



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, December 11, 2014
9:00 a.m. – 5:00 p.m.**

Hilton San Diego Airport/Harbor Island
1960 Harbor Island Drive
San Diego, CA 92101
Telephone: (619) 291-6700

- 9:00 - 9:05 I. Roll Call and Call to Order (**Jeffrey De Lyser, 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 - 10:45 III. Report of the Committee Chair (**Jeffrey De Lyser, Chair**).
- A. Appointment(s)/Reappointment(s) to the EAC.
B. Approval of the October 23, 2014 EAC Meeting Minutes.
- 10:45 - 11:00 IV. Report of the CBA Liaison (**Hershel Elkins**).
- A. Report of the November 20-21, 2014 CBA and Committee Meetings.
- 11:00 - 11:25 V. Report of the Enforcement Chief (**Rafael Ixta**).
- A. Enforcement Activity Report.
B. Discussion Regarding the Survey of EAC Members Conducted in November 2014.
- 11:25 - 11:30 VI. Public Comments for Items not on the Agenda.

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.

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
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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)

MINUTES OF THE
OCTOBER 23, 2014
EAC MEETING

Hilton Pasadena
 168 South Los Robles Ave.
 Pasadena, CA 91101
 Telephone: (626) 577-1000

I. Roll Call and Call to Order.

The regularly scheduled meeting of the EAC was called to order at 9:02 a.m. on October 23, 2014 by EAC Chair, Cheryl Gerhardt.

Members

Cheryl Gerhardt, Chair	Present
Jeffrey De Lyser, Vice Chair	Present
Joe Buniva	Absent
Gary Caine	Absent
Nancy Corrigan	Present
Mary Rose Caras	Present
William Donnelly	Present
Robert A. Lee	Present
Mervyn McCulloch	Absent
Joseph Rosenbaum	Present
Seid Sadat	Present
Michael Schwarz	Present
Dale Best	Present

CBA Member Liaison

Herschel Elkins

CBA Staff and Legal Counsel

Rafael Ixta, Chief, Enforcement Division
 Paul Fisher, Supervising Investigative CPA
 David Jones, Investigative CPA
 Marla Weitzman, Investigative CPA
 Allison Nightingale, Enforcement Secretary
 Dorothy Osgood, Investigative CPA
 Vincent Johnston, Enforcement Manager

Grace Zad, Enforcement Analyst
Carl Sonne, Deputy Attorney General (DAG), Department of Justice

II. Review Enforcement Files on Individual Licensees.

The EAC adjourned into closed session under provisions of Government Code section 11126(c)(2) and Business and Professions Code (BPC) section 5020. EAC members convened into closed session at 9:05 a.m. and reconvened into open session at 10:30 a.m.

III. Report of the Committee Chair (**Cheryl Gerhardt**).

A. Approval of the July 10, 2014 EAC Meeting Minutes.

It was moved by Mr. Sadat, seconded by Ms. Caras, and unanimously carried to approve the minutes of the July 10, 2014 EAC meeting.

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

IV. Report of the CBA Liaison (**Herschel Elkins**).

A. Report of the September 18-19, 2014 CBA and Committee Meetings.

Mr. Elkins reported that at the September CBA meeting, Ms. Bowers announced the recipients of the CBA Leadership Award of Excellence which were Matthew Stanley, Regulation and Legislation Coordinator and Terri Dobson, Personnel Analyst.

Mr. Elkins also reported that Matthew Stanley provided the CBA with an overview of the Draft Peer Review Report. The CBA and stakeholders provided various suggestions for the final report, which is due to the legislature by January 1, 2015. A final draft will be presented at the November CBA meeting for adoption.

Mr. Elkins reported that Kristy Schieldge, DCA Legal Counsel and Carl Sonne, DAG, provided the CBA with an educational presentation regarding what criminal convictions are substantially related to the accounting profession.

Mr. Elkins reported that the CBA reappointed Mr. Buniva to the EAC and that the CBA members approved the Resolution for retiring EAC member Cheryl Gerhardt and Mr. Elkins presented the Resolution to Ms. Gerhardt.

Mr. Elkins also reported that that the Fiscal Year (FY) 2014/15 budget is at \$13.4 million. He noted that in FY 2013/14 the CBA collected approximately \$10.3 million and the net expenditures were approximately \$11.5 million.

V. Report of the Enforcement Chief (**Rafael Ixta**).

A. Enforcement Activity Report.

Mr. Ixta provided an overview of the report. Mr. Ixta reported that the Enforcement Division received 3,255 complaints in FY 2013/14. The number of complaints had increased since the previous reporting period.

Mr. Ixta also reported that the number of investigations pending increased from 825 to 858 since the previous report and the total number of pending investigations that are between 18 and 24 months has decreased from 42 to 34 since the previous report.

Mr. Ixta also reported on the Attorney General (AG) Referrals. He stated that there are 23 disciplinary matters that became effective during this fiscal year, 21 were Stipulated Settlements and two were Default Decisions. Mr. Ixta also reported that the number of investigations pending at the AG has increased from 57 in FY 2012/13 to 107 during the current fiscal year.

Mr. Ixta reported that with the addition of seven Investigative CPAs, he expects the Enforcement Division will further decrease its investigative timeframes.

B. Discussion Regarding the Survey of EAC Members Conducted in July 2014.

Mr. Ixta reported that the survey was e-mailed to the EAC Members after the July 10, 2014 EAC Meeting and there were six questions. Nine out of the 13 EAC Members answered all five questions with 100% satisfaction. In response to question six regarding any other feedback, one of the EAC members reported difficulty with getting the state government rate at the hotel. Mr. Ixta stated that going forward, Ms. Nightingale would provide letters to all the EAC members addressed to the hotel explaining that the EAC member is a government employee and that he or she is traveling on state government business and to honor the state government rate.

VI. Public Comments for Items Not on the Agenda.

There were no comments from the public for items not on the Agenda.

VII. 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.]

VIII. Adjournment.

The next EAC meeting is scheduled for December 11, 2014 at the Hilton San Diego Airport/Harbor Island.

Having no further business to conduct, the EAC general meeting adjourned at approximately 11:15 a.m. to reconvene in closed session at 1:00 p.m. Closed session adjourned at approximately 5:00 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 October 24, 2014

COMPLAINTS

Complaints/Records of Convictions	FY 2012/13	FY 2013/14	FY 2014/15
Received	3,271	3,255	945
<i>Internal – Peer Review (Failure to Respond)</i>	1,800	1,481	0
<i>Internal – Peer Review (Other)*</i>	508	411	158
<i>Internal – All Other</i>	510	969	628
<i>External</i>	453	394	159
Assigned for Investigation	2,951	2,969	645
Closed – No Action	329	289	297
Average Days from Intake to Closure or Assignment for Investigation	3	4	5
Pending	3	0	5
Average Age of Pending Complaints (days)	3	0	5

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

Comments

- The number of complaints received has doubled from 463 to 945 since the last reporting period.
- The majority of the complaints received are from internal units within the California Board of Accountancy (CBA). The top three reasons that make up the internal complaints are:
 1. Conviction
 2. Peer Review
 3. Continuing Education deficiency
- This fiscal year, the CBA has received 159 external complaints from the public, anonymous persons, societies/trade organizations, licensees, and other government agencies. The top three reasons that make up the external complaints are:
 1. Unlicensed Practice
 2. Peer Review
 3. Record Retention

INVESTIGATIONS

Investigations	FY 2012/13	FY 2013/14	FY 2014/15
Assigned	2,951	2,969	646
<i>Internal – Peer Review (Failure to Respond)</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>158</i>
<i>Internal – All Other</i>	<i>361</i>	<i>740</i>	<i>356</i>
<i>External</i>	<i>359</i>	<i>341</i>	<i>132</i>
Closed	2,872	2,669	597
Average Days to Close	73	74	150
Investigations Pending	518	825	879
<i>< 18 Months</i>	<i>500</i>	<i>774</i>	<i>824</i>
<i>18-24 Months</i>	<i>17</i>	<i>42</i>	<i>47</i>
<i>> 24 Months</i>	<i>1</i>	<i>9</i>	<i>8</i>
Average Age of Open Cases (days)	166	202	208
Median Age of Open Cases (days)	104	153	142

Chart A pie graph on Page 7 illustrates the percentage of open cases by length of time.

Comments

- The total number of investigations assigned has doubled from 337 to 646 since the previous report. This correlates with the increase in complaints received.
- The total number of investigations closed has doubled from 307 to 597 and the average days to close investigations has decreased from 162 to 150 since the previous report. Thus, the CBA is consistently closing investigations while experiencing an increase in workload.
- The top three reasons that make up the internal and external investigations are consistent with the reasons under the internal and external complaints received.
- The total number of pending investigations over 24 months has decreased slightly from nine to eight since last fiscal year. These cases are the most complex investigations requiring additional time to resolve. The status of the eight pending investigations over 24 months are as follows:
 - Four investigations are on-going.
 - Three investigations are pending Investigative Hearings.
 - One is pending compliance with a subpoena.

DISCIPLINE

Attorney General Referrals	FY 2012/13	FY 2013/14	FY 2014/15
Referrals	62	74	41
Accusations Filed	50	34	12
Statements of Issues Filed	3	8	4
Petitions for Revocation of Probation Filed	3	2	0
Closed	58	31	23
<i>Via Stipulated Settlement</i>	<i>39</i>	<i>21</i>	<i>20</i>
<i>Via Proposed Decision</i>	<i>5</i>	<i>4</i>	<i>1</i>
<i>Via Default Decision</i>	<i>14</i>	<i>6</i>	<i>2</i>
Discipline Pending	57	95	118
< 18 Months	52	82	100
18-24 Months	2	10	14
> 24 Months	3	3	4

Chart B pie graph on Page 7 illustrates the percentage of cases pending at the AG Office by length of time.

Comments

- With the recent increase in staffing, peer review and retroactive fingerprinting requirements, the volume of Attorney General (AG) Referrals is anticipated to significantly increase this fiscal year. During the previous fiscal year, the number of AG Referrals grew at an approximate rate of 6 referrals per month. The current rate is approximately 15 referrals per month and is expected to increase.
- There are four cases that have been at the AG's Office for more than 24 months. These cases carry the potential to have the greatest harm on consumers, as they relate to negligence and criminal charges/convictions. The current statuses of the four cases are:
 - 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 Board's decision revoking Petitioner's license became effective. However, Petitioner immediately filed a Notice of Appeal with the Appellate Court seeking a stay of the decision. Unless the court grants the stay, the stay will be automatically lifted on November 13, 2014.
 - An administrative hearing is scheduled January 2015.
 - The matter was referred to the AG to pursue a PC 23. The criminal charges were based on an investigation conducted by the FTB. There have been numerous delays and none of the charges have been heard.
 - A matter was heard by an Administrative Law Judge and the proposed decision was not adopted by the CBA. This matter is scheduled for CBA deliberation at the November 20-21, 2014 CBA meeting.

CITATIONS AND FINES

Citations	FY 2012/13	FY 2013/14	FY 2014/15
Total Citations Issued	1,883	1,522	77
Total Fines Assessed	\$532,400	\$399,020	\$26,300
<i>Peer Review (Failure to Respond)</i>	<i>1,800</i>	<i>1,481</i>	<i>0</i>
<i>Peer Review Fines Assessed</i>	<i>\$450,000</i>	<i>\$370,250</i>	<i>0</i>
<i>Other Citations</i>	<i>83</i>	<i>41</i>	<i>77</i>
<i>Other Fines Assessed</i>	<i>\$82,400</i>	<i>\$28,770</i>	<i>\$26,300</i>
<i>Other Fines Average</i>	<i>\$993</i>	<i>\$702</i>	<i>\$342</i>
Average number of days from receipt of a complaint to issuance of a citation	67	33	111
Top 3 Violations			
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)	Response to CBA Inquiry (Reg 52)

Comments

- During the previous two fiscal years, the majority of citations were related to Peer Review (Failure to Respond). The average days to issue the peer review citation was five days, which reduced the overall average days to issue a citation. The three-year phase-in period associated with peer review citations ended during fiscal year 2013/14. Thus, the current average number of days to issue a citation is higher than the two previous fiscal years.
- The total Other Citations issued has increased from 41 to 77 since the previous fiscal year. This correlates with the increased volume of investigations that are closed and ultimately referred to Citation and Fine.
- The Other Fines Average amount of \$342 is lower than the two previous fiscal 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.
- As shown above, the top violation is no longer Response to CBA Inquiry (CBA Regulation 52). This is consistent with the end of the three-year phase-in period associated with peer review.

PROBATION MONITORING

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 meeting on October 23, 2014. There are 74 licensees on probation, with four residing out-of-state.

CRIMINAL OFFENDER RECORD INFORMATION (CORI)

CORI Fingerprints	FY 2014/15
Notification Letters Sent	5,255
CORI Compliances Received	3,786
Non-Compliance Notifications	73

Comments

- Effective January 1, 2014, all licensees renewing an active license are required to have fingerprints on file for the purpose of having a state and federal criminal offender record information background check.
- The CORI unit has sent out notification letters to 5,255 licensees and received compliance from approximately two-thirds of the licensees who have been notified.
- The CORI unit is in the process of sending out notifications to the licensees who have not complied with the fingerprinting requirement.
- All data that is returned from the DOJ and FBI with a criminal record or an arrest record must be reviewed by the Enforcement Division to determine if an investigation should be initiated.

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.

Mobility	FY 2013/14	FY 2014/15
Pre-Notification Forms Received	15	1
Cessation Event Forms Received	0	0
SEC Discipline Identified	37	10
PCAOB Discipline Identified	11	4
Out-of-State Accounting Firm Registrants That Reported Other Discipline	10	1
Complaints Against Practice Privilege Holders	2	5

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

- In order to stay current with investigative processes and procedures, staff underwent 24 hours of training by the Council on Licensure, Enforcement and Regulation.
- Transition of the Criminal Offender Record Information (CORI) Unit from the Licensing Division to the Enforcement Division is complete, including the creation of a dedicated CORI phone number and email account. Staff endeavors to answer the phone live, and all messages and emails are returned within 24 hours.

Chart A – Open Investigations as of October 24, 2014

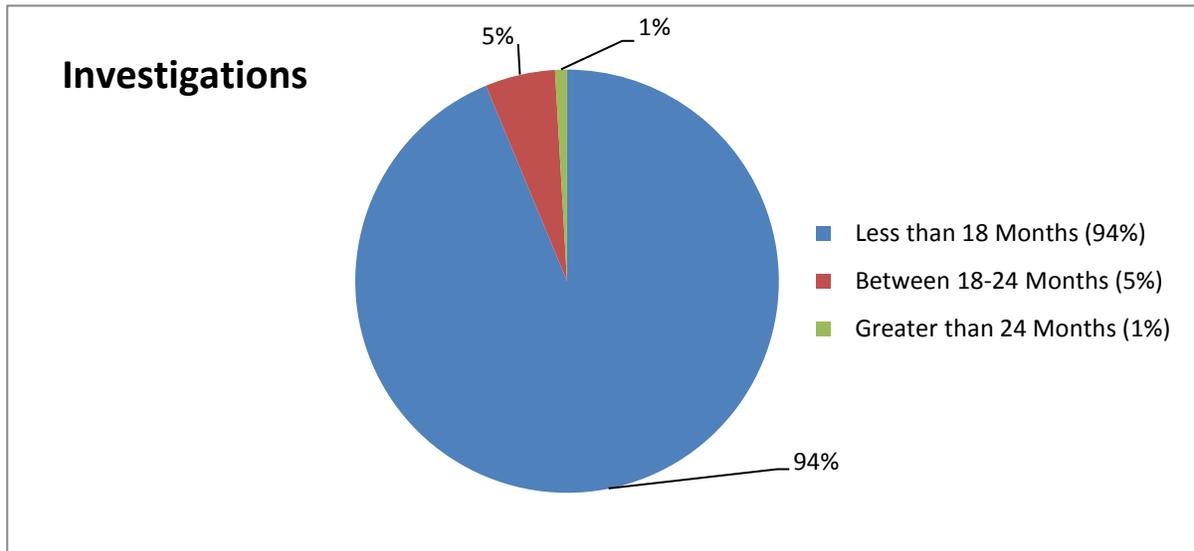


Chart B – Discipline Pending at the Attorney General Office as of October 24, 2014

