



## TEXAS ETHICS COMMISSION MEETING MINUTES

### Public Meeting Minutes

December 9, 2021, 9:00 a.m.

Capitol Extension, Room E1.014

Austin, Texas 78701



**COMMISSIONERS PRESENT:** Mary K. “Katie” Kennedy, Chair; Randall H. Erben, Vice Chair; Chad M. Craycraft, Chris Flood, Patrick W. Mizell, Richard S. Schmidt, Joseph O. Slovacek, and Steven D. Wolens

**COMMISSIONERS NOT PRESENT:** All Present

**STAFF PRESENT:** Joe Brocato, Margie Castellanos, Nick Espinosa, Betty Gallegos, Jessie Haug, Cristina Hernández, Jordan Hunn, J.R. Johnson, Demetria Manning, Natalie McDermon, Amy Padilla, Anne Temple Peters, Lindsay Powers, Frances Ramirez, Brennan Szabo, Margaret Sanchez, Patti Shannon, Scarlett Scalzo, Jim Tinley, and Preston Tom.

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## MINUTES

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 Kennedy. Anne Temple Peters, Executive Director, called the roll. All Commissioner were present.

**Agenda Item 2: Executive session pursuant to Section 551.071, Government Code, Consultation with Attorneys, and Section 551.074, Government Code, Personnel Matters; Closed Meeting.**

A. Discussion of pending litigation to seek legal advice relating to the following:

- i. Cause No. D-1-GN-17-001878: *Texas Ethics Commission v. Michael Quinn Sullivan*, in the 250th Judicial District Court in Travis County, Texas; Cause No.03-17-00392-CV: *Michael Quinn Sullivan v. Texas Ethics Commission*, in the Third Court of Appeals

at Austin, Texas; and Cause No. 18-0580: *Michael Quinn Sullivan v. Texas Ethics Commission*, in the Supreme Court of Texas.

- ii. Cause No. D-1-GN-15-004455: *Texas Ethics Commission v. Empower Texans, Inc. and Michael Quinn Sullivan*, in the 345<sup>th</sup> Judicial District Court of Travis County, Texas; and related case, Cause No. 03-16-00872-CV: *Empower Texans, Inc., and Michael Quinn Sullivan v. Texas Ethics Commission*, in the Third Court of Appeals, Austin, Texas.
  - iii. Cause No. D-1-GN-21-003269, *Michael Quinn Sullivan v. Texas Ethics Commission*, in the 459<sup>th</sup> Judicial District Court in Travis County, Texas
  - iv. Cause No. 21-00140: *Texas Ethics Commission v. Robert L. "Bob" Hall, III*, in the 294<sup>th</sup> Judicial District Court in Van Zandt County, Texas.
- B. Discussion of pending and contemplated litigation regarding the collection of imposed penalties.
  - C. Discussion of personnel matters.
  - D. Reconvene in open session and Public meeting at 9:35 am.

**Agenda Item 3: Discussion regarding dates for next quarterly Commission meeting.**

Chair Kennedy briefed the Commission on this agenda. Tentative dates for the next commission meeting, subject to change, are February 24, 2022 and February 25, 2022.

**Agenda Item 4: Approve minutes for the following meetings:**

- o **Executive Session – August 31, 2021, and**
- o **Public Meeting – September 1, 2021.**

Chair Kennedy briefed the Commission on this agenda item. Motion by Commissioner Wolens to adopt minutes in Agenda Item 4; second by Vice Chair Erben. **Motion passed unanimously.**

**Agenda Item 5: Discussion and possible action on appeals of determinations made under Ethics Commission on Rules §§ 18.25 and 18.26 relating to administrative waiver or reduction of a fine for the following filers:**

1. **The Black Women’s PAC, Tracy Scott, former treasurer (000842403)**
2. **South Coast Republican Women, Jeannie Whittington, former treasurer (00083676)**

J.R. Johnson, General Counsel, briefed the Commission on Agenda Item 5, number 1. Former Treasurer, Tracy Scott present for comment. Chair Kennedy, Commissioner Wolens, and Mr.

Johnson responded with questions and comments. Motion by Commissioner Slovacek to adopt staff recommendation to waive fine on Agenda Item 5, number 1; second by Commissioner Schmidt. **Motion passed unanimously.** J.R. Johnson, General Counsel, briefed the Commission on Agenda Item 5, number 2. Chair Kennedy, Commissioner Wolens, and Mr. Johnson responded with questions and comments. Motion by Commissioner Wolens to adopt staff recommendation of the fine of \$500 on Agenda Item 5, number 2; second by Commissioner Flood. **Motion passed unanimously.**

**Agenda Item 6:       Reconsideration of Ethics Advisory Opinion No. EAO-568, adopted on September 1, 2021, and possible adoption of a revised advisory opinion regarding whether a judge may use political contributions to pay expenses related to home security systems and equipment.**

J.R. Johnson, General Counsel, briefed the Commission on this agenda item. Chair Kennedy, Commissioners Craycraft and Schmidt, and Mr. Johnson responded with questions and comments. Motion by Commissioner Schmidt to adopt Agenda Item 6; second by Commissioner Wolens. **Motion passed unanimously.**

**Agenda Item 7:       Draft Advisory Opinion No. AOR-651: Whether an officer or employee of a district attorney's office may use public funds to create items with logos that display the name and title of the officer and give the items to members of the public.**

J.R. Johnson, General Counsel, briefed the Commission on this agenda item. George Al-Hanna and Rogelio Rodriguez appeared on behalf of the requestor, and requested a withdrawal of the request. Motion by Commissioner Mizell; second by Commissioner Flood to redraft the opinion as a general opinion. **Motion passed unanimously.**

**Agenda Item 8:       Draft Advisory Opinion No. AOR-653: Whether a candidate of officeholder may use political contributions to establish and control a general-purpose political committee, which then pays the candidate or officeholder a salary.**

J.R. Johnson, General Counsel, briefed the Commission on this agenda item. Andrew Cates addressed the Commission on this agenda item. Chair Kennedy, Commissioners Craycraft, Schmidt and Wolens, and Mr. Johnson responded with questions and comments. Motion by Commissioner Wolens to adopt Agenda Item 8; second by Vice Chair Erben. **Motion passed unanimously.**

**Brief recess at 10:20 a.m. Reconvened at 10:34 a.m.**

**Agenda Item 9: Draft Advisory Opinion No. AOR-655: Whether the revolving door law in section 572.054 of the Government Code would prohibit a former employee of a state agency from providing certain services.**

J.R. Johnson, General Counsel, briefed the Commission on this agenda item. Stephanie Muth and her attorney Ross Fisher addressed the Commission on this agenda item. Chair Kennedy, Vice Chair Erben, Commissioners Craycraft, Mizell, Schmidt, Slovacek and Wolens, and Mr. Johnson responded with question and comments. **No action was taken.**

**Agenda Item 10: Discussion and possible action on the adoption or proposal and publication in the Texas Register of an amendment to 1. Tex. Admin. Code § 18.31, regarding the adjustments of reporting thresholds, and Ethics Commission Rules that are affected by the adoption of an amendment to 1. Tex. Admin. Code § 18.31, including §§ 20.62, 20.65, 20.217, 20.220, 20.221, 20.275, 20.301, 20.303, 20.313, 20.329, 20.333, 20.401, 20.405, 20.434, 20.435, 20.553, 20.555, 22.1, 22.7, 34.41, and 34.43.**

J.R. Johnson, General Counsel, briefed the Commission on this agenda item. Chair Kennedy and Commissioner Wolens responded with question and comments. Motion by Vice Chair Erben to adopt Agenda Item 12; second by Commissioner Schmidt. **Motion passed unanimously.**

**Agenda Item 11: Discussion and possible action on the adoption or proposal and publication in the Texas Register of new 1 Tex. Admin. Code § 22.37, regarding cryptocurrency contributions.**

J.R. Johnson, General Counsel, briefed the Commission on this agenda item. Lee Bratcher, Andrew Cates, and Samuel Gostomski addressed the Commission on this agenda item. Chair Kennedy, Vice Chair Erben, Commissioners Craycraft, Flood, Schmidt and Wolens, and Mr. Johnson responded with questions and comments. Motion by Vice Chair Erben to delete Section C from publication; Second by Commissioner Craycraft. **Motion passed with seven ayes.** Motion by Vice Chair Erben to change cryptocurrency to virtual currency in publication; second by Craycraft. **Motion passed unanimously.** Motion by Commissioner Flood republish with amendments; Second by Vice Chair Erben. **Motion passed with seven ayes.**

**Agenda Item 12: Credit Card Reporting: Schedule F4 changes.**

J.R. Johnson, General Counsel, briefed the Commission on this agenda item. Chair Kennedy, Mrs. Temple Peters, and Mr. Johnson responded with question and comments. No action was taken.

**Agenda Item 13: Adjourn.**

Motion by Chair Kennedy to adjourn. **Commission meeting adjourned by unanimous consent.**

Meeting adjourned at 12:05 pm.