

TO: Judge Kocurek

FROM: 390<sup>th</sup> Grand Jury, 2005 July Term – Extended through February, 2006

SUBJECT: Grand Jury Report

The 390<sup>th</sup> Grand Jury recently ended 8 months of service for Travis County. Much of that time involved a case of a “high profile” public official. We have become aware, then outraged by the “loopholes” and “vagueness” which seem to be common for self-serving legislative laws and codes.

Our particular and immediate concern is Texas Government Code Chapter 572, specifically S 572.023 requiring certain state officers, including state legislators, to file a yearly financial disclosure form which covers the preceding calendar year. The statute, under S 572.023 (b) states, in pertinent part: the account of financial activity consists of: occupational income, identified by employer or if self-employed, by the nature of the occupation.

The facts presented to us include:

- An attorney with the Texas Ethics Commission was contacted by the public official and told that he was a self-employed consultant. The public official asked whether or not he needed to list each business entity by which he was paid money as a consultant or if he should simply state “consultant” on the financial disclosure form. The public official was told that he should simply put “consultant” as his occupation and need not list out each business or organization by which he had been paid as a consultant for the preceding year.

The above mentioned form is a constituent’s best opportunity to determine from what sources their public officials are being paid, hence the title of chapter 572 Personal Financial Disclosure, Standards of Conduct and Conflict of Interest. However, if the only thing a “self-employed” public official needs to do to comply with S 572.023 is list the “nature” of the occupation, such as consultant, then this prevents that public official’s constituents from full disclosure of “sources of income” and it prevents them from being able to discover possible conflicts of interest.

Transparency is vital in this area. Most people probably believe that public officials are required to list individual sources of income, even if they are self-employed. In the case in question, there was obvious misconduct on the part of the public official, but, due to the information given by the lawyer at the Texas Ethics commission, the public official was able to “hide” his income by listing only “Consultant” on the form and avoiding the sources of his Consultant fees.

Filed in The District Court  
of Travis County, Texas

03 2006

At 9:25 A.M. LRE  
Amalia Rodriguez-Mendoza, Clerk

This Grand Jury has additional concerns, including the structure and make-up of the Texas Ethics Commission. The Commissioners are apparently appointed by a bi-partisan committee of the Legislature (the very body to be "policed").

While the operational staff is responsible for highly sensitive 'day-to-day' functions including receiving, reviewing and clarifying those issues related to ethical actions of members of the Legislative Body, it is not held responsible for "common sense" office practices of documenting such functions. In our questioning the Executive Director of the Texas Ethics commission, we learned that there is no official documentation of the information they provide for public officials. Yet, that very information, when used by public officials can be the basis for a legal defense for criminal activity!

It is incredible that the District Attorney's office is thwarted in their efforts to prosecute public officials because they are allowed to hide behind the lax and vague codes of the Texas Ethics Commission. In light of the fact that the oversight power of this commission has been granted, and is in the hands of Legislative appointees, we question whether it is really an independent, non-partisan, and effective agent for the enforcement of the ethics of public officials.

A final thought - in the difficult budget times that our state is facing, it might be more appropriate to eliminate the so called "Ethics Commission" and redirect those dollars to more needy priorities.

Respectfully submitted,

390<sup>th</sup> Grand Jury