

TEXAS ETHICS COMMISSION

IN THE MATTER OF
BETTY DUNKERLEY,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-2511191

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on March 23, 2006, to consider sworn complaint SC-2511191. A quorum of the commission was present. The commission determined that there is credible evidence of a violation of section 254.031(a)(3) of the Election Code, a law 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 improperly reported political expenditures as reimbursements to staff members instead of as expenditures to the actual payee on a January 2005 semiannual report, a 30-day pre-election report, an 8-day pre-election report, and a July 2005 semiannual report.

III. Facts Supported by Credible Evidence

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

1. The respondent is an Austin City Council member.
2. The total amount of political expenditures alleged to have been improperly reported is \$21,140.17.
3. Approximately \$16,552 of the \$21,140 expenditures at issue consists of nine payments for compensation of staff members and not reimbursement for their expenses. The remaining \$4,588 was intended to be reported as reimbursement of staff expenditures.

4. The respondent swears that her campaign consultant was unaware of Ethics Advisory Opinion No. 450, which describes the proper method of reporting political expenditures made by a campaign worker. The respondent filed corrected reports for the \$4,588 of staff member reimbursement in response to this sworn complaint.

IV. Findings and Conclusions of Law

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

1. A candidate must report 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. ELEC. CODE § 254.031(a)(3).
2. When an expenditure is made by a staff member, and then the staff member is reimbursed by the candidate during the same reporting period, the proper way to report the expenditure is for the candidate to report the expenditure made by the staff member, not the reimbursement. This method of reporting expenditures was clarified in Ethics Advisory Opinion No. 450 (2003).
3. The opinion stated in relevant part, “If a candidate’s campaign worker makes a campaign expenditure out of personal funds and receives reimbursement from the candidate in the same reporting period, it is permissible 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 or 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).
4. The expenditures totaling \$16,552 that consist of payments to staff for compensation was correctly reported as expenditures made by the campaign.
5. However, regarding the expenditures totaling \$4,588 disclosed for staff member reimbursement of expenses, the reports do not disclose when and to whom the actual expenditures were made.
6. Because the dates and payees of the expenditures made by the campaign workers were not disclosed on the report, there is credible evidence of a violation 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 must disclose 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. The respondent further acknowledges that if a candidate's campaign worker makes a campaign expenditure out of personal funds and receives reimbursement from the candidate in the same reporting period, it is permissible 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. 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 \$500 civil penalty for the violations described under Sections III and IV.

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-2511191.

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

Betty Dunkerley, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director