

TEXAS ETHICS COMMISSION

IN THE MATTER OF
LINDA COLBERT,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-2811378

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on February 12, 2009, to consider sworn complaint SC-2811378. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 254.031(a)(3), 254.031(a)(8), and 254.063 of the Election Code, and credible evidence of technical or *de minimis* violations of sections 254.031(a)(1), 254.031(a)(2), and 254.031(a)(3) 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 timely file a July 2007 semiannual campaign finance report. The complaint also alleges that the respondent failed to properly disclose political contributions, political expenditures, total political contributions maintained, and outstanding loan balances in her 8-day pre-election reports for the May 2007 special election and the June 2007 runoff election, and in her July 2008 semiannual report.

III. Facts Supported by Credible Evidence

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

1. The respondent was a candidate for City Council, District 2, in the City of Galveston's May 12, 2007, special election and June 16, 2007, runoff election.
2. The deadline for filing the July 2007 semiannual report was Monday, July 16, 2007. The respondent filed the report on December 4, 2008. The report covered a period from June 9, 2007, through June 30, 2007, and disclosed \$648.47 as the amount of total political contributions of \$50 or less and \$1,839.91 as the amount of total political contributions maintained as of the last day of the reporting period.

3. The complaint alleges that the respondent failed to disclose the complete address of 21 contributors in her 8-day pre-election report for the May 2007 special election and one contributor in her July 2008 semiannual report.
4. The respondent's May 2007 8-day pre-election report and July 2008 semiannual report disclosed the names and addresses of the contributors except for their zip codes. The respondent has corrected the reports at issue to disclose the zip codes that were missing from the original reports.
5. The complaint alleges that the respondent failed to disclose the total principal amount of all outstanding loans as of the last day of the reporting period on her 8-day pre-election reports for the May 2007 special election and the June 2007 runoff election.
6. The respondent's 8-day pre-election reports show that the field for entering the total principal amount of all outstanding loans was left blank on each report. The respondent has corrected the reports at issue to disclose \$0 as the total principal amount of all outstanding loans as of the last day of the respective reporting periods. There is no evidence that the respondent had outstanding loans during the periods at issue.
7. The complaint alleges that the respondent failed to disclose the complete address of the payee for three political expenditures and the purpose of 10 political expenditures in her 8-day pre-election report for the May 2007 special election.
8. The respondent's May 2007 8-day pre-election report disclosed the names and addresses of the three payees at issue but did not include their zip codes. Ten political expenditures, totaling approximately \$4,060, were itemized in the report. However, none of the political expenditures included a description of the purpose of the payment. The respondent has corrected the report to disclose the zip codes that were missing from the original report and to disclose the purposes of the 10 political expenditures.
9. The complaint also alleges that the respondent failed to disclose the complete address of the payee for two political expenditures and the purpose of seven political expenditures in her June 2007 8-day runoff election report.
10. The respondent's runoff election report disclosed two payments to the U.S. Postal Service. One payment of \$375.70 was made on June 4, 2007, and the other payment of \$260 was made on May 29, 2007. The report disclosed the city, state and zip code of the payee but did not include the payee's street address. Seven political expenditures, totaling approximately \$1,480, were itemized in the report. However, none of the political expenditures included a description of the purpose of the payment. The respondent has corrected the report to disclose the purposes of the seven political expenditures but failed to disclose the missing portion of the payee's address for two political expenditures.

11. The complaint alleges that the respondent failed to disclose the total political contributions maintained as of the last day of the reporting period in her 8-day pre-election report for the May 2007 special election.
12. The respondent's May 2007 8-day pre-election report shows that the field for entering the total political contributions maintained was left blank. The respondent has corrected the report and disclosed \$297.54 as the amount of total political contributions maintained as of the last day of the reporting period.

IV. Findings and Conclusions of Law

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

1. A candidate is required to file two reports for each year. The first report must be filed not later than July 15. The report covers the period beginning January 1, the day the candidate's campaign treasurer appointment is filed, or the first day after the period covered by the last report required to be filed, as applicable, and continuing through June 30. The second report must be filed not later than January 15. The report covers the period beginning July 1, the day the candidate's campaign treasurer appointment is filed, or the first day after the period covered by the last report required to be filed, as applicable, and continuing through December 31. ELEC. CODE § 254.063.
2. If the deadline for a report falls on a Saturday, Sunday, or a legal state or national holiday, the report is due on the next regular business day. Ethics Commission Rules § 20.21.
3. The respondent was a candidate during the period at issue. The evidence shows that the respondent filed her July 2007 semiannual report on December 4, 2008. However, the report was due on July 16, 2007. Thus, the evidence shows that the respondent failed to timely file the report at issue. Therefore, there is credible evidence of a violation of section 254.063 of the Election Code.
4. Each 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 by the person or committee required to file a report under this chapter, the full name and address of the person making the contributions, and the dates of the contributions. ELEC. CODE § 254.031(a)(1).
5. The evidence indicates that the respondent failed to disclose the complete address of contributors in her May 2007 8-day pre-election report and July 2008 semiannual report. However, the only portion of the address that was missing from the original reports was the contributor's zip code. Therefore, there is credible evidence of a technical or *de minimis* violation of section 254.031(a)(1) of the Election Code.

6. Each campaign finance report must include the aggregate principal amount of all outstanding loans as of the last day of the reporting period. ELEC. CODE § 254.031(a)(2).
7. The evidence indicates that the respondent filed corrections to her 8-day pre-election reports for the May 2007 special election and June 2007 runoff election to disclose \$0 as the total principal amount of all outstanding loans. At the time the original reports were filed, the respondent did not include this information and had left this field blank in the totals section of each report. However, there is no evidence that the respondent had accepted any loans that required disclosure. Therefore, there is credible evidence of a technical or *de minimis* violation of section 254.031(a)(2) of the Election Code.
8. 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).
9. The evidence shows that the respondent failed to disclose the complete address of the payee for five political expenditures. This information was required because the expenditures at issue exceeded \$50 during the reporting periods. As to the three expenditures missing a zip code, there is credible evidence of a technical or *de minimis* violation of section 254.031(a)(3) of the Election Code. As to the two expenditures missing the payee's street address, there is credible evidence of a violation of section 254.031(a)(3) of the Election Code.
10. The evidence also shows that the respondent corrected the reports to disclose the purposes of the political expenditures that were itemized in the reports. However, at the time the original reports were filed, the respondent did not disclose this information. Therefore, there is credible evidence of a violation of section 254.031(a)(3) of the Election Code.
11. Each campaign finance report must include, as of the last day of the reporting period for which the person is required to file a report, 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 as of the last day of the reporting period. ELEC. CODE § 254.031(a)(8).
12. The evidence indicates that the respondent filed corrections to her 8-day pre-election report for the May 2007 special election to disclose the amount of total political contributions maintained as of the last day of the reporting period. However, at the time the original report was filed, the respondent did not include this information and left this field blank on the report. Therefore, there is credible evidence of a violation of section 254.031(a)(8) 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 candidate is required to file two reports for each year, the first of which shall be filed not later than July 15, covering the period beginning January 1, the day the candidate's campaign treasurer appointment is filed, or the first day after the period covered by the last report required to be filed, and continuing through June 30. The second report shall be filed not later than January 15, covering the period beginning July 1, the day the candidate's campaign treasurer appointment is filed, or the first day after the period covered by the last report required to be filed, and continuing through December 31.

The respondent also acknowledges that each campaign finance report must include:

- (a) the amount of political contributions from each person that in the aggregate exceed \$50 and that are accepted during the reporting period by the person required to file a report, the full name and address of the person making the contributions, and the dates of the contributions;
- (b) the aggregate principal amount of all outstanding loans as of the last day of the reporting period;
- (c) 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
- (d) as of the last day of a reporting period for which the person is required to file a report, 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 as of the last day of the reporting period.

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.

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-2811378.

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

Linda Colbert, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director