

TEXAS ETHICS COMMISSION

IN THE MATTER OF
VALINDA BOLTON,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-2911285

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on February 23, 2011, to consider sworn complaint SC-2911285. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 253.032, 254.031, and 254.0612 of the Election Code and section 20.29(a) of the Ethics Commission Rules, 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) did not properly disclose political contributions, political expenditures, and total political contributions maintained, 2) accepted political contributions from corporations or labor organizations, 3) did not include on campaign finance reports the principal occupation or job title and the full name of the employer for individuals who contributed \$500 or more during a reporting period, 4) did not disclose information related to political contributions from out-of-state political committees, and 5) improperly disclosed political expenditures as reimbursements.

III. Facts Supported by Credible Evidence

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

1. During the time in question, the respondent was an opposed incumbent candidate for State Representative, District 47 in the November 4, 2008, election.

Total Political Contributions Maintained

2. The complaint alleged that the respondent did not correctly disclose the total political contributions maintained as of the last day of the reporting period in the January 2008, July 2008, January 2009, and July 2009 semiannual reports and 30-day and 8-day pre-election reports for the November 2008 election. The complaint included no evidence to support the allegations that the respondent failed to disclose the correct amounts of total political contributions maintained other than calculations according to a formula.
3. In response to the allegations in the six reports at issue, the respondent swore:

Having recently learned that “Contribution Balance” does not necessarily include all contributions accepted by the deadline nor all debits made by the deadline, but means the cleared cumulative balance held in all campaign accounts at the time of the deadline – I am correcting this report to reflect only those deposits and debits that have cleared the bank and are in the account as of the midnight report period deadline.
4. The respondent corrected the reports to increase the total by approximately \$210 in the January 2008 semiannual report; to decrease the total by approximately \$29,950 in the July 2008 semiannual report; to decrease the total by approximately \$45,400 in the 30-day pre-election report for the November 2008 election; to decrease the total by approximately \$2,880 in the 8-day pre-election report for the November 2008 election; to increase the total by approximately \$5,320 in the January 2009 semiannual report; and to decrease the total by approximately \$12,640 in the July 2009 semiannual report.

Political Contributions from Out-of-State Political Committees

5. The complaint alleged that the respondent failed to include information regarding out-of-state political committees from which the respondent accepted political contributions totaling more than \$500 in a reporting period in the 30-day and 8-day pre-election reports for the November 2008 election and January 2009 semiannual report.
6. Out of 254 total political contributions disclosed in the 30-day pre-election report for the November 2008 election, the complaint alleged that two political contributions totaling \$3,000 were contributed by an out-of-state political committee, CWA-COPE PCC, and did not include the identification number that the Federal Election Commission (FEC) assigns to registered political committees or any additional information regarding the committee.
7. In response to the allegation, the respondent corrected the report to disclose that the contribution at issue was from an out-of-state political committee and to disclose the FEC identification number for the contributor. FEC records show that the committee (Communications Workers of America – COPE Political Contributions Committee) is registered with the FEC and made political contributions in the amounts disclosed by the

respondent during the general time period at issue.

8. Out of 274 total political contributions disclosed in the 8-day pre-election report for the November 2008 election, the complaint alleged that a \$2,500 political contribution from HRC Texas Families PAC on October 14, 2008, was from an out-of-state political committee and did not include the identification number that the FEC assigns to registered political committees or any additional information regarding the committee.
9. In response to the allegation, the respondent corrected the report to disclose that the contribution at issue was from an out-of-state political committee and to disclose an identification number for the contributor. A search of the FEC records found no political committee registered with that identification number, Ethics Commission records show that the Human Rights Campaign Texas Families PAC is registered with the commission as a general-purpose committee. The Human Rights Campaign Texas Families PAC made a political contribution in the amount disclosed by the respondent during the general time period at issue.
10. Out of 120 total political contributions disclosed in the January 2009 semiannual report, the complaint alleged that a \$1,000 political contribution from EMILY'S List Federal Fund on October 29, 2008, was contributed by an out-of-state political committee and did not include the identification number that the FEC assigns to registered political committees or any additional information regarding the committee.
11. In response to the allegation, the respondent corrected the report to disclose that the contribution at issue was from an out-of-state political committee and to disclose the FEC identification number for the contributor. FEC records disclose that the committee is registered with the FEC and made a political contribution in the amount disclosed by the respondent during the general time period at issue.

Principal Occupation or Job Title and Name of Employer

12. The complaint alleged that the respondent failed to disclose a principal occupation or job title and the full name of the employer for individuals contributing \$500 or more as disclosed in the January 2008, July 2008, and January 2009 semiannual reports, and 30-day and 8-day pre-election reports for the November 2008 election. During the reporting periods at issue, the respondent had an active campaign treasurer appointment on file with the commission.
13. Out of 182 total contributions and pledges disclosed in the January 2008 semiannual report, the complaint alleged that the respondent failed to disclose the contributor's principal occupation or job title and the full name of the contributor's employer for 10 contributions totaling approximately \$13,380.

14. On March 31, 2010, the respondent corrected the report at issue and swore that the corrections were to clarify the employer or occupation information for contributors and to provide complete employer or occupation information that was inadvertently omitted. One of the contributors was actually a political committee and not an individual.
15. Out of 316 total contributions disclosed in the July 2008 semiannual report, the complaint alleged that the respondent failed to disclose the contributor's principal occupation or job title and the full name of the contributor's employer for 13 contributions totaling approximately \$17,060.
16. On March 31, 2010, the respondent corrected the report at issue and swore that the corrections were to clarify the employer or occupation information for contributors and to provide complete employer or occupation information that was inadvertently omitted.
17. Out of 254 total contributions disclosed in the 30-day pre-election report for the November 2008 election, the complaint alleged that the respondent failed to disclose the contributor's principal occupation or job title and the full name of the contributor's employer for 10 contributions totaling \$7,500.
18. The respondent corrected the report and swore that the corrections were to clarify the employer or occupation information for contributors and to provide complete employer or occupation information that was inadvertently omitted.
19. Out of 274 total contributions disclosed in the 8-day pre-election report for the November 2008 election, the complaint alleged that the respondent failed to disclose the contributor's principal occupation or job title and the full name of the contributor's employer for six contributions totaling \$3,500.
20. On March 31, 2010, the respondent corrected the report at issue and swore that the corrections were to clarify the employer or occupation information for contributors and to provide complete employer or occupation information that was inadvertently omitted.
21. Out of 120 total contributions disclosed in the January 2009 semiannual report, the complaint alleged that the respondent failed to disclose the contributor's principal occupation or job title and the full name of the contributor's employer for four contributions totaling \$7,000.
22. On March 31, 2010, the respondent corrected the report at issue and swore that the corrections were to clarify the employer or occupation information for contributors and to provide complete employer or occupation information that was inadvertently omitted.

Political Contributions from Corporations or Labor Organizations

23. The complaint alleged that the respondent accepted 23 political contributions totaling \$12,550 from 20 different corporations or labor organizations. The allegations are based on disclosures in the January 2008, July 2008, and January 2009 semiannual reports and 30-day and 8-day pre-election reports for the November 2008 election.
24. On March 31, 2010, the respondent corrected the reports at issue to clarify the names of some contributors at issue, and to indicate that the contributors were not corporations.
25. Nineteen of the contributions at issue were from political committees and non-incorporated entities.
26. Regarding the four remaining contributions, the evidence is inconclusive as to the status of the contributor or the respondent's knowledge of the contributor's status.

Full Names of Persons Making Political Contributions and Receiving Political Expenditures

27. The complaint alleged that the respondent failed to fully disclose the names of 32 persons making political contributions in the January 2008, July 2008, and January 2009 semiannual reports and 30-day and 8-day pre-election reports for the November 2008 election. The complaint also alleged that the respondent failed to fully disclose the names of four persons receiving political expenditures in the January 2008 and July 2009 semiannual reports.
28. The respondent disclosed the full name of the contributor, a portion of the contributor's name, or an acronym that is on file and searchable for 24 of the political contributions at issue. Eight contributions did not provide the required disclosure: CWA – COPE PCC (2 contributions), Family School, EMPACT, C.R. Green, NaSW/Texas PACE, TBA BANKPAC and TSCPA/PAC.
29. The respondent disclosed the full name or a commonly recognized acronym for the payee of one of the political expenditures at issue. Three political expenditures did not provide the required disclosure: CDAW-PAC, HDCC, and CASA.

Payees of Political Expenditures for Reimbursement

30. The complaint alleged that the respondent failed to disclose the payees, addresses, dates, and amounts "pertaining to the stated purpose" for three political expenditures disclosed in the January 2008, January 2009, and July 2009 semiannual reports.
31. The actual payee name was disclosed for the political expenditures at issue.

Purpose Descriptions of Political Expenditures

32. The complaint alleged that the respondent failed to fully disclose the purposes related to 14 political expenditures disclosed in the respondent's January 2008 and January 2009 semiannual reports and 30-day pre-election report for the November 2008 election.
33. Three political expenditures disclosed the following purposes: "Expenses," "Pizza," and "travel expenses."

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. A campaign finance report must include, 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. ELEC. CODE § 254.031(a)(8).
2. A *de minimis* error in calculating or reporting a cash balance under subsection (a)(8) is not a violation of this section. ELEC. CODE § 254.031(a-1).
3. The total amount of political contributions maintained in one or more accounts includes balance on deposit in banks, savings and loan institutions and other depository institutions, and the present value of any investments that can be readily converted to cash, such as certificates of deposit, money market accounts, stocks, bonds, treasury bills, etc. Ethics Commission Rules § 20.50(a).
4. The respondent acknowledged that the amount of total political contributions maintained was incorrect in the reports at issue although not in the amounts alleged. The overall net result was a decrease in the total political contributions maintained of approximately \$85,340. The \$210 error in the January 2008 semiannual report was *de minimis*. Therefore, there is credible evidence of no violation of section 254.031(a)(8) of the Election Code as to that report. Regarding the remaining reports at issue, there is credible evidence that the respondent violated section 254.031(a)(8) of the Election Code.

Political Contributions from Out-of-State Political Committees

5. For a contribution made by an out-of-state political committee that files with the Federal Election Commission, a candidate shall include a copy of the out-of-state committee's statement of organization filed as required by law with the Federal Election Commission and

- certified by an officer of the out-of-state committee as a part of the report filed under chapter 254 of the Election Code that covers the relevant reporting period. ELEC. CODE § 253.032.
6. A person who files a report with the commission by electronic transfer and who accepts political contributions from an out-of-state political committee required to file its statement of organization with the Federal Election Commission shall either enter the out-of-state committee's federal PAC identification number in the appropriate place on the report or timely file a certified copy of the out-of-state committee's statement of organization that is filed with the Federal Election Commission. Ethics Commission Rules § 20.29(a).
 7. "Out-of-state political committee" means a political committee that makes political expenditures outside this state and in the 12 months immediately preceding the making of a political expenditure by the committee inside this state (other than an expenditure made in connection with a campaign for a federal office or made for a federal officeholder), makes 80 percent or more of the committee's total political expenditures in any combination of elections outside this state and federal offices not voted on in this state. ELEC. CODE § 251.001(15).
 8. The respondent accepted political contributions totaling \$3,000 from an out-of-state political committee during the period covered by her 30-day pre-election report for the November 2008 election and accepted a \$1,000 political contribution from an out-of-state political committee during the period covered by her January 2009 semiannual report. The respondent did not include the committees' statements of organization or FEC ID numbers in the reports at issue. Therefore, there is credible evidence that the respondent violated section 253.032 of the Election Code and section 20.29(a) of the Ethics Commission Rules in connection with \$4,000 in political contributions disclosed in the 30-day pre-election report for the November 2008 election and January 2009 semiannual report.
 9. The respondent accepted a \$2,500 political contribution from a general-purpose committee registered with the commission and not from an out-of-state political committee during the period covered by her 8-day pre-election report for the November 2008 election. Therefore, there is credible evidence that the respondent did not violate section 253.032 of the Election Code and section 20.29(a) of the Ethics Commission Rules in connection with the 8-day pre-election report for the November 2008 election.

Principal Occupation or Job Title and Name of Employer

10. Each report by a candidate for a statewide office in the executive branch or a 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 and that are accepted 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.

11. The respondent had an active campaign treasurer appointment on file during the periods at issue. Thus, the respondent was a candidate for title 15 filing purposes.
12. The respondent failed to fully disclose the contributors' correct principal occupation or job title and the full names of the employers for 16 political contributions in the five reports at issue. Although the respondent filed corrections to the political contributions at issue, the required principal occupation or job title and employer information was incorrect when the reports were due. Therefore, there is credible evidence that the respondent violated section 254.0612 of the Election Code in connection with these political contributions.
13. As to the remaining contributions at issue, the respondent disclosed the contributors' principal occupations or job titles and disclosed that the contributors were self-employed. The evidence did not show that the respondent improperly disclosed the contributors' employers. The respondent also corrected the January 2008 semiannual report to change the name of the contributor of a \$500 political contribution. The respondent swore that she inadvertently disclosed the name of the individual who signed the check rather than the entity, as the contributor. Therefore, there is credible evidence that the respondent did not violate section 254.0612 of the Election Code in connection with these political contributions.

Political Contributions from Corporations or Labor Organizations

14. 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.
15. A corporation or labor organization may not make a political contribution or political expenditure that is not authorized by subchapter D, chapter 253, Election Code. *Id.* § 253.094.
16. 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. *Id.* § 253.091.
17. In order to show a violation of section 253.003 of the Election Code, the evidence must show that the contributor was a corporation, that at the time the respondent accepted the contribution she knew that corporate contributions were illegal, and that the respondent knew the particular contribution at issue was from a corporation.
18. For 19 of the political contributions at issue there is credible evidence of no violation of sections 253.003 and 253.094 of the Election Code. Regarding the four remaining political contributions at issue, there is insufficient evidence of violations of sections 253.003 and 253.094 of the Election Code.

Full Names of Persons Making Political Contributions and Receiving Political Expenditures

19. 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 the report, the full name and address of the person making the contributions, and the dates of the contributions. ELEC. CODE § 254.031(a)(1).
20. 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. *Id.* § 254.031(a)(3).
21. A campaign finance report must also include the total amount of all political contributions accepted and the total amount of all political expenditures made during the reporting period. *Id.* § 254.031(a)(6).
22. In the January 2008, July 2008, and January 2009 semiannual reports and 30-day and 8-day pre-election reports for the November 2008 election, the respondent failed to disclose the contributor's full name for 10 political contributions. The remaining contributions at issue were correct or in substantial compliance. Although the respondent corrected the reports at issue to disclose the full names of some of the contributors, the names of the contributors were incorrect when the reports were due. Therefore, there is credible evidence that the respondent violated section 254.031(a)(1) of the Election Code in connection with these political contributions.
23. In the January 2008 and July 2009 semiannual reports, the respondent failed to disclose the payee's full name for three political expenditures, all of which disclosed an acronym that was not part of the committee's name instead of the full name of the committee. The remaining expenditure was correct or in substantial compliance. Although the respondent corrected the reports at issue to disclose the full names of the payees, the names of the payees were incorrect when the reports were due. Therefore, there is credible evidence that the respondent violated section 254.031(a)(3) of the Election Code in connection with these political expenditures.

Payees of Political Expenditures for Reimbursement

24. 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).
25. A political expenditure made out of personal funds by a staff member of an officeholder, a candidate, or a political committee with the intent to seek reimbursement from the officeholder, candidate, or political committee that in the aggregate do not exceed \$5,000

during the reporting period may be reported as follows if the reimbursement occurs during the same reporting period that the initial expenditure was made: (1) 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 (2) included with the total amount or a specific listing of the political expenditures of \$50 or less made during the reporting period. Except as provided by subsection (a) of this section, a political expenditure made out of personal funds by a staff member of an officeholder, a candidate, or a political committee with the intent to seek reimbursement from the officeholder, candidate, or political committee must be reported as follows: (1) the aggregate amount of the expenditures made by the staff member as of the last day of the reporting period is reported as a loan to the officeholder, candidate, or political committee; (2) the expenditure made by the staff member is reported as a political expenditure by the officeholder, candidate, or political committee; and (3) the reimbursement to the staff member to repay the loan is reported as a political expenditure by the officeholder, candidate, or political committee. Ethics Commission Rules § 20.62.

26. The complaint alleged that the respondent did not disclose the actual payee information for political expenditures in the reports at issue. The payees were disclosed correctly for the expenditures at issue. Therefore, there is credible evidence of no violation of section 254.031(a)(3) of the Election Code and section 20.62 of the Ethics Commission Rules with regard to the expenditures.

Purpose Descriptions of Political Expenditures

27. 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).
28. A campaign finance report must also include the total amount of all political contributions accepted and the total amount of all political expenditures made during the reporting period. *Id.* § 254.031(a)(6).
29. The three political expenditures that disclosed the purposes as “Expenses,” “Pizza,” and “travel expenses” did not provide adequate disclosure. Therefore, there is credible evidence of violations of section 254.031(a)(3) of the Election Code with regard to these expenditures.
30. The remaining allegations regarding the purpose of expenditures were insufficient under the statute. Therefore, regarding those expenditures there is credible evidence of no 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 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, the full name and address of the person making the contributions, and the dates of the contributions. The respondent also acknowledges that each campaign finance report is required to include the total amount of political contributions accepted, including interest or other income on those contributions, maintained as of the last day of a reporting period. The respondent further acknowledges that a 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; and that each campaign finance report by a candidate for a 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 and that are accepted during the reporting period the individual's principal occupation or job title and the full name of the individual's employer. The respondent also acknowledges that a candidate who accepts political contributions from an out-of-state political committee shall include in a campaign finance report, the information required by section 253.032(a) of the Election Code and section 20.29 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 \$2,000 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-2911285.

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

Valinda Bolton, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director