

1                                   TRANSCRIPT OF PROCEEDINGS  
2   BEFORE THE  
3                                   TEXAS WORKFORCE COMMISSION  
4   AUSTIN, TEXAS

4 PUBLIC MEETING            )  
5 FOR THE TEXAS            )  
6 WORKFORCE COMMISSION)

6  
7                                   COMMISSION MEETING  
8                                   TUESDAY, MARCH 23, 2010

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10                                BE IT REMEMBERED THAT at approximately  
11 9:00 a.m., Tuesday, the 23rd day of March 2010, the  
12 above-entitled matters came on for hearing at the  
13 Texas Workforce Commission, TWC Building, 101 East  
14 15th Street, Room 244, Austin, Texas, before TOM  
15 PAUKEN, RONALD G. CONGLETON, and ANDRES ALCANTAR,  
16 COMMISSIONERS, and LARRY TEMPLE, EXECUTIVE DIRECTOR,  
17 of the Texas Workforce Commission; and the following  
18 proceedings were reported by Janis Simon, a Certified  
19 Shorthand Reporter of:

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1 P R O C E E D I N G S

2 TUESDAY, MARCH 23, 2010

3 (9:00 a.m.)

4 AGENDA ITEM NO. 1

5 CHAIRMAN PAUKEN: Good morning. The  
6 meeting will now be called to order, and I'll turn the  
7 meeting over to Commissioner Alcantar to preside over  
8 that portion of the meeting involving Agenda Items 2  
9 through 5.

10 COMM. ALCANTAR: Thank you, Chairman  
11 Pauken.

12 AGENDA ITEM NO. 2

13 Discussion, Consideration, and Possible  
14 Action Regarding Whether to Assume Continuing  
15 Jurisdiction on Unemployment Compensation Cases, Wage  
16 Claim Cases, and/or Tax Liability Cases and  
17 Reconsideration of Unemployment Compensation Cases,  
18 Wage Claim Cases, and/or Tax Liability Cases, if Any  
19 No discussion.

20 AGENDA ITEM NO. 3

21 Discussion, Consideration, and Possible  
22 Action Regarding Tax Liability Cases Listed on the  
23 Texas Workforce Commission Dockets 11 and 12  
24 The Commission considered and took  
25 action on all Tax Liability Cases listed on Dockets 11

1 and 12.

2 AGENDA ITEM NO. 4

3 Discussion, Consideration, and Possible  
4 Action Regarding Higher Level Appeals in Wage Claim  
5 Cases listed on the Texas Workforce Commission Dockets  
6 11 and 12

7 The Commission considered and took  
8 action on all Wage Claim Cases listed on Dockets 11  
9 and 12.

10 AGENDA ITEM NO. 5

11 Discussion, Consideration, and Possible  
12 Action Regarding Higher Level Appeals in Unemployment  
13 Compensation Cases Listed on the Texas Workforce  
14 Commission Dockets 11 and 12

15 The Commission considered and took  
16 action on all Unemployment Compensation Cases listed  
17 on Dockets 11 and 12.

18 (The Commission paused, then continued  
19 with the remainder of the agenda.)

20 CHAIRMAN PAUKEN: Okay. Let's begin.

21 AGENDA ITEM NO. 6

22 CHAIRMAN PAUKEN: Public comment,  
23 anybody there for public comment?

24 MS. CHASTAIN: No.

25

1 AGENDA ITEM NO. 7

2 CHAIRMAN PAUKEN: Okay. Item 7,  
3 discussion, consideration, and possible action  
4 regarding letters of appreciation from the Commission  
5 to select criminal district attorneys in -- in  
6 recognition of significant and exceptional effort in  
7 prosecuting Unemployment Insurance fraud,  
8 Mr. Farrington.

9 MR. FARRINGTON: Good morning,  
10 Commissioners.

11 CHAIRMAN PAUKEN: Good morning.

12 MR. FARRINGTON: You have --

13 CHAIRMAN PAUKEN: Mic on? Okay.

14 MR. FARRINGTON: You have before you for  
15 possible approval letters to selected district  
16 attorneys to recognize them for either significant or  
17 exceptional work in prosecuting Unemployment Insurance  
18 fraud cases during the 2008-2009 time period. The  
19 counties to be recognized are -- well, for significant  
20 work, are Cameron County, Montgomery Cameron, Hidalgo  
21 County, Galveston County, Johnson County, Fannin  
22 County, Lubbock County, Liberty County, Jim Wells  
23 County and Polk County. And the counties to be  
24 recognized for exceptional work are Harris County,  
25 Dallas County, Travis County, Jefferson County, Bexar

1 County, and Fort Bend County.

2                   And I stand ready to answer any  
3 questions.

4                   CHAIRMAN PAUKEN: So, a great majority  
5 of counties. How would you classify those that are  
6 not included in these letters of appreciation,  
7 Mr. Farrington?

8                   MR. FARRINGTON: Well, some -- some of  
9 the counties don't understand the cases, and they feel  
10 that they have more serious crimes being committed. A  
11 lot of times the excuse we'll hear is "I -- I think  
12 there was a theft here, but we have violent crimes to  
13 handle" -- they simply don't have the time to handle  
14 those cases. And --

15                   CHAIRMAN PAUKEN: Now, a lot of the  
16 counties, of course, are small and would not have  
17 cases. But, you know, would it make sense for, you  
18 know, either myself, as Chairman, or all of the  
19 Commissioners, if my fellow Commissioners are in  
20 agreement, to send a letter to those district  
21 attorneys that where there are fraud cases, for  
22 whatever reason, they're not prosecuting to try to get  
23 their attention?

24                   MR. FARRINGTON: We would certainly  
25 welcome any help that you would like to provide.

1 There are a lot of other counties that do handle our  
2 cases, but maybe they're only handling one or two.  
3 They didn't quite make the cut to be considered --

4 CHAIRMAN PAUKEN: Yeah.

5 MR. FARRINGTON: -- a significant --  
6 (Simultaneous discussion)

7 CHAIRMAN PAUKEN: But I'm -- but I'm --  
8 you know, we may have a few counties where they're  
9 just really not cooperating in -- in cases that are --  
10 have real merit.

11 MR. FARRINGTON: We have one significant  
12 county in that category, one county that for just  
13 inexplicable reasons has not handled our cases. We've  
14 referred cases to this county since 2001, roughly  
15 \$500,000 worth of cases, I believe.

16 CHAIRMAN PAUKEN: Wow.

17 MR. FARRINGTON: Maybe it's \$250,000,  
18 about 30 or 40 cases, and this county -- they lost the  
19 cases. We recopied all the cases. This was actually  
20 before my time taking over the Fraud Prosecutions  
21 Unit.

22 We recopied all 20, 30, 40 cases, sent  
23 them back. They couldn't track them. Commissioner  
24 Lehman wrote a letter to try to facilitate them  
25 handling these cases.

1                   They still wouldn't handle them, and  
2 they just can't find them. They don't know where they  
3 are. They just disappeared. And what that tells me  
4 is that they really weren't serious about handling  
5 these cases, and -- but I don't know if I want to go  
6 on record and tell you what county that is but --  
7 unless you want to know.

8                   (Laughter)

9                   CHAIRMAN PAUKEN: I'd be interested in  
10 knowing.

11                  MR. FARRINGTON: Tarrant County, Fort  
12 Worth.

13                  CHAIRMAN PAUKEN: Tarrant County?

14                  MR. FARRINGTON: Tarrant County.

15                  CHAIRMAN PAUKEN: Well, let me call the  
16 district attorney up in Tarrant County and ask him  
17 what the problem is.

18                  MR. FARRINGTON: Mr. Moore has -- had  
19 suggested a visit to Tarrant County to talk to the DA,  
20 and I --

21                  (Simultaneous discussion)

22                  CHAIRMAN PAUKEN: I would think that --  
23 I would think that Tarrant County would be one that  
24 would be concerned about fraud, criminal fraud.

25                  MR. FARRINGTON: I would, too, and I

1 actually had been in touch a number of times with  
2 their office to try to get these cases going. I know  
3 that the -- the long-time district attorney recently  
4 passed away, and so maybe there was a -- a hold up. I  
5 don't know. He might have been functioning as a  
6 part-time DA there for a while, but I know he passed  
7 away. And there is a new --

8 (Simultaneous discussion)

9 CHAIRMAN PAUKEN: Is there a contest  
10 right now or just a -- there's a new district  
11 attorney? I'm not familiar with that situation.

12 MR. FARRINGTON: I don't know. I don't  
13 know.

14 CHAIRMAN PAUKEN: Okay.

15 MR. FARRINGTON: I would have to --

16 (Simultaneous discussion)

17 CHAIRMAN PAUKEN: Well, let's just --  
18 I -- you know, I don't know what my fellow  
19 Commissioners feel. But I'm perfectly willing to make  
20 a call or if there -- if there are counties that need  
21 to be more cooperative, because this is an area that's  
22 costing -- it's costing the -- the workers who -- and  
23 it's costing the employers in terms of higher taxes.

24 MR. FARRINGTON: The -- the good news is  
25 that, because of the structure of the Unemployment

1 Insurance system in Texas, because the checks -- we're  
2 still working check -- the last of the few check-based  
3 cases, because the checks are cut here in -- in Travis  
4 County and mailed out and -- of course, TWC has its  
5 operations here in Travis County, venue is proper in  
6 Travis County for any cases that are rejected by other  
7 counties out there --

8 CHAIRMAN PAUKEN: Oh, okay.

9 MR. FARRINGTON: -- meaning that if a --  
10 if a defendant lives in Tarrant County and the Tarrant  
11 County DA doesn't want to handle the case, we just  
12 turn around and hand -- hand it to Travis. And Travis  
13 has just done a -- a -- a bangup job with our cases.  
14 They understand them. They're -- they're funded well.

15 They like our cases, and they -- so what  
16 we've been doing is -- I hate to say it -- we've kind  
17 of been ignoring Tarrant County in the problem and  
18 just handing them to Travis. And Travis is more than  
19 happy to --

20 CHAIRMAN PAUKEN: Okay. So, you need  
21 approval from us.

22 Is there any question or comment, my  
23 fellow Commissioners?

24 COMM. ALCANTAR: No.

25 CHAIRMAN PAUKEN: Do you need approval

1 from us on these letters to go out?

2 MR. FARRINGTON: Yes, sir, if --

3 CHAIRMAN PAUKEN: All right.

4 MR. FARRINGTON: -- we'd ask -- staff  
5 would ask for --

6 CHAIRMAN PAUKEN: Is there a motion for  
7 the --

8 COMM. CONGLETON: I agree to send the  
9 letters.

10 CHAIRMAN PAUKEN: Okay.

11 COMM. ALCANTAR: And second.

12 CHAIRMAN PAUKEN: It's unanimous. Thank  
13 you, Mr. Farrington. Let's follow up on that Tarrant  
14 County. I'll be happy to help.

15 MR. FARRINGTON: Yes, sir.

16 CHAIRMAN PAUKEN: Okay.

17 MR. FARRINGTON: I'll circulate a folder  
18 with the actual letters for your signature --

19 CHAIRMAN PAUKEN: Okay. Thank you.

20 MR. FARRINGTON: -- after the meeting.

21 AGENDA ITEM NO. 8

22 CHAIRMAN PAUKEN: All right. No. 8,  
23 discussion, consideration, and possible action  
24 regarding approval of local workforce development  
25 board nominees, Mr. Fuller.

1                   MR. FULLER: Good morning,  
2 Commissioners, Mr. Temple. Before you -- I'm, for the  
3 record, John Fuller, Workforce Development.

4                   Before you today we have nominees from  
5 South Plains, North East Texas, Concho Valley, and  
6 North Texas for your consideration.

7                   CHAIRMAN PAUKEN: I don't have any  
8 problems with any of the nominees.

9                   Do either of my fellow Commissioners  
10 have any questions, or is there a motion to approve?

11                  COMM. CONGLETON: Move that we approve  
12 the nominees from South Plains, North East Texas,  
13 Concho Valley, and North Texas as presented by staff.

14                  COMM. ALCANTAR: I would second.

15                  CHAIRMAN PAUKEN: It's unanimous. Thank  
16 you, Mr. Fuller.

17                  MR. FULLER: Thank you.

18                                 AGENDA ITEM NO. 9

19                  CHAIRMAN PAUKEN: Discussion,  
20 consideration -- nothing for Mr. McCarty on No. 9  
21 today.

22                                 AGENDA ITEM NO. 10

23                  CHAIRMAN PAUKEN: Mr. Temple, anything  
24 regarding administrative matters from you?

25                  MR. TEMPLE: Two things. One, we're

1 going through the jobs bill, because a lot of the tax  
2 credits and things and trying to see how we can work  
3 in our business --

4 (Simultaneous discussion)

5 CHAIRMAN PAUKEN: Yeah, I just asked  
6 Mr. McCarty to give us -- he's going to -- I guess  
7 your -- your staff in Washington is preparing a -- a  
8 memo to us on the implications of that bill?

9 MR. TEMPLE: So we can get that  
10 information out to the boards when they're doing --

11 CHAIRMAN PAUKEN: Okay.

12 MR. TEMPLE: -- hiring.

13 And the second thing I just want to talk  
14 about that unit that -- that Evan does head up.  
15 They've done a really good job. They're at the  
16 conferences, annual conferences, doing sessions.

17 And -- and, as you can imagine, it works  
18 best when we do all the work and we tie it up in a  
19 neat package with a bow and hand it to them so they  
20 can just -- they can walk it right into the Grand  
21 Jury. So, our folks have done a really good job. So,  
22 I want to -- I want to give them a lot of credit for  
23 the -- the successes. And the -- the DAs are helping  
24 out, but our guys are doing all the heavy lifting.

25 CHAIRMAN PAUKEN: All right. Thank you,

1 Mr. Temple.

2 AGENDA ITEM NO. 11

3 CHAIRMAN PAUKEN: Let's see. We're  
4 going to -- we have an Executive Session. We're going  
5 into Executive Session pursuant to Government Code  
6 551.071(1). It's the Abdallah Moukhtar versus TWC and  
7 C&D Couriers case.

8 (Executive Session: 9:53 a.m. to  
9 9:57 a.m.)

10 CHAIRMAN PAUKEN: All right. We're back  
11 in regular session. Is there -- is there a motion?

12 COMM. CONGLETON: In the case of  
13 Abdallah Moukhtar versus TWC and C&D Couriers, I move  
14 that the Commission direct the Office of Attorney  
15 General not to appeal the judgment of the Court.

16 COMM. ALCANTAR: I would second.

17 CHAIRMAN PAUKEN: It's unanimous.

18 AGENDA ITEM NO. 13

19 CHAIRMAN PAUKEN: Is there a motion to  
20 adjourn?

21 COMM. CONGLETON: So made.

22 COMM. ALCANTAR: Second.

23 CHAIRMAN PAUKEN: We are adjourned.

24 (Meeting adjourned: 9:58 a.m.)

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C E R T I F I C A T E

STATE OF TEXAS )  
COUNTY OF TRAVIS )

I, JANIS SIMON, a Certified Shorthand Reporter in and for the State of Texas, do hereby certify that the above-mentioned matter occurred as hereinbefore set out.

I FURTHER CERTIFY THAT the proceedings of such were reported by me or under my supervision, later reduced to typewritten form under my supervision and control and that the foregoing pages are a full, true, and correct transcription of the original notes.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this            day of            , 2010.

JANIS SIMON  
Certified Shorthand Reporter  
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