

TEXAS ETHICS COMMISSION

IN THE MATTER OF
ANNA MOWERY,
RESPONDENT

BEFORE THE
TEXAS ETHICS COMMISSION
SC-2610213

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on June 28, 2007, to consider sworn complaint SC-2610213. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 254.031(a)(3) and (8) of the Election Code, 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 disclose political contributions and political expenditures.

III. Facts Supported by Credible Evidence

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

1. The respondent was a successful incumbent candidate for state representative.
2. The complaint is based on the total political contributions, total political expenditures, and total political contributions maintained (“cash on hand”) as disclosed by the respondent on four reports beginning with the February 6, 2006, 30-day pre-election report for the primary election and ending with the October 10, 2006, 30-day pre-election report for the general election.
3. The complaint alleges that the respondent failed to disclose \$12,161.43 in political expenditures.
4. The respondent's February 27, 2006, 8-day pre-election report discloses two in-kind contributions totaling \$10,126.96.
5. The respondent submitted a letter from a certified public accountant that detailed a number of minor errors in reporting political expenditures (between \$.05 and \$8). The letter also states

that the respondent failed to report political expenditures of \$94, \$120, \$115.53, and \$5,000. The letter also states that a total of \$2,280.71 in credit card expenditures were reported twice – once as a lump sum and again in separate amounts. Accordingly, the respondent's total expenditures were underreported.

IV. Findings and Conclusions of Law

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

1. Each report by a candidate 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 payment. ELEC. CODE § 254.031(a)(3).
2. Each report by a candidate must include, as of the last day of a reporting period, the total amount of political contributions accepted, including interest or other income on those contributions, maintained in one or more accounts in which political contributions are deposited. ELEC. CODE § 254.031(a)(8).
3. The complaint alleges that as of October 10, 2006, the total amount of political contributions maintained was underreported by \$12,261.43. However, the complainant did not consider the fact that in-kind contributions are not included in the total for political contributions maintained (“cash on hand”). The respondent details political expenditures that she reported incorrectly.
4. There is credible evidence that the amounts of cash on hand disclosed in the reports at issue were inaccurate. There is also evidence that the respondent failed to report political expenditures. Therefore, there is credible evidence of violations of sections 254.031(a)(3) and (8) of the Election Code.
5. Each report by a candidate 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). There is no evidence that the respondent failed to properly report political contributions.

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 report by a candidate 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 payment. The respondent also acknowledges that each report by a candidate must include, as of the last day of a reporting period, the total amount of political contributions accepted, including interest or other income on those contributions, maintained in one or more accounts in which political contributions are deposited. 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 \$700 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-2610213.

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

Anna Mowery, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director