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Maresh comments on AmEx lawsuit

A recent decision issued by the United States District Court for the Northern District of Florida, reaffirms the Texas State Board of Public Accountancy's approach to regulating CPAs who practice through non-CPA firms, according to the chairman of the Texas Board, Frank Maresh. On December 10, 1995, Chief Judge Maurice M. Paul found that a provision of Florida law which precludes a Florida CPA from truthfully informing clients that he is a CPA when practicing through an unregistered firm, is a violation of the commercial free speech protections of the first amendment to the *United States Constitution*. The court also stated, however, that a disclaimer requirement that would allow the CPA to hold himself out in a non-misleading manner was a permissible regulatory activity.

"Apparently in Texas we're right where we need to be, and we've got a program that achieves our objective of protecting the public interest."

Frank W. Maresh

"Although I'm not surprised, it's always reassuring to hear that the opinion from the Northern District of Florida is consistent with the Texas regulations," stated

Maresh. "We believed all along when the United States Supreme Court issued its decision in *Ibanez v. Florida Board of Accountancy* 114 S. Ct. 2084, 129 L. Ed. 2nd 118 (1994)] that the Texas Board needed to direct greater attention to a CPA's conduct and less attention to "holding out" as that term is defined in the *Texas Public Accountancy Act*. Apparently in Texas we're right where we need to be, and we've got a program that achieves our objective of protecting the public interest."

The court dismissed American Express from the lawsuit for lack of standing, finding that the Florida Board's regulation was directed toward the individual CPA and not the firm. The court further found, however, that a state cannot completely suppress the dissemination of concededly truthful information about a lawful activity merely because the state is fearful of the information's effect on its recipients. The court found that the State of Florida produced no empirical evidence to support its concerns and that it is more beneficial to protect the public's right to make an informed decision about the services they purchase through full disclosure of all relevant information.

Maresh believes that the Texas Board is out front in addressing this situation. He emphasized that CPAs in Texas who are licensed and in good standing may certainly call themselves CPAs and, in general, may also practice in unregulated firms so long as they do not perform audits, compilations, or reviews and so long as they disclose that the firms are "Not qualified to register with the Texas State Board of Public Accountancy to practice public accountancy in Texas." Maresh stated that this was addressed by the Board principally in Board rules 501.40 and 501.4 several months ago after visiting the issue for about two years.

Judge Paul emphasized in his concluding remarks that his decision was not saying that the state cannot lawfully restrict unlicensed individuals or firms from using certain professional designations or regulate the practice of professions by individuals or firms. The court made it clear that the state's absolute ban on holding out by actively licensed accountants at unlicensed firms is inappropriate. ○

NEWS BRIEFS

Board studies regulation of specialty designations

A recently appointed *ad hoc* Board committee has been charged with the responsibility of studying whether the Board should recognize specialty designations. The committee chairman is **K. Michael Conaway**, a CPA Board member from Midland.

Others serving on the committee are Board members **Jerry A. Davis**, CPA, **Carmen C. Garcia**, CPA, and **Janet Parnell**. Non-Board committee members are **Marilyn C. Ault**, CPA from Amarillo, **Robert C. Fancher**, CPA from Corpus Christi, **William R. Frazer**, CPA from Houston, and **Allyson A. Turner**, CPA from Fort Worth.

For further information, contact the Board's executive director, **William Treacy**, at (512) 505-5501.

Volunteers sought

The Board is seeking to expand its banks of volunteers to assist in investigations and in public hearings as expert witnesses.

Licensees with technical accounting/auditing expertise in such areas as oil and gas, financial institutions, government, insurance companies, and tax, are needed to act as expert witnesses at hearings before the State Office of Administrative Hearings.

The number of licensees the Board may call on to provide support in disciplinary investigations around the state is also being expanded. Volunteers in the constructive enforcement program may also follow up on resolved disciplinary cases to insure that the respondents are complying with the terms of Board orders.

Interested individuals should contact **J. Randel Hill**, the Board's general counsel at **333 Guadalupe, Tower III, Suite 900, Austin, Texas 78701-3900** or telephone (512) 505-5542.

Ethics course must be taken from Board-approved sponsor

The Texas State Board of Public Accountancy requires each licensee, unless granted an exemption from the CPE requirement, to earn a minimum of four hours of CPE in ethics every three years. The course must cover the Board's *Rules of Professional Conduct* (the *Rules*) and must be conducted by a Board-approved sponsor.

The successful completion of an ethics course is intended to provide CPAs with a better understanding of the Rules, which will translate into routine behavior that not only complies with the law but also with the spirit of the law and promotes a high level of integrity in the profession.

The Board's CPE Committee is currently considering a revision to the ethics course content to include an increased emphasis on ethics for CPAs employed in industry and governmental accounting. More stringent sponsor/instructor standards are being considered, as well as a means of evaluating sponsor/instructor compliance with these standards. Also under committee consideration is the advertising and marketing of ethics courses.

The committee welcomes comments on this topic or any other aspect of the CPE program.

For a list of approved sponsors, a copy of the *Rules of Professional Conduct*, and/or the CPE rules, contact the Board's CPE Division at (512) 505-5544.

Texans assume NASBA roles

Rudd becomes NASBA chairman. Former Texas Board chairman **Ronnie Rudd**, CPA, became the National Association of State Boards of Accountancy's chairman at NASBA's annual meeting in October. He is the first Texan to hold that office.

Rudd, who served on the Texas Board from 1989 to 1995, has been active in NASBA activities, holding a number of offices and committee chairmanships.

Present, past Board members serve on NASBA committees. Texas Board chairman **Frank W. Maresh**, CPA, has assumed the chairmanship of the NASBA Future Licensing, Litigation, and Legislation Committee.

The CPE Advisory Panel is chaired by Texas Board treasurer **Nita J. Clyde**, Ph.D., CPA from Dallas.

Paul W. Hillier Jr., CPA, past Texas

Board chairman, has been reappointed to a three-year term on the NASBA CPA Examination Services Managing Board.

Treacy named chairman of NASBA Administrators' Committee. William Treacy, the Board's executive director since 1990, has been named 1996 chairman of the NASBA State Board Administrators' Committee.

The committee was formed in 1981 as a forum for administrators to discuss matters of mutual concern to state boards from an administrative, rather than a policy, standpoint.

Mr. Treacy also serves on the NASBA International Qualifications Appraisal Board and the Future Licensing, Litigation, and Legislation Committees.

Attorney General enforcing child support legislation

A new law grants the Texas Attorney General's office the authority to suspend the professional, recreational, and driver's licenses of an individual in arrears of child support.

Effective September 1, 1995, the Attorney General's office began working with state licensing agencies, including the Board of Accountancy, to identify and prosecute non-custodial parents who are more than ninety days past due in child support.

In lieu of losing one's license(s), a person will be given the opportunity to work out a payment plan. Failure to enter into a repayment agreement or breaking the agreement will result in license suspension.

Texas exam candidate wins AICPA's Sells bronze medal

David Shane Peck of Austin has been awarded the AICPA's Elijah Watt Sells bronze medal for his performance on the May, 1995, Uniform CPA Examination.

He earned the third-highest score of more than 60,000 candidates nationwide on the May, 1995, Uniform CPA Examination. In order to qualify for the gold, silver, or bronze medals, a candidate must not only make one of the three highest scores in the country, but must also pass all parts of the examination at one time.

Mr. Peck is a graduate of the University of Texas at Austin's MPA program, and is currently a first-year law student at UT. He

was presented his medal at the November 11 Austin regional swearing-in ceremony.

Scholarships to be awarded

Fifth-year accounting scholarships. The first scholarships for fifth-year accounting students will be awarded in 1996 in anticipation of the 150 semester hours of college credit that will be required of CPA candidates in 1997.

The scholarship provision became part of the *Public Accountancy Act* in 1991 when the Board was undergoing sunset legislation in an effort to offset the cost of a fifth year of college by minority and financially constrained accounting students. A \$10 annual fee is assessed of CPAs to fund these scholarships.

The scholarship program is administered by a committee of the Texas Higher Education Coordinating Board (THECB), as per the provisions of the *Texas Education Code*. Committee membership is composed of one representative from each of the following: the Texas State Board of Public Accountancy, the Texas Society of CPAs, a Texas representative of the American Accounting Association, the National Association of Black Accountants, the American Association of Hispanic Certified Public Accountants, and two chairmen of Texas college accounting departments. The committee is chaired by a nominee of the THECB.

Carmen C. Garcia, CPA, Board member from San Antonio, is the Board's delegate to the committee.

The THECB has recently adopted rules providing for the disbursement of scholarships. Inquiries should be addressed to **Jane I. Caldwell** at **Texas Higher Education Coordinating Board, P.O. Box 12788, Austin, Texas 78711-2788**.

AICPA minority scholarships. The AICPA's Minority Initiatives Committee are granted on a merit and need basis to minority students demonstrating significant potential to become CPAs.

Eligible students must have completed at least thirty college credits (with at least six credits in accounting), be enrolled full-time, and maintain an overall and accounting GPA of at least 3.0.

The Minority Initiatives Committee also matches mentors with scholarship recipients.

The deadline for submitting scholarship applications for the 1996-97 academic year is July 1, 1996. Contact the **AICPA Order Department, P.O. Box 2209, Jersey City, New Jersey 07303-2209** for applications.

YOUR HELP IS NEEDED

The Board is not always promptly informed by the family of a licensee's death; therefore we are seeking your assistance in notifying the Board of another CPA's passing.

Please mail us a copy of the newspaper obituary, which will greatly facilitate the Board's record keeping and eliminate unnecessary mailings. ○

The November, 1995, CPA exam was conducted at six locations in Texas. 5,588 candidates wrote one or more parts of the exam. The Board is unable to conduct an exam of this magnitude without assistance; therefore, it relies on the profession. CPAs and CPA candidates assisted the Board by volunteering to proctor this exam. A sincere thank you to the individuals who proctored and to the firms and businesses which allowed their vital employees to serve the profession.

Thank you

AUSTIN

Rosalyn Johnson	Bounds Chatelain & Pharr
Anthony Ross	City of Austin
Jeff Kronke	Coopers & Lybrand
Charles Septowski	Houston-Tillotson College
Dottie Niedelman	Internal Revenue Service
Jim Pumphret	Internal Revenue Service
John Rossmiller	Internal Revenue Service
Kathleen Weiss	Internal Revenue Service
Ruthie Bryant*	KPMG Peat Marwick
John Polk	Southwest Texas State University
Francine Gutierrez	State Auditor
Michelle Joseph	State Auditor
Thomas Ng	State Auditor
Monday Rufus	State Auditor
Brenda Thompson	State Auditor
Robert Lauder	State Comptroller
Kim Hegge	Stephen E. Midgett & Co.
Andrea Sneary	University of Texas
Laura Fairman	Wheeler and Company
Norma Richmond	Wheeler and Company
Steve Winters	Winters, Winters & Reeb
Max Godwin	Retired
Susan Barry	Self-employed
Linda Byers	Self-employed
Stevalyn Henderson	Self-employed
Valerie Korba	Self-employed
Beverly K. Straub	Self-employed
Ann White	Self-employed
Pat Whiteside	Self-employed

EL PASO

Ed Lobdell	Bixter and Co.
Leslie Hutchens	Coopers & Lybrand
Brian C. Wilkinson	Coopers & Lybrand
Veronica Williams*	Coopers & Lybrand
Anthony Benitez	El Paso Natural Gas
Michael Drapes	Lautherbach Borschow
William (Ted) Hesford	Lautherbach Borschow
Safdar Y. Tasneem	Lautherbach Borschow
Anabel Sanchez	Rister Dunbar Broaddus & Co.
Terry W. Bessire	Starr Colton Pena Vogel & Co.
Elizabeth Cardona	University of Texas at El Paso
Donna Sanchez	US Customs Service
Jimmy G. Ratcliff	Self-employed
Gladys Shaw	Self-employed

FORT WORTH

Janet D. Vance	American Mensa
Pamela Potts	Barg & Associates
Stephanie Horst	Bluff Manufacturing
John M. Carpenter	Bright and Company
Gene Anderson	City of Paris

Jennifer M. Green	Coopers & Lybrand
Rebecca Leddy*	Coopers & Lybrand
Heather Martin*	Coopers & Lybrand
Se Wan Wong*	Coopers & Lybrand
Lyn Dreher	Dallas Chapter/TSCPA
Rebecca L. Lennard	Deloitte & Touche
Rickey D. Whitworth*	Deloitte & Touche
Michael R. Bodwell*	Ernest & Young
Christine H. Stinson	Forth Worth Chapter/TSCPA
Nelson Lumpkin	GTE Corporation
Misti Bedford*	HEA Management Co.
Terry A. Hobbs	Hobbs & Associates
Teresa J. Mayfield	IFM Partnership DBA Infomart
W.L. "Woody" Mathews	J.A. Garrison & Co.
Christopher M. Corder*	KPMG Peat Marwick
Roy Steward*	KPMG Peat Marwick
Angela Groom	Lane Gorman Trubitt
Carol Uhl*	Lane Gorman Trubitt
Jay Mims Wilson	Lane Gorman Trubitt
Lourdes M. Davis	Lockhart, Altaras & Thompson
Bretta J. Milner	Lockhart, Altaras & Thompson
George Thompson	Lockhart, Altaras & Thompson
Pamela L. Lunk	Lockheed Support Systems, Inc.
Jacquelyn R. Gates	Lois J. Kapp, CPA
Elizabeth Mendel	Lonnie Morris CPA & Co.
Susan L. Ciskowski	McCaslin & Company
Kimberly J. Webb	McCaslin & Company
Paul B. Harlow	Mobil Oil Corporation
Kathy Gamill	Oak Ridge School
Wayland M. Higginbottom	Perry Equipment Corp.
Tara Blair*	Price Waterhouse
Thomas D. Delaney	Price Waterhouse
Jodi L. Goetz*	Price Waterhouse
Guy W. MacDonald*	Price Waterhouse
Betty McBryde	Pulmonary Consultants of Texas
Rob Cocanower*	R.D. Cocanower, PC
Virgina Debrow	Saville Dodgen & Co.
Tamara S. Harris*	Saville Dodgen & Co.
Gerald M. Sutherland	Southwestern Bell Telephone
Wendell K. Grandeyll	Stovall, Grandey & Whatley
James L. Buxton	Tagan Construction
Robert J. Theisen	The Clifton Company
Cynthia S. Hack	University of Texas at Arlington
Shirley D. Kennemer	Waddell & Reed Financial Services
Roy E. Paley II	Weaver & Tidwell
Dawnelle Warkaske*	Weaver & Tidwell
Samuel F. Wren III	Weaver & Tidwell
Kelly Sanderson	Whitley, Penn & Associates
Kelley M. Stidd	Whitley, Penn & Associates
Bonnie L. Vaughn	Woodred-Tech, Inc.
Kathy Ballard	Self-employed
Robin K. Brazell	Self-employed
Bill Breeding	Self-employed
Marie D. Delgado	Self-employed
Amy E. Dillavou	Self-employed
Connie Jo Duncan	Self-employed
Lawrence C. Galloway*	Self-employed
L. Paul Graham	Self-employed
Thomas W. Hatfield	Self-employed

Patricia Havard	Self-en
Joseph A. Kosanda	Self-en
Goldye E. Levi	Self-En
William M. Lux	Self-en
John W. Luxen	Self-en
Joseph P. Mammen	Self-en
Rick McConathy	Self-en
George D. Moore	Self-en
Stephen C. Nesbitt	Self-en
Michael J. Robertson	Self-en
Victor Rudolph	Self-en
Anne S. Rull	Self-en
Louise K. Sall	Self-en
Bradley P. Sandidge	Self-en
William J. Sexton *	Self-en
Nancy W. Shaw *	Self-en
John S. Shirley	Self-en
Cynthia W. Snider	Self-en
Lori L. Stripling *	Self-en
Melissa Taylor *	Self-en
Charles Trout *	Self-en
Margo B. Walsh	Self-en
Vickie M. Watson	Self-en
W. Frank Wolfenbarger	Self-en

HOUSTON

Mark A. Newsome	AFP
William P. McCormick	America
Robert D. Stefano*	Bonner
	Serv
Elwood M. Domaschk Jr.	Cabanis
Richard L. Loving	Capital
Ching Yu Hao	City of
Gary F. Dullum	Comptr
Tangie Cooper	Comptr
David A. Garza	David G
Stephen P. Thurber	Greco &
Vanessa Sola	Hill, Lon
Lily Hernandez	Houston
Pamela Buchanan	Internat
Melvin R. Doolan	Internat
Robert E. Estill	Internat
Susan Finster	Internat
Seymour J. LeBeau	Internat
Nancy S. Springer	Internat
Evelyn B. Watson	Internat
Jacquelyn Young	Internat
Marlene T. Franklin	Jackson
John M. Childs	John M
Mani P. Alapat	Joseph
Gloria M. Hinton	Major &
Thomas E. Oliver	McGee,
Harvey M. Bashor	O'Conn
Patricia Guin Ferguson	Read &
Robert W. Nelson	S & B E
	LTD
Wayne Oberhoff	Service
Brian Watson	Service
Jann E. Stille	Source

ENFORCEMENT ACTIONS

Respondent: Robert E. Allen Jr. (Dallas)
Certificate No.: 011053

Complaint No.: 95-05-26L

Date of Board Ratification: 8/24/95

Disposition: The respondent agreed to a reprimand based upon violations of Sections 21(c)(4) and 21(c)(11) of the Act and 501.41 (Discreditable Acts) of the Rules. The respondent mailed an Affidavit of Firm to the Board which contained obscene language.

Respondent: Marc R. Blaquiére (Plano)
Certificate No.: 021288

Complaint No.: 94-09-34L

Date of Board Ratification: 8/24/95

Disposition: The respondent agreed to a reprimand and to pay \$405 in administrative costs based upon violations of Sections 21(c)(4) and 21(c)(11) of the Act and Sections 501.32 (Records), 501.41 (Discreditable Acts), and 501.48 (Responses) of the Rules. The respondent failed to timely return client records and respond to Board correspondence.

Respondent: Frances Brawner (Corpus Christi)

Certificate No.: 042094

Complaint No.: 95-02-20L

Date of Board Ratification: 11/9/95

Disposition: The respondent agreed to a reprimand, to comply with Board Rule 501.40 (Registration Requirements), and to provide the complainant with copies of her working papers and her mother's working papers regarding his account. The sanction is based upon violations of Sections 10 and 21(c)(4) of the Act and Sections 501.32 (Records) and 501.40 (Registration Requirements) of the Rules. The respondent practiced public accountancy through an unregistered entity and failed to provide copies of the working papers which constituted client records to her client upon request.

Respondent: James Mark Cigainero (Houston)

Certificate No.: 018360

Complaint No.: 94-12-03L

Date of Board Ratification: 11/9/95

Disposition: The respondent agreed to pay the complainants \$1,000 and to complete twenty additional hours of CPE, sixteen hours related to practicing before the IRS, and four hours of ethics, by December 31, 1995. The respondent affirmed that he would not practice public accountancy until his license has been issued and is in good standing. The sanction is based upon violations of Sections 21(c)(4) and 21(c)(11) of the Act and Sections 501.21 (Competence) and 501.41 (Discreditable Acts) of the Rules. The respondent prepared the complainants' tax return incorrectly and handled the resulting problems incompetently.

Respondent: Judith Lin Clark (Rockwall)

Certificate No.: 055332

Complaint No.: 94-09-08L

Date of Board Ratification: 11/9/95

Disposition: The respondent's certificate was revoked and she was assessed \$555 in administrative costs based upon violations of Sections 8, 10, 21(c)(2), 21(c)(4), and 21(c)(11) of the Act and Sections 501.4 (Practice of Public

Accountancy), 501.21 (Competence), 501.40 (Registration Requirements), 501.41 (Discreditable Acts), and 501.48 (Responses) of the Rules. The respondent practiced public accountancy while her license was suspended and without a registered practice unit. Additionally, she failed to respond to Board communications, and failed to report a change of address to the Board.

Respondent: Michael de los Santos (Corpus Christi)

Certificate No.: 035444

Complaint No.: 94-07-09L

Date of Board Ratification: 8/24/95

Disposition: The respondent's certificate was suspended for two years with said suspension being probated for two years. As a term of probation, the respondent is required to prepare engagement letters for all clients setting forth the scope of work he is going to perform and the amount of money he will charge for the services. He was also assessed \$2,057.20 in administrative costs. The respondent failed to prepare personal federal income tax returns for a client for the years 1988 and 1989, although he was paid to do so, and failed to document why the returns had not been prepared and what the results of a failure to file would be to his client. The respondent violated Sections 21(c)(2), 21(c)(4), and 21(c)(11) of the Act and Section 501.41 (Discreditable Acts) of the Rules.

Respondent: Donald S. Kennedy (Houston)

Certificate No.: 015187

Complaint No.: 94-09-59L

Date of Board Ratification: 8/24/95

Disposition: The respondent's certificate was revoked and he was assessed \$835.70 in administrative costs. The respondent failed to comply with mandatory continuing professional education requirements for 1995, failed to return client records, and failed to respond to Board communications. The respondent violated Sections 21(c)(4) and 21(c)(11) of the Act and Sections 501.25 (Mandatory Continuing Education), 501.41 (Discreditable Acts), 501.48 (Responses), 523.62 (Mandatory CPE Reporting), and 523.63 (Mandatory CPE Attendance) of the Rules.

Respondent: A. James Lynn (Dallas)

Certificate No.: 015744

Complaint No.: 94-02-35L

Date of Board Ratification: 11/9/95

Disposition: The respondent agreed to a reprimand and to a limitation on his practice prohibiting him from conducting audits and reviews for violating Section 21(c)(4) of the Act and Sections 501.21 (Competence), 501.22 (Auditing Standards), 501.23 (Accounting Principles), and 501.24 (Other Professional Standards) of the Rules. The respondent failed to meet GAAP, GAAS, and other industry and governmental standards in audited financial statements submitted to a federal government agency.

Respondent: Joe Mastriano (Houston)

Certificate No.: 026553

Complaint No.: 94-08-23L

Date of Board Ratification: 8/24/95

Disposition: The respondent agreed to a reprimand and a two-year probated suspension of his certificate based upon violations of Sections 21(c)(4) and 21(c)(11) of the Act and Sections 501.14 (Receipt of Other Compensation) and 501.41 (Discreditable Acts) of the Rules. The respondent received or agreed to receive other compensation from the complainant in the form of referral fees and failed to make written disclosures regarding this compensation. In addition, the respondent threatened to report the complainant, who is an attorney, to the State Bar.

Respondent: Miles McKellar (Houston)

Certificate No.: 034201

Complaint No.: 94-11-09L

Date of Board Ratification: 11/9/95

Disposition: The respondent agreed to a reprimand based upon a violation of Section 8 of the Act. The respondent used the letters "CPA" after his name on a letter while his license was suspended for failure to satisfy the Board's CPE requirements.

Respondent: Charles R. McPherson (Tyler)

Certificate No.: 053070

Complaint No.: 94-11-08L

Date of Board Ratification: 11/9/95

Disposition: The respondent agreed to a reprimand and to complete a four-hour course on ethics by December 31, 1995. The sanction is based upon violations of Section 21(c)(4) of the Act and Sections 501.21 (Competence), 501.32 (Records), and 501.41 (Discreditable Acts) of the Rules. The respondent took on an engagement when he could not reasonably have expected to complete it with due professional competence. The respondent refused to return the complainants' records, refused to answer the complainants' questions regarding his fees for services rendered, and refused to give the complainants their tax return to allow them to file it themselves despite having been paid for his services.

Respondent: Michael C. Miller (Austin)

Certificate No.: 025855

Complaint No.: 94-04-08L

Date of Board Ratification: 11/9/95

Disposition: The respondent agreed to the revocation of his certificate based upon violations of Sections 8, 10, 21(c)(4), 21(c)(10), and 21(c)(11) of the Act and Sections 501.4 (Practice of Public Accountancy), 501.25 (Mandatory Continuing Education), 501.32 (Records), 501.41 (Discreditable Acts), 523.62 (Mandatory CPE Reporting), and 523.63 (Mandatory CPE Attendance) of the Rules. The respondent: (1) breached the terms of a settlement agreement that was the basis for the dismissal of an earlier complaint before the Board; (2) disclosed confidential client information to the IRS; (3) practiced public accountancy when he had failed to maintain his license, practice unit registration, and the required CPE; (4) failed to comply with an agreement to deliver client funds to a third party; and (5) appropriated funds belonging to a client without the client's permission.

Respondent: Pete E. Morales (San Antonio)

Certificate No.: 011725

Complaint No.: 94-10-434L

Date of Board Ratification: 8/24/95

Disposition: The respondent's certificate was revoked and he was assessed \$1,057.20 in direct administrative costs. The respondent failed to obtain his license under Section 9 of the Act for a period of three years from the

expiration date of his license to practice. He violated Section 21(c)(10) of the Act.

Respondent: Amos R. Morrison (Houston)

Certificate No.: 038058

Complaint No.: 94-03-05L

Date of Board Ratification: 11/9/95

Disposition: The respondent agreed to a five-year probated suspension of his license with the conditions that he comply with the Board's CPE and licensing requirements, that he register a practice unit with a permissible name, and that no other violations of the Board's Rules or the Act occur. The respondent violated Sections 8, 10, and 21(c)(4) of the Act and Sections 501.4 (Practice of Public Accountancy), 501.40 (Registration Requirements), 501.47 (Firm Names), and 501.48 (Responses) of the Rules. The respondent practiced public accountancy while his license was suspended for failure to accrue sufficient CPE hours, practiced public accountancy through an unregistered entity, and practiced through a firm which included "& Company" in its name when the respondent was the only CPA involved in the practice.

Respondent: Gilbert Muzquiz (McAllen)

Certificate No.: 014264

Complaint No.: 94-10-05L

Date of Board Ratification: 11/9/95

Disposition: The respondent agreed to a suspension of his license, probated for two years, with the conditions that he maintain the required CPE and that no other violations of the Board's Rules or the Act occur. The respondent violated Sections 21(c)(2) and 21(c)(11) of the Act and Section 501.41 (Discreditable Acts) of the Rules. The respondent was a defendant in a civil case in a bankruptcy court proceeding in which a judgment was entered against him in the amount of \$4,000,000. The respondent claimed certain investments were eligible for multiple tax write-offs that were eventually denied by the IRS.

Respondent: Charles Lowe Packer (Frisco)

Certificate No.: 032560

Complaint No.: 95-04-26L

Date of Board Ratification: 8/24/95

Disposition: The respondent agreed to a reprimand and to pay \$1,500 in administrative costs based upon violations of Sections 21(c)(4) and 21(c)(11) of the Act and Section 501.48 (Responses) of the Rules. The respondent, during the course of an investigation, failed to respond to written communications from the Board and failed to notify the Board within thirty days of a change of address.

Respondent: Kevin Del Var Petersen (Houston)

Certificate No.: 061793

Complaint No.: 94-08-15L

Date of Board Ratification: 11/9/95

Disposition: The respondent's certificate was revoked and he was assessed \$581.10 in administrative costs for violations of Sections 8, 10, 21(c)(2), 21(c)(4), and 21(c)(11) of the Act and Sections 501.4 (Practice of Public Accountancy), 501.21 (Competence), 501.40 (Registration Requirements), and 501.48 (Responses) of the Rules. The respondent engaged in misconduct in connection with the preparation of a corporate income tax return, practiced public accountancy without a license and through an unregistered entity, failed to respond to Board communications, and failed to notify the Board of a change of address.

Respondent: Edward E. Robinson Jr. (San Antonio)

Certificate No.: 037523

Complaint No.: 95-05-01L

Date of Board Ratification: 11/9/95

Disposition: The respondent's certificate was revoked, and he was assessed \$617.10 in administrative costs for violating *Sections 21(c)(4) and 21(c)(11) of the Act and Sections 501.25 (Mandatory Continuing Education), 501.48 (Responses), 523.62 (Mandatory CPE Reporting) and 523.63 (Mandatory CPE Attendance) of the Rules.* The respondent failed to comply with the Board's CPE requirements, failed to respond to Board communications, and failed to notify the Board of a change of address.

Respondent: Caroline M. Straach (Austin)

Certificate No.: 011730

Complaint No.: 94-09-04L

Date of Board Ratification: 8/24/95

Disposition: The respondent agreed to a reprimand based upon violations of *Sections 21(c)(4) and 21(c)(11) of the Act and Sections 501.32 (Records) and 501.41 (Discreditable Acts) of the Rules.* The respondent failed to timely complete an engagement and to timely return client records.

Respondent: Zelmer Zack Tannery (Dallas)

Certificate No.: 006910

Complaint Nos.: 93-05-31L and 94-02-02L

Date of Board Ratification: 8/24/95

Disposition: The respondent's certificate was revoked and he was assessed \$8,723.62 in administrative costs. The respondent misappropriated in excess of \$160,000 from a corporation, failed to maintain adequate books and records for the corporation, provided false and misleading financial statements to the corporation's officers and shareholders, presented false information in the corporation's tax returns, and failed to return client records. He further had a judgment of \$300,000 entered against him for breach of fiduciary duty to a client. The respondent violated *Sections 21(c)(2), 21(c)(4), and 21(c)(11) of the Act and Sections 501.11 (Independence), 501.12 (Integrity and Objectivity), 501.32 (Records), and 501.41 (Discreditable Acts) of the Rules.*

CPE ACTIONS

Complaint Nos.: 95-07-00101 through 95-07-02606 (CPE cases)

Date of Board Ratification: 11/9/95

Disposition: The license of each of the respondents listed below was suspended for five years or until such time as the licensee is in compliance with the Board's CPE requirements, whichever comes first. If compliance is not shown within the five-year period, the certificate will be automatically revoked. The respondents violated *Section 15A of the Act and Sections 501.25 (Mandatory Continuing Education), 523.62 (Mandatory CPE Reporting), and 523.63 (Mandatory CPE Attendance) of the Rules.*

Respondents: **ARIZONA:** James, Bernadette B.; Kwapiszeski, Gary R.; **ARKANSAS:** Duncan, Ponton L.; **CALIFORNIA:** Byloff, Wesley F.; Dean, David E.; Hoffmans, Charles A.; Lamm, David B.; Smalls, Howard M.; Whitteker, Kindra J.; **COLORADO:** Packer, Ronald S.; **CONNECTICUT:** Langford, David W.; Presto, Deborah C.; **FLORIDA:** Gipson, Frederick M.; Long, Wallace S.; Manfredi, Kathleen L.; **GEORGIA:** Garg, Sundar U.; Troboy, Karla R.; Woolf, Steven B.; **ILLINOIS:** Brophy, John R. Jr.; Dingeldein, Michel J.; Lugo, Miguel A. Jr.; McEnerney, Michael J.; Payne, Bruce L.; **INDIANA:** Littman, Harvey F.;

LOUISIANA: Fausett, Steven J.; Hunter, Joe C.; Rathore, Amer W.; **MARYLAND:** McKernan, Dennis G.; Provins, Sharon A.; **MASSACHUSETTS:** Murphy, Daniel F.; **MICHIGAN:** Hobart, Glen E.; **MISSOURI:** Johnson, Stephen H.; Podhorecny, Mark S.; **NEW JERSEY:** Latef, Javed A.; **NEW MEXICO:** Ball, Thomas R.; Dobrott, Renee E.; Rising, Michael E.; **NEW YORK:** Ivy, Madie; **OHIO:** Jamison, R.W. Jr.; Minick, Steven A.; Wilson, John L.; **OKLAHOMA:** McDonald, A.L.; **PENNSYLVANIA:** Jones, William H.; **TENNESSEE:** Petr, Jennifer C.C.; Powell, Daniel C. III; Rudley, John M.; **TEXAS:** (Abilene) Smith, Stephen L.; (Alice) Rossi, Carl A.; (Arlington) Brown, Randal P.; Burns, Paul A.; Cain, Johnny O.; Jaura, Chaudry H.R.A.; Kendrick, Karen A.T.; Lengen, Joseph P.; Spurlock, James L.; Tucker, Franklin R.; Walker, Johnny C.; Williams, John T. Jr.; (Austin) Blount, William C.; Choate, William L.; Davidson, Curtis S.; De Ayala, Michael E.; De Luna, Juan R.; Dinan, Richard F.; Edwards, Lynne D.; Endres, Ronald J.; Holder, Chalmer B.; Johnston, Michael M.; Kirby, John A.; Marino, Matthew B.; Needham, John L.; Perkins, Dane E.; Roper, Charles J.; Shifrin, Kenneth S.; Timmins, Richard F.; Vallejo, Selzo T.; Young, Robert L.; Accountius, Camille M.; (Beaumont) Ciampo, David; Humphrey, Eugene; (Brenham) Chandler, R. Lamar; (Carrollton) Crawford, John J.; Ent, Kenneth R.; Foster, Jill M.; Hunt, Jerry D.; Kastor, Michael W.; Kuo, Man-Li; Morrison, Marty L.; Tracy, Richard A.; (Cedar Park) Spillman, Jack C.; (Colleyville) Slusser, Mark D.; (Crosby) Hill, Katherine V.; Hill, Steve A.; (Dallas) Averitt, Don V.; Baker, Paul M.; Barrientes, Mona D.; Bartosh, Thomas J.; Case, Rick E.; Cheatham, Diane T.; Chilton, John L.; Cook, Larry K.; Craig, Nancy E.; Cummings, Jo Ann C.; Dick, Thomas G.; Douthit, David W.; Everett, Anne M.; Hood, John C. Jr.; Keida, John R.; Lee, Richard W.; Letier, Andrew S.; Litman, Craig I.; Massman, Edward L.; McGann, William M.; Moore, George K.; Munger, David D.; Nelson, Eric I.P.; Newman, William M. III; Poston, John E.; Radoff, Perry W.; Reeder, David P.; Reeves, Pamela H.; Schrader, David P.; Smithart, Debra L.; Tabaniag, Anthony Z.; Taylor, Nancy J.; Traynham, Patricia L.; Utley, E. Blake; Valdez, Guale E.; Ward, Mark C.; Warren, John M.; Wertz, Jon D.; Wisz, John L.; Allen, Douglas, C.; (De Soto) Huff, Esther L.; (Denison) Kincaid, Gene E.; (Duncanville) Ragnell, Davis C.; (El Paso) Heredia, Charles E.; Jensen, Ray S. Sr.; Jordan, Ronald G.; Leffew, Patricia A.; Massey, William W.; (Flower Mound) Kunz, Paul E.; (Fort Worth) Cantu, Alfredo R.; Clark, Caren; Hughes, Dwain H.; Palmer, James W.; Salter, Steven R.; Scroggins, Randall W.; Smith, Clark W. Jr.; (Friendswood) Bhagat, Ravindra M.; (Garland) Lanser, Randal L.; Ozuna, Lionel C.; Apple, Andrew W.; (Grapevine) Rowley, Cloydene B.; Sweeney, Daniel C.; (Horse-shoe Bay) Neeley, Curtis L.; (Houston) Bagley, John E. II; Barrow, Mary K.; Bell, Bruce D.; Birchfield, Susan K.; Brand, William P. Jr.; Brennan, Daniel D.; Brown, Terry A.; Burger, John A.; Carter, Leslie J.; Cater, Renee; Chang, Yuling E.; Chen, Peggy S.; Cozad, Nancy K.; Cumming, David G.; De Jesus, Carmen A.; Dilgren, Diane K.; Fenton, Thomas E.; Flake, Ronald D.; Flowers, Rickey B.; Fox, Louis T. III; Friend, Christopher G.; Girouard, Gary E.; Gorden, William C. Jr.; Griffin, Ken W.; Hancock, Edgar E. II; Harrison, Brian E.; Harter, Steven S.; Hazelwood, James C.; Itani, Suzanne P.; Keith, Randall D.; Knezeak, Brian D.; Latham, Jeremie M.; Lendrum, J.J. III; Mabatah, Hyacinth S.; Maddox, Kenneth W.; Martinez, Mary

L.; McAnelly, Arthur D.; McCall, Michael R.; McKee, Edward P.; Mendoza, Velma T.; Meredith, James W.; Midkiff, Geraldine M.; Milner, Mickey M.; Necaize, Jeanne K.; Oakes, Michael N.; Osborn, Cheryl E.; Osborn, Kathie L.; Parker, Daniel K.; Pileghar, Patricia E.; Pond, Matthew D.; Raines, Cheryl; Remmert, Douglas W.; Robichau, Kenneth W.; Schwartz, Robert C.; Shin, Young H.; Sinderbrand, Saul L.; Smith, J.D.; Sneed, John W.; Stagg, Jefferson L. Jr.; Sternberg, Robert E.; Sytsma, Donald L.; Terry, William W.; Turner, James H.; Vickers, Rodney C.; Walker, Richard S.; Wallace, Thomas W.; Walz, Mark F.; Warwick, Elvin J.; Wheeler, Daniel E.; Whitehead, William C.; Wilkie, Richard J.; Woods, John III; Yakle, Steven B.; Zadouri, Aram; Andersen, Michael R.; (Irving) Fisher, Melissa J.; Keester, George W.; O'Meara, Kevin P.; Archer, Andrea C.; (Jones Creek) McPherson, Michael S.; (Katy) Henry, Robert J.; May, Mansul T.; McCullough, Christopher L.; Robideau, Michael G.; Wallace, Edward R. Sr.; (Killeen) Corbin, Daniel A.; (Kingwood) Dodd, Troy W.; Mamaux, Michael B.; Tarpley, Hugh A.; (Lewisville) Gaddy, Henry R.; Alexander, Patrick S.; (Longview) Elliott, Angela K.M.; Krider, James A.; Perkins, William E.; (Lubbock) Davis, Leisa A.B.; (Mansfield) Howell, Jerry W.; (Mason) Lee, William R.; (McAllen) Behn, Robert G.; Hertz, Kevin L.; (McKinney) Hendricks, Freddy M.; (Mercedes) Lauder, W.B. Jr.; (Mesquite) Belt, Kenneth D.; (Midland) Geltmeyer, James R.; Matschull, Lawrence G.; (Missouri City) Booker, Annette L.; Gray, Sue Anne; Kao, Feng; Lawal, Omotayo J.; (Montgomery) Dupree, Ronald D.; (Odessa) Leoffler, Keith A.; (Pearland) Uter, John D.; (Plano) Currier, Robert M.; Digby, Patricia A.; Newton, William K.; Richards, Margaret E.S.; Slay, Kimberly P.; Wilson, David R.; (Pleasanton) Nixon, Wendy F.P.; (Porter) Dennard, Andrew J.; (Pottsboro) Wheatley, Jerry P.; (Prosper) Brosey, Michelle M.; (Richardson) Knust, David J.; Magee, Suzanne G.; Pond, James R.; Wilmot, Patrick D.; (Richmond) Grajewski, Joseph T.; Whittington, Diane O.; (Rockwall) Clark, Susan; Phillips, Jay B.; (Rotan) Greer, Joey D.; (Round Rock) Ferchill, Timothy J.; (Rowlett) Darnell, Tanis A.; Gartrell, James R.; (San Antonio) Blalock, Robert M. II; Close, Belinda M.; Close, George R.; Dwyer, Michael T.; Espinosa, Gary V.; Gaston, Arthur E.; Hill, John R.; Levy, Allan S.; Miller, Conrad U. Jr.; Rudd, Cynthia K.; Serna, Albert I. IV; Young, Ty A.; Algeo, John D.; (Sealy) Johnston, Wilbur F.; (Spring) Berry, John D.; Burkhalter, John R.; Gunderman, James J.; Kerr, Mark E.; (Stafford) Garner, Debra J.; (Sugar Land) Campbell, Douglas M.; Serrano, Elijo V.; Whitaker, David E.; (The Woodlands) Kowalski, Michael L.; (Tyler) Blow, Thomas W.; Formby, Timothy L.; Archer, Vincent W. III; (Waco) Markham, Gene; Petty, J. William II; (Wichita Falls) Whittington, Judith G.R.; **UTAH:** Bernard, Michael E.; Hancock, David B.; Tresselt, Charles A.; Whitmore, William P.; **VIRGINIA:** Fox, Joseph E.; Luke, Norman J. Jr.; **WASHINGTON:** Brochu, Michael A.; Fortman, Robert W.; **GERMANY:** Crosslin, Keith E.; **SWEDEN:** Blombert, Angela D.

until such time as each respondent shows they are exempt from the quality review program. If a respondent does not show an exemption from the quality review program by the end of the period of suspension, the respondent's certificate/registration will be automatically revoked. The respondents violated *Sections 21(c)(4) and 21(c)(11) of the Act and Section 527.4 (Quality Review Program) of the Rules.*

Respondents: (Amarillo) Ben R. Smart; Ben R. Smart, P.C.; (Austin) Linda Mae Wilson (individual); Linda Mae Wilson (firm); (Conroe) Alan Wayne Todd (individual); Alan Wayne Todd (firm); (Dallas) Gregory Thomas Alexander (individual); Gregory Thomas Alexander (firm); James Lynn Carrell (individual); James Lynn Carrell (firm); M. Patricia Leeton (individual); M. Patricia Leeton (firm); Charles Foster Malloy (individual); Charles Foster Malloy (firm); Perry William Radoff (individual); Perry William Radoff (firm); (Fort Worth) Patricia Holcomb Bell (individual); Patricia Holcomb Bell (firm); Stafford G. Helm III, P.C.; Stafford G. Helm III; William Charles Proctor (individual); William Charles Proctor (firm); Robert E. James (individual); Robert E. James (firm); (Helotes) Susan Carol Block (individual); Susan Carol Block (firm); (Houston) Arthur Richard Miller; Mary Virginia Nabors (firm); Mary Virginia Nabors (individual); Miller & Richards, P.C.; Stanford Stephen Richards; (Mesquite) Perry H. Duce, P.C.; Perry H. Duce; (San Antonio) Allan Saul Levy (individual); Allan Saul Levy (firm); Jesse W. Grant, P.C.; Jesse W. Grant; (Tyler) Thomas Wayne Blow (individual); Thomas Wayne Blow (firm); (Winnboro) Donald Wayne Robinson (individual); Donald Wayne Robinson (firm); (Woodville) Johnie Hickman (individual); Johnie Hickman (firm).

Complaint Nos.: 95-08-0101Q through 95-08-0321Q

Date of Board Ratification: 11/9/95

Disposition: Each respondent's practice unit registration was suspended for the sooner of: (1) one year, or (2) until such time as the respondent shows a date has been set for a quality review. In addition, the registration will be automatically revoked if a respondent does not comply with the quality review program by the end of the period of suspension. Further, each practice unit was assessed its proportionate share of \$1,479 in administrative costs. Each respondent violated *Sections 21(c)(4) and 21(c)(11) of the Act and Section 527.4 (Quality Review Program) of the Rules.*

Respondents: (Dallas) Christopher Firra; John W. Hasse; (Houston) Richard D. Johnston; (Rotan) Joe D. Greer; (Texas City) Guynes, Jain & Co., P.C. ○

Corrections

The notice of reprimand in Complaint No. 92-12-41L, Leonard Mednick was printed in error on page 4 of the August, 1995, issue of the *Texas State Board Report (Vol. 57).*

The August, 1995, issue on page 6 erroneously named Tommy D. Phillips of Kilgore as having his certificate suspended for failure to comply with the Board's CPE requirements. The individual whose name should have appeared is Tommy D. Phillips of Colleyville.

The Board regrets any inconvenience these errors may have caused. ○

QUALITY REVIEW ACTIONS

Complaint Nos.: 95-04-0101Q through 95-04-1500Q (Quality Review Complaints)

Date of Board Ratification: 8/24/95

Disposition: The certificate/registration of each of the respondents listed below was suspended for the sooner of: (1) one year, or (2)

BOARD RULES AVAILABLE

The Board has published its rules and regulations in their entirety in a three-ring binder for the convenience of licensees, libraries, and other interested parties. The initial publication and a one-year subscription of updates may be purchased by cashier's check, personal check, or money order made payable to the Texas State Board of Public Accountancy. Please complete the appropriate information below:

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Birth Month License Renewal Information

Individual CPA licenses are no longer renewed on a calendar year system.¹ Since 1995, licenses are renewed annually on one's birth month.

The Board mails license renewal notices approximately six weeks prior to the renewal deadline. Before returning your license renewal notice to the Board, take a minute to go over the following checklist. A properly completed form will insure that your license is processed quickly and efficiently. Carefully read the instructions enclosed with the renewal notice, and fill out each section of the form according to the instructions.

- If you have not received your renewal notice by the first day of your birth month, call the Board office to request another notice.
 - **Don't wait until the last minute to file your form.** The completed renewal notice and the correct license fees must be returned to the Board office by the deadline printed at the top of the form. Most renewals are processed without any difficulty; however, in some instances the staff may need to return a form for additional information, signature, etc. Allowing extra time insures that any problems will be resolved in time to meet the deadline.
 - Answer the conviction question at the bottom of the form's front side. If you answer "yes" to the conviction question, a detailed explanation must be attached.
 - Be sure that you have accurately reported your CPE hours on the back side of the form. A chart showing the CPE requirement for each reporting period is on pages 3 and 4 of the instructions. Failure to accrue and report the required CPE hours will delay the issuance of your license.
 - Sign and date the form.
 - Make your check out to the **Texas State Board of Public Accountancy** (or to **TSBPA**), NOT to the Texas Society of CPAs. Too often, licensees confuse the Board with the Society, which is a voluntary professional organization.
- Call the Board's Licensing Division at **(512) 505-5580** with any questions regarding your license renewal notice or **(512) 505-5544** with CPE questions.

¹ However, the renewals of all firms and their practice units are still due by December 31 of each year.



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