

Texas State Board of Public Accountancy

November 17, 2016

The Texas State Board of Public Accountancy met from 10:00 a.m. until 11:45 a.m. on November 17, 2016, 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 3:06 p.m. on November 8, 2016. (TRD #2016-007670).
(ATTACHMENT 1)

Board Members Present

J. Coalter Baker, CPA
Presiding Officer
John R. Broaddus, CPA
Jonathan B. Cluck, Esq.
Rocky L. Duckworth, CPA
Member-at-Large
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, Ph.D., CPA
Benjamin Peña, CFE, CPA
Steve D. Peña, CPA
Secretary
Kimberly E. Wilkerson, Esq.
Phillip W. Worley

Board Members Absent

Susan Fletcher
excused

Others Present

Charles Cooley, CPA
Steve McConnel
Frank McElroy, Esq.
Lindsay Patterson
John Sharbaugh
C.L. Streitwieser, CPA

Staff Present

Paulette Beiter, Esq.
Roel Cantu
Ismael Castillo
Karen Davis
Lance Fitzgerald, Esq., CPA
Alan Hermanson, CPA
J. Randel Hill, Esq.
Donna Hiller
Joseph Jaffe
Natalie Miller
Julie Prien
Marisa Rios
April Serrano
William Treacy
Daniel Weaver

- I. Mr. Baker, 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 Ms. Fletcher from the Board meeting. Mr. Worley seconded the motion and it passed unanimously.

- II. Dr. Morris moved to approve the September 22, 2016 Board meeting minutes as presented. Mr. Cluck seconded the motion and it passed unanimously.
- III. Mr. Baker, Executive Committee Chair, reported on the November 16, 2016 committee meeting.

Members Present

J. Coalter Baker, CPA
Rocky L. Duckworth, CPA
Donna J. Hugly, CPA
William Lawrence
Robert M. McAdams, CPA
Steve D. Peña, CPA

Others Present

Jonathan Cluck, Esq.
Robert Gonzales, CPA
Steve McConnel
Lindsay Patterson
Benjamin Peña, CFE, CPA
Monday Rufus, CPA

Staff Present

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

- A. Mr. McAdams moved to approve the Board's FY 2016 Annual Financial Report, end-of-year overview, and September financial statements as presented. Ms. Hugly seconded the motion and it passed unanimously.
- B. Mr. McAdams reported on the Peer Assistance Grant report.
- C. Mr. McAdams moved to accept the Board's FY 2016 *Internal Audit Annual Report* and Internal Audit Plan for FY 2017 to include audits of the following. Mr. Cluck seconded the motion and it passed unanimously.
 - 1. Cash Disbursements Processing, Payables, and Payroll
 - 2. Licensing Applications and Processing
- D. Mr. Baker reported on the approved Committee and Board meeting dates for CY 2017.
- E. Mr. Baker reported on NASBA's 109th Annual Meeting held October 30 – November 2, 2016 in Austin, Texas.
- F. Mr. McAdams moved to approve the following FY 2016 and FY 2017 professional service contract amendments as presented. Mr. Broadbuss seconded the motion and it passed unanimously.

FY 2016 amendment:

Independent consultant contract (SOAH litigation):

- Mary Alice Boehm-McKaughan 9/1/15 – 8/31/16 \$3,247.24
(Increase contract by \$3,247.24 from \$226,500 to \$229,747.24)

FY 2017 amendment:

Technical Standards Review Committee:

- Belen Briones 9/1/16 – 8/31/17 \$5,000
(Increase contract by \$5,000 from \$10,000 to \$15,000)

- G. Mr. Baker reviewed thank you letters from the public.
- IV. Ms. Hugly, Rules Committee Chair, reported on the November 16, 2016 committee meeting.

Members Present

J. Coalter Baker, CPA
ex officio
Jonathan B. Cluck, Esq.
Rocky L. Duckworth, CPA
Donna J. Hugly, CPA
Timothy L. LaFrey, Esq.,
CPA
Benjamin Peña, CFE, CPA
Steve D. Peña, CPA

Others Present

Charles Cooley, CPA
Steve McConnel
Gary McIntosh, CPA
Roselyn Morris, Ph.D., CPA
Lindsay Patterson
John Sharbaugh
Chini L. Streitwieser, CPA

Staff Present

Paulette Beiter, CPA
Karen Davis
Alan Hermanson, CPA
J. Randel Hill, Esq.
Donna Hiller
Marisa Rios
William Treacy
Daniel Weaver

- A. Dr. Morris moved to authorize the executive director to have the proposed rule amendments to *Chapter 511 - Eligibility*, with the exception of tabled *Rules 511.123 and 511.163*, published in the *Texas Register* for public comment. Mr. McAdams seconded the motion and it passed unanimously. (**ATTACHMENT 2**)
- B. Ms. Hugly moved to authorize the executive director to have the proposed rule amendments to *Chapter 520 – Provisions for the Fifth-Year Accounting Students Scholarship Program* published in the *Texas Register* for public comment. Dr. Morris seconded the motion and it passed unanimously. (**ATTACHMENT 3**)

- C. Ms. Hugly moved that the Board adopt the proposed rule amendments to *Rule 519.29 – Voluntary Surrender of Certificate* as revised by the committee. Mr. S. Peña seconded the motion and it passed unanimously. **(ATTACHMENT 4)**
- D. Ms. Hugly moved that the Board adopt the proposed rule amendments to *Chapter 519 – Practice and Procedure* as published in the *Texas Register*. Dr. Morris seconded the motion and it passed unanimously. **(ATTACHMENT 5)**
- E. Ms. Hugly moved that the Board adopt the proposed rule amendments to *Rules 501.93, 519.21 and 519.23* as published in the *Texas Register*. Mr. McAdams seconded the motion and it passed unanimously. **(ATTACHMENT 6)**
- F. Ms. Hugly informed the Board that the next committee meeting was scheduled for January 18, 2017 at 2 p.m.

- V. Dr. Morris, Qualifications Committee Chair, reported on the November 16, 2016 committee meeting.

Members Present

J. Coalter Baker, CPA
ex officio
J. Kamas, CPA
Roselyn Morris, Ph.D., CPA
Benjamin Peña, CFE, CPA
Melanie Thompson, CPA

Members Absent

James C. Flagg, Ph.D., CPA
Robert M. McAdams, CPA

Others Present

Chini L. Streitwieser, CPA

Staff Present

Paulette P. Beiter, Esq.
Karen Davis
Gilbert Gutierrez
J. Randel Hill, Esq.
Donna Hiller
William Treacy

- Dr. Morris moved that the Board accept the Qualifications report as presented. Mr. LaFrey seconded the motion and it passed unanimously.

- VI. Ms. Hugly, Continuing Professional Education Committee Chair, reported on the October 19, 2016 committee meeting.

Members Present

J. Coalter Baker, CPA
ex officio
John R. Broaddus, CPA
Donna J. Hugly, CPA
Ross T. Johnson, CPA
William R. Moss, CPA
Phillip W. Worley

Members Absent

Anthony B. Ross, CPA

Staff Present

Bryce Beasley
Paulette Beiter, Esq.
Roel Cantu
Karen Davis
J. Randel Hill, Esq.
Julie Prien
April Serrano
William Treacy
Daniel Weaver

- A. The following was presented:

1. Mr. Broaddus moved to deny a request from Todd Reppert, CPA, for an exemption from the Board's CPE requirement. Mr. S. Peña seconded the motion and it passed unanimously.
2. Ms. Hugly moved to deny a request from Brian Smith, CPA, for an exemption from the Board's CPE requirement. Mr. S. Peña seconded the motion and it passed with Mr. Johnson dissenting.
3. Ms. Hugly moved to approve a request from William Prather, CPA, for an exemption from the Board's CPE requirement. Mr. S. Peña seconded the motion and it passed unanimously.

- B. Ms. Hugly moved to tentatively approve the following ethic course provider contracts and courses pending completion of any required modifications. Mr. Broaddus seconded the motion and it passed unanimously.

1. Allison McLeod, LL.M., CPA – *A CPAs Guidebook for Ethical Behavior: A CPE Ethics Course for Texas CPAs*.
2. Dr. Walter Austin CPA – *Professional Ethics Update for Texas CPAs*
3. Dr. Willie Cargill, CPA – *Ethics for Texas CPAs: Drawing the Line*

- C. Ms. Hugly reported that the committee took no action on the rule review of *Chapter 523 (Continuing Professional Education)*.
- D. The next committee meeting was scheduled for November 17, 2016 at 11:30 a.m.
- VII. Mr. Baker reported on plans for the December 3, 2016 Board swearing-in ceremony.
- VIII. Mr. Broaddus, Behavioral Enforcement Committee Chair, reported on the October 26, 2016 committee meeting.

Members Present

John R. Broaddus, CPA
Donald W. Harcum, CPA
Donna J. Hugly, CPA
James D. Ingram, IV, CPA
Karen W. Jones, CPA
Timothy L. LaFrey, Esq., CPA
Benjamin Peña, CFE, CPA

Members Absent

Jonathan B. Cluck, Esq.

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. Lawrence seconded the motion and it passed.
 - 1. **Investigation Nos. 16-02-08L¹ and 16-02-09L¹**
 - 2. **Investigation No. 16-08-04T¹**
 - 3. **Investigation No. 16-08-06L¹**
 - 4. **Investigation No. 16-08-01T¹**
 - 5. **Investigation Nos. 16-08-12L¹ and 16-08-13L¹**
- B. Other – The committee considered five other investigations, which require no Board action at this time.
- C. The next committee meeting was scheduled for January 11, 2017.
- IX. Mr. Duckworth, Technical Standards Review Committee Chair, reported on the following committee meetings.

August 10, 2016

Members Present

Rocky L. Duckworth, CPA
Jeffrey L. Johanns, CPA
Ross T. Johnson, CPA
David L. King, CPA

Steve D. Peña, CPA
David W. Rook, CPA
Kimberly Wilkerson, Esq.

Staff Present

J. Randel Hill, Esq.
Lance Fitzgerald, Esq.

- A. Mr. Cluck moved to dismiss **Investigation No. 14-06-03L²** based on insufficient evidence of a violation of the *Rules* or *Act*. Ms. Hugly seconded the motion and it passed.
- B. The committee considered seven other investigations, which require no Board action at this time.
- C. The next committee meeting was scheduled for October 12, 2016.

October 12, 2016

Members Present

Rocky L. Duckworth, CPA
Jeffrey L. Johanns, CPA
Ross T. Johnson, CPA
David L. King, CPA

Steve D. Peña, CPA
David W. Rook, CPA
Kimberly Wilkerson, Esq.

Staff Present

J. Randel Hill, Esq.
Lance Fitzgerald, Esq.

- A. Mr. Broaddus moved to dismiss **Investigation No. 15-12-19L²** based on insufficient evidence of a violation of the *Rules* or *Act*. Mr. McAdams seconded the motion and it passed.

- B. Mr. Duckworth moved to lift the scope limitation from the following investigations. Dr. Morris seconded the motion and it passed.
1. **Investigation No. 15-03-12L²**
 2. **Investigation No. 10-10-06L²**
- C. Other – The committee considered 10 other investigations, which require no Board action at this time.
- D. The next committee meeting was scheduled for December 14, 2016.
- X. Ms. Beiter, Staff Attorney, reported on the status of the Enforcement Division's probation monitoring docket.
- XI. 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.
- XII. The Board took the following actions on the Agreed Consent Order and Proposals for Decisions:

A. Agreed Consent Order

Behavioral Enforcement Committee

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

- | | | |
|---|--|--|
| 1. | Investigation No.: 16-05-11L
Respondent: David Lee Chapman
Rule Violations: 501.74(b), 501.90(12)
Act Violation: 901.502(6) | Hometown: Spring, TX
Certificate No.: 011376 |
| <p>Respondent entered into an ACO with the Board whereby Respondent was reprimanded and ordered to pay an administrative penalty of \$500 and \$273.55 in administrative costs within 30 days of the date of the Board Order. Respondent must also reimburse the client for fees paid to Respondent for preparing the tax return and provide proof to the Board of such payment. In addition, Respondent must reimburse the client for any penalties and interest assessed by the IRS as a result of the late filing. Respondent failed to complete an engagement to prepare a tax return in a timely manner. Respondent also failed to respond to a client's inquiry regarding the completion of her tax return.¹</p> | | |
| 2. | Investigation No.: 16-07-01L
Respondent: Steven Edwin Harper
Rule Violation: 501.90(5)
Act Violations: 901.502(6), 901.502(11) | Hometown: Leander, TX
Certificate No.: 023751 |
| <p>Respondent entered into an ACO with the Board whereby Respondent's certificate was revoked in lieu of further disciplinary proceedings. Respondent was convicted of Conspiracy to Make False Statements to a Production Credit Association.</p> | | |
| 3. | Investigation No.: 16-01-04L
Respondent: Steven Martin McCraw
Rule Violation: 501.90(8)
Act Violation: 901.502(6) | Hometown: Plano, TX
Certificate No.: 017236 |
| <p>Respondent entered into an ACO with the Board whereby Respondent was reprimanded and ordered to pay \$318.97 in administrative costs within 30 days of the date of the Board Order. In addition, Respondent shall complete and submit proof of completion of the requirements of the Securities and Exchange Commission (SEC) settlement including payment of the penalties. Respondent was charged by the SEC and settled the case agreeing to a permanent injunction barring him from using any fraud, deceit or untrue statements or omissions about material facts in connection with offering, buying or selling securities. Respondent also agreed to disgorgement of \$111,800, offset by a \$71,000 settlement made in another SEC case, as well as prejudgment interest and a \$50,000 civil penalty.¹</p> | | |
| 4. | Investigation Nos.: 16-06-04L & 16-06-05L
Respondents: Leslie Ann Ratliff & Leslie A. Ratliff, CPA (Firm)
Rule Violations: 501.74(b), 501.90(2)
Act Violation: 901.502(6) | Hometown: Portland, TX
Certificate No.: 088544
Firm License No.: T09018 |

Respondents entered into an ACO with the Board whereby Respondents were reprimanded and ordered to pay a \$500 administrative penalty and \$273.55 in administrative costs within 30 days of the date of the Board Order. In addition, Respondent shall complete and submit proof of completion of four hours of live CPE in the area of ethics. This requirement is in addition to Respondent's annual CPE requirement and must be completed within 180 days of the date of the Board Order. Respondent forged a client's name on a 1040X tax return and filed the return.¹

- | | | | |
|------------------------------|---|-------------------------|-----------------------|
| 5. Investigation No.: | 16-07-04L | Hometown: | Carrollton, TX |
| Respondent: | Jason Paul Rodrigue | Certificate No.: | 095996 |
| Rule Violation: | 501.90(4) | | |
| Act Violations: | 901.502(6), 901.502(10), 901.502(11) | | |

Respondent entered into an ACO with the Board whereby Respondent's certificate was revoked in lieu of further disciplinary proceedings. Respondent pleaded guilty to the felony offense of Aggravated Sexual Assault with a Child on March 31, 2016.

Technical Standards Review Committee

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

- | | | | |
|------------------------------|---|--------------------------|-------------------|
| 1. Investigation Nos: | 16-03-13L & 16-03-14L | Hometown: | Dallas, TX |
| Respondents: | Michael Perry Bruce & Michael P. Bruce, CPA, P.C. (Firm) | Certificate No.: | 019118 |
| | | Firm License No.: | C05172 |
| Rule Violation: | 527.5 | | |
| Act Violation: | 901.502(12) | | |

Respondents entered into an ACO with the Board whereby Respondents were reprimanded and subject to a scope limitation from the effective date of the Board Order until an application for removal of the limitation is found acceptable to the TSR Committee and ratified by the Board. Respondent Firm has received three successive deficient peer reviews as defined under Board *Rule 527.5*.³

- | | | | |
|------------------------------|---|--------------------------|-------------------|
| 2. Investigation Nos: | 16-02-06L & 16-02-07L | Hometown: | Dallas, TX |
| Respondents: | Terrance Scott Eckert & Candy & Schonwald, PLLC (Firm) | Certificate No.: | 046881 |
| | | Firm License No.: | C07690 |
| Rule Violation: | 501.60 | | |
| Act Violation: | 901.502(6) | | |

Respondents entered into an ACO with the Board whereby Respondent Eckert was reprimanded and Respondent Firm is subject to a scope limitation from the effective date of the Board Order until an application for removal of the limitation is found acceptable to the TSR Committee and ratified by the Board. The Employee Benefits Security Administration's initial review found that Respondent Firm issued an audit without sufficient evidence of the audit work performed in certain areas.

- | | | | |
|------------------------------|---|--------------------------|----------------------|
| 3. Investigation Nos: | 16-03-15L & 16-03-16L | Hometown: | Galveston, TX |
| Respondents: | Paul Robert Wasserloos & Paul R. Wasserloos (Firm) | Certificate No.: | 052077 |
| | | Firm License No.: | T07517 |
| Rule Violation: | 527.5 | | |
| Act Violation: | 901.502(12) | | |

Respondents entered into an ACO with the Board whereby Respondents were reprimanded and subject to a scope limitation from the effective date of the Board Order until an application for removal of the limitation is found acceptable to the TSR Committee and ratified by the Board. Respondent Firm has received three successive deficient peer reviews as defined under Board *Rule 527.5*.³

B. Mass Hearings

Dr. Morris moved to approve the following Proposals for Decision as presented. Mr. McAdams 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 7)**

Docket	Investigation Numbers	Scheduled Hearing
457-16-4022	16-06-10001 – 16-06-10039	July 26, 2016
457-16-4491	16-07-10001 – 16-07-10034	August 30, 2016

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 8)**

Docket	Investigation Numbers	Scheduled Hearing
457-16-4023	16-06-10040 – 16-06-10189	July 26, 2016
457-16-4492	16-07-10044 – 16-07-10193	August 30, 2016

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 9)**

Docket	Investigation Numbers	Scheduled Hearing
457-16-4024	16-06-10190 – 16-06-10198	July 26, 2016
457-16-4493	16-07-10035 – 16-07-10043	August 30, 2016

XIII. Mr. Cluck moved to adopt the following Board *Rules*. Mr. B. Peña seconded the motion and it passed unanimously.

1. Section 519.8 Administrative Penalties **(ATTACHMENT 10)**
2. Section 519.9 Administrative Penalty Guidelines **(ATTACHMENT 11)**
3. Section 519.12 Emergency Suspension **(ATTACHMENT 12)**
4. Section 519.24 Committee Recommendations **(ATTACHMENT 13)**
5. Section 519.26 Complaint and Eligibility of an Applicant for Certification **(ATTACHMENT 14)**
6. Section 519.27 Factors Considered in Certification Application **(ATTACHMENT 15)**
7. Section 519.40 General Provisions **(ATTACHMENT 16)**
8. Section 519.72 Final Decisions and Orders **(ATTACHMENT 17)**
9. Section 519.93 Publication of Disciplinary/Administrative Sanctions **(ATTACHMENT 18)**
10. Section 519.95 Reinstatement **(ATTACHMENT 19)**

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

XV. Mr. Baker adjourned the meeting at 11:45 a.m.

ATTEST:

J. Coalter Baker, CPA, Presiding Officer

Steve D. Peña, CPA, Secretary

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

² Mr. Duckworth, Mr. Johnson, Mr. S. Peña, and Ms. Wilkerson recused themselves from participating in this matter.

³ Mr. Duckworth, Mr. S. Peña, and Ms. Wilkerson recused themselves from participating in this matter.