

Implementation of the *Sarbanes-Oxley Act* in Texas

Board Submits SOX Report

In response to *Sec. 29 of the Public Accountancy Act (PAA)*, the Board has filed a report with recommendations for implementing the provisions of the *Sarbanes Oxley Act of 2002 (SOX)* in Texas. The Board approved the report at its November 11, 2004 meeting.

The 78th Texas Legislature, Regular Session, in 2003 directed the Board to report to the Governor, Lt. Governor, and Speaker of the House of Representatives on the mandates of *Sec. 29* of the new *Public Accountancy Act*. This section requires the Board to study and recommend appropriate SOX-like provisions in its report. The Board was also directed to report on the findings of a Government Accountability Office (formerly the General Accounting Office) study and its applicability to the State of Texas pursuant to *Sec. 29(2)* of the PAA on audit firm rotation and any legislation or other action necessary to conform state law to that study, as well as Board rules adopted which are intended to comply with SOX legislation.

Billy M. Atkinson, CPA, the Board's presiding officer, appointed a task force to assist the agency in not only developing recommendations that safeguard the public's interest while protecting a sound Texas business climate, but also with determining what entities should be defined as "public interest entities" (PIEs) and determining which SOX provisions pertain to them.

Gathering Information. The task force summarized relevant SOX provisions within a matrix format and asked PIEs, regulators of PIEs, and other interested groups to review the matrix and determine the applicability of each provision to their regulated entities. While some declined to participate, most recipients actively participated in the process. In

one instance, the regulatory body (the Texas Department of Insurance) proposed rule changes subsequent to its review of the matrix. In some situations the regulatory body may not have the authority to enact such changes and legislative action would be required. Many who responded suggested that adequate federal and state regulations already exist and that no changes are needed.

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The Public Forum. Upon receiving input on the matrix from the PIEs who participated, the task force reviewed the responses, and in an effort to gather more substantiation for the results, held a public forum on July 12, 2004 to receive oral and written testimony from selected associations, regulators of PIEs, public interest entity trade groups, the public, and other interested parties. Participants were asked to address the following questions:

1. Which SOX provisions should be made applicable to PIEs within the state?
2. What additional rules and regulations should be considered to accomplish this task?
3. What are the benefits of those rules and regulations?
4. What are the costs of those rules and regulations?
5. What other impacts should be considered?

General Conclusions. In its report, the Board cautioned against state-by-state application of SOX-type legislation to PIEs or to other non-publicly held entities to prevent confusion for businesses operating in multiple states and complication in the uniformity of enforcement. The Board

also advised against increasing costs to the Texas consumer as compared to consumers in other states. Additionally, the Board recommended that each SOX provision be evaluated considering the resultant protection provided to the public versus the cost and other negative impacts of the provision's adoption, as well as the size of the entity affected.

Many PIEs and their auditors are already subject to national standards or regulations that apply to Texas PIEs. Although the Board does not recommend an additional layer of regulation for PIEs outside their respective regulatory agencies or bodies, it does recommend that existing regulatory bodies of PIEs review and adopt appropriate SOX provisions, where applicable, related to their governance and management functions.

The Board believes that regulations related to the CPA should remain the responsibility of the Board. Under the PAA, the Board has the authority to implement all SOX-type provisions applicable to CPAs through its rulemaking process.

Consistent with a report by the federal GAO study, the Board did not recommend mandatory audit firm rotation.

The Board recommended potential legislation consistent with SOX Sec. 303 making it illegal for an officer, director or persons directed by them to fraudulently influence, coerce, manipulate, or mislead an independent public accounting firm performing an audit for PIEs in Texas. It further recommended reviewing existing statutes aimed at preventing fraudulent behavior to determine whether they are sufficient to cover such conduct by non-CPAs who are not within the Board's jurisdiction. The Board also believed it appropriate to provide penalties for such actions which are consistent with those in Chapter 26 of the PAA, which will result in felony penalties consistent with those of Texas CPAs. Additionally, the Board recommended providing the Board with the statutory authority to refer to the appropriate prosecutorial entity information on activities that appear to

constitute criminal conduct or violation of a statute in Chapter 31, Theft, or Chapter 32, Fraud, *Texas Penal Code*, by individuals other than CPAs.

Development of Responsibility Table. Using input from regulatory bodies, public interest

“The Texas State Board of Public Accountancy shall report to the governor, the lieutenant governor, and the speaker of the house of representatives, not later than December 31, 2004, regarding:

(1) the requirements of the federal Sarbanes-Oxley Act (Pub. L. No. 107-204), including any restrictions on public interest entities, and any legislation or other action needed to conform state law to the requirements of that Act;

(2) the federal General Accounting Office study on audit firm rotation and any legislation or other action needed to conform state law to the findings of that study; and

(3) the rules adopted by the board that are intended to comply with the federal standards described by Subdivisions (1) and (2) of this section and the board's actions in implementing and enforcing those rules.”

Public Accountancy Act, Sec. 29

entities, and other interested parties, the task force developed the Statutory and Regulatory Responsibility Table to detail each of the relevant SOX provisions and identify the appropriate oversight body to consider each one; it also recommends the regulatory body that should consider adoption, oversight, and enforcement of those provisions.

In making its recommendation, the task force considered whether the particular SOX provision related to regulation of the CPA or regulation of the entity. Provisions that relate to the CPA were assigned to the Board and those relating to entity governance and management were assigned to other regulating bodies, as appropriate. If a recommended provision requires legislative action, that responsibility was deferred to the Texas Legislature.

The Board's Rules. Both the PAA and Board rules were reviewed for compliance with the Legislature's directive. Additionally, SOX provisions assigned to the Board within the Statutory and Regulatory Responsibility Table were analyzed to determine which, if any, of the provisions should be adopted in Texas for the auditors of PIEs.

The Texas PAA affords the Board the authority it needs to adopt rules necessary to implement SOX. The Board has recently completed its second cycle of rule review, and has determined that its rules are in compliance with federal standards as described in Sec. 29 of the PAA.

Because the PAA, and subsequently the Board's rules, contain specific language defining what constitutes financial statements, reports, independence, accounting and auditing standards, other professional standards, and ethical conduct by CPAs, the Board believes that further legislation and rulemaking in this regard is not necessary.

National Activity. The task force considered the regulations being proposed nationally and in other states, entities affected by potential recommendations, the extent of current regulation on entities that fit within the Board's definition of PIEs, and the costs versus the benefits of additional regulation. The task force also considered who should be responsible for the evaluation, adoption, implementation, and enforcement of any proposed rules.

Most states are in a wait-and-see position of requiring public interest entities to implement SOX-type provisions for two major reasons. First, inconsistent state-to-state regulation could possibly be confusing, costly, and create an uneven business climate hindering businesses within a SOX-specific state. Second, the cost of implementation of the SOX provisions could outweigh the benefits received. Thus, the benefit of implementation of a provision should be justified before enacting regulation.

By referencing nationally recognized professional standards in the states' statutes and boards' rules, charging a licensee with violating applicable standards becomes more straightforward. It is important that states agree on which, if any, SOX standards should be applied to non-public companies. Otherwise, there will be uniform standards for public companies regulated by the PCAOB and a patchwork of different regulations for non-public companies depending on the states in which they do business. The task force reached the following general conclusions:

1. In addition to auditor restrictions, SOX establishes board governance and management behavioral standards which should be addressed by Texas Public Interest Entity regulators.

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2. Texas should not enact laws that unfairly impact the state economic climate compared to other states.
3. Adoption of consistent national standards is preferable to a myriad of state-specific standards.
4. In any guidelines, cost of compliance versus benefits of public protection should be considered.
5. Small entities should not be unduly burdened with provisions pertinent to large entities unless the provision's benefits clearly outweigh its costs.
6. SOX concepts are continuing to be addressed by multiple standard-setting and regulatory bodies at the national level and the requirements are continuing to evolve. Wherever possible, Texas should adopt the standards established by national standard-setting bodies and avoid implementing rules and regulations inconsistent with other states.

ANALYSIS OF SOX PROVISIONS

The task force's Statutory and Regulatory Responsibility Table indicated that the Board should be the responsible agency to determine if SOX or similar regulation should be adopted in Texas for the auditors of PIEs. The Board supports the application of consistent national standards in all states, including Texas. The Board recommended that Texas not adopt a Texas-only rule unless an existing national standard is obviously inadequate and Texas cannot influence a change. The following outlines each SOX provision and the specific Board response to the issues which pertain to auditors:

Sec. 101-109.

1. auditing, quality control, independence and ethics;
2. registration and inspection of public accounting firms; and
3. investigations and disciplinary proceedings.

Sec. 201. Non-audit service restrictions. SOX identifies seven specific services that auditors of registered companies are prohibited from providing to their audit clients. National standards of the GAO and the AICPA, which apply to non-registered PIEs, also prohibit auditors from performing services which would compromise independence. Although the specific terminology is different from SOX, the standards are based on the same essential concepts, and adherence to national standards has been adopted by Board rule. Currently the national standards are in a process of evolution; therefore, the Board will monitor the process and adopt additional rules if needed. No current action is needed.

Sec. 202. Audit committee pre-approval of non-prohibited outside auditor services. While each regulatory agency should address this issue to determine if there are industry-specific reasons to adopt this procedure, the Board sees no across-the-board need to require PIEs to follow this requirement. The Board does, however, believe it to be good practice for boards of directors, rather than management, to approve the auditor engagement, fees, and related services.

Sec. 203. Rotation of lead and reviewing audit partner. Audit partner rotation is a long-established practice for auditors of registered (publicly traded) entities, but has never been seriously considered for non-registered entities. The Board concluded, however, that because existing national auditing standards adequately address independence and objectivity issues, there is no need for Texas PIEs to have mandatory audit partner rotation. The Board will continue to

monitor its enforcement cases in this regard.

Sec. 204. Requirement of audit firm to report on specific items to audit committee (or its equivalent). SOX requires auditors to report to the entity's audit committee/board "critical accounting policies and practices . . . alternative treatments of financial information within generally accepted accounting principles . . . and other written communications [with] management." National auditing standards requires similar communication for all audits and no additional auditor rule by the Board is necessary.

SOX Sec. 206. Restrictions on hiring of key member of outside audit team (one-year cooling off period). There are specific GAO and AICPA standards that enumerate the circumstances under which an auditor's independence is impaired. The Board believes these standards are adequate and applicable to PIEs.

Sec. 207. GAO study on audit firm rotation. This section relates to the GAO study which was previously discussed in the Board's report. The report made no recommendation for mandatory audit firm rotation, and the Board concurs with that conclusion.

Sec. 209. State Board consideration. This section recommends that state regulatory authorities make an independent determination of standards considering the size and nature of the business of accounting firms and the size and nature of the businesses they serve. Standard-setting is an ongoing process, which the Board will continue to monitor and adopt necessary rules.

Sec. 404. Reporting on internal controls. Generally Accepted Auditing Standards, as promulgated by the AICPA, are applicable to all non-public entity audits and contain specific requirements for documentation and testing of internal controls by the auditor. However, SOX Sec. 404 expands this requirement for auditors and management of publicly traded companies. SOX mandates that management report on the company's internal controls and that the auditors express an opinion on both management's assertions and internal controls. The SEC and PCAOB have very specific standards for internal control documentation, testing, and reporting. Sec. 404 provisions are some of the most difficult and costly of the SOX requirements. The Board believes there are fundamental differences between publicly traded companies and all other entities, making expansion of Sec. 404 unreasonable. Even if it should be applied to some classes of PIEs, it seems prudent to wait until the public company sector and their auditors have underwritten the substantial initial implementation costs and scaled the steep learning curve. Thus, it is perhaps too early in the process for a reasonable determination on the cost versus benefits of such a requirement. In any event, the regulating bodies should determine whether such a requirement should exist for a particular type of PIE.

Sec. 802. Criminal penalties for altering documents and five-year retention of audit workpapers. This section establishes criminal penalties for altering or destroying documents and establishes a five-year retention period for an auditor's workpapers; Board rules already have this requirement. The Board considers other actions prohibited under this section to be violations of professional standards. A number of Board rules relate to this area; therefore, no additional regulation for Texas CPAs is required at this time. [Also see Sec. 303.]

Sec. 806. Whistleblower protection. The PAA provides immunity from civil and criminal liability for reporting a violation. However, the PIE regulating bodies should determine whether employee protection of PIEs is beneficial.

Sec. 1102. Criminal penalties for altering documents. This section parallels SOX Sec. 802 relating to the establishment of criminal penalties for altering or destroying documents. See comments above. [Also see Sec. 303.]

Sec. 1107. Whistleblower protection. This section parallels SOX Sec. 806 relating to informant protection. [See comments above.]

MEMORANDUM TO TEXAS ACCOUNTING EDUCATORS

by
Edward L. Summers,
Ph.D., CPA



From educators and students, Board members and staff occasionally hear this question: “Why does the Texas Board not accept certain accounting courses (such as international accounting, oil and gas accounting, and so on) as qualifying an applicant to become a CPA examination candidate?”

Consider, for example, international accounting, a widely-taught accounting elective the Board does not accept. The Board knows that international accounting, if well-taught to receptive students, has value to future CPAs. The Board respects those Texas higher education institutions that include and even require courses in this subject in their accounting curriculum.

The Board operates under the *Public Accountancy Act*. The *Act* allows the Board to only accept courses covering the concepts and practices that prepare one to take the CPA exam. The AICPA’s “CPA Exam Content Specifications”, published on its website, <http://www.aicpa.org>, define precisely the concepts and practices on which a candidate may expect questions on the CPA exam. The Board accepts only courses whose content is at least 51 percent concepts and practices included in this document. The Board has no authority to accept a course whose content is not related to that covered by the CPA exam. Some educators have asked the Board to accept international accounting anyway, offering as rationale that students won’t take worthy elective courses, such as international accounting, that the Board does not accept.

The Board asks educators to recognize the Board’s own limitations. Besides the Board’s rules, students are also influenced by their own perceptions and their universities’ curriculum structure. International studies ARE important enough for universities themselves to make room for them by working within the accounting curriculum and with the non-accounting faculties. After all, it isn’t only accounting that benefits from international content; so do the other business disciplines.

Until AICPA changes its content specifications for the CPA exam to include international accounting concepts and practices, the Texas Board will be unable to accept international accounting courses. Those who want the Board to accept international accounting, or any other specialized similar course with merit, should contact the AICPA before it conducts its next practice analysis (the step that determines what entry-level CPAs are expected to know and do). They should urge the AICPA to be especially alert for evidence of the value of the course content they support so that its concepts and practices can be included in the resulting CPA exam content specifications. When that happens, advocates of that course content will see the Texas Board responding, with candidates’ preparedness in mind, in a way they will applaud.

“The Board accepts only courses whose content is at least 51 percent concepts and practices . . . The Board has no authority to accept a course whose content is not related to that covered by the CPA exam.”

Edward L. Summers, Ph.D., CPA is a member of the Texas State Board of Public Accountancy and chair of the Board’s Qualifications and Licensing Committees. He is retired from the University of Texas at Austin, where he taught accounting.

Board Proposes Temporary Fee Increase for Licenses

At its November 11, 2004 meeting, the Board proposed an amendment to *Section 521.1* of its rules to temporarily increase the basic individual license fee from \$30 to \$60 beginning in March 2005. In addition, the Board has proposed increasing the firm license fees. The amendments will be presented for second reading at the January 12, 2005 Board meeting.

The temporary fee increases are necessary to meet the demands of the increases associated with the Board's enforcement program involving the prosecution of major cases. It is anticipated that the fee will be lowered to coincide with the decrease in the cost of these cases. A portion of the increase may become permanent to offset inflation in normal Board operations.

Fee history. Texas individual CPA license fees are among the lowest in the country, despite the fact that Texas is one of the few states without an income tax.

Over the 89 years of the Board's history, the fees have increased only 15 times and have actually *decreased* eight times. The Board reduced the fee in 1949, 1954, 1964, 1966, 1972, 1977, 1984, and 1995. The last time the basic individual license fee was raised was in 1991 when the Board increased it from \$30 to \$60. The Board lowered the fee back to \$30 in 1995.

Additional fees. In 1988 the Texas Legislature imposed a temporary \$110 fee on various occupations for two years. Then in 1992, in lieu of assessing a sales tax on professional services, the Legislature enacted a bill which mandated a \$200 fee on CPAs, physicians, dentists, architects, engineers, attorneys, and holders of certain other professional licenses. Although the Board is charged with collecting this fee, it is prohibited from keeping any portion of it. Instead, the \$200 is deposited into the state's General Revenue Fund; there is an exemption for state and federal employees who, as a condition of their employment, are required to deliver professional services under their licenses exclusively to the state and federal governments.

Also in 1992, the Legislature mandated a \$10 annual fee of CPAs for the purpose of funding a fifth-year accounting scholarship fund to aid accounting students with the costs of an extra year of college due to the new 150-hour requirement.

Therefore, although the Board collects \$240 annually per licensee, it is only allowed to retain the \$30 basic license fee.

Retired and permanently disabled status. Beginning in 1989, the Board gained the statutory authority to allow a lower individual license fee on licensees who qualified as permanently disabled or retired. This fee of \$10 has never been raised.

FEE HISTORY 1991 - 2004

1981 - 1983	\$30
1984 - 1987	\$20
1988 - 1990	\$26
1991	\$30 ¹
1992 - 1994	\$60 ²
1995 - present	\$30

¹Effective 10/23/91

²Effective 8/15/94

BOARD INITIATES CPE SPONSOR REVIEW PROGRAM

The Board has established a sponsor review program charged with ensuring that CPE sponsors are in compliance with the Board’s requirements.

CPE COURSES MUST BE WITH REGISTERED SPONSORS

Before taking a CPE course, a licensee should verify on the Board’s website that the course provider is a Board-approved CPE sponsor. The Board’s website is:

www.tsbpa.state.tx.us

A course taken from a sponsor who is not registered with the Texas Board but who is registered with the National Association of State Boards of Accountancy (NASBA) national CPE sponsor registry is acceptable. To verify NASBA sponsors, go to:

www.nasba.org

The program will monitor Board-registered CPE sponsors and their courses with the goal of emphasizing high quality education and compliance with professional standards. The Board has the authority to take appropriate action should a sponsor not adhere to Board rules or whose instruction or materials do not provide reasonable assurance of conforming to the minimum standards for high quality CPE.

Monitoring may involve reviewing course materials and course evaluations from licensees in order to provide assurance that the sponsor’s courses meet the needs of the Board’s licensees and that the course material is up-to-date and relevant. Procedures may include meeting with the sponsor to review educational materials and record-keeping documents, random visits to the sponsor, and evaluation of the sponsor’s educational philosophy.

Should significant deficiencies, problems, or inconsistencies be found in reviewing the materials, the Board may perform an expanded review.

Applications are being accepted for individuals interested in serving as program reviewers (see page 9 for details).

NEW ETHICS COURSE REQUIREMENTS TO TAKE EFFECT

Every two years, beginning with the 2007 license year, every licensee must take a four-hour Board-approved ethics course pursuant to *Section 523.131* of the Board’s rules.

To transition from the current three-year reporting cycle to the two-year reporting cycle, a certificate or registration holder who would have been required to report the completion of an ethics course for the 2005 license renewal must continue to report the

completion in 2005; however, the Board will accept either a two-hour ethics course or a four-hour ethics course.

A certificate or registration holder who would have been required to report an ethics course for the license renewal due in 2006 under the three-year cycle must report the completion of this requirement for the 2006 license renewal; however, that must be a four-hour ethics course.

If You Report Ethics Course in:	Report this Many Hours	How Often? (years)
2004	2	3
2005	2 or 4	2
2006	4	2
2007	4	2

Another change to the ethics course rule states that a certificate or registration holder who does not live in Texas, who has no clients in the state, and who has met the ethics requirements of his or her state of residence is not required to take the ethics courses required of Texas residents.

WANTED

Reviewers for CPE sponsor review program

In accordance with the *Texas Government Code*, Chapter 2254, Subchapter B, the Board is requesting proposals for persons wishing to serve as reviewers for the Board's CPE sponsor review program.

DESCRIPTION OF SERVICES.

The Board invites individuals to offer their services for the purpose of reviewing compliance of Board-registered CPE sponsors and the courses they offer with registration requirements, CPE standards, and applicable Board rules. Copies of the rules which provide greater detail of the sponsor review program may be obtained by contacting the Board or from its web page: (www.tsbpa.state.tx.us).

Minimum requirements:

- (1) must have at least five years of experience in the area being reviewed;
- (2) must be a CPA in good standing with the Board with no history of Board disciplinary actions; and
- (3) must possess demonstrable knowledge indicating that the reviewer is proficient in the areas to be reviewed.

Applicants are required to provide the following:

- (1) resumé;
- (2) identification of individuals, organizations, and other documentation to support the claimed level of proficiency for the area of review; and
- (3) Minimum hourly compensation requirement.

TERMS OF THE CONTRACT.

The initial contract period is from February 28, 2005 to August 31, 2005. Subsequent contract periods may be adjusted based on program requirements. Compensation will be based on the qualifications and experience of each individual reviewer.

EVALUATION AND SELECTION.

Applications should be submitted by **February 28, 2005**, to be considered for the 2005 sponsor review program process; thereafter, applications will be accepted on a continual basis. The Board will evaluate each application and award contracts based on qualifications.

SUBMIT APPLICATIONS TO

TEXAS STATE BOARD OF PUBLIC ACCOUNTANCY
Director of Special Programs
333 Guadalupe, Tower 3, Suite 900
Austin, TX 78701-3900

Section 901.502 of the *Public Accountancy Act*

Maintaining Your License to Practice

“A person whose license has expired may not engage in activities that require a license until the license has been renewed.”

Section 901.502(3) of the *Public Accountancy Act* is one that Texas CPAs should understand; it provides that a person may be disciplined if that person fails to obtain a license to practice within a specified time.¹

For the State’s fiscal year ended August 31, 2004, CPAs were more likely to be disciplined under Section 901.502(3) of the *Act* than any other section.² While most of the allegations were administratively cleared, 498 actual violations of this section were found during the fiscal year.³ This compares to the two allegations next most frequently cited, sixty-six each⁴, against CPAs, those dealing with violations of the *Rules of Professional Conduct*⁵ and lack of fitness to serve the public as a professional accountant.⁶

A person who intends to practice as a CPA in Texas is required to possess two documents: a certificate and a license to practice.⁷ The certificate is issued after the Board determines that an applicant has met the five statutory requirements.⁸ The Board is similarly charged with issuing a license to an applicant who has met the basic requirements.⁹ There is a distinction, however, between the CPA certificate and the license to practice. Once issued, a certificate remains in the individual’s possession unless revoked.¹⁰ A license, on the other hand, must be renewed every twelve months.¹¹ The renewal requirements ensure that a certificate holder is in compliance with licensing requirements. Thus, “[t]he Board may not issue a license to or renew the license of a person who does not meet the licensing requirements of [Chapter 901] or the rules adopted under [Chapter 901].”¹²

While most license violations are administratively cleared through the certificate holder paying the renewal fees that are due or completing the requisite CPE hours, many certificate holders subject themselves to further disciplinary proceedings as a result of misunderstanding the consequences of an expired license. Board rules state: “Individuals certified or registered by this Board must obtain a license for each twelve-month interval.”¹³ Thus, a “failure to submit to the Board a completed renewal notice, the renewal fee, and any other required documents before the license expiration date will result in the cancellation of the individual’s or the firm office’s license.”¹⁴ Cancellation of a license may be thought to include the termination of any promise, obligation, or right represented by the license.¹⁵ Therefore, a CPA who permits his or her license to lapse no longer possesses one of the two documents required to practice public accountancy in Texas, *as of the date the license is cancelled*. A CPA who continues the practice of public accountancy¹⁶ without a license is subject to a range of disciplinary measures, including revocation of the person’s certificate.¹⁷

A CPA may also come before the Board on disciplinary charges for practicing without a license even though the CPA has later reinstated his or her license. Licenses are issued for a twelve-month period, with an expiration date on the last day of the individual’s birth month.¹⁸ There is, however, no provision in the *Act* for retroactive effectiveness of the license. Thus, as with many licenses, a license may only be considered effective when *issued*, and no license is considered in effect prior to the license’s issuance. A person who practices public accounting during any period that the CPA does not have a validly issued license is practicing without a license and is therefore subject to disciplinary proceedings. This is analogous to driving without a driver’s license. The Texas Legislature clarified this matter by amendment to the *Act* in 2003: “A person whose license has expired may not engage in activities that require a license

until the license has been renewed.”¹⁹

It is the policy of the State of Texas that persons licensed as CPAs “maintain high standards of professional competence, integrity, and learning.”²⁰ Persons so licensed must demonstrate “competence and integrity in all dealings with the public that rely on or imply the special skills of a certified public accountant.”²¹ The Board is charged with administering the *Act*.²² Through its rules, licensing procedures, and by application of the *Act*, the Board seeks to carry out the Legislature’s mandate: That the public be provided a high level of professional competence at reasonable fees by independent, qualified persons.²³

For a CPA who practices before the public, maintenance of the license demonstrates the CPA’s commitment to the profession and his compliance with the law. CPAs are urged to maintain their licenses at all times.

¹ TEXAS OCC. CODE ANN. §901.502(3) (Vernon 2003).

² 2003 TEX. STATE Bd. PUB. ACCT. ANNUAL FINANCIAL REPORT 36.

³ *Id.*

⁴ *Id.*

⁵ §901.502(6).

⁶ §901.502(11).

⁷ §901.251(a) (“A person who is an individual may not engage in the practice of public accountancy unless the person holds a certificate issued under this chapter.”); *see also* §901.451 (“A person may not assume or use the title or designation ‘certified public accountant,’ the abbreviation ‘CPA,’ or any other title . . . tending to indicate that the person is a certified public accountant unless the person holds a certificate under this chapter.”); §901.401 (“An individual who holds a certificate issued under this chapter must **also** hold a license issued under this chapter.”) (emphasis added).

⁸ §901.252. (“To be eligible to receive a certificate, a person must: (1) be of good moral character as determined under Section 901.253; (2) meet the education requirements established under Section 901.254 or 901.255; (3) pass the uniform CPA examination; (4) meet the work experience requirements established under Section 901.256, and; (5) pass an examination on the rules of professional conduct as determined by board rule.”).

⁹ §901.402(a). (“On payment of the required fees, the board shall issue a license to an applicant who: (1) holds a certificate issued under this chapter, or; (2) holds a firm license issued under this chapter.”).

¹⁰ *See* §§901.501–.502.

¹¹ Tex. State Bd. Acct., 22 TEX. ADMIN. CODE §515.1(a) (West 2004) (Examining Boards).

¹² §901.402(b).

¹³ §515.1(a).

¹⁴ §515.4.

¹⁵ *See* BLACK’S LAW DICTIONARY 219 (8th ed. 2004).

¹⁶ *See* §901.003.

¹⁷ §901.501.

¹⁸ §515.3(a).

¹⁹ §901.405(a).

²⁰ § 901.005(e)(3).

²¹ *Id.*

²² §901.151(a)(1).

²³ §901.005(e)(5).

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Top Ten candidates attending the ceremony were (left to right): Jiong Chen McNutt, Miao Song, Donna L. Mayes, Stacey D. Allen, Kevin D. Smith, Xiaojing Wang, Nancy Manzheng Fan, Jensine E. Friend.



50-year licensees honored at the ceremony were (left to right): Stephen L. Bires, Robert K. Campbell, and Victor A. Trubitt.

Board honors new CPAs, long-time licensees, and exam proctors at swearing-in ceremony

The November swearing-in ceremony was held at the LBJ Library Auditorium in Austin on November 13, 2004.

The Board presented 683 candidates with their CPA certificates and also honored the ten top-scoring candidates. The “Top Ten” candidates are:

(Austin) Jiong Chen McNutt
(Cedar Hill) Nancy M. Fan
(Dallas) Stacey D. Allen; Celeste M. Riter; Kevin D. Smith; Miao Song
(Fort Worth) Michael S. Elrod; Donna L. Mayes
(Houston) Xiaojing Wang
(San Antonio) Jensine E. Friend

The Top Ten are the Texas candidates receiving certificates at the ceremony who earned the ten highest grades on the Uniform CPA Examination. Jiong Chen McNutt was the highest scoring candidate.

In addition, the Board recognized the following 27 individuals who have maintained their licenses for 50 years:

CALIFORNIA: Donald W. Dorman
FLORIDA: Calvin R. Henze
NEW MEXICO: William R. Goodrum Jr.
TEXAS: **(Beaumont)** Fred D. Winter
(Brenham) Gene M. Wilson
(Carrollton) Norris L. Adams

(Chicota) Robert K. Campbell
(Dallas) Kenneth K. Byrd; Hanse M. Hamilton Jr.; William B. Kolbye; Charles B. Ponder; Victor A. Trubitt; Edward A. Wolff Jr.
(Garland) W.C. Kramp Jr.
(Georgetown) J.M. Le Fan
(Horseshoe Bay) Stephen L. Bires
(McAllen) James W. Johnson
(Nacogdoches) James E. Redfield
(Rockport) Clayton L. Caskey
(San Antonio) Woodrow B. Elley; George B. Gubernator
(Taylor) Leland M. Stevens
(Tulia) Robert F. Watson
(Tyler) Ralph J. Adams
(Waco) Rodney L. Brown; Emerson O. Henke; Charles R. Voth

Following the ceremony, the Board hosted a luncheon to show appreciation to individuals who have assisted the Board in the past by serving as exam proctors.

ENFORCEMENT ACTIONS

DISCIPLINARY ACTIONS

RESPONDENT: Kulathumkal A. Abraham (Plano)

CERTIFICATE: 061175

ACT VIOLATIONS: §§901.351, 901.502(6), 901.502(11), 901.502(12)

DISPOSITION: The respondent entered into an agreed consent order whereby his individual certificate was revoked. In addition, the respondent must pay \$1,000 in administrative penalties, \$75 in administrative costs and \$250 in restitution, all within 30 days of the Board order.

The respondent issued an audit report with accompanying financial statements that: failed to note the reporting period; failed to include required disclosures; failed to include a statement of cash flows; and failed to include notes to the financial statements. In addition, the respondent performed an attest service without a firm license and without enrolling in a peer review program.

INVESTIGATION: 03-11-10L

BOARD ACTION: 7/15/04

RULE VIOLATIONS: §§501.60, 501.61, 501.74, 501.81, 527.4

RESPONDENT: Clyde B. Bailey (San Antonio)

CERTIFICATE: 023975

ACT VIOLATIONS: §§901.502(6), 901.502(11), 901.502(12)

DISPOSITION: The respondent entered into an agreed consent order with the Board whereby the respondent:

- (1) was reprimanded;
- (2) was required to pay \$505.50 in administrative costs within 30 days of the date of the Board order; and
- (3) must complete and submit proof of completion of a peer review within 90 days of the date of the Board order.

On December 12, 2003, the Kansas State Board of Accountancy issued a Summary Order of Revocation of Permission to Practice by Notification for failure to comply with the provision of a consent agreement. Specifically, the respondent failed to produce either a letter of completion of peer review or a current "in process" letter from the AICPA-SECPS. The respondent failed to report his Kansas to the Texas Board within 30 days of the date of knowledge of revocation. The respondent is not in compliance with the Texas Board's peer review requirements.

INVESTIGATION: 04-02-07L

BOARD ACTION: 7/15/04

RULE VIOLATIONS: §§501.90(6), 501.91, 527.4

RESPONDENT: Wallace R. Bailey Jr. (Henderson)

CERTIFICATE: 027228

ACT VIOLATIONS: §§901.502(6), 901.502(10), 901.502(11)

DISPOSITION: The respondent entered into an agreed consent order with the Board whereby his certificate was revoked. The respondent pleaded guilty to a state jail felony.

INVESTIGATION: 03-07-09L

BOARD ACTION: 11/13/03

RULE VIOLATIONS: §501.90(4)

RESPONDENT: Calvin D. Brown (Dallas)

CERTIFICATE: 070464

ACT VIOLATIONS: §§901.502(6), 901.502(11)

DISPOSITION: The respondent's certificate was revoked, and he was assessed administrative penalties of \$2,000 and direct administrative costs of \$2,759.50. The respondent induced his client to invest in a fraudulent business venture and also failed to provide financial investment information to his client.

INVESTIGATION: 03-04-03L

DATE OF BOARD ACTION: 9/22/04

RULE VIOLATIONS: §§501.90(9), 501.90(12)

RESPONDENT: Joseph H. Browne (Sugar Land)

CERTIFICATE: 016936

ACT VIOLATIONS: §901.502(6), 901.502(11)

DISPOSITION: The respondent entered into an agreed consent order with the Board whereby he was reprimanded. In addition, he must pay \$600.00 in administrative costs within 90 days of the date of the Board order.

The respondent failed to return his client's telephone calls and failed to substantively respond to Board communications.

INVESTIGATION: 03-02-07L

BOARD ACTION: 11/13/03

RULE VIOLATIONS: §§501.90(11), 501.93

RESPONDENT: John A. Croom (Austin)

CERTIFICATE: 018459

RESPONDENT: John Andrew Croom III & Associates, PC (Austin)

LICENSE: C04148

ACT VIOLATIONS: §§901.502(6), 901.502(10), 901.502(11)

INVESTIGATION: 04-01-09L

BOARD ACTION: 7/15/04

INVESTIGATION: 04-05-08L

BOARD ACTION: 7/15/04

RULE VIOLATIONS: §§501.80, 501.83, 501.90(2), 501.90(4), 501.90(12)

ENFORCEMENT ACTIONS

DISPOSITION: The respondents entered into an agreed consent order with the Board whereby respondent John A. Croom's certificate was revoked in lieu of further disciplinary proceedings and respondent John A. Croom III & Associates, PC's license was revoked in lieu of further disciplinary proceedings. In addition, the respondents must pay an administrative penalty of \$5,000 and administrative costs of \$631 within 30 days of the date of the Board order.

In a letter dated August 30, 2003, the respondent admitted to the Internal Revenue Service that he impersonated IRS appeals agent Sue D. Cody. Respondent Croom pleaded guilty to impersonating an officer or employee of the United States in violation of *18 USC § 912*. As of March 1, 2004, Respondent Croom has been practicing public accountancy with a delinquent, expired individual license. Respondent Croom practiced public accountancy with an improper firm name.

RESPONDENT: Danny C. Davis (McGregor)

CERTIFICATE: 022303

ACT VIOLATIONS: §§901.502(6), 901.502(11)

DISPOSITION: The respondent entered into an agreed consent order with the Board whereby the respondent was prohibited from performing any attest services, including audits, compilations, and reviews. In addition, the respondent must pay \$1,674 in administrative costs within 30 days of the date of the Board order. The respondent must also submit a quarterly report to the Board regarding the nature of compliance and the nature of his practice. This agreed consent order superceded a prior agreed consent order ratified by the Board on July 24, 2003.

The respondent failed to correctly or timely prepare a client's tax returns and failed to enroll in peer review although he performs compilations. In addition, the respondent failed to timely respond to the client's inquiries. The respondent also failed to timely respond to Board inquiries.

INVESTIGATION: 02-10-18L

BOARD ACTION: 7/15/04

RULE VIOLATIONS: §§501.74, 501.90(11), 501.93, 527.4

RESPONDENT: Romulo N. De Guzman (Passippany, NJ)

CERTIFICATE NO.: F00383

ACT VIOLATIONS: §§901.502(1), 901.502(6), 901.502(11)

DISPOSITION: The respondent entered into an agreed consent order with the Board whereby the respondent's certificate was revoked in lieu of further disciplinary proceedings. In addition, the respondent must pay an administrative penalty of \$1,000 and administrative costs of \$275 within 30 days of the date of the Board order.

The respondent failed to disclose that he was certified in the State of California as a CPA and that his California CPA certificate was disciplinarily revoked on July 11, 1995. On or about April 27, 1995, in the United States District Court, Central District of California, in Case No. CR-95-010-LEW, the respondent was convicted on his pleas of guilty to two counts of violating *Title 18 U.S.C. §1001* (making false statements within the jurisdiction of a federal agency.) The facts underlying the convictions are:

- (1) On or about July 13, 1993, the respondent knowingly and willfully prepared a false and fraudulent income tax return for an internal review undercover operator; and
- (2) on or about September 28, 1993, the respondent knowingly and willfully forged an IRS Form 2848 (Power of Attorney) in the name of a taxpayer whom the respondent neither represented nor had ever met. The respondent submitted the forged power of attorney to the IRS via facsimile in order to obtain information about the taxpayer. In or about July 1993, the respondent received in the mail a pre-approved credit card application from First Interstate Bank for Jack Levine. Without Mr. Levine's knowledge or permission, the respondent filled out the application and forged Mr. Levine's signature. The respondent ordered two cards on the account, one in his own name and one in Mr. Levine's name. The respondent kept both cards when they arrived. Between July 1993 and October 1993, the respondent used one or both of these cards to bill various personal expenses, totaling several thousand dollars. In or about at least 1992 and 1993, the respondent's accountancy corporation failed to file its California corporate income tax returns for the years ended March 1992 and March 1993.

INVESTIGATION: 04-04-26L

BOARD ACTION: 7/15/04

RULE VIOLATIONS: §501.90(1)

RESPONDENT: Larry G. Dewey (Bedford)

CERTIFICATE: 016698

ACT VIOLATIONS: §§ 901.502(6), 901.502(11)

DISPOSITION: The respondent entered into an agreed consent order with the Board whereby he was reprimanded. In addition, he was ordered to pay \$600.00 in administrative costs within 90 days of the date of the Board order. The respondent performed attestation services in an unregistered firm.

INVESTIGATION: 03-02-06L

BOARD ACTION: 11/13/03

RULE VIOLATIONS: §501.81

RESPONDENT: Jay P. Gilbertson (Suwanee, GA)

CERTIFICATE: 057764

ACT VIOLATIONS: §§901.502(6), 901.502(10), 901.502(11)

INVESTIGATION: 04-05-25L

BOARD ACTION: 9/22/04

RULE VIOLATIONS: §§501.90(2), 501.90(4)

ENFORCEMENT ACTIONS

DISPOSITION: The respondent entered into an agreed consent order with the Board whereby his certificate was revoked in lieu of further disciplinary proceedings. In addition, the respondent must pay \$200 in administrative costs within 30 days of the date the Board ratified the order.

On April 24, 2003, the respondent pleaded guilty to conspiracy to commit securities fraud in violation of *18 U.S.C. §371* and making false statements in a document required to be filed with the Securities and Exchange Commission (SEC) in violation of §32 of the *Securities Exchange Act of 1934, 15 U.S.C. §78ff(a)*. The object of the conspiracy was to mislead Wall Street analysts, HBO & Company (HBOC) investors, and the SEC about HBOC's true revenue and earnings for the purpose of increasing and maintaining the price of HBOC's stock.

RESPONDENT: Jeffrey A. Hayes (Dallas)

CERTIFICATE: 056938

RESPONDENT: Jeffrey A. Hayes -- firm

LICENSE: T05914

ACT VIOLATIONS: §§901.502(6), 901.502(11)

DISPOSITION: The respondents entered into an agreed consent order with the Board whereby the respondent was reprimanded and the respondent's firm license was revoked in lieu of further disciplinary proceedings. In addition, the respondents must pay an administrative penalty of \$1,000 and administrative costs of \$588 within 30 days of the Board order.

The respondents practiced public accountancy with delinquent, expired individual and firm licenses. The respondents are also not in compliance with the Board's peer review requirements.

RESPONDENT: Robert A. Hubbard (Dallas)

CERTIFICATE: 041379

RESPONDENT: Robert A. Hubbard, P.C. (Dallas)

LICENSE: C03257

ACT VIOLATIONS: §§901.502(6), 901.502(11)

DISPOSITION: The respondents entered into an agreed consent order with the Board whereby the respondents' certificate and firm license were revoked in lieu of further disciplinary proceedings. The respondents must pay restitution for fees collected from Dallas Area Parkinsonism Society (DAPS) as invoiced in the amount of \$100. In addition, the respondent must pay an administrative penalty of \$5,000 and administrative costs of \$1,097.50 within 30 days of the date of the Board order.

The respondents:

- (1) failed to prepare the DAPS's 2001 tax return;
- (2) failed to respond to the DAPS's inquiries;
- (3) practiced public accountancy with delinquent, expired individual and firm licenses;
- (3) performed an audit for Ed Bell Construction Company with delinquent, expired individual and firm licenses;
- (4) failed to comply with the Board's peer review requirements;
- (5) failed to substantively respond to the Board's written communication dated January 22, 2004; and
- (6) failed to respond to the Board's written communication dated March 3, 2004.

RESPONDENT: Jeffrey P. Johnson (Tyler)

CERTIFICATE: 038960

ACT VIOLATIONS: §§901.502(6), 901.502(9)

DISPOSITION: The respondent entered into an agreed consent order with the Board whereby he was reprimanded. In addition, the respondent must pay \$1,000 in administrative costs.

While the respondent was chief financial officer of a publicly traded company, the company's financial statements materially misstated inventory that in turn caused earnings to be materially misstated. The respondent consented to an order issued by the Securities and Exchange Commission on May 14, 2003 that denied him the privilege of appearing or practicing before the SEC for at least two years.

RESPONDENT: Thomas M. Laker (Fort Worth)

CERTIFICATE: 045691

ACT VIOLATIONS: §§901.502(6), 901.502(9), 901.502(11)

DISPOSITION: The respondent entered into an agreed consent order with the Board whereby his certificate was revoked in lieu of further disciplinary proceedings. In addition, the respondent must pay \$375 in administrative costs within 30 days of the date of

INVESTIGATIONS: 03-12-19L and 04-04-23L

BOARD ACTION: 7/15/04

INVESTIGATION: 04-04-23L

BOARD ACTION: 7/15/04

RULE VIOLATIONS: §§501.80, 501.81, 527.4

INVESTIGATION: 03-06-30L

BOARD ACTION: 9/22/04

INVESTIGATION: 03-06-30L

BOARD ACTION: 9/22/04

RULE VIOLATIONS: §§501.74, 501.80, 501.81, 501.93, 527.4

INVESTIGATION: 03-06-40L

BOARD ACTION: 7/15/04

RULE VIOLATIONS: §§501.53(b), 501.90(7)

INVESTIGATION: 04-03-53L

BOARD ACTION: 7/15/04

RULE VIOLATIONS: §501.90(7)

ENFORCEMENT ACTIONS

the Board order. The respondent consented to the issuance of a Securities and Exchange Commission order enjoining him from committing further violations of the insider trading provision of the federal securities laws, to disgorge his illicit profits or losses avoided plus prejudgment interest, and a civil money penalty, totaling \$227,986.

RESPONDENT: Jacqueline A. Lammert (Houston)

CERTIFICATE: 044136

ACT VIOLATIONS: §§901.502(6), 901.502(11)

DISPOSITION: The respondent entered into an agreed consent order with the Board whereby the respondent was reprimanded. In addition, the respondent must pay \$762 in administrative costs within 30 days of the Board order. The respondent must complete and submit proof of completion of four hours of live CPE in the area of ethics and eight hours of live CPE in the area of practice management. This requirement is in addition to the respondent's annual CPE requirement and must be completed within 90 days of the date of the Board order.

The respondent failed to return a client's telephone calls. She also failed to respond to the Board's written communications dated September 10, 2003 and November 4, 2003.

INVESTIGATION: 03-09-22L

BOARD ACTION: 7/15/04

RULE VIOLATIONS: §§501.90(11), 501.93

RESPONDENT: Catherine M. McCuiston (San Angelo)

CERTIFICATE: 038834

ACT VIOLATIONS: §§901.502(6), 901.502(10), 901.502(11)

DISPOSITION: The respondent entered into an agreed consent order with the Board whereby the respondent's certificate was revoked in lieu of further disciplinary proceedings. In addition, she must pay an administrative penalty of \$1,000 and administrative costs of \$300 within 30 days of the date of the Board order.

On April 14, 2004, the respondent pleaded guilty to uttering forged securities and aiding and abetting in violation of 18 U.S.C. § 513(a).

INVESTIGATION: 04-05-07L

BOARD ACTION: 7/15/04

RULE VIOLATIONS: §501.90(4)

RESPONDENT: Jacob V. Mitchell Jr. (Huntsville)

CERTIFICATE: 006975

ACT VIOLATIONS: §§901.502(6), 901.502(11)

DISPOSITION: The respondent entered into an agreed consent order with the Board whereby he was reprimanded. In addition, he must complete and submit proof of completion of 16 hours of live CPE in the area of trust and estate tax. This requirement is in addition to the respondent's annual CPE requirement and must be completed within 90 days of the date of the Board order. The respondent must pay \$600 in administrative costs within 90 days of the date of the Board order.

The respondent failed to forward a voucher to his client from the Comptroller of Public Accounts in a timely manner. The respondent failed to respond to his client's telephone calls and written correspondence and failed to respond to the Board's communications.

INVESTIGATION: 03-01-08L

BOARD ACTION: 11/13/03

RULE VIOLATIONS: §§501.74, 501.90(11), 501.93

RESPONDENT: Hoover D. Morris (Houston)

CERTIFICATE: 039158

ACT VIOLATIONS: §§901.502(6) and 901.502(11)

DISPOSITION: The respondent entered into an agreed consent order with the Board whereby he was reprimanded. The respondent must pay an administrative penalty of \$2,000 and administrative costs of \$18,000. The total amount of \$20,000 is to be paid to the Board in six installments on or before noon on the last day of each month, the first five payments in the amount of \$3,334 and a final payment in the amount of \$3,330.

The respondent improperly prepared a client's 2002 income tax return by not properly allocating the community property income. The respondent failed to timely respond to the client's telephone inquiries without good cause.

INVESTIGATION: 03-06-44L

BOARD ACTION: 9/22/04

RULE VIOLATIONS: §§501.74, 501.90(11)

RESPONDENT: James R. Pride (Texarkana)

CERTIFICATE: 023201

ACT VIOLATIONS: §§901.502(6), 901.502(11)

DISPOSITION: The respondent entered into an agreed consent order with the Board whereby he was reprimanded and ordered to pay an administrative penalty of \$4,000 and administrative costs of \$414 within 30 days of the date of the Board order.

The respondent performed a compilation in an unregistered entity and used an improper firm name and/or failed to use the required disclaimer.

INVESTIGATION: 04-04-21L

BOARD ACTION: 9/22/04

RULE VIOLATIONS: §§501.62, 501.74, 501.81, 501.83

RESPONDENT: David S. Quindt (Onalaska)

INVESTIGATION: 02-02-01L

ENFORCEMENT ACTIONS

CERTIFICATE: 021266

ACT VIOLATIONS: §§ Sections 901.502(6), 901.502(11)

DISPOSITION: The respondent entered into an agreed consent order with the Board whereby he was reprimanded. The respondent incorrectly prepared a client's personal tax return by underreporting \$12,000 of her income.

BOARD ACTION: 11/13/03

RULE VIOLATIONS: §501.21

RESPONDENT: Lisa E. Richards (Deer Park)

CERTIFICATE: 044826

ACT VIOLATIONS: Sections 901.502(6), 901.502(11), 901.502(12)

DISPOSITION: The respondent entered into an agreed consent order with the Board whereby she was reprimanded. In addition, the respondent must pay an administrative penalty of \$2,000 and administrative costs of \$88.50 within 30 days of the date of the Board order. Within 120 days of the date of the Board order, the respondent must complete a peer review, or, within 30 days of the date of the Board order, submit an affidavit stating that she is no longer performing attest services.

The respondent practiced public accountancy with delinquent, expired individual and firm licenses. The respondent is not in compliance with the Board's peer review requirements and failed to respond to the Board's written communications dated September 22, 2003 and October 28, 2003.

INVESTIGATION: 03-09-28L

BOARD ACTION: 7/15/04

RULE VIOLATIONS: §§501.81, 501.93, 527.4

RESPONDENT: Robert P. Romano (Las Cruces, NM)

CERTIFICATE: 049559

ACT VIOLATIONS: §§901.502(6), 901.502(11)

DISPOSITION: The respondent entered into an agreed consent order with the Board whereby he was reprimanded and ordered to pay an administrative penalty of \$500 and administrative costs of \$438 within 30 days of the date of the Board order.

On January 8, 2004, the Washington Board of Accountancy suspended the respondent's certificate and practice license. The respondent failed to report the suspension of his Washington State CPA certificate and practice license.

INVESTIGATION: 04-03-13L

BOARD ACTION: 9/22/04

RULE VIOLATIONS: §§501.90(6), 501.91

RESPONDENT: John E. Taylor (Temple)

CERTIFICATE: 019756

ACT VIOLATIONS: §§901.502(6), 901.502(11)

DISPOSITION: The respondent entered into an agreed consent order with the Board whereby he was reprimanded, ordered to pay an administrative penalty of \$2,000 and administrative costs of \$575 within 30 days of the date of the Board order and ordered to complete and submit proof of completion of a peer review within 90 days of the date of the Board order.

The respondent practiced public accountancy with delinquent, expired individual and firm licenses, performed a compilation in an unregistered entity, and failed to comply with the Board's peer review requirements.

INVESTIGATION: 04-04-16L

BOARD ACTION: 9/22/04

RULE VIOLATIONS: §§501.80 and 501.81

RESPONDENT: Steven A. Tuggle (Houston)

CERTIFICATE: 028097

ACT VIOLATIONS: §§901.502(6) and 901.502(11)

DISPOSITION: The respondent entered into an agreed consent order with the Board whereby he was reprimanded and ordered to pay \$888 in administrative costs within 90 days of the date of the Board order.

The respondent failed to prepare a client's personal tax return, failed to timely respond to the client's telephone inquiries, and failed to timely respond to the Board's written communications dated August 11, 2003 and February 17, 2004.

INVESTIGATION: 03-08-08L

BOARD ACTION: 9/22/04

RULE VIOLATIONS: §§501.90(11) and 501.93

RESPONDENT: Felix Velasquez Jr. (Laredo)

CERTIFICATE: 050598

ACT VIOLATIONS: §§ 901.502(6) and 901.502(11)

DISPOSITION: The respondent entered into an agreed consent order with the Board whereby he must pay \$542.50 in administrative costs within 90 days of the date of the order. He was further ordered to complete and submit proof of completion of 8 hours of live CPE in the area of Yellow Book auditing within 90 days of the Board order.

Due to the respondent's vote as a commissioner of Webb County approving a contract for the benefit of Brooks County, for which he was an independent auditor, he created an appearance of impairment of his independence related to Brooks County.

INVESTIGATION: 03-03-16L

BOARD ACTION: 11/13/03

RULE VIOLATIONS: §501.70

RESPONDENT: Randy R. Vrana (Beeville)

CERTIFICATE: 017039

ACT VIOLATIONS: §§ 901.502(6), 901.502(11)

INVESTIGATION: 03-05-22L

BOARD ACTION: 11/13/03

RULE VIOLATIONS: §§501.73, 501.90(9)

ENFORCEMENT ACTIONS

DISPOSITION: The respondent entered into an agreed consent order with the Board whereby he was reprimanded. In addition, he must complete and submit proof of completion of four hours of live CPE in the area of ethics. This requirement is in addition to the respondent's annual CPE requirement and must be completed within 90 days of the date of the Board order. The respondent was ordered to pay \$600 in administrative costs within 90 days of the date of the Board order.

The respondent failed to disclose a conflict of interest to his client. Specifically, the respondent failed to advise the client about the inherent risks with entering into a commercial relationship with a company while simultaneously serving as the client's CPA. The respondent also failed to act in the client's best interest when rendering financial advice and/or providing professional services.

RESPONDENT: Beryl David Vise (Houston)

CERTIFICATE: 014536

RESPONDENT: B. David Vise, P.C. (Houston)

CERTIFICATE: C02392

ACT VIOLATIONS: §§901.502(6), 901.502(11)

DISPOSITION: The respondents entered into an agreed consent order whereby the respondents' individual license and firm licenses were suspended for five years from the effective date of the order. However, these suspensions were stayed and the respondents were placed on probation for a period of five years.

The respondents failed to complete Complainant No. 1's tax engagement for an extended period of time. The respondents failed to timely prepare Complainant No. 2's 2002 federal income tax return, failed to respond to Complainant No. 2's inquiries, and failed to return Complainant No. 2's records for an extended period of time. The respondents failed to respond to Board communications dated January 28, February 2, and March 16, 2004.

RESPONDENT: Debra M. White (Navasota)

CERTIFICATE: 043043

ACT VIOLATIONS: §§901.502(6), 901.502(11)

DISPOSITION: The respondent entered into an agreed consent order with the Board whereby her certificate was revoked in lieu of further disciplinary proceedings. In addition, she must pay \$4,620 in administrative costs within 30 days of the Board order.

On January 13, 2003, the respondent was expelled from the American Institute of Certified Public Accountants' peer review program. The respondent failed to respond to three Board communications. In a telephone conversation with the Board staff and in a letter to the Board dated June 21, 2004, the respondent stated she is an alcoholic for which she is not receiving treatment and that her substance abuse is negatively impacting her public accountancy practice.

RESPONDENT: Stephen R. White (Klein)

CERTIFICATE: 078492

ACT VIOLATIONS: §§901.502(6), 901.502(11)

DISPOSITION: The respondent entered into an agreed consent order with the Board whereby his certificate continues to be revoked; however, this revocation was stayed and the respondent was placed on probation for two years.

On March 7, 2002, the respondent was convicted of the state jail felony offense of theft in accordance with §15 of Article 42.12 Texas Code of Criminal Procedure in the 174th District Court of Harris County, Texas. On March 11, 2004, the respondent successfully completed his criminal probation. The respondent's conduct for which his certificate was originally revoked violated §501.90(4) of the Board's Rules as well as §901.502(6) and 901.502(11) of the Act.

RESPONDENT: Douglas D. Whitworth (Houston)

CERTIFICATE: 046317

ACT VIOLATIONS: §§901.502(6), 901.502(10), 901.502(11)

DISPOSITION: The respondent entered into an agreed consent order with the Board whereby his certificate was revoked in lieu of further disciplinary proceedings. The respondent must also pay \$237 in administrative costs within 30 days of the Board order.

On January 26, 1994, the respondent accepted deferred adjudication for the charge of felony theft and forgery. The respondent also failed to report the deferred adjudication to the Board within 30 days of the date of knowledge of the event.

RESPONDENT: James Norman Wuensche (Scottsdale, AZ)

CERTIFICATE: 023543

ACT VIOLATIONS: §§901.502(6), 901.502(10), 901.502(11)

DISPOSITION: The respondent entered into an agreed consent order with the Board whereby his individual certificate was revoked in lieu of further disciplinary proceedings; he must also pay \$2,000 in administrative penalties and \$285 in administrative

INVESTIGATIONS: 04-01-14L and 04-01-16L

BOARD ACTION: 9/22/04

INVESTIGATIONS: 04-06-36L

BOARD ACTION: 9/22/04

RULE VIOLATIONS: §§501.76, 501.90(11), 501.93

INVESTIGATION: 04-03-06L

BOARD ACTION: 9/22/04

RULE VIOLATIONS: §§501.90, 501.93

INVESTIGATION: 02-04-12L

BOARD ACTION: 9/22/04

RULE VIOLATIONS: §501.90(4)

INVESTIGATION: 04-05-09L

BOARD ACTION: 7/15/04

RULE VIOLATIONS: §501.90(4)

INVESTIGATION: 04-03-10L

BOARD ACTION: 7/15/04

RULE VIOLATIONS: §§501.90(4), 501.91

ENFORCEMENT ACTIONS

costs.

On December 10, 2002, the respondent pleaded guilty to conspiracy to commit securities fraud, wire fraud, and money laundering in violation of *18 U.S.C. §371*. The respondent also failed to report the felony conviction to the Board within 30 days of the date of knowledge of conviction.

DEFAULT CASES

RESPONDENT: Robert M. Bandy (Tyler)

CERTIFICATE: 007077

ACT VIOLATIONS: §§901.502(6), 901.502(11)

DISPOSITION: The Board revoked the respondent's certificate, imposed an administrative penalty of \$10,000 and administrative costs of \$1,475.50.

On August 1, 2000, the respondent entered a plea of *nolo contendere* to a charge of assault-physical contact, a Class C misdemeanor. On January 8, 2003, the respondent entered a plea of guilty to a charge of harassment, a Class B misdemeanor. On August 11, 2003, the State Bar of Texas issued a public reprimand to the respondent for these two offenses. The respondent practiced public accountancy with a delinquent, expired individual license. The new procedural rules requiring respondents to file a written answer to the complaint were enacted on June 9, 2004. On June 17, 2004, the respondent was notified by the Enforcement Division of his requirement to file a written answer with the State Office of Administrative Hearings (SOAH) within twenty days of the date of the letter. The respondent failed to file a written answer with SOAH. After the Enforcement Division filed a notice of remand on July 20, 2004, the administrative law judge issued an order abating the hearing to enable the Board to make a final disposition of the case.

INVESTIGATION: 04-01-13L

BOARD ACTION: 9/22/04

RULE VIOLATIONS: §§501.80, 501.81, 501.90(7)

RESPONDENT: James R. Sheehy (Waco)

CERTIFICATE: 029067

ACT VIOLATIONS: §§901.502(6), 901.502(11)

DISPOSITION: The Board revoked the respondent's certificate, imposed an administrative penalty of \$6,000 and administrative costs of \$1,410.

The respondent's license was suspended from September 26, 2002 through September 26, 2005 for failure to complete CPE. The respondent practiced public accountancy while his license was suspended. The respondent failed to return client records to the Boys and Girls Club of Waco, Texas after repeated requests to do so. The respondent failed to return written and telephone inquiries of the Boys and Girls Club of Waco, Texas. The respondent failed to respond to the Board's written communications of September 19, 2003, November 21, 2003, and December 1, 2003. The complaint notified the respondent of the requirement to file a written answer with the State Office of Administrative Hearings (SOAH) within 20 days of the date of the complaint. The respondent failed to file a written answer with SOAH. After the Enforcement Division filed a notice of remand on July 7, 2004, the administrative law judge issued an order abating the hearing in order for the Board to make a final disposition of the case.

INVESTIGATION: 03-09-26L

BOARD ACTION: 9/22/04

RULE VIOLATIONS: §§501.80, 501.76, 501.90(11), 501.93

CPE ACTIONS

RESPONDENTS: CALIFORNIA: Pollack, Michael D.

TEXAS: (Frisco) Broussard, Timothy Ponder; **(Missouri City)** Richardson, Nancy Ellen

INVESTIGATIONS: 04-02-10040 through 04-02-10159

DOCKET: 457-04-2581

ACT VIOLATIONS: §901.411

DISPOSITION: The license of each respondent still not in compliance as of the July 15, 2004 Board meeting was suspended for three years, or until he or she complies with the education and licensing requirements of the *Act*, whichever is sooner. Additionally, a \$100 penalty was imposed for each year a respondent is in non-compliance with the Board's CPE requirements. The respondents failed to report sufficient CPE credits as required by §901.411 of the *Act*.

BOARD ACTION: 7/15/04

RULE VIOLATIONS: §§501.94, 523.62

RESPONDENTS: TEXAS: (Austin) Barnidge, John Quinton

(Bertram) Harris, Jennifer Noel

(Conroe) Henrichs, Heidi Jean

(Dallas) Mendoza, Ricardo Antonio

ENFORCEMENT ACTIONS

(Houston) Harris, Deliah Ann; Harrison, James Ronald; Oyer, James William

(Leander) Johnson, Randy Joe

(Mesquite) Corbin, Robert Everett

(Palestine) Butler, Ramona Ann Roell

(Richardson) Cothrun, Randy Paul

(San Antonio) Jarrett, Thomas Edward Jr.

(Sugar Land) Kamel, Wageeh Anwar

INVESTIGATIONS: 04-03-10049 through 04-03-10247

DOCKET: 457-04-2844

ACT VIOLATIONS: §901.411

DISPOSITION: The license of each respondent still not in compliance as of the July 15, 2004 Board meeting was suspended for three years, or until he or she complies with the licensing requirements of the *Act*, whichever is sooner. Additionally, a \$100 penalty was imposed for each year a respondent is in non-compliance with the Board's CPE requirements. The respondents failed to report sufficient CPE credits required under §901.411 of the *Act*. The respondents are in violation of the Board's *Rules* as well as of the *Act*.

BOARD ACTION: 7/15/04

RULE VIOLATIONS: §§501.94, 523.62

RESPONDENTS: COLORADO: Frederick, David Donald

MISSISSIPPI: Poythress, Antoine F.

TEXAS: (Arlington) Schultz, Jimmy Dale

(Austin) Lippman, Jason

(Bedford) Peterson, David Mark

(Cedar Park) Parker, Michael Wayne

(Dallas) Bithas, Charles James; Cope, William Brian;

Hosea, Robert Leroy; Santry, Michael George

(Houston) Grunfeldt, Anders; Johnson, Eric Glenn;

Smith, Lawrence Walter; Walker, Cathleen Ann;

Williamson, Tammy L.

(Humble) Hall, Gail Ripko

(Pearland) Trabulsi, Alfonso

(Shepherd) Dillon, Glennon Mark

(Spring) Lee, Therman Wesley

(Tomball) Marnell, Matthew Wayne

(Waco) Crawford, Randall Wade

VIRGINIA: Paul, Alan Martin

INVESTIGATIONS: 04-04-10060 through 04-04-10259

DOCKET: 457-04-4409

ACT VIOLATIONS: §901.411

DISPOSITION: The license of each respondent still not in compliance as of the July 15, 2004 Board meeting was suspended for three years, or until he or she complies with the licensing requirements of the *Act*, whichever is sooner. Additionally, a \$100 penalty was imposed for each year a respondent is in non-compliance with the Board's CPE requirements. The respondents failed to report sufficient CPE credits required under *Section 901.411* of the *Act*.

BOARD ACTION: 7/15/04

RULE VIOLATIONS: §§501.94, 523.62

RESPONDENTS: Cypress) McEntire, Thomas Tyler

(Dallas) Crews, John Russell

(Denison) Hill, James Dale

(Houston) Hananel, Joy E.; Huffman, James Douglas

(Lillian) Ray, Linda Lee

(San Antonio) Murphy, Susan Kimberly

(The Woodlands) St. Clair, Keith Eli

INVESTIGATIONS: 04-05-10062 through 04-05-10223

DOCKET: 457-04-5083

ACT VIOLATIONS: §901.411

DISPOSITION: The license of each respondent still not in compliance as of the September 22, 2004 Board meeting was suspended-

BOARD ACTION: 9/22/04

RULE VIOLATIONS: §§501.94, 523.62

Licensees with a history of being non-compliant in their CPE requirement may be subject to Board disciplinary action.

The Board's Behavioral Enforcement Committee will start investigating instances where licensees repeatedly fall short of their CPE requirements.

ENFORCEMENT ACTIONS

ed for three years, or until he or she complies with the licensing requirements of the *Act*, whichever is sooner. Additionally, a \$100 penalty was imposed for each year a respondent is in non-compliance with the Board's CPE requirements. The respondents failed to report sufficient CPE credits as required under *Section 901.411* of the *Act*. The respondents are in violation of *Sections* of the Board's *Rules* as well as *Section* of the *Act*.

FAILURE TO RENEW ACTIONS

RESPONDENTS: GEORGIA: Arduengo, Cora Rennick

TEXAS: (Cypress) Johnston, Mary Elizabeth Land

INVESTIGATIONS: 04-04-10260 through 04-04-10280

DOCKET: 457-04-4408

BOARD ACTION: 7/15/04

ACT VIOLATIONS: §§901.502(6), 901.502(11)

RULE VIOLATIONS: §§501.80, 501.93

DISPOSITION: The certificate of the respondents not in compliance as of the July 15, 2004 Board meeting was revoked without prejudice until such time as the respondent complies with the licensing requirements of the *Act*. The respondents failed to complete the renewal of their licenses required under §§515.1, 501.80 and 501.93 of the Board's *Rules*.

THREE-YEAR DELINQUENT ACTIONS

RESPONDENTS: SAUDI ARABIA: Najee, Hussein M.

CALIFORNIA: Siddiqui, Mohammad Ashraf; Scoggins, Christopher William; Rousseau, Steven Richard

COLORADO: Samson, Francine Ann; McDaniel, Terry Mills

CONNECTICUT: Shea, Tiernan Mary

FLORIDA: Cabilao, Theresa Chang

KANSAS: Montgomery, Robert Lee

NEVADA: Sachnowitz, Jay Michael

PENNSYLVANIA: Taylor, William Joe

SOUTH CAROLINA: Reilly, Leslie Anne Duffel

TENNESSEE: Banham, Richard Leroy

TEXAS: (Austin) Buhse, Jodie A.; Robinson, Alan Ray

(Colleyville) Martin, Mary K.

(Coppell) Curran, Susan Sager

(Dallas) Girtz, Shelley Lynne

(Flower Mound) Jacobson, Kristine Helen

(Gatesville) Ashby, Morris Edward

(Greenville) Treadaway, Frank Borden

(Houston) Ray, Overton Martin III; Woodruff, Randall Keith

(Humble) Phares, Shirley Ann

(Irving) Mount, Frank W.

(Plano) Jarvie, Elizabeth Renee

INVESTIGATIONS: 04-02-10001 through 04-02-10039

DOCKET: 457-04-2580

ACT VIOLATIONS: §901.502(4)

BOARD ACTION: 7/15/04

DISPOSITION: The certificate of each respondent still not in compliance as of the July 15, 2004 Board meeting was revoked without prejudice. Each respondent may regain his or her certificate by paying all the required license fees and penalties and by otherwise coming into compliance with the *Act*. The respondents failed to pay the licensing fees and penalties as required by §§901.403, 901.407, and 901.408 of the *Act* for three consecutive license periods.

RESPONDENTS: CANADA: Voneiff, Joan Marlee

COLORADO: Cannella, Brenda Burdick

DISTRICT OF COLUMBIA: Posel, Gregory Dale

INDIANA: Nixon, Michael Dean

MISSISSIPPI: Patrick, William Earl

NORTH CAROLINA: Fuller, Yvette Letetia

ENFORCEMENT ACTIONS

NEVADA: Brunnet, Carol Sue

NEW YORK: Kawczynski, Thomas Joseph

TEXAS: (Austin) Varnovitskaia, Natalia

(Cedar Hill) Fuller, Charles Wayne

(Coppell) Brennan, Michael

(Dallas) Abdo, Ayman Zuhdi; Beyer, Orrien Russell; Brunken, John Elton; Locker, Jill Mehalic; Regan, Stephen Michael

(Denton) Baker, James Alan; Odom, Audry Glen

(Fort Worth) Watts, Susan Claborn

(Grapevine) McDonald, Scott Miller

(Houston) Carter, Lisa Fuselier; Craig, Linda Joan Baskin Allen; Dolifka, Mark Allen; Drew, Terence; Lassarat, Margaret Kash; McKeown, Cave Johnson III

(Kaufman) Gandy, Marki Jo

(Lubbock) Vessels, Jill Karen Craig

(McAllen) Cummings, Melissa Duke

(Mesquite) Hartwick, Randall Lenis

(Plano) Mann, Bradley Alan

(Portland) Newton, Bruce Burns Jr.

(Sanger) Newman, Kristin Elizabeth Williams

(Spring) Hackney, Tina Linden

(Sugar Land) Sidarous, Niveen

UNITED KINGDOM: Sudbrink, Brian Lee

INVESTIGATIONS: 04-03-10001 through 04-03-10048

DOCKET: 457-04-2843

ACT VIOLATIONS: 901.502(4)

BOARD ACTION: 7/15/04

DISPOSITION: The certificate of each respondent still not in compliance as of the July 15, 2004 Board meeting was revoked without prejudice. Each respondent may regain his or her certificate by paying all the required license fees and penalties and by otherwise coming into compliance with the *Act*. The respondents failed to pay the licensing fees and penalties required under §§901.403, 901.407 and 901.408 of the *Act* for three consecutive license periods.

RESPONDENTS: ARKANSAS: Deidiker, Jim D.

ARIZONA: White, Jami Lynn

BAHAMAS: Longley, Lambert Dennis

COLORADO: Smith, Barbara Alison

GEORGIA: Voke, Richard David

ILLINOIS: Powell, Joseph Carson

LOUISIANA: Smith, Bill Wene

NORTH CAROLINA: Beggs, Mark Leonard

PUERTO RICO: Bell, Javier Luis

SWITZERLAND: Kessler, Harald Wolfgang

TEXAS: (Beaumont) Garland, Jack Daniel

(Brenham) Smith, John Harold

(Carrollton) Hardin, Gary L.

(Conroe) Clark, James Caldwell

(Corpus Christi) Burkhardt, Berry Shotah

(Dallas) Cage, Gary Wayne; Milam, Bruce Wayne; Westmoreland, Tiffany Sharpe

(Garland) Conatser, Diane Sue

(Houston) Brown, Carla Del; Harper, Heather Marie; Juengel, Carol Overman; Nabors, Kenneth William; Souther, Robert Eugene III

(Jacksonville) Moore, Rebecca Ann

(Katy) Mook, Dean Henry

(McAllen) Schmitz, Erica Radloff

(Rio Grande City) Garza, Joel Ruben

(Round Rock) Tyson, Graciela

(San Antonio) Andres, Prentice Lee; Lagergren, Lisa Lynne

(Sugar Land) Morell, Curtis Walter

ENFORCEMENT ACTIONS

(Waco) Johnson, Carla R.

INVESTIGATIONS: 04-04-10001 through 04-04-10059

ACT VIOLATIONS: §901.502(4)

DISPOSITION: The certificate of each respondent still not in compliance as of the July 15, 2004 Board meeting was revoked without prejudice. Each respondent may regain his or her certificate by paying all the required license fees and penalties and by otherwise coming into compliance with the *Act*. The respondents failed to pay the licensing fees and penalties required under §§901.403, 901.407 and 901.408 of the *Act* for three consecutive license periods.

DOCKET: 457-04-4410

BOARD ACTION: 7/15/04

RESPONDENTS: ARIZONA: Goble, Joseph Edward; Holder, Carl Leroy

CALIFORNIA: Chen, Christine Ying

FLORIDA: Cary, Donald Lee

GEORGIA: Wright, Brian Arthur; Miller, Ruth Theis; Schmidt, Cynthia Kay

ILLINOIS: Trammell, Kenneth Ray; Hendershot, Dina Lynne

KENTUCKY: Truitt, Shannon Lynn

NEW MEXICO: Terrell, Norma Y.

NEW YORK: Means, Rebecca L.

TEXAS: (Arlington) Johnson, Wilber Doyle Jr.; Zhou, Ying

(Austin) Jaques, Shawn Thomas

(Commerce) Shamburger, Joanna Sands

(Dallas) Hagan, John Lyle Jr.

(Fort Worth) Timmons, Steven Phil; Wright, Linda Davis

(Garland) Barker, Polly Annette

(Houston) Alexander, Patricia Brown; Deere, Robert Verner; Ghosh, Samir Kumar; Gorski, Maria; Hoepfl, Jennifer Joan; Maher, Penny Lynn; Shiver, Lee Ann; Uecker, Wilfred Charles; Willis, Wilborn Kyle

(Lago Vista) Woodrom, Harold Roy

(Midland) Chaparro, Alfredo

(North Richland Hills) Weir, Richard Michael

(Plano) Becker, Irving

(Schertz) Bechhold, Dennis Lee

(Smithville) Clement, Wm. Crutcher

(Stafford) Huneryager, Gary D.

(The Woodlands) Coble, John Charles; Hausman, James Henry

INVESTIGATIONS: 04-05-10001 through 04-05-10061

ACT VIOLATIONS: §901.502(4)

DISPOSITION: The certificate of each respondent still not in compliance as of the September 22, 2004 Board meeting was revoked without prejudice. Each respondent may regain his or her certificate by paying all the required license fees and penalties and by otherwise coming into compliance with the *Act*. The respondents failed to pay the licensing fees and penalties required under *Section* 901.403, 901.407, and 901.408 of the *Act* for three consecutive license periods.

DOCKET: 457-04-5082

BOARD ACTION: 9/22/04

HAVE YOU MOVED?

Board rules require a licensee to inform the Board within 30 days of a change of address. Failure to do so could result in disciplinary action. To report a change of address, contact the Board's License Division at:

licensing@tsbpa.state.tx.us

or at

(512) 305-7853.

CONCERNED CPA NETWORK

Offering *confidential* assistance
to CPAs, exam candidates,
and accounting students
who may have a drug
or alcohol dependency problem
or mental health issues.

The network is sponsored by the TSCPA
and is endorsed by the Board.

LEGAL NOTICE: The identity and communications and fact of membership of anyone attending this group are confidential and protected under penalty of law under Chapter 467 of the Texas Health and Safety Code.

For information call
(800) 289-7053

DID YOU KNOW?

Volunteers in the *Concerned CPA Network* receive training about:

- ♦ chemical dependency and mental illness;
- ♦ guidelines for identification;
- ♦ intervention skills; and
- ♦ policies and procedures used by the TSCPA Peer Assistance Program.

If you are interested in becoming a volunteer, call for a confidential referral to a member of the *Concerned CPA Network* near you for information about the training.