

TEXAS ETHICS COMMISSION

IN THE MATTER OF
CHARLES HOPSON,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-2807289

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on August 6, 2009, to consider sworn complaint SC-2807289. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 253.035(h) and 254.031(a)(3) of the Election Code and sections 20.59, 20.62, and 20.63 of the Ethics Commission Rules, laws and rules administered and enforced by the commission. To resolve and settle this complaint without further proceedings, the commission proposed this resolution to the respondent.

II. Allegations

The complaint alleged that the respondent improperly reported political expenditures as reimbursements, improperly reported and improperly reimbursed political expenditures made from personal funds, and improperly reported political expenditures made by 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 11.
2. The allegations are based on disclosures in the following four campaign finance reports:
 - January 2008 semiannual report disclosing \$104,550 in political contributions, \$29,816.43 in political expenditures, and \$111,794.67 in total political contributions maintained.

Political expenditures from political contributions (Schedule F):

- Payee “Hopson, Billie” for “campaign reimbursement: christmas ornaments (constituent gifts)” in the amount of \$379.
- Payee “Brooks, Jeana” for “campaign reimbursement: flags” in the amount of \$420.
- January 2007 semiannual report disclosing \$86,430.20 in political contributions, \$86,312.49 in political expenditures, and \$46,316.35 in total political contributions maintained.

Political expenditures from political contributions (Schedule F):

- Payee “Bollinger, Steven” for “campaign reimbursement: sign supplies mileage office supplies” in the amount of \$2,164.24.
- Payee “Hopson, Charles L. R.Ph.” (the respondent), for “campaign expenses” in the amount of \$426.12.
- Payee “Kay, Leta” for “campaign reimbursement: mileage copies” in the amount of \$2,480.25. The respondent filed a corrected report disclosing that \$1,725.75 of this expenditure was for mileage and \$754.50 was for copies.
- Payee “Speight, Dennis” for two expenditures for “reimbursement: cell phone,” one in the amount of \$93.05 and one in the amount of \$90.40.
- Payee “Bank of America” for “advertising” in the amount of \$372.93.
- Payee “Citi Card” for “food postage and office supplies” in the amount of \$585.21.
- Payee “Hopson, Billie” for “campaign reimbursement: mileage donuts” in the amount of \$489.20. The respondent filed a corrected report disclosing that \$329.20 of this expenditure was for mileage and \$160 was for donuts.
- 8-day pre-election report for the November 7, 2006, general election disclosing \$271,138.59 in political contributions, \$379,860.01 in political expenditures, and \$66,016.21 in total political contributions maintained.

Political expenditures from political contributions (Schedule F):

- Payee “Brooks, Jeana” for “reimbursement – cellphone/postage” in the amount of \$80.11.
 - Payee “Kay, Leta” for two expenditures, one for “reimbursement for field supplies” in the amount of \$342.51 and one for “reimbursement field expenses” in the amount of \$1,082.
 - Payee “Thompson, Susan” for “office supplies” in the amount of \$62.68.
- 30-day pre-election report for the November 7, 2006, general election disclosing \$148,127.43 in political contributions, \$162,498.64 in political expenditures, and \$199,253.99 in total political contributions maintained.

Political expenditures from political contributions (Schedule F):

- Payee “Bollinger, Steven” for two expenditures, one for “reimbursement: Advertising” in the amount of \$236.25 and one for “reimbursement: Overton Press Ad” in the amount of \$175.
 - Payee “Citi Card” for three expenditures, one for “postage” in the amount of \$285.42, one for “postage office supplies and gas” in the amount of \$390.18, and one for “postage and office supplies” in the amount of \$1,030.43.
 - Payee “Clapper, Courtney” for “reimbursement: photos/flags” in the amount of \$334.13.
 - Payee “MBNA America Credit Card” for “postage” in the amount of \$73.33.
 - Payee “Thompson, Susan” for “breakfast for walkers” in the amount of \$70.79.
- July 2006 semiannual report disclosing \$83,200.35 in political contributions, \$24,851.88 in political expenditures, and \$195,135.27 in total political contributions maintained.

Political expenditures from political contributions (Schedule F):

- Payee “Brooks, Jeana” for “reimbursement/cellphone” in the amount of \$177.20.
- Payee “Citi Card” for five expenditures for “office supplies/postage” and “office supplies” totaling approximately \$1,400.

- Payee “MBNA America Credit Card” for two expenditures for “postage/office supplies” and postage” totaling approximately \$410.
 - Payee “Speight, Dennis” for “reimbursement: on-line fees” in the amount of \$70.
3. The amount of political expenditures at issue that were reported as reimbursements was approximately \$8,420. The respondent’s corrected January 2007 semiannual report disclosed that approximately \$1,730 of this amount was properly reported as mileage reimbursement. The remaining amount is approximately \$6,690.
 4. The amount of political expenditures alleged to have been made from personal funds that were improperly reported and improperly reimbursed is approximately \$430.
 5. The amount of political expenditures at issue that were made by credit card was approximately \$4,550.
 6. The total amount at issue was approximately \$13,395.
 7. In the respondent’s affidavit, filed in response to the sworn complaint, he denied “that he intentionally violated any provision of law relating to the itemization of campaign and officeholder expenditures made by credit card or reimbursement to an individual,” and stated that “the original reports were incorrect because of a good-faith misunderstanding regarding the application of Title 15’s reporting requirements as coupled with the Commission’s rules.”
 8. Regarding the allegation that the respondent improperly reported political expenditures as reimbursements, the respondent filed corrected reports for the reports at issue. The respondent disclosed the names and addresses of the vendors who were actually paid by the individuals for both the expenditures that the complaint alleged to have been improperly reported as a reimbursement and for the expenditures identified by staff as having been improperly reported as reimbursements.
 9. Regarding the allegation that the respondent improperly reported political expenditures and improperly reimbursed political expenditures made from personal funds, the respondent filed a corrected January 2007 semiannual report disclosing the name and address of the vendor to which he made the \$426.12 expenditure that the complaint alleged was improperly reported. The respondent disclosed on his 30-day pre-election report for the November 4, 2008, general election that he reimbursed his political funds the \$426.12 that the complaint alleged he had improperly reimbursed himself.
 10. Regarding the allegation that the respondent improperly reported political expenditures made by credit card, the respondent filed corrected reports for the reports at issue disclosing the

payees, the addresses of the payees, dates, purposes, and amounts of the expenditures made by credit card that were improperly reported.

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. In Ethics Advisory Opinion No. 450 (EAO 450), which was relevant to the reports at issue that were filed through January 2007, the commission stated that in a situation in which a member of a candidate's campaign staff makes a campaign expenditure on behalf of the candidate and later receives reimbursement from the candidate, the candidate is required to 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 campaign worker made the expenditure, and explaining in the "purpose" section that a campaign worker made the expenditure from personal funds and that the candidate subsequently reimbursed the campaign worker. Ethics Advisory Opinion No. 450 (2003).
3. Ethics Commission Rule § 20.62, "Reporting Staff Reimbursement" (Effective February 25, 2007) which is relevant to the January 2008 semiannual report states:
 - (a) Political expenditures made out of personal funds by a staff member of an officeholder, a candidate, or a political committee with the intent to seek reimbursement from the officeholder, candidate, or political committee that in the aggregate do not exceed \$5,000 during the reporting period may be reported as follows IF the reimbursement occurs during the same reporting period that the initial expenditure was made:
 - (1) the amount of political expenditures that in the aggregate exceed \$50 and that are made during the reporting period, the full name and address of the persons to whom the expenditures are made and the dates and purposes of the expenditures; and
 - (2) included with the total amount or a specific listing of the political expenditures of \$50 or less made during the reporting period.
 - (b) Except as provided by subsection (a) of this section, a political expenditure made out of personal funds by a staff member of an officeholder, a candidate, or a political committee with the intent to seek reimbursement

from the officeholder, candidate, or political committee must be reported as follows:

- (1) the aggregate amount of the expenditures made by the staff member as of the last day of the reporting period is reported as a loan to the officeholder, candidate, or political committee;
 - (2) the expenditure made by the staff member is reported as a political expenditure by the officeholder, candidate, or political committee; and
 - (3) the reimbursement to the staff member to repay the loan is reported as a political expenditure by the officeholder, candidate, or political committee.
4. The respondent's reports disclosed approximately \$6,690 in expenditures as reimbursements without disclosing the names or addresses of the vendors who were actually paid by the individuals. Therefore, there is credible evidence that the respondent violated section 254.031(a)(3) of the Election Code and section 20.62 of the Ethics Commission Rules.
 5. A candidate or officeholder who makes political expenditures from his or her personal funds may reimburse those personal funds from political contributions in the amount of those expenditures only if the expenditures from personal funds were fully reported as political expenditures, including the payees, the addresses of the payees, dates, purposes, and amounts of the expenditures, in the report that covers the period during which the expenditures from personal funds were made and the report on which the expenditures from personal funds are disclosed 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); Ethics Commission Rules § 20.63.
 6. The respondent made approximately \$430 in a political expenditures from his personal funds, and during the reporting period in which he made the expenditure, he did not indicate that the expenditure was subject to reimbursement, and did not disclose the actual payee's names or addresses. The respondent's original report indicates that the respondent reimbursed himself for the expenditure at issue. Therefore, there is credible evidence that the respondent violated sections 253.035(h) and 254.031(a)(3) of the Election Code and section 20.63 of the Ethics Commission Rules.
 7. 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.
 8. The respondent's reports at issue disclosed approximately \$4,550 of payments to credit card companies that the respondent failed to itemize on his original reports. Therefore, 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 acknowledges that the proper method to report a reimbursement to a staff member is in accordance with section 20.62 of the Ethics Commission Rules.

The respondent acknowledges that a candidate or officeholder who makes political expenditures from his or her personal funds may reimburse those personal funds from political contributions in the amount of those expenditures only if the expenditures from personal funds were fully reported as political expenditures, including the payees, the addresses of the payees, dates, purposes, and amounts of the expenditures, in the report that covers the period during which the expenditures from personal funds were made and the report on which the expenditures from personal funds are disclosed clearly designates those expenditures as having been made from the person's personal funds and that the expenditures are subject to reimbursement.

The respondent also acknowledges that a report of a political expenditure made 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 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 \$1,300 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-2807289.

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

Charles Hopson, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director