



DEPARTMENT OF CONSUMER AFFAIRS
 CALIFORNIA BOARD OF ACCOUNTANCY
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**CALIFORNIA BOARD OF ACCOUNTANCY (CBA)
 ENFORCEMENT ADVISORY COMMITTEE (EAC)**

**EAC MEETING
 NOTICE & AGENDA**

**Thursday, April 30, 2015
 9:00 a.m. – 5:00 p.m.**

Hilton Los Angeles Airport
 5711 West Century Blvd.
 Los Angeles, CA 90045
 Telephone: (310) 410-6184

Important Notice to the Public

All times indicated, other than those identified as “time certain,” are approximate and subject to change. Agenda items may be discussed and action taken out of order at the discretion of the EAC Chair. The meeting may be canceled without notice. For verification of the meeting, call (916) 561-1723 or access the CBA website at www.cba.ca.gov.

- 9:00 – 9:05 I. Roll Call and Call to Order (**Jeffrey De Lyser, Chair**).
- 9:05 – 9:20 II. Report of the Committee Chair (**Jeffrey De Lyser**).
- A. Approval of the January 30, 2015 EAC Meeting Minutes.
- 9:20 – 9:35 III. Report of the CBA Liaison (**Alicia Berhow, Secretary/Treasurer**).
- A. Report of the March 19-20, 2015 CBA and Committee Meetings.
- 9:35 – 10:00 IV. Report of the Enforcement Chief (**Dominic Franzella**).
- A. Enforcement Activity Report.
 B. Report of Final Disciplinary Orders since January 30, 2015.
- 10:00 – 10:05 V. Public Comments for Items not on the Agenda.
- 10:05 – 11:30 VI. Review Enforcement Files on Individual Licensees.
[Closed Session: The EAC will meet in closed session to review and deliberate on enforcement files as authorized by Government Code section 11126(c)(2) and Business and Professions Code section 5020.]

11:30-1:00 **LUNCH**

1:00 – 5:00 VII. Conduct Closed Hearings.

[The Committee will meet in closed session as authorized by Government Code Sections 11126(c)(2) and (f)(3), and Business and Professions Code Section 5020 to conduct a closed session to interview and consider disciplinary action against an individual licensee or applicant prior to the filing of an Accusation.]

VIII. Adjournment.

In accordance with the Bagley-Keene Open Meetings Act, all meetings of the EAC are open to the public. Government Code section 11125.7 provides the opportunity for the public to address each agenda item during discussion or consideration by the EAC prior to the EAC taking any action on said item. Members of the public will be provided appropriate opportunities to comment on any issue before the EAC, but the EAC Chair may, at her discretion, apportion available time among those who wish to speak. Individuals may appear before the EAC to discuss items not on the agenda; however, the EAC can neither discuss nor take official action on these items at the time of the same meeting. CBA members who are not members of the EAC may be attending the meeting. However, if a majority of members of the full board are present at the EAC meeting, members who are not members of the EAC may attend the meeting only as observers.

The meeting is accessible to individuals with physical disabilities. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting Allison Nightingale at (916) 561-1723, or by email at anightingale@cba.ca.gov, or send a written request to the CBA office at 2000 Evergreen Street, Suite 250, Sacramento, CA 95815. Providing your request at least five (5) business days before the meeting will help to ensure availability of the requested accommodation.

For further information regarding this meeting, please contact:

Allison Nightingale, Management Services Technician
(916) 561-1723 or anightingale@cba.ca.gov
California Board of Accountancy
2000 Evergreen Street, Suite 250
Sacramento, CA 95815

An electronic copy of this agenda can be found at www.cba.ca.gov.



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EAC Item II.A.

April 30, 2015

DEPARTMENT OF CONSUMER AFFAIRS
CALIFORNIA BOARD OF ACCOUNTANCY (CBA)

MINUTES OF THE
JANUARY 29, 2015
ENFORCEMENT ADVISORY COMMITTEE (EAC) MEETING

Doubletree By Hilton Berkeley Marina
 200 Marina Blvd.
 Berkeley, CA 94710
 Telephone: (510) 548-7920

I. Roll Call and Call to Order.

The regularly scheduled meeting of the EAC was called to order at 9:03 a.m. on January 29, 2015 by EAC Chair, Jeffrey De Lyser.

Members

Jeffrey De Lyser, CPA, Chair	Present
Joseph Rosenbaum, CPA, Vice-Chair	Present
Katherine Allanson, CPA	Present
Dale Best, CPA	Present
Joseph Buniva, CPA	Absent
Gary Caine, CPA	Present
Nancy Corrigan, CPA	Present
Mary Rose Caras, CPA	Present
William Donnelly, CPA	Absent
Robert A. Lee, CPA	Present
Mervyn McCulloch, CPA	Present
Michael Schwarz, CPA	Present

CBA President

Jose Campos, CPA

CBA Staff and Legal Counsel

Patti Bowers, Executive Officer
 Dominic Franzella, Chief, Enforcement Division
 Paul Fisher, Supervising Investigative CPA
 Vincent Johnston, Enforcement Manager
 Jenny Sheldon, Enforcement Manager
 Gogi Overhoff, Investigative CPA
 Tina MacGregor, Investigative CPA

Erica Lee, Enforcement Analyst
Allison Nightingale, Enforcement Technician
Carl Sonne, Deputy Attorney General (DAG), Department of Justice

II. Report of the Committee Chair (**Jeffrey De Lyser**).

A. Introduction of Sarah Huchel, Consultant, California State Assembly Committee on Business and Professions.

Ms. Huchel was not in attendance at the EAC Meeting.

B. Presentation and Discussion Regarding Requirements for Reporting Actions Taken at Board Meetings in Accordance With California Government Code Section 11123 (**Dominic Franzella**).

Mr. Franzella reported on the new voting procedures resulting from the passage of Assembly Bill 2720. He stated that the Chair will ask the staff liaison to take roll call on each motion and the committee members will answer either yes, no, or abstain. The purpose of the new voting process is to provide transparency to allow the public to see how committee and CBA members vote on specific agenda items.

C. Approval of the December 11, 2014 EAC Meeting Minutes.

It was moved by Mr. Lee, seconded by Mr. Rosenbaum to approve the minutes of the December 11, 2014 EAC meeting.

Yes: Ms. Allanson, Mr. De Lyser, Mr. Best, Mr. Caine, Ms. Corrigan, Ms. Caras, Mr. Lee, Mr. McCulloch, Mr. Rosenbaum, and Mr. Schwarz.

No: None.

Abstain: None.

The motion passed.

III. Report of the CBA Liaison (**Katrina Salazar**).

A. Report of the January 22, 2015 CBA and Committee Meetings.

CBA President Jose Campos, CPA, provided the report for this agenda item. Mr. Campos began by providing a brief overview of his professional background, the recent leadership roundtable, attest experience committee and planned attest study, sunset review process, and the work of the Mobility Stakeholder Group.

Mr. Campos reported that the CBA reappointed Mr. Lee to the EAC.

Mr. Campos also reported on the revisions to the CBA Member Guidelines and Procedures (G&P) Manual and stated that the revisions included the new process

regarding voting on motions, inclusion of the Defensive Drivers Training requirement, and updated travel information. The revised G&P Manual will be sent to the committee members in the coming weeks.

Mr. Campos reported the CBA adopted proposed changes to Title 16, California Code of Regulations, Division 1, sections 12 and 12.1, allowing applicants to use experience in academia as qualifying experience for certified public accountant (CPA) licensure.

Mr. Campos reported that the CBA approved the survey for the study of California's attest experience requirement with an amendment to the introduction to include a statement that the results will not be individually identifiable. Mr. Campos further reported that the CBA approved a timeline for conducting the attest study that will provide a minimum of four months to receive responses from participants of the survey and provide the CBA with almost all of the 2016 calendar year to deliberate the attest experience requirement and determine what changes are needed, if any.

Mr. Campos reported that the new Legislation Analyst, Kathryn Kay, provided an overview of the established legislative best practices and discussed the CBA's legislative proposals for inclusion in the omnibus bill.

Mr. Campos stated that the next CBA meeting will be held on March 19-20, 2015 in Irvine.

Ms. Bowers stated that along with the updated G&P Manual, members will receive a roster of all required training. Ms. Caras requested the due date for filing the annual Form 700. Ms. Bowers informed her that the Form 700 is due by April 1, 2015.

EAC Members asked clarifying questions regarding the Sunset Review process. Ms. Bowers stated the CBA goes through this process every four years, which provides the Legislature with an opportunity to evaluate whether the CBA is meeting its statutory mandates.

IV. Report of the Enforcement Chief (**Dominic Franzella**).

A. Enforcement Activity Report.

Mr. Franzella reported that the majority of complaints received are from units within the CBA. He stated that the top three reasons for the internal complaints are conviction of a crime, failing to submit the Peer Review Reporting (PR-1) Form and/or discrepancies between the licensees' responses on the PR-1 form and accounting and auditing continuing education question on the license renewal application.

Mr. Franzella also reported that the number of cases closed with no action taken has risen from eight percent in the prior fiscal year to 20 percent to date this fiscal year.

Mr. Franzella reported that the CBA closed 153 investigations and the average days to close investigations decreased from 150 to 144 days since the previous report. He also reported that the CBA presently has 11 investigations pending over 24 months.

Mr. Franzella reported on discipline cases currently assigned to the Attorney General's (AG) Office. He stated that only two of the five cases reported to be pending for more than 24 months remain open.

Mr. Franzella reported that the current year average for number of days to issue a citation was higher than the two previous fiscal years due to the high volume and efficiency with which Peer Review citations were issued.

Mr. Franzella reported that upon completion of the disciplinary process, matters are referred to the CBA probation monitor for tracking and compliance with the terms of probation. He noted that CBA staff will provide an overview of the probation monitoring process at an upcoming CBA meeting.

Mr. Franzella stated that all licensees renewing their license in an active status are required to have fingerprints on file for the purpose of conducting a state and federal criminal offender record information background check. He reported that the CBA opened investigations on all CPAs who failed to have their fingerprints taken. He reported that for fiscal year 2014/15, 29 cases have been assigned for investigation, 180 cases have been closed, and seven non-compliance citation and fines were issued.

Mr. Franzella reported that under the present mobility law the CBA has a requirement that every six months staff sends letters to CPAs who were disciplined from either the Securities and Exchange Commission (SEC) or the Public Company Accounting Oversight Board (PCAOB) to inform them that they must seek CBA authorization prior to practicing in California. He reported 12 CPAs had been identified from the SEC and six CPAs had been identified from the PCAOB who were disciplined.

B. Report on Accusations and Final Disciplinary Orders Since December 11, 2014.

Mr. Franzella reported three accusations were filed and eight matters were referred for discipline to the AG's Office since the December 11, 2014 EAC Meeting.

Mr. De Lyser suggested that going forward Mr. Franzella should provide an executive summary of accusations and discipline matters filed with the AG's Office since the last EAC Meeting.

V. Public Comments for Items not on the Agenda.

There were no public comments for items not on the agenda.

VI. Review Enforcement Files on Individual Licensees.

[Closed Session: The EAC met in closed session to review and deliberate on enforcement files as authorized by Government Code section 11126(c)(2) and Business and Professions Code section 5020.]

VII. Conduct Closed Hearings.

[The Committee met in closed session as authorized by Government Code sections 11126(c)(2) and (f)(3) and Business and Professions Code section 5020 to conduct closed sessions to interview and consider possible disciplinary action against an individual licensee or applicant prior to the filing of an accusation.]

VIII. Adjournment.

The next EAC meeting is scheduled for April 30, 2015 at the Hilton Los Angeles Airport.

Having no further business to conduct, the EAC general meeting adjourned at approximately 9:51 a.m. to convene in closed session. Closed session adjourned at approximately 11:30 a.m. and staff took a lunch break. Closed session reconvened for investigative hearings from 1:00 p.m. to 5:00 p.m.

Jeffrey De Lyser, CPA, Chair
Enforcement Advisory Committee

Prepared by: Allison Nightingale, Enforcement Technician

**California Board of Accountancy
Enforcement Activity Report**
Report as of February 6, 2015

EAC Item IV.A.
April 30, 2015

Complaints

Complaints/Records of Convictions	FY 2012/13	FY 2013/14	FY 2014/15
Received	3,271	3,255	1,631
<i>Internal – Peer Review (Failure to Respond)¹</i>	<i>1,800</i>	<i>1,481</i>	<i>0</i>
<i>Internal – Peer Review (Other)²</i>	<i>508</i>	<i>411</i>	<i>294</i>
<i>Internal – All Other</i>	<i>510</i>	<i>969</i>	<i>1,052</i>
<i>External</i>	<i>453</i>	<i>394</i>	<i>285</i>
Assigned for Investigation	2,951	2,969	1,180
Closed – No Action	329	289	454
Average Days from Intake to Closure or Assignment for Investigation	3	4	3
Pending	3	0	0
Average Age of Pending Complaints (days)	3	0	0

¹ These complaints relate to licensees that failed to respond to multiple California Board of Accountancy requests to file the required peer review reporting form (PR-1) as part of the initial peer review phase-in period that occurred between July 1, 2011 and July 1, 2013.

² Peer Review (Other) internal complaints typically include investigation of failed peer review reports, failure to comply with peer review citations, filing an incorrect PR-1, or renewing a license without undergoing a peer review when a peer review is required.

Comments

- The California Board of Accountancy (CBA) received almost 500 additional complaints since the last reporting period.
- The majority of the complaints are from internal units within the CBA and the top three complaints continue to be conviction of a crime, peer review, and various continuing education deficiencies.
- This fiscal year to date, the CBA received 285 external complaints. These complaints are received from various sources such as the public, anonymous persons, societies/trade organizations, licensees, and other government agencies. The top external complaint continues to be unlicensed practice.

California Board of Accountancy Enforcement Activity Report

Report as of February 6, 2015

Investigations

Investigations	FY 2012/13	FY 2013/14	FY 2014/15
Assigned	2,951	2,969	1,180
<i>Internal – Peer Review (Failure to Respond)¹</i>	<i>1,794</i>	<i>1,481</i>	<i>0</i>
<i>Internal – Peer Review (Other)</i>	<i>437</i>	<i>407</i>	<i>294</i>
<i>Internal – All Other</i>	<i>361</i>	<i>740</i>	<i>634</i>
<i>External</i>	<i>359</i>	<i>341</i>	<i>252</i>
Closed	2,872	2,669	1,093
Average Days to Close	73	74	157
Total Investigations Pending	518	825	912
<i>< 18 Months</i>	<i>500</i>	<i>774</i>	<i>828</i>
<i>18-24 Months</i>	<i>17</i>	<i>42</i>	<i>73</i>
<i>> 24 Months</i>	<i>1</i>	<i>9</i>	<i>10</i>
Average Age of Open Cases (days)	166	202	215
Median Age of Open Cases (days)	104	153	147

¹ These investigations relate to licensees that failed to respond to multiple California Board of Accountancy requests to file the required PR-1 as part of the initial peer review phase-in period that occurred between July 1, 2011 and July 1, 2013.

Chart A on Page 8 illustrates the percentage of open cases by length of time.

Comments

- The CBA closed over 300 investigations since the previous report.
- Presently, the CBA has 73 investigations that have been pending for a period of 18-24 months. Management is aware of this volume and actively working to resolve these cases to minimize the number that reach the 24-month mark. Additionally, as the new staffing resources are trained, the Enforcement Division will be better positioned to manage the increased volume and inventory.
- The CBA presently has 10 investigations that have been pending over 24 months. These cases are the most complex investigations requiring additional time to resolve. The status of the investigations are as follows:
 - Three investigations are on-going.

Seven investigations have reports being prepared or under management review that will result in either a referral to the Attorney General's (AG) Office or a citation.

California Board of Accountancy Enforcement Activity Report

Report as of February 6, 2015

Discipline

Attorney General Referrals	FY 2012/13	FY 2013/14	FY 2014/15
Referrals	62	74	65
Accusations Filed	50	34	25
Statements of Issues Filed	3	8	7
Petitions for Revocation of Probation Filed	3	2	0
Closed	58	31	47
<i>Via Stipulated Settlement</i>	39	21	42
<i>Via Proposed Decision</i>	5	4	1
<i>Via Default Decision</i>	14	6	4
Discipline Pending	57	95	115
<i>< 18 Months</i>	52	82	108
<i>18-24 Months</i>	2	10	3
<i>> 24 Months</i>	3	3	4

Chart B on Page 8 illustrates the percentage of cases pending at the AG's Office by length of time.

Comments

- There are four cases pending at the AG's Office for more than 24 months. The current status of the cases, which includes two carried over from the last report, are as follows:
 - A writ was filed with the California Superior Court in August 2012 following adoption of a proposed decision and denial of a Petition for Reconsideration in July 2012. A Superior Court hearing was held in June 2013 and the Court issued a tentative decision in September 2013; however, additional testimony was taken on February 27, 2014 and arguments were heard on March 27, 2014. A decision was issued on August 28, 2014 denying the writ of mandate. The stay previously issued was dissolved and the CBA's decision revoking the Petitioner's license became effective. However, the Petitioner immediately filed a Notice of Appeal with the Appellate Court seeking a stay of the decision. The motion requesting a trial was denied at a hearing on December 12, 2014.
 - Two cases are scheduled for a hearing with the Office of Administrative Hearings (OAH) on February 26, 2015 and March 16, 2015, respectively.
 - One case was placed on hold pending the outcome of a criminal conviction and subsequent appeal. The draft accusation has been reviewed and returned to the Deputy Attorney General for revisions.

California Board of Accountancy Enforcement Activity Report

Report as of February 6, 2015

Citations and Fines

Citations	FY 2012/13	FY 2013/14	FY 2014/15
Total Citations Issued	1,883	1,522	220
Total Fines Assessed	\$532,400	\$399,020	\$79,200
Peer Review (Failure to Respond) ¹	1,800	1,481	0
<i>Peer Review Fines Assessed</i>	<i>\$450,000</i>	<i>\$370,250</i>	<i>\$0</i>
Other Citations	83	41	220
<i>Other Fines Assessed</i>	<i>\$82,400</i>	<i>\$28,770</i>	<i>\$79,200</i>
Other Fines Average	\$993	\$702	\$362
Average number of days from receipt of a complaint to issuance of a citation	67	33	147
Top 3 Violations Resulting in Citation			
1:	Response to CBA Inquiry (Reg 52)	Response to CBA Inquiry (Reg 52)	CE Basic Requirements (Reg 87)
2:	CE Basic Requirements (Reg 87)	CE Basic Requirements (Reg 87)	Name of Firm (BPC 5060)
3:	Practice Without Permit (BPC 5050)	Name of Firm (BPC 5060)	Fingerprinting (Reg 37.5)

¹ These citations relate to licensees that failed to respond to multiple California Board of Accountancy requests to file the required PR-1 as part of the initial peer review phase-in period that occurred between July 1, 2011 and July 1, 2013.

Comments

- As noted in previous reports, the current year average for number of days to issue a citation is higher than the two previous fiscal years due to the high volume and efficiency with which Peer Review (Failure to Respond) citations were issued.
- The Other Fines Average amount continues to be lower than in previous years. The fine amount assessed varies from \$100 to \$5,000 and is determined on a case-by-case basis. Factors that may increase or decrease the fine amount include aggravating or mitigating circumstances, and length of time the violation existed.
- Violations of the fingerprinting and disclosure requirements of CBA Regulations section 37.5 have replaced response to CBA inquiry as the third most common reason for the issuance of a citation this fiscal year.

California Board of Accountancy Enforcement Activity Report

Report as of February 6, 2015

Probation Monitoring

Monitoring Activities	
Number of Licensees on Probation as of Last Report	83
New Probationers	6
Total Number of Probationers	86
Out-of-State Probationers	8
Probation Orientations Held	4

- Upon completion of the disciplinary process, matters are referred to a CBA Probation Monitor for tracking and compliance with the terms of probation. The last probation meetings were held in conjunction with the Enforcement Advisory Committee (EAC) meeting on January 29, 2015.
- Staff have begun scheduling additional probation orientations outside of the EAC meeting schedule. The next probation orientations are being scheduled at the CBA Office on March 5, 2015.
- Staff expect to provide the CBA with an educational presentation on probation monitoring activities at the July 2015 CBA meeting.

**California Board of Accountancy
Enforcement Activity Report**
Report as of February 6, 2015

Criminal Offender Record Information (CORI)

CORI Fingerprints¹	FY 2014/15
Notification Letters Sent	11,400
CORI Compliances Received	7,551
Non-Compliance Notifications Sent	476

CORI Enforcement Cases	FY 2014/15
Received	372
Assigned for Investigation	97
Closed – No Action	275
Non-Compliance Citation and Fine Issued	28
Referred to the Attorney General's Office	5

¹ CORI-related activities that occurred in FY 2013/14 were previously reflected on the Licensing Activity Report.

Comments

- Effective January 1, 2014, all licensees renewing their license in active status are required to have fingerprints on file for the purpose of conducting a state and federal criminal offender record information background check.

California Board of Accountancy Enforcement Activity Report

Report as of February 6, 2015

Mobility

Enforcement Aspects of Mobility	FY 2013/14	FY 2014/15
Pre-Notification Forms Received	15	2
Cessation Event Forms Received	0	0
SEC Discipline Identified	37	18
PCAOB Discipline Identified	11	17
Out-of-State Accounting Firm Registrants That Reported Other Discipline	10	7
Complaints Against Practice Privilege Holders	2	10

Effective July 1, 2013, the CBA implemented a no notice, no fee practice privilege model in California. This table depicts the enforcement aspects of mobility, including the receipt and investigation of Practice Privilege Pre-Notification Forms and Notification of Cessation Event Forms.

Comments

- Staff sent letters to all CPAs who were disciplined from either the Securities and Exchange Commission or the Public Company Accounting Oversight Board to inform them that they must seek CBA authorization prior to practicing in California.

Division Highlights and Future Considerations

- The Discipline and Probation Monitoring Unit has two vacant Associate Governmental Program Analyst positions. A tentative offer has been made on one of the positions, pending background clearance, and interviews will be held in early March for the second position.
- The CBA is working to permanently fill the Supervising Investigative CPA (SICPA) position temporarily filled by Dorothy Osgood, Acting SICPA.
- The CBA will be holding a three-day training March 11-13, 2015 for all recently hired Investigative CPAs. The training will cover investigative report writing and an overview of Checkpoint (the online tax and accounting software that is used to research standards). For all investigative staff who may be called upon to testify at administrative hearings, Deputy Attorney General Carl Sonne will provide a presentation on testifying.
- The second quarter Performance Measures Report prepared by the Department of Consumer Affairs is **attached**. As noted on the report, it is designed to provide stakeholders with information regarding the CBA's progress toward meeting its enforcement goals and targets.

**California Board of Accountancy
Enforcement Activity Report**
Report as of February 6, 2015

Chart A – Open Investigations as of February 6, 2015

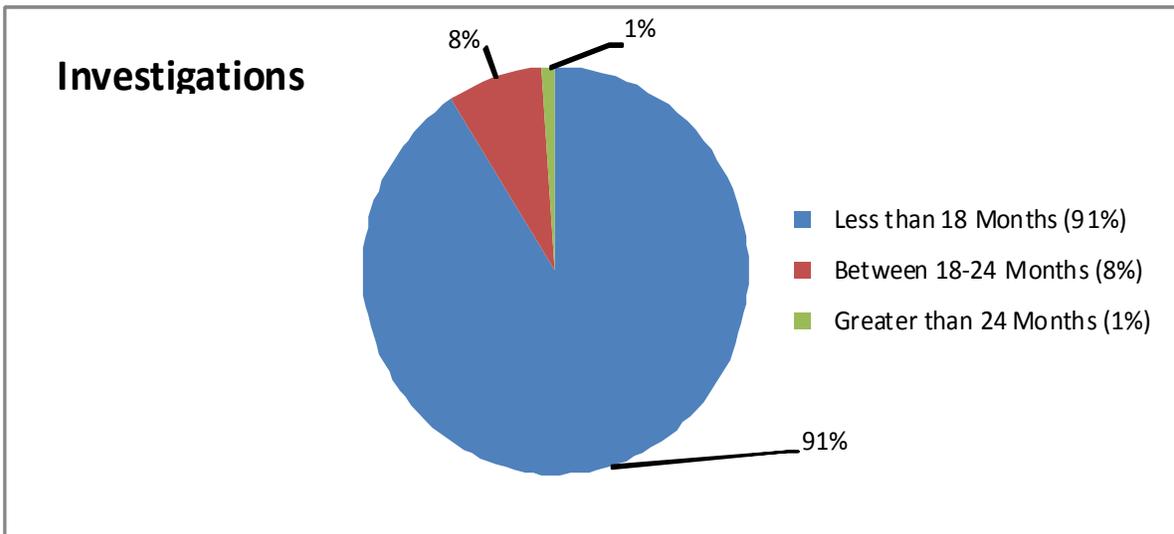
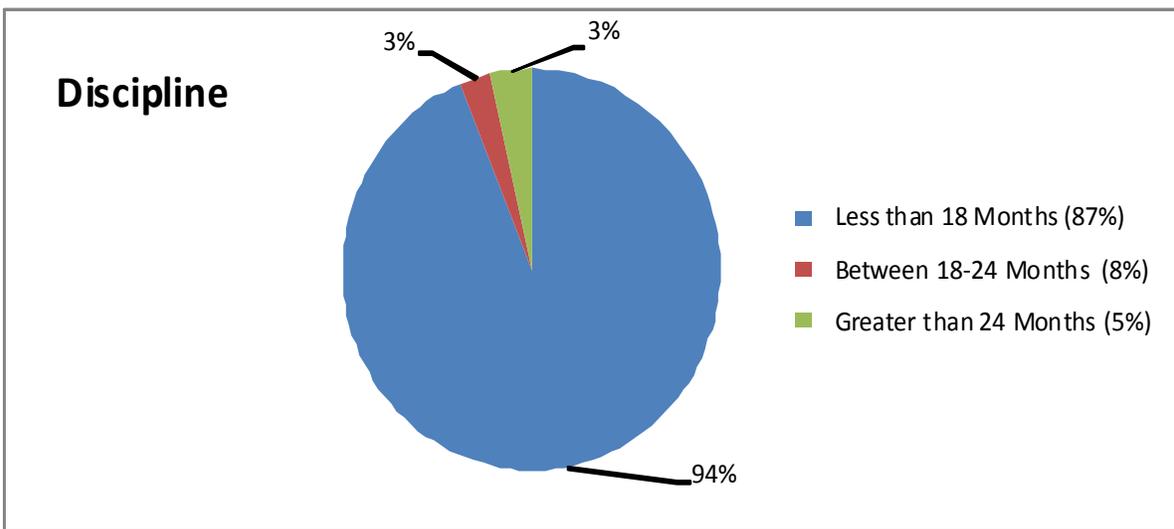


Chart B – Discipline Pending at the Attorney General Office as of February 6, 2015





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EAC Item IV.B.
April 30, 2015

Report on Accusations and Final Disciplinary Orders Since January 30, 2015

Presented by: Dominic Franzella, Enforcement Chief

Purpose of the Item

The purpose of this agenda item is to provide the Enforcement Advisory Committee (EAC) with information related to accusations filed and final disciplinary orders effective since the January 2015 EAC meeting.

Action(s) Needed

No specific action is required on this agenda item.

Background

At the conclusion of the October 2014 EAC meeting, members completed a survey via SurveyMonkey providing comments and feedback on various aspects of the meeting. Among the comments was a request for staff to bring information related to accusations filed and final disciplinary orders effective since the prior EAC meeting. As a result, staff has placed this topic as a standing agenda item for all future EAC meetings.

Comments

Since the January 29, 2015 EAC meeting, the California Board of Accountancy (CBA) has filed ten accusations and taken six disciplinary actions. All matters are listed below along with a summary of the cause for discipline and action taken. The complete accusations and final disciplinary orders are available for review on the CBA website at www.cba.ca.gov.

Accusations

1. AC-2015-06 Cassady, Dustin Scott Filed February 6, 2015
The cause for discipline identified in the accusation is a criminal conviction.
2. AC-2015-048 Oftedal, Arne R Filed February 18, 2015
The causes for discipline identified in the accusation include gross negligence, issuing reports that failed to conform to professional standards, failure to comply with professional standards (specifically, generally accepted accounting principles and auditing standards), failure to identify and keep audit documentation, and failure to comply with peer review.

Report on Accusations and Final Disciplinary Orders Since January 30, 2015

Page 2 of 8

3. AC-2015-29 Kies, Daniel R Filed February 20, 2015
The causes for discipline identified in the accusation include conviction of a crime, failure to report the criminal conviction, failure to comply with citation (failing to respond to CBA inquiry), and failure to respond to CBA inquiry.
4. AC-2015-31 Barna, Christopher Lee Filed February 24, 2015
The causes for discipline identified in the accusation include criminal conviction, violations of the chapter (by failing to properly report the criminal conviction to the CBA), and embezzlement, theft and misappropriation of funds or property.
5. AC-2014-70 Sherb, Steven J Filed February 27, 2015
The causes for discipline identified in the accusation include suspension from practice, imposition of discipline by the Securities and Exchange Commission (SEC), and noncompliance with citation (failing to respond to CBA inquiry).
6. AC-2014-41 Rivera, Charles Joseph Filed March 11, 2015
The causes for discipline identified in the accusation include failure to complete peer review, failure to respond to CBA inquiry, and failure to notify the CBA of a change of address.
7. AC-2014-43 Chan, Alan Filed March 11, 2015
The causes for discipline identified in the accusation include fiscal dishonesty, gross negligence, practicing public accountancy without a license, practice of public accountancy under unregistered firm name, false advertising, and failure to respond to CBA inquiry.
8. AC-2013-36 Pybrum, Steven M Filed March 24, 2015
Pybrum and Company, LLP
The causes for discipline identified in the accusation include conviction of a crime, dishonesty and fraud, fiscal dishonesty, knowing preparation of false financial information, and willful violation of the Accountancy Act.
9. AC-2015-12 McPeak, Rick L Filed March 25, 2015
The causes for discipline identified in the accusation include practice of public accountancy without a valid CPA license, failure to comply with citation (failing to respond to CBA inquiry), unregistered firm name, and failure to respond to CBA inquiries.
10. AC-2015-13 McKinney, Gordon Alan Filed March 25, 2015
The causes for discipline identified in the accusation include use of an unregistered firm name, and failure to respond to CBA inquiries.

Disciplinary Orders

1. AC-2012-52 Rabinovitz, Brian Effective February 28, 2015
First Amended Accusation No. AC-2012-52 contains the following allegations:

Report on Accusations and Final Disciplinary Orders Since January 30, 2015

Page 3 of 8

In 2001 and 2002, Mr. Rabinovitz was employed by Merdinger, Fruchter, Rosen & Corso, P.C. (MFRC) as a non-equity partner supervising MFRC's audit and other engagements concerning Exotics.com. On April 21, 2005, the SEC filed a civil fraud action against Exotics.com, Inc. and several individuals, including Mr. Rabinovitz, entitled *Securities and Exchange Commission v. Exotics.com, Inc., et al.* (D. Nev., April 25, 2005, C.V.S-05-0531-PMP-RJJ.)

The SEC's complaint alleged that Mr. Rabinovitz and others participated in a manipulative scheme that resulted in Exotics.com filing materially false statements in its SEC filings. The complaint further alleged Mr. Rabinovitz and audit staff under his supervision, committed acts and omissions, including creating some of the company's books and records, that caused them to become non-independent during audits of Exotics.com and that Mr. Rabinovitz approved the issuance by MFRC of audit reports which falsely stated that the audits had been conducted by an independent auditor and in accordance with Generally Accepted Auditing Standards. The complaint also alleged that Mr. Rabinovitz and audit staff under his supervision, engaged in a number of improper accounting practices that caused Exotics.com's financial statements to depart from Generally Accepted Accounting Principles.

On March 15, 2010, pursuant to an Offer Settlement, a final judgment was entered against Mr. Rabinovitz permanently enjoining him from future violations of SEC Rule 2-02 of Regulation S-X (failure to function as an independent auditor). Mr. Rabinovitz was also ordered to pay a \$30,000 civil penalty and was suspended from appearing or practicing before the SEC as an accountant.

CBA Actions:

Revocation stayed with three years' probation, via stipulated settlement.

Mr. Rabinovitz's license is suspended for seven months from the effective date of this decision.

Mr. Rabinovitz shall reimburse the CBA \$7,200.00 for its investigation and prosecution costs. Payment is required within 180 days of the date the CBA's decision is final.

Mr. Rabinovitz shall complete four hours of continuing education in ethics. These course hours must be completed within six months of the Order.

Mr. Rabinovitz shall complete a CBA-approved course on the provisions of the California Accountancy Act and the California Board of Accountancy Regulations emphasizing the provisions applicable to current practice situations. These hours must be completed within six months of the Order. The course shall be for a minimum of two hours. These hours are in addition to the hours required for relicensing.

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Mr. Rabinovitz shall complete eight hours of continuing education in accounting and auditing. These hours must be completed within six months of the Order. These hours shall be in addition to continuing education requirements for relicensing.

Mr. Rabinovitz shall maintain an active license. Mr. Rabinovitz shall comply with any final order issued by the Securities and Exchange Commission (SEC).

Other standard terms of probation.

2. AC-2014-04 Yelland, Jeffrey Effective February 28, 2015
Accusation No. AC-2014-4 contains the following allegations:

Consumer R.K. became a client of Mr. Yelland in late 1999, for whom Mr. Yelland performed tax services. R.K. sought to create a defined benefit plan that would provide maximum tax benefits to himself and requested Mr. Yelland to investigate the availability of an appropriate defined benefit plan. In late 2003, Mr. Yelland came across flyers at a professional seminar and trade show for 412(i) defined benefit plans and provided the information to R.K. There were meetings with J.F., a defined benefit plan provider, relating to one 412(i) Plan, and R.K. agreed to the creation of a plan for himself to be provided by J.F.

In November 2003, Mr. Yelland submitted an invoice to R.K. in which he indicated that 5.75 hours of the professional services rendered by Mr. Yelland related to the new pension plan were waived as they would be billed to J.F., the plan provider, pursuant to Mr. Yelland's agreement with J.F. This was the only written notation that R.K. received memorializing an agreement between J.F. and Mr. Yelland that J.F. would pay fees or commissions to Mr. Yelland.

In December 2003, R.K. finalized his 412(i) plan through J.F. In January 2004, J.F. paid Mr. Yelland a lump sum amount of \$119,000.00. Mr. Yelland characterized this payment as a flat fee for services to be performed over the next five to ten years on behalf of both his client, R.K., and J.F., the plan provider, in relation to the 412(i) defined benefit plan and stated that both were fully aware of this arrangement. For at least three years, R.K. contributed \$400,000 per year into the 412(i) plan.

In the spring of 2006, less than two and a half years after receipt of the \$119,000 lump sum payment, Mr. Yelland withdrew representing R.K. Mr. Yelland failed to keep time records for that time spent on services performed for the lump sum payment.

Mr. Yelland is subject to disciplinary action in that Mr. Yelland provided products and/or services to a client for a commission without disclosing the commission as required by law.

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CBA Actions:

Revocation stayed with three years' probation, via stipulated settlement.

Mr. Yelland shall reimburse the CBA \$27,457.99 for its investigation and prosecution costs paid in quarterly installments, with the last payment due six months prior to the termination of probation or such other payment plan mutually agreed to by the parties.

Mr. Yelland shall complete four hours of continuing education in ethics. These hours are in addition to continuing education requirements required for relicensing.

Mr. Yelland shall complete a CBA-approved course on the provisions of the California Accountancy Act and the California Board of Accountancy Regulations emphasizing the provisions applicable to current practice situations. The hours must be completed within 90 days of the effective date of the order. The course shall be for a minimum of two hours. These hours are in addition to continuing education requirements required for relicensing.

Mr. Yelland shall complete 16 hours of continuing education in a subject matter pertaining to retirement and defined benefit/pension plans within 18 months of the effective date of the CBA's order. These hours are in addition to continuing education requirements required for relicensing.

Other standard terms of probation.

3. AC-2014-23 Hotz, Dale A Effective February 28, 2015
Accusation number AC-2014-23 contains the following allegations:

On or about November 13, 2012, pursuant to an Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions in the disciplinary proceeding titled "*In the Matter of Dale Arnold Hotz, CPA, Jyothi Nuthulaganti Manohar, CPA, and Michael Jared Fadner, CPA*", the Public Company Accounting Oversight Board (PCAOB) censured Mr. Hotz and barred him from being an associated person of a registered public accounting firm. The PCAOB's disciplinary action was based on Mr. Hotz's violation of PCAOB rules and auditing standards in connection with the improper creation, addition, alteration and/or backdating of audit documentation prior to a PCAOB inspection.

CBA Actions:

Surrender of CPA license, via stipulated settlement.

Mr. Hotz shall pay the CBA \$4,832.16 for its investigation and enforcement costs prior to issuance of a new or reinstated license.

4. AC-2014-33 Miller, David Harold Effective February 28, 2015

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Accusation No. AC-2014-33 contains the following allegations:

On or about July 11, 2013, in the case of People v. David Harold Miller, (Superior Court of California, 2013, County of Sacramento, Case No. 12F08231), the court convicted Mr. Miller on his plea of no contest of violating Penal Code section 288(a) (lewd or lascivious acts with a child under 14 years of age), a felony and a crime that is substantially related to the qualifications, functions, or duties of a certified public accountant.

Mr. Miller failed to notify the CBA in writing within 30 days of his July 11, 2013 felony conviction of Penal Code section 288, subdivision (a).

CBA Actions:

Revocation stayed with three years' probation, via stipulated settlement.

Mr. Miller's license is suspended for 120 days.

Mr. Miller shall reimburse the CBA \$2,733.01 for its investigation and prosecution costs. The payment shall be made in 10 quarterly payments due with the quarterly reports.

Mr. Miller shall complete four hours of continuing education in ethics. Courses will be completed prior to resumption of practice where license has been suspended. This course shall be in addition to continuing education requirements for relicensing.

Mr. Miller shall at all times maintain an active license status with the CBA, including during any period of suspension.

Mr. Miller shall undergo and continue treatment by a licensed psychotherapist of Mr. Miller's choice and approved by the CBA or its designee until the treating psychotherapist certifies in writing in a report to the CBA or its designee that treatment is no longer necessary. Mr. Miller shall have the treating psychotherapist submit reports to the CBA at intervals determined by the CBA or its designee. Mr. Miller is responsible for all costs of treatment and reports.

Other standard terms of probation.

5. AC-2014-56 Lindsey, Michael Steven Effective February 28, 2015
Accusation No. AC-2014-56 contains the following allegations:

On or about April 1, 2012, Mr. Lindsey's CPA license became delinquent. Mr. Lindsey is subject to disciplinary action for unprofessional conduct in that he engaged in the practice of public accountancy without holding a valid permit. On February 19, 2013, Mr. Lindsey's letterhead maintained the CPA designation. On May 30, 2013, Mr. Lindsey advertised his services as a CPA on the signage

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in his office building. After April 1, 2012, Mr. Lindsey prepared and signed at least four tax returns with the CPA designation. Mr. Lindsey also failed to report peer review information to the CBA as required and respond to numerous inquiries and requests from the CBA to submit a completed Peer Review Reporting Form.

CBA Actions:

Revocation stayed with three years' probation, via stipulated settlement.

Mr. Lindsey shall reimburse the CBA \$3,080.25 for its investigation and prosecution costs. The payment shall be made in 10 equal quarterly payments (due with quarterly written reports), the final payment being due six months before probation is scheduled to terminate.

Mr. Lindsey shall complete four hours of continuing education in ethics. The hours must be completed within six months of the effective date of the order. These hours are in addition to the hours required for relicensing.

Mr. Lindsey shall complete a CBA-approved course on the provisions of the California Accountancy Act and the California Board of Accountancy Regulations emphasizing the provisions applicable to current practice situations. The hours must be completed within six months of the effective date of the Order. The course shall be for a minimum of two hours. These hours are in addition to the hours required for relicensing.

During the period of probation, all audit, review, and compilation reports and work papers shall be subject to peer review.

Mr. Lindsey shall pay to the CBA an administrative penalty in the amount of \$2,500.00. The payment shall be made within 90 days of the effective date of the Order.

Mr. Lindsey shall maintain an active license.

Other standard terms of probation

6. SI-2014-72 St Germain, Anne Drew Effective February 28, 2015
Statement of Issues No. SI-2014-72 contains the following allegations:

On or about February 4, 2004, Ms. St. Germain pled guilty to violating Nevada Revised Statute sections 205.090, 205.110, and 193.330 (attempted forgery) in the criminal proceeding entitled State of Nevada vs. Anne D. St. Germain (Clark County District Court, Case No. C198271). The Court placed Ms. St. Germain on probation for an indeterminate period, not to exceed two (2) years, and ordered her to pay restitution in the amount of \$1,452.12 and an administrative assessment fee of \$25.

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Ms. St. Germain's application is subject to denial in that on or about February 4, 2004, Ms. St. Germain was convicted of a crime that substantially relates to the qualifications, functions, and duties of a certified public accountant

CBA Actions:

Revocation stayed with five years' probation, via stipulated settlement.

Ms. St. Germain shall complete four hours of continuing education in ethics. The hours must be completed within the first year of probation. These hours are in addition to the hours required for license renewal.

Ms. St. Germain shall complete a CBA-approved course on the provisions of the California Accountancy Act and the California Board of Accountancy Regulations emphasizing the provisions applicable to current practice situations. The hours must be completed within the first year of probation. The course shall be for a minimum of two hours. These hours are in addition to the hours required for license renewal.

Ms. St. Germain shall maintain an active license.

Other standard terms of probation.

Fiscal/Economic Impact Considerations

There is no fiscal or economic impact for this agenda item.

Recommendation

Staff has no recommendation on this agenda item.