

TEXAS ETHICS COMMISSION

IN THE MATTER OF
JERRY A. MADDEN,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-270107

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on October 26, 2007, to consider sworn complaint SC-270107. 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 sections 20.61 and 20.63 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 report and improperly reported reimbursements to himself for political expenditures made from personal funds. The complaint also alleges that the respondent improperly reported reimbursements made to staff and other individuals.

III. Facts Supported by Credible Evidence

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

1. The respondent is a 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 reimbursement to himself totaling approximately \$3,800.
4. The respondent did not previously disclose the political expenditures as having been made from the respondent's personal funds and subject to reimbursement.

5. The respondent did not previously disclose the political expenditures at issue as a loan.
6. The respondent's campaign finance reports disclosed reimbursement to staff and others totaling approximately \$6,300.
7. The respondent disclosed two expenditures of approximately \$1,900 to staff for reimbursement for "campaign work" and "gasoline for convention trip."
8. For the remaining eighteen entries at issue regarding reimbursements to staff, the respondent disclosed one staff member as the payee, for a total of approximately \$4,400.
9. On September 27, 2007, the respondent filed corrected campaign finance reports for three of the four reports in question. As of October 26, 2007, the respondent had not corrected the January 2005 report.

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 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).
3. 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).
4. A candidate is required to report a campaign expenditure from personal funds. An officeholder is required to report an officeholder expenditure from personal funds if the officeholder intends to be reimbursed from political contributions. A candidate's or officeholder's failure to comply with the disclosure requirements for the use of personal funds may not be cured by filing a corrected report after the report deadline has passed. A candidate or officeholder who has complied with the requirements and whose personal funds have been reimbursed from political contributions must report the amount of the

- reimbursement as a political expenditure in the report covering the period during which the reimbursement was made. Ethics Commission Rules § 20.63.
5. The respondent's January 2005, January 2006, and July 2006 semiannual campaign finance reports disclosed multiple reimbursements to himself. The total amount of reimbursement was approximately \$3,800. 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 sections 253.035(h) and 254.031 of the Election Code and section 20.63 of the Ethics Commission Rules.
 6. The report of a political expenditure for goods or services must describe the categories of goods or services received in exchange for the expenditure. Ethics Commission Rules § 20.61.
 7. The respondent was not required to provide detailed disclosure information for payments for expenses that were in the aggregate \$50 or less to any single payee. However, the respondent was required to disclose the full name and address of the actual payees, and the date and purposes for political expenditures that exceeded \$50 to any one payee.
 8. Allegations were made regarding the inadequacy of the description for two expenditures to staff for "campaign work" and "gasoline for convention trip," for approximately \$1,900. The commission finds that the description for the purpose of an expenditure in these instances conforms with the law. Therefore, there was no violation with regard to these expenditures.
 9. The remaining eighteen entries at issue related to reimbursements to staff. The respondent disclosed one staff member as the payee and broadly described the purpose of the expenditures. The political expenditures at issue totaled approximately \$4,400. Therefore, there is credible evidence of violations of section 254.031(a)(3) 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 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 acknowledges that a candidate is required to report a campaign expenditure from personal funds, and an officeholder is required to report an officeholder expenditure from personal funds if the officeholder intends to be reimbursed from political contributions. The respondent acknowledges that a candidate's or officeholder's failure to comply with the disclosure requirements for the use of personal funds may not be cured by filing a corrected report after the report deadline has passed. The respondent acknowledges that a candidate or officeholder who has complied with the requirements and whose personal funds have been reimbursed from political contributions must report the amount of the reimbursement as a political expenditure in the report covering the period during which the reimbursement was made. The respondent acknowledges that the report of a political expenditure for goods or services must describe the categories of goods or services received in exchange for the expenditure. 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 \$2,400 civil penalty or, in the alternative, the commission imposes an \$800 civil penalty if the respondent files a corrected January 2005 semiannual campaign finance report on or before 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-270107.

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

Jerry A. Madden, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director