

Texas State Board Report

May 1998

Texas State Board of Public Accountancy
Austin, Texas

Vol. 65

The Board's Complaint Process

THE INVESTIGATION

RAPID GROWTH IN THE PUBLIC accounting profession in Texas has increased the demand on the Board for timely, active, and responsible enforcement of the *Public Accountancy Act of 1991, as amended* (the "Act"), the Board's *Rules of Professional Conduct*, and the Board's rules governing licensing, continuing professional education, and quality review.

The *Act*, the law governing the practice of public accounting in Texas, empowers the Board to investigate complaints against CPAs and CPA firms filed by any source, including the

public, other CPAs, and governmental entities. The *Act* also empowers the Board to enforce all CPA certification and licensing regulations. Generally, the Board's Enforcement Division handles these duties, although the Board refers some cases to the Attorney General's office.

How is a complaint investigated?

Upon receipt of an allegation or upon the Board's own motion, the Enforcement Division staff opens an investigation and notifies the subject of the investigation (the "respondent") of the allegations. By Board rule, the respondent must reply within thirty days.

Each investigation file includes the original allegations and supporting material, information produced during the course of the investigation, and the respondent's response. The file is available only to the respondent or the respondent's designated representative, usually an attorney. The confidentiality provisions of the *Act* prohibit the release of the file to anyone without the respondent's written permission. The staff asks the respondent to comment on pertinent material prior to presenting it to the appropriate Board committee.

The Board staff informs the complainant of each status change in the investigation.

What are the various types of complaints?

Ethical, behavioral, and technical complaints. Once the Enforcement Division re-

A large number of the Board's complaints arise from the failure of license and registration holders to comply with the CPE and quality review requirements, as well as from failure to pay the annual license fees.

The Complaint Process

continued from page 1

ceives the respondent's response to the complaint, one of three Board enforcement committees reviews the allegations. The **Major Case Enforcement Committee** reviews any case of a major nature or one involving a Big 6 firm, a financial institution, or an insurance company. The **Technical Standards Review**

Committee deals with any case that entails the technical application of industry or governmental standards or tax matters. If no technical standards are involved, the matter falls into the purview of the **Behavioral Enforcement Committee**. Between September 1, 1996,

and August 31, 1997, the Board opened 245 disciplinary complaints.

CPE, quality review, and license fee complaints. A large number of the Board's complaints arise from the failure of license and registration holders to comply with the CPE and quality review requirements, as well as from failure to pay the annual license fees. These "administrative" complaints comprise approximately ninety-five percent of all the Board's complaints.

Between September 1, 1996, and August 31, 1997, the Board opened 3,338 administrative complaints.

What is the committee's role?

Each of the Board's enforcement committees meets regularly to review investigations and prepare recommendations for the Board's consideration. A committee has no binding authority, and committee recommendations are subject to the approval of the full Board. These recommendations may include any of the following:

- dismissal based upon the CPA's volun-

tary compliance or upon a finding of insufficient evidence of a violation;

- corrective or educational actions; or
- disciplinary sanctions (such as a reprimand, revocation or suspension of the CPA's certificate), limitation on the scope of practice, probation, imposition of direct administrative costs associated with the case, and/or assessment of administrative penalties.

The complaint may warrant further investigation before it is brought to the Board. Holding an informal conference or public hearing is another option, or action may be deferred pending the outcome of ancillary matters (such as completion of civil litigation or probation or other sentence imposed by a court of law).

What is an informal conference?

An enforcement committee frequently attempts to resolve an investigation by seeking a resolution of the matter during a discussion of the allegations, called an informal conference. At this meeting between the committee, the complainant, and the respondent, committee members interview both parties in order to ascertain the validity of the complaint. The committee announces its recommendations to the parties after deliberating in private.

When the committee believes the respondent has violated the *Act* or the *Rules*, it frequently offers the respondent the opportunity to agree to disciplinary sanctions or corrective action. The respondent may agree, in any combination, to:

- comply with the *Act* and Board rules;
- the revocation or suspension of the CPA's certificate or license;
- a reprimand;
- probation;
- a limitation on the scope of the licensee's public accounting practice;
- undergo a peer review;
- pay direct administrative costs;
- return client documents; and/or
- obtain additional CPE in the areas in which the committee believes the individual needs remedial work.

If the respondent accepts the recommended terms, the committee presents the agreed consent order for the Board's approval and ratification, modification, or rejection at a noticed meeting which is open to the public. The agreed consent order becomes final when the Board accepts its terms.

A CPA may avoid or resolve many of the causes leading to disciplinary sanctions by maintaining lines of communication with clients, other CPAs, and the Board.

A licensee who is familiar with the *Rules of Professional Conduct* will be less likely to violate the *Rules*.

RESOLVING THE CASE

What if a complaint goes to a public hearing?

IF A COMPLAINT IS NOT RESOLVED IN an informal conference or by an agreed consent order, the committee may send the dispute to a public hearing before an administrative law judge of the State Office of Administrative Hearings (SOAH).

According to the *Administrative Procedure Act* and the Board's rules, the Board must give the respondent written notice of the date, time, and place of the hearing, as well as a description of the allegations to be heard. Attorneys from the Enforcement Division or the Attorney General's office represent the Board at public hearings. The respondent has the right to an attorney or may represent himself or herself. (See the table in the January 1998, issue of the *Texas State Board Report* for statistics on attorney representation.)

The hearing follows the rules of evidence in non-jury district court proceedings and is similar to a civil lawsuit. The hearing must comply with the *Administrative Procedure Act*, *Section 22* of the *Public Accountancy Act*, SOAH's rules of procedures (see sidebar), and in certain cases *Chapter 519 (Practice and Procedure)* of the Board's rules. All of the discovery mechanisms of a trial are available in contested case hearings. A court reporter records the proceedings and prepares transcripts at the requesting party's expense.

After the hearing, the administrative law judge prepares a proposal for decision to be presented to the full Board. The parties may submit written exceptions to the administrative law judge's proposal for decision.

The Board may accept, modify, remand, or reject the proposal for decision, and may also accept or reject any exceptions. In any combination, the Board may:

- revoke the respondent's certificate;
- suspend the respondent's license under any terms, conditions, or limitations, not to exceed five years;
- reprimand, censure, or place the respondent on probation;
- place a limitation on the scope of the licensee's practice;
- refuse to renew the respondent's license;

and/or

- impose direct administrative costs and/or penalties on the respondent.

The respondent may appeal Board actions to the district court in Travis County.

What is the best way to avoid a complaint?

A CPA may avoid or resolve many of the causes leading to disciplinary sanctions by maintaining the lines of communication with clients, other CPAs, and the Board. Licensees are encouraged to call or write the staff whenever questions arise. A CPA should keep abreast of all licensing, CPE, and quality review requirements and any rule changes.

The Board enacted *Section 523.32 (Ethics Course)* in the belief that a licensee who is familiar with the *Rules of Professional Conduct* will be less likely to violate the *Rules*. *Section 523.32* requires each licensee to take an approved course on the *Rules* as part of the CPE obligation.

The Board has compiled all its rules (*Rules of Professional Conduct*, rules on CPE, quality review, fees, practice and procedure, licensing, etc.) into a book which is available for \$22.67 (plus tax). Separate brochures containing the Board's rules on CPE and quality review, as well as the *Rules of Professional Conduct*, are also available at no charge from the Board office. For ordering information call (512) 305-7800 or e-mail us at:

publicinfo@tsbpa.state.tx.us

Procedural rules changed for Board hearings

AS OF JANUARY 2, 1998, DISCIPLINARY cases of Texas licensees set for public hearing before the State Office of Administrative Hearings (SOAH) are subject to SOAH's procedural rules. Previously, hearings were conducted under the provisions of *Chapter 519* of the Board's rules.

SB 331, enacted by the 75th Texas Legislature in 1997, required SOAH, which conducts hearings for the Board and other state agencies, to develop one set of uniform procedures for all agencies. However, this change does not apply to cases in which requests for hearing dates were filed with SOAH prior to January 2, 1998; Board hearings falling into this category are still governed by *Chapter 519*.

Copies of the new rules are available from SOAH by calling (512) 475-4993.

Are we ready for the **YEAR 2000?**



So, what's the problem?

NO DOUBT WE'VE ALL HEARD ABOUT the computer problems anticipated when we enter the year 2000. Many of us have probably been looking into our personal and business situations to see what, if any, difficulties we'll face. It will affect not just CPAs in public practice, but also those in industry and government, and their employers.

However, the problem is much more far-reaching than just the PCs on our desks, or even our office networks. The entire planet will be affected at the stroke of midnight on January 1, 2000.

To deal with the state government problem, the Texas Department of Information Resources (DIR) has established the State-wide Year 2000 Project. The Comptroller of Public Accounts

systems are beginning to malfunction as they encounter events that extend beyond the end of 1999. The malfunctions occur because most computer systems store only a two-digit year instead of a four-digit year." The result is that computers may interpret the numerals "00" as 1900 rather than 2000.

The project, authorized by the 75th Texas Legislature, is charged with assessing the impact of the year 2000 problem on state government and coordinating activities connected with solving the predicament. Porterfield states that the Year 2000 Project is "focusing on computer systems in state agencies and institutions of higher education that are 'mission critical' to state operations. These are systems that impact public safety, public health and revenue collection and distribution." The DIR has directed all state agencies to purchase only equipment that is Y2K-compliant.

Porterfield predicts that computer failures will occur in one of two areas: process failures, where computers merely quit working, or data failures, where information is unavailable or calculations are erroneous. Erroneous calculations have the potential for enormous legal and financial exposure.

"Even the latest personal computers with high-speed processors and abundant memory and data storage are not immune from the year 2000 problem. The basic design of the system clock that is built into the processing boards still uses the two-digit convention for the year," Porterfield continues. Machinery with "embedded, computerized components that perform arithmetic operations or date calculations could also fail or malfunction at the turn of the century."

As a CPA, what should I do?

- **First**, identify and prioritize what systems in your office will be affected. If the in-house computer staff can't correct the problem, hire consultants to do it. Ask your vendors and service providers whether their systems are Y2K-compliant, and if not, what their plans are to correct the problem. Non-compliance on their part could result in a business crisis for you.
- **Second**, inform your clients and customers that you are doing everything possible to resolve the situation, and suggest that they investigate their operations to determine what needs to be corrected in their businesses. CPAs in Texas have the potential to notify many businesses of the predicament.
- **Third**, only purchase systems and software that are Y2K-compliant.
- **Fourth**, have a contingency plan in case any system fails.

newsletter, *City & County Financial Management* (Vol. 14, Issue 1, 1997), contains an article by Shannon Porterfield, director of the project. According to the article, "Computer

continued on next page

What systems could be affected?

THE DATE-DRIVEN COMPUTER SYSTEMS controlling many operations could be adversely affected if the date glitches are not corrected. These far-reaching activities include, but aren't limited to:

- operations calculating payrolls, pensions, invoices, interest, and billings;
- electronic funds transfers and credit card transactions;
- telephone and facsimile systems;
- security and alarm systems;
- postage meters;
- elevators and vaults;
- medical equipment;
- aircraft tracking and public transportation systems;
- traffic signals;
- water purification systems;
- heating and cooling systems;
- VCRs, cameras, and camcorders with dateprint capability; and
- shop floor and manufacturing equipment.

According to the December 1997 issue of the *Journal of Accountancy*, "Accounting ap-

plications are probably the most severely affected and also the hardest to bring into compliance. That's because accounting systems depend on many date-sensitive operations. Most accounting software vendors have been striving to make their applications Y2K-compliant."

To find out more . . .

NUMEROUS BOOKS AND ARTICLES HAVE recently been released on the subject of the year 2000 dilemma. The *Journal of Accountancy* published a bibliography of websites in its December 1997 issue, as well as several in-depth articles covering the topic. It also contains a table of software indicating which products are Y2K-compliant.

The AICPA has year 2000 information on its website at:

<http://www.aicpa.org/yellow/ypy2000.htm>

The Texas Department of Information Resources website contains information on the Year 2000 Project. The website address is:

<http://www.dir.state.tx.us/y2k>

Only LICENSED CPAs may prepare AUDITED FINANCIAL STATEMENTS

SOME LICENSEES AND FIRMS ALLOW their licenses and registrations to expire for short periods before submitting the necessary license renewal notice and fees, and reporting CPE to the Board.

The *Public Accountancy Act* and the Board's rules require each individual licensee and firm to maintain a license or registration in order to practice public accountancy. That means for a license to be issued, the fees and the required number of CPE hours must be submitted **prior to the due date printed on the license renewal notice.**

For Board licensing and registration purposes, when the licensing requirements are met the license is issued and is retroactive to the date licensing or registration was required; however, such a lapse can expose the delin-

quent licensee or firm to civil and/or disciplinary action. Texas courts have held that retroactive licensing does not forgive any wrongdoing or negligence while the license was expired. For example, audits (specifically governmental or non-profit audits) performed while the auditor's license or firm registration is delinquent may be rejected by the client or government funding agency because the auditor was in violation of industry or government standards by not being licensed when the report was issued.

The easiest way to prevent such problems is to submit the license fees and CPE (both for the individual CPA and for the firm) before the due date so any problems can be handled before the license expires.

Texas State Board Report

Published by the
**Texas State Board
of Public Accountancy**

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

William Treacy, Executive Director
Erin Ediger, Editor

BOARD MEMBERS

K. Michael Conaway, CPA,
Chairman • Jimmie L. Mason,
CPA, Vice-chairman • April L.
Eyeington, CPA, Secretary •
Jerry A. Davis, CPA, Treas-
urer • Roel Martinez, R.Ph.
• Reagan S. McCoy, Esq. •
Lou Miller • Janet F. Parnell •
Edward L. Summers, Ph.D.,
CPA • Barbara J. Thomas,
CPA • Lorraine J. Yancey,
Esq.

**Accounting/
Administration/
Executive Director**
(512) 305-7800*

Automated Information
(512) 305-7870

CPE
(512) 305-7844**

Enforcement
(512) 305-7866*

Licensing
(512) 305-7853**

Public Information
(512) 305-7802*

Qualifications
(512) 305-7851**

Quality Review
(512) 305-7825**

**24-hour exam
application requests**
(512) 305-7860

FAX
* (512) 305-7854
** (512) 305-7875

WEB SITE
www.tsbpa.state.tx.us

When have you “submit

THERE IS MUCH CONFUSION AMONG PRACTITIONERS about what services fall under the provisions of *Statement on Standards for Accounting and Review Services (SSARS) No.1, “Compilation and Review of Financial Statements.”*

How to change SSARS to make it more “user friendly” has been the focus of the Accounting and Review Services Committee (ARSC), the standard-setting body for the SSARS, since October, 1994 when incoming AICPA chairman Bob Israeloff charged the ARSC with addressing standards overload.

That a practice problem exists was borne out by mail the AICPA received in response to various articles discussing the issue. Building on that, the ARSC, in conjunction with the Private Companies Practice Section (PCPS) Executive Committee, conducted focus groups in Los Angeles, Dallas, New York, and Chicago. These groups further confirmed a practice problem. Finally, in August, 1997, the ARSC held a public hearing in Chicago, primarily to obtain input on whether the applicability section of SSARS No.1 could be clarified to enable CPAs to easily determine when they are required to compile financial statements and when they are not, with particular emphasis on clarifying the definition of “submission”, especially in the context of computer-generated financial statements.

applicability section of SSARS No.1 could be clarified to enable CPAs to easily determine when they are required to compile financial statements and when they are not, with particular emphasis on clarifying the definition of “submission”, especially in the context of computer-generated financial statements.

What has caused the confusion?

Rapid advances in information technology and low-cost software now enable the smallest entity to record transactions and prepare its own financial statements. Nevertheless, many non-public entities look to their CPAs for assistance in accounting and business advisory services. Because of the definition of “submission” in SSARS No. 1, and because financial statements are a by-product of the computer software CPAs use to perform these accounting services, the requirement to compile financial statements can hinge on who has keyed material journal entries or who has “pushed the button” on the computer to print the financial statements.

How does SSARS No. 1 define “submission”?

Paragraph .07 of SSARS No. 1 states:

The accountant should not submit unaudited financial statements of a nonpublic entity to his or her client or others unless, as a minimum, he or she complies with

the provisions of this statement of engagement. Submission of a financial statement as presenting to a client or others is not required unless the accountant has

- a. *Generated, either manually or by computer software, or*
- b. *Modified by material addition, deletion, or disclosure, of information, amounts, or disclosures, in the financial statement prepared by the accountant.*

Most of the existing “user-friendly” financial statement as a by-product of the CPA “pushes the print button”, has been financial statements. In addition, a CPA tries that he or she has prepared the general ledger and the financial statements, therefore, materially changed the amount of the financial statements.

What were some of the issues raised?

The ARSC, in conducting its research, identified several issues and concerns raised with CPAs:

- The financial statements’ volume has increased if the accountant is required to go to the office to add legends and disclosures because the client’s software changes.
- Many CPAs were unaware of the requirements that have to be printed on firm letterhead and manually signed.
- Many CPAs overlooked a requirement that existing standards, such as the requirement for basis financial statements of companies that omit substantially all disclosures.
- Many CPAs are being engaged by part-time or full-time contractors for providing accounting services and management functions that require independence. They are concerned about the independence because they are full-time CPAs rather than as outside accountants.
- The definition of “submission” leaves many CPAs unsure of when to submit financial statements. In fact, it is “adventitious” compilations and instances where a report is issued.

What is being considered by the ARSC?

The ARSC is currently reviewing SSARS that would amend SSARS

A case in point . . .

AT AN ARSC MEETING, ONE OF THE COMMITTEE MEMBERS had an example from his own practice in which he provides only tax services to a client.

The client printed a year-end financial statement on the computer for the CPA to use in preparing the tax return. The CPA used the financial statement like a trial balance, made adjustments to it, and filed it with his workpapers. Subsequently, the client recorded those journal entries in the books and records, and could not reconcile equity. The client called the CPA and asked if he could send him the workpapers in order to check their numbers. Did the CPA have to issue a compilation report? Under current standards — **YES!**

ted" a financial statement?

nt applicable to a compilation
financial statements is defined
ners, financial statements that

ally or through the use of com-

changing account classifica-
losures directly on the client-
ments.

ndly" software generates a finan-
the software; therefore, when the
or she has generated the finan-
CPA who keys material journal en-
d for the client automatically up-
financial statements and has, there-
unts on the client-prepared finan-

aised during ARSC's research?

search, found the most prevalent
re:

elivery is delayed and its cost is
has to take the statements back
s, change titles, or print a report
ware does not allow cosmetic

that a compilation report does not
letterhead, nor does it have to be

ernative options available under
s compiling cash or income tax
r reporting on financial statements
losures.

aged to provide their clients with
ollership services. In addition to
es, they also perform significant
are well beyond lack of indepen-
that SSARS should not be appli-
ctioning as management rather
s.

on" as it exists in SSARS No. 1
whether they have generated fi-
they are often thrown into "inad-
are required to report in circum-
ot useful or needed.

SC?

g a proposed exposure draft of a
ARS No.1 to clarify its applicabil-

ity. The next meeting is set for April 20, 1998 in Chicago, where the
following amendments will be considered:

- Preclude a CPA from compiling financial statements for a client if the CPA performs services for that client that are equivalent to those performed by management. The ARSC modified the draft so that:
 - ✓ this provision would only apply to a CPA who actually performs management services for a client; it would not apply to a CPA who has the authority to perform such services but who does not do so;
 - ✓ the period during which the CPA is affected by this provision would be the period during which the CPA performs management services and through the date of the annual financial statements;
 - ✓ it indicates that performing management services for a client causes the assertions embodied in the financial statements to become those of the CPA; and
 - ✓ Paragraph 22 of SSARS No. 1 (which addresses reporting when the accountant is not independent) would be footnoted to refer the reader to the proposed new guidance on performing management services for a client.
- Add the following to the list of services in Paragraph 7 of SSARS No. 1 that do not constitute a submission of financial statements, and therefore do not trigger the applicability of SSARS:
 - ✓ posting, either manually or electronically, CPA-prepared adjusting journal entries to a client's manual or electronic general ledger, even if the computer is capable of generating financial statements from the electronic general ledger data base that the CPA has adjusted, as long as the CPA does not generate those financial statements or request that others do so on his or her behalf;
 - ✓ providing a client with tax adjustments, worksheets, or adjusted account balances in the context of a tax engagement (even if in the form of financial statements) solely to support amounts included in a CPA-prepared tax return.
- Modify the second item in the list of services in Paragraph 7 of SSARS No. 1 that do not constitute submission of financial statements, to include printing client-prepared financial statements so that the bullet would read:
 - *Typing, reproducing, or printing client-prepared financial statements, without modification, as an accommodation to a client.*
- Delete the requirement in Paragraphs 16 and 34 that compiled or reviewed financial statements include a reference to the accountant's report.

Wanda R. Lorenz, CPA

Technical Standards Review Committee

About the author

Wanda R. Lorenz, CPA, was appointed to the Board in 1993. She has served as the Board's vice-chairman and treasurer, and has chaired the Board's Technical Standards Review Committee. She is currently a member of the Major Case Enforcement and Executive Committees, and is chairman of the Behavioral Enforcement and Rules Committees.

Ms. Lorenz has been managing partner of Lane, Gorman Trubitt in Dallas since 1990.

ENFORCEMENT ACTIONS

Disciplinary Actions

Respondent: Charles Wayne Bever
(League City)

Certificate No.: 035304

Complaint No.: 97-04-13L

Date of Board ratification: 11/13/97

Disposition: The respondent entered into an agreed consent order in which he was issued a reprimand for failing to complete an engagement in a timely and professional manner. The respondent failed to make timely payroll deposits, prepared an inaccurate payroll tax return and failed to file a payroll tax return in a timely manner. The respondent violated *Section 21(c)(4)* of the *Act* and *Section 501.21 (Competence)* of the *Rules*.

Respondent: Robert Richard Bolding
(Salado)

Certificate No.: 005479

Complaint No.: 96-08-21L

Date of Board ratification: 11/13/97

Disposition: The respondent entered into an agreed consent order in which his license was suspended for one year from the effective date of the Board order. The suspension was stayed and the respondent was placed on probation under the following conditions: (1) The respondent must complete the ethics course within thirty days of the effective date of the Board order; (2) the respondent must complete a quality review within ninety days of the effective date of the Board order; and (3) the respondent must return certain listed client records within three days of the effective date of the Board order and send a copy of the transmittal letter and return receipt to the Board. The respondent failed to prepare a client's franchise and corporate tax return, refused to return client records and failed to respond to a client's inquiries without good cause. The respondent violated *Section 21(c)(4)* of the *Act* and *Sections 501.21 (Competence), 501.32 (Records), and 501.41 (Discreditable Acts)* of the *Rules*.

Respondent: Mark Edward Brokaw
(Dallas)

Certificate No.: 022249

Complaint No.: 97-05-05L

Docket No.: 457-97-1363

Date of Board ratification: 11/13/97

Disposition: The respondent's certificate was revoked and he was assessed \$804.85 in administrative costs. The respondent practiced public accountancy after his license and practice unit registration had expired, refused to respond to a client's inquiries, refused to return a client's records, and failed to respond to Board correspondence. The respondent violated *Sections 8, 10, 21(c)(4), and 21(c)(11)* of the *Act* and *Sections 501.32 (Records), 501.40 (Registration Requirements), 501.41 (Discreditable Acts), and 501.48 (Responses)* of the *Rules*.

Respondent: Alfred Lee Collins (Austin)

Certificate No.: 023991

Complaint Nos.: 95-12-92L and 97-01-10L

Docket No.: 457-97-0645

Date of Board ratification: 11/13/97

Disposition: The respondent's certificate was revoked and he was assessed \$1,419.40 in administrative costs. The respondent failed to competently and timely prepare accounting forms and returns despite being engaged to do so, practiced public accountancy without a license and through a non-registered entity, and failed to timely respond to Board correspondence. The respondent violated *Sections 21(c)(4) and 21(c)(11)* of the *Act* and *Section 501.41 (Discreditable Acts)* of the *Rules*.

Respondent: Robert Tipton Edwards
(Dallas)

Certificate No.: 021291

Complaint No.: 97-05-15L

Date of Board ratification: 1/15/98

Disposition: The respondent entered into an agreed consent order in which he was issued a reprimand. The respondent signed and forwarded to the Board an *Experience Form 2-B* as a CPA for a certification candidate while his license as a CPA was expired. The respondent also practiced public accountancy from January 1995 until June 1997 without a license and through an unregistered en-

tity. The respondent violated *Sections 8, 10, and 21(c)(4)* of the *Act* and *Sections 501.4 (Practice of Public Accountancy), 501.40 (Registration Requirements), and 501.41 (Discreditable Acts)* of the *Rules*.

Respondent: Larry Leslie Graham (Arlington)

Certificate No.: 013656

Complaint No.: 97-06-04L

Date of Board ratification: 11/13/97

Disposition: The respondent entered into an agreed consent order in which he agreed to the revocation of his certificate. The respondent, while acting as comptroller of a company, wrote unauthorized checks to himself and falsified reimbursement reports. The respondent violated *Sections 21(c)(2) and 21(c)(4)* of the *Act* and *Section 501.41 (Discreditable Acts)* of the *Rules*.

Respondent: Steven John Johnson
(Dallas)

Certificate No.: 029352

Complaint No.: 96-11-01L

Docket No.: 457-97-1410

Date of Board ratification: 1/15/98

Disposition: The respondent was reprimanded and he was assessed \$804.85 in administrative costs; further, his license was suspended for one year. The suspension was stayed and the respondent was placed on probation for one year. The respondent failed to respond to a client's inquiries, refused to return a client's records in a timely manner, practiced public accountancy without a license, practiced public accountancy through an unregistered entity, and failed to respond to Board correspondence within thirty days. The respondent violated *Sections 8, 10, 21(c)(4), and 21(c)(11)* of the *Act* and *Sections 501.4 (Practice of Public Accountancy), 501.32 (Records), 501.40 (Registration Requirements), and 501.41 (Discreditable Acts)* of the *Rules*.

Respondent: David Leon McNinch
(Alice)

Certificate No.: 016411

Complaint No.: 97-08-02L

Date of Board ratification: 1/15/98

Disposition: The respondent agreed to a probated suspension of his license for the period of his felony probation. The respondent is required to comply with the terms of his criminal probation and to maintain his license and practice unit registrations with the Board. The respondent pled guilty to the felony offense of aiding and abetting in the making of a false demand against the United States for less than \$100. The respondent was sentenced to three years' probation, fined \$15,000, and was ordered to pay restitution of \$85. The respondent violated *Sections 21(c)(2), 21(c)(4), 21(c)(6), and 21(c)(11) of the Act and Section 501.41 (Discreditable Acts) of the Rules.*

Respondent: Aleatris Anne Pritchard (Flower Mound)

Certificate No.: 044329

Complaint No.: 97-05-14L

Date of Board ratification: 11/13/97

Disposition: The respondent agreed to a probated revocation of her certificate until December 13, 2000, under the conditions that she comply with all *Board Rules* and the *Act*, that she satisfy all the terms and conditions of her criminal probation, and that she successfully complete the criminal probation. The respondent pled guilty to theft of property valued at \$20,000 or more. The respondent received deferred adjudication, was placed on probation for four years, was ordered to pay court costs and a fine of \$1,000, was ordered to complete 180 hours of community service, and was ordered to submit to a psychological evaluation and to complete any recommended treatment. The respondent violated *Sections 21(c)(4), 21(c)(5), 21(c)(6), and 21(c)(11) of the Act and Section 501.41 (Discreditable Acts) of the Rules.*

Respondent: Fred Court Sellers Jr. (Houston)

Certificate No.: 021141

Complaint No.: 96-10-14L

Docket No.: 457-97-1411

Date of Board ratification: 11/13/97

Disposition: The respondent's certificate was revoked and he was assessed \$804.85 in administrative costs. The respondent pled no contest to the felony charge of misapplication of fiduciary funds. The court sentenced him to ten years of community supervision and required him to pay restitution in the amount of \$100,000 and court costs.

Additionally, the respondent failed to timely respond to Board correspondence and practiced public accountancy without a license and through an unregistered entity. The respondent violated *Sections 8, 19, 21(c)(2), 21(c)(4), 21(c)(5), and 21(c)(11) of the Act and Sections 501.4 (Practice of Public Accountancy), 501.40 (Registration Requirements), 501.41 (Discreditable Acts), and 501.48 (Responses) of the Rules.*

Respondent: Mark Anthony Stradone (San Antonio)

Certificate No.: 047496

Complaint Nos.: 95-03-13L, 96-05-29L, 96-05-30L, 96-07-05L, 96-07-07L, and 96-07-01L

Docket No.: 457-96-0003

Date of Board ratification: 11/13/97

Disposition: The respondent's certificate was revoked and he was assessed \$3,235.85 in direct administrative costs. The respondent failed to provide a client with an accounting regarding rent he collected from the client's tenants and regarding checks written from the client's rental account, failed to forward rental monies to a client collected by the respondent on property owned by the client, offered accounting services and held himself out as a CPA through a non-registered entity, committed perjury before the Behavioral Enforcement Committee, failed to respond to oral and written communications from his clients, failed to file federal income tax returns for clients, failed to prepare and file incorporation documents for a client, borrowed money from a client and failed to make the required payment on the loan, failed to return client records, and failed to respond to written communications from the Board. The respondent violated *Sections 21(c)(2), 21(c)(4), and 21(c)(11) of the Act and Sections 501.32 (Records), 501.40 (Registration Requirements), and 501.41 (Discreditable Acts) of the Rules.*

Respondent: Murray Edward Taylor Jr. (Houston)

Certificate No.: 006391

Complaint Nos.: 96-07-30L and 97-02-01L

Docket No.: 457-97-0929

Date of Board ratification: 11/13/97

Disposition: The respondent's certificate was revoked and he was assessed \$1,630.04 in direct administrative costs. The respondent failed to timely complete

an engagement for a client, failed to respond to client inquiries within a reasonable time, violated the terms of an agreement with a client by not returning or accounting for money received from the client, breached his fiduciary duty to clients, failed to produce documentation as promised to the Behavioral Enforcement Committee during an informal conference, and failed to respond to Board communications. The respondent violated *Sections 501.21 (Competence), 501.41 (Discreditable Acts), and 501.48 (Responses) of the Rules.*

Respondent: George Edward Todd (Austin)

Certificate No.: 041105

Complaint No.: 97-01-07L

Docket No.: 457-97-1595

Date of Board ratification: 11/13/97

Disposition: The respondent entered into an agreed consent order in which he received a reprimand and his certificate was revoked. The respondent prepared and filed incorrect tax returns for a client and his businesses, practiced public accountancy without a license, practiced public accountancy through a non-registered entity, and failed to accrue sufficient CPE hours to maintain his license. The respondent violated *Sections 8, 10, 15A, and 21(c)(4) of the Act and Sections 501.4 (Practice of Public Accountancy), 501.21 (Competence), 501.25 (Mandatory Continuing Professional Education), and 501.40 (Registration Requirements) of the Rules.*

CPE Actions

Respondents: **TEXAS (Carrollton)** Dunham, Willis Clinton Jr.; Needham, Roxanna Lynn; **(Dallas)** Ritter, Craig Allen; **(Houston)** Cross, Tony Wayne; Hanlon, Gerald Reed; **(Irving)** Carpenter, John M.; **(Kingwood)** Parnell, Harold Solomon Jr.; **(New Braunfels)** King, Donna Christene; **(Plano)** Warriner, Michael Wayne.

Complaint Nos.: 97-07-10064 through 97-07-10167

Docket No.: 457-97-1254.B

Date of Board ratification: 11/13/97

Disposition: The certificate of each respondent was suspended for three years or until such time as the certificate holder comes into compliance with the Board's CPE requirements. The respondents failed to report the minimum number of

continued on page 10

Enforcement Actions

continued from page 9

CPE hours. The respondents' violated *Section 15A of the Act* and *Sections 501.25 (Mandatory Continuing Professional Education)* and *523.62 (Mandatory CPE Reporting)* of the *Rules*.

Respondents: CALIFORNIA Husband, Joy Elise; FLORIDA Nachlinger, Robert Jackson; GEORGIA Held, David Frank; TEXAS (Carrollton) Sobhani, Murli R.; (Coppell) Colmery, Cheryl Ann; (Dallas) Anthony, April K.; Lawrence, John Eric; (Duncanville) Avant, Glynn Elliott; (Euless) Bond, Alan Jay; (Garland) Ramey, Kenneth Paul; (Hitchcock) Bubenik, Kirby Joseph; (Houston) Archer, Vincent William III; Gorden, William Clark Jr.; Houston, Daniel Temple; Quinn, James Edward; (Hurst) Payamipour, Kathleen Blanchard; (Midlothian) Rude, James Emery; (Missouri City) Odom, John Julius Jr.; (Plano) Dey, Eric Richard; (San Antonio) Hill, John Robert; (Sugar Land) Henderson, Michael Richard.

Complaint Nos.: 97-08-10001 through 97-08-10222

Docket No.: 457-97-1485.A

Date of Board ratification: 11/13/97

Disposition: The certificate of each respondent was suspended for three years or until such time as the certificate holder comes into compliance with the Board's CPE requirements. The respondents failed to report the minimum number of CPE hours. The respondents violated *Section 15A of the Act* and *Sections 501.25 (Mandatory Continuing Professional Education)* and *523.62 (Mandatory CPE Reporting)* of the *Rules*.

Licensing Actions

Respondents: ALASKA Harris, Kathy Anne; ARIZONA Bokamper, Thomas Richard; Singleton, Jeffrey Caldwell; CALIFORNIA Hawkins, Ronald Doyle; Gilley, Jack Stewart; COLORADOS Cook, Stephen Peter; FLORIDA Roque, Maria Elena Hernandez; GEORGIA Goodloe, Richard Burke; ILLINOIS Smull, Kenneth A.; Fraley, Robert Douglas; Corna, Louis Joseph; KANSAS Jessen, Craig A.; MISSISSIPPI Lee, Bethany Dianne; NEW JERSEY Merlino, Terri Kelly; NEW YORK Heyward, Eugene; McGowan, Helen Roma; TEXAS (Austin) Resch, William Phillip; (Azle) Sandford, Charles

William; (Dallas) Ditto, W. Paul Jr.; Holbert, Raymond Alon; Littlejohn, Bob Allen; Mackey, Patrick Glenn; Polvogt, Mary Alene; Rareshide, Michael C.; Stout, Joseph Norman; (Fort Worth) Murtishaw, Carl Chadwick; (Garland) Goodwyn, Larry Don; Hennagin, Robert Smith; (Grapevine) Cheesman, Wharton Allen; (Houston) Aldridge, Michael Overton; Baskin, Mary Caroline; Braeutigam, Bette Ann; Chrono, Robert Fowler; Fradkin, Steven Mark; Griese, Jerome Charles; Hipps, William Ryan; Johnson, Jolly Mincey Jr.; Moore, William Miles; Peterson, Mark Thomas; (Irving) Chelette, David N.; Salz, Donald Joseph; (Katy) Kornberg, Kathlyn Lori; (Longview) Scherrer, Richard Dowling; (McAllen) Pax, James Louis; Wolford, John Oliver; (Richardson) Mondoux, Alfred Eugene; (Rosenberg) McDonald, Timothy Eugene; (Seven Points) Desai, Janak Natu; (Spring) Huggins, Donald Cecil.

Complaint Nos.: 97-06-10221 through 97-06-10286

Docket No.: 457-97-1120.D

Date of Board ratification: 11/13/97

Disposition: The certificate of each respondent was revoked without prejudice until such time as the respondent complies with the licensing requirements of the *Rules* and the *Act*. The respondents failed to pay the licensing fees and penalties required under *Section 9 of the Act* for three consecutive license periods. The respondents violated *Sections 9, 9A, 21, and 21(c)(10)* of the *Act*.

Respondents: CALIFORNIA Dreger, William Harold; Kneuper, Edward Jr.; COLORADO Martin, Michelle R.; ENGLAND Ford, Theodore Roger Jr.; FLORIDA Sandmeier, Nancy Jeanne; Willett, Daniel Elder; GEORGIA Kramer, Timothy Marvin; ILLINOIS Rashford, Mary Kathleen; Ray, James Alan; KANSAS Kovarik, Craig; LOUISIANA Merrell, Thomas Vester; West, Ellis Albert; MARYLAND Thomas, Patricia Alice Blanchard; MISSOURI Abbott, James Frank; McClelland, Brenda Marie; MISSISSIPPI Lynch, James Wilson; NEW YORK Nelkin, Randi Sue; OKLAHOMA Karim, Dana Rae Cohlma; Cunningham, Mary Elizabeth Shrode; TENNESSEE Israel, Tracy Alan; TEXAS (Austin) Bartsch, Dennis Joseph; Bussard, Ralph Norman; Pair, Karen Dodd; (Beaumont) Jackson, Bruce Weaver; Leiferman, James Charles; Woods, Sherry Diane Coffman; (Bed-

ford) Shields, Donald Edward; Vu, Uyen Thuy; (Bryan) Cloud, Don Milligan; (Carrollton) Binder, Gerald Joseph; (Dallas) Henry, Michelle; Kleinberg, Steven D.; Lee, Thomas James; Thyfault, Gary Paul; Whitehurst, Wilkerson F.; (Fort Worth) Cooper, Thomas Larry; Morphis, Claud Clifton; Penick, Lee Ann; Pierce, Paul Michael; (Garland) Wiggins, Jerry Keith; (Houston) Albert, Layne Joel; Goodsell, Rebecca McDaniel; Kaminsky, Suzanne St. Clair; Lennox, Janette Crooke; (Plano) Green, Jon Pat; Rogers, Lucille; Washington, Randall Clark; (Prosper) Seay, John Everman; (Richardson) Little, Nina Clara; (Sherman) Hopson, Gretna Char-line Harrison; (Spring) McGuire, Edwin Eugene; (Wichita Falls) Hardon, Richard Dale.

Complaint Nos.: 97-07-10001 through 97-07-10062

Docket No.: 457-97-1254.A

Date of Board ratification: 11/13/97

Disposition: The certificate of each respondent was revoked without prejudice until such time as the respondent complies with the licensing requirements of the *Act* and the *Rules*. The respondents failed to pay the licensing fees and penalties required under *Section 9 of the Act* for three consecutive license periods. Two of the certificate holders are also delinquent in the payment of guaranteed student loans and will not be permitted to regain their certificates until they have paid all Board fees and penalties and are current on their student loans. The respondents violated *Sections 9, 9A, 21, and 21(c)(10)* of the *Act*.

Respondents: CALIFORNIA Alvarez, Christopher Paul; O'Brien, James Keenen; Overton, Thomas David III; Pratt, David Howell; DISTRICT OF COLUMBIA Glick, Andrew Scott; IOWA DeBettignies, Virgil John; ILLINOIS Robleski, Dennis Richard; INDIANA Hollister, Harold Raymond Jr.; LOUISIANA Yallapragada, Rammohan Rao; Connolly, Cynthia Cromiller; NORTH CAROLINA Schaab, Glenn Donald; TENNESSEE Barrett, Victor Lynn; TEXAS (Arlington) Feeler, Arie Wayne; Roberts, Michael Wayne; (Austin) Coakwell, Kelly Maureen; Johnson, David Michael; (Beaumont) McGillivray, Robert E.; (Dallas) Beverly, David Russell; Bradley, William David III; Brown, William Edgar; Freeman, Robert Frederick; Laner, David Bryan; Mason, Clyde

Donald; Owens, Russell Gene; **(El Paso)** Abraham, Wayne Samuel; Baldwin, Mary Theresa; Wolf, Lavelle; **(Houston)** Busbee, Reagan S.; Cartwright, Thomas Addison Jr.; Davis, Jonathan Rand; Kleckner, Michael Garn; Rollins, Alan Michael; Salinas, Romeo L.; **(Katy)** Gill, Kyong Yi; **(Lewisville)** Pharr, Kenneth Lynn; **(Mesquite)** Callison, Stephanie Diane; **(New Braunfels)** Hudson, Paul Roland; **(Plano)** Rene, Richard Harold; **(San Antonio)** Lancaster, Ethel Lavinna Barnes; **(Sugar Bend)** Nguyen, Thom Kieu; **(The Woodlands)** Everest, Jean Irion II; **(Tyler)** Smith, Michael Jay; **TURKEY** Waisanen, Larry John.

Complaint Nos.: 97-08-10244 through 97-08-10299

Docket No.: 457-97-1485.B

Date of Board ratification: 11/13/97

Disposition: The certificate of each respondent was revoked without prejudice until such time as the respondent complies with the licensing requirements of the *Rules* and the *Act*. The respondents failed to pay the licensing fees and penalties required under *Section 9* of the *Act* for three consecutive license periods. The respondents violated *Sections 9, 9A, 21, and 21(c)(10)* of the *Act*.

Respondents: MISSOURI Gary Paul Watrous; NEW MEXICO Denise Rae Wagner; TEXAS (Amarillo) Don L. Rowe; (Austin) Susan Lynn Versluys; Vranich & Stephens, PC; (Beaumont) Anne Reed Steinman; Stella Lass Meza;

(Bellaire) Bridgette Lynne Blount; (Boerne) Celia Powell Healey; (Carrollton) Douglas B. Vanostrand; (Dallas) B. Todd Smith, PC; Frank Valentinetti Jr.; Jana Mary Koop; Janet S. Calhoun; Larry G. Lester; Nancy Aronoff & Associates, Inc.; Paula VanPelt Henderson; (Fort Worth) Walter L. Jones; (Garland) Catharine Caines Clough; Gaynel Addison Rumer; Larry K. Ford; (Gatesville) Joanna Lynn Sellers Was-son; (Houston) Benjamin G. Schoppe; Brown & Brown; Francis Gilbert Davis; George W. Vaughan, PC; Harvey Michael Bashor; Kathy Barger Hollomon; Norman L. Rosenblatt; Pius Nwamanchukwu Okafor; Werner J. Pratkan; (Katy) Jack H. Swepston Jr., PC; (McAllen) Rey David Jaquez; Reyes L. Cortez; (Midland) John Nance Floyd; (Missouri City) Kennamer & Associates, PC; (Pasadena) Robert F. Lockhart; (Richardson) Scott Belsley, PC; (Roscoe) Thomas Vance Griffith; (Rye) H.B. Blankenship Jr.; (San Antonio) Cobb & Cobb; Daniel Wayne Kneese; Warner-Lewis; (Sherman) Gretna C. Hopson; (Spring) Curtis Lee Murphy; (Waco) Albert J. Biggio; (Weatherford) James Michael Dalrymple.

Complaint Nos.: 97-08-10301 through 97-08-10368

Docket No.: 457-97-1485.C

Date of Board ratification: 11/13/97

Disposition: The registration of each respondent firm was revoked without prejudice to regaining the registration if

the respondent firm comes into compliance with the Board's licensing requirements of the *Act* and the *Rules*. The respondent firms failed to provide certain information requested on their firm license notices, thereby failing to complete the renewal of their licenses. The respondent firms violated *Sections 21(c)(4) and 21(c)(11)* of the *Act* and *Section 515.1 (License)* of the *Rules*.

Respondent: Bart J. Glover (Houston)

Certificate No.:

Complaint Nos.: 97-08-10240

Docket No.: 457-97-1485.D

Date of Board ratification: 11/13/97

Disposition: The respondent's certificate was revoked without prejudice to regaining the certificate if the respondent comes into compliance with the Board's licensing requirements of the *Act* and the *Rules*. The respondent failed to provide certain information requested on his individual license notice, thereby failing to complete the renewal of his license. The respondent violated *Sections 21(c)(4) and 21(c)(11)* of the *Act* and *Section 515.1 (License)* of the *Rules*.

Correction

The notice of disciplinary action Complaint No. 96-03-14L Wayne Reiter on page 8 of the January *Texas State Board Report* (Vol. 64) was printed in error.

Concerned CPA Network

Offering **CONFIDENTIAL** assistance
TO CPAS WHO MAY HAVE A DRUG OR ALCOHOL DEPENDENCY PROBLEM.

For information call
(800) 289-7053

8:30 a.m. - 5:00 p.m. Monday through Friday

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

solicitation

THE BOARD CONTINUES TO RECEIVE inquiries concerning the solicitation of potential clients even though it repealed the rule on solicitation, *Section 501.44*, in 1994 as a result of a U.S. Supreme Court decision styled *Edenfield et al. v. Fane*, 113 S. Ct 1792 (1993).

Prior to May, 1994, Board rules were very restrictive in this area: a CPA was limited to soliciting a person who was already a client, who had invited the solicitation, or who had not already engaged the services of another CPA. Furthermore, a CPA could not make an uninvited solicitation addressed to a specific person or titleholder.

Solicitation is now limited only by the provisions of *Section 501.43 (Advertising)* of the Board's rules, which states that a CPA may solicit a person who is not a client or who already has engaged the services of a CPA, and that the licensee may directly address solicitations to specific persons or titleholders. However, the solicitation cannot

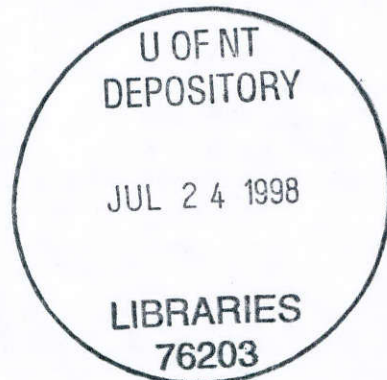
contain fraudulent, misleading, deceptive, or unfair claims. Additionally, a solicitation may not be accompanied by coercion, duress, compulsion, intimidation, threats, overreaching, or by vexatious or harassing conduct. The rule prohibits a CPA from persisting in contacting a prospective client who has indicated a desire not to be contacted. A CPA who uses direct mail solicitation must retain a copy of the solicitation along with a list of persons to whom the solicitation was mailed.

To obtain a copy of the *Rules of Professional Conduct* (which includes the advertising rule), call **(512) 305-7800**. ○

Test your knowledge.

1. *As a CPA, am I allowed to solicit clients?*
2. *Whom may I solicit?*
3. *What about direct mail solicitation?*

Answers: 1. Yes; 2. Anyone; 3. It's ok.



Texas State Board of Public Accountancy
 333 Guadalupe
 Tower 3, Suite 900
 Austin, Texas 78701-3900

BULK RATE
 U.S. POSTAGE PAID
 PERMIT NO. 834
 AUSTIN, TEXAS