



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, May 1, 2014
9:00 a.m. – 5:00 p.m.**

Hilton Los Angeles Airport
5400 West Century Blvd.
Los Angeles, CA 90045
Telephone: (310) 410-4000

- 9:00 - 9:05 I. Roll Call and Call to Order (**Cheryl Gerhardt, Chair**).
- 9:05 -10:30 II. 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.]
- 10:30 - 10:35 III. Report of the Committee Chair (**Cheryl Gerhardt**).
- A. Approval of the January 30, 2014 EAC Meeting Minutes.
- 10:35 - 11:00 IV. Welcome Message From the CBA President (**Michael M. Savoy, CPA**).
- 11:00 - 11:15 V. Report of the CBA Liaison (**Hershel Elkins**).
- A. Report of the March 20-21, 2014 CBA and Committee Meetings.
- 11:15 - 11:25 VI. Report of the Enforcement Chief (**Rafael Ixta**).
- A. Enforcement Activity Report.
- 11:25 - 11:30 VII. Public Comments for Items not on the Agenda.

LUNCH

1:00 - 5:00 VIII. 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.]

IX. Adjournment.

Please note: Action may be taken on any item on the agenda. All times are approximate. 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. (Government Code sec.11125.7(a). 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
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An electronic copy of this agenda can be found at <http://www.dca.ca.gov/cba/calendar.shtml>.



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

DRAFT

**MINUTES OF THE
 JANUARY 30, 2014
 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 8:30 a.m. on January 30, 2014 by EAC Chair, Cheryl Gerhardt.

Enforcement Advisory Committee

Cheryl Gerhardt, Chair	8:30 a.m. to 5:00 p.m.
Mary Rose Caras, Vice Chair	8:30 a.m. to 5:00 p.m.
Joe Buniva	8:30 a.m. to 5:00 p.m.
Gary Caine	8:30 a.m. to 5:00 p.m.
Nancy Corrigan	8:30 a.m. to 5:00 p.m.
Jeffrey DeLyser	8:30 a.m. to 5:00 p.m.
Bill Donnelly	8:30 a.m. to 5:00 p.m.
Robert A. Lee	8:30 a.m. to 5:00 p.m.
Mervyn McCulloch	8:30 a.m. to 5:00 p.m.
Joseph Rosenbaum	Absent
Seid Sadat	8:30 a.m. to 5:00 p.m.
Michael Schwarz	8:30 a.m. to 5:00 p.m.

Staff and Legal Counsel

Rafael Ixta, Enforcement Chief
 Paul Fisher, Supervising Investigative CPA
 Allison Nightingale, Enforcement Secretary
 Kay Lewis, Investigative CPA
 Dorothy Osgood, Investigative CPA
 David Jones, Investigative CPA
 DeAnn MacConell, Investigative CPA
 Gogi Overhoff, Investigative CPA
 Vincent Johnston, Enforcement Analyst
 Sara Narvaez, Enforcement Manager
 Carl Sonne, Deputy Attorney General, Department of Justice

- II. Approval of the December 12, 2013 EAC Meeting Minutes.

It was moved by Mr. Schwarz, seconded by Mr. Sadat, and unanimously carried to approve the minutes of the December 12, 2013 EAC meeting.

The minutes for this meeting will be submitted to the CBA members for review and adoption at the next CBA meeting.

- III. Public Comments for Items Not on the Agenda.

There were no public comments offered during the meeting.

- IV. 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.]

- V. Conduct Closed Hearings.

[The Committee will meet in closed session as authorized by Government Code sections 11126(c)(2) and (f)(3) and B&P 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.]

- VI. Adjournment.

The next EAC meeting is scheduled for May 1, 2014 at the Hilton Los Angeles Airport in Los Angeles.

Having no further business to conduct, the EAC general meeting adjourned at approximately 8:35 a.m. to reconvene in closed session at 1:00 p.m.

Cheryl Gerhardt, CPA, Chair
Enforcement Advisory Committee

Prepared by: Allison Nightingale, Enforcement Secretary

California Board of Accountancy Enforcement Activity Report

Report as of February 28, 2014

Complaints

1.1 – Complaints/Records of Convictions	FY 2011/12	FY 2012/13	FY 2013/14
Received	1,911	3,271	2,538
<i>Internal – Peer Review (Failure to Respond)</i>	872	1,800	1,481
<i>Internal – Peer Review (Other)</i>	58	508	281
<i>Internal – All Other</i>	503	510	528
<i>External</i>	478	453	248
Assigned for Investigation	1,626	2,951	2,415
Closed – No Action	294	329	118
Average Days from Intake to Closure or Assignment for Investigation	4	3	3
Pending	12	3	12
Average Age of Pending Complaints (days)	16	3	12

Comments

- The CBA has received 528 internal complaints since July 1, 2013, which represents more internal complaints than all of fiscal year 2012/13. The primary sources of the complaints are 1) criminal conviction and 2) unlicensed practice.
- Peer Review (Other) complaints typically include investigation of failed peer review reports, failure to comply with citations, filing an incorrect peer review reporting form, or renewing a license without undergoing a peer review.
- On average, staff assigned complaints to an investigator within three days of receipt.
- In the current fiscal year, approximately 96 percent of complaints received were opened for investigation, which is an increase from the previous fiscal year rate of 90 percent.

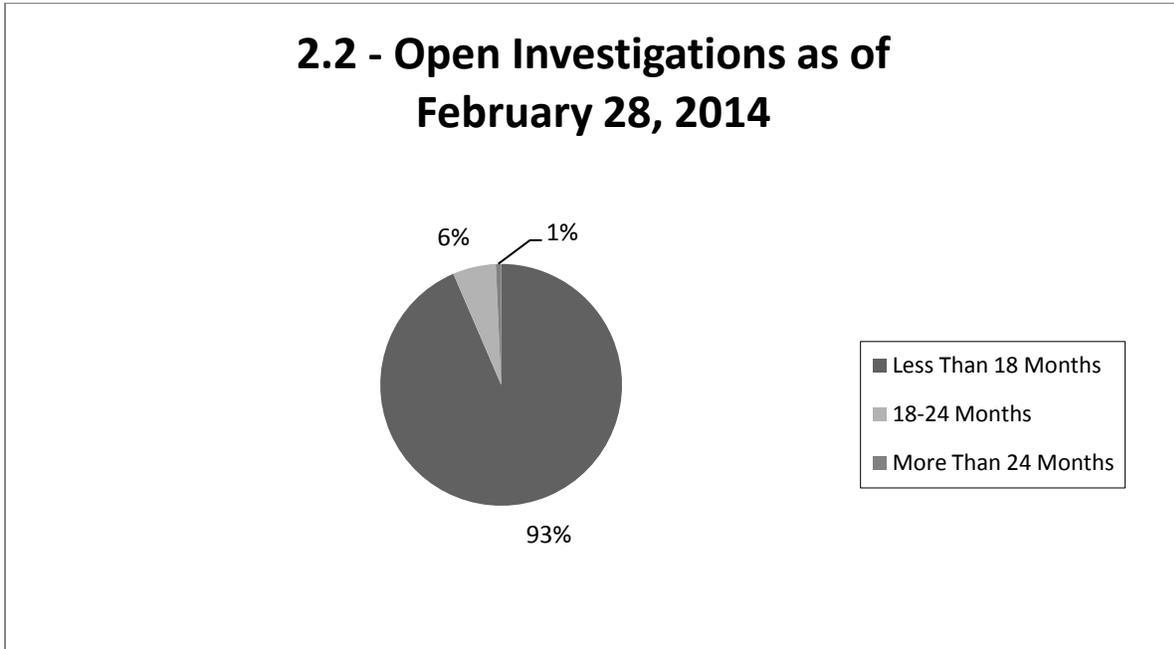
Investigations

2.1 – Investigations	FY 2011/12	FY 2012/13	FY 2013/14
Assigned	1,626	2,951	2,415
<i>Internal – Peer Review (Failure to Respond)</i>	872	1,794	1,481
<i>Internal – Peer Review (Other)</i>	58	437	278
<i>Internal – All Other</i>	335	361	444
<i>External</i>	361	359	212
Closed	1,525	2,872	2,223
Average Days to Close	85	73	59
Investigations Pending	439	518	710
<i>< 18 Months</i>	384	500	665
<i>18-24 Months</i>	26	17	41
<i>> 24 Months</i>	29	1	4
Average Age of Open Cases (days)	248	166	194
Median Age of Open Cases (days)	164	104	140

Comments

- The 444 internal investigations opened represent a 23 percent increase of investigations opened over the previous fiscal year.
- Four cases have been open for more than 24 months. The status for each of the cases is as follows:
 - One investigation is near completion and a referral to the Attorney General (AG) will be made.
 - Three investigations are ongoing. An investigative hearing will be scheduled for two of them. These cases are the more complex investigations requiring additional time to resolve.
- The average and median age of open cases is higher than the previous fiscal year, but remains lower than the previous report of 213 and 165, respectively.
- The number of investigations pending is higher than the two prior fiscal years.
- The average days to close continues to remain lower than the previous two fiscal years.

Chart 2.2 illustrates the percentage of total open cases by length of time. Approximately 99 percent of investigations have been open for less than 24 months; six percent of investigations have been open for 18 to 24 months; and one percent of investigations have been open for more than 24 months.



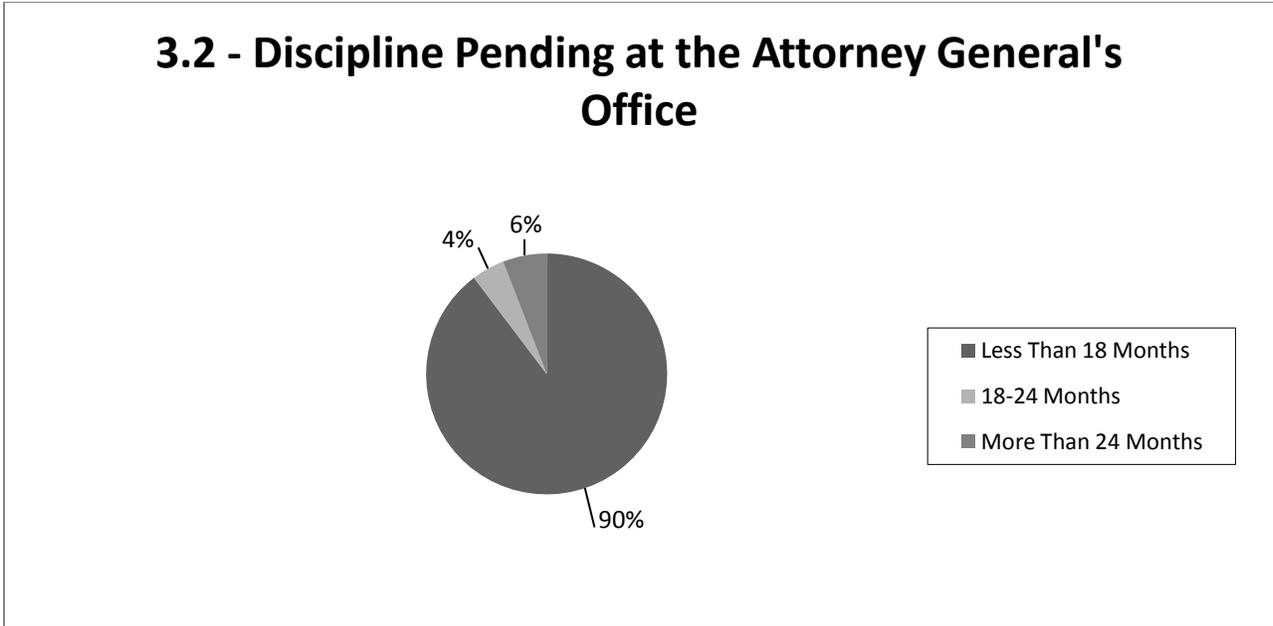
Discipline

3.1 - AG Referrals	FY 2011/12	FY 2012/13	FY 2013/14
Referrals	50	62	36
Accusations Filed	37	50	22
Statements of Issues Filed	2	3	2
Petitions for Revocation of Probation Filed	3	3	4
Closed	26	58	23
<i>Via Stipulated Settlement</i>	19	39	16
<i>Via Proposed Decision</i>	3	5	3
<i>Via Default Decision</i>	4	14	4
Discipline Pending	54	57	68
<i>< 18 Months</i>	44	52	61
<i>18-24 Months</i>	3	2	3
<i>> 24 Months</i>	7	3	4

Comments

- There are four cases that have been at the AG's Office for more than 24 months:
 - One case was considered by the CBA in May 2012 and had a Writ filed with the California Superior Court, and a hearing was held in June 2013. The Court issued a tentative decision in September 2013, however, additional testimony was taken on February 27, 2014. Closing briefs are due on March 21, 2014, and arguments are scheduled for March 27, 2014.
 - One case was considered by the CBA at the November 21-22, 2013, meeting, however, a Petition for Reconsideration was granted, and will be considered at the March 20-21, 2014 CBA meeting.
 - One case has been set for an administrative hearing in 2014.
 - Staff is actively working with opposing counsel on settlement terms for the final case. Staff anticipates the matter will be heard at the March 20-21, 2014 CBA meeting.
- The CBA has adopted sixteen Stipulated Settlements, three Proposed Decisions and four Default Decisions in fiscal year 2013/14.
- The Enforcement Division has referred an additional fifteen cases to the AG's Office for discipline since the prior report, resulting in an increase of the number of discipline cases pending at the AG's Office from 53 to 68.

Chart 3.2 illustrates the number of cases pending at the AG's Office by percentage. Approximately 94 percent of all CBA cases at the AG's Office have been open less than 24 months, four percent have been pending 18-24 months, and six percent have been pending more than 24 months.



Citations and Fines

4.1 – Citations	FY 2011/12	FY 2012/13	FY 2013/14
Total Citations Issued	908	1,883	1,506
Total Fines Assessed	\$255,350	\$532,400	\$388,050
<i>Peer Review (Failure to Respond)</i>	872	1,800	1,481
<i>Peer Review Fines Assessed</i>	\$217,850	\$450,000	\$370,025
<i>Other Citations</i>	36	83	25
<i>Other Fines Assessed</i>	\$37,500	\$82,400	\$17,800
Average number of days from receipt of a complaint to issuance of a citation	22	67	30
Top 3 Violations			
1:	Response to CBA Inquiry (Reg 52)	Response to CBA Inquiry (Reg 52)	Response to CBA Inquiry (Reg 52)
2:	CE Basic Requirements (Reg 87)	CE Basic Requirements (Reg 87)	CE Basic Requirements (Reg 87)
3:	Name of Firm (BPC 5060)	Practice Without Permit (BPC 5050)	Name of Firm (BPC 5060)

Comments

- There were six Other Citations issued since the previous report, with fines totaling \$4,000.
- The average number of days from receipt to citation issuance has decreased from the previous report. The number is now lower than the previous fiscal year, and is consistent with fiscal year 2011/12.

Probation Monitoring

Once the disciplinary process is complete, the matter is referred to a CBA Probation Monitor for tracking and compliance with the terms of probation. The next probation meetings will be held in conjunction with the EAC meeting in May 2014. There are 61 licensees on probation, with three residing out-of-state.

Peer Review

5.1 - Peer Review						
License Ending In	Reporting Deadline	Peer Review Required	Peer Review Not Required	Not Applicable (Non-firms)	Total	Licensees Still Needing to Report
01-33	7/1/11	2,626	4,304	15,776	22,706	8
34-66	7/1/12	2,170	4,006	13,167	19,343	30
67-00	7/1/13	2,105	3,901	14,147	20,153	799
		6,901	12,211	43,090	62,202	837

Comments

- The above data represents the results and status of the Peer Review phased-implementation. Since the last report there were 361 licensees who reported their peer review information.

Mobility

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

6.1 - Mobility	FY 2013/14
Pre-Notification Forms Received	11
Cessation Event Forms Received	0
SEC Discipline Identified	27
PCAOB Discipline Identified	8
Out-of-State Accounting Firm Registrants That Reported Other Discipline	7
Complaints against Practice Privilege Holders	2

Comments

- Of the 11 Pre-Notification Forms received, nine were inadvertently completed by out-of-state licensees that did not have a pre-notification reporting requirement.
- Staff continues to monitor the Securities and Exchange Commission (SEC) and Public Company Accounting Oversight Board (PCAOB) websites for discipline information. Additionally, the SEC and PCAOB websites were reviewed for the disciplinary actions taken by these agencies for the period of July 1, 2013 through December 31, 2013.
- Staff sent letters to all CPAs who were disciplined from either agency to inform them that they must seek CBA authorization prior to practicing in California.

Division Highlights and Future Considerations

- The Enforcement Division has experienced a surge of complaints since the previous reporting period. However, management continues to work with staff to prioritize complaints, and is continuing to process the complaints with potential consumer harm first.
- Enforcement management is seeking to hire Retired Annuitants to assist in conducting investigations. Additionally these resources may assist in preparing to transition to the BreZE system.