

Texans For Public Justice

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February 11, 2008

Re: Request for investigation of possible illegal political expenditures by House Speaker Tom Craddick and Texas Jobs & Opportunity Build a Secure Future, Inc.

Honorable Ronald Earle
Travis County District Attorney
Public Integrity Unit
509 W. 11th Street
Austin, Texas 78701

District Attorney Earle:

Texans for Public Justice has reason to believe that Texas House Speaker Tom Craddick and a general-purpose political committee, Texas Jobs & Opportunity Build a Secure Future, Inc. (Texas Jobs PAC), have violated Texas Government Code Chapter 302 and Texas Election Code Chapter 253. We ask your office to investigate these apparent violations and, if evidence warrants, to prosecute the offending parties.

Tom Craddick is an announced candidate for re-election to the post of House Speaker in January 2009. The Texas Jobs PAC is a registered general-purpose political committee (Texas Ethics Commission filer No. 00058444) located at 1000 Brazos, Ste. 100, Austin, TX 78701. Its current treasurer is Richard Millan, 823 Congress Ave., Ste. 707, Austin, TX 78701. This committee, which until recently was known as the Texas Free Enterprise Fund, first formed in December 2005.

Contribution and expenditure reports filed at the Texas Ethics Commission reveal that the Texas Jobs PAC and its precursor had been dormant between July 2006 and January 10, 2008. The committee reported that it had no cash on hand as of December 31, 2007. In a disclosure filed on February 4, 2008, the committee reported its first donations in approximately 18 months. The first of these was a \$250,000 contribution from the "Tom Craddick Campaign Fund" dated January 10, 2008. The committee also reported receiving seven subsequent contributions from other donors totaling \$82,000 and \$500 in unitemized contributions between January 18 and January 23, 2008.

In the same report filed on February 4, Texas Jobs PAC disclosed that it made three \$50,000 expenditures. The committee sent these \$50,000 checks to the "Aaron Pena Campaign," the "Kevin Bailey Campaign" and the "Kino Flores Campaign" on January 11, 2008. By its own accounting, the only money that Texas Jobs PAC had when these checks were cut were the funds that it had received from the Craddick campaign. Reps. Pena, Bailey and Flores are running for reelection to the Texas House. If successful, they will be in a position to vote for the next House Speaker in January 2009.

Under the so-called speaker's statute, speaker candidates are prohibited from using any political funds accepted under Title 15 of the Election Code to aid their candidacy. The \$250,000 that Texas Jobs PAC received came from Craddick campaign funds that were accepted under Title 15.

Texas Government Code Chapter 302.0191 states, "A person, including a speaker candidate, may not make a contribution to a speaker candidate's campaign or an expenditure to aid or defeat a speaker candidate from political contributions accepted under Title 15, Election Code."

Chapter 302.020 of the code lists a limited number of permitted expenditures that may be made from a speaker candidate's campaign funds. These exceptions do not include making contributions to aid the election of House candidates or members such as Reps. Pena, Bailey and Flores. Texas Jobs PAC disclosures leave little doubt that Craddick campaign funds were the sole source of the contributions that this PAC made to Reps. Pena, Bailey and Flores. The funds at issue were political contributions accepted first by Craddick and then by Texas Jobs PAC under

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Title 15. Contributing these funds to three House members who previously supported Craddick as speaker aids Craddick's reelection as speaker.

Under Chapter 302.021 a speaker candidate commits a Class A misdemeanor offense if he "expends campaign funds for any purpose other than those enumerated in Section 302.020," or "conspires with another person to circumvent any provision of this subchapter [302.020]."

As the Craddick campaign was the sole and ultimate source of the contributions made to Reps. Pena, Bailey and Flores, it appears that he and the Texas Jobs committee also have violated Chapter 253.001 of the Election Code, which prohibits making a political contribution or expenditure in the name of another person. Election Code Chapter 253.001, states that, "A person may not knowingly make or authorize a political contribution in the name of or on behalf of another unless the person discloses in writing to the recipient the name and address of the person actually making the contribution in order for the recipient to make the proper disclosure."

In this instance, Texas Jobs PAC appears to have sent three \$50,000 checks on Craddick's behalf, checks that constituted both political expenditures and contributions. These checks were PAC expenditures that Texas jobs PAC reported to the Texas Ethics Commission as Schedule F expenditures. They also were political contributions that the Pena, Bailey and Flores campaigns reported as Schedule A contributions.

At least one House member running for reelection understood that Texas Jobs PAC was offering campaign money on Craddick's behalf, according to the *Austin American-Statesman* article "Dukes turns down Craddick donation," published on February 7, 2008. The article reports that another House member who supported Craddick as speaker turned down Texas Job PAC's offer of \$50,000. Rep. Dawnna Dukes "passed on an offer of \$50,000 that came indirectly from House Speaker Tom Craddick," the article reported. "The check that's not in the mail is the \$50,000 from Craddick," the article quoted Dukes campaign manager Colin Strother saying.

We believe that the actions described above are likely violations of the Texas Government and Election Codes. We appreciate your office's attention to this matter.

Sincerely,

Craig McDonald
Director, Texans for Public Justice

Encls:

Texas Jobs PAC C&E filings for January 15, 2008 and February 4, 2008.

"Dukes Turns Down Craddick Donation," *Austin American Statesman*, February 7, 2008.