

TEXAS ETHICS COMMISSION

IN THE MATTER OF
JESSICA FARRAR,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-3100386

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on February 23, 2011, to consider sworn complaint SC-3100386. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 254.031, 253.032, and 254.0612 of the Election Code and section 20.29 of the Ethics Commission Rules, and credible evidence of technical or *de minimis* violations of sections 254.061 and 254.091 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 provide complete information on campaign finance reports, 2) accepted political contributions from corporations or labor organizations, and 3) converted political contributions to personal use.

The respondent alleged that the complainant filed a frivolous or bad faith complaint.

III. Facts Supported by Credible Evidence

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

1. The respondent is State Representative, District 148.

Total Political Contributions Maintained

2. The complaint alleged that the respondent incorrectly reported the amount of total political contributions maintained on six campaign finance reports. The complaint did

not provide specific evidence to support the allegations, and the evidence was inconclusive as to whether the amounts were properly disclosed.

Political Contributions from Corporations or Labor Organizations

3. The complaint alleged that, based on disclosures in five campaign finance reports, the respondent accepted 15 political contributions from corporations or labor organizations. The respondent generally denied that she knowingly accepted political contributions from corporations or labor organizations. Twelve of the contributions at issue did not come from a corporation or labor organization. For three contributions, the evidence was inconclusive with regard to the status of the contributor or the respondent's knowledge of the contributor's status.

Disclosure of Full Names of Persons Making Political Contributions and Receiving Political Expenditures

4. The complaint alleged that, based on disclosures in five campaign finance reports, the respondent failed to disclose the full name for 12 political contributions and 10 political expenditures. The following disclosures did not include a full name for the contributor or payee:

July 2008 Semiannual Report

- March 16, 2008, \$10, J. Ewing
- April 13, 2008, \$10, J. Ewing
- May 18, 2008, \$10, J. Ewing
- June 13, 2008, \$10, J. Ewing
- February 28, 2008, \$24.89, KFC/TB/PX
- February 28, 2008, \$5.40, KFC/TB/PX
- May 23, 2008, \$300, MECA

30-day Pre-election Report, November 2008 General Election

- July 13, 2008, \$10, J. Ewing
- August 17, 2008, \$10, J. Ewing
- September 14, 2008, \$10, J. Ewing

January 2009 Semiannual Report

- November 16, 2008, \$10, J. Ewing

January 2010 Semiannual Report

- November 18, 2009, \$100, A.R. Schwartz

Disclosure of Purposes of Political Expenditures

5. The complaint alleged that, based on disclosures in six campaign finance reports, the respondent failed to properly disclose the purposes of 236 political expenditures. The respondent did not file corrected reports. However, the original descriptions adequately described the purposes of the expenditures.

Disclosure of Political Expenditures as Reimbursements

6. The complaint alleged that the respondent improperly reported a political expenditure as a reimbursement on the 8-day pre-election report for the November 2008 general election. The \$100 expenditure disclosed the name of an individual as the payee for the purpose of “sponsorship of candidate reception.” The named payee was the actual vendor of the goods or services purchased.

Disclosure of Political Expenditures for Travel Outside of Texas

7. The complaint alleged that the respondent failed to disclose political expenditures made for travel outside of Texas on Schedule T on two campaign finance reports. The dates, amounts of the expenditures, and information as to whether they were corrected are as follows:

January 2009 Semiannual Report

- December 10, 2008, \$19.16, Bally’s Hotel for “meals during legislative conference” – not disclosed on Schedule T; not corrected

July 2009 Semiannual Report

- January 19, 2009, \$600, American Express (c/o Texas State Society) for “Black Tie & Boots inaugural gala tickets” – not disclosed on Schedule T; not corrected
- January 22, 2009, \$948.11, Best Western Rosslyn for “hotel lodging during Presidential Inauguration” – not disclosed on Schedule T; not corrected

Contribution from Out-of-State Political Committee

8. The complaint alleged that the respondent failed to disclose on the 8-day pre-election report for the November 2008 general election, the out-of-state political committee identification number for a contribution from an out-of-state political committee. The report disclosed a \$1,500 contribution on October 10, 2008, from PEOPLE (AFSCME - AFL-CIO non-federal account). The report did not disclose an out-of-state political committee identification number. Records from the Federal Election Commission (FEC) disclose a committee with the name American Federation of State County Municipal Employees - PEOPLE. The report was not corrected.

Occupation or Job Title and Name of Employer

9. The complaint alleged that the respondent failed to disclose the principal occupations or job titles and names of employers for 12 contributors on three campaign finance reports. On the reports at issue, the respondent did not fully provide the principal occupation or job title and full name of employer for 12 contributors who made contributions that totaled \$500 or more during the reporting periods at issue. The reports were not corrected.

Personal Use of Political Contributions

10. The complaint alleged that the respondent converted political contributions to personal use based on a political expenditure that the respondent disclosed on the January 2009 semiannual report. The respondent disclosed an expenditure for \$19.16 to Bally's Hotel on December 10, 2008, with a stated purpose of "Meals during legislative conference." The evidence did not show that the expenditure was for a personal use.

Campaign Treasurer's Telephone Number and Office Held

11. The complaint alleged the respondent failed to include her campaign treasurer's telephone number on six campaign finance reports. The reports at issue were the respondent's July 2008 semiannual report, 30-day pre-election report for the November 2008 general election, 8-day pre-election report for the November 2008 general election, January 2009 semiannual report, July 2009 semiannual report, and January 2010 semiannual report.
12. The complaint also alleged that the respondent failed to include the "office held" on her 8-day pre-election report for the November 2008 general election.
13. The alleged missing information was not included on the reports at issue. The reports were not corrected.

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. 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).
2. There is insufficient evidence of a violation of section 254.031(a)(8) of the Election Code.

Political Contributions from Corporations or Labor Organizations

3. 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.
4. A corporation may not make a political contribution or political expenditure that is not authorized by subchapter D, chapter 253, Election Code. ELEC. CODE § 253.094.
5. 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. ELEC. CODE § 253.091.
6. A partnership that has corporate partners is subject to the same restrictions on political activity that applies to corporations. Ethics Advisory Opinion No. 221 (1994).
7. In order to show that the respondent violated sections 255.003 and 253.094 of the Election Code, the evidence must show that she knew that accepting a political contribution from a corporation is prohibited, that the contribution at issue was made by a corporation, and that she knew the contribution was from a corporation at the time she accepted it. The respondent swore that she did not knowingly accept a contribution from a corporation.
8. For 12 of the political contributions at issue, there is credible evidence of no violation of sections 253.003 and 253.094 of the Election Code. For three of the political contributions at issue, there is insufficient evidence of violations of sections 253.003 and 253.094 of the Election Code.

Disclosure of Full Names of Persons Making Political Contributions and Receiving Political 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).

10. 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. ELEC. CODE § 254.031(a)(3).
11. Of the 22 disclosures at issue, eight contributions did not include the full name of the contributor. However, eight contributions from the same individual did not exceed \$50 during the reporting period. Thus, the respondent was not required to provide detailed information for those contributions. Therefore, there is credible evidence of no violations of section 254.031(a)(1) of the Election Code with respect to those contributions. One \$100 contribution did not include the full name of the contributor. Therefore, there is credible evidence of a violation of section 254.031(a)(1) of the Election Code with respect to that contribution. Three of the expenditures at issue did not include the full name of the payee. However, two of the expenditures to the same payee did not exceed \$50 during the reporting period. Thus, the respondent was not required to provide detailed information for those expenditures. Therefore, there is credible evidence of no violation of section 254.031(a)(3) of the Election Code with respect to those expenditures. One expenditure for \$300 did not include the full name of the payee. Therefore, with respect to that disclosure, there is credible evidence of a violation of section 254.031(a)(3) of the Election Code. The remaining entries were properly disclosed. Therefore, there is credible evidence of no violation of section 254.031(a)(3) of the Election Code.

Disclosure of Purposes of Political Expenditures

12. 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. ELEC. CODE § 254.031(a)(3).
13. The report of a political expenditure for goods or services must describe the categories of goods or services received in exchange for the expenditure. Ethics Commission Rules § 20.61.
14. The original purpose descriptions were adequate. Therefore, there is credible evidence of no violation of section 254.031(a)(3) of the Election Code and section 20.61 of the Ethics Commission Rules.

Disclosure of Political Expenditures as Reimbursements

15. 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. ELEC. CODE § 254.031(a)(3).

16. Political expenditures 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 maybe 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. Except as provided above, a political expenditure made out of personal funds by a staff member of an officeholder, a candidate, or political committee with the intent to seek reimbursement from the officeholder, candidate, or political committee must be reported as follows: 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; the expenditure made by the staff member is reported as a political expenditure by the officeholder, candidate, or political committee; and 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.
17. The actual payee of the expenditure at issue was properly disclosed. 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.

Disclosure of Political Expenditures for Travel Outside of Texas

18. 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. ELEC. CODE § 254.031(a)(3).
19. The description of a political expenditure for travel outside of the state of Texas must provide the name of the person or persons traveling on whose behalf the expenditure was made, the means of transportation, the name of the departure city or the name of each departure location, the name of the destination city or the name of each destination location, the dates on which the travel occurred, and the campaign or officeholder purpose of the travel, including the name of a conference, seminar, or other event. Ethics Commission Rules § 20.61(b).
20. The respondent was required to disclose information about travel outside of the state of Texas on Schedule T. The respondent was not required to disclose expenditures for meals, lodging, or event tickets on Schedule T. Therefore, there is credible evidence of no violation of section 254.031(a)(3) of the Election Code and section 20.61(b) of the Ethics Commission Rules.

Contribution from Out-of-State Political Committee

21. A candidate, officeholder, or political committee that accepts a political contribution from a political committee that files with the Federal Election Commission must include the FEC statement of organization or FEC identification number as a part of the report filed under Chapter 254 for the reporting period in which the contribution was accepted. ELEC. CODE § 253.032.
22. 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 FEC 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 FEC. Ethics Commission Rules § 20.29(a).
23. The respondent failed to disclose the FEC identification number for the out-of-state committee that made a contribution to her campaign. Therefore, there is credible evidence of violations of section 253.032 of the Election Code and section 20.29(a) of the Ethics Commission Rules.

Occupation or Job Title and Name of Employer

24. Each report by a candidate for statewide office in the executive branch or 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 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.
25. As state representative, the respondent was required to disclose the principal occupation or job title and the full name of the employers of contributors whose contributions equaled or exceeded \$500 during a reporting period. The respondent failed to provide this information for 12 contributors. Therefore, there is credible evidence of violations of section 254.0612 of the Election Code.

Personal Use of Political Contributions

26. 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). Personal use is a use that primarily furthers individual or family purposes not connected with the performance of duties or activities as a candidate or officeholder. *Id.* § 253.035(d). 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, including payment of reasonable housing or household expenses incurred in maintaining a residence in Travis County by members of the legislature who do not ordinarily reside in Travis County. *Id.* § 253.035(d)(1).

27. There is insufficient evidence to show that the respondent violated section 253.035(a) of the Election Code with respect to the expenditure at issue.

Campaign Treasurer's Telephone Number and Office Held

28. Each report by a candidate must include the candidate's campaign treasurer's name, residence or business street address, and telephone number. ELEC. CODE § 254.061.
29. Each report by an officeholder must include the officeholder's full name and address and the office held. ELEC. CODE § 254.091.
30. The respondent failed to include her campaign treasurer's telephone number on six campaign finance reports and failed to include the office held on one campaign finance report. The omission did not substantially affect disclosure. Therefore, there is credible evidence of technical or *de minimis* violations of sections 254.061 and 254.091 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 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. 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 also acknowledges that the proper way to report political contributions from out-of-state political committees is in accordance with section 253.032 of the Election Code and section 20.29(a) of the Ethics Commission Rules. The respondent also acknowledges that each report by a candidate for statewide office in the executive branch or 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 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 each report by a candidate must include the candidate's campaign treasurer's name,

residence or business street address, and telephone number. The respondent also acknowledges that each report by an officeholder must include the officeholder's full name and address and the office held. 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 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 \$2,500 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-3100386.

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

Jessica Farrar, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director