



## TEXAS ETHICS COMMISSION FORMAL HEARING MINUTES

August 6, 2009, 2:30 p.m.

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



**COMMISSIONERS PRESENT:** Ross Fischer, Chair; Paula M. Mendoza, Vice Chair; Jim Graham, Tom Harrison, George H. "Trey" Henderson, III; and Nicholas C. Taylor.

**COMMISSIONERS ABSENT:** Wilhelmina Delco and David Montagne.

**STAFF PRESENT:** Natalia L. Ashley, Amy Barden, Margie Castellanos, Homer Diaz, Susana Esparza, Ginger Hunter, Brad Johnson, Bobby Mannas, David A. Reisman, Tim Sorrells, Ian M. Steusloff, and Mary Young.

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### MINUTES

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

**Formal hearing notice pursuant to Sections 551.002 and 571.139(b), Government Code, Open Meetings Requirement, and Section 12.117, Ethics Commission Rules.** Texas Ethics Commission v. Amy's Ice Creams, Inc., related to alleged violations under Title 15, Election Code, and being held in accordance with Section 571.126(b)(1) and Sections 571.129 through 571.132, Government Code.

Chair Fischer called the Commission to order. He stated that the Commission was ready to proceed with a formal hearing on sworn complaints SC-270562 and SC-2706135. The chair asked if the respondent corporation was present. The respondent's attorney, Ace Pickens, was present. There was no officer of respondent corporation present. Commission staff stated that the Commission could proceed with a default hearing. Mr. Pickens, as representative of Amy's Ice Creams, Inc., lodged an objection to the proceeding of the full Commission. Chair Fischer noted the objection for the record and the Commission overruled the objection.

The Chair asked if there were any preliminary matters. Commission staff offered the stipulations and documents and asked that they be admitted into evidence. Commission staff also offered other exhibits and asked that they be admitted into evidence. There were no objections from Mr. Pickens.

Mr. Pickens invoked "the rule" regarding witnesses in the room. There was one fact witness, Jon R. Loehman. Chair Fischer asked Mr. Loehman if he understood the rule. The Chair swore Mr. Loehman in, and then asked him to step out until called.

Commission staff then proceeded with its case by presenting a brief overview of the facts and the issue for consideration: whether the respondent made an unlawful political contribution or political expenditure to support a candidate for public office.

Staff called Jon R. Loehman, self-employed consultant in governmental affairs, to testify. Commission staff asked Mr. Loehman to remain outside the room in case that he was needed for rebuttal testimony.

Ace Pickens, the respondent's attorney, had no testimony.

Closing arguments were presented by Commission staff and Mr. Pickens.

The Commission then adjourned to deliberate. The Commission determined by a preponderance of the evidence that the respondent violated section 253.094(a) of the Election Code and imposed a \$1,000 civil penalty.

The formal hearing adjourned.