

# 5 TEXAS ETHICS COMMISSION

IN THE MATTER OF

LORETTA P. DAVIS,  
CAMPAIGN TREASURER,  
GALVESTON COUNTY  
DEMOCRATS CLUB,

RESPONDENT

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BEFORE THE

TEXAS ETHICS COMMISSION

SC-31005155

## ORDER and AGREED RESOLUTION

### I. Recitals

The Texas Ethics Commission (the commission) met on August 11, 2011, to consider sworn complaint SC-31005155. A quorum of the commission was present. The commission determined that there is credible evidence of violations, including technical or *de minimis* violations, of section 254.031 of the Election Code, and section 20.62 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 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 is the campaign treasurer of the general-purpose committee Galveston County Democrats Club (GCDC).
2. The reports at issue are the July 2008, January 2009, July 2009, and January 2010 semiannual reports.

3. The respondent submitted an affidavit in response to the complaint.

#### **Total Political Contributions and Total Political Contributions of \$50 or Less**

4. The complaint alleged that the amount the respondent reported for total political contributions on the July 2008 semiannual report should have been \$1,720 and not \$1,707. In the complainant's attempt to calculate total political contributions he failed to include \$100 itemized on Schedule C-2 (used for corporation or labor organization support).
5. The respondent's affidavit stated that she made a \$50 mistake and total political contributions should be \$1,657; that the \$910 listed in the unitemized political contributions was actually the itemized total; and that the unitemized total was \$747. The respondent filed a corrected report that made these changes.
6. The initial July 2008 semiannual report disclosed total political contributions of \$50 or less of \$910. The respondent corrected the report changing this total to \$747.

#### **Total Political Expenditures of \$50 or Less**

7. The complaint alleged that the respondent failed to disclose total political expenditures of \$50 or less on the July 2008 semiannual report. The field in the totals section on the cover sheet for total political expenditures of \$50 or less, unless itemized, was left blank in the report at issue. The respondent's affidavit stated that all political expenditures on that report were itemized.
8. The corrections that the respondent made to the reports at issue disclose a \$252.97 error on the original July 2009 semiannual report and a \$232.87 error on the original January 2010 semiannual report for total political expenditures of \$50 or less, unless itemized.

#### **Total Political Expenditures and Itemized Political Expenditures**

##### January 2009 Semiannual Report

9. The complaint alleged that the amount the respondent reported for total political expenditures on the January 2009 semiannual report should have been \$11,573.39 and not \$10,591.39.
10. In the respondent's affidavit, she admitted that she mistakenly failed to include one of the four expenditures of \$982 for rent. The respondent's affidavit also stated that she made another mistake in disclosing the political expenditures in the report at issue by listing the amount paid to an individual as \$100 when the individual was paid \$500. The respondent corrected the report to disclose the approximately \$1,380 in missing expenditures. The

respondent corrected the report disclosing \$11,981.75 for total political expenditures. The difference in the total political expenditure amounts is approximately \$1,390. The respondent's original January 2009 semiannual report disclosed a \$300 expenditure on December 16, 2008, to an individual for "Re-imburse for mailing costs, stamps, copies." She stated that this was actually the following four expenditures which are disclosed on the corrected report:

10/17/08	\$151.46	Fry's / Phones/wiring/hardware for phones damaged by IKE
10/16/08	\$ 33.84	Office Depot / Notebooks/paper/tape
10/27/08	\$ 88.34	Kroger / Salad, water, drinks, toilet paper, cleaners for HQ & post IKE opening
10/18/08	\$ 26.36	Office Depot / Stationary (sp.) for headquarters

11. The respondent added the following new expenditure on the corrected report:

10/23/08	\$ 11.83	Dollar Tree Stores / Candy for parades (Homecoming)
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#### July 2009 Semiannual Report

12. The complaint alleged that the amount the respondent reported for total political expenditures on the July 2009 semiannual report should have been \$1,513.49 and not \$1,410.49.
13. In the respondent's affidavit, she admitted that she made a mistake in addition and that total political expenditures were \$1,513.49, instead of \$1,410.49. The difference in the total political expenditure amounts is \$103. The respondent corrected the report.

#### January 2010 Semiannual Report

14. In the respondent's affidavit, she stated that she found that she under reported total political expenditures by \$.01 in the January 2010 semiannual report. The respondent corrected the error.

#### **Total Political Contributions Maintained**

15. The complaint alleged that the respondent disclosed an incorrect amount for the total political contributions maintained as of the last day of the reporting period on each report at issue or, in the alternative, failed to report additional political contributions or political expenditures. The allegations appear to be based on a discrepancy that occurs by taking the amount of the total political contributions disclosed in the immediately preceding report, adding the total amount of monetary political contributions disclosed in the report at issue, and subtracting the total amount of political expenditures disclosed in the report at issue.

The complaint provided no specific evidence regarding the allegations other than alleging that the amount of total political contributions maintained should be a different amount than the respondent actually disclosed on each of the reports at issue based on the complainant's calculations according to the formula. The evidence was insufficient to show that the amounts disclosed were incorrect.

#### July 2008 Semiannual Report

16. In the July 2008 semiannual report, the respondent disclosed \$9,523.86 in total political contributions maintained as of the last day of the reporting period. The complaint alleged that the amount of total political contributions maintained should be \$9,586.86. The difference between the amount disclosed and amount alleged is \$63. The respondent swore that she correctly reported the total political contributions maintained as of the last day of the reporting period.

#### January 2009 Semiannual Report

17. In the January 2009 semiannual report, the respondent disclosed \$1,443.11 in total political contributions maintained as of the last day of the reporting period. The complaint alleged that the amount of total political contributions maintained should be \$1,914.47. The difference between the amount disclosed and amount alleged is \$471.36. The respondent swore that she correctly reported the total political contributions maintained as of the last day of the reporting period.

#### July 2009 Semiannual Report

18. In the July 2009 semiannual report, the respondent disclosed \$947.62 in total political contributions maintained as of the last day of the reporting period. The complaint alleged that the amount of total political contributions maintained should be \$1,418.98. The difference between the amount disclosed and amount alleged is \$471.36. The respondent swore that she correctly reported the total political contributions maintained as of the last day of the reporting period.

#### January 2010 Semiannual Report

19. In the January 2010 semiannual report, the respondent disclosed \$2,371.59 in total political contributions maintained as of the last day of the reporting period. The complaint alleged that the amount of total political contributions maintained should be \$2,842.96. The difference between the amount disclosed and amount alleged is \$471.37. The respondent swore that she correctly reported the total political contributions maintained as of the last day of the reporting period.

**Total Outstanding Loans**

20. The complaint alleged that the respondent failed to disclose the total principal amount of all outstanding loans as of the last day of the reporting period in the July 2008 semiannual report.
21. The field in the totals section on the cover sheet for total outstanding loans was left blank in the report at issue.
22. The respondent filed a corrected report disclosing -0- for total outstanding loans but in the respondent's affidavit she stated that she listed a political expenditure (that was paid for by a member of the staff and was to be reimbursed) that crossed reports (was being reimbursed in a different reporting period) as a loan on Schedule I (used for non-political expenditures from political contributions) and on Schedule F (used for political expenditures). The respondent entered \$69.03 on Schedule I with the note "(loan)" in the date field. The respondent entered an individual's name in the payee field and in the purpose field entered "loan for 12/4/2007 website domain – Go Daddy.com."

**Political Expenditures as Reimbursements**

23. The complaint alleged that the respondent failed to disclose the actual vendor payees, addresses, dates, and amounts "pertaining to the stated purpose" of political expenditures in each of the reports at issue. The complaint included a list of the political expenditures at issue that were disclosed in the committee's reports.

July 2008 Semiannual Report

24. Out of the 11 total political expenditures itemized in the July 2008 semiannual report, the complaint alleged that the respondent failed to disclose the actual vendor payee, address, date, and amount "pertaining to the stated purpose" for six political expenditures totaling approximately \$1,590. For five of those expenditures, totaling approximately \$610, the respondent disclosed the individual who was reimbursed but not the actual vendors. One of the expenditures at issue, a rental payment for office space, disclosed the actual payee.

January 2009 Semiannual Report

25. Out of the 39 total political expenditures itemized in the January 2009 semiannual report, the complaint alleged that the respondent failed to disclose the actual vendor payee, address, date, and amount "pertaining to the stated purpose" for 15 political expenditures totaling approximately \$6,380. For 11 of the expenditures, totaling approximately \$2,460, the respondent disclosed the individual reimbursed but not the actual vendors. Four of the expenditures at issue, rental payments for office space, disclosed the actual payee.

July 2009 Semiannual Report

26. Out of the 21 total political expenditures itemized in the July 2009 semiannual report, the complaint alleged that the respondent failed to disclose the actual vendor payee, address, date, and amount “pertaining to the stated purpose” for 11 political expenditures totaling approximately \$460. For the 11 expenditures at issue, the respondent disclosed the individual reimbursed but not the actual vendors.

January 2010 Semiannual Report

27. Out of the 17 total political expenditures itemized in the January 2010 semiannual report, the complaint alleged that the respondent failed to disclose the actual vendor payee, address, date, and amount “pertaining to the stated purpose” for 11 political expenditures totaling \$928.48. For the 17 expenditures at issue, the respondent disclosed the individual reimbursed but not the actual vendors.

#### **IV. Findings and Conclusions of Law**

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

##### **Total Political Contributions and Total Political Contributions of \$50 or Less**

1. Each report must include the total amount or a specific listing of the political contributions of \$50 or less accepted during the reporting period. ELEC. CODE § 254.031(a)(5).
2. Each report must include the total amount of all political contributions accepted during the reporting period. ELEC. CODE § 254.031(a)(6).
3. The respondent over reported total political contributions of \$50 or less by \$163 on the July 2008 semiannual report. Therefore, there is credible evidence of a violation of section 254.031(a)(5) of the Election Code.
4. The respondent over reported total political contributions by \$50 on the July 2008 semiannual report. Therefore, there is credible evidence of a technical or *de minimis* violation of section 254.031(a)(6) of the Election Code.

**Total Political Expenditures of \$50 or Less**

5. Each report must include 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).
6. The respondent detailed all political expenditures in the July 2008 semiannual report at issue. Although the respondent left blank the field for disclosing total political expenditures of \$50 or less, unless itemized, it is apparent when viewing the report that the respondent detailed all of the political expenditures. However, the respondent did not disclose a zero in the field in the totals section on the cover sheet for total political expenditures of \$50 or less, unless itemized, in the report at issue. Therefore, there is credible evidence of a technical or *de minimis* violation of section 254.031(a)(5) of the Election Code as to the July 2008 semiannual report. The respondent's corrections disclosed errors in the original July 2009 and January 2010 semiannual reports for total political expenditures of \$50 or less, unless itemized. Therefore, there is credible evidence of violations of section 254.031(a)(5) of the Election Code as to these reports.

**Total Political Expenditures and Itemized Political Expenditures**

7. 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. ELEC. CODE § 254.031(a)(3).
8. Each report must include the total amount of all political expenditures made during the reporting period. ELEC. CODE § 254.031(a)(6).
9. On the January 2009 semiannual report the respondent failed to itemize approximately \$1,380 of political expenditures, under reported total political expenditures by approximately \$1,390, and did not properly disclose approximately \$300 of political expenditures.
10. On the July 2009 semiannual report the respondent under reported total political expenditures by \$103.
11. On the January 2010 semiannual report the respondent under reported total political expenditures by \$.01.
12. Therefore, there is credible evidence of a violation of section 254.031(a)(3) of the Election Code as to the January 2009 semiannual report regarding approximately \$1,690 of expenditures, credible evidence of violations of section 254.031(a)(6) of the Election Code as to the January and July 2009 semiannual reports regarding approximately \$1,490 of

expenditures, and credible evidence of a technical or *de minimis* violation of section 254.031(a)(6) of the Election Code as to the January 2010 semiannual report regarding \$.01.

### **Total Political Contributions Maintained**

13. 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).
14. 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).
15. 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 July 2008, January 2009, July 2009, and January 2010 semiannual reports, according to a calculation performed by the complainant. As an unreliable method of determining the correct amount of political contributions maintained, the calculations provided by the complainant do not credibly indicate that the amounts of political contributions disclosed in the reports were inaccurate. There is insufficient evidence that the respondent violated section 254.031(a)(8) of the Election Code with respect to the reports at issue.

### **Total Outstanding Loans**

16. Each report must 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 amounts 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).
17. The respondent failed to properly disclose a loan of \$69.03 on the original July 2008 semiannual report and failed to disclose that amount for total outstanding loans. On the corrected report, the respondent should have disclosed the \$69.03 loan on Schedule E (used for loans) instead of Schedule I and should have disclosed \$69.03 for total outstanding loans



instead of -0-. There is credible evidence of a technical or *de minimis* violation of section 254.031(a)(2) of the Election Code.

### **Political Expenditures as Reimbursements**

18. 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).
19. 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.
20. The expenditures that were made for the rental of office space disclosed the actual payee. 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 as to those expenditures.
21. Regarding the remaining expenditures, the respondent failed to properly disclose approximately \$610 of such expenditures on the July 2008 semiannual report, approximately \$2,460 of such expenditures on the January 2009 semiannual report, approximately \$460 of such expenditures on the July 2009 semiannual report, and approximately \$930 of such expenditures on the January 2010 semiannual report. The total of the reimbursed expenditures that were not properly reported was approximately \$4,460. The respondent corrected the errors. There is credible evidence of violations of section 254.031(a)(3) of the Election Code and section 20.62 of the Ethics Commission Rules.

## 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: 1) each report must 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; 2) each report must include the total amount of all political contributions accepted and the total amount of all political expenditures made during the reporting period; 3) 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; 4) each report must 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 amounts 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; 5) a political expenditure made out of personal funds by a staff member must be reported as described by section 20.62 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 \$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-31005155.

AGREED to by the respondent on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Loretta P. Davis, Respondent

EXECUTED ORIGINAL received by the commission on: \_\_\_\_\_.

Texas Ethics Commission

By: \_\_\_\_\_  
David A. Reisman, Executive Director