

Texas State Board of Public Accountancy

November 19, 2015

The Texas State Board of Public Accountancy met from 10:00 a.m. until 11:34 a.m. on November 19, 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 4:51 p.m. on November 10, 2015. (TRD #2015-007807).
(ATTACHMENT 1)

Board Members Present

J. Coalter Baker, CPA
Presiding Officer
John R. Broadus, CPA
Jonathan B. Cluck, Esq.
Rocky L. Duckworth, CPA
Member-at-Large
Susan Fletcher
Donna J. Hugly, CPA
Assistant Presiding Officer
Ross T. Johnson, CPA
Timothy L. LaFrey, Esq., CPA
William Lawrence
Member-at-Large
Robert M. McAdams, CPA
Treasurer
Roselyn E. Morris, PhD, CPA
Benjamin Peña, CFE, CPA
Steve D. Peña, CPA
Secretary
Kimberly E. Wilkerson, Esq.
Phillip W. Worley

Others Present

Frank McElroy, Esq.
Sean McVey, CPA
Mark Vane, Esq.

Staff Present

Bryce Beasley
Paulette Beiter, Esq.
Roel Cantu
Ismael Castillo
Jennifer Costilla
Karen Davis
Alan Hermanson, CPA
J. Randel Hill, Esq.
Donna Hiller
Joseph Jaffe
Marissa Mahoney
Natalie Miller
Virginia Moher, Esq., CPA
Julie Prien
Marisa Rios
April Serrano
Andrea Smith
Jonathan Smith
William Treacy

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

At this time, the following five new Board Members were introduced:

1. Ross T. Johnson, CPA, of Houston
2. Timothy L. LaFrey, Esq., CPA, of Austin
3. Roselyn Morris, PhD, CPA, of San Marcos
4. Benjamin Peña, CFE, CPA, of Brownsville
5. Kimberly Wilkerson, Esq., of Lubbock

Mr. Baker presented service awards to the following staff members:

1. Jennifer Costilla – 10 years of service
2. Virginia Moher, Esq., CPA – 10 years of service

- II. Mr. Cluck moved to approve the September 17, 2015 Board meeting minutes as presented. Mr. Worley seconded the motion and it passed unanimously.

III. Mr. Baker, Executive Committee Chair, reported on the November 18, 2015 committee meeting.

Members Present

J. Coalter Baker, CPA
Rocky L. Duckworth, CPA

Staff Present

Alan Hermanson, CPA
J. Randel Hill, Esq.
Donna Hiller
William Treacy

- A. Ms. Fletcher moved to approve the Board's FY 2015 Annual Financial Report, end-of-year overview, and September FY 2016 financial statements as presented. Mr. McAdams seconded the motion and it passed unanimously.
- B. Mr. Baker reported that the Audit/Executive Committee will review the Board's internal audit plan for FY 2016 at the January 2016 meeting.
- C. Mr. Cluck moved to approve the following Committee and Board meeting dates for CY 2016. Ms. Hugly seconded the motion and it passed unanimously.

January 13 – 14, 2016
March 23 -24, 2016
May 11 – 12, 2016

July 13 – 14, 2016
September 21 – 22, 2016
November 16 – 17, 2016

D. The following was presented:

- 1. Mr. Baker reported on NASBA's 108th Annual Meeting held October 25-28, 2015 in Dana Point, California.
 - 2. Mr. Baker informed the Board that the committee had discussed and reviewed an exposure draft concerning retired CPA status and no action was taken at this time.
- E. Mr. Broaddus moved to approve the following FY 2015 contract amendments. Mr. S. Peña seconded the motion and it passed unanimously.

FY 2015 – Amendments

1. Harper & Pearson Company, PC	9/1/14 – 8/31/15	\$3,026.45
(Increase by \$3,026.45 from \$210,000 to \$213,026.45)		
2. Allen, Pinnix & Nichols, PA	9/1/14 – 8/31/15	\$280.00
(Increase by \$280.00 from \$5,000 to \$5,280.00)		

- F. Mr. Baker reported on thank you notes from the public.
- G. Mr. Duckworth moved to approve the following slate of officers and members-at-large for the Executive Committee. Mr. Cluck seconded the motion, and it passed unanimously.
 - 1. Assistant Presiding Officer Donna J. Hugly, CPA
 - 2. Treasurer Robert M. McAdams, CPA
 - 3. Secretary Steve D. Peña, CPA
 - 4. Member-at-Large William Lawrence
 - 5. Member-at-Large Rocky L. Duckworth, CPA

IV. Mr. Baker, Rules Committee Chair, reported on the Rules Committee meeting held November 18, 2015.

Members Present

J. Coalter Baker, CPA
Rocky L. Duckworth, CPA
William Lawrence

Member Absent

Steve D. Peña, CPA

Others Present

Gary McIntosh, CPA

Staff Present

Tiffney Duncan
J. Randel Hill, Esq.
Donna Hiller
Marisa Rios
William Treacy
Daniel Weaver

- A. Mr. Baker reported that the committee tabled proposed amendments to Board *Rules 513.10 (Firm License)* and *513.11 (Qualifications for Non-CPA Owners of Firm License Holders)* pending additional information and instruction from the Secretary of State's Office to expand the language in the proposed revisions to include professional organizations.
- B. The next committee meeting was scheduled for January 13, 2016.
- V. Mr. McAdams, Qualifications Committee member, reported on the November 6, 2015 committee meeting.
 - A. Mr. Broaddus moved to approve sending a letter signed by Mr. Baker and Mr. Treacy regarding the AICPA's *Exposure Draft: Maintaining the Relevance of the Uniform CPA Examination*. Ms. Fletcher seconded the motion and it passed unanimously.
 - B. Mr. McAdams reported that the committee reviewed correspondence from NASBA relating to changes prior to the launch of the new CPA Examination format scheduled for 2017 Q-2.
 - C. Mr. McAdams informed the Board that the committee considered a request from Western Governors University (WGU) to recognize its accounting curriculum to meet the Board's educational requirements for the CPA Examination. He also mentioned that a letter will be sent to WGU citing the Board's rules that address the education requirements.
 - D. Mr. McAdams reported that the committee considered Board *Rule 511.58(c) (Definitions of Related Business Subjects and Ethics Courses)* and no action was taken.
 - E. Mr. McAdams reported that the committee discussed correspondence received from NASBA concerning investigations of universities and accrediting bodies that are purportedly engaging in allegedly fraudulent activities.
 - F. Mr. McAdams informed the Board that the committee had reviewed CPA Exam Performance Reports for 2015 Q-1, Q-2, and Q-3 compiled by NASBA.
 - G. Mr. McAdams reported that the committee had reviewed information from NASBA that required no Board action.
- VI. Mr. Baker, Presiding Officer, reported on the plans for the Board's December 5, 2015 swearing-in ceremony being held at the Austin Palmer Events Center.
- VII. Ms. Hugly, Behavioral Enforcement Committee member, reported on the October 20, 2015 committee meeting.

Members Present

J. Coalter Baker, CPA
John R. Broaddus, CPA
Jonathan B. Cluck, Esq.
Donna J. Hugly, CPA
James D. Ingram, IV, CPA
Ben Peña, CFE, CPA

Members Absent

Maribess L. Miller, CPA
Donald W. Harcum, CPA

Staff Present

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

- A. Mr. S. Peña moved to dismiss the following investigations based on insufficient evidence of a violation of the *Rules* or *Act*. Mr. Worley seconded the motion and it passed.
 - 1. **Investigation No. 13-08-02L¹**
 - 2. **Investigation Nos. 15-04-10L¹ and 15-04-11L¹**
 - 3. **Investigation Nos. 15-05-06L¹ and 15-05-07L¹**
 - 4. **Investigation Nos. 15-08-05L¹ and 15-08-06L¹**
 - 5. **Investigation Nos. 15-08-01L¹ and 15-08-02L¹**
 - 6. **Investigation Nos. 14-09-13L¹ and 14-09-14L¹**
 - 7. **Investigation No. 15-08-07L¹**
- B. Other – The committee considered three other investigations, which require no Board action at this time.

C. The next committee meeting was scheduled for January 6, 2016.

VIII. Mr. Duckworth, Technical Standards Review Committee Chair, reported on the October 6, 2015 committee meeting.

Members Present

Rocky L. Duckworth, CPA
Everett R. Ferguson, CPA
David L. King, CPA

Michael McConnell, CPA
Steve D. Peña, CPA
W. David Rook, CPA

Staff Present

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

A. Mr. Broaddus moved to dismiss the following investigations based on insufficient evidence of a violation of the *Rules* or *Act*. Mr. Cluck seconded the motion and it passed.

1. **Investigation Nos. 15-06-04L² and 15-06-05L²**
2. **Investigation No. 15-04-03T²**

B. Mr. Broaddus moved to dismiss the following investigations based on voluntary compliance with the *Rules* or *Act*. Mr. Cluck seconded the motion and it passed.

1. **Investigation No. 15-07-05L²**
2. **Investigation Nos. 15-01-03L² and 15-01-04L²**

C. Other – The committee considered five other investigations, which require no Board action at this time.

D. The next committee meeting was scheduled for December 8, 2015.

IX. Ms. Moher, Staff Attorney, reported on the status of the Enforcement Division’s probation monitoring docket.

X. 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.

XI. The Board took the following actions on Agreed Consent Orders, Proposals for Decisions, Agreed Cease and Desist Orders and a Proposed Default:

A. Agreed Consent Orders

Behavioral Enforcement Committee

Mr. S. Peña moved to approve the following Agreed Consent Orders (ACOs) as presented. Ms. Fletcher seconded the motion and it passed.

1. Investigation Nos.:	15-05-13L, 15-05-14L, 15-06-01L & 15-06-02L	Hometown:	Midlothian, TX
Respondents:	Richard Arthur Fromm & Richard A. Fromm (Firm)	Certificate No.:	016400
Rule Violations:	501.90(12), 501.74(b)	Firm License No.:	T06553
Act Violation:	901.502(6)		

Respondent and Respondent Firm entered into an ACO with the Board whereby Respondents were reprimanded. In addition, Respondents must pay an administrative penalty of \$1,000 and \$241.40 in administrative costs within 30 days of the date of the Board Order. Respondents failed to respond to clients’ inquiries regarding the status of their tax returns.¹

2. Investigation Nos.:	15-04-14L & 15-04-15L	Hometown:	San Antonio, TX
Respondents:	Richard James Garcia & Richard J. Garcia, CPA, P.C. (Firm)	Certificate No.:	064142
Rule Violation:	501.74(b)	Firm License No.:	C08589
Act Violation:	901.502(6)		

Respondent and Respondent Firm entered into an ACO with the Board whereby Respondents were reprimanded. In addition, Respondents must pay administrative costs of \$117.93 within 30 days of the date of the Board Order. Respondent failed to complete an engagement in a timely manner.¹

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| 3. | Investigation Nos.: | 14-11-10L & 14-11-11L | Hometown: | Wichita Falls, TX |
| | Respondents: | Michael Styles & Styles
and Associates (Firm) | Certificate No.: | 041072 |
| | Rule Violations: | 501.74(b), 501.90(2), 501.90(11) | Firm License No.: | P04376 |
| | Act Violation: | 901.502(6) | | |

Respondent and Respondent Firm entered into an ACO with the Board whereby Respondents were reprimanded. In addition, Respondents must pay an administrative penalty of \$10,000 and \$96.48 in administrative costs within 30 days of the date of the Board Order. Respondent failed to comply with a court order to appear before the court while acting as plan administrator for an estate and was held in contempt.¹

Mr. Broaddus moved to approve the following Agreed Consent Orders as presented. Mr. Cluck seconded the motion and it passed.

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|----|----------------------------|---|--------------------------|---------------------------------------|
| 4. | 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, 15-01-14L | Hometowns: | Borger, TX and
Liberal, KS |
| | Respondents: | Carol Lea Mahler & Carol L. Mahler, CPA,
PC (Firm) | Certificate No.: | 064255 |
| | | | Firm License No.: | C05868 |

Respondent entered into an ACO with the Board whereby Respondent's certificate was involuntarily surrendered. The Respondent had originally agreed to have her individual license suspended by the Board, which the Board accepted on May 21, 2015. This agency imposed a suspension of her license based upon her failure to comply with a Kansas Board order. The Respondent then asked that the Board vacate her suspension and accept her involuntary surrender of her certificate.

B. Mass Hearings

Mr. Broaddus moved to approve the following Proposals for Decision as presented. Mr. S. Peña 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 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*. (ATTACHMENT 2)

Docket	Investigation Numbers	Scheduled Hearing
457-15-3712	15-06-10001 – 15-06-10034	July 28, 2015
457-15-4179	15-07-10001 – 15-07-10024	August 25, 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 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. (ATTACHMENT 3)

Docket	Investigation Numbers	Scheduled Hearing
457-15-3713	15-06-10035 – 15-06-10187	July 28, 2015
457-15-4180	15-07-10025 – 15-07-10177	August 25, 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*. (**ATTACHMENT 4**)

Docket	Investigation Numbers	Scheduled Hearing
457-15-3714	15-06-10188 – 15-06-10194	July 28, 2015
457-15-4181	15-07-10178 – 15-07-10192	August 25, 2015

C. Agreed Cease and Desist Orders

Mr. Broaddus moved to approve the following Agreed Cease and Desist Order (ACDO) as presented. Mr. Lawrence seconded the motion and it passed unanimously.

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|---------------------------|--------------------------|------------------|--------------------|
| Investigation No.: | 15-09-06N | Hometown: | El Paso, TX |
| Respondent: | Douglas L. Rutter | | |
| Act Violations: | 901.453, 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 accountancy in Texas. Respondent used the title "accountant" and provided an attest service, specifically a compilation, although Respondent does not hold a license in Texas. This action constitutes a violation of *Act Sections 901.453* and *901.456*.

D. Proposed Default Judgment Board Order

Mr. Cluck moved to approve the following Proposed Default Judgment Board Order as presented. Mr. McAdams seconded the motion and it passed unanimously.

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|----------------------------|---|--------------------------|------------------------|
| Investigation Nos.: | 12-02-25L & 12-02-26L | Hometown: | San Antonio, TX |
| SOAH Docket No.: | 457-15-5090 | Certificate No.: | 055885 |
| Respondents: | Rudy Daniel Serrata & Rudy Daniel Serrata (Firm) | Firm License No.: | T04043 |
| Rule Violation: | 501.90(18) | | |
| Act Violations: | 901.502(6), 901.502(11) | | |

On January 23, 2014, the Board ratified an Order wherein: 1) Respondents violated the Board's *Rules of Professional Conduct* and the *Act*; 2) Respondent Serrata's Texas CPA certificate, license and firm license were suspended for five years; and 3) Respondents were required to pay the Board's direct administrative costs and a \$25,000 administrative penalty 30 days after the ratification of the Order. Respondent Serrata has not paid the Board its direct administrative costs or the \$25,000 administrative penalty. Pleadings were filed with SOAH and after notice of hearing, Respondent failed to appear. The SOAH ALJ granted staff's *Motion for Default*. Staff asks the Board for a default Order finding that: 1) Respondent violated Board *Rules 501.90(18)*, as well as *Sections 901.502(6)* and *901.502(11)* of the *Act*; 2) Respondent Serrata's certificate and firm license be revoked; and, 3) Respondent be assessed \$25,000 in administrative penalties; and \$120.33 in administrative costs.

E. Proposal for Decision

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

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|---------------------------|--------------------------------|-------------------------|------------------------|
| Investigation No.: | 05-03-10038 | Hometown: | Ontario, Canada |
| SOAH Docket No.: | 457-15-3393 | Certificate No.: | 067430 |
| Respondent: | Saiful Amin Bhuiyan | | |
| Rule Violation: | 501.90(18) | | |
| Act Violations: | 901.502(6), 901.502(11) | | |

The SOAH ALJ issued a Proposal for Decision (PFD) finding that Respondent violated Board *Rule 501.90(18)*, as well as *Act Sections 901.502(6)* and *901.502(11)*. The ALJ recommended in the PFD that the Board revoke Respondent's CPA license and certificate. The Board accepted the ALJ's recommendation to revoke the certificate.

XII. Ms. Fletcher moved to adopt **Section 527.4 (Enrollment and Participation)** as presented. Ms. Hugly seconded the motion and it passed unanimously. (ATTACHMENT 5)

XIII. Mr. Baker reviewed the schedule of future Board meetings.

At this time, the Board went into executive session at 11:34 a.m. to seek the advice from the general counsel. Upon return from executive session at 12:07 p.m., Mr. Baker adjourned the meeting.

XIV. Mr. Baker adjourned the meeting at 12:07 p.m.

ATTEST:

J. Coalter Baker, CPA, Presiding Officer

Steve D. Peña, CPA, Secretary

¹ Mr. Baker, Mr. Broadus, Mr. Cluck, Ms. Hugly and Mr. B. Peña recused themselves from participating in this matter.

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