

TEXAS ETHICS COMMISSION

IN THE MATTER OF
BOB GRIGGS,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-270224

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on June 28, 2007, to consider sworn complaint SC-270224. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 254.031 and 253.035 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 failed to properly report political expenditures made from personal funds and that he improperly reimbursed himself for political expenditures made from personal funds.

III. Facts Supported by Credible Evidence

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

1. The respondent is a former state representative.
2. The complaint was filed February 15, 2007.
3. The allegations are based on the respondent's January 2005, July 2005, January 2006, and July 2006 semiannual campaign finance reports.
4. On those reports the respondent disclosed the credit card company as the payee for political expenditures totaling approximately \$43,300.

5. The respondent's campaign finance reports disclosed reimbursements to himself totaling approximately \$2,600.
6. The respondent did not previously disclose the political expenditures as having been made from the respondent's personal funds and subject to reimbursement.
7. The respondent did not previously disclose the political expenditures at issue as a loan.

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. If the alleged violation is not also a criminal offense, the statute of limitations is three years. Ethics Commission Rules § 12.5(a).
2. The criminal offense for a violation of section 254.031 of the Election Code is a Class C misdemeanor. ELEC. CODE § 254.041. 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.
3. The complaint was filed on February 15, 2007. Allegations relating to campaign finance reports that were filed before February 15, 2005, are not within the commission's sworn complaint jurisdiction. Some reporting allegations in this complaint relate to the respondents January 2005 report, which was filed January 18, 2005, therefore those allegations will not be considered.
4. 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).
5. 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.
6. The respondent had multiple entries with an aggregate total of approximately \$33,000 on his July 2005, January 2006, July 2006, and January 2007 campaign finance reports that identified a credit card company as payee instead of the vendor who received payment from the credit card company.
7. 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.

8. Allegations of improper reimbursement do not allege a criminal offense. Therefore, the statute of limitations is three years. All the reports at issue fall within this period.
9. A candidate who makes political expenditures from the candidate's personal funds may reimburse those personal funds from political contributions only if: (1) the expenditures from personal funds were fully reported as political expenditures, including the payees, dates, purposes, and amounts of the expenditures; and (2) 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).
10. 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).
11. On the respondent's January 2005, July 2005, January 2006, and July 2006 semiannual reports the respondent disclosed multiple reimbursements to himself, which totaled \$2,600.
12. The evidence indicates that the respondent did not previously disclose the political expenditures for which he made reimbursements as having been made from the respondent's personal funds and subject to reimbursement. Nor did the respondent previously disclose the expenditures as a loan to his campaign.
13. Therefore, there is credible evidence of a violation of section 253.035(h) 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 also acknowledges that a report of a political expenditure by credit card must identify the vendor who receives payment from the card company. The respondent further acknowledges that a candidate who makes political expenditures from the candidate's personal funds may reimburse those personal funds from political contributions only if: (1)

the expenditures from personal funds were fully reported as political expenditures, including the payees, dates, purposes, and amounts of the expenditures; and (2) 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 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 \$3,600 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-270224.

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

 Bob Griggs, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
 David A. Reisman, Executive Director