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Greg B. Enos, Attorney & Mediator

"Helping families through tough times"

January 4, 2018

Hon. Jack Roday
Galveston County District Attorney
Galveston County Justice Center
600 59th Street
Galveston, Texas 77551

Re: Judge Lonnie Cox

Dear Mr. Roday:

I wish to make a criminal complaint against District Judge Lonnie Cox based on the facts outlined in the attached article and back-up documents. It appears that Judge Cox may have violated Texas Penal Code Sec. 36.08(e) by accepting a benefit from a lawyer (Mark Stevens) interested in cases pending before Judge Cox. Judge Cox may have also violated campaign finance laws. I respect Judge Cox and I sincerely hope I am wrong in my concerns, but the facts and law I present have been very carefully researched and documented. As you did when I filed my criminal complaints against Judge Dupuy, I request that you recuse your office and seek an independent prosecutor to look into this serious matter.

The Texas Penal Code states:

36.01(3) "Benefit" means anything reasonably regarded as pecuniary gain or pecuniary advantage, including benefit to any other person in whose welfare the beneficiary has a direct and substantial interest.

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Greg Enos is Board Certified in Family Law

by the Texas Board of Legal Specialization. Other attorneys not board certified.

Sec. 36.08. GIFT TO PUBLIC SERVANT BY PERSON SUBJECT TO HIS JURISDICTION.

(e) A public servant who has judicial or administrative authority, who is employed by or in a tribunal having judicial or administrative authority, or who participates in the enforcement of the tribunal's decision, commits an offense if he solicits, accepts, or agrees to accept any benefit from a person the public servant knows is interested in or likely to become interested in any matter before the public servant or tribunal.

....

(h) An offense under this section is a Class A misdemeanor.

Sec. 36.08(e) refers to "any benefit" and the amount need not be large.

It appears that Mr. Stevens provided discounted and free legal services to Judge Cox at a time when Mr. Stevens was representing clients before Judge Cox, was being appointed by Judge Cox to represent indigent criminal defendants and was having his fee vouchers approved by Judge Cox. Judge Cox also awarded Mr. Stevens' client in a civil matter a large judgment at a time when Stevens was representing Judge Cox for a greatly discounted rate and not charging for some of the legal services he provided.

Smith v. State, 959 S.W.2d 1 (Tex. App.-Waco 1997, pet. ref'd) discusses at length the meaning of "benefit" in Sec. 36.08, including the legislative history of this criminal statute. The court of appeals in that case concluded that a New York book store company provided a "benefit" to a Texas A&M official when the company paid for the official's air fare, lodging and entertainment on trips to New York City to negotiate an extension of the company's contract with the university. The court explained the definition of "benefit":

Black's Law Dictionary defines "pecuniary" in part as something "which can be valued in money." BLACK'S LAW DICTIONARY 1131 (6th ed. 1990). Webster's Collegiate Dictionary defines the verb "value": "to estimate or assign the monetary worth of...." WEBSTER'S COLLEGIATE DICTIONARY 1305 (10th ed. 1993). "Price" is a synonym for "worth." RANDOM HOUSE, ROGET'S THESAURUS 678 (2d ed. 1995). Thus, as opposed to Smith's proposed interpretation, **a "benefit" could also be anything to which a price can be assigned.**

Stevens charged Cox \$66 per hour instead of his usual \$150 per hour he charges in civil cases. I have also documented numerous examples of work Stevens did on the appeal of the *Cox v. Henry* case when Stevens did not charge at all for his work.

If Mark Stevens provided Judge Cox an \$84 per hour discount, then that is clearly a “benefit” as defined in this criminal statute. If Stevens gave Cox free legal work that he did not even bill for, that would also be a “benefit.” Even if you accept the number of hours that Stevens billed Cox, he gave Judge Cox a discount of \$20,412 (\$150 normal hourly rate less \$66 he charged = \$84 x 243 hours billed by Stevens = \$20,412). It seems almost certain that Stevens did many more hours of legal work for Cox that he did not even charge Cox for. All of this is something to “which a price can be assigned” so it would seem to meet the definition of “benefit” in the criminal statute.

Mr. Stevens alleges that each time he presented a criminal plea in Judge Cox’s court, that your prosecutor agreed on the record that Stevens could do so even though Stevens was at that time working as the judge’s attorney in a civil suit. Stevens made this claim in a written response he provided to me after I shared a draft of my article on this subject with him. Whether that statement is true or not, this assertion made by Stevens that your office approved of what Cox and Stevens was doing and essentially participated in their behavior is another reason your office should not handle this investigation.

I know you value the integrity of our judicial system as much as any lawyer and you know the dire consequences to us all if the public loses confidence in the honesty of our judges. I trust that you will take the proper action and make sure that a neutral, independent prosecutor, who does not regularly practice before Judge Cox investigates, this serious matter.

Sincerely,

Greg B. Enos

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