

TEXAS ETHICS COMMISSION

IN THE MATTER OF
NANETTE HASETTE,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-31107173

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on January 31, 2013, to consider sworn complaint SC-31107173. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 253.1611 and 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 report total political contributions maintained and did not properly disclose the purposes of political expenditures on multiple campaign finance reports. The complaint also alleged that the respondent made political contributions to political committees exceeding \$250 in years when the office she held was not on the ballot.

III. Facts Supported by Credible Evidence

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

1. The respondent is the judge for the 28th District Court located in Nueces County, Texas.
2. At issue in the complaint are the respondent's semiannual reports for January and July 2010 and January and July 2011.

Political Contributions Maintained

3. The complaint alleged that the respondent did not disclose the proper amount of total political contributions maintained on each of the semiannual reports at issue.

4. On January 13, 2010, the respondent filed a January 2010 semiannual report. The report disclosed \$20,786.76 in total political contributions maintained. The complaint alleged that the correct amount of total political contributions maintained should be \$21,004.84.
5. On August 16, 2011, the respondent filed a corrected January 2010 semiannual report. The report disclosed \$20,786.76 in total political contributions maintained. However, the respondent made a correction to change the amount of an expenditure to “Cancer Warriors/Survivors of Robstown,” from the \$600 disclosed on the originally filed report to \$1,000. This also changed the total political expenditures disclosed on the report from \$1,617 disclosed on the originally filed report to \$2,017.
6. On July 9, 2010, the respondent filed a July 2010 semiannual report. The report disclosed \$20,230.96 in total political contributions maintained. The complaint alleged that the correct amount of total political contributions maintained was \$20,449.03.
7. On January 11, 2011, the respondent filed a January 2011 semiannual report that disclosed \$16,188.46 in total political contributions maintained. The complaint alleged that the correct amount of total political contributions maintained was \$15,336.53.
8. On August 16, 2011, the respondent filed a corrected January 2011 semiannual report that disclosed \$15,118.46 in total political contributions maintained.
9. On July 14, 2011, the respondent filed a July 2011 semiannual report that disclosed \$14,998.46 in total political contributions maintained. The complaint alleged that the correct amount of total political contributions maintained was \$14,216.53.
10. On August 16, 2011, the respondent filed a corrected July 2011 semiannual report that disclosed \$13,998.46 in total political contributions maintained.
11. The complaint alleged that the respondent did not sufficiently disclose on her January 2010 semiannual report the purpose of three nonpolitical expenditures to “Sam’s Club” totaling approximately \$170. The respondent disclosed the purpose as “Court’s Own Birthday Party.”
12. The complaint also alleged that the respondent did not include the category for all of the political expenditures disclosed on her January 2011 semiannual report. The respondent did not disclose categories for the approximately \$4,010 in political expenditures itemized on the report. The respondent disclosed descriptions for each of those expenditures.
13. The complaint also alleged that the respondent did not include the category for all of the political expenditures disclosed on her July 2011 semiannual report. The respondent did not disclose categories for the approximately \$1,120 in political expenditures itemized on the report. The respondent disclosed descriptions for each of those expenditures.

14. The respondent filed corrections to add the category of each political expenditure at issue.

Excessive Contributions to Political Committee When Not on Ballot

15. The complaint alleged that the respondent used political contributions to knowingly make political contributions to a political committee in excess of \$250 during calendar years 2009 and 2010 in which the respondent's office held was not on the ballot.
16. The political contributions at issue were disclosed as political expenditures on the respondent's July 2009, January 2010, and January 2011 semiannual reports.
17. According to the respondent's campaign finance reports, during calendar year 2009, she made two political contributions totaling approximately \$580 to Coastal Bend Texas Democratic Women (CBTDW).
18. CBTDW is a general-purpose political committee on file with the commission. CBTDW's July 2009 semiannual report disclosed one political contribution from the respondent for \$220 dated June 1, 2009. CBTDW's January 2010 semiannual report disclosed one political contribution from the respondent for \$375 dated October 6, 2009.
19. According to the respondent's campaign finance reports, during calendar year 2010, she made three political contributions totaling approximately \$2,100 to Coastal Bend Young Democrats (CBYD).
20. CBYD is a general-purpose political committee on file with the commission. CBYD appointed their campaign treasurer on December 18, 2009. CBYD's 30-day pre-election report for the November 2010 election disclosed a \$1,500 political contribution from the respondent, and their 8-day pre-election report disclosed a \$500 political contribution from the respondent.
21. According to the respondent's campaign finance reports, during calendar year 2010, she made two political contributions totaling approximately \$1,600 to the Nueces County Democratic Party. Campaign finance reports filed by Nueces County Democratic Executive Committee (NCDEC) indicate that they were the actual recipients of those political contributions.
22. NCDEC is a county executive committee on file with the commission.
23. The evidence showed that \$1,500 of the amount at issue was for the respondent's pro-rata share of the normal overhead and administrative or operating costs of the party. The remaining \$100 was a political contribution used to sponsor a table at the party's fundraising banquet.

24. NCDEC's 30-day pre-election report for the November 2010 election disclosed \$1,500 and \$100 political contributions from the respondent.

IV. Findings and Conclusions of Law

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

Total Political Contributions Maintained

1. Each 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).
2. A *de minimis* error in calculating or reporting a cash balance under Subsection (a)(8) is not a violation of section 254.031. ELEC. CODE § 254.031(a-1).
3. The errors in reporting political contributions maintained were in context *de minimis*. Therefore, there is credible evidence of no violation of section 254.031(a)(8) of the Election Code with respect to the semiannual reports at issue.
4. Each campaign finance report must also include as of the last day of a reporting period for which the person is required to file a report, the amount of political expenditures that in the aggregate exceed \$100¹ 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). 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. ELEC. CODE § 254.031(a)(6).

Total Political Expenditures

5. The respondent's originally filed January 2010 semiannual report did not properly disclose her expenditure to "Cancer Warriors/Survivors of Robstown," or her total amount of political expenditures. Therefore, with regard to the respondent's January 2010 semiannual report, there is credible evidence of violations of sections 254.031(a)(3) and 254.031(a)(6) of the Election Code.

¹ \$50 during the time at issue in this complaint.

Purpose of Political Expenditures

6. A campaign finance report must include, for all 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 political expenditures are made and the dates and purposes of the expenditures. ELEC. CODE § 254.031(a)(3).
7. Prior to July 1, 2010, Ethics Commission Rule § 20.61 required that the report of a political expenditure for goods or services must describe the categories of goods or services received in exchange for the expenditure. Ethics Commission Rules § 20.61.
8. On December 2, 2009, the commission adopted changes to rule 20.61 to require additional information concerning the purpose of expenditures.² This rule effected expenditures made after July 1, 2010. Rule 20.61 currently states that 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. The brief statement or description must include the item or service purchased and must be sufficiently specific, when considered within the context of the description of the category, to make the reason for the expenditure clear. Merely disclosing the category of goods, services, or other thing of value for which the expenditure is made does not adequately describe the purpose of an expenditure. Ethics Commission Rules § 20.61.
9. The purposes of the expenditures disclosed on the respondent's January 2010 semiannual report appear to sufficiently describe the purpose of the expenditures at issue. Therefore, with regard to those expenditures, 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.
10. The respondent did not disclose categories for political expenditures disclosed on her January 2011 and July 2011 semiannual reports. Section 20.61 of the Ethics Commission Rules requires that a sufficient purpose disclose both a category and description for political expenditures. The respondent did not provide all of that information for the political expenditures at issue. Therefore, with regard to those expenditures, 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.

Contributions to Political Committee When Not on Ballot

11. 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

² On April 21, 2010, the commission adopted comments to Ethics Commission Rule § 20.61 in order to provide further guidance to filers.

- committee that, when aggregated with each other political contribution to a political committee in that calendar year, exceeds \$250. ELEC. CODE § 253.1611(d).
12. Section 253.1611 of the Election Code does not apply to a political contribution made to the principal political committee of the state executive committee or a county executive committee of a political party that (1) is made in return for goods or services, including political advertising or a campaign communication, the value of which substantially equals or exceeds the amount of the contribution; or (2) is in an amount that is not more than the candidate's or officeholder's pro rata share of the committee's normal overhead and administrative or operating costs. ELEC. CODE § 253.1611(e).
 13. District judges in the state of Texas serve four-year terms. TEX. CONST. ART. V, § 7. Since the respondent was re-elected as district judge in November of 2008, she was not up for re-election until 2012. Therefore, the respondent's office of district judge was not on the ballot in 2009 or 2010, the calendar years when the political contributions at issue were made. Thus, the respondent could not use political contributions to make political contributions to a political committee that exceeded \$250 in 2009 or 2010, unless the exception under section 253.1611(e) of the Election Code was satisfied.
 14. According to the respondent's campaign finance reports, during calendar year 2009, she made two political contributions totaling approximately \$580 to CBTDW, an amount greater than the \$250 allowed per year by statute. Therefore, with regard to those allegations, there is credible evidence of violations of section 253.1611(d) of the Election Code.
 15. According to the respondent's campaign finance reports, during calendar year 2010, she made three political contributions totaling approximately \$2,100 to CBYD, an amount greater than the \$250 allowed per year by statute. Therefore, with regard to those allegations, there is credible evidence of violations of section 253.1611(d) of the Election Code.
 16. According to the respondent's campaign finance reports, during calendar year 2010, she made two political contributions totaling approximately \$1,600 to the Nueces County Democratic Party. NCDEC is the county executive committee for the Nueces County Democratic Party. The respondent swore and provided additional evidence from the party showing that \$1,500 was for her pro-rata share of the normal overhead and administrative or operating costs of the party, which is permissible under section 253.1611(e)(2) of the Election Code. The remaining \$100 political contribution used to sponsor a table at the party's fundraising banquet does not alone exceed \$250. There is credible evidence of no violation of section 253.1611(d) of the Election Code with respect to those contributions.

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 campaign finance report must include the total amount of all political expenditures made during the reporting period; 2) a report must also include as of the last day of a reporting period for which the person is required to file a report, the amount of political expenditures that in the aggregate exceed \$100 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; 3) the purpose of a political expenditure must be disclosed in accordance with section 20.61 of the Ethics Commission Rules; and 4) 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 nature, circumstances, and consequences of the violations described under Sections III and IV, and the sanction necessary to deter future violations, the commission imposes a \$500 civil penalty.

VIII. Order

The commission hereby orders that if the respondent consents to the proposed resolution, this order and agreed resolution is a final and complete resolution of SC-31107173.

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

Nanette Hasette, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director