

# Texas State Board of Public Accountancy

## May 17, 2018

The Texas State Board of Public Accountancy met from 10:06 a.m. until 11:35 a.m. on May 17, 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 8:52 a.m. on May 3, 2018. (TRD #2018-005038).  
**(ATTACHMENT 1)**

### Board Members Present

Manuel Cavazos IV, Esq., CPA  
*Presiding Officer*  
Susan Fletcher  
*Executive Committee*  
*Member-at-Large*  
Lisa A. Friel, CPA  
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*  
Steve D. Peña, CPA  
Debra S. Sharp

### Member Absent

Jamie D. Grant  
excused  
Kimberly E. Wilkerson, Esq.  
excused

### Others Present

Coalter Baker, CPA  
Hope Everett, Esq.  
Alan Leonard  
Sean McVey, Esq.  
Carissa Nash  
Craig Nauta  
John Sharbaugh  
Amy Trost

### Staff Present

Paulette Beiter, Esq.  
Roel Cantu  
Ismael Castillo  
Ann Hallam  
Alan Hermanson, CPA  
J. Randel Hill, Esq.  
Donna Hiller  
Natalie Miller  
John D. Moore, Esq.  
Julie Prien  
Marisa Rios  
April Serrano  
William Treacy

- I. Mr. Cavazos, Presiding Officer, called the meeting to order at 10:06 a.m. Mr. Treacy called roll and declared a quorum.  
  
Mr. S. Peña moved to excuse Mr. Grant and Ms. Wilkerson's absence from the Board meeting. Ms. Fletcher seconded the motion and it passed unanimously.
- II. Mr. McAdams moved to approve the March 29, 2018 Board meeting minutes as presented. Dr. Morris seconded the motion and it passed unanimously.
- III. Mr. McAdams, Ad Hoc Audit Committee Chair, reported on the May 16, 2018 committee meeting.

### Members Present

Manuel Cavazos IV, Esq., CPA  
Lisa A. Friel, CPA  
Robert M. McAdams, CPA  
Benjamin Peña, CFE, CPA

### Others Present

Alan Leonard  
Steven Ogle

### Staff Present

Ann Hallam  
Alan Hermanson, CPA  
J. Randel Hill, Esq.  
William Treacy

- Mr. McAdams moved for the internal auditor to conduct a follow-up review of the State Auditor's Office audit issued December 2017 and that the internal audit should begin after completion of the Sunset Review and the Comptroller's Post Payment Audit. Dr. Morris seconded the motion and it passed unanimously.

IV. Mr. Cavazos, Executive Committee Chair, reported on the May 16, 2018 committee meeting.

**Members Present**

Manuel Cavazos IV, Esq., CPA  
Susan Fletcher  
Ross T. Johnson, CPA  
Timothy L. LaFrey, Esq., CPA  
Robert M. McAdams, CPA  
Benjamin Peña, CFE, CPA

**Others Present**

William Lawrence  
Alan Leonard  
Steven Ogle  
John Sharbaugh

**Staff Present**

Paulette Beiter, Esq.  
Ann Hallam  
Alan Hermanson, CPA  
J. Randel Hill, Esq.  
Donna Hiller  
William Treacy

- 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. B. Peña moved to revise the Board's Fund Balance Reserve policy beginning September 1, 2018 to include the total annual amount of the SDSI payment, \$703,344, in the calculation of the fund balance reserve (replacing the former calculation of including 25% of the annual amount). Mr. McAdams seconded the motion and it passed unanimously.
- C. See Agenda Item III for action taken.
- D. Mr. S. Peña moved to approve the Peer Assistance Oversight Committee's report as presented. Mr. Ingram seconded the motion and it passed unanimously. Craig Nauta, Program Director of the TSCPA's Peer Assistance Program was introduced and answered questions from Board Members regarding the program.
- E. The following was reported:
  1. Mr. Treacy reported on correspondence from the Chair of the NASBA Executive Director's Committee regarding alternate pathway to the CPA designation.
  2. NASBA dates of interest:
    - a. Western Regional Meeting – June 26-28, 2018 in Olympic Valley, CA (Lake Tahoe)
    - b. 111<sup>th</sup> Annual Meeting – October 28-31, 2018 in Scottsdale, AZ.

At this time, Mr. Baker, CPA, NASBA Director-at-Large, made a presentation to the Board regarding NASBA activities.
- F. Mr. Cavazos reviewed thank you letters from the public.

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

**April 25, 2018**

**Members Present**

Bennett Allison, CPA  
Patrick Durio, CPA  
James D. Ingram IV, CPA  
Karen W. Jones, CPA  
Benjamin Peña, CFE, CPA  
Steve D. Peña, CPA  
Debra Sharp

**Members Absent**

Donna J. Hugly, CPA

**Staff Present**

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

- A. Dr. Morris moved to dismiss the following investigations based on insufficient evidence of a violation of the *Act* or *Rules*. Ms. Friel seconded the motion and it passed.
  1. **Investigation Nos. 18-03-01L<sup>1</sup> and 18-03-02L<sup>1</sup>**
  2. **Investigation No. 18-01-03L<sup>1</sup>**
  3. **Investigation Nos. 18-02-10L<sup>1</sup> and 18-02-11L<sup>1</sup>**
  4. **Investigation Nos. 17-09-22L<sup>1</sup> and 17-09-23L<sup>1</sup>**
  5. **Investigation Nos. 18-02-12L<sup>1</sup> and 18-02-13L<sup>1</sup>**

6. **Investigation No. 17-09-16L<sup>1</sup>**
  7. **Investigation Nos. 17-09-10L<sup>1</sup> and 17-09-11L<sup>1</sup>**
- B. Ms. Fletcher moved to dismiss **Investigation Nos. 17-07-04L<sup>1</sup> and 17-07-05L<sup>1</sup>** based on voluntary compliance with the *Act* and *Rules*.
- C. Mr. B. Peña reported that the committee considered four other matters that do not require Board action at this time.
- D. The next committee meeting will take place on July 2, 2018 at 9:00 a.m.
- VI. Mr. Johnson, Technical Standards Review Committee chair, reported on the following committee meeting.

**April 19, 2018**

**Members Present**

Lisa Friel, CPA  
Pete Gonzales, CPA  
Jamie Grant  
Jeffrey L. Johanns, CPA  
Ross T. Johnson, CPA  
Dilliana M. Stewart, CPA

**Members Absent**

Robert M. McAdams, CPA

**Others Present**

Alan Leonard  
Carissa Nash

**Staff Present**

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

- A. Mr. Johnson reported that no action was taken on the following investigations:
1. **Investigation No. 17-08-03T**
  2. **Investigation Nos. 17-12-01T, 17-12-02T and 17-12-03T**
- B. Mr. S. Peña moved to grant a waiver request from limitation of scope under *Section 527.5(d)* of the Board's *Rules* in **Investigation No. 18-01-01A<sup>2</sup>**. Ms. Fletcher seconded the motion and it passed.
- C. Mr. B. Peña moved to grant the waiver request from limitation of scope for the following investigations. Mr. S. Peña seconded the motion and it passed.
1. **Investigation Nos. 15-12-18L<sup>2</sup> and 15-10-07L<sup>2</sup>**
  2. **Investigation No. 02-10-19L<sup>2</sup>**
  3. **Investigation No. 14-01-05L<sup>2</sup>**
  4. **Investigation No. 13-08-01L<sup>2</sup>**
- D. The committee considered three other matters that do not require Board action at this time.
- E. The next committee meeting will take place on July 19, 2018 at noon.
- VII. See Agenda Item IV-D for action taken.
- VIII. Ms. Beiter, 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 the Agreed Consent Orders, Administrative Disciplinary Actions, and Proposed Default Judgment Board Orders:
- A. **Agreed Consent Orders**

**Behavioral Enforcement Committee**

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

- |                            |   |                          |                |
|----------------------------|---|--------------------------|----------------|
| <b>Investigation Nos.:</b> | 17-03-01L & 17-03-02L                       | <b>Hometown:</b>         | Fort Worth, TX |
| <b>Respondents:</b>        | William M. McCutchen & Marty McCutchen, CPA | <b>Certificate No.:</b>  | 084829         |
|                            |   | <b>Firm License No.:</b> | R00510         |
| <b>Rule Violation:</b>     | 501.74(b)                                   |                          |                |
| <b>Act Violation:</b>      | 901.502(6)                                  |                          |                |

Respondents entered into an ACO with the Board whereby Respondents were reprimanded. In addition, Respondent must pay \$363.80 in administrative costs within 30 days of the effective date of the Board Order and must complete his already existing continuing professional education (CPE) requirement by completing 40 credits of technical CPE during each of the three years following the effective date of the Board Order, with 20 credits of each year's CPE taken live. Respondents failed to timely address a client's issue with the IRS resulting from supposed late filing of payroll tax returns. Significant penalties were assessed but were later abated and removed in full.<sup>3</sup>

## B. Administrative Disciplinary Actions

Ms. Fletcher 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

17-12-10196 – 17-12-10228  
18-01-10001 – 18-01-10039

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

17-12-10001 – 17-12-10180  
18-01-10040 – 18-01-10201

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

17-12-10181 – 17-12-10195  
18-01-10202 – 18-01-10214

**C. Proposed Default Judgment Board Orders**

Dr. Morris moved to approve the following Proposed Default Judgment Orders as presented. Ms. Friel seconded the motion and it passed unanimously.

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|---|--|---|--|
| <b>1. Investigation No.:</b><br><b>Respondent:</b><br><b>Rule Violations:</b><br><b>Act Violations:</b> | <b>17-08-01L</b><br><b>Mark Thomas Weston</b><br><b>501.90(2), 501.90(10), 501.91(4), 501.93</b><br><b>901.502(6), 901.502(11)</b> | <b>Hometown:</b><br><b>Certificate No.:</b> | <b>Cedar Park, TX</b><br><b>089273</b> |
|---|--|---|--|

Respondent failed to respond to an offer of an ACO by the BEC Committee revoking the Respondent's certificate and license for misappropriating funds using the corporate account and credit cards of a non-profit corporation for personal use in the amount of \$850,000 and for failing to report an agreed judgment in a civil action against him. Respondent, although properly notified of the proposed disciplinary action and his right to a hearing on the matter, failed to request a hearing. Staff recommended the certificate and the license of the Respondent be revoked and that he be assessed an administrative penalty of \$10,000. The Board approved staff's recommendation.<sup>4</sup>

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|---|--|---|---|
| <b>2. Investigation Nos.:</b><br><b>Respondents:</b><br><b>Rule Violations:</b><br><b>Act Violations:</b> | <b>17-09-18L &amp; 17-09-19L</b><br><b>Rita Bernadette Hill &amp;</b><br><b>Rita Bernadette Hill (Firm)</b><br><b>501.74, 501.76, 501.90(12), 501.93</b><br><b>901.502(6), 901.502(11)</b> | <b>Hometown:</b><br><b>Certificate No.:</b><br><b>Firm License No.:</b> | <b>Magnolia, TX</b><br><b>014865</b><br><b>S06413</b> |
|---|--|---|---|

Respondents refused to return records to a client or to his new accountant, failed to return phone calls and did not complete the client's 2015 tax return. Respondents provided incorrect information to the IRS on W2s, filed quarterly reports and tax returns late or did not file them at all and Respondent's individual license is delinquent/expired. Respondents failed to respond to the written communication from the Board of January 25, 2018 offering a proposed ACO. Respondents, although properly notified of the proposed disciplinary action and their right to a hearing on the matter, failed to request a hearing. Staff recommended the certificate and the licenses of the Respondents be revoked and that they be assessed an administrative penalty of \$10,000. The Board approved staff's recommendation.<sup>4</sup>

- XI. Mr. S. Peña moved to adopt the following Board *Rules*. Mr. McAdams seconded the motion and it passed unanimously.

1. *Section 501.90 (Discreditable Acts) (ATTACHMENT 5)*
2. *Section 501.93 (Responses) (ATTACHMENT 6)*
3. *Section 511.57 (Qualified Accounting Courses) (ATTACHMENT 7)*
4. *Section 511.59 (Definition of 150 Semester Hours) (ATTACHMENT 8)*

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

- XIII. Mr. Cavazos adjourned the meeting at 11:35 a.m.

**ATTEST:**

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Manuel Cavazos IV, Esq., CPA, Presiding Officer

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Benjamin Peña, CFE, CPA, Secretary

<sup>1</sup> Mr. Ingram, Mr. B. Peña, Mr. S. Peña and Ms. Sharp recused themselves from participating in this matter.

<sup>2</sup> Ms. Friel, Mr. Johnson, and Mr. McAdams recused themselves from participating in this matter.

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

<sup>4</sup> Mr. Cavazos, Ms. Hugly, Mr. Ingram, Mr. B. Peña, Mr. S. Peña and Ms. Sharp recused themselves from participating in this matter.