



TEXAS ETHICS COMMISSION

P. O. Box 12070, Capitol Station
Austin, Texas 78711-2070

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May 7, 2008

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Mr. Dean A. Hrbacek
Hrbacek & Associates, P.C.
130 Industrial Boulevard, Suite 110
Sugar Land, Texas 77478-3276

**CERTIFIED MAIL NO. 7007 0710 0004 3409 9265,
RETURN RECEIPT REQUESTED**

Re: Notice of Final Resolution, SC-270220 (W.A. "Andy" Meyers)

Dear Mr. Hrbacek:

The Texas Ethics Commission has completed its consideration of this sworn complaint by entering an order that was agreed to by the respondent. I have enclosed a copy for your files.

You will note that the Ethics Commission determined that the violations were neither technical nor *de minimis*. This finding means that the order is not confidential and may be disclosed by Ethics Commission members and staff.

Please call me at (800) 325-8506 or (512) 463-5800 if you have any questions concerning the enclosed order.

Sincerely,

A handwritten signature in cursive script that reads "Robert Mannas".

Robert Mannas
Assistant General Counsel

Enclosure: Order and Agreed Resolution

RM:mc

c: Ms. Susan Duquesnay Bankston

FIRST CLASS MAIL

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CR# 12512
 Amt \$1600.00
 ID# 28017

TEXAS ETHICS COMMISSION

IN THE MATTER OF

W.A. "ANDY" MEYERS,

RESPONDENT

§
§
§
§
§

BEFORE THE

TEXAS ETHICS COMMISSION

SC-270220

RECEIVED

MAY 06 2008

Texas Ethics Commission

ORDER

and

AGREED RESOLUTION

#12272

I. Recitals

The Texas Ethics Commission (the commission) met on April 3, 2008, to consider sworn complaint SC-270220. 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, 20.61, 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 properly report, and improperly reimbursed, political expenditures made from personal funds. The complaint also alleges that the respondent failed to properly report political expenditures made by credit card and other political expenditures. The complaint also alleges that the respondent 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 a county commissioner in Fort Bend County.
2. In response to the sworn complaint, the respondent filed a sworn response.

Failure to Properly Report Political Expenditures

3. The complaint alleges that the respondent failed to properly report political expenditures, including failure to properly report, and improperly reimbursing, political expenditures made with personal funds. The allegations are based on the July 2005 and January 2007

semiannual reports. The respondent disclosed a \$600 political expenditure on June 21, 2005, to Mr. W.A. Meyers for "Reimbursement of campaign expenditures." The respondent disclosed a \$2,000 political expenditure on September 12, 2006, to Chase Master Card for "Reimbursement of Personal Expenditures for Political Activity in prior reporting period."

4. The respondent filed a corrected July 2005 semiannual report. The explanation of correction states in pertinent part, "We have also reported additional expenditures made from Personal Funds." The respondent's corrected report discloses approximately \$6,730 of expenditures on Schedule G that were not on the original report and that indicates that reimbursement is intended for each expenditure. The corrected report also discloses approximately \$5,410 of expenditures on Schedule F that were not itemized on the original report.
5. The respondent filed a corrected January 2006 semiannual report that discloses approximately \$5,860 of expenditures on Schedule G that were not on the original report and that indicates that reimbursement is intended for each expenditure. The corrected report also discloses approximately \$4,440 of expenditures on Schedule F that were not itemized on the original report.
6. The respondent's July 2006 semiannual report discloses on Schedule G an expenditure on April 15, 2006, to Intelesis in the amount of \$4,238. The purpose states, "Get out Vote, Warnings on Misleading Literature, Identity Messages, Get out the vote on Runoffs."
7. The respondent filed a corrected July 2006 semiannual report that discloses approximately \$15,610 of expenditures on Schedule G that were not on the original report and that indicates that reimbursement is intended for each expenditure. The corrected report discloses expenditures to reimburse the respondent totaling approximately \$10,170 on Schedule F. The expenditures were not reported on Schedule G of the original report. The corrected report also discloses a March 17, 2006, expenditure of \$525 to Bill Heard Chevrolet on Schedule F for, "Use of personal vehicle for campaign/office purposes & Reimburse C/OH per Schedules G." The original report discloses the purpose of the expenditure as, "Repair to Campaign Vehicle." The expenditure was not reported on Schedule G of the original report. The corrected report also discloses approximately \$3,730 of additional expenditures on Schedule F that were not itemized on the initial report.
8. Regarding the January 2007 semiannual report, the respondent swears that "The \$2,000 payment to Chase Master Card on 9/12/2006 is actually a payment for the benefit of the officeholder, W. A. Meyers, which was identified as an expenditure reported on Schedule G in the reporting period of 1/01/2006 – 6/30/2006 which was charged to the Chase Master Card, being Intelesis, with a date of 4/14/2006 in the amount of \$4,238.00."
9. The respondent filed a corrected January 2007 semiannual report that discloses approximately \$6,370 of expenditures on Schedule G that were not on the original report and that indicates that reimbursement is intended for each expenditure. The corrected report

discloses that the respondent reimbursed himself approximately \$8,970 for, "Reimbursement to C/OH for expenditures for campaign/office on current & prior period Schedules G." The corrected report also shows that the respondent reimbursed himself \$600 for, "Cash paid to Mike Shelley/Reimbursement of personal funds for campaign per Schedules G." None of the expenditures were reported on Schedule F or Schedule G of the original reports. The corrected report also includes a September 25, 2006, \$1,000 expenditure to Shell Oil for, "Payment for personal vehicle use for campaign/office purposes/Reimbursement from Schedules G." The expenditure was not reported on Schedule F or Schedule G of the original report. The corrected report also includes two expenditures totaling approximately \$530 made on November 17, 2006, and December 11, 2006, to Shell Oil for, "Payment for personal vehicle use for campaign/office purposes/Reimbursement from Schedules G." The expenditures were disclosed on Schedule F of the original report but the purpose stated, "Campaign Vehicle Expense." These expenditures were not disclosed on Schedule G of the original report. The corrected report also discloses approximately \$4,670 of additional expenditures on Schedule F that were not itemized on the initial report.

Failure to Properly Report Political Expenditures Made by Credit Card

10. The complaint alleges that the respondent failed to properly report political expenditures made by credit card, in violation of section 254.031(a)(3) of the Election Code, and section 20.59 of the Ethics Commission Rules. The allegations are based on the July 2005 and January 2007 semiannual reports.
11. The respondent disclosed a credit card company as payee on a total of \$5,100 in political expenditures.
12. The respondent filed a corrected January 2006 semiannual report that discloses approximately \$4,440 of expenditures on Schedule F that were not itemized on the initial report.
13. The respondent filed a corrected January 2007 semiannual report. The explanation of correction states "Credit Card Entries have been deleted. Those expenditures have been itemized on Schedule F, wherein we have identified the vendor who received payment from the credit card company. We have also reported additional expenditures made from Personal Funds and corrected errors caused by software and hardware problems." The respondent's corrected report discloses approximately \$14,780 of expenditures on Schedule F that were not itemized on the initial report.

Converted Political Contributions to Personal Use

14. The complaint alleges that the respondent converted political contributions to personal use. The allegations are based on the July 2005 semiannual report that disclosed three political

expenditures to Sugar Creek Country Club for "Dues" for a total amount of \$710.37 on Schedule F.

15. The respondent swears that the expenditures are for dues at a country club that was used exclusively during this period for campaign or officeholder purposes and that no personal use was involved.

IV. Findings and Conclusions of Law

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

Failure to Properly Report Political Expenditures

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). 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.
2. 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, 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.
3. The evidence shows that the respondent made approximately \$600 in political expenditures on June 21, 2005, from his personal funds without properly reporting the political expenditures, and that he improperly reimbursed himself from political contributions for those political expenditures. Therefore, there is credible evidence that the respondent violated sections 253.035(h) and 254.031(a)(3) of the Election Code and sections 20.61 and 20.63 of the Ethics Commission Rules as to that political expenditure.
4. The evidence shows that the respondent properly reported an April 15, 2006, political expenditure in the amount of \$4,238 to Intelesis on Schedule G and that he checked the box indicating he intended to seek reimbursement. The respondent's payment from political contributions on September 12, 2006, to Chase Master Card was for partial payment of the April 15, 2006, expenditure from his personal funds. The payment was a proper reimbursement to himself from political contributions for those political expenditures.

Therefore, there is credible evidence that the respondent did not violate sections 253.035(h) and 254.031(a)(3) of the Election Code and section 20.63 of the Ethics Commission Rules as to that political expenditure.

5. The corrected July 2006 semiannual report shows that the respondent reimbursed himself \$10,167. Subtracting the \$2,238 that he was eligible to reimburse himself, the evidence shows that he improperly reimbursed himself \$7,929. The complaint does not contain allegations regarding these reimbursements by the respondent to himself. The corrected report the respondent filed in response to the sworn complaint discloses the improper reimbursements.
6. The corrected January 2007 semiannual report shows that the respondent reimbursed himself approximately \$11,100. The evidence shows that he improperly reimbursed himself the full amount of approximately \$11,100. The complaint does not contain allegations regarding these reimbursements. The corrected report the respondent filed in response to the sworn complaint discloses the improper reimbursements.
7. The evidence shows that on the following semiannual reports the respondent failed to initially disclose the following approximate amounts of expenditures from personal funds:

July 2005 - \$6,730
January 2006 - \$5,860
July 2006 - \$15,610
January 2007 - \$9,970
8. The complaint does not contain allegations regarding the respondent's failure to include these expenditures on his original reports. The corrected reports the respondent filed in response to the sworn complaint disclose his failure to properly report these expenditures.
9. The evidence shows that on the following semiannual reports the respondent failed to initially disclose the following approximate amounts of expenditures on Schedule F:

July 2005 - \$5,410
January 2006 - \$4,440
July 2006 - \$13,900
January 2007 - \$14,780
10. The complaint does not contain allegations regarding the respondent's failure to include these expenditures on his original reports. The corrected reports the respondent filed in response to the sworn complaint disclose his failure to properly report these expenditures.

Failure to Properly Report Political Expenditures Made by Credit Card

11. 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).
12. 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. 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.
13. On the two reports at issue, the respondent disclosed the name of the credit card company and not the names or addresses of the vendors who actually received payment from the company for approximately \$5,100 in political expenditures. The improper reporting was clear from the face of the reports. Therefore, there is credible evidence of violations of section 254.031(a)(3) of the Election Code and sections 20.59 and 20.61 of the Ethics Commission Rules.

Converted Political Contributions to Personal Use

14. 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).
15. "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. ELEC. CODE § 253.035(d).
16. The respondent's affidavit states that the expenditures are for dues at a country club that was used exclusively during this period for campaign or officeholder purposes and that no personal use was involved.
17. The evidence does not refute the respondent's assertion. There is insufficient evidence that the respondent did not make the payments from political contributions at issue for campaign or officeholder purposes. Therefore, there is insufficient evidence that the respondent violated 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 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 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 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 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, 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 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.

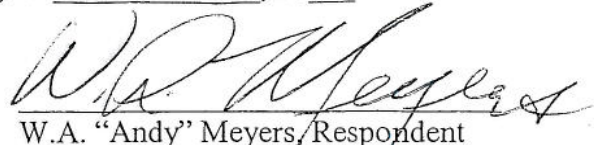
VII. Sanction

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-270220.

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


W.A. "Andy" Meyers, Respondent

EXECUTED ORIGINAL received by the commission on: May 6, 2008.

Texas Ethics Commission

By:


David A. Reisman, Executive Director