



TEXAS ETHICS COMMISSION MEETING MINUTES

October 13, 2008, 10:05 a.m..

Capitol Extension, Room E1.010, Austin, Texas 78701



COMMISSIONERS PRESENT: Tom Harrison, Chair; Ross Fischer, Vice Chair; Raymond R. "Tripp" Davenport, III; Wilhelmina Delco; Jim Graham; Paula M. Mendoza; and Nicholas C. Taylor.

COMMISSIONERS ABSENT: David Montagne.

STAFF PRESENT: Natalia L. Ashley, Amy Barden, Margie Castellanos, Homer Diaz, Robbie Douglas, Susana Esparza, Sharon Finley, Ginger Hunter, Brad Johnson, Becky Levy, Bobby Mannas, Mike McElhaney, Sandy Mitchell, David A. Reisman, Veronica Scott, Tim Sorrells, Ian Steusloff, and Mary Young.

MINUTES

This meeting was tape recorded. These minutes are a summary record of the Commission's actions at the meeting. For a detailed record of discussions and statements made by persons speaking at the meeting, please consult the audio tapes on file at the Commission's office.

Agenda Item 1: Call to order; roll call.

The meeting was called to order by Chair Harrison. David A. Reisman, Executive Director, called the roll. All Commissioners were present, except Commissioners Davenport whose plane was delayed and Montagne who will not be in attendance due to a family emergency.

Agenda Item 2: Communication to the Commission from the public.

Jim Dillon, Freedom Fighters, spoke before the Commission.

Agenda Item 3: Comments by the commissioners.

None.

Agenda Item 4: Comments by the executive director.

David A. Reisman, Executive Director, made the following comments:

1. This calendar year, 351 sworn complaints have been filed. Mr. Reisman briefed the commission on the sworn complaint filings chart covering 1999 through October 13, 2008.
2. Mr. Reisman briefed the commission on the customer satisfaction surveys, whose primary comments were regarding the personal financial statement. Becky Levy, Director of Disclosure Filings, presented the idea

of creating a software program that would allow filers to fill out Form PFS. Sharon Finley, Director of Computer Services, is in the process of testing the newly developed software program.

3. Texas Ethics Commission staff is in the process of editing the training video for candidates and officeholders for filing their campaign finance reports. Once completed, the video will be available on the Ethics Commission's website for download and also there will be DVDs available for distribution upon request. Mr. Reisman thanked Representative Vicki Truitt and Speaker Craddick and his office for their support of this training video project.

Agenda Item 5: Approve minutes of the August 15, 2008, meeting.

Motion by Commissioner Taylor to adopt the August 15, 2008, meeting minutes; second by Commissioner Graham. Motion passed by a vote of six ayes.

Agenda Item 6: Discussion and possible action regarding recommendations to the Legislature.

Chair Harrison inquired regarding Recommendation No. 4: Restrictions on Personal Use of Contributions. Natalia L. Ashley, General Counsel, briefed the commission on this agenda item.

For Agenda Items 7 and 8, the following represents the actions taken by the Ethics Commission in the order they occurred during the meeting.

Commissioner Davenport arrived at 10:13 a.m.

Agenda Item 7: Briefing, discussion, and possible action to waive or reduce certain penalties assessed for late filing of campaign finance reports, lobby reports, or personal financial statements.

13. Legislative Air Quality Caucus (00064957)

Report (a): legislative caucus report due January 15, 2008
Penalty: \$500
Staff recommendation: no waiver of the late-filing penalty

Report (b): legislative caucus report due July 15, 2008
Penalty: \$500
Staff recommendation: no waiver of the late-filing penalty

Total penalties: \$1,000

Scheleen Walker, Legislative Director with Representative Donna Howard, spoke before the commission. Motion by Commissioner Delco to waive the late-filing penalties for Agenda Item 7, number 13; second by Commissioner Taylor. Motion passed by a vote of seven ayes. **Waiver of the late-filing penalties is adopted on Agenda Item 7, number 13.**

31. Antonio M. Rodriguez, Candidate, District Judge (00032177)

Report: semiannual report due July 15, 2008
Penalty: \$1,700
Staff recommendation: reduction of the late-filing penalty to \$500

Antonio Rodriguez spoke before the commission. Motion by Commissioner Delco to adopt staff's recommendation on Agenda Item 7, number 31; second by Commissioner Mendoza. Motion passed by a vote of seven ayes. **Staff's recommendation is adopted on Agenda Item 7, number 31.**

11. Harold Daniel, Treasurer, Better Austin Today PAC (00062494)

Report: special pre-election report of direct expenditures due May 2, 2008
Penalty: \$500
Staff recommendation: no waiver of the late-filing penalty

Fred Lewis, Attorney, Public Interest Advocate, spoke before the commission. Motion by Commissioner Davenport to waive the late-filing penalty for Agenda Item 7, number 11; second by Chair Harrison. Motion passed by a vote of seven ayes. **Waiver of the late-filing penalty is adopted on Agenda Item 7, number 11.**

40. Paul E. Moore, Executive Secretary, Veterans Land Board (00054437)

Report: personal financial statement due April 30, 2008
Penalty: \$500
Staff recommendation: At the August 2008 meeting, the Commission voted not to waive the late-filing penalty

Paul E. Moore spoke before the commission. Motion by Commissioner Taylor to waive the late-filing penalty for Agenda Item 7, number 40; second by Commissioner Davenport. Motion passed by a vote of seven ayes. **Waiver of the late-filing penalty is adopted on Agenda Item 7, number 40.**

1. Jose A. 'Joe' Lopez, District Judge (00057957)

Report: semiannual report due July 15, 2008
Penalty: \$500
Staff recommendation: waiver of the late-filing penalty

2. David P. Simpson, Treasurer, 'RPGC-CEC' Republican Party of Gregg County (CEC) (00052869)

Report: semiannual report due July 15, 2008
Penalty: \$500
Staff recommendation: waiver of the late-filing penalty

3. Larry W. Baraka, Candidate, Criminal District Court Judge (00019752)

Report: semiannual report due July 15, 2008
Penalty: \$2,100
Staff recommendation: waiver of the late-filing penalty

4. Elizabeth A. Berry, Criminal District Court Judge (00051166)

Report: semiannual report due July 15, 2008
Penalty: \$500
Staff recommendation: waiver of the late-filing penalty

5. Brenda P. Kennedy, District Judge (00051821)

Report: semiannual report due July 15, 2008
Penalty: \$500
Staff recommendation: waiver of the late-filing penalty

6. Gregory P. Lowery, Candidate, District Attorney (00063376)

Report: semiannual report due July 15, 2008
Penalty: \$600
Staff recommendation: waiver of the late-filing penalty

Motion by Commissioner Graham to adopt staff's recommendations on Agenda Item 7, numbers 1 through 6; second by Commissioner Mendoza. Motion passed by a vote of seven ayes. **Staff's recommendations are adopted on Agenda Item 7, numbers 1 through 6.**

41. Melody M. Wilkinson, Candidate, District Judge (00040825)

Report: special pre-election report due April 2, 2008
Penalty: \$500
Staff recommendation: At the August 2008 meeting, the Commission voted not to waive the late-filing penalty

Melody Wilkinson spoke before the commission. Vice Chair Fischer abstained. **The late-filing penalty for Agenda Item 7, number 41, stands due to lack of a motion.**

7. Chung-Hwei Chernly, Member, Texas State Board of Acupuncture Examiners (00058085)

Report: personal financial statement due June 30, 2008
Penalty: \$500
Staff recommendation: no waiver of the late-filing penalty

8. Jack D. Ladd, Chair, State Securities Board (00015296)
- Report: personal financial statement due April 30, 2008
Penalty: \$500
Staff recommendation: no waiver of the late-filing penalty
9. Billy W. McClendon, Member, Texas Juvenile Probation Commission (00053118)
- Report: personal financial statement due June 30, 2008
Penalty: \$500
Staff recommendation: no waiver of the late-filing penalty
10. Cindy Brinker Simmons, Member, Cancer Prevention and Research Institute of Texas Oversight Committee (00063787)
- Report: personal financial statement due April 30, 2008
Penalty: \$500
Staff recommendation: no waiver of the late-filing penalty
- Motion by Commissioner Mendoza to adopt staff's recommendations on Agenda Item 7, numbers 7 through 10; second by Vice Chair Fischer. Commissioner Taylor recused himself on Agenda Item 7, number 8. Motion passed by a vote of seven ayes on Agenda Item 7, numbers 7, 9 and 10. Motion passed by a vote of six ayes on Agenda Item 7, number 8. **Staff's recommendations are adopted on Agenda Item 7, numbers 7 through 10.**
12. Ronald E. 'Ron' Enns, District Judge (00019958)
- Report: semiannual report due July 15, 2008
Penalty: \$500
Staff recommendation: no waiver of the late-filing penalty
14. Richard Levy, Lobbyist (00010024)
- Report: lobby activities report due July 10, 2008
Penalty: \$500
Staff recommendation: no waiver of the late-filing penalty
15. Cynthia L. Muñiz, District Judge (00037184)
- Report: semiannual report due July 15, 2008
Penalty: \$500
Staff recommendation: no waiver of the late-filing penalty
16. Michael 'Mike' O'Day, State Representative (00060245)
- Report: semiannual report due July 15, 2008
Penalty: \$500
Staff recommendation: no waiver of the late-filing penalty

17. Bonnie Rangel, District Judge (00037747)
- Report: semiannual report due July 15, 2008
Penalty: \$500
Staff recommendation: no waiver of the late-filing penalty
18. David C. Rankin, Candidate, District Judge (00062816)
- Report: semiannual report due July 15, 2008
Penalty: \$600
Staff recommendation: no waiver of the late-filing penalty
19. James D. Schull, Candidate, State Representative (00062138)
- Report: semiannual report due July 15, 2008
Penalty: \$600
Staff recommendation: no waiver of the late-filing penalty
20. Sherry Sylvester, Lobbyist (00060694)
- Report: lobby activities report due August 11, 2008
Penalty: \$500
Staff recommendation: no waiver of the late-filing penalty
21. James R. 'Rod' Tanner, Candidate, County Party Chair (00063073)
- Report: semiannual report due July 15, 2008
Penalty: \$500
Staff recommendation: no waiver of the late-filing penalty
22. Kathryn Ward, Chair, Collin County Republican Party (P) (00023991)
- Report: political party report due July 15, 2008
Penalty: \$500
Staff recommendation: no waiver of the late-filing penalty
- Motion by Commissioner Mendoza to adopt staff's recommendations on Agenda Item 7, numbers 12, 14 through 22; second by Vice Chair Fischer. Motion passed by a vote of seven ayes. **Staff's recommendations are adopted on Agenda Item 7, numbers 12, 14 through 22.**
23. C. Brandon Creighton, State Representative (00051451)
- Report: semiannual report due July 15, 2008
Penalty: \$500
Staff recommendation: reduction of the late-filing penalty to \$250

Agenda Item 7, number 23, postponed at the filer's request.

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24. Susan Delgado, Candidate, State Senator (00056011)
- Report: semiannual report due July 15, 2008
Penalty: \$500
Staff recommendation: reduction of the late-filing penalty to \$250
25. Robert T. Grajeda, Treasurer, San Antonio Police Officers Assn. PAC (00015827)
- Report: monthly report due August 5, 2008
Penalty: \$500
Staff recommendation: reduction of the late-filing penalty to \$250
26. Susan L. Hawk, District Judge (00051972)
- Report: semiannual report due July 15, 2008
Penalty: \$500
Staff recommendation: reduction of the late-filing penalty to \$250
27. Jeffrey T. Nielsen, Treasurer, 'HouConPAC' Houston Contractors Assn. PAC (00016047)
- Report: monthly report due July 7, 2008
Penalty: \$500
Staff recommendation: reduction of the late-filing penalty to \$250
28. Harold Oliver, Lobbyist (00055191)
- Report: lobby activities report due July 10, 2008
Penalty: \$500
Staff recommendation: reduction of the late-filing penalty to \$250
29. Richard J. 'Rich' Phillips, Candidate, State Representative (00057527)
- Report: semiannual report due July 15, 2008
Penalty: \$500
Staff recommendation: reduction of the late-filing penalty to \$250
30. Emil Reichstadt, Candidate, State Representative (00062302)
- Report: semiannual report due July 15, 2008
Penalty: \$500
Staff recommendation: reduction of the late-filing penalty to \$250

32. Alan Sager, Treasurer, 'TCRPCEC' Travis County Republican Party (CEC) (00039023)
- Report: semiannual report due July 15, 2008
Penalty: \$500
Staff recommendation: reduction of the late-filing penalty to \$250
33. Erik Secrest, Treasurer, 'KPPFPAC' Kerrville Professional Fire Fighters Political Action Committee (00057802)
- Report: semiannual report due July 15, 2008
Penalty: \$500
Staff recommendation: reduction of the late-filing penalty to \$250
34. Farrukh Shamsi, Treasurer, 'AADT PAC' Asian American Democrats of Texas PAC (00060065)
- Report: semiannual report due July 15, 2008
Penalty: \$500
Staff recommendation: reduction of the late-filing penalty to \$250
35. David G. Shulman, Treasurer, EYE PAC Of The Texas Ophthalmological Assn. (00016861)
- Report: monthly report due August 5, 2008
Penalty: \$500
Staff recommendation: reduction of the late-filing penalty to \$250
36. Barbara A. Walther, District Judge (00020908)
- Report: semiannual report due July 15, 2008
Penalty: \$500
Staff recommendation: reduction of the late-filing penalty to \$250
37. Mark Williams, Candidate, State Representative (00058469)
- Report: semiannual report due July 15, 2008
Penalty: \$500
Staff recommendation: reduction of the late-filing penalty to \$250

Motion by Commissioner Delco to adopt staff's recommendations on Agenda Item 7, numbers 24 through 30, and 32 through 37; second by Commissioner Mendoza. Motion passed by a vote of seven ayes. **Staff's recommendations are adopted on Agenda Item 7, numbers 24 through 30, and 32 through 37.**

38. Douglas Dunsavage, Lobbyist (00055935)
- Report: lobby activities report due April 10, 2008
Penalty: \$500
Staff recommendation: At the August 2008 meeting, the Commission voted not to waive the late-filing penalty

The late-filing penalty for Agenda Item 7, number 38, stands due to lack of a motion.

39. Jackie Ann Fowler, Member, Lavaca-Navidad River Authority (00055947)

Report: personal financial statement due April 30, 2008
 Penalty: \$500
 Staff recommendation: waiver of the late-filing penalty

Motion by Commissioner Taylor to adopt staff's recommendation on Agenda Item 7, number 39; second by Commissioner Mendoza. Motion passed by a vote of seven ayes. **Staff's recommendation is adopted on Agenda Item 7, number 39.**

Agenda Item 8: Briefing, discussion, and possible action to waive or reduce late-filing penalties in connection with certain corrected reports or to determine whether certain corrected reports as originally filed substantially complied with the applicable law.

6. Doyle E. 'Dee' Hobbs, Jr., Candidate, State Representative (00062680)

Report: 8-day pre-election report due February 25, 2008
 Penalty: \$10,000
 Staff recommendation: reduction of the late-filing penalty to \$1,000

Doyle "Dee" Hobbs, Jr., Assistant County Attorney, Williamson County, Texas, spoke before the Commission. Motion by Vice Chair Fischer to waive the late-filing penalty on Agenda Item 8, number 6; second by Commissioner Davenport. Motion passed by a vote of seven ayes. **Waiver of the late-filing penalty is adopted on Agenda Item 8, number 6.**

7. Urban F. O'Brien, III, Treasurer, 'ApachePAC' Apache Corp. PAC (00024426)

Staff recommendation: reduction of the late-filing penalties for reports (a) through (n) to \$100 each

Total penalties: \$7,000 Total recommended penalties: \$1,400

Report (a): monthly report due July 5, 2006
 Penalty: \$500

Report (b): monthly report due August 7, 2006
 Penalty: \$500

Report (c): monthly report due September 5, 2006
 Penalty: \$500

Report (d): monthly report due October 5, 2006
 Penalty: \$500

Report (e): monthly report due November 6, 2006
Penalty: \$500

Report (f): monthly report due December 5, 2006
Penalty: \$500

Report (g): monthly report due January 5, 2007
Penalty: \$500

Report (h): monthly report due February 5, 2007
Penalty: \$500

Report (i): monthly report due March 5, 2007
Penalty: \$500

Report (j): monthly report due April 5, 2007
Penalty: \$500

Report (k): monthly report due May 7, 2007
Penalty: \$500

Report (l): monthly report due June 5, 2007
Penalty: \$500

Report (m): monthly report due July 5, 2007
Penalty: \$500

Report (n): monthly report due August 6, 2007
Penalty: \$500

Urban F. O'Brien, III, spoke before the commission. Motion by Commissioner Taylor to waive the late-filing penalties on Agenda Item 8, number 7; second by Chair Harrison. Motion failed by a vote of four ayes. Vice Chair Fischer, Commissioners Davenport and Graham voted no. Motion by Vice Chair Fischer to adopt staff's recommendations on Agenda Item 8, number 7; second by Commissioner Taylor. Motion passed by a vote of seven ayes. **Staff's recommendations are adopted on Agenda Item 8, number 7.**

1. Randall D. Dunning, Candidate, State Representative (00062313)

Report: 8-day pre-election report due February 25, 2008
Penalty: \$10,000
Staff recommendation: that the original report substantially complied with the applicable law

2. Maxine Longoria-Nash, Candidate, District Judge (00061973)

Report: 8-day pre-election report due February 25, 2008
Penalty: \$10,000
Staff recommendation: that the original report substantially complied with the applicable law

3. Philip Thomason, Treasurer, Citizens for Good Government in Bulverde (00052473)

Report: 8-day pre-election report due May 2, 2008

Penalty: \$7,000

Staff recommendation: that the original report substantially complied with the applicable law

Motion by Vice Chair Fischer that the original report substantially complied with the applicable law on Agenda Item 8, numbers 1 through 3; second by Commissioner Mendoza. Motion passed by a vote of seven ayes. **The report substantially complied with the applicable law is adopted on Agenda Item 8, numbers 1 through 3.**

4. David Bradley, Treasurer, 'DCDP' Dallas County Democratic PAC – State & Local (CEC) (00017068)

Report: 8-day pre-election report due February 25, 2008

Penalty: \$10,000

Staff recommendation: reduction of the late-filing penalty to \$2,500

5. Yvonne Davis, State Representative (00019811)

Report (a): 30-day pre-election report due October 10, 2006

Penalty: \$500

Staff recommendation: no waiver of the late-filing penalty

Report (b): 8-day pre-election report due October 30, 2006

Penalty: \$10,000

Staff recommendation: reduction of the late-filing penalty to \$1,000

Report (c): semiannual report due January 16, 2007

Penalty: \$10,000

Staff recommendation: reduction of the late-filing penalty to \$500

Total penalties: \$20,500 Total recommended penalties: \$2,000

8. Andres C. 'Andy' Pereira, Candidate, District Judge (00036265)

Report: 8-day pre-election report due February 25, 2008

Penalty: \$10,000

Staff recommendation: reduction of the late-filing penalty to \$1,000

9. Ronald 'Ron' Rangel, Candidate, District Judge (00051930)

Report: 8-day pre-election report due February 25, 2008

Penalty: \$10,000

Staff recommendation: reduction of the late-filing penalty to \$800

Motion by Commissioner Delco to adopt staff's recommendations on Agenda Item 8, numbers 4, 5, 8, and 9; second by Commissioner Graham. Motion passed by a vote of seven ayes. **Staff's recommendations are adopted on Agenda Item 8, numbers 4, 5, 8, and 9.**

Agenda Item 9: AOR 545: Whether the expenditure restrictions for transportation and lodging in Chapter 305 of the Government Code apply in a situation in which prepayment is made for the transportation and lodging.

Natalia L. Ashley, General Counsel, briefed the Commission on this agenda item. Motion by Vice Chair Fischer to adopt staff's recommendation on Agenda Item 9; second by Commissioner Davenport. Motion passed by a vote of seven ayes. **AOR 545 is adopted.**

Agenda Item 10: Public discussion and possible action on the adoption and publication in the Texas Register of Ethics Commission Rule § 22.33 (Expenditure Limits of the Judicial Campaign Fairness Act), relating to the attribution of political expenditures for purposes of the expenditure limits prescribed by section 253.168 of the Election Code.

Natalia L. Ashley, General Counsel, briefed the Commission on this agenda item. Motion by Commissioner Delco to adopt and publish in the Texas Register Agenda Item 10; second by Commissioner Graham. Motion passed by a vote of seven ayes. **Ethics Commission Rule § 22.33 is adopted.**

Agenda Item 11: Public discussion and possible action on the proposal and publication in the Texas Register of an amendment to Ethics Commission Rule § 50.1 (Legislative Per Diem), relating to the legislative per diem required to be set under Article III, Section 24a, of the Texas Constitution.

Natalia L. Ashley, General Counsel, briefed the Commission on this agenda item. Motion by Commissioner Taylor to publish Agenda Item 11 for public comment in the Texas Register; second by Commissioner Delco. Motion passed by a vote of five ayes. Vice Chair Fischer and Commissioner Davenport voted no. **Amendment to Ethics Commission Rule § 50.1 to be published in the Texas Register for comment.**

The next Ethics Commission meeting is tentatively scheduled for December 15 and 16, 2008.

Agenda Item 18: Adjourn.

Commission meeting adjourned by unanimous consent.