

TEXAS ETHICS COMMISSION

IN THE MATTER OF
CLAUDE HUNTER,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-2908197

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on June 11, 2010, to consider sworn complaint SC-2908197. A quorum of the commission was present. The commission determined that there is credible evidence of violations, including credible evidence of a technical or *de minimis* violation, of section 254.031 the Election Code, a law 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 total political contributions maintained on his 30-day and 8-day pre-election reports and final report, failed to disclose details about an outstanding loan on his 8-day pre-election report, failed to timely report two political contributions and five political expenditures, which were disclosed on his 8-day pre-election report, failed to disclose the purpose of a political expenditure on his 8-day pre-election report, and improperly reported a political expenditure as a reimbursement on his 8-day pre-election 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 director of The Woodlands Township Board in the May 10, 2008, election.
2. The respondent's 30-day pre-election report disclosed \$340.32 in total political contributions maintained and \$123.30 in total principal amount of all outstanding loans.

3. The respondent's 8-day pre-election report covered a period beginning April 1, 2008, through May 1, 2008, and disclosed \$1,030.23 in total political contributions maintained, and \$2,137.45 in total principal amount of all outstanding loans. The report also disclosed two contributions totaling \$750 accepted on March 11, 2008, and March 31, 2008, one political expenditure from political contributions (Schedule F) to payee "Pay Pal" in the amount of \$14.80 made on March 31, 2008, and four political expenditures from personal funds totaling approximately \$1,180 (three of which were for amounts under \$50) made on February 27, 2008, March 3, 2008, and March 28, 2008. The March 3, 2008, expenditure over \$50 was to an individual payee with an address disclosed as "12404 Hwy 155 S, Tyler, TX 75703" for "signs, stickers, sign frames" and was in the amount of \$1,107.07.
4. The respondent also disclosed a political expenditure to payee "Cartridge World" in the amount of \$54.13, but disclosed no purpose for the expenditure. The respondent checked the box to indicate reimbursement from political contributions intended for each of the expenditures on Schedule G (used to disclose political expenditures from personal funds). The respondent's 8-day pre-election report did not include a Schedule E (used to disclose loans).
5. The respondent's final report, filed May 20, 2008, disclosed zero for total political contributions maintained and total principal amount of all outstanding loans.
6. In response to the complaint, the respondent filed an affidavit in which he swore that any errors or omissions in his campaign finance reports were made in good faith. The respondent stated that "Confusing instructions concerning possible future reimbursement led me to think that I should enter a personal loan amount sufficient to cover expenses during this period on line 6. No such loan amount was ever applied or used towards any of my expenses."
7. The respondent swore that one of the contributions disclosed on the 8-day pre-election report was disclosed with an incorrect date, and should have been April 4, 2008, (which would have been in the period for the 8-day pre-election report), but the other contribution had been previously disclosed on the 30-day report as required and was duplicated on the 8-day pre-election report by mistake.
8. The respondent also swore that the March 3rd expenditure to the individual payee for "signs, stickers, sign frames" was "listed with an incorrect date entry." The respondent explained that he first spoke with the individual disclosed as payee on March 31, 2008, and that it took several days to design and finalize the order in order to determine the expenditure amount.
9. The respondent also stated that three of the other expenditures with dates prior to April 1, 2008, were previously disclosed and "included in '\$50 and under' items on the earlier (30-day pre-election) report" and duplicated by mistake on the 8-day pre-election report. He also swore that the fourth expenditure for \$14.80 was a handling fee from Pay Pal for the April 4th contribution which had been reported with the incorrect date of acceptance.

10. On September 4, 2009, the respondent filed corrections to each of the reports at issue.
11. The respondent's corrected 30-day pre-election report disclosed a zero in the space provided to disclose total principal amount of all outstanding loans. The respondent's correction affidavit swore that "no deposit of loan amount was made to my campaign account."
12. The respondent's corrected 8-day pre-election report disclosed a zero in the space provided to disclose total principal amount of all outstanding loans. The correction affidavit states, "That [original loan] amount represents political expenditures made from personal funds and was inadvertently entered on this form. No loan was intended." The report also disclosed a new date of April 4, 2008, for a contribution which was previously disclosed as being accepted on March 11, 2008, and disclosed a purpose for the expenditure to Cartridge World of "Printer Ink Cartridge." The respondent also corrected the March 3, 2008, expenditure for "signs, stickers, sign frames" to add "Designer Graphics" in addition to the individual payee name. According to its website, Designer Graphics sells political advertising materials.
13. The respondent's corrected final report disclosed an additional expenditure showing a reimbursement to the respondent.
14. The evidence indicated that political contributions maintained were correctly disclosed.

IV. Findings and Conclusions of Law

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

Disclosure of Required Information on a Campaign Finance Report

1. Each report filed under this chapter 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).
2. 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).
3. Each report filed under this chapter 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).

4. A political expenditure is not considered to have been made until the amount is readily determinable by the person making the expenditure. ELEC. CODE § 254.035(a); Ethics Commission Rules § 20.57(a).
5. 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).
6. The amounts disclosed on the reports at issue for total political contributions maintained were correct as originally reported. Therefore, there is credible evidence of no violation of section 254.031(a)(8) of the Election Code.
7. The respondent's original 30-day and 8-day pre-election reports incorrectly disclosed the amount of outstanding loans. The respondent's 8-day pre-election report also failed to disclose the purpose for one expenditure, disclosed incorrect dates for one contribution and one expenditure, and included expenditures reported in a prior period. Therefore, there is credible evidence of violations of sections 254.031(a)(1), (a)(2), and (a)(3) of the Election Code.

Disclosure of Political Expenditures as Reimbursements

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. When a political expenditure is made on behalf of a candidate or officeholder by a staff member or campaign worker, the name of the actual payee must be disclosed, not the name of the staff member or campaign worker. Ethics Advisory Opinion No. 450 (2003); Ethics Commission Rules § 20.62.
10. On his original 8-day pre-election report, the respondent swore that he disclosed the name of the individual he spoke with at Designer Signs, instead of the actual payee for the goods and services, Designer Graphics. Therefore, although there is credible evidence of no violation of section 20.62 of the Ethics Commission Rules, there is credible evidence of a technical or *de minimis* violation of 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 a 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, the full name and address of the person making the contributions, and the dates of the contributions. The respondent also acknowledges that a campaign finance report must include the amount of loans that are made during the reporting period and that in the aggregate exceed \$50, the dates the loans are made, the interest rate, the maturity date, the type of collateral for the loans, if any, the full name and address of the person or financial institution making the loans, the full name and address, principal occupation, and name of the employer of each guarantor of the loans, the amount of the loans guaranteed by each guarantor, and the aggregate principal amount of all outstanding loans as of the last day of the reporting period. The respondent also acknowledges that a campaign finance report must include, for all 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 political 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 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 \$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-2908197.

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

Claude Hunter, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director