

TEXAS ETHICS COMMISSION

IN THE MATTER OF
ALLAN RITTER,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-2612250

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on October 26, 2007, to consider sworn complaint SC-2612250. 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 20.59 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 failed to properly report political expenditures made by credit card. The complaint also alleges that the respondent improperly reported political expenditures as reimbursements.

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 was filed on December 18, 2006.
3. The allegations are based on the respondent's January 2004, July 2004, January 2005, January 2006, and July 2006 semiannual campaign finance reports.
4. 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. Failing to timely file or filing incomplete campaign finance reports is a Class C misdemeanor. ELEC. CODE § 254.041. The statute of limitations for misdemeanors is two years from the date of the commission of the offense. Code of Criminal Procedure, Art. § 12.02. Reporting allegations relating to campaign finance reports

that were filed before December 18, 2004, are not within the commission's sworn complaint jurisdiction. Some reporting allegations in this complaint relate to the respondent's January and July 2004 semiannual campaign finance reports, which were filed prior to December 18, 2004. Therefore, those reporting allegations will not be considered.

5. The remaining allegations are based on the respondent's January 2005, January 2006, and July 2006 semiannual campaign finance reports.
6. The respondent disclosed the credit card company as the payee for political expenditures totaling approximately \$5,300.
7. On his January 2006 semiannual report the respondent disclosed reimbursement to staff totaling approximately \$175, but the actual payee of the expenditure was not disclosed.
8. As of October 26, 2007, the respondent had not filed corrected reports for the reports at issue.

IV. Findings and Conclusions of Law

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

1. 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).
2. A report of a political expenditure by credit card must identify the vendor who receives payment from the card company. Ethics Commission Rules § 20.59.
3. The respondent had multiple entries, totaling approximately \$5,300, on his January 2005, January 2006, and July 2006 campaign finance reports that identified the credit card company as payee instead of the vendor who received payment from the credit card company. Therefore, there is credible evidence of a violation of section 254.031(a)(3) of the Election Code and section 20.59 of the Ethics Commission Rules.
4. In Ethics Advisory Opinion No. 450 (2003), 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.

5. On his January 2006 semiannual campaign finance report the respondent disclosed two expenditures as reimbursement to a member of his staff. The reimbursements totaled approximately \$175. Reimbursement of a staff member may be reported in one of two ways. Neither of those methods were used and the actual payee was not disclosed. Therefore, there is credible evidence of a violation of section 254.031 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 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. The respondent acknowledges that a report of a political expenditure by credit card must identify the vendor who receives payment from the card company. The respondent acknowledges that the proper way to report reimbursement to staff is in accordance with section 20.62 of the Ethics Commission Rules. The respondent agrees to comply with these requirements 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 \$2,800 civil penalty. In the alternative, the commission imposes a \$500 civil penalty if the respondent files corrected reports with the Texas Ethics Commission by December 3, 2007.

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-2612250.

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

Allan Ritter, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director