

Texas State Board of Public Accountancy

January 25, 2018

The Texas State Board of Public Accountancy met from 10:00 a.m. until 11:30 a.m. on January 25, 2018 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 2:49 p.m. on January 12, 2018. (TRD #2018-002088).
(ATTACHMENT 1)

Board Members Present

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

Member Absent

Steve D. Peña, CPA
excused

Others Present

Frank McElroy, Esq.
Sean McVey
Mark Vane, Esq.
Tammy Velasquez

Staff Present

Paulette Beiter, Esq.
Sandra Bradshaw
Roel Cantu
Ismael Castillo
Alan Hermanson, CPA
J. Randel Hill, Esq.
Donna Hiller
Jean Ickes
Kyle McGaw
Natalie Miller
John D. Moore, Esq.
Julie Prien
Marisa Rios
April Serrano
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.

Ms. Hugly moved to excuse Mr. S. Peña's absence from the Board meeting. Ms. Fletcher seconded the motion and it passed unanimously.

- II. Ms. Fletcher moved to approve the November 16, 2017 Board meeting minutes as presented. Dr. Morris seconded the motion and it passed unanimously.

Mr. Cavazos presented a service award to Jean Ickes for 40 years of Board service.

- III. Mr. Cavazos, Executive Committee Chair, reported on the January 24, 2018 committee meeting.

Members Present

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

Member Absent

Steve D. Peña, CPA

Others Present

Frank McElroy, Esq.
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 financial statements as presented. Mr. B. Peña seconded the motion and it passed unanimously.

- B. Mr. Lawrence moved to approve the Board's Affirmative Action Plan CY-2017 as presented. Ms. Hugly seconded the motion and it passed unanimously.
- C. The following was presented:
1. Mr. McAdams moved to approve the State Auditor's Office Audit Report as presented. Dr. Morris seconded the motion and it passed unanimously.
 2. Mr. McAdams moved to accept the FY 2017 Internal Audit Report as presented. Mr. B. Peña seconded the motion and it passed unanimously.
 3. Mr. Cavazos moved to form an Ad Hoc Audit Committee to include Mr. McAdams, Ms. Friel, and Mr. B. Peña to review the Board's FY 2018 internal audit program. Mr. LaFrey seconded the motion and it passed unanimously.
- D. Mr. Cavazos requested that Mr. Treacy reported on NASBA's dates of interest:
1. 36th Annual Conference for Executive Directors and Board Staff March 13-15, 2018 in Destin, FL.
 2. 23rd Annual Conference for Board of Accountancy Legal Counsel March 13-15, 2018 in Destin, FL.
 3. Western Regional Meeting – June 26-28, 2018 in Olympic Valley, CA (Lake Tahoe)
 4. 111th Annual Meeting – October 28-31, 2018 in Scottsdale, AZ.
- E. Mr. McAdams moved to approve the following FY 2018 professional service contract amendment and name amendment. Ms. Fletcher seconded the motion, and it passed unanimously.

FY 2018 amendment and name amendment:

1. T. Wayne Owens & Associates P.C. 9/1/17 – 8/31/18 \$3,000
(Increase contract by \$3,000 from \$7,000 to \$10,000)
2. Davis Kinard & Co., P.C. will be amended to Eide Bailey LLP

- F. Mr. Cavazos reviewed thank you letters from the public.
- G. Mr. Cavazos reported that the discussion of the executive director's evaluation process will be addressed at the end of the meeting.

IV. Mr. LaFrey, Rules Committee chair, reported on the January 24, 2018 committee meeting.

Members Present

Manuel Cavazos IV, Esq., CPA
ex officio
Donna J. Hugly, CPA
Ross T. Johnson, CPA
Timothy L. LaFrey, Esq., CPA
William Lawrence
Benjamin Peña, CFE, CPA

Member Absent

Steve D. Peña, CPA

Others Present

Robert M. McAdams, CPA
John Sharbaugh

Staff Present

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

- A. Mr. LaFrey moved to authorize the Executive Director to have the proposed revisions to Board *Rule 501.83 (Firm Names)* be published in the *Texas Register* for public comment. Mr. B. Peña seconded the motion and it passed unanimously. (**ATTACHMENT 2**)
- B. Mr. LaFrey moved to authorize the Executive Director to have the proposed revisions to Board *Rule 511.122 (Acceptable Work Experience)* in the *Texas Register* for public comment. Mr. B. Peña seconded the motion and it passed unanimously. (**ATTACHMENT 3**)

- C. Mr. LaFrey moved to authorize the Executive Director to have the proposed revisions to Board *Rule 511.124 (Acceptable Supervision)* in the *Texas Register* for public comment. Mr. B. Peña seconded the motion and it passed unanimously. (**ATTACHMENT 4**)
- D. Mr. LaFrey moved to authorize the Executive Director to have the proposed revisions to Board *Rule 513.16 (Death or Incapacitation of a Sole Proprietor)* to the *Texas Register* for public comment. Mr. B. Peña seconded the motion and it passed unanimously. (**ATTACHMENT 5**)
- E. Mr. LaFrey moved to authorize the Executive Director to have the proposed revisions to Board *Rules 520.3 (Institutions)*, *520.5 (Award Amounts and Uses)*, and *520.6 (Allocations and Reallocations)* to the *Texas Register* for public comment. Mr. B. Peña seconded the motion and it passed unanimously. (**ATTACHMENT 6**)
- F. Mr. LaFrey reported that the committee will meet on March 28, 2018 at 1:30 p.m.
- V. Dr. Morris, Qualifications Committee chair, reported on the January 24, 2018 committee meeting.

Members Present

Manuel Cavazos IV, Esq., CPA
ex officio
James Flagg, PhD, CPA
J. Kamas, CPA
Robert M. McAdams, CPA
Roselyn Morris, PhD, CPA
Benjamin Peña, CFE, CPA
Melanie G. Thompson, CPA

Member Absent

Sandra Gates, CPA

Staff Present

Paulette Beiter, Esq.
Gilbert Gutierrez
J. Randel Hill, Esq.
Donna Hiller
Kyle McGaw
William Treacy
Daniel Weaver

- A. Dr. Morris reported that an overview of the committee's responsibilities was discussed as defined in Board *Rule 505.10 (Board Committees)*.
- B. Dr. Morris informed the Board that the committee had discussed the upcoming changes to the CPA Examination, which includes new exam delivery software, and Microsoft Excel. She also reported that the committee also reviewed the score release timeline and upgrades to NASBA's National Candidate Database.
- C. Dr. Morris reported that the committee had reviewed information on a scoring error that occurred in the Q2 2017 CPA Examination and its impact on a single Texas candidate, which resulted in a fail to pass.
- D. Dr. Morris reported that the committee discussed the procedures that are in place to conduct character investigations of CPA Examination candidates and individuals applying for the CPA certificate.
- E. Dr. Morris informed the Board that the committee reviewed statistical data provided by NASBA on the 2017 testing events and that they also discussed information provided at the recent NASBA annual meeting concerning data analytics and its role in audits.
- F. Dr. Morris reported that the committee reviewed Board *Rules 511.57 (Qualified Accounting Courses)* and *511.59 (Definition of 150 Semester Hours)* and will refer the committee's proposed revisions to the Rules Committee for its consideration.
- G. Dr. Morris discussed a request to accept an ethics course taught at a university in a compressed four-week format. The committee did not see a need to establish a policy that would prohibit a compressed course to meet the ethics requirement if the course meets the required contact hours as determined by the Texas Higher Education Coordinating Board and the accreditation requirements of Southern Association of Colleges and Schools.
- VI. Mr. Ingram reported on the Board's December 2, 2017 swearing in ceremony held at the Palmer Events Center in Austin, TX.

VII. Mr. B. Peña, Behavioral Enforcement Committee chair, reported on the following committee meeting.

January 9, 2018

Members Present

Bennett Allison, CPA
Manuel Cavazos IV, Esq., CPA
ex officio
Patrick Durio, CPA
Donna J. Hugly, CPA
James D. Ingram IV, CPA
Benjamin Peña, CFE, CPA
Steve D. Peña, CPA
Debra Sharp

Members Absent

Karen W. Jones, CPA
Teerera Mwaramba, CPA

Staff Present

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

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

1. Investigation No. 17-05-12L¹
2. Investigation No. 17-07-14L¹
3. Investigation Nos. 17-10-05L¹ and 17-10-06L¹
4. Investigation Nos. 17-09-17L¹ and 17-10-01L¹
5. Investigation Nos. 17-09-08L¹ and 17-09-09L¹
6. Investigation Nos. 17-09-03L¹, 17-09-04L¹ and 17-09-07L¹
7. Investigation Nos. 17-08-11L¹ and 17-08-12L¹
8. Investigation Nos. 17-07-16L¹ and 17-07-17L¹

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

C. The next committee meeting was scheduled for April 25, 2018 at 9:00 a.m.

VIII. Mr. Johnson, Technical Standards Review Committee chair, reported on the following committee meeting.

January 10, 2018

Members Present

Manuel Cavazos IV, Esq., CPA
ex officio
Lisa A. Friel, CPA
Pete M. Gonzales, CPA
Jamie D. Grant
Jeffrey L. Johanns, CPA
Ross T. Johnson, CPA
Robert M. McAdams, CPA

Member Absent

Dilliana M. Stewart, CPA

Staff Present

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

A. Mr. Ingram moved to reinstate and lift the limited scope requirements for Michael Leathers² and Edwards and Leathers, P.C.². Ms. Hugly seconded the motion and it passed.

B. Other – The committee considered 10 other investigations which require no Board action at this time.

C. The next committee meeting has been scheduled for April 19, 2018 at 12 noon.

IX. Ms. Beiter, 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 the Agreed Consent Orders and Administrative Disciplinary Actions:

A. **Agreed Consent Orders**

Behavioral Enforcement Committee

Mr. Grant moved to approve the following Agreed Consent Order (ACOs) as presented. Dr. Morris seconded the motion and it passed.

- **Investigation Nos.:** 17-08-17L & 17-08-18L **Hometown:** Sugar Land, TX
Respondents: Michael Gordon Robideau **Certificate No.:** 036327
& Michael G. Robideau, CPA **Firm License No.:** T08135
Rule Violation: 501.74(b)
Act Violation: 901.502(6)

Respondents entered into an ACO with the Board whereby Respondents were reprimanded. In addition, Respondents must pay \$1,000 in administrative penalties and \$321.00 in administrative costs in installments. Respondent must also reimburse Complainant \$4,518. Respondents incorrectly attributed income to a client's LLC instead of to the client individually as stated on the 1099s resulting in penalties being assessed against the client by the IRS.³

Technical Standards Review Committee

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

1. **Investigation No.:** 17-07-06L **Hometown:** San Antonio, TX
Respondent: William Martin Schuh, Jr. **Certificate No.** 044413
Rule Violation: 501.60
Act Violation: 901.502(6)

Respondent entered into an ACO with the Board whereby Respondent was reprimanded and ordered to pay an administrative penalty of \$1,000 on or before 60 days from the effective date of the Board Order. Respondent was sanctioned by the American Institute of Certified Public Accountants (AICPA) for violating auditing standards in the audit of an employee retirement plan.

2. **Investigation No.:** 17-07-03L **Hometown:** Katy, TX
Respondent: Christopher K. Brenner **Certificate No.:** 033338
Rule Violation: 501.90(7)
Act Violations: 901.502(6), 901.502(12)

Respondent entered into an ACO with the Board whereby Respondent's certificate was suspended by the Board. Respondent may petition the Board to lift the suspension of his certificate at the end of five (5) years from the effective date of the Board Order. Respondent was suspended from practicing before the Securities and Exchange Commission (SEC) as a CPA. The SEC found Respondent: 1) knowingly made material misrepresentations and omissions to individuals and businesses by misleading them about the use of their funds to purchase securities, ostensibly for the purpose of obtaining commercial loans through a business entity Respondent represented; 2) claimed to these individuals that the business entity he represented could arrange commercial loans for them if they deposited cash amounting to 10% of the loan with him, in his capacity as escrow agent and pursuant to written escrow agreements Respondent authored; 3) knowingly misled these individuals and business entities into believing that he would use their money to buy liquid, "government-backed" securities that the business entity he represented would leverage in order to fund a loan; 4) assured the individuals and business entities that if the business entity he represented did not procure the loans within the agreed-upon-time, the individuals and business entities would receive their cash back promptly, and upon successful closing of the loans, they would receive their cash back, together with the loan proceeds; 5) Knowingly made false representations and assurances; 6) did not intend to use, and did not use his clients' funds to purchase liquid or "government-backed" securities and Respondent did not take only the nominal fees set out in the escrow agreements that he authored; 7) siphoned off escrow funds as payment to himself, the business entity he represented and others; 8) purchased volatile, illiquid securities derivatives that lacked meaningful government guarantee; 9) knew that the business entity he represented failed to arrange any loans for any of the individuals and business entities; and 10) diverted at least \$105,000 of his escrow client funds to himself and at least an additional \$490,000 of those funds to the business entity Respondent represented and its associates.⁴

3. **Investigation No.:** 13-01-27L **Hometown:** Fargo, ND
Respondent: Eide Bailly LLP **Firm License No.:** P04889
Rule Violation: 501.60
Act Violation: 901.502(6)

Respondent Firm entered into an ACO with the Board whereby Respondent was reprimanded and ordered to pay an administrative penalty of \$100,000 and administrative costs of \$17,440.07 on or before 60 days from the effective date of the Board Order. Respondent Firm failed to adequately test certain management assumptions in an audit for a Texas-based publicly held company.⁵
4. **Investigation Nos.:** 15-03-11L & 15-05-04L **Hometown:** Austin, TX
Petitioners: Frank Abram Ward & Frank A. Ward, P.C. **Certificate No.:** 021825
Firm License No.: C06423

Petitioners petitioned the Board for reinstatement of their license and certificate by lifting a limitation of scope imposed by the Board in an ACO approved by the Board on September 17, 2015. Petitioners entered into a modified ACO with the Board, whereby Petitioners are allowed to perform the attest function as long as the services were performed with the approval of a pre-issuance reviewer.⁴
5. **Investigation Nos.:** 15-06-06L & 15-06-07L **Hometown:** Longview, TX
Petitioners: Mark Edward Dulweber & Mark E. Dulweber, P.C. **Certificate No.:** 048442
Firm License No.: C05473

Petitioners petitioned the Board for reinstatement of their license and certificate by lifting a limitation of scope imposed by the Board in an ACO approved by the Board on January 14, 2016. Petitioners entered into a modified ACO with the Board, whereby Petitioners are allowed to perform the attest function and are required to obtain an accelerated peer review within one year of the date of the Board Order and are required to submit the results of the accelerated peer review to the Board within 30 days of the Board Order.⁴

B. Administrative Disciplinary Actions

Ms. Hugly moved to approve the following Disciplinary Actions as presented. Ms. Fletcher 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 7)**

Investigation Numbers
17-08-10001 – 17-08-10055
17-09-10001 – 17-09-10051
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 8)**

Investigation Numbers
17-08-10056 – 17-08-10210
17-09-10052 – 17-09-10218

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 9)

Investigation Numbers

17-08-10211 – 17-08-10219

17-09-10219 – 17-09-10228

C. Proposed Default Judgment Board Orders

Dr. Morris moved to approve the following Default Judgment Board Order as presented. Ms. Fletcher seconded the motion and it passed unanimously.

Behavioral Enforcement Committee

Investigation No.:	16-11-27L	Hometown:	Lockhart, TX
Respondent:	Laura May Childers Cline	Certificate No.:	014861
Rule Violations:	501.90(18), 501.93		
Act Violations:	901.502(6), 901.502(12)		

Respondent failed to pay administrative costs and penalties assessed by the Board in a previous Board Order. Respondent, although properly notified of the proposed disciplinary action and her right to a hearing on the matter, failed to request a hearing. The Board ordered the certificate and the license of the Respondent be revoked and that Respondent be assessed an administrative penalty of \$10,000.⁶

Mr. LaFrey moved to approve the following Default Judgment Board Order as presented. Mr. Ingram seconded the motion and it passed unanimously.

Technical Standards Review Committee

Investigation No.:	17-01-15L	Hometown:	Tyler, TX
Respondent:	James W. Bland, P.C.	Firm License No.:	C02864
Rule Violations:	501.81, 501.93, 527.4		
Act Violations:	901.502(6), 901.502(12)		

Respondent Firm was dropped from the AICPA Peer Review Program and failed to respond to Board communications. Respondent, although properly notified of the proposed disciplinary action and their right to a hearing on the matter, failed to request a hearing. The Board ordered the firm license of the Respondent be revoked and that Respondent be assessed an administrative penalty of \$1,000.⁷

XII. Mr. McAdams, Nominating Committee member, presented the following slate of officers for 2018 - 2019:

Timothy L. LaFrey, Esq., CPA, *Assistant Presiding Officer*
Robert M. McAdams, CPA, *Treasurer*
Benjamin Peña, CFE, CPA, *Secretary*
Ross T. Johnson, CPA, *Member-at-large*
Susan Fletcher, *Member-at-large*

Ms. Hugly moved to approve the slate of officers as presented. Dr. Morris seconded the motion, and it passed unanimously.

III-G. At this time, Mr. Cavazos reported that the Executive Committee will present the executive director's performance evaluation at the March 29, 2018 Board meeting for the Board's consideration.

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

XIV. Mr. Cavazos adjourned the meeting at 11:30 a.m.

ATTEST:

Manuel Cavazos IV, Esq., CPA, Presiding Officer

Benjamin Peña, CFE, CPA, Secretary

¹ Mr. Cavazos, Ms. Hugly, Mr. Ingram, Mr. B. Peña, Mr. S. Peña, and Ms. Sharp recused themselves from participating in this matter.

² Mr. Cavazos, Ms. Friel, Mr. Grant, Mr. Johnson, and Mr. McAdams recused themselves from participating in this matter.

³ Ms. Hugly, Mr. Ingram, Mr. LaFrey, and Mr. B. Peña recused themselves from participating in this matter.

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

⁵ Mr. B. Peña, Mr. S. Peña, and Ms. Wilkerson recused themselves from participating in this matter.

⁶ Mr. B. Peña and Mr. LaFrey recused themselves from participating in this matter.

⁷ Mr. Johnson, Mr. S. Peña, and Ms. Wilkerson recused themselves from participating in this matter.