

THE STATE OF TEXAS §

COUNTY OF WALLER §

DISCLOSURE AND ORDER WAIVING THE CONFLICT OF INTEREST FOR THE WALLER COUNTY DISTRICT ATTORNEY'S OFFICE

WHEREAS, attorneys from the Waller County District Attorney's Office were allegedly overpaid with funds disbursed in 2025;

WHEREAS, the Waller County Treasurer's Office is seeking recovery of the disbursed funds from the attorneys, which has created an ethical conflict of interest for the Waller County District Attorney's Office;

WHEREAS, the Waller County District Attorney's Office's representation of Waller County may reasonably appear to be or may reasonably appear to become adversely limited by the individual attorneys' interest in the disputed funds. *See* Texas Disciplinary Rules of Professional Conduct 1.06(b)(2).

WHEREAS, the Waller County District Attorney's Office discloses the existence, nature, implications, and possible adverse consequences of its representation and the advantages involved, if any:

(1): Each of the individual attorneys that were allegedly overpaid has a financial interest in retaining the disbursed funds and their interest is adverse to Waller County's interest in recovering the disbursed funds.

Attorneys in the Criminal Division of the Waller County District Attorney's Office primarily prosecute crimes on behalf of the State of Texas. As such, we do not believe the attorneys in the Criminal Division have a conflict of interest, because their representation does not appear to be materially affected by their interest in the disputed funds.

Attorneys in the Civil Division of the Waller County District Attorney's Office primarily provide legal advice and legal representation to officials in Waller County, including the Treasurer's Office. The representation from the attorneys in the Civil Division may reasonably appear to become adversely limited by the individual attorneys' interest in the disputed funds. As such, the attorneys in the Civil Division are ethically conflicted from maintaining their full legal representation to Waller County.

Pursuant to the Texas Disciplinary Rules of Professional Conduct 1.06(f), the Waller County District Attorney's Office is prohibited from any conduct that would be ethically impermissible for one of its attorneys.

(2): Because the Civil Division is implicated in this matter, a failure to waive the conflict of interest may result in the constructive or actual dismissal of attorneys in the Civil Division. This is because the dispute over the funds may progress to a point where the attorneys may not maintain their own individual interest in the funds without becoming ethically conflicted

from representing Waller County. See Texas Disciplinary Rules of Professional Conduct 1.06(b)(2).

In the event that the issue progresses to litigation, the attorneys in the Civil Division may be required to resign in order to ethically maintain their adverse interest, even if the waiver is granted.

(3): The Waller County District Attorney's Office has an interest in retaining the attorneys. This interest is not adverse to Waller County or the potential recovery of disbursed funds at this time, however, in the event that attorneys are actually or constructively dismissed, or the dispute results in litigation, the interest may become adverse to Waller County and our legal representation may become adversely limited.

(4): The primary disadvantage to waiving the conflict of interest and allowing continued representation from the Waller County District Attorney's Office is that it may materially affect the Office's representation of Waller County, despite our belief that it will not. Attorneys in the office may be unable to use their independent and professional judgment when considering alternatives or foreclose courses of action that reasonably should be pursued on behalf of Waller County, due to their financial interest in the funds. It may become difficult for attorneys in the Office to give Waller County detached advice. In particular, it may become difficult for attorneys to represent the Treasurer's Office, or give legal advice that pertains to financial issue. Waller County should consider whether or not the Waller County District Attorney's Office is capable of representing Waller County and the Treasurer's Office while the dispute continues.

(5): The primary advantage to waiving the conflict of interest is that the Waller County District Attorney's Office believes that it may then ethically advise the Treasurer's Office on how to proceed to amicably resolve the dispute; HOWEVER,

(6): In the event that the dispute over the disbursed funds becomes administratively or judicially litigated, the Waller County District Attorney's Office will be unable to continue providing detached legal advice and legal representation, and Waller County will need to obtain outside legal counsel in order to litigate the disbursed funds.

(7): Conflict of Interest notwithstanding an extant waiver: In the event that an attorney reasonably believes their representation of Waller County reasonably appears to be materially affected by the dispute despite the grant of a waiver of conflict of interest, the attorney will notify their supervisor and the Office will decide whether the conflict is material, despite the extant waiver.

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WHEREAS, The Waller County District Attorney’s Office believes that its continued legal representation of Waller County will have no material adverse effect upon the interests of Waller County, despite the conflict of interest. The Waller County District Attorney’s Office further believes that all of the attorneys with an interest in the disbursed funds are able to use their independent and professional judgment when considering alternatives or courses of action that reasonably should be pursued on behalf of Waller County, and that our attorneys remain able to provide detached legal advice and legal representation on behalf of Waller County at this time.

Sean G. Whittmore
Criminal District Attorney

NOW, THEREFORE, BE IT ORDERED, by the Commissioners Court of Waller County, Texas that:

1. **Acknowledgement of Conflict of Interest:** The Commissioner’s Court of Waller County, Texas acknowledges that the Waller County District Attorney’s Office has disclosed the existence, nature, implications, and possible adverse consequences of its representation and the advantages involved;
2. **Waiver of Conflict of Interest:** The Commissioner’s Court of Waller County, Texas waives the Conflict of Interest.

ORDERED AND EFFECTIVE, this 18th day of March, 2026, by the vote of the Commissioners Court of Waller County, Texas.

Carbett “Trey” J. Duhon III
County Judge

ATTEST:
