

## An Interview with the Chairs of the TSCPA Professional Ethics Committee

By Vivian Pascu-Nierth

With the Enron debacle stirring in the media for so long, and intense focus and scrutiny on the accounting profession, some CPAs may feel nervous about making major decisions. That's why it's good to know there is somewhere members can turn to get experienced, balanced advice to protect them from sticky situations. Recently, *Today's CPA* interviewed Nayland F. Smith, chairman of the TSCPA Professional Ethics Committee, and Charles P. Quirk, Jr., chairman-elect of the TSCPA Professional Ethics Enforcement Subcommittee.

These men work closely with the 28-member committee that seeks to ensure all TSCPA members abide by the TSCPA Code of Professional Ethics, which incorporates the TSBPA Rules of Professional Conduct and the AICPA Code of Professional Conduct. This committee works with the AICPA Joint Ethics Enforcement Programs (JEEP) to investigate potential disciplinary matters resulting from violations of the codes of professional ethics.

The committee works from complaints it receives about TSCPA members from individuals, attorneys, other CPAs, newspaper articles, or anonymous sources via mail, e-mail, or fax. Complaints of violations to the professional ethics code may include not following the appropriate professional standards in auditing and accounting, not fulfilling responsibilities to a client with objectivity and integrity, and not adhering

to independence standards. Complaints can be behavioral in nature. Fee disputes, however, are not handled by the committee.

Committee members are expected to attend four meetings a year and accept assignments to investigate possible violations of the codes. The committee adheres to the confidentiality policies of the AICPA JEEP Program. The identity of members involved in ethics investigations is confidential because individuals are considered to be innocent of a violation until the committee finds otherwise.

All committee members are asked to sign a confidentiality agreement upon appointment. CPAs found at fault potentially face three forms of discipline: (1) their work product may be monitored for a specific amount of time; (2) they may be required to take CPE courses; and (3) in the most serious cases, they can be suspended or expelled from membership in the society.

Investigations and hearing procedures can be lengthy. However, there is no charge for filing a complaint. Funds to operate the TSCPA/AICPA enforcement system come from membership dues.

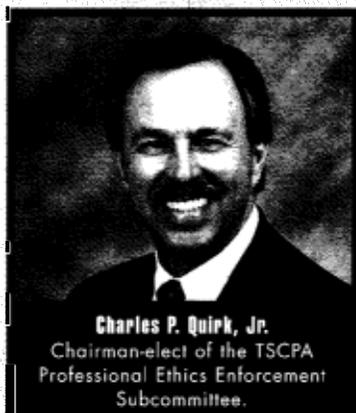
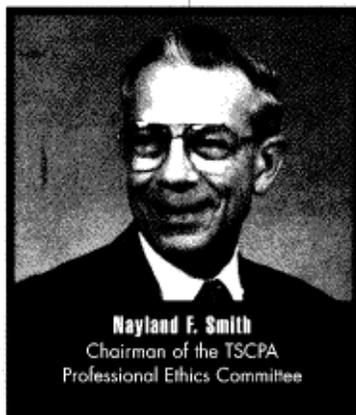
### **Today's CPA: Briefly describe the structure of the committee.**

**Smith:** The committee is arranged so that we have an Enforcement Subcommittee. The subcommittee receives complaints to determine whether there is sufficient

information for an investigation, that is, if proven correct there would be a violation of one or more of the codes of professional ethics. At that point, the subcommittee would vote to recommend to the entire committee that a case be opened, and the subcommittee would decide which violations of the code could have occurred, if the allegations were proven. A member of the subcommittee is assigned to be a buddy or a secondary handler of that case. The full committee then is presented the case to decide whether it merits investigation. When the entire committee votes to open a case, another member of the committee will be the primary handler and will do most of the investigation. The information that we receive in a complaint is always written, and there must be sufficient data. The entire investigation is conducted on a confidential basis. The complainant's name is not revealed to the CPA under investigation. But because specific case-related questions may be asked, the accused CPA may make an assumption about the complainant's identity.

### **Today's CPA: Many may understand that the committee protects the public interest, but how can CPAs benefit from having this committee within their Society?**

**Smith:** The public benefits because if there is a problem that the CPA finds himself/herself involved in, he/she gets assistance from our committee. If an accusation is proved true, the committee usually finds that the CPA is deficient in some point of his/her training or education. At that point, the committee recommends and requires that the CPA undertake and complete, within a specified time and for a specified number of hours, continuing professional education classes. The public benefits because the process increases the



# "There are always people who make mistakes."

## The main goal is to assist members in making decisions

ability of the CPA. This benefits TSCPA members because it helps educate CPAs rather than dismissing them from TSCPA. When a CPA finds himself/herself in trouble and in the undesirable position of coming in front of the committee, the reputation of all CPAs is damaged. It's a salvage process that helps our members by educating them to become better CPAs, thereby helping the reputation of all CPAs.

**Quirk:** CPAs who are not guilty of violations need this committee because they want those who have violated the professional ethics to come back to and maintain the high standards of certified public accountants. This committee helps protect the public and protect our organization. There are some CPAs that say "Boot 'em out of the Society," but that would be a bad reflection on us because we weren't able to help a CPA attain a higher level. It also would take away any control that we have in influencing and educating them in professional ethics.

### **Today's CPA: Does the committee provide any other services besides handling complaints?**

**Quirk:** The committee also offers assistance to CPAs and the public in answering questions about what is ethically right. If someone is concerned about performing some kind of service, they can present their questions to our committee through our hotline. This hotline is offered to CPAs or consumers to answer questions on ethics issues. Contact Patty Tinsley at (817) 419-0167 or [ptinsley@tscpa.net](mailto:ptinsley@tscpa.net), and she will direct you to a CPA with experience in the area of your question. There is also an education subcommittee. This subcommittee handles information distribution on the Web site [[www.tscpa.org](http://www.tscpa.org)] and through TSCPA's other publications. This group was also instrumental in developing the first ethics course.

### **Today's CPA: Can you tell me the backgrounds of some of the members on the 28-person committee? Do you have a need for members?**

**Smith:** In the committee, it's important that all areas of accounting are represented. We have those in public practice and those in private industry. We try to have auditors, tax preparers, educators, industry accountants, and consultants. Many of our members have been on the committee for several years. Right now, we are running short on auditors or those with audit experience. Many of the cases or complaints have to do with an audit report or a process that takes place before the audit is rendered. In an audit, the investigator looks at the audit workpapers and correspondence in addition to seeing if the CPA has followed standards while conducting the audit. It takes someone with audit experience to know the right questions to ask.

**Quirk:** Demographic representation is also important.

### **Today's CPA: What's the average length of time devoted to participation on this committee? How many complaints do you handle in a year?**

**Smith:** Currently, the committee has 50 complaints in some stage of investigation. Last meeting, we opened six cases and closed two. There was also one case referred to the Joint Trial Board because of a lack of cooperation. It is important to note that the committee can only take complaints about TSCPA members.

**Quirk:** Auditors spend the most amount of time working on the committee (five to seven hours), but chairs can spend up to 20 hours a month on it. Most of the members of the Enforcement Subcommittee have experience as

handlers [investigators] and work on several cases. Handlers spend more time reviewing the workpapers, looking for data, and communicating with the accused. In our process, we also offer a private interview with the CPA. This gives him/her a last chance to come in and discuss everything with the handler and two or more of the committee members.

### **Today's CPA: How does the committee safeguard against bias, since they are judging their peers?**

**Smith:** We maintain our impartiality by having strict rules about conflicts of interest. A member would excuse himself/herself from discussion if he/she had a direct conflict of interest. The protection of the accused is that he/she has the entire committee discussing his/her case and making a decision.

**Quirk:** Our diversity helps us make better decisions. We are of different backgrounds. We are here to assist the CPAs, even if they have gotten into trouble.

### **Today's CPA: What are the checks and balances to ensure that the committee does not gain too much power?**

**Smith:** After our committee votes about guilt or a violation committed by a CPA, if the accused is also a member of the AICPA, we send the conclusion to the AICPA for its concurrence. The AICPA will review our steps to make sure the committee completed the investigation, reached the right conclusion, and issued the correct remedial action. If it does not concur, the AICPA will make recommendations about the next steps. As a joint member of the AICPA, the protection for the accused is that the CPA has another organization ensuring that the TSCPA Professional Ethics Committee has not overstepped its bounds. The TSCPA

# We try to help those who get into trouble.

## about what to do based on ethical codes before they act."

committee, is given authority by the bylaws but primarily by the AICPA JEEP [Agreement]. There is a manual of requirements and procedures (in the ethics investigations). Those are our checks and balances.

**Quirk:** So that we are not too harsh or too lenient, the committee also has a matrix that we use to determine what we should be doing. This matrix follows, in various cases, the matrix that the AICPA uses. Consistency is the key.

### **Today's CPA: What is required of a member under investigation?**

**Smith:** A member who has the complaint filed against him/her will not know about it until we send an opening letter after the case is presented to the Enforcement Subcommittee. The subcommittee recommends that we open the case. At that point, the primary and secondary handlers have the case and send an opening letter to the CPA for reply. The letter will contain enough information for the CPA to understand the reasons for the letter. The opening letter will contain the possible violations of the Professional Code of Ethics – those of the state board and the AICPA. The letter asks the CPA for additional information.

**Quirk:** It is important that the member fully cooperate at all times. CPAs are normally given 30 days to respond to any requests. If they do not respond or cooperate, then the committee turns the cases over to the Joint Trial Board for non-cooperation. This is only after a long and arduous process of trying to get a response.

**Today's CPA: These can be very sensitive issues. If a CPA is found to be under investigation, it could ruin his/her reputation. How does the committee prevent this from happening?**

**Smith:** Each of the members of the ethics committee signs an oath of confidentiality. We do not discuss cases with non-committee members outside the committee room. The handler and a buddy may discuss it over the telephone, but they can't discuss the case with anyone except a committee member. We enforce that strictly. The case is investigated in such a manner that we do not ask other individuals about the case. If we receive a complaint from an individual or non-CPA, we may require that person to provide additional information, but the complainant is the only person we would contact for more details (other than accessing public records). Whether the CPA is guilty or not, we protect the rights of the CPA to the greatest degree because it is his/her reputation we are trying to preserve.

**Quirk:** All correspondence relating to these cases is marked "personal and confidential," and all the committee members are responsible for making sure their active cases are kept confidential. After completing a case, all notes are destroyed (in accordance with the file destruction policy).

**Today's CPA: In light of the Enron debacle, accountants are being heavily scrutinized. Many are turning to CPA regulating bodies and asking why they did not see this before it happened. What would you say if the courts turned to you and said, "Where was the ethics committee when this happened?"**

**Smith:** Our agreement with the AICPA, through the JEEP, gives them the authority to investigate when national firms or SEC violations are involved. Our committee will not get involved in the investigation of the Enron case. The AICPA will investigate it. After they have reached a conclusion, they will submit

their findings to our committee for concurrence of their actions. I have been on the committee a number of years, and I know from experience that we do a thorough job of investigating the facts.

**Quirk:** We have always been right here to answer any questions that members have about professional ethics. But we can't investigate anything until we are requested to do so by a formal complaint. We can only be available to answer any questions anyone may have about violations. We are here. In each instance, we must follow the most restrictive code that applies to TSCPA members. If the state board or AICPA changes any of the codes, we will enforce them.

**Today's CPA: What goals do you hope this committee will accomplish in the next five years?**

**Smith:** We would hope not to see any more complaints. There are always people who make mistakes. We try to help those who get in trouble. The main goal is to assist members in making decisions about what to do based on ethical codes before they act.

**Quirk:** To try to make sure that all CPAs are aware of their professional ethics. Our main goal is to get new CPAs acquainted with the codes. Educating them so they will never have to come before this committee is essential. The ethics course has been helpful over the years and has lessened the number of cases we receive by allowing CPAs to review for four hours the code they must abide by. We would like to continue this trend. ❁

---

*About the Author: Vivian Pascu-Nierth is editor of Today's CPA. Comments may be directed to Vivian at TSCPA; 14860 Montfort Drive; Suite 150; Dallas, TX 75254-6705 or vniert@tscpa.net.*