

Texas State Board of Public Accountancy

November 16, 2017

The Texas State Board of Public Accountancy met from 10:00 a.m. until 11:40 a.m. on November 16, 2017 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 10:35 a.m. on November 6, 2017. (TRD #2017-013819).
(ATTACHMENT 1)

Board Members Present

Manuel Cavazos IV, Esq., CPA
Presiding Officer
Susan Fletcher
Lisa A. Friel, CPA
Jamie D. Grant
Donna J. Hugly, CPA
Assistant Presiding Officer
James D. Ingram IV, CPA
Ross T. Johnson, CPA
Timothy L. LaFrey, Esq., CPA
William Lawrence
Executive Committee
Member-at-Large
Robert M. McAdams, CPA
Treasurer
Roselyn E. Morris, Ph.D., CPA
Benjamin Peña, CFE, CPA
Steve D. Peña, CPA
Secretary
Debra S. Sharp
Kimberly E. Wilkerson, Esq.

Others Present

Felicia Farrar, CFE, CPA
Chris Henderson, Esq.
Frank McElroy, Esq.
Sean McVey
Craig Nauta
Jody Ann Ray
John Sharbaugh
Mark Vane, Esq.

Staff Present

Bryce Beasley
Paulette Beiter, Esq.
Roel Cantu
Ismael Castillo
Rhonda Fellner
Alan Hermanson, CPA
J. Randel Hill, Esq.
Donna Hiller
Kyle McGaw
Natalie Miller
John D. Moore, Esq.
Julie Prien
Marisa Rios
April Serrano
Tina Smith
William Treacy
Daniel Weaver

- I. Mr. Cavazos, Presiding Officer, called the meeting to order at 10:00 a.m. Mr. Treacy called roll and declared a quorum.
- II. Mr. S. Peña moved to approve the September 21, 2017 Board meeting minutes as presented. Mr. LaFrey seconded the motion and it passed unanimously.

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

1. Manuel Cavazos IV, Esq., CPA, of Austin
2. Lisa A. Friel, CPA, of San Antonio
3. Jamie D. Grant of Arlington
4. James D. Ingram IV, CPA, of College Station
5. Debra S. Sharp of Houston

Mr. Cavazos presented service awards to:

1. Tina Smith for 5 years of Board service
2. Alan Hermanson for 25 years of Board service

- III. Mr. Cavazos, Executive Committee Chair, reported on the November 15, 2017 committee meeting.

Members Present

Manuel Cavazos IV, Esq., CPA
Donna J. Hugly, CPA
William Lawrence
Robert M. McAdams, CPA
Steve D. Peña, CPA

Others Present

Jamie D. Grant
Robert Gonzales, CPA
Monday R. Rufus, CPA
John Sharbaugh

Staff Present

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

- A. Mr. McAdams moved to approve the Board's FY 2017 Annual Financial Report, end-of-year overview and September FY 2018 financial statements as presented. Ms. Fletcher seconded the motion and it passed unanimously.
- B. The following was presented:
 1. Mr. McAdams reported that the committee postponed making a decision on the Board's FY 2018 internal audit until after the State Auditor's report is received.
 2. Mr. McAdams moved to approve the updated Internal Audit Charter. Mr. S. Peña seconded the motion and it passed unanimously.
- C. Mr. McAdams moved to accept the Peer Assistance Grant Report as presented. Mr. B. Peña seconded the motion and it passed unanimously.
- D. Ms. Hugly moved to approve the Board's meeting dates for CY 2018. Mr. S. Peña seconded the motion and it passed unanimously.
- E. Ms. Hugly reported on NASBA's 110th Annual Meeting – October 29 – November 1, 2017 in New York, NY. Mr. Cavazos also reported that Mr. Treacy was reappointed to NASBA's International Qualifications Appraisal Board Committee.
- F. Mr. McAdams moved to approve the following FY 2017 amendment and FY 2018 professional service contract. Dr. Morris seconded the motion, and it passed unanimously.

FY 2017 amendment:

- Rebecca J. Teague, CPA 9/1/16 – 8/31/17 \$1,800
(Increase contract by \$1,800 from \$19,200 to \$21,000)

FY 2018 contract

Technical Standards Review Committee consultant:

- T. Wayne Owens & Associates, PC 9/1/17 – 8/31/18 \$7,000

- G. Mr. Cavazos reviewed thank you letters from the public.
- IV. Ms. Hugly, Behavioral Enforcement Committee member, reported on the following two committee meetings.

August 30, 2017

Members Present

J. Coalter Baker, CPA
ex officio
Donna J. Hugly, CPA
Karen W. Jones, CPA
Timothy L. LaFrey, Esq., CPA
Teerera Mwaramba, CPA

Members Absent

John R. Broadus, CPA
Jonathan B. Cluck, Esq.
James D. Ingram IV, CPA
Benjamin Peña, CFE, CPA

Staff Present

Paulette Beiter, Esq.
J. Randel Hill, Esq.
John D. Moore, Esq.

- A. Mr. McAdams moved to dismiss **Investigation Nos. 17-03-09L¹** and **17-03-10L¹** based on voluntary compliance with the *Rules* and the *Act*. Mr. S. Peña seconded the motion and it passed.
- B. Other – The committee considered six other investigations which require no Board action at this time.
- C. The second committee meeting was held on October 24, 2017 at 9:00 a.m.

October 24, 2017

Members Present

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

Member Absent

Teerera Mwaramba, CPA

Staff Present

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

- A. Mr. McAdams moved to dismiss the following investigations based on insufficient evidence of a violation of the *Rules* or the *Act*. Dr. Morris seconded the motion and it passed.
1. **Investigation Nos. 17-03-15L² and 17-03-16L²**
 2. **Investigation Nos. 17-08-19L² and 17-08-20L²**
 3. **Investigation Nos. 17-07-07L² and 17-07-08L²**
 4. **Investigation No. 17-08-15L²**
 5. **Investigation Nos. 17-08-02L² and 17-08-03L²**
- B. Other – The committee considered seven other investigations which require no Board action at this time.
- C. The next committee meeting was scheduled for January 9, 2018 at 9:00 a.m.
- V. Mr. Johnson, Technical Standards Review Committee member, reported on the October 25, 2017 committee meeting.

Members Present

Jeffrey L. Johanns, CPA
Ross T. Johnson, CPA
Kimberly Wilkerson, Esq.

Members Absent

Steve D. Peña, CPA
Dilliana M. Stewart, CPA

Staff Present

J. Randel Hill, Esq.
John D. Moore, Esq.

- A. Mr. B. Peña moved to dismiss **Investigation No. 17-07-03L³** based on insufficient evidence of a violation of the *Rules* or the *Act*. Ms. Fletcher seconded the motion and it passed.
- B. Other – The committee considered five other investigations which require no Board action at this time.
- C. The next committee meeting had not been scheduled.
- VI. Ms. Beiter, Staff Attorney, reported on the status of the Enforcement Division's probation monitoring docket.
- VII. 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.
- VIII. The Board took the following actions on the Agreed Consent Orders and Administrative Disciplinary Actions:

A. Agreed Consent Orders

Behavioral Enforcement Committee

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

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|---|---|---|---|---|
| 1. | Investigation Nos.: Respondents: Rule Violations: Act Violation: | 17-06-04L & 17-06-05L James Thomas Clark & Jim Clark, P.C. (Firm) 501.74(b), 501.90(12) 901.502(6) | Hometown: Certificate No.: Firm License No.: | Austin, TX 088430 C07704 |
| <hr/> | | | | |
| Respondents entered into an ACO with the Board whereby Respondents were reprimanded. In addition, Respondents must pay \$500 in administrative penalties and \$278.20 in administrative costs within 30 days of the date of the Board Order. Respondents failed to respond to several calls and emails from a client inquiring about the status of a return. Respondents failed to complete an engagement to prepare a return. ¹ | | | | |
| 2. | Investigation No.: Respondent: Rule Violation: Act Violations: | 17-07-15L Scott Alan Mims 501.90(4) 901.502(6), 901.502(11) | Hometown: Certificate No.: | Midland, TX 086737 |
| <hr/> | | | | |
| Respondent entered into an ACO with the Board whereby Respondent's certificate was revoked. On October 27, 2016, Respondent was placed upon 10 years deferred adjudication and fined \$2,500 for the felony offense of possession of child pornography. ¹ | | | | |
| 3. | Investigation No.: Respondent: | 12-01-21L Bryan Nicholas Polozola | Hometown: Certificate No.: | Plano, TX 079311 |
| <hr/> | | | | |
| Respondent entered into an ACO with the Board whereby Respondent's certificate would be reinstated; however, the scope of Respondent's practice is hereby limited. Respondent pleaded guilty to making a false statement to a government official, a felony offense, and his certificate was revoked on September 20, 2012. ¹ | | | | |

Technical Standards Review Committee

Mr. LaFrey moved to approve the following ACOs as presented. Mr. B. Peña seconded the motion and it passed.

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|----|---------------------------|------------------------------|-------------------------|-------------------|
| 1. | Investigation No.: | 17-01-20L | Hometown: | Dallas, TX |
| | Respondent: | Steven Way, CPA, P.C. | Certificate No.: | C07833 |
| | Rule Violation: | 527.4 | | |
| | Act Violation: | 901.502(12) | | |

Respondent Firm entered into an ACO with the Board whereby Respondent firm was reprimanded and placed on 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 was dropped by the American Institute of Certified Public Accountants from the peer review program for non-compliance and multiple deficient peer reviews in violation of Board *Rule 527.4*.⁴

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|----|---------------------------|----------------------|-------------------------|-------------------|
| 2. | Investigation No.: | 97-05-07L | Hometown: | Conroe, TX |
| | Respondent: | Neil C. Melms | Certificate No.: | 009843 |

Respondent entered into a modified ACO in which his certificate was reinstated. Respondent had entered into an ACO which prohibited him from performing audits and reviews. Respondent failed to meet generally accepted auditing standards in an audit of a home owners association.⁵

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|----|---------------------------|--|-------------------------|----------------------|
| 3. | Investigation No.: | 16-04-17L | Hometown: | Ft. Worth, TX |
| | Respondent: | Gregory Scott Williford | Certificate No.: | 039700 |
| | Rule Violations: | 501.60, 501.70, 501.74, 501.90(7) | | |
| | Act Violations: | 901.502(6), 901.502(11) | | |

Respondent entered into an ACO with the Board whereby Respondent's certificate was revoked, however the revocation was stayed, and Respondent's certificate was placed on probation for a period of five years. In addition, Respondent will pay an administrative penalty of \$12,500 and administrative costs of \$413.78. Respondent, as the engagement partner of a firm, failed to obtain engagement quality reviews of audits and reviews; reviewed financial information of a client while the firm he was the engagement partner for was not independent; approved the issuance of audit reports for periods Respondent's firm did not audit; and improperly approved the issuance of audit reports that stated the audits were conducted with PCAOB standards.⁵

Unauthorized Practice of Public Accountancy

Mr. Lawrence moved to approve the following ACO as presented. Mr. LaFrey seconded the motion and it passed unanimously.

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|---|---------------------------|---|------------------|---------------------------|
| • | Investigation No.: | 16-05-13N | Hometown: | Corpus Christi, TX |
| | Respondent: | Annette Chapman dba Yellow Rose Services LLC | | |
| | Act Violations: | 901.453(b), 901.502(5) & (6) | | |

Respondent entered into an ACO with the Board whereby Respondent agreed to cease engaging in the use of the restricted term "accountant" and asserting an expertise in accounting and auditing. Respondent used reserved terms on web-based profiles and marketing materials and issued a tax return which listed a CPA firm license number of which the Respondent is not a member or employee. Respondent does not hold a license issued by this agency.

B. Administrative Disciplinary Actions

Mr. B. Peña moved to approve the following Disciplinary Actions as presented. Dr. Morris 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. Respondents, although properly notified of the proposed disciplinary action and their right to a hearing on the matter, failed to request a hearing. Staff recommends 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 late fees and by otherwise coming into compliance with the *Act*. Respondents violated *Act Section 901.502(4) (failure to pay license fees for three consecutive years)*. (ATTACHMENT 2)

Investigation Numbers

17-06-10001 – 17-06-10043
17-07-10001 – 17-07-10050

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

Section 901.411 (Continuing Professional Education). The Respondents, although provided with a preliminary report dated November 15, 2016 and having been notified of the proposed disciplinary action and their right to a hearing on the matter, failed to request a hearing. Staff recommends 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, staff recommends a \$100 penalty be imposed for each year a Respondent is not in compliance with the Board's CPE requirements. Respondents violated Board *Rules 501.94 (Mandatory CPE)* and *523.111 (Required CPE Reporting)*, and *Act Section 901.411*. **(ATTACHMENT 3)**

Investigation Numbers

17-06-10044 – 17-06-10201

17-07-10051 – 17-07-10202

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 Board *Rule 515.3 (License Renewals for Individuals and Firm Offices)*. Respondents, although properly notified of the proposed disciplinary action and their right to a hearing on the matter, failed to request a hearing. Staff recommends 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*. Respondents violated *Act Section 901.502(12) (Violations of Board Rules)*. **(ATTACHMENT 4)**

Investigation Numbers

17-06-10202 – 17-06-10203

17-07-10203 – 17-07-10207

IX. Ms. Fletcher moved to adopt the following Board *Rules*. Mr. McAdams seconded the motion and it passed unanimously.

1. *Section 511.92 Definitions* **(ATTACHMENT 5)**
2. *Section 511.94 Documentation of the Need for an Accommodation* **(ATTACHMENT 6)**
3. *Section 511.123 Reporting Work Experience* **(ATTACHMENT 7)**
4. *Section 515.8 Retired or Disability Status* **(ATTACHMENT 8)**
5. *Section 519.7 Misdemeanors that Subject a Licensee or Certificate Holder to Discipline by the Board* **(ATTACHMENT 9)**

X. Mr. Cavazos reviewed the schedule of future Board meetings.

XI. Mr. Cavazos adjourned the meeting at 11:40 a.m.

ATTEST:

Manuel Cavazos IV, Esq., CPA, Presiding Officer

Steve D. Peña, CPA, Secretary

¹ Ms. Hugly and Mr. LaFrey recused themselves from participating in this matter.

² Ms. Hugly, Mr. Ingram, Mr. LaFrey, and Mr. B. Peña recused themselves from participating in this matter.

³ Mr. Johnson and Ms. Wilkerson recused themselves from participating in this matter.

⁴ Mr. Johnson, Mr. S. Peña, and Ms. Wilkerson recused themselves from participating in this matter.

⁵ Mr. Johnson and Mr. S. Peña recused themselves from participating in this matter.