

IN THE DISTRICT COURT OF TRAVIS COUNTY, TEXAS  
147TH JUDICIAL DISTRICT

THE STATE OF TEXAS

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§  
§

CRIMINAL ACTION NO  
\_\_\_\_\_

VS.

TEXAS ASSOCIATION OF BUSINESS



BILL OF INDICTMENT

DA #D1-DC-05-900535 /PID #000000/MNI #1307647 /TCDA-SPD #4218-03 167TH  
COUNTS I-III: PROHIBITED POLITICAL EXPENDITURE BY A CORPORATION

TEXAS ELECTION CODE § 253.094

(3<sup>RD</sup> DEGREE FELONY)

BAIL: \$ \_\_\_\_\_

Count I

IN THE NAME AND BY AUTHORITY OF THE STATE OF TEXAS:

THE GRAND JURY OF THE COUNTY OF TRAVIS, STATE OF TEXAS, duly selected, organized, sworn, and charged as such at the April term, A.D., 2005, of the 147th Judicial District Court of said county, in said court at said term, upon their oaths do present that

The TEXAS ASSOCIATION OF BUSINESS,

hereinafter "Defendant", a corporation organized under the Texas Non-Profit Corporation Act whose residence was situated in the County of Travis, State of Texas, on or about the following dates, in the County of Travis, State of Texas, did then and there make unlawful political expenditures, to wit: campaign expenditures that were not authorized by Subchapter D of Chapter 253 of the Texas Election Code, by incurring an obligation to make a payment of money and by making payments of money to Thomas Graphics Inc., to wit:

\$100,000 on or about September 25, 2002,

\$100,000 on or about October 15, 2002,

\$150,000 on or about October 18, 2002,

\$300,000 on or about October 22, 2002,

\$250,000 on or about October 24, 2002, and

\$45,994.13 on or about November 26, 2002,

for the printing and distribution of political advertising which consisted of written campaign communications similar in form and appearance to the documents attached to this indictment as Exhibits "1" through "81",

And the Grand jury further presents that said political expenditures were made in connection with campaigns for elective offices in 2002, in that said political advertising supported the Republican candidate and/or opposed the Democratic candidate for election to the following public offices:

Representative, District 2, Texas House of Representatives; and  
Representative, District 4, Texas House of Representatives; and  
Representative, District 5, Texas House of Representatives; and  
Representative, District 8, Texas House of Representatives; and  
Representative, District 9, Texas House of Representatives; and  
Representative, District 19, Texas House of Representatives; and  
Representative, District 24, Texas House of Representatives; and  
Representative, District 29, Texas House of Representatives; and  
Representative, District 32, Texas House of Representatives; and  
Representative, District 45, Texas House of Representatives; and  
Representative, District 48, Texas House of Representatives; and  
Representative, District 50, Texas House of Representatives; and  
Representative, District 56, Texas House of Representatives; and  
Representative, District 59, Texas House of Representatives; and  
Representative, District 62, Texas House of Representatives; and  
Representative, District 68, Texas House of Representatives; and  
Representative, District 117, Texas House of Representatives; and  
Representative, District 125, Texas House of Representatives; and  
Representative, District 134, Texas House of Representatives; and  
Representative, District 137, Texas House of Representatives; and  
Representative, District 138, Texas House of Representatives; and  
Senator, District 2, Texas Senate; and  
Senator, District 14, Texas Senate.

And the Grand jury further presents that the conduct that constituted the commission of said offense was authorized, requested, commanded, performed, and recklessly tolerated by a high managerial agent of the Texas Association of Business, namely, William Hammond.

## Count II

And the Grand Jury Further presents in and to said court at said term that

The TEXAS ASSOCIATION OF BUSINESS,

hereinafter “Defendant”, a corporation organized under the Texas Non-Profit Corporation Act, whose residence was situated in the County of Travis, State of Texas, on or about October 25, 2002, in the County of Travis, State of Texas, did then and there make an unlawful political expenditure, to wit: a campaign expenditure in connection with a campaign for elective office that was not authorized by Subchapter D of Chapter 253 of the Texas Election Code, by incurring an obligation to make a payment of money and by making a payment of money, to wit: a bank or wire transfer of \$300,000, to Multi Media Services Corporation and Himedia Service Corporation and Dwight Sterling and Chris Mottola Consulting Inc. and Mercury Public Affairs, for the preparation and production and broadcast of political advertising which consisted of written and oral campaign communications broadcast by television which supported candidates for election to public office, namely, Gene Seaman for the office of Representative, District 32, Texas House of Representatives, and Holt Getterman for the office of Representative, District 56, Texas House of Representatives, and said political advertising was similar in form and appearance to the digital copies of said television ads attached to this indictment by compact disc labeled Exhibits “82” and “83”,

And the Grand jury further presents that the conduct that constituted the commission of said offense was authorized, requested, commanded, performed, and recklessly tolerated by a high managerial agent of the Texas Association of Business, namely, William Hammond.

## Count III

And the Grand Jury Further presents in and to said court at said term that

The TEXAS ASSOCIATION OF BUSINESS,

hereinafter “Defendant”, a corporation organized under the Texas Non-Profit Corporation Act, whose residence was situated in the County of Travis, State of Texas, on or about November 29, 2002, in the County of Travis, State of Texas, did then and there make an

unlawful political expenditure, to wit: a campaign expenditure in connection with a campaign for elective office that was not authorized by Subchapter D of Chapter 253 of the Texas Election Code, by making a payment of money to LEAA, also known as the Law Enforcement Alliance of America, for the printing and distribution of and as reimbursement for the printing and distribution of political advertising that opposed candidates for election to public office, namely Mike Head in the campaign for election to the office of Representative, District 4, Texas House of Representatives, and George Robinson in the campaign for election to the office of Representative, District 8, Texas House of Representatives, and Paul Clayton in the campaign for election to the office of Representative, District 19, Texas House of Representatives, which consisted of written campaign communications similar in form and appearance to the documents attached to this indictment as Exhibits “84”, “85”, and “86”,

And the Grand jury further presents that the conduct that constituted the commission of said offense was authorized, requested, commanded, performed, and recklessly tolerated by a high managerial agent of the Texas Association of Business, namely, William Hammond.

## Part II

And the Grand Jury further finds and presents that the political expenditures alleged to have been made by Defendant in Counts I, II and III of this indictment were subject to regulation under the Texas Election Code, and that the Defendant’s actions were not afforded protection under the First Amendment of the Constitution of the United States of America, because the Defendant, by and through the actions of Defendant’s corporate officers and employees and the actions of members of Defendant’s board of directors, including, but not limited to, William Hammond and Jack Campbell, engaged in one or more of the following instances of conduct while making said expenditures:

1. Defendant, through the actions of corporate employees William Hammond and Jack Campbell and Lara Laneri Keel, and through the actions of Mike Toomey and Eric Glenn, members of Defendant’s board of directors and executive committee, utilized

Defendant's corporate resources to solicit and accept contributions from for-profit corporations and a non-profit corporation for the purpose of making the political expenditures alleged in Counts I, II & III of this indictment, with said contributions being solicited and accepted from:

Connecticut General Life Insurance Company in the amount of \$20,000 on or about January 22, 2002; and

Aetna Inc. in the amount of \$40,000 on or about February 7, 2002; and

United Healthcare of Texas Inc. in the amount of \$40,000 on or about February 11, 2002; and

Connecticut General Life Insurance Company in the amount of \$20,000 on or about February 21, 2002; and

Pacificare, PHPA Southwest Division, in the amount of \$40,000 on or about March 11, 2002; and

Humana Inc., in the amount of \$40,000 on or about March 18, 2002; and

Blue Cross of California in the amount of \$40,000 on or about March 18, 2002;

and

IET&R Inc., dba Quality Data Imaging, in the amount of \$100 on or about March 18, 2002; and

The U.S. Chamber of Commerce in the amount of \$70,000 on or about May 2, 2002; and

Pacificare, PHPA Southwest Division, in the amount of \$60,000 on or about June 17, 2002; and

Blue Cross of California in the amount of \$60,000 on or about August 9, 2002;

and

Aetna Inc. in the amount of \$60,000 on or about August 29, 2002; and

United Healthcare of Texas Inc. in the amount of \$60,000 on or about August 29, 2002; and

Humana Inc. in the amount of \$60,000 on or about September 4, 2002; and

AT&T Inc. in the amount of \$150,000 on or about September 9, 2002; and

Great-West Life and Annuity Insurance Co in the amount of \$25,000 on or about September 16, 2002; and

Connecticut General Life Insurance Company in the amount of \$20,000 on or about September 18, 2002; and

Connecticut General Life Insurance Company in the amount of \$20,000 on or about September 18, 2002; and

Travelers Insurance in the amount of \$25,000 on or about October 8, 2002; and  
Liberty Mutual in the amount of \$25,000 on or about October 8, 2002; and  
Fortis Insurance Co. in the amount of \$25,000 on or about October 9, 2002; and  
The National Association of Independent Insurers in the amount of \$2,000 on or about October 10, 2002; and

Dannenbaum Engineering Corporation in the amount of \$50,000 on or about October 14, 2002; and

J.F. Thompson Inc. in the amount of \$25,000 on or about October 14, 2002; and  
Great-West Life and Annuity Insurance Co. in the amount of \$25,000 on or about October 14, 2002; and

United Services Automobile Association in the amount of \$5,000 on or about October 16, 2002; and

Kemper Insurance Companies in the amount of \$5,000 on or about October 17, 2002; and

Royal & Sun Alliance in the amount of \$5,000 on or about October 18, 2002; and  
State Farm Mutual Automobile Insurance Company in the amount of \$25,000 on or about October 18, 2002; and

Metropolitan Life Insurance Co. in the amount of \$10,000 on or about October 21, 2002; and

AllState Insurance Company in the amount of \$20,000 on or about October 21, 2002; and

AT&T in the amount of \$150,000 on or about October 21, 2002; and  
Corrections Corporation of America in the amount of \$12,000 on or about October 24, 2002; and

J.F. Thompson Inc. in the amount of \$25,000 on or about October 24, 2002; and  
U.S.A. Managed Care Organization in the amount of \$25,000 on or about October 24, 2002; and

Boeing Inc. in the amount of \$5,000 on or about October 24, 2002, and  
The Alliance for Quality Nursing Home Care and the American Health Care  
Association in the amount of \$300,000 on or about October 24, 2002; and  
Ace American Insurance Co. in the amount of \$10,000 on or about October 31,  
2002; and  
Nationwide Mutual Insurance Company in the amount of \$5,000 on or about  
November 7, 2002; and  
The United States Chamber of Commerce in the amount of \$61,573 on or about  
December 2, 2002;

2. And Defendant, through the actions of corporate employees William Hammond and Jack Campbell and Lara Laneri Keel, and through the actions of Mike Toomey and Eric Glenn, members of Defendant's board of directors and executive committee, utilized Defendant's corporate resources to target specific candidates and campaigns for elective office for involvement and took actions in connection with those campaigns for elective office that included encouraging individuals connected to the Texas Association of Business, and individuals and political committees connected to the above-described corporations that contributed to Defendant, to make campaign contributions directly to those campaigns;

3. And Defendant, through the actions of William Hammond, Jack Campbell, Cathy DeWitt, and Chuck McDonald, utilized Defendant's corporate resources to endorse candidates for office and to publicize those endorsements through press releases, direct mail, newsletters, and publication on the internet;

4. And Defendant, through the actions of William Hammond, Jack Campbell, Cathy DeWitt, and Chuck McDonald, utilized Defendant's corporate resources to design said political advertisements after communicating with and receiving information from some of the Republican candidates for elective office that were the subject of said advertisements;

5. And Defendant, through the actions of William Hammond, Jack Campbell, Cathy DeWitt, and Chuck McDonald, utilized Defendant's corporate resources to design and prepare advertisements in connection with the said campaigns for elective office that contained words expressly advocating for the election or defeat of identified candidates, with said advertisements being mailed under the name of a political committee associated with Defendant, namely, Texas Association of Business and Chambers of Commerce political committee, hereinafter "BACPAC";

6. And Defendant, through the actions of William Hammond, Jack Campbell, Cathy DeWitt, and Chuck McDonald, utilized the political committee known as BACPAC to send advertisements expressly advocating for the election or defeat of identified candidates during the same time period and to the same addresses as the advertisements alleged in Counts I and III of this indictment;

7. And Defendant, through the actions of William Hammond, Jack Campbell, Mike Toomey, and Chuck McDonald, made decisions about the content of advertisements, the timing of the distribution of advertisements, the intended audience for advertisements, and the number of advertisements to be sent after communicating with some of the Republican candidates in the said campaigns for elective office, and after communications with political committees that were helping said campaigns, namely: Texans for a Republican Majority political committee, hereinafter "TRMPAC", and Texans for Lawsuit Reform political committee, hereinafter "TLRPAC";

8. And Defendant, through the actions of William Hammond, Jack Campbell, Chuck McDonald, and Mike Toomey, made the political expenditures alleged in Counts I, II, and III of this indictment while working with and collaborating with representatives of TRMPAC and TLRPAC for the purpose of electing said candidates, in that William Hammond, Jack Campbell, Chuck McDonald and Mike Toomey met on numerous occasions with John Colyandro from TRMPAC and Matt Welch from TLRPAC to share information about the status of the said candidates' campaigns, the needs of those campaigns, the strategies of those campaigns, and the strategies of the political

committees that supported those campaigns while making decisions with respect to the political advertisements alleged in Counts I, II and III;

9. And Defendant, through the actions of William Hammond, Jack Campbell, Lara Laneri Keel, Cathy DeWitt, Chuck McDonald, Eric Glenn, and Mike Toomey engaged in said advertising campaign, to wit: raising funds used to pay for said advertisements and designing, distributing and broadcasting said advertisements, for the purpose of influencing the elections that were the subject of said advertisements,

AGAINST THE PEACE AND DIGNITY OF THE STATE.

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Foreperson of the Grand Jury