

TEXAS ETHICS COMMISSION

IN THE MATTER OF
SUSAN CRISS,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-31005169

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on December 7, 2010 to consider sworn complaint SC-31005169. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 253.035, 253.1611, 254.0611, and 254.031 of the Election Code and section 20.62 of the Ethics Commission Rules, as well as technical or *de minimis* violations of sections 254.0611 and 254.031 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 and political expenditures, 2) converted political contributions to personal use, and 3) made political contributions that exceeded contribution limits.

III. Facts Supported by Credible Evidence

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

1. The respondent is a judge of the 212th Judicial District and was candidate for justice of the Supreme Court of Texas in a primary election held on March 4, 2008. The respondent was also an unopposed incumbent candidate for district judge in the 2010 primary and general elections. The allegations were based on activity disclosed in the respondent's reports covering a period from January 1, 2008, to December 31, 2009.

2. The respondent's July 2008 semiannual report disclosed the following:
 - \$75 in total political contributions of \$50 or less
 - \$1,375 in total political contributions
 - \$534.64 in total political expenditures of \$50 or less
 - \$67,124.76 in total political expenditures
 - \$7,230.04 in total political contributions maintained as of the last day of the reporting period
 - \$0 in outstanding loans

3. The respondent's January 2009 semiannual report disclosed the following:
 - \$0 in total political contributions of \$50 or less
 - \$500 in total political contributions
 - \$0 in total political expenditures of \$50 or less
 - \$4,747.08 in total political expenditures
 - \$2,982.96 in total political contributions maintained as of the last day of the reporting period
 - \$0 in outstanding loans

4. The respondent's July 2009 semiannual report disclosed the following:
 - \$0 in total political contributions of \$50 or less
 - \$435.99 in total political contributions
 - \$0 in total political expenditures of \$50 or less
 - \$1,798.11 in total political expenditures
 - \$110.46 in total political contributions maintained as of the last day of the reporting period
 - \$0 in outstanding loans

5. The respondent's January 2010 semiannual report disclosed the following:
 - \$0 in total political contributions of \$50 or less
 - \$53,848 in total political contributions
 - \$30 in total political expenditures of \$50 or less
 - \$14,337.02 in total political expenditures
 - \$40,816.59 in total political contributions maintained as of the last day of the reporting period
 - \$0 in outstanding loans

Total Amount of Political Expenditures

6. The complaint alleged that the respondent reported an incorrect total amount of political expenditures in each report at issue. The complaint included a specific amount of total political expenditures that should have been disclosed in each report but provided no evidence to support the figures or to indicate that the amounts disclosed in the reports were incorrect. The total amount of political expenditures disclosed on the cover page of each report is equal to the amount of all political expenditures itemized in each respective report, including political expenditures of \$50 or less. In response to the allegations, the respondent swore that she listed all expenses in her reports.

Cash on Hand

7. The complaint alleged that the respondent reported an incorrect total amount of political contributions maintained as of the last day of the reporting period, or “cash on hand,” in each report at issue. The allegations appeared to be based on an assumption that the amount in each report should be determined by beginning with the amount of cash on hand disclosed for the previous reporting period and then adding political contributions and subtracting political expenditures disclosed in the report. The complaint included a specific amount of cash on hand that should have been disclosed in each report, based solely upon such a calculation. In response to the allegations, the respondent swore that she reported all contributions and that the amounts in her reports were correct.

Contributor Employer or Law Firm

8. The complaint alleged that the respondent failed to disclose the full name of the employer or law firm of 35 contributors.

July 2008 Semiannual Report

9. The respondent’s July 2008 semiannual report disclosed a \$200 political contribution from an individual and disclosed his principal occupation and job title as “Attorney” and the employer or law firm as “self.” In response to the allegation, the respondent swore that the contributor was a solo practitioner and “is the one and only attorney or employee in his office.”
10. The website of the State Bar of Texas indicated that the contributor was a licensed attorney with a firm size of “solo.”

January 2010 Semiannual Report

11. The respondent’s January 2010 semiannual report disclosed 34 political contributions from individuals of various amounts exceeding \$100 and totaling approximately \$9,450. The contributions included:

- Approximately \$8,900 from contributors with a principal occupation and job title as “Attorney” and employer or law firm as “self”
 - \$250 from a contributor with a principal occupation as “Attorney,” a job title of “Attorney/Mediator,” and employer or law firm as “self”
 - \$300 from a contributor with a principal occupation and job title as “Insurance Agent” and employer or law firm as “self”
12. In response to the allegations, the respondent swore that all of the contributors at issue were attorneys who were solo practitioners except for two of the attorneys and an insurance agent. The respondent swore that she properly indicated that all of the contributors were self-employed.
13. According to the website of the State Bar of Texas that included information provided to the State Bar by attorneys regarding their firm, firm size, and other practice and license information, 24 of the contributors were attorneys with a firm size of “solo,” three had a firm size of “2 to 5,” and one firm size was “6 to 10.” Regarding two of the contributors who were listed with a firm size of “2 to 5,” the respondent submitted letters from the contributors that stated they were solo practitioners. The respondent swore that “[a]ttorneys are bound to keep the information on their Texas Bar page accurate and correct and I believe it is fair for me to have relied on that.”
14. According to records of the Texas Secretary of State (SOS), various contributors who were licensed attorneys were also associated with one or more corporations, professional corporations, or limited liability companies. Galveston County and Harris County records also indicated that some of the contributors had filed assumed name certificates. The records indicated the following relationships at the time the contributions were made:
- Approximately \$3,800 was from nine contributors who were sole members or sole directors of a professional corporation or limited liability company that operated as a law firm.
 - \$100 was from a director, president, and shareholder of a business corporation formed in 1972 to engage in the practice of law; president and sole director of business corporation that formed in 2005; and president and sole director of a professional corporation formed to perform legal services in 1994.
 - \$250 was from a president and director of a professional corporation that had two directors and that formed in 1991 for the practice of law.

- \$200 was from a vice president and a director of a business corporation formed in 1990 for buying and selling imports and other merchandise and services.
 - \$100 was from the sole director of a professional corporation formed in 2000 as a law practice that forfeited its existence in 2003. The contributor continued to file franchise tax public information reports through 2009. The contributor was also a partner in a limited partnership that formed in 2007 as an investment business that forfeited its existence in 2009 before the contribution was accepted. The contributor filed an assumed name certificate with Harris County in 1998.
 - \$250 was from the sole director of a business corporation that formed in 1979 and forfeited its existence in 2007. The contributor filed various assumed name certificates for unincorporated entities since 2008 with Harris County.
 - \$100 was from a member and manager of a limited liability company in 2007 that operated a restaurant. The contributor was licensed as an attorney in 1973 but there was no evidence that the contributor was practicing as an attorney. The contributor filed an assumed name certificate with Galveston County for a marina and restaurant in 2010.
15. The respondent also disclosed \$100 from a person identified by a broadcasting station in Houston as a legal analyst. The contributor was licensed as an attorney in 1979.
16. The respondent also disclosed \$300 from an insurance agent who was the president and sole director of a business corporation formed in 1995. The contributor was also the sole shareholder in a business corporation formed as an investment company in 2008. Records of the Texas Department of Insurance indicated that the contributor was a licensed insurance agent and her business was a general lines agency. The contributor was also the only insurance agent who appeared on the corporation's website.

Disclosure of Payee Information

17. The complaint alleged that the respondent did not properly disclose the full names and addresses of the following political expenditures made from political contributions that were disclosed in her July 2008 and January 2009 semiannual reports:
- \$1,200 to "NGP" in Washington, DC on February 25, 2008, for "maintain contribution & mail database"
 - \$35 to "TDW of Central Texas" in Waco on July 11, 2008, for "retreat fee"

- \$55 to “TDW of Central Texas” in Waco on July 12, 2008, for “convention auction items/books bought to donate for Galv Co Dem banquet auction (lost in Ike)”
18. Regarding the expenditure to “NGP,” the respondent swore that the name of the company was NGP and that “[t]hat is the name I wrote on every check I wrote them.” The respondent submitted printouts from the website of a company that referred to itself as “NGP,” “NGP Software,” and “NGP Software, Inc.”
 19. The business was located in Washington, DC and provided software and campaign-related services to candidates and organizations. NGP Software, Inc. formed as a business corporation in 1997. The payee address disclosed in the respondent’s report was the same address as the registered agent for the business and the address displayed on the business’s website. A trademark application filed with the U.S. Patent and Trademark Office in July 2007 indicated that “NGP” was an abbreviation of “National Geographical & Political Software.”
 20. Regarding the expenditures to “TDW of Central Texas,” the respondent swore that the expenditures were made to the Texas Democratic Women of Central Texas. She swore that her receipts for the expenditures were destroyed by Hurricane Ike and that she disclosed an address of a local party headquarters where the organization met.
 21. Texas Democratic Women was a general-purpose committee located in Austin, Texas. According to its website, the committee had local chapters throughout the state, one of which was a “central” chapter located in Waco. Business records available on the Internet indicated that the address disclosed in the report was an address for a jewelry store in Waco. A campaign treasurer appointment filed with the commission on April 24, 2006, changed the committee’s acronym to “TDW PAC.”

Disclosure of Contributor Name

22. The complaint alleged that the respondent did not properly disclose the full names of two contributors in her January 2010 semiannual report. The contributions at issue were in the amounts of \$500 and \$200 and the respondent disclosed the first and middle names of the contributors with their initials. The respondent disclosed a complete address for each contributor, disclosed the principal occupation and job title for each contributor as “Attorney,” and identified the law firm that employed each contributor.
23. One contributor was publicly known by a nickname and was a former state representative and state senator for over 20 years. Numerous news articles identified the contributor by his initials without stating his full legal name and the State Bar of Texas website and other public documents identified him with initials for the first and middle name.

24. The State Bar of Texas website identified one contributor as a licensed attorney working at a law firm in Galveston. SOS records also identified the contributor as the sole director of a professional corporation in Galveston. Various Internet websites also identified the attorney with initials for the first and middle name.

Disclosure of Staff Reimbursements

25. The complaint alleged that the respondent failed to properly disclose political expenditures made as reimbursements to staff or other individuals. The complaint identified the following political expenditures made from political contributions disclosed in the respondent's reports, which are individually followed by the respondent's specific response for each expenditure:
- \$122.48 to [an individual] in La Marque, Texas on February 27, 2008, for "reimbursement for food for volunteer work party"
 - The respondent swore: "I reimbursed [an individual] for 'food for a volunteer work party.' She provided me with a receipt and I reimbursed her. I do not remember the name of the vendor she bought the food from. I considered the expense to be similar to one paid to someone to cater an event. The TEC does not require that we disclose every source of food or supplies that person who puts on an event uses."
 - \$100 to [an individual] in La Marque, Texas on May 19, 2008, for "labor picking up signs"
 - The respondent swore: "I hired this young man to go around and retrieve my signs and take them to my warehouse. I paid him directly for physical labor he performed. He was the vendor. I did not fail to disclose actual vendor, payee, address, date, amount or purpose of expenditure. This was a wage expense."
 - \$1,000 to [an individual] in Edinburg, Texas on February 25, 2008, for "public relations"
 - The respondent swore: "[The individual] is a publicist. He did public relations work for my campaign. He was the vendor. I did not fail to disclose actual vendor payee, address, date, amount or purpose of expenditure."

- \$1,100 to [an individual] in Santa Fe, Texas on February 27, 2008 for “fish to fry for Get Out The Vote Event”
 - The respondent swore: “He bought the fish and then he cooked it. The fish was purchased at Discount Seafood Market, 2419 25th Avenue North, Texas City, Texas 77590. I considered him to be like a caterer. The TEC does not require that we provide the name of every source of food or supplies that a vendor, caterer or food provider uses when preparing food for an event.”
 - \$55 to [an individual] on June 10, 2008, for “refreshments for Galveston County Democratic Party candidate forum”
 - The respondent swore: “He asked me to ‘sponsor’ the refreshments for the event. I did not put the actual vendor he bought the refreshments from. These types of sponsorships are advertised to the membership. Sometimes the ads are printed and sometimes announced. This one was announced. This was an advertising expense. I did not think we had to put every vendor an organization uses when we donate money to help sponsor an event another group puts on.”
26. The complaint also identified the following political expenditures, which are followed by the respondent’s specific response for the expenditures:
- \$100 from political contributions to [an individual] in Houston, Texas on August 15, 2008 for “contribution for National Democratic Convention expenses of Harris Co Tejano Dems”
 - \$100 from personal funds, with reimbursement intended, to [an individual] in Houston, Texas on August 15, 2008 for “contribution for Democratic Natl Convention expenses for Harris Co Tejano Democrats”
 - \$100 from personal funds, with reimbursement intended, to [an individual] in Houston, Texas on August 18, 2005 for “contribution for Democratic National Convention expenses for Harris Co Tejano Democrats”
 - Regarding the three expenditures, the respondent swore: “The Harris County Tejano Democrats had a fundraising event to raise money to send three of their members to the Democratic National Convention to work as convention volunteers. The money was to pay for their travel expenses.”

27. The complaint also identified a \$100 political expenditure made from personal funds to [an individual] in McAllen, Texas on July 30, 2008 for “contribution.” Regarding the expenditure, the respondent swore, “I identified ‘contribution’ as the purpose of the expense.” [The individual] was a justice on the 13th Court of Appeals in Corpus Christi, Texas and a candidate for justice of the Supreme Court of Texas at the time the expenditure to her was made.
28. The individual’s campaign finance report that covered the reporting period disclosed a \$100 political contribution from the respondent.

Conversion to Personal Use

July 2008 Semiannual Report

29. The complaint specified the following expenditures from political contributions disclosed in the July 2008 semiannual report:
 - \$105 to Texas Coalition of Black Democrats in Dallas on June 9, 2008, for “brunch tickets”
 - \$305.14 to Gaido’s in Galveston on June 2, 2008, for “secretary’s day lunch”
 - \$35 to Galveston Aids Foundation in Galveston on April 7, 2008, for “Brunch tickets”
 - \$35 to League of Women Voters Galveston Area in Galveston on April 2, 2008, for “dinner”
30. The respondent swore, in pertinent part:

As an elected official who must continue campaigning and participating in public events to stay elected I must attend political, civil and charitable events. Elected officials who do not cannot sustain challenges to their office. Community activists are very upfront in letting candidates and elected officials know that they support those who support them. Candidates are expected show [sic] their support at these events both financially and by their presence. Some groups will look at a candidate’s financial support in deciding which candidates to endorse.

None of the four expenses listed were for personal use. The Texas Coalition of Black Democrats brunch was a political event. The Galveston Aids Foundation brunch was a charitable event largely attended by the Gay, Lesbian, Bisexual and Transgender Community. The League of Women Voters Dinner is attended by women who always vote. I depend on the support of all three of these communities

to stay in office. This was not an expense made for personal use. These were expenses related to my campaign and/or my duties as an officeholder.

Three of these expenses were for tickets to attend events where meals were served. These purchases were for tickets to attend the Texas Coalition of Black Democrats Brunch, Galveston AIDS Foundation brunch and League of Women Voters dinner.

Ticket cost was mandatory to attend each event. It is not possible to campaign without attending local events of this nature. It is not realistic to expect to not have to pay the required amount to attend. It is not realistic to expect to win re-election without attending these events even during off-ballot seasons. Running successfully for office and re-election requires maintaining a high profile in the community. This was not for personal use.

The second listed allegation concerns a membership fee paid to Gaido's. This involves Secretary's day Luncheon at Gaido's. This was an Officeholder expenses and not for personal use.

Every year I take my staff to the Pelican Club at Gaido's for Secretary's day, also known as Administrative Assistant Day. For years the Pelican Club has put on a special event with a buffet lunch on that day. This was an officeholder expense, not a personal one.

...

I have to pay dues to belong the Pelican Club. For the past several years I have only used my Pelican Club membership to take my staff to their Secretary day Luncheon or to have meetings with my political consultant. I have not had a meeting there with my political consultants since I ran for re-election in 2006. The Pelican Club is part of Gaido's. . . .

31. The respondent submitted a copy of an invoice from Gaido's of Galveston, Inc., which indicated that the respondent was billed \$92.01 in November 2007, November 2008, and October 2009 for "October dues" and \$305.14 on May 23, 2008, for "April 21-25, 08."
32. The Texas Coalition of Black Democrats – Dallas Chapter was a general-purpose committee in Dallas that filed a dissolution report with the commission on January 12, 2007. The committee filed a new campaign treasurer appointment on May 19, 2010.
33. According to a publicly available copy of a Form 990 filed with the Internal Revenue Service for 2008, the Galveston AIDS Foundation, Inc. was a non-profit 501(c)(3) corporation in Galveston, Texas formed for charitable purposes.

January 2009 Semiannual Report

34. The complaint specified the following expenditures disclosed in the January 2009 semiannual report, which are followed by the respondent's specific response for each expenditure:
- \$55 from political contributions to Brazoria County Democratic Party in Pearland, Texas on August 20, 2008, for "Meals at BBQ lunch"
 - The respondent swore: "The ticket cost was mandatory to attend the event. It is not possible to campaign without attending these events. It is not realistic to expect to not have to pay the required amount to attend. It is not realistic to expect to win re-election without attending these events even during off-ballot seasons. I get lots of support from out of county, especially from persons who live and/or work in the surrounding counties. Running successfully for office and re-election requires maintaining a high profile in the community. This was not for personal use."
 - \$20.94 from political contributions to Hilton Liberty Tavern in Austin on July 18, 2008, for "meal during Netroots Nation convention"
 - The respondent swore: "This expense was for a meal bought during an out of town trip during a political educational conference on how to use blogs and the internet to campaign. This was not for personal use."
 - \$92.01 from political contributions to Pelican Club in Galveston on December 5, 2008, for "dues"
 - The respondent swore that the expenditure was for membership at the club and that she used the club for meetings on "Secretary's Day" with her administrative staff.
 - \$32.42 from personal funds, with reimbursement intended, to Texas Legal Publications in Houston on July 30, 2008, for "law books"
 - The respondent swore: "I bought law books to use in [sic] at work at the court, the office that I hold. Keeping up with the law is a requirement for keeping the office that I hold. This was not an expense made for personal use. This was an expense related to my campaign and/or my duties as an officeholder."

- \$35 from political contributions to Archdiocese of Galveston-Houston on September 30, 2008, for “Red Mass dinner”
 - The respondent swore: “This was a dinner for the judiciary. The ticket cost was mandatory to attend the event. It is not possible to campaign without attending these events. . . . This event is attended by attorneys from Harris, Galveston and all surrounding counties.”
- \$35 from political contributions to Carmelo’s in Austin on July 18, 2008, and \$26 from political contributions to P.F. Chang’s in Austin on July 17, 2008, for “meal during Netroots Nation convention”
 - Regarding each of the two expenditures, the respondent swore: “This expense was for a meal bought during an out of town trip during a political educational conference on how to use blogs and the internet to campaign. This was not an expense made for personal use. This was an expense related to my campaign and/or my duties as an officeholder.”
- \$28 from political contributions to Moonshine in Austin on August 18, 2008, for “lunch with [an individual] during Netroots Nation”
 - The respondent swore: “This expense was for a meal bought during an out of town trip during a political educational conference on how to use blogs and the internet to campaign. I had lunch with [an individual]. He was a presenter at the Netroots Nation Conference. He just had a book he wrote published. The book is about campaigns and candidates and elected officials can benefit from using blogs and the internet to communicate with the public. [The individual] agreed to have lunch with me to discuss his book. He taught me during this lunch about using the internet and blogs in campaigns. . . .”
- \$9.70 from political contributions to Spring Creek BBQ in Cypress on July 12, 2008, for “meal during TDW retreat”
 - The respondent swore: “This expense was for a meal bought during an out of town trip during a political convention for the Texas Democratic Women. This was not an expense made for personal use. This was an expense related to my campaign and/or my duties as an officeholder.”

35. The Hilton Liberty Tavern, Carmelo's, P.F. Chang's, Moonshine, and Spring Creek BBQ were restaurants.
36. The respondent disclosed in her July 2010 semiannual report a payment of \$2,044.58 to herself from political contributions on January 4, 2010, for "reimbursement for expenses reported in Jan 15 2009 & Jan 2010 reports." The total amount of political expenditures made from personal funds disclosed in the respondent's January 2009 semiannual report was \$1,242.42, of which \$1,092.42 was disclosed with the intent to seek reimbursement. In the respondent's July 2009 semiannual report, the respondent disclosed \$1,418.11 in political expenditures made from personal funds, none of which with the intent to seek reimbursement. In the respondent's January 2010 semiannual report, the respondent disclosed \$2,517.16 in political expenditures made from personal funds, of which \$1,642.29 was disclosed with the intent to seek reimbursement.

July 2009 Semiannual Report

37. The complaint specified the following expenditures from personal funds disclosed in the July 2009 semiannual report, which are followed by the respondent's specific response for the expenditures:
 - \$25 from personal funds to Harris County Democratic Lawyers Association in Houston on March 25, 2009, for "lunch"
 - \$35 from personal funds to Harris County Democratic Party in Houston on April 8, 2009, for "brunch ticket"
 - \$35 from personal funds to Harris County Democratic Party on April 24, 2009, for "brunch ticket"
 - The respondent swore that each expenditure "was made with my personal funds and not with campaign funds."
38. The respondent did not indicate in her report that any of the expenditures from personal funds were made with the intent to seek reimbursement from political contributions or disclose any expenditures from political contributions to reimburse herself for any of the expenditures from personal funds.
39. The complaint also specified the following expenditures from political contributions disclosed in the July 2009 semiannual report, which are followed by the respondent's specific response for the expenditures:

- \$249 from political contributions to Texas Lawyer in New York City on February 6, 2009, for “subscription to legal newspaper” and \$233.50 from political contributions to Texas Weekly in Austin on June 9, 2009, for “News subscription”
 - Regarding the expenditure to Texas Lawyer, the respondent swore: “This periodical covers case law, legal news, judiciary and campaigns involving the judiciary.”
 - Regarding the expenditure to Texas Weekly, the respondent swore: “This periodical covers case law, legal news, judiciary, government, pending legislation, the legislature and campaigns involving the judiciary.”
 - Regarding each expenditure, the respondent also swore: “It is necessary to keep up to date on all of these subjects both as an officeholder and someone who expects to continue to get re-elected to a district court bench in Texas. Occasionally there have been stories about cases in my court, court projects I have worked on and my political campaigns for office. This was not an expense made for personal use. This was an expense related to my campaign and/or my duties as an officeholder.”

January 2010 Semiannual Report

40. The complaint specified the following expenditures from political contributions disclosed in the January 2010 semiannual report, which are followed by the respondent’s specific response for each expenditure:
- \$299 to Incisive Media-Texas Lawyer in Philadelphia, Pennsylvania on November 28, 2009, for “other subscription”
 - The respondent swore: “This periodical covers case law, legal news, judiciary and campaigns involving the judiciary. It is necessary to keep up to date on all of these subjects both as an officeholder and someone who expects to continue to get re-elected to a district court bench in Texas. Occasionally there have been stories about cases in my court, court projects I have worked on and campaigns I have been involved in. This was not an expense made for personal use. This was an expense related to my campaign and/or my duties as an officeholder.”

- \$92.01 to Pelican Club in Galveston on December 3, 2009, for “membership dues/fees kept up for use of facilities for events”
 - The respondent swore that the expenditure was for dues to a private club that she used to meet with staff for a Secretary Day luncheon.

Excessive Contributions to Political Committee for Primary Election

41. The complaint alleged that the respondent made unlawful political contributions to political committees in connection with a March 4, 2008, primary election for justice of the Supreme Court, in which the respondent was a candidate.

42. In her July 2008 semiannual report, the respondent disclosed a political expenditure from political contributions of \$70 to “Bastrop County Democrats” in Bastrop, Texas on February 26, 2008, for “dinner tickets.” In response to the allegation, the respondent swore:

I reported the purpose of this as “dinner tickets.” I bought a ticket for my father and I, who was helping me with my campaign for Texas Supreme Court during that primary. The ticket cost was mandatory to attend the event. It is not possible to campaign without attending these events. It is not realistic to expect to not have to pay the required amount to attend. This was not a contribution.

43. Bastrop County Democratic Club, a general-purpose committee with the same address that the respondent disclosed for the expenditure to Bastrop County Democrats, disclosed \$290 in political contributions in its runoff report for the April 13, 2008, primary runoff election that included the date of the respondent’s expenditure. The committee’s report indicated that it used a higher political contribution itemization threshold of \$100 and none of the contributions in the report were itemized.

44. The respondent also disclosed a political expenditure from political contributions of \$70 to “Fort Bend County Democrats” in Richmond, Texas on February 29, 2008, for “banquet tickets.” In response to the allegation, the respondent swore:

I purchased tickets for my [sic] and I to attend a banquet sponsored by this group while I was campaigning for Texas Supreme Court. Ticket cost was mandatory to attend the event. It is not possible to campaign without attending these events. It is not realistic to expect to not have to pay the required amount to attend. This was not a contribution.

45. Fort Bend Democrats, a general-purpose committee with the same address that the respondent disclosed for the expenditure to Fort Bend County Democrats, disclosed \$681 in political contributions of \$100 or less in its July 2008 semiannual report that included the date of the respondent's expenditure. The report did not itemize any political contributions from the respondent. The report disclosed a nonpolitical expenditure of \$2,970.54 to the Quail Valley Country Club in Missouri City, Texas, on February 29, 2008, for "Catering and facility fees for fundraiser." The committee's campaign treasurer appointment filed on July 22, 2004, stated that the committee's purpose was to support nominees of the Democratic Party.

Excessive Contributions to Political Committee When Not on Ballot

46. In calendar year 2008, the respondent was a candidate for justice of the Supreme Court of Texas. The respondent was judge of the 212th Judicial District in 2008 and 2009. The district office was not on the ballot in 2008 or 2009, but was on the ballot in 2010.

Calendar Year 2008

47. In her July 2008 semiannual report, the respondent disclosed the following political expenditure from political contributions:

- \$450 to Netroots Nation in San Francisco, California on April 11, 2008, for "political bloggers convention fee"

48. In response, the respondent swore:

This was not a contribution. Netroots Nation sponsored a conference about how political bloggers affect today's campaigns and government offices. This was an educational forum with classes. The money I paid to them was reported as "political bloggers convention fee." The fee was mandatory to attend the classes.

49. The respondent also disclosed a \$70 political expenditure from political contributions to "Fort Bend County Democrats" in Richmond, Texas on February 29, 2008, for "banquet tickets." The respondent swore:

I purchased tickets for my [sic] and I to attend a banquet sponsored by this group while I was campaigning for Texas Supreme Court. Ticket cost was mandatory to attend the event. It is not possible to campaign without attending these events. It is not realistic to expect to not have to pay the required amount to attend. This was not a contribution.

50. The respondent submitted a copy of a receipt that indicated she paid \$450 to Netroots Nation to attend “Netroots Nation ’08,” an event held from July 17, 2008, to July 20, 2008. Netroots Nation was not a political committee.
51. The respondent’s January 2009 semiannual report covered a period from July 1, 2008, to December 31, 2008. The complaint specified the following expenditures from political contributions disclosed in the report, which are followed by the respondent’s specific response for each expenditure:
- \$55 to Brazoria County Democratic Party in Pearland, Texas, on August 20, 2008, for “Meals at BBQ Lunch.”
 - The respondent swore: “The ticket cost was mandatory to attend the event. It is not possible to campaign without attending these events. It is not realistic to expect to not have to pay the required amount to attend. I get lots of support from out of county, especially from persons who live and/or work in the surrounding counties. This event is attended by attorneys from Harris, Galveston and all surrounding counties. Running successfully for office and re-election requires maintaining a high profile in the community.”
 - \$250 to Galveston County Democratic Party in La Marque, Texas on October 22, 2008, for “sponsor for banquet”
 - The respondent swore: “The purpose of this event was for me to be a ‘banquet sponsor.’ Elected officials are expected to support the party at fundraising events as a sponsor to defray the costs of putting the event on. It is not realistic to expect to maintain the support of party activists without financially supporting the party at their events. Ads reflect our sponsorship. This was an advertising expense.”
 - \$500 to Galveston County Democratic Party on November 12, 2008, for “contribution for get out the vote program”
 - The respondent swore: “I was on the ballot in 2008 in a race for the Texas Supreme Court Place 9.”
 - \$250 to Harris County AFL-CIO Council in Houston on September 11, 2008, for “banquet sponsor”

- The respondent swore: “The purpose of this event was for me to be a ‘banquet sponsor.’ Elected officials are expected to support the party at fundraising events as a sponsor to defray the costs of putting the event on. It is not realistic to expect to maintain the support of party activists without financially supporting the party at their events. Ads reflect our sponsorship. This was an advertising expense.”
 - \$40 to Houston Gay & Lesbian Political Caucus in Houston on July 8, 2008, for “dues”
 - The respondent swore: “This was not a contribution but a dues expense. The dues are necessary to fully participate in the organization’s activities and to receive their publications.”
 - \$200 to Iron Cactus in Austin on July 17, 2008, for “sponsorship of Texas Progressive Alliance party at Netroots Nation convention (not a PAC)”
 - The respondent swore: “The purpose of this expense was for me to be a reception sponsor. Ads reflect our sponsorship. This is an advertising expense.”
 - \$50 to Roadwomen in Houston on July 8, 2008, for “dues”
 - The respondent swore: “This was not a contribution. This was a payment for dues to belong to the organization. This is an organization of women who are active in the Democratic party. Dues must be paid to fully participate in the organization and receive their publications.”
52. The complaint also specified the following expenditures from personal funds, with reimbursement intended, disclosed in the January 2009 semiannual report, which are followed by the respondent’s specific response for each expenditure:
- \$300 to Fort Bend County Democrats in Richmond, Texas on September 2, 2008, for “posters”
 - The respondent swore: “This was not a contribution. I purchased a political campaign poster from the Democratic National Convention. The ‘s’ is a typo. I planned to donate the poster for silent auction. I decided instead to give it as a gift to the president of the Texas Democratic Women.”

- \$20 to Galveston County Democratic Party on December 6, 2008, for “Chili Lunch”
 - The respondent swore: “This was not a contribution. The ticket cost was mandatory to attend the event. . . . Running successfully for office and re-election requires maintaining a high profile in the community.”
 - \$40 to Galveston County Central Labor Council in Texas City, Texas on December 9, 2008, for “Christmas Dinner”
 - \$300 to Texas Democratic Party in Austin on July 23, 2008, for “auction item (quilt) bought to donate to Galv Co Dem Party but donated to Ike victims instead”
 - The respondent swore: “This was a gift expense, not a contribution.”
 - \$125 to Galveston County Bar Association in Galveston on September 10, 2008, for “dues”
 - The respondent swore: “This is not a political committee. This is an officeholder expense. These dues are necessary to fully participate in Galveston Bar Association events, including continuing legal education events and to receive their publications.”
 - \$200 to Houston Gay & Lesbian Political Caucus in Houston on July 8, 2008, for “sponsor of fundraising Fourth of July Party”
 - The respondent swore: “The purpose of this expenditure was to be a ‘banquet sponsor’ of the Houston Gay & Lesbian Political Caucus. Elected officials are allowed to support organizations at fundraising events as a sponsor to defray the costs of putting the event on. It is not realistic to expect to maintain the support of party activists without financially supporting their events. Ads reflect our sponsorship. This is an advertising expense.”
53. The respondent disclosed in her July 2010 semiannual report a payment of \$2,044.58 to herself from political contributions on January 4, 2010, for “reimbursement for expenses reported in Jan 15 2009 & Jan 2010 reports.”

54. The Galveston County Democratic Party, a general-purpose committee in La Marque, Texas disclosed political contributions from the respondent of \$250 on October 15, 2008, and \$500 on November 10, 2008. The party also disclosed approximately \$21,700 in political expenditures for voter registration and “get out the vote” advertising and contract labor from September 2008 to November 2008.
55. The Fort Bend Democrats in Richmond, Texas disclosed a political contribution of \$300 from the respondent on August 31, 2008. The Texas Democratic Party in Austin, a general-purpose committee, disclosed a political contribution of \$325 from the respondent on July 22, 2010. Iron Cactus in Austin was a restaurant and was not a political committee.
56. The respondent also disclosed a political expenditure from political contributions of \$270 to the Harris County Democratic Party on August 29, 2008, for “banquet sponsor.” The Harris County Democratic Party county executive committee disclosed a political contribution of \$270 from “Susan Criss Campaign Account” on August 28, 2008.

Calendar Year 2009

57. The complaint specified the following expenditures from personal funds, with no reimbursement intended, disclosed in the July 2009 semiannual report, which are followed by the respondent’s specific response for each expenditure:
 - \$25 to Harris County Democratic Lawyers Association in Houston, Texas on March 25, 2009, for “lunch”
 - The respondent swore: “This expenditure was made with my personal funds and not with campaign funds. . . . This was not a contribution. The fee covered lunch and the class.”
 - \$35 to Harris County Democratic Party in Houston, Texas on April 8, 2009, for “brunch ticket”
 - The respondent swore: “This expenditure was made with my personal funds and not with campaign funds. . . .”
 - \$35 to Harris County Democratic Party on April 24, 2009, for “brunch ticket”
 - The respondent swore: “This expenditure was made with my personal funds and not with campaign funds.”
 - \$50 to Harris County Tejano Democrats in Houston on March 12, 2009, for “dues”

- The respondent swore: “This was for ‘dues’ which were required to be paid to fully participate in the organization’s activities. This was not a contribution. This was not an expense made for personal use. This was an expense related to my campaign and/or my duties as an officeholder.”
 - \$50 to Texas College Democrats in Austin on May 6, 2009, for “fundraising event”
 - The respondent swore: “This expenditure was made with my personal funds and not with campaign funds.”
 - \$12 to Texas Democratic Veterans in San Antonio on May 21, 2009, for “dues”
 - The respondent swore: “This expenditure was made with my personal funds and not with campaign funds.”
 - \$120 to Texas Democratic Women in Austin on March 4, 2009, for “dues”
 - The respondent swore: “This expenditure was made with my personal funds and not with campaign funds.”
58. The complaint also specified an expenditure of \$200 to Teamsters Local Union 745 Benefit Dinner in Dallas on February 6, 2009, for “fundraiser for 2 injured members . . .” Regarding the expenditure, the respondent swore:
- This was for a “fundraiser for two injured members . . .” The money ultimately went to pay the medical bills of these two injured union members as the designation indicates. This was not a contribution to the union.
59. The complaint also specified the following expenditures from personal funds, with reimbursement intended, disclosed in the January 2010 semiannual report, which are followed by the respondent’s specific response for each expenditure:
- \$60 to Galveston County Democratic Party in La Marque, Texas on August 31, 2009, for “?”
 - The respondent swore: “This was for a ticket for the Galveston County Democratic Party Tribute to Women Trailblazer’s lunch. This was a fee required to attend a ‘fundraising event.’ It is not possible to campaign without attending these events. It is not realistic to expect to not have to pay the required amount to attend.”

- \$75 to Harris County Democratic Lawyers Association in Houston on July 30, 2009, for “fee; membership dues”
 - The respondent swore: “This was not a contribution but a fee or membership due and was reported as such. The membership due is necessary to participate in the organization’s events including continuing legal education.”
 - \$75 to LULAC Council # 151 in Galveston, Texas on August 26, 2009, for “advertising expense; ad in 2010 calendar”
 - The respondent swore: “This expenditure was not a contribution. I purchased an advertisement in a publication. This was an advertising expense.”
60. The complaint specified the following expenditure from political contributions disclosed in the January 2010 semiannual report, which is followed by the respondent’s specific response for each expenditure:
- \$350 to NAACP-Bay Area Branch in Dickinson, Texas on November 16, 2009, for “event expense sponsorship of banquet”
 - The respondent swore: “I purchased tickets for my father and I to attend this banquet. Ticket cost was mandatory to attend the event. It is not possible to campaign without attending these events. It is not realistic to expect to not have to pay the required amount to attend. This was not a contribution.”
61. NAACP-Bay Area Branch was not a political committee.
62. “Harris County Tejano Democrats H.C.T.D.” was a general-purpose committee filing campaign finance reports with the commission. The respondent disclosed an additional expenditure of \$250 from political contributions to the committee on September 13, 2009, for “event expense; banquet sponsorship.” The committee disclosed political contributions of \$25 and \$250 from the respondent on, respectively, February 12, 2009, and September 13, 2009.
63. Harris County Democratic Lawyers Association, Inc, a general-purpose committee, disclosed political contributions of \$75 and \$30 from the respondent on, respectively, July 29, 2009, and September 3, 2009.

64. The Galveston County Democratic Party, a general-purpose committee, did not disclose accepting any political contributions from the respondent in 2009.
65. The respondent disclosed expenditures of \$125 from personal funds, with no reimbursement intended, and \$180 from political contributions to Texas Democratic Women in Austin in, respectively, March 2009 and February 2009. The Texas Democratic Women, a general-purpose committee, disclosed political contributions from the respondent of \$120, \$125, and \$180 in 2009.
66. The respondent disclosed in her July 2010 semiannual report a payment of \$2,044.58 to herself from political contributions on January 4, 2010, for “reimbursement for expenses reported in Jan 15 2009 & Jan 2010 reports.”

Excessive Contributions to Candidate

67. The complaint alleged that the respondent unlawfully used political contributions to make political contributions over \$100 to a candidate in 2008 and 2009. The complaint specified the following expenditures from personal funds disclosed in the January 2009 semiannual report, which are followed by the respondent’s specific response for each expenditure:
 - \$150 to “Obama for President” in Chicago, Illinois, on September 4, 2008, without reimbursement intended
 - \$100 to “Obama for President” on September 4, 2008, with reimbursement intended
68. In response to the allegations, the respondent swore:

I made the \$150.00 contribution from my personal account. I only contributed \$100.00 from my campaign account.

I was invited to an event at a law office in Houston for the Obama presidential campaign. I made \$150.00 contribution from my personal account. I made a separate contribution of \$100.00 from my campaign account. Eric Holder was the event speaker.
69. Federal Election Commission records indicated that Obama for America, a principal campaign committee of a presidential candidate, accepted a \$250 contribution from the respondent on August 28, 2008.
70. The complaint also specified a \$200 expenditure from personal funds, without reimbursement intended, to a Dallas County Judge campaign on June 16, 2009, that the respondent disclosed in her July 2009 semiannual report. In response to the allegation, the respondent swore:

I did make a contribution to the [campaign] for more than \$100.00. It was made out of my personal funds and reported as such on Schedule G and the box seeking reimbursement was not checked.

IV. Findings and Conclusions of Law

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

Total Amount of Political Expenditures

1. A campaign finance report must include the amount of political expenditures including political expenditures that in the aggregate exceed \$50 and that are made during the reporting period. ELEC. CODE §§ 254.031(a)(3), 254.031(a)(6).
2. The complaint alleged that the total amounts of political expenditures disclosed in the respondent's reports were incorrect. There is credible evidence that the respondent did not violate section 254.031(a)(6) of the Election Code in connection with the total amounts of political expenditures.

Cash on Hand

3. 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).
4. The complaint alleged that the total amount of political contributions maintained or "cash on hand" disclosed in each report was incorrect. There is insufficient evidence that the respondent violated section 254.031(a)(8) of the Election Code in connection with the total amount of political contributions maintained in each report.

Contributor Employer or Law Firm

5. Each report by a candidate for a judicial office must include, for each individual from whom the person filing the report has accepted political contributions that in the aggregate exceed \$50 and that are accepted during the reporting period, the principal occupation and job title of the individual and the full name of the employer of the individual or of the law firm of which the individual or the individual's spouse is a member, if any. ELEC. CODE § 254.0611(a)(2)(A).

6. “Law firm” means a partnership, limited liability partnership, or professional corporation organized for the practice of law. *Id.* § 253.157(e).
7. Black’s Law Dictionary defines “employer” as “a person who controls and directs a worker under an express or implied contract of hire and who pays the worker’s salary or wages.” Black’s Law Dictionary 565 (8th ed. 2004).

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8. The respondent disclosed a \$200 political contribution from an attorney and disclosed his employer or law firm as “self.” The contributor was a self-employed attorney at the time the contribution was accepted and there is no evidence that he was employed by any other person or held a position with a business entity. Therefore, there is credible evidence of no violation of section 254.0611(a)(2)(A) of the Election Code in connection with the contributor’s employer or law firm.

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9. The respondent disclosed approximately \$9,450 in contributions from various individuals and disclosed their employers or law firms as “self.”
10. Approximately \$3,800 in political contributions were from attorneys who were sole directors or sole members of a professional corporation or limited liability company. The business entities were also organized for the practice of law. Thus, the employer or law firm of each contributor was the separate legal entity formed specifically as a law firm. Furthermore, each law firm was subject to the aggregate contribution limits under the Judicial Campaign Fairness Act that restrict the total amount of political contributions a judicial candidate or officeholder may accept from a law firm and its partners, associates, shareholders, employees, or others associated with the firm. In order to properly determine whether the contribution limits that apply to law firms are exceeded, the names of the employers or law firms must be known by a judicial candidate or officeholder and identified in a campaign finance report. The respondent did not identify the contributors’ employers or law firms of which the contributors were members. However, based on the facts in this specific case, the omission did not substantially affect disclosure. Therefore, there is credible evidence of technical or *de minimis* violations of section 254.0611(a)(2)(A) of the Election Code in connection with approximately \$3,800 in contributions.
11. The respondent also accepted \$100 from a director, president, and shareholder of a business corporation formed to practice law and disclosed the contributor’s employer or law firm as “self.” Therefore, there is credible evidence that the respondent violated section 254.0611(a)(2)(A) of the Election Code in connection with the contribution.
12. The respondent also accepted \$250 from an attorney who was a president and director of a professional corporation that had two directors and the respondent disclosed the

- contributor's employer or law firm as "self." Thus, there is credible evidence that the respondent violated section 254.0611(a)(2)(A) of the Election Code in connection with the contribution.
13. The respondent also accepted \$200 from an attorney who was a vice president and a director of an importing business corporation at the time the contribution at issue was accepted. The respondent disclosed the contributor's employer or law firm as "self" without disclosing the corporation as the respondent's employer. Therefore, there is credible evidence that the respondent violated section 254.0611(a)(2)(A) of the Election Code in connection with the contribution.
 14. The respondent also accepted approximately \$350 in contributions from two attorneys who were sole directors of corporations that had forfeited their existence before the contributions were accepted. The contributors were self-employed attorneys at the time the contributions were accepted and there is no evidence that they were employed by any other person or held a position with a business entity. Therefore, there is credible evidence that the respondent did not violate section 254.0611(a)(2)(A) of the Election Code in connection with the contributions.
 15. The respondent also accepted \$100 from a contributor who was a licensed attorney and a member and manager of a limited liability company that operated a restaurant. There is insufficient evidence that the respondent violated section 254.0611(a)(2)(A) of the Election Code in connection with the contribution.
 16. The respondent also accepted \$100 from a licensed attorney identified by a news broadcasting station as a legal analyst. There is insufficient evidence that the respondent violated section 254.0611(a)(2)(A) of the Election Code in connection with the contribution.
 17. The respondent also accepted \$300 from an insurance agent who was the director of two business corporations, including an insurance company (for which she was listed as an agent), at the time the contribution was accepted. Therefore, there is credible evidence that the respondent violated section 254.0611(a)(2)(A) of the Election Code in connection with the contribution.
 18. Regarding the remaining approximate \$4,250 in contributions at issue, there is credible evidence that the respondent did not violate section 254.0611(a)(2)(A) of the Election Code.

Disclosure of Payee Information

19. A campaign finance report must include, in pertinent part, 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).
20. The respondent disclosed a \$1,200 political expenditure to a business corporation named "NGP Software, Inc." in its articles of incorporation and disclosed the name as "NGP." As

disclosed, the name of the payee substantially complied with the reporting requirements. Therefore, there is credible evidence of no violation of section 254.031(a)(3) of the Election Code.

21. The respondent also disclosed two political expenditures totaling \$90 to a chapter of the Texas Democratic Women and disclosed the payee name as “TDW of Central Texas.” “TDW PAC” is the committee’s acronym. However, the law requires that the full name of the payee be disclosed in a campaign finance report. The respondent did not include the full name of the organization in her report and it is unclear whether the address disclosed in the report was correct. Therefore, there is credible evidence of violations of section 254.031(a)(3) of the Election Code.

Disclosure of Contributor Name

22. A campaign finance report must include, in pertinent part, 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. ELEC. CODE § 254.031(a)(1).
23. The contributions at issue, totaling approximately \$750, were from two attorneys and the respondent disclosed only their initials and last names. Thus, the respondent did not disclose the full names of the contributors. However, the respondent properly disclosed the address and law firm of each contributor and the contributors could be readily identified with the information. Therefore, there is credible evidence of technical or *de minimis* violations of section 254.031(a)(1) of the Election Code.

Disclosure of Staff Reimbursements

24. 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 may be 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. Ethics Commission Rules § 20.62(a).
25. A 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).

26. A report must also include the amount of each payment made during the reporting period from a political contribution if the payment is not a political expenditure, the full name and address of the person to whom the payment is made, and the date and purpose of the payment. *Id.* § 254.031(a)(4).
27. The complaint alleged that the respondent improperly disclosed political expenditures by failing to disclose the actual vendors, addresses, dates, and amounts. The expenditures included \$122.48 for reimbursements for food at a party for volunteers and \$1,100 for fish at a “get out the vote event.” The evidence indicates that the respondent had agreed to reimburse the payees for food that they purchased at the respondent’s directions. In such circumstances, the respondent was required to disclose the actual vendors of the food in her report, not the individuals who were reimbursed. Therefore, there is credible evidence that the respondent violated section 254.031(a)(3) of the Election Code and section 20.62(a) of the Ethics Commission Rules in connection with the approximate \$1,220 in expenditures.
28. The expenditures also included \$55 paid to an individual to sponsor an event. There is credible evidence that the respondent did not violate section 254.031(a)(3) of the Election Code or section 20.62(a) of the Ethics Commission Rules in connection with the \$55 expenditure.
29. The expenditures also included two expenditures totaling approximately \$1,100 paid to two individuals for personal services. There is credible evidence that the respondent did not violate section 254.031(a)(3) of the Election Code or section 20.62(a) of the Ethics Commission Rules in connection with the expenditures.
30. The expenditures also included \$100 from political contributions and \$200 from personal funds paid to three individuals (at \$100 each) to cover travel expenses to a political event. There is credible evidence that the respondent did not violate section 254.031(a)(3) of the Election Code or section 20.62(a) of the Ethics Commission Rules in connection with the expenditures.
31. The expenditures also included \$100 from personal funds paid to a judicial candidate as a political contribution. There is credible evidence that the respondent did not violate section 254.031(a)(3) of the Election Code or section 20.62(a) of the Ethics Commission Rules in connection with the expenditure.

Conversion to Personal Use

July 2008 Semiannual Report

32. 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).

33. “Personal use” means a use that primarily furthers individual or family purposes not connected with the performance of duties or activities as a candidate for or holder of a public office. The term 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. *Id.* § 253.035(d)(1).
34. The respondent made three expenditures totaling approximately \$480 from political contributions for tickets to political events that she attended for campaign purposes. The fourth expenditure was for a membership at a private club that she used for officeholder related activity. There is credible evidence that the respondent did not violate section 253.035(a) of the Election Code in connection with the expenditures because they were for political purposes.

January 2009 Semiannual Report

35. In Ethics Advisory Opinion No. 241 (EAO 241), the commission determined that a legislator may use political contributions to pay for “meals for state business not reimbursed by the state.” Ethics Advisory Opinion No. 241 (1995). The commission also addressed whether a legislator may use political contributions for meals in Austin that do not take place in connection with the conduct of state business. Specifically, the issue was whether the costs of such meals are “reasonable housing or household expenses.” The commission stated that the costs of such meals would not be considered “household expenses” because a legislator would incur meal costs whether or not he was required to reside in Austin. *Id.*
36. The respondent made expenditures totaling approximately \$120 from political contributions for meals, approximately \$90 to attend political events that included a meal, and \$92.01 for club dues. The respondent also spent \$32.42 from personal funds for law books and used political contributions to reimburse herself in a later reporting period.
37. Regarding the expenditures of \$28 for meals, there is credible evidence that the expenditure was made for campaign purposes and that the respondent did not violate section 253.035(a) of the Election Code in connection with the expenditure.
38. Regarding the remaining approximate \$90 in expenditures for meals, the respondent swore that the expenditures were made during out-of-town trips to attend a political education conference and a political event. Presumably, the respondent would have been required to eat meals on the same days, whether she was attending the conference and event or working on completely personal matters. Other than the \$28 meal, there is no evidence that any of the other meals were in any way connected to her campaign or officeholder activities other than the fact that she attended the conference and event. Thus, in accordance with EAO 241, political contributions could not be used to pay for such meals. Therefore, there is credible evidence that the respondent violated section 253.035(a) of the Election Code by converting approximately \$90 in political contributions to personal use.

39. Regarding the approximate \$90 in expenditures to attend political events, \$92.01 for club dues, and \$32.42 for law books, the expenditures were made for campaign or officeholder purposes. Therefore, there is credible evidence that the respondent did not violate section 253.035(a) of the Election Code in connection with the expenditures because they were for political purposes.

July 2009 Semiannual Report

40. The respondent made expenditures totaling approximately \$100 for tickets and a meal that were disclosed as from personal funds without intent to seek reimbursement. The expenditures were made from personal funds and there was no evidence that the respondent used political contributions to reimburse herself for the expenditures. Therefore, there is credible evidence that the respondent did not violate section 253.035(a) of the Election Code in connection with the expenditures.
41. The respondent also made approximately \$480 in expenditures from political contributions for subscriptions to legal periodicals. There is credible evidence that the respondent did not violate section 253.035(a) of the Election Code in connection with the expenditures.

January 2010 Semiannual Report

42. The respondent made a \$299 expenditure for a subscription to a legal periodical. There is credible evidence that the respondent did not violate section 253.035(a) of the Election Code in connection with the expenditure.
43. The respondent also made a \$92.01 expenditure for a membership at a private club that she used for officeholder related activities. There is credible evidence that the respondent did not violate section 253.035(a) of the Election Code in connection with the expenditure.

Excessive Contributions to Political Committee for Primary Election

44. A judicial candidate or a specific-purpose committee for supporting or opposing a judicial candidate may not use a political contribution to knowingly make political contributions to a political committee in connection with a primary election. ELEC. CODE § 253.1611(b).
45. “In connection with an election” means, with regard to a contribution that is designated in writing for a particular election, the election designated or, with regard to a contribution that is not designated in writing for a particular election or that is designated as an officeholder contribution, the next election for that office occurring after the contribution is made. *Id.* § 253.152(2).
46. “Political contribution” means a campaign contribution or an officeholder contribution. *Id.* § 251.001(5).

47. “Campaign contribution” means a contribution to a candidate or political committee that is offered or given with the intent that it be used in connection with a campaign for elective office or on a measure. *Id.* § 251.001(3).
48. “Officeholder contribution” means a contribution to an officeholder or political committee that is offered or given with the intent that it be used to defray expenses that are incurred by the officeholder in performing a duty or engaging in an activity in connection with the office and are not reimbursable with public money. *Id.* § 251.001(4).
49. “Contribution” means a direct or indirect transfer of money, goods, services, or any other thing of value and includes an agreement made or other obligation incurred, whether legally enforceable or not, to make a transfer. *Id.* § 251.001(2).
50. In Ethics Advisory Opinion No. 131 (EAO 131), the commission stated:

A contribution given with the restriction that it be used to hire lobbyists to influence legislators in regard to legislation would not be a political contribution since it does not meet the definition of either campaign contribution or officeholder contribution. If, on the other hand, funds are not restricted to uses not regulated by title 15, the funds must be reported as a political contribution.

Ethics Advisory Opinion No. 131 (1993).

51. The commission also stated in Ethics Advisory Opinion No. 132 (EAO 132) that a contribution earmarked for payment of general-purpose committee expenses that are neither general administrative nor political expenses would not be required to be reported under chapter 254 of the Election Code. Ethics Advisory Opinion No. 132 (1993).
52. The respondent made two payments of \$70 from her political contributions in late February 2008 to attend events as a candidate along with her father. The payees were two general-purpose committees, Bastrop County Democratic Club in Bastrop and Fort Bend Democrats in Richmond. The respondent swore that the payments were not political contributions to the committees, but were mandatory costs to attend the events that she attended as a candidate. Each committee had a purpose of supporting candidates and the respondent attended the events as a candidate in the 2008 primary election. Thus, the evidence indicates that the respondent made the payments to the committees with the intent that the committees use the funds for political purposes. Each payment was a direct or indirect transfer of money to a political committee. Furthermore, under EAOs 131 and 132, the payments to the committees would have been political contributions unless they were earmarked for nonpolitical purposes. There is no evidence that the respondent earmarked her payments for nonpolitical purposes. Thus, the payments were political contributions to political committees.

53. The Judicial Campaign Fairness Act prohibits a judicial candidate from using political contributions to knowingly make political contributions to a political committee in connection with a primary election. Under section 253.152(2) of the Election Code, if the respondent did not designate either contribution in writing for a particular election or as an officeholder contribution, the contribution would have been made in connection with “the next election for that office occurring after the contribution is made.” There is no evidence that the respondent designated either contribution for a particular election. In addition, the next election for the respondent’s office sought was the March 4, 2008, primary election. Therefore, there is credible evidence that the respondent violated section 253.1611(b) of the Election Code by using political contributions to make \$140 in political contributions to a political committee in connection with a primary election.

Excessive Contributions to Political Committee When Not on Ballot

Calendar Year 2008

54. A judicial officeholder may not, in any calendar year in which the office held is not on the ballot, use a political contribution to knowingly make a political contribution to a political committee that, when aggregated with each other political contribution to a political committee in that calendar year, exceeds \$250. ELEC. CODE § 253.1611(d).
55. The respondent’s office of district judge was not on the ballot in 2008. Thus, the respondent could not use political contributions to make political contributions to a political committee that exceeded \$250 in 2008.
56. In calendar year 2008, the respondent used political contributions to pay \$450 to “Netroots Nation” to attend an informational event. The payee was not a political committee. Therefore, is credible evidence that the respondent did not violate section 253.1611(d) of the Election Code in connection with the expenditure.
57. The respondent also paid \$500 and \$250 from political contributions to the Galveston County Democratic Party, a general-purpose committee. The committee disclosed accepting a corresponding political contribution from the respondent a few days before each expenditure. The \$250 was to sponsor a fundraising banquet and the respondent also spent \$20 from personal funds for a ticket to attend an event where lunch was provided. The respondent attended each event as a candidate. The respondent also stated that the \$250 expenditure was made to specifically support the party financially. Although \$500 was for a “get out the vote” campaign, the committee disclosed it as a political contribution and there is no evidence that the funds were earmarked or used for purely nonpartisan, nonpolitical purposes. The respondent also paid \$20 to the committee from personal funds with the intent to seek reimbursement and used political contributions to reimburse herself for the expenditure. Thus, the respondent used approximately \$770 in political contributions to make political contributions to the committee during calendar year 2008. Therefore, there is credible evidence that the respondent violated section 253.1611(d) of the Election Code in connection with approximately \$520 in expenditures.

58. The respondent also paid \$300 from personal funds to the Fort Bend County Democrats in Richmond, Texas for a political campaign poster from the Democratic National Convention. The payee was a general-purpose committee that disclosed a political contribution of \$300 from the respondent two days before the date of the expenditure disclosed by the respondent. The respondent also paid \$70 from political contributions to the same payee for tickets to attend a banquet as a candidate. The respondent subsequently reimbursed herself from political contributions for the expenditure. There is no evidence that the respondent designated that either payment to the committee be used for nonpolitical purposes. Therefore, there is credible evidence that the payments were political contributions to the committee and that the respondent violated section 253.1611(d) of the Election Code in connection with \$120 in expenditures.
59. The respondent also paid \$300 from personal funds to the Texas Democratic Party in Austin, a general-purpose committee, to purchase an auction item to donate to the Galveston County Democratic Party. The respondent swore that the expenditure was a “gift expense” and it appears that the respondent donated the item to victims of Hurricane Ike. However, the determination of whether the expenditure was a political contribution depends upon the purpose for which it was paid to the committee, not how the respondent ultimately used the item. The respondent paid \$300 to the party with the intent to donate the purchased item to the Galveston County Democratic Party and there is no evidence that the respondent designated the payment to the Texas Democratic Party for a nonpolitical purpose. The respondent subsequently reimbursed herself from political contributions for the expenditure. Therefore, there is credible evidence that the payment was a political contribution to the committee and that the respondent violated section 253.1611(d) of the Election Code in connection with \$50 in expenditures.
60. Regarding the remaining approximate \$960 in expenditures made to various payees, the respondent did not pay over \$250 to any of the recipients in 2008. Therefore, there is credible evidence that the respondent did not violate section 253.1611(d) of the Election Code in connection with any of the expenditures.

Calendar Year 2009

61. The office held by the respondent, district judge of the 212th Judicial District, was not on the ballot in 2009. Thus, the respondent could not use political contributions to make political contributions to a political committee that exceeded \$250 in 2009. The complaint alleged violations regarding approximately \$1,090 in expenditures and the respondent made an additional approximate \$2,060 in expenditures to three of the related payees that were not specifically alleged in the complaint.
62. In calendar year 2009, the respondent paid \$60 to the Galveston County Democratic Party to attend a political fundraising event. There is no evidence of any other political contributions from the respondent to the Galveston County Democratic Party other than the \$60. Therefore, there is credible evidence that the respondent did not violate section 253.1611(d) of the Election Code in connection with the expenditures.

63. In calendar year 2009, the respondent also made expenditures of \$50 from personal funds and \$250 from political contributions to the Harris County Tejano Democrats, a general-purpose committee. In 2009, the respondent also made expenditures of \$180 from political contributions and \$120 and \$125 from personal funds to the Texas Democratic Women. All of the expenditures from personal funds were disclosed in the respondent's July 2009 semiannual report and the respondent did not indicate for any of the expenditures that reimbursement from political contributions was intended. There is credible evidence that the respondent did not violate section 253.1611(d) of the Election Code in connection with the expenditures because she did not use political contributions to contribute more than \$250 to the political committees during 2009.
64. Regarding the remaining approximate \$860 in expenditures alleged in the complaint, the evidence indicates that approximately \$510 were paid to entities without exceeding \$250 to any single payee in 2009 and that the \$350 expenditure to NAACP-Bay Area Branch was not an expenditure to a political committee. Therefore, there is credible evidence that the respondent did not violate section 253.1611(d) of the Election Code in connection with the expenditures.

Excessive Contributions to Candidate

65. A judicial candidate or officeholder or a specific-purpose committee for supporting or opposing a judicial candidate or assisting a judicial officeholder may not use a political contribution to knowingly make political contributions that in the aggregate exceed \$100 in a calendar year to a candidate or officeholder. ELEC. CODE § 253.1611(a).
66. The respondent made political contributions totaling \$250 to a presidential campaign in 2008, of which \$100 was from political contributions. The respondent only used political contributions to contribute \$100 to the presidential campaign, which does not exceed either the \$100 limit on contributions to candidates or the \$250 limit on contributions to a political committee in a calendar year. Therefore, there is credible evidence that the respondent did not violate section 253.1611(a) of the Election Code in connection with the expenditures.

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 report by a candidate for a judicial office must include, for each individual from whom the person filing the report has accepted political contributions that in the aggregate exceed \$50 and that are accepted during the reporting period, the principal occupation and job title of the individual and the full name of the employer of the individual or of the law firm of which the individual or the individual's spouse is a member, if any. The respondent also acknowledges that a campaign finance report must also 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 acknowledges that 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. The respondent also acknowledges the proper way to report reimbursements to staff is in accordance with section 20.62 of the Ethics Commission Rules.

The respondent acknowledges that a person who accepts a political contribution as a candidate or officeholder may not convert the contribution to personal use. The respondent also acknowledges that a judicial candidate or a specific-purpose committee for supporting or opposing a judicial candidate may not use a political contribution to knowingly make political contributions to a political committee in connection with a primary election. The respondent also acknowledges that a judicial officeholder may not, in any calendar year in which the office held is not on the ballot, use a political contribution to knowingly make a political contribution to a political committee that, when aggregated with each other political contribution to a political committee in that calendar year, exceeds \$250.

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 \$400 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-31005169.

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

Susan Criss, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director