

TEXAS ETHICS COMMISSION

IN THE MATTER OF

RONNIE K. ANDERSON,

RESPONDENT

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BEFORE THE

TEXAS ETHICS COMMISSION

SC-3110365

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on August 30, 2012, to consider sworn complaint SC-3110365. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 254.031 and 254.063 of the Election Code and sections 20.61 and 20.62 of the Ethics Commission Rules, laws administered and enforced by the commission. To resolve and settle this complaint without further proceedings, the commission proposed this resolution to the respondent.

II. Allegations

The complaint alleged that the respondent: 1) did not disclose the full name of a contributor; 2) did not disclose the date of two political expenditures; 3) did not disclose the purpose of political expenditures; 4) did not properly disclose political expenditures made as reimbursements; 5) did not timely file the January 2010 and July 2010 semiannual campaign finance reports; 6) did not obtain a notary stamp on a final report; and 7) accepted a political contribution from a corporation.

III. Facts Supported by Credible Evidence

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

1. The respondent was a successful candidate for Trustee, Position 5, of Klein ISD in an election held on November 3, 2009.

Full Name of Contributor

2. The complaint alleged that the respondent did not properly disclose the full name of a contributor who made a political contribution of \$25. The political contribution at issue was disclosed on Schedule A (used to disclose political contributions) of the respondent's 8-day pre-election report for the November 2009 election and disclosed the initials and last names of the contributors.
3. In response to the complaint, the respondent swore that the name was reported as it appeared on the contribution check.

Date of Expenditures

4. The complaint alleged that the respondent did not disclose dates for two political expenditures that were reported on Schedule F (used to disclose political expenditures) of the respondent's 30-day pre-election report for the November 2009 election. One of the political expenditures at issue was in the amount of \$208.06; the other political expenditure was in the amount of \$125. The respondent did not disclose a date for either expenditure.

Purpose of Political Expenditures

5. The complaint alleged that the respondent did not disclose the purpose of a \$125 political expenditure that was reported on Schedule F of the respondent's 30-day pre-election report for the November 2009 election. The complaint also alleged that the respondent did not disclose the purpose of a \$605.96 political expenditure that was reported on Schedule F of the respondent's 8-day pre-election report for the November 2009 election. The respondent did not list a purpose for either expenditure.
6. In response to the complaint, the respondent swore that the \$125 expenditure was made to reimburse his wife for expenditures she incurred in connection with hosting a campaign dinner, and that the \$605 expenditure was for the purchase of campaign signs.

Actual Payees of Political Expenditures

7. The complaint alleged that the respondent did not disclose the actual vendor payee, address, date, and amount pertaining to the stated purpose of four political expenditures. The political expenditures at issue were disclosed on Schedule F of the respondent's campaign finance reports as follows:

8-day Pre-election Report (November 2009 general election)

- October 1, 2009, \$30.80 to an individual, with a stated purpose of "Meeting Expenses" (payee corrected to Potbelly Sandwich Works)

- October 2, 2009, \$660 to an individual, with a stated purpose of “Postage/Stamps”

Final Report

- October 22, 2009, \$41.23 to an individual, with a stated purpose of “Meeting Expenses” (payee corrected to Gringo’s Mexican Kitchen)
- December 22, 2009, \$15.89 to an individual, with a stated purpose of “Meeting Expenses”

Timely Filing of Campaign Finance Reports

8. The complaint alleged that the respondent did not file the January 2010 and July 2010 semiannual reports. The respondent filed a campaign treasurer appointment on August 17, 2009. On July 26, 2010, the respondent filed a final report covering from October 25, 2009, through April 27, 2010. The report was marked only as a final report and disclosed \$1,300 in total political contributions; \$3,054.57 in total political expenditures; and \$0 in total political contributions maintained.
9. Regarding the January 2010 semiannual report, the starting date for the report should have been October 25, 2009, which is the first day after the period covered by the last report on file (the respondent’s 8-day pre-election report for the November 2009 election). The ending date for the report should have been December 31, 2009. Regarding the July 2010 semiannual report, the starting date for the report should have been January 1, 2010, which would have been the first day after the period covered by the January 2010 semiannual report. The ending date for the report should have been June 30, 2010. Regarding the final report, the starting date for the report should have been July 1, 2010, which would have been the first day after the period covered by the July 2010 semiannual report. The ending date for the report should have been July 26, 2010, which is the date that the report was filed by the respondent.
10. On May 25, 2012, upon request from the commission, the respondent corrected the period covered by the final report to cover through July 26, 2010. The respondent also marked the final report as a January 15 and July 15 semiannual report. Regarding the January 2010 semiannual report that covered from October 25, 2009, through December 31, 2009, the respondent disclosed four political contributions totaling \$1,300, and five political expenditures totaling \$3,013.34. Although the respondent corrected the report to cover the periods required by the semiannual reports at issue, the respondent did not file the semiannual reports by each respective filing deadline.

Requirement to Include a Completed Affidavit in a Campaign Finance Report

11. The complaint alleged that the respondent did not include a properly notarized affidavit with his final report. On July 26, 2010, the respondent filed a final report covering from

October 25, 2009, through April 27, 2010. A copy of the respondent's final report was submitted with the complaint. Based on the copy, the affidavit accompanying the respondent's final report did not contain a notary stamp or seal and only contained the signatures of the notary and the respondent.

12. Credible evidence indicated that the notary public inadvertently left off the notary seal when the report was originally filed on July 26, 2010, and that the notary public corrected the report after discovering the mistake.

Political Contributions from Corporations or Labor Organizations

13. The complaint alleged that the respondent accepted a political contribution from a corporation. The contribution at issue was disclosed on Schedule A (used to disclose political contributions) of the respondent's 8-day pre-election report for the November 2009 general election as follows: October 9, 2009, \$400 from Patterson Ventures, Inc.
14. According to records from the Texas Secretary of State, Patterson Ventures, Inc. is a domestic for-profit corporation. In response to the complaint, the respondent swore that at the time the contribution was made, he was unaware that it was illegal to accept a contribution from a corporation. The respondent also swore that he returned the \$400 contribution on November 2, 2009.
15. Based on Schedule F of the respondent's final report that was filed on July 26, 2010, the \$400 reimbursement was made on November 2, 2009. However, the respondent disclosed the reimbursement as a political expenditure made to an individual, who is a director of Patterson Ventures, Inc. In response to the complaint, the respondent provided a copy of the reimbursement check that shows the \$400 contribution was returned to Patterson Ventures, Inc. on November 2, 2009. On May 25, 2012, upon request from the commission, the respondent corrected the final report to change the payee's name from that of the individual to Patterson Ventures, Inc.

IV. Findings and Conclusions of Law

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

Full Name of Contributor

1. 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 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. Since the contribution at issue did not exceed \$50, the respondent was not required to list the full name of the contributor. Therefore, there is credible evidence of no violation of section 254.031(a)(1) of the Election Code.

Date and Purpose of Expenditures

3. A campaign finance report must include the amount of political expenditures that in the aggregate exceed \$100 (\$50 until September 28, 2011) and that are made during the reporting period, the full name and address of the persons to whom political expenditures are made, and the dates and purposes of the expenditures. ELEC. CODE § 254.031(a)(3).
4. The respondent was required to provide a date for the two political expenditures at issue because they both exceeded \$50. The respondent did not disclose a date for either expenditure when the report was originally filed. Therefore, there is credible evidence of violations of section 254.031(a)(3) of the Election Code.
5. The purpose of an expenditure means a description of goods, services, or other thing of value and must include a brief statement or description of the candidate, officeholder, or political committee activity that is conducted by making the expenditure. Ethics Commission Rules § 20.61.
6. The respondent was required to provide a purpose for the two political expenditures at issue because they both exceeded \$50. The respondent did not provide a purpose for the expenditures when the pre-election reports were originally filed. 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.

Actual Payees of Political Expenditures

7. A campaign finance report must include the amount of political expenditures that in the aggregate exceed \$100 (\$50 until September 28, 2011) and that are made during the reporting period, the full name and address of the persons to whom political expenditures are made, and the dates and purposes of the expenditures. ELEC. CODE § 254.031(a)(3).
8. Each report must include the total amount or a specific listing of the political contributions of \$50 or less accepted and the total amount or a specific listing of the political expenditures of \$100 (\$50 until September 28, 2011) or less made during the reporting period. *Id.* § 254.031(a)(5).
9. 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. Except as provided above, a political expenditure made out of personal funds by a staff member of an officeholder, a candidate, or political committee with the intent to seek reimbursement from the officeholder, candidate, or political committee must be reported as follows: the aggregate amount of the expenditures made by the staff member as of the last day of the reporting period is reported as a loan to the officeholder, candidate, or political committee; the expenditure made by the staff member is reported as a political expenditure by the officeholder, candidate, or political committee; and the reimbursement to the staff member to repay the loan is reported as a political expenditure by the officeholder, candidate, or political committee. Ethics Commission Rules § 20.62.

10. Regarding the political expenditure of \$660 for “Postage/Stamps,” credible evidence indicated that the expenditure was made as a staff reimbursement for the purchase of postage and stamps. The respondent did not disclose the actual vendor payee in the original report, and the description did not make clear who the ultimate vendor was. Therefore, there is credible evidence of a violation of section 254.031(a)(3) of the Election Code and section 20.62 of the Ethics Commission Rules with respect to that expenditure.
11. The other three expenditures did not exceed \$50 to any one payee. Nevertheless, section 20.62 of the Ethics Commission Rules requires that the expenditures be listed or disclosed in the aggregate totals of political expenditures of \$50 or less. The respondent did not properly itemize the expenditures and did not include the expenditures in the totals section of the report. Therefore, there is credible evidence of violations of section 254.031(a)(3) of the Election Code and section 20.62 of the Ethics Commission Rules with respect to those three expenditures.

Timely Filing of Campaign Finance Reports

12. A candidate shall file two reports for each year. ELEC. CODE § 254.063(a). The first report shall be filed not later than July 15 and covers the period beginning January 1, the day the candidate’s campaign treasurer appointment is filed, or the first day after the period covered by the last report required to be filed, as applicable, and continuing through June 30. *Id.* § 254.063(b).
13. The second report shall be filed not later than January 15 and covers the period beginning July 1, the day the candidate’s campaign treasurer appointment is filed, or the first day after the period covered by the last report required to be filed, as applicable, and continuing through December 31. *Id.* § 254.063(c).
14. A candidate has the duty to file semiannual reports until the candidate terminates his campaign treasurer appointment. The designation of a report as a final report terminates a candidate’s campaign treasurer appointment. *Id.* § 254.065.

15. The respondent filed a campaign treasurer appointment on August 17, 2009. The respondent did not file a final report until July 26, 2010. Accordingly, the respondent was required to file the January 2010 semiannual report by January 15, 2010, and the July 2010 semiannual report by July 15, 2010. Regarding the January 2010 semiannual report that covered from October 25, 2009, through December 31, 2009, the respondent disclosed four political contributions totaling \$1,300, and five political expenditures totaling \$3,013.34. The two semiannual reports at issue were not timely filed. There is credible evidence of violations of section 254.063 of the Election Code with respect to the late filing of the two semiannual reports.

Requirement to Include a Completed Affidavit in a Campaign Finance Report

16. Each campaign finance report that is not filed by electronic transfer must be accompanied by an affidavit executed by the person required to file the report. The affidavit must contain the statement: "I swear, or affirm, under penalty of perjury, that the accompanying report is true and correct and includes all information required to be reported by me under Title 15, Election Code." ELEC. CODE § 254.036(h).
17. The Election Code does not specifically define "affidavit," but the generally accepted definition includes the requirement that the facts being sworn to be done so before an officer qualified to administer an oath.
18. Based on the notary's original signature and later statement, it appears that the respondent signed the affidavit under oath. Therefore, there is credible evidence of no violation of section 254.036(h) of the Election Code.

Political Contributions from Corporations or Labor Organizations

19. 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.
20. A corporation may not make a political contribution or political expenditure that is not authorized by subchapter D, chapter 253, Election Code. ELEC. CODE § 253.094.
21. 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.
22. Credible evidence indicates that the contribution at issue was made by a prohibited corporation. The respondent returned the contribution before the complaint was filed. The evidence was insufficient to show that the respondent knew the contribution was illegal at the time that he accepted it. There is insufficient evidence of a violation of sections 253.003 and 253.094 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: 1) each report must include the amount of political expenditures that in the aggregate exceed \$100 (\$50 until September 28, 2011) and that are made during the reporting period, the full name and address of the persons to whom political expenditures are made, and the dates and purposes of the expenditures; 2) the purpose of an expenditure means a description of goods, services, or other thing of value and must include a brief statement or description of the candidate, officeholder, or political committee activity that is conducted by making the expenditure; 3) political expenditures made out of personal funds by a staff member of a candidate or officeholder with the intent to seek reimbursement from the candidate or officeholder must be reported in accordance with section 20.62 of the Ethics Commission Rules; and 4) a candidate shall file two reports for each year - the first report shall be filed not later than July 15 and covers the period beginning January 1, the day the candidate's campaign treasurer appointment is filed, or the first day after the period covered by the last report required to be filed, as applicable, and continuing through June 30 - the second report shall be filed not later than January 15 and covers the period beginning July 1, the day the candidate's campaign treasurer appointment is filed, or the first day after the period covered by the last report required to be filed, as applicable, and continuing through December 31. The respondent agrees to comply with these requirements of the law.

VI. Confidentiality

This order and agreed resolution describes violations that the commission has determined are neither technical nor *de minimis*. Accordingly, this order and agreed resolution is not confidential under section 571.140 of the Government Code and may be disclosed by members and staff of the commission.

VII. Sanction

After considering the violations described under Sections III and IV, including the nature, circumstances, and consequences of the violations, and after considering the sanction necessary to deter future violations, the commission imposes a \$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-3110365.

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

Ronnie K. Anderson, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director