

Austin Area Chapter Association of Certified Fraud Examiners

President's Corner

Tracy Bohmer, CFE, CPA

The first year of my term is almost complete. It has been a great pleasure to work with the Chapter Board members. Special thanks to each of the board members for all the hard work and dedication. Each Board member has stepped up to the plate and provided the time, expertise, and unique prospective that has enabled our Chapter to have such a successful year.

The Board thanks everyone for the support of the spring seminar. We were able to award \$2,500 for scholarships that will be awarded at the May 4th chapter meeting. The continued participation of our members is what drives the success of our Chapter.

May's meeting will be the last until September. The Board will continue to meet during the summer make plans for next year. We already have some exciting speakers lined up for the fall. Hope you all have a great summer!

Chapter Meeting Schedule

Time: 12:00 to 12:50 p.m.
Lunch served promptly at 11:45 a.m.

Location: Nuevo Leon Restaurant
1501 East, 6th Street

Cost: Luncheon Only:
\$11.00 – Chapter Member
\$13.00 – Non-Chapter Member

This Month's Meeting

Date: May 4, 2009

Speaker: Larry Bradford, CPA

Topic: *THOSE WHO LIE, CHEAT & STEAL
FOR FUN AND PROFIT*

**register on line: www.austinacfe.com
or**

call 512-923-8656

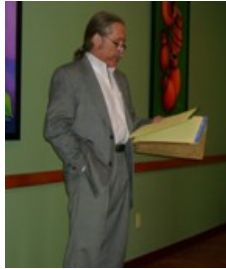


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What You Missed

**By Mike Garner, CFE,
CIA**



If you were not able to attend the April 6, 2009 chapter meeting, you missed an entertaining presentation on "Investigations by the Texas Alcoholic Beverage Commission" by Mr. Lou Bright, General Counsel, Texas Alcoholic Beverage Commission. He has been with the Commission since 1994 and prior to that he spent seven years in the Texas Attorney General's Office and before that was in private law practice in both Waco and Austin. He graduated Magna Cum Laude from St. Mary's University and received his law degree from Baylor University in 1981. His topic focused on the systems of governance and controls used by Texas and the Texas Alcoholic Beverage Commission (TABC) to prevent, deter, and detect compliance violations and fraudulent activities.

Mr. Bright discussed the 2008 TABC operational numbers. TABC was responsible for 41,448 different outlets; issued 75,452 different permits (a large percentage of the outlets have multiple permits). Texas had sales of 678 Million gallons of alcoholic beverages and TABC collected \$192 Million in taxes. Since 1935, Texas has collected \$7.9 Billion in liquor taxes. Originally taxes were being collected by TABC, but now they are collected by the State Comptroller's Office.

The TABC legal staff reviews and prosecutes administrative violations of the Alcoholic Beverage Code by permittees and licensees, as well as reviews and prosecute protests to the issuance of original and renewal licenses and permits. These protests may be filed by the Commission, local authorities, and/or private citizens. The General Counsel and his staff also handle general legal work for the Commission and respond to legal inquiries from the public, permittees and licensees.

TABC (formerly the Texas Liquor Control Board) was created in 1935 soon after the 21st Amendment was ratified by the states in December 1933 (this was a very fast ratification process as the Amendment was passed in February 1933 and fully ratified by the states in December 1933). Mr. Bright went into some detail regarding the reasons that prohibition was eliminated by this Amendment including the following.

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AUSTIN AREA CHAPTER OF
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1. The average citizen was violating this law. A study was conducted during the period this law was in force (1919-1933) and it took an average of 15 minutes to find a place to have an alcoholic beverage in the major cities visited. This is in contrast today to narcotics where this is not an open activity and only the criminal elements of our society are purchasing this product.
2. Although the distribution system during the period 1919 through 1933 was very efficient and effective, it was being controlled by the criminal elements of our society using Thompson sub-machine guns as enforcement tools instead of the law and law enforcement personnel.

The TABC inspects, supervises and regulates every phase of the business of manufacturing, importing, exporting, transporting, storing, selling, advertising, labeling and distributing alcoholic beverages, and the possession of alcoholic beverages for the purpose of sale or otherwise. This is an exercise of the police power of the state for the protection of the welfare, health, peace, temperance, and safety of the people of the state and is liberally construed to accomplish this purpose.

The Texas Alcoholic Beverage Code was enacted to protect against involvement of the criminal element in alcoholic beverage trafficking. The state legislature has very strictly prohibited persons who have been convicted of certain crimes from obtaining licenses or permits. Also prohibited are "tied house" violations where ownership overlaps the three marketing levels or tiers (manufacturing, wholesaling and retailing) in the beverage alcohol industry.

The separation of these marketing levels is closely scrutinized. TABC employees review all shipments of alcoholic beverages into Texas, as well as any transfer of merchandise between wholesalers. Background investigations and other research are undertaken when a person applies for a permit or license to operate in some phase of the industry. Efforts are made to detect ownership by others involved at different levels, as well as those factors which could tend to disqualify an applicant, such as previous criminal history or indebtedness to the state for taxes.

The Alcoholic Beverage Code mandates that the tiers, or different levels of the alcoholic beverage industry, should operate independently of each other. This is the key principal behind the three-tier system. So, this governance concept helps to set the rules, conduct, and culture of TABC. Under the three-tier system, products, goods and services must move through each tier.

Regulatory control of the alcoholic beverage industry is established through the process of issuing more than 60 different types of licenses and permits. An individual must hold the proper license or permit to be able to operate in the alcoholic beverage business in Texas. To receive this license or permit, they must swear to their answers to very detailed questions that are designed to ensure that they not only qualify under the TABC Code, but that they are also open and honest.

Mr. Bright emphasized several times two very important lessons that he has learned while at TABC. The first is that a well defined and understood structure will drive behavior and help create a culture of compliance. Texas and TABC has developed a well defined, understood, and consistently performed structure and related culture that has multiple checks and balances to better ensure that non-compliance and fraud is prevented, deterred, detected, and corrected quickly and systematically. The second is that even with such a structure and culture, high volume low cost transactions are still a high risk for non-compliance and fraud.

Mr. Bright provided examples of these high volume low cost type risks. A convenience store owner would capture credit card numbers and then every month charge about \$12 to each number. If the customer would call him and complain, he would apologize for the error return their money and give them a free tank of gas. This works very well at convenience stores next to college campuses because the students will put things on the credit cards and then the parents will see the statements and make payments. The parents generally will not question low dollar transactions.

The next example involved Mr. Bright and his wife looking at their credit card bill. When they were reconciling their credit card bills, his wife asked him what he was doing at Rockwall, Texas two weeks before. He said he didn't remember being in Rockwall and she said that he ran up \$600 at the La Quinta there. They contacted the hotel clerk and the clerk remembered the man that indicated that he was checking in, but going to use his wife's credit card. He then gave the clerk the credit card number and said his wife would bring the card to him later. Although they were able to get this charge off their bill, this helped Mr. Bright better understand the need to protect his information from identity theft.

Mr. Bright closed with story about a case headed by Mr. Doyne Bailey, who was the Administrator of TABC from February 7, 1994 through February 28, 2001. The case involved a stolen tractor trailer full of beer that the thieves were trying to sell in Laredo for \$45,000. Mr. Bailey wanted to send agents to Laredo to buy the beer and then arrest the thieves, but TABC did not have that kind of money. So they went to DPS and borrowed \$45,000 (from confiscated drug cash) and then sent three agents from East Texas down to Laredo with the money to make the bust. While this was going down, Mr. Bailey was very anxious and pacing back and forth. Mr. Bright attempted to reassure him that these thieves were probably locals and probably didn't even have any weapons. Mr. Bailey said his concern was that he just sent three agents to the Mexican border with \$45,000 in cash and was concerned about the temptation that this posed for them.

Speaker's Biography

Larry Bradford

Our May 4th luncheon speaker will be Larry Bradford, a CPA for over 35 years, the last 20 years concentrating in litigation matters. He is Managing Director of Financial Forensics Corporation, which provides services in Forensic Accounting, Business Valuations, Damage Calculations, and Expert Witnessing.

Mr. Bradford is certified in his discipline by the AICPA, the national rule making body for accountants of the U.S., having earned the coveted ABV and CFF designations for Business Valuations and Financial Forensics. He has been admitted as an expert witness in over 300 trials in Federal and State courts from California to Florida, and has been appointed by state district courts to serve as Master, a position of trust with the Court to independently determine facts and to solve controversy as a representative of the Court.

He is an Army Veteran, having served in Vietnam, where he learned the meaning of life at an early age (but that is a whole different speech!!) Mr. Bradford's talk will be regarding: "Those who Lie, Cheat & Steal for Fun and Profit", a talk about financial crimes and otherwise bad behaviour.

The Spotlight's On You!

A special feature focusing on members of the Austin Area Chapter of ACFEs

Mike Garner has been a member of the
ACFE

for the past 20 years.

But maybe you didn't know...



Job Description:

Internal Auditor with the Texas Adjutant General's Department

What I'm working on now:

Internal Audits on the State Property and Fiscal Office programs and on the State Human Resources programs. Also, I'm working on implementing an Internal Audit Corrective Action Plan.

Best part of my job:

Working with employees and other Internal Auditors that have a passion for fulfilling and completing, to the best of their abilities, their responsibilities at work and in life.

Ambition and/or Goals:

To improve what I am doing and how I am doing it.

Years of state service:

31+ years.

My first job:

Produce Boy, Lampasas Piggly Wiggly.

Hobbies:

Playing games (tennis, dominoes, cards, chess, etc.); watching movies; walking; and nature hikes.

Favorite Movies:

The Ghost and Mr. Chicken, It's a Wonderful Life, White Christmas, Meet Me in St. Louis, Rear Window, North by Northwest, The Man Who Knew too Much (The Man who Knew too Little is also very good), To Kill a Mockingbird, Ordinary People, and Adventures in Babysitting.

Last books I read (listened to):

The First patient by Michael Palmer.

Favorite foods:

Grilled fish.

Favorite Restaurants:

Catfish Parlor in Austin and Giovanni's in Lampasas.

My pet(s):

Three outdoor cats Lucky, Beauty, and Dirty. I also have a plastic goldfish that I keep in a goldfish bowl.

It's a good day when:

I am able to walk at least two miles.

Pet Peeves:

Too many words and/or too much detail.

What I would do with a surprise afternoon off:

Go for a walk and/or listen to a book.

I'm most proud of:

Jesus.

Most people probably don't realize:

I live on 70 acres near Lampasas that has been in my family for four generations; my brother Jeffery and his wife have 14 children; and I have been writing the "What You Missed" article for the chapter newsletter for over 11 years.

April Seminar Speakers



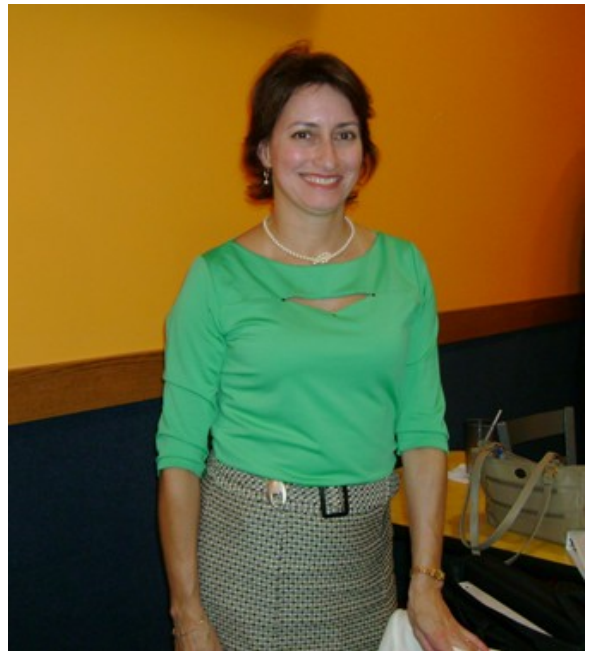
Robert Elder



Tanya Elliott with President Tracy Bohmer (in front of the projector)



Mark Luker, Glyn Rogers, Elizabeth Heinrich, Lori Smith



Patricia Nascimento