

Memo

June 9, 2010

TO: Public Integrity Unit, Travis County District Attorney
United States Attorney for the Northern District of Texas

FR: Texas Values in Action Coalition (TEXVAC)

RE: Referral of information regarding activities by State Rep. Linda Harper Brown, and Michael N. Fiske and Jeffrey C. Bryan of Paradigm Traffic Systems for consideration of possible criminal activity in violation of the bribery statute at Texas Penal Code §36.02.

Overview

In the course of conducting standard research into the upcoming 2010 election, 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 550 and a Chevy Tahoe vehicle. As this paper will outline, the facts and circumstances surrounding the provision of these two vehicles to Rep. Harper-Brown by Paradigm appear to be a bribe 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 possibly other statutes as well.

Having reviewed this information, TEXVAC has felt obligated to turn this information over to the proper authorities for further investigation and consideration of criminal charges against the parties involved.

Who is 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).

What is 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.

How is Paradigm connected to Rep. 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 appear 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 – 2006, 2007, 2008, 2009 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.

What has Rep. Harper-Brown done to assist Paradigm?

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.

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.

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).

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 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.

How does this activity potential constitute bribery under Texas Penal Code § 36.02

TEXVAC has uncovered as much information as possible from the public record without a subpoena or search warrant. The authorities will have to conduct additional investigations. However, the face of 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 would appear that Rep. Harper Brown is violating the bribery statute found at Texas Penal Code § 36.02, which provides

Pen. § 36.02. Bribery:

- (a) A person commits an offense if he intentionally or knowingly offers, confers, or agrees to confer on another, or solicits, accepts, or agrees to accept from another:
 - (1) Any benefit as consideration for the recipient's decision, opinion, recommendation, vote, or other exercise of official discretion as a public servant, party official, or voter
 - (2) Any benefit as consideration for the recipient's decision, vote, recommendation, or other exercise of official discretion in a judicial or administrative proceeding.....

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. Unless there are additional facts that we could not uncover, this is a clear violation of the bribery statute, which is a second degree felony carrying a 2 to 20 prison term and up to a \$10,000 fine if convicted (Penal Code §12.33).

Additionally, Harper Brown could possibly have other civil and criminal liability under other state and federal statutes depending on what additional facts are uncovered by the authorities. For example, failing to report the gift of the cars could put her in violation of Texas Penal Code, Section 37.10, Tampering with a Government Record; Texas Penal Code Section 37.101, Fraudulent Filing of Financing Statement; and Texas Government Code, Section 572.023, requirements for financial statements. Should Harper Brown be found to have any ownership

interest in either of the companies, it would place her in violation of Article III, Section 18 of the Texas Constitution, which prohibits members of the legislature from participating in contracts with the state. Harper Brown could also face substantial civil penalties under Texas Government Code, Section 571.173 for failure to disclose to the Texas Ethics Commission. (Exhibit 28, Texas Statutes) Finally, federal wire tapping and anti-corruption statutes could be at issue depending on what additional facts are discovered.

Conclusion

The facts disclosed in this paper are disturbing, and merit a timely and thorough investigation by the appropriate authorities. There is at the very least an appearance of inappropriate conduct. At worst, it appears that there is extensive and ongoing bribery in the form of Paradigm Traffic Systems and Durable Enterprises providing a Mercedes and Chevy Tahoe to Rep. Linda Harper Brown in exchange for altering Texas State Law and using her position to help secure lucrative state and local contracts for traffic systems.

This situation far surpasses mere election year politics, but if true represents a serious and ongoing corruption of the legislative process in Texas. As such, TEXVAC is referring this information to the Public Integrity Unit of the Travis County District Attorney's Office and the United States Attorney for the Northern District of Texas.

Additionally, TEXVAC calls on Rep. Harper Brown to immediately disclose any and all contacts, associations, ownership, or professional associations that she or her husband may have with either Paradigm Traffic Systems or Durable Enterprises. It is of the utmost importance that Harper Brown completely and truthfully explain her involvement in this questionable and likely illegal situation.