



## 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.

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### 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. Commissioner Graham voted no. **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

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- 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
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**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

Motion by Commissioner Graham to adopt staff's recommendations on Agenda Item 6, numbers 8 through 19, and 21 through 23; second by Vice Chair Mendoza. Motion was withdrawn. Motion by Commissioner Harrison to waive the \$500 late-filing penalties on Agenda Item 6, numbers 14 and 23; no second. Motion was withdrawn. Motion by Commissioner Harrison to waive the \$500 late-filing penalty on Agenda Item 6, number 23; second by Commissioner Henderson. Motion passed by a vote of five ayes on Agenda Item 6, number 23. Chair Fischer voted no. **The waiver of the \$500 late-filing penalty is adopted on Agenda Item 6, number 23.** Motion by Commissioner Henderson to adopt staff's recommendations on Agenda Item 6, numbers 8 through 19, and 21 and 22; second by Commissioner Graham. Motion passed by a vote of six ayes on Agenda Item 6, numbers 8 through 19, and 21 and 22. **Staff's recommendations are adopted on Agenda Item 6, numbers 8 through 19, and 21 and 22.**

**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**

Report: monthly report due May 5, 2009

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



Staff recommendation: no waiver of the late-filing penalty

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**

Report: lobby activities report due December 10, 2008  
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**

Report: semiannual report due January 15, 2009  
 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.