

Texas State Board of Public Accountancy

September 14, 2023

The Texas State Board of Public Accountancy met by video conference and in-person from 10:00 a.m. until 11:19 a.m. on September 14, 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 3:38 p.m. on September 1, 2023. (TRD #2023-005105) (ATTACHMENT 1)

Board Members Present

Susan I. Adams, CPA
Kimberly D. "Kim" Crawford, CPA
Olivia Espinoza-Riley, CPA
Treasurer
Renee D. Foshee, Esq., CPA
Himesh M. Gandhi, Esq.
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
Sherri B. Merket
Thomas M. Neuhoﬀ, CPA
Debra D. Seefeld, CPA
Presiding Officer
Jeannette P. Smith, CPA
Secretary
Sheila M. Vallés-Pankratz
Susan M. Warren, CPA

Others Present

Kenneth Besserman, Esq.
Dr. Felicia Farrar, CPA
Lorna Harrison

Staff Present

Paulette Beiter, Esq.
Marissa Brooks
Nicole Duran, CPA
Rhonda Fellner
Ann Hallam, PMP
J. Randel Hill, Esq.
Donna Hiller
Kyle McGaw
John Moore, Esq.
Brian O'Neal
Julie Prien
Marisa Rios
Lorna Schwimmer-Staggs, CPA
William Treacy
Daniel Weaver

- I. Ms. Seefeld, Presiding Officer, called the meeting to order at 10:00 a.m. Mr. Treacy called roll and declared a quorum.
- II. Ms. Warren moved to approve the July 13, 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. Ms. Seefeld, Presiding Officer, reported on the September 13, 2023 (video conference and in-person) Executive Committee meeting.

Members Present

Ray R. Garcia, CPA (in-person)
Jamie D. Grant
Jill A. Holup
Kevin J. Koch, CPA
(in-person)
Olivia Espinoza-Riley, CPA
(in-person)
Debra D. Seefeld, CPA
Chair (in-person)
Jeannette P. Smith, CPA

Others Present

Kenneth Besserman, Esq.
Charles Cooley
Renee D. Foshee, Esq., CPA

Staff Present

Nicole Duran, CPA
Rhonda Fellner
Ann Hallam, PMP
J. Randel Hill, Esq.
Donna Hiller
Brian O'Neal
Marisa Rios
Lorna Schwimmer-Staggs, CPA
Lori Shaw
William Treacy
Daniel Weaver

- A. Ms. Espinoza-Riley, Treasurer, presented the Board's financial statements. Ms. Crawford moved to approve the Board's financial statements as presented. Mr. Koch seconded the motion and it passed unanimously.
- B. Ms. Espinoza-Riley, Treasurer, presented the Board's other financial matters:

1. Ms. Espinoza-Riley presented the Board's Fee Schedule for FY 2024, with the fees previously included as part of the approved FY 2024 budget. Ms. Crawford moved to approve the Board's Fee Schedule for FY 2024. Mr. Koch seconded the motion and it passed unanimously.
 2. Ms. Espinoza-Riley presented the budget overview that was approved at the July meeting.
 3. Ms. Espinoza-Riley presented the lists of approved FY 2023 contracts and FY 2024 contracts.
- C. Consideration of FY 2024 professional service contracts for CPA consultants:
1. Mr. Hill, General Counsel, presented Peter DelVecchia's contract. Mr. Koch, moved to approve Peter DelVecchia's professional service contract for FY 2024. Ms. Espinoza-Riley seconded the motion and it passed unanimously.
 - Peter DelVecchia, CPA 9/1/23 – 8/31/24 \$25,000
 2. Mr. Hill, General Counsel, presented Patrick Cantrell's contract. Mr. Koch, moved to approve Patrick Cantrell's Professional service contract for FY 2024. Mr. Garcia seconded the motion and it passed. Ms. Seefeld recused herself from consideration of the contract with Patrick Cantrell, CPA.
 - Patrick Cantrell, CPA 9/1/23 – 8/31/24 \$10,000
- D. Ms. Seefeld, Presiding Officer, reported on the following NASBA/AICPA matters:
- NASBA dates of interest:
 - a. NASBA's 116th Annual Meeting October 29 – November 1, 2023 – New York, NY
 - Additional NASBA Matters
 - b. NASBA Nominating Committee Announces Slate of Officers
 - c. NASBA Letter on Credit Relief Initiative
- E. Ms. Seefeld, Presiding Officer, presented the Committee and Board meeting dates for calendar year 2024 and reminded Board members about what constitutes an excused absence. Dan Weaver reported that due to a scheduling conflict, the Swearing-in Ceremony scheduled for December 7, 2024 will need to be rescheduled for possibly January 18, 2025.
- F. Ms. Seefeld, Presiding Officer, reported on general correspondence coming to the Board's attention.
- V. Mr. Garcia, Rules and Peer Review Committee Chair, reported on the September 13, 2023 (video conference and in-person) Joint Rules and Peer Review Committee meeting.

Members Present

Kimberley Crawford, CPA
Renee Foshee, CPA
Ray Garcia, CPA
Chair
Kevin Koch, CPA
Laura Lambert, CPA
Ben Peña, CPA
Debra Seefeld, CPA
ex officio
Jeannette P. Smith, CPA
Susan Warren, CPA

Members Absent

Himesh Gandhi, Esq.
Robert McAdams, CPA

Others Present

Tom Akin, CPA
Kenneth Besserman, Esq.
Edie Cogdell, CPA
Charles Cooley, CPA
Robert Goldstein, CPA
Jennifer Johnson
Maninder Kaur
Dipesh Patel, CPA
Melanie Thompson, CPA

Staff Present

Paulette Beiter, Esq.
Marissa Brooks
Nicole Duran, CPA
Ann Hallam

J. Randel Hill, Esq.
Donna Hiller
Amy Kulik
John Moore, Esq.
Brian O'Neal
Marisa Rios

Lorna Schwimmer-Staggs, CPA
Lori Shaw
William Treacy
Daniel Weaver

- A. Ms. Warren moved to adopt Board *Rule 511.56 – Educational Qualifications under Act* as presented. Mr. Koch seconded the motion and it passed unanimously. The Board tabled action on *Rule 511.57 – Qualified Accounting Courses* until the Qualifications Committee has had the opportunity to consider the comments at its September 22, 2023 meeting. **(ATTACHMENT 2)**
- B. Ms. Espinoza-Riley moved to adopt Board *Rules 511.80 – Granting of Credit* and *511.83 – Granting of Credit by Transfer of Credit*. Ms. Merket seconded the motion and it passed unanimously. **(ATTACHMENT 3)**
- C. Ms. Crawford moved that the Board authorize the executive director to publish the proposed amendments to Board *Rule 527.5 – Deficient Reviews* in the *Texas Register* for public comment. Ms. Warren seconded the motion and it passed unanimously. **(ATTACHMENT 4)**
- D. Mr. Garcia reported that the next committee meeting is scheduled for November 8, 2023 at 1:30 p.m.
- VI. Ms. Foshee, Qualifications Committee Chair, reported on the September 13, 2023 (video conference and in-person) Qualifications Committee meeting.

Members Present

Renee Foshee, Esq, CPA
Chair
Kevin Koch, CPA
Marshall Pitman, Ph.D., CPA
Debra D. Seefeld, CPA
ex officio
Jeannette Smith, CPA
Veronda Willis, Ph.D., CPA

Members Absent

Caroline Hartmann, CPA
Sheila Valles-Pankratz
Kathy Zolton, CPA

Others Present

Kenneth Besserman, Esq.
Kimberly Crawford, CPA
Ray Garcia, CPA
Maninder Kaur
Mary Valerie Reeves, CPA

Staff Present

Paulette Beiter, Esq.
Ann Hallam, PMP
Telisa Harwell
J. Randel Hill, Esq.
Donna Hiller
Brian O'Neal
Marisa Rios
Lori Shaw
William Treacy

- Ms. Crawford moved to approve a draft proposal described as the Applicant Reassessment Program (ARP). Mr. Koch seconded the motion and it passed unanimously.
 - Rules Committee to meet in an expedited manner, to consider *Chapter 511* rules.
- VII. Ms. Smith, Behavioral Enforcement Committee Chair, reported on the following meeting:

August 15, 2023 (Video conference and in-person)

Members Present

Susan I. Adams, CPA
(in-person)
Charles B. Allison, CPA
Patricia C. Culver, CPA
Patrick Durio, CPA
Jill A. Holup

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

Staff Present

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

A. Dismissals – Insufficient evidence

Mr. Gandhi moved to dismiss the following investigations due to 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.

1. Investigation Nos. 23-05-08L¹ and 23-05-09L¹
2. Investigation Nos. 23-04-01L¹ and 23-04-02L¹
3. Investigation Nos. 23-02-01L¹ and 23-02-02L¹

B. Removal of Limited Scope:

- Ms. Foshee moved to remove the Limited Scope from **Investigation No. 08-03-05L¹**. Ms. Merket seconded the motion and it passed. The BEC committee members did not participate in the vote.

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

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

July 27, 2023 – (Zoom)

Members Present

Kimberley Crawford, CPA
Ray R. Garcia, CPA
Jamie D. Grant
Douglas Koval, CPA
Sheila Vallés-Pankratz
Juliet Williams, CPA
Susan Warren, CPA

Member Absent

Dilliana M. Stewart, CPA

Staff Present

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

A. Dismissal

- Mr. Koch moved to dismiss **Investigation No. 22-11-12L²** due to insufficient evidence of a violation of the *Act* and the *Rules*. Ms. Foshee seconded the motion and it passed. The TSR committee members did not participate in the vote.

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

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

A. **AGREED CONSENT ORDERS (ACO)**

TECHNICAL STANDARDS REVIEW COMMITTEE (TSR)

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

1. **Investigation No.: 22-10-15L²**

Respondent: Mark Charles Kelly

Rule Violations: 501.60, 501.61, 501.90(7)

Act Violations: 901.502(6), 901.502(9), 901.502(11)

Hometown: Prosper, TX
Certificate No.: 120897

Respondent entered into an ACO with the Board whereby Respondent's certificate and license were revoked. Respondent was also assessed an administrative penalty of \$20,000 and administrative costs of \$942.93.

Respondent entered into an agreed Cease and Desist Order with the Securities and Exchange Commission. Respondent, as the Controller and Chief Accounting Officer of a public company, was involved in improper earnings management practices for the public company.

2. Investigation No.: 22-11-11L²

Respondent: John Shepard Hammett

Rule Violations: 501.60, 501.61

Act Violations: 901.502(6), 901.502(11)

Hometown: Plano, TX
Certificate No.: 016472

Respondent entered into an ACO with the Board whereby Respondent was reprimanded. Respondent would also be placed on limited scope if and when he comes out of retirement requiring him to have a pre-issuance review of any attest services.

Respondent issued audited financial statements for a commercial oil and gas company that failed to meet generally accepted auditing standards and generally accepted accounting principles.

B. ADMINISTRATIVE DISCIPLINARY ACTIONS

Ms. Smith moved to approve the following Administrative Disciplinary Actions as presented. Ms. Holup seconded the motion and it passed unanimously.

1. Respondents: In the Matter of Disciplinary Action Against Certain Licensees for Nonpayment of Licensing and Late 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 5)

No Board committee considered these actions.

Investigation Numbers

1. 23-04-10001 - 23-04-10092

2. 23-05-10001 - 23-05-10094

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 provided with a preliminary report and 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)

No Board committee considered these actions.

Investigation Numbers

3. 23-04-10093 - 23-04-10227

4. 23-05-10095 - 23-05-10265

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)

No Board committee considered these actions.

Investigation Numbers

5. 23-04-10228 - 23-04-10240

6. 23-05-10266 - 23-05-10287

- X. Ms. Crawford moved to adopt the following Board *Rules* as presented. Ms. Merket seconded the motion and passed unanimously.

1. *Section 511.22 (Initial Filing of the Application of Intent)* (ATTACHMENT 8)
2. *Section 511.52 (Recognized Institutions of Higher Education)* (ATTACHMENT 9)
3. *Section 511.53 (Evaluation of International Education Documents)* (ATTACHMENT 10)
4. *Section 511.54 (Recognized Texas Community Colleges)* (ATTACHMENT 11)
5. *Section 511.56 (Educational Qualifications under the Act to take the UCPAE)* (PREVIOUSLY APPROVED IN AGENDA ITEM V-A)
6. *Section 511.57 (Qualified Accounting Courses to take the UCPAE)* (TABLED ITEM V-A NO ACTION TAKEN)
7. *Section 511.58 (Definitions of Related Business Subjects to take the UCPAE)* (ATTACHMENT 12)
8. *Section 511.59 (Definition of 120 Semester Hours to take the UCPAE)* (ATTACHMENT 13)
9. *Section 511.60 (Qualified Accounting Courses Prior to January 1, 2024 to take the UCPAE)* (ATTACHMENT 14)
10. *Section 511.73 (Notice to Applicant to Schedule Taking a CPA Exam Section)* (ATTACHMENT 15)
11. *Section 511.80 (Granting of Credit)* (PREVIOUSLY APPROVED IN AGENDA ITEM V-B)
12. *Section 511.83 (Granting of Credit by Transfer of Credit)* (PREVIOUSLY APPROVED IN AGENDA ITEM V-B)
13. *Section 511.122 (Acceptable Work Experience)* (ATTACHMENT 16)
14. *Section 511.161 (Qualifications for Issuance of a Certificate)* (ATTACHMENT 17)
15. *Section 511.164 (Definition of 150 Semester Hours to Qualify for Issuance of a Certificate)* (ATTACHMENT 18)
16. *Section 520.1 (Authority and Purpose)* (ATTACHMENT 19)
17. *Section 520.3 (Institutions)* (ATTACHMENT 20)
18. *Section 520.4 (Eligible Students)* (ATTACHMENT 21)
19. *Section 520.5 (Award Amounts and Uses)* (ATTACHMENT 22)
20. *Section 521.14 (Eligibility Fee)* (ATTACHMENT 23)

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

- XII. Ms. Seefeld adjourned the meeting at 11:19 a.m.

ATTEST:

Debra D. Seefeld, CPA, Presiding Officer

Jeannette P. Smith, CPA, Secretary

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

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