

Texas State Board of Public Accountancy

July 18, 2019

The Texas State Board of Public Accountancy met from 10:00 a.m. until 11:15 a.m. on July 18, 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 3:35 p.m. on July 8, 2019. (TRD #2019-004011). **(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
 Roselyn E. Morris, Ph.D., CPA
 Benjamin Peña, CFE, CPA
Secretary
 Debra S. Sharp

Members Absent

Robert M. McAdams, CPA
Treasurer
 Excused
 Steve D. Peña, CPA
 Excused
 Kimberly E. Wilkerson, Esq.
 Excused

Others Present

John Sharbaugh

Staff Present

Roel Cantu
 Ismael Castillo
 Jennifer Costilla
 Patrick Doré
 Megan Gloetzner
 Ann Hallam, PMP
 Alan Hermanson, CPA
 J. Randel Hill, Esq.
 Donna Hiller
 Jean Ickes
 John Moore, Esq.
 Julie Prien
 Marisa Rios
 April Serrano
 Andrea 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 the absences of Mr. McAdams, Mr. S. Peña, and Ms. Wilkerson from the Board meeting. Ms. Fletcher seconded the motion and it passed unanimously.

- II. Dr. Morris moved to approve the May 16, 2019 Board meeting minutes as presented. Ms. Fletcher seconded the motion and it passed unanimously.

At this time, Mr. Cavazos presented the following staff members with service award plaques:

Julie Prien – 5-year service award
 Daniel Weaver – 5-year service award
 Patrick Doré – 10-year service award
 Donna Hiller – 45-year service award

The Board also congratulated Jean Ickes on her 41 years of service to the Board and on her retirement.

- III. After a call for public comments, there were no comments from the public.
- IV. Mr. Cavazos, Executive Committee Chair, reported on the July 17, 2019 committee meeting.

Members Present

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

Member Absent

Robert M. McAdams, CPA

Others Present

John Sharbaugh

Staff Present

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

- A. Mr. B. Peña moved to approve the Board's financial statements as presented. Mr. Grant seconded the motion and it passed unanimously.

B. Fiscal Matters:

1. Mr. B. Peña moved to approve the Board's FY 2020 Budget materials as presented. Ms. Hugly seconded the motion and it passed unanimously.

The FY 2020 budget includes fee increases for the individual license fee (from \$56 to \$65), the firm license fee (from \$50 to \$60) and the Exam Section fee (from \$10 to \$15 per part). Additionally, the budget includes a reduction of the Enforcement Reserve portion of the Board Fund Balance Reserve Policy from \$500,000 to \$350,000.

2. Mr. B. Peña moved to approve the Board's FY 2020 Scholarship Allocation in the amount of \$750,000. Mr. Lawrence seconded the motion and it passed unanimously.

- C. Mr. Cavazos discussed the internal audit plan. Staff was directed to review areas for possible internal audits and to report to the Committee at the September 2019 meeting.

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

1. NASBA dates of interest:
 - a. Report from the Western Regional Meeting – June 18-20, 2019 – Salt Lake City, UT – Mr. Prothro, former TSBPA Presiding Officer, was nominated to the NASBA Nominating Committee representing the Southwest Region and Mr. Cavazos was nominated to the alternate position on the Nominating Committee representing the Southwest Region.
 - b. 112th Annual Meeting – October 27-30, 2019 – Boston, MA.
2. Mr. Treacy reported that the CPA Evolution Guiding Principles was a topic of discussion at the Western Regional Meeting. The Board will prepare a response to the request for comment on or before the requested August 9, 2019 deadline.

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

V. Mr. LaFrey, Rules Committee Chair, reported on the July 17, 2019 committee meeting.

Members Present

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

Member Absent

Steve Peña, CPA

Others Present

Susan Fletcher
Gary McIntosh, CPA
John Sharbaugh

Staff Present

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

- A. Mr. LaFrey reported that *Rule 501.91 (Reportable Events)* was tabled.
- B. Mr. LaFrey moved to authorize the executive director to have proposed *Rules 511.122 (Acceptable Work Experience)* and *511.123 (Reporting Work Experience)* amendments published in the *Texas Register* for public comment. Mr. Ingram seconded the motion and it passed unanimously. **(ATTACHMENT 2)**
- C. Mr. LaFrey moved to authorize the executive director to have the proposed amendments to *Rules 515.1 (License)*, *515.2 (Initial License)*, *515.3 (License Renewals for Individuals and Firm Offices)*, *515.5 (Reinstatement of a Certificate or License in the Absence of a Violation of the Board's Rules of Professional Conduct)*, *515.8 (Retired or Disability Status)*, *513.11 (Qualifications for Non-CPA Owners of Firm License Holders)*, *513.15 (Firm Offices)* and the proposed repeal of *515.10 (Licenses for Individuals with Defaulted Student Loans)* published in the *Texas Register* for public comment as revised by the Committee. Mr. Ingram seconded the motion and it passed unanimously. **(ATTACHMENT 3)**
- D. Mr. LaFrey moved to authorize the executive director to have the proposed *Rule 519.2 (Definitions)* amendment published in the *Texas Register* for public comment. Mr. Ingram seconded the motion and it passed unanimously. **(ATTACHMENT 4)**

- E. Mr. LaFrey moved to authorize the executive director to have the proposed **NEW Rule 519.13** (*Direct Administrative Costs*) published in the *Texas Register* for public comment. Mr. Ingram seconded the motion and it passed unanimously. **(ATTACHMENT 5)**
- F. Mr. LaFrey moved to authorize the executive director to have the proposed **Rule 519.20** (*Complaints*) amendment published in the *Texas Register* for public comment. Mr. Ingram seconded the motion and it passed unanimously. **(ATTACHMENT 6)**
- G. Mr. LaFrey moved to authorize the executive director to have the proposed amendments to **Rules 527.1** (*Establishment of Peer Review Program*) and **527.2** (*Definitions*), and proposed new Board **Rule 527.12** (*Engagement Reviews and System Reviews*) published in the *Texas Register* for public comment. Mr. Ingram seconded the motion and it passed unanimously. **(ATTACHMENT 7)**
- H. Mr. LaFrey moved to authorize the executive director to have the proposed **Rules 511.21** (*Examination Application*) and **512.1** (*Certification as a Certified Public Accountant by Reciprocity*) amendments published in the *Texas Register* for public comment. Mr. Ingram seconded the motion and it passed unanimously. **(ATTACHMENT 8)**
- VI. Mr. Cavazos reported on the Board's Swearing-in Ceremony held May 25, 2019 at the Palmer Events Center.
- VII. Mr. B. Peña, Behavioral Enforcement Committee Chair, reported on the following committee meetings:

April 23, 2019

Members Present

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

Members Absent

Karen Jones, CPA
Steve Peña, CPA

Staff Present

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

- A. Mr. LaFrey moved to dismiss **Investigation Nos. 19-01-14L¹** and **19-01-15L¹** based on voluntary compliance. Mr. Grant seconded the motion and it passed.
- 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.

June 26, 2019

Members Present

Bennett Allison, CPA
Patrick Durio, CPA
Donna Hugly, CPA
James D. Ingram IV, CPA
Karen Jones, CPA
John Pearce, Esq., CPA
Benjamin Peña, CFE, CPA

Members Absent

Steve Peña, CPA
Debra Sharp

Staff Present

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

- A. Mr. LaFrey moved to dismiss **Investigation Nos. 19-05-02L²** and **19-05-03L²** based upon insufficient evidence of a violation of the *Act* or the *Rules*. Ms. Fletcher seconded the motion and it passed.
- B. Other – The committee considered 15 other matters during its meeting; however, these matters do not require Board action at this time.
- C. The next committee meeting was scheduled for September 18, 2019 at 9:15 a.m.

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

May 16, 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.
John Moore, Esq.

- A. Ms. Hugly moved to dismiss **Investigation Nos. 18-12-14L³** and **18-12-15L³** based upon insufficient evidence of a violation of the *Act* or the *Rules*. Mr. B. Peña seconded the motion and it passed.
 - B. Other – The committee considered six other matters during its meeting; however, these matters do not require Board action at this time.
 - C. The next committee meeting was scheduled for July 18, 2019 at 11:30 a.m.
- IX. Mr. Weaver, Board staff, reported on the status of the Unauthorized Practice of Public Accountancy Program.
- 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 Agreed Consent Orders and Administrative Disciplinary Actions:

A. Agreed Consent Orders:

Behavioral Enforcement Committee

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

1. **Investigation Nos.:** 19-02-04L and 19-02-05L
Respondents: Mark Thomas Andersen & Andersen Accounting & Advisory PLLC
Rule Violations: 501.74(b), 501.75
Act Violation: 901.502(6)
Hometown: Pearland, TX
Certificate No.: 091557
Firm License No.: C10247

Respondents entered into an ACO with the Board whereby Respondents were reprimanded. Respondents must also complete and submit proof of completion of eight hours of live continuing professional education (CPE) in the area of Statements on Standards for Accounting and Review Services update. This requirement is in addition to Respondent's annual CPE requirement and must be completed within 180 days of the date of the Board Order. In addition, Respondents must pay \$499.48 in administrative costs and \$1,000 in administrative penalties within 30 days of the date of the Board Order. Respondents disclosed confidential client communication and prepared financial statements without the required "no assurance" language.
2. **Investigation No.:** 19-01-13L
Respondent: Gilberto Iracheta
Rule Violations: 501.90(2), 501.90(10)
Act Violations: 901.502(2), 901.502(6), 901.502(11)
Hometown: Humble, TX
Certificate No.: 103748

Respondent entered into an ACO with the Board whereby Respondent's certificate was revoked. Respondent misappropriated funds from his employer.
3. **Investigation Nos.:** 18-11-06L and 18-11-07L
Respondents: Krista Sue Kelley and FMG CPA, LLC
Rule Violations: 501.74(b), 501.90(12)
Act Violation: 901.502(6)
Hometown: Alpine, TX
Certificate No.: 083342
Firm License No.: C09368

Respondents entered into an ACO with the Board whereby Respondents were reprimanded. In addition, Respondent must pay an administrative penalty of \$500 and \$568.53 in administrative costs within 30 days of the date of the Board Order and reimburse Complainant \$2,678.92 for penalties

assessed by the IRS and provide proof of payment within 30 days of the date of the Board Order. Respondents failed to e-file a client's tax return and failed to respond to a client's inquiries regarding the filing of her return within a reasonable time without good cause.

4. **Investigation Nos.:** 19-01-05L and 19-01-06L **Hometown:** Round Rock, TX
Respondents: Joshua David Ray and **Certificate No.:** 098769
Ray CPA, P.C. **Firm License No.:** C08057
Rule Violation: 501.75
Act Violation: 901.502(6)

Respondents entered into an ACO with the Board whereby Respondents were reprimanded. In addition, Respondent must pay \$308.28 in administrative costs within 30 days of the date of the Board Order. Respondent must also complete and submit proof of completion of four hours of live CPE in the area of ethics during the current licensing period and the following licensing period. Respondents disclosed confidential client information.

5. **Investigation No.:** 19-04-20L **Hometown:** Ft. Lauderdale, FL
Respondent: Gregory Robert Seward **Certificate No.:** 035996
Rule Violation: 501.90(4)
Act Violations: 901.502(6), 901.502(10), 901.502(11)

Respondent entered into an ACO with the Board whereby Respondent was revoked in lieu of further disciplinary action. Respondent pleaded no contest to felony DUI on February 6, 2018.

Technical Standards Committee

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

1. **Investigation No.:** 18-08-03L **Hometown:** Dallas, TX
Respondent: Don B. Morris **Certificate No.:** 006878
Rule Violations: 501.60, 501.61, 501.70, 501.81
Act Violations: 901.401, 901.460, 901.502(6), 901.502(11)

Respondent entered into an ACO with the Board whereby Respondent was reprimanded and his certificate and license were placed on limited scope status. In addition, Respondent must pay an administrative penalty of \$2,500 and \$163.88 in administrative costs within 30 days of the date of the Board Order. Respondent issued a compliance attestation and audit report without a firm license, which failed to adhere to government auditing standards and generally accepted auditing standards (GAAS) and independence requirements.

2. **Investigation Nos.:** 18-12-12L & 18-12-13L **Hometown:** Amarillo, TX
Respondents: Dennis Wayne Dockery **Certificate No.:** 057890
& Dennis Dockery, CPA, PLLC **Firm License No.:** C08944
Rule Violation: 501.60
Act Violations: 901.502(6), 901.502(11)

Respondents entered into an ACO with the Board whereby Respondents were reprimanded and Respondent Dockery and Respondent Firm were placed on limited scope status. In addition, Respondents must pay an administrative penalty of \$1,500 and \$163.88 in administrative costs within 30 days of the date of the Board Order. Respondents issued an audit report that failed to comply with GAAS.

B. Administrative Disciplinary Actions:

Mr. LaFrey 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 9)

Investigation Numbers

19-02-10001 – 19-02-10046
19-03-10001 – 19-03-10063

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 10)**

Investigation Numbers

19-02-10047 – 19-02-10204
19-03-10064 – 19-03-10231

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 11)**

Investigation Numbers

19-02-10205 – 19-02-10217
19-03-10232 – 19-03-10237

XII. Dr. Morris moved to adopt the following Board *Rule* as presented on second reading. Mr. B. Peña seconded the motion and it passed unanimously. *Section 501.91 (Reportable Events)* was tabled.

- *Section 507.3 (Independent Contractors)* **(ATTACHMENT 12)**

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

XIV. Mr. Cavazos adjourned the meeting at 11:15 a.m.

ATTEST:

Manuel Cavazos IV, Esq., CPA, Presiding Officer

Benjamin Peña, CFE, CPA, Secretary

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

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

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