

ATTACHMENT “A”

III. NATURE OF ALLEGED VIOLATION

Complainant files this complaint alleging violations by Respondent, Representative Linda Harper Brown, of **Section 572.023** of the Texas Government Code, which mandates the contents of Personal Financial Statements (PFS) that members of the Texas Legislature must file annually disclosing their financial activity. In this instance, Representative Linda Harper Brown failed to disclose the gifts of two Mercedes sedans and a Chevy Tahoe owned by a highway contractor on her PFS from 2003 to the present. The vehicles were registered with state official plates that members of the Legislature must apply for to have placed on a vehicle. In media reports Harper-Brown has contended that the vehicles in question were gifts from her husband, who earned the vehicles from the highway contractor in question as compensation for accounting services. However, even under this scenario the cars should have been reported as Harper Brown had actual control over the vehicles in question.

Complainant’s specific allegations are that Respondent’s actions violated Section 572.023 of the Texas Government code in two alternative ways:

1. **Gift:** Section 572.023(b)(7) of the Texas Government Code requires an officeholder to report anything of value in excess of \$250 and a description of each gift. Complainant contends that the vehicles in question were gifts to Harper-Brown from either the highway contractor or the company owned by her husband (and thus not within the reporting exemption for personal gifts from a spouse) that should have been reported to the TEC pursuant to this section.
2. **Actual Control of Spouse’s Activity:** Section 572.023(a) of the Texas Government Code requires the financial statement of an officeholder to account for the financial activity of the individual’s spouse if the individual had direct control over that activity for the preceding year. Harper-Brown told the media that she “direct[ed] her husband to rework his compensation package from the company to exclude the cars,” which evidences that Respondent has direct control over her husband’s financial activity in question and should have reported it pursuant to Section 572.023(a).

A. Activity in Violation of Texas Government Code Section 572.023

The public record indicates that the vehicles in question are a gift from Durable Enterprises to Rep. Harper Brown, and as such should have been reported pursuant to Section 572.023(7) of the Texas Government Code. In various media reports, Rep. Harper Brown has contended that these vehicles are compensation for accounting services rendered by her husband’s company to Durable

Enterprises, and as such were not required to be disclosed. However, Harper Brown statements make clear that even if this is true, the provisions of Section 572.023 would still mandate disclosure of these vehicles.

The information from the public record reveals the following:

1. Rep. Linda Harper Brown has a substantial and ongoing relationship with Paradigm Traffic Systems and Durable Enterprises.
2. Durable Enterprises is furnishing Harper Brown with two vehicles valued at over \$70,000.
3. Rep. Harper Brown has not disclosed the acceptance of these vehicles either in her campaign finance reports or in her personal financial statements.
4. Durable Enterprises and Paradigm Traffic Systems are substantial contractors in the transportation area that receive millions of dollars in state and local contracts.

On its face, it Rep. Harper Brown is violating Section 572.023 of the Texas Government Code which provides in relevant part:

Sec. 572.023. CONTENTS OF FINANCIAL STATEMENT IN GENERAL. (a) A financial statement must include an account of the financial activity of the individual required by this subchapter to file a financial statement and an account of the financial activity of the individual's spouse and dependent children if the individual had actual control over that activity for the preceding calendar year.

(b) The account of financial activity consists of:

(1) a list of all sources of occupational income, identified by employer, or if self-employed, by the nature of the occupation, including identification of a person or other organization from which the individual or a business in which the individual has a substantial interest received a fee as a retainer for a claim on future services in case of need, as distinguished from a fee for services on a matter specified at the time of contracting for or receiving the fee, if professional or occupational services are not actually performed during the reporting period equal to or in excess of the amount of the retainer, and the category of the amount of the fee;.....

(7) identification of a person or other organization from which the individual or the individual's spouse or dependent children received a gift of anything of value in excess of \$250 and a description of each gift, except:

(A) a gift received from an individual related to the individual at any time within the second degree by consanguinity or affinity, as determined under Subchapter B, Chapter 573;.....

1. Gift

Texas Government Code Section 572.023 (b)(7) requires an officeholder to identify a person or other organization from which the individual or the individual's spouse or dependent children received a gift of anything of value in excess of \$250 and a description of each gift. As outlined in Section IV (D) of this complaint, Rep. Harper Brown has registered three vehicles with state official license plates. Harper Brown has operated vehicles owned by this company valued at approximately \$70,000 for well over six years now, and has failed in each year to report that on her PFS. As the vehicles continue to be owned by Durable Enterprises and Harper Brown has registered them with official license plates, these cars are clearly a gift from the company to Harper Brown that should have been disclosed and reported.

2. Compensation for Husband, William E. Brown, III.

In various media reports, Harper Brown has contended that these vehicles are compensation for accounting work done by her husband for Durable Enterprises. If for the sake of argument that contention is accepted as true, the vehicles still would have been reportable on Harper Brown's PFS's under two different sections of Texas Government Code Section 572.023.

a) Actual Control

Texas Government Code Section 572.023(a) requires that a financial statement must include an account of the financial activity of the individual's spouse if the individual had *actual control* over the activity for the preceding year. Harper Brown's statements to the media and the facts of the public record make it clear that Harper Brown was exerting actual control over the compensation and hence should have reported the vehicles on her PFS.

In the first instance, Harper Brown registered the vehicles with state official license plates and was actually operating the Mercedes sedan in question. These actions indicate a high level of control of the compensation awarded to her husband that should have triggered reporting of the vehicles in her PFS. After this arrangement was disclosed in the media, Harper Brown directed her husband to rework his compensation arrangement with Durable Enterprises (Exhibit 28-Dallas Morning News); again, evidencing a level of control over the vehicles in question that should have triggered reporting under Section 572.023(a).

b) Gifts from a Business

Rep. Linda Harper Brown's husband, William E. Brown, III, operates an accounting firm that is registered as a professional corporation with the State of Texas (Exhibit 29—Incorporation Papers of William E. Brown, P.C.). If the statements of Harper Brown and Mr. Brown to media outlets are accepted as true that these vehicles are compensation provided to Mr. Brown for accounting services to Durable Enterprises, *then these cars were provided to Mr. Brown's professional corporation and not to Mr. Brown personally.*

Texas Government Code Section 572.023(b)(7)(A) provides that gifts from *individuals* related to the officeholder within the second degree by consanguinity or affinity are exempted from having to report a gift in excess of \$250 on personal financial statements. The compensation of the Mercedes sedan and Chevy Tahoe would have been provided to Mr. Brown's business entity, not to him personally. As such, Harper Brown has been operating vehicles provided as a gift to her from the *business* of her husband, not from her husband *individually*. The exception in 572.023(b)(7)(A) does not extend to business entities, but only to individuals. Accordingly, as Harper Brown was driving a car provided to her by a business entity as a gift---even though that business was owned by her husband---it does not fall within an exception to the reporting requirement and should have been disclosed on her personal financial statements.

B. Assessment of Civil Penalty

Texas Government Code Section 571.173 provides that the Texas Ethics Commission may impose a civil penalty of not more than \$5000 or triple the amount at issue under a law administered and enforced by the commission, whichever is more. At issue in this complaint is over \$70,000 in gifts accepted by Rep. Linda Harper Brown that were not reported on her personal financial statements in violation of Section 572.023 of the Texas Government Code—creating potential fines of \$210,000 for the violations in question. As the facts outlined in this case represent a serious violation of reporting requirements, the Commission should assess an appropriate fine.

ATTACHMENT “B”

IV. STATEMENT OF FACTS

A. Overview

In the course of conducting standard research, TEXVAC uncovered disturbing facts that seem to indicate that Texas State Representative Linda Harper Brown is taking actions to benefit Paradigm Traffic Systems and Durable Enterprises; in return Paradigm is providing Rep. Harper-Brown with a Mercedes E550 and a Chevy Tahoe vehicle. The facts and circumstances surrounding the provision of these two vehicles to Rep. Harper-Brown by Paradigm appear to be intended to secure her assistance as an elected official in gaining favorable treatment of the company in legislation and contracts with the State of Texas, in violation of the bribery statute §36.02 of the Texas Penal Code and Section 572.023 of the Texas Government Code.

B. Linda Harper-Brown

Linda Harper Brown currently serves in the Texas State House of Representatives representing Texas House District 105, which is composed primarily of the city of Irving. Harper Brown was elected to her seat in 2002, and was seated as a member of the Texas House when the 2003 session of the Texas Legislature convened. Prior to her election to the Texas House, Harper Brown served on the Irving City Council from 1997 to 2002. As a member of the Legislature, Harper Brown has served as a member of the Appropriations Committee and as Chair of the Appropriations Interim Subcommittee on Transportation Issues. Previous to the last legislative session, she also served on the House Committee on Transportation as the Chairman of Budget and Oversight, and is serving on four interim subcommittees under Transportation. Harper Brown also serves on the House elections committee and has served on the Committee on House Administration, and was appointed by the Speaker of the House to serve on the Sunset Advisory Commission. (Exhibit 1—Members of the Texas House; Exhibit 2 – Biography of Linda Harper Brown).

C. Paradigm Traffic Systems / Durable Enterprises

Paradigm Traffic Systems was established in 1994 to provide customer service support for traffic system projects. Paradigm specializes in traffic control service and installation, freeway traffic management, and provides a large line of transportation system products and parts. (Exhibit 3 – Paradigm Website).

The incorporation papers for Paradigm show its address as P.O. Box 381178, Duncanville, TX 75138; and lists *Michael N. Fiske* and *Jeffrey C. Bryan* as President and Director respectively. (Exhibit 4 – Secretary of State Business Organizations). In 2008,

Jeffrey C. Bryan signed the Texas Franchise Tax return, and that document also listed Michael N. Fiske as the agent. (Exhibit 5 – Texas Franchise Tax Public Information Report).

Paradigm Traffic Systems has a sister company called Durable Enterprises, L.L.C. The address for Durable Enterprises, L.L.C. is P.O. Box 381788, Duncanville, TX 75138, and its registered agent is Jeffrey C. Bryan. (Exhibit 6 – Secretary of State Business Organizations). Jeffrey C. Bryan is also a member of Durable Enterprises L.L.C. and signed its 2007 Texas Franchise Tax Return. (Exhibit 7 – Durable Enterprises L.L.C. Articles of Organization; Exhibit 8 – Durable Enterprises L.L.C. Texas Franchise Public Information Report).

Durable Enterprises L.L.C. also owns and is the agent for a subsidiary company called Durable Enterprises Equipment, LTD. (Exhibit 9 – Durable Enterprises Record, Secretary of State; Exhibit 10 -- Certificate of Limited Partnership of Durable Enterprises Equipment, LTD). Jeffrey C. Bryan is listed on both these documents. Jeffrey C. Bryan is also listed for an entity called Durable Specialties Inc., which shares the Duncanville P.O. Box listed above and is listed as having \$629,370 in property value. (Exhibit 11 – Durable Specialties Inc. Dallas Central Appraisal District Record). Records from the Texas Comptroller of Public Accounts show that in the last three fiscal years Paradigm and Durable have received over \$10 million in payments for highway and traffic related services (Exhibit 12 – Texas State Expenditure Information).

The foregoing outline makes it clear that Paradigm and Durable Enterprises are related enterprises that have common directors and officers, share mailing address, and appear to share office space. These enterprises are run by Michael N. Fiske and Jeffrey C. Bryan and have multimillion contracts with the State of Texas.

D. Paradigm / Durables' connection to Rep. Harper Brown

Members of the Legislature are entitled to have official license plates for their car. A public data search of state official plates show that vehicles bearing the plates SO166 and SO166A are registered to Durable Enterprises Equipment LTD. (Exhibit 13 – Public Data State Official Plates). The vehicle with the plate SO166 is a 2010 Mercedes ME5, with a blue book value of \$55,175. (Exhibit 14A – Public Data Texas DMV Record; Exhibit 14B—Car Fax Report; Exhibit 15 – Kelly Blue Book). Prior to being on the current vehicle, the plate SO166 was placed on a 2006 Mercedes E350. (Exhibit 16A – Public Data Texas DMV Record; Exhibit 16B—Car Fax Report). The vehicle with the plate SO166A is a Chevy Tahoe, with an approximate current blue book value of \$16,235. (Exhibit 17A – Public Data Texas DVM Record; Exhibit 17B—Carfax Report; Exhibit 18 – Kelly Blue Book).

Rep. Harper Brown is driving vehicles valued at over \$70,000 that are owned by Durable Enterprises Equipment LTD. Neither Harper Brown nor her husband appears to have any ownership interest in these entities as evidenced by documents on file with the Texas Secretary of State. Additionally, in her 2003, 2004, 2005, 2006, 2007, 2008, and

2009 Personal Financial Statements filed with the Texas Ethics Commission, Rep. Harper Brown does not disclose any income or professional relationship with Paradigm or Durable, nor does she report the vehicles listed above as gifts from the company. (Exhibit 19 – Personal Financial Statements of Rep. Linda Harper Brown). Section 572.023 of the Texas Government Code requires that Harper Brown disclose any income from or ownership interest in either Paradigm or Durable Enterprises. Rep. Harper Brown also does not disclose the use of these vehicles as in-kind contributions to her campaign in her campaign finance reports filed with the Texas Ethics Commission. (See finance reports for Rep. Linda Harper Brown at the Texas Ethics Commission).

Thus, Durable Equipment Enterprises LTD is furnishing Rep. Linda Harper Brown with vehicles valued at over \$70,000 that are not disclosed in either personal financial statements or campaign finance reports.

E. Rep. Harper-Brown's Actions on Behalf of Paradigm and Durable

Rep. Harper Brown has a long standing relationship with Paradigm Traffic Systems that dates back to her time on the Irving City Council. Texas State Legislative Records, press reports, and records from the City of Irving, seem to indicate that Rep. Harper Brown has taken numerous actions over the years to benefit these various entities.

1. Irving City Council

Records from the City of Irving show that as a member of the Irving City Council, Harper Brown had some type of relationship with Paradigm Traffic Solutions. On September 10, 1997, Harper-Brown abstained from a vote awarding a \$21,400 contract to Paradigm Traffic Systems, signing a conflict of interest affidavit. (Exhibit 20 – Minutes of Irving City Council Work Session, September 10, 1997). On January 24, 2002, Harper Brown again filed a conflict of interest affidavit and abstained from voting on a contracting awarding Paradigm Traffic Systems an \$87,500 contract from the City of Irving (Exhibit 21 – Minutes of Regular Meeting of Irving City Council, January 24, 2002). According to the City of Irving, both of the affidavits filed by Harper Brown citing a conflict of interest were destroyed pursuant to city policy.

In a work session on May 27, 2009, a member of the Irving City Council specifically requested that reports on red light traffic cameras be sent to Harper Brown to support keeping the program alive and to defeat proposed legislation. (Exhibit 22 – Minutes of Irving City Council Work Session, May 27, 2009). Indeed, records obtained from the City of Irving demonstrate that Paradigm Traffic Systems continues to have many contracts and business dealings with the City of Irving. (Exhibit 23 – Records of the City of Irving).

These records from the City of Irving establish that Harper Brown has a relationship with Paradigm Traffic Systems dating back to at least 1997, and that she continues to be apprised of actions of the city as they pertain to red-light traffic systems.

2. Legislation

After taking office as a member of the Texas House of Representatives in 2003, Linda Harper Brown inserted a provision into the 2003 transportation bill giving cities the authority to issue civil citations to vehicles that run red lights and are caught on what is commonly known as ‘red light cameras.’ (Exhibit 24 – Houston Chronicle, February 15, 2005 / December 22, 2004). Using cameras to issue citations to drivers for running red lights had been a controversial issue, and in the 2003 session of the legislature the Texas House voted 103-34 not to allow cities to use cameras to issue criminal citations to red-light violators. (Exhibit 25 – Houston Chronicle, December 23, 2004). According to some legislators, Harper Brown ‘snuck’ the provision into the transportation code at the end of the 2003 session to allow cities to issue civil penalties using cameras to catch red light violators. (Exhibit 25).

The actual legislation was SB No. 1184 from the 2003 session of the Texas Legislature, in which Harper Brown inserted language that allowed cities to issue ‘civil’ penalties for traffic violations. (Exhibit 26 – S.B. No. 1184). As the articles above indicate, this change in the law had a direct and immediate impact as cities sought new sources of revenue by installing red light cameras and issuing civil citations against vehicles that ran red lights. Companies in the business of installing these systems also made large sums of money through installation and maintenance of these systems. Paradigm Traffic Systems and Durable Enterprises are in the business of selling these red light camera systems, and stood to immediately benefit from this change in Texas law, authored by Rep. Linda Harper Brown. (Exhibit 27—Comptroller’s Vendor Detail).

3. Contracts

Paradigm Traffic Systems and Durable Enterprises are major vendors of transportation related services to Texas State Government and municipalities. As noted above in Exhibit 12, Paradigm and Durable have received over \$10 million in contracts from the state of Texas, in addition to the ongoing contracts with the City of Irving noted in Exhibit 23. As a member of the Texas House Committee on Transportation and as a previous Chair of the Appropriations Interim Subcommittee on Transportation Issues, Rep. Harper Brown has considerable influence over transportation policy and spending in the State of Texas.

Conclusion

Harper Brown succeeded in securing a change in Texas law that allowed municipalities to install red light cameras to issue civil penalties against drivers, which allowed Paradigm and Durable to make profits vending these systems to municipalities in Texas. In exchange, it appears, Rep. Harper Brown has received the benefit of being furnished with two vehicles valued at over \$70,000 per her personal use. As this complaint has outlined, the provision of these vehicles triggers the requirement to disclose them on Harper Brown’s personal financial statements, regardless of whether the cars are deemed a gift from Durable Enterprises or her husband’s accounting firm. Accordingly, Complainant requests

that the Texas Ethics Commission examine this complaint and take appropriate action on this violation.

ATTACHMENT “C”

IV. LISTING OF DOCUMENTS

Exhibit 1	Members of the Texas House
Exhibit 2	Biography of Linda Harper Brown
Exhibit 3	Paradigm Website
Exhibit 4	Secretary of State Business Organizations
Exhibit 5	Texas Franchise Tax Public Information Report
Exhibit 6	Secretary of State Business Organizations
Exhibit 7	Durable Enterprises L.L.C. Articles of Organization
Exhibit 8	Durable Enterprises L.L.C. Texas Franchise Public Information Report
Exhibit 9	Durable Enterprises Record, Secretary of State
Exhibit 10	Certificate of Limited Partnership of Durable Enterprises Equipment, LTD
Exhibit 11	Durable Specialties Inc. Dallas Central Appraisal District Record
Exhibit 12	Texas State Expenditure Information
Exhibit 13	Public Data State Official Plates
Exhibit 14A	Public Data Texas DMV Record
Exhibit 14B	Car Fax Report
Exhibit 15	Kelly Blue Book
Exhibit 16A	Public Data Texas DMV Record
Exhibit 16B	Car Fax Report
Exhibit 17A	Public Data Texas DVM Record

Exhibit 17B	Carfax Report
Exhibit 18	Kelly Blue Book
Exhibit 19	Personal Financial Statements of Rep. Linda Harper Brown
Exhibit 20	Minutes of Irving City Council Work Session, September 10, 1997
Exhibit 21	Minutes of Regular Meeting of Irving City Council, January 24, 2002
Exhibit 22	Minutes of Irving City Council Work Session, May 27, 2009
Exhibit 23	Records of the City of Irving
Exhibit 24	Houston Chronicle, February 15, 2005 / December 22, 2004
Exhibit 25	Houston Chronicle, December 23, 2004
Exhibit 26	S.B. No. 1184
Exhibit 27	Comptroller's Vendor Detail
Exhibit 28	Dallas Morning News
Exhibit 29	Incorporation Papers of William E. Brown, P.C.