

Mea Culpa: Ethics Reform Can Be a Hard Pill to Swallow

State Bar of Texas
Legislative and Campaign Law Section
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Presented by

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Introduction

“Ethics is not for wimps...”

- Michael Josephson



Laws Administered and Enforced by TEC

- **Title 15, Election Code**, concerning political contributions and expenditures, and political advertising;
- **Chapter 302, Government Code**, concerning the election of the Speaker of the Texas House of Representatives;
- **Chapter 303, Government Code**, concerning the governor for a day and speaker's reunion day ceremonies;
- **Chapter 305, Government Code**, concerning lobbyist registration, reports, and activities;
- **Chapter 572, Government Code**, concerning personal financial disclosure of state officers and conduct of state officers and employees;

Laws Administered and Enforced by TEC

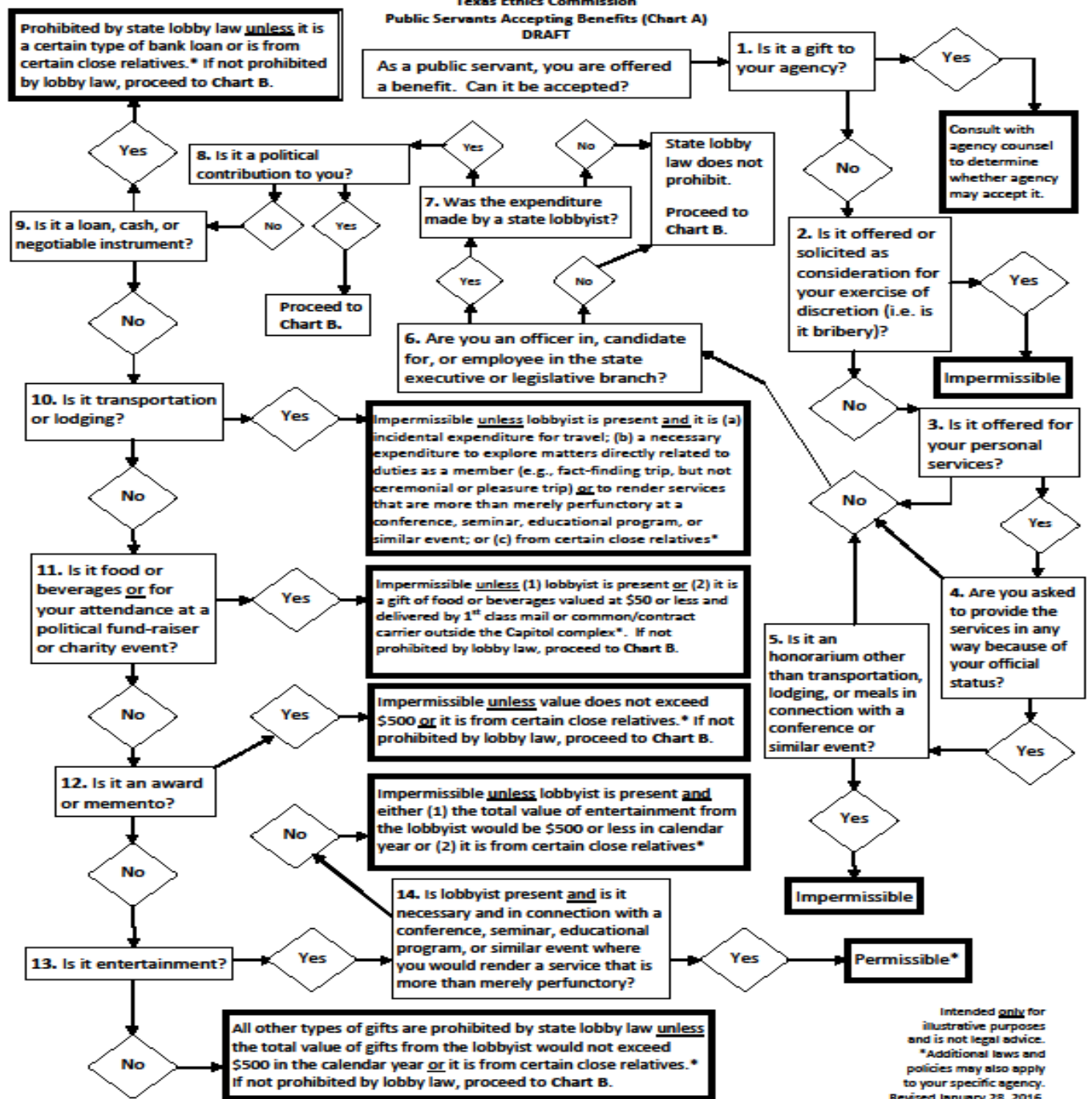
- **Chapter 2004 Government Code**, concerning representation before state agencies;
- **Chapter 159, Local Government Code**, concerning judges of statutory county courts or statutory probate courts who elect to file a financial statement with the Commission;
- **Government Code, Section 2152.064** (concerning Conflict of Interest in Certain Transactions involving the Texas Facilities Commission); and
- **Government Code, Section 2155.003** (concerning Conflict of Interest involving the Office of the Texas Comptroller of Public Accounts)



Laws
Administered
and Enforced
by TEC

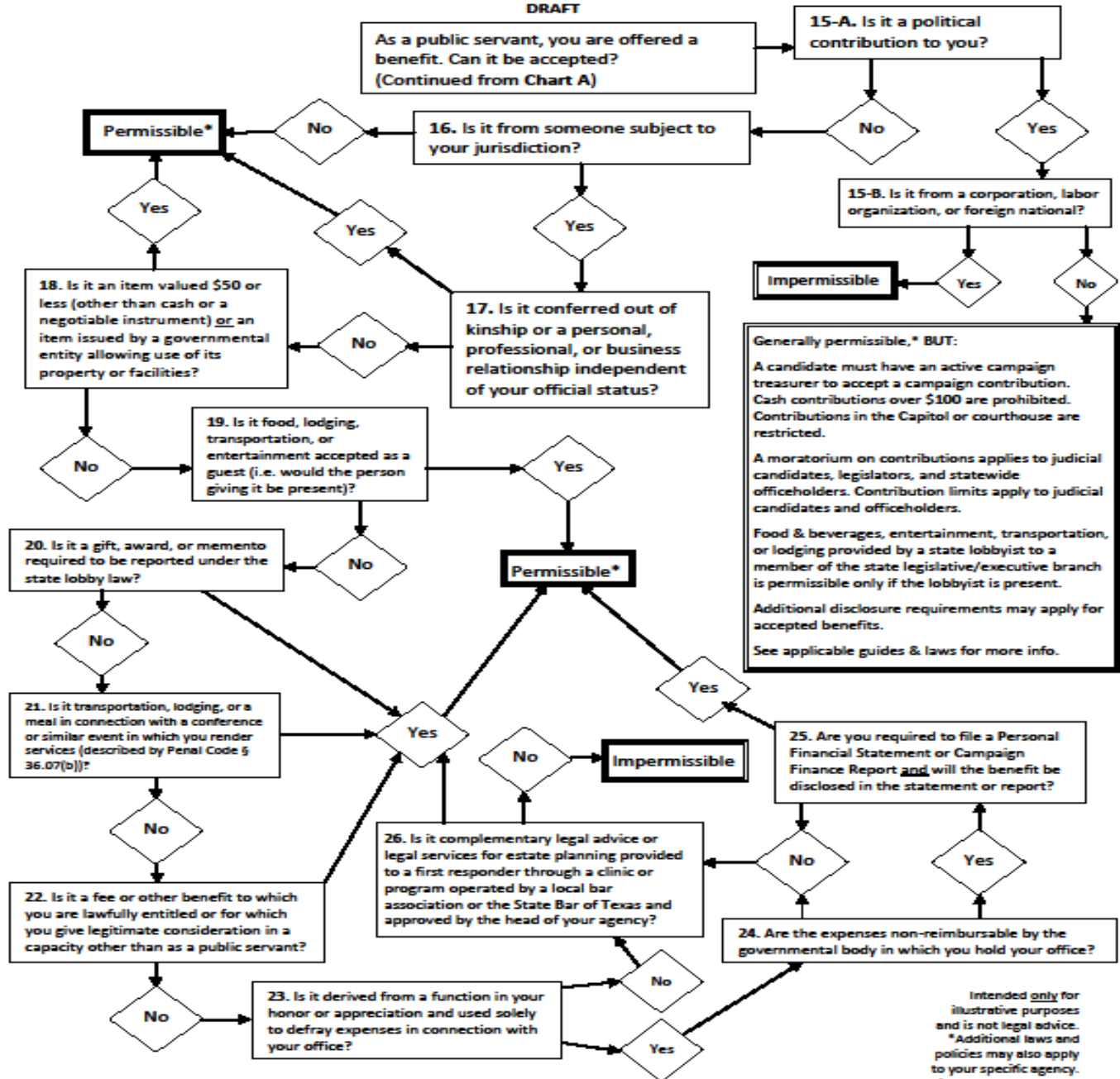
- Chapters 36 & 39, Penal Code
 - Bribery, Prohibited Gifts & Honoraria
 - Misuse of Gov't Property

Texas Ethics Commission
Public Servants Accepting Benefits (Chart A)
DRAFT



Intended only for illustrative purposes and is not legal advice.
*Additional laws and policies may also apply to your specific agency.
Revised January 28, 2016.

**Texas Ethics Commission
Public Servants Accepting Benefits (Chart B)
DRAFT**



How Did We
Get Here?



Scandal

“Everybody gets religion after a scandal, at least for a while.”

- Jan Baran
Wiley Rein, LLP



Headlines

“Lewis to support Ethics Commission,” Dallas Times-Herald – March 17, 1983

“Aide says Lewis backs establishing independent ethics commission,” Houston Press – March 18, 1983



Headlines

“Cuomo, Stung by a Scandal, Offers Ethics Reforms,” New York Times-Nov 16, 2016

“Cuomo Again Rakes in LLC Cash – While Proposing to Cap It,” WNYC-Jan 23, 2017



Election of 1896

- **William Jennings Bryan**
- **William McKinley**

Roots of
Ethics
Reform





Roots of
Ethics
Reform

York Times.

WEDNESDAY, SEPTEMBER 29, 1920. TWO CENTS

EIGHT WHITE SOX PLAYERS ARE INDICTED ON CHARGE OF FIXING 1919 WORLD SERIES; CICOTTE GOT \$10,000 AND JACKSON \$5,000

Yankee Owners Give Praise to Comiskey And Offer Him Use of Their Whole Team

Following the announcement from Chicago yesterday that Owner Charles A. Comiskey had suspended two star pitchers, two regular infielders, his two leading outfielders and one utility player, Colonels Jacob Ruppert and T. L. Huston, owners of the New York Club, put forth a statement of praise for the Chicago manager.

COMISKEY SUSPENDS THEM

Promises to Run Them
Out of Baseball if



History of
Texas Ethics
Laws



History of
Texas Ethics
Laws

1950S



History of Texas Ethics Laws

US Trust and Guaranty Co
Insurance Probe



Veterans Land Board Scandal



Rep. James Cox Bribery Scandal



History of
Texas Ethics
Laws

1970s



History of
Texas Ethics
Laws

Sharpstown (1971-72)



History of
Texas Ethics
Laws

1980s



History of Texas Ethics Laws

FBI "Brilab" Sting involving
Speaker of the House Billy Clayton



Speaker Gib Lewis announces support
for an Ethics Commission (1983)



History of
Texas Ethics
Laws

1989-1990



History of Texas Ethics Laws

Reports of Lobbyists spending \$1.86 million during session on expensive gifts to state officials (1989)



Reports of legislators using contributions for personal expenses, i.e., mortgages, family members (1989)



Lonny "Bo" Pilgrim hands out \$10,000 checks on Senate floor (1989)



Speaker Gib Lewis Indicted (1990)





What is the Legacy of Scandals?

- **Watergate**

- Campaign Finance Reforms and the FEC
- Irreparably tarnished reputation of legal profession
- Launched era of legal reform
- “National Nightmare” led to unprecedented public distrust of and disillusionment in government and the Presidency
- Media looked upon more favorably for bringing corruption to light



Legacy of Texas Ethics Scandals

- **Early Ethics Reform**
 - Ban on corporate contributions
 - Candidate campaign finance requirements
 - Lobbyist registration (SOS)
 - Legislators restricted from appearing before certain state agencies
 - Disclosure statement reporting private business holdings that might conflict with official duties



Legacy of Texas Ethics Scandals

- **Sharpstown (Part I)**

- HB 203 (1971)
 - New Code of Ethics, with conflicts of interest prohibitions
 - Annual PFS filing for legislators and state officials
 - Created 12-member Ethics Commission



Legacy of Texas Ethics Scandals

• Sharpstown (Part II)

- Lobby Disclosure
- Greater annual PFS disclosure
- Add'l disclosure for candidates and new disclosure requirements for PACs
- Honorarium prohibition
- Stronger open meetings laws
- First Open Records laws
- Speaker election disclosure law
- Legislators prohibited from representing another for a fee before state executive agencies



Legacy of Texas Ethics Scandals

- **1980s Speaker scandals**
 - Prohibition on personal use of contributions
 - Unopposed candidates had to file campaign finance reports
 - \$100 fine for late report
 - 9 member State Ethics Advisory Commission created to provide opinions on ethics laws



Legacy of Texas Ethics Scandals

• **1991 Ethics Reforms**

- Use of contributions to purchase real property, pay spouse/child/business for services prohibited
- Accepting contributions in Capitol or Courthouse prohibited
- Lobby restrictions
- Revolving Door Ban
- Honoraria Ban
- Reimbursement limit for statewide candidates



Legacy of Texas Ethics Scandals

• **1991 Ethics Reforms**

- SJR 8 amended Texas Constitution to create TEC
- Computerized campaign finance disclosure system (reports available online)

- **What is Scandal?**

- “an occurrence in which people are shocked and upset because of behavior that is morally or legally wrong.”
- According to Political Scientist Brendan Nyhan, scandal can't exist without
 - Media
 - Opposition party



Legacy of Scandals

- **Watergate...**

Famous
“Gates”



Famous "Gates"



Famous "Gates"



Famous "Gates"





Legacy of Scandals

- **Scandal Syndrome**

- a/k/a Scandal Fatigue or Scandal Fatigue Syndrome
- Symptoms are
 - Numbness
 - Burnout
 - Disengagement
 - Losing touch with reality
 - Lowering bar for acceptance of behavior



Final
Thoughts
on
Ethics

“The basis of effective government is public confidence, and that confidence is endangered when ethical standards falter or appear to falter.”

— John F. Kennedy



Final thoughts

“Ethics is knowing the difference between what you have a right to do and what is right to do.”

- Justice Potter Stewart



Final thoughts

“We judge our own character by our best intentions and most noble acts, but we will be judged by our last worst act.”

- Michael Josephson

Resources

- TEC website
 - www.ethics.state.tx.us
- Questions
 - Legal or technical:
(512) 463-5800