



TEXAS ETHICS COMMISSION MEETING MINUTES

February 8, 2012, 8:31 a.m.

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



COMMISSIONERS PRESENT: Tom Ramsay, Chair; Jim Clancy, Vice Chair; Hugh Akin, Tom Harrison, Paul W. Hobby, Bob Long, Paula M. Mendoza, and Chase Untermeyer.

COMMISSIONERS ABSENT: None.

STAFF PRESENT: Natalie Adelaja, Natalia L. Ashley, Amy Barden, Lauren Bellomy, Margie Castellanos, Homer Diaz, Robbie Douglas, Sue Edwards, Susana Esparza, Nick Espinosa, Jessie Haug, Becky Levy, Bobby Mannas, Mike McElhaney, David A. Reisman, Tim Sorrells, Ian Steusloff, and Mary Young.

MINUTES

This meeting was 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 recordings on file at the Commission's office.

Agenda Item 1: Call to order; roll call.

The meeting was called to order by Chair Ramsay. David A. Reisman, Executive Director, called the roll. All Commissioners were present.

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

None.

Agenda Item 3: Comments by the Commissioners.

Commissioner Harrison discussed an article from the National Conference of State Legislators (NCSL). He stated that California has now decided to permit political contributions to be sent by text to political campaigns, to be treated like other donations in terms of campaign finance requirements.

Chair Ramsay stated that it was an honor to be chair of the Commission and that he hoped for a productive year. He also stated that preparations are under way for the Sunset Advisory Commission review. Chair Ramsay discussed procedures to be followed during the Commission meeting.

Agenda Item 4: Comments by the executive director.

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

1. Mr. Reisman stated that there were no personnel actions at this time. He stated that the Commission has been in existence since 1992. He congratulated the six Commission employees that have been with the agency for those 20 years.
2. Mr. Reisman discussed the Sunset Advisory Commission review and the implementation of the ideas and recommendations from the review. The Sunset Advisory Commission hearing is scheduled on April 10, 2012, to address the Ethics Commission.

Agenda Item 5: Approve minutes of the December 14, 2011, executive session, the December 14, 2011, Commission meeting, and the January 17, 2012, workshop.

Motion by Commissioner Untermeyer to adopt the minutes of the December 14, 2011, executive session, the December 14, 2011, Commission meeting, and the January 17, 2012, workshop, second by Commissioner Long.
Motion passed by a vote of eight ayes.

For Agenda Item 6, 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.**13. Harry Lee Loftis, Jr. (00015593)
Treasurer, Political Action Committee Of The Independent Insurance Agents of Texas**

Report: monthly report due November 7, 2011
Penalty: \$500
Staff recommendation: no waiver of the late-filing penalty

Harry Lee Loftis, Jr., spoke before the Commission. Motion by Commissioner Untermeyer to waive the \$500 late-filing penalty on Agenda Item 6, number 13; second by Commissioner Harrison. Motion passed by a vote of eight ayes on Agenda Item 6, number 13. **The waiver of the late-filing penalty is adopted on Agenda Item 6, number 13.**

16. Albert Scerbo (00060131)
Treasurer, NRG Energy Inc. Political Action Committee

Report: 8-day pre-election report due October 31, 2011
Penalty: \$600
Staff recommendation: no waiver of the late-filing penalty

Gardner Pate spoke before the Commission. Motion by Commissioner Harrison to waive the \$600 late-filing penalty on Agenda Item 6, number 16; second by Commissioner Untermeyer. Commissioner Harrison withdrew motion on Agenda Item 6, number 16. No action was needed at this time.

19. Mindy R. Ellmer (00033421)
Lobbyist

Report: lobby activities report due January 10, 2012
Penalty: \$500
Staff recommendation: reduction of the late-filing penalty to \$250

Mindy Ellmer spoke before the Commission. Motion by Commissioner Harrison to waive the \$500 late-filing penalty on Agenda Item 6, number 19; second by Commissioner Long. Motion passed by a vote of eight ayes on Agenda Item 6, number 19. **The waiver of the late-filing penalty is adopted on Agenda Item 6, number 19.**

1. Warren T. Ayres (00065028)
Treasurer, Friends of Midwestern State

Report: monthly report due December 5, 2011
Penalty: \$500
Staff recommendation: waiver of the late-filing penalty

2. James Barnes (00065975)
Treasurer, 'VOPAC' Von Army Political Action Committee

Report: runoff report due December 12, 2011
Penalty: \$500
Staff recommendation: waiver of the late-filing penalty

3. Theodore 'Teddy' Carter (00066786)
Lobbyist

Report: lobby activities report due December 12, 2011
Penalty: \$500
Staff recommendation: waiver of the late-filing penalty

**4. Terry Franks (00065431)
Lobbyist**

Report: lobby activities report due December 12, 2011
Penalty: \$500
Staff recommendation: waiver of the late-filing penalty

**5. Justin Furnace (00066760)
Lobbyist**

Report: lobby activities report due December 12, 2011
Penalty: \$500
Staff recommendation: waiver of the late-filing penalty

**6. Kaleb Johnson (00062139)
Treasurer, 'SMPFFAPAC' San Marcos Professional Fire Fighters
Association Political Action Committee**

Report: 8-day pre-election report due October 31, 2011
Penalty: \$500
Staff recommendation: waiver of the late-filing penalty

**7. Timothy J. 'Tim' Lyons (00017343)
Treasurer, 'TPTA PAC' Texas Physical Therapy Assn. Inc. PAC**

Report: monthly report due January 5, 2012
Penalty: \$500
Staff recommendation: waiver of the late-filing penalty

**8. Emily Ray (00017267)
Treasurer, Northwood Republican Women's Club**

Report: 8-day pre-election report due October 31, 2011
Penalty: \$700
Staff recommendation: waiver of the late-filing penalty

**9. Jennifer E. Sellers (00067959)
Lobbyist**

Report: lobby activities report due December 12, 2011
Penalty: \$500
Staff recommendation: waiver of the late-filing penalty

10. Andrea M. Ward (00065721)
Treasurer, 'HSYD PAC' Houston Stonewall Young Democrats PAC

Report: 8-day pre-election report due October 31, 2011
Penalty: \$500
Staff recommendation: waiver of the late-filing penalty

11. Kathryn A. 'Toy' Wood (00015700)
Treasurer, 'GHBA HOME-PAC' GHBA HOME-PAC

Report: 8-day pre-election report due October 31, 2011
Penalty: \$1,900
Staff recommendation: waiver of the late-filing penalty

Motion by Commissioner Harrison to adopt staff's recommendations on Agenda Item 6, numbers 1 through 11; second by Commissioner Mendoza. Motion passed by a vote of eight ayes on Agenda Item 6, numbers 1 through 11. **Staff's recommendations are adopted on Agenda Item 6, numbers 1 through 11.**

15. Mark Rubalcava (00065579)
Treasurer, Texans Against Career Politicians

Report: semiannual report due July 15, 2011
Penalty: \$1,500 (increased at the October 2011 meeting)
Staff recommendation: no waiver of the late-filing penalty

Motion by Commissioner Harrison to revert to the \$500 late-filing penalty on Agenda Item 6, number 15; second by Commissioner Untermeyer. Motion passed by a vote of seven ayes on Agenda Item 6, number 15. Vice Chair Clancy voted no. **The reduction of the late-filing penalty is adopted on Agenda Item 6, number 15.**

12. Kenneth H. Edwards (00056575)
Treasurer, Pipe Fitters Local Union 211 Political Action Committee

Report: monthly report due December 5, 2011
Penalty: \$500
Staff recommendation: no waiver of the late-filing penalty

Motion by Vice Chair Clancy to reduce the \$500 late-filing penalty to \$100 on Agenda Item 6, number 12; second by Commissioner Hobby. Motion passed by a vote of eight ayes on Agenda Item 6, number 12. **The reduction of the late-filing penalty is adopted on Agenda Item 6, number 12.**

14. E. Lee Parsley (00020830)
Lobbyist

- a) Report: lobby activities report due September 12, 2011
Penalty: \$500
- b) Report: lobby activities report due October 11, 2011
Penalty: \$500
- c) Report: lobby activities report due November 10, 2011
Penalty: \$500

Total penalties: \$1,500

Staff recommendation: no waiver of the late-filing penalties

Motion by Vice Chair Clancy to reduce the total \$1,500 late-filing penalties to a total of \$250 on Agenda Item 6, number 14; second by Commissioner Long. Motion by Commissioner Mendoza to amend the reduction of the total \$1,500 late-filing penalty to a total of \$500 on Agenda Item 6, number 14; second by Vice Chair Clancy. Vice Chair Clancy withdrew his previous motion. Motion to reduce the late-filing penalties to \$500 total passed by a vote of eight ayes on Agenda Item 6, number 14. **The reduction of the late-filing penalties is adopted on Agenda Item 6, number 14.**

17. John 'Rick' Thompson (00053597)
Lobbyist

- Report: lobby activities report due December 12, 2011
Penalty: \$500
Staff recommendation: no waiver of the late-filing penalty

Motion by Vice Chair Clancy to adopt staff's recommendation on Agenda Item 6, number 17; second by Commissioner Mendoza. Motion passed by a vote of eight ayes on Agenda Item 6, number 17. **Staff's recommendation is adopted on Agenda Item 6, number 17.**

18. Jennifer K. Ahrens (00064055)
Lobbyist

- Report: lobby activities report due December 12, 2011
Penalty: \$500
Staff recommendation: reduction of the late-filing penalty to \$250

20. Darrick W. Eugene (00038807)
Lobbyist

Report: lobby activities report due November 10, 2011
Penalty: \$500
Staff recommendation: reduction of the late-filing penalty to \$250

21. Kenneth L. Roche, Jr. (00060194)
Lobbyist

Report: lobby activities report due December 12, 2011
Penalty: \$500
Staff recommendation: reduction of the late-filing penalty to \$250

22. Dante B. Small (00057350)
Treasurer, 'BCYD' Bexar County Young Democrats

Report: 8-day pre-election report due October 31, 2011
Penalty: \$500
Staff recommendation: reduction of the late-filing penalty to \$250

23. Mark A. Smith (00053635)
Lobbyist

Report: lobby activities report due November 10, 2011
Penalty: \$500
Staff recommendation: reduction of the late-filing penalty to \$250

Motion by Commissioner Mendoza to adopt staff's recommendations on Agenda Item 6, numbers 18 and 20 through 23; second by Commissioner Long. Motion passed by a vote of eight ayes on Agenda Item 6, numbers 18 and 20 through 23. **Staff's recommendations are adopted on Agenda Item 6, numbers 18 and 20 through 23.**

24. Carla S. Hoffman (00066471)
Member, State Committee of Examiners in the Fitting & Dispensing of Hearing Instruments

Report: personal financial statement due May 2, 2011
Penalty: \$500
Staff recommendation: no waiver of the late-filing penalty

Motion by Commissioner Untermeyer to reduce the \$500 late-filing penalty to \$100 on Agenda Item 6, number 24; second by Commissioner Akin. Motion passed by a vote of eight ayes on Agenda Item 6, number 24. **The reduction of the late-filing penalty is adopted on Agenda Item 6, number 24.**

25. Jay T. Kimbrough (00023130)
Interim Chancellor, Texas A&M University System

Report: personal financial statement due October 11, 2011
Penalty: \$500
Staff recommendation: no waiver of the late-filing penalty

Motion by Vice Chair Clancy to waive the \$500 late-filing penalty on Agenda Item 6, number 25; second by Commissioner Hobby. Motion passed by a vote of seven ayes on Agenda Item 6, number 25. Commissioner Untermeyer recused himself. **The waiver of the late-filing penalty is adopted on Agenda Item 6, number 25.**

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.

1. Rajada Fleming (00061834)
Treasurer, 'RRRW' Ronald Reagan Republican Women

Report: 8-day pre-election report due October 31, 2011
Penalty: \$4,000
Staff recommendation: that the original report substantially complied with the applicable law

Motion by Commissioner Harrison to adopt staff's recommendation on Agenda Item 7, number 1; second by Commissioner Akin. Motion passed by a vote of eight ayes on Agenda Item 7, number 1. **Staff's recommendation is adopted on Agenda Item 7, number 1.**

Agenda Item 8. Discussion and possible action on providing notice to appointing authorities on reporting obligations of appointees.

Commissioner Harrison presented this agenda item. He stated that at the December 2011 meeting, the Commission had discussed individuals who sit on boards who failed to respond when they had a late penalty against them. Commissioner Harrison stated that he had made a motion at the December 2011 Commission meeting to get the appointing authority involved in the process. He stated that he had several discussions with several appointing authorities and that the authorities stated that they had no control over the appointees. Commissioner Harrison moved to strike the direction to staff to notify the appointing authorities about sitting members who failed to respond on late personal financial statements; second by Commissioner Mendoza. Motion passed by a vote of eight ayes on Agenda Item 8. **The Commission revoked the December 2011 motion to notify the appointing authorities on reporting obligations of appointees.**

Agenda Item 9: AOR-566: Whether a corporation makes a campaign contribution to a candidate by making a campaign expenditure that benefits the candidate, to a vendor shared by the corporation and the candidate.

Natalia L. Ashley, General Counsel, briefed the Commission on this agenda item. Gardner Pate, attorney, spoke before the Commission. Chris Gober, requestor of the advisory opinion, spoke before the Commission. Jack Gullahorn, Professional Advocacy Association of Texas, spoke before the Commission. Motion by Commissioner Hobby to adopt AOR-566 with changes; second by Commissioner Harrison. **AOR-566 is adopted.**

Agenda Item 10: Public discussion and possible action on the adoption and publication in the Texas Register of amendments and/or repeals to Ethics Commission Rules §§ 20.219 (Content of Candidate's Sworn Report of Contributions and Expenditures), 20.279 (Contents of Officeholder's Sworn Report of Contributions and Expenditures), 20.331 (Contents of Specific-Purpose Committee Sworn Report of Contributions and Expenditures), 20.433 (Contents of General-Purpose Committee Sworn Report of Contributions and Expenditures), 22.11 (Prohibition on Contributions during Regular Session), 22.13 (Contributions in the Capitol Prohibited), and 22.15 (Prohibition on Payments Made to Purchase Real Property).

Natalia L. Ashley, General Counsel, briefed the Commission on this agenda item. Motion by Commissioner Untermeyer to adopt and publish in the Texas Register sections 20.219, 20.279, 20.331, 20.433, 22.11, 22.13, and 22.15 of the Ethics Commission Rules; second by Commissioner Hobby. Motion passed by a vote of eight ayes. **Sections 20.219, 20.279, 20.331, 20.433, 22.11, 22.13, and 22.15 of the Ethics Commission Rules are adopted.**

Agenda Item 11: Public discussion and possible action on the proposal and publication in the Texas Register of amendments and/or repeals to Ethics Commission Rules §§ 24.1 (Corporations and Certain Associations Covered), 24.7 (Contribution on Measure), 24.11 (Political Expenditures to Communicate with Stockholders, Members, and Families), 24.13 (Expenditures for a General-Purpose Committee), 24.14 (Administrative Expenditure), 24.15 (Payments to a Corporation of the Candidate or Officeholder), and 24.19 (Contribution to a Political Party).

Natalia L. Ashley, General Counsel, briefed the Commission on this agenda item. Motion by Commissioner Untermeyer to propose for publication in the Texas Register sections 24.1, 24.7, 24.11, 24.13, 24.14, 24.15, and 24.19 of the Ethics Commission Rules; second by Commissioner Hobby. Motion passed by a vote of eight ayes. **Sections 24.1, 24.7, 24.11, 24.13, 24.14, 24.15, and 24.19 of the Ethics Commission Rules are proposed for publication in the Texas Register for comment.**

The next Commission meeting is scheduled for April 18, 2012.

Agenda Item 12: Adjourn.

Commission meeting adjourned by unanimous consent. Motion passed by unanimous vote.