

**OREGON BOARD OF ACCOUNTANCY**  
**Minutes, October 5, 2009**

**Portland State University**

**Portland, Oregon**

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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**

James Gaffney, CPA, *Chair*  
Ray Johnson, CPA, *Vice-Chair*  
Jessie Bridgham, CPA  
Stuart Morris, PA  
Kent Bailey, CPA  
Eric Lind, *Public Member*  
Roberta Newhouse, CPA

**Staff Members**

Pat Hearn, Executive Director  
Noela Kitterman, Investigator  
Kimberly Bennett, Committee Coordinator  
Heather Shepherd, Committee Coordinator

**Guests**

Ann Ferguson, CPA  
David Larson, CPA  
Stewart Hayes, CPA  
Jerome "Tonk" Fischer, CPA  
Gordon Hanna, Esq.  
Kevin Steege, Applicant  
Kendra Matthews, Esq.

**Guests continued**

K. Stanley Martin, Qualifications Committee  
Janice Essenberg, CPA, Supervisor Licensee  
Cameron Irtifa, Applicant  
John Merina, CPA  
Kamala Austin, CPA  
Aukjen Ingraham, Esq.  
Frank Lagesen, Esq. (by phone)

**1. CALL TO ORDER**

Chair Gaffney called the meeting to order at 8:02 a.m. and requested Eric Lind to serve as process observer.

**2. APPROVAL OF MINUTES**

**A. August 17, 2009**

**BOARD ACTION:** Moved by Johnson and carried to approve the minutes of August 17, 2009 Board meeting.

**VOTE:** 6 ayes, 1 abstain (Gaffney)

**3. REPORT OF CHAIR**

Mr. Gaffney introduced and welcomed Ms. Ann Ferguson. Ms. Ferguson will fill the vacancy on the Board when Mr. Gaffney's term expires on December 31, 2009.

**4. REPORT OF VICE CHAIR**

**A. Action from Work Session**

1. PA License (see item 18.B.)
2. Municipal Grid Matrix (see item 18.c)
3. Rule Changes
  - a. Division 001
  - b. Division 005
  - c. Division 010
  - d. Division 020
  - e. Division 030
  - f. Division 040
  - g. Division 050

**BOARD ACTION:** Moved by Johnson and carried to accept the proposed rule changes with some modifications. Final draft of rules will be approved at the December meeting.

**VOTE:** 7 ayes.

**5. REPORT OF TREASURER**

Roberta Newhouse stated that 2007-09 revenue is \$243,673 over the budgeted amount. The Board exceeded budget on personal services but was under budget on services and supplies. The balance carried forward was just under \$1,000,000.

**6. OTHER CASE MATTERS**

**A. Gary Stapleton, Case No. N-06-08-037**

Mr. Dover reported that Mr. Stapleton filed an appeal. The Board has submitted all required documents.

**B. Chaloux Case No. 08-07-020**

No new information

**C. Sartain Case No. 08-10-030**

The respondent has signed a proposed settlement offer for the Board's approval. The offer decreases the civil penalty amount to \$1,500. The offer also added CPE for the current audit staff members.

**BOARD ACTION:** Moved by Johnson and carried to accept the settlement offer as presented.

**VOTE:** 7 ayes

**D. Wong Case No 08-05-013**

No new information

**E. Nichols & Mitchell Case No. 09-037CNK**

Kent Bailey recused himself from participating in this matter because the respondents are competitors of his firm.

The respondent contacted the Board and asked for a settlement on this matter. The Board has not conducted an investigation on the matter.

The respondent proposed that each partner pay a civil penalty in the amount of \$500. The firm will pay a civil penalty in the amount of \$1,000. The firm will also have a pre-issuance review on the first three audits that are performed after the agreement is signed.

***Board Discussion:***

Mr. Johnson asked if the proposed order includes CPE in auditing. Mr. Hearn indicated that additional CPE was not part of the discussion or proposed order. Ms. Bridgham would like to request each individual's CPE plan. Ms. Newhouse indicated that, if the individuals are doing *Yellow Book* audits, they are required to obtain 80 CPE hours in specific subject areas.

**BOARD ACTION:** Moved by Bridgham and carried to approve the proposed stipulations and orders with the terms described above and require each partner to provide their plan for CPE to be reviewed and approved by the Board in advance.

**VOTE:** 6 ayes, 1 abstain (Bailey)

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**7. COMPLAINTS COMMITTEE**

**A. Acceptance of Meeting Minutes**

1. September 11, 2009

**BOARD ACTION:** Moved by Johnson to accept the minutes.

**VOTE:** 7 ayes

**B. Consent Agenda**

1. Complaint Investigations
- a. \* Fischer Hayes & Associates 07-05-018  
Jerome "Tonk" Fischer, CPA  
Stewart Hayes, CPA
  - b. \* Merina & Co LLP 07-07-020  
John Merina, CPA  
Kamala Austin, CPA  
Nancy Young, CPA
  - c. Linda Top 09-005CNK
  - d. Marie Lockwood, *Defer* 09-042CNK
  - e. \* David Larson 09-043CNK
  - f. Cathy Peinhardt 09-051CNK
  - g. \* Roberts Branner & Bemis LLC 09-052CNK
  - h. LeMaster & Daniels PLLC 09-084CNK
  - i. LeMaster & Daniels PLLC 09-085CNK

\* *Items removed from consent agenda*

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

**VOTE:** 7 ayes

**C. Items Removed from Consent Agenda**

1. (7.B.1.a.) Fischer Hayes & Associates et all 07-05-018  
Jerome "Tonk" Fischer  
Stewart Hayes

The Complaints Committee previously reviewed this matter on October 31, 2008. The Complaints Committee then recommended that the Board find no violation. (*Exhibit 1*)

The Board evaluated the investigation and the Complaints Committee's recommendation on December 15, 2008. The Board deferred making a decision until the Complaints Committee reviewed additional information. (*Exhibit 2*)

The additional information that the Board requested be reviewed by the Complaints Committee pertains to Fischer Hayes & Associates' contractual agreement with their clients that used the "Method" after 2000. The Method is a tax strategy. The strategy was apparently used to achieve a stepped-up basis prior to the sale of real property (or other assets) with unrealized gains.

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During the subsequent investigation, Fischer Hayes and Associates disclosed that they had paid a referral fee to an insurance company that referred a client (The Killen Group) to them. Payment of referral fees was not reported on Fischer's or Hayes' renewal applications.

***Board Discussion:***

Firms and individual licensees are required to disclose to clients if they are expecting to pay or receive a referral fee. Although Hayes disclosed to the client that a referral fee would be paid, Fischer Hayes & Associates did not provide the disclosure in writing. The Board discussed objectivity and integrity and the engagement letters that were entered into with clients who purchased the "Method". Attorney Gordon Hanna explained the firms fee arrangement with clients who entered into the transaction. Fees included preparation of three years of tax returns, sometimes for multiple companies and a premium for risk to the accounting firm.

Providing disclosure to clients regarding payment of commissions and referral fees is a serious issue

**BOARD ACTION:** Moved by Gaffney and carried to find the following violations:

**Fischer Hayes & Associates**

**ORS 673.345(5)(a) and (b)(C)**, a civil penalty in the amount of \$500 for failure to obtain written disclosure from client regarding commission.

**Jerome (Tonk) Fischer, Jr., CPA**

**OAR 801-030-0005(3)(b)**, a civil penalty of \$500, \$250 for each of two years that licensee answered "no" to question about payment or receipt of commissions and referral fees in violation of OAR 801-030-005(30)(b).

**Stewart Hayes, CPA**

**OAR 801-030-0005(3)(b)**, a civil penalty of \$500, \$250 for each of two years that licensee answered "no" to question about payment or receipt of commissions and referral fees in violation of OAR 801-030-005(30)(b).

**VOTE:** 7 ayes

**2. (7.B.1.b.) Merina & Co LLP et al**  
**John Merina**  
**Kamala Austin**

**07-07-020**

Merina & Co. were engaged to audit the Estacada Rural Fire District's annual financial statements. Merina & Co. performed the annual audit for 20 years. Merina & Co. failed to detect that, during the last 15 of the 20 years; a district employee had embezzled a total of \$1.9 million from the district.

Jim Gaffney recused himself from participation in this matter because his firm performed a forensic audit following the embezzlement.

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***Board Discussion:***

Ray Johnson and Kent Bailey had an opportunity to look at Merina & Co. work papers prior to the Board meeting. No internal control letter was found. No changes were made to audit procedures to meet the requirements of SAS 99.

The Complaints Committee expressed their concerns related to competency and failure to comply with generally accepted auditing standards.

Nancy Young from Moss Adams performed a forensic audit on behalf of the district. Young found that payroll was never tested. She tested a sample as small as 4 checks and found that 50% were fraudulent.

Frank Lagesen, attorney for Merina & Co. told the Board that Merina & Co. are willing to accept the recommendation of the Complaints Committee.

**BOARD ACTION:** Moved by Johnson and carried to find the following violations:

**Merina & Co. LLP**

1. **OAR 801-030-0010(1)**, Competence, when, over a period of fifteen years, Merina & Co. failed to perform sufficient auditing procedures.
2. **OAR 801-030-0010(2)**, Auditing Standards, when, over a period of fifteen years, Merina & Co. failed to implement sufficient auditing procedures.

**Penalty:**

- a. All members of the firm audit team shall complete 40 CPE hours in auditing procedures to be completed on or before June 30, 2010. Such hours shall be in addition to the bi-annual requirement for renewal of CPA permit and cannot be used as carry-forward hours; and
- b. The firm will be required to obtain pre-issuance review on 20% of all audits performed for 18 months; and
- c. \$1,000 civil penalty for failure to implement sufficient auditing procedures for each of fifteen years for a total civil penalty of \$15,000.

**John Merina, CPA**

1. **OAR 801-030-0010(1)**, Competence, when, over a period of eleven years, Mr. Merina failed to plan and oversee the audit of the District with due professional competence.
2. **OAR 801-030-0010(2)**, Auditing Standards, when, over a period of eleven years, Mr. Merina failed to implement sufficient auditing procedures.

**Penalty:**

- a. All members of the firm audit team shall complete 40 CPE hours in auditing procedures to be completed on or before June 30, 2010. Such hours shall be in addition to the bi-annual requirement for renewal of CPA permit and cannot be used as carry-forward hours; and
  - b. The firm will be required to obtain pre-issuance review on 20% of all audits performed for 18 months
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**Kamala Austin, CPA**

1. **OAR 801-030-0010(1)**, Competence, when, over a period of four years, Ms. Austin failed to plan and oversee the audit of the District with due professional competence.
2. **OAR 801-030-0010(2)**, Auditing Standards, when, over a period of four years, Ms. Austin failed to implement sufficient auditing procedures.

**Penalty:**

- a. All members of the firm audit team shall complete 40 CPE hours in auditing procedures to be completed on or before June 30, 2010. Such hours shall be in addition to the bi-annual requirement for renewal of CPA permit and cannot be used as carry-forward hours; and
- b. The firm will be required to obtain pre-issuance review on 20% of all audits performed for 18 months.

**VOTE:** 6 ayes, 1 abstain (Gaffney)

**3. (7.B.1.e.) David Larson**

**09-043CNK**

David Larson prepared Richard and Carol Kadel's 2005 and 2006 income tax returns. In March 2008, when the Kadel's decided to divorce, Carol Kadel called Larson to request copies of their 2005 and 2006 tax returns. During that telephone discussion Larson made comments that were upsetting to Carol Kadel.

***Board Discussion:***

Mr. Larson was present and addressed the Board. After Mr. Larson spoke, the Chair asked him if he disagreed with the Complaints Committee recommendation. Larson stated that he did not. Board members asked Larson if he was in a rehabilitation program. Larson said that he was.

**BOARD ACTION:** Moved by Johnson and carried as follows:

1. Civil penalty in the amount of \$500 for violation of **OAR 801-030-0020(1)**, Professional misconduct, regarding telephone conversation with client;
2. No action for violation of **OAR 801-030-0020(1)** Professional misconduct, derogatory voice message; and
3. Require that, either before June 30, 2010 or within 30 days of completion, Larson submit the following:
  - a. Certificate of completion of alcohol treatment program
  - b. Verification that Larson successfully completed anger management counseling.

**VOTE:** 7 ayes

**4. (7.B.1.g.) Roberts Branner & Bemis LLC**

**09-052CNK**

The Board received an application for a CPA Certificate from Jeanne Blome on April 27, 2009. Ms. Blome listed her employer as Roberts, Branner & Bemis LLC, located in Milwaukie, Oregon. Roberts Branner & Bemis LLC was not registered as a firm with the Board of Accountancy on the date that the Board received the application from Blome.

**Board Discussion:**

Robert Branner thought that he timely submitted a firm registration and payment. Branner was unable to find any evidence that the fee had been paid to the Board. Board staff searched the Board's records, and found no evidence that the fee had been misapplied.

**BOARD ACTION:** Moved by Johnson and carried to assess a civil penalty of \$500 for violation of **ORS 673.160(1)** and **OAR 801-010-0345**.

**VOTE:** 7 ayes

**D. Other Investigations**

**1. Perkins & Co., *Defer***

**8. REPORT OF EXECUTIVE DIRECTOR**

**A. Online Licensing Update**

This is informational only. The Board will receive updates as the project progresses.

**B. 2010 Meeting Calendar**

Mr. Hearn provided the Board members with possible dates for the 2010 meeting dates. The members were asked to review the proposed dates and be prepared to discuss at the December 2009 meeting.

**9. PUBLIC COMMENTS**

None

**10. REPORT OF OAIA**

None

**11. REPORT OF OSCPA**

Ms. Langley reported that the OSCPA will be touring the state and visiting with licensees. Board members and the Executive Director will participate in the event.

**12. OLD BUSINESS**

**A. Kevin Steege, Permit Application**

Mr. Steege and his attorney, Kendra Matthews, were in attendance at this meeting. Mr. Hearn explained the background of the case. The Board voted at the May 2009 meeting for the Executive Director to draft a document to define the terms and conditions under which the Board would grant Mr. Steege a permit to practice public accountancy. A stipulation and order was presented to the Board at the meeting for review. The order states that Mr. Steege must only practice in a setting that is pre-approved by the Executive Director, that he is not allowed to open his own practice and other such restrictions.

Ms. Newhouse stated that she was uncomfortable with approving a restricted certificate.

**BOARD ACTION:** Moved by Johnson to accept the Stipulation and Order.

**VOTE:** 6 ayes, 1 nay (Newhouse)

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**13. CONTINUING PROFESSIONAL EDUCATION**

- A.** Acceptance of minutes of September 17, 2009 CPE Committee Meeting.

**BOARD ACTION:** Moved by Bailey and carried to accept the September 17, 2009 minutes.

**VOTE:** 7 ayes

- B.** Municipal Auditor Applications

1. Tamara Graham
2. Robert S Barry
3. Jason Bruce Kirkpatrick, *Defer*
4. Maria Myers, *Defer*

Jessie Bridgham recused herself from in this item because Tamara Graham is a co-worker.

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

**VOTE:** 6 ayes, 1 abstain (Bridgham)

**14. PEER REVIEW OVERSIGHT COMMITTEE**

No meetings held

**15. QUALIFICATIONS COMMITTEE**

- A.** Acceptance of minutes of September 16, 2009 meeting.

**BOARD ACTION:** Moved by Newhouse to accept minutes.

**VOTE:** 7 ayes

- A.** Consent Agenda

**BOARD ACTION:** Moved by Newhouse to accept consent agenda.

**VOTE:** 7 ayes

1. Recommendations
  - a. Erin Hoffman – Approve
  - b. Sharon Myrand – Approve
  - c. Matthew Thompson – Approve
  - d. Brian Hess – Approve
  - e. **Cameron Irtifa/Deny\***

\* Removed from consent agenda, see discussion under 15.C.1.

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## 2. Approval of Applications

- a. 35 CPA Certificates/Permits
- b. 1 PA Licenses/Permits
- c. 5 Firm Registrations

## 3. Removed from Consent Agenda

- a. Cameron Irtifa

Mr. Irtifa passed the CPA exam in May 2001. Mr. Irtifa volunteered at David Douglas and Beaverton School Districts. His supervisor licensee at David Douglas was Janice Essenberg. Ms. Essenberg also served as the CFO to the Beaverton School District where Mr. Irtifa held volunteer positions on different committees. Ms. Essenberg feels confident that Mr. Irtifa has demonstrated competency in all seven areas.

Cameron Irtifa, Janice Essenberg and Stan Martin were present at this meeting. Mr. Irtifa passed out a brief run down of his experience and an email from Ms. Reising stating that she would not sign off on his competencies. Ms. Essenberg, Cameron's most recent supervisor licensee was also available for Board questions. She explained the nature of the supervision and the work Cameron performed.

The testimony from Ms. Essenberg was very articulate, well written and gave the Board comfort that the candidate is well rounded and eligible for a CPA permit.

**BOARD ACTION:** Moved by Bailey to grant Mr. Cameron Irtifa a CPA Certificate.

**VOTE:** 4 ayes, 2 nays (Bridgham, Newhouse)

## 16. CPA EXAMINATION

- a. Site Visit – Medford

Jessie Bridgham visited the Medford CPA testing center. She reported that the site was very nice, well ran and the only problem was limited parking. Her report has been sent to NASBA.

- b. Exam Stats

Examination statistics were reviewed by the Board, which included number of applicants, number of sections taken in the last quarter as well as pass rates.

- c. CBT-e Launch, January 1, 2011

## 17. CODE OF PROFESSIONAL CONDUCT COMMITTEE

- A. Acceptance of Minutes September 3, 2009

**BOARD ACTION:** Moved by Johnson and carried to accept the minutes of the Code of Professional Conduct Committee.

**VOTE:** 7 ayes

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## 18. NEW BUSINESS

### a. Jens Andersen Letter

Mr. Andersen mailed a letter to the Board requesting guidance in regards to a possible violation of the Oregon Revised Statutes or Oregon Administrative Rules. Mr. Dover advised the Board to not discuss the matter and advise Mr. Andersen to seek legal advice from an attorney. Mr. Andersen could then bring that matter to the Board for discussion and response if/when appropriate.

### b. PA License

Mr. Morris would like the Board to send a letter to exam candidates who have passed the three required parts to become a PA notifying the candidate that a PA permit is available. It would be the applicant's responsibility to ensure that they meet all the requirements to be granted a PA permit.

**BOARD ACTION:** Moved by Mr. Morris and carried to direct staff to send letters notifying exam candidates who have passed the necessary subjects that they may qualify for a Public Accountant license.

**VOTE:** 7 Ayes

### c. Municipal Auditor Language

A sub-committee of the Board's CPE Committee and the OSCPA worked together to provide applicants a paragraph definition of what type of information needs to be included in programs for each subject matter on the application for admission to the municipal roster. The OSCPA has updated the municipal grid with the courses that are available through their organization. The grid is meant to be a tool for applicants. The OSCPA will attempt to review and update the grid on an annual basis.

### d. Oswald West Award

Mr. James Gaffney and Mr. Pat Hearn will travel to Bend on October 23, 2009 to present the family of Ms. Lynne Angland the Oswald West Award.

## PROCESS OBSERVER REPORT

Mr. Lind reported that Mr. Gaffney did an excellent job leading the discussion and restating the motions. This was a very good way to keep everyone on track. There was a little issue getting the phone system to work. The phone did ultimately work and the members were available to participate.

## 16. NEXT MEETING

**Date/time:** December 7, 2009 8:00 a.m.  
**Location:** Board Office

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