

# TEXAS ETHICS COMMISSION

IN THE MATTER OF  
MARK HOMER,  
RESPONDENT

§  
§  
§  
§  
§

BEFORE THE  
TEXAS ETHICS COMMISSION  
SC-2807288 AND SC-2811375

## ORDER and AGREED RESOLUTION

### I. Recitals

The Texas Ethics Commission (the commission) met on August 6, 2009, to consider sworn complaints SC-2807288 and SC-2811375. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 254.031(a)(3), 253.035, and 253.0612 of the Election Code, and sections 20.59, 20.62, and 20.63 of the Ethics Commission Rules, laws and rules administered and enforced by the commission. To resolve and settle these complaints without further proceedings, the commission proposed this resolution to the respondent.

### II. Allegations

Sworn complaint SC-2807288 alleged that the respondent failed to properly disclose political expenditures made as reimbursements, and failed to properly disclose, and improperly reimbursed, political expenditures made from personal funds. Sworn complaint SC-2811375 alleged that the respondent failed to properly disclose political expenditures made as reimbursements, failed to include required information for out-of-state political committees, failed to disclose the principal occupation or job title and the full name of the employer for individuals who contributed \$500 or more during a reporting period, failed to properly disclose political expenditures made by credit card, and converted political contributions to personal use when he purchased an animal at a livestock auction.

### III. Facts Supported by Credible Evidence

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

1. The respondent is the state representative for District 3 and was a successful opposed candidate in the November 2006 and November 2008 general elections.

2. Sworn complaint SC-2807288 alleged that the respondent: 1) failed to properly disclose on his January 2007 and July 2007 semiannual reports, as well as his 8-day pre-election report for the November 2006 general election, political expenditures made as reimbursements, and 2) failed to properly disclose, and improperly reimbursed, political expenditures made from personal funds for the period covered by the 8-day pre-election report for the November 2006 general election.
3. Sworn complaint SC-2811375 alleged that the respondent: 1) failed to properly disclose on his January 2007 and July 2007 semiannual reports political expenditures made as reimbursements, 2) failed to include required information for out-of-state political committees on his July 2008 semiannual report (specifically, the complaint alleged that the respondent omitted out-of-state PAC identification numbers for Suddenlink Texas PAC and the Chickasaw Nation), 3) failed to include on his January 2007, July 2007, and July 2008 semiannual reports the principal occupation or job title and the full name of the employer for individuals who contributed \$500 or more during a reporting period, 4) failed to properly report political expenditures made by credit card on his January 2007 semiannual report, and 5) converted political contributions to personal use when he purchased an animal at a livestock auction on April 24, 2007.
4. In response to the sworn complaints, the respondent provided affidavits in which he swore that he would file corrected campaign finance reports to address the allegations.
5. The respondent's original 8-day pre-election report for the November 7, 2006, general election, disclosed \$102,649 in total political contributions, \$141,987.36 in total political expenditures, \$237,007.59 in total political contributions maintained as of the last day of the reporting period, and \$60,867 in total outstanding loans as of the last day of the reporting period. Schedule F (used for reporting total political expenditures) disclosed four political expenditures totaling approximately \$1,910 to staff members as reimbursements for various expenses, a political expenditure of \$700 to the respondent for "Blockwalkers," and five political expenditures to individuals for "GOTV reimbursement." An agent designated by the respondent to communicate with the commission regarding the sworn complaint allegations stated by telephone that "GOTV reimbursement" meant a payment for "Get out the Vote" services, rather than reimbursement for goods or services purchased by the staff member with the intent to seek reimbursement from the respondent. The respondent's agent also stated that the respondent reimbursed himself from political contributions for political expenditures made from personal funds to pay blockwalkers.
6. On August 8, 2008, the respondent filed a corrected 8-day pre-election report for the November 7, 2006, general election, which disclosed \$102,649 in total political contributions, \$141,986.37 in total political expenditures, \$237,007.59 in total political contributions maintained as of the last day of the reporting period, and \$60,867 in total

- outstanding loans as of the last day of the reporting period. In the correction affidavit that accompanied the report, the respondent swore that the report was corrected to disclose the payees for political expenditures previously reported as reimbursements to staff members, and to itemize the payees of political expenditures previously reported as a \$700 political expenditure to the respondent. Schedule F disclosed the payee for approximately \$1,910 in political expenditures previously reported as reimbursements to staff members. Schedule F also disclosed \$700 in political expenditures to individuals for blockwalking.
7. The respondent's original January 2007 semiannual report disclosed \$10,904.06 in total political contributions, \$266,504.27 in total political expenditures, \$25,582.94 in total political contributions maintained as of the last day of the reporting period, and \$60,867 in total outstanding loans as of the last day of the reporting period. Schedule A (used for reporting political contributions) disclosed that the respondent accepted two \$500 political contributions from individuals, and disclosed the principal occupation or job title and employer information for both individuals. Schedule F disclosed four political expenditures totaling approximately \$1,330 to staff members as reimbursements for various expenses, three political expenditures to individuals for "GOTV reimbursement," and a political expenditure of \$5,911.84 to American Express for "Ads for Clarksville and Mt. Pleasant newspapers." Schedule I (used for reporting non-political expenditures) disclosed an expenditure of \$475 to a staff member for reimbursement for flags.
  8. On August 8, 2008, the respondent filed a corrected January 2007 semiannual report that disclosed \$10,904.06 in total political contributions, \$15.59 in total unitemized political expenditures, \$266,504.27 in total political expenditures, \$25,582.94 in total political contributions maintained as of the last day of the reporting period, and \$60,867 in total outstanding loans as of the last day of the reporting period. In the correction affidavit that accompanied the report, the respondent swore that the report was corrected to disclose the payees for expenditures previously reported as reimbursements to staff members. Schedule F disclosed the payee for approximately \$930 in political expenditures previously reported as reimbursements to staff members, and Schedule I disclosed the payee for an expenditure of \$475 previously reported as a reimbursement to a staff member. As corrected, Schedule F still disclosed two political expenditures totaling approximately \$380 as reimbursements to staff members for various expenses, as well as a political expenditure of \$5,911.84 to American Express, disclosing the purpose as newspaper advertisements.
  9. On January 6, 2009, the respondent filed a second corrected January 2007 semiannual report that disclosed \$10,904.06 in total political contributions, \$15.59 in total unitemized political expenditures, \$313,815.07 in total political expenditures, \$25,582.94 in total political contributions maintained as of the last day of the reporting period, and \$60,867 in total outstanding loans as of the last day of the reporting period. The correction affidavit that accompanied the report did not explain the changes to the report, but referenced the

respondent's "Handwritten sworn affidavit on file." Although Schedule A disclosed that the respondent accepted two \$500 political contributions from individuals, and disclosed the principal occupation or job title and employer information for both individuals, the respondent changed the principal occupation of one of the contributors and the employer of the other contributor from what was disclosed on the original report. Schedule F disclosed that the purpose of three political expenditures to individuals was "GOTV consulting fee," whereas the original report disclosed the purpose was "GOVT reimbursement." Schedule F did not disclose a political expenditure of \$5,911.84 to American Express, but instead disclosed a political expenditure of \$239.77 to Screen Graphics, a political expenditure of \$5,195.87 to Mt. Pleasant Daily Tribune on December 12, 2006, and a political expenditure of \$47,787 to Southwest Airlines. Schedule F disclosed two political expenditures totaling approximately \$380 as reimbursements to staff members for various expenses, and in the "purpose" section disclosed the name of the vendor who received payment for the political expenditures.

10. On July 3, 2009, the respondent filed a third corrected January 2007 semiannual report that disclosed \$10,904.06 in total political contributions, \$15.59 in total unitemized political expenditures, \$276,685.60 in total political expenditures, \$25,582.94 in total political contributions maintained as of the last day of the reporting period, and \$60,867 in total outstanding loans as of the last day of the reporting period. In the correction affidavit that accompanied the report, the respondent swore that the report was corrected to add employer information for contributors, to add information about the purpose of political expenditures, to disclose the payee for two political expenditures previously reported as reimbursements to staff members, and to move items from Schedule I to Schedule F. Also, the respondent swore that a political expenditure to American Express was deleted from the report, and that three political expenditures totaling approximately \$5,910 were added to the report. Schedule F disclosed the payees for two political expenditures totaling approximately \$380 that were previously reported as reimbursements to staff members. Schedule F disclosed a political expenditure of \$239.77 to Screen Graphics, a political expenditure of \$5,195.87 to Mt. Pleasant Daily Tribune on December 12, 2006, and a political expenditure of \$476.10 to Southwest Airlines. Schedule F did not disclose a political expenditure to American Express.
11. The respondent's original July 2007 semiannual report disclosed \$11,439.33 in total political contributions, \$1,800.92 in total political expenditures, \$129,187.63 in total political contributions maintained as of the last day of the reporting period, and \$125,000 in total outstanding loans as of the last day of the reporting period. Schedule A disclosed that the respondent accepted a political contribution of \$500 from an individual, and disclosed the principal occupation or job title and employer information for that individual. Schedule I disclosed four expenditures totaling approximately \$1,000 to staff members as

- reimbursements for various expenses, including a \$500 payment on April 24, 2007, for the purpose of “Reimbursement for Mt. Vernon/Salttillo Young Farmers auction item.”
12. On August 8, 2008, the respondent filed a corrected July 2007 semiannual report that disclosed \$11,439.33 in total political contributions, \$1,800.92 in total political expenditures, \$129,187.63 in total political contributions maintained as of the last day of the reporting period, and \$125,000 in total outstanding loans as of the last day of the reporting period. In the correction affidavit that accompanied the report, the respondent swore that the report was corrected to disclose the payees for three expenditures previously reported as reimbursements to staff members. Schedule I disclosed the payee for three expenditures totaling approximately \$790 previously reported as reimbursements to staff members, including a \$500 payment to Mt. Vernon/Salttillo Young Farmers on April 24, 2007, for the purpose of “Purchased animal at Junior Livestock auction.” As corrected, Schedule I still disclosed an expenditure of \$200 as a reimbursement to a staff member.
  13. In an affidavit received by the commission on January 2, 2009, the respondent swore that the auction item purchased from the Mt. Vernon/Salttillo Young Farmers was purchased and “donated back.”
  14. On January 22, 2009, the respondent filed a second corrected July 2007 semiannual report that disclosed \$11,439.33 in total political contributions, \$1,800.92 in total political expenditures, \$129,187.63 in total political contributions maintained as of the last day of the reporting period, and \$125,000 in total outstanding loans as of the last day of the reporting period. The correction affidavit that accompanied the report did not provide an explanation of the changes being made to the report. Schedule A added a political contribution of \$500 from an individual, and disclosed the principal occupation or job title and employer information for the contributor. The employer disclosed on the corrected report was disclosed as a contributor on the original report, but that contribution was deleted. Schedule I disclosed an expenditure of \$200 as a reimbursement to a staff member, and included in the purpose section the name of the vendor who received payment for the expenditure. Also on Schedule I, the respondent changed the purpose of a \$500 expenditure to Mt. Vernon/Salttillo Young Farmers on April 24, 2007, to “Contribution.”
  15. On July 3, 2009, the respondent filed a third corrected July 2007 semiannual report that disclosed \$11,439.33 in total political contributions, \$21,455.31 in total political expenditures, \$129,187.63 in total political contributions maintained as of the last day of the reporting period, and \$125,000 as the total amount of outstanding loans as of the last day of the reporting period. In the correction affidavit that accompanied the report, the respondent swore that the report was corrected to disclose additional employer information and additional information about political expenditures, as well as to move all items on Schedule I to Schedule F. The correction affidavit stated that the report, “added additional information

- for a donation to Mount Vernon Sattillo Young Farmers [sic] to make clear that an auction purchase was an item for donation and it was donated.” Schedule F disclosed a political expenditure of \$500 to Mt. Vernon/Salttillo Young Farmers on April 24, 2007, for the purpose of “Auction purchase for donation item re-donated.” Schedule F also disclosed a political expenditure of \$200 as a reimbursement to a staff member, and included in the purpose section the name of the vendor who received payment for the expenditure.
16. The respondent’s original January 2008 semiannual report disclosed \$22,275.42 in total political contributions, \$1,269.98 in total political expenditures, \$130,595.27 in total political contributions maintained as of the last day of the reporting period, and \$125,000 in total outstanding loans as of the last day of the reporting period. Schedule I disclosed an expenditure of \$313.87 to a staff member on October 20, 2007, for the purpose of “Gun purchase for charity auction.”
  17. Although the January 2008 semiannual report was not at issue in the sworn complaints, on August 8, 2008, the respondent filed a corrected January 2008 semiannual report that disclosed \$22,275.42 in total political contributions, \$1,269.98 in total political expenditures, \$130,595.27 in total political contributions maintained as of the last day of the reporting period, and \$125,000 in total outstanding loans as of the last day of the reporting period. In the correction affidavit that accompanied the report, the respondent swore that the report was corrected to disclose the payee for an expenditure previously disclosed as a reimbursement to a staff member. Schedule I disclosed an expenditure of \$313.87 to a gun store on October 20, 2007, for the purpose of “Gun purchase for charity auction.”
  18. The respondent’s original July 2008 semiannual report disclosed \$76,295.63 in total political contributions, \$13,075.64 in total political expenditures, \$196,797.13 in total political contributions maintained as of the last day of the reporting period, and \$125,000 in total outstanding loans as of the last day of the reporting period. Schedule A disclosed several political contributions of \$500 or more from individuals. For each of these contributions the respondent disclosed the principal occupation or job title and employer information, with the exception of a \$1,200 political contribution, for which the respondent disclosed no principal occupation or job title and indicated “retired” in the employer section of Schedule A. Schedule A disclosed a \$500 political contribution on February 21, 2008, from Suddenlink Texas PAC and a \$1,500 political contribution on February 28, 2008, from the Chickasaw Nation, and did not disclose a federal PAC identification number for either contribution.
  19. On February 3, 2009, the respondent filed a corrected July 2008 semiannual report that disclosed \$76,295.63 in total political contributions, \$13,075.64 in total political expenditures, \$196,797.13 in total political contributions maintained as of the last day of the reporting period, and \$125,000 in total outstanding loans as of the last day of the reporting period. The correction affidavit that accompanied the report did not provide an explanation

- of the changes being made to the report. Schedule A disclosed a political contribution of \$1,200, listing the principal occupation or job title as “Sonic Franchisee/Owner” and “retired” in the employer section of Schedule A. The respondent did not previously disclose a principal occupation or job title for this contributor. Schedule A disclosed federal PAC identification numbers for Suddenlink Texas PAC and the Chickasaw Nation.
20. On July 3, 2009, the respondent filed a second corrected July 2008 semiannual report that disclosed \$76,295.63 in total political contributions, \$31,249.66 in total political expenditures, \$196,797.13 in total political contributions maintained as of the last day of the reporting period, and \$125,000 in total outstanding loans as of the last day of the reporting period. In the correction affidavit that accompanied the report, the respondent swore that the report was corrected to disclose additional employer information, out-of-state PAC identification numbers for Suddenlink Texas PAC and the Chickasaw Nation, and additional information about a political expenditure to a staff member. Additionally, the respondent swore that all items on Schedule I were moved to Schedule F. Schedule A disclosed a political contribution of \$1,200, again listing the principal occupation or job title as “Sonic Franchisee/Owner” and “retired” in the employer section of Schedule A. Schedule A disclosed federal PAC identification numbers for Suddenlink Texas PAC and the Chickasaw Nation. Additionally, on Schedule F, the respondent disclosed a \$4,100 political expenditure to a staff member for the purpose of “Supplemental Agreement/Salary.” On the original July 2008 semiannual report, the respondent disclosed the expenditure on Schedule I, with a purpose of “Supplemental agreement.”
  21. Suddenlink Texas PAC, filed a campaign treasurer appointment as a general-purpose committee with the commission in October 2006, and disclosed a \$500 political contribution to the respondent on its July 2008 semiannual report.
  22. Although records available on the Federal Election Commission’s website provided a committee identification number for the Chickasaw Nation, those records indicated that the Chickasaw Nation was an independent expenditure person or group and not a committee.

#### **IV. Findings and Conclusions of Law**

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

##### **Staff Reimbursement**

1. Each 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).

2. Each campaign finance report must include the total amount or a specific listing of the political contributions of \$50 or less accepted and the total amount or a specific listing of the political expenditures of \$50 or less made during the reporting period. *Id.* § 254.031(a)(5).
3. For reports due before February 25, 2007, Ethics Advisory Opinion No. 450 (2003), describes the proper way to report staff reimbursement. The commission determined that a political expenditure made to reimburse a staff member may be reported in one of two ways: (1) reporting it as a loan to the candidate from the staff member and then as an expenditure by the candidate to repay the staff member; or (2) if the expenditure and reimbursement occur during the same reporting period, 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 staff member made the expenditure, and explaining in the “purpose” section that a staff member made the expenditure from personal funds and that the candidate subsequently reimbursed the staff member. The commission has since adopted section 20.62 of the Ethics Commission Rules, which sets forth the current method for reporting staff reimbursement.<sup>1</sup>
4. Ethics Commission Rule § 20.62 currently states that political expenditures made out of personal funds by a staff member of a candidate with the intent to seek reimbursement from the candidate that in the aggregate do not exceed \$5,000 (\$500 until October 2007) during the reporting period may be reported as follows if the reimbursement occurs during the same reporting period that the initial expenditure was made:
  - (1) 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; and
  - (2) Included with the total amount or a specific listing of the political expenditures of \$50 or less made during the reporting period.
5. Ethics Commission Rule § 20.62 also states that if the staff member is not reimbursed during the same reporting period, or is reimbursed more than \$5,000 in the aggregate during the reporting period, then a political expenditure made out of personal funds by the staff member of a candidate with the intent to seek reimbursement from the candidate must be reported as follows:

---

<sup>1</sup> Ethics Commission Rule § 20.62 originally became effective on February 25, 2007. On October 26, 2007, the rule was amended to raise the threshold for reporting staff reimbursements as a loan from \$500 to \$5,000. The change became effective on November 18, 2007.

- (1) The aggregate amount of the expenditures made by the staff member as of the last day of the reporting period is reported as a loan to the candidate;
  - (2) The expenditure made by the staff member is reported as a political expenditure by the candidate; and
  - (3) The reimbursement to the staff member to repay the loan is reported as a political expenditure by the candidate.
6. As to the 8-day pre-election report for the November 2006 election and the January 2007 semiannual report, Ethics Advisory Opinion No. 450, describes the proper way to report staff reimbursement. The \$500 threshold in the former version of Ethics Commission Rule § 20.62 applies to the July 2007 semiannual report, and the \$5,000 threshold in the current version of Ethics Commission Rule § 20.62 applies to the January 2008 semiannual report.
7. The respondent's January 2007, July 2007, and January 2008 semiannual reports, as well as the respondent's 8-day pre-election report for the November 2006 general election, improperly disclosed approximately \$5,030 in political expenditures as reimbursements to staff members. The respondent failed to disclose the person who actually received payment for the goods or services that were purchased. Of the \$5,030 at issue, approximately \$110 in political expenditures that were originally disclosed as staff reimbursements were not required to be itemized because they fell under the \$50 threshold for itemization. Although the respondent corrected the reports at issue to disclose the actual payees, the political expenditures were not properly reported when the reports were originally due. Therefore, there is credible evidence of violations of section 254.031(a)(3) of the Election Code and section 20.62 of the Ethics Commission Rules.

### **Political Expenditures from Personal Funds**

8. A candidate who makes political expenditures from the candidate'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 under this title 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); Ethics Commission Rules § 20.63. A candidate's failure to comply with this requirement may not be cured by filing a corrected report after the report deadline has passed. Ethics Commission Rules § 20.63(e).

9. In the alternative, a candidate who makes political expenditures from the candidate's personal funds may report the amount expended as a loan and may reimburse those personal funds from political contributions in the amount of the reported loan. ELEC. CODE § 253.0351.
10. The respondent made political expenditures totaling approximately \$700 from personal funds to individuals for blockwalking and reimbursed himself from political contributions for these expenditures. The respondent's original 8-day pre-election report for the November 2006 election disclosed on Schedule F the *reimbursement* for these political expenditures from personal funds, but did not disclose the payees or clearly designate that the expenditures were made from personal funds and that the expenditures were subject to reimbursement. Although the respondent corrected the report to disclose the payees, the original report did not comply with the aforementioned reporting requirements. Additionally, the corrected report did not clearly designate that the political expenditures were made from personal funds. Therefore, there is credible evidence of violations of sections 253.035 and 254.031(a)(3) of the Election Code and section 20.63 of the Ethics Commission Rules.

#### **Political Expenditures Made by Credit Card**

11. A report of a political expenditure by credit card must identify the vendor who receives payment from the credit card company. Ethics Commission Rules § 20.59.
12. The respondent's original January 2007 semiannual report disclosed a credit card company as the payee for a \$5,911.84 political expenditure instead of the vendors who actually received payment from the credit card company. Although the respondent included the description, "Ads for Clarksville and Mt. Pleasant newspapers," the description did not disclose the actual name of the payees associated with the expenditures or provide the purpose of each expenditure. Thus, the respondent failed to properly disclose the political expenditures made by credit card. Although the respondent corrected the report to disclose political expenditures to the three vendors who received payment from the credit card company, the political expenditures were not properly reported when the report was originally due. Therefore, there is credible evidence of violations of section 254.031(a)(3) of the Election Code and section 20.59 of the Ethics Commission Rules.

#### **Out-of-State Political Committee Information**

13. Out-of-state political committee means a political committee that makes political expenditures outside this state and in the 12 months immediately preceding the making of a political expenditure by the committee inside this state (other than an expenditure made in connection with a campaign for a federal office or made for a federal officeholder) makes 80 percent or more of the committee's total political expenditures in any combination of

- elections outside this state and federal offices not voted on in this state. ELEC. CODE § 251.001(15).
14. Political committee means a group of persons that has as a principal purpose accepting political contributions or making political expenditures. *Id.* § 251.001(12).
  15. In a reporting period, a candidate may not knowingly accept political contributions totaling more than \$500 from an out-of-state political committee unless, before accepting a contribution that would cause the total to exceed \$500, the candidate receives from the out-of-state committee a written statement, certified by an officer of the out-of-state committee, listing the full name and address of each person who contributed more than \$100 to the out-of-state committee during the 12 months immediately preceding the date of the contribution, or a copy of the out-of-state committee's statement of organization filed as required by law with the Federal Election Commission and certified by an officer of the out-of-state committee. *Id.* § 253.032(a).
  16. Section 253.032 of the Election Code does not apply to a contribution from an out-of-state political committee if the committee appointed a campaign treasurer before the contribution was made and is subject to the reporting requirements of chapter 254 of the Election Code. *Id.* § 253.032(b).
  17. A candidate shall include the statement or copy required by subsection (a) as a part of the report filed under chapter 254 of the Election Code that covers the reporting period to which subsection (a) applies. *Id.* § 253.032(d).
  18. A candidate that accepts political contributions totaling \$500 or less from an out-of-state political committee shall include as part of the report that covers the reporting period in which the contribution is accepted the same information for the out-of-state political committee required for general-purpose committees by sections 252.002 and 252.003, or a copy of the out-of-state committee's statement of organization filed as required by law with the Federal Election Commission and certified by an officer of the out-of-state committee. *Id.* § 253.032(e).
  19. A person who files a report with the commission by electronic transfer and who accepts political contributions from an out-of-state political committee required to file its statement of organization with the Federal Election Commission shall either enter the out-of-state committee's federal PAC identification number in the appropriate place on the report or timely file a certified copy of the out-of-state committee's statement of organization that is filed with the Federal Election Commission. Ethics Commission Rules § 20.29(a).

20. The respondent accepted a political contribution of \$500 from Suddenlink Texas PAC and a political contribution of \$1,500 from the Chickasaw Nation during the period covered by his July 2008 semiannual report. Suddenlink Texas PAC was not an out-of-state political committee. Additionally, there was no evidence that the Chickasaw Nation was a political committee when it made the contribution at issue to the respondent. Therefore, there is credible evidence of no violation of section 253.032 of the Election Code and section 20.29(a) of the Ethics Commission Rules.

### **Employer and Occupation Information**

21. Each report by a candidate for a statewide office in the executive branch or a legislative office must include, for each individual from whom the person filing the report has accepted political contributions that in the aggregate equal or exceed \$500 and that are accepted during the reporting period, the individual's principal occupation or job title and the full name of the individual's employer. ELEC. CODE § 254.0612.
22. Individual means a human being who has been born and is alive. Ethics Commission Rules § 6.1(9).
23. The respondent's original July 2007 semiannual report disclosed that the respondent accepted a \$500 political contribution from an entity. The respondent's corrected July 2007 semiannual report disclosed that the \$500 political contribution was from an individual, and included principal occupation or job title and employer information for the individual. Although the respondent corrected the report to disclose the employer and occupation information, the respondent did not properly disclose required information about the contributor when the report was due. Additionally, the respondent disclosed a \$1,200 political contribution on his original July 2008 semiannual report and indicated that the contributor was retired. The respondent later disclosed in his corrected July 2008 semiannual report that the contributor was retired, but also indicated "Sonic Franchisee/Owner" in the principal occupation or job title section of Schedule A. Therefore, there is credible evidence of violations of section 254.0612 of the Election Code.

### **Purchase of Animal at Livestock Auction**

24. 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). Personal use is a use that primarily furthers individual or family purposes not connected with the performance of duties or activities as a candidate or officeholder. *Id.* § 253.035(d). Personal use does not include payments made to defray ordinary and necessary expenses incurred in connection with activities as a candidate or in connection with the performance of duties or activities as a public officeholder, including payment of reasonable housing or household expenses

incurred in maintaining a residence in Travis County by members of the legislature who do not ordinarily reside in Travis County. *Id.* § 253.035(d)(1).

25. There was no evidence that the respondent purchased the animal at the livestock auction to further an individual or family purpose, and the evidence indicated that the animal was donated back to the young farmer organization. Therefore, there is credible evidence of no violation of 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 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 each 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 acknowledges that the proper way to report reimbursements to staff is in accordance with section 20.62 of the Ethics Commission Rules. The respondent acknowledges that a political expenditure by credit card must identify the vendor who receives payment from the credit card company. The respondent acknowledges that a candidate who makes political expenditures from the candidate'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. The respondent acknowledges that each report by a candidate for a statewide office in the executive branch or a legislative office must include, for each individual from whom the person filing the report has accepted political contributions that in the aggregate equal or exceed \$500 and that are accepted during the reporting period, the individual's principal occupation or job title and the full name of the individual's employer. 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 \$1,400 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-2807288 and SC-2811375.

AGREED to by the respondent on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Mark Homer, Respondent

EXECUTED ORIGINAL received by the commission on: \_\_\_\_\_.

Texas Ethics Commission

By: \_\_\_\_\_  
David A. Reisman, Executive Director