

TEXAS ETHICS COMMISSION

IN THE MATTER OF
SYLVIA SPIVEY,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-31007234

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on October 21, 2010, to consider sworn complaint SC-31007234. A quorum of the commission was present. The commission determined that there is credible evidence of violations of section 254.031 of the Election Code, a law 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 a political contribution, political expenditure, and total political contributions and expenditures on a campaign finance report.

III. Facts Supported by Credible Evidence

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

1. The respondent is a candidate for state representative.

Disclosure of Political Contributions and Expenditures

2. The complaint alleged that the respondent failed to disclose a political contribution accepted and a political expenditure made during the reporting period on the respondent's July 2010 semiannual campaign finance report. Specifically, the complaint alleged that the respondent failed to disclose a political contribution of \$750 from the Hispanic Republicans of Texas, a general-purpose committee, and a \$750 political expenditure to the Harris County Republican Party. The complaint also alleged that the total political contributions and total political expenditures disclosed were incorrect on that report.

3. Commission records show that the Hispanic Republicans of Texas's 30-day pre-election report for the March 2010 primary election disclosed a \$750 political expenditure to the "Sylvia Spivey Campaign" on January 1, 2010, with a stated purpose of "campaign contribution."
4. The respondent's July 2010 semiannual report disclosed total political contributions of \$2,055 and total political expenditures of \$4,304.46. The report did not disclose a political contribution from the Hispanic Republicans of Texas or a political expenditure to the Harris County Republican Party. In response to the complaint, the respondent swore that her failure to include the contribution and expenditure on her July 2010 semiannual report were clerical errors. The respondent filed a corrected report and disclosed a \$750 political contribution from the Hispanic Republicans of Texas on January 3, 2010. The respondent also disclosed a \$750 political expenditure to the Harris County Republican Party on January 4, 2010, with a stated purpose of "filing fee." The corrected report disclosed total political contributions of \$2,805, and total political expenditures of 5,054.46.

IV. Findings and Conclusions of Law

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

Disclosure of Political Contributions and Expenditures

1. Each campaign finance report must include the amount of political contributions from each person that in the aggregate exceed \$50 and that are accepted during the reporting period by the person or committee required to file a report under this chapter, the full name and address of the person making the contributions, and the dates of the contributions. ELEC. CODE § 254.031(a)(1).
2. 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).
3. Each report must include the total amount of all political contributions and the total amount of all political expenditures made during the reporting period. ELEC. CODE § 254.031(a)(6).
4. The respondent failed to disclose a political contribution accepted and a political expenditure made during the reporting period, and failed to properly disclose total political contributions and total political expenditures. The respondent corrected the report. However, at the time the original report was filed, the respondent failed to include this information. Therefore, there is credible evidence of violations of sections 254.031(a)(1), 254.031(a)(3), and 254.031(a)(6) of the Election Code.

V. Representations and Agreement by Respondent

By signing this order and agreed resolution and returning it to the commission:

1. The respondent neither admits nor denies the facts described under Section III or the commission's findings and conclusions of law described under Section IV, and consents to the entry of this order and agreed resolution solely for the purpose of resolving this sworn complaint.
2. The respondent consents to this order and agreed resolution and waives any right to further proceedings in this matter.
3. The respondent acknowledges that each campaign finance report must include the amount of political contributions from each person that in the aggregate exceed \$50 and that are accepted during the reporting period by the person or committee required to file a report, the full name and address of the person making the contributions, and the dates of the contributions. The respondent also acknowledges that each campaign finance report 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. The report must also include the total amount of all political contributions accepted and the total amount of all political expenditures made during the reporting period. 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 \$200 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-31007234.

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

Sylvia Spivey, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director