

# Texas State Board of Public Accountancy

November 12, 2020

The Texas State Board of Public Accountancy met virtually from 10:06 a.m. until 11:38 a.m. on November 12, 2020 at 505 E. Huntland Dr., Ste. 380, Austin, Texas 78752. A notice of this meeting containing all items on the agenda was filed with the Office of the Secretary of State at 10:01 a.m. on November 2, 2020. (TRD #2020-006342).

## (ATTACHMENT 1)

### Board Members Present

Manuel Cavazos IV, Esq., CPA  
*Presiding Officer*  
Lisa A. Friel, CPA  
*Executive Committee*  
*Member-at-Large*  
Jamie D. Grant  
James D. Ingram IV, CPA  
Ross T. Johnson, CPA  
*Executive Committee*  
*Member-at-Large*  
Kevin J. Koch, CPA  
Timothy L. LaFrey, Esq., CPA  
*Secretary*  
Roselyn E. Morris, Ph.D., CPA  
*Assistant Presiding Officer*  
Benjamin Peña, CPA  
*Treasurer*  
Debra D. Seefeld, CPA  
Debra S. Sharp  
Jeannette P. Smith, CPA  
Kimberly E. Wilkerson, Esq.  
*Executive Committee*  
*Member-at-Large*

### Member Absent

Kelly V. Aimone, Esq.

### Others Present

Kenneth Besserman, Esq.  
Charles Cooley, CPA  
Julie Davis  
Hope Everett, Esq.  
Jodi Ann Ray  
MaryValerie Reeves, CPA  
Chris Smith

### Staff Present

Paulette Beiter, Esq.  
Roel Cantu  
Ismael Castillo  
Ann Hallam, PMP  
Alan Hermanson, CPA  
J. Randel Hill, Esq.  
Donna Hiller  
Kyle McGaw  
John Moore, Esq.  
Thomas Payne  
Julie Prien  
Marisa Rios  
William Treacy  
Daniel Weaver

- I. Mr. Cavazos, Presiding Officer, called the meeting to order at 10:06 a.m. Mr. Treacy called roll and declared a quorum.

Mr. Koch moved to excuse Ms. Aimone's absence from the Board Meeting. Ms. Friel seconded the motion and it passed unanimously.

- II. Mr. Ingram moved to approve the September 17, 2020 Board meeting minutes as revised. Ms. Sharp 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 November 11, 2020 virtual committee meeting.

### Members Present

Manuel Cavazos IV, Esq.,  
CPA  
Lisa A. Friel, CPA  
Ross T. Johnson, CPA  
Timothy L. LaFrey, Esq., CPA  
Roselyn E. Morris, Ph.D., CPA  
Benjamin Peña, CPA  
Kimberly E. Wilkerson, Esq.

### Others Present

Kenneth Besserman, Esq.  
Charles Cooley, CPA  
Jodi Ann Ray  
Chris Smith

### Staff Present

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

- A. Mr. Koch moved to approve the Board's FY 2020 Annual Financial Report, end-of-year overview, and September FY 2021 financial statements as presented. Mr. Grant seconded the motion and it passed unanimously.
- B. Mr. Treacy reported on the status of the Post Payment Audit Report.
- C. Mr. Treacy reported on NASBA/AICPA matters:
1. Report on NASBA's 113<sup>th</sup> Annual Meeting (virtual) – November 2-4, 2020
  2. NASBA Remote Testing Presentation
  3. NASBA Committee appointments

- D. Mr. Koch moved to approve the following FY 2020 professional service contract amendment. Mr. Peña seconded the motion and it passed unanimously.

**FY 2020 contract amendment:**

- Peter DelVecchia 9/1/19 – 8/31/20 \$10,000  
(Increase by \$10,000 from \$10,000 to \$20,000)

- E. Mr. Peña moved to approve a request for a firm to continue operating under *Section 513.16 (Death or Incapacitation of Firm Owner)*. Ms. Sharp seconded the motion and it passed unanimously.

- F. Dr. Morris reported on the status of the Board's Succession Plan.

- V. Mr. LaFrey, Rules Committee Chair, reported on the November 11, 2020 virtual committee meeting.

**Members Present**

Manuel Cavazos IV, Esq., CPA  
Lisa A. Friel, CPA  
Ross T. Johnson, CPA  
Timothy L. LaFrey, Esq., CPA  
Roselyn E. Morris, Ph.D., CPA  
Benjamin Peña, CPA

**Member Absent**

Kimberly E. Wilkerson, Esq.

**Others Present**

Kenneth Besserman, Esq.  
MaryValerie Reeves, CPA  
Chris Smith

**Staff Present**

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

- A. Mr. LaFrey moved to re-adopt *Chapter 518 (Unauthorized Practice of Public Accountancy)* rules that are not proposed to be revised pursuant to *Section 2001.039 of the Texas Administrative Code* and to authorize the executive director to publish the proposed amendments in the *Texas Register* for public comment. Dr. Morris seconded the motion and it passed unanimously. **(ATTACHMENT 2)**

- B. Mr. LaFrey moved to re-adopt *Chapter 519 (Practice and Procedure)* rules that are not proposed to be revised pursuant to *Section 2001.039 of the Texas Administrative Code* and to authorize the executive director to publish the proposed amendments in the *Texas Register* for public comment. Ms. Smith seconded the motion and it passed unanimously. **(ATTACHMENT 3)**

- C. No action was taken.

- D. Mr. LaFrey moved to adopt *Rule 505.10 (Board Committees)* as presented. Dr. Morris seconded the motion and it passed unanimously. **(ATTACHMENT 4)**

- E. Mr. LaFrey reported that the next committee meeting is scheduled for January 13, 2021 at 1:30 p.m.

- VI. Dr. Morris, Qualifications Committee Chair, reported on the October 6, 2020 virtual committee meeting.

**Members Present**

Renee Foshee, CPA  
Jennifer Johnson, CPA  
Kevin Koch, CPA  
Roselyn Morris, Ph.D., CPA  
Jeannette Smith, CPA

**Member Absent**

Kelly V. Aimone, Esq.

**Others Present**

Kenneth Besserman, Esq.  
Jodi Ann Ray  
Chris Smith

**Staff Present**

Paulette Beiter, Esq.  
Gilbert Gutierrez  
J. Randel Hill, Esq.  
Donna Hiller - liaison  
Marisa Rios  
William Treacy

- A. Dr. Morris reported that the committee had reviewed Board *Rule 511.57(e)(3) (Qualified Accounting Courses)* and no further action was required.

- B. Dr. Morris informed the Board that the committee had discussed accelerated degree programs at educational institutions and took no action at this time.

- C. Dr. Morris reported to the Board that the committee denied a request from candidate 0240274 to reinstate credits for AUD and FAR. The credits were denied because too much time had lapsed since the credits were earned.

- D. No information was reported from the AICPA, NASBA, or Prometric. The committee scheduled a meeting on January 11, 2021 to consider the review of *Chapter 511 (Eligibility)* in compliance with the Board's rule review process.

- VII. Ms. Sharp, Constructive Enforcement Committee Chair, reported on the October 21, 2020 virtual committee meeting.

**Members Present**

Kelly Aimone, Esq.  
Manuel Cavazos IV, Esq.,  
CPA *ex officio*  
Connie B. Clark, CPA  
Jesus Davila, CPA  
Roselyn Morris, Ph.D., CPA  
Debra Sharp

**Others Present**

Chris Smith

**Staff Present**

Paulette Beiter, Esq.  
J. Franco  
J. Randel Hill, Esq.  
Marissa Mahoney  
William Treacy  
Daniel Weaver

- A. Ms. Sharp reported that the committee discussed the current Constructive Enforcement process through the Unauthorized Practice of Public Accountancy (UPPA) program and emphasized importance of the program in relation to the other enforcement activities by the board. Board staff also presented an overview.

- B. Ms. Sharp reported that the committee reviewed and discussed proposed revisions to *Chapter 518 (Unauthorized Practice of Public Accountancy)* pursuant to *Section 2001.039* of the *Texas Government Code* and forwarded the committee's revisions to the Rules Committee for further consideration.

- VIII. Mr. Weaver, Director of Licensing, reported on the status of the fingerprinting process and on the Unauthorized Practice of Public Accountancy.

- IX. Mr. Peña, Behavioral Enforcement Committee Chair, reported on the following virtual committee meeting:

**October 20, 2020**

**Members Present**

Charles B. Allison, CPA  
Patrick Durio, CPA  
James D. Ingram IV, CPA  
Kevin Koch, CPA  
John Pearce, Esq., CPA  
Benjamin Peña, CPA  
Debra S. Sharp  
Jeannette P. Smith, CPA

**Member Absent**

Karen Jones, 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 with the *Act* or the *Rules*. Ms. Smith seconded the motion and it passed. The BEC Board members did not participate in the vote.

1. Investigation Nos. 20-07-06L<sup>1</sup> and 20-07-07L<sup>1</sup>
2. Investigation Nos. 20-07-08L<sup>1</sup> and 20-07-09L<sup>1</sup>
3. Investigation Nos. 20-09-44L<sup>1</sup>, 20-09-45L<sup>1</sup>, 20-09-46L<sup>1</sup>
4. Investigation No. 20-09-43L<sup>1</sup>

- B. Ms. Friel moved to dismiss the following investigation based upon voluntary compliance with the *Act* and the *Rules*. Mr. Johnson seconded the motion and it passed. The BEC Board members did not participate in the vote.

- Investigation Nos. 20-06-03L<sup>1</sup> and 20-06-04L<sup>1</sup>

- C. Other – The committee considered seven other matters during its meeting; however, these matters do not require Board action at this time.

- D. The next committee meeting was scheduled for December 10, 2020 at 9:15 a.m.

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

**September 17, 2020**

**Members Present**

Kelly V. Aimone, Esq.  
Lisa A. Friel, CPA  
Pete M. Gonzales, CPA  
Jamie Grant  
Jeffrey L. Johanns, CPA  
Ross Johnson, CPA  
Robert M. McAdams, CPA  
Debra Seefeld, CPA  
Juliet Williams, CPA

**Member Absent**

Dilliana Stewart, CPA

**Staff Present**

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

- A. Other – The committee considered seven matters during its meeting; however, these matters do not require Board action at this time.
- B. The next committee meeting was scheduled for November 12, 2020 at 2:00 p.m.
- XI. Mr. Hill, General Counsel, reported on the status of the Enforcement Division's probation and limited scope monitoring program.
- XII. The Board took the following actions on agreed consent orders (ACOs) and administrative disciplinary actions:

**A. Agreed Consent Orders:**

**Behavioral Enforcement Committee**

Mr. Johnson moved to approve the following ACOs as presented. Mr. Grant seconded the motion and it passed. The BEC Board members did not participate in the vote.

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|---|--|--|
| 1.  | <b>Investigation No.:</b> 20-02-08L<br><b>Respondent:</b> James Wesley Haas, II<br><b>Rule Violation:</b> 501.74<br><b>Act Violation:</b> 901.502(6)   | <b>Hometown:</b> Tyler, TX<br><b>Certificate No.:</b> 075050   |
| <p>Respondent entered into an ACO with the Board whereby Respondent was reprimanded. In addition, Respondent must complete eight hours of additional continuing professional education (CPE) in the area of individual tax, refund Complainant for fees paid and reimburse Complainant for penalties assessed by and paid to the Internal Revenue Service (IRS). Respondent must also pay \$2,500 in administrative penalties and \$730.17 in administrative costs within 30 days of the Board Order. Respondent did not maintain appropriate documentation to afford a reasonable basis for conclusions in relation to the preparation of a tax return. In addition, Respondent did not adequately supervise the preparation of a tax return by his staff.<sup>1</sup></p> |  |  |
| 2.  | <b>Investigation Nos.:</b> 20-06-11L & 20-06-12L<br><b>Respondents:</b> Ivan Cameron Henson & Ivan C. Henson, C.P.A., P.L.L.C.<br><b>Rule Violations:</b> 501.74, 501.90(12), 501.90(13)<br><b>Act Violation:</b> 901.502(6) | <b>Hometowns:</b> Richland Hills & North Richland Hills, TX<br><b>Certificate No.:</b> 098618<br><b>Firm License No.:</b> C08079 |
| <p>Respondents entered into an ACO with the Board whereby Respondents were reprimanded. In addition, Respondents must pay an administrative penalty of \$500 and administrative costs of \$345.75 within 30 days of the Board Order. Respondents failed to file a client's tax return after advising client the return had been filed. Respondents did not respond to a client's inquiries regarding the status of her return.<sup>1</sup></p>  |  |  |
| 3.  | <b>Investigation No.:</b> 20-05-12L<br><b>Respondent:</b> John Charles O'Hearn<br><b>Rule Violations:</b> 501.90(4), 501.90(5)<br><b>Act Violations:</b> 901.502(6), 901.502(11)   | <b>Hometown:</b> Dallas, TX<br><b>Certificate No.:</b> 036704  |

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Respondent entered into an ACO with the Board whereby Respondent's certificate was revoked, however, the revocation was stayed and Respondent was put on probation for five years. In addition, Respondent must pay \$322.10 in administrative costs within 30 days of the Board Order and comply with the terms and conditions of probation. Respondent received five years of deferred adjudication for the second degree felony of non-violent sexual assault.<sup>1</sup>

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|-------------------------------|---|--------------------------|-------------------|
| 4. <b>Investigation Nos.:</b> | <b>20-01-17L &amp; 20-01-18L</b>  | <b>Hometown:</b>         | <b>Murphy, TX</b> |
| <b>Respondents:</b>           | <b>Melissa Lynn Trainer &amp; Trainer Accounting and Consulting, PLLC</b> | <b>Certificate No.:</b>  | <b>089292</b>     |
|                               |   | <b>Firm License No.:</b> | <b>C08946</b>     |
| <b>Rule Violations:</b>       | <b>501.74(b), 501.90(12)</b>  |                          |                   |
| <b>Act Violation:</b>         | <b>901.502(6)</b>   |                          |                   |

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Respondents entered into an ACO with the Board whereby Respondents were reprimanded. In addition, Respondents must complete 16 hours of CPE in the area of income tax during the next reporting period, reimburse Complainant for penalties incurred, and provide proof of reimbursement to the Board within 30 days of the Board Order. Respondents must also pay \$527.70 in administrative costs within 30 days of the Board Order. Respondents completed a client's tax returns incorrectly and failed to respond to the client's attempt to contact her regarding the preparation of her tax return.<sup>1</sup>

#### **Technical Standards Review Committee**

Mr. Ingram moved to approve the following ACO as presented. Mr. Koch seconded the motion and it passed. The TSR Board members did not participate in the vote.

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|-----------------------------|--|--------------------------|-------------------|
| • <b>Investigation No.:</b> | <b>19-07-10L</b>                                       | <b>Hometown:</b>         | <b>Dallas, TX</b> |
| <b>Respondent:</b>          | <b>KPMG, LLP</b>                                       | <b>Firm License No.:</b> | <b>P04938</b>     |
| <b>Rule Violations:</b>     | <b>501.60, 501.73, 501.90(2), 501.90(7), 501.90(8)</b> |                          |                   |
| <b>Act Violation:</b>       | <b>901.502(6)</b>                                      |                          |                   |

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Respondent Firm entered into an ACO with the Board whereby Respondent Firm was Reprimanded and ordered to pay an administrative penalty of \$2,000,000 within 30 days of the Board order. Respondent Firm was the subject of an SEC Order in Administrative Proceeding File No. 3-19203 styled *In the Matter of: KPMG, LLP* issued on June 17, 2019. The SEC Order censured the Respondent Firm and assessed a civil penalty of \$50,000,000. The SEC found that members of the Respondent firm, including Texas licensees, improperly obtained and used confidential information belonging to the PCAOB and that Respondent Firm's audit professionals, including Texas licensees, engaged in misconduct in connection with examinations on internally-administered training courses.<sup>2</sup>

#### **B. Administrative Disciplinary Actions:**

Mr. Ingram moved to approve the following Disciplinary Actions as presented. Mr. Koch seconded the motion and it passed unanimously.

- Respondents:** **In the Matter of Disciplinary Action Against Certain Licensees for Nonpayment of Professional Fees for Three Consecutive License Periods**

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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 5)**

#### **Investigation Numbers**

20-06-10274 – 20-06-10343  
20-07-10001 – 20-07-10055

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

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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 6)*

**Investigation Numbers**

20-09-10001 – 20-09-10044

20-09-10045 – 20-09-10051

**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 7)**

**Investigation Numbers**

20-06-10344 – 20-06-10371

20-07-10056 – 20-07-10089

XIII. Mr. Peña moved to adopt the following Board *Rule* as presented. Mr. Koch seconded the motion and it passed unanimously.

1. *Section 502.1 (Peer Assistance to Licensees) (ATTACHMENT 8)*
2. *Section 505.1 (Board Seal and Headquarters) (ATTACHMENT 9)*
3. See Agenda Item V-D for action taken.
4. *Section 507.4 (Confidentiality) (ATTACHMENT 10)*

XIV. Mr. Cavazos reviewed the meeting schedule for the remainder of the year.

XV. Mr. Cavazos adjourned the meeting at 11:38 a.m.

**ATTEST:**

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Manuel Cavazos IV, Esq., CPA, Presiding Officer

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Timothy L. LaFrey, Esq., CPA, Secretary

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

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