

# TEXAS ETHICS COMMISSION

IN THE MATTER OF

KEL SELIGER,

RESPONDENT

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BEFORE THE

TEXAS ETHICS COMMISSION

SC-3180277

## NOTICE OF REPORTING ERROR

### I. Recitals

The Texas Ethics Commission (Commission) met on December 13, 2018, to consider SC-3180277. A quorum of the Commission was present. **The Commission determined that there is credible evidence of reporting errors that do not materially defeat the purpose of disclosure.** To resolve and settle this case without further proceedings, the Commission adopted this Notice of Reporting Error Agreement (agreement).

### II. Conclusions

The Commission **found credible evidence** that the respondent:

1. did not disclose on his 2016 and 2017 personal financial statements Thetford, LLC, a business entity in which the respondent held a beneficial interest, in violation of section 572.023(b)(6) of the Government Code; and
2. did not disclose on his 2016 and 2017 personal financial statements the assets of Thetford, LLC, a business entity in which he held more than 50 percent of the outstanding ownership, in violation of section 572.023(b)(9) of the Government Code.

### III. Findings of Fact and Conclusions of Law

Credible evidence available to the Commission supports the following findings of fact and conclusions of law:

#### Disclosure of a Beneficial Interest in a Business Entity

1. It was contended that the respondent owned Thetford, LLC, but did not disclose his beneficial interest in the business on his 2016 and 2017 personal financial statements, in violation of section 572.023(b)(6) of the Government Code.
2. The respondent formed Thetford, LLC in April 2015, according the certificate of formation on file with the Texas Secretary of State. The respondent is the sole-owner of Thetford, LLC.

3. Upon Thetford, LLC's formation, FrogAir, LLC—another business entity solely-owned by the respondent—was made the manager of Thetford.
4. The respondent disclosed FrogAir, LLC as a business in which he had a beneficial interest on his 2016 and 2017 personal financial statements. But the respondent did not disclose Thetford, LLC as a business in which he held a beneficial interest.
5. In response to the complaint, the respondent admitted he was the 100 percent owner of Thetford, LLC during the years covered by the 2016 and 2017 personal financial statements, but inadvertently omitted Thetford, LLC from his personal financial statements. He said the 2016 and 2017 personal financial statements were over 180 and 210 pages, respectively. When copying over the information from the previous year the respondent accidentally forgot to add Thetford, LLC, which he formed in 2015, according to his response. The respondent denied there was any effort to hide his ownership of Thetford.
6. Section 572.023(b)(6) of the Government Code, in relevant part requires a filer to include in a personal financial statement an identification by description of all beneficial interests in business entities held or acquired during the calendar year.
7. The respondent held a beneficial interest in Thetford, LLC but did not disclose that interest on the original 2016 and 2017 personal financial statements. **Therefore, there is credible evidence of noncompliance with section 572.023(b)(6) of the Government Code.**

#### **Disclosure of Assets and Liabilities of a Business Association**

8. It was contended that the respondent also did not disclose on the 2016 and 2017 personal financial statements the assets and liabilities of Thetford, LLC, a business entity in which the respondent held more than 50 percent of the outstanding ownership.
9. In response to the complaint, the respondent admitted that he owned 100 percent of Thetford, LLC, but did not list Thetford, LLC's assets on the 2016 and 2017 personal financial statements. He also stated that Thetford had no liabilities.
10. The respondent corrected the 2016 and 2017 personal financial statements to disclose two assets of Thetford, LLC: 1) a bank account; and 2) a condominium in Austin, Texas.
11. Section 572.023(b)(9) requires a filer to include in a personal financial statement an identification by description of the category of the amount of all assets and liabilities of a corporation, firm, partnership, limited partnership, limited liability partnership, professional corporation, professional association, joint venture, or other business association in which 50 percent or more of the outstanding ownership was held, acquired, or sold.

12. Both the bank account and condominium are assets of Thetford, LLC, a business entity solely-owned by the respondent. The respondent did not include Thetford LLC's assets on his 2016 and 2017 personal financial statements.<sup>1</sup> **Therefore, there is credible evidence of noncompliance with section 572.023(b)(9) regarding the non-disclosure of Thetford, LLC's assets on the 2016 and 2017 personal financial statements.**

#### IV. Representations and Agreement by Respondent

By signing this agreement and returning it to the Commission:

1. You consent to this agreement.
2. You accept the determinations made by the Commission in this agreement.
3. You waive any right to further proceedings in this matter.
4. You understand and agree that the Commission will consider this agreement in any future proceedings against you regarding similar allegations.
5. You acknowledge that each personal financial statement must include:
  - an identification by description of all beneficial interests in real property and business entities held or acquired, and if sold, the category of the amount of the net gain or loss realized from the sale; and
  - identification by description of the category of the amount of all assets and liabilities of a corporation, firm, partnership, limited partnership, limited liability partnership, professional corporation, professional association, joint venture, or other business association in which 50 percent or more of the outstanding ownership was held, acquired, or sold.

You agree to comply with these requirements of the law.

6. You agree this agreement is a final and complete resolution of SC-3180277.

#### V. Confidentiality

This agreement describes reporting errors that the Commission has determined are neither technical nor *de minimis*. Accordingly, this agreement is not confidential under section 571.140 of the Government Code.

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<sup>1</sup> Although, disclosed on the corrected personal financial statements, the bank account arguably was not required to be disclosed as an asset of a business entity.

**VI. Sanction**

The respondent agrees to tender a \$250 assessment fee to the Commission.

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Kel Seliger, Respondent

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Date signed by Respondent

Signed by the Commission on:

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Texas Ethics Commission

By:

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Seanna Willing, Executive Director