

## Ethics Opinion to Allow Out-of-State Donors Pay for Paxton's Legal Defense

*Question: Should the Texas Ethics Commission (TEC) adopt a legal opinion that creates an ethical blank check for the exclusive benefit of the Attorney General who's under felony criminal indictments for alleged securities fraud?*

### **Ethics 101:**

The TEC should not issue an ethical blank check to *any* state official. If it insists on doing so, it should not make that blank check payable to the one state official who's under felony criminal indictments for alleged securities fraud. ([Read background article from the Houston Chronicle.](#))

### **All About Paxton:**

The proposed advisory opinion says that employees of the Office of the Attorney General (OAG) can personally accept unlimited amounts of money from certain out-of-state donors provided that they eventually disclose those gifts on annual personal financial statements filed with the Texas Ethics Commission (TEC). According to TEC staff, only *one* OAG employee files personal financial statements. This confirms that this misguided opinion was drafted for the exclusive benefit of indicted Attorney General Ken Paxton.

### **Paxton's Needs:**

A Collin County grand jury [indicted](#) Paxton in July 2015 on three felony counts of securities fraud and failing to register as a securities investment advisor. The indictments allege that Paxton misled investors by falsely claiming that he invested in a company that gave him shares as compensation for promoting the stock to others. Paxton's five-member defense team is likely to generate fees exceeding \$1 million. Paxton cannot tap campaign funds to pay those bills because the charges he faces are unrelated to his official office. The proposed advisory opinion invites out-of-state donors to bankroll Paxton's personal legal fees, putting the Office of the Attorney General on the auction block.

### **The Opinion's Fatal Flaws:**

The opinion says Paxton personally can take unlimited amounts of money from out-of-state donors if HE determines that a given donor is NOT subject to his broad jurisdiction that extends beyond the state's borders. It allows the gifts even if Paxton fails to vet conflicts properly and if a donor lies to Paxton about the conflicts posed by the gift. State ethics officials should not grant such license to a powerful state official who is over a financial barrel as a result of being indicted on securities fraud charges.

### **TEC Gag Reflex:**

There are repeated indications that the opinion was drafted by TEC lawyers who are acutely aware of how dangerous this ethical blank check could be in Paxton's hands. The opinion contains several non-binding fig leaves that urge the indicted AG to do the right thing—even if he isn't required to. The opinion SUGGESTS—but doesn't require—that Paxton voluntarily disclose details about such gifts within 30 days rather than waiting for personal financial statement deadlines that could be more than a year later. It SUGGESTS—but doesn't require—that Paxton assign someone independent of his control to vet donors for conflicts. It even seems to anticipate that the attorney general might try to play dumb to avoid "knowingly" violating state ethics laws. Incredibly, TEC lawyers feel compelled to lecture Texas' top lawyer by writing, "We caution that any public servant working for a law enforcement agency should be aware of the laws and policies governing their conduct..."

This proposed opinion *knowingly* invites fraud and corruption. There is an ethical way for Paxton to let others pay his legal bills. He should resign from office.