

TEXAS ETHICS COMMISSION

IN THE MATTER OF
DENNIS BONNEN,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-280273

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on June 10, 2008, to consider sworn complaint SC-280273. A quorum of the commission was present. The commission determined that there is credible evidence of violations of section 253.035(a) of the Election Code, a law 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 converted political contributions to personal use.

III. Facts Supported by Credible Evidence

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

1. During the period at issue the respondent was the state representative for District 25 (Brazoria County).
2. The commission may not consider an allegation that is outside the applicable statute of limitations. The statute of limitations for an allegation that a person converted political contributions to personal use is three years. Ethics Commission Rules § 12.5. Allegations relating to political expenditures made or authorized before February 22, 2005 (more than three years before the complaint's postmark date), are not within the commission's sworn complaint jurisdiction and cannot be considered.
3. The complaint alleges that the respondent converted political contributions to personal use when he used political contributions to pay for "food and necessities" and dry cleaning. The complaint included a list of expenditures from the respondent's July 2005 semiannual campaign finance report and July 2007 semiannual campaign finance report.

4. The respondent's July 2005 semiannual report disclosed the political expenditure at issue of \$15.12 for "Necessities for Austin rental."
5. The respondent's July 2007 semiannual report disclosed one political expenditure of \$1,045.44 for "Food and necessities for Austin rental," two political expenditures totaling approximately \$780 for "Necessities for Austin rental," and two political expenditures totaling approximately \$130 for "suit cleaning."
6. In response to the sworn complaint, the respondent submitted an affidavit in which he denies the allegations relating to the purchase of "necessities." The respondent swears these expenditures were for reasonable household expenses incurred in maintaining a residence in Travis County.
7. The respondent also denies the allegations relating to the purchase of food and swears that he purchased food to entertain legislators, staff, and others in connection with his role as a candidate and officeholder. He characterizes them as "political guests."
8. With respect to the allegations relating to dry cleaning expenses, the respondent swears that he misunderstood the restriction and that he is returning those amounts to his campaign fund.

IV. Findings and Conclusions of Law

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

1. A person who accepts a political contribution as a candidate or officeholder may not convert the contribution to personal use. ELEC. CODE § 253.035(a). Personal use is a use that primarily furthers individual or family purposes not connected with the performance of duties or activities as a candidate or officeholder. *Id.* § 253.035(d). Personal use does not include payments made to defray ordinary and necessary expenses incurred in connection with activities as a candidate or in connection with the performance of duties or activities as a public officeholder, including payment of reasonable housing or household expenses incurred in maintaining a residence in Travis County by members of the legislature who do not ordinarily reside in Travis County. *Id.* § 253.035(d)(1).
2. There is insufficient evidence that the expenditures at issue for "necessities" were not for reasonable household expenses incurred in maintaining a residence in Travis County. Therefore, as to the expenditures at issue for "necessities," there is insufficient evidence of a violation of section 253.035 of the Election Code.
3. The commission stated in Ethics Advisory Opinion No. 241 that it is permissible for a legislator to use political contributions to pay for "meals for state business not reimbursed by the state." Ethics Advisory Opinion No. 241 (1995). For meals that do not take place in

connection with the conduct of state business, the commission stated that it did not interpret the “reasonable housing or household expenses” exception to extend to the cost of meals in Austin in general. *Id.*

4. There is insufficient evidence that the expenditures at issue for food were not made for candidate or officeholder purposes. Therefore, as to the expenditures at issue for food, there is insufficient evidence of a violation of section 253.035 of the Election Code.
5. The commission has determined that legislators may not use political contributions to pay laundry and dry cleaning expenses incurred in Austin and that such an expenditure would constitute a conversion of a political contribution to personal use. Ethics Advisory Opinion No. 104 (1992).
6. The evidence indicates that the respondent converted approximately \$130 of political contributions to personal use when he paid for dry cleaning. Such use of political contributions is prohibited by section 253.035 of the Election Code. Therefore, as to the expenditures at issue for dry cleaning, there is credible evidence that the respondent violated section 253.035 of the Election Code.

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 a person who accepts a political contribution as a candidate or officeholder may not convert the contribution to personal use. 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 are 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 \$100 civil penalty, contingent upon the respondent using personal funds to reimburse his political funds the amount at issue (\$130.16). If the respondent does not reimburse the amount at issue, then the commission imposes a \$250 civil penalty to be paid from the respondent's personal funds. The respondent shall furnish to the commission evidence of the required payments.

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-280273.

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

Dennis Bonnen, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director