



TEXAS ETHICS COMMISSION MEETING MINUTES

Public Meeting Minutes

April 8, 2016, 10:26 a.m.

Capitol Extension, Room E1.014

Austin, Texas 78701



COMMISSIONERS PRESENT: Paul W. Hobby, Chair; Chase Untermeyer, Vice Chair; Hugh C. Akin, Jim Clancy, Wilhelmina Delco, Bob Long, and Tom Ramsay.

COMMISSIONERS NOT PRESENT: Tom Harrison.

STAFF PRESENT: Anitra Abdullah-Levy, Alicia Anderson, Natalia Luna Ashley, Amy Barden, Margie Castellanos, Robbie Douglas, Nick Espinosa, Betty Gallegos, Lauren Gregorcyk, Jessie Haug, Cristina Hernandez, Bobby Mannas, Kristi Melton, John Moore, Patti Shannon, Ian M. Steusloff, Jim Tinley, and Patty Williams.

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 Hobby. Natalia Luna Ashley, Executive Director, called the roll. All Commissioners were present except Commissioner Harrison.

Agenda Item 2: Comments by the Commissioners.

Commissioner Clancy commented that House Bill 1295 from the 84th Legislature was the strongest ethics law in the last 20 years, but there are limitations on what the Commission can do. It will require some tweaks by the Legislature in the future. Chair Hobby commented that the Commission had debuted three separate disclosure modules during his tenure as Chair. The new Chair will handle a possible change in the Personal Financial Statement (PFS) module, regarding disclosing the address of the source of dividends. Chair Hobby discussed the *Van Hollen v. FEC* case.

Agenda Item 3: Approve minutes for the following meetings:

- Executive Session (discussion of pending litigation) – February 1, 2016; and
- Public Meeting – February 1, 2016.

Motion by Commissioner Ramsay to approve the meeting minutes listed under Agenda Item 3; second by Commissioner Delco. **Motion passed by a vote of seven ayes.**

The following agenda items were discussed as a group:

- Agenda Item 4:** Public discussion and possible action on the adoption or proposal and publication in the Texas Register of an amendment to Ethics Commission Rules § 46.3(d) (Definitions), defining interested party for purposes of House Bill 1295 to clarify that an interested party is a person with a controlling interest or a person who is an intermediary.
- Agenda Item 5:** Public discussion and possible action on the proposal and publication in the Texas Register of an amendment to Ethics Commission Rules § 46.3 (Definitions), adding a definition for “value” of a contract.
- Agenda Item 6:** Public discussion and possible action on the proposal and publication in the Texas Register of an amendment to Ethics Commission Rules § 46.3 (Definitions), amending the definitions of “contract,” “controlling interest,” and “intermediary” and adding a definition for “signed.”
- Agenda Item 7:** Public discussion and possible action on the proposal and publication in the Texas Register of an amendment to Ethics Commission Rules § 46.5 (Disclosure of Interested Parties Form), to clarify that a description of a contract includes property that does not constitute a service or goods and to amend the timing of notification to the Commission of receipt of a completed disclosure form and certification of filing.

Chair Hobby and Commissioner Clancy briefed the Commission on these agenda items. Leslie Norwood, representing the Securities Industry and Financial Markets Association (SIFMA), addressed the Commission and provided a written statement. Chair Hobby, Commissioner Clancy, and Natalia Luna Ashley, Executive Director, responded with questions and comments.

Motion by Commissioner Clancy to adopt the amendment to Ethics Commission Rules § 46.3(d), as listed in Agenda Item 4; second by Vice Chair Untermeyer. **Motion passed by a vote of seven ayes.**

Motion by Commissioner Clancy to publish the amendment to Ethics Commission Rules § 46.3 in the Texas Register for public comment, as listed in Agenda Item 5; second by Commissioner Delco. **Motion passed by a vote of seven ayes.**

Motion by Commissioner Clancy to publish the amendment to Ethics Commission Rules § 46.3 in the Texas Register for public comment, as listed in Agenda Item 6, with the addition of “or their wholly owned subsidiaries” in section 46.3(c); second by Commissioner Long. **Motion passed by a vote of seven ayes.**

Motion by Commissioner Clancy to publish the amendment to Ethics Commission Rules § 46.5 in the Texas Register for public comment, as listed in Agenda Item 7; second by Commissioner Ramsay. **Motion passed by a vote of seven ayes.**

Motion by Commissioner Clancy to adopt the changes to Form 1295, as listed in Agenda Item 7; second by Commissioner Delco. **Motion passed by a vote of seven ayes.**

Agenda Item 8: Public discussion and possible action on the adoption or proposal and publication in the Texas Register of an amendment to Ethics Commission Rules § 12.53 (Commission Initiated Complaint).

Chair Hobby briefed the Commission on this agenda item. Trey Trainor addressed the Commission on this agenda item. Chair Hobby, Commissioner Clancy, and Natalia Luna Ashley, Executive Director, responded with questions and comments. Motion by Commissioner Clancy to adopt the amendment to Ethics Commission Rules § 12.53; second by Commissioner Long. **Motion passed by a vote of seven ayes.**

Chair Hobby left the dais briefly during Agenda Item 9.

Agenda Item 9: Public discussion and possible action on the adoption or proposal and publication in the Texas Register of amendments to the following Ethics Commission Rules impacted by House Bill 1114, 84th Legislative Session, Regular Session: Ethics Commission Rules §§ 20.3 (Reports Filed with the Commission), 20.7 (Reports Filed with other Local Filing Authorities), and 20.315 (Termination of Campaign Treasurer Appointment).

Ian Steusloff, General Counsel, briefed the Commission on this agenda item. Vice Chair Untermeyer responded with a question. Motion by Commissioner Akin to adopt the amendments to Ethics Commission Rules §§ 20.3, 20.7 and 20.315; second by Chair Hobby. **Motion passed by a vote of seven ayes.**

Agenda Item 10: Public discussion and possible action on the adoption or proposal and publication in the Texas Register of amendments to the following Ethics Commission Rules impacted by House Bill 3517, 84th Legislative Session, Regular Session: Ethics Commission Rules §§ 34.1(5) (Definition of Independent Contractor), 34.46 (Registration under Section 305.0041 of the Government Code), and 34.73 (Reporting by Independent Contractor).

Ian Steusloff, General Counsel, briefed the Commission on this agenda item. Vice Chair Untermeyer responded with a question. Motion by Vice Chair Untermeyer to adopt the amendments to Ethics Commission Rules §§ 34.1(5), 34.46 and 34.73; second by Commissioner Akin. **Motion passed by a vote of seven ayes.**

Agenda Item 11: Public discussion and possible action on the adoption or proposal and publication in the Texas Register of new Ethics Commission Rules § 34.14 (Expenditures for Fact-Finding Trips), defining the meaning of “fact finding trip” for purposes of the lobby law.

Chair Hobby briefed the Commission on this agenda item. Jack Gullahorn addressed the Commission and provided a handout. Chair Hobby, Vice Chair Untermeyer, Commissioners Akin, Clancy, Delco, Long and Ramsay, Natalia Luna Ashley, Executive Director, and Ian Steusloff, General Counsel, responded with questions and comments. Motion by Vice Chair Untermeyer to republish new Ethics Commission Rules § 34.14 for public comment, as amended; second by Commissioner Clancy. **Motion passed by a vote of seven ayes.**

Commissioner Akin left the dais briefly during Agenda Item 12. Commissioner Clancy left the dais during Agenda Item 12.

Agenda Item 12: Public discussion and possible action on the proposal and publication in the Texas Register of an amendment to Ethics Commission Rules § 8.7 (Request for An Advisory Opinion), adding that Advisory Opinion Requests must include the name of the person making the request and the name of the person on whose behalf the request is made, if applicable.

Trey Trainor addressed the Commission on this agenda item. Chair Hobby, Vice Chair Untermeyer, Natalia Luna Ashley, Executive Director, and Ian Steusloff, General Counsel, responded with questions and comments. Motion by Commissioner Akin to publish the amendment to Ethics Commission Rules § 8.7 in the Texas Register for public comment; second by Commissioner Ramsay. **Motion passed by a vote of six ayes.**

Commissioner Clancy returned to the dais during Agenda Item 13.

Agenda Item 13: Public discussion and possible action on the proposal and publication in the Texas Register of an amendment to Ethics Commission Rules § 20.1 (Definitions), adding a definition for “school district.”

Ian Steusloff, General Counsel, briefed the Commission on this agenda item. Chair Hobby, Vice Chair Untermeyer, and Commissioner Delco responded with questions and comments. Motion by Commissioner Delco to amend the proposed amendment to Ethics Commission Rules § 20.1; second by Vice Chair Untermeyer. **Motion passed by a vote of seven ayes.** Motion by Commissioner Delco to publish the amendment to Ethics Commission Rules § 20.1 in the Texas Register for public comment, as amended; second by Vice Chair Untermeyer. **Motion passed by a vote of seven ayes.**

Agenda Item 14: Public discussion and possible action on the proposal and publication in the Texas Register of an amendment to Ethics Commission Rules § 34.5 (Certain Compensation Excluded), regarding the exclusion of certain compensation from the calculation to determine whether a person has exceeded the threshold that requires lobby registration.

Chair Hobby and Ian Steusloff, General Counsel, briefed the Commission on this agenda item. Motion by Vice Chair Untermeyer to publish the amendment to Ethics Commission Rules § 34.5 in the Texas Register for public comment; second by Commissioner Long. **Motion passed by a vote of seven ayes.**

The Commission recessed for a lunch break at 12:22 p.m. and reconvened at 1:07 p.m.

Commissioner Akin was absent from the dais at the beginning of Agenda Item 15.

Agenda Item 15: Discussion of Advisory Opinion Request Nos. AOR-596 and AOR-597: Application of Chapter 305 of the Government Code to an attorney's activities in response to certain invitations from members of the legislative branch to discuss pending legislation on behalf of the attorney's clients.

Ian Steusloff, General Counsel, briefed the Commission on this agenda item. Trey Trainor addressed the Commission. Chair Hobby, Vice Chair Untermeyer, and Commissioner Clancy responded with questions and comments. Motion by Vice Chair Untermeyer to adopt AOR-596 and AOR-597 without changes; second by Commissioner Delco. Motion passed by a vote of seven ayes. **AOR-596 and AOR-597 are adopted.**

Vice Chair Untermeyer left the dais during Agenda Item 16.

Agenda Item 16: Discussion of Advisory Opinion Request No. AOR-608: Whether a judicial officeholder may use political contributions to pay reasonable and necessary travel expenses to teach at a legal conference.

Chair Hobby and Ian Steusloff, General Counsel, briefed the Commission on this agenda item. Motion by Commissioner Long to adopt AOR-608 without changes; second by Commissioner Ramsay. Motion passed by a vote of six ayes. **AOR-608 is adopted.**

Vice Chair Untermeyer returned to the dais during Agenda Item 17.

Agenda Item 17: Discussion of Advisory Opinion Request No. AOR-609: Whether a legislator may accept a tax deduction for donating property to the state.

Chair Hobby and Ian Steusloff, General Counsel, briefed the Commission on this agenda item. Mr. Steusloff presented a revised draft of AOR-609 to the Commission. Commissioners Long and Ramsay responded with questions and comments. Motion by Commissioner Long to adopt AOR-609, as revised, without changes; second by Commissioner Akin. Motion passed by a vote of seven ayes. **AOR-609 is adopted.**

Agenda Item 18: Discussion of Advisory Opinion Request No. AOR-610: Whether a communication relating to a measure election complies with section 255.003 of the Election Code.

Chair Hobby briefed the Commission on this agenda item. Motion by Commissioner Akin to adopt AOR-610 without changes; second by Chair Hobby. Motion passed by a vote of seven ayes. **AOR-610 is adopted.**

Agenda Item 19: Discussion and possible action on the Commission's roll out of a Twitter account.

Chair Hobby briefed the Commission on this agenda item. No action was taken.

Agenda Item 20: Update on the facial compliance reviews process and facial compliance reviews conducted since the last meeting.

Chair Hobby and Jim Tinley, Assistant General Counsel, briefed the Commission on this agenda item. Natalia Luna Ashley, Executive Director, responded with a comment. No action was taken.

Agenda Item 21: Discussion and possible action regarding the level of disclosure of political expenditures made to political consultants and comments submitted in response to the Commission's request for public comment on the matter.

Chair Hobby briefed the Commission on this agenda item. No action was taken.

Agenda Item 22: Briefing, discussion, and possible action to waive or reduce certain penalties assessed for campaign finance reports, lobby reports and personal financial statements filed late due to issues with the new electronic filing application for the following individuals and political committees:

1. **Donald R. Wagoner (00067949)**
Treasurer, 'SAFPP-PAC' San Antonio Fire & Police Pensioners Association – PAC

Report: runoff report due June 5, 2015
Penalty: \$500
Recommendation: Waiver

2. **Timothy J. O'Hare (00080070)**
Candidate, County Party Chair

Report: semiannual report due January 15, 2016
Penalty: \$500
Recommendation: Waiver

3. **Kendall L. Baker (00080530)**
Candidate, State Representative

Report: semiannual report due January 15, 2016
Penalty: \$500
Recommendation: Waiver

4. **Mark D. Harkrider (00031035)**
Lobbyist

Report: annual lobby activities report due January 11, 2016
Penalty: \$500
Recommendation: Waiver

5. **Mike Odom (00070669)**
Lobbyist

Report: annual lobby activities report due January 11, 2016
Penalty: \$500
Recommendation: Waiver

6. **Dan Flynn (00032881)**
State Representative

Report: personal financial statement due February 12, 2016
Penalty: \$500
Recommendation: Waiver

7. **James F. 'Jim' Landtroop, Jr. (00056964)**
Candidate, State Representative

Report: personal financial statement due February 12, 2016
Penalty: \$500
Recommendation: Waiver

8. **Jose M. 'J.M.' Lozano (00065802)**
State Representative

Report: personal financial statement due February 12, 2016
Penalty: \$500
Recommendation: Waiver

9. **Borris Lee Miles (00052983)**
State Representative

Report: personal financial statement due February 12, 2016
Penalty: \$500
Recommendation: Waiver

10. **Craig M. Mixson (00067842)**
District Judge

Report: personal financial statement due February 12, 2016
Penalty: \$500
Recommendation: Waiver

11. **Fredericka M. Phillips (00066411)**
Candidate, District Judge

Report: personal financial statement due February 12, 2016
Penalty: \$500
Recommendation: Waiver

12. **Jonathan S. Stickland (00067904)**
State Representative

Report: personal financial statement due February 12, 2016
Penalty: \$500
Recommendation: Waiver

13. **Elizabeth R. Tarrant (00080357)**
Candidate, State Representative

Report: personal financial statement due February 12, 2016
Penalty: \$500
Recommendation: Waiver

14. **Laura R. Thompson (00080388)**
Candidate, State Representative

Report: personal financial statement due February 12, 2016
Penalty: \$500
Recommendation: Waiver

Amy Barden, Senior Legal Assistant, briefed the Commission on this agenda item. Motion by Vice Chair Untermeyer to accept staff's recommendation and waive the penalties on Agenda Item 22, numbers 1 through 14; second by Commissioner Long. **Motion to accept staff's recommendations and waive the penalties on Agenda Item 22, numbers 1 through 14, passed by a vote of seven ayes.**

Agenda Item 23: Briefing, discussion, and possible action on appeals to determinations made under Ethics Commission Rules §§ 18.25 and 18.26 relating to administrative waiver or reduction of a fine, for the following political committee:

1. **Roy E. Miller (00031074)**
Treasurer, 'WAREPAC' Texas Warehouse Assn.

Report: semiannual report due July 15, 2015
Penalty: \$500 – no waiver
Recommendation: None
Appeal Received: February 18, 2016

Amy Barden, Senior Legal Assistant, briefed the Commission on this agenda item. Chair Hobby and Commissioner Long responded with questions and comments. Motion by Commissioner Long to reduce the penalty to \$250 if paid within 30 days, and revert to \$500 if not paid within 30 days on Agenda Item 23, number 1; second by Vice Chair Untermeyer. **Motion to reduce the penalty to \$250 if paid within 30 days, and revert to \$500 if not paid within 30 days on Agenda Item 23, number 1, passed by a vote of seven ayes.**

For Agenda Item 24, the following represents the actions taken by the Commission in the order they occurred during the meeting.

Agenda Item 24: Briefing, discussion, and possible action to waive or reduce the late-filing penalty in connection with a corrected report or to determine whether the corrected report as originally filed substantially complied with the applicable law for the following political committees.

4. **Darell Sean Baumgartner (00017165)**
Treasurer, 'TCFA PAC' Texas Consumer Finance Association Political Action Committee

Report:8-day pre-election report due October 27, 2014

Penalty: \$10,000

Recommendation Based on Commission Guidelines: reduction to \$1,200

Amy Barden, Senior Legal Assistant, briefed the Commission on this agenda item. Motion by Commissioner Clancy to waive the penalty on Agenda Item 24, number 4; second by Commissioner Ramsay. **Motion to waive the penalty on Agenda Item 24, number 4, passed by a vote of seven ayes.**

1. **Jay A. Thompson (00017277)**
Treasurer, 'FACT' Association of Fire & Casualty Companies of Texas PAC

Report:8-day pre-election report due December 1, 2014

Penalty: \$10,000

Recommendation Based on Commission Guidelines: substantial compliance

2. **Joseph Casseb (00016887)**
Treasurer, Goode Casseb Jones Riklin Choate & Watson Committee For Responsible Government

Report:8-day pre-election report due October 26, 2015

Penalty: \$2,100

Recommendation Based on Commission Guidelines: substantial compliance

3. **Kimberly L. Fitzpatrick (00016985)**
Treasurer, 'RWA' Republican Women of Arlington

Report:8-day pre-election report due February 22, 2016

Penalty: \$800

Recommendation Based on Commission Guidelines: substantial compliance

Amy Barden, Senior Legal Assistant, briefed the Commission on this agenda item. Chair Hobby responded with questions and comments. Motion by Commissioner Long to accept staff's recommendation of substantial compliance on Agenda Item 24, numbers 1 through 3; second by Commissioner Delco. **Motion to accept staff's recommendation of substantial compliance on Agenda Item 24, numbers 1 through 3, passed by a vote of seven ayes.**

Agenda Item 25: Comments by the Executive Director.

Natalia Luna Ashley, Executive Director, addressed the Commission. Eight-eight new Sworn Complaints were filed since the last Commission meeting. A new search engine was created for Form 1295's. Over 17,000 Form 1295's have been filed so far this year. The Commission received approximately 700 calls on HB 1295 in February, and approximately 600 calls in March. The Commission is studying the trend of the questions to create Frequently Asked Questions for the regulated community. Telephone calls to the Commission as an agency, including legal and technical support, totaled over 27,000 for January and over 28,000 for February; this is partly because there are a lot of new people in the system using the electronic filing applications for the first time. A query feature was added to the Simple Search on the Commission's website that allows users to find all reports, including corrections, or only the most recent corrected reports. The next all-day training symposium will be held on Friday, July 8, 2016, in Lewisville, at the MCL Grand Theater; there is plenty of free parking. Ms. Ashley thanked the staff for all of their hard work, and thanked Chair Hobby for his leadership.

Commissioner Long left the dais briefly during Agenda Item 26.**Agenda Item 26: Comments to the Commission from the public.**

Joseph Nixon, representing Empower Texans, Inc., addressed the Commission. Chair Hobby responded with questions and comments. Tom Brown, representing himself and Word of Life Church of El Paso, addressed the Commission. Chair Hobby, Commissioner Clancy, Natalia Luna Ashley, Executive Director, and Ian Steusloff, General Counsel, responded with questions and comments. Sonia Brown, representing Word of Life Church of El Paso, addressed the Commission. David Welch, representing Texas Pastor Council Action, addressed the Commission. Chair Hobby, Commissioner Ramsay, Ms. Ashley, and Mr. Steusloff, responded with questions and comments.

Agenda Item 27: Adjourn.

Motion by Commissioner Ramsay to adjourn; second by Vice Chair Untermeyer. **Motion passed by unanimous consent.**

Meeting adjourned at 2:39 p.m.