TEXAS ETHICS COMMISSION MEETING MINUTES
August 6, 2009, 8:31 a.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, Robbie Douglas, Susana Esparza, Sharon Finley, Ginger Hunter, Brad Johnson, Becky Levy, Bobby Mannas, Mike McElhaney, 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 Commissioners Delco and Montagne.

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

None.

Agenda Item 3: Comments by the Commissioners.

Chair Fischer commented on Commissioner Henderson’s return to his second Commission meeting.

Agenda Item 4: Comments by the executive director.

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

1. Mr. Reisman discussed personnel issues. The Ethics Commission has hired a new attorney, Natalie Adelaja. Mr. Reisman stated that the Commission is currently conducting interviews for the receptionist’s position. He announced the following promotions: Brad Johnson and Susana Esparza have been promoted to Attorney II positions, and Dora Gonzales has been promoted to Administrative Assistant II. Mr. Reisman stated that all divisions are doing well, and he also wanted to acknowledge the work that the Disclosure Filings Division is doing.
2. Mr. Reisman discussed sworn complaints. The Commission has received 189 complaints this calendar year and 262 complaints for this fiscal year. He discussed the top twelve most common areas of violations.

3. Mr. Reisman discussed the quarterly report regarding third quarter expenditures and he noted that the budget is right on track and all measures are being met.

**Agenda Item 5: Approve minutes of the June 9, 2009, commission meeting.**

Motion by Commissioner Taylor to adopt the June 9, 2009, commission meeting minutes; second by Vice Chair Mendoza. Motion passed by a vote of six 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.**

39. Rose E. Wall (00016168)
   Treasurer, ‘HGLBTPCPAC’ Houston GLBT Political Caucus PAC
   Report: monthly report due March 5, 2009
   Penalty: $500
   Staff recommendation: no waiver of the late-filing penalty

Rose E. Wall spoke before the Commission. Motion by Commissioner Harrison to reduce the $500 late-filing penalty to $250 on Agenda Item 6, number 39; second by Commissioner Graham. Motion passed by a vote of six ayes on Agenda Item 6, number 39. **The reduction of the late-filing penalty to $250 is adopted on Agenda Item 6, number 39.**

48. Robin Joseph Stallings (00065402)
   Lobbyist
   Report: lobby activities report due April 10, 2009
   Penalty: $500
   Staff recommendation: At the June 2009 meeting, the Commission voted not to waive the late-filing penalty.

Robin Stallings spoke before the Commission. Motion by Commissioner Harrison to reduce the $500 late-filing penalty to $100 on Agenda Item 6, number 48; second by Commissioner Henderson. Motion passed by a vote of five ayes on Agenda Item 6, number 48. **The reduction of the late-filing penalty to $100 is adopted on Agenda Item 6, number 48.**

1. James Hernandez (00065549)
   Lobbyist
   Report: lobby activities report due June 10, 2009
   Penalty: $500
   Staff recommendation: waiver of the late-filing penalty
2. **Daniel J. Kindred (00054841)**  
   District Attorney
   
   Report: personal financial statement due April 30, 2009  
   Penalty: $500  
   Staff recommendation: waiver of the late-filing penalty

3. **Melinda Little (00053699)**  
   Lobbyist
   
   Report: lobby activities report due May 11, 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 1 through 3; second by Commissioner Henderson. Motion passed by a vote of six ayes on Agenda Item 6, numbers 1 through 3. **Staff's recommendations are adopted on Agenda Item 6, numbers 1 through 3.**

4. **Wayne DeLanghe (00056509)**  
   Lobbyist
   
   Report: lobby activities report due May 11, 2009  
   Penalty: $500  
   Staff recommendation: waiver of the late-filing penalty

5. **Mimi Rebecca Espinoza (00056338)**  
   Lobbyist
   
   Report: lobby activities report due May 11, 2009  
   Penalty: $500  
   Staff recommendation: waiver of the late-filing penalty

6. **Louis ‘Lee’ Kuhn (00065605)**  
   Lobbyist
   
   Report: lobby activities report due June 10, 2009  
   Penalty: $500  
   Staff recommendation: waiver of the late-filing penalty

7. **Vanus J. Priestley (00039965)**  
   Lobbyist
   
   Report: lobby activities report due May 11, 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 4 through 7; second by Vice Chair Mendoza. Motion passed by a vote of six ayes on Agenda Item 6, numbers 4 through 7. Staff’s recommendations are adopted on Agenda Item 6, numbers 4 through 7.

8. William Wayne ‘Rusty’ Ballard, II (00060027)  
Member, Credit Union Commission

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

9. Tammy Beckham (00065489)  
Director, Texas Veterinary Medical Diagnostic Laboratory

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

10. Billy Bledsoe (00063808)  
Member, Central Colorado River Authority

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

11. Bryan K. Brown (00053205)  
Member, State Securities Board

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

12. Samuel Lee Bryant (00062517)  
Member, Texas Southern University Board of Regents

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

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

Report: personal financial statement due April 30, 2009  
Penalty: $500  
Staff recommendation: no waiver of the late-filing penalty
14. O. Kyler Carter  (00062560)  
District Judge

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

15. Anwar Ahmed Khalifa  (00055709)  
Member, Human Rights Commission

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

16. Norberto Salinas, Sr.  (00022511)  
Member, Texas Funeral Service Commission

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

17. Scott C. Sanders  (00057529)  
Member, Cancer Prevention and Research Institute of Texas Oversight Committee

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

18. Clinton P. Sayers  (00056100)  
Member, Texas Appraiser Licensing and Certification Board

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

19. David Alan Sime  (00053974)  
Member, Texas Board of Chiropractic Examiners

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

20. 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
Agenda Item 6, number 20, is postponed at filer’s request.

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

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

22. Lawrence D. ‘Larry’ Weiman (00060041)
    District Judge

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

23. Davie L. Wilson (00020989)
    Senior Judge

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

The waiver of the $500 late-filing penalty is adopted on Agenda Item 6, number 23.

24. Karen Raye Brown (00055959)
    Treasurer, Republican Party of Kendall County (CEC)

   Report: 30-day pre-election report due April 9, 2009
   Penalty: $500
   Staff recommendation: no waiver of the late-filing penalty

25. J. Lawrence Collins (00053516)
    Lobbyist

   Report: lobby activities report due May 11, 2009
   Penalty: $500
   Staff recommendation: no waiver of the late-filing penalty
26. Richard Davis (00015566)
Treasurer, Hammer & Nails Club Builders Assn. Of Fort Worth & Tarrant County

Report: monthly report due March 5, 2009
Penalty: $500
Staff recommendation: no waiver of the late-filing penalty

27. Patricia ‘Trish’ Espinoza (00016829)
Treasurer, El Paso Apartment Assn. Better Government Fund

Report: 8-day runoff report due May 29, 2009
Penalty: $500
Staff recommendation: no waiver of the late-filing penalty

28. Scott L. Farler (00053132)
Treasurer, ‘CFFFRG’ Carrollton Fire Fighters for Responsible Government

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

29. Jason D. Fife (00037800)
Treasurer, Republican Party of Waller County (CEC)

Report: 30-day pre-election report due April 9, 2009
Penalty: $500
Staff recommendation: no waiver of the late-filing penalty

30. Jason Johnson (00056487)
Lobbyist

Report: lobby activities report due May 11, 2009
Penalty: $500
Staff recommendation: no waiver of the late-filing penalty

31. Cheryl Landers (00037289)
Treasurer, ‘TexPAC’ Texas Employee Political Action Committee of Luminant Corp.

Report: monthly report due June 5, 2009
Penalty: $500
Staff recommendation: no waiver of the late-filing penalty

32. Christopher A. McClellan (00010102)
Lobbyist

Report: lobby activities report due June 10, 2009
Penalty: $500
Staff recommendation: no waiver of the late-filing penalty

33. **Mike McLamore (00018478)**  
   Lobbyist  
   Report: lobby activities report due June 10, 2009  
   Penalty: $500  
   Staff recommendation: no waiver of the late-filing penalty

34. **James C. ‘Jim’ Peyton (00051365)**  
   Treasurer, 'CLR/PAC' CLR Texas Political Action Committee  
   Penalty: $500  
   Staff recommendation: no waiver of the late-filing penalty

35. **Thomas Ray Purser (00053329)**  
   Lobbyist  
   Report: lobby activities report due April 10, 2009  
   Penalty: $500  
   Staff recommendation: no waiver of the late-filing penalty

36. **Rosemarie Selman (00016070)**  
   Treasurer, San Antonio Apartment Assn. PAC  
   (a.) Report: 30-day pre-election report due April 9, 2009  
   Penalty: $500  
   Staff recommendation: no waiver of the late-filing penalty  
   (b.) Report: 8-day pre-election report due May 1, 2009  
   Penalty: $2,200  
   Staff recommendation: no waiver of the late-filing penalty  
   Total penalties: $2,700

37. **Martha E. Smiley (00013784)**  
   Lobbyist  
   Report: lobby activities report due May 11, 2009  
   Penalty: $500  
   Staff recommendation: no waiver of the late-filing penalty

38. **Gary K. Underwood, Jr. (00053522)**  
   Lobbyist  
   Report: lobby activities report due May 11, 2009  
   Penalty: $500
Motion by Commissioner Graham to adopt staff’s recommendations on Agenda Item 6, numbers 24 through 38; second by Commissioner Henderson. Motion passed by a vote of six ayes on Agenda Item 6, numbers 24 through 38. **Staff’s recommendations are adopted on Agenda Item 6, numbers 24 through 38.**

40. Jessica Balladares Bennett (00053648)  
Lobbyist  
Penalty: $500  
Staff recommendation: reduction of the late-filing penalty to $250

41. Stephen J. Frost (00054840)  
State Representative  
Report: personal financial statement due June 29, 2009  
Penalty: $500  
Staff recommendation: reduction of the late-filing penalty to $250

42. Neil A. Iscoe (00056119)  
Member, Product Development and Small Business Incubator Board  
Report: personal financial statement due June 29, 2009  
Penalty: $500  
Staff recommendation: reduction of the late-filing penalty to $250

43. Travis N. Kessler (00015973)  
Treasurer, ‘SARPAC’ San Antonio Board of Realtors PAC  
(a.) Report: 30-day pre-election report due April 9, 2009  
Penalty: $500  
Staff recommendation: no waiver of the late-filing penalty

(b.) Report: 8-day pre-election report due May 1, 2009  
Penalty: $3,200  
Staff recommendation: reduction of the late-filing penalty to $500

Total penalties: $3,700  
Total recommended penalties: $1,000

Robyn Locke spoke before the Commission.

44. Linda S. Sickels (00010027)  
Lobbyist  
(a.) Report: lobby activities report due December 10, 2008  
Penalty: $500  
Staff recommendation: reduction of the late-filing penalty to $100
(b.)  Report:  lobby activities report due January 12, 2009  
Penalty:  $500  
Staff recommendation:  reduction of the late-filing to $100  
Total penalties:  $1,000  Total recommended penalties:  $200

45.  Misti Weeks Spacek  (00058829)  
Criminal District Attorney  
Report:  personal financial statement due April 30, 2009  
Penalty:  $500  
Staff recommendation:  reduction of the late-filing penalty to $250  

Motion by Vice Chair Mendoza to adopt staff’s recommendations on Agenda Item 6, numbers 40 through 45; second by Commissioner Harrison. Motion passed by a vote of six ayes on Agenda Item 6, numbers 40 through 45.  
Staff’s recommendations are adopted on Agenda Item 6, numbers 40 through 45.

46.  Neil L. Durrance  (00063256)  
County Party Chair  
Penalty:  $500  
Staff recommendation:  At the April 2009 meeting, the Commission voted not to waive the late-filing penalty.  

The late-filing penalty on Agenda Item 6, number 46, stands due to lack of a motion.

47.  Deborah Ann Reyes  (00056002)  
Lobbyist  
Report:  lobby activities report due February 10, 2009  
Penalty:  $500  
Staff recommendation:  At the June 2009 meeting, the Commission voted not to waive the late-filing penalty.  

Deborah Reyes spoke before the Commission. The late-filing penalty on Agenda Item 6, number 47, stands due to lack of a motion.

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.  Kristi Thibaut  (00058217)  
State Representative  
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

Motion by Commissioner Harrison to adopt staff’s recommendations on Agenda Item 7, number 1; second by Vice Chair Mendoza. Motion passed by a vote of six ayes on Agenda Item 7, number 1. **Staff’s recommendation is adopted on Agenda Item 7, number 1.**

2. **Rene M. Peña (00054389)**
District Attorney

(a.) Report: personal financial statement due June 30, 2006
Penalty: $500
Staff recommendation: waiver of the late-filing penalty

(b.) Report: personal financial statement due June 29, 2007
Penalty: $500
Staff recommendation: waiver of the late-filing penalty

Total penalties: $1,000

Motion by Commissioner Henderson to adopt staff’s recommendations on Agenda Item 7, number 2; second by Vice Chair Mendoza. Motion passed by a vote of six ayes on Agenda Item 7, number 2. **Staff’s recommendation is adopted on Agenda Item 7, number 2.**

3. **Joseph R. Mathews (00062371)**
Treasurer, ‘R3G’ Richardson Residents for Responsive Government

Report: 8-day pre-election report due May 1, 2009 (original filed late)
Penalty: $2,400
Staff recommendation: reduction of the late-filing penalty to $500

Joseph Mathews spoke before the Commission. Motion by Commissioner Henderson to adopt staff’s recommendation on Agenda Item 7, number 3; second by Commissioner Graham. Motion passed by a vote of six ayes on Agenda Item 7, number 3. **Staff’s recommendation is adopted on Agenda Item 7, number 3.**

4. **William B. ‘Bill’ Thornton (00016943)**
Treasurer, Citizens For A Better Fort Worth

Report: 8-day pre-election report due May 2, 2008
Penalty: $10,000 (reduced to $1,000)
Staff recommendation: At the April 2009, the Commission voted to reduce the late-filing penalty to $1,000.

Patti Steelman spoke before the Commission. Motion by Commissioner Harrison to reduce the $10,000 late-filing penalty to $500 on Agenda Item 7, number 4; no second. Motion failed. Motion by Commissioner Henderson to affirm the Commission’s previous decision to reduce the late-filing penalty to $1,000 on Agenda Item 7, number 4; second by Vice Chair Mendoza. Motion passed by a vote of six ayes on Agenda Item 7, number 4. **The reduction of the late-filing penalty to $1,000 is adopted on Agenda Item 7, number 4.**
Return to Agenda Item 6.

Agenda Item 6, number 29, was reconsidered:

29. **Jason D. Fife (00037800)**  
    Treasurer, Republican Party of Waller County (CEC)

    Report: 30-day pre-election report due April 9, 2009  
    Penalty: $500  
    Staff recommendation: no waiver of the late-filing penalty

Jason Fife spoke before the Commission. Motion by Commissioner Harrison to waive the $500 late-filing penalty on Agenda Item 6, number 29; second by Vice Chair Mendoza. Motion passed by a vote of six ayes on Agenda Item 6, number 29. **The waiver of the $500 late-filing penalty is adopted on Agenda Item 6, number 29.**

Agenda Item 8. Discussion and possible action regarding the termination of a campaign treasurer appointment of an inactive candidate.

Natalia Luna Ashley, General Counsel, briefed the Commission on this agenda item. Motion by Commissioner Taylor to adopt staff’s recommendations on Agenda Item 8; second by Commissioner Henderson. Motion passed by a vote of six ayes. **Staff’s recommendation is adopted on Agenda Item 8.**

Agenda Item 9: AOR 547: Whether an elected officeholder may accept transportation, meals, and lodging from a corporation or labor organization in return for addressing an audience or participating in a seminar when the reason they are asked to participate is their public position or duties and the service is more than perfunctory.

Natalia L. Ashley, General Counsel, briefed the Commission on this agenda item. Ed Shack, attorney, spoke before the Commission. Jack Gullahorn, President, Professional Advocacy Association of Texas, spoke before the Commission. Motion by Commissioner Taylor to adopt AOR-547 as amended; second by Commissioner Graham. Motion passed by a vote of five ayes. Commissioner Harrison voted no. **AOR 547 is adopted.**

Agenda Item 10: AOR 548: Whether in a situation where a person is the beneficiary of a trust that the person created, but does not manage the trust and is not aware of the investments that the trustees of the trust have authorized, the person must take affirmative action to determine the identity of trust assets from which over $500 was received for purposes of completing a personal financial statement as required under Chapter 572 of the Government Code or whether the person indicates that such assets are unknown.

AOR-548 was withdrawn by the requestor.

Agenda Item 11: Public discussion and possible action on the proposal 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.
Natalia L. Ashley, General Counsel, briefed the Commission on this agenda item. Jack Gullahorn, President, Professional Advocacy Association of Texas, spoke before the Commission. A public work session on the proposed rules will be scheduled and notification will be posted on the Commission’s website. Motion by Commissioner Harrison to publish Agenda Item 11 as amended for public comment in the Texas Register; second by Vice Chair Mendoza. Motion passed by a vote of six ayes. Proposed Ethics Commission Rules §§ 34.1, 34.5, 34.46, 34.73, and 34.75 to be published in the Texas Register for 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. Ross Fischer, Chair, proposed that a subcommittee be formed to research what other states do and to bring that information to the next Commission meeting. The subcommittee will include Chair Ross Fischer and Commissioners Taylor and Graham.

Agenda Item 13: Public discussion and possible action on the proposal 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.

Natalia L. Ashley, General Counsel, briefed the Commission on this agenda item. Motion by Commissioner Graham to repeal the entire rule and publish for public comment in the Texas Register; second by Commissioner Henderson. Motion passed by a vote of six ayes. Proposed Ethics Commission Rule § 12.57 to be published in the Texas Register for comment.

The next Ethics Commission meetings are tentatively scheduled for October 15, 2009, and December 3, 2009.

Agenda Item 14: Adjourn.

Commission meeting adjourned by unanimous consent.