

TEXAS ETHICS COMMISSION

IN THE MATTER OF

SUZANNA GRATIA HUPP,

RESPONDENT

§
§
§
§
§

BEFORE THE

TEXAS ETHICS COMMISSION

SC-2612249

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on October 26, 2007, to consider sworn complaint SC-2612249. 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 improperly reported political expenditures as reimbursements. The complaint also alleges that the respondent failed to properly report, and improperly reimbursed, 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 allegations are based on the respondent's January 2005, July 2005, January 2006, and July 2006 semiannual campaign finance reports.
3. The respondent's campaign finance reports disclosed the credit card company as the payee for political expenditures totaling approximately \$9,800.

4. The respondent's campaign finance reports disclosed reimbursement to staff totaling approximately \$600.
5. The respondent's campaign finance reports disclosed reimbursements to herself totaling approximately \$1,800, which included approximately \$800 for mileage.
6. The respondent did not previously disclose the political expenditures at issue 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.
8. As of October 26, 2007, the respondent has not filed corrections for the reports at issue.

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 \$9,800 on her January 2005, July 2005, January 2006 and July 2006 semiannual 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. In Ethics Advisory Opinion No. 450 (2003), the commission determined that a political expenditure made to reimburse a staff member may be reported in one of two ways: (1) reporting it as a loan to the candidate from the staff member and then as an expenditure by the candidate to repay the staff member; or (2) if the expenditure and reimbursement occur during the same reporting period, 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 staff member made the expenditure, and explaining in the "purpose" section that a staff member made the expenditure from personal funds and that the candidate subsequently reimbursed the staff member.

5. On her July 2005 and January 2006 semiannual campaign finance reports the respondent disclosed members of her staff as the payee for multiple entries. The reimbursements totaled approximately \$600. Reimbursement of a staff member may be reported in one of two ways. Neither of those methods were used and the actual payee was not disclosed. Therefore, there is credible evidence of a violation of section 254.031 of the Election Code and section 20.61 of the Ethics Commission Rules.
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. Ethics Advisory Opinion No. 347 (1996) concludes 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.
9. The respondent's January 2005, July 2005, January 2006, and July 2006 semiannual reports disclosed multiple reimbursements to herself. The disclosures by the respondent of reimbursement to herself for mileage were properly reported. The total amount of improperly reported reimbursement to the respondent was approximately \$1,100. 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 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 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 the proper way to report reimbursement to staff is in accordance with section 20.62 of the Ethics Commission Rules. 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 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 \$5,700 civil penalty. In the alternative, the commission imposes a \$1,100 civil penalty if the respondent files all necessary corrected reports with the Texas Ethics Commission by December 3, 2007.

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-2612249.

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

Suzanna Gratia Hupp, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director