



# TEXAS ETHICS COMMISSION

P. O. Box 12070, Capitol Station  
Austin, Texas 78711-2070

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Executive Director

July 31, 2001

RQ-0412-gc

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The Honorable John Cornyn  
Office of the Attorney General  
Open Records Division  
209 West 14<sup>th</sup> Street  
Austin, Texas 78701

FILE # ML-42093-01  
I.D. # 42093

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Dear General Cornyn:

FILE # OR-152727-01  
I.D. # 152727

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OPINION COMMITTEE

The Texas Ethics Commission requests a decision from your office under Sections 402.042 and 552.301, Government Code, regarding the enclosed request for information received by the commission on July 17, 2001, from Ms. Melisa Ware. Ms. Ware requested copies of the July 16, 2001, campaign finance reports filed by certain individuals and political committees. She requested copies of these reports in both hard (paper) format, as well as in an electronic format on CD Rom. The commission has provided the requestor with paper copies of all requested reports and made available an electronic copy of certain reports. This request for an attorney general decision concerns whether the commission may "promptly" provide the requestor with an electronic copy of the remaining reports, or if the commission is required to withhold an electronic copy during the period of time set forth in Section 254.0401(b), Election Code.

The commission routinely makes campaign finance reports filed with the commission available to the public, and these reports are considered to be public information. See Section 254.0402, Election Code. Electronically filed campaign finance reports are subject to certain restrictions and procedures, however, as provided in Section 254.0401, Election Code. See e.g. Tex. Att'y Gen. Op. JC-0198, 2000 (Section 254.0401(e), Election Code, precludes release of contributor address information, other than city, state, and zip code, by any electronic means, including computer diskettes).

Sections 254.0401(a) and (b), Election Code provide:

(a) Except as provided by Subsection (b), the commission shall make each report filed with the commission under Section 254.036(b) available to the public on the Internet not later than the second business day after the date the report is filed.

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The Texas Ethics Commission does not discriminate on the basis of race, color, national origin, sex, religion, age or disability in employment or the provision of services.

ACCOMPANIED BY ENCLOSURES - FILED SEPARATELY

(b) Except as otherwise provided by this subsection, the commission may not make a report filed with the commission under Section 254.036(b) for a reporting deadline by any candidate for a particular office or by a specific-purpose committee for supporting or opposing only one candidate for a particular office *available to the public on the Internet* until each candidate for that office and each specific-purpose committee for supporting or opposing only one candidate for that office, other than a candidate or committee to which Section 254.036(c) or (d) applies, has filed a report for that reporting deadline. Regardless of whether each candidate for a particular office and each specific-purpose committee for supporting or opposing only one candidate for that office has filed a report for a filing deadline, the commission shall make each report in connection with that office *available on the Internet and by any other electronic means* on:

- (1) the 21st day after the date of the filing deadline, for a report other than a report required to be filed under Section 254.064(c); or
- (2) the fourth day after the date of the filing deadline, for a report required to be filed under Section 254.064(c). (Emphasis added.)

The first sentence of Subsection (b) prohibits the commission from making an electronically filed campaign finance report *available to the public on the Internet* until each candidate and specific-purpose political committee for a particular office have filed reports for a reporting deadline. The second sentence of Subsection (b) further provides, however, that regardless of whether all reports for a particular office are received by the commission, the commission shall make each report in connection with that office available on the Internet *and by any other electronic means* on the 21<sup>st</sup> day after the date of the filing deadline for all reports except the eight-day before election report. The eight-day before election report must be made available on the Internet and by any other electronic means on the fourth day after the filing deadline.

Section 552.221, Government Code, requires a governmental body to “promptly produce” requested information. It is unclear, however, whether Section 254.0401(b), Election Code, prohibits the commission from making reports “available on the Internet and by any other electronic means” (such as a CD or diskette) during the waiting period if not all candidates and specific-purpose committees for a particular office have filed reports for a particular deadline, or whether the commission is merely prohibited from making reports “available to the public on the Internet.”

In the request at issue, the commission provided the requestor with paper copies of all of the requested reports and has made available to the requestor electronic copies of all but 10 requested reports. As of the date of this letter, however, the commission has not made available electronic copies of 10 requested reports because not all candidates or specific-purpose political committees for the particular office at issue have filed the report. Therefore, we request your decision as to whether the commission may

“promptly” produce electronic copies of these campaign finance reports, or if Section 254.0401(b), Election Code, requires the commission to wait to release electronic copies of the requested information until either all candidates and specific-purpose political committees for the particular office have filed or the waiting period expires. (Paper copies of the ten reports which have not been released in an electronic format are enclosed with this letter. The commission will provide you with an electronic copy of this information upon your request.)

We recognize that by the time your office is able to consider and issue a decision in this matter, the waiting period set forth in 254.0401(b), Election Code, will likely have expired. The commission intends to release the remaining requested electronic copies after the waiting period has expired. We nonetheless ask that you issue a decision on this question under either Section 442.042 or Section 552.301, Government Code, to clarify the proper interpretation of Section 254.0401(b), Election Code. We believe it is certain that this question will be presented in connection with future requests for information.

Thank you for your assistance in this matter. Please contact me if you have any questions or need any additional information.

Sincerely,

A handwritten signature in black ink that reads "Tom Harrison". The signature is stylized with a long horizontal stroke at the end.

Tom Harrison  
Executive Director

Enclosures

c: Ms. Melisa Ware

Ref: ID# 13065

TH:RWS:my