

TEXAS ETHICS COMMISSION

IN THE MATTER OF
ELIZABETH E. COKER,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-2611234 AND SC-2710212

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on April 3, 2008, to consider sworn complaints SC-2611234 and 2710212. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 253.155 and 254.031 of the Election Code, laws administered and enforced by the commission. To resolve and settle these complaints without further proceedings, the commission proposes this resolution to the respondent.

II. Allegations

The complaints allege that the respondent accepted political contributions that exceeded the contribution limits under the Judicial Campaign Fairness Act and 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 judge of the 258th Judicial District Court in the November 2006 general election. The respondent was unopposed in the 2006 primary election.
2. According to the 2005 population certification by the Secretary of State, the population of the 258th Judicial District was 77,158.
3. The respondent's July 2006 semiannual report disclosed a \$1,000 contribution from Mrs. Toni Cochran-Hughes and a separate \$1,000 contribution from Mr. Scott Hughes on May 6, 2006. Each contribution was described as an in-kind contribution of supplies and labor for a fundraiser. According to the report, the contributors had the same address and were co-owners of the Cochran-Hughes Land and Cattle Company in Livingston, Texas. Mrs. Cochran-Hughes was also disclosed as the owner of a clothing store called "Toni's Clothing Store." The contributors were spouses at the time the contributions were accepted.

4. The respondent corrected the report on September 6, 2006, and reduced each contribution to \$500 and changed their descriptions to “Contract labor and supplies.” The respondent stated in her correction affidavit that “after realizing that an individual’s donation of his or own [sic] uncompensated (volunteer) services is not reportable,” she “deleted the volunteer labor entries previously reported as in kinds from Scott Hunter and Toni Cochran-Hughes.”

5. In response to the allegations, the respondent swears:

My corrected July 15 semiannual report filed September 6, 2006, also made clear that I had previously reported “contributions” of volunteer personal services by Scott Hunter and Toni Cochran-Hughes. As an individual’s uncompensated personal services are not required to be reported as contribution [sic] under 254.033, I deleted the “contributions” from the corrected report.

6. The respondent’s July 2006 semiannual report originally disclosed a \$250 in-kind contribution from Hunter Hughes on May 6, 2006, described as “labor for fundraiser.” The respondent’s correction to the report removed the contribution.

7. The complainant submitted copies of three invoices, dated May 9, 2007, “for the costs of a campaign party fundraiser held at the home of Toni & Scott Hughes.” The invoices indicate they were faxed to the complainant by Mrs. Cochran-Hughes and included a cover letter from Mrs. Cochran-Hughes that states, “I received a check for \$2,925.10. I don’t know about how she reported anything.”

8. One invoice states “Bill To Elizabeth Coker Campaign” and states “DONATION” at the bottom, beside the total amount of \$2,322.60. It indicates that the respondent’s campaign was billed for the following:

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| Hunter Hughes | \$250.00 |
| Robert Earl Thorn | \$200.00 |
| John Fitzgerald | \$100.00 |
| Toni Cochran-Hughes | \$600.00 |
| Scott Hughes | \$500.00 |
| Cleaning | \$475.00 |
| Mike Greathouse | \$100.00 |
| Wood Chips (8) | \$ 45.60 |
| Hay (8) | \$ 52.00 |

9. Regarding the invoice, the respondent swears:

It was my conclusion that the amount shown in [the invoice] was for volunteer labor and expenses not related to my campaign. There was no documentation submitted to

support whether the individuals listed had been paid nor that the costs of wood chips and hay were related to the campaign. Additionally, the alleged expenses were purportedly incurred by a business known as Cochran Hughes Land and Cattle and the invoice was created for tax purposes.

10. A second invoice details \$2,925.10 in charges for rental of 157 chairs, 14 tables, food and catering, a damage waiver, delivery, and mailing supplies. The invoice states “Bill To Elizabeth Coker Campaign.” The bottom of the invoice states “MAKE PAYABLE TO COCHRAN HUGHES LAND & CATTLE.”

11. Regarding the second invoice, the respondent swears:

This invoice appeared to present valid expenses incurred in support of my campaign and I paid this invoice. I note again that these expenses were incurred by a business known as Cochran Hughes Land and Cattle and that the invoice may have been created for tax purposes.

12. A third invoice details \$1,000 in charges for goods and services, billed to respondent’s campaign. The bottom of the invoice states “NO CHARGE” beside the total amount. The itemized charges include:

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| Aesthetics | \$400.00 |
| Diesel | \$100.00 |
| Yard Treatment (insecticide) | \$200.00 |
| After Party Cleanup | \$150.00 |
| Phone (Long Distance, Cell Phone, Fax) | \$150.00 |

13. Regarding the third invoice, the respondent swears:

It was my conclusion that the items shown were not expenses related to my campaign. There was no supporting documentation that the items listed as campaign expenses nor [sic] that they had been paid. I note again that these expenses were incurred by a business known as Cochran Hughes Land and Cattle and that the invoice may have been created for tax purposes.

14. The respondent also swears:

I had initially included an in-kind contribution for Hunter Hughes, Toni Cochran-Hughes and Scott Hughes for their labor. After further review of the entry, I determined that volunteer labor is not an in-kind contribution and should not have been reported as a contribution. I then amended my report. The contributor may have had their own reasons for valuing the items in the invoices probably for tax

writeoff purposes to the business. I reported an in-kind contribution of \$500.00 for both Scott Hughes and Toni Cochran-Hughes for supplies for the fund-raiser.

15. The respondent denies that her actions violated the contribution limits.
16. No portion of the contributions from Mrs. Cochran-Hughes or Mr. Hughes, or any contributions related to the invoices, was returned to the contributors.
17. The respondent's July 2006 semiannual report disclosed a \$1,000 political contribution from Mr. John E. Williams, Jr. and a separate \$1,000 political contribution from Mrs. Sheridan Williams. The contributors were spouses at the time the contributions were accepted.
18. The respondent corrected the July 2006 semiannual report and stated in the correction affidavit:

On September 5 2006 [sic] I became aware that under Section 253.158 contributions of spouses count against a single contribution limit – as if the spouses were one individual. I had been relying solely on Section 253.155 concerning individual limits. Accordingly I have refunded the apparently excessive contribution from Mrs. Sheridan Williams and will report that refund on my next report.

19. The respondent's 30-day pre-election report disclosed a \$1,000 political expenditure on September 5, 2006, to Mrs. Sheridan Williams for the purpose of "reimbursement of amount."
20. The respondent's July 2006 semiannual report disclosed a monetary contribution of \$500 from Mr. Robert Willis on May 6, 2006. On January 17, 2007, in response to the complaint, she filed a correction to her 8-day pre-election report to disclose an in-kind contribution of \$444.63 from Mr. Willis, described as "Food for meet & greet event," dated October 7, 2006.
21. On April 9, 2007, the respondent corrected her July 2006 semiannual report and changed Mr. Willis' monetary contribution from \$500 to \$1,000, stating in the correction affidavit that the "data entry error was made in [good] faith" and that she filed the correction within 14 business days of the date she learned of the inaccuracy. The affidavit also stated, "Because the corrected contribution results in an apparently excessive contribution from Robert Willis I refunded the excessive amount on March 31, 2007."
22. The respondent's July 2007 semiannual report disclosed a political expenditure of \$444.63 to Mr. Willis on March 31, 2007, for "reimbursement of amount that exceeded limit."

23. The respondent's 30-day pre-election report disclosed a \$1,000 political contribution from Mr. T.W. Sam Elliott on July 10, 2006, and a \$100 political expenditure to Mr. Elliott on September 27, 2006, for the purpose of "Reimbursement of amount that exceeded limit."
24. Regarding the contribution from Mr. Elliott, the respondent swears:
- My understanding is that I must report contributions accepted, and I must make a determination to accept a contribution by the last date of a report [sic] period. If I accept the contribution I must report it, but if I make a determination to refuse the contribution, I must return it within 30 days of the report filing deadline. I returned \$100.00 to T.W. Elliott on September 27, 2006, before the close of the reporting period on September 28, 2006, when I realized the contribution was excessive. I accepted and reported \$1,000 from T.W. Elliott.
25. The respondent's January 2007 semiannual report disclosed a \$1,000 political contribution from Mr. Jay Arnold on November 6, 2006. The respondent's reports do not disclose an expenditure to Mr. Arnold.
26. The complainant submitted a copy of a check drawn on the respondent's campaign account for \$1,000 payable to Jay Arnold and dated November 13, 2006. The check is signed by the respondent and appears to state, in the memo section of the check, "returned excess contribution."
27. Regarding the contribution from Mr. Arnold, the respondent swears:
- Again, I reported the amount of the contribution I accepted from Jay Arnold. I returned the excessive amount—the amount I could not accept. I believe I followed the requirements of Election Code Section 254.034 in reporting the contribution amount I accepted and in not reporting the contribution amount I did not accept.
28. The respondent's 30-day pre-election report disclosed a political contribution of \$1,000 from Terri McDonald, the secretary of the "T&M Monument Co." The report also disclosed a \$1,000 political contribution from Mr. Terry Waller, the owner of the same company.
29. Regarding the contributions from Terri McDonald and Mr. Waller, the respondent swears that she reported a \$1,000 contribution from each person, that they are not spouses, and that the T&M Monument Company is not a law firm.
30. The complaints allege that the respondent failed to properly disclose an in-kind contribution of a political advertisement on a billboard. The billboard included a color photograph of the respondent and advocated re-election of the respondent. The billboard also included a political advertising disclosure that stated that it was paid for by "Bob Willis." The

respondent's reports did not disclose an in-kind contribution of advertising from Mr. Willis or any other person.

31. Regarding the billboard, the respondent swears:

As to the billboard, I have always been of the mind that it was put up by Polk County Commissioner Bob Willis. I was of the mind that this was a direct payment by Mr. Willis. I have subsequently determined that it was and Mr. Willis is filing his own report concerning the same.

32. A campaign finance report filed by Mr. Willis disclosed a \$1,500 expenditure for a billboard as a direct expenditure to support the respondent.
33. According to the complaints, the cost of the billboard was "estimated at \$3,600 per month for eight months based on a contract offered to complainant for location in close proximity to the sign in question." The complaint included copies of documents from Sign Ad, the billboard advertising company, that show that he was offered billboard advertising space at two separate locations at the cost of \$3,600 for each billboard. The documents indicate that the billboards would be available at sizes of 10' x 40' and 10' x 32'. The documents do not indicate the beginning date of the advertising period, but are dated September 11, 2006, and provide November 8, 2006, as the ending date of the advertising period.
34. The complaints allege that three "meet the candidate" events were "sponsored by" Mr. Robert Willis "and/or unknown persons" on or about October 7, 21, and 28 in 2006, and that the respondent reported no contributions or expenditures in connection with the events. The complaints also allege, "It is believed an additional three fundraisers were held in Walker County for which no expenses or in kind donations have been reported by respondent as of October 28, 2006." The complainant provided no additional evidence to support the allegations.
35. The respondent admits that fundraisers occurred on October 7 and 21, 2006. On January 17, 2007, she filed a correction to her 30-day pre-election report to disclose two in-kind contributions totaling \$315.46. Each contribution was for \$157.73, in the form of "refreshments/food/supplies for fundraising event," and was accepted on October 3, 2006.
36. On January 17, 2007, the respondent corrected her 8-day pre-election report to disclose five in-kind contributions totaling \$797.41. Four of the contributions were each for \$88.21, in the form of "refreshments/food for meet & greet event," and accepted on October 21, 2006. The fifth contribution was from Mr. Willis, in the amount of \$444.63 (previously discussed) and in the form of "food for meet & greet event," accepted on October 7, 2006.

37. The respondent swears that omissions of the contributions for the fundraising events were unintentional and that she immediately contacted the contributors to determine the value of the contributions as soon as she became aware of them.
38. Regarding the allegation that the respondent failed to report contributions or expenditures for a fundraising event that occurred on October 28, 2006, the respondent swears that “this matter would be subject to the January 16, 2007 Campaign Finance Report.” The respondent’s January 2007 semiannual report disclosed a \$1,000 in-kind contribution for “food for meet and greet event.”
39. Regarding the allegation concerning additional three fundraising events in Walker County, the respondent states that the allegation is “so indefinite and lacks specificity as to provide me of any notice of wrongdoing to address.” On January 4, 2007, she swore that she was “totally unaware of three (3) fundraisers being held in Walker County concerning my campaign,” and that she was “aware of one fundraiser and will determine from whom and to what extent” a corrected report is required. She also swore that “[t]here was only one fundraiser held in Walker County” and that it was disclosed as an in-kind contribution in her corrected 30-day pre-election report.
40. The complainant submitted a photocopy of a check drawn from the respondent’s campaign account and payable to “MBNA Visa” on \$3,056.30, dated June 1, 2006, and alleges that the respondent failed to properly disclose political expenditures made from personal funds.
41. The respondent swears that the payments related to the check payable to MBNA Visa were made from campaign funds, not personal funds. Further, she swears that the campaign expenses for which her campaign paid MBNA Visa were disclosed as political expenditures from political contributions and that personal funds were not used.
42. The respondent’s original July 2006 semiannual report disclosed a payment of \$142.50 on May 1, 2006, to “Endzone Athletics Inc.” for “T-shirt ads” and a payment of \$3,056.30 to “Allied Advertising” for “Campaign materials” on June 1, 2006. The respondent’s reports do not disclose any political expenditures to “MBNA Visa.”
43. The complaints allege that “Schedule G does not show anywhere the first \$200 cash paid to her January 25, 2006.” The respondent’s July 2006 semiannual report disclosed a \$200 political expenditure from political contributions to the respondent on February 2, 2006, for “reimbursement.” The respondent’s January 2006 semiannual report disclosed \$1,665 in political expenditures made with personal funds and indicated that reimbursement for the expenditures was intended.

44. The complaints allege that the respondent failed to include “supporting documents or data” regarding the following approximate \$2,418 in political expenditures that were disclosed on Schedule G of the respondent’s reports, indicating that they were made with personal funds and that reimbursement was intended:
- \$1,778.96 on October 27, 2006, to Polk County Publishing for “Campaign ads.”
 - \$258.76 on November 6, 2006, to Stubbs Petroleum Co. for “Gasoline for campaign.”
 - \$380.60 on December 1, 2006, to Verizon for “Campaign telephone expenses.”
45. The respondent swears that she made the three expenditures at issue from her personal funds and that she disclosed the necessary information regarding the expenditures.

IV. Findings and Conclusions of Law

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

1. A judicial candidate or officeholder may not knowingly accept political contributions from a person that in the aggregate exceed certain contribution limits in connection with an election in which the person is involved. ELEC. CODE § 253.155(a). If the population of the judicial district of the office sought or held by the candidate or officeholder is less than 250,000, the contribution limit is \$1,000. *Id.* § 253.155(b). The contribution limit applies only to a political contribution in connection with certain offices, including the office of district judge. *Id.* § 253.151(4).
2. For purposes of the contribution limit, a contribution by the spouse or child of an individual is considered to be a contribution by that individual. *Id.* § 253.158(a). “Child” means a person under 18 years of age who is not and has not been married or who has not had the disabilities of minority removed for general purposes. *Id.* § 253.158(b).
3. For purposes of the contribution limit, the general primary election and general election for state and county officers are considered to be a single election in which a judicial candidate is involved if the candidate is unopposed in the primary election. *Id.* § 253.1621(a)(1). For a judicial candidate who is unopposed in a primary election, each applicable contribution limit is increased by 25 percent. *Id.* § 253.1621(b). The additional 25 percent in political contributions may only be used for making officeholder expenditures. *Id.*
4. A candidate is a person who knowingly and willingly takes affirmative action for the purpose of gaining nomination or election to public office, including the filing of a campaign treasurer appointment. *Id.* § 251.001(1)(A).

5. A political contribution means, in pertinent part, a direct or indirect transfer of money, goods, services, or any other thing of value to a candidate that is offered or given with the intent that it be used in connection with a campaign for elective office. *Id.* §§ 251.001(2), (3), (5).
6. A political contribution consisting of an individual's personal service is not required to be reported under this chapter if the individual receives no compensation for the service. *Id.* § 254.033.
7. In Ethics Advisory Opinion No. 398, the commission stated that, as a general rule, a discount to a candidate is a campaign contribution. Ethics Advisory Opinion No. 398 (1998).
8. At the time relevant to the complaints, the respondent had an active campaign treasurer appointment on file as a candidate for district judge of the 258th Judicial District Court. A candidate for the office of district judge may not knowingly accept political contributions from a person that in the aggregate exceed certain limits in connection with each election in which the person is involved. *Id.* § 253.155(a).
9. In 2005, the population of the 258th Judicial District was 77,158. The contribution limit for a judicial candidate in a district with a population less than 250,000 is \$1,000. *Id.* § 253.155(b)(2)(A). Thus, the contribution limit that applied to the respondent under section 253.155 of the Election Code was \$1,000.
10. The respondent was also unopposed in the 2006 primary election. Thus, under section 253.1621(b) of the Election Code, the respondent's contribution limit for the election was increased by 25 percent. Therefore, the respondent was prohibited from accepting political contributions in excess of \$1,250 from any person in connection with the election. If the respondent accepted political contributions in excess of \$1,000 from any person in connection with the election, the excess may only be used for making officeholder expenditures.
11. The expenses itemized in the invoices related to the respondent's campaign fundraising event were incurred by Cochran Hughes Land and Cattle and were in connection with the event.
12. Based upon the respondent's reports and the invoices, there is credible evidence that the respondent accepted in-kind campaign contributions in the form of personal services from Mrs. Cochran-Hughes and Mr. Scott Hughes, valued at a total of \$1,000, and that the contributors did not receive compensation for their services.
13. The first invoice and the respondent's statements indicate that Cochran Hughes Land and Cattle incurred expenses in the form of goods and services totaling approximately \$973 in

connection with the respondent's campaign event, for which the respondent did not provide a payment. The invoice also indicates that the amount was a "donation" to the respondent's campaign, regarding which the respondent provided no explanation. Furthermore, the personal services provided by members of the Cochran-Hughes family that the respondent disclosed as in-kind political contributions were included in the same invoice, but the respondent provided no justification as to why she disclosed some of the services listed in the invoice as political contributions and not the others. Therefore, there is credible evidence that the respondent accepted approximately \$973 in political contributions from Cochran Hughes Land and Cattle, as detailed in the invoice.

14. Regarding the third invoice in the amount of \$1,000, the evidence indicates that Cochran Hughes Land and Cattle incurred the expenses and that they were made in connection with the respondent's campaign event. The invoice indicates that the expenses were incurred with "no charge" to the respondent. The respondent provided no explanation regarding the statement "no charge" on the invoice or any additional facts to dispute the allegation that the amount was a \$1,000 political contribution that she accepted in addition to the contributions she already disclosed from Mrs. Cochran-Hughes and Mr. Scott Hughes. Therefore, there is credible evidence that Cochran Hughes Land and Cattle incurred expenses totaling \$1,000 in connection with the respondent's campaign event, for which she did not provide a payment. Therefore, there is credible evidence that the respondent accepted \$1,000 in political contributions from Cochran Hughes Land and Cattle, as detailed in the invoice.
15. There is credible evidence that the respondent accepted political contributions from Cochran Hughes Land and Cattle totaling approximately \$1,973, which includes the amounts of approximately \$973 in goods and services and \$1,000 for goods and services. The respondent was prohibited from accepting more than \$1,250 in political contributions from a person. If the respondent accepted political contributions from a person that exceeded \$1,000, the contributions could only be used for officeholder purposes. The evidence indicates that the contributions were used solely for campaign purposes. Therefore, there is credible evidence that the respondent violated section 253.155(a) of the Election Code by accepting political contributions from a person in excess of the contribution limit.
16. The respondent accepted \$1,000 in in-kind campaign contributions in the form of supplies from Mrs. Cochran-Hughes and Mr. Scott Hughes. If Mrs. Cochran-Hughes and Mr. Scott Hughes provided uncompensated personal services to the respondent, then the respondent was not required to disclose those services. However, in Ethics Advisory Opinion No. 49, the commission stated, "the uncompensated provision of personal services in connection with a campaign *is regulated by title 15 of the Election Code* but is not required to be reported under title 15." Ethics Advisory Opinion No. 49 (1992) (emphasis added). Thus, the personal services provided by Mrs. Cochran-Hughes and Mr. Scott Hughes were political contributions subject to the contribution limits applicable to judicial candidates.

17. For purposes of the contribution limits, a contribution from one spouse is also considered a contribution from the other spouse. Mrs. Cochran-Hughes and Mr. Scott Hughes were spouses at the time the respondent accepted their contributions at issue. Thus, the total amount of political contributions the respondent could legally accept from them was \$1,250. Any amount that exceeded \$1,000 could only be used for officeholder purposes. The evidence indicates that the respondent accepted \$2,000 in political contributions from the couple that were used solely for campaign purposes. Therefore, there is credible evidence that the respondent violated section 253.155(a) of the Election Code by accepting political contributions from a person in excess of the contribution limit.
18. Regarding the contribution of \$250 in services from Mr. Hunter Hughes, there is credible evidence that Mr. Hunter Hughes was not a dependent child of Mrs. Cochran-Hughes or Mr. Schott Hughes at the time the contribution was accepted. There is no evidence that Mr. Hunter Hughes made any other political contributions to the respondent. Therefore, there is credible evidence that the respondent did not violate section 253.155(a) of the Election Code by accepting the contribution.
19. The respondent accepted a \$1,000 political contribution from each of Mr. John E. Williams and Mrs. Sheridan Williams. The contributors were spouses at the time the contributions were accepted. Thus, the total amount of political contributions the respondent could legally accept from them was \$1,250. Any amount that exceeded \$1,000 could only be used for officeholder purposes.
20. The respondent accepted \$2,000 in political contributions from Mr. and Mrs. Williams. There is no evidence that any amount of the contributions was used for officeholder purposes. Furthermore, the respondent returned \$1,000 to the contributors, which indicates that the respondent exceeded the contribution limits by \$1,000. Therefore, there is credible evidence that the respondent violated section 253.155(a) of the Election Code by accepting \$1,000 in political contributions from a person that exceeded the contribution limits.
21. The respondent accepted approximately \$1,445 in political contributions from Mr. Robert Willis. The total amount of political contributions the respondent could legally accept from Mr. Willis was \$1,250. Any amount that exceeded \$1,000 could only be used for officeholder purposes.
22. There is no evidence that any amount of the contributions from Mr. Willis was used for officeholder purposes. Furthermore, the respondent returned approximately \$445 to the contributor, which indicates that she exceeded the contribution limits by that amount. Therefore, there is credible evidence that the respondent violated section 253.155(a) of the Election Code by accepting approximately \$445 in political contributions from a person that exceeded the contribution limits.

23. A person who receives a political contribution that violates section 253.155(a) of the Election Code shall return the contribution to the contributor not later than the later of the last day of the reporting period in which the contribution is received or the fifth day after the date the contribution is received. ELEC. CODE § 253.155(e).
24. A determination to accept or refuse a political contribution that is received by a candidate, officeholder, or political committee shall be made not later than the end of the reporting period during which the contribution is received. *Id.* § 254.034(a). If the determination to accept or refuse a political contribution is not made before the time required by Subsection (a) for purposes of this chapter, the contribution is considered to have been accepted on the last day of that reporting period. *Id.* § 254.035(b). A political contribution that is received but not accepted shall be returned to the contributor not later than the 30th day after the deadline for filing a report for the reporting period during which the contribution is received. A contribution not returned within that time is considered to be accepted. *Id.* § 254.035(c).
25. There is insufficient evidence that the respondent violated section 253.155(a) of the Election Code in connection with contributions from Mr. Elliott.
26. There is insufficient evidence that the respondent violated section 253.155(a) of the Election Code in connection with contributions from Mr. Arnold.
27. There is credible evidence that the respondent did not violate section 253.155(a) of the Election Code in connection with the expenditures from Terri McDonald and Mr. Waller.
28. 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).
29. A political contribution means, in pertinent part, a campaign contribution. *Id.* § 251.001(5).
30. A campaign contribution means, in pertinent part, a contribution to a candidate that is offered or given with the intent that it be used in connection with a campaign for elective office. *Id.* § 251.001(3).
31. A contribution means a direct or indirect transfer of money, goods, services, or any other thing of value and includes an agreement made or other obligation incurred, whether legally enforceable or not, to make a transfer. *Id.* § 251.001(2).
32. An expenditure means, in pertinent part, a payment of money or any other thing of value and includes an agreement made or other obligation incurred, whether legally enforceable or not, to make a payment. *Id.* § 251.001(6).

33. A direct campaign expenditure means a campaign expenditure that does not constitute a campaign contribution by the person making the expenditure. *Id.* § 251.001(8). A campaign expenditure is not a contribution from the person making the expenditure if it is made without the prior consent or approval of the candidate or officeholder on whose behalf the expenditure was made. Ethics Commission Rules § 20.1(5).
34. A campaign expenditure means, in pertinent part, an expenditure made by any person in connection with a campaign for an elective office. ELEC. CODE § 251.001(7).
35. The evidence shows that the expenditure for the billboard was a direct campaign expenditure by a third party, not a political contribution. Thus, the respondent was not required to report a political contribution in connection with the billboard. Therefore, there is credible evidence that the respondent did not violate section 254.031(a)(1) of the Election Code in connection with the billboard.
36. 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).
37. 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. *Id.* § 254.031(a)(3).
38. The respondent accepted in-kind political contributions totaling approximately \$1,557 in connection with fundraising events that were not originally disclosed in her pre-election reports. The respondent also accepted a \$1,000 political contribution that was originally reported as a \$500 contribution in her July 2006 semiannual report. Therefore, there is credible evidence that the respondent violated section 254.031(a)(1) of the Election Code by failing to properly disclose the contributions.
39. Regarding the allegation that the respondent failed to disclose expenditures or contributions in connection with a fundraising event on October 28, 2006, the evidence shows that the contributions in connection with the event occurred during the period covered by the respondent's January 2007 semiannual report and that the contribution was disclosed in that report. Therefore, there is credible evidence that the respondent did not violate section 254.031(a)(1) of the Election Code in connection with the contributions for the event.
40. Regarding the allegation that the respondent failed to disclose expenditures or contributions in connection with an "additional three fundraisers in Walker County," there is no evidence that the respondent accepted or spent funds in connection with a fundraiser in Walker County aside from those fundraisers that were previously discussed. The respondent also

denied the allegation and swore that she had no knowledge of any additional alleged fundraisers. Therefore, there is credible evidence that the respondent did not violate section 254.031(a)(1) in connection with the allegation.

41. Regarding the allegation that the respondent failed to properly disclose political expenditures made in connection with the fundraising events. There is no evidence that the respondent made political expenditures in connection with any of the events. Therefore, there is credible evidence that the respondent did not fail to disclose political expenditures in violation of section 254.031(a)(3) of the Election Code.
42. 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.
43. A candidate is required to report a campaign expenditure from personal funds. *Id.* § 20.63(a).
44. The respondent used a credit card to make two expenditures related to her campaign totaling \$3,198.80 and subsequently used her political contributions to pay the balance on the credit card account. The respondent properly disclosed those political expenditures in her report. There is no evidence that personal funds were used to make the expenditures. Therefore, there is credible evidence that the respondent did not violate section 254.031(a)(3) of the Election Code and sections 20.59 or 20.63(a) of the Ethics Commission Rules.
45. A candidate or officeholder who makes political expenditures from the candidate's or officeholder's 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 required to be filed that covers the period in 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).
46. Prior to the \$200 reimbursement at issue, the respondent used personal funds to make \$1,665 in political expenditures for which she indicated that reimbursement was intended. There is no evidence that the \$200 reimbursement was improper. Therefore, there is credible evidence that the respondent did not violate sections 254.031(a)(3) or 253.035(h) of the Election Code in connection with the \$200 reimbursement.

47. Regarding the allegation that approximately \$2,418 in political expenditures that the respondent disclosed on Schedule G of her reports were not properly disclosed, the complaints provided no evidence that any of the required information regarding the expenditures was not disclosed in the respondent's reports when they were originally filed. Therefore, there is credible evidence that the respondent did not violate sections 254.031(a)(3) or 253.035(h) of the Election Code in connection with the expenditures.

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 these sworn complaints.
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 judicial candidate or officeholder may not knowingly accept political contributions from a person that in the aggregate exceed certain contribution limits in connection with an election in which the person is involved and that, for purposes of the contribution limit, a contribution by the spouse of an individual is considered to be a contribution by that individual. The respondent also 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. 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 \$1,200 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-2611234 and SC-2710212.

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

Elizabeth E. Coker, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director