

**SWORN COMPLAINT
BEFORE
THE TEXAS ETHICS COMMISSION**

Office Use Only
Docket Number

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I. IDENTITY OF COMPLAINANT

I, CRAIG L. McDONALD, complainant,
(full name of individual filing the complaint)

hereby file this sworn complaint with the Texas Ethics Commission. My address is

Texas For Public Justice, 609 W. 18 St, Ste E, Austin TX 78701
(full mailing or street address, including P.O. box number or street, city, state, and zip code)

My telephone number is 512.472.9770.
(telephone number, including area code)

II. IDENTITY OF RESPONDENT

The respondent is Wallace Kenneth LAW
(full name of respondent)

The respondent holds the position or title of Chief Justice, Third Court
of Appeals.
(position or title held by respondent)

The respondent's address is 209 W. 14 St. Rm. 101, Austin, TX 78701
(full mailing or street address, including P.O. box number or street, city, state, and zip code of respondent)

The respondent's telephone number is 512.463.1733.
(telephone number of respondent, including area code)

Attach additional pages, if necessary.

III. Nature of Alleged Violations

(1) Respondent, Third Court of Appeals Chief Justice W. Kenneth Law, appears to have accepted approximately \$66,850 in campaign contributions during the last six months of 2007 and the first three weeks of 2008, at a time when he did not have any campaign treasurer appointment on file with the Texas Ethics Commission, in violation of Section 253.031(a) of the Texas Election Code. Complainant requests that the Ethics Commission impose on Respondent such penalties as are appropriate for this violation.

(2) Respondent appears to have accepted approximately \$66,850 in campaign contributions during the last six months of 2007 and the first three weeks of 2008, at a time when he did not have on file with the Texas Ethics Commission either a sworn declaration of intent to comply with the limits on expenditures prescribed by the Judicial Campaign Fairness Act or a written declaration of intent to make expenditures exceeding those limits, in violation of Sections 253.164(a) & (c) of the Texas Election Code.

Complainant requests that, under the authority of Section 253.164(d) of the Texas Election Code, the Ethics Commission impose on Respondent a civil penalty in the amount of \$200,550, being three times the amount of the political contributions that appear to have been accepted in violation of Sections 253.164(a) & (c).

(3) Respondent appears to have reimbursed himself, from political funds, for approximately \$21,575.81 of political expenditures made from personal funds even though the reports on which such expenditures were disclosed did not designate that the expenditures were subject to reimbursement, in violation of Section 253.035(h) of the Texas Election Code. Complainant requests that, under the authority of Section 253.035(f) of the Texas Election Code, the Ethic Commission impose on Respondent a civil penalty of \$21,575.81, or in the alternative take such action as is necessary to hold Respondent civilly liable for the sum of \$21,575.81 plus reasonable court costs.

(4) Respondent appears to have accepted contributions totaling \$10,000 from the same person, Harold Simmons, which exceeds the maximum aggregate limit of \$5,000, in violation of Sections 253.155(a) & (b) of the Texas Election Code. As an alternative to item number (2) above, Complainant requests that the Ethics Commission impose on Respondent a civil penalty in the amount of \$15,000, being three times the amount by which the aggregate political contributions from Mr. Simmons exceed the statutory contribution limit.

(5) Respondent appears to have accepted a \$1,000 contribution from an out-of-state political committee without first obtaining the required written

information about the committee specified by Section 253.032(a) of the Texas Election Code, and appears to have failed to include the statement required by Subsection (a) as a part of his contribution report covering the relevant reporting period, all in violation of Sections 253.032(a) & (d) of the Texas Election Code. Complainant requests that the Ethics Commission impose on Respondent such penalties as are appropriate for this violation.

(6) Respondent appears to have failed to include in his January 15, 2008, report any information about the principal occupation, employer, or job title of 21 contributors, in violation of Section 254.0611(a) of the Texas Election Code. Respondent's July 15, 2008, report appears to include incomplete information about the principal occupation, employer, and/or job title of 27 contributors, likewise in violation of Section 254.0611(a) of the Texas Election Code. Complainant requests that the Ethics Commission impose on Respondent such penalties as are appropriate for these violations.

IV. Statement of Facts

(1) Although Respondent filed a campaign treasurer appointment in January 2002, that appointment was terminated when he filed a "Final Report" in July 2002. In that Final Report, which Respondent signed, he expressly acknowledged that:

I understand that designating a report as a final report terminates my campaign treasurer appointment. I also understand that I may not accept any campaign contributions . . . without a campaign treasurer appointment on file.

Just to be sure that Respondent had not filed the Final Report inadvertently, the Texas Ethics Commission sent him a letter shortly thereafter instructing him that

Filing a final report terminates your campaign treasurer appointment Please remember that you may not accept campaign contributions . . . without having a campaign treasurer appointment on file. If you did not intend to terminate your campaign treasurer appointment, please contact our office immediately.

Respondent did not file another campaign treasurer appointment until January 22, 2008. Before that time, however, during the last six months of 2007 and the first three weeks of 2008, at a time when he did not have any campaign treasurer appointment on file, Respondent appears to have accepted approximately \$66,850 in campaign contributions.

(2) Although Respondent filed a sworn declaration of intent to comply with the limits on expenditures prescribed by the Judicial Campaign Fairness Act in January 2002, that declaration was likewise terminated when he filed a “Final Report” in July 2002. Respondent did not file another such declaration until January 22, 2008. Before that time, during the last six months of 2007 and the first three weeks of 2008, at a time when he did not have on file with the Ethics Commission any declaration regarding his intent to comply with the limits on expenditures prescribed by the Judicial Campaign Fairness Act, Respondent appears to have accepted approximately \$66,850 in campaign contributions.

(3) By adding the “Total Political Contributions” from the January 15, 2008, and July 15, 2008, reports together, subtracting from that total the “Total Political Expenditures” reflected in those two reports, and then comparing the result to the “Total Political Contributions Maintained as of the Last Day of the Reporting Period” listed in the July 15, 2008 report, it appears that most, if not all, of Respondent’s political expenditures have been reimbursed to Respondent out of political contributions. Otherwise the amount of political contributions on hand at the end of the reporting period would be much higher. Yet Respondent’s July 15, 2008 report contains \$21,575.81 of entries on Schedule G (“Political Expenditures Made from

Personal Funds”) for which reimbursement was not indicated. Respondent’s January 15, 2008 report contains \$261.09 of entries on Schedule G for which reimbursement was not indicated, for a total of \$21,836.90 from the two reports that appear to have been reimbursed to Respondent even though reimbursement was not indicated on Schedule G of the reports as required.

(4) Respondent’s July 15, 2008, report, at pages 33 & 34, lists two contributions of \$5,000 each from Harold Simmons, both on January 11, 2008.

(5) Respondent’s July 15, 2008, report, at page 22, lists a \$1,000 contribution made on February 6, 2008, by an entity named “Kochpac,” the address of which is listed as “655 15th Street NW, Suite 445, Washington, DC 20005.” Yet neither Respondent’s report nor his file maintained by the Ethics Commission contains the written information regarding “Kochpac” required by Section 253.032(a) of the Texas Election Code. Accordingly, it does not appear that Respondent received or filed the required written information about Kochpac before accepting a \$1,000 political contribution from that political committee. Nor does there appear to be any entity named “Kochpac” which had appointed a campaign treasurer under Chapter 252 of the Texas Election Code before this contribution was made.

(6) Respondent's January 15, 2008, report contains 21 entries of contributions by individual contributors for which there is no information whatsoever regarding the contributors' principal occupation, employer/law firm, or job title:

1. Edward H. & Ruth Campbell (page 4);
2. Elizabeth M. Barnes (page 5);
3. Jack A. Bevrige (page 6);
4. Richard R. & Lisa Birkman (page 6);
5. McLean Bowman (page 7);
6. Melissa & Warren B. Branch DDS (page 7);
7. William E. Greehey (page 9);
8. Jack & Valerie Guenther (page 9);
9. James L. Hayne (page 10);
10. Joe & Christine Haynes (page 10);
11. Julianna Hawn & Peter M. Holt (page 11);
12. Richard M. Kleberg III (page 12);
13. Edward Kopplow (page 12);
14. Merdith Mallory, Jr. (page 13);
15. Michael F. & C. Jean Martin (page 13);
16. Edith McAllister (page 13);
17. B.J. McCombs (page 14);
18. Marshall B. Miller (page 14);
19. Thomas C. Musgrave III (page 15);
20. Ruth Bowman Russell (page 16);
21. A. John Yoggerst (page 19).

Respondent's July 15, 2008, report contains 26 entries of contributions by individual contributors for which the information regarding the contributors' principal occupation, employer/law firm, and job title is grossly incomplete:

1. Jeff & Pam Autrey (page 4);
2. Terry J. Beal MD (page 4);
3. Dan J. Brown (page 6);
4. Charles R. Chapman (page 7);

5. Earle M. Craig Jr. (page 8);
6. Charles N. Draper (page 9);
7. Jonathan D. Estreich (page 10);
8. Ronald & Belinda Frisk (page 11);
9. Gina & Jim Hansen (page 13);
10. Bryan Hardeman (page 14);
11. David E. Hundley (page 18);
12. R.K. Hurley MD (page 18);
13. Sandra Wright Kibby (page 21);
14. Chih Yuan Lee (page 23);
15. Ann & Bill Messer (page 25);
16. Dan M. Moody Jr. (page 26);
17. Larry E. Nuckols (page 28);
18. Bill Oswald (page 28);
19. Charles Reiter MD (page 30);
20. Don Ringler (page 31);
21. David B. Roush DDS (page 31);
22. Donald Schraub Jr. (page 32);
23. Ralph Sheffield (page 32);
24. Harold Simmons (page 33);
25. Harold Simmons (page 34);
26. John M. Yarling Jr. (page 43).

V. Listing of Documents and Other Materials

The following documents are filed with this complaint:

1. "Appointment of a Campaign Treasurer by a Judicial Candidate," filed by Respondent January 2, 2002;
 2. "Judicial Declaration of Intent Regarding Expenditure Limits," filed by Respondent January 2, 2002;
 3. "Candidate/Officeholder Report: Designation of Final Report," filed by Respondent July 12, 2002;
 4. Letter from the Texas Ethics Commission to Respondent, dated July 26, 2002;
 5. "Appointment of a Campaign Treasurer by a Judicial Candidate," filed by Respondent January 22, 2008;
 6. "Judicial Declaration of Intent Regarding Expenditure Limits," filed by Respondent January 22, 2008;
 7. "Judicial Candidate/Officeholder Campaign Finance Report," with "Correction Affidavit" attached, filed by Respondent for the time period July 1, 2007, through December 31, 2007;
 8. "Judicial Candidate/Officeholder Campaign Finance Report" filed by Respondent for the time period January 1, 2008, through July 31, 2008;
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9. Section 253.031 of the Texas Election Code;
10. Section 253.164 of the Texas Election Code;
11. Section 253.035 of the Texas Election Code;
12. Section 253.155 of the Texas Election Code;
13. Section 253.032 of the Texas Election Code;
14. Section 254.0611 of the Texas Election Code.

**VI. AFFIDAVIT
BASED ON PERSONAL KNOWLEDGE
(Execute this affidavit if the acts alleged are within your direct personal knowledge.)**

I, _____, complainant,
swear that I have knowledge of the facts alleged in this complaint
and that the information contained in this complaint is true
and correct.

Signature of complainant

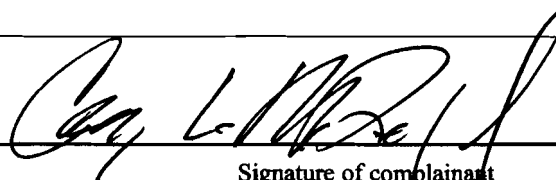
AFFIX NOTARY STAMP/SEAL ABOVE

Sworn to and subscribed before me, by the said _____, this
the _____ day of _____, 20 _____, to certify which, witness my hand and seal of office.

Signature of officer administering oath Print name of officer administering oath Title of officer administering oath

**VII. AFFIDAVIT
BASED ON INFORMATION AND BELIEF
(Execute this affidavit if the acts alleged are not within your
direct personal knowledge, but are based on reasonable belief.)**

I, Craig L. McDonald, complainant,
swear that I have reason to believe and do believe that the violation alleged in
this complaint has occurred. The source and basis of my information and belief
~~is~~ are documents filed with
Texas Ethics Commission.


Signature of complainant

AFFIX NOTARY STAMP/SEAL ABOVE

Sworn to and subscribed before me, by the said Craig L. McDonald, this
the 16th day of September, 20 08, to certify which, witness my hand and seal of office.

Maribel Salas Maribel Salas Notary Public

Signature of officer administering oath Print name of officer administering oath Title of officer administering oath

