

Texas State Board of Public Accountancy

May 16, 2019

The Texas State Board of Public Accountancy met from 10:00 a.m. until 12:13 p.m. on May 16, 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 8:42 a.m. on May 6, 2019. (TRD #2019-002616). **(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
 Robert M. McAdams, CPA
Treasurer
 Roselyn E. Morris, Ph.D., CPA
 Benjamin Peña, CFE, CPA
Secretary
 Steve D. Peña, CPA
 Debra S. Sharp

Members Absent

William Lawrence
 Excused
 Kimberly E. Wilkerson, Esq.
 Excused

Others Present

Ann Oneal
 John Sharbaugh

Staff Present

Paulette Beiter, Esq.
 Roel Cantu
 Rhonda Fellner
 Ann Hallam, PMP
 Alan Hermanson, CPA
 J. Randel Hill, Esq.
 Donna Hiller
 Alexis Holliday
 Kyle McGaw
 John 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.

 Mr. B. Peña moved to excuse Mr. Lawrence and Ms. Wilkerson's absences from the Board meeting. Ms. Friel seconded the motion and it passed unanimously.
- II. Dr. Morris moved to approve the March 21st, 2019 Board meeting minutes as presented. Mr. Grant 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 May 15, 2019 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

John Sharbaugh

Staff Present

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

- A. Mr. B. Peña moved to approve the March FY 2019 financial statements as presented. Ms. Fletcher seconded the motion and it passed unanimously.
- B. Mr. Treacy reported on Items of Interest from the 86th Legislative Session (2019) including House Bill 1520 and other bills of interest.
- C. Mr. McAdams reported on the Budget Plan for FY 2020.

D. Mr. Treacy reported on NASBA/AICPA matters:

1. NASBA dates of interest

- a) Western Regional Meeting – June 18-20, 2019 – Salt Lake City, UT.
- b) 112th Annual Meeting – October 27-30, 2019 – Boston, MA.

2. NASBA's 37th Annual Executive Directors Conference and 24th Annual Conference for Board of Accountancy Legal Counsel – March 26-28, 2019 in San Antonio, TX.

E. Mr. Cavazos reviewed general correspondence and thank you letters from the public.

F. Mr. Cavazos reviewed the Texas Workforce Commission Civil Rights Division's *Review of Personnel Policies and Procedures Systems*.

G. Mr. B. Peña moved to authorize the Executive Director to have the proposed revision to Board *Rule 507.3 (Independent Contractors)* be published in the *Texas Register* for public comment. Mr. Ingram seconded the motion and it passed unanimously. **(ATTACHMENT 2)**

H. Mr. McAdams moved to approve the written process for the *Agency-Wide Contract Development and Solicitations Process for Professional Services Contracts*. Mr. Grant seconded the motion and it passed unanimously.

I. Mr. McAdams, Treasurer, presented the following FY 2019 professional service contract for discussion:

FY 2019 contract:

- The Dove Firm PLLC 5/16/2019 – 8/31/2019 \$25,000

Mr. B. Peña moved to ratify the FY 2019 professional service contract. Mr. McAdams second the motion and it passed unanimously.

J. Mr. Cavazos reported that the discussion of the Executive Director's evaluation process would be addressed at the end of the meeting.

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

May 15, 2019

Members Present

Manuel Cavazos IV, CPA
(*ex officio*)
James Flagg, Ph.D., CPA
Susan Fletcher
J. Kamas, CPA
Robert M. McAdams, CPA
Roselyn Morris, Ph.D., CPA
Benjamin Peña, CFE, CPA
Melanie Thompson, CPA

Member Absent

Sandra Gates, CPA

Staff Present

Paulette Beiter, Esq.
Gilbert Gutierrez
Alan Hermanson, CPA
J. Randel Hill, Esq.
Donna Hiller
Alexis Holliday
Marisa Rios
William Treacy
Dan Weaver

- A. Dr. Morris reported on the review of Board *Rule 511.121 (Application for Approval of Experience)*, and does not recommend any amendments to the *Rule*.
- B. Dr. Morris moved that Board *Rule 511.122 (Acceptable Work Experience)*, as amended by the Board, be referred to the Rules Committee for consideration. Ms. Sharp seconded the motion and it passed unanimously.
- C. Dr. Morris moved that Board *Rule 511.123 (Reporting Work Experience)*, be referred to the Rules Committee for consideration. Ms. Sharp seconded the motion and it passed unanimously.
- D. Dr. Morris reported on the review of Board *Rule 511.124 (Acceptable Supervision)*, and does not recommend any amendments to the *Rule*.

E. Dr. Morris reported on exam/qualifications statistics.

VI. Ms. Fletcher, Constructive Enforcement Committee Chair, reported on the following committee meeting:

May 15, 2019

Members Present

Manuel Cavazos IV, Esq., CPA
(*ex officio*)
Susan Fletcher
Connie Clark, CPA
John Eads, CPA
Ross Johnson, CPA

Members Absent

William Lawrence
Stanley E. Winters, CPA

Others Present

Roselyn Morris, Ph.D., CPA

Staff Present

Bryce Beasley
Paulette Beiter, Esq.
J. Franco
J. Randel Hill, Esq.
Alexis Holliday
John Moore, Esq.
William Treacy
Dan Weaver

- A. Ms. Fletcher reported on the organization overview and update of the Constructive Enforcement Program.
- B. Ms. Fletcher reported that the committee reviewed Board *Rule 511.122 (Acceptable Work Experience)* relating to acceptable work experience that qualifies an applicant to become a CPA and referred it to the Qualifications Committee for review.
- C. Ms. Fletcher reported on the discussion concerning the use of accounting or similar terms that might suggest an expertise in accounting or audit by an unlicensed firm and the committee's decision to continue to not permit unlicensed firms, even with CPA ownership, to describe their services as accounting services.
- D. Ms. Fletcher moved that the Board take no further action against the Respondent in this matter and that it should not be referred to the local sheriff's office, as it was resolved in a prior Board meeting by Agreed Consent Order and no new evidence was presented. Mr. McAdams seconded the motion and it passed unanimously.

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

April 23, 2019

Members Present

Benjamin Peña, CFE, CPA
Bennett Allison, CPA
Patrick Durio, CPA
Donna J. Hugly, CPA
James D. Ingram, IV, CPA
John Pearce, Esq., CPA
Debra Sharp

Members Absent

Karen Jones, CPA
Steve Peña, CPA

Staff Present

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

- A. Mr. McAdams moved to dismiss the following investigations based upon insufficient evidence of a violation of the *Act* or the *Rules*. Ms. Fletcher seconded the motion and it passed.
 - 1. Investigation Nos. 18-12-03L & 18-12-04L¹
 - 2. Investigation Nos. 19-01-01L & 19-01-02L¹
 - 3. Investigation Nos. 19-01-16L & 19-01-17L & 19-03-12L¹
 - 4. Investigation Nos. 19-02-06L & 19-02-07L¹
 - 5. Investigation No. 19-01-07L¹
 - 6. Investigation No. 19-02-03L¹
- B. Other – The committee considered 12 other matters during its meeting; however, these matters do not require Board action at this time.
- C. The next committee meeting was scheduled for June 26, 2019 at 9:15 a.m.

- VIII. Mr. Johnson, Technical Standards Review Committee Chair, reported on the following committee meeting:

January 24, 2019

Members Present

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

Staff Present

J. Randel Hill, Esq.
Alexis Holliday
John Moore, Esq.
William Treacy

- A. Mr. B. Peña moved to dismiss the following investigation based upon insufficient evidence of a violation of the *Act* or the *Rules*. Mr. S. Peña seconded the motion and it passed.

- **Investigation No. 13-01-21L²**

- B. The next committee meeting was scheduled for May 16, 2019 at 11:30 a.m.

- IX. Mr. Weaver, Board staff, reported on the status of the Unauthorized Practice of Public Accountancy Division.
- X. Mr. Hill, General Counsel, reported on the status of the Enforcement Division's probation monitoring program.
- XI. The Board took the following actions on Administrative Disciplinary Actions and a Proposal for Decision:

A. Administrative Disciplinary Actions

Mr. S. Peña moved to approve the following Disciplinary Actions as presented. Mr. B. Peña 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 3)**

Investigation Numbers

18-12-10001 - 18-12-10036
19-01-10001 - 19-01-10045

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 *Act Section 901.411 (Continuing Professional Education)*. The Respondents, although 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 4)**

Investigation Numbers

18-12-10037 - 18-12-10221
19-01-10046 - 19-01-10241

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 5)

Investigation Numbers

18-12-10222 – 18-12-10234

19-01-10242 – 19-01-10258

B. Proposal for Decision

Ms. Fletcher moved to approve the following Proposal for Decision as recommended by an administrative law Judge of the State Office of Administrative Hearings. Dr. Morris seconded the motion and it passed.

• Investigation Nos.:	13-05-02L, 13-11-18L 13-11-19L & 13-11-20L³	Hometowns: San Antonio & Austin, Texas
SOAH Docket No.:	457-16-1650	Certificate Nos.: 081643, 071441 & 026775
Respondents:	Padgett, Stratemann & Co., LLP, Randall Vincent Carswell, Brett Aron Siegfried Lester Floyd Sprouse	Firm License No.: P04495

The State Office of Administrative Hearings Administrative Law Judge (ALJ) issued a Proposal for Decision (PFD) recommending that the complaint against Respondents be dismissed. The Board adopted the recommendations contained in the ALJ's PFD.

XII. Mr. McAdams moved to adopt the following Board *Rules* as presented on second reading. Ms. Fletcher seconded the motion and it passed unanimously. *Section 501.91 (Reportable Events)* was tabled.

1. *Section 501.82 (Advertising) (ATTACHMENT 6)*
2. *Section 511.22 (Initial Filing of the Application of Intent) (ATTACHMENT 7)*
3. *Section 511.72 (Uniform Examination) (ATTACHMENT 8)*
4. *Section 511.102 (CPA Examination Availability) (ATTACHMENT 9)*
5. *Section 519.2 (Definitions) (ATTACHMENT 10)*
6. *Section 519.29 (Voluntary Surrender of Certificate) (ATTACHMENT 11)*
7. *Section 519.72 (Decisions and Orders) (ATTACHMENT 12)*
8. *Section 519.91 (Judicial Review) (ATTACHMENT 13)*
9. *Section 523.112 (Required CPE Participation) (ATTACHMENT 14)*

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

XIV. Mr. Cavazos announced that the Board was going into executive session pursuant to *Section 551.074(a)(1)* of the *Texas Government Code* to evaluate the performance and discuss the duties of the Executive Director. Mr. Cavazos announced the time as 11:49 a.m. The Board came out of executive session and Mr. Cavazos announced the time as 12:13 p.m. Following the announcement the Board considered the following motion:

Mr. LaFrey moved to approve a one-time salary adjustment of \$10,000 for the Executive Director effective June 1, 2019 and a \$15,000 per year salary increase effective May 1, 2019. Ms. Fletcher seconded the motion and it passed unanimously.

XV. Mr. Cavazos adjourned the meeting at 12:13 p.m.

ATTEST:

Manuel Cavazos IV, Esq., CPA, Presiding Officer

Benjamin Peña, CFE, CPA, Secretary

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

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

³Mr. Johnson, Ms. Friel, Mr. Grant, Mr. McAdams, and Mr. S. Peña recused themselves from participating in this matter.