

Texas State Board of Public Accountancy

January 24, 2019

The Texas State Board of Public Accountancy met from 10:00 a.m. until 11:55 a.m. on January 24, 2019 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 11:52 a.m. on January 11, 2019. (TRD #2019-000237).
(ATTACHMENT 1)

Board Members Present

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

Members Absent

Susan Fletcher
excused
James D. Ingram IV, CPA
excused
William Lawrence
excused
Steve D. Peña, CPA
excused

Others Present

John Charles Cooley
Jill Dilbeck
James B. Lewis
John Sharbaugh

Staff Present

Bryce Beasley
Paulette Beiter, Esq.
Roel Cantu
Ismael Castillo
Alan Hermanson, CPA
J. Randel Hill, Esq.
Donna Hiller
Alexis Holliday
Kyle McGaw
John Moore, Esq.
Marisa Rios
April Serrano
Jon 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.

Mr. B. Peña moved to excuse Mr. S. Peña, Ms. Fletcher, Mr. Ingram and Mr. Lawrence's absences from the Board meeting. Mr. Grant seconded the motion and it passed unanimously.
- II. Mr. McAdams moved to approve the November 15, 2018 Board meeting minutes as presented. Ms. Friel seconded the motion and it passed unanimously.
- III. After a call for public comments, there were no comments from the public.
- IV. Mr. Cavazos, Executive Committee Chair, reported on the January 23, 2019 committee meeting.

Members Present

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

Member Absent

Susan Fletcher

Others Present

John Charles Cooley
James Lewis
John Sharbaugh

Staff Present

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

- A. Dr. Morris moved to approve the November FY 2018 financial statements as presented. Ms. Friel seconded the motion and it passed unanimously.
- B. Mr. B. Peña moved to accept the Board's Affirmative Action Report – CY 2018 as presented. Ms. Wilkerson seconded the motion and it passed unanimously.
- C. Mr. Treacy reported on NASBA dates of interest:

1. 37th Executive Directors Conference – March 26-28, 2019 – San Antonio, TX.
2. 24th Annual Conference for Board of Accountancy Legal Counsel – March 26-28, 2019 – San Antonio, TX.
3. Western Regional Meeting – June 18-20, 2019 – Salt Lake City, UT.
4. 112th Annual Meeting – October 27-30, 2019 – Boston, MA.

D. Mr. Cavazos reviewed thank you letters from the public.

E. The Board congratulated Ismael Castillo on his service to the Board and on his retirement.

V. Dr. Morris, Qualifications Committee chair, reported on the following committee meeting:

January 16, 2019

Members Present

Manuel Cavazos IV, Esq., CPA
James Flagg, Ph.D., CPA
Sandra Gates, CPA
J. Kamas, CPA
Robert M. McAdams, CPA
Roselyn E. Morris, Ph.D., CPA
Melanie Thompson, CPA

Member Absent

Benjamin Peña, CFE, CPA

Others Present

Wayne Thomas
Beth Stetson

Staff Present

Gilbert Gutierrez
J. Randel Hill, Esq.
Donna Hiller – Liaison
Alexis Holliday
William Treacy

A. Dr. Morris reported on the Fifth-Year Accounting Student Scholarship program for FY 2019 including an annual statistical report containing scholarship information by academic years 2011-2018. This report was sent to the Lieutenant Governor and Speaker of the House as required by statute.

B. Dr. Morris reported on the exam candidate fingerprint process and ACAN referrals for CPA examination candidates and individuals applying for the CPA certificate and the procedures in place to conduct their character investigations.

C. Dr. Morris reported on the committee's review of Board *Rules 511.72 (Uniform Examination)* and *511.102 (CPA Examination Availability)* in preparation of the changes to the Uniform Accountancy Act Model Rules as it relates to continuous testing of the CPA examination and the elimination of testing windows. The *Rules* were referred to the Rules Committee for their consideration.

D. Dr. Morris informed the Board that the committee tabled further discussion of the Board's requirement for 15 semester hours of level accounting courses taken in traditional face-to-face courses until additional information can be obtained from the research of John D. Morgan of Winona State University.

E. Dr. Morris reported that the committee reviewed correspondence from NASBA about the CPA Evolution Working Group.

VI. Ms. Hugly reported on the Board's December 1, 2018 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:

July 2, 2018

Members Present

Bennett Allison, CPA
Donna J. Hugly, CPA
James D. Ingram IV, CPA
Karen W. Jones, CPA
Benjamin Peña, CFE, CPA
Steve D. Peña, CPA
Debra Sharp

Member Absent

Patrick Durio, CPA

Staff Present

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

A. Mr. McAdams moved to dismiss the following investigations based on voluntary compliance with the *Act* or *Rules*. Mr. Grant seconded the motion and it passed.

1. **Investigation No. 18-04-10L¹**
2. **Investigation No. 18-04-09L¹**
3. **Investigation No. 18-03-12L¹**

D. The next committee meeting was scheduled for February 7, 2019 at 9:15 a.m.

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

November 15, 2018

Members Present

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

Staff Present

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

A. Ms. Hugly moved that the petitions to lift the limitation of scope be granted in the following matters. Dr. Morris seconded the motion and it passed.

1. **Investigation Nos. 16-03-07L², 16-03-08L² and 16-03-09L²**
2. **Investigation No. 18-06-01A²**

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

C. The next committee meeting was scheduled for January 24, 2019 at noon.

IX. Mr. Hill, General Counsel, 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 and Administrative Disciplinary Actions:

A. Agreed Consent Orders

Behavioral Enforcement Committee

Ms. Friel moved to approve the following ACOs as presented. Mr. McAdams seconded the motion and it passed.

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|---|--|--|
| 1. Investigation No.:
Respondent:
Rule Violation:
Act Violation: | 18-07-11L
Brian Bleifeld
501.74(b)
901.502(6) | Hometown: Humble, Texas
Certificate No.: 079806 |
|---|--|--|

Respondent entered into an ACO with the Board whereby Respondent was reprimanded. In addition, Respondent must pay an administrative penalty of \$500 and \$419.10 in administrative costs within 30 days of the date of the Board Order. Respondent failed to file an extension for a state tax return.³

- | | | |
|---|--|---|
| 2. Investigation Nos.:
Respondents:

Rule Violation:
Act Violation: | 17-08-09L & 17-08-10L
Jill Denise Dilbeck &
Dilbeck CPA PLLC
501.74(b)
901.502(6) | Hometown: San Marcos, Texas
Certificate No.: 097032
Firm License No.: C08734 |
|---|--|---|

Respondent entered into an ACO with the Board whereby Respondents were reprimanded and ordered to pay \$235.40 in administrative costs within 30 days of the date of the Board Order. In addition, Respondent must complete eight hours of live continuing professional education (CPE) in the area of partnership tax as part of Respondent's annual CPE requirement within 90 days of the date of the Board Order and must take a live ethics CPE course to satisfy the CPE ethics requirement.

Respondents issued a preliminary K-1 to accommodate a member's need to file his individual return on time. Respondents failed to file a timely extension for a business client because there was a new deadline in 2016 for an LLC. The IRS provided for penalty relief for partnership returns that were filed late in 2017 for the 2016 return.³

Technical Standards Review Committee

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

- 1. Investigation No.: 18-08-04L Hometown: Tyler, Texas**
Respondent: Randy L. Turner Certificate No.: 082711
Rule Violation: 501.60

Respondent entered into an ACO with the Board whereby Respondent surrendered his certificate in lieu of further disciplinary action. Respondent signed an audit report in the name of a firm other than the firm he was a member of without proper authority.
- 2. Respondent: Jeffrey W. Tomz Hometown: The Woodlands, Texas**
Rule Violation: 501.90(7) Certificate No.: 067549
Act Violation: 901.502(6)

Respondent entered into an ACO with the Board whereby Respondent received a four-year probated suspension and was ordered to pay a \$25,000 administrative penalty in four installments and \$258.60 in administrative costs. Respondent was also placed on limited scope status prohibiting Respondent, while in the client practice of public accountancy, from performing audits, compilations and reviews and signing off on financial statements on behalf of a company wherein he would be representing to the auditor that the company's financials are, to the best of his knowledge, accurate. Respondent is not prevented, however, from signing off on the financials on behalf of a company not in the client practice of public accountancy. Respondent was denied the privilege of practicing or appearing before the Securities and Exchange Commission as an accountant for a period of four years.⁴
- 3. Investigation Nos.: 16-07-02L and 16-07-03L Hometown: Pflugerville, Texas**
Respondents: Anthony Oluyinka Certificate No.: 037666
Adeagbo Tegbe & Firm License No.: T03191
Anthony O. Tegbe, CPA

Respondents entered into an ACO with the Board whereby Respondents' certificate and licenses were reinstated and Respondents were placed on limited scope prohibiting them from performing audits, compilations and reviews. Respondents' certificate and licenses had been previously revoked on October 26, 2016 for violating the terms of a previous ACO in the above referenced investigations. Respondents issued audited financial statements without obtaining a pre-issuance review as required by the previous ACO.⁴
- 4. Investigation Nos.: 18-04-03L and 18-04-04L Hometown: McAllen, Texas**
Respondent: Guillermo Reyna Certificate No.: 073579
Rule Violation: 501.81
Act Violations: 901.351, 901.460, 901.502(6), 901.502(12)

Respondent entered into an ACO with the Board whereby Respondent's license was suspended for a period of two years, however, the suspension was stayed and Respondent's license was placed on probation for a period of 2 years. In addition, Respondent was ordered to pay a \$10,000 administrative penalty in installments of at least \$400 per month and \$437 in administrative costs. Respondent issued audit reports for a water supply corporation and a city without a firm license.⁴
- 5. Investigation No.: 18-10-01L Hometown: Dallas, Texas**
Respondent: Paul David Waggoner Certificate No.: 045026
Rule Violation: 501.81
Act Violations: 901.502(6), 901.502(12)

Respondent entered into an ACO with the Board whereby Respondent was reprimanded. In addition, Respondent was ordered to pay a \$2,000 administrative penalty and \$163.88 in administrative costs within 30 days of the date of the Board Order. Respondent issued reviewed financial statements through an entity not registered with the Board.⁴

Unauthorized Practice of Public Accountancy

Ms. Friel moved to approve the following ACOs as presented. Ms. Hugly seconded the motion and it passed.

1. **Investigation No.:** 18-11-09N **Hometown:** Missouri City, Texas
Respondent: Mario R. Commito
Act Violations: 901.451 and 901.453

Respondent entered into an ACO with the Board whereby Respondent agreed to cease from holding out as a CPA, engaging in the practice of public accountancy including, but not limited to, the use of the terms "CPA," "accountant," "auditor," "accounting services," and "auditing services." This also includes the performance or offer to perform attest services. Respondent held out as a CPA and offered services to the public that involve the use of accounting, attest, and auditing skills, including the issuance of an audit report for Texas Gulf Coast Figure Skating Club (TGCFSC) as well as a sworn affidavit for the TGCFSC Ft. Bend Case #17-5286, without an individual license or firm license issued by this Board.

2. **Investigation No.:** 18-10-25N **Hometown:** Dallas, Texas
Respondent: Karin Muñoz
Act Violations: 901.351 and 901.451

Respondent entered into an ACO with the Board whereby Respondent agreed to cease from engaging in the practice of public accountancy including, but not limited to, the use of the terms "accountant," "auditor," "accounting services," and "auditing services." This also includes the performance or offer to perform attest services. Respondent offered services to the public that involve the use of accounting, attest, and auditing skills, including issuing an audit report for the lawsuit styled as Jay Thomas vs. Jerry Sachse, et al., Cause No. DC-17-14825 without an individual license or firm license issued by this Board.

3. **Investigation No.:** 18-10-26N **Hometown:** Houston, Texas
Respondent: Michelle Wolpert
Act Violations: 901.351 and 901.451

Respondent entered into an ACO with the Board whereby Respondent agreed to cease from engaging in the practice of public accountancy including, but not limited to, the use of the terms "accountant," "auditor," "accounting services," and "auditing services." This also includes the performance or offer to perform attest services. Respondent offered services to the public that involved the use of accounting, attest and auditing skills, including issuing two audit reports for Texas Homeowners Associations without an individual license or firm license issued by this Board.

B. Administrative Disciplinary Actions

Ms. Hugly moved to approve the following Disciplinary Actions as presented. Ms. Sharp 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

18-08-10001 - 18-08-10006
18-09-10001 - 18-09-10047

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

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

18-08-10007 - 18-08-10164

18-09-10048 - 18-09-10215

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

18-08-10165 - 18-08-10191

18-09-10216 - 18-09-10228

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

XIII. Mr. Cavazos adjourned the meeting at 10:55 a.m.

ATTEST:

Manuel Cavazos IV, Esq., CPA, Presiding Officer

Benjamin Peña, CFE, CPA, Secretary

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

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

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

⁴ Mr. Cavazos, Ms. Friel, Mr. Grant, Mr. Johnson and Mr. McAdams recused themselves from participating in this matter.