

# Texas State Board of Public Accountancy

## May 10, 2023

The Texas State Board of Public Accountancy met by video conference and in-person from 10:01 a.m. until 11:42 a.m. on May 10, 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 12:43 p.m. on May 1, 2023. (TRD #2023-002451) (ATTACHMENT 1)

### Board Members Present

Susan I. Adams, CPA  
Kimberly D. "Kim" Crawford, CPA  
Olivia Espinoza-Riley, CPA  
*Treasurer*  
Renee D. Foshee, Esq., CPA  
Ray R. Garcia, CPA  
*Executive Committee*  
*Member-at-Large*  
Jamie D. Grant  
*Executive Committee*  
*Member-at-Large*  
Jill A. Holup  
*Executive Committee*  
*Member-at-Large*  
Kevin J. Koch, CPA  
*Assistant Presiding Officer*  
Thomas M. Neuhoff, CPA  
Debra D. Seefeld, CPA  
*Presiding Officer*  
Jeannette P. Smith, CPA  
*Secretary*  
Sheila M. Vallés-Pankratz  
Susan M. Warren, CPA

### Members Absent

Himesh M. Gandhi, Esq.  
*excused*  
Sherri B. Merket  
*excused*

### Others Present

Kenneth Besserman, Esq.  
Matthew Martinson, CPA  
Jodi Ann Ray  
Larry Stephens  
Tim Thomasson

### Staff Present

Paulette Beiter, Esq.  
Roel Cantu  
Ismael Castillo  
Nicole Duran  
Ann Hallam, PMP  
J. Randel Hill, Esq.  
Donna Hiller  
Kyle McGaw  
John Moore, Esq.  
Thomas Payne  
Julie Prien  
Marisa Rios  
Lorna Schwimmer-Staggs, CPA  
Lori Shaw  
Tony Shumway  
William Treacy  
Daniel Weaver

- I. Ms. Seefeld, Presiding Officer, called the meeting to order at 10:01 a.m. Mr. Treacy called roll and declared a quorum.

Mr. Koch moved to excuse the absence of Himesh M. Gandhi, Esq. and Sherri B. Merket from the Board meeting. Mr. Grant seconded the motion and it passed unanimously.

At this time, Ms. Seefeld welcomed the following new Board Members who have been appointed by the Governor:

1. Kimberly D. "Kim" Crawford, CPA
2. Thomas M. Neuhoff, CPA
3. Susan Warren, CPA

- II. Mr. Koch moved to approve the March 23, 2023 Board meeting minutes as presented. Mr. Garcia seconded the motion and it passed unanimously.
- III. After a call for public comments, there were no comments from the public.
- IV. Ms. Seefeld, Presiding Officer, reported on the May 9, 2023 (video conference and in-person) Executive Committee meeting.

### Members Present

Debra D. Seefeld, CPA  
Chair (in-person)  
Ray Garcia, CPA  
Jamie D. Grant  
Kevin J. Koch, CPA

### Member Absent

Jeannette P. Smith, CPA  
*excused*

### Others Present

Kenneth Besserman, Esq.  
Don Carpenter, CPA  
Renee Foshee, Esq., CPA  
Jodi Ann Ray  
Tim Thomasson, CPA

### Staff Present

Paulette Beiter, Esq.  
Roel Cantu  
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. Ms. Espinoza-Riley moved to approve the Board's financial statements as presented. Ms. Adams 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. Ms. Vallés-Pankratz moved to approve the following professional service contract amendment as presented. Ms. Espinoza-Riley seconded the motion and it passed unanimously.

Technical Standards Review Committee  
Peter DelVecchia                      9/1/22 – 8/31/23                      \$10,000  
(Increase contract by \$10,000 from \$10,000 to \$20,000)

- D. Mr. Hill, General Counsel, reported on the following proposed legislation:
    - 1. **SB 159** has passed in both the House and the Senate and has gone to the Governor for approval. This bill would permit a CPA candidate with a bachelor's degree to take the UCPAE with 24 hours of accounting work and 120 total semester hours.
    - 2. **HB 2217** has passed in the House and the Senate Business and Commerce Committee. **HB 3520** has been rolled into **HB 2217**. This is mostly a housekeeping bill to update the Act and includes one substantive change, allowing a board member to be appointed for consecutive terms.
    - 3. **HB 2504** has passed in the house and been assigned to a Senate committee. Whether it becomes law will most likely depend on timing. This bill would expand the 5<sup>th</sup>-year scholarship program to include undergraduate accounting students with at least 15 hours of upper-level accounting coursework.
  - E. Mr. Treacy reported on the following NASBA/AICPA matters:
    - 1. NASBA dates of interest:
      - a. Western Regional Meeting  
June 27 – 29, 2023 – Kansas City, MO  
(This will be attended by Ms. Seefeld, Ms. Espinoza-Riley, Ms. Adams, Ms. Foshee, Ms. Smith, Mr. Hill, and Mr. Treacy.)
      - b. 116<sup>th</sup> NASBA Annual Meeting  
October 29 – November 1, 2023 – New York, NY
    - 2. Mr. Treacy reported that correspondence was sent to NASBA in support of J. Coalter Baker, CPA as NASBA's vice chair. Mr. Treacy informed the Board that Maria E. Caldwell, CPA, of Miami was nominated to be the first Hispanic woman vice-chair elect of the NASBA Board.
  - F. Ms. Seefeld reported on general correspondence coming to the Board's attention.
  - G. Ms. Seefeld informed the Board that Mr. Koch would be heading up the evaluation process of the executive director and evaluation forms will be sent to Members.
- V. Mr. Garcia, Rules Committee Chair, reported on the May 9, 2023 (video conference and in-person) Rules Committee meeting.

**Members Present**

Renee Foshee, CPA  
Ray R. Garcia, CPA  
Chair (in-person)  
Himesh M. Ganhdi, Esq.  
Kevin Koch, CPA  
Debra Seefeld, CPA  
*ex officio*  
Susan M. Warren, CPA

**Member Absent**

Jeannette P. Smith, CPA

**Others Present**

Kenneth Besserman, Esq.  
Don Carpenter  
Tim Thomasson

**Staff Present**

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

- A. Mr. Koch moved to authorize the executive director to publish proposed amendments, as revised, to *Board Rules 520.1 - Authority and Purpose, 520.2 – Definitions, 520.3 – Institutions, 520.4 - Eligible Students, 520.5 - Award Amounts and Uses, 520.6 – Allocations, 520.7 – Disbursements to Institutions, 520.8 - Retroactive Disbursements, and 520.10 - Recognition of Accounting Firms Hiring and Offering Internships* to *Board Rule 527.7 (Peer Review Oversight Board)* in the *Texas Register* for public comment. Ms. Smith seconded the motion and it passed unanimously. (ATTACHMENT 2)
- B. Ms. Vallés-Pankratz moved to authorize the executive director to publish the proposed revisions to *Board Rules 511.52 – Recognized Institutions of Higher Education, 511.53 - Evaluation of International Education Documents, 511.54 – Recognized Texas Community Colleges, 511.56 – Educational Qualifications under the Act, 511.57 - Qualified Accounting Courses, 511.58 - Definitions of Related Business Subjects and Ethics Courses, 511.59 - Definition of 150 Semester Hours, 511.60 - Qualified Accounting Courses Prior to January 1, 2024, 511.161 - Qualifications for Issuance of a Certificate, and 511.164 - Definition of 150 Semester Hours to Qualify for Issuance of a Certificate* in the *Texas Register* for public comment. Ms. Smith seconded the motion and it passed unanimously. (ATTACHMENT 3)
- C. Ms. Smith moved to authorize the executive director to publish the proposed revisions to *Board Rules 511.22 – Initial Filing of the Application of Intent, and 521.12 - Filing Fee* in the *Texas Register* for public comment. Ms. Espinoza-Riley seconded the motion and it passed unanimously. (ATTACHMENT 4)
- D. Ms. Smith moved to authorize the executive director to publish the proposed revisions to *Board Rule 511.122 - Acceptable Work Experience* in the *Texas Register* for public comment. Ms. Holup seconded the motion and it passed unanimously. (ATTACHMENT 5)
- E. Mr. Garcia reported that the next committee meeting is scheduled for July 12, 2023 at 1:30 p.m.
- VI. Ms. Foshee, Qualifications Committee Chair, reported on the April 28, 2023 (video conference and in-person) Qualifications Committee meeting.

#### Members Present

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

Thomas Hightower  
Dustin Kalman  
A. Larsson  
Sherri B. Merket  
Linda Messing  
Thomas M. Neuhoff, CPA  
Brandon Newton

#### Staff Present

Paulette Beiter, Esq.  
Ann Hallam, PMP  
Telisa Harwell  
J. Randel Hill, Esq.  
Donna Hiller  
Kyle McGaw  
John Moore, Esq.  
Lori Shaw  
William Treacy

- A. Ms. Foshee reported on **SB 951** filed by Senator Perry and companion bill **HB 2504** which would expand the 5<sup>th</sup>-year scholarship program to include any accounting students with at least 15 hours of upper-level accounting coursework and who have not completed the coursework needed for certification. The committee considered Board rules found in *Chapter 520 – Provisions for the Fifth-Year Accounting Students Scholarship Program* and referred its amendments to the Rules Committee for its consideration.
- B. 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 bachelor's degree. The committee considered Board rules found in *Chapter 511 – Eligibility, Subchapter C – Educational Requirements* and referred its amendments to the Rules Committee for its consideration.
- C. Ms. Foshee reported that **HB 2217** filed by Representative Button referring to Work Experience and the CPA Examination. The committee considered *Chapter 511 – Eligibility, Subchapter F – Experience Requirements*. An amendment to *Board Rule 511.122 – Acceptable Work Experience* was referred to the Rules Committee for its consideration.
- D. Ms. Foshee reported that in anticipation of the passage of **SB 159**, the committee considered amendments to *Board Rule 511.22 – Initial Filing of the Application of Intent* and referred this rule to the Rules Committee for its consideration.

- E. Ms. Foshee reported that they considered an amendment to UAA Model Rule 5-7 that would lengthen the conditional credit from 18 months to 30 months. The committee will take it up at a future meeting.
- VII. Ms. Espinoza-Riley, Licensing Committee Chair, reported on the Board's June 24, 2023 Swearing-in Ceremony held in Austin, TX at the Lester E. Palmer Events Center. She stated that the Licensing Division extended an invitation to 931 new CPAs and 176 fifty-year honorees.
- VIII. Ms. Vallés-Pankratz, Peer Assistance Oversight Committee Chair, reported on activities of ACAN during the first six months of the year. During that time, ACAN conducted 119 support group meetings, provided monitoring services for 31 individuals under ACOs, monitored the phone line and addressed the needs of those referred as well of those through other contacts. The program is expanding into topics of self-care, grief, stress, pain management and compulsive behaviors. Screening, Brief Intervention and Referral to Treatment (SBIRT) is a public health approach for early identification and intervention with people whose patterns of alcohol and/or drug abuse puts their health at risk. ACAN implements similar concepts and has been in touch with trainers to see how ACAN's work might fit the model.
- IX. Ms. Smith, Behavioral Enforcement Committee Chair, reported on the following meeting:

**April 26, 2023** (Video conference and in-person)

**Members Present**

Susan I. Adams, CPA  
Charles B. Allison, CPA  
Patricia C. Culver, CPA  
Patrick Durio, CPA  
Jill A. Holup

James D. Ingram IV, CPA  
Phillip D. Johnson, CPA  
Kevin J. Koch, CPA  
Debra S. Sharp  
Jeannette P. Smith, CPA  
Chair (in-person)

**Staff Present**

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

A. Dismissals – Insufficient evidence

- Mr. Garcia moved to dismiss the following investigations based upon insufficient evidence of a violation of the *Act* or the *Rules*. Mr. Grant seconded the motion and it passed. The BEC committee members did not participate in the vote.
  1. **Investigation Nos. 23-03-04T<sup>1</sup> and 23-03-05T<sup>1</sup>**
  2. **Investigation Nos. 23-02-03L<sup>1</sup> and 23-02-04L<sup>1</sup>**
  3. **Investigation Nos. 23-01-03L<sup>1</sup> and 23-01-04L<sup>1</sup>**
  4. **Investigation No. 23-03-09T<sup>1</sup>**

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

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

**April 5, 2023** – (Zoom)

**Members Present**

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

Debra Seefeld, CPA  
Chair (in-person)  
Dilliana Stewart, CPA  
Sheila M. Vallés-Pankratz  
Juliet Williams, CPA

**Staff Present**

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

A. Request for Reinstatement:

- Mr. Koch moved to approve request for reinstatement for **Investigation No. 17-07-03L<sup>2</sup>**. Ms. Crawford seconded the motion and it passed. The TSR committee members did not participate in the vote.

B. Request to lift Probated Suspension:

- Ms. Espinoza-Riley moved to approve a request to lift a probated suspension for **Investigation No. 20-09-50L**<sup>2</sup>. Ms. Smith seconded the motion and it passed. The TSR committee members did not participate in the vote.

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

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

A. **Agreed Consent Order:**

**Behavioral Enforcement Committee**

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

- |    |                           |                                  |                         |                            |
|----|---------------------------|----------------------------------|-------------------------|----------------------------|
| 1. | <b>Investigation No.:</b> | <b>22-02-09L</b>                 | <b>Hometown:</b>        | <b>Willemstad, Curacao</b> |
|    | <b>Respondent:</b>        | <b>Stephen Capella</b>           | <b>Certificate No.:</b> | <b>075723</b>              |
|    | <b>Rule Violations:</b>   | <b>501.90(2), 501.91, 501.93</b> |                         |                            |
|    | <b>Act Violations:</b>    | <b>901.502(6), 901.502(11)</b>   |                         |                            |

Respondent entered into an ACO with the Board whereby Respondent was reprimanded and assessed \$697.04 in administrative costs to be paid within 30 days of the date of the Board Order. After defending a civil case successfully, on appeal, Respondent was found liable for over \$7 million in damages for his part in co-signing the approval of a credit request for a loan that turned out to be fraudulent while he was CFO of a local bank in Curacao. Respondent was not criminally charged; however, the CEO of the bank was convicted of fraud.<sup>1</sup>

- |    |                            |   |                          |                    |
|----|----------------------------|---|--------------------------|--------------------|
| 2. | <b>Investigation Nos.:</b> | <b>22-08-16L &amp; 22-08-17L</b>                    | <b>Hometown:</b>         | <b>Houston, TX</b> |
|    | <b>Respondents:</b>        | <b>Nicole M. Durio &amp; Nicole M. Durio (Firm)</b> | <b>Certificate No.:</b>  | <b>072640</b>      |
|    | <b>Rule Violation:</b>     | <b>501.74(b)</b>                                    | <b>Firm License No.:</b> | <b>R00105</b>      |
|    | <b>Act Violation:</b>      | <b>901.502(6)</b>                                   |                          |                    |

Respondents entered into an ACO with the Board whereby Respondents were reprimanded and agreed to complete eight hours of CPE in the area of tax in addition to Respondent's annual requirement within 90 days of the date of the Board Order and for the subsequent two reporting periods. In addition, Respondents were assessed a \$1,500 administrative penalty and \$743.47 in administrative costs to be paid within 60 days of the date of the Board Order. Respondents prepared an inaccurate federal tax return.<sup>1</sup>

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|----|---------------------------|---|-------------------------|---------------------|
| 3. | <b>Investigation No.:</b> | <b>22-02-10L</b>                            | <b>Hometown:</b>        | <b>Richmond, TX</b> |
|    | <b>Respondent:</b>        | <b>Ayotunde Oluwasegun Fadipe</b>           | <b>Certificate No.:</b> | <b>107601</b>       |
|    | <b>Rule Violations:</b>   | <b>501.90(4), 501.90(5)</b>                 |                         |                     |
|    | <b>Act Violations:</b>    | <b>901.502(6), 901.502(10), 901.502(11)</b> |                         |                     |

Respondent entered into an ACO with the Board whereby Respondent was reprimanded and his certificate revoked, however, the revocation was stayed and Respondent was placed on probation for three years from the effective date of this order. In addition, Respondent shall attend and participate in the Accountants Confidential Assistance Network, notify his employer of the Board Order and pay \$779.16 in administrative costs. Respondent was convicted of the felony offense of misuse of a passport and sentenced to three years of probation.<sup>1</sup>

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|----|---------------------------|---|-------------------------|-------------------|
| 4. | <b>Investigation No.:</b> | <b>22-09-61L</b>  | <b>Hometown:</b>        | <b>Dallas, TX</b> |
|    | <b>Respondent:</b>        | <b>Cara Delin Obert</b>                                 | <b>Certificate No.:</b> | <b>066422</b>     |
|    | <b>Rule Violations:</b>   | <b>501.90(2), 501.90(4), 501.90(5)</b>                  |                         |                   |
|    | <b>Act Violations:</b>    | <b>901.502(2), 901.502(6), 901.502(10), 901.502(11)</b> |                         |                   |

Respondent entered into an ACO with the Board whereby Respondent's certificate was revoked. Respondent was found guilty of Conspiracy to Commit Wire Fraud Affecting a Financial Institution, Conspiracy to Commit Securities Fraud, and Securities Fraud and Aiding and Abetting. Respondent was sentenced to five years of incarceration followed by five years of supervised release. If Respondent wins her appeal and the conviction is reversed, Respondent's certificate will be reinstated.<sup>1</sup>

**B. Administrative Disciplinary Actions:**

Mr. Koch moved to approve the following Administrative Disciplinary Actions as presented. Ms. Crawford 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 6)

**Investigation Numbers**

22-12-10001 – 22-12-10082

23-01-10001 – 23-01-10065

**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 7)

**Investigation Numbers**

22-12-10083 – 22-12-10270

23-01-10066 – 23-01-10218

**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 8)

**Investigation Numbers**

22-12-10271 – 22-12-10290

23-01-10219 – 23-01-10240

- XII. Ms. Adams moved to approve the following new slate of officers and executive committee members-at-large. Ms. Foshee seconded the motion and it passed unanimously.

Kevin J. Koch, CPA	Assistant Presiding Officer
Olivia Espinoza-Riley, CPA	Treasurer
Jeannette P. Smith, CPA	Secretary
Ray R. Garcia, CPA	Executive Committee Member-at-Large
Jamie D. Grant	Executive Committee Member-at-Large
Jill A. Holup	Executive Committee Member-at-Large

- XIII. Ms. Seefeld reviewed the meeting schedule for the year.

- XIV. Ms. Seefeld adjourned the meeting at 11:42 a.m.

**ATTEST:**

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Debra D. Seefeld, CPA, Presiding Officer

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Jeannette P. Smith, CPA, Secretary

<sup>1</sup>*Ms. Adams, Ms. Holup, Mr. Koch, and Ms. Smith recused themselves from participating in this matter.*

<sup>2</sup>*Mr. Garcia, Mr. Grant, Ms. Seefeld and Ms. Vallés-Pankratz recused themselves from participating in this matter.*