

TEXAS STATE BOARD REPORT

TEXAS STATE BOARD OF PUBLIC ACCOUNTANCY, AUSTIN, TEXAS

Act, Board Rules May Answer Many Licensees' Questions

In this issue we focus on a number of questions that are brought regularly to the Board. Answers to most can be found in the Texas Public Accountancy Act or the Board Rules, and links for both can be found on the Board's website, www.tsbpa.state.tx.us. Here are a few topics that come up most often.

Inactive Status. The Public Accountancy Act makes **no provision** for "inactive" status. If you are a Texas licensee and do not pay annual renewal fees for 3 consecutive years, you will be subject to revocation of your Texas certificate. You would also be required to pay statutorily prescribed fees, which can be substantial, before resuming practice in Texas. If you don't report required CPE, you are invalidating your license. You could be required to take as many as 120 hours of CPE for the years you didn't practice. To become licensed by reciprocity in another state, most states require you to be current in the state in which you were licensed initially (Sec. 901.405 (f)). In most cases, it is more cost effective to keep your Texas license current by paying the annual renewal fee and meeting your CPE requirements than it is to return to active practice in Texas after invalidating your license. This also applies to those working in industry, should they wish to return to public practice at a later date.

Retirement Status. Retirement status allows for a reduced annual fee for CPAs no longer doing accounting work **for compensation** because of retirement (must be 60 or older) or permanent disability. Retired CPAs may return to active status after paying fees and bringing their CPE up to date.

Firm Licensing. Any firm that performs attest work in Texas must hold a firm license from this Board and be part of the Peer Review program. Texas law considers compilations and other engagements that must meet accepted standards to be attest services (see Sec. 901.002 of the Act for a full definition). In addition, a public accounting firm based in another state that establishes an office in Texas or performs certain services for an entity with its principal office in Texas must hold a firm license from this Board, regardless of where the accounting firm's principal office is located. Section 901.351 requires an accounting firm to hold a firm license before it can use the terms "CPAs," "CPA Firm," "Certified Public Accountants," "Certified Public Accounting Firm," or "Auditing Firm," or any variation of these terms. CPAs practicing in Texas under a practice privilege (Sec. 901.461) are excepted.

Firm Names. The Act disallows the use of trade names or descriptive words "indicating the character or grade of service offered"—including such words as "solution" or "answer." This is just one of the requirements/restrictions regarding firm names that are spelled out in Section 901.455 of the Act. Another explains when "and company" and "and associates" may be part of a firm name. Before you order the stationery and business cards, read this section of the Act and submit an application for a firm license to the Board for approval or call the Board and ask to speak to a Board attorney.

Work Papers. Work papers you have generated during the course of an attest engagement are yours to keep and must be retained for at least 5 years per Board Rule 501.76(e). You must provide work papers that constitute client records to your client upon request, but you may charge a reasonable fee to cover costs of copying and delivery to the client. Records obtained from the client must be returned to the client free of charge upon request, regardless of the status of the client account.

Independence. Rule 501.70 states, "A person in the performance of professional accounting services or professional accounting work...shall conform in fact and in appearance to the independence standards established by the AICPA and the Board, and, where applicable, the SEC, the U.S. GAO, the PCAOB and other national or international regulatory or professional standard setting bodies." Independence is discussed at length at http://www.aicpa.org/Research/Standards/CodeofConduct/Pages/et_101.aspx.

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Elijah Watt Sells
Award Winners

CPE Sponsors Successfully Completing Review

(as of April 16, 2013)

Sponsor #	Sponsor Name	Date of Next Review	Status
000369	Acct Dept - University of North Texas	01/01/2015 - 12/31/2015	A
006325	Akin, Doherty, Klein & Feuge, PC	11/01/2014 - 10/31/2015	A
008609	Alliance Data Systems Corp	11/01/2014 - 10/31/2015	A
009674	Altegrity Partners	01/01/2015 - 12/31/2015	A
002568	American General Life Companies	11/01/2014 - 10/31/2015	A
001287	Arnold, Walker, Arnold & Co., PC	12/01/2014 - 11/30/2015	A
006686	Auerbach Albert & Gold, LC	11/01/2014 - 10/31/2015	A
000516	Axley & Rode, LLP	02/01/2015 - 01/31/2016	A
000508	Brammer, Begnaud & Lattimore, CPAs	01/01/2015 - 12/31/2015	A
004833	Brehm, Havel & Co., LLP	11/01/2014 - 10/31/2015	A
003369	Burchell, Denson & Morrison, PC	02/01/2015 - 01/31/2016	A
008425	Burlington Northern Santa Fe, LLC	12/01/2014 - 11/30/2015	A
000093	Centerpoint Energy	11/01/2014 - 10/31/2015	A
009626	Central Texas Chapter of TSCPA	08/01/2014 - 07/31/2015	A
001322	CF & Co., LLP	01/01/2015 - 12/31/2015	E
000377	Colorado Society of CPAs	01/01/2015 - 12/31/2015	A
009954	CompuTrain Business Solutions, Ltd.	11/01/2014 - 10/31/2015	A
009074	CPE Publications, Inc.	12/01/2014 - 11/30/2015	A
005931	Crawford Carter & Thompson, LLP	12/01/2014 - 11/30/2015	A
000507	Davis Kinard & Co, PC	01/01/2015 - 12/31/2015	A
008014	Donald W. Kimball, CPA, PC	01/01/2015 - 12/31/2015	E
003228	EEPB, PC	12/01/2014 - 11/30/2015	A
009597	Enterprise Products	05/01/2014 - 04/30/2015	A
001374	Faske Lay & Co., LLP	02/01/2015 - 01/31/2016	A
003215	Firstgroup America, Inc.	11/01/2014 - 10/31/2015	A
007084	Fisher Herbst & Kemble, PC	11/01/2014 - 10/31/2015	A
000454	Freemon Shapard & Story	01/01/2015 - 12/31/2015	A
009655	Global CPE	11/01/2014 - 10/31/2015	A
009951	Growth Force, LLC	11/01/2014 - 10/31/2015	A
000207	Guinn, Smith & Co.	11/01/2014 - 10/31/2015	A
000356	Harper & Pearson Company, PC	12/01/2014 - 11/30/2015	A
000092	Hereford, Lynch, Sellars & Kirkham, PC	11/01/2014 - 10/31/2015	A
009370	Houston Chapter - CFMA	12/01/2014 - 11/30/2015	A
009030	Hudson Advisors LLC	10/01/2014 - 09/30/2015	A
006687	Independent Schools Association of the Southwest	11/01/2014 - 10/31/2015	E
009660	JHB, LLP	11/01/2014 - 10/31/2015	A
006295	Kinetic Concepts, Inc.	11/01/2014 - 10/31/2015	A
009950	Knighton & Stone, PLLC	11/01/2014 - 10/31/2015	A
009952	LeafHouse Financial Advisors	11/01/2014 - 10/31/2015	A
007805	Linn Thurber LLP	11/01/2014 - 10/31/2015	A
000373	Long, Chilton, LLP	01/01/2015 - 12/31/2015	A
009653	M & K CPAs, PLLC	11/01/2014 - 10/31/2015	A
009930	MasterCPE LLC	08/01/2014 - 07/31/2015	A
000317	McClanahan and Holmes, LLP	12/01/2014 - 11/30/2015	A
000289	Perkins, Dexter, Sinopoli & Hamm, PC	12/01/2014 - 11/30/2015	A
009671	Prather Kalman PC	01/01/2015 - 12/31/2015	A
009061	Prothro, Wilhelmi & Co., PLLC	11/01/2014 - 10/31/2015	A
008588	Renegade Swish, LLC	11/01/2014 - 10/31/2015	A
009870	Saldana Consulting International, Inc.	12/01/2014 - 11/30/2015	A
009667	Scalco Johnson Leahy & Dudek CPAs, PLLC	12/01/2014 - 11/30/2015	A
001245	Southern Gas Association	12/01/2014 - 11/30/2015	A
001142	Squyres, Johnson, Squyres & Co., LLP	11/01/2014 - 10/31/2015	A
002551	Stovall, Grandey & Allen, LLP	11/01/2014 - 10/31/2015	A
005920	T.R. Moore & Co., PC	12/01/2014 - 11/30/2015	A
001222	TACUA	11/01/2014 - 10/31/2015	A
000137	Tax Executives Institute, Inc.	11/01/2014 - 10/31/2015	A
004178	Texas Association of Business	08/01/2014 - 07/31/2015	A
000280	Texas Association of Financial & Tax Specialists (TAFTS)	12/01/2014 - 11/30/2015	A
000438	Texas Christian University	01/01/2015 - 12/31/2015	E
009080	Texas Forest Service	12/01/2014 - 11/30/2015	A
005410	Texas Pension Review Board	11/01/2014 - 10/31/2015	A
009631	Texas Skyward User Group	09/01/2014 - 08/31/2015	A
000275	University of Texas at Austin Professional Development Ctr	12/01/2014 - 11/30/2015	A
004164	Thompson, Williams, Biediger, Kastor & Young	08/01/2014 - 07/31/2015	A
008404	Training Strategies, Inc.	11/01/2014 - 10/31/2015	A
001283	TX Society of CPAs - Rio Grande Chapter	12/01/2014 - 11/30/2015	A
000332	TX Society of CPAs - San Angelo Chapter	12/01/2014 - 11/30/2015	A
000326	TX Society of CPAs - Victoria Chapter	12/01/2014 - 11/30/2015	A
000144	University of Texas at Arlington	11/01/2014 - 10/31/2015	A
003237	University of the Incarnate Word	12/01/2014 - 11/30/2015	A
009927	Wagner, Eubank & Nichols, LLP	08/01/2014 - 07/31/2015	A
000391	Weaver and Tidwell, LLP	01/01/2015 - 12/31/2015	A

Registration Status: A = Currently active E = Currently expired

TEXAS STATE BOARD OF PUBLIC ACCOUNTANCY

**333 Guadalupe
Tower 3, Suite 900
Austin, Texas 78701-3900**

BOARD MEMBERS

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Check the Board website at www.tsbpa.state.tx.us for qualified CPE providers before enrolling in a CPE course. Report CPE hours online as you complete them.

ENFORCEMENT ACTIONS

Taken by the Board on March 21, 2013

A. AGREED CONSENT ORDERS

BEHAVIORAL ENFORCEMENT COMMITTEE

1. Investigation Nos.: 12-06-30L
12-06-31L
Respondents: Robert A. Percy and Robert A. Percy, PC (Firm)
Hometown: Texarkana
Certificate No.: 012790
Firm License No.: C02989
Rules Violation: 501.74
Act Violation: 901.502(6)

Respondents entered into an Agreed Consent Order with the Board whereby Respondents were reprimanded. In addition, Respondents must pay \$83.30 in administrative costs within 30 days of the date of the Board Order.

Respondent Percy failed to sufficiently research the issue regarding a specific exclusion for foreign-earned income when the client was not eligible.

2. Investigation No.: 12-06-27L
Respondent: Robert Allen Malphurs
Hometown: Dallas
Certificate No.: 017642
Rules Violations: 501.74
501.81
Act Violations: 901.502(6)
901.502(11)

Respondent entered into an Agreed Consent Order with the Board whereby Respondent was revoked. However, the revocation was stayed, and Respondent was placed on probation for one year, in accordance with the Agreed Consent Order. In addition, Respondent must pay an administrative penalty of \$1,000 and \$186.06 in administrative costs within 30 days of the date of the Board Order.

Respondent filed a blank tax return with the Internal Revenue Service. Respondent's firm uses the title "Certified Public Accountant" although it is not licensed by the Board. Respondent compiled unaudited financial statements through a firm that is not licensed by the Board.

3. Investigation No.: 12-06-11L
Respondent: Gregory Brian Porter
Hometown: Garland
Certificate No.: 068747
Rules Violation: 501.90(17)
Act Violations: 901.502(6)
901.502(11)

Respondent entered into an Agreed Consent Order with the Board whereby Respondent was revoked. However, the revocation was stayed, and Respondent was placed on probation for three years, in accordance with the Agreed Consent Order. In addition, Respondent must pay \$75.90 in administrative costs within 30 days of the date of the Board Order and must pay \$6,190.39 to the Board in three annual installments.

Respondent violated the terms of the November 18, 2010, Board Order by not paying \$6,190.39 in administrative penalties and costs.

4. Investigation Nos.: 12-07-23L & 12-07-24L
Respondents: Roberto G. Torres and Roberto G. Torres & Company, PC
Hometown: El Paso
Certificate No.: 017800
Firm License No.: C05510
Rule Violations: 501.90(17)
527.5
Act Violations: 901.502(6)
901.502(12)

Respondents entered into an Agreed Consent Order with the Board whereby Respondents were placed on limited scope, whereby they cannot perform attest

services, transmit financial statements to a client or third party, or issue attest reports for 12 months, in accordance with the Agreed Consent Order, starting on the date the Board ratified the ACO.

Respondent Torres entered into an Agreed Consent Order ratified by the Board on March 24, 2011. Under the terms of the ACO, Respondent Torres had to obtain a firm license, participate in a peer review program, and obey all state and federal laws pertaining to public accountancy. Respondent Firm received a peer review with a rating of "modified" and a peer review with a rating of "pass with deficiencies." In addition, Respondent has not reported the results of a peer review scheduled for June 30, 2011.

B. AGREED CEASE AND DESIST ORDERS

1. Investigation No.: 12-07-13N
Respondents: David Loomis, Debi Glick, Michele Schaeffer, and SGC Health Group, Inc.
Hometown: Dallas
Act Violations: 901.453
901.456

Respondents entered into an Agreed Cease and Desist Order with the Board whereby Respondents will cease and desist from providing attest services and using reserved terms.

Respondents used the reserved term "accounting" to assert an expertise in accounting and offered to provide attest services although Respondents do not hold individual or firm licenses in Texas.

TEXAS STATE BOARD REPORT

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ENFORCEMENT ACTIONS

2. Investigation No.: 12-11-60N
Respondents: Jason Wolkowicz and Patriot Tax Service LLC
Hometown: Dallas
Act Violations: 901.453
 901.456

Respondents entered into an Agreed Cease and Desist Order with the Board whereby Respondents will cease and desist from providing attest services and using reserved terms.

Respondents used the reserved term “accounting” to assert an expertise in accounting and offered to provide attest services although Respondents do not hold individual or firm licenses in Texas.

3. Investigation No.: 13-01-11N
Respondent: Sajan Jayantilal Patel
Hometown: Dallas
Act Violation: 901.451

Respondent entered into an Agreed Cease and Desist Order with the Board whereby Respondent will cease and desist from providing attest services and using reserved terms.

Respondent used the “Certified Public Accountant” designation although Respondent does not hold individual or firm licenses in Texas.

4. Investigation No.: 13-01-35N
Respondent: Jesse Peralta Jr.
Hometown: Houston
Act Violation: 901.451

Respondent entered into an Agreed Cease and Desist Order with the Board whereby Respondent will cease and desist from providing attest services and using reserved terms.

Respondent used the “Certified Public Accountant” designation although Respondent does not hold individual or firm licenses in Texas.

C. CEASE AND DESIST ORDERS

1. Investigation No.: 11-05-06N
Respondent: Omotayo Jamin Lawal d/b/a Law Office of O. J. Lawal & Associates

Hometown: Houston
Act Violations: 901.451
 901.456

Staff initiated an investigation of this matter based on evidence that Respondent was using terms and providing services reserved by the Act for individuals and entities holding licenses issued by the Board. Staff determined that Respondent has not held individual or firm licenses issued by the Board during all relevant times.

During the relevant times, Respondent used the designation “CPA” and provided an attest service, a compilation, without licensure. This action constitutes a violation of Act Sections 901.451 and 901.456. Respondent offered services to the public that involve the use of accounting, attest or auditing skills, including tax services. Offering these services while representing to potential clients that he is licensed by the Board is the practice of public accountancy under Section 901.003 of the Act.

Respondent repeatedly ignored the Board’s attempts to gain his compliance with Texas law. Due to that fact, it was necessary for the Board to immediately issue a Cease and Desist Order against Respondent.

2. Investigation No.: 11-06-46N
Respondent: Kimberly Griffin d/b/a Griffin Business Services
Hometown: Katy
Act Violation: 901.453

Staff initiated an investigation of this matter based on evidence that Respondent was using terms reserved by the Act for individuals and entities holding licenses issued by the Board. Staff determined that Respondent has not held individual or firm licenses issued by the Board during all relevant times.

During the relevant times, Respondent offered to provide “accounting services” in online advertisements without licensure. This action constitutes a violation of Act Section 901.453. Respondent also offered services to the public that involve the use of accounting, attest or auditing skills, including tax services. Offering these services while representing to potential clients that she is licensed by the Board is the practice of

public accountancy under Section 901.003 of the Act.

Respondent repeatedly ignored the Board’s attempts to gain her compliance with Texas law. Due to that fact, it was necessary for the Board to immediately issue a Cease and Desist Order against Respondent.

3. Investigation No.: 11-10-19N
Respondent: Rita Rios d/b/a Mobile Accounting & Tax Service
Hometown: Houston
Act Violation: 901.451

Staff initiated an investigation of this matter based on evidence that Respondent was using terms reserved by the Act for individuals and entities holding licenses issued by the Board. Staff determined that Respondent has not held individual or firm licenses issued by the Board during all relevant times.

During the relevant times, Respondent used the term “accounting” in the name of her business to offer accounting services without licensure. This action constitutes a violation of Act Section 901.451. Respondent also offered services to the public that involve the use of accounting, attest or auditing skills, including tax services. Offering these services while representing to potential clients that she is licensed by the Board is the practice of public accountancy under Section 901.003 of the Act.

Respondent repeatedly ignored the Board’s attempts to gain her compliance with Texas law. Due to that fact, it was necessary for the Board to immediately issue a Cease and Desist Order against Respondent.

4. Investigation No.: 11-10-75N
Respondent: Robert Nunez d/b/a TAG: The Accounting Group
Hometown: Midlothian
Act Violation: 901.451

Staff initiated an investigation of this matter based on evidence that Respondent was using terms reserved by the Act for individuals and entities holding licenses issued by the Board. Staff determined that Respondent has not held individual or firm licenses issued by the Board during all relevant times.

During the relevant times, Respondent used the term “accounting” in the name of his business and offered “accounting services” in online advertisements without licensure. This action constitutes a violation of Act Section 901.451. Respondent also offered services to the public that involve the use of accounting or auditing skills, including tax services. Offering these services while representing to potential clients that he is licensed by the Board is the practice of public accountancy under Section 901.003 of the Act.

Respondent repeatedly ignored the Board’s attempts to gain his compliance with Texas law. Due to that fact, it was necessary for the Board to immediately issue a Cease and Desist Order against Respondent.

5. Investigation No.: 11-12-27N
Respondent: Russell B. Wilson
Hometown: Plano
Act Violation: 901.451

Staff initiated an investigation of this matter based on evidence that Respondent was using terms reserved by the Act for individuals and entities holding licenses issued by the Board. Staff determined that Respondent has not held individual or firm licenses issued by the Board during all relevant times.

During the relevant times, Respondent held out as a “CPA” without licensure. This action constitutes a violation of Act Section 901.451. Respondent also offered services to the public that involve the use of accounting, attest or auditing skills, including tax services. Offering these services while representing to potential clients that he is licensed by the Board is the practice of public accountancy under Section 901.003 of the Act.

Respondent repeatedly ignored the Board’s attempts to gain his compliance with Texas law. Due to that fact, it was necessary for the Board to immediately issue a Cease and Desist Order against Respondent.

6. Investigation No.: 12-01-28N
Respondents: Juline Kerr and PRIVADA Global Inc.
Hometown: Cypress
Act Violation: 901.453

Staff initiated an investigation of this matter based on evidence that Respondents were using terms reserved by the Act for individuals and entities holding licenses issued by the Board. Staff determined that Respondents had not held individual or firm licenses issued by the Board during all relevant times.

During the relevant times, Respondents used the term “accountant” and offered to provide “accounting services” in online advertisements without licensure. This action constitutes a violation of Act Section 901.453. Respondents also offered services to the public that involve the use of accounting, attest or auditing skills, including tax services. Offering these services while representing to potential clients that they are licensed by the Board is the practice of public accountancy under Section 901.003 of the Act.

Respondents repeatedly ignored the Board’s attempts to gain their compliance with Texas law. Due to that fact, it was necessary for the Board to immediately issue a Cease and Desist Order against Respondents.

7. Investigation No.: 12-01-36N
Respondent: Jim Sullivan d/b/a Sullivan Financial Services
Hometown: San Antonio
Act Violation: 901.453

Staff initiated an investigation of this matter based on evidence that Respondent was using terms reserved by the Act for individuals and entities holding licenses issued by the Board. Staff determined that Respondent has not held individual or firm licenses issued by the Board during all relevant times.

During the relevant times, Respondent offered to provide “accounting services” in online advertisements without licensure. This action constitutes a violation of Act Section 901.453. Respondent also offered services to the public that involve the use of accounting, attest or auditing skills, including tax services. Offering these services while representing to potential clients that he is licensed by the Board is the practice of public accountancy under Section 901.003 of the Act.

Respondent repeatedly ignored Board attempts to gain his compliance with Texas law. Due to that fact, it was necessary for the Board to immediately issue a Cease and Desist Order against Respondent.

8. Investigation No.: 12-02-39N
Respondent: Harold Hankins
Hometown: Beaumont
Act Violation: 901.451

Staff initiated an investigation of this matter based on evidence that Respondent was using terms reserved by the Act for individuals and entities holding licenses issued by the Board. Staff determined that Respondent has not held individual or firm licenses issued by the Board during all relevant times.

During the relevant times, Respondent held out as a “CPA” without licensure. This action constitutes a violation of Act Section 901.451. Respondent also offered services to the public that involve the use of accounting, attest or auditing skills, including tax services. Offering these services while representing to potential clients that he is licensed by the Board is the practice of public accountancy under Section 901.003 of the Act.

Respondent repeatedly ignored the Board’s attempts to gain his compliance with Texas law. Due to that fact, it was

If You Move...

Board rules require licensees to inform the Board within 30 days of a change of address.



- **Online under “Online Services” at www.tsbpa.state.tx.us**
- **Email: licensing@tsbpa.state.tx.us**
- **Phone: 512-305-7853**
- **Mail: TSBPA
333 Guadalupe Twr 3 Ste 900
Austin, TX 78701**

necessary for the Board to immediately issue a Cease and Desist Order against Respondent.

9. Investigation No.: 12-02-43N
Respondents: Josephine Onita and Financial Planning & Tax Office Inc.
Hometown: Houston
Act Violations: 901.453
 901.456

Staff initiated an investigation of this matter based on evidence that Respondents were using terms and offering to provide services reserved by the Act for individuals and entities holding licenses issued by the Board. Staff determined that Respondents have not held individual or firm licenses issued by the Board during all relevant times.

During the relevant times, Respondents offered "accounting services," held out as "accounting professionals," and offered to provide "audits, reviews and compilations" in online advertisements without

CPAs with experience in accounting and auditing may qualify to serve as peer reviewers. For more information, visit the Peer Review section at www.tscpa.org under the Resource Center tab.

✓ **Accountant/Accounting**
 ✓ **Certified Public Accountant or CPA**
 ✓ **Audit/Auditor/Auditing**

Only Board licensees can legally use these terms in offering their services to the public. If you suspect unauthorized use of these terms or their derivatives, report it to the Board at 512-305-7866.

Help Us Identify the Unauthorized Practice of Public Accountancy

licensure. This action constitutes a violation of Act Sections 901.453 and 901.456. Respondents offered services to the public that involve the use of accounting, attest or auditing skills, including tax services. Offering these services while representing to potential clients that they are licensed by the Board is the practice of public accountancy under Section 901.003 of the Act.

Respondents repeatedly ignored the Board's attempts to gain their compliance with Texas law. Due to that fact, it was necessary for the Board to immediately issue a Cease and Desist Order against Respondents.

10. Investigation No.: 12-09-13N
Respondents: Donna West and Donna West, CPA, PC
Hometown: Hereford
Act Violations: 901.451
 901.453
 901.456

Staff initiated an investigation of this matter based on evidence that Respondents were using terms and offering services reserved by the Act for individuals and entities holding licenses issued by the Board. Staff determined that Respondents have not held individual or firm licenses issued by the Board during all relevant times.

During the relevant times, Respondents, without licensure, used the designation "CPA," held out as an "accounting firm," offered "accounting services," and offered to provide "audits, reviews and compilations" in online advertisements. These actions constitute a violation of Act Sections 901.451, 901.453 and 901.456. Respondents offered services to the public that involved the use of accounting, attest or auditing skills, including tax services. Offering these services while representing to potential clients that they are licensed by the Board is the practice of public accountancy under Section 901.003 of the Act.

Respondents repeatedly ignored the Board's attempts to gain their compliance with Texas law. Due to that fact, it was necessary for the Board to immediately issue a Cease and Desist Order against Respondents.

D. PROPOSAL FOR DECISION

• **Investigation No.:** 12-04-03L
SOAH Docket No.: 457-12-6891

Certificate No.: 060415
Respondent: Phillip Stewart Smart
Hometown: Crowley
Rules Violations: 501.90(17)
 501.93
Act Violations: 901.502(6)
 901.502(11)

The State Office of Administrative Hearings Administrative Law Judge (ALJ) issued a Proposal for Decision (PFD). The ALJ deemed as admitted the allegations that Respondent violated Board Rules 501.90(17) and 501.93 and Sections 901.502(6) and 901.502(11) of the Public Accountancy Act. The ALJ also stated that the Board was entitled to the following relief: that Respondent's licenses and certificates be revoked, that Respondent be assessed a \$3,721 administrative penalty and direct administrative costs be imposed.

The ALJ's Proposal for Decision follows:

In accordance with TEX. OCC. CODE Section 901.52, the Board shall consider the following when determining the amount of an administrative penalty:

- (1) the seriousness of the violation, including:
 - (A) the nature, circumstances, extent, and gravity of any prohibited act; and
 - (B) the hazard or potential hazard to the public;
- (2) the economic damage to property caused by the violation;
- (3) the history of previous violations;
- (4) the amount necessary to deter a future violation;
- (5) efforts to correct the violation; and
- (6) any other matter that justice may require.

The administrative penalty sought in the Notice of Hearing includes the \$1,721 administrative penalty originally imposed upon Respondent in a Board Order issued on November 17, 2011. Respondent never made an effort to pay this amount. The remaining \$2,000 reflects the facts that Respondent was previously sanctioned by the Board and that the failure to comply with a Board Order undermines the authority of the Board to enforce and administer the Public Accountancy Act. The total penalty falls well within the ranges established by the Board in Board Rule 519.9 for violations of the relevant rules.

Due to the fact that the hearing resulted in a default, the direct administrative costs were nominal.

ENFORCEMENT ACTIONS

CPE ACTIONS

The certificate of each respondent listed below was not in compliance with the Board's CPE requirements as of the date of the Board meeting. Each respondent was suspended for the earlier of a period of three years or until the respondent complies with the licensing requirements of the Act. Additionally a \$100 penalty was imposed for each year the respondent continued to be in noncompliance with the Board's CPE requirements. The respondents were found to be in violation of Section 523.111 (*Mandatory CPE Reporting*) and 501.94 (*Mandatory CPE*) of the Board's Rules, as well as Section 901.411 (*Continuing Professional Education*) of the Act.

Respondent / Location	Board Date	Respondent / Location	Board Date
Tommy Earl Darby, Houston, TX	03/21/2013	Rhonda Marie Lewis, League City, TX	03/21/2013
Mary Leslie Degan, Plano, TX	03/21/2013	Ankita Samanta Mallik, Frisco, TX	03/21/2013
Lisa Ann Fogg, Parker, CO	03/21/2013	Jackson Pennington Morgan, Jr., Houston, TX	03/21/2013
Melanie Kay Fox, Richmond, TX	03/21/2013	Godwin Udo Nkana, Dallas, TX	03/21/2013
Sally Suy Hall, Sugar Land, TX	03/21/2013	Lorrie Dianne Parsons, Lewisville, TX	03/21/2013
Tyler William Hortin, Orem, UT	03/21/2013	Jill Pitcher, Grand Prairie, TX	03/21/2013
Theresa Louise Jones, Spring, TX	03/21/2013	Christie Watt Sade, Houston, TX	03/21/2013
Tyrone Dewayne Jones, Cove, TX	03/21/2013	John Scott, Jr., Rowlett, TX	03/21/2013
Daniel Kohar, Jakarta, INDONESIA	03/21/2013		

THREE-YEAR DELINQUENT ACTIONS

The respondents listed below violated Sections 901.502(4) (*Grounds for Disciplinary Action*) of the Act when they failed to pay license fees for three consecutive license periods. The certificate of each respondent was revoked without prejudice as the respondent was not in compliance as of the Board meeting date. 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.

Respondent / Location	Board Date	Respondent / Location	Board Date
Bradley Boone Atkins, Frisco, TX	03/21/2013	Lisa Kay Kovacs, Owasso, OK	03/21/2013
Abenaa Kessewaa Opong Brown, Cantonments Accra, GHANA	03/21/2013	John Earl Lathrop, Mountain View, CA	03/21/2013
Puneet Chadha, Jaipur, INDIA	03/21/2013	William Barry Leitner, Hilton Head Island, SC	03/21/2013
Yu-Ju Chen, Kaohsiung, TAIWAN	03/21/2013	Andrew Erin Levine, The Woodlands, TX	03/21/2013
Robert Y. Choi, Arlington, TX	03/21/2013	Judy C. Martin, Florence, OR	03/21/2013
Debbie Lynn Clark, Stockbridge, MI	03/21/2013	William Morphew, Midwest City, OK	03/21/2013
Maria Elizabeth Conley, Fort Worth, TX	03/21/2013	Harold Rice Murray, Flower Mound, TX	03/21/2013
Ronald Earl Davis, Jr. Houston, TX	03/21/2013	James Taylor Oatman, Richardson, TX	03/21/2013
Richard Cole Dennard, Dallas, TX	03/21/2013	Bill Lee Opella, Dallas, TX	03/21/2013
Neal Roy Ferguson, Odessa, TX	03/21/2013	Matthew Robert Patton, IV, Gilmer, TX	03/21/2013
Kimberly Michelle Garland, Sammamish, WA	03/21/2013	William Victor Poncik, Plano, TX	03/21/2013
Allen Monroe Goodrick, Plano, TX	03/21/2013	Kirk Edward Romero, Vancouver, BC, CANADA	03/21/2013
Kimberly Lemelle Groce, Webster, TX	03/21/2013	Scott Lewis Seybold, Thousand Oaks, CA	03/21/2013
Cynthia Lynn Hibbs, Houston, TX	03/21/2013	Ralph J. Shilling, Fort Worth, TX	03/21/2013
Nettie Ruth Wilks Hoskins, Corpus Christi, TX	03/21/2013	Michael George Shoup, Brenham, TX	03/21/2013
Edward Vaughn Howard, Gunnison, CO	03/21/2013	George Henry Spencer, Jr., Dallas, TX	03/21/2013
Kevin Lawrence Johnson, Grapevine, TX	03/21/2013	Cheryl Keeling Wilk, Anchorage, AK	03/21/2013
Philip J. Koen, St. Louis, MO	03/21/2013	Patricia D. Yost, Austin, TX	03/21/2013

Act, Rules / *continued from page 1*

Advertising. Board Rule 501.82 addresses when and how a Texas licensee may advertise accounting services to prospective clients. A CPA who persists in advertising to a prospective client who has asked that the solicitations cease is in violation of Board Rules and subject to Board sanctions.

Five Texas Candidates Earn Sells Awards

Five Texas candidates have been named Elijah Watts Sells Award recipients for their exemplary performance on the CPA examination. They are **Bradley Bowen**, a Texas A&M graduate employed by Ernst & Young, Dallas; **James Braun**, University of Texas at Austin, Ernst & Young, Houston; **Jennifer Tindle**, Southwestern and Vanderbilt universities, PricewaterhouseCoopers, Houston; **Adam Wright**, UT Austin and Austin Community College, Texas State Auditor's Office; and **Ning Zhu**, Georgetown University, PricewaterhouseCoopers, Houston.

Texas State Board of Public Accountancy
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Attention: CPAs, Exam Candidates, and Accounting Students

If you are dealing with alcohol or drug dependency problems or mental health issues, you can get help from the ACCOUNTANTS CONFIDENTIAL ASSISTANCE NETWORK. ACAN volunteers are CPAs who have had first-hand experience with these same issues and who understand what you are dealing with. Don't hesitate to get the help you need. All communications are confidential.

**For help, call
1-866-766-2226**

Administered by the TSCPA and Funded in Part by the Board

LEGAL NOTICE: The identity and communications and the 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*.

ADDITIONAL VOLUNTEERS NEEDED

ACAN needs volunteers across the state. If you are a CPA in recovery and interested in volunteering, please call 1-866-766-2226.

