

# TEXAS ETHICS COMMISSION

IN THE MATTER OF  
PATRICIA HARDY,  
RESPONDENT

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BEFORE THE  
TEXAS ETHICS COMMISSION  
SC-290459

## ORDER and AGREED RESOLUTION

### I. Recitals

The Texas Ethics Commission (the commission) met on December 2, 2009 to consider sworn complaint SC-290459. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 254.031(a)(8) and 254.031(a)(3) of the Election Code, and credible evidence of a technical or *de minimis* violation of 254.031(a)(2) of the Election Code, laws administered and enforced by the commission. To resolve and settle this complaint without further proceedings, the commission proposed this resolution to the respondent.

### II. Allegations

The complaint alleged that the respondent failed to properly disclose political contributions, political expenditures, total political contributions maintained, and outstanding loan balances in five campaign finance reports. The complaint also alleged that the respondent failed to report employer and occupation information and accepted political contributions from corporations.

### III. Facts Supported by Credible Evidence

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

1. The respondent was a successful incumbent candidate for State Board of Education, District 11.
2. The complaint alleged that the respondent: (1) failed to properly disclose total political contributions maintained on her 8-day pre-election report for the March 2008 primary election, her July 2008 semiannual report, her 30-day pre-election report for the November 2008 general election, her 8-day pre-election report for the November 2008 general election, and her January 2009 semiannual report, (2) failed to report employer and occupation information on her 8-day pre-election report for the March 2008 primary election, (3) failed to properly disclose a political contribution on her July 2008 semiannual report, (4) failed to properly disclose political expenditures on her July 2008 semiannual report, (5) accepted political contributions from corporations on her 8-day pre-election report for the March 2008

primary election, and (6) failed to disclose outstanding loan balances on her 8-day pre-election report for the November 2008 general election and on her January 2009 semiannual report.

### **Total Political Contributions Maintained**

3. The first allegation regarding total political contributions maintained arose from the respondent's 8-day pre-election report for the March 2008 primary election. The report disclosed \$5,850 in total political contributions, \$4,016.87 in total political expenditures, and \$1,052.58 in total political contributions maintained. The complaint alleged that the total political contributions maintained should be \$2,885.71. The complainant reached this amount by adding the total political contributions maintained in the respondent's 30-day pre-election report for the March 2008 primary election and the respondent's 8-day pre-election report for the March 2008 primary election. From that number, the total political expenditures in the 8-day pre-election report for the March 2008 primary election was subtracted. Thus, the complainant concluded that the total political contributions maintained was \$2,885.71. The respondent filed a corrected 8-day pre-election report for the March 2008 primary election and acknowledged that the original report was incorrect and disclosed \$2,885.71 as the amount of total political contributions maintained.
4. The second allegation arose from the respondent's July 2008 semiannual report. The report disclosed \$5,770 in total political contributions, \$3,847.26 in total political expenditures, and \$8,518.07 in total political contributions maintained. The complaint alleged that the total political contributions maintained should be \$4,808.45. The complainant reached this amount by adding the total political contributions maintained in the respondent's 8-day pre-election report for the March 2008 primary election to the total political contributions maintained in the respondent's July 2008 semiannual report. From that number, the total political expenditures in the July 2008 semiannual report was subtracted. Thus the complainant concluded that the total political contributions maintained was \$4,808.45. The respondent acknowledged that the original report was incorrect and filed a corrected July 2008 semiannual report disclosing \$4,808.45 as the amount of total political contributions maintained.
5. The third allegation arose from the respondent's 30-day pre-election report for the November 2008 general election. The report disclosed \$0 for both total political contributions and total political expenditures but disclosed \$5,018.07 in total political contributions maintained. The complaint alleged that the total political contributions maintained should be \$4,808.45. The complainant based this amount on the fact that since \$0 was reported as the respondent's total political contributions and expenditures, the amount of total political contributions maintained should be the same amount as it was in the respondent's previous report, \$4,808.45. The respondent acknowledged that the original report was incorrect and filed a corrected 30-day pre-election report for the November 2008 general election disclosing \$4,808.45 as the amount of total political contributions maintained.

6. The fourth allegation arose from the respondent's 8-day pre-election report for the November 2008 general election. The report disclosed \$100 in total political contributions, \$0 in total political expenditures, and \$5,118.07 in total political contributions maintained. The complaint alleged that the total political contributions maintained should be \$4,908.45. The complainant based this amount on the fact that since \$100 was reported in total political contributions and \$0 was reported in total political expenditures, the amount of total political contributions maintained should be the same amount as in the respondent's previous report, but increased by \$100 - \$4,908.45. The respondent acknowledged that the original report was incorrect and filed a corrected 8-day pre-election report disclosing \$4,908 as the amount of total political contributions maintained.
7. The fifth allegation arose from the respondent's January 2009 semiannual report. The report disclosed \$5,018.07 in total political contributions of \$50 or less, \$0 in total political contributions and expenditures, and \$5,018.07 in total political contributions maintained. The complaint alleged that the total political contributions maintained should be \$9,926.52. The complainant reached this amount by adding the amount of total political contributions maintained in the respondent's 8-day pre-election report for the November 2008 general election to the amount of total political contributions of \$50 or less in the respondent's January 2009 semiannual report. The respondent acknowledged that the original report was incorrect and filed a corrected January 2009 semiannual report disclosing \$4,908 as the amount of total political contributions maintained.

#### **Occupation or Job Title and Name of Employer**

8. The complaint alleged that the respondent failed to disclose the correct occupations and employers for one of her contributors in her 8-day pre-election report for the March 2008 primary election and for four of her contributors in her July 2008 semiannual report.

#### **Disclosure of Political Contributions**

9. The complaint alleged that the respondent failed to disclose the complete address of a \$25 contribution in her July 2008 semiannual report. The respondent filed a correction to the report at issue, in which she stated that she was not required to disclose the contributor's address because his contribution was less than \$50.

#### **Disclosure of Political Expenditures**

10. The complaint alleged that the respondent failed to disclose the complete addresses of persons receiving political expenditures in her July 2008 semiannual report. The report disclosed the names of five payees of political expenditures, one of which was in Fort Worth and missing only the state and zip code, and four of which did not include a complete mailing address. The respondent filed corrections to the report and included a complete mailing address for each payee.

### **Political Contributions from Corporations**

11. The complaint alleged that the respondent accepted two corporate contributions totaling \$1,100. The respondent's 8-day pre-election report for the March 2008 primary election disclosed a political contribution of \$1,000 from the "TSTA" on January 25, 2008. The same report disclosed a political contribution of \$100 from the "Voc Ag Teachers Association" on February 7, 2008. In response to the sworn complaint, the respondent submitted letters from the two corporate contributors in question. The letter from the Texas State Teachers Association (TSTA) stated that the check issued to the respondent was from its political committee and was not made from corporate funds. The letter from the Vocational Agriculture Teachers Association of Texas (VATAT) also provided information showing that the check at issue was from its political committee. Commission records show that both the TSTA and VATAT made contributions to the respondent on the dates disclosed in her report.

### **Outstanding Loan Balances**

12. The complaint alleged that the respondent failed to disclose the total principal amount of all outstanding loans as of the last day of the reporting period on the 8-day pre-election report for the November 2008 general election and on the January 2009 semiannual report. On the 8-day pre-election report for the November 2008 general election, the field for entering the total principal amount of all outstanding loans was left blank. On the July 2009 semiannual report, the field had an entry that was marked through. The respondent filed corrections to the reports at issue stating she had no outstanding loans and disclosed \$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.

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

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

### **Total Political Contributions Maintained**

1. Each report must include as of the last day of the reporting period, the total amount of political contributions accepted, including interest or other income on those contributions, maintained in one or more accounts in which political contributions are deposited as of the last day of the reporting period. ELEC. CODE § 254.031(a)(8).
2. Although the respondent filed corrections to the five campaign finance reports at issue to disclose the correct amounts of total political contributions maintained as of the last day of the reporting period, at the time the original reports were filed the respondent incorrectly reported this information. Therefore, there is credible evidence of violations of section 254.031(a)(8) of the Election Code.

**Occupation or Job Title and Name of Employer**

3. Each report by a candidate for statewide office in the executive branch or 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 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.
4. The State Board of Education is not a statewide office (Ethics Advisory Opinion No. 234 (1994)) and is not designated as a legislative office. For Title 15 of the Election Code purposes, the commission has historically viewed the term "legislative office" to apply to the Texas House and Senate. There is credible evidence that the respondent did not violate section 254.0612 of the Election Code because, as a State Board of Education candidate and officeholder, the respondent was not required to disclose the information required by that section.

**Disclosure of Political Contributions and Expenditures**

5. 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).
6. 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).
7. Regarding the \$25 contribution with the undisclosed address, because this contributor's contribution did not exceed \$50, the respondent was not required to disclose the contributor's address.
8. Regarding the five payees of the political expenditures that did not disclose complete payee address information, the respondent filed a corrected report including the names and full addresses of each payee. However, at the time the original reports were filed, the respondent did not disclose this information. Therefore, there is credible evidence of violations of section 254.031(a)(3) of the Election Code.

**Political Contributions from Corporations**

9. A person may not knowingly accept a political contribution that the person knows was made in violation of chapter 253 of the Election Code. ELEC. CODE § 253.003.

10. A corporation may not make a political contribution or political expenditure that is not authorized by subchapter D, chapter 253, Election Code. ELEC. CODE § 253.094.
11. The prohibition applies to corporations that are organized under the Texas Business Corporation Act, the Texas For-Profit Corporation Law, the Texas Non-Profit Corporation Act, the Texas Nonprofit Corporation Law, federal law, or law of another state or nation. ELEC. CODE § 253.091.
12. The contributors in question were from political committees of corporations and not the corporations themselves. The respondent did not accept corporate contributions from the Texas State Teachers Association or the Vocational Agriculture Teachers Association of Texas. Therefore, there is credible evidence that the respondent did not violate sections 253.003 and 253.094 of the Election Code with respect to these political contributions.

### **Outstanding Loan Balances**

13. 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).
14. The respondent filed corrections to the reports at issue 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 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 technical or *de minimis* violations of section 254.031(a)(2) 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 each report must include as of the last day of the reporting period, the total amount of political contributions accepted, including interest or other income on those contributions, maintained in one or more accounts in which political contributions are deposited as of the last day of the reporting period. The respondent also 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 also acknowledges that each campaign finance report must include the aggregate principal amount of all outstanding loans 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 \$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-290459.

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

\_\_\_\_\_  
Patricia Hardy, Respondent

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

Texas Ethics Commission

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