

TEXAS ETHICS COMMISSION

IN THE MATTER OF
JODIE LAUBENBERG,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-270103

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on December 11, 2007, to consider sworn complaint SC-270103. A quorum of the commission was present. The commission determined that there is credible evidence of violations of section 254.031 of the Election Code and section 20.61 of the Ethics Commission Rules, laws administered and enforced by the commission. To resolve and settle this complaint without further proceedings, the commission proposes this resolution to the respondent.

II. Allegations

The complaint alleges that the respondent improperly reported political expenditures as reimbursements to staff or others.

III. Facts Supported by Credible Evidence

Credible evidence available to the commission supports the following findings of fact:

1. The respondent is a state representative.
2. The complaint relates to campaign finance reports filed beginning January 2005 through October 2006.
3. At issue are reimbursements to staff or others totaling approximately \$2,900. The respondent did not disclose the actual vendors that were paid by staff members or other individuals for goods or services. The respondent also did not disclose the dates that the vendors were paid.
4. One expenditure entry for \$60 for "Reimburse for flowers for colleague" was not made at the respondent's direction.

5. The respondent filed corrected campaign finance reports for the reports in question.
6. Approximately \$230 of political expenditures disclosed on the original reports as reimbursements were included in the total for aggregate expenditures of \$50 or less on the corrected reports.

IV. Findings and Conclusions of Law

The facts described in Section III support the following findings and conclusions of law:

1. A campaign finance report must include the amount of political expenditures that in the aggregate exceed \$50 and that are made during the reporting period, the full name and address of the persons to whom the expenditures are made, and the dates and purposes of the expenditures. ELEC. CODE § 254.031(a)(3).
2. In Ethics Advisory Opinion No. 450, the commission determined that a political expenditure made to reimburse a staff member may be reported in one of two ways: (1) reporting it as a loan to the candidate from the staff member and then as an expenditure by the candidate to repay the staff member; or (2) if the expenditure and reimbursement occur during the same reporting period, report a single expenditure by listing the name of the individual or entity paid by the campaign worker as the payee, showing the date of the expenditure as the date the staff member made the expenditure, and explaining in the “purpose” section that a staff member made the expenditure from personal funds and that the candidate subsequently reimbursed the staff member. Ethics Advisory Opinion No. 450 (2003).
3. The report of a political expenditure for goods or services must describe the categories of goods or services received in exchange for the expenditure. Ethics Commission Rules § 20.61(a).
4. The expenditure for \$60 for “Reimburse for flowers for colleague” does not fall into the general category of staff reimbursements described in Ethics Commission Advisory Opinion No. 450, as the expenditure was not made at the respondent’s direction. This expenditure was properly disclosed.
5. Approximately \$230 of political expenditures that did not exceed \$50 to any one payee were not required to be itemized on the original report.
6. The respondent did not properly disclose political expenditures totaling approximately \$2,600. Therefore, there is credible evidence that the respondent violated section 254.031(a)(3) of the Election Code and section 20.61(a) of the Ethics Commission Rules.

V. Representations and Agreement by Respondent

By signing this order and agreed resolution and returning it to the commission:

1. The respondent neither admits nor denies the facts described under Section III or the commission's findings and conclusions of law described under Section IV, and consents to the entry of this order and agreed resolution solely for the purpose of resolving this sworn complaint.
2. The respondent consents to this order and agreed resolution and waives any right to further proceedings in this matter.
3. The respondent acknowledges that each campaign finance report must include the amount of political expenditures that in the aggregate exceed \$50 and that are made during the reporting period, the full name and address of the persons to whom the expenditures are made, and the dates and purposes of the expenditures. The respondent also acknowledges that the report of a political expenditure for goods or services must describe the categories of goods or services received in exchange for the expenditure. The respondent further acknowledges that the proper way to report reimbursements to staff is in accordance with section 20.62 of the Ethics Commission Rules. The respondent agrees to comply with this requirement of the law.

VI. Confidentiality

This order and agreed resolution describes violations that the commission has determined is neither technical nor *de minimis*. Accordingly, this order and agreed resolution is not confidential under section 571.140 of the Government Code and may be disclosed by members and staff of the commission.

VII. Sanction

After considering the seriousness of the violations described under Sections III and IV, including the nature, circumstances, and consequences of the violations, and after considering the sanction necessary to deter future violations, the commission imposes a \$300 civil penalty.

VIII. Order

The commission hereby orders that if the respondent consents to the proposed resolution, this order and agreed resolution is a final and complete resolution of SC-270103.

AGREED to by the respondent on this _____ day of _____, 20__.

Jodie Laubenberg, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director