

TEXAS ETHICS COMMISSION

IN THE MATTER OF

BARBARA MALLORY CARAWAY,

RESPONDENT

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BEFORE THE

TEXAS ETHICS COMMISSION

SC-2807282

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on June 9, 2009, to consider sworn complaint SC-2807282. 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, laws administered and enforced by the commission. To resolve and settle this complaint without further proceedings, the commission proposed this resolution to the respondent.

II. Allegation

The complaint alleged that the respondent failed to properly report political expenditures made using a credit card.

III. Facts Supported by Credible Evidence

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

1. The respondent is the state representative of District 119.
2. The allegations were based on four campaign finance reports.
3. The January 2007 semiannual report disclosed Chase as the payee on Schedule F (used to disclose political expenditures) for two credit card expenditures, totaling approximately \$1,280. The report did not disclose any expenditures on Schedule G (used to disclose political expenditures from personal funds).
4. The 8-day pre-election report for the November 2006 general election disclosed Chase as the payee on Schedule F for two credit card expenditures, totaling approximately \$450. The

- report disclosed an expenditure of \$27 on Schedule G, and included the notation “charge” as part of the purpose.
5. The 30-day pre-election report for the November 2006 general election disclosed Chase as the payee on Schedule F for an expenditure of \$225.07. The report disclosed approximately \$595 of expenditures on Schedule G, and included the notation “charge” as part of the purpose.
 6. The July 2006 semiannual report disclosed Chase, and Chase Card Services, as the payee for four credit card expenditures on Schedule F, totaling approximately \$1,960. The report disclosed approximately \$195 of expenditures on Schedule G, and included the notation “charge” as part of the purpose.
 7. The four reports disclosed on Schedule F the credit card company as payee for a total of approximately \$3,920 in political expenditures. For five expenditures, totaling approximately \$2,940, the respondent disclosed the purpose as being for “Payment for campaign charges.” For three expenditures, totaling approximately \$680, the respondent disclosed the purpose as being for “Payment for campaign charges (reimbursement).” For the one expenditure to Chase Card Services, which was for \$300, the respondent disclosed the purpose as being for “Partial payment for Payment to TX Ethics Commission for late filing (charge).”
 8. The respondent filed a sworn response in which she stated:

It is true that I listed expenditures to the Chase for credit card purchased on specific dates as outlined by [the complainant] in the complaint. But it is also true that in order to insure full disclosure I also listed who, what, when and where the expenditure was made in the reports. These itemizations are included in the same reports as outlined by [the complainant] but are listed as expected re-imburement and are therefore listed twice; once as a payment to Chase Card services and once as an expected re-imburement.
 9. The respondent provided additional evidence to show that her original reports itemized on Schedule F approximately \$3,000 of expenditures that were also disclosed as credit card expenditures leaving only approximately \$1,060 not itemized on her original reports. (The respondent apparently reported the expenditures twice – once to the actual payee, and again to the credit card company.) The respondent filed corrected reports itemizing the expenditures that exceeded \$50 per payee that were not itemized on her original reports.
 10. The respondent filed corrected reports removing the payments to the credit card company.

IV. Findings and Conclusions of Law

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

1. A campaign finance report must 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 made by using a credit card must identify the vendor who receives payment from the credit card company. Ethics Commission Rules § 20.59.
3. The evidence indicates that the respondent's reports at issue disclosed approximately \$3,910 of payments to a credit card company. The evidence indicates that the respondent failed to itemize approximately \$1,060 of these expenditures on her original reports. The respondent has filed corrected reports itemizing these expenditures that exceeded \$50 per payee. 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.

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 a campaign finance report must 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 made by using a credit card must identify the vendor who receives payment from the credit card company. The respondent agrees to comply with these requirements of the laws.

VI. Confidentiality

This order and agreed resolution describes violations 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 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 \$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-2807282.

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

Barbara Mallory Caraway, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director