

TEXAS ETHICS COMMISSION

IN THE MATTER OF

WILLIAM H. "BILL" WHITE,

RESPONDENT

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BEFORE THE

TEXAS ETHICS COMMISSION

SC-2511195

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on July 14, 2006, to consider sworn complaint SC-2511195. A quorum of the commission was present. The commission determined that there is credible evidence of violations of section 254.031 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 failed to include information regarding contributions and expenditures in two campaign finance reports, and 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. At the time relevant to the complaint, the respondent was a candidate for Mayor of Houston in the November 2003 general election and the subsequent runoff election.
2. The respondent's campaign finance report due the eighth day before the runoff election ("runoff report") disclosed political contributions from contributors whose full addresses were not included.
3. The respondent's runoff report disclosed a \$1,000 political contribution from "F. Sabir" and a \$5,000 political contribution from "Simon T."
4. Campaign finance reports filed with the Federal Election Commission by federal candidates and committees disclose several contributions from a "Simon T" with the same address that the respondent included in his report.

5. The respondent's runoff report disclosed three political expenditures and did not include the full name of the payees.
6. In response to the complaint, the respondent filed corrected reports that include the full names and addresses for the contributions and expenditures at issue.
7. The respondent's runoff report disclosed 28 political expenditures totaling \$35,340.05 as reimbursements. The report disclosed the names and addresses of the persons who were reimbursed by the respondent for making the expenditures, the dates and amounts of the expenditures, but not the names of the vendors or businesses to which the expenditures were actually made.
8. The respondent's January 2004 semiannual campaign finance report disclosed 23 political expenditures as reimbursements. The report disclosed the names and addresses of the persons who were reimbursed by the respondent for making the expenditures, the dates and amounts of the expenditures, but not the names of the vendors or businesses to which the expenditures were actually made.
9. In response to the complaint, the respondent filed corrected reports that properly disclosed the political expenditures at issue.
10. The corrected reports show expenditures that were required to be disclosed in the respondent's 30-day or 8-day pre-election reports.
11. The respondent's runoff and semiannual reports disclosed three political expenditures to a single person for "Stationery reimbursement."
12. The respondent swears that the expenditures were "three separate expenses" for identical quantities of campaign stationery.

IV. Findings and Conclusions of Law

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

1. A campaign finance report must include the amount of political contributions from each person that in the aggregate exceed \$50 and that are accepted during the reporting period, the full name and address of the person making the contributions, and the dates of the contributions. ELEC. CODE § 254.031(a)(1).
2. One political contribution at issue was from "Simon T." for \$5,000. The evidence indicates that "Simon T." is the contributor's full name. Therefore, there is credible evidence that the respondent did not violate section 254.031(a)(1) of the Election Code in connection with the political contribution.

3. The reports show that the respondent accepted six political contributions that were in excess of \$50 without including either a full name or full address of the contributors in the report. Therefore, there is credible evidence that the respondent violated section 254.031(a)(1) of the Election Code in connection with these political contributions.
4. A campaign finance report must include 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).
5. The respondent's runoff report shows that the respondent made three political expenditures that were in excess of \$50 without including the full names of the payees in the report. Therefore, there is credible evidence that the respondent violated section 254.031(a)(3) of the Election Code in connection with these expenditures.
6. In Ethics Advisory Opinion No. 450, the commission stated that in a situation in which a member of a candidate's campaign staff makes a campaign expenditure on behalf of the candidate and later receives reimbursement from the candidate, the candidate is required 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. Ethics Advisory Opinion No. 450 (2003).
7. The respondent's originally filed runoff report included the information for the staff members and campaign workers who made expenditures and did not include information about the individual or entity paid by the staff or campaign workers. The corrected reports show that there were expenditures that were required to be included with all necessary payee information. Therefore, there is credible evidence that the respondent violated section 254.031(a)(3) of the Election Code in connection with these expenditures.
8. The respondent's originally filed January 2004 semiannual report included the information for the staff members and campaign workers who made expenditures and did not include information about the individual or entity paid by the staff or campaign workers. The corrected reports show that there were expenditures that were required to be included with all necessary payee information. Therefore, there is credible evidence that the respondent violated section 254.031(a)(3) of the Election Code in connection with these expenditures.
9. The corrected reports show that a number of expenditures that were made to payees totaling \$50 or less in a reporting period. Therefore, there is credible evidence that the respondent did not violate section 254.031(a)(3) of the Election Code in connection with these expenditures because the payee information was not required to be included in a report.

10. With respect to the remaining reimbursements at issue, those have been neither itemized nor reported as totaling \$50 or less. There is no credible evidence to show when the expenditures originally occurred or whether the expenditures were required to be itemized. Therefore, there is insufficient evidence that the respondent violated section 254.031(a)(3) of the Election Code in connection with these expenditures.
11. The corrected reports also show expenditures that were required to be included in the respondent's 30-day or 8-day pre-election reports, which were due on October 6 and October 27, 2003. Allegations relating to the information required to be included in the 30-day and 8-day pre-election reports are based on alleged offenses that occurred more than two years before the complaint was filed (November 14, 2005), and are therefore not within the commission's sworn complaint jurisdiction. Ethics Commission Rules § 12.5(3).
12. A person who accepts a political contribution as a candidate may not convert the contribution to personal use. ELEC. CODE § 253.035(a). "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. *Id.* § 253.035(d).
13. The allegation that the respondent converted political contributions to personal use is based solely on three identical political expenditures for stationery (with different dates) reported by the respondent. The respondent swears that there were three separate expenditures for campaign stationery and the complainant submitted no evidence that the respondent used the stationery for personal use. Therefore, there is credible evidence that the respondent did not violate 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 amount of political contributions from each person that in the aggregate exceed \$50 and that are accepted during the reporting period, the full name and address of the person making the contributions, and the dates of the contributions; and that a campaign finance report must include 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 also acknowledges that in a situation in which a candidate or a member of a candidate's campaign

staff makes a campaign expenditure on behalf of the candidate and later receives reimbursement from the candidate, the candidate is required to report a single expenditure by listing the name of the individual or entity paid by the candidate or campaign worker as the payee, showing the date of the expenditure as the date the candidate or campaign worker made the expenditure, and explaining in the "purpose" section that the candidate or campaign worker made the expenditure from the candidate's personal funds and that the candidate subsequently reimbursed himself or 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-2511195.

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

William H. "Bill" White, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director