

# TEXAS ETHICS COMMISSION

IN THE MATTER OF

JOHN E. DAVIS,

RESPONDENT

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§

BEFORE THE

TEXAS ETHICS COMMISSION

SC-2607169

## ORDER and AGREED RESOLUTION

### I. Recitals

The Texas Ethics Commission (the commission) met on November 28, 2006, to consider sworn complaint SC-2607169. A quorum of the commission was present. The commission determined that there is credible evidence of violations of section 254.031(a)(3) of the Election Code and section 20.59 of the Ethics Commission Rules, a law and a rule 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 failed to include properly disclosed political expenditures.

### III. Facts Supported by Credible Evidence

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

1. The respondent holds the office of state representative.
2. The complaint was filed August 1, 2006. Some allegations relate to reports filed more than two years before that date.
3. The respondent's January 2005 semiannual campaign finance report disclosed \$13,390.49 in political expenditures to American Express for "Miscellaneous expenses." The total political expenditures reported on that report was \$31,358.63.
4. The respondent's July 2005 semiannual campaign finance report (corrected September 14, 2005) disclosed \$10,051.43 in political expenditures to American Express for "Miscellaneous expenses" and \$4,680 in political expenditures to himself for

- "Reimbursement for out-of-pocket expenses." The total political expenditures disclosed on that report was \$30,722.86.
5. The respondent's January 2006 semiannual campaign finance report disclosed \$9,155.75 in political expenditures to American Express for "Miscellaneous expenses." That report disclosed total political expenditures of \$32,399.76.
  6. The respondent's July 2006 semiannual campaign finance report disclosed \$9,412.02 in political expenditures to American Express for "Miscellaneous expenses" and \$3,800.07 in political expenditures to himself for "Out-of-pocket expenses." The total political expenditures reported on that report was \$26,364.38.
  7. The respondent filed a sworn response admitting that he failed to include information about political expenditures in his campaign finance reports as alleged. The respondent filed corrected reports on November 6, 2006, which included the missing information.

#### **IV. Findings and Conclusions of Law**

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

1. Ethics Commission rules prohibit the commission from considering an allegation barred from criminal prosecution by operation of the applicable statute of limitations. Ethics Commission Rules § 12.5(3). The criminal offense for a violation of section 254.123 or 254.124 of the Election Code is a Class C misdemeanor. ELEC. CODE § 254.041(b). The statute of limitations for a Class C misdemeanor is two years from the date of the commission of the offense. Code of Criminal Procedure Article 12.02. The complaint was filed on August 1, 2006. Therefore, allegations relating to campaign finance reports that were due before August 1, 2004, are not within the commission's sworn complaint jurisdiction.
2. Each campaign finance report filed by an officeholder is required to include the full name and address of the payees, and the dates and purposes of political expenditures that in the aggregate exceed \$50 to a single payee in the reporting period. ELEC. CODE § 254.031(a)(3). A report of a political expenditure by credit card must identify the vendor who receives payment from the credit card company. Ethics Commission Rules § 20.59. The respondent's January and July 2005 semiannual reports and his January and July 2006 semiannual reports disclose reimbursements to himself but not the actual payees for political expenditures totaling approximately \$8,500. On his reports, the respondent disclosed the name of the credit card company instead of the name of the vendor for political expenditures totaling approximately \$42,000. The improper reporting is clear from the face of the reports. The respondent has filed corrected reports. Therefore, there is credible evidence of a violation of section 254.031(a)(3) of the Election Code and § 20.59 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 filed by an officeholder is required to include the full name and address of the payees, and the dates and purposes of political expenditures that in the aggregate exceed \$50 to a single payee in the reporting period and that a report of a political expenditure by credit card must identify the vendor who receives payment from the credit card company. The respondent agrees to comply with these requirements of the law.

## VI. Confidentiality

This order and agreed resolution describes a violation 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 violation described under Sections III and IV, including the nature, circumstances, and consequences of the violation, and after considering the sanction necessary to deter future violations, the commission imposes a \$1,000 civil penalty for the violation described under Sections III and IV.

## 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-2607169.

AGREED to by the respondent on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
John E. Davis, Respondent

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

Texas Ethics Commission

By: \_\_\_\_\_  
David A. Reisman, Executive Director