



TEXAS ETHICS COMMISSION MEETING MINUTES
October 15, 2009, 10:35 a.m.
Capitol Extension, Room E1.010, Austin, Texas 78701



COMMISSIONERS PRESENT: Ross Fischer, Chair; Jim Graham, Tom Harrison, George H. “Trey” Henderson, III; and Nicholas C. Taylor.

COMMISSIONERS ABSENT: Paula M. Mendoza, Vice Chair; Wilhelmina Delco, and David Montagne.

STAFF PRESENT: Natalie Adelaja, Natalia L. Ashley, Amy Barden, Margie Castellanos, Homer Diaz, Robbie Douglas, Sue Edwards, Susana Esparza, Ginger Hunter, Brad Johnson, Becky Levy, Bobby Mannas, Lowell McCormack, Mike McElhaney, Lynda Murphree, David A. Reisman, Nadina Rose, 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 Fischer. David A. Reisman, Executive Director, called the roll. All Commissioners were present except for Vice Chair Mendoza and Commissioners Delco and Montagne.

Chair Fischer stated that adoption of the rules would not be considered since there are not six Commissioners present to make a quorum.

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

None.

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. Mr. Reisman introduced Jack Mason, Budget Analyst with the Legislative Budget Board (LBB). He thanked Mr. Mason for his work with the Ethics Commission. Mr. Reisman then introduced Demetrio Hernandez, Budget Analyst with the LBB, who will be replacing Mr. Mason.
2. Mr. Reisman discussed personnel issues. He introduced Lynda Murphree, the new receptionist for the Commission. Mr. Reisman announced the promotion of Nadina Rose as Director of the Computer Services Division. The Commission recently posted two new positions for programmer II and III.

3. Mr. Reisman discussed the quarterly report. In the year-to-date column of the report, revenue exceeded expenditures. There are 146 sworn complaints pending at this time. The Commission has received 275 sworn complaints so far this year. Mr. Reisman introduced the new attorney, Natalie Adelaja.
4. Mr. Reisman discussed the new services available on the Commission's website. Filers can subscribe to receive notices by e-mail, which is a cost savings for the Commission. The Commission will be sending post card notices announcing this new feature. Also on the Ethics Commission's website is a listing of candidates with current treasurer appointments (sorted by office sought) in several different formats.

Agenda Item 5: Approve minutes of the August 6, 2009, commission meeting and August 6, 2009, formal hearing meeting.

Motion by Commissioner Taylor to adopt the August 6, 2009, commission meeting minutes and the August 6, 2009, formal hearing minutes; second by Commissioner Graham. Motion passed by a vote of five ayes.

For Agenda Items 6 and 7, the following represents the actions taken by the Ethics Commission in the order they occurred during the meeting.

Agenda Item 6: 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.

**25. Ellis Pickett (00065496)
Lobbyist**

- (a.) Report: lobby activities report due June 10, 2009
Penalty: \$500
Staff recommendation: no waiver of the late-filing penalty
- (b.) Report: lobby activities report due July 10, 2009
Penalty: \$500
Staff recommendation: no waiver of the late-filing penalty

Total penalties: \$1,000

Ellis Pickett spoke before the Commission. Motion by Commissioner Harrison to reduce the late-filing penalties to \$500 total on Agenda Item 6, number 25; second by Commissioner Taylor. Motion passed by a vote of five ayes on Agenda Item 6, number 25. **The reduction of the late-filing penalties to \$500 total is adopted on Agenda Item 6, number 25.**

**41. Mike McLamore (00018478)
Lobbyist**

- Report: lobby activities report due June 10, 2009
Penalty: \$500
Staff recommendation: At the August 2009 meeting, the Commission voted not to waive the late-filing penalty.

Mike McLamore spoke before the Commission. Motion by Commissioner Harrison to reduce the late-filing penalty to \$300 on Agenda Item 6, number 41; second by Commissioner Henderson. Motion passed by a vote of five ayes on Agenda Item 6, number 41. **The reduction of the late-filing penalty to \$300 is adopted on Agenda Item 6, number 41.**

42. Harold G. Warren (00055716)
Member, Texas Private Security Board

Report: personal financial statement due April 30, 2009
 Penalty: \$500
 Staff recommendation: At the August 2009 meeting, the Commission voted not to waive the late-filing penalty.

Harold G. Warren spoke before the Commission. Motion by Commissioner Taylor to reduce the late-filing penalty to \$100 on Agenda Item 6, number 42; second by Commissioner Harrison. Motion passed by a vote of five ayes on Agenda Item 6, number 42. **The reduction of the late-filing penalty to \$100 is adopted on Agenda Item 6, number 42.**

13. Rebecca Simmons (00040797)
Justice, Court of Appeals

Report: personal financial statement due April 30, 2009
 Penalty: \$500
 Staff recommendation: no waiver of the late-filing penalty

Justice Rebecca Simmons spoke before the Commission. Motion by Commissioner Taylor to waive the \$500 late-filing penalty on Agenda Item 6, number 13; second by Commissioner Graham. Motion passed by a vote of five ayes on Agenda Item 6, number 13. **The waiver of the \$500 late-filing penalty is adopted on Agenda Item 6, number 13.**

Agenda Item 7: 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.

10. David H. Dewhurst (00036668)
Lieutenant Governor

- (a.) Report: personal financial statement due April 30, 2007
 Penalty: \$500
 Staff recommendation: none
- (b.) Report: personal financial statement due April 30, 2008
 Penalty: \$500
 Staff recommendation: none

Total penalties: \$1,000

Howard Wolf spoke before the Commission. Motion by Commissioner Taylor that the original report substantially complied with the applicable law on Agenda Item 7, number 10; second by Commissioner Harrison. Motion passed by a vote of five ayes on Agenda Item 7, number 10. **The report substantially complied with the applicable law is adopted on Agenda Item 7, number 10.**

Return to Agenda Item 6.

1. Conservative Study Committee (00059924)

Report: legislative caucus report due July 15, 2009
Penalty: \$500
Staff recommendation: waiver of the late-filing penalty

Motion by Commissioner Henderson to adopt staff's recommendation on Agenda Item 6, number 1; second by Commissioner Taylor. Motion passed by a vote of five ayes on Agenda Item 6, number 1. **Staff's recommendation is adopted on Agenda Item 6, number 1.**

**2. Dorothy J. Bottos (00058542)
Candidate, State Representative**

Report: semiannual report due July 15, 2009
Penalty: \$500
Staff recommendation: waiver of the late-filing penalty

**3. Lloyd Doggett (00021129)
Candidate, Supreme Court Justice**

Report: semiannual report due July 15, 2009
Penalty: \$500
Staff recommendation: waiver of the late-filing penalty

**4. Kevin Fine (00062044)
District Judge**

Report: semiannual report due July 15, 2009
Penalty: \$500
Staff recommendation: waiver of the late-filing penalty

**5. Edward S. 'Ed' Hubbard (00062304)
Candidate, County Party Chair**

Report: semiannual report due July 15, 2009
Penalty: \$500
Staff recommendation: waiver of the late-filing penalty

6. Kim C. Limberg (00065536)
Candidate, State Representative

Report: special session report due August 3, 2009
Penalty: \$500
Staff recommendation: waiver of the late-filing penalty

7. Kurt Meachum (00065426)
Lobbyist

Report: lobby activities report due August 10, 2009
Penalty: \$500
Staff recommendation: waiver of the late-filing penalty

8. Jerry Philips (00065427)
Lobbyist

Report: lobby activities report due August 10, 2009
Penalty: \$500
Staff recommendation: waiver of the late-filing penalty

9. Debby Wilford (00017070)
Treasurer, 'RWAC' Republican Women of Anderson County

Report: semiannual report due July 15, 2009
Penalty: \$500
Staff recommendation: waiver of the late-filing penalty

10. David J. Wozniak (00062476)
Treasurer, Stonewall Democrats of Denton County

Report: semiannual report due July 15, 2009
Penalty: \$500
Staff recommendation: waiver of the late-filing penalty

Motion by Commissioner Taylor to adopt staff's recommendations on Agenda Item 6, numbers 2 through 10; second by Commissioner Harrison. Motion passed by a vote of five ayes on Agenda Item 6, numbers 2 through 10.
Staff's recommendations are adopted on Agenda Item 6, numbers 2 through 10.

11. Jonathan D. Bow (00056008)
Executive Director, State Office of Risk Management

Report: personal financial statement due June 29, 2009
Penalty: \$500
Staff recommendation: no waiver of the late-filing penalty

12. Haroon R. Shaikh (00065475)
Director, County Appointee, Position 3, Harris County – Houston Sports Authority

Report: personal financial statement due June 29, 2009
Penalty: \$500
Staff recommendation: no waiver of the late-filing penalty

14. Ronald J. Suchecki, Jr. (00060365)
Member, On-Site Wastewater Treatment Research Council

Report: personal financial statement due June 29, 2009
Penalty: \$500
Staff recommendation: no waiver of the late-filing penalty

Motion by Commissioner Graham to adopt staff's recommendations on Agenda Item 6, numbers 11, 12, and 14; second by Commissioner Henderson. Motion passed by a vote of five ayes on Agenda Item 6, numbers 11, 12, and 14. **Staff's recommendations are adopted on Agenda Item 6, numbers 11, 12, and 14.**

20. Robert E. Jones (00065168)
Treasurer, MOVING WILCO FORWARD

Report: 8-day pre-election report due May 1, 2009
Penalty: \$500
Staff recommendation: no waiver of the late-filing penalty

Motion by Commissioner Harrison to reduce the \$500 late-filing penalty to \$250 on Agenda Item 6, number 20; second by Commissioner Graham. Motion passed by a vote of five ayes on Agenda Item 6, number 20. **The reduction of the late-filing penalty to \$250 is adopted on Agenda Item 6, number 20.**

15. Steven C. Bent (00017160)
Treasurer, 'TXANS PAC' Texas Assn. of Responsible Nonsubscribers PAC

Report: semiannual report due July 15, 2009
Penalty: \$500
Staff recommendation: no waiver of the late-filing penalty

16. Mark A. Calhoon (00061400)
District Judge

Report: semiannual report due July 15, 2009
Penalty: \$500
Staff recommendation: no waiver of the late-filing penalty

17. Rosendo Carranco (00063943)
Treasurer, Texas First PAC

Report: semiannual report due July 15, 2009
Penalty: \$500
Staff recommendation: no waiver of the late-filing penalty

18. Richard S. 'Kinky' Friedman (00056764)
Candidate, Governor

Report: semiannual report due July 15, 2009
Penalty: \$500
Staff recommendation: no waiver of the late-filing penalty

19. Lehman Jeremiah Harris (00051863)
Candidate, State Representative

- (a.) Report: semiannual report due July 15, 2008
Penalty: \$500
Staff recommendation: no waiver of the late-filing penalty
- (b.) Report: semiannual report due January 15, 2009
Penalty: \$500
Staff recommendation: no waiver of the late-filing penalty
- (c.) Report: semiannual report due July 15, 2009
Penalty: \$500
Staff recommendation: no waiver of the late-filing penalty

Total penalties: \$1,500

21. Lori D. Massey (00054752)
Candidate, District Judge

Report: semiannual report due July 15, 2009
Penalty: \$500
Staff recommendation: no waiver of the late-filing penalty

22. Don W. Minton (00061843)
Candidate, Criminal District Court Judge

Report: semiannual report due July 15, 2009
Penalty: \$500
Staff recommendation: no waiver of the late-filing penalty

- 23. Jonathan Neerman (00023868)**
Chair, Dallas County Political Party (P)
- Report: political party semiannual report due July 15, 2009
Penalty: \$500
Staff recommendation: no waiver of the late-filing penalty
- 24. Jonathan Neerman (00027370)**
Treasurer, 'DCRP' Dallas County Republican Party (CEC)
- Report: semiannual report due July 15, 2009
Penalty: \$500
Staff recommendation: no waiver of the late-filing penalty
- 26. Sudie M. Sartor (00058340)**
Treasurer, 'STGG' South Texans for Good Government
- Report: semiannual report due July 15, 2009
Penalty: \$500
Staff recommendation: no waiver of the late-filing penalty
- 27. Clifford A. Schulman (00065629)**
Treasurer, Greenberg Traurig, P.A. PAC
- Report: semiannual report due July 15, 2009
Penalty: \$500
Staff recommendation: no waiver of the late-filing penalty
- 28. Todd M. Smith (00053964)**
Lobbyist
- Report: lobby activities report due August 10, 2009
Penalty: \$500
Staff recommendation: no waiver of the late-filing penalty
- 29. Virginia 'V.A.' Stephens (00053695)**
Lobbyist
- Report: lobby activities report due July 10, 2009
Penalty: \$500
Staff recommendation: no waiver of the late-filing penalty

Agenda Item 6, number 29, is postponed at the filer's request.

**30. Daniel P. Stunda (00061987)
Treasurer, Teamsters Local 19**

Report: semiannual report due July 15, 2009
Penalty: \$500
Staff recommendation: no waiver of the late-filing penalty

Motion by Commissioner Henderson to adopt staff's recommendations on Agenda Item 6, numbers 15 through 19, 21 through 24, 26 through 28, and 30; second by Commissioner Harrison. Motion passed by a vote of five ayes on Agenda Item 6, numbers 15 through 19, 21 through 24, 26 through 28, and 30. **Staff's recommendations are adopted on Agenda Item 6, numbers 15 through 19, 21 through 24, 26 through 28, and 30.**

**31. John E. 'Eric' Borton (00017095)
Treasurer, Arlington Police Assn. PAC**

Report: monthly report due July 6, 2009
Penalty: \$500
Staff recommendation: reduction of the late-filing penalty to \$250

**32. Terry Canales (00065230)
Candidate, District Judge**

Report: semiannual report due July 15, 2009
Penalty: \$500
Staff recommendation: reduction of the late-filing penalty to \$250

**33. John J. Carona (00019837)
State Senator**

Report: semiannual report due July 15, 2009
Penalty: \$500
Staff recommendation: reduction of the late-filing penalty to \$250

**34. William H. Flores (00055404)
Member, Texas Real Estate Commission**

Report: personal financial statement due June 29, 2009
Penalty: \$500
Staff recommendation: reduction of the late-filing penalty to \$250

Agenda Item 6, number 34, is postponed at the filer's request.

**35. Howard Wallace 'Wally' Hatch, Jr. (00054713)
District Attorney**

Report: semiannual report due July 15, 2009
Penalty: \$500
Staff recommendation: reduction of the late-filing penalty to \$250

36. Marisa Marquez (00062161)
State Representative

Report: personal financial statement due June 29, 2009
Penalty: \$500
Staff recommendation: reduction of the late-filing penalty to \$250

37. Mark A. Smith (00053635)
Lobbyist

Report: lobby activities report due August 10, 2009
Penalty: \$500
Staff recommendation: reduction of the late-filing penalty to \$250

38. Emily G. Tobolowsky (00057873)
District Judge

Report: semiannual report due July 15, 2009
Penalty: \$500
Staff recommendation: reduction of the late-filing penalty to \$250

Motion by Commissioner Graham to adopt staff's recommendations on Agenda Item 6, numbers 31 through 33, and 35 through 38; second by Commissioner Harrison. Motion passed by a vote of five ayes on Agenda Item 6, numbers 31 through 33, and 35 through 38. **Staff's recommendations are adopted on Agenda Item 6, numbers 31 through 33, and 35 through 38.**

39. Jessica Balladares Bennett (00053648)
Lobbyist

Report: lobby activities report due December 10, 2008
Penalty: \$500
Staff recommendation: At the August 2009 meeting, the Commission voted to reduce the late-filing penalty to \$250. Ms. Balladares Bennett did not respond to the notice regarding the reduction. Therefore, the penalty amount reverted to the full \$500 amount originally assessed.

Motion by Commissioner Harrison to reinstate the reduced \$250 late-filing penalty on Agenda Item 6, number 39; second by Commissioner Graham. Motion passed by a vote of five ayes on Agenda Item 6, number 39. **The reinstatement of the reduced \$250 late-filing penalty is adopted on Agenda Item 6, number 39.**

40. Mary Frances Burleson (00055403)
Member, Texas Real Estate Commission

Report: personal financial statement due April 30, 2009
Penalty: \$500
Staff recommendation: At the August 2009 meeting, the commission voted not to waive the late-filing penalty.

The late-filing penalty on Agenda Item 6, number 40, stands due to lack of a motion.

Return to Agenda Item 7.

**1. James R. Dunnam (00019900)
State Representative**

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

Penalty: \$10,000

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

**2. Tracy A. Gilbert (00062860)
District Judge**

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. Jon A. Jewett (00037982)
Treasurer, 'WCRP General Election Cam' Williamson County Republican Party General Election
Campaign Fund**

Report: 8-day pre-election report due May 1, 2009

Penalty: \$8,800

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

Motion by Commissioner Harrison to adopt staff's recommendations on Agenda Item 7, numbers 1 through 3; second by Commissioner Graham. Motion passed by a vote of five ayes on Agenda Item 7, numbers 1 through 3.
Staff's recommendations are adopted on Agenda Item 7, numbers 1 through 3.

**4. Cecelia Phalen Abbott (00051697)
Member, State Board for Educator Certification**

(a.) Report: personal financial statement due July 1, 2005

Penalty: \$500

Staff recommendation: waiver of the late-filing penalty

(b.) Report: personal financial statement due May 1, 2006

Penalty: \$500

Staff recommendation: waiver of the late-filing penalty

(c.) Report: personal financial statement due June 29, 2007

Penalty: \$500

Staff recommendation: waiver of the late-filing penalty

Total penalties: \$1,500

**5. Greg Abbott (00019652)
Attorney General**

- (a.) Report: personal financial statement due June 29, 2004
Penalty: \$500
Staff recommendation: waiver of the late-filing penalty
- (b.) Report: personal financial statement due July 1, 2005
Penalty: \$500
Staff recommendation: waiver of the late-filing penalty
- (c.) Report: personal financial statement due February 13, 2006
Penalty: \$500
Staff recommendation: waiver of the late-filing penalty
- (d.) Report: personal financial statement due June 29, 2007
Penalty: \$500
Staff recommendation: waiver of the late-filing penalty

Total penalties: \$2,000

**6. Edmund P. Kuempel (00020415)
State Representative**

Report: personal financial statement due April 30, 2007
Penalty: \$500
Staff recommendation: waiver of the late-filing penalty

**7. Anthony Aranda (00017278)
Treasurer, 'TCSOA PAC' Travis County Sheriff's Officers Assn. PAC**

Report: semiannual report due July 15, 2009
Penalty: \$500
Staff recommendation: waiver of the late-filing penalty

**8. Dan Patrick (00057897)
State Senator**

Report: personal financial statement due April 30, 2007
Penalty: \$500
Staff recommendation: waiver of the late-filing penalty

Motion by Commissioner Henderson to adopt staff's recommendations on Agenda Item 7, numbers 4 through 8; second by Commissioner Harrison. Motion passed by a vote of five ayes on Agenda Item 7, numbers 4 through 8. **Staff's recommendations are adopted on Agenda Item 7, numbers 4 through 8.**

**9. G. B. 'Brint' Ryan (00043458)
Treasurer, 'R&C PAC' Ryan Texas PAC**

- (a.) Report: 8-day pre-election report due October 30, 2006
Penalty: \$10,000
Staff recommendation: waiver of the late-filing penalty
- (b.) Report: 8-day pre-election report due February 25, 2008
Penalty: \$10,000
Staff recommendation: reduction of the late-filing penalty to \$500
- (c.) Report: 8-day pre-election report due October 27, 2008
Penalty: \$10,000
Staff recommendation: that the original report substantially complied with the applicable law

Total penalties: \$30,000

Total recommended penalties: \$500

Motion by Commissioner Graham to adopt staff's recommendations on Agenda Item 7, number 9; second by Commissioner Henderson. Motion failed by a vote of four ayes. Chair Fischer voted no. Motion by Commissioner Harrison to reduce the two \$10,000 late-filing penalties for the 8-day pre-election reports due October 30, 2006, and February 25, 2008, to \$500 for each report, and that the original 8-day pre-election report due October 27, 2008, substantially complied with the applicable law; second by Commissioner Taylor. Motion passed by a vote of five ayes on Agenda Item 7, number 9. **The reduction of the late-filing penalties to \$1,000 is adopted on Agenda Item 7, number 9.**

Agenda Item 8: AOR-549: The Texas Ethics Commission has been asked whether House Bill No. 2525 adopted during the regular session of the 81st Legislature prohibits a corporation from making expenditures to finance the solicitation of political contributions to a general-purpose committee assisted under section 253.100(a) of the Election Code from the employees or families of employees of one or more corporations.

Natalia L. Ashley, General Counsel, briefed the Commission on this agenda item. Jack Gullahorn, President, Professional Advocacy Association of Texas, spoke before the Commission. Motion by Commissioner Harrison to adopt AOR-549; second by Commissioner Graham. Motion passed by a vote of five ayes. **AOR 549 is adopted.**

Agenda Item 9: Public discussion and possible action on the adoption and publication in the Texas Register of Ethics Commission Rule § 12.57 (Contents of a Complaint), relating to information required to be included in a complaint filed with the Texas Ethics Commission.

Agenda Item 9 was not considered since there was not a quorum of Commissioners present to take a vote.

Agenda Item 10: Public discussion and possible action on the proposal or adoption and publication in the Texas Register of Ethics Commission Rules §§ 34.1 (Definitions), 34.5 (Certain Compensation Excluded), 34.46 (Registration under Section 305.0041 of the Government Code), 34.73 (Reporting by Independent Contractor), and 34.75 (Reporting by Commission or Fee Paid by State Agency), relating to lobbyist registration and authorized activities.

Agenda Item 10 was not considered since there was not a quorum of Commissioners present to take a vote.

Agenda Item 11: Public discussion and possible action on the proposal and publication in the Texas Register of Ethics Commission Rule § 34.21 (Contingent Fees for Influencing Purchasing Decisions), relating to contingent fees for influencing purchasing decisions.

Natalia L. Ashley, General Counsel, briefed the Commission on this agenda item. Motion by Commissioner Harrison to publish for public comment in the Texas Register; second by Commissioner Henderson. Motion passed by a vote of five ayes. **Proposed Ethics Commission Rule § 34.21 to be published in the Texas Register for public comment.**

Agenda Item 12: Public discussion and possible action on the proposal and publication in the Texas Register of Ethics Commission Rule § 20.61 (Description of Expenditure), relating to the description of the purpose of an expenditure under Section 254.031 of the Election Code.

Natalia L. Ashley, General Counsel, briefed the Commission on this agenda item. Gardner Pate, Attorney, spoke before the Commission. Motion by Commissioner Graham to publish the proposed rule, with change in the effective date, for public comment in the Texas Register; second by Commissioner Taylor. Motion passed by a vote of five ayes. **Proposed Ethics Commission Rule § 20.61 to be published, with change in the effective date, in the Texas Register for public comment.**

The next Ethics Commission meeting is tentatively scheduled for December 2 and December 3, 2009.

Agenda Item 13: Adjourn.

Commission meeting adjourned by unanimous consent.