|  |
| --- |
| **SWORN COMPLAINT BEFORE THE TEXAS ETHICS COMMISSION****An individual must be a resident of the state of Texas to be eligible to file a sworn complaint with the Texas Ethics Commission. The complainant is required to attach to the complaint a copy of one of the following documents:** |
| * complainant's driver's license or personal identification certificate issued under Chapter 521 of the Transportation Code, or commercial driver's license issued under Chapter 522 of the Transportation Code; or
* a utility bill, bank statement, government check, paycheck or other government document that shows the name and address of the complainant and is dated not more than 30 days before the date on which the complaint is filed.

An individual may also be eligible to file a sworn complaint with the Texas Ethics Commission if the individual owns real property in the state of Texas. Under this provision, the complainant will be required to attach to the complaint a copy of a property tax bill, notice of appraised value, or other government document that shows the name of the complainant, shows the address of the real property in Texas, and identifies the complainant as the owner of the real property.***Please completely fill out this form. Failure to complete this form properly will cause your complaint to be noncompliant and rejected.*** | **OFFICE USE ONLY** |
| Docket Number |
| Date Hand-delivered or Date Postmarked |
| **I. IDENTITY OF COMPLAINANT** |
| **1** | COMPLAINANT NAME**(REQUIRED)** | MS / MRS / MR FIRST MI Mr. Frederick I.NICKNAME Fred LAST Lewis SUFFIX |
| **2** | COMPLAINANT | ADDRESS APT / SUITE #; CITY; STATE; | ZIP CODE |
|  | PHYSICAL |  |  |
|  | ADDRESS | 4509 Edgemont Dr Austin Tx 78731  |  |
|  | **(REQUIRED)** | **(Full home or business address, including street, city, state, and zip code)** |  |
| **3** | COMPLAINANT | ADDRESS APT / SUITE #; CITY; STATE;same**(Full street or mailing address, including city, state, and zip code)** | ZIP CODE |
|  | MAILING |
|  | ADDRESS |
|  | **X(check if same as above)** |
|  | **(REQUIRED)** |
| **4** | COMPLAINANT | AREA CODE PHONE NUMBER EXT | **5** COMPLAINANT | f\_lewis@sbcglobal.net |
|  | TELEPHONE |  | E-MAIL |
|  | NUMBER | 512-467-0452/512-636-1389 | ADDRESS |
|  | **(REQUIRED)** |  | **(REQUIRED IF KNOWN)** |
| **II. IDENTITY OF RESPONDENT** |
| **6** | RESPONDENT NAME**(REQUIRED)** | MS / MRS / MRRachel Kania NICKNAME LAST SUFFIX |
| **7** RESPONDENT POSITION OR TITLE**(REQUIRED)** | Treasurer and Co-Director (Decision-maker) |
| **8** | RESPONDENT | ADDRESS APT / SUITE #; CITY; STATE; | ZIP CODE |
|  | PHYSICAL | 2409 South Congress Ave, E\_384, Austin Texas 78704 or alternatively, |  |
|  | ADDRESS | or alternatively |  |
|  | **(REQUIRED)** | 5401 South FM 1626, 170-233, Kyle Texas 78640 |  |
| **9** | RESPONDENT MAILINGADDRESS**X (check if same as above)** | ADDRESS APT / SUITE #; CITY; STATE;Same as above**(Full street or mailing address, including city, state, and zip code)** | ZIP CODE |
| **10** | RESPONDENT | AREA CODE PHONE NUMBER EXT | **11** RESPONDENT | Austin4uberlyft@gmail.com |
|  | TELEPHONE | 512-693-8798 | E-MAIL ADDRESS |
|  | NUMBER**(REQUIRED)** |  | **(REQUIRED IF KNOWN)** |
| **GO TO PAGE 2** |

|  |
| --- |
| **III. NATURE OF ALLEGED VIOLATION Page 2****Include the specific law(s) or rule(s) alleged to have been violated. The Texas Ethics Commission has jurisdiction to enforce only the following laws: (1) Title 15 of the Election Code; (2) Chapters 302, 303, 305, 572, 2004 of the Gov't Code; (3) § 334.025 and § 335.055 of the Local Gov't Code; (4) Subchapter C, Chapter 159 of the Local Gov't Code, in connection with a county judicial officer who elects to file a financial statement with the commission; (5) § 2152.064 and § 2155.003 of the Gov't Code;****(6) § 306.005 of the Gov't Code.*****Please completely fill out this form. Failure to complete this form properly will cause your complaint to be nocompliant and rejected.*** |
| Austin 4 All PAC appears to have violated Texas Election Code, Section 253.031, by knowingly accepting political contributions and making political expenditure over $500 without filing a campaign treasurer appointment. Circulating and ollecting petitions  |
|  and collecting petitions is specifically included within the meaning of contributions under Texas law. See Texas Election Code, Section 251.001(3),(19) |
| In addition, Respondents Rachel Kania appears to serve as treasurer, co-director and decision-maker, Tori Moreland as co-director and decision-maker, and Joesph Basel as president, director, and a decision-maker for Austin 4 All AAllAllsupplemented with contentions of other illegal as more information becomes  |
| PAC aka Austin4All PAC, Austin Four All, and Austin4All. As such, the three respondents, individually and collectively on Through the PAC, appear to have violated individually and collectively Texas Election Code, Section 253. 031. |
|  |
|  |
|  |
|  |
|  |
|  |
|  |
|  |
|  |
|  |
|  |
|  |
|  |
|  |
|  |
|  |
| **ATTACH ADDITIONAL PAGES AS NEEDED** |

|  |
| --- |
| **IV. STATEMENT OF FACTS Page 3****State the facts constituting the alleged violation(s), including the dates on which or the period of time in which the alleged violation(s) occurred. Identify allegations of fact not personally known to the complainant, but alleged on information and belief. Please use simple, concise, and direct statements.*****Please completely fill out this form. Failure to complete this form properly will cause your complaint to be noncompliant and rejected.*** |
| Throughout January 2016, Austin 4 All PAC appears to have raised and spent far in excess than $500 on canvassing and collecting petitions seeking to recall Austin City Council member Ann Kitchen. Time Warner Cable reported that “a ]anvass  |
| group called Austin 4 All PAC has been going door to door in Jacob’s [in South Austin in Kitchen’s district] neighborhood.” (Exhibit 1, p. 1, attached). In addition, see also as evidence of the petition recall effort by Austin  |
| 4 ALL PAC the attached: Exhibit 2, pp.1, Exhibit, p. 2; Exhibit 6, p. 1-2; Exhibit 7, pp. 1-2; Exhibit 8; Exhibits 9, 11 and 12). Austin 4 All Pac Advertised on Craig’s List for petition canvassers, offering to pay $16.50 an hour. (Exs. 4, 9 attached)att44,attached) |
| Its ad stated that they had hired 12 petition recall canvassers already, and that they needed 30 in total. Canvassing would be 7 days a week. Austin 4 All Pac was the only entity hiring canvassers and canvassing for this recall petition. |
| Based on my experience, ten petitions an hour per canvasser is a high average; assuming such a high average, the petition canvassers would cost approximately $10,000. In addition, there is the difficult  |
| and tedious work Austin 4 All PAC did verifying petitions, which is usually paid work. (Exhibit 11), as well as the pay for the professional consultant co-directors of the PAC: Rachel Kania and Teri Moreland. (EX 1, p.2; Ex 2, pp. |
| 1, 3; Ex 5, p.2; ex. 6, p.2; Exhibit 7, pp. 1-2; Ex. 9; and Ex. 11). There also were costs for the Craig’s list ads, the petition materials and supplies, and push card. (Exhibits 5 and 9). There is no campaign treasurer appointment on file |
| For Austin 4 All PAC with the City Clerk of Austin. (<http://www.austintexas.gov/cityclerk/elections/master_Campaign_Treasurer_Appointment_Forms.htm>) (Accessed |
| 2/4/2016) |
| As explained and evidenced above, Rachel Kania and Teri Moreland are paid political consultants on the national, state and local level and serve as co-directors of the PAC. (EX 1, p.2; Ex 2, pp. 1, 3; Ex 5, p.2; ex. 6, p.2; Exhibit 7, pp. 1-2; Ex.9; |
|  Ex. 11). On the push card, Rachel Kania is listed as the campaign treasurer. See, e.g., Exhibit 9. According to a canvasser, Respondent James Basel, through his company C3 Strategies, was involved with Austin 4 All PAC |
| in circulating the petition (Exhibit 12, p. 4). Basel also is listed on Bizapedia as the president and director of Austin 4 All (Ex. 13) |
| Exhibits and witnesses will be supplemented as they come available. The Respondents are secretive and have refused to answer many questions, making gathering of evidence time-consuming ( Exs. 2, 3, 6, and 8) |
|  |
|  |
|  |
|  |
|  |
|  |
|  |
| **ATTACH ADDITIONAL PAGES AS NEEDED** |

|  |
| --- |
| **V. LISTING OF DOCUMENTS AND OTHER MATERIALS Page 4****List all documents and other materials filed with this complaint. Additionally, list all other documents and other materials that are relevant to this complaint and that are within your knowledge, including their location, if known.*****Please completely fill out this form. Failure to complete this form properly will cause your complaint to be noncompliant and rejected.* ALL DOCUMENTS BELOW ARE ATTACHED** |
| 1. Jeff Stensland, “Supporters Denounce Effort to Recall Kitchen”, Time Warner Cable News (February 1, 2016)
 |
| 1. Caleb Pritchard, “Kitchen Rallies Support as Recall Effort Remains in Holding Pattern”, Austin Monitor (Feb. 2, 2016)

3 |
| John Daywalt, “Students Should Do Their Research Before Signing Petitions’, Daily Texas (July 3, 2014) |
| 1. Craig’s List Posting for Austin4All canvassers, January 23, 2016
 |
| 1. A. McGlinchy, “PAC ‘Austin4All’ Says Its Obtained Enough Signature for Kitchen Recall”, KUT (Feb. 1, 2016)(Its PAC name is legible at http://kut.org/post/pac-austin4all-says-its-obtained-enough-signatures-kitchen-recall
 |
| 1. Ben Wear, “Effort to Recall Ann Kitchen Just A Matter of Opinion”, Austin American Statesman (January 22, 2016)
 |
|  7) Ben Wear, “Who’s Trying to Recall Austin City Council Member Ann Kitchen?”, Austin American Statesman (January 22, 2016 |
|  8) Email to SONA (Southern Oaks Neighborhood Association) List Serv , “Recall” (January 31, 2016) |
|  9) Austin4All Pushcard |
|  10) Certificate of Formation of Austin 4 All (January 2, 2014) |
|  11) Austin4ALL PAC Press Release (likely 2/1/2016) |
|  12) ”Kitchen Defended as Group Claims Enough Signatures for Recall Election”, Austin American Statesman (Feb. 1, 2016)  |
|  13) Bizapedia.com, Austin 4 All (Accessed 2/4/2016) |
|  |
|  |
|  |
|  |
|  |
|  |
|  |
| **ATTACH ADDITIONAL PAGES AS NEEDED** |

|  |
| --- |
| **VI. AFFIDAVIT Page 5****BASED ON PERSONAL KNOWLEDGE****(Execute this affidavit if the acts alleged are within your direct personal knowledge.)*****Please completely fill out this form. Failure to complete this form properly will cause your complaint to be noncompliant and rejected.*** |
| I, , complainant, swear that I am a resident of the state of Texas. I swear that I have knowledge of the facts alleged in this complaint and that the information contained in this complaint is true and correct.Signature of ComplainantAFFIX NOTARY STAMP / SEAL ABOVESworn to and subscribed before me, by the said , this the day of(Complainant), 20 , to certify which, witness my hand and seal of office.Signature of officer administering oath Printed name of officer administering oath Title of officer administering oath |
| **VII. AFFIDAVIT****BASED ON INFORMATION AND BELIEF****(Execute this affidavit if the acts alleged are not within your direct personal knowledge, but are based on reasonable belief.)** |
| I, Frederick I. Lewis , complainant, swear that I am a resident of the state of Texas. I swear that I have reason to believe and do believe that the violation alleged in this complaint has occurred. The source of my information and belief is the Exhibits 1-13, attached hereto.Signature of ComplainantAFFIX NOTARY STAMP / SEAL ABOVESworn to and subscribed before me, by the said , this the day of(Complainant), 20 , to certify which, witness my hand and seal of office.Signature of officer administering oath Printed name of officer administering oath Title of officer administering oath |

# \*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*

**A COMPLAINT WILL BE DISMISSED IF A COPY OF ONE OF THE FOLLOWING DOCUMENTS IS NOT ATTACHED AS PROOF OF TEXAS RESIDENCY OR OWNERSHIP OF REAL PROPERTY IN TEXAS.**

**\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*** Please check one of the boxes below to indicate the copy of the document you have attached to the complaint:

 X Texas driver's license

personal identification certificate

(issued under Chapter 521 of the Transportation Code)

commercial driver's license

(issued under Chapter 522 of the Transportation Code)

utility bill \*

bank statement \*

government check \*

paycheck \*

other government document \*

property tax bill, notice of appraised value, or other government document that shows the name of the complainant, shows the address of real property in Texas, and identifies the complainant as the owner of the real property.

\* with name and address of complainant and dated not more than 30 days before the date on which the complaint is filed \*

# Initial notices of a complaint must be sent to the complainant and respondent by certified mail. If you wish to waive that requirement, please fill out the following waiver form:

**WAIVER OF NOTICE BY CERTIFIED MAIL REQUIREMENT**

I waive the requirement that written notices addressed to me concerning any pending sworn complaint be sent by registered or certified mail, restricted delivery, return receipt requested.

I understand that I may withdraw this waiver by written notice to the executive director of the Ethics Commission.

I further understand that the commission will send all written notices to me by first class mail unless the commission's staff and I agree on an alternative means.

I also understand that the commission retains the right to mail any notices to me by more restrictive means than first class mail if the commission in its directions determines it is warranted.

Print Name

Alternate Email Address for Notices (optional) Signature

Date