

Texas State Board of Public Accountancy

May 21, 2015

The Texas State Board of Public Accountancy met from 10:00 a.m. until 11:28 a.m. on May 21, 2015, at 333 Guadalupe, Tower 3, Suite 900, Austin, Texas 78701-3900. A notice of this meeting containing all items on the agenda was filed with the Office of the Secretary of State at 2:27 p.m. on May 8, 2015. (TRD #2015-003126)
(ATTACHMENT 1)

Board Members Present

J. Coalter Baker, CPA
Assistant Presiding Officer
 John R. Broaddus, CPA
 Jonathan B. Cluck, Esq.
 Rocky L. Duckworth, CPA
Member-at-Large
 Everett R. Ferguson, CPA
Treasurer
 Donna J. Hugly, CPA
 William Lawrence
 Robert M. McAdams, CPA
 Maribess L. Miller, CPA
Secretary
 Steve D. Peña, CPA
 Thomas G. Prothro, CPA
Presiding Officer
 Phillip W. Worley

Board Members Absent

Susan Fletcher
 excused
 James C. Flagg, PhD, CPA
 Jon R. Keeney,
Member-at-Large

Others Present

Frank McElroy, Esq.
 Gavin Villarreal
 Charles Wilkison

Staff Present

Paulette Beiter, Esq.
 Roel Cantu
 Ismael Castillo
 Karen Davis
 Alan Hermanson, CPA
 J. Randel Hill, Esq.
 Donna Hiller
 Joseph Jaffe
 Marissa Mahoney
 Virginia Moher, Esq., CPA
 Julie Prien
 Marisa Rios
 Anthony Sanchez
 April Serrano
 William Treacy
 Daniel Weaver

- I. Mr. Prothro, Presiding Officer, called the meeting to order at 10:00 a.m. Mr. Treacy called roll and declared a quorum.

Mr. Cluck moved to excuse the absence of Ms. Fletcher from the May Board meeting. Mr. Peña seconded the motion and it passed unanimously.

Mr. Prothro presented Anthony Sanchez with a 10-year service award plaque. At this time, Mr. Duckworth presented Ms. Miller with a replica-bronzed certificate for her service on the Board.

- II. Mr. Cluck moved to approve the March 26, 2015 Board meeting minutes as presented. Ms. Hugly seconded the motion and it passed unanimously.

- III. Mr. Prothro, Executive Committee Chair, reported on the May 20, 2015 committee meeting.

Members Present

J. Coalter Baker, CPA
 Rocky L. Duckworth, CPA
 Everett R. Ferguson, CPA
 Maribess L. Miller, CPA
 Thomas G. Prothro, CPA

Members Absent

Jon R. Keeney

Others Present

William Lawrence

Staff Present

Karen Davis
 Alan Hermanson, CPA
 J. Randel Hill, Esq.
 William Treacy
 Daniel Weaver

- A. Mr. Ferguson moved to approve the Board's financial statements as presented. Mr. Peña seconded the motion and it passed unanimously.

- B. Mr. Ferguson reported on the budget for FY 2016 and reported that the final budget will be presented at the July 23, 2015 Board meeting for approval.
- C. Mr. Prothro reported on the status of the Board's internal audit.
- D. Mr. Treacy reported on the 84th Legislative Session.
- E. The following was presented:
 - 1. Mr. Prothro reported on the following NASBA dates of interest:

a. Western Regional Meeting	June 17-19, 2015
b. 108 th Annual Meeting	October 25-28, 2015

Mr. McAdams moved to name Ms. Hugly as the Board's voting delegate at NASBA's Western Regional Meeting. Mr. Baker seconded the motion and it passed unanimously.
 - 2. Mr. Treacy reported on NASBA's 33rd Executive Director's meeting held March 24-26, 2015 in Tampa, FL.
 - 3. Mr. Prothro reported that correspondence was sent to endorse Jim Abbott for NASBA's Lorraine P. Sachs Award.
 - 4. Mr. Baker reported that the Board sent a letter of endorsement to NASBA to support Thomas G. Prothro for NASBA's Nominating Committee.
- F. Mr. Ferguson moved to approve the following amendment and professional service contracts as presented. Mr. Peña seconded the motion and it passed unanimously.

FY 2015 Amendment:

Enforcement contract:

Harper & Pearson Company, PC	9/1/14 – 8/31/15	\$50,000
<i>(increase contract by \$50,000 from \$160,000 to \$210,000)</i>		

FY 2015:

Enforcement contracts:

Michael Lynn Cook	4/1/15 – 8/31/15	\$15,000
Strasburger & Price, LLP	5/1/15 – 8/31/15	\$25,000

- G. Mr. Prothro reported on a thank you note from Carolyn Conn and an acknowledgment letter and Resolution for El Paso's 75th TSCPA Chapter anniversary.
- IV. Mr. Baker, Rules Committee Chair, reported on the Rules Committee meeting held May 20, 2015.

Members Present

J. Coalter Baker, CPA
Rocky L. Duckworth, CPA
William Lawrence
Maribess L. Miller, CPA
Steve D. Peña, CPA
Thomas G. Prothro, CPA
ex officio

Others Present

John C. Cooley, CPA
Gary S. McIntosh, CPA
Bob Owen, CPA
Phillip W. Worley

Staff Present

Karen Davis
J. Randel Hill, Esq.
Donna Hiller
Marisa Rios
William Treacy
Daniel Weaver

- A. Mr. Baker reported that the Committee tabled any action on Board *Rule 523.131(B)(3) (Board Approval of Ethics Course Content)*.

- B. Mr. Baker moved to **adopt** Board Rule 511.52 (*Recognized Institutions of Higher Education*) as published in the *Texas Register* and with additional amendments. Mr. McAdams seconded the motion and it passed unanimously. **(ATTACHMENT 2)**
- C. Mr. Baker moved to authorize the executive director to publish the proposed revisions to Board Rule 521.13 (*Firm License Fees*) in the *Texas Register* for public comment. Mr. Broaddus seconded the motion and it passed unanimously. **(ATTACHMENT 3)**
- D. Mr. Baker moved to **adopt** Board Rules 501.52 (*Definitions*) and 527.4 (*Enrollment and Participation*) as published in the *Texas Register*. Mr. Peña seconded the motion and it passed unanimously. **(ATTACHMENT 4)**
- E. The next committee meeting was scheduled for July 22, 2015 at 1:30 p.m.
- V. Mr. Prothro reported on plans for the Board's May 30, 2015 swearing-in ceremony.
- VI. Ms. Miller, Behavioral Enforcement Committee Chair, reported on the April 30, 2015 committee meeting.

Members Present

J. Coalter Baker, CPA
John R. Broaddus, CPA
Donald W. Harcum, CPA
Donna J. Hugly, CPA
Maribess L. Miller, CPA
Ben Peña, CFE, CPA

Members Absent

Jonathan B. Cluck, Esq.
James D. Ingram, IV, CPA

Staff Present

Paulette Beiter, Esq.
J. Randel Hill, Esq.

- A. Mr. Ferguson moved to dismiss the following investigations based on insufficient evidence of a violation of the *Act* or *Rules*. Mr. Worley seconded the motion and it passed.
 - 1. Investigation Nos. 14-09-07L¹ and 14-09-08L¹
 - 2. Investigation Nos. 14-09-09L¹ and 14-09-10L¹
 - 3. Investigation No. 15-01-20L¹
 - 4. Investigation Nos. 15-02-12L¹ and 15-02-13L¹
 - 5. Investigation Nos. 15-02-01L¹, 15-02-02L¹, and 15-02-03L¹
- B. Mr. Ferguson moved to dismiss **Investigation Nos. 15-02-04L¹** and **15-03-21L¹** based on voluntary compliance. Mr. Worley seconded it the motion and it passed.
- C. Other – The committee considered 11 other investigations, which require no Board action at this time.
- D. The next committee meeting was scheduled for June 30, 2015.
- VII. Mr. Duckworth, Technical Standards Review Committee Chair presented the following committee meetings:

Meeting - December 3, 2014

Members Present

Everett R. Ferguson, CPA
Jon R. Keeney
David L. King, CPA
Michael McConnell, CPA
W. David Rook, CPA

Members Absent

Rocky L. Duckworth, CPA
Steve D. Peña, CPA

Staff Present

J. Randel Hill, Esq.
Virginia Moher, Esq., CPA

- Mr. Baker moved to dismiss **Investigation Nos. 11-08-01L², 11-08-02L², 11-08-03L², 11-08-04L², 11-08-05L² and 11-08-06L²** based on insufficient evidence of a violation of the *Act* or *Rules of Professional Conduct*. Ms. Miller seconded the motion and it passed.

Meeting - February 10, 2015

Members Present

Rocky L. Duckworth, CPA
Everett R. Ferguson, CPA
Jon R. Keeney
David L. King, CPA
Michael McConnell, CPA

Member Absent

W. David Rook, CPA

Others Present

Joseph W. Richardson,
CPA

Staff Present

J. Randel Hill, Esq.
Virginia Moher, Esq., CPA

- Ms. Miller moved to dismiss **Investigation No. 11-12-14L²** based on insufficient evidence of a violation of the *Act or Rules of Professional Conduct*. Mr. Broaddus seconded the motion and it passed.

Meeting - May 1, 2015

Members Present

Rocky L. Duckworth, CPA
Everett R. Ferguson, CPA
Jon R. Keeney
David L. King, CPA
Steve D. Peña, CPA

Members Absent

Michael McConnell, CPA
W. David Rook, CPA

Others Present

Patrick Cantrell, CPA
Joseph W. Richardson,
CPA

Staff Present

Paulette Beiter, Esq.
J. Randel Hill, Esq.
Virginia Moher, Esq., CPA
William Treacy

- A. Ms. Miller moved to dismiss **Investigation No. 15-01-17L³** based on insufficient evidence of a violation of the *Act or Rules*. Mr. Broaddus seconded the motion and it passed.
 - B. Other – The committee considered 13 other investigations, which require no Board action at this time.
 - C. The next committee meeting was scheduled for June 24, 2015.
- VIII. Ms. Moher, Staff Attorney, reported on the status of the Enforcement Division's probation monitoring docket.
- IX. Mr. Hill, General Counsel, reported on the status of investigations into alleged violations of *Subchapter J* of the *Public Accountancy Act*, regarding the unauthorized practice of public accountancy.
- X. The Board took the following actions on Agreed Consent Orders, Proposals for Decisions, and Agreed Cease and Desist Orders:

A. Agreed Consent Orders

Behavioral Enforcement Committee

Mr. Broaddus moved to approve the following Agreed Consent Orders (ACOs) as presented. Mr. Ferguson seconded the motion and it passed.

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|-------------------------------|---|--------------------------|-------------------------------------|
| 1. Investigation Nos.: | 14-10-19L, 14-10-20L, 14-12-11L, 14-12-12L, 14-12-19L, 14-12-20L, 15-01-11L, 15-01-12L, 15-01-13L, and 15-01-14L | Hometowns: | Borger, TX & Liberal, KS |
| | | Certificate No.: | 064255 |
| | | Firm License No.: | C05868 |
| Respondents: | Carol Lea Mahler and Carol L. Mahler CPA, PC | | |
| Rule Violation: | 501.90(6) | | |
| Act Violations: | 901.502(6), 901.502(11) | | |

Respondents entered into an ACO with the Board whereby Respondent and Respondent Firm were suspended for a period of no less than six months but not to exceed five years. The suspension will continue until Respondents have submitted a request for reinstatement and the Board has approved such reinstatement. Respondent's certificate and permit to practice certified public accountancy in Kansas was suspended for a period of no less than six months by Board Order of the Kansas Board of Accountancy on April 25, 2014. Multiple complaints from previous employees and clients were filed

against Respondent on various dates between October 30, 2014, and April 4, 2015 suggesting that employees and clients were treated poorly.⁴

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|----|---------------------------|---------------------------|--------------------------|--------------------|
| 2. | Investigation No.: | 08-03-05L | Hometown: | Addison, TX |
| | Respondent: | Daniel A. Peterson | Certificate No.: | 033428 |
| | Rule Violation: | 527.4 | Firm License No.: | R01137 |
| | Act Violation: | 901.502(12) | | |

Respondent entered into an ACO with the Board whereby the Respondent and Respondent Firm were placed on limited scope status which prevents Respondent Firm from performing audits, accounting, review services, compilations, preparation engagements or other engagements recognized by the Board. Respondent may apply to have the limited scope status modified but an application will not be considered less than 18 months from the date of the ACO ratification. Any modification to the limited scope status must contain provision for pre-issuance review. Respondent performed audit services through his firm which failed to complete its peer review in violation of Respondent's ACO and Board Rules.⁵

TECHNICAL STANDARDS REVIEW COMMITTEE (TSR)

Mr. Broaddus moved to approve the following Agreed Consent Orders (ACOs) as presented. Mr. Baker seconded the motion and it passed.

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|----|---------------------------|---------------------------|-------------------------|-------------------|
| 1. | Investigation No.: | 13-12-01L | Hometown: | Austin, TX |
| | Respondent: | Randall Alan Stone | Certificate No.: | 047916 |
| | Rule Violation: | 501.90(7) | | |
| | Act Violation: | 901.502(9) | | |

Respondent entered into an ACO with the Board whereby the Respondent was suspended for a period of three years. Respondent was also ordered to pay an administrative penalty of \$25,000. The Board disciplinary action was based upon a sanction by the PCAOB in regard to a PricewaterhouseCoopers, LLP audit of ArthroCare Corporation.³

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|----|----------------------------|---|---------------------------|---------------------------------|
| 2. | Investigation Nos.: | 10-05-02L, 12-12-04L &
11-06-18L | Hometowns: | TX - Dallas & Austin |
| | Respondents: | BDO Seidman, LLP,
BDO USA, LLP & Carlos Ancira | Certificate No.: | 017745 |
| | Rule Violations: | 501.60, 501.61, 501.74(b) | Firm License Nos.: | P04666 & P05552 |
| | Act Violations: | 901.502(6), 901.502(11) | | |

Respondents have entered into an ACO with the Board whereby BDO USA, LLP accepted a reprimand and Carlos Ancira, CPA accepted a three year suspension of his license. In addition, the firm agreed to contribute \$2.65M to the state's general revenue fund and will pay the Board \$250,000 in administrative costs. Respondents failed to obtain reasonable assurance that the financial statements were free of material misstatements in its audits of Stanford Group Company (SGC). Respondents were responsible for the issuance of the audit reports asserting that the financial statements were presented in conformity with generally accepted accounting principles when such financial statements in fact contained material departures. Respondents failed to exercise due professional care in the performance of professional services during the audits of SGC.⁶

B. Mass Hearings

Mr. Broaddus moved to approve the following Proposals for Decision as presented. Ms. Hugly seconded the motion and it passed unanimously.

1. **Respondents: In the Matter of Disciplinary Action Against Certain Licensees for Nonpayment of Professional Fees for Three Consecutive License Periods**

The respondents failed to pay their licensing fees for three consecutive license periods. Following the public hearing, an Administrative Law Judge (ALJ) of the State Office of Administrative Hearings recommended that the certificate of each respondent still not in compliance be revoked without prejudice. Each respondent may regain his or her certificate by paying all license fees and penalties and by otherwise coming into compliance with the Act. The ALJ found that the respondents violated Section 901.502(4) (failure to pay license fees for three consecutive years) of the Act. The respondents, although properly notified, failed to appear, and were not represented at the hearing. No Board Committee considered these actions. (ATTACHMENT 5)

Docket	Investigation Numbers	Scheduled Hearing
457-15-1004	14-12-10001 - 14-12-10022	January 27, 2015
457-15-1377	15-01-10001 - 15-01-10033	February 24, 2015

2. **Respondents: In the Matter of Disciplinary Action Against Certain License Holders for CPE Delinquencies**

The respondents failed to comply with CPE reporting requirements found in *Chapter 523* of the *Rules* and *Section 901.411* of the *Act*. Following the scheduled public hearing, an Administrative Law Judge (ALJ) of the State Office of Administrative Hearings recommended that the license of each respondent still not in compliance be suspended for a period of three years, or until he or she complies with the licensing requirements of the *Act*, whichever is sooner. Additionally, the ALJ recommended a \$100 penalty be imposed for each year a respondent is not in compliance with the Board's CPE requirements. The ALJ found that the respondents violated *Sections 501.94* (mandatory CPE) and *523.111* (mandatory CPE reporting) of the Board's *Rules*, and *901.411* (CPE) of the *Act*. The respondents, although properly notified, failed to appear, and were not represented at the hearing. No Board Committee considered these actions. **(ATTACHMENT 6)**

Docket	Investigation Numbers	Scheduled Hearing
457-15-1005	14-12-10023 - 14-12-10212	January 27, 2015
457-15-1378	15-01-10031 - 15-01-10196	February 24, 2015

3. **Respondents: In the Matter of Disciplinary Action Against Certain Certificate Holders for Failure to Complete License Notice**

The respondents failed to complete their license renewal notices in accordance with *Section 515.3* of the Board's *Rules*. Following a public hearing, an Administrative Law Judge (ALJ) of the State Office of Administrative Hearings recommended that the certificate of each respondent not in compliance be revoked without prejudice until such time as the respondent complies with the requirements of the *Rules* and the *Act*. The ALJ found that the respondents violated *Section 901.502(12)* of the *Act* (regarding violations of Board *Rules*). Although properly notified, the respondents failed to appear in person or by authorized representative. No Board Committee considered these actions. **(ATTACHMENT 7)**

Docket	Investigation Numbers	Scheduled Hearing
457-15-1006	14-12-10213 - 14-12-10225	January 27, 2015
457-15-1379	15-01-10197 - 15-01-10213	February 24, 2015

C. **Agreed Cease and Desist Orders**

Mr. Broaddus moved to approve the following Agreed Cease and Desist Orders (ACDOs) as presented. Mr. Peña seconded the motion and it passed unanimously.

1. **Investigation No.:** 15-02-36N **Hometown:** Newark, DE
Respondent: Pinaki & Associates, LLC
Act Violations: 901.351, 901.451, 901.462

Respondent entered into an ACDO with the Board whereby Respondent will cease and desist from providing attest services in the state of Texas until or unless Respondent complies with the registration and licensing provisions of the *Act*, and until or unless Respondent has obtained a license to practice accountancy in Texas. Respondent signed the U.S. Securities and Exchange Commission's (SEC) 10-K filing Report of Independent Registered Public Accounting Firm for one or more companies that list their principal place of business as Texas in their SEC 10-K filings. Respondent is not licensed in Texas.

2. **Investigation No.:** 15-02-37N **Hometown:** Spokane, WA
Respondent: MartinelliMick PLLC
Act Violations: 901.351, 901.451, 901.462

Respondent entered into an ACDO with the Board whereby Respondent will cease and desist from providing attest services in the state of Texas until or unless Respondent complies with the registration and licensing provisions of the *Act*, and until or unless Respondent has obtained a license to practice accountancy in Texas. Respondent signed the SEC 10-K filing Report of Independent Registered Public Accounting Firm for one or more companies that list their principal place of business as Texas in their SEC 10-K filings. Respondent was not licensed in Texas during the relevant time.

3. **Investigation No.:** 15-02-38N **Hometown:** Jerusalem, Israel
Respondent: Dov Weinstein & Co. C.P.A.
Act Violations: 901.351, 901.451, 901.462

Respondent entered into an ACDO with the Board whereby Respondent will cease and desist from providing attest services in the state of Texas until or unless Respondent complies with the registration and licensing provisions of the *Act*, and until or unless Respondent has obtained a license to practice accountancy in Texas. Respondent signed the SEC 10-K filing Report of Independent Registered Public Accounting Firm for one or more companies that list their principal place of business as Texas in their SEC 10-K filings. Respondent is not licensed in Texas.

4. **Investigation No.:** 15-02-44N **Hometown:** Vancouver, BC, Canada
Respondent: Saturna Group Chartered Accountants LLP
Act Violations: 901.351, 901.451, 901.462

Respondent entered into an ACDO with the Board whereby Respondent will cease and desist from providing attest services in the state of Texas until or unless Respondent complies with the registration and licensing provisions of the *Act*, and until or unless Respondent has obtained a license to practice accountancy in Texas. Respondent signed the SEC 10-K filing Report of Independent Registered Public Accounting Firm for one or more companies that list their principal place of business as Texas in their SEC 10-K filings. Respondent is not licensed in Texas.

5. **Investigation No.:** 15-03-07N **Hometown:** San Antonio, TX
Respondent: Patricia Dean-Ruiz d/b/a Tanner & Dean-Ruiz
Act Violation: 901.456

Respondent entered into an ACDO with the Board whereby Respondent will cease and desist from providing attest services and using reserved terms until or unless Respondent complies with the registration and licensing provisions of the *Act*, and until or unless Respondent has obtained a license to practice public accountancy. Respondent performed an attest service, a compilation. Respondent is not licensed in Texas.

- XI. Mr. Cluck moved to adopt the following Board *Rules* as presented. Mr. McAdams seconded the motion and it passed unanimously. Board *Rules* (1) 501.52 (*Definitions*) and (10) 524.4 (*Enrollment and Participation*) were adopted under Agenda Item IV-D.

2. *Section 501.80 (Practice of Public Accountancy) (ATTACHMENT 8)*
3. *Section 501.81 (Firm License Requirements) (ATTACHMENT 9)*
4. *Section 511.51 (Educational Definitions) (ATTACHMENT 10)*
5. *Section 511.52 (Recognized Institutions of Higher Education) (ATTACHMENT 11)*
6. *Section 511.54 (Recognized Texas Community Colleges) [NEW] (ATTACHMENT 12)*
7. *Section 511.59 (Definition of 150 Semester Hours) (ATTACHMENT 13)*
8. *Section 511.121 (Application for Approval of Experience) (ATTACHMENT 14)*
9. *Section 511.122 (Acceptable Work Experience) (ATTACHMENT 15)*

- XII. Mr. Prothro reviewed the schedule of future Board meetings.

- XIII. Mr. Prothro adjourned the meeting at 11:28 a.m.

ATTEST:

Thomas G. Prothro, CPA, Presiding Officer

Maribess L. Miller, CPA, Secretary

¹ Mr. Baker, Mr. Broaddus, Ms. Hugly and Ms. Miller recused themselves from participating in this matter.

² Mr. Duckworth and Mr. Ferguson recused themselves from participating in this matter.

³ Mr. Duckworth, Mr. Ferguson, and Mr. Peña recused themselves from participating in this matter.

⁴ Mr. Baker, Mr. Broaddus, Mr. Cluck and Ms. Hugly recused themselves from participating in this matter.

⁵ Mr. Peña recused himself from participating in this matter.

⁶ Mr. Duckworth, Mr. Ferguson, Mr. McAdams, Ms. Miller, Mr. Peña and Mr. Prothro recused themselves from participating in this matter.