

TEXAS ETHICS COMMISSION

IN THE MATTER OF
ANTOINETTE LAWRENCE,
RESPONDENT

§
§
§
§
§

BEFORE THE
TEXAS ETHICS COMMISSION
SC-2905113

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on October 21, 2010, to consider sworn complaint SC-2905113. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 254.031 of the Election Code and section 20.62 of the Ethics Commission Rules, as well as credible evidence of technical or *de minimis* violations of section 254.031 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: 1) failed to properly disclose political contributions, political expenditures, and loans, 2) failed to timely file the 30-day pre-election report for the November 2007 election, 3) converted political contributions to personal use, and 4) accepted political contributions from corporations and a labor organization.

III. Facts Supported by Credible Evidence

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

1. During the time at issue, the respondent was a member of the city council in Houston, Texas.
2. The reports at issue are the 30-day and 8-day pre-election reports for the November 2007 election, and the semiannual reports due in July 2007, January 2008, July 2008, and January 2009.
3. The July 2007 semiannual report disclosed the following:
 - [blank] in total political contributions of \$50 or less unless itemized (corrected to \$0)
 - [blank] in total political contributions (corrected to \$68,010)
 - [blank] in total political expenditures of \$50 or less unless itemized (corrected to \$0)

- [blank] in total political expenditures (corrected to \$15,957.08)
 - [blank] in total political contributions maintained (corrected to \$207,549.67)
 - [blank] in outstanding loans
 - \$68,010 in political contributions itemized on Schedule A (used for reporting political contributions)
 - \$15,574.72 in political expenditures itemized on Schedule F (used for reporting political expenditures)
 - \$372.36 in political expenditures itemized on Schedule G (used for reporting political expenditures made from personal funds)
 - \$0 in non-political expenditures made from political contributions
4. The 30-day pre-election report for the November 2007 election disclosed the following:
- [blank] in total political contributions of \$50 or less unless itemized (corrected to \$0)
 - \$7,350 in total political contributions
 - [blank] in total political expenditures of \$50 or less unless itemized (corrected to \$0)
 - \$1,436.12 in total political expenditures
 - \$212,164.24 in total political contributions maintained
 - [blank] in outstanding loans
 - \$7,350 in political contributions itemized on Schedule A
 - \$1,237.43 in political expenditures itemized on Schedule F
 - \$198.69 in political expenditures itemized on Schedule G
 - \$0 in non-political expenditures made from political contributions

Date Filed

- The city indicated on the electronically filed report that it was received on October 9, 2007.
5. The 8-day pre-election report for the November 2007 election disclosed the following:
- [blank] in total political contributions of \$50 or less unless itemized (corrected to \$0)
 - \$15,200 in total political contributions
 - [blank] in total political expenditures of \$50 or less unless itemized (corrected to \$0)
 - \$1,424.49 in total political expenditures
 - \$225,339.29 in total political contributions maintained
 - [blank] in outstanding loans
 - \$15,200 in political contributions itemized on Schedule A
 - \$524.95 in political expenditures itemized on Schedule F

- \$899.54 in political expenditures itemized on Schedule G
- \$0 in non-political expenditures made from political contributions

Schedule F

- \$24.95 to Jon Newport for “Office Holder: Office Supplies”

6. The January 2008 semiannual report disclosed the following:

- [blank] in total political contributions of \$50 or less unless itemized (corrected to \$0)
- \$4,000 in total political contributions
- [blank] in total political expenditures of \$50 or less unless itemized (corrected to \$0)
- \$8,667.65 in total political expenditures
- \$220,800.88 in total political contributions maintained
- [blank] in outstanding loans
- \$4,000 in political contributions itemized on Schedule A
- \$7,538.41 in political expenditures itemized on Schedule F
- \$1,129.24 in political expenditures itemized on Schedule G
- \$0 in non-political expenditures made from political contributions

Schedule F

- \$80 to an individual for “Combine Municipal Charities”; corrected the payee to Combined Municipal Charities and the purpose to “Contribution”
- \$200 to an individual for “Public Relations: Flowers & Gifts”; corrected the purpose to “Campaign Contract Labor”

7. The July 2008 semiannual report disclosed the following:

- [blank] in total political contributions of \$50 or less unless itemized (corrected to \$0)
- [blank] in total political contributions (corrected to \$0)
- [blank] in total political expenditures of \$50 or less unless itemized (corrected to \$0)
- \$7,599.97 in total political expenditures
- \$221,953.74 in total political contributions maintained (corrected to \$222,678.74)
- [blank] in outstanding loans
- \$0 in political contributions itemized on Schedule A
- \$6,997.14 in political expenditures itemized on Schedule F
- \$602.83 in political expenditures itemized on Schedule G
- \$0 in non-political expenditures made from political contributions

8. The January 2009 semiannual report disclosed the following:
- [blank] in total political contributions of \$50 or less unless itemized (corrected to \$0)
 - [blank] in total political contributions (corrected to \$0)
 - [blank] in total political expenditures of \$50 or less unless itemized (corrected to \$0)
 - \$7,675.37 in total political expenditures
 - \$214,959.81 in total political contributions maintained (corrected to \$217,370.74)
 - [blank] in outstanding loans
 - \$0 in political contributions itemized on Schedule A
 - \$6,739.51 in political expenditures itemized on Schedule F
 - \$824.44 in political expenditures itemized on Schedule G
 - \$0 in non-political expenditures made from political contributions
9. In response to the sworn complaint, the respondent filed an affidavit in which she swore that she believed she properly disclosed political contributions, political expenditures, and loans, did not accept corporate or labor organization contributions, did not convert political contributions to personal use, and timely filed all reports.

Total Political Contributions/Expenditures of \$50 or Less

10. The complaint alleged that the respondent failed to disclose the total amount of political contributions and political expenditures of \$50 or less accepted during the reporting period on the 30-day and 8-day pre-election reports for the November 2007 election, and the July 2007, January 2008, July 2008, and January 2009 semiannual reports. The amounts were left blank on those reports.

Disclosure of Total Political Contributions

11. The complaint alleged that the respondent failed to disclose the total amount of political contributions on the July 2007, July 2008, and January 2009 semiannual reports. The amounts were left blank on those reports.

Disclosure of Total Political Expenditures

12. The complaint alleged that the respondent failed to disclose the total amount of political expenditures on the July 2007 semiannual report. The amount was left blank on the report.

Disclosure of Political Contributions Maintained

13. The complaint alleged that total political contributions maintained were not properly disclosed on the 8-day pre-election report for the November 2007 election, and the July 2007, January 2008, July 2008, and January 2009 semiannual reports. The respondent corrected the political contributions maintained totals on the July 2007, July 2008, and July

2009 semiannual reports. The evidence did not show that the other reports at issue were incorrect.

Disclosure of Total Outstanding Loans

14. The complaint alleged that the respondent failed to properly disclose the total principal amount of all outstanding loans on the 30-day and 8-day pre-election reports for the November 2007 election, and the July 2007, January 2008, July 2008, and January 2009 semiannual reports. The amounts were left blank on those reports. There was no evidence that the respondent had loans that she failed to disclose.

Disclosure of Political Expenditures

15. The complaint alleged that the respondent improperly disclosed the payee or purpose of a \$24.95 political expenditure to an individual on the 8-day pre-election report for the November 2007 election, and an \$80 and a \$200 political expenditure to an individual on the January 2008 semiannual report.

Timely Filing of Report

16. The complaint alleged that the respondent failed to timely file the 30-day pre-election report for the November 2007 election. The city received the electronically filed report on October 9, 2007.

Personal Use of Political Contributions

17. The complaint alleged that each of the reports at issue disclosed expenditures made by the respondent that were conversions of political contributions to her personal use.
18. The complaint alleged that the respondent converted political contributions to personal use when she made expenditures for the following purposes: administrative – dues & subscriptions; public relations - sponsorship, meals, entertainment; officeholder – staff appreciation; office – staff meals, office supplies; travel – officeholder; political promotion – sponsorship, meals – staff, meals - constituent; and public promotion – sponsorship.

The respondent made corrections to some of the purposes to add: campaign – membership dues; campaign signage – advertising; meeting to discuss campaign [and/or] officeholder issues; campaign – sponsorship; officeholder newspaper subscription; room at Republican Convention; campaign dues; sponsorship; supplies for officeholder meeting(s); parking for campaign/officeholder meeting; and paint for officeholder office.

19. The respondent's affidavit stated, "I did not convert any political contributions to personal use." The evidence did not show that the expenditures at issue were made primarily for an individual or family purpose.

Corporate Contributions

20. The complaint alleged that the respondent accepted political contributions totaling \$2,250 from four corporations. Political committees made two of the contributions at issue, and a third was made by a professional corporation.
21. The fourth contribution at issue was made by an incorporated entity, but there is some evidence that the respondent believed the contribution was from a political committee. The respondent subsequently returned the contribution.

IV. Findings and Conclusions of Law

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

Total Political Contributions and Expenditures of \$50 or Less

1. Each report must include the total amount or a specific listing of the political contributions and political expenditures of \$50 or less accepted during the reporting period. ELEC. CODE § 254.031(a)(5).
2. On all of the reports at issue, the respondent left blank the space for disclosing total political contributions and total political expenditures of \$50 or less (unless itemized). The respondent filed corrected reports that disclosed \$0 for this amount. There is credible evidence of technical or *de minimis* violations of section 254.031(a)(5) of the Election Code.

Disclosure of Total Political Contributions

3. Each report must include the total amount of all political contributions accepted during the reporting period. ELEC. CODE § 254.031(a)(6).
4. The original July 2007 semiannual report left blank the space used to disclose total political contributions. The respondent filed a corrected July 2007 semiannual report that disclosed \$68,010 for this amount. (The original report disclosed detailed political contributions of \$68,010.) There is credible evidence of a violation of section 254.031(a)(6) of the Election Code as to the July 2007 semiannual report.
5. The respondent filed corrected July 2008 and January 2009 semiannual reports that disclosed \$0 for total political contributions. (The space for disclosing the information was left blank on the original reports.) The original and corrected reports indicated that the respondent did not accept political contributions during those reporting periods. There is credible evidence

of technical or *de minimis* violations of section 254.031(a)(6) of the Election Code as to the July 2008 and January 2009 semiannual reports.

Disclosure of Total Political Expenditures

6. Each report must include the total amount of all political expenditures made during the reporting period. ELEC. CODE § 254.031(a)(6).
7. The respondent filed a corrected July 2007 semiannual report that disclosed \$15,957.08 in total political expenditures. The original report disclosed detailed political expenditures on Schedule F, but left the space for total political expenditures blank. There is credible evidence of a violation of section 254.031(a)(6) of the Election Code as to the July 2007 semiannual report.

Disclosure of Political Contributions Maintained

8. Each report must include as of the last day of a reporting period, the total amount of political contributions accepted, including interest or other income on those contributions, maintained in one or more accounts in which political contributions are deposited. ELEC. CODE § 254.031(a)(8).
9. Regarding the 8-day pre-election report for the November 2007 election and January 2008 semiannual report, there is insufficient evidence that the respondent violated section 254.031(a)(8) of the Election Code.
10. The respondent corrected the total political contributions maintained amount on her July 2007 (increased by \$207,549.67), July 2008 (increased by \$725), and January 2009 (increased by \$2,410.93) semiannual reports. Therefore, there is credible evidence of a violation of section 254.031(a)(8) of the Election Code as to these reports.

Disclosure of Total Outstanding Loans

11. Each 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).
12. On all of the reports at issue, the respondent left blank the space for disclosing total outstanding loans. There was no evidence that the respondent had outstanding loans that she failed to disclose. The respondent filed corrected reports that disclosed \$0 for this amount. There is credible evidence of technical or *de minimis* violations of section 254.031(a)(2) of the Election Code.

Disclosure of Political Expenditures

13. Each 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).
14. Political expenditures made out of personal funds by a staff member of a candidate, officeholder, or political committee with the intent to seek reimbursement from the candidate, officeholder, or political committee that in the aggregate do not exceed \$5,000 (\$500 until November 18, 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:

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 included with the total amount or a specific listing of the political expenditures of \$50 or less made during the reporting period.

Ethics Commission Rules § 20.62(a) and Election Code § 254.031(a)(5).

15. The 8-day pre-election report for the November 2007 election disclosed on Schedule F a \$24.95 political expenditure to an individual for “Office Holder: Office Supplies.” Although the amount of the political expenditure was less than \$50, it was required to be listed on the report because it was not included in total political expenditures of \$50 or less. The report did not disclose the actual payee information. Therefore, there is credible evidence of a violation of section 20.62 of the Ethics Commission Rules.
16. The January 2008 semiannual report disclosed on Schedule F an \$80 political expenditure to an individual for “Combine Municipal Charities” and a \$200 political expenditure to an individual for “Public Relations: Flowers & Gifts.” The respondent filed a corrected report changing the payee of the \$80 political expenditure to Combined Municipal Charities and the purpose of the expenditure to “Contribution” and changing the purpose of the \$200 expenditure to “Campaign Contract Labor.” The original report did not disclose the actual payee for the \$80 expenditure. Therefore, there is credible evidence of a violation of section 254.031(a)(3) of the Election Code and section 20.62 of the Ethics Commission Rules as to the \$80 expenditure. The original report disclosed the actual payee for the \$200 expenditure but not the correct purpose. Therefore, there is credible evidence of a violation of section 254.031(a)(3) of the Election Code as to the \$200 expenditure.

Timely Filing of Report

17. In addition to other required reports, for each election in which a person is a candidate and has an opponent whose name is to appear on the ballot, the person shall file two reports. ELEC. CODE § 254.064(a). The first report must be received by the authority with whom the report is required to be filed not later than the 30th day before election day. ELEC. CODE § 254.064(b). The second report must be received by the authority with whom the report is required to be filed not later than the eighth day before election day. ELEC. CODE § 254.064(c).
18. 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(a).
19. Due to a weekend and holiday, the due date for the 30-day pre-election report for the November 6, 2007, election was October 9, 2007. The respondent filed the original report as required. Therefore, there is credible evidence of no violation of section 254.064 of the Election Code.

Personal Use of Political Contributions

20. 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). The prohibitions include the personal use of an asset purchased with the contribution and the personal use of any interest and other income earned on the contribution. *Id.* § 253.035(c).
21. “Personal use” means a use that primarily furthers individual or family purposes not connected with the performance of duties or activities as a candidate for or holder of a public office. *Id.* § 253.035(d).
22. 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. *Id.* § 253.035(d)(1).
23. There is no evidence that the expenditures were for the personal use of the respondent. There is insufficient evidence of a violation of section 253.035(a) of the Election Code.

Corporate Contributions

24. 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(b).
25. A corporation 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, may not make a political contribution or

political expenditure that is not authorized by subchapter D, chapter 253 of the Election Code. ELEC. CODE §§ 253.091, 253.094.

26. In order to find a violation of section 253.003 of the Election Code, the evidence must show that the respondent knew that a corporate contribution is illegal, that the contribution came from a corporation and that the respondent knew that the contribution was from a corporation when she accepted it.
27. Two of the contributions at issue were from political committees. A third was from a professional corporation that was not prohibited by section 253.094 of the Election Code from making a political contribution. Regarding those three contributions, there is credible evidence that the respondent did not violate sections 253.003(b) and 253.094 of the Election Code as to this contribution.
28. Regarding the fourth contribution, the evidence was insufficient to show that the respondent knew that the contribution was from a corporation at the time she accepted it. Therefore, there is insufficient evidence that the respondent violated sections 253.003(b) and 253.094 of the Election Code as to this contribution.

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 the aggregate principal amount of all outstanding loans as of the last day of the reporting period; that each 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; that each report must include the total amount or a specific listing of the political contributions and political expenditures of \$50 or less accepted during the reporting period; that each report must include the total amount of all political contributions accepted and the total amount of all political expenditures made during the reporting period; that each report must include as of the last day of a reporting period, the total amount of political contributions accepted, including interest or other income on those contributions, maintained in one or more accounts in which political contributions are deposited; and that the proper way to report

reimbursements to staff is in accordance with section 20.62 of the Ethics Commission Rules. 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-2905113.

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

Antoinette Lawrence, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director