

TEXAS ETHICS COMMISSION

IN THE MATTER OF

CHRIS DANIEL,

RESPONDENT

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BEFORE THE

TEXAS ETHICS COMMISSION

SC-3110357

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on August 30, 2012, to consider sworn complaint SC-3110357. 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 and section 20.61 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 did not properly disclose on one or more campaign finance reports political contributions, political expenditures, and loans and accepted political contributions from corporations or labor organizations.

III. Facts Supported by Credible Evidence

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

1. The respondent is the district clerk for Harris County.
2. The following seven reports are at issue: January 2010, July 2010, and January 2011 semiannual reports, 30-day and 8-day pre-election reports for the March 2010 primary election, and 30-day and 8-day pre-election reports for the November 2010 general election.

Total Political Contributions

3. The respondent disclosed \$1,000 in total political contributions on the January 2010 semiannual report. The complaint alleged that the amount of total political contributions should be \$1,100.
4. On his January 2010 semiannual report, the respondent disclosed total political contributions of \$50 or less of \$50. However, the respondent itemized the \$50 contribution that constituted this amount. The respondent acknowledged that total political contributions of \$50 or less should have been disclosed as \$0. The respondent disclosed \$1,000 for total political contributions. The respondent acknowledged that total political contributions should have been disclosed as \$1,050. The respondent corrected the errors.

Total Political Expenditures

5. The respondent disclosed \$4,237.59 for total political expenditures on the 30-day pre-election report for the March 2010 primary election. The complaint alleged that the amount of total political expenditures should be \$7,237.59.
6. The respondent itemized \$4,437.59 of expenditures on Schedule F (used for political expenditures). The total political expenditures disclosed by the respondent was \$200 less than the total of all Schedule F expenditures.
7. The respondent's 30-day pre-election report for the March 2010 primary election disclosed that a \$2,000 expenditure, reported on Schedule I, to the Houston Live Stock Show & Rodeo was for "Education donation to Lamb Auction Committee." It appears that the respondent made this expenditure to generate goodwill related to his role as a candidate and as an officeholder. Therefore, the political expenditure should have been disclosed on Schedule F.
8. The respondent's 30-day pre-election report for the March 2010 primary election disclosed that a \$1,000 expenditure, reported on Schedule I, to The 100 Club was for "Lifetime membership & donation." Since this expenditure was made from political funds, it constituted a prohibited personal use if the expenditure for the lifetime membership was not made in connection with a campaign for an elective office or to defray expenses incurred by the respondent in performing a duty or engaging in an activity of his office. It appears that this expenditure also was a political expenditure that should have been disclosed on Schedule F.
9. The respondent filed a corrected report that added \$200 to total political expenditures so the amount equaled the expenditures itemized on Schedule F.

Total Political Contributions Maintained

10. 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 in the July 2010 and January 2011 semiannual reports, and the 30-day and 8-day pre-election reports for the March 2010 primary election, and the 30-day and 8-day pre-election reports for the November 2010 general election.
11. In the 30-day pre-election report for the March 2010 primary election, the respondent disclosed \$16,022.37 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 \$18,673.37.
12. In the 8-day pre-election report for the March 2010 primary election, the respondent disclosed \$0 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 \$8,233.99.
13. In the July 2010 semiannual report, the respondent disclosed \$2,148.56 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 \$14,244.13. The respondent corrected the report on May 9, 2011, decreasing the total political contributions maintained amount of \$2,148.56 by \$1,382.73 to \$765.83.
14. In the 30-day pre-election report for the November 2010 general election, the respondent disclosed \$5,337.08 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 \$10,069.68. The respondent corrected the report on March 10, 2011, changing the total political contributions maintained amount to \$2,390.83.
15. In the 8-day pre-election report for the November 2010 general election, the respondent disclosed \$3,550.77 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 \$6,953.37. The respondent corrected the report on March 10, 2011, changing the total political contributions maintained amount to \$1,224.52.
16. In the January 2011 semiannual report, the respondent disclosed \$0 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 <\$52,090.50>.

Disclosure of Loans

17. The respondent disclosed \$30,000 in total outstanding loans on the 8-day pre-election report for the November 2010 general election. The complaint alleged that the amount of total outstanding loans should be \$25,000 which was the total outstanding loan amount on the previous report. No loans were disclosed on Schedule E (used for loans) of the 8-day pre-election report. The respondent corrected the report to disclose a \$5,000 loan from himself on Schedule E.
18. The loans disclosed on the respondent's reports and included in total outstanding loans were made from personal funds. The amount the respondent disclosed for total outstanding loans on his 8-day pre-election report included all of the loans made from his personal funds.

Full Names and Addresses of Contributors

19. The complaint alleged that the respondent did not properly disclose the full name or address of a contributor on the July 2010 semiannual report. The contribution was in the amount of \$500. The correct address was disclosed. The disclosure for the contribution stated that the contributor was deceased.
20. The respondent filed a corrected report on May 9, 2011, which removed the word "Deceased."
21. The complaint alleged that the respondent did not properly disclose the full name or address of a contributor on the 30-day pre-election report for the November 2010 general election because he disclosed the contributor's initials instead of the contributor's first and middle name. The contribution was in the amount of \$100. The evidence indicated that the contributor uses the initials professionally and is commonly known by his initials. The correct address was disclosed.
22. The complaint alleged that the respondent did not properly disclose the full name or address of two contributors on the 8-day pre-election report for the November 2010 general election. One of the contributions was in the amount of \$100 and stated that the contributor was deceased. The correct address was disclosed. The other contribution disclosed the contributor's name as "Voterhistory.com" and was in the amount of \$50.
23. The respondent filed a corrected report on May 9, 2011. The explanation of correction stated: "The entry listing contributor [name of individual] as deceased was an inadvertent error. We have removed the description as deceased." The corrected report removed the word "Deceased."

Purpose of Political Expenditures30-day Pre-election Report for the March 2010 Primary Election

24. The complaint alleged that the respondent did not adequately describe the purpose of two political expenditures disclosed on the 30-day pre-election report for the March 2010 primary election.
25. The complaint alleged that the respondent did not disclose descriptions for 13 expenditures totaling approximately \$50,270 disclosed on the 30-day pre-election report for the March 2010 primary election, the 30-day and 8-day pre-election reports for the November 2010 general election, and the January 2011 semiannual report.
26. Regarding the 30-day pre-election report for the March 2010 primary election, the respondent did not disclose a purpose for a \$250 expenditure. The respondent corrected the error. Regarding another \$250 expenditure on that report, the purpose disclosed by the respondent was adequate.
27. Regarding the 30-day pre-election report for the November 2010 general election, the purpose category and purpose description disclosed by the respondent for two expenditures were adequate since it appears that the expenditures were for office supplies for his campaign or public office. The purpose category and purpose description for another expenditure was adequate since it appears that the expenditure was to conduct a political fundraiser.
28. Regarding the other expenditures on the 30-day pre-election report for the November 2010 general election totaling \$5,000, and the \$2,500 expenditure disclosed on the 8-day pre-election report for the November 2010 general election, the description of the purpose of the expenditures merely restated the category of the purpose of the expenditures. The respondent did not describe the candidate or officeholder activity conducted by making the expenditures.
29. Regarding the expenditures on the January 2011 semiannual report which total approximately \$41,400, the description of the purpose of the expenditures merely restated the category of the purpose of the expenditures. The respondent did not describe the candidate or officeholder activity conducted by making the expenditures.

Political Contribution from a Corporation or Labor Organization30-day Pre-election Report for the November 2010 General Election

30. The complaint alleged that, based on disclosures in the 30-day pre-election report for the November 2010 general election, the respondent accepted two political contributions from corporations or labor organizations.
31. The \$500 contribution at issue disclosed as coming from a labor organization actually came from the organization's political committee.
32. The \$400 contribution at issue disclosed as coming from an entity actually came from an individual who is the manager of the entity.
33. The \$25 contribution at issue disclosed as coming from an entity actually came from an individual who is the owner of the entity.

IV. Findings and Conclusions of Law

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

Total Political Contributions

1. Each report must include the total amount or a specific listing of the political contributions of \$50 or less. ELEC. CODE § 254.031(a)(5). Each report must include the total amount of all political contributions accepted during the reporting period. ELEC. CODE § 254.031(a)(6).
2. The respondent acknowledged that he itemized all of his political contributions including a contribution of \$50. The respondent disclosed \$50 for total political contributions of \$50 or less, unless itemized when the correct amount was \$0. The respondent disclosed \$1,000 for total political contributions when the correct amount was \$1,050. There is credible evidence of technical or *de minimis* violations of sections 254.031(a)(5) and 254.031(a)(6) of the Election Code.

Total Political Expenditures

3. Each report must include the total amount of all political expenditures made during the reporting period. ELEC. CODE § 254.031(a)(6).

4. “Expenditure” means a payment of money or any other thing of value and includes an agreement made or other obligation incurred, whether legally enforceable or not, to make a payment. ELEC. CODE § 252.001(6).
5. “Political expenditure” means a campaign expenditure or an officeholder expenditure. ELEC. CODE § 252.001(10).
6. “Campaign expenditure” means an expenditure made by any person in connection with a campaign for an elective office or on a measure. ELEC. CODE § 252.001(7).
7. “Officeholder expenditure” means an expenditure made by any person to defray expenses that are incurred by an officeholder in performing a duty or engaging in an activity in connection with the office and are not reimbursable with public money. ELEC. CODE § 252.001(9).
8. The report at issue disclosed that the purpose of a \$2,000 expenditure, reported on Schedule I, to the Houston Live Stock Show & Rodeo was for “Education donation to Lamb Auction Committee.” It appears that the respondent made this expenditure to generate goodwill related to his role as a candidate and as an officeholder. Therefore, the political expenditure should have been disclosed on Schedule F.
9. The report at issue disclosed that the purpose of a \$1,000 expenditure, reported on Schedule I, to The 100 Club was for “Lifetime membership & donation.” Since this expenditure was made from political funds, it constituted a prohibited personal use if the expenditure for the lifetime membership was not made in connection with a campaign for an elective office or to defray expenses incurred by the respondent in performing a duty or engaging in an activity of his office. It appears that this expenditure also was a political expenditure that should have been disclosed on Schedule F.
10. The respondent filed a corrected report that added \$200 to total political expenditures so the amount equaled the expenditures itemized on Schedule F. There is credible evidence that the respondent underreported total political expenditures by this \$200 as well as the \$3,000 that was disclosed on Schedule I instead of Schedule F. Therefore, there is credible evidence of a violation of section 254.031(a)(6) of the Election Code.

Total Political Contributions Maintained

11. 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).

12. A *de minimis* error in calculating or reporting a cash balance under Subsection (a)(8) is not a violation of this section. ELEC. CODE § 254.031(a-1).
13. 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).
14. 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 reports at issue, or, in the alternative, did not report additional political contributions or political expenditures.
15. Regarding the 30-day pre-election report for the March 2010 primary election, there is insufficient evidence of a violation of section 254.031(a)(8) of the Election Code as to this report.
16. Regarding the 8-day pre-election report for the March 2010 primary election, there is insufficient evidence of a violation of section 254.031(a)(8) of the Election Code as to this report.
17. Regarding the July 2010 semiannual report, the respondent corrected the report on May 9, 2011, decreasing the total political contributions maintained amount of \$2,148.56 by \$1,382.73 to \$765.83. There is credible evidence of a violation of section 254.031(a)(8) of the Election Code as to this report.
18. Regarding the 30-day pre-election report for the November 2010 general election, the respondent corrected the report on March 10, 2011, decreasing the total political contributions maintained amount of \$5,337.08 by \$2,946.25 to \$2,390.83. There is credible evidence of a violation of section 254.031(a)(8) of the Election Code as to this report.
19. Regarding the 8-day pre-election report for the November 2010 general election, the respondent corrected the report on March 10, 2011, decreasing the total political contributions maintained amount of \$3,550.77 by \$2,326.25 to \$1,224.52. There is credible evidence of a violation of section 254.031(a)(8) of the Election Code as to this report.
20. Regarding the January 2011 semiannual report, there is insufficient evidence of a violation of section 254.031(a)(8) of the Election Code as to this report.

Disclosure of Loans

21. 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 amount of the loans guaranteed by each guarantor, and the aggregate principal amount of all outstanding loans as of the last day of the reporting period. ELEC. CODE § 254.031(a)(2).
22. All of the loans disclosed on the respondent's reports and included in total outstanding loans were made from personal funds. Such loans are not required to be disclosed in the outstanding loans total. Ethics Advisory Opinion No. 349 (1996). Therefore, there is credible evidence of no violation of section 254.031(a)(2) of the Election Code regarding the disclosure of total outstanding loans.
23. On the 8-day pre-election report, the respondent did not timely disclose on Schedule E of the original report a loan of \$5,000 from himself. Therefore, there is credible evidence of a violation of section 254.031(a)(2) of the Election Code.

Full Names and Addresses of Contributors

24. Each 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, the full name and address of the person making the contributions, and the dates of the contributions. ELEC. CODE § 254.031(a)(1).
25. Regarding the \$500 contribution disclosed on the July 2010 semiannual report, the respondent disclosed the correct name and address for the contributor. Therefore, there is credible evidence of no violation of section 254.031(a)(1) of the Election Code as to the name of the contributor at issue.
26. Regarding the \$100 contribution disclosed on the 30-day pre-election report for the November 2010 general election from the contributor whose initials were used in place of the individual's first and middle names, the evidence indicated that the contributor uses the initials professionally and commonly used the initials as his name. The name disclosed by the respondent for the contributor substantially complies with the requirement to disclose the contributor's full name. The respondent disclosed the correct name and address for the contributor. Therefore, there is credible evidence of no violation of section 254.031(a)(1) of the Election Code as to the name of the contributor at issue.

27. Regarding the \$100 contribution disclosed on the 8-day pre-election report for the November 2010 general election, the respondent disclosed the correct name and address for the contributor. Therefore, there is credible evidence of no violation of section 254.031(a)(1) of the Election Code as to the name of the contributor at issue.
28. Regarding the contribution from Voterhistory.com, the respondent was not required to itemize the contribution since the amount did not exceed \$50. Therefore, there is credible evidence of no violation of section 254.031(a)(1) of the Election Code as to the name of the contributor at issue.

Purpose of Political Expenditures

29. Each campaign finance report must include the amount of political expenditures that in the aggregate exceed \$50 (\$100 as of September 28, 2011) 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).
30. The purpose of an expenditure must include both a description of the category of goods or services received in exchange for the expenditure and a brief statement or description of the candidate, officeholder, or political committee activity that is conducted by making the expenditure. A description of an expenditure that merely states the item or service purchased is not adequate because doing so does not allow a person reading the report to know the allowable activity for which an expenditure was made. Ethics Commission Rules § 20.61. Effective as of July 1, 2010.
31. The complaint alleged that the respondent did not disclose descriptions for 13 expenditures totaling approximately \$50,270 disclosed on the 30-day pre-election report for the March 2010 primary election, the 30-day and 8-day pre-election reports for the November 2010 general election, and the January 2011 semiannual report.
32. Regarding the 30-day pre-election report for the March 2010 primary election, the respondent did not disclose a purpose for the \$250 expenditure. The respondent corrected the error. Therefore, there is credible evidence of a violation of section 254.031(a)(3) of the Election Code as to this expenditure. Regarding another \$250 expenditure, the purpose disclosed by the respondent was adequate. Therefore, there is credible evidence of no violation of section 254.031(a)(3) of the Election Code as to this expenditure.
33. Regarding the 30-day pre-election report for the November 2010 general election, the purpose category and purpose description disclosed by the respondent for two expenditures were adequate since it appears that the expenditures were for office supplies for his campaign or public office. The purpose category and purpose description for another expenditure was adequate since it appears that the expenditure was to conduct a political

- fundraiser. Therefore, there is credible evidence of no violation of section 254.031(a)(3) of the Election Code and section 20.61 of the Ethics Commission Rules as to those expenditures.
34. Regarding the other expenditures on the 30-day pre-election report for the November 2010 general election totaling \$5,000, and the \$2,500 expenditure disclosed on the 8-day pre-election report for the November 2010 general election, the description of the purpose of the expenditures merely restated the category of the purpose of the expenditures. The respondent did not describe the candidate or officeholder activity conducted by making the expenditures. Therefore, there is credible evidence of violations of section 254.031(a)(3) of the Election Code and section 20.61 of the Ethics Commission Rules as to those expenditures.
35. Regarding the expenditures on the January 2011 semiannual report which total approximately \$41,400, the description of the purpose of the expenditures merely restated the category of the purpose of the expenditures. The respondent did not describe the candidate or officeholder activity conducted by making the expenditures. Therefore, there is credible evidence of violations of section 254.031(a)(3) of the Election Code and section 20.61 of the Ethics Commission Rules as to those expenditures.

Political Contribution from a Corporation or Labor Organization

36. A person may not knowingly accept a political contribution that the person knows was made in violation of chapter 253 of the Election Code. ELEC. CODE § 253.003(b).
37. A corporation or labor organization may not make a political contribution that is not authorized by subchapter D, chapter 253, Election Code. ELEC. CODE § 253.094. That subchapter does not authorize a corporation or labor organization to make a political contribution to a candidate or officeholder.
38. The prohibition applies to corporations that are organized under the Texas Business Corporation Act, the Texas For-Profit Corporation Law, the Texas Non-Profit Corporation Act, the Texas Nonprofit Corporation Law, federal law, or law of another state or nation. ELEC. CODE § 253.091.
39. The \$500 contribution at issue disclosed as coming from a labor organization actually came from the organization's political committee. Therefore, there is credible evidence of no violation of sections 253.003(b) and 253.094 of the Election Code as to this contribution.
40. The \$400 contribution at issue disclosed as coming from an entity actually came from an individual who is the manager of the entity. Therefore, there is credible evidence of no violation of sections 253.003(b) and 253.094 of the Election Code as to this contributor.

41. The \$25 contribution at issue disclosed as coming from an entity actually came from an individual who is the owner of the entity. Therefore, there is credible evidence of no violation of sections 253.003(b) and 253.094 of the Election Code as to this contributor.

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; 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) 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; 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 amount of the loans guaranteed by each guarantor, and the aggregate principal amount of all outstanding loans as of the last day of the reporting period; 5) each campaign finance report must include the amount of political expenditures that in the aggregate exceed \$50 (\$100 as of September 28, 2011) 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 6) the purpose of an expenditure must include both a description of the category of goods or services received in exchange for the expenditure and a brief statement or description of the candidate, officeholder, or political committee activity that is conducted by making the expenditure. A description of an expenditure that merely states the item or service purchased is not adequate because doing so does not allow a person reading the report to know the allowable activity for which the expenditure was made. 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 \$900 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-3110357.

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

Chris Daniel, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director