

# TEXAS ETHICS COMMISSION

<b>IN THE MATTER OF</b>	§	<b>BEFORE THE</b>
	§	
<b>LONNIE JAMES “JIM” WALLACE,</b>	§	<b>TEXAS ETHICS COMMISSION</b>
	§	
<b>RESPONDENT</b>	§	<b>SC-971071</b>
	§	

## **ORDER and AGREED RESOLUTION**

### **I. Recitals**

The Texas Ethics Commission (the commission) met on May 8, 1998, to consider sworn complaint SC-971071 filed against Lonnie James “Jim” Wallace (the respondent). A quorum of the commission was present. The commission voted to accept jurisdiction of this complaint. Based on the investigation conducted by commission staff, the commission determined there was credible evidence of a violation of Section 253.164, Election Code, a law administered and enforced by the commission. To resolve and settle this complaint without further proceedings, the commission proposes this agreed resolution to the respondent.

### **II. Facts Supported by Credible Evidence**

Credible evidence available to the commission would support the following findings of fact:

#### *Judicial Campaign Fairness Act Allegation:*

1. The complainant alleges that the respondent violated the Election Code by failing to file a judicial declaration of intent to comply or not to comply with the expenditure limits provided by the Judicial Campaign Fairness Act.
2. At all times relevant to this complaint, the respondent was a district judge seeking re-election in 1998. The respondent has had a campaign treasurer appointment on file since 1993, and filed a judicial declaration of intent on November 13, 1997, after receiving notice of this complaint. The respondent made campaign expenditures and accepted campaign contributions before filing the judicial declaration of intent.

3. The respondent swears that he did not know that he was required to file the judicial declaration of intent and that he has at all times complied with the limits on expenditures prescribed by the Judicial Campaign Fairness Act.

Reporting Allegations:

4. The complainant alleges that the respondent failed to report how \$13,500 of contributions were expended.

The respondent swears that he failed to include Schedule "F", which itemizes political expenditures, with his July 1997 semiannual report. In response to this complaint, the respondent filed a corrected report and good-faith affidavit providing the expenditure schedule, which itemizes one expenditure of \$13,500 to reimburse himself for previously reported political expenditures made from personal funds.

5. The complainant also alleges that the respondent made questionable payback of loans to himself without properly reporting the loans on his campaign finance reports.

The respondent swears that in previous reports he reported political expenditures made out of personal funds indicating an intent to seek reimbursement, and that the "loan" reimbursements to which the complainant refers are legitimate reimbursements for political expenditures made from personal funds. The respondent swears that he reported those expenditures in a manner permitted by law.

## II. Conclusions of Law

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

Judicial Campaign Fairness Act Allegation:

1. The Judicial Campaign Fairness Act imposes contribution limits and imposes limits on the reimbursement of personal funds from political contributions. Sections 253.155 and 253.162, Election Code. It also sets out voluntary limits on campaign expenditures. Section 253.168, Election Code.
2. A person who becomes a candidate for a judicial office on or after June 16, 1995 (the effective date of the Judicial Campaign Fairness Act), must file a declaration of intent to comply or not to comply with those expenditure limits. Section 253.164, Election Code.

3. Additionally, all judicial candidates are prohibited from knowingly accepting campaign contributions or making campaign expenditures unless a judicial declaration of intent has been filed. *Id.*
4. The respondent filed his campaign treasurer appointment and therefore became a candidate for a judicial office for purposes of Title 15, Election Code, before June 16, 1995. Thus, the obligation to file a judicial declaration of intent did not apply at the time the respondent became a candidate.
5. The respondent is subject to the prohibition against accepting campaign contributions or making campaign expenditures before a judicial declaration of intent has been filed. The respondent made campaign expenditures and accepted campaign contributions before filing the judicial declaration of intent. Thus, there is credible evidence that the respondent violated Section 253.164, Election Code.

Reporting Allegations:

6. A person filing a campaign finance report is required to itemize contributions, expenditures, and loans exceeding \$50 during a reporting period, including the name and the address of the contributor, payee, or lender, as applicable, and the date and the amount of the contribution, expenditure, or loan. Section 254.031, Election Code.
7. Reporting Expenditures: The respondent swears that he failed to include Schedule "F", which itemizes political expenditures, with his July 1997 semiannual report. In response to this complaint, the respondent filed a corrected report and good-faith affidavit providing the expenditure schedule, which itemizes one expenditure of \$13,500 to reimburse himself by previously reported political expenditures made from personal funds.

A person filing reports under Title 15, Election Code, who files an affidavit swearing that a corrected report, other than one correcting a report due eight days before an election, was filed in good faith is not subject to a fine for a late report. Sections 18.49 and 18.83, Ethics Commission Rules. The corrected report at issue is a semiannual report, not an 8-day before election report. Thus, the corrected semiannual report is not subject to a fine. There is credible evidence that the respondent did not violate Section 254.031, Election Code, by failing to itemize a political expenditure on his July 1997 semiannual report.

8. Repayment of Loans: The respondent swears that in previous reports he reported political expenditures made out of personal funds indicating an intent to seek reimbursement, and that the "loan" reimbursements to which the complainant refers are legitimate reimbursements for political expenditures made from personal funds. The law does not require campaign expenditures made out of personal funds to be reported as loans. The respondent swears that he reported those expenditures in a manner permitted by law. *See* Sections 253.035(h) and

253.0351, Election Code. The respondent's reports support his assertions. There is credible evidence that the respondent did not violate Section 254.031, Election Code, by failing to report political expenditures made from personal funds as loans.

#### **IV. Representations and Agreement by the Respondent**

By signing this ORDER and AGREED RESOLUTION and returning it to the commission:

1. The respondent neither admits nor denies the facts detailed under Section II and the commission's findings and conclusions of law detailed under Section III, and consents to the entry of this ORDER and AGREED RESOLUTION solely for the purpose of resolving and settling this sworn complaint.
2. The respondent consents to the entry of this ORDER and AGREED RESOLUTION before any adversarial evidentiary hearings or argument before the commission, and before any formal adjudication of law or fact by the commission. The respondent waives any right to a hearing before the commission or an administrative law judge appointed by the commission, and further waives any right to a post-hearing procedure established or provided by law.
3. Notwithstanding any other provisions of this ORDER and AGREED RESOLUTION, the respondent understands and agrees that the commission will consider the respondent to have committed the violation detailed in Section III, Paragraph 5, if it is necessary to consider a sanction to be assessed in any future sworn complaint proceedings against the respondent.

#### **V. Confidentiality**

This ORDER and AGREED RESOLUTION describes an alleged violation that the commission has determined would be neither technical nor *de minimis*. Accordingly, this ORDER and AGREED RESOLUTION is not confidential under Section 571.140, Government Code, and may be disclosed by members and staff of the Texas Ethics Commission.

#### **VI. Sanction**

After considering the seriousness of the violation described under Section III, Paragraph 5, including the nature, circumstances, consequences, extent, and gravity of the violation; that no previous violations by this respondent are known to the commission; and after considering the sanction deemed necessary to deter future violations, the commission imposes no civil penalty for the violation described under Section III, Paragraph 5.

**VII. Order**

The Texas Ethics Commission hereby ORDERS:

1. that the portions of this sworn complaint that allege violations under Section III, Paragraphs 7 and 8, are dismissed;
2. that this proposed AGREED RESOLUTION be presented to the respondent;
3. that if the respondent consents to the proposed AGREED RESOLUTION, this ORDER and AGREED RESOLUTION is a final and complete resolution of SC-971071;
4. that the respondent may consent to the proposed AGREED RESOLUTION only by signing an original of this document and mailing the signed original to the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711, no later than June 5, 1998; and
5. that the executive director shall promptly refer SC-971071 to either the commission or to an administrative law judge to conduct hearings on the commission's behalf and to propose findings of fact and conclusions of law to the commission in accordance with law if the respondent does not agree to the resolution of SC-971071 as proposed in this ORDER and AGREED RESOLUTION.

AGREED to by the respondent on: \_\_\_\_\_  
DATE

\_\_\_\_\_  
Lonnie James "Jim" Wallace

EXECUTED ORIGINAL received by the commission on: \_\_\_\_\_  
DATE

Texas Ethics Commission

By: \_\_\_\_\_  
Tom Harrison, Executive Director