

TEXAS ETHICS COMMISSION

IN THE MATTER OF
ROBERT J. ADAM,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-2905123

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on October 21, 2010, to consider sworn complaint SC-2905123. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 254.031, 254.063, and 254.091 of the Election Code, as well as credible evidence of a technical or *de minimis* violation 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 alleges that the respondent: 1) failed to file the July 2008 semiannual campaign finance report, 2) failed to include the office held on his final campaign finance report, 3) failed to disclose information regarding a political committee from which he received notice, and 4) failed to properly disclose political contributions and political expenditures.

III. Facts Supported by Credible Evidence

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

1. The respondent was a successful non-incumbent candidate for the Lone Star College System Board in the May 10, 2008, election. The respondent filed a campaign treasurer appointment on March 24, 2008.

Disclosure of Office Held

2. The complaint alleged that the respondent failed to disclose the office held on his final campaign finance report filed November 18, 2009.

3. The space for office held was left blank on the report.

Timely Filing of Campaign Finance Report

4. The complaint alleged that the respondent failed to timely file his July 2008 semiannual report. The respondent did not file a report covering the period required to be covered by the July 2008 semiannual report until he filed his final report on November 18, 2009.

Disclosure of Information Regarding a Political Committee Supporting the Respondent

5. The complaint alleged that the respondent failed to disclose information on his final report regarding a political committee from which the respondent received notice under section 254.128 or 254.161 of the Election Code. The respondent's final report disclosed a political contribution of \$3,798.30 on May 29, 2008, from Friends of LSC [The local filing authority provided documents showing that the name of the committee is Friends of The Lone Star College System], a specific-purpose political committee.
6. The Friends of The Lone Star College System filed a dissolution report on July 15, 2008, that disclosed a \$3,798.30 political expenditure to the Robert J. Adam Campaign for printing and mailing service on May 21, 2008.

Disclosure of a Political Contribution and a Political Expenditure

Political Contribution

7. The complaint alleges that the respondent failed to disclose the full name of the contributor disclosed as "Friends of LSC" on his final report. The contribution was accepted on May 29, 2008, in the amount of \$3,798.30.
8. The local filing authority provided documents showing that the name of the contributor is Friends of The Lone Star College System.

Political Expenditure

9. The complaint alleged that the respondent failed to disclose the date of a political expenditure disclosed on the final report to Cy-Fair Educational Foundation in the amount of \$3,786.38.
10. The respondent's response stated, "The date of 9/11/08 was omitted in error. This omission is innocent and de minimus in nature and would not equate as a violation of Texas law."

IV. Findings and Conclusions of Law

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

Disclosure of Office Held

1. Each report by an officeholder must include the officeholder's full name and address and the office held. ELEC. CODE § 254.091(1).
2. The respondent failed to include the office held on the report at issue. There is credible evidence that the respondent violated section 254.091(1) of the Election Code.

Timely Filing of Campaign Finance Report

3. A candidate shall file two reports for each year as provided by this section. The first report shall be filed not later than July 15. The second report shall be filed not later than January 15. ELEC. CODE § 254.063.
4. Filing a final report terminates a candidate's requirement to file semiannual campaign finance reports. ELEC. CODE § 254.065.
5. The respondent had a campaign treasurer appointment in effect at the time the July 2008 semiannual report was due. Therefore, he was required to file the report as a candidate. The respondent did not file a report covering the period required to be covered by the July 2008 semiannual report until he filed his final report on November 18, 2009. There is credible evidence that the respondent violated section 254.063 of the Election Code.

Disclosure of Information Regarding a Political Committee Supporting the Respondent

6. If a specific-purpose committee accepts political contributions or makes political expenditures for a candidate or officeholder, the committee's campaign treasurer shall deliver written notice of that fact to the affected candidate or officeholder not later than the end of the reporting period covered by the report in which the reportable activity occurs. The notice must include the full name and address of the political committee and its campaign treasurer and an indication that the committee is a specific-purpose committee. ELEC. CODE § 254.128.
7. Each report by a candidate must include for each political committee from which the candidate received notice under section 254.128 or 254.161 of the Election Code: the committee's full name and address; an indication of whether the committee is a general-

purpose committee or a specific-purpose committee; and the full name and address of the committee's campaign treasurer. ELEC. CODE § 254.061(3).

8. Each report by an officeholder must include for each political committee from which the officeholder received notice under section 254.128 or 254.161 of the Election Code: the committee's full name and address; an indication of whether the committee is a general-purpose committee or a specific-purpose committee; and the full name and address of the committee's campaign treasurer. ELEC. CODE § 254.091(2).
9. The commission has viewed the reporting requirement under section 254.061(3) and 254.091(2) of the Election Code to apply to notice of a direct expenditure by a committee or notice that a specific-purpose committee supporting the candidate or officeholder has accepted political contributions for that purpose. At issue in the complaint is a \$3,798.30 entry on Schedule A that was made directly to the respondent. (The response indicates that this may not have been a contribution but a payment of services.) Therefore, there is credible evidence that the respondent did not violate section 254.061(3) or 254.091(2) of the Election Code.

Disclosure of a Political Contribution and a Political Expenditure

Political Contribution

10. Each 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).
11. The respondent failed to disclose the full name of the contributor at issue. However, given the fact that he was a candidate for trustee of Lone Star College and the fact that Friends of Lone Star College System filed campaign finance reports locally, in context the error did not substantially affect disclosure. There is credible evidence that the respondent committed a technical or *de minimis* violation of section 254.031(a)(1) of the Election Code.

Political Expenditure

12. 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).
13. The respondent failed to disclose the date of the political expenditure at issue. There is credible evidence that the respondent violated section 254.031(a)(3) 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 by an officeholder must include the officeholder's full name and address and the office held; that a candidate is required to file two reports each year, and the first report shall be filed no later than July 15; that each report must include the amount of political contributions from each person that in the aggregate exceed \$50 that are accepted during the reporting period, the full name and address of the person making the contributions, and the dates of the contributions; and that each report must include the amount of political expenditures that in the aggregate exceed \$50 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 agrees to comply with these requirements of the law.

VI. Confidentiality

This order and agreed resolution includes 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 \$100 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-2905123.

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

Robert J. Adam, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director