

## BOARD OF TAX PRACTITIONERS

### BOARD MEETING

July 15, 2005  
Morrow Crane Building  
1<sup>st</sup> Floor Conference Room  
Salem, Oregon

**MISSION:** Protecting the Consumer by insuring Oregon Tax Practitioners are competent and ethical in their professional activities.

Pursuant to notice made by press release to newspapers of general and local circulation throughout the state and distributed to persons on the mailing list of the Tax Board and the members of the Tax Board, a meeting was held at the Morrow Crane Building, Salem, Oregon.

### **BOARD MEMBERS**

Donna Gilmour (Chair)  
Sue Church  
Michael Addington  
Marilyn Johnston  
Merry VanAtta  
Gerald Zielinski

### **GUESTS**

Marvin Carlson, Self  
Judith Wilkins, OATC  
Linda Thomas, Self  
Susan Parks, OAIA  
Carol Mulder, OSTC, OSEA

### **STAFF**

Ronald A Bersin, Executive Director  
Duane M Hunter, Senior Compliance Specialist  
Monica J Leisten, Exam & Education Coordinator

*Tape 1 - Side 1*

**Roll Call:**

Gilmour called the meeting to order at 9:00 a.m.

Roll called. Board members present: Gilmour, Church, Addington, Johnston, VanAtta and Zielinski.

Gilmour reviewed the board meeting protocol for board members and the public.

**Approval of Minutes**

The Board reviewed the minutes from the May 13, 2005, board meeting. VanAtta made a motion to approve the May 13, 2005, board meeting minutes as amended. Motion passed. Ayes: Gilmour, Addington, Church, Johnston, VanAtta and Zielinski.

**Budget Update**

*2003-2005 Biennial Budget*

Bersin referenced the May 2005 Brio Report. He said ever since the Department of Administrative Services (DAS) quit using the accrual method to try to balance with the Board's fines and penalties balance, DAS's fines and penalties have balanced with the Board's balance. Bersin said the Board has \$37,618 remaining in personal services and \$28,525 in services and supplies. Bersin clarified that the Board's expenditures are less than budgeted during the 2003-2005 biennium.

Bersin said the Board had \$114,000 beginning balance going into the 2003-2005 biennium. The Board increased the beginning balance for the 2005-2007 biennium to approximately \$220,000. Bersin said the 2005-2007 biennium beginning balance increased without any fee increases and that the ending balance for the 2005-2007 biennium, should remain about the same.

Bersin said during the months of April, May, and June of 2005 it appears the Board will be approximately \$4,000 short of revenues compared to 2004. Bersin explained the reason for the reduction is that approximately thirty-three (33) fewer consultants renewed their license, in comparison to what the Board received last year at this time.

Bersin said staff mailed the consultant late notices within the last couple of days. He is anticipating that the Board will see some of the \$4,000 in reduced revenues recovered from those late notices.

### *2005-2007 Biennial Budget*

Bersin said Governor Kulongoski signed the 2005-2007 Biennial Budget, on June 28, 2005. He said the legislature might make some slight changes to the budget to take into account the compensation packages for unrepresented State employees not represented by the Union. He said the Board's budget limitation might increase if the fee for the Attorney General increase is included in the Board's budget. He clarified during the time the Board submitted their budget the Attorney General charged \$109 per hour. Now the Attorney General and the Department of Justice have negotiated on an hourly rate of \$111. He explained that both changes could mean an increase to the Board's limitation.

Bersin stated the Board could continue operating on the current budget for the 2005-2007 biennium but would need to discuss fee increases for the subsequent 2007-2009 biennial budget.

### **Compliance Report**

#### *Compliance Update*

Hunter said there were thirteen (13) cases opened for investigation, three (3) cases were opened since the May 13, 2005, board meeting, two (2) are for unlicensed activity and one (1) is for a possible felony conviction.

Hunter closed two (2) cases since the June 13, 2005, board meeting. One (1) case regarded an unlicensed individual who recently moved to the area and was unaware of Oregon's Laws. He said the individual has been cooperative and has had limited activity. The individual is an enrolled agent and plans to take the examination. Hunter does not foresee any future problems with this individual. Hunter said the other case closed is from a repeat offender who is providing unlicensed activity. The Board previously issued a Final Order to this individual for the same violation. The Board has since forwarded the individual's civil penalty balance to the Department of Revenue (DOR) for collection. Hunter began the current investigation, talked with clients and reviewed tax returns. He received a call from an attorney notifying him that the individual had passed away in February 2005. Hunter closed the case.

#### *Hearing & Case Updates*

Hunter stated the Board has not scheduled any hearings at this time.

Hunter said the case regarding Neva McLean has gone through the Board's hearing process and is currently in the Appellate Court. Ms. McLean is on her fifth extension, each extension is twenty-eight (28) days. Hunter anticipates the hearing to be set sometime in October 2005. Ms. McLean has been in the appeal process for three (3) years.

Hunter said there is a complaint case that involves an individual charged with felonies. The case will be going to court in October of 2005. The outcome of that hearing will determine if the Board takes action on the licensee.

*Compliance Log Update*

Hunter closed the 2004-2005 Field Track Log and the Complaint Log. He opened the same logs for the year 2005-2006.

Hunter mediated sixteen (16) complaints without opening any formal complaints since the May 13, 2005, board meeting. The majority of those complaints include return of records, errors on returns prepared, unlicensed activity and failing to supervise.

*Meeting Attendance Update*

Hunter said he attends the DOR meetings and that the next meeting would be Friday, July 22, 2005. He reports on the current updates pertaining to the Board at the DOR meetings. Some updates he has reported on are; the Instructor Workshop, the fifteen (15) hour continuing education requirement for applicants taking the consultant examination, combining the consultant examination into one examination and other pertinent information which he is able to fit into the short window of time the DOR allows him to speak.

Hunter said on Tuesday, July 19, 2005, the staff would attend an OSTC Chapter meeting in Springfield, Oregon.

*Field Investigations & Friendly Visits*

Hunter is planning a field trip to Eastern Oregon, on Tuesday, July 26, 2005. He will be working on an investigation in Prineville that has been ongoing since April 2005. He also plans to include friendly visits to licensees in the area.

Hunter said there is a case in Toledo, Oregon regarding unlicensed activity. This person is signing personal income tax returns and has an assumed business name that she did not register with the Board. Hunter plans to make a trip to Toledo, Oregon, sometime in September.

Hunter is working on a case where an individual in Portland has prepared returns and signed the returns as a business. The individual has furnished a list of clients that he has prepared personal income taxes for to the Board, and the DOR has sent the Board copies of the signature block from returns completed by the same individual. Hunter said on initial contact with the individual, he was informed that only 10-12 returns were completed. It appears that the individual has actually prepared over thirty (30) individual tax returns.

### *Proposed Notices*

Hunter said the Board approved issuing a Proposed Notice for Karina L. Dillree for possible revocation of licensure regarding conduct resulting in a conviction of a felony.

Hunter said the Board issued a Proposed Notice on licensee F. Daniel Wilson for working as a Licensed Tax Preparer without the proper supervision of a Licensed Tax Consultant.

### *Leadership Oregon (Staff Education)*

Hunter gave an update to the Board regarding his ongoing attendance at Leadership Oregon, which is a group of twenty-nine (29) State managers and staff throughout the State of Oregon. The purpose of Leadership Oregon is to learn leadership and Government skills. Hunter said they visit various places for each meeting. He said they listened to the motivational speaker from Colorado, Louie Lamere, during one of the most recent meetings on July 13, 2005. Hunter said the topics of discussion focused on ethics, integrity and character. The Superintendent of the Coffee Creek Correctional Institution facilitated the meeting on July 14, 2005. The meeting topics included finding your partners and shareholders *and* finding out all the players involved when working on a joint project.

### **Exam & Education Report**

#### *Work Session Update*

Leisten said the Board's Work Session on July 12, & 13, 2005, included the review of the preparer examination. Leisten will be finalizing the reference guide from the notes made by the Board. The Board discussed allowing the preparer and consultant examination applicants to use the reference guide when taking the examination. The reference guide would be included in the examination materials for both the preparer and consultant examination packets.

#### *Examination Update – Preparer & Consultant*

Leisten said on August 1, 2005, the Board would release the consultant examination on 2004 tax law. The examination consultant (Barbara Jenkins) will be in the Board office on July 29, 2005, to pull examination questions for the preparer examination. On August 19, 2005, the test takers will take the preparer examination and the examination consultant will review the preparer examination with the test takers. On September 1, 2005, the Board will release the preparer examination on 2004 tax law.

#### *Exam & Education Update*

Leisten updated the Board concerning the August 18, 2005 Instructor Workshop, which is on track. On September 1, 2005, staff will post the updated "General Information Booklet" on the Board's website and release the preparer examination on 2004 tax law for applicants to take. She said the college/university proctoring site contracts and Basic Course Sponsor contracts are in the renewal process. Leisten said the updates for current correspondence course sponsors are slowing down however, they will continue to trickle in throughout the year.

### *Administrative Rule Hearing*

Leisten stated the Administrative Rule Hearing is on July 22, 2005. She said the Board's website at [www.oregon.gov/OTPB](http://www.oregon.gov/OTPB) has the Administrative Rule Hearing schedule posted as well as the proposed rules. The Board will review the Hearing Report at the August 17, 2005, board meeting and vote on the proposed rules. The rules voted on will become final and effective on September 1, 2005.

Leisten said the Oregon Administrative Rule (OAR) 800-020-0020(4); Examinations, which combines the consultant examination part A and part B into one consultant examination, with a passing score of 75 percent, is effective on August 1, 2005.

### **Licensing Report**

Bersin distributed the June 2005 Licensing Statistics Report. He referenced the increase of lapsed consultants in comparison to the 2004 licensing report. He calculated that the reduction of renewals is approximately the amount of revenues the Board is short in comparison to 2004, which is about \$4,000. Bersin clarified that the Board asked staff to place the May board and committee meeting minutes as a priority. Consequently, processing consultant renewals was set aside, which in turn affected the Board revenues and pushed processing time for renewals further out. He said staff with the delay in processing it also postponed mailing out consultant late notices until July 14, 2005. However, he anticipates the recovery of some of the lost revenues. He said staff normally mails late notices by June 18<sup>th</sup>. This is only three (3) days after the June 15<sup>th</sup> deadline date, when timely consultant renewals and business registrations are submitted and processed.

Bersin said there is a substantial increase in deceased consultants. He reminded the Board of the importance of partnerships with incoming preparers. He stated there is an importance in mentorship and showing the incoming preparers that a Licensed Tax Consultant can have a solid career in the field of taxation in the State of Oregon.

### **Public Comment**

No Public Comment

### **Business Practices Committee Report & Recommendations**

#### *Approval of Business Practices Committee Minutes - May 12, 2005*

Church said the Business Practices Committee is recommending to the Board to approve the May 12, 2005 committee minutes as amended. Church made a motion to approve the May 12, 2005 committee minutes as amended. Motion passed. Ayes; Gilmour, Addington, Church, Johnston, VanAtta and Zielinski.

*Dale Nelson – Request for Waiver of Additional Hours*

Church said Dale Nelson submitted a continuing education certificate from the June 2004 California Society of Enrolled Agents Seminar. He tried to separate certificate hours between his 2004 license renewal and his 2005 license renewal. The Oregon Administrative Rules (OARs) do not allow a tax consultant the option of separating continuing education hours earned outside the month of renewal, which is May. Mr. Nelson earned his continuing education hours in June. Mr. Nelson did not indicate anywhere in his file that the continuing education hours submitted were to be carried from his 2004 license renewal to his 2005 license renewal.

OAR 800-015-0010(4) only allows a licensee to carry over extra continuing education hours earned during the month of renewal, which means licensees may only withhold hours earned during the month of renewal (May – for consultants). The licensee must clearly indicate they are withholding continuing education hours earned in May to submit for the next renewal. The licensee must indicate on their consultant renewal and their continuing education certificate, the number of hours they plan to use for each renewal year. The licensee must submit an identical continuing education certificate for each renewal year where they are using the hours. If the licensee does not submit a copy of the same identical continuing education certificate, no credit hours will be issued for the subsequent renewal per OAR 800-020-0030; Licenses - Renewals. When a licensee requests that a continuing education certificate, in which the hours earned were in the month of renewal, be applied towards two license renewals, Board staff will indicate on the Tax Board database the certificate information. It is the licensees' responsibility to submit an identical copy of the continuing education certificate along with the licensees other continuing education certificates to be able to receive credit for the continuing education hours. Submitting a continuing education certificate one-time does not qualify a licensee to receive continuing education hours for both renewals.

It was noted that Mr. Nelson's only options were to: A) Utilize the Board's offer of a sixty (60) day extension, with no penalty, to complete an additional eleven (11) hours of continuing education to meet the thirty (30) hour requirement **OR** B) Request a waiver from the Board for the additional eleven (11) hours of continuing education required. The Board determined, from Mr. Nelson's letter, he chose the option to request a waiver of the eleven (11) hours of continuing education.

Church made a motion to the Board to grant a waiver for the thirty (30) hour continuing education requirement and allow Dale H. Nelson to renew his 2005 consultant license with nineteen (19) hours of approved continuing education per ORS 673.655(2). Motion passed. Ayes: Gilmour, Addington, Church, Johnston, VanAtta and Zielinski.

VanAtta recommended Dale Nelson be instructed that the waiver issued is a unique situation due to his particular circumstances and if the same scenario were to happen in the future, a waiver request of this nature would most likely be denied.

Bersin said the Committee discussed and decided to include an article on the Board's website and in the October newsletter regarding the separation of continuing education certificate hours between renewal years. The article would clarify how a licensee must submit continuing education hours to the Board if they plan to use one continuing education certificate and divide the hours toward two license renewals. In addition, the article would include the difference when submitting continuing education hours for preparers and consultants.

*Tape 1 - Side 2*

*Barbara Falk – Waiver Request to be a Designated Consultant for Two Businesses*  
Church said that Barbara Falk submitted an application requesting to be the designated consultant for two businesses. One business, which she purchased, with the name ABC Tax Service and the other business in her name, Barbara Falk, LTC. The Board only allows for one designated consultant per tax preparation business unless approved by the Board's Business Practices Committee per OAR 800-025-0040(5). Church stated that the Business Practices Committee granted the approval of the waiver request for Barbara Falk as the designated consultant for two businesses; ABC Tax Services and Barbara Falk, LTC, for the 2005 tax consultant license renewal and business registration, which will expire on June 15, 2006.

Addington mentioned that Ms. Falk needs to be informed that a designated consultant for each business is required if she plans to keep both businesses with different names and locations once the waiver expires, on June 2006.

Bersin added that if Ms. Falk decides to use one name for both locations, she could register one of the locations as the main business and the other location as a branch office.

*Board Policy – Waiver / Application Request*

Church said the Committee discussed that the Board write a written policy regarding all approved waiver and application requests. Church made a motion to the Board that an approved waiver or application request must inform the licensee or applicant in writing of the specific beginning and/or ending date of the waiver or application request if not implied. Motion passed. Ayes: Gilmour, Addington, Church, Johnston, VanAtta and Zielinski.

Bersin will request staff work on a written policy for the approval of a waiver or application request.

**Administration Committee Report & Recommendations**

*Approval of Administrative Committee Meeting Minutes - May 12, 2005*

Gilmour said the Administrative Committee is recommending to the Board to approve the May 12, 2005, committee minutes as amended. Gilmour made a motion to approve May 12, 2005, committee minutes as amended. Motion passed. Ayes; Gilmour, Addington, Church, Johnston, VanAtta and Zielinski.

### *Budget Overview*

Gilmour stated the Committee reviewed the 2003-2005 budget update and the 2005-2007 biennium budget update, which Bersin presented to the Board at the beginning of the board meeting.

### *IRS Nationwide Tax Forum Update*

Gilmour said Bersin reported that he attended the IRS Nationwide Tax Forum. She stated that Bersin made an acquaintance with one of the Refund Anticipation Loan (RAL) providers. This particular RAL provider works through car dealerships to offer clients RALs. The RAL provider approached Bersin and requested information regarding how they could bring their RAL business to Oregon.

Gilmour and Bersin maintained a booth for the Board of Tax Practitioners during the IRS Nationwide Tax Forum. They answered many questions brought to them by individuals from different states. Gilmour and Bersin made contact with the IRS personnel regarding the National Registration. They attended the Oversight Board meeting, which is a nine (9) member board that oversees the IRS. The Chair of the Oversight Board stopped by the Board's booth to introduce himself to Bersin and Gilmour. Debbie Chrisman, Education Specialist from Seattle, Washington, also stopped by the Board's booth to introduce herself to Bersin and Gilmour.

Gilmour stated the IRS is well aware of Oregon's licensing law. Bersin indicated during his presentation at the Oversight Board meeting that to succeed in the intent of the National Registration for the preparation of personal income taxes, he would encourage each state to implement a licensing law, rather than implement the National Federal Registration. Bersin included in his discussion, the difficulties in implementing licensure to states that currently do not have any licensing law and exempting all states that already implement licensure.

Bersin stated it is important that the Board attends similar conferences but would suggest they attend the Tax Forum in Las Vegas, Nevada. Bersin clarified the reason for the location in Las Vegas is two fold. The Board will be able to give continuing education credits and reach larger groups of participants. He said no attendees received continuing education credits for any of the state presentations, which reduced the attendance.

### *Service List*

Gilmour stated the service list is an e-mail list used to notify licensees by e-mail anytime the Board publishes newsletters, rule-changes, notices, agendas or any other time the Board might choose to notify licensees of a posting on the Board's website. Gilmour said Leisten contacted Helion Software, Inc. (Helion), the Tax Board database programming company, to research the expense for the programming for the service list. Gilmour said the expense to the Board appears to be reasonable and within the Board's budget. She said Bersin and staff would continue working with Helion, and plan to implement the service list.

Bersin stated once the service list is implemented the cost of publishing and distribution would be substantially reduced. An example would be sending the Board's newsletter to licensees by the service list. Leisten will provide an update at the August 17, 2005, board meeting.

*House Bill 2995 – Refund Anticipation Loans (RAL)*

Gilmour stated Governor Kulongoski signed House Bill (HB) 2995. HB 2995 requires individuals who offer RALs to be licensed with the Board of Tax Practitioners as a tax consultant or preparer; or licensed with the Board of Accountancy as a Certified Public Accountant or Public Accountant. Gilmour stated the Board of Tax Practitioners would regulate RALs. Legislative Counsel will revise Oregon Revised Statute (ORS) 673.615 and enforcement will begin January 1, 2006. Bersin said the Board currently regulates the majority of RALs, since most licensed tax practitioners are the ones doing the RALs. With the Board already regulating RALs, the additional regulation of RALs will have minimal fiscal impact to the Board.

*Donna Gilmour – Oregon IRS & Tax Practitioner Liaison Meeting*

Gilmour reported there was an Oregon IRS & Tax Practitioner Liaison meeting held on June 9, 2005, and she encouraged all board members to attend future Oregon IRS & Tax Practitioner liaison meetings.

*Public Comment – National Registration*

Gilmour stated Mr. Bell presented the Committee with information regarding the upcoming National Registration. The Committee will review the information and hold a discussion at the August 16, 2005, committee meeting.

**Exam & Education Committee Report & Recommendations**

*Approval of Exam & Education Committee Meeting Minutes - May 12, 2005*

Johnston said the Exam & Education Committee is recommending to the Board to approve the May 12, 2005, committee minutes as amended. Johnston made a motion to approve May 12, 2005, committee minutes as amended. Motion passed. Ayes; Gilmour, Addington, Church, Johnston, VanAtta and Zielinski.

*Continuing Education*

Johnston distributed all continuing education correspondence courses for review.

VanAtta reviewed the H & R Block course, Ethical Considerations for Tax Professionals, submitted for three (3) hours of continuing education. She recommended approval for two (2) hours of continuing education due to the material covered in the course.

Church reviewed courses by Tax Smart. There were sixty-two (62) new courses, the majority of the courses are one (1), two (2) and three (3) hour courses with one four (4) hour course. She recommended a reduction of hours to some of the courses submitted due to the length of those courses.

Johnston asked if Zielinski completed the eleven (11) on-line courses from Surgent/McCoy CPE, LLC. Zielinski misplaced the information but said he will complete the continuing education review of the courses in a timely manner.

Addington reviewed one on-line course by Gleim for six (6) hours of continuing education. Addington recommended approval for five (5) hours of continuing education credit for the on-line course reviewed.

Johnston made a motion to approve the recommendation for the approval of the continuing education correspondence courses for H & R Block with the reduction of one hour, Tax Smart with the reduction of hours for the courses noted and Gleim with the reduction of one hour. Motion passed. Ayes; Gilmour, Addington, Church, Johnston, VanAtta and Zielinski.

*Continuing Education Hours – Consistency / Clarification / Approval*

Addington asked for clarification regarding the consistency of continuing education hours reviewed by board members. His interpretation of the rule for tax consultants and tax preparers is that licensees are tax professionals, and that the continuing education should be tax preparation related. Addington referenced OAR 800-015-0020, which states the Board approved continuing education regarding financial planning and investment planning. He said this would allow a licensee to have the ability to obtain all of the required thirty (30) hours of continuing education in financial planning and investment planning for their license renewal and not submit any continuing education hours that relate to the preparation of taxes. Church stated, at one time, the Board discussed limiting the number of continuing education hours a licensee could obtain in other areas outside the preparation of taxes.

VanAtta referenced Circular 230, which stated that the continuing education is something that provided enhancement and professional knowledge in federal taxation or federal tax related matters, accounting, financial management, tax preparation software, taxation, and ethics.

*Tape 2 - Side 1*

Addington rebutted, stating that enrolled agents would not approve financial planning and investment planning for continuing education credit. Gilmour tried to explain to the Board where Addington is coming from with the OARs. Per OAR 800-015-0020(2), she referenced each subsection (a-e), pointing out the general subject matters acceptable by the Board, which indicate continuing education that must be related to taxation and other subsections in (a-e) pointing out the general subject matters acceptable that do not indicate continuing education that must be related to taxation. Gilmour then brought the instructor pass-rates back into the scenario, suggesting that the education some preparer's take would not allow them to pass the consultant examination.

Johnston stated it is up to the preparer to choose the type of continuing education they want. She added that the Board could make suggestions to preparers regarding the type of continuing education that would assist them in the preparation for taking the consultant examination, but could not force them to take the continuing education.

VanAtta reminded Gilmour that the Board reviewed the 2004 tax preparers continuing education hours submitted with their renewals and determined that 95 percent of preparers took courses that pertained to personal income tax preparation. She stated that out of all the preparers continuing education reviewed by the Board, the majority of the preparers submitted over half of their continuing education in personal income taxes.

Bersin redirected the Board to Addington's original question, which pertained to the clarification and consistency of continuing education hours approved by the Board. Bersin said the Board must approve continuing education listed in OAR 800-015-0020(2). Bersin explained that if the Board denies a course or course hours, the company might ask why the Board denied the course or hours since the OARs list the subject matters as acceptable by the Board. Johnston clarified that the Board must follow what the current OAR states and unless the Board proposes a change to the OAR the Board cannot deviate from those rules.

Bersin stated that any board member could ask to review any OAR. The board member would need to request that staff add the OAR to the subsequent Committee's agenda as an item for discussion and possible rule change. After the Committee discussion, the rule would then go to the Board for the board members to discuss further.

*Letter to the Board - Professional Education Services (PES) CE Credit Hours*

Johnston stated Professional Education Services (PES) sent the Board a letter concerning the reduction of continuing education credit of the course, Tax Issues and Consequences in Financial Planning. The course submitted was for twenty-four (24) hours of continuing education and the Board approved the course for twenty (20) hours.

Gilmour volunteered to review the course for a second review. She recommended approval of the PES course, Tax Issues and Consequences in Financial Planning for twenty-four (24) hours of continuing education. Johnston also reviewed the course and came to the same conclusion.

Johnston made a motion to the Board to adjust the continuing education hours from the recommended twenty (20) hours of continuing education back to the original twenty-four (24) hours requested by PES. Motion passed. Ayes; Gilmour, Addington, Church, Johnston, VanAtta and Zielinski.

### *Instructor Workshop*

Johnston said Leisten posted the final agenda for the Instructor Workshop on the Board's website.

Johnston stated she and Gilmour, met with Barbara Wasson, speaker for the Instructor Workshop and former board member, to discuss their role at the Instructor Workshop. They came up with several ideas for their sessions at the workshop, and are anticipating that the attendees will benefit from the workshop.

Bersin stated there would be an agenda item added to the October 20, 2005, board meeting regarding the value of the Instructor Workshop. The discussion would focus on whether the Board should continue to hold the Instructor Workshop, based on the number of and benefit to attendees.

Bersin mentioned that board members might want to speak at association meetings in their areas regarding the Instructor Workshop. Board members could give a two (2) hour presentation, hand out information and hold discussions regarding what the workshop will entail.

### *Reference Guide – Preparer/Consultant Examination*

Johnston stated that the Committee recommends, and she made a motion that the reference guide, which the Board developed during the Work Session on July 12 & 13, 2005, is included in the examination material provided to applicants who take the preparer or consultant examination. Preparer and consultant examinations would include the same reference guide and examination applicants would begin using the reference guide as follows: September 1, 2005, for the preparer examination and August 1, 2005 for the consultant examination. Motion passed. Ayes; Gilmour, Addington, Church, Johnston, VanAtta and Zielinski.

### *Instructor Percentage Pass Rate*

Johnston said the Committee discussed the instructor pass rates. The discussion revolved around establishing a criteria and steps to follow when contacting sponsors and working with those sponsors to monitor instructors. The purpose of monitoring instructors is to increase their pass rate.

Johnston stated by reviewing previous years pass rates it was determined that many instructors do not teach more than a couple of years. She clarified this makes it difficult to be consistent when determining the pass rate. Johnston stated that instructor pass rates are available for the past four (4) years on the Board's website:

[www.oregon.gov/OTPB](http://www.oregon.gov/OTPB) .

### *Work Session – Review of Preparer Examination*

Johnston stated that during the Work Session on July 12 & 13, 2005, the Board reviewed the preparer examination questions to simplify the questions for easier understanding. The Board removed many of the questions from the preparer examination and added them to the consultant examination.

*E-mail Sent To Board - Ms. Dunn-Hanning*

Johnston stated Ms. Dunn-Hanning submitted an e-mail requesting that the Board consider approving correspondence courses given under QAS hours and they recognize QAS hours submitted as QAS hours rather than only accepting actual CE hours.

Johnston requested Leisten inform Ms. Dunn-Hanning the Board does accept certificates referencing both QAS and CE hours. However if the certificate shows both QAS and CE hours the Board will recognize only the CE hours. Leisten will also inform Ms. Dunn-Hanning the real issue concerning her continuing education hours is the Board has contacted Practitioners Publishers Company (PPC) on several occasions to try to obtain them as a correspondence course sponsor with the Board of Tax Practitioners, but PPC has not been receptive to the Board.

*Oregon Society of Enrolled Agents - Program for High School Students*

Addington stated during the board meeting on July 15, 2005, that the Oregon Society of Enrolled Agents (ORSEA) was discussing the issue regarding the development of an outreach program for high school students. He said at the most recent ORSEA meeting an outreach committee formed. The Committee began developing a program as a presentation directed towards high school students. Addington said a byproduct of the outreach program is to promote an interest in the tax industry throughout the State of Oregon. He stated by next year ORSEA chapters throughout the state will provide the outreach program presentation to the high schools in their area.

**Complaint Committee Report & Recommendations**

*Approval of Complaint Committee Meeting Minutes - May 12, 2005*

Zielinski said the Complaint Committee is recommending to the Board to approve the May 12, 2005 committee minutes as written. Zielinski made a motion to approve May 12, 2005 committee minutes as written. Gilmour noted amendments to the Committee minutes. Motion revised with the approval to the May 12, 2005 Committee minutes as amended. Motion passed. Ayes; Gilmour, Addington, Church, Johnston, VanAtta and Zielinski.

**Executive Session**

Zielinski called the meeting into Executive Session at 11:50 a.m. to discuss information exempt from public disclosure under ORS 673.730(4) pursuant to 192.660(2)(f). This Executive Session is closed to members of the public.

Zielinski reconvened the committee meeting from Executive Session at 1:08 p.m.

### **Update on Notices**

#### *John Fuller – Civil Penalty*

Hunter stated John Fuller has been under investigation for unlicensed activity since May 2004 in the Yamhill County area. There was a CPA under contract by Mr. Fuller to sign personal tax returns. Mr. Fuller became a licensee in 1974 and the Board revoked his license in 1980. Since 1980, Mr. Fuller worked under the supervision of his father, a CPA, until his father passed away. The Board put a notice out on John Fuller for 1,333 violations for unlicensed activity over a two (2) year period. Mr. Fuller requested a hearing which the Board held in April 2005. Mr. Fuller filed an exception and the Board is now responding to those exceptions.

Zielinski stated the Board reviewed exceptions submitted by Gary Kahn, Attorney, representing John Fuller. The Board finds no merit to the exceptions.

Zielinski made a motion that John Fuller is assessed a Civil Penalty for \$122 for each of the 1,333 violations of ORS 673.615(1), for civil penalties totaling \$162,626 for violations of ORS 673.615(1), pursuant to ORS 673.735(1): and the Board's Attorney General and the Office of Administrative Hearings costs. Motion passed. Ayes; Gilmour, Addington, Church, Johnston, VanAtta and Zielinski.

#### *Sharon Bartu – Civil Penalty*

Hunter stated that the Department of Revenue (DOR) forwarded returns to the Board from Sharon Bartu. Returns signed from Ms. Bartu showed that she was signing as a Doctor of Law. The DOR not only questioned the signature but they found that Ms. Bartu was a disbarred attorney out of Washington State. Hunter contacted Ms. Bartu and requested a client list. He found that Ms. Bartu took individuals who successfully filed tax returns and offered to amend those returns and create a home business using their tax returns. Ms. Bartu created large refunds for those individuals and charged approximately \$650 for each amended return prepared. The Board issued a proposed notice and Ms. Bartu requested a hearing. The DOR attended the hearing held in March 2005 to discuss what Ms. Bartu did to the amended returns. The evidence received was from the clients of Ms. Bartu.

Zielinski made a motion that Sharon Bartu is assessed a Civil Penalty for \$4,000 for each of the 58 violations of ORS 673.615, for civil penalties totaling \$232,000 for violations of ORS 673.615 pursuant to ORS 735(1): and the Board's Attorney General and the Office of Administrative Hearing costs. Motion passed. Ayes; Gilmour, Addington, Church, Johnston, VanAtta and Zielinski.

## **Other Business**

### *Policy & Procedure Review*

Gilmour said the last policy and procedure review for the Board was in 2001. Gilmour distributed a memo to board members for review.

Gilmour asked that board members review the current Board policies and procedures she would be distributing at the end of the board meeting. She requested the Chairs' from each Committee review the minutes from the past year and all board members review the board minutes from the past year to assure no policies and/or procedures were overlooked. She clarified all the minutes are located on the Board's website: [www.oregon.gov/OTPB](http://www.oregon.gov/OTPB).

Gilmour said the Board would begin reviewing the policies and procedures at the August 17, 2005, board meeting. The Board will continue to carry over reviewing the policies and procedures to subsequent meetings until complete.

### *Vacant Board Member Position - Update*

Bersin stated the Governor's Office contacted him via e-mail stating they are working on appointing a board member to fill the vacant public member position.

## **Adjournment**

Gilmour adjourned the board meeting at 1:26 p.m.