

# TEXAS ETHICS COMMISSION

IN THE MATTER OF

CHARLES L. "CHUCK" HOPSON,

RESPONDENT

§  
§  
§  
§  
§

BEFORE THE

TEXAS ETHICS COMMISSION

SC-2809327

## ORDER and AGREED RESOLUTION

### I. Recitals

The Texas Ethics Commission (the commission) met on December 2, 2009, to consider sworn complaint SC-2809327. A quorum of the commission was present. The commission determined that there is credible evidence of violations of section 253.032 of the Election Code and section 20.29 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. Allegations

The complaint alleged that the respondent failed to properly report and improperly reimbursed political expenditures from personal funds, failed to disclose information regarding contributions from out-of-state political committees, failed to properly disclose total political contributions maintained, and converted political contributions to personal use.

### 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 and had a campaign treasurer appointment in effect during the period at issue.

#### Reimbursement of Political Expenditures Made From Personal Funds

2. The complaint alleged that the respondent failed to disclose the payees, payee addresses, dates, purposes and amounts of political expenditures for mileage made with personal funds on his 30-day pre-election report for the November 7, 2006, general election, and January and July semiannual reports for the years 2007 and 2008.

3. The complaint alleged that the respondent violated section 253.035(h) of the Election Code by reimbursing himself for these expenditures without having fully reported the expenditures in the report that covered the period in which the expenditures from personal funds were made.
4. The respondent's reports disclosed that he made approximately \$16,970 in political expenditures to himself as reimbursements for mileage. The respondent did not disclose the payees, payee addresses, dates, purposes, or amounts for the individual travel expenditures, such as purchasing gasoline, that he made.

### **Information Regarding Contributions from Out-Of-State Political Committees**

5. The complaint alleged that the respondent failed to disclose information regarding contributions from out-of-state political committees on his 30-day and 8-day pre-election reports for the November 7, 2006, general election, and January and July semiannual reports for the years 2007 and 2008.
6. The respondent's reports disclosed that he accepted a political contribution of more than \$500 from nine out-of-state political committees during the periods covered by the reports at issue. The respondent did not receive the required documentation from these political committees before he accepted the contributions, and the respondent's reports did not include a statement of organization or Federal Election Commission identification number (FEC ID) for any of the committees at issue.
7. The respondent's reports disclosed that he accepted a political contribution of \$500 or less from 11 out-of-state political committees required to file their statement of organization with the Federal Election Commission during the periods covered by the reports at issue. The reports did not include a FEC ID number or provide additional documentation from the out-of-state political committee.
8. The respondent's January 2007 semiannual report disclosed that the respondent accepted a political contribution of \$250 on November 1, 2006, from "US Team PAC" which is an out-of-state political committee that has not filed a statement of organization with the Federal Election Commission. The report did not provide additional documentation from the out-of-state political committee.
9. The respondent filed the reports at issue by electronic transfer.
10. In response to the sworn complaint, the respondent denied that he intentionally violated any provision of law relating to the disclosure of out-of-state political committees and their FEC ID numbers.

11. The respondent filed corrected reports disclosing the FEC ID numbers of all of the contributors at issue except one. The contribution that has not been corrected is the contribution from “US Team PAC” of “Greenwich, CT” in the amount of \$250 disclosed on the respondent’s January 2007 semiannual report. The respondent’s corrected January 2007 semiannual report states “can’t find” in the space for an out-of-state committee’s identification number. The committee does not have a campaign treasurer appointment on file with the commission. Federal Election Commission records indicate that the committee has not filed a statement of organization with them. The State Elections Enforcement Commission of Connecticut, which handles state campaign finance reports, records indicate that the committee has not filed with them. The City of Greenwich, Connecticut, records also indicate that the committee has not filed with them.

#### **Total Political Contributions Maintained**

12. The complaint alleged that the respondent failed to properly disclose total political contributions maintained as of the last day of the reporting period on five of his reports. The complaint alleged that: the respondent’s 8-day pre-election report should have disclosed total political contributions maintained of at least \$90,532.57 and not \$66,016.21 as reported; the respondent’s January 2007 semiannual report should have disclosed total political contributions maintained of at least \$90,650.28 and not \$46,316.35 as reported; the respondent’s July 2007 semiannual report should have disclosed total political contributions maintained of at least \$87,977.15 and not \$37,092.20 as reported; the respondent’s January 2008 semiannual report should have disclosed total political contributions maintained of at least \$162,710.72 and not \$111,794.67 as reported; and that the respondent’s July 2008 semiannual report should have disclosed total political contributions maintained of at least \$197,087.72 and not \$145,959.48 as reported.
13. The complainant did not explain how he arrived at the amount for political contributions maintained on which he based his allegations.
14. In response to this allegation the respondent stated in his affidavit, “[t]he balance of total political contributions [maintained] that were originally reported have been double checked and found to correctly state the balance maintained on the last day of the reporting period.”

### **Conversion of Political Contributions to Personal Use**

15. The complaint alleged that the respondent converted political contributions to personal use by paying \$5,000 to an individual for a “campaign win bonus,” which is disclosed on the respondent’s January 2007 semiannual report.

## **IV. Findings and Conclusions of Law**

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

### **Reimbursement of Political Expenditures Made From Personal Funds**

1. In Ethics Advisory Opinion No. 347 (EAO 347), the commission stated that if a candidate or officeholder uses a personal car for political purposes, reporting is required only if and when the candidate or officeholder pays himself reimbursement from political contributions. Ethics Advisory Opinion No. 347 (1996). The commission also stated that if a candidate or officeholder uses a reasonable mileage reimbursement rate that covers gasoline as well as wear and tear on the car, then the purchase of gasoline should not be reported. *Id.* In addition, the commission stated that a reimbursement at the rate set in accordance with the General Appropriations Act of the Texas Legislature or any other reasonable rate is appropriate. *Id.* The respondent made approximately \$16,970 in political expenditures to himself as reimbursements for mileage. In accordance with EAO 347, the respondent was only required to disclose the reimbursements for mileage, not the use of the vehicle or purchases of gasoline. The expenditures for mileage were properly disclosed. Therefore, there is credible evidence that the respondent did not violate sections 253.035(h) or 254.031(a)(3) of the Election Code or section 20.63(d) of the Ethics Commission Rules.

### **Information Regarding Contributions from Out-Of-State Political Committees**

2. In a reporting period, a candidate, officeholder, or political committee may not knowingly accept political contributions totaling more than \$500 from an out-of-state political committee unless, before accepting a contribution that would cause the total to exceed \$500, the candidate, officeholder, or political committee, as applicable, receives from the out-of-state committee a written statement, certified by an officeholder of the out-of-state committee, listing the full name and address of each person who contributed more than \$100 to the out-of-state committee during the 12 months immediately preceding the date of the contribution; or a copy of the out-of-state committee’s statement of organization filed as required by law with the Federal Election Commission and certified by an officer of the out-of-state committee. ELEC. CODE § 253.032(a).

3. A candidate, officeholder, or political committee shall include the statement or copy required by Subsection (a) as a part of the report filed under Chapter 254 that covers the reporting period to which Subsection (a) applies. *Id.* § 253.032(d).
4. A candidate, officeholder, or political committee that accepts political contributions totaling \$500 or less from an out-of-state political committee shall include as part of the report filed under chapter 254 of the Election Code that covers the reporting period in which the contribution is accepted the same information for the out-of-state political committee required for general-purpose committees by sections 252.002 and 252.003 of the Election Code (pertaining to the contents of a campaign treasurer appointment), or a copy of the out-of-state political committee's statement of organization filed as required by law with the Federal Election Commission and certified by an officer of the out-of-state political committee. *Id.* § 253.032(e).
5. A person who files a report with the commission by electronic transfer and who accepts political contributions from an out-of-state political committee required to file its statement of organization with the Federal Election Commission shall either enter the out-of-state committee's federal PAC identification number in the appropriate place on the report or timely file a certified copy of the out-of-state committee's statement of organization that is filed with the Federal Election Commission. Ethics Commission Rules § 20.29(a).
6. A person who files a report with the commission by electronic transfer and who accepts political contributions from an out-of-state political committee that is not required to file its statement of organization with the Federal Elections Commission shall either enter the information required by section 253.032(a)(1) or (e)(1) of the Election Code, as applicable, on the report filed by electronic transfer or timely file a paper copy of the information required by section 253.032(a)(1) or (e)(1) of the Election Code, as applicable. *Id.* § 20.29(b).
7. "Out-of-state political committee" means a political committee that makes political expenditures outside this state and in the 12 months immediately preceding the making of a political expenditure by the committee inside this state (other than an expenditure made in connection with a campaign for a federal office or made for a federal officeholder), makes 80 percent or more of the committee's total political expenditures in any combination of elections outside of this state and federal offices not voted on in this state. ELEC. CODE § 251.001(15).
8. The respondent filed the reports at issue by electronic transfer.
9. The respondent accepted a political contribution of more than \$500 from nine out-of-state political committees required to file their statement of organization with the Federal Election Commission during the periods covered by the reports at issue. The respondent did not

receive the required documentation from these political committees before he accepted the contributions and did not include a statement of organization or FEC ID number for any of the committees on the reports at issue.

10. The respondent accepted a political contribution of \$500 or less from 11 out-of-state political committees required to file their statement of organization with the Federal Election Commission during the periods covered by the reports at issue. The reports do not include a FEC number or provide the additional information required when reporting a contribution from an out-of-state political committee.
11. The respondent accepted a political contribution of \$250 on November 1, 2006, from "US Team PAC" which is an out-of-state political committee that has not filed a statement of organization with the Federal Election Commission. The respondent's January 2007 semiannual report disclosing this contribution does not provide the additional information required when reporting a contribution from an out-of-state political committee.
12. Therefore, there is credible evidence that the respondent violated section 253.032 of the Election Code and section 20.29 of the Ethics Commission Rules.

#### **Total Political Contributions Maintained**

13. A report must include, as of the last day of a reporting period for which the person is required to file a report, the total amount of political contributions accepted, including interest or other income on those contributions, maintained in one or more accounts in which political contributions are deposited as of the last day of the reporting period. ELEC. CODE § 253.031(a)(8).
14. Due to the statutory reporting requirements the amount of political contributions maintained cannot necessarily be calculated by looking at the face of a report. For example, political expenditures must be disclosed when the amount is readily determinable. ELEC. CODE § 254.035. Therefore, a political expenditure may be disclosed in one reporting period but the expense actually paid in a later period. Also, in-kind contributions would not be included in the total for political contributions maintained. Merely subtracting the political expenditures from political contributions will not necessarily provide an accurate amount for political contributions maintained. There was no additional evidence to show that the amounts disclosed were incorrect. Therefore, there is insufficient evidence of a violation of section 254.031(a)(8) of the Election Code.

#### **Conversion of Political Contributions to Personal Use**

15. 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). The prohibitions include the

personal use of an asset purchased with the contribution and the personal use of any interest and other income earned on the contribution. *Id.* 253.035(c).

16. “Personal use” means a use that primarily furthers individual or family purposes not connected with the performance of duties or activities as a candidate for or holder of a public office. *Id.* § 253.035(d).
17. Personal use does not include payments made to defray ordinary and necessary expenses incurred in connection with activities as a candidate or in connection with the performance of duties or activities as a public officeholder. *Id.* § 253.035(d)(1).
18. The commission has determined that it is permissible under title 15 of the Election Code for a legislator to use political contributions to supplement employee’s salaries. Ethics Advisory Opinion No. 254 (1995) (EAO 254).
19. The commission found in EAO 254 that a legislator’s use of political contributions to supplement employee salaries is a payment for a purpose connected with the performance of duties or activities as a holder of public office. The same reasoning applies to the payment of \$5,000 to the campaign staffer as a “campaign win bonus.” Such payment was an expenditure made in connection with the performance of activities as a candidate for a public office, and was not for personal or family purposes. Therefore, there is credible evidence that the respondent did not violate section 253.035(a) 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 in a reporting period, a candidate, officeholder, or political committee may not knowingly accept political contributions totaling more than \$500 from an out-of-state political committee unless, before accepting a contribution that would cause the total to exceed \$500, the candidate, officeholder, or political committee, as applicable, receives from the out-of-state committee a written statement, certified by an officeholder of the out-of-state committee, listing the full name and address of each person

who contributed more than \$100 to the out-of-state committee during the 12 months immediately preceding the date of the contribution; or a copy of the out-of-state committee's statement of organization filed as required by law with the Federal Election Commission and certified by an officer of the out-of-state committee. The respondent also acknowledges that a candidate, officeholder, or political committee shall include the statement or copy required by subsection (a) of section 253.032 of the Election Code as a part of the report filed under chapter 254 of the Election Code that covers the reporting period to which subsection (a) of section 253.032 of the Election Code applies. The respondent also acknowledges that a candidate, officeholder, or political committee that accepts political contributions totaling \$500 or less from an out-of-state political committee shall include as part of the report filed under chapter 254 of the Election Code that covers the reporting period in which the contribution is accepted the same information for the out-of-state political committee required for general-purpose committees by sections 252.002 and 252.003 of the Election Code (pertaining to the contents of a campaign treasurer appointment), or a copy of the out-of-state political committee's statement of organization filed as required by law with the Federal Election Commission and certified by an officer of the out-of-state political committee. The respondent also acknowledges that a person who files a report with the commission by electronic transfer and who accepts political contributions from an out-of-state political committee required to file its statement of organization with the Federal Election Commission shall either enter the out-of-state committee's federal PAC identification number in the appropriate place on the report or timely file a certified copy of the out-of-state committee's statement of organization that is filed with the Federal Election Commission. The respondent also acknowledges that a person who files a report with the commission by electronic transfer and who accepts political contributions from an out-of-state political committee that is not required to file its statement of organization with the Federal Elections Commission shall either enter the information required by section 253.032(a)(1) or (e)(1) of the Election Code, as applicable, on the report filed by electronic transfer or timely file a paper copy of the information required by section 253.032(a)(1) or (e)(1) of the Election Code, as applicable. 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 \$1,600 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-2809327.

AGREED to by the respondent on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Charles L. "Chuck" Hopson, Respondent

EXECUTED ORIGINAL received by the commission on: \_\_\_\_\_.

Texas Ethics Commission

By: \_\_\_\_\_  
David A. Reisman, Executive Director