

Texas State Board of Public Accountancy

March 23, 2023

The Texas State Board of Public Accountancy met by video conference and in-person from 10:00 a.m. until 12:47 p.m. on March 23, 2023. A notice of this meeting containing all items on the agenda, in accordance with *Section 551.127* of the *Texas Government Code* and the Governor's suspension of certain provisions of *Section 551.127* of the *Government Code*, was filed with the Office of the Secretary of State at 7:59 a.m. on March 10, 2023. (TRD #2023-000062) (ATTACHMENT 1)

Board Members Present

Susan I. Adams, CPA
Manuel Cavazos IV, Esq., CPA
Presiding Officer
Olivia Espinoza-Riley, CPA
Renee D. Foshee, Esq., CPA
Lisa A. Friel, CPA
Ray R. Garcia, CPA
Executive Committee
Member-at-Large
Jamie D. Grant
Executive Committee
Member-at-Large
Jill A. Holup
James D. Ingram IV, CPA
Kevin J. Koch, CPA
Treasurer
Debra D. Seefeld, CPA
Assistant Presiding Officer
Debra S. Sharp
Executive Committee
Member-at-Large
Jeannette P. Smith, CPA
Secretary
Sheila M. Vallés-Pankratz

Member Absent

Himesh M. Gandhi, Esq.
excused

Others Present

Kenneth Besserman, Esq.
Charles Cooley, CPA
Matthew Martinson, CPA
Jodi Ann Ray

Staff Present

Paulette Beiter, Esq.
Roel Cantu
Ismael Castillo
Ann Hallam, PMP
J. Randel Hill, Esq.
Donna Hiller
John Moore, Esq.
Julie Prien
Marisa Rios
Lorna Schwimmer-Staggs, CPA
Lori Shaw
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. Koch moved to excuse the absence of Himesh M. Gandhi, Esq. from the Board meeting. Mr. Ingram seconded the motion and it passed unanimously.
- II. Mr. Ingram moved to approve the January 19, 2023 Board meeting minutes as presented. Mr. Koch seconded the motion and it passed unanimously.
- III. After a call for public comments, there were no comments from the public.
- IV. Mr. Cavazos, Presiding Officer, reported on the following (video conference and in-person) Executive Committee meetings.

January 31, 2023

Members Present

Manuel Cavazos IV, Esq.,
CPA (in-person)
Jamie D. Grant
Debra D. Seefeld, CPA
Ray Garcia, CPA
Kevin J. Koch, CPA
Jeannette P. Smith, CPA

Member Absent

Debra S. Sharp

Staff Present

Paulette Beiter, Esq.
Ismael Castillo
Ann Hallam, PMP
J. Randel Hill, Esq.
John Moore, Esq.
Brian O'Neal
Marisa Rios
Lorna Schwimmer-Staggs,
CPA
Lori Shaw
William Treacy

- Mr. Treacy reported on the January 31, 2023 Executive Committee Meeting. After a lengthy discussion, Mr. Koch moved to not to proceed with a legislation amendment with possible future reconsideration depending on responses to potential action by other agencies. Ms. Smith seconded the motion and it passed unanimously.

March 22, 2023

Members Present

Manuel Cavazos IV, Esq.,
CPA (in-person)
Debra D. Seefeld, CPA
Ray Garcia, CPA
Jamie D. Grant
Kevin J. Koch, CPA
Debra S. Sharp
Jeannette P. Smith, CPA

Others Present

Kenneth Besserman, Esq.
Renee Foshee, Esq., CPA
Jodi Ann Ray

Staff Present

Ann Hallam, PMP
J. Randel Hill, Esq.
Donna Hiller
Marisa Rios
Lorna Schwimmer-Staggs, CPA
Lori Shaw
William Treacy
Daniel Weaver

- A. Mr. Koch, Treasurer, presented the Board's financial statements. Mr. Ingram moved to approve the Board's financial statements as presented. Ms. Sharp seconded the motion and it passed unanimously.
- B. Mr. Koch, Treasurer, presented the Board's Budget Plan for FY 2024. No action was taken at this time.
- C. Mr. Hill, General Counsel, reported on the following proposed legislation:
- **SB 159** and **HB 797** companion bills would permit a CPA candidate to take the UCPAE with 120 total hours, including 21 semester hours of upper-level accounting courses plus a degree.
 - **SB 1747** would require licensing agencies to annually report to the Legislature the number of licensee's applications received, approved, or denied because of the applicant's criminal history.
 - **SB 1659** would reschedule the next Sunset Commission Review of this agency to 2033 from 2031.
 - **SB 510** would add certain data such as email addresses, home or business addresses, and date of birth to the list of information an agency could consider confidential if requested in writing by a licensee.
 - **HB 2217** is mostly a housekeeping bill to update the *Act* and includes one significant change, allowing a Board member to be appointed to consecutive terms. **HB 3520**, another housekeeping bill, was rolled into this bill as a committee substitute.
 - **SB 951** and **HB 2504** companion bills would expand the 5th-year scholarship program to include any accounting students with at least 15 hours of upper-level accounting coursework.
 - **HB 3353** would require licensing agencies to recognize occupational licenses and work experience in other states that don't require a license.
 - **SB 1785** codifies an existing agreement for maintenance of licensee criminal history records by DPS.
 - **HB 4254** establishes administrative law judge decisions as final in contested case matters.

After Mr. Hill's legislative update, Mr. Ingram moved to authorize Mr. Treacy to represent the Board in any proposed legislation affecting the agency. Ms. Espinoza-Riley seconded the motion and it passed, with Ms. Vallés-Pankratz dissenting after explaining that she believed Mr. Treacy already had the authority. Mr. Cavazos, Ms. Seefeld and Mr. Koch volunteered to accompany Mr. Treacy on an as-needed basis.

- D. Mr. Koch moved to approve an extension request of David M. Ash, CPA to continue operating under *Section 513.16 (Death or Incapacitation of Firm Owner)* until July 1, 2023. Mr. Ingram seconded the motion and it passed unanimously.
- E. Mr. Treacy reported on the following NASBA/AICPA matters:
- NASBA dates of interest:
 - a. 41st Annual Conference for Executive Directors and Board Staff
February 27 – March 1, 2023 – Tucson, AZ
 - b. 28th Annual Conference for Board of Accountancy Legal Counsel
February 27 – March 1, 2023 – Tucson, AZ
 - c. Western Regional Meeting
June 27 – 29, 2023 – Kansas City, MO
 - d. 116th NASBA Annual Meeting
October 29 – November 1, 2023 – New York, NY
- F. Mr. Cavazos reported on general correspondence coming to the Board's attention.

- V. Mr. Koch, Rules Committee Acting-Chair, reported on the March 22, 2023 (video conference and in-person) Rules Committee meeting.

Members Present

Manuel Cavazos, Esq., CPA
ex officio
Renee Foshee, CPA
Lisa Friel, CPA
Ray R. Garcia, CPA
Kevin Koch, CPA
(in-person)
Jeannette P. Smith, CPA

Member Absent

Himesh M. Ganhdi, Esq.

Others Present

Kenneth Besserman, Esq.
Jodi Ann Ray
Debra D. Seefeld, CPA

Staff Present

Roel Cantu
Ann Hallam, PMP
J. Randel Hill, Esq.
Donna Hiller
Marisa Rios
Lori Shaw
William Treacy
Daniel Weaver

- A. Mr. Koch reported that the committee tabled any action regarding *Rules 511.80 (Granting of Credit)* and *511.83 (Granting of Credit by Transfer of Credits)*.

- B. Mr. Koch reported that the next committee meeting will be May 9, 2023 at 1:30 p.m.

- VI. Ms. Foshee, Qualifications Committee Chair, reported on the March 22, 2023 (video conference and in-person) Qualifications Committee meeting.

Members Present

Manuel Cavazos IV, Esq.,
CPA (*ex officio*)
Renee Foshee, Esq, CPA
(chair) (in-person)
Caroline Hartmann, CPA
Kevin Koch, CPA
Marshall Pitman, Ph.D., CPA
Jeannette P. Smith, CPA
Sheila M. Vallés-Pankratz
Veronda Willis, CPA
Kathy Zolton, CPA

Others Present

Kenneth Besserman, Esq.
Charles Cooley, CPA
Kim Holland
Harrisa Martin
Christi Mondrick, CPA
Jodi Ann Ray

Staff Present

Paulette Beiter, Esq.
Ann Hallam, PMP
Telisa Harwell
J. Randel Hill, Esq.
Donna Hiller
Marisa Rios
Lori Shaw
William Treacy
Daniel Weaver

- A. Ms. Foshee reported that the Education Task Force considered the following:
1. Credits obtained through CLEP should be accepted.
 2. Credits obtained by ACE, PLA, or DANTES (DSST) should not be accepted as they are not accepted by UT-Austin, the reporting institution in the State of Texas.
 3. After a candidate has earned a bachelor's degree, only upper-level credits should be accepted by the Board.
 4. The report discussed the pros and cons of Experiential Learning, known as Work for Credit.
 5. The report presented information on the pathways to earning 30 credit hours post baccalaureate. It was recommended that the following Board Rules be reviewed at a future meeting to ensure that there are pathways to earn the needed academic credits for licensure.
 - a. *Rule 511.52 - Recognized Institutions of Higher Education*
 - b. *Rule 511.53 - Evaluation of International Education Documents*
 - c. *Rule 511.54 - Recognized Texas Community Colleges*
- B. Ms. Foshee reported on **SB 951** filed by Senator Perry which would expand the 5th-year scholarship program to include any accounting students with at least 15 hours of upper-level accounting coursework.
- C. Ms. Foshee reported on **SB 159** filed by Senator Perry which would permit a CPA candidate to take the UCPAE with 120 total hours, including 21 semester hours of upper-level accounting courses plus a degree.
- D. Ms. Foshee reported that **HB 2217** would be substituted for HB 3520 filed by Representative Button which is mostly a housekeeping bill to update the *Act* and includes one significant change, allowing a Board member to be appointed to consecutive terms. **HB 3520**, another housekeeping bill, was rolled into this bill as a committee substitute.

- E. Ms. Foshee reported that the committee briefly discussed and tabled any consideration of amendments to *Rules 511.80 (Granting of Credit)* and *511.83 (Granting of Credit by Transfer of Credits)*. Mr. Koch moved to approve sending a comment letter to be signed by Ms. Foshee and Mr. Cavazos to NASBA recommending that CPA Exam credits be valid for 24 months with consideration for additional time. Furthermore, that credit extensions should be encouraged for hardship situations. Mr. Ingram seconded the motion and it passed unanimously.
- F. Ms. Foshee informed the Board that the committee discussed the consolidation of Prometric test center in Dallas and Houston. Staff was directed to continue corresponding with leadership at NASBA and Prometric to secure additional locations and dates for testing to accommodate the influx of future exam candidates that may test prior to January 2024. She also noted that the committee reviewed the *Second Edition* of the *AICPA 8-Point Plan* and was made aware that a third edition was being drafted.
- G. Ms. Foshee moved to take the following action should legislation pass that would reduce the amount of education needed to become eligible to take the CPA Exam. Ms. Espinoza-Riley seconded the motion and it passed unanimously.
 - 1. Contact all individuals with a pending Application of Intent and advise them of the new education requirements.
 - 2. Offer the applicants an opportunity to withdraw the current Application of Intent and refile a new application after the effective date of changes to the Act.
 - 3. Applicants who elect to file a new Application of Intent are to be advised that the application will be processed as expeditiously as possible so that they may begin taking the CPA Exam prior to the January 2024 exam format changes.

- VII. Ms. Seefeld, Peer Review Committee Chair, reported on the February 16, 2023 (video conference and in-person) Peer Review Committee meeting.

Members Present

Manuel Cavazos IV, Esq.,
CPA
Laura Lambert, CPA
Benjamin Peña, CPA
Debra D. Seefeld, CPA

Members Absent

Robert McAdams, CPA
Jeannette P. Smith, CPA

Others Present

Thomas Akin, CPA
Jerry Cross, CPA
Robert Goldstein, CPA
Mike Waters, CPA

Staff Present

Marissa Brooks
J. Randel Hill, Esq.
John Moore, Esq.
Marisa Rios
William Treacy
Daniel Weaver

- A. Ms. Seefeld informed the Board that the committee heard an organizational overview and update on peer review operations from Board Staff and the TXCPA.
- B. Ms. Foshee moved to approve to accept the 2022 Annual Report from the Peer Review Oversight Board with a recommendation to continue the TXCPA as an approved peer review sponsoring organization. Ms. Friel seconded the motion and it passed unanimously.
- C. Ms. Seefeld reported that the committee discussed the practical application of *Rule 527.5 (Deficient Reviews)*. Five firms reached the multiple deficiencies threshold during FY 2022 and were referred to the Technical Standards Review Committee for further action.

- VIII. Ms. Smith, Behavioral Enforcement Committee Chair, reported on the following meeting:

February 8, 2023 (Video conference and in-person)

Members Present

Susan I. Adams, CPA
Charles B. Allison, CPA
Patrick Durio, CPA
James D. Ingram IV, CPA
Phillip D. Johnson, CPA
Kevin J. Koch, CPA
Debra S. Sharp
Jeannette P. Smith, CPA
(in person)

Members Absent

Patricia C. Culver, CPA
Jill A. Holup

Staff Present

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

A. Dismissals – Insufficient evidence

- Ms. Espinoza-Riley moved to dismiss the following investigations based upon insufficient evidence of a violation of the *Act* or the *Rules*. Ms. Foshee seconded the motion and it passed. The BEC committee members did not participate in the vote.

- Investigation Nos. 22-11-03L¹ and 22-11-04L¹
- Investigation Nos. 22-10-04L¹ and 22-10-05L¹
- Investigation Nos. 22-10-13L¹ and 22-10-14L¹
- Investigation Nos. 22-11-05L¹, 22-11-06L¹ and 22-11-07L¹
- Investigation Nos. 22-12-03L¹ and 22-12-04L¹

- B. Other – The committee considered other matters during this meeting; however, these matters did not require Board action at this time.

IX. Ms. Seefeld, Technical Standards Review Committee Chair, reported on the following committee meetings:

February 1, 2023 – (Zoom)

Members Present

Lisa A. Friel, CPA
Ray R. Garcia, CPA
Jamie D. Grant
Douglas C. Koval, CPA

Debra Seefeld, CPA
Dilliana Stewart, CPA
Sheila M. Vallés-Pankratz
Juliet Williams, CPA

Staff Present

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

- Other – The committee considered four other matter during this meeting; however, these matters did not require Board action at this time.

X. The Board took the following actions on agreed consent orders (ACOs) and administrative disciplinary actions:

A. **Agreed Consent Order:**

Behavioral Enforcement Committee

Ms. Espinoza-Riley moved to approve the following ACO as presented. Ms. Foshee seconded the motion and it passed. The BEC Board members did not participate in the vote.

- | | | | | |
|----|---------------------------|----------------------------------|-------------------------|---------------------|
| 1. | Investigation No.: | 21-08-05L | Hometown: | Richmond, TX |
| | Respondent: | Shannon Scott Burgess | Certificate No.: | 088953 |
| | Rule Violations: | 501.90(2), 501.91, 501.93 | | |
| | Act Violations: | 901.502(6), 901.502(11) | | |

Respondent entered into an ACO with the Board whereby Respondent's certificate was revoked and Respondent was assessed \$10,000 in administrative penalties and \$914.64 in administrative costs to be paid within 30 days of the date of the Board Order. In a civil suit, a default judgment was entered against Respondent awarding the plaintiff \$1.36 million and finding that Respondent engaged in an act of theft or fraud and with a high degree of malice toward the plaintiff. Respondent failed to report the judgment to the Board and failed to respond to Board communications.¹

- | | | | | |
|----|---------------------------|---|-------------------------|-----------------|
| 2. | Investigation No.: | 22-07-01L | Hometown: | Buda, TX |
| | Respondent: | Juan Carlos Felici | Certificate No.: | 077342 |
| | Rule Violations: | 501.90(4), 501.90(5) | | |
| | Act Violations: | 901.502(6), 901.502(10), 901.502(11) | | |

Respondent entered into an ACO with the Board whereby Respondent's certificate was revoked, however, the revocation was stayed and Respondent was placed on probation for eight years to run concurrent with his criminal probation. In addition, Respondent shall attend and participate in the Accountants Confidential Assistance Network. Respondent was found guilty of DWI 3rd, a felony.¹

3. **Investigation Nos.:** 22-10-09L & 22-10-10L **Hometown:** Sugar Land, TX
Respondents: Mohammed Mohammed Ibrahim **Certificate No.:** 118715
& Ibrahim CPA, PLLC **Firm License No.:** C10991
Rule Violations: 501.74(b), 501.90(10)
Act Violation: 901.502(6)

Respondents entered into an ACO with the Board whereby Respondents were reprimanded and ordered to complete eight hours of continuing professional education (CPE) in the area of IRS Circular 230, eight hours of CPE in the area of practice management and eight hours of CPE in the area of Statement on Standards for Accounting and Review Services. In addition, Respondents agreed to pay \$739.68 within 30 days of the date of the Board Order. Respondents charged a client's credit card without getting written authorization from the client to withdraw the funds.¹

4. **Investigation No.:** 22-12-05L **Hometown:** Plano, TX
Respondent: Prasun Shah **Certificate No.:** 060982
Rule Violation: 501.90(5)
Act Violations: 901.502(6), 901.502(11)

Respondent entered into an ACO with the Board whereby Respondent was reprimanded. In addition, Respondent's certificate was revoked, however, the revocation was stayed and Respondent was placed on probation for two years. In addition, Respondent shall attend and participate in the Accountants Confidential Assistance Network. Respondent failed to report a previous conviction to the Board and was convicted of DWI 2nd and placed on probation for two years.¹

5. **Investigation Nos.:** 22-01-03L & 22-01-04L **Hometown:** Richardson, TX
Respondents: Robert Allen Malphurs & **Certificate No.:** 017642
Robert A. Malphurs, PC **Firm License No.:** C08311
Rule Violations: 501.74(b), 501.90(2)
Act Violations: 901.502(6), 901.502(11)

Respondents entered into an ACO with the Board whereby Respondent's certificate was revoked, however, the revocation was stayed and Respondents were placed on probation for three years during which time Respondents must undergo a practice management review and report to the Board. In addition, Respondents agreed to pay \$9,282.50 in administrative costs to the Board within 30 days of the date of the Board Order. Respondent listed himself as sole manager of an entity with the Texas Secretary of State without authorization. Respondents attempted to file tax returns for an entity without authorization.¹

Technical Standards Review Committee

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

1. **Investigation Nos.:** 22-08-05L & 22-08-06L **Hometown:** Dell City, TX
Respondents: Coe Marcus Perry & **Certificate No.:** 095513
Coe Perry, CPA (Firm) **Firm License No.:** R02166
Rule Violations: 501.60, 501.61, 501.81, 527.4, 527.6
Act Violations: 901.502(6), 901.502(11)

Respondents entered into an ACO with the Board whereby Respondents were reprimanded; placed on limited scope prohibiting Respondents from performing audits, compilations or reviews until Respondents report the results of the Respondent firm's peer review and until the Respondent firm receives a Pass rating; and assessed an administrative penalty of \$9,000 and administrative costs of \$492.34. Respondents issued audits, compilations and reviews without the Respondent firm being enrolled in the American Institute of Certified Public Accountants Peer Review Program and while the Respondent firm's license was expired.²

2. **Investigation No.:** 22-11-10L **Hometown:** Plano, TX
Respondent: Stephen L. Walker **Certificate No.:** 022068
Rule Violations: 501.60, 501.61, 501.81, 515.8(a)(8)
Act Violations: 901.460, 901.502(6), 901.502(11)

Respondent entered into an ACO with the Board whereby Respondent was reprimanded; placed on limited scope prohibiting Respondent from performing audits, compilations or reviews if Respondent comes out of retired status; and assessed an administrative penalty of \$2,500 and administrative costs of \$1,039.87. Respondent issued compiled financial statements for a Texas company through an unlicensed entity when the Respondent's license was in retired status.²

B. Administrative Disciplinary Actions:

Mr. Koch moved to approve the following Administrative Disciplinary Actions as presented. Mr. Ingram 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

22-10-10001 – 22-10-10100

22-11-10001 – 22-11-10096

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 3)

Investigation Numbers

22-10-10101 – 22-10-10275

22-11-10097 – 22-11-10279

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

22-10-10276 – 22-10-10298

22-11-10280 – 22-11-10305

XI. Mr. Koch moved to adopt the following Board *Rules* as presented. Mr. Ingram seconded the motion and it passed unanimously.

1. *Section 511.57 (Qualified Accounting Courses)* (ATTACHMENT 5)
2. *Section 511.58 (Definitions of Related Business Subjects and Ethics Courses)* (ATTACHMENT 6)
3. *Section 511.72 (Board Committees)* (ATTACHMENT 7)

XII. Mr. Cavazos reviewed the meeting schedule for the year.

XIII. Mr. Cavazos adjourned the meeting at 12:47 p.m.

ATTEST:

Debra D. Seefeld, CPA, Presiding Officer

Jeannette P. Smith, CPA, Secretary

¹Ms. Adams, Ms. Holup, Mr. Ingram, Mr. Koch, Ms. Sharp, and Ms. Smith recused themselves from participating in this matter.

²Ms. Friel, Mr. Garcia, Mr. Grant, Ms. Seefeld and Ms. Vallés-Pankratz recused themselves from participating in this matter.