

Texas State BOARD REPORT

OCTOBER 2003

TEXAS STATE BOARD OF PUBLIC ACCOUNTANCY
AUSTIN, TEXAS

VOL. 80

LOOKING AT SARBANES-OXLEY

DURING ITS 2003 SESSION, AS THE TEXAS LEGISLATURE DEBATED CHANGES TO THE *Public Accountancy Act* (effective September 1, 2003), much thought was given to which, if any, provisions of the 2002 federal *Sarbanes-Oxley Act* (SOX) should be applicable in Texas.

The Legislature concluded that enacting SOX-like legislation prior to the development and implementation of national standards would be premature. Instead, it requires that the Texas State Board of Public Accountancy report to the next legislative session on the mandates of *Section 29* of the new *Public Accountancy Act* (see sidebar).

"This fall, I will be forming a task force to assist the Board in carrying out the *Section 29* mandate," said the Board's presiding officer, Billy M. Atkinson, CPA. "The task force will be comprised of both regulators and professionals who can best contribute to this effort to ensure and safeguard the public's interest."

The chart beginning on page 2 summarizes various public issues associated with SOX and how federal agencies and private standards-setting bodies are responding to them. The chart also shows how the Texas *Public Accountancy Act* responds to these issues and the SOX legislation, as well as suggestions for future statutory modifications specific to Texas. This chart served as the basis for *Section 29's* inclusion in the *Texas Public Accountancy Act*.

continued

SECTION 29 PUBLIC ACCOUNTANCY ACT

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


- (1) the requirements of the federal Sarbanes-Oxley Act (Pub. L. No. 107-204), including any restrictions on public interest entities, and any legislation or other action needed to conform state law to the requirements of that Act;*
- (2) the federal General Accounting Office study on audit firm rotation and any legislation or other action needed to conform state law to the findings of that study; and*
- (3) the rules adopted by the board that are intended to comply with the federal standards described by Subdivisions (1) and (2) of this section and the board's actions in implementing and enforcing those rules.*


*What's
happening
in Texas?*







Implementing the Sarbanes-Oxley Act

ISSUE	SARBANES-OXLEY ACT (SOX)	FEDERAL AGENCIES	PRIVATE STANDARDS-SETTING BODIES	TEXAS STATE BOARD OF PUBLIC ACCOUNTANCY
<p>1. Enact self-regulation with substance.</p>	<ul style="list-style-type: none"> Creates new self-regulatory organization (PCAOB) with authority to license and sanction all auditors of publicly traded companies. Has secure funding source. Sets GAAS (auditing standards). Performs annual firm inspections. Has authority to set firm inspection standards. Has authority to ban consulting and other services by auditors. 	<ul style="list-style-type: none"> SEC - Makes (with concurrence of other agencies) appointments to PCOAB; develops and issues rules to implement SOX. Comptroller of the Currency - Applies SOX to non-publicly traded banks with assets above certain amount. Considering other applications. 	<ul style="list-style-type: none"> AICPA - Supports SOX and new PCAOB. NASBA (National Association of State Boards of Accountancy) - Has an active task force to study national reforms and evaluate their significance to state regulation. 	<p>Board has "strong effective enforcement program" (<i>Sunset Staff Report</i>) with broad authority to regulate practice of public accountancy under <i>Secs. 901.151 and 901.156 of Public Accountancy Act</i> and to implement any necessary changes in existing peer review system to parallel inspection system implemented by PCAOB.</p> <p>2003 Legislature raised fines to a maximum of \$100,000 per violation, plus penalties.</p>
<p>2. Ban consulting with audit clients (restriction of scope of services).</p> <p>2-A. Specified services</p> <p>2-B. Relationship limits</p> <p>2-C. Other</p>	<p>Bans nine specific services: (bookkeeping; IT design/implementation; appraisal/valuation services; actuarial services; internal audit; management functions or human resources; broker/dealer investment advisor or investment banking services; legal services; and expert services unrelated to audit.</p> <p>Audit and non-audit services must be approved by entity's audit committee before services are rendered.</p> <p>PCOAB - Has authority to approve exceptions to the ban on specific services on a case-</p>	<ul style="list-style-type: none"> SEC - Rules adopted in Nov. 2000 limited services in nine areas listed in SOX. In Nov. 2002 announced new rule-making to implement SOX. Additional auditor practice restriction rules issued Dec. 2002 and Jan. 2003. GAO - Enacted rules stricter than SEC's, effective Jan. 2003. Comptroller of the Currency - Applies SOX to non-publicly traded banks with assets above certain amount. GAO - Even services within specified limitations must meet relationship tests. Comptroller of the Currency - Applies SOX to non-publicly traded banks with assets above certain amount. SEC - Requires annual disclosure of amount of fees paid for consulting 	<ul style="list-style-type: none"> AICPA - In process of systematic reevaluation of its interpretation of 101-3; development of framework for independence; consideration of formal "bifurcation" of independence standards; and reevaluation of limits on specific services. IFAC - Requires avoidance of threats to independence, but does not ban specific services. IFAC - Conceptual basis test focuses on relationship as a whole. 	<p><i>Secs. 901.156 and 901.165 of Public Accountancy Act</i> grant Board authority to adopt nationally developed professional standards.</p> <p>Board requires all Texas CPAs and firms to comply with highest professional standards applicable to service. Reserves right to impose higher standards if Board disagrees with sufficiency of those set by other bodies. Specifically, Board insisted that AICPA adopt rules considering the limits on non-attest services before SOX was passed.</p> <p>Board has authority and rules as described in Item 2.</p> <p>National debate is underway to define "public interest entities"¹ to which SOX restric-</p>

¹ **Public interest entities** - Entities which are of significant public interest because of their type of business, size, number of employees, or corporate status is such that they have a wide range of stakeholders. Examples of such entities might include credit institutions, insurance companies, pension funds, public sector entities, large not-for-profit entities, and private corporations with significant external financing.

ISSUE	SARBANES-OXLEY ACT (SOX)	FEDERAL AGENCIES	PRIVATE STANDARDS-SETTING BODIES	TEXAS STATE BOARD OF PUBLIC ACCOUNTANCY
		<p>and non-audit services.</p> <ul style="list-style-type: none"> ♦ GAO - Requires internal quality control system to identify personal impairments. ♦ Comptroller of the Currency - Applies SOX to non-publicly traded banks with assets above certain amount. 		<p>tions may apply to non-public companies. Once national definition is developed, Board has authority to apply SOX restrictions to auditors of these entities.</p> <p>Board is developing rules.</p> <p>Board will report to governor, lieutenant governor, and speaker of House by Dec. 2004 regarding its review of implementation of SOX-type restrictions to "public interest entities."</p>
<p>3. Mandate rotation of auditors.</p>	<ul style="list-style-type: none"> ♦ Requires lead and review audit partners to rotate off engagement every five years. ♦ Requires GAO to study audit firm rotation. 	<ul style="list-style-type: none"> ♦ SEC - Has enacted regulations to implement SOX limitations. ♦ Comptroller of the Currency - Applies SOX to non-publicly traded banks with assets above certain amount. ♦ GAO -conducting study on audit firm rotation. SEC has handled auditor rotation adequately. 		<p>Board will report to governor, lieutenant governor, and speaker of House by Dec. 31, 2004 regarding its review of GAO study and will develop rules as appropriate consistent with national standards.</p>
<p>4. Impose more forensic auditing.</p>	<ul style="list-style-type: none"> ♦ Requires disclosure of all material correcting adjustments identified by audit firm. ♦ Requires disclosure of all material off balance sheet transactions. ♦ Requires <i>pro forma</i> information to be reconciled to GAAP; cannot be misleading. ♦ Enhances required disclosures of management and principal stockholder transactions. ♦ Requires rules to prohibit attempts to influence auditors. 	<ul style="list-style-type: none"> ♦ SEC - Has enacted many such rules, including attempts to influence or mislead auditor. ♦ Comptroller of the Currency - Applies SOX to non-publicly traded banks with assets above certain amount. 	<p>AICPA - Announced anti-fraud and corporate responsibility program:</p> <ul style="list-style-type: none"> ♦ Institute for Fraud Studies with Univ. of Texas and Association of CFEs ♦ New SAS 99: <i>Fraud in a Financial Audit</i>: <ul style="list-style-type: none"> ⇒ New audit guidance ⇒ Change in auditor performance. <p>AICPA, ACFE, FEI, ISACA, IIA, IMA, SHRM Issued management anti-fraud programs/controls -- guidance to prevent and detect fraud.</p>	<p>Board recommends governor's office consider forensic examination experience in selection of public board members. Two have been added to the Board.</p> <p> Advisable statutory change: None at this time.</p>
<p>5. Limit auditors move to companies.</p>	<p>One-year waiting period for moves from audit firm to client as CFO, CAO, CEO, comptroller, or equivalent.</p>	<ul style="list-style-type: none"> ♦ SEC - Has enacted new rules to comply with SOX. ♦ GAO - Limits seeking employment with audit client during audit. ♦ Comptroller of the Currency - Applies SOX to non-publicly traded banks with assets above certain amount. 	<p>AICPA - Interpretations limit financial and other ties between former partners employed at attest client and firm. Proposed regulations address additional limits on seeking employment during attest engagement. Studying additional subject rules.</p>	<p>Requires CPAs to comply with highest professional standard applicable. Reserves right to impose higher standards if Board disagrees with other bodies' standards. Board is following AICPA rule development. Board will report to governor, lieutenant governor, and speaker of the House by Dec. 31, 2004 regarding its review of implementation of SOX-type restrictions to "Public Interest Entities."</p>

ISSUE	SARBANES-OXLEY ACT (SOX)	FEDERAL AGENCIES	PRIVATE STANDARDS-SETTING BODIES	TEXAS STATE BOARD OF PUBLIC ACCOUNTANCY
<p>6. Reform audit committees of boards of directors.</p>	<ul style="list-style-type: none"> ◆ Audit committee must include financial experts and independent directors. ◆ Audit committee to be responsible for managing relationship with auditor, including review of all written communications between auditor and client, and pre-approving all auditor's services. ◆ Audit committee must have ability to retain experts, including counsel, and must have process to accept complaints and protect complainant. ◆ Auditor must report all critical accounting policies to committee and report all alternative GAAP treatments. 	<ul style="list-style-type: none"> ◆ Comptroller of the Currency - Applies SOX to non-publicly traded banks with assets above certain amount. ◆ SEC - Has enacted rules to implement SOX. 	<p>Securities exchanges: New rules NYSE, AMEX, NASDAQ - Independent directors: Three-year cooling off period. Boards must have majority of independent directors:</p> <ul style="list-style-type: none"> ◆ Establish expenses and compensation. ◆ Nominate new directors ◆ Meet in executive session. ◆ Shareholders to approve equity compensation. ◆ Director education required. ◆ Code of conduct with enforcement mechanism. ◆ Audit committee approval of related party transactions. 	<p>Board has no jurisdiction over corporate structure. Once national definition of "public interest entities" is agreed upon, legislation may be appropriate to extend SOX provisions to entities within that definition. Legislation now is premature and would run risk of having public interest entity definition different from other states.</p> <p>Board will report to governor, lieutenant governor, and speaker of the House by Dec. 31, 2004 regarding its review of implementation of SOX-type restrictions to public interest entities.</p>
<p>7. Clean up accounting rules.</p>	<p>Requires study of principles-based accounting.</p>	<ul style="list-style-type: none"> ◆ SEC - May recognize GAAP as set by private organization. ◆ Comptroller of the Currency - Applies SOX to non-publicly traded banks with assets above certain amount. 	<ul style="list-style-type: none"> ◆ FASB - Proposal to study move to principles-based accounting rules. ◆ AICPA - Study of business financial reporting recommends specific improvements in reporting. 	<p>Board requires all CPAs to comply with GAAP, even those in industry practice. Board will file comments on FASB proposal to move to principles-based accounting. <i>Secs. 901.156 of Public Accountancy Act</i> grants Board authority to adopt nationally developed professional standards. Board is following AICPA rule development.</p> <p>It is vital that GAAP be established at national level to ensure financial statements consistency and transparency; otherwise, public users of financial statements will be confused and preparers and auditors will have multiple sets of rules with which to comply.</p> <p> Advisable statutory change: None at this time.</p>
<p>8. CEO/CFO signs financial statements under penalty of perjury.</p>	<p>CEO and CFO must certify that financial statements fairly represent company's financial condition, do not contain any material misstatements or omissions, and that internal controls are established, documented, and adequately functioning.</p>	<ul style="list-style-type: none"> ◆ SEC - Imposed signing program by order before SOX passed. Now has rules implementing SOX requiring certification and disclosure policies and procedures to support certifications. ◆ Comptroller of the Currency - Applies SOX to non-publicly traded 		<p>Board has published guidance for employed CPAs to clarify implementation of responsibility in certification programs. Once national definition of "public interest entities" is agreed upon, legislation may be appropriate to extend SOX provisions to entities within definition. It may be appropriate for pro-</p>

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		banks with assets above certain amount.		<p>vision to extend to CEO/CFO other than those in publicly traded entities and public interest entities.</p> <p> Advisable statutory change: Add provisions to <i>Securities Act</i> requiring certifications in non-publicly traded companies.</p>
9. Whistleblower protection for those reporting fraud.	Employees cannot be discharged/discriminated against for providing information or assisting fraud investigations by federal institutions.			<p>Board has no jurisdiction over employment law.</p> <p> Advisable statutory change: Develop legislation to extend SOX-type protection to all employees of non-publicly traded entities.</p>
10. Public member composition of regulatory boards.	Oversight board has five members. Two are CPAs.			<p>One-third of Board is comprised of public members, as per sunset model. Professional technical expertise is essential to proper administration of <i>Public Accountancy Act</i>. If professional representation of Board makeup is decreased, paid professional consultants would have to be hired at considerable expense to perform same functions that unpaid volunteer Board members currently provide. Governor could consider forensic examination experience for public members.</p> <p> Advisable statutory change: None at this time.</p>
11. Misleading auditors.	Prohibits officers/directors of publicly traded companies from fraudulently influencing, coercing, manipulating, or misleading auditor of issuer's financial statements for the purpose of rendering financial statements materially misleading.	SEC - Has adopted rules to effectuate SOX prohibition.	AICPA - Has recommended that SEC extend this prohibition to all employees of publicly held companies.	<p> Advisable statutory change: Amend <i>Public Accountancy Act</i> (or other statute) to prohibit officers/directors of Texas companies from fraudulently influencing, coercing, manipulating, or misleading auditor of financial statements to make financial statements materially misleading.</p>
12. Impersonating a CPA.	N/A	N/A	N/A	<p> Advisable statutory change: Amend §901.601 of <i>Public Accountancy Act</i> so that attest/audit services by non-licensees are subject to fines up to \$25,000 plus costs and attorney fees.</p> <p style="text-align: right;"></p>

WHAT QUALIFIES A CPA TO SERVE AS AN EXPERT WITNESS? SHOULD A LICENSEE BE ABLE TO STATE IN A COURT of law that his or her testimony is correct simply because the CPA **THINKS** so? Such testimony has the potential to leave the jury with false impressions, whether deliberately or inadvertently. Much of accounting and auditing is quite complex to a jury, and in many cases even to a judge. Accordingly, they simply might not know if an expert's testimony is misleading.

According to Billy M. Atkinson, the Board's presiding officer, the concern is whether there is a high enough standard for accounting experts who use the CPA designation. "Because I *think* so" should not be sufficient support for a CPA expert's testimony. It is not unreasonable for the public to presume the existence of sufficient competent facts to support testimony based on acceptable accounting

be applicable to accounting issues, including application of accounting principles and value judgments. Value judgment disputes should be limited to information available at the time, rather than hindsight, unless hindsight proves them right.

The Board's Rules Committee will be studying, in more depth, the need for improved documentation related to the support for expert testimony to determine whether the current rules need to be amended to include more specific criteria for expert witnesses' supporting documentation, etc., in today's environment. One possible issue is whether there should be a specific requirement for the existence of documentation relating all opinions or testimony to specific supporting literature, and if there is no such documentation, an admission to that effect.

Presently, *Section 501.74(d) (Competence)* specifically requires a certificate or registration holder

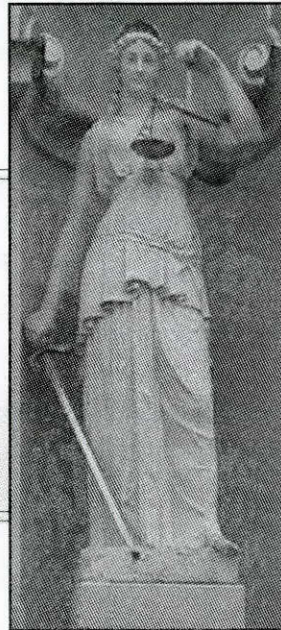
to obtain sufficient data to afford a reasonable basis for conclusions and recommendations in relation to any professional services performed, including litigation support services. *Section 501.52(c) (Definitions)* of the Board's rules lists litigation support services as part of the "client practice of public accountancy" because it involves the use of accounting, attest, or auditing skills.

The AICPA's Consulting Services Special Report 03-1 "Litigation Services and Applicable Professional Standards" lists the following rules of its *Code of Professional Conduct and Bylaws* as having particular applicability to the practice of litigation support services:

- ♦ *Rule 102, Integrity and Objectivity;*
- ♦ *Rule 201, General Standards;*
- ♦ *Rule 202, Compliance with Standards;*
- ♦ *Rule 301, Confidential Client Information;*
- ♦ *Rule 302, Contingent Fees; and*
- ♦ *Rule 501, Acts Discreditable.*

See **Expert Witness**, page 14

SERVING AS AN EXPERT WITNESS



principles, standards, and methods. A Texas licensee should be aware that any misrepresentation during testimony in a court of law, while acting as an expert witness, constitutes a violation of the Board's rules and also national standards established by recognized standards setting bodies, such as the AICPA. Licensees must be able to support their testimony according to these standards; anyone failing to do so would be considered by the Board to be in violation of its current rules, including *Section 501.73(a) (Integrity and Objectivity)*, which states, in part:

(a) A certificate or registration holder in the performance of professional services shall maintain integrity and objectivity, shall be free of conflicts of interest and shall not knowingly misrepresent facts nor subordinate his or her judgment to others . . . [EMPHASIS ADDED]

It would not be a great effort to relate an alleged gap in an audit program to the assertions embodied in the financial statements. However, if there is no literature, then other reliable principles or methods should support the opinion of the expert. Other than attest, similar support should

BOARD CONDUCTS MAY SWEARING-IN CEREMONY

THE BOARD HELD A SWEARING-IN CEREMONY ON MAY 31 IN AUSTIN TO PRESENT certificates to 796 new CPAs. Eleven of those sworn in were recognized for having earned the ten highest grades on the CPA examination as Texas candidates who passed all parts on their first attempt. They are:

NEW YORK: David R. Eastlake; **TEXAS: (Austin)** Collier, Michelle R.; Taylor, Allison R.; **(Dallas)** Webb, James C.; **(Fort Worth)** Gunter, Amanda Hope; Stoner, Leslie M.; **(Houston)** Welch, Kristy L.; Zheng, Songping; Bennett, Anne H.; **Victoria)** Dekowski, Donovan R.; **(Irving)** Massey, Brenda W.

Also honored were the following 33 individuals who have maintained their CPA licenses for 50 years:

CALIFORNIA: Probandt, Helen D.; **FLORIDA:** Hertenstein, Paul L.; McCarver, James O.; **NORTH CAROLINA:** Howard, Sanford; Gibbs, Raymond Lee; **OKLAHOMA:** Tims, Margaret Jane; **TEXAS: (Abilene)** McCurdy, J.C.; **(Anthony)** Adelard Leon Larock; **(Carrollton)** Cocek, Bernard J.; **(Dallas)** Alter, Adrian; **(Denton)** Brock, Horace R.; Wright, B. Barnabas; **(Duncanville)** Harvey, David L.; **(El Paso)** Bernard S. Lauterbach; **(Fort Worth)** Brantley, Leonard H.; Frazier, Curtis L.; Halderman, Lena Mae; **(Houston)** Martin, Leonard N.; Mermel, Irv-

ing; Nipper, Oscar; Skellenger, Virgil V.; Shivers, Jesse E.; **(Kingsville)** Womack, John R.; **(Lago Vista)** Schneider, William A.; **(Liberty)** Root, J.D.; **(Magnolia)** Heisey, Harold C.; **(New Braunfels)** Tschoepe, Eugene J.; **(Odessa)** Banisky, Walter; **(Pointblank)** Tyson, Tommy B.; **(San Antonio)** Ward, Thomas W.; **(Texarkana)** Ellis, George Booker Jr.; **(Waco)** Webb, Carroll L. Jr.; **WASHINGTON:** Schwartz, Simon.

Another group recognized were 11 people who have proctored the CPA examination in Texas 20 or more times:

(Bellaire) Embrey, Lynn W.; **(Bridgeport)** McDonald, Edie C.; **(Denton)** Watson, Vickie M. **(Fort Worth)** Buxton, James L.; McComb, Ray B.; **(Houston)** Anderson, B. Gene; Parrigin, Barbara E.; **(Irving)** Cook, Ray Jr.; **(Joshua)** Hobbs, Terry A.; **(Lipan)** Baldree, Walter; **(San Antonio)** Theodore F. Meyers.

Swearing-in ceremonies are held twice a year. The next one is scheduled for November 8 in Austin. ❖

Board seeking experienced auditors

Board enforcement committees periodically engage CPAs with recent extensive audit experience to act as consultants in enforcement cases. Qualified CPAs should forward a detailed resumé and any questions to the Board.

The resumé should set forth education, employment, and experience information, including specialized experience and training (fraud detection, industry specifics, etc.).

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Disciplinary Actions

RESPONDENT: Scott Kendall Barton (Houston)
CERTIFICATE NO.: 071760
INVESTIGATION NO.: 01-06-16L
DATE OF BOARD ACTION: 5/15/03
DISPOSITION: The respondent entered into an agreed consent order whereby he surrendered his certificate for revocation in lieu of further disciplinary proceedings. He must wait at least one year before applying for reinstatement.

The respondent entered into a Securities and Exchange Commission (SEC) order that denied the respondent the privilege of appearing or right to practice before the SEC as an accountant for three years in violation of *Sections 901.502(6), 901.502(9), and 901.502(11)* of the *Act* as well as *Sections 501.90(2) and 501.90(7) (Discreditable Acts)* of the *Rules*.

RESPONDENT: John David Battaglia (Livingston)
CERTIFICATE NO.: 036838
INVESTIGATION NO.: 02-06-10L
DATE OF BOARD ACTION: 5/15/03
DISPOSITION: The respondent entered into an agreed consent order whereby he surrendered his certificate for revocation in lieu of further disciplinary proceedings.

The respondent was convicted of two counts of murder and sentenced to death in Cause No. F0152159 in Criminal District Court No. 1 of Dallas County, Texas. He violated *Sections 901.502(6), 901.502(10)(A), and 901.502(11)* of the *Act* as well as *Section 501.90(4) (Discreditable Acts)* of the *Rules*. In addition, the respondent's actions subject him to mandatory revocation under Chapter 53.021(b) of the *Texas Occupations Code*.

RESPONDENT: William Carl Berry (Mineral Wells)
CERTIFICATE NO.: 017771
INVESTIGATION NO.: 03-02-11L
DATE OF BOARD ACTION: 5/15/03
DISPOSITION: The respondent entered into an agreed consent order whereby his certificate was revoked in lieu of further disciplinary proceedings. He must wait at least one year before applying for reinstatement.

The Securities and Exchange Commission (SEC) suspended the respondent from appearing or practicing before the SEC for four years. The respondent violated *Section 17(a)* of the *Securities Act*, *Section 10(b)* of the *Exchange Act* and *Rule 10b-5* thereunder in connection with false, misleading, and incomplete statements associated with the purchase, offer, and sale of limited partnership interests in two entities in order to raise money to trade index options, while not having

sufficient prior experience in options trading to competently conduct this type of business. He failed to report his suspension to the Board and practiced public accountancy with a delinquent, expired license in violation of *Sections 901.502(6), 901.502(9), and 901.502(11)* of the *Act* and *Sections 501.80, 501.90(7) (Discreditable Acts), 501.91 (Reportable Events), and 501.93 (Responses)* of the *Rules*.

RESPONDENT: William M. Braden (San Antonio)
CERTIFICATE NO.: 048289
INVESTIGATION NO.: 02-03-25L
DATE OF BOARD ACTION: 5/15/03
DISPOSITION: The respondent entered into an agreed consent order whereby he was reprimanded. In addition, the respondent must complete and submit proof of completion of 8 hours of continuing professional education (CPE) in the area of practice management and 8 hours in the area of compilations and reviews to be included in the respondent's annual CPE requirement and completed within 90 days of the date of the Board's order. The respondent must also submit proof that he has updated his firm's library to include texts on practice management and compilations and reviews.

The respondent failed to provide client records to his client and failed to respond to his client's repeated inquiries in violation of *Sections 901.502(6) and 901.502(11)* of the *Act* and *Section 501.76 (Records and Work Papers)* of the *Rules*.

RESPONDENT: Matthew R. Coscia (Coppell)
CERTIFICATE NO.: 071515
INVESTIGATION NO.: 02-10-09L
DATE OF BOARD ACTION: 5/15/03
DISPOSITION: The respondent entered into an agreed consent order whereby he was reprimanded. In addition, he must complete 4 hours of live CPE in the area of ethics in addition to his annual CPE requirement, and it must be completed within 90 days of the date of the Board's order.

The respondent took copies of client files from his former employer without the employer's permission or prior permission from the affected clients in violation of *Sections 901.502(6), and 901.502(11)* of the *Act* and *Sections 501.90(2) and 501.90(9) (Discreditable Acts)* of the *Rules*.

RESPONDENT: Rodrigo Garcia (McAllen)
CERTIFICATE NO.: 042319
INVESTIGATION NO.: 02-03-24L
DATE OF BOARD ACTION: 5/15/03
DISPOSITION: The respondent entered into an agreed consent order whereby he surrendered his certificate for revocation in lieu of further disciplinary proceedings. He must wait at least one

year before applying for reinstatement. In addition, the respondent's certificate may not be reinstated until he has paid \$423,613.38, plus judgment interest of 10% from the date of the judgment referenced above, plus any continuing penalties and interest accruing with the Internal Revenue Service in connection with the respondent's failure to forward funds to the IRS for his clients.

The respondent failed to forward approximately \$300,000 to the IRS that he received on behalf of the clients. He paid the above-referenced funds to himself and others without authorization. In addition, he failed to timely prepare the tax returns and also failed to substantively respond to Board communications. The respondent violated *Sections 901.502(6), and 901.502(11) of the Act Sections 501.74 (Competence), 501.90(2), 501.90(9), 501.90(12) (Discreditable Acts), and 501.93 (Responses) of the Rules.*

RESPONDENT: Paul E. Greilich (Carrollton)

CERTIFICATE NO.: 071600

INVESTIGATION NO.: 02-10-10L

DATE OF BOARD ACTION: 5/15/03

DISPOSITION: The respondent entered into an agreed consent order whereby he was reprimanded. In addition, he must complete 4 hours of live CPE in the area of ethics in addition to his annual CPE requirement, which must be completed within 90 days of the date of the Board's order.

The respondent took copies of client files from his former employer without the employer's permission or prior permission from the affected clients. The respondent violated *Sections 901.502(6), and 901.502(11) of the Act and Sections 501.90(2), and 501.90(9) (Discreditable Acts) of the Rules.*

RESPONDENT: Alan P. Hague (Phoenix, AZ)

CERTIFICATE NO.: 032883

INVESTIGATION NO.: 02-03-41L

DATE OF BOARD ACTION: 5/15/03

DISPOSITION: The respondent entered into an agreed consent order whereby he surrendered his certificate for revocation in lieu of further disciplinary proceedings. He must wait at least a year before applying for reinstatement.

The respondent was one of the subjects of an inquiry by the Arizona State Board of Accountancy regarding Arthur Andersen's 1992-1997 combined financial statement audits and 1997 and 1998 special income tax assessment reviews of the Baptist Foundation of Arizona. The Arizona Board issued an order restricting him from practicing accountancy in Arizona or in any other state without prior permission. He is a resident of Phoenix, Arizona and is not currently practicing public accountancy. The respondent's consent to the Arizona Board order violates *Sections 901.502(6),*

901.502(8), 901.502(11), and 901.511 of the Act and Section 501.90(7) (Discreditable Acts) of the Rules.

RESPONDENT: John W. Hairston (Sugar Land)

CERTIFICATE NO.: 010662

INVESTIGATION NO.: 02-03-29L

DATE OF BOARD ACTION: 5/15/03

DISPOSITION: The respondent's certificate was revoked, he was ordered to pay \$625.00 in administrative costs, and assessed a \$3,000.00 administrative penalty.

Paul Yeatts obtained a default judgment against the respondent that found that the respondent owed Mr. Yeatts \$50,133.27 and that the respondent obtained the money from Mr. Yeatts through fraud. In addition, the respondent practiced public accountancy during a period when his license was expired. Further, the respondent failed to respond to a Board communication within thirty days. The respondent violated *Sections 901.502(6) and 901.502(11) of the Act as well as Sections 501.80 (Practice of Public Accountancy), 501.90(9) (Discreditable Acts), and 501.93 (Responses) of the Rules.*

RESPONDENT: Sondra Harral (Irving)

CERTIFICATE NO.: 071606

INVESTIGATION NO.: 02-10-16L

DATE OF BOARD ACTION: 5/15/03

DISPOSITION: The respondent entered into an agreed consent order whereby her certificate was revoked in lieu of further disciplinary proceedings. She must wait at least one year before applying for reinstatement.

The respondent was convicted by the 213th District Court of Tarrant County, Texas of possession of cocaine, a felony. She violated *Sections 901.502(6) and 901.502(11) of the Act and Section 501.90(4) (Discreditable Acts) of the Rules.*

RESPONDENT: Jimmy W. Holder (Round Rock)

CERTIFICATE NO.: 010027

INVESTIGATION NO.: 02-0717L

DATE OF BOARD ACTION: 5/15/03

DISPOSITION: The respondent entered into an agreed consent order whereby he was reprimanded. In addition, he must complete 4 hours of live CPE in the area of ethics in addition to the respondent's annual CPE requirement and must be completed within 90 days of the date of the Board's order.

The respondent practiced public accountancy in an unregistered firm and allowed David Michael Kangas to use the respondent's name in the firm name and advertising when the respondent was not an owner of the firm. The respondent violated *Sections 901.502(6) and 901.502(11)*

of the Act and Sections 501.77 (*Acting through Others*), 501.81 (*Registration Requirements*), 501.82 (*Advertising*), and 501.83 (*Firm Names*) of the Rules.

RESPONDENT: Billy W. Jarvis (Sherman)

CERTIFICATE NO.: 010150

INVESTIGATION NO.: 01-06-04L

DATE OF BOARD ACTION: 5/15/03

DISPOSITION: The respondent entered into an agreed consent order whereby his license was placed on probated suspension for two years. In addition, he must pay a \$1500.00 administrative penalty within six months of the date of the Board's order.

In 1992 and 1993 the respondent disclosed confidential communications of his employer to third parties without the employer's consent in violation of former Sections 21(c)(4) and 21(c)(11) of the Act and former Section 501.41 (*Discreditable Acts*) of the Rules.

RESPONDENT: Edward D. Jerome (Farmers Branch)

CERTIFICATE NO.: 020322

INVESTIGATION NO.: 02-10-01L

DATE OF BOARD ACTION: 5/15/03

DISPOSITION: The respondent entered into an agreed consent order whereby he was reprimanded. In addition, he must complete 12 hours of live CPE in the area of compilations and review in addition to his annual CPE requirement, and it must be completed within 90 days of the date of the Board's order.

The respondent committed numerous errors in the preparation of the financial statements and projections for a client. The respondent violated Sections 901.502(6) and 901.502(11) of the Act and Section 501.74 (*Competence*) of the Rules.

RESPONDENT: Rueben Jimenez (San Antonio)

CERTIFICATE NO.: 042474

INVESTIGATION NO.: 97-10-17L

DATE OF BOARD ACTION: 5/15/03

DISPOSITION: The respondent entered into an agreed consent order whereby he was prohibited from performing attest services for at least two years from the date of the order. He entered into an amendment to the order requiring him to complete 16 additional live CPE hours in the area of government audits within 90 days of the date the Board ratified the amendment. In addition, he must engage a qualified technical consultant to review all audit reports he issues for at least two years; all other aspects of the order are unchanged.

The respondent failed to comply with auditing standards and accounting principles when performing an audit for a client. The respondent's conduct violated Sections 901.502(2), 901.502.(6), and 901.502(11) of the Act as well as Sections

501.22, and 501.23 of the Rules.

RESPONDENT: David M. Kangas (Waco)

CERTIFICATE NO.: 018354

INVESTIGATION NO.: 02-07-16L

DATE OF BOARD ACTION: 5/15/03

DISPOSITION: The respondent entered into an agreed consent order whereby he must complete 4 hours of live CPE in the area of ethics. This requirement is in addition to the respondent's annual CPE requirement and must be completed within 90 days of the date of the Board's order.

The respondent practiced public accountancy in an unregistered firm. He violated Sections 901.502(6) and 901.502(11) of the Act and Sections 501.77 (*Acting through Others*), 501.81 (*Registration Requirements*), 501.82 (*Advertising*), and 501.83 (*Firm Names*) of the Rules.

RESPONDENT: Bryan B. Kornegay Sr. (Dallas)

CERTIFICATE NO.: 070427

INVESTIGATION NO.: 01-08-09L

DATE OF BOARD ACTION: 5/15/03

DISPOSITION: The respondent entered into an agreed consent order whereby his certificate was revoked. However, this revocation was stayed, and he was placed on probation for 4 years. In addition, the respondent must register with and participate in the Texas Society of Certified Public Accountants' peer assistance program where he will be assigned a monitor approved by the TSCPA peer assistance committee. The respondent must meet with the monitor a minimum of once a month and file a report on each meeting with the Board's probation staff. He must attend all statewide meetings of the TSCPA Peer Assistance Program and must also have all work performed by him on tax engagements and attest services reviewed by an independent CPA reviewer prior to issuance. The CPA performing this review must be approved by the chair of the Board's Behavioral Enforcement Committee.

The respondent failed to prepare a client's corporate income tax return, the client's and its successor's CPA's telephone calls, and respond to Board communications in violation of Sections 901.502(6), and 901.502(11) of the Act and Sections 501.74 (*Competence*), 501.90(11) (*Discreditable Acts*), and 501.93 (*Responses*) of the Rules.

RESPONDENT: Ruth A. LaRocca (Plano)

CERTIFICATE NO.: 069637

INVESTIGATION NO.: 01-09-04L

DATE OF BOARD ACTION: 5/15/03

DISPOSITION: The respondent entered into an agreed consent order with the Board whereby her certificate was revoked in lieu of further disciplinary proceedings. She must wait at least one year before applying for reinstatement.

The respondent failed to prepare and file the

1998 and 2000 personal and corporate tax returns of a client, failed to return client records, failed to return repeated client telephone inquiries, and made misleading statements to her client regarding his tax problems. In addition, she claimed a peer review exemption to which she was not entitled and failed to enroll in a peer review program. Finally, the respondent failed to timely respond to a written Board communication. She violated *Sections 901.502(6), 901.502(11), and 901.502(12)(C) of the Act* as well as *Sections 501.76 (Records and Work Papers), 501.90(12), 501.90(13) (Discreditable Acts), 501.93 (Responses), and 527.4 (Enrollment and Participation) of the Rules.*

RESPONDENT: Van Preston Littrell (Dallas)

INVESTIGATION NO.: 02-05-13L

CERTIFICATE NO.: 030079

DATE OF BOARD ACTION: 5/15/03

DISPOSITION: The respondent's certificate was revoked, and he was ordered to pay \$437.50 in administrative costs, and \$2,000.00 in administrative penalties.

In Case No. 3:02CR21-G in the United States District Court for the Northern District of Texas, Dallas Division, the respondent was convicted of a violation of 31 U.S.C. § 5324(a)(3), Structuring Currency Transactions, a federal felony. He was sentenced to 21 months of imprisonment and ordered to pay \$660,657.88 in restitution. The respondent failed to respond to a written Board communication in violation of *Sections 901.502(6) and 901.502(11) of the Act* and *Sections 501.90(4) (Discreditable Acts) and 501.93 (Responses) of the Rules.*

RESPONDENT: Jennifer O. Logue (Round Rock)

INVESTIGATION NO.: 02-12-06L

CERTIFICATE NO.: 074234

DATE OF BOARD ACTION: 5/15/03

DISPOSITION: The respondent entered into an agreed consent order whereby her certificate was revoked in lieu of further disciplinary proceedings. She must wait at least one year before applying for reinstatement.

The respondent was convicted by the 277th District Court of Williamson County, Texas on October 21, 2002 of possession of a controlled substance with intent to deliver, a second degree felony. The respondent violated *Section 501.90(4) of the Rules* as well as *Sections 901.502(6), 901.502(10), and 901.502(11) of the Act.*

RESPONDENT: Julie A. Lord (North Richland Hills)

INVESTIGATION NO.: 02-05-11L

CERTIFICATE NO.: 030848

DATE OF BOARD ACTION: 5/15/03

DISPOSITION: The respondent entered into an agreed consent order whereby she was reprimanded and assessed an administrative penalty in the amount of \$2,000.00. In addition, she must complete 8 hours of live CPE in the area of practice management and pay the assessed administrative penalty within ninety days of the date of the Board's order.

The respondent failed to timely prepare a client's personal and corporate tax returns and implied threats to disclose the client's confidential communications in an attempt to collect payment for services rendered. The respondent's conduct violated *Sections 901.502(6) and 901.502(11) of the Act* and *Sections 501.74 (Competence) and 501.90(14) (Discreditable Acts) of the Rules.*

RESPONDENT: Kathryn S. Malone (Harlingen)

INVESTIGATION NO.: 02-08-07L

CERTIFICATE NO.: 030848

DATE OF BOARD ACTION: 5/15/03

DISPOSITION: The respondent entered into an agreed consent order whereby she was reprimanded. In addition, she must complete 16 hours of live CPE in the area of estate and trust taxation. This requirement is in addition to the respondent's annual CPE requirement and must be completed within 90 days of the date of the Board's order.

The respondent prepared the trust tax return of a client's testamentary trust as a Complex \$100 trust that incurred tax liability when it should have been prepared as a charitable remainder annuity trust that would have no tax liability. As a result, the trust incurred a tax liability in excess of \$200,000.00. The respondent violated *Sections 901.502(6) and 901.502(11) of the Act* and *Section 501.74 (Competence) of the Rules.*

RESPONDENT: Stephen Kent Morehead (Bedford)

INVESTIGATION NO.: 03-03-09L

CERTIFICATE NO.: 013092

DATE OF BOARD ACTION: 5/15/03

DISPOSITION: The respondent entered into an agreed consent order whereby his certificate was revoked in lieu of further disciplinary proceedings. He must wait at least one year before applying for reinstatement.

The respondent was convicted by the United States District Court, Northern District of Texas, Cause No. 3-02-CR-057-H, of one count of tax fraud. The respondent violated *Sections 901.502(6), 901.502(10), and 901.502(11) of the Act* and *Section 501.90(4) (Discreditable Acts) of the Rules.*

RESPONDENT: Christine Nguyen (Corpus Christi)

INVESTIGATION NO.: 02-10-19L

CERTIFICATE NO.: 060762

DATE OF BOARD ACTION: 5/15/03

DISPOSITION: The respondent entered into an agreed consent order with the Board whereby she was reprimanded. In addition, she must complete and submit proof of completion of 8 hours of live CPE in the area of OMB A-133 audits. This requirement must be completed within 120 days of the date of the order and is in addition to the respondent's annual CPE requirement. The respondent must engage a qualified technical consultant who has been approved in writing by the Technical Standards Review Committee chair. She must not issue any report in connection with any OMB A-133 audit without prior approval from the reviewer.

The respondent issued an audit for a client without the required OMB Circular A-133 compliance report and all of its required compliance testing. Her conduct violated *Sections 901.502(6) and 901.502(11) of the Act* and *Sections 501.60 (Auditing Standards), 501.61 (Accounting Principles), 501.62 (Other Professional Standards), and 501.74 (Competence) of the Rules.*

RESPONDENT: Joseph Onwuteaka (Sugar Land)

INVESTIGATION NO.: 99-04-08L

CERTIFICATE NO.: 046275

DATE OF BOARD ACTION: 5/15/03

DISPOSITION: The respondent entered into an agreed consent order whereby he was reprimanded. As a result of an administrative hearing that he failed to attend, the respondent's certificate was revoked on March 22, 2001, for receiving a reprimand from the State Bar of Texas (Bar) and for failing to respond to Board communications regarding the aforementioned reprimand. The respondent appealed the Board order. On appeal, an informal resolution was reached to accept a public reprimand for the Bar reprimand and failure to respond to Board communications.

RESPONDENT: John W. Townshend Sr. (Bedford)

INVESTIGATION NO.: 02-04-29L

CERTIFICATE NO.: 056571

DATE OF BOARD ACTION: 5/15/03

DISPOSITION: The respondent entered into an agreed consent order whereby his certificate was revoked in lieu of further disciplinary proceedings. He must wait at least one year before applying for reinstatement.

The respondent failed to comply with the District Court of Tulsa County, Oklahoma's permanent injunction prohibiting him from making any representation that he was a certified public accountant of Oklahoma. The respondent's conduct violated *Sections 901.502(6) and 901.502(11) of the Act* and *Sections 501.90(7) and 501.90(10)*

(*Discreditable Acts*) of the Rules.

CPE Actions

RESPONDENTS: TEXAS: (Alamo) Ortiz, Simon E.

(Austin) Yore, Scott Michael

(Coppell) Burgess, Debra Lee

(Plano) Simms, Stanley Frank

(San Antonio) Green, David Edwin

(Sugar Land) Freeman, Jennifer Lance; Allen, Gregory James

INVESTIGATION NOS.: 02-10-10047 through 02-10-10165

DOCKET NO.: 457-03-1303

DATE OF BOARD ACTION: 5/15/03

DISPOSITION: The license of each respondent still not in compliance as of the May 15, 2003 Board meeting was suspended for three years, or until he or she complies with the license requirements of the *Act*, whichever is sooner. Additionally, a \$100 penalty was imposed for each year the respondent is in non-compliance with the Board's CPE requirements. The respondents failed to report sufficient CPE credits required under *Section 901.411 of the Act.*

The respondents are in violation of *Section 901.411 of the Act* and *Sections 501.94 (Mandatory Continuing Professional Education) and 523.62 (Mandatory Continuing Professional Education Reporting) of the Rules.*

RESPONDENTS: MARYLAND: Winfield, Frances Rae

TEXAS: (Allen) McDermitt, Sarah Loftis

(Arlington) McCarver, Sarah Ann Dawson

(Austin) Duran, Juan Jose; King, Daniel Charles; Shoaf, Thomas William

(Breckenridge) Herrington, Michael Don

(Carrollton) Mcevoy, Gerard Michael

(Corpus Christi) Hosek, Cynthia Fay

(Dallas) Hardick, Thomas Alan; Kotara, Kenneth Joseph; Norton, Stephen Hart; Sprinkle, Robert David; Tate, Jack Thomas

(Denton) Brown, Charles Vernon

(Flower Mound) King, Cathy Sue

(Houston) Elsenbrook, Thomas Lee; Howard, William Henry; Switek, Sally Marnen

(League City) Mccastlain, Teresa Midyett

(Lubbock) Fonner, Patti Lou

(Murphy) Phillips, James Spence

(San Antonio) Jimenez, Felipe; Mullins, Elise Ann

(The Woodlands) Walls, Bill Junior

(Universal City) Way, Dawn Tamsin

WASHINGTON: County, John IV

INVESTIGATION NOS.: 02-11-10041 through 02-11-10404

DOCKET NO.: 457-03-1493

DATE OF BOARD ACTION: 5/15/03

DISPOSITION: The license of each respondent still not in compliance as of the May 15, 2003 Board meeting was suspended for three years, or until he or she complies with the license requirements of the *Act*, whichever is sooner. Additionally, a \$100 penalty was imposed for each year a respondent is in non-compliance with the Board's CPE requirements.

The respondents failed to report sufficient CPE credits required under *Section 901.411* of the *Act*. The respondents are in violation of *Section 901.411* of the *Act* as well as *Sections 501.94 (Mandatory Continuing Professional Education)* and *523.62 (Mandatory Continuing Professional Education Reporting)* of the *Rules*.

RESPONDENTS: TEXAS: (Allen) Wood, John Derrell

(Cedar Park) Lindsey, Cynthia Kay

(Dallas) Gittemeier, Janet Marie

(Houston) Black, James Raymond; Burgess, Rebecca Evela

(Magnolia) Peters, Rhonda Kay

(Spring) Fancler, Daniel Morris

INVESTIGATION NOS.: 02-12-10050 through 01-12-10201

DOCKET NO.: 457-03-1982

DATE OF BOARD ACTION: 5/15/03

DISPOSITION: The license of each respondent still not in compliance as of the May 15, 2003 Board meeting was suspended for three years, or until he or she complies with the licensing requirements of the *Act*, whichever is sooner. Additionally, a \$100 penalty was imposed for each year a respondent is in non-compliance with the Board's CPE requirements.

The respondents failed to report sufficient CPE credits required under *Section 901.411* of the *Act*. The respondents are in violation of *Section 901.411* of the *Act* as well as *Sections 501.94 (Mandatory Continuing Professional Education)* and *523.62 (Mandatory Continuing Professional Education Reporting)* of the *Rules*.

Three-Year Delinquent Actions

RESPONDENTS: ARIZONA: Genty, Linda Sue Gibson

CALIFORNIA: Akintimoye, Akintunde Samuel

CONNECTICUT: White, Jimmy

GEORGIA: Vaz, Jose Ramon

NORTH CAROLINA: Shandley, Beth Ann Braswell

NEW MEXICO: Ortloff, Curtis Clarence

NEW YORK: Goodwin, Lewis Burton

TEXAS: (Arlington) Southard, Terry Lynn Warren

(Austin) Bradshaw, Lloyd Kenton

(Conroe) Small, Richard Leroy

(Coppell) Stover, Sean Robert; Swoverland, Mark

Darrow

(Dallas) Abdul, Agnes Li; Chandler, Brian Cozby; Konidena, Chandra Sekhar; Levene, Thomas Edward

(Flower Mound) Williams, Elizabeth Ann Naar

(Grapevine) Beene, Charles David

(Houston) Gerhards, Muriel Parker; Jukes, Melissa Leigh Smith; Nevlle, Charles A.

(Humble) Haas, Lee

(Lumberton) Reed, Donald Lee

(Plano) Holmes, Mary B.; Miller, Nancy; Morris, Charles David

(Texas City) Adams, Susan Gertrude

(Waco) Scott, John Shelby

WISCONSIN: Howard, Leslie Scott

INVESTIGATION NOS.: 02-10-10001 through 02-10-10046

DOCKET NO.: 457-03-1302

DATE OF BOARD ACTION: 5/15/03

DISPOSITION: The certificate of each respondent still not in compliance as of the May 15, 2003 Board meeting was revoked without prejudice. Each respondent may regain his or her certificate by paying all the required license fees and penalties and by otherwise coming into compliance with the *Act*. The respondents failed to pay the license fees and penalties required under *Section 901.401* of the *Act* for three consecutive license periods. The respondents are in violation of *Section 901.502(4)* of the *Act*.

RESPONDENTS: CALIFORNIA: Lovitt, Patricia Lorenz

GEORGIA: Butler, Christine Devlin

ILLINOIS: Gandhi, Rachel

MISSISSIPPI: Smith, Anthony Haywood

NEW JERSEY: Prevost, Carla Spiers

TENNESSEE: Gray, Margaret Kirkland

TEXAS: (Allen) Scarbrough, Barry Lynn

(Alvin) Moore, Charles Aubrey Jr.

(Austin) Key, Carol James

(Beaumont) Heins, Robert Henry

(Cedar Hill) Wallace, Leslie Howard

(Dallas) Taber, Brent Wayne

(Dayton) Brothers, Rosemary Simmons

(Houston) Dwyer, Claire Marie; Johnson, Kevin David; Vergara, Julita C.

(Humble) Martin, Gregory Jay

(Midland) Mladenka, Sandra Maria

(Plano) Atkinson, Kathleen Evens; Rahlfs, Gary Wayne

(San Antonio) Goodman, Valerie Ruth

(Spring) Robertson, Kenneth George Jr.

(The Woodlands) Wilkinson, Darrell Lynn

INVESTIGATION NOS.: 02-11-10001 through 02-11-10040

DOCKET NO.: 457-03-1492

DATE OF BOARD ACTION: 5/15/03

DISPOSITION: The certificate of each respondent still not in compliance as of the May 15,

TEXAS STATE BOARD REPORT

PUBLISHED BY THE
TEXAS STATE BOARD
OF PUBLIC ACCOUNTANCY
333 GUADALUPE, TOWER 3, SUITE 900
AUSTIN, TEXAS 78701-3900

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2003 Board meeting was revoked without prejudice. Each respondent may regain his or her certificate by paying all the required license fees and penalties and by otherwise coming into compliance with the *Act*. The respondents failed to pay the license fees and penalties required under *Section 901.401* of the *Act* for three consecutive license periods in violation of *Section 901.502(4)* of the *Act*.

RESPONDENTS: CALIFORNIA: Harvey, John Paul

DISTRICT OF COLUMBIA: Lanier, Julian Armand

FLORIDA: Haley, Henry Berger

OHIO: Kelly, Christopher Michael

PENNSYLVANIA: Sikorski, Gary L.

TEXAS: (Abilene) Haralson, Annette Deshaun

(Addison) Peters, John Orvis

(Arlington) Zbikowski, Anne Elizabeth

(Austin) Britt, John Mark; Prikryl, Donna Jane Hunt

(Bastrop) Jones, Ralph Frederick

(Cedar Park) Lusher, Stephanie Ann Winn

(Dallas) Campbell, Tony Joe; Cotton, Robert Eric; Weyandt, Palmer Harrison;

Wilkerson, Mark Stevens; Wysocki, Lynn Ann; Zimmerman, John Michael

(Dickinson) Walker, Jeffrey Alan

(Garland) Kurtz, Melinda Kay Brown

(Georgetown) Burn, Robert Scott

(Grapevine) Coakley, William Rebeau

(Houston) Groves, Richard Van Michael;

Moore, Samuel George

(Kingwood) Manning, Harold Lee

(Plano) Trepanier, Catherine Lee

(Seabrook) Burchfield, Carol Ann Hall

(Van Alstyne) Stark, Sanford Bruce

WISCONSIN: Thiel, Richard Lloyd
INVESTIGATION NOS.: 02-12-10001 through 02-12-10049

DOCKET NO.: 457-03-1981

DATE OF BOARD ACTION: 5/15/03

DISPOSITION: The certificate of each respondent still not in compliance as of the May 15, 2003 Board meeting was revoked without prejudice. Each respondent may regain his or her certificate by paying all the required license fees and penalties and by otherwise coming into compliance with the *Act*. The respondents failed to pay the license fees and penalties required under *Section 901.401* of the *Act* for three consecutive license periods in violation of *Section 901.502(4)* of the *Act*.

Failure to Renew Action

RESPONDENT: (Houston) Jackson Lee Nash

INVESTIGATION NO.: 02-12-10203

DOCKET NO.: 457-03-1983

DATE OF BOARD ACTION: 5/15/03

DISPOSITION: The respondent's certificate, which was not in compliance as of the May 15, 2003 Board meeting, was revoked without prejudice until such time as the respondent complies with the licensing requirements of the *Act*. He failed to complete the renewal of his licenses required under *Section 515.1 (License)* of the *Rules* and engaged in the practice of public accountancy without a license issued by the Board as required by *Section 501.80 (Practice of Public Accountancy)* of the *Rules*. The respondent is in violation of *Sections 901.502(6)* and *901.502(11)* of the *Act*. ❖

Expert Witness

continued from page 6

In certain instances, the following AIC-PA rules may also apply:

- ♦ *Rule 101, Independence;* and
- ♦ *Rule 203, Accounting Principles.*

A Texas CPA testifying as an expert witness **MUST** hold a current Texas license to practice public accountancy. The absence of a valid license would put the individual in violation of *Section 501.80 (Practice of Public Accountancy)*. In addition, *Section 501.72(c) (Contingency Fees)* prohibits a licensee from performing an engagement as a testifying accounting expert for a contingent fee. The aforementioned behaviors

would constitute a violation of *Section 501.90 (Discreditable Acts)*:

A certificate or registration holder shall not commit any act that reflects adversely on his fitness to engage in the practice of public accountancy. A discreditable act includes but is not limited to . . .

(2) dishonesty, fraud or gross negligence in the practice of public accountancy . . .

(13) false swearing or perjury in any communication to the board or any other federal or state regulatory or licensing authority . . . [EMPHASIS ADDED]

BOARD RULE BOOK AVAILABLE

The Board has published its entire body of rules in a three-ring binder for 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.

Included in the book are the Board's *Rules of Professional Conduct*, as well as the rules on licensing and registration, continuing professional education, peer review, the Uniform CPA Examination, and practice and procedure.

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CONCERNED CPA NETWORK

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

For information call

(800) 289-7053

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

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

DID YOU KNOW?

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

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

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

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