. Vote: Chair Emery did not vote, 5 ayes, 1 excused (Santiago)

2007 window. All other pronouncements will be tested if in effect six months before the beginning of the current window.

B. Retest Policy

The Board reviewed the Retest Policy established by the NASBA.

BOARD ACTION: Moved by Klimowicz and carried to adopt the Retest Policy as written by the NASBA.

VOTE: Chair Gaffney did not vote; 6 ayes.

17. CODE OF PROFESSIONAL CONDUCT

A. Report of Code of Professional Conduct Committee

1. Acceptance of Minutes

a. August 23, 2006

b. August 31, 2006

BOARD ACTION: Moved by Johnson and carried to approve the minutes of August 23, 2006 and August 31, 2006.

VOTE: Chair Gaffney did not vote; 6 ayes.

18. NEW BUSINESS

A. Safe Harbor Language

The Board would like to send a formal letter to the Board of Tax Examiners explaining ORS 673.325 that could be published on their website or distributed to licensees via their newsletter explaining recent violation that the Oregon Board of Accountancy has sanctioned against for violation of this statute. Mr. Besemann requested that the OAIA receive a copy of this letter to share with its members.

19. PROCESS OBSERVER REPORT

The Board worked well together. The recap of yesterday's work on the administrative rules was captioned well. Board staff did a good job working late on Sunday evening to ensure the Board had a clean copy of Division 030 with the changes. There was a question on one of the complaints; do we need to amend the motion to specify a number rather than a percentage? Mr. Gaffney indicated that the percentage could be changed if needed by an amended notice; the motion will remain at this point. The Board works very hard on ensuring consistency with violations for complaints.

20. NEXT MEETING

The next Board meeting will be on December 11, 2006 at the Board of Accountancy located at 3218 Pringle Rd. SE #110, Salem, OR 97302. The meeting will begin at 8:00 a.m.

21. ADJOURNED

There being no further business, the meeting adjourned at 4:47 p.m.