

TEXAS STATE BOARD REPORT

DECEMBER, 1986 AUSTIN, TEXAS VOL. 25



TAPA LAWSUIT SETTLED

After two years in litigation, the lawsuit *Opella et al vs. Texas State Board of Public Accountancy* was settled on October 2, 1986, when Judge Harley C. Clark signed the motion for dismissal, with prejudice.

The companion suit filed in Federal District Court had been previously withdrawn.

The original petition, filed in the 200th District Court, Travis County, Texas on September 25, 1984, by Earnest J. Opella, Thomas O. Harrell, Jr., and Rosa S. Valdez and the Texas Association of Public Accountants, individually and on behalf of others similarly situated, alleged that Section 8 of *The Public Accountancy Act of 1979, as amended (The Act)* was in violation of the provisions of Article I, Sections 8 and 19 of the *Texas Constitution* and the First and Fourteenth Amendments of the *Constitution of the United States*.

The Plaintiffs at the time, all members of the Texas Association of Public Accountants (TAPA), stated in the petition that *The Act* prohibited the right of commercial free speech in the use of the terms "accountant" and "auditor" and that such restrictions deprived the Plaintiffs of the right to pursue their occupations without due course of law.

It was also alleged that the Board was overreaching its statutory authority by preventing unlicensed individuals from compiling, preparing, reviewing, and/or auditing financial statements.

According to the terms of the settlement, however, the Plaintiff organization agreed to change its name to one which does not employ the words "accountant," "auditor," "auditing," or any derivations or abbreviations of these words. Following are other terms of the settlement:

- Non-licensees may issue financial statements, providing that a disclaimer is also transmitted; the disclaimer must state that the individual (or non-registered firm) does not express any form of assurance with respect to the financial statements.
- The words "accountant" or "auditor" or any derivation of either may not appear on letterheads or business cards, and no implication on letterheads or business cards may be used which implies an expertise in accounting and/or auditing.
- No reference on letterheads or business cards may be made to membership in or association with any organization or accrediting body whose name implies an expertise in accounting and/or auditing or which includes the words "accountant" or "auditor" or any derivation of either.

- The words "accountant" and/or "auditor" may not be used in advertisements or listings of non-licensed individuals, and no reference may be made in advertisements or listings to membership in or association with any organization or accrediting body which utilizes these words or which implies an expertise in accounting and/or auditing. Non-licensees are permitted, however, to use the terms in connection with the *sale of accounting products*, as opposed to the *performance of accounting services*.

It is noteworthy, as well, that the *Order of Dismissal* declares that Section 8 of *The Act* is not in violation of either the *Constitution of the United States* or the *Constitution of the State of Texas*.

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COMMENTS ON NEW RULES OF PROFESSIONAL CONDUCT

James F. Dunn Jr., CPA
Chairman

During the past few months, the Board has amended quite a few of its *Rules of Professional Conduct (The Rules)*. Following is an explanation of the reasons behind the Board's action on *The Rules*. Due to an unanticipated delay occasioned by the November 4, 1986, general elections, the effective date of these amended rules is November 21, 1986. The printed brochure showing the November 17, 1986, date had already gone to press before the delay became apparent. Copies of *The Rules* were mailed with the *1987 License Notice*.

The Board realizes that these new rules may appear to be in conflict (particularly in the area of commissions) with the ethics rules of the Texas Society of CPAs (TSCPA); however, when considered in light of the differing objectives of the TSCPA and the Board, it might very well be said that this is as it should be. Certainly, a voluntary association such as TSCPA espouses the objective of attaining the highest practicable ethical practices among its members. The Board is mandated to enact and enforce rules of conduct which are necessary to protect the *public* interest. It is to be expected, therefore, that ethical rules adopted by a voluntary organization of a profession may be, in some cases, more restrictive than the rules of conduct that can be enforced by a governmental board which regulates the profession.

In the case of the rules on commissions, the Board was advised by counsel for NASBA of the following points:

- The nature of an accounting practice is such that the public has every right to expect that all professional services will be rendered in an objective manner. This is true whether the professional service is an audit, tax advice, management advisory service, or write-up work.
- When the CPA is performing any level of attest service (audit, review, or compilation), the receipt by the CPA of commissions or contingent fees in connection with *any* professional service creates a commonality of interests which impairs both independence and objectivity.
- The performance of an attest service is basically a three-party transaction involving the CPA, the client, and some part (perhaps unknown) of the public.
- The performance of professional services other than attest services, on the other hand, are basically two-party transactions involving the CPA and the client. The public does not have a direct interest in these services.

Given these premises, it is clear that the receipt of commissions by a CPA has the potential to destroy the CPA's objectivity in the performance of the services that gave rise to the receipt of such commissions. If the services performed for the client are only two-party transactions (non-attest), the public is not directly affected; however, the client may be severely affected. If the client is notified, as required by the new rule on receipt of other compensation, of the lack of objectivity of any advice or recommendation by the CPA relative to the client's decision (generally to purchase a product or service), the client is then in a position to weigh the consequences. The client has the option to follow the CPA's advice or recommendation based on the knowledge that the advice or recommendation is tainted. The

public interest is thus protected, but with the least restraint on the CPA.

It should be noted that the new definition of "other compensation" is significantly broader than just commissions, covering any form of commissions, rebate, and kick-back, as well as any gain on the sale of products, which was a glaring loop-hole in the prior commissions rule.

501.2, DEFINITIONS

Advertisement - This is a new definition. The second sentence makes it clear that the term "advertisement" encompasses not only written messages, but also messages that are delivered orally by an "electronic" medium. The prior definition effectively prohibited the use of an inside address in an advertisement that was in the form of a letter or postcard sent to multiple persons. This prohibition no longer applies; however, the salutation (*Dear Taxpayer, Dear Superintendent, etc.*), still is considered a part of the message and must continue to be in identical form.

Competitive bid - There are minor word changes relating to other defined words; however, there is no substantive change in this definition.

Financial statement - This definition has been completely rewritten. The new definition makes it clear that financial statements include those prepared on the basis of GAAP or on the basis of "another comprehensive basis of accounting." The latter is clearly defined in existing accounting literature and is more specific than the prior reference to "the cash or other incomplete basis of accounting."

Holding out - This is a new definition which did not appear in any form in the prior rules. The significance of this definition is best understood when considered in relation to the definition of "practice of (or practicing) public accountancy." A person is considered to be holding out for the practice of public accounting if, in connection with any offer to perform services for the public, the person makes any representation of the fact that he or she holds a certificate or registration that invites others to rely on his or her professional skills as an accountant or auditor. Three specific exemptions permit:

- the display, by anyone, of his or her original certificate or registration,
- the disclosure by an academian in connection with his or her academic duties (but not otherwise) of the fact that he or she holds a certificate or registration, and
- the disclosure by an author of a book or article that he or she holds a certificate or registration, providing that neither the disclosure nor the publication itself contains an offer to provide professional services.

Licensee - The term licensee is expanded from the prior definition to include an individual who holds a certificate or registration but who, for some reason, does not hold a currently-valid license.

Other compensation - This is a new definition, which includes commissions, rebates, profit on resale of products, or any other gain not arising from the performance of professional services for the public.

This term is used in a new addition to the independence rule and in a new rule, *Receipt of Other Compensation*, which replaces, in part, the prior rule on commissions.

Practice of (or practicing) public accountancy - This definition has been completely rewritten. The practice of public accountancy has been redefined to:

- specifically include the performance, or offer to perform, professional services involving the use of accounting or auditing skills by any person who holds out (see "holding out" definition) as a certificate or registration holder, and
- include as "services involving the use of accounting or auditing skills" advice or recommendation in connection with the sale or recommendation of a product when such advice or recommendation requires or implies the possession of accounting or auditing skills.

Together this means that a certificate or registration holder who satisfies the holding out requirements and who sells, or offers to sell, products (for example, computer software or hardware, insurance, investment-type real estate, tax shelters, securities, etc.) will come under the *Rules of Professional Conduct* (in particular the advertising and solicitation rules and the disclosure requirements of the rule on receipt of other compensation) if in connection with the sale or offer of sale, advice or recommendation is given that requires or implies the use of accounting or auditing skills.

Professional services - This has been expanded to include the offer to perform services for a person not a client at the time of the offer.

Public communication - This definition was dropped because the term is no longer used.

Private communication - This definition was dropped because the term is no longer used.

Report - This new definition includes reports on audits, reviews, and compilations.

Solicitation - This involves different wording because of other definitional changes, but otherwise there is no substantive change.

RULE 501.3, APPLICABILITY. There is no change in this rule; however, because of the change in the definition of "licensee," this rule causes the *Rules of Professional Conduct* to apply to all certificate and registration holders, whether or not they hold valid licenses. This previously applied only to license holders.

RULE 501.11, INDEPENDENCE. Sub-paragraphs 2(c) and 2(d) are new; there were no other changes. The effect of the addition of 2(c) and 2(d) is that a person who receives other compensation (see definition of *Other Compensation*) from a client or third party or who has a contingent fee arrangement loses his independence with respect to that client for the period beginning with the beginning of the period covered by any set of financial statements and ending with the date of issuance of any report on those financial statements. A contingent fee arrangement ceases to be "contingent" when the amount of the fee is determined. The fact that such a determined fee has not been received does not, of itself, destroy independence; however, the collectibility of such fee must be assessed in relation to the usual independence criteria. *Example: In the first year a CPA enters into a contingent fee arrangement. In the second year the amount of the fee is determined but not collected. In the third year the fee is collected. In the first two years the CPA is not independent. In the third year the question of independence is resolved depending on whether the amount and collectibility of the amount receivable in connection with*

the transaction would otherwise create a conflict of interest. Note that in this context the contingent fee or other compensation is a client-oriented definition, not an engagement-oriented definition. For example, a contingent fee related to a tax matter can destroy the practitioner's independence with respect to an audit, review, or compilation.

RULE 501.13, PAYMENT OF COMMISSIONS. This is a new rule which replaces, in part, the old rule on commissions. The old rule prohibited all payments of commissions. The new rule permits the payment of commissions only if, prior to being engaged by a client for whom a commission is paid, the practitioner discloses to the client the amount and circumstances of the payment.

RULE 501.14, RECEIPT OF OTHER COMPENSATION. This is a new rule which replaces, in part, the old rule on commissions. The old rule prohibited all receipt of commissions. The new rule permits the receipt of other compensation (see definition of *Other Compensation*) providing that the nature, source, and amount of such other compensation is disclosed to the purchaser in writing prior to the time that the client makes the decision which gives rise to such other compensation. Note that this disclosure requirement does not contain any *de minimis* exception. Although there is no specific requirement that the practitioner do so, but since the burden of proof rests upon the practitioner, it would be prudent for him or her to have the client sign and date the practitioner's copy of the written notice. There is a difference in the scope of the disclosure based upon whether the purchaser is an existing client. If the purchaser is a client, the disclosure must include all gain (including the mark-up on products other than the CPA's own work product), but if the purchaser is not a client, the disclosure must include all gain other than the mark-up on a product.

RULE 501.32, RECORDS. Changes were made to correct ambiguities only. The changes make it clear that a practitioner may not charge a client for the return of the client's own records, but that the practitioner is obligated to provide the client with certain other documents for a reasonable fee. The obligation to return all of the foregoing documents is firm regardless of whether the client has paid any or all prior billings by the practitioner. The rule does not require that the practitioner reissue a report without performing an appropriate review of subsequent events (as required by GAAS) for which he is entitled to be paid a reasonable fee.

RULE 501.43, ADVERTISING. This rule has been rewritten to exclude prior prohibitions which are believed to be legally unenforceable. These include the prior prohibitions on:

- making a "statement intended to attract clients by use of showmanship, hucksterism, slogans, jingles or other garish language,"
- stating or implying "that the licensee has received formal recognition as a specialist or claims any specialized expertise in any aspect of the practice of public accountancy, if this is not the case," and
- stating or implying "that the licensee's ingenuity and/or prior record are principal factors likely to determine the results of services rather than the merit of the facts involved, or contains statistical data or information so as to reflect past performance or predict future success."

The foregoing might be so broad as to constitute a restriction on First Amendment rights; however, a statement that might fall into one of these categories may be proscribed by the current prohibition on "references to the licensee's professional services which contain a false, fraudulent, misleading, deceptive, or unfair statement or claim."

MAY, 1987 EXAMINATION SCHEDULE

The May, 1987, Uniform CPA Examination will be conducted at the following locations and times:

EXAMINATION SITES

Austin	Lester E. Palmer Auditorium
El Paso	UTEP Special Events Center
Fort Worth	Tarrant County Convention Center
Houston	Albert Thomas Convention Center
Lubbock	Lubbock Civic Center
San Antonio	San Antonio Convention Center

EXAMINATION TIMES

May 6	1:30 p.m. - 6 p.m. Accounting Practice, Part I
May 7	8:30 a.m. - 12 Noon Auditing 1:30 p.m. - 6 p.m. Accounting Practice, Part II
May 8	8:30 a.m. - 12 Noon Business Law 1:30 p.m. - 5 p.m. Accounting Theory

The deadline for submission of applications to sit for the May, 1987, examination is February 28, 1987. Grades from the November, 1986, examination will be released February 2, 1987.

FUTURE MEETINGS

TEXAS STATE BOARD OF PUBLIC ACCOUNTANCY

January 29-30, 1987
February 26-27, 1987

COMMITTEES

Committee meetings are held at the call of the committee chairman. Notices are published in the *Texas Register*.

CPA SWEARING-IN CEREMONY

May 16, 1987, at 10 a.m. — Frank Erwin Special Events Center, Austin

BOARD HOLDS ELEVENTH SWEARING-IN CEREMONY

The Board held its eleventh swearing-in ceremony on Saturday, November 22, 1986, at the Frank Erwin Special Events Center on the University of Texas at Austin campus. Over 500 new CPAs and 2,500 guests attended the function.

A highlight of the ceremony was the presentation of awards to the outstanding candidates, those ten new CPAs who earned the highest cumulative scores on the Uniform CPA Examination and who passed all parts at the initial sitting. The "Top Ten" were Carole P. Chisum, Austin; Jeffrey Scot Andrews, Dallas; Alan David Angel, Houston; Sheila Marie Rollinger, Honolulu, Hawaii; Janet Eileen Stigent, San Antonio; Laura Pauline Stanley, Dallas; William Howard Wells, Houston; James M. Henry Ohlweiler, Grand Prairie; David Emerson Jorden, Houston; and David Paul Bronstad, Houston.

Carole Chisum earned a BS in accounting, with high honors, from Metropolitan State College in Denver, Colorado, and attended the University of Texas at Austin. She is a staff auditor with the State Auditor's office.

Jeffrey Scot Andrews is an auditor with Arthur Andersen & Co. in Dallas. He graduated *magna cum laude* from Baylor University in May of 1984.

Alan David Angel received a Bachelor's of Commerce degree from the University of Witwaterstrand in Johannesburg, South Africa. He is an accountant with Ivor L. Saforo, M.D., in Houston.

Sheila Marie Rollinger, an accountant with Jack Tyrell & Co. in Honolulu, Hawaii, received a BBA with high distinction from the University of Michigan at Ann Arbor in December of 1983.

Janet Eileen Stigent graduated *summa cum laude* in 1984 from the University of Texas at San Antonio. She is a staff accountant in San Antonio with Burnside & Risheberger.

Laura Pauline Stanley, staff accountant with Arthur Young & Co. in Dallas, received her BBA from the University of Texas at Austin in May of 1984.

William Howard Wells received his BBA from the University of Texas at Austin in May of 1984. He is employed with Deloitte, Haskins & Sells in Houston.

James M. Henry Ohlweiler is an accountant with Anderson, Ruggeberg and Company, P.C., in Arlington. He holds two BBAs from the University of Texas at Arlington, one in accounting and one in finance.

David Emerson Jorden of Houston, received his BBA in May of 1984, from the University of Texas at Austin, with high honors. He is employed in Houston with Deloitte, Haskins & Sells.

David Paul Bronstad received a BBA from Texas A&M in 1984. He works as a staff accountant in Houston with Deloitte, Haskins & Sells.

Keynote speaker at the ceremony was Stephen A. Zeff, Ph.D., the Herbert S. Autrey Professor of Accounting and the Director of Undergraduate Accounting at Rice University. Dr. Zeff, also the President of the American Accounting Association, spoke to the new CPAs and their guests on the subject, "Is the CPA a Profession?"

Following the ceremony, the Texas Society of CPAs sponsored a reception.

NEW CONTINUING EDUCATION SPONSORS

A.G. Edwards & Sons, Inc., Dallas, TX	02375	George M. Williams & Co., San Antonio, TX	02603
A.G. Edwards & Sons, Inc., El Paso, TX	02387	Grant Thornton, San Antonio, TX	02562
A.G. Edwards & Sons, Inc., Paris, TX	02406	Greater Port Arthur Chamber of Commerce, Port Arthur, TX	02429
A.G. Edwards & Sons, Inc., Wichita Falls, TX	02413	Hardin, Wolff, Bradley & Company, San Antonio, TX	02583
A.G. Edwards & Sons, Inc., Odessa, TX	02416	Harris County Data Services, Houston, TX	02461
A.G. Edwards & Sons, Inc., San Antonio, TX	02452	Harry T. Eldson & Associates, Inc., Dallas, TX	02417
A.G. Edwards & Sons, Inc., McAllen, TX	02517	Hidalgo, Chambers & Co., Houston, TX	02510
ABC Tech Systems, Fort Collins, CO	02457	Hospital Financial Management Assoc., Harlingen, TX	02427
Action Enterprises, Odessa, TX	02502	Houston International University, Inc., Houston, TX	02450
Administrative Technology, Inc., Dallas, TX	02543	IBM, Lubbock, TX	02487
Aims + Plus North Texas, Richardson, TX	02597	IDS Financial Services, Inc., Fort Worth, TX	02586
Alison Communications, Inc., Houston, TX	02507	Indiana CPA Society, Inc., Indianapolis, IN	02478
Allied Marketing Group, Inc., Irving, TX	02440	Indiana Department of Revenue, Indianapolis, IN	02470
Altos Computer Systems, San Jose, CA	02464	Indiana State University - Evansville, Evansville, IN	02516
American General Corporation, Houston, TX	02568	Indiana University, Bloomington, IN	02483
American Group of CPA Firms, Lombard, IL	02518	Inner Loop Study Group, Houston, TX	02415
Ameritax, Inc., Bedford, TX	02513	Int'l. Association for Financial Planning, Corpus Christi, TX	02591
Andrews Publication, Inc., Norwalk, CT	02524	Int'l. Society of Cert. Employee Benefits, Brookfield, WI	02602
Angeles/Quinoco Securities Corp., Dallas, TX	02570	ISUN, Houston, TX	02473
Angelo State University, San Angelo, TX	02548	James L. Ahern & Associates, San Antonio, TX	02509
Applied Business Concepts, Chattanooga, TN	02486	JCPenney Life Insurance, Co., Plano, TX	02460
Arizona State University, Tempe, AZ	02456	JHW Financial Planners, Inc., Houston, TX	02468
Arlington Memorial Hospital, Arlington, TX	02437	Jim E. Brunette, Sherman, TX	02534
Assured Success, Brenham, TX	02381	John B. Cheshire, CPA, Corpus Christi, TX	02490
Baker International Corporation, Orange, CA	02598	John Lingentfelder, CPA, San Antonio, TX	02401
Bill Holubec & Associates, San Angelo, TX	02520	John M. Carr, San Antonio, TX	02578
Bishara Computer Systems, Youngstown, OH	02608	Junior Achievement, Beaumont, TX	02459
Bolinger, Segars, Gilbert & Moss, Lubbock, TX	02384	Junior Achievement of Central Texas, Austin, TX	02420
Borg Warner Corporation, Chicago, IL	02497	Junior Achievement of Greater El Paso, El Paso, TX	02449
Boyar, Norton & Blair, Houston, TX	02594	Junior Achievement of Midland, Inc., Midland, TX	02405
Braun, Huff & Associates, Inc., San Antonio, TX	02530	Junior Achievement Southeast Texas, Inc., Houston, TX	02424
Breakthru Educational Counseling & Con., Austin, TX	02604	Katy Toastmasters, Katy, TX	02561
Butler, Ranshaw & Company, Houston, TX	02542	Kemp, Smith, Duncan & Hammond, El Paso, TX	02540
Carl Lambert, Houston, TX	02588	Kemper Cymrot, Inc., Oklahoma City, OK	02462
Center for Advanced Studies in Business, Madison, WI	02600	Keystone Software, Inc., Houston, TX	02423
Center for Professional Education, Nashville, TN	02547	Kinney & Snyder, CPA, Austin, TX	02590
Chartered Life Underwriters, Houston, TX	02482	Lain, Faulkner & Co., P.C., Hurst, TX	02481
Chartered Life Underwriters, San Antonio, TX	02504	Leadership Concepts, Round Rock, TX	02472
Chrysler Marketing Institute, Detroit, MI	02577	Leadership Dynamics of Arlington, Arlington, TX	02391
Cigna Individual Financial Svcs. Co., Irving, TX	02545	Lee College, Baytown, TX	02500
City of Dallas, Dallas, TX	02448	Leibowitz, McDonald & Co., Houston, TX	02496
City University, Bellevue, WA	02466	Lewis Associates Seminars, Fort Worth, TX	02397
Claredon College, Pampa, TX	02557	Louis G. Chamales, El Paso, TX	02485
CLS & Associates, Inc., Aurora, CO	02431	M.E. Allison & Co., Inc., San Antonio, TX	02445
Collin County Community College Dist, McKinney, TX	02514	Mary A. Badgett, P.C., Lubbock, TX	02526
Communications Network, Houston, TX	02419	Massachusetts Mutual Insurance Co., San Antonio, TX	02491
Compucourse, Wimberley, TX	02382	Matson, Driscoll & Damico, Richardson, TX	02579
Computer Associates International, Dallas, TX	02409	McGee, Wheeler & Company, Houston, TX	02529
Computer Associates, San Jose, CA	02541	MCorp Management, Inc., Houston, TX	02549
Computer Language Research, Inc., Carrollton, TX	02398	Metropolitan Transit Authority, Houston, TX	02494
Computerland, Wichita Falls, TX	02580	Michael R. Ruff, P.C., Pampa, TX	02569
Computers Made Simple, San Antonio, TX	02434	Minerals Management Service, Dallas, TX	02593
Conference Management Corporation, Norwalk, CT	02443	Minority Business Development Agency, Dallas, TX	02550
Core Group, Houston, TX	02390	Moore, Camp & Company, CPA, Wichita Falls, TX	02396
Corley & Company, P.C., Waco, TX	02435	Mopac Group, Austin, TX	02607
Corporate Information Group, Inc., Dallas, TX	02378	National Assoc. of Chapter 13 Trustees, San Antonio, TX	02403
Crowell & Rhodes, CPA, Nacogdoches, TX	02404	National Fire Academy, Emmitsburg, MD	02536
Data Processing Management Association, Houston, TX	02558	National Institute of Tax Professionals, Los Angeles, CA	02595
David Carion, CPA, Austin, TX	02560	New Orleans Baptist Theological Seminary, New Orleans, LA	02533
Davis, Meadows, Owens, Collier & Zachry, Dallas, TX	02376	Northeast Texas Community College, Mount Pleasant, TX	02377
Dean, Witter, Reynolds, Inc., Dallas, TX	02564	Office Systems Center, Victoria, TX	02506
Developmental Learning Center, Fort Worth, TX	02402	Olney Savings Association, Olney, TX	02503
Diamond Shamrock Corporation, Dallas, TX	02399	Ornat Studies Group, Austin, TX	02511
Dresser Industries, Inc., Dallas, TX	02400	Panhandle State University, Goodwell, Ok	02480
Dresser Industries, Inc., Dallas, TX	02575	PC Solutions, Austin, TX	02444
DSO Development Corporation, Houston, TX	02589	Percival, McBrine & Co., P.C., San Antonio, TX	02523
E.F. Hutton & Co., Inc., Houston, TX	02451	Phillips, Welch, Dillard & Roberson, P.C., Forth Worth, TX	02601
E.F. Hutton Consulting Group, Houston, TX	02574	Pilot Investment Group, Houston, TX	02565
Eagles, Lincoln, NE	02414	Positive Step Plus Seminars, Burkburnett, TX	02458
Edward D. Jones & Co., Greenville, TX	02441	President's Forum, Boulder, CO	02488
Edward D. Jones & Co., Lubbock, TX	02489	Priority Management Systems, Austin, TX	02388
Edward D. Jones & Co., Hondo, TX	02498	Priority Management Systems, Carrollton, TX	02538
Edward D. Jones & Co., Stephenville, TX	02499	Priority Management Systems, Spring, TX	02592
Edward D. Jones & Co., Carthage, TX	02501	Priority Management Systems, The Woodlands, TX	02428
Edward D. Jones & Co., College Station, TX	02527	Professional Bank Services, Inc., Louisville, KY	02392
Edward D. Jones & Co., Mineral Wells, TX	02559	R. & W. Software, Inc., Austin, TX	02535
Edward D. Jones & Co., Borger, TX	02576	R. G. Dickinson & Co., El Paso, TX	02599
Edward D. Jones & Co., Nacogdoches, TX	02609	R. J. Blair & Associates, Houston, TX	02393
Edward D. Jones & Co., Rockport, TX	02439	Rader & Company, CPA, Houston, TX	02425
Enserch Exploration, Inc., Dallas, TX	02455	Reading Unlimited, Austin, TX	02447
Entré Computer Center, Austin, TX	02394	Rebecca B. Petrilak, Richardson, TX	02606
Eppler Guerin & Turner, San Antonio, TX	02422	Revenue Management, Inc., Houston, TX	02418
Euromoney, New York, NY	02581	Risk and Insurance Management Society, Houston, TX	02493
Exxon Coal and Minerals Company, Houston, TX	02567	Riverside Group, Darien, CT	02432
Fallbrook National Bank, Houston, TX	02463	Robert M. Dillon, CPA, Atlanta, TX	02539
Financial Audit Systems, Inc, Raleigh, NC	02515	Robison, Green & Company, Lubbock, TX	02573
Financial Managers Society, Inc., Midland, TX	02476	Romero & Barrios, P.C., Lafayette, LA	02571
Financial Tax Services Corporation, Fort Worth, TX	02555	Rotan Mosle, Inc., Houston, TX	02383
First City Bancorporation of Texas, Inc., Houston, TX	02528	Rotan Mosle, Inc., Houston, TX	02407
First Financial Planning, Inc., Austin, TX	02477	Rotan Mosle, Inc., Houston, TX	02410
Francis Tuttle Vo-Tech Center, Oklahoma City, OK	02544	Rotan Mosle, Inc., Houston, TX	02438
Fred Labowitz, Ph.D., Dallas, TX	02469	Rotan Mosle, Inc., Houston, TX	02454
Fun!ED, Inc., Dallas, TX	02442	RS Engineering, Inc., Salina, KS	02563
Gary, Thayer & Bowers, Lubbock, TX	02596	Ruben Escobedo & Co., CPA, San Antonio, TX	02537

(Continued on page 7)

ENFORCEMENT

DISCIPLINARY ACTIONS

Respondent: Unnamed by Board

Date of Proposed Consent Order: September 19, 1986

Committee Recommendation: The Committee on Technical Standards Review found that the Respondent violated Sections 501.21 and 501.23 of *The Rules* when she failed to mark the preliminary draft report prepared during the course of the engagement as a draft copy, for discussion purposes only, and said report was delivered to the client who forwarded the report to the Texas Education Agency. The Board, on September 19, 1986, ratified the panel's decision that the Respondent be reprimanded and required to earn 24 hours of continuing education.

Respondent: Unnamed by Board

Date of Agreed Consent Order: September 19, 1986

Committee Recommendation: The Enforcement Committee found that the Respondent violated Section 501.11 of *The Rules* by virtue of his holding a direct interest in an enterprise being audited by the Respondent's firm. The Board ratified an *Agreed Consent Order* reprimanding the Respondent on September 19, 1986.

Respondent: Unnamed by Board

Date of Agreed Consent Order: October 24, 1986

Committee Recommendation: The Enforcement Committee found that the Respondent violated Section 501.44 of *The Rules* when he mailed a personally-addressed, uninvited letter of solicitation to a firm at a time when the firm was a client of another licensee. The Board ratified an *Agreed Consent Order* reprimanding the Respondent on October 24, 1986.

Respondents: (See below)

Date of Panel Report: October 24, 1986

Panel Recommendation: The panel found that the Respondents had failed to obtain the mandatory CE hours for the 1986 licensing year. The Board ratified the panel's recommendation on October 24, 1986, that the Respondents named below be suspended for five years or until in compliance with CE requirements.

NAME	CERTIFICATE	COMPLAINT NO.
ALLISON, Lawrence L.	A4244	86-05-004
BONETATI, Billy Morris	13199	86-08-003
BOYCE, Shelton	08174	86-05-035
BRODSKY, Jean	16563	86-05-040
CALLAHAN, Jack W., Jr.	18647	86-05-050
DAHLIN, Elizabeth W.	27390	86-05-075
DALTON, Mack W.	07931	86-05-976
DE CORDOVA, Chester E.	07953	86-08-006
DIXON, Edgar J.	06659	86-05-085
DOWNEY, Timothy W.	12874	86-05-087
DYER, James W.	A4270	86-05-093
EDWARDS, John K.	37022	86-05-095
ELFANT, Martin	04057	86-08-010
EUBANK, T.W.	08139	86-05-097
FIKE, Ronald R.	32166	86-05-102
FLATE, Neill P.	26645	86-05-104
FUDGE, Billy W.	19532	86-05-113
GEISERT, Claude A.	A0668	86-05-118
GROB, Charles E.	15461	86-05-128

HATTEN, Tal	04745	86-05-136
HEDGES, Thomas James	21329	86-05-137
HUFFMAN, James D.	22960	86-05-148
LAMBE, Charles T.	18590	86-05-170
LAWLER, John M.	15487	86-05-173
LAWSON, Charles A.	27046	86-05-174
MASON, William G.A.	02762	86-05-187
MATTERN, John Lee	10304	86-05-188
McDONALD, Howard P.	A1258	86-05-194
NEAL, Roger L.	05196	86-05-215
NELSON, Thomas Colvin	16499	86-08-035
NEWSOME, Edward Eugene, Jr	19188	86-08-037
PETERSON, Julian John, Jr	30947	86-08-040
PIERCE, Stephen J.	05000	86-05-244
RYON, Robert Lee	16652	86-08-044
SAHAKIAN, Van	02281	86-05-262
SEAL, Larry Lee	14855	86-05-267
SECRET, C. Grady, III	07295	86-05-269
STONE, Judith Ann	25319	86-05-287
THOELE, William H.	33029	86-05-295
TOBOLOWSKY, Sam	A3544	86-05-297
TOFAS, Christian N.	34703	86-05-298
TRAUOGOTT, John O.	02602	86-05-305
VANDERFORD, Robert V	28225	86-05-305
VICKERY, Robert L.	09888	86-05-306
WHITE, David R.	31706	86-05-317
WOOLSEY, Danny C.	11293	86-05-328

The Board, through its committees, also held three informal conferences which resolved the matters under consideration by dismissal of the complaints because of insufficient evidence of professional misconduct.

ENFORCEMENT ACTIVITY

September 1, 1986 — November 30, 1986

	Rules	Act	Total
Active files			
September 1, 1986	757	149	906
Files opened during period	56	1	57
	<hr/>	<hr/>	<hr/>
	813	150	963
Files closed during period	25	1	26
	<hr/>	<hr/>	<hr/>
	788	149	937

Nineteen via voluntary compliance, 3 via Board action, and 4 otherwise (including unlicensed individuals who have ceased doing business, died, or cannot be located).

CONSTRUCTIVE ENFORCEMENT PROGRAM RECRUITING VOLUNTEERS

The Board's Constructive Enforcement Program is scheduled for implementation in early 1987. A major part of the program is the utilization of volunteers to serve as committee members in an effort to more promptly process and respond to the ever-increasing number of complaints and requests for opinions.

These volunteers will assist the Board's Enforcement and Technical Standards Review Committees by investigating complaints and making recommendations to the committees; advising the Board's Enforcement Division of Violations of *The Public Accountancy Act of 1979, as amended*, and the *Rules of Professional Conduct*; following up on the status of compliance with *Board Orders* as requested by the committees, and reporting findings; communicating Board opinions to the public; and researching and investigating requests for opinions, and preparing recommended responses for Board committee review and Board action.

Advisory committee members will be appointed from a list of volunteers for one-year terms. Appointees will be by geographic areas and will reflect the general makeup of the profession in Texas. One appointee in each area will serve as the area coordinator and liaison between the Board and the area's committee members.

Individuals interested in being considered for appointment to this committee should notify the Board in writing prior to January 15, 1987.

Questions and Answers

- Q.** Why are some respondents of disciplinary actions unnamed in the *Texas State Board Report*?
- A.** The Board's policy is to name any licensee receiving a *suspension* or *revocation* in the *Texas State Board Report*. Any licensee receiving a *reprimand* is unnamed.
- Q.** What set of *Rules of Professional Conduct* is in effect?
- A.** The *Rules of Professional Conduct*, which bear an effective date of November 17, 1986, are those in effect. A copy was provided to each licensee with the 1987 *License Notice*. Licensees who do not receive copies may request them from the Board office.
- Q.** If a CPA is not in public practice, must he or she pay a licensee fee to retain his or her certificate?
- A.** Payment of the appropriate annual fee is required to retain one's certificate and to be current. Failure to renew the annual license for a period of three (3) consecutive years will result in revocation of one's certificate.
- Q.** May a certificate holder who has not renewed his or her license hold out in the practice of public accounting?
- A.** No. Any practice performed would be as a non-licensee and subject to sanctions by the Board; in addition, such practice could raise legal questions regarding the status of any work wherein one signed as a CPA. The license year corresponds to the calendar year, i.e., January 1 - December 31. To practice public accounting in Texas, the certificate or registration holder must be licensed for the period of such practice. Thus, if one does not renew his or her license until April 1, the licensee may not legally practice prior to April 1.

NEW SUBSTANTIVE RULES

The following summaries reflect Board action on Substantive Rules since the last issue of the *Texas State Board Report* (August, 1986, Vol. 24). For the complete text, refer to the *Texas Register* page numbers. Changes to the *Rules of Professional Conduct* are described on pages 2 and 3 of this issue of the *Texas State Board Report*.

EMERGENCY ADOPTION

513.2, Approval by the Board

EFFECTIVE DATE: October 9, 1986
EXPIRATION DATE: February 6, 1987
TEXAS REGISTER PAGE NO.: 4295

REPEAL

511.88, Positive Identification

EFFECTIVE DATE: 11/18/86
TEXAS REGISTER PAGE NO.: 4207

FINAL ADOPTIONS BY BOARD

511.73, Exemption for Attorneys

EFFECTIVE DATE: 11/28/86
TEXAS REGISTER PAGE NO.: 4713

511.74, Mechanical or Other Aids

EFFECTIVE DATE: 11/28/86
TEXAS REGISTER PAGE NO.: 4713

523.63, Mandatory CE Attendance

EFFECTIVE DATE: Unknown at press time
TEXAS REGISTER PAGE NO.: 4106

CE Sponsors Continued from page 5

San Antonio Cash Management Assoc., San Antonio, TX	02522
San Antonio Estate Planners Council, San Antonio, TX	02582
San Jacinto College, South, Houston, TX	02412
Santa Fe Energy Company, Amarillo, TX	02512
Secured Trust Corporation, Tyler, TX	02585
Security Pacific Audit Services, Inc., San Fernando, CA	02479
Shearson Lehman Brothers, Inc., Austin, TX	02610
Simpkins & Associates, San Antonio, TX	02552
Smith, Anglin & Co., Dallas, TX	02519
SMU Institute for Study of Earth & Man, Dallas, TX	02411
Softec Computer Centers, Houston, TX	02532
South Texas Agency Mass Mutual Life Co., San Antonio, TX	02408
Stewart Title Guaranty Company, Houston, TX	02465
Stovall, Grandey & Whately, P.C., Fort Worth, TX	02551
Strieber & Associates, San Antonio, TX	02525
Tax Reduction Institute, Washington, DC	02471
Texas A & M University, College Station, TX	02495
Texas Accountants & Lawyers for Arts, Houston, TX	02521
Texas County & District Retirement Syst., Austin, TX	02426
Texas Municipal League, Austin, TX	02554
Texas State Technical Institute, Harlingen, TX	02572
Texas State Technical Institute, Sweetwater, TX	02605
The Learning Annex, Houston, TX	02531
The MLS Company, Bellaire, TX	02492
The Reading Game, Plano, TX	02467
Third Wednesday Group, Dallas, TX	02553
Thornton Computer Management Systems, Maineville, OH	02433
Tom Kirby Associates, Inc., St. Petersburg, FL	02474
Touche Ross & Co., Tulsa, Ok	02446
TSE Motivational Systems, Arlington, TX	02546
Van Financial Services, Inc., Houston, TX	02484
UCLA Extension, Los Angeles, CA	02379
United States Telephone Association, Washington, DC	02587
University of Georgia, Athens, GA	02421
Urban, Thielemann & Company, Giddings, TX	02566
Valley Management Associates, Corpus Christi, TX	02385
Vink, Pier & Teague, Dallas, TX	02584
Virginia Commonwealth, Richmond, VA	02389
Voluntary Hospitals of America Southwest, Dallas, TX	02436
Washington University, Saint Louis, MO	02556
Weid, Bowman & Company, Houston, TX	02395
Western Schools, Inc., San Diego, CA	02453
William K. Knox, CPA, Austin, TX	02508
William M. Mercer-Meidinger, Inc., Houston, TX	02386
Wilton Newberry & Heidel, CPA, Lamesa, TX	02475
Young Mortgage Bankers, Houston, TX	02380

FORMER BOARD MEMBER ANGUS COCKRELL DIES

Former Board member Angus H. Cockrell, Jr., CPA of San Antonio, passed away on September 23, 1986. He was appointed to the Board in December of 1971 by Governor Dolph Briscoe, and in 1973 was elected secretary-treasurer of the Board, a position he held until his term expired in September, 1977.

Cockrell was also active in activities of the National Association of State Boards of Accountancy (NASBA), presiding over a task force which formulated model rules of professional conduct and model accountancy laws, and which suggested strategies for use by state boards in responding to sunset legislation.



TEXAS STATE BOARD REPORT

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Editor Erin Ediger

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