

TEXAS ETHICS COMMISSION

IN THE MATTER OF
G. E. "BUDDY" WEST,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-2612263

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on October 26, 2007, to consider sworn complaint SC-2612263. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 254.031 and 253.035(h) of the Election Code and sections 20.59, 20.61 and 20.63 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 failed to report and improperly reported reimbursements to himself for political expenditures made from personal funds. In addition, the complaint alleges that the respondent improperly reported reimbursements made to staff and other individuals. The complaint also alleges that the respondent converted political contributions for personal use.

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 allegations are based on the respondent's January 2005, July 2005, January 2006, and July 2006 semiannual campaign finance reports and on the respondent's October 2006 30-day and 8-day pre-election campaign finance reports.
3. The respondent disclosed a credit card company as the payee for political expenditures totaling approximately \$58,100.

4. The respondent's campaign finance reports disclosed reimbursement to himself totaling approximately \$3,500.
5. The respondent did not previously disclose the political expenditures as having been made from the respondent's personal funds and subject to reimbursement.
6. The respondent did not previously disclose the political expenditures at issue as a loan.
7. The respondent's campaign finance reports disclosed reimbursement to staff and others totaling approximately \$1,800. The respondent's campaign reports described the purpose of these reimbursements to staff as "expense."
8. The respondent disclosed approximately \$8,000 to the Odessa Country Club over multiple reporting periods for "expenses."
9. The evidence indicates that the expenditures in question to the Odessa Country Club were for monthly dues and meals with constituents, meals with staff, and meetings.
10. The respondent disclosed approximately \$15,100 for car rental to GMAC over multiple reporting periods for "car rental."
11. The evidence indicates that the expenditures for car rental to GMAC were for legislative purposes only.
12. The respondent disclosed approximately \$1,200 to Gem's Jeweler's in the July 2005 semiannual campaign finance report for "expense."
13. The evidence indicates that the expenditures in question to Gem's Jeweler's were for committee gifts and end of session gifts.
14. The respondent disclosed approximately \$900 to the Texas Tech Foundation in the January 2006 semiannual campaign finance report for tickets.
15. The evidence indicates that the expenditures in question to Gem's Jeweler's were for football tickets donated to different organizations for fundraising activities to foster good will for his name.
16. The respondent filed corrected campaign finance reports for the reports in question, the last of which was filed on October 9, 2007.

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 \$58,100, on his January 2005, July 2005, January 2006, July 2006, 30-day and 8-day 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. For purposes of reporting, a political expenditure is not considered to have been made until the amount is readily determinable by the person making the expenditure. ELEC. CODE § 254.035.
5. Although the respondent improperly disclosed the payee of credit card expenditures, the evidence does not show that the expenditures were disclosed in the wrong reporting period. The corrections indicate the initial expenditures were disclosed in the proper reporting period. Therefore, there is credible evidence that the respondent did not violate section 254.035 of the Election Code.
6. A candidate who makes political expenditures from the candidate's personal funds may reimburse those personal funds from political contributions only if the expenditures from personal funds were fully reported as political expenditures, including the payees, dates, purposes, and amounts of the expenditures and the report clearly designates those expenditures as having been made from the person's personal funds and that the expenditures are subject to reimbursement. ELEC. CODE § 253.035(h).
7. In the alternative, a candidate who makes political expenditures from the candidate's personal funds may report the amount expended as a loan and may reimburse personal funds from political contributions in the amount of the reported loan. ELEC. CODE § 253.0351(a).
8. A candidate is required to report a campaign expenditure from personal funds. An officeholder is required to report an officeholder expenditure from personal funds if the officeholder intends to be reimbursed from political contributions. A candidate's or officeholder's failure to comply with the disclosure requirements for the use of personal funds may not be cured by filing a corrected report after the report deadline has passed. A candidate or officeholder who has complied with the requirements and whose personal funds have been reimbursed from political contributions must report the amount of the

- reimbursement as a political expenditure in the report covering the period during which the reimbursement was made. Ethics Commission Rules § 20.63.
9. The respondent's July 2005 and January 2006 semiannual campaign finance reports disclosed multiple reimbursements to himself. The total amount of reimbursement was approximately \$3,500. The evidence indicates that the respondent did not previously disclose the political expenditures for the reimbursements as having been made from the respondent's personal funds with the intent to seek reimbursement. Therefore, there is credible evidence of a violation of sections 253.035(h) and 254.031 of the Election Code and section 20.63 of the Ethics Commission Rules.
 10. The report of a political expenditure for goods or services must describe the categories of goods or services received in exchange for the expenditure. Ethics Commission Rules § 20.61.
 11. The respondent was not required to provide detailed disclosure information for payments for expenses that were in the aggregate \$50 or less to any single payee. However, the respondent was required to disclose the full name and address of the actual payees, and the date and purposes for political expenditures that exceeded \$50 to any one payee.
 12. The respondent listed "expense" under the purpose of payment section of his campaign finance reports for the expenditures at issue. The total amount of reimbursement was approximately \$1,800.
 13. The word "expense" does not sufficiently describe the category of goods or services received in exchange for the expenditure. Therefore, there is credible evidence of violations of section 254.031(a)(3) of the Election Code and section 20.61(a) of the Ethics Commission Rules.
 14. 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).
 15. 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. ELEC. CODE § 253.035(d).
 16. The evidence indicates that the expenses to the Odessa Country Club were for the purpose of meetings related to legislative business.
 17. The evidence indicates that the expenses to GMAC were for a car rented for travel related exclusively to legislative purposes.

18. The evidence indicates that the expenses to Gem's Jeweler's was for committee gifts and staff end of session gifts.
19. The evidence indicates that the expenses to the Texas Tech Foundation were to purchase tickets to be used as donations to build good will.
20. Thus, the evidence indicates that the expenditures at issue were not conversions to personal use because they were made in connection with the respondent's performance of duties or activities as a candidate or an officeholder. Therefore, there is credible evidence of no violation of section 253.035 of the Election Code with regard to the expenditures at issue.

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 a candidate who makes political expenditures from the candidate's personal funds may reimburse those personal funds from political contributions only if the expenditures from personal funds were fully reported as political expenditures, including the payees, dates, purposes, and amounts of the expenditures and the report clearly designates those expenditures as having been made from the person's personal funds and that the expenditures are subject to reimbursement. In the alternative, a candidate who makes political expenditures from the candidate's personal funds may report the amount expended as a loan and may reimburse personal funds from political contributions in the amount of the reported loan. The respondent acknowledges that a candidate is required to report a campaign expenditure from personal funds and an officeholder is required to report an officeholder expenditure from personal funds if the officeholder intends to be reimbursed from political contributions. The respondent acknowledges that a candidate's or officeholder's failure to comply with the disclosure requirements for the use of personal funds may not be cured by filing a corrected report after the report deadline has passed. A candidate or officeholder who has complied with the requirements and whose personal funds have been reimbursed from political contributions must report the amount of the

reimbursement as a political expenditure in the report covering the period during which the reimbursement was made. The respondent acknowledges that the report of a political expenditure for goods or services must describe the categories of goods or services received in exchange for the expenditure. 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 \$6,400 civil penalty.

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-2612263.

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

G.E. "Buddy" West, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director