

# Texans For Public Justice

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September 3, 2008

Honorable David Escamilla  
Travis County Attorney  
314 W. 11<sup>th</sup> Street, Suite 300  
Austin, TX 78701

Dear Mr. Escamilla:

Texans for Public Justice is filing this criminal complaint against Lt. Governor David Dewhurst because he appears to have failed to file personal financial statements in compliance with Texas law. Texas Government Code, Chapter 572, requires state officials to disclose personal financial information so that the public may determine if elected officials have real or potential conflicts of interest that compromise their official duties. Lt. Governor Dewhurst is one of the state's most powerful officials and his private assets are allegedly valued at hundreds of millions of dollars. Some of these assets reside in a non-blind trust called the David Dewhurst Trust. Lt. Governor Dewhurst's disclosure filings acknowledge the existence of the trust and the fact that it produces more than \$25,000 in annual income. Yet these disclosures have repeatedly failed to identify any and all trust assets that have generated more than \$500 in annual income. This disclosure failing appears to violate Texas Government Code, Section 573.023(b). We ask your office to investigate these allegations and take all appropriate steps.

It appears that Lt. Governor Dewhurst has failed to properly disclose his trust assets for several years. Governor Dewhurst has filed 11 annual financial disclosure statements since 1998. In his first three filings covering 1997 through 1999, he listed Falcon Seaboard Investment Co. as the only asset in the David Dewhurst Trust that earned more than \$500. In his four filings covering 2000 through 2003, Dewhurst listed no trust assets that earned more than \$500. His four most recent filings, covering 2004 through 2007, indicate that the trust has earned more than \$25,000 annually. Yet Dewhurst reports in those filings that he does not know of any trust asset that earned more than \$500. Texans for Public Justice doubts that professing ignorance is a defense that trumps this important disclosure requirement.

According to a recent Associated Press (AP) article Dewhurst acknowledges that he has a non-blind trust with millions of dollars in assets (see "Texas Lt. Governor Mum On Wealth," by Jay Root, Austin American-Statesman, August 19, 2008). "Dewhurst told the AP he decided against a blind trust years ago," the article says. "He said he put most of his assets, including his shares of Falcon Seaboard and cattle ranches reportedly worth millions of dollars, into a standard grantor trust from the day he took elective office in 1999."\* Although the Lt. Governor's trust assets are blind to the public, they are not blind to the Lt. Governor.

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Texas Government Code, Section 572.023(a) provides that candidates and officials required to file a personal financial statement must include an account of their financial activity. Subsection (b) of the statute lists what must be disclosed, including certain assets held in a regular, non-blind trust. This disclosure requirement includes:

(b)(8) identification of the source and the category of the amount of all income received as beneficiary of a trust, other than a blind trust that complies with Subsection (c), and identification of each trust asset, if known to the beneficiary, from which income was received by the beneficiary in excess of \$500. (emphasis added).

According to the press account above, Dewhurst's lawyer contends that the Lt. Governor can't identify which assets are producing more than \$500 because the proceeds are "mixed up all together with all the other income." TPJ believes such a defense is ludicrous. Income generated by assets in a non-blind trust are readily knowable to the trust beneficiary. Professing ignorance cannot and does not erase this important disclosure requirement. In conclusion, it appears that Lt. Governor Dewhurst has violated Texas Government Code, Section 572.034, a Class B misdemeanor, by knowingly and willfully failing to file proper personal financial statements, as required by state law.

We appreciate your attention to this matter.

Sincerely,

Craig McDonald  
Director  
Texans for Public Justice

\* Dewhurst's personal financial statements covering 1997 and 1998 report that he had Falcon Seaboard assets in this trust prior to taking office in 1999.

Encls: Copies of relevant sections of Lt. Governor Dewhurst's personal financial statements covering calendar years 1997 through 2007.