



# TEXAS ETHICS COMMISSION

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

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Tom Ramsay

September 20, 2016

Ms. Natalia Luna Ashley  
Executive Director  
Texas Ethics Commission  
P. O. Box 12070, Capitol Station  
Austin, Texas 78711-2070

**VIA HAND DELIVERY**  
**VIA E-MAIL: [natalia.ashley@ethics.state.tx.us](mailto:natalia.ashley@ethics.state.tx.us)**

**Re: Commission Staff's Motion to Set for Pre-Hearing Conference and Motion to Dismiss for Insufficient Credible Evidence in SC-3120485 and SC-3120486 (Empower Texans d.b.a. Texans for Fiscal Responsibility)**

Dear Ms. Ashley:

Enclosed for filing in the above-referenced sworn complaints, please find Staff's Motion to Set for Pre-hearing Conference and Motion to Dismiss for Insufficient Credible Evidence in SC-3120485 and SC-3120486 (Empower Texans d.b.a. Texans for Fiscal Responsibility). I would request that the pre-hearing conference be set for October 13, 2016.

Truly Yours,

A handwritten signature in blue ink that reads "John Moore".

John Moore  
Director of Enforcement

c: Mr. James E. Trainor, III  
Beirne, Maynard & Parsons, L.L.P.  
401 W. 15th Street, Suite 845  
Austin, Texas 78701-1667

**DELIVERY CONFIRMATION NO.**  
**9114 9011 2308 6203 4403 29**

**VIA E-MAIL: [ttrainor@bmpllp.com](mailto:ttrainor@bmpllp.com)**

JM:mc

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**(512) 463-5800 • FAX (512) 463-5777 • TDD 1-800-735-2989**

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# TEXAS ETHICS COMMISSION

IN THE MATTER OF	§	BEFORE THE
EMPOWER TEXANS	§	
(DBA TEXANS FOR FISCAL	§	TEXAS ETHICS COMMISSION
RESPONSIBILITY),	§	
RESPONDENT	§	SC-3120485 AND SC-3120486

## Motion to Set for Pre-Hearing Conference and Motion to Dismiss for Insufficient Credible Evidence

Counsel for the Texas Ethics Commission (Commission) respectfully moves the Commission to set a pre-hearing conference for October 13, 2016, in the instant cause and dismiss sworn complaints SC-3120485 and SC-3120486 due to insufficient credible evidence of violations.

### I.

The Commission may dismiss a complaint following a preliminary review hearing if the Commission determines that there is insufficient credible evidence for the Commission to determine that a violation within the jurisdiction of the Commission has occurred. Tex. Gov't Code § 571.126(d).

The standard of proof during a preliminary review hearing is credible evidence of a violation. *Id.* §§ 571.125(d)(3), 571.126(a)(1). At a formal hearing, the Commission must determine by the preponderance of the evidence whether a violation within the jurisdiction of the Commission has occurred. *Id.* § 571.129.

### II.

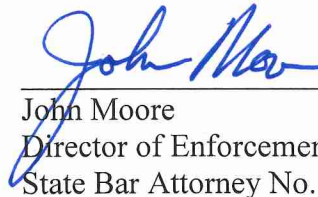
Following the preliminary review hearing held in these cases, the Commission found insufficient evidence of violations. The Commission sought additional information through the issuance subpoenas, which led to an action in Travis County District Court to enforce the subpoenas. Following the resolution of the discovery dispute regarding money received from solicitations made by Empower Texans for "independent expenditure" activities, Commission staff believes there is insufficient credible evidence of violations to prove violations occurred by the preponderance of the evidence and a formal hearing is unnecessary. See the attached briefs and the Suggestion of Mootness from No. 03-16-00019-CV, in the Third Court of Appeals at Austin, Texas; *Empower Texans, Inc. and Michael Quinn Sullivan v. State of Texas Ethics Commission, et al* for further background on the underlying discovery dispute.

**PRAYER**

For the foregoing reasons, Counsel for the Commission requests a Pre-Hearing Conference be set by the Commission for October 13, 2016, and that the Commission grant Commission Counsel's Motion to Dismiss.

**Date: September 20, 2016**

Respectfully Submitted,

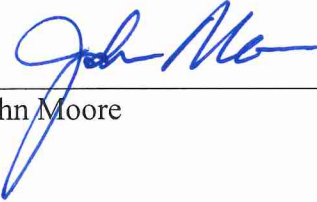


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Director of Enforcement  
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Texas Ethics Commission  
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Austin, Texas 78711-2070  
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**CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on September 20, 2016, by electronic mail, as agreed by the parties, and by overnight delivery mail.



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John Moore