

# TEXAS ETHICS COMMISSION

IN THE MATTER OF  
JACOB W. SPRADLIN,  
RESPONDENT

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BEFORE THE  
TEXAS ETHICS COMMISSION  
SC-3100101

## FINAL ORDER

The Texas Ethics Commission, having heard this case and voting to find a violation of laws under its jurisdiction, makes the following Findings of Fact and Conclusions of Law:

### Findings of Fact

1. The respondent is Jacob W. Spradlin, whose last known mailing address is 209 Pine Valley, Huntsville, Texas 77320. A sworn complaint was filed with the Texas Ethics Commission against the respondent on January 5, 2010. The Notice of Hearing was mailed to the respondent on November 8, 2010, by certified mail, return receipt requested, restricted delivery, and by delivery confirmation.
2. The preliminary review hearing was held on December 7, 2010, by the Texas Ethics Commission in Austin, Texas.
3. The respondent did not file a reply to the Notice of Hearing and did not appear at the hearing.
4. The respondent was an opposed candidate for Huntsville City Council in a May 2009 election.
5. The complaint alleged that the respondent:
  - Failed to file his 30-day pre-election report for the May 2009 election.
  - Failed to timely file his 8-day pre-election report for the May 2009 election.
  - Disclosed the incorrect amount of total political contributions on his 8-day pre-election report for the May 2009 election.
  - Failed to disclose the total amount of political expenditures of \$50 or less on his 8-day pre-election report for the May 2009 election.
  - Disclosed the incorrect amount of total political expenditures on his 8-day pre-election report for the May 2009 election.
  - Disclosed the incorrect amount of total political contributions maintained on his 8-day pre-election report for the May 2009 election.
  - Failed to disclose the total amount of outstanding loans on his 8-day pre-election report for the May 2009 election.

- Failed to disclose the date of 11 political contributions on his 8-day pre-election report for the May 2009 election.
  - Failed to fully disclose the address of three political contributions on his 8-day pre-election report for the May 2009 election.
  - Failed to disclose the date of a political expenditure on his 8-day pre-election report for the May 2009 election.
  - Failed to timely report political expenditures on his 8-day pre-election report.
  - Failed to file a July 2009 semiannual report.
6. On February 12, 2009, the respondent filed his campaign treasurer appointment with the City of Huntsville. The respondent did not elect to file on the modified reporting schedule.
  7. City of Huntsville records show that, as of the date of the hearing, the respondent has not filed a 30-day pre-election report for the May 2009 election or a July 2009 semiannual report.
  8. City of Huntsville records also show that the respondent did not file a final report prior to the due date for the July 2009 semiannual report.
  9. On May 8, 2009, the respondent filed an 8-day pre-election report for the May 9, 2009, election, covering from March 19, 2009, through May 8, 2009. The 8-day pre-election report for the May 9, 2009, election was due on May 1, 2009.
  10. The report disclosed on its totals page:
    - \$1,220 in total political contributions of \$50 or less
    - \$2,545 in total political contributions
    - A blank space for total political expenditures of \$50 or less
    - \$2,290.90 in total political expenditures
    - \$2,545 in total political contributions maintained
    - A blank space for outstanding loans
  11. The report itemized 11 political contributions. Of those 11 contributions two did not disclose an address and one did not disclose a zip code. The report did not disclose a date of acceptance for any of the contributions. The itemized political contributions totaled approximately \$1,200.
  12. The report also itemized 10 political expenditures. One political expenditure did not disclose a date. The itemized political expenditures disclosed on Schedule F (used to disclose political expenditures from political contributions) totaled approximately \$2,290. Schedule G (used to disclose political expenditures from personal funds) disclosed a \$407.02 political expenditure. That expenditure was not included in the report's disclosure for total political expenditures. Two political expenditures totaling approximately \$180 disclosed dates prior to March 31, 2009.

13. On January 8, 2010, staff mailed notice of this sworn complaint by certified mail, restricted delivery. According to United States Postal Service Records, the respondent signed for the notice on January 26, 2010. As of the date of the hearing, the respondent has not submitted a response to this complaint.

### **Conclusions of Law**

1. Disposition of this case is within the jurisdiction of the Texas Ethics Commission. GOV'T CODE § 571.061.
2. The respondent received legally sufficient notice of the hearing in this case. GOV'T CODE § 571.032 and 1 TAC § 12.21. The hearing was held in accordance with section 12.23, 1 Texas Administrative Code.

### **Timely Filing a Campaign Finance Report**

3. 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. The report covers the period beginning the day the candidate's campaign treasurer appointment is filed or the first day after the period covered by the last report required to be filed, as applicable, and continuing through the 40th 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. The report covers the period beginning the 39th day before election day and continuing through the 10th day before election day. ELEC. CODE § 254.064(c).
4. The respondent was an opposed candidate in a May 9, 2009, election. The complaint alleged that the respondent failed to file a 30-day pre-election report for the May 2009 election. There were at least two expenditures totaling approximately \$180 that should have been disclosed on that report. The respondent did not file that report. Therefore, there is credible evidence of a violation of section 254.064(b) of the Election Code.
5. The complaint also alleged that the respondent failed to timely file the 8-day pre-election report for the May 2009 election. The respondent filed the 8-day pre-election report for the May 2009 election on May 8, 2009. The report was due on May 1, 2009. Therefore, there is credible evidence of a violation of section 254.064(c) of the Election Code.
6. A candidate is required to file two reports for each year. ELEC. CODE § 254.063(a). The first report shall be filed not later than July 15. The report covers the period beginning January 1, the day the candidate's campaign treasurer appointment is filed, or the first day after the period covered by the last report required to be filed, as applicable, and continuing through June 30. ELEC. CODE § 254.063(b).

7. An unsuccessful candidate remains a candidate for purposes of title 15 reporting requirements until the candidate files a final report. ELEC. CODE § 254.065.
8. The complaint alleged that the respondent failed to file his July 2009 semiannual report. The respondent did not file a final report after the May 2009 election. Thus, the respondent remained a candidate for purpose of title 15 the Election Code and was required to file the July 2009 semiannual report as a candidate. The respondent did not file that report. Therefore, there is credible evidence of a violation of section 254.063(b) of the Election Code.

### **Proper Reporting of Political Contributions and Expenditures**

9. 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). The report must also include the amount of loans that are made during the reporting period for campaign or officeholder purposes to the person or committee required to file the report 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. ELEC. CODE § 254.031(a)(2). The report must also 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). Each report must also include the total amount or a specific listing of the political contributions of \$50 or less accepted and the total amount or a specific listing of the political expenditures of \$50 or less made during the reporting period. ELEC. CODE § 254.031(a)(5). Each 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. ELEC. CODE § 254.031(a)(6). Each report must also 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).
10. The complaint alleged that the respondent disclosed the incorrect amount of total political contributions on his 8-day pre-election report for the May 2009 election. On the totals page of the report at issue the respondent disclosed \$1,220 in total political contributions of \$50 or less and \$2,545 in total political contributions. The respondent itemized approximately \$1,200 in political contributions on the report. Total political contributions equals the sum of total political contributions of \$50 or less and the political contributions itemized on the report. The sum of those amounts total approximately

\$2,420 on the respondent's 8-day pre-election report for the May 2009 election. That amount is approximately \$125 less than what was disclosed on the totals page of the respondent's report. Therefore, with regard to total political contributions disclosed on the respondent's 8-day pre-election report for the May 2009 election, there is credible evidence of a violation of section 254.031(a)(6) of the Election Code.

11. The complaint alleged that the respondent disclosed the incorrect amount of total political expenditures on his 8-day pre-election report for the May 2009 election. On the totals page of the report at issue the respondent did not disclose a total for political expenditures of \$50 or less, but did disclose \$2,290.90 in total political expenditures. The respondent itemized approximately \$2,700 in political expenditures on the report. Total political expenditures equals the sum of total political expenditures of \$50 or less and the political expenditures itemized on the report. Although the correct amount of total political expenditures cannot be determined without knowing the amount of total political expenditures of \$50 or less, it is clear that it would equal or exceed \$2,700 (the amount of itemized political expenditures disclosed on the report), approximately \$410 more than was disclosed on the totals page of the report. Therefore, with regard to total political expenditures disclosed on the respondent's 8-day pre-election report for the May 2009 election, there is credible evidence of a violation of section 254.031(a)(6) of the Election Code.
12. The complaint alleged that the respondent failed to disclose the total amount of political expenditures of \$50 or less on his 8-day pre-election report for the May 2009 election. On the totals page of the report at issue the respondent did not disclose an amount for total political expenditures of \$50 or less. Therefore, there is credible evidence of a violation of section 254.031(a)(5) of the Election Code.
13. The complaint alleged that the respondent disclosed the incorrect amount of total political contributions maintained on his 8-day pre-election report for the May 2009 election. There is insufficient evidence of a violation of section 254.031(a)(8) of the Election Code.
14. The complaint alleged that the respondent failed to disclose the total amount of outstanding loans on his 8-day pre-election report for the May 2009 election. On the totals page of the report at issue the respondent did not disclose an amount for total principal amount of outstanding loans as of the last day of the reporting period. Therefore, there is credible evidence of a violation of section 254.031(a)(2) of the Election Code.
15. The complaint alleged that the respondent failed to fully disclose the address of three political contributions on his 8-day pre-election report for the May 2009 election. On the report at issue, the respondent itemized 11 political contributions. Of those 11 political contributions two did not disclose an address and one did not disclose a zip code. Thus, those contributions did not disclose complete addresses. The complaint also alleged that the respondent failed to disclose the date of 11 political contributions on his 8-day pre-election report for the May 2009 election. On the report at issue the respondent did not

disclose dates of acceptance for any of the 11 itemized political contributions. Therefore, there is credible evidence of violations of section 254.031(a)(1) of the Election Code.

16. The complaint also alleged that the respondent failed to disclose the date of a political expenditure on his 8-day pre-election report for the May 2009 election. The report at issue itemized 10 political expenditures. One political expenditure on that report did not disclose a date. Therefore, there is credible evidence of a violation of section 254.031(a)(3) of the Election Code.

### **Response to Notice of a Sworn Complaint**

17. A respondent must respond to the notice of a Category One violation not later than the 10th business day after the date the respondent receives the notice. Failure to respond to a notice of sworn complaint within the time required is a separate Category One violation. GOV'T CODE § 571.1242(a)(c).
18. United State Postal Service records show that the notice of this complaint was delivered on January 26, 2010. The notice stated that the respondent was required to respond within 10 business days from receipt of the notice. The respondent failed to respond. Therefore, there is credible evidence of a violation of section 571.1242 of the Government Code.
20. The Texas Ethics Commission may impose a sanction against the respondent of not more than \$5,000 or triple the amount at issue, whichever amount is greater. GOV'T CODE § 571.173.

### **Therefore, the Texas Ethics Commission orders that:**

1. The respondent pay to the Texas Ethics Commission, within 30 days of the date of this order, a civil penalty in the amount of \$2,500.

Order Date: \_\_\_\_\_

FOR THE COMMISSION

\_\_\_\_\_  
David A. Reisman  
Executive Director  
Texas Ethics Commission