



**SWORN COMPLAINT
BEFORE
THE TEXAS ETHICS COMMISSION**

Revised 01/03/2000

Office Use Only
Docket Number

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I. IDENTITY OF COMPLAINANT

I, Jay Loretta Masterson, complainant,
(full name of individual filing the complaint)

hereby file this sworn complaint with the Texas Ethics Commission. My address is
120 Misty Lane, Aransas Pass TX 78336-2118.
(full mailing or street address, including P.O. box number or street, city, state, and zip code)

My telephone number is (361) 758-0132 (land) fax); (361) 443-0451
(telephone number, including area code)

II. IDENTITY OF RESPONDENT

The respondent is Eugene J. (Gene) Seaman
(full name of respondent)

The respondent holds the position or title of Member of the Texas House of
Representatives, District 32
(position or title held by respondent)

The respondent's address is 4825 Ocean Drive, Corpus Christi TX
78412
(full mailing or street address, including P.O. box number or street, city, state, and zip code of respondent)

The respondent's telephone number is (361) 994-1990
(telephone number of respondent, including area code)

Attach additional pages, if necessary.

III. NATURE OF ALLEGED VIOLATION

Seaman knowingly made or authorized a payment from a political contribution to purchase real property or to pay the interest on or principal of a note for the purchase of real property. *See Tex. Elec. Code § 253.038(a).*

Seaman converted political contributions to personal use by making an expenditure that is not an ordinary and necessary expense incurred in connection with his activities as a candidate or officeholder. *See Tex. Elec. Code §§ 253.035(a), (c).*

IV. STATEMENT OF ALLEGED FACTS

Seaman used political contributions to pay all or part of the purchase of an Austin condominium unit for community property for which his wife is the owner of record.

On May 6, 1999, Seaman's wife, Ellen, was deeded a condominium unit located at 40 IH-35 North, Austin, Texas, for an undisclosed purchase price. Special Warranty Deed from Town Lake Partners, Ltd., to Ellen V. Seaman for Unit 4C4, Building D, Towers of Town Lake Condominiums 1 (May 6, 1999). The Travis County Appraisal District lists Ellen Seaman as the owner of the Austin unit on its rolls. Prop. Id. No. 188084, Travis Cent. Appraisal Dist.

On November 5, 1996, Seaman was elected as a member of the Texas House of Representatives, and has been re-elected at each general election since then. Seaman is a candidate for re-election in the 2006 general election to be held November 7, 2006.

Since 1999, when the Austin unit was deeded to Ellen Seaman, Seaman has paid Ellen Seaman a total of \$126,134.00 from political funds as "rent" for the Austin unit. On his campaign finance reports, Seaman indicates that he used political contributions to pay about \$1,000.00 per month to "Austin Land Co." as "rent." E.g. *Eugene J. (Gene) Seaman, Candidate/Officeholder Campaign Fin. Rpt. (Form C/OH), Rpt. No. 315532 at 91-92 (July 17, 2006)*. Ellen Seaman is doing business in Travis County as "Austin Land Co." Jaime Powell and Dan Kelley, *Seaman Paid Wife \$44K in Rent, Corpus Christi Caller-Times A1 (Sept. 9, 2006)*.

Under Texas law, all property, including wages and earnings from separate property, acquired by either spouse during marriage is community property. Tex. Fam. Code § 3.002; *McClary v. Thompson*, 65 S.W.3d 829, 834 (Tex. App. — Fort Worth, 2002, pet. denied). The presumption that all property possessed by either spouse during the marriage is community property can be rebutted only by clear and convincing evidence. See Tex. Fam. Code § 3.003.

The deed contains no language indicating that the property is being conveyed to Ellen Seaman as her separate property. The Seamans have not recorded any agreement making the Austin unit Ellen Seaman's personal property in the land records of Travis County. See Tex. Fam. Code § 4.106. Her occupation is "housewife." *Eugene J. (Gene) Seaman, Personal Fin. State. (Form PFS), Rpt. No. 301154 at 2 (Feb. 3, 2006)*. The Austin Land Co. was neither an assumed name of Ellen Seaman nor was it an incorporated business until September 2006. Powell and Kelley, *Corpus Christi Caller-Times at A1*. Ellen Seaman has no financial assets of her own and her only source of occupational income is from her occupation as a housewife. *Eugene J. (Gene) Seaman, Personal Fin. State. (Form PFS), Rpt. No. 301154 at 2*.

Ellen Seaman purchased the Austin unit with Seaman's property. His payment of "rent" to Ellen Seaman, then, is nothing more than a transfer of political funds to the community estate for payments made "to purchase real property."

Additionally, Seaman paid the condominium association dues assessed on the Austin unit from political funds. *Eugene J. (Gene) Seaman, Candidate/Officeholder Campaign Fin. Rpt. (Form C/OH), Rpt. No. 315532 at 171-173.* Condominium assessments are a personal obligation of the unit's owner, and subject the property to lien if unpaid. See Tex. Prop. Code § 82.113. Seaman's use of political funds to pay the personal personal obligations for his community property are an impermissible personal use of those funds.

V. LISTING OF DOCUMENTS AND OTHER MATERIALS

**Special Warranty Deed from Town Lake Partners, Ltd., to Ellen V. Seaman for Unit 4C4,
Building D, Towers of Town Lake Condominiums 1 (May 6, 1999).**

VI. AFFIDAVIT

BASED ON PERSONAL KNOWLEDGE

(Execute this affidavit if the acts alleged are within your direct personal knowledge.)

I, _____, complainant,
swear that I have knowledge of the facts alleged in this complaint
and that the information contained in this complaint is true
and correct.

Signature of complainant

AFFIX NOTARY STAMP/SEAL ABOVE

Sworn to and subscribed before me, by the said _____, this
the _____ day of _____, 20____, to certify which, witness my hand and seal of office.

Signature of officer administering oath

Print name of officer administering oath

Title of officer administering oath

VII. AFFIDAVIT

BASED ON INFORMATION AND BELIEF

(Execute this affidavit if the acts alleged are not within your
direct personal knowledge, but are based on reasonable belief.)

1. Jay Loretta Masterson, complainant,
swear that I have reason to believe and do believe that the violation alleged in
this complaint has occurred. The source and basis of my information and belief
is newspaper articles and data, personal
experience as a commuter to Austin while
employed as a 9-1-1 Director for the Coastal
Bend Council of Governments

Jay Loretta Masterson

Signature of complainant

AFFIX NOTARY STAMP/SEAL ABOVE

Sworn to and subscribed before me, by the said Jay Loretta Masterson, this
the 21 day of September, 2006, to certify which, witness my hand and seal of office.

Kathleen D. Smith Kathleen D. Smith Notary Public

Signature of officer administering oath Print name of officer administering oath Title of officer administering oath

