

TEXAS ETHICS COMMISSION

IN THE MATTER OF
EDWIN RINEHART,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-31110244 AND SC-31112264

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on August 30, 2012, to consider sworn complaints SC-31110244 and SC-31112264. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 254.031 and 254.064 of the Election Code and section 20.61 of the Ethics Commission Rules, laws administered and enforced by the commission. To resolve and settle these complaints without further proceedings, the commission proposed this resolution to the respondent.

II. Allegations

The complaints alleged that the respondent: 1) did not timely or properly disclose political contributions, political expenditures, total political contributions maintained, and total outstanding loans; 2) did not properly file corrected reports; 3) converted political contributions to personal use; and 4) did not timely file a pre-election 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 county commissioner in Montgomery County. The respondent was first elected in 1999.
2. The sworn complaint allegations were based on reports filed with the Montgomery County Elections Administrator and include the respondent's corrected July 2009 semiannual report, original and corrected January 2010 semiannual report, 30-day and 8-day pre-election reports for the March 2010 primary election, July 2010 semiannual report, original and corrected January 2011 semiannual report, and July 2011 semiannual report.

Total Political Contributions Maintained

3. Sworn complaint SC-31110244 alleged that the respondent did not disclose total political contributions maintained in his 30-day and 8-day pre-election reports for the March 2010 primary election and his January 2010, July 2010, January 2011, and July 2011 semiannual reports.
4. The respondent's January 2010 semiannual report disclosed \$32,309 in total political contributions maintained. The complaint alleged that the total political contributions maintained should be \$31,796.16.
5. The respondent's 30-day pre-election report for the March 2010 primary election disclosed \$22,859 in total political contributions maintained. The complaint alleged that the total political contributions maintained should be \$29,364.42.
6. The respondent's 8-day pre-election report for the March 2010 primary election disclosed \$21,266.44 in total political contributions maintained. The complaint alleged that the total political contributions maintained should be \$49,751.68.
7. The respondent's July 2010 semiannual report disclosed \$2,679.67 in total political contributions maintained. The complaint alleged that the total political contributions maintained should be \$33,172.95.
8. The respondent's January 2011 semiannual report disclosed \$11,102.45 in total political contributions maintained. The complaint alleged that the total political contributions maintained should be \$41,247.73.
9. The respondent's July 2011 semiannual report disclosed \$15,512.42 in total political contributions maintained. The complaint alleged that the total political contributions maintained should be \$44,255.23.
10. The respondent stated that he maintained political contributions in two bank accounts during the time period at issue, one at Houston Community Bank and one at First Bank and Trust of East Texas. The respondent provided bank statements for both accounts covering the period at issue.
11. The bank statements substantiated the reported political contributions maintained balance for the 8-day pre-election report for the March 2010 primary election and the January 2010, July 2010, and January 2011 semiannual reports.
12. With regard to the 30-day pre-election report for the March 2010 primary election, the reported political contributions maintained balance reflects the bank account balance as of the day after the last day of the reporting period, which was January 22, 2010, as opposed to

the bank account balance as of the last day of the reporting period, which was January 21, 2010.

13. With regard to the July 2011 semiannual report, the respondent reported total political contributions maintained of \$15,512.42 and provided a bank statement that shows a balance of \$14,092.42 as of the last day of the reporting period, resulting in a difference of \$1,420. The respondent did not address the discrepancy in his response, but later filed a correction to amend the political contributions maintained amount to \$9,512.42.

Reporting Political Expenditures

14. Sworn complaint SC-31110244 alleged that the respondent did not disclose every political expenditure made during the reporting periods for his 30-day and 8-day pre-election reports for the March 2010 primary election and his January 2010, July 2010, January 2011, and July 2011 semiannual reports.
15. The respondent filed a correction to the July 2011 semiannual report to disclose an additional \$6,000 in expenditures. All the additional expenditures reported in the correction were to an individual for "contract labor for campaign services."
16. The respondent filed a correction to the January 2011 semiannual report to disclose an additional \$1,300 in expenditures. All the additional expenditures reported in the correction were to an individual for "contract labor for campaign services."
17. The bank records submitted to substantiate the reported political contributions maintained also indicated that five checks, each in the amount of \$5,000, were written from one of the accounts to either an individual or a business entity during the period from January 22, 2010, to February 5, 2010. In response to written questions from staff, the respondent swore that those expenditures were for campaign marketing services during his campaign for re-election and included "expenditures for campaign mail outs, automatic phone dialer messages sent to potential voters at various times throughout the campaign, newspaper ads, push cards, etc." The respondent acknowledged that the expenditures were not reported on his campaign finance report covering that period and filed a corrected 8-day pre-election report for the March 2010 primary election to disclose the expenditures at issue.

Total Amount of Outstanding Loans

18. Sworn complaint SC-31110244 alleged that the respondent did not disclose the total principal amount of all outstanding loans as of the last day of the reporting period in his 30-day and 8-day pre-election reports for the March 2010 primary election and his January 2010, July 2010, and July 2011 semiannual reports.

19. The totals section on the cover sheet for the total principal amount of all outstanding loans was left blank for all the reports at issue. None of the reports at issue disclosed any outstanding loans and there is no evidence that any such loans exist.
20. In his response, the respondent swore that the outstanding loan totals are zero and he thought leaving the space blank was the same as putting "0" on the report.

Timely Disclosure of Political Contributions

21. Sworn complaint SC-31110244 alleged that the respondent did not timely report political contributions in his 8-day pre-election report for the March 2010 primary election, which covered the period from January 22, 2010, to February 20, 2010. At issue are two contributions: a \$500 contribution from HVJ Political Action Committee and a \$500 contribution from HTB Holdings Ltd., PAC.
22. Both contributions were dated February 22, 2010, and were disclosed in the respondent's July 2010 semiannual report, which covered the period from February 21, 2010, to June 30, 2010.
23. HVJ Political Action Committee reported that it made a contribution to the respondent on February 2, 2010. HTB Holdings Ltd. PAC reported that it made a contribution to the respondent on February 12, 2010. Both contributions were reported on the committees' 8-day pre-election reports for the March 2010 primary, which covered the period from January 22, 2010, to February 20, 2010.
24. In his response, the respondent swore that both contributions were properly reported using the date they were received. The respondent's bank records indicate that both checks were deposited on February 22, 2010.

Full Name of Contributor

25. Sworn complaint SC-31110244 alleged that the respondent did not disclose the full name of a contributor in his January 2010, July 2010, January 2011, and July 2011 semiannual reports. The contributions at issue disclosed the individual contributor's initials instead of the full name of the contributor and disclosed an acronym LAN-PAC, as the name of a contributor. The contributions were disclosed in the January 2010 semiannual report, July 2010 semiannual report, January 2011 semiannual report, and July 2011 semiannual report. All the contributions at issue exceeded \$50.
26. In his response, the respondent swore that for all the contributions at issue, he disclosed the contributors' names as they appeared on the contributors' checks.

27. LAN-PAC is an acronym used in commission records for Lockwood, Andrews & Newnam, Inc. PAC.

Name of Person Receiving Expenditure

28. Sworn complaint SC-31110244 alleged that the respondent did not disclose the name of the person receiving a political expenditure in his July 2010, January 2011, and July 2011 semiannual reports.
29. At issue are 12 expenditures to Wal-Mart totaling \$2,580.10. The purpose descriptions for these expenditures disclosed that the expenditures included purchases of gift cards for “senior birthdays,” but did not disclose the recipients of the gift cards. In his response, the respondent swore that the expenditures “were for gift cards in small amounts (\$10) and were distributed at senior centers to seniors on their birthday” to promote his campaign.
30. At issue are two expenditures totaling \$12,000 to “USMTS” and one expenditure of \$2,000 to “GTRP.” The respondent swore the expenditures to USMTS were to “US Touring Modified Series.” Research indicates that USMTS is a commonly used abbreviation for this organization. The acronym is also used on the organization’s website and social media accounts. The respondent swore that the expenditure to GTRP was to “Golden Triangle Raceway Park.” Research indicates this acronym is used on the organization’s website and on other racing websites.

Actual Vendor Payee of Expenditure

31. Sworn complaint SC-31110244 alleged that the respondent improperly reported an expenditure to an individual in the amount of \$600 in his January 2010 semiannual report. The purpose description described the expenditure as being for “law enforcement, VFD’s Christmas Luncheon.”

Purpose of Political Expenditure

32. Sworn complaint SC-31110244 alleged that the respondent did not properly disclose the purposes of a number of political expenditures in his January 2010, July 2010, January 2011, and July 2011 semiannual reports and his 30-day and 8-day pre-election reports for the March 2010 primary election.

33. The original purposes of the political expenditures were stated as follows:

January 2010 Semiannual Report

- Three expenditures totaling \$7,496.91 with descriptions similar to “Auction Item – Donation” to East Montgomery County Fair Association, Brett Ligon Campaign, and New Caney Ag Boosters
- Three expenditures totaling \$1,218.96 to Wal-Mart for “East Montgomery Co. Improvement District Back to School Bash”
- \$627.27 to Sam’s Club for “1st Annual Golf Tournament Fundraiser Dinner”
- \$65 to Lone Star Western for “Donation – B. Ligon Fundraiser”
- \$173.50 to Wal-Mart for “EMCID Fall Festival - candy”
- 13 expenditures totaling \$3,261.20 with descriptions similar to “Senior bingo” or “Senior birthdays” to Wal-Mart

30-day Pre-election Report, March 2010 Primary Election

- \$273.50 to Wal-Mart for “Senior bingo”

8-day Pre-election Report, March 2010 Primary Election

- \$485 to New Caney H.S. Project Graduation for “Fundraiser – Bake off Auction”
- Two expenditures totaling \$565.44 to Wal-Mart for “Senior birthday” and “Senior bingo”
- \$89.21 to Wal-Mart for “Splendora Area Softball Assn – Opening Day Parade”

July 2010 Semiannual Report

- Seven expenditures totaling \$5,825 with descriptions similar to “Donation – Auction Item” to Splendora Youth Baseball Association, New Caney Ag Boosters, Tommy Gage – Sheriff, Splendora Area Baseball Association, and Montgomery County Fair Association
- Two expenditures totaling \$129.78 to Wal-Mart and Community Hardware for “Campaign Expenses – Early Voting Camp”
- \$300 to Lone Star Western for “Fundraiser – Donation”
- Six expenditures totaling \$1,203.42 with descriptions similar to “Senior bingo” or “Senior birthdays” to Wal-Mart and Dollar General Store

January 2011 Semiannual Report

- Three expenditures totaling \$8,533 with descriptions similar to “Fundraiser – Donation – Auction” to Splendora FFA Ag Boosters, New Caney – Porter Ag Booster Club, and East Montgomery County Fair Association
- Ten expenditures totaling \$2,292.18 for “Bingo for constituents” to Wal-Mart and Dollar Tree Stores
- \$299.96 to Ace Mart Restaurant Supply for “donation to senior constituents”

July 2011 Semiannual Report

- Ten expenditures totaling \$1,527.68 with descriptions similar to “senior bingo prizes” to Wal-Mart, Dollar Tree Stores, and Dollar General Store
 - \$91.74 to Sam’s Club for “fundraiser supplies”
34. In his response, the respondent stated that all the expenditures were appropriate and properly reported, that he did not receive anything other than the promotional benefit of the expenditure, and that no expenditures were converted to personal use.
35. With regard to the expenditure for “senior birthday” disclosed on the 8-day pre-election report, the respondent swore that the expenditure was for a party for senior citizens. The respondent did not specifically address the other “senior birthday” expenditures at issue.
36. With regard to the expenditures for “senior bingo,” the respondent swore that the expenditure was to purchase a prize for senior bingo, which is an event for seniors conducted at a county community center by county employees. The respondent swore that he has no control over, nor does he know the name of, the senior who receives the prize. The respondent also stated that this type of promotion promotes his campaign.

Timely Filing of Campaign Finance Report

37. Sworn complaint SC-31110244 alleged that the respondent did not timely file the 30-day pre-election report for the March 2010 primary election. The report was due on February 1, 2010. The respondent filed his report on February 16, 2010.
38. The respondent did not address this allegation in his response.
39. The respondent was an opposed candidate in the March 2010 primary election

Filing a Complete Corrected Report

40. Sworn complaint SC-31110244 alleged that the respondent did not file a complete corrected report with regard to his corrected January 2010 semiannual report and his corrected January 2011 semiannual report. The complaint identified two instances in which the respondent identified corrections on the correction affidavit attached to his corrected January 2010 semiannual report but did not make the corrections on the actual report. The complaint did not identify any deficiencies with regard to the corrected January 2011 semiannual report.
41. The explanation of correction on the respondent's corrected July 2010 semiannual report lists and provides the details of seven corrections to the original report. Two corrections were described in the correction affidavit, but not made on the actual report. The corrections were the addition of an address to an entry disclosing a contribution and a modification of a purpose description in an entry disclosing an expenditure. Both corrections were fully described in the correction affidavit.
42. In his response, the respondent swore that he believes all the corrected reports at issue are complete.

Conversion of Political Funds to Personal Use

43. Sworn complaints SC-31110244 and SC-31112264 alleged that the respondent converted political funds to personal use in violation of section 253.035 of the Election Code. The allegations are based on expenditures the respondent disclosed in his July 2009, January 2010, July 2010, January 2011, and July 2011 semiannual reports.
44. The amounts of the political expenditures and their stated purposes are as follows:

July 2009 Semiannual Report:

- \$3,500 to Showtime Signs for "advertising/sponsor" on April 23, 2009

January 2010 Semiannual Report:

- Three expenditures totaling \$3,500 to 105 Speedway for "race sponsor" between September 3, 2009, and November 4, 2009
- Two expenditures totaling \$3,750 to Showtime Signs for "campaign signs" and "campaign graphics" on October 24, 2009, and December 3, 2009

July 2010 Semiannual Report:

- \$50.81 to Mister Car Wash for “campaign vehicle – detail” on March 9, 2010
- \$61.55 to Mister Express Lube for “campaign vehicle – oil change” on March 9, 2010
- Two expenditures totaling \$5,000 to Showtime Signs for “Campaign advertising” on March 8, 2010, and April 16, 2010
- \$8,500 to USMTS (United States Modified Touring Series) for “sponsor, campaign advertising” on April 3, 2010

January 2011 Semiannual Report:

- \$250 to Bentwater Yacht & Country Club for “member-guest putting contest” on September 21, 2010
- \$11,604.11 to Oakhurst Golf Club for “event expense – meeting with constituents” on September 27, 2010
- \$3,500 to USMTS for “political advertising” on November 18, 2010
- \$1,500 to Showtime Signs for “political advertising” on December 23, 2010

July 2011 Semiannual Report:

- \$5,000 to Showtime Signs for “political advertising – banners, signs” on February 23, 2011
 - \$2,000 to GTRP (Golden Triangle Raceway Park) for “sponsor – banners/flyers” on May 27, 2011
 - \$86.90 to Mister Express Lube for “oil and filter change” on June 14, 2011
45. The respondent swore that the expenditures to Showtime Signs, 105 Speedway, US Modified Touring Series, and Golden Triangle Raceway Park were for political advertising purposes and an excellent way to promote his campaign. He further stated that: “My constituents and supporters (including those who are not constituents) were exposed to these promotions. They reaped positive benefits for my campaign. I believe both political and financial support increased because of these expenditures. There was no personal use regarding these expenditures.”
46. The respondent provided the locations of each of the races at issue. Each race was in the county in which the respondent is an officeholder or a surrounding county. The respondent provided photographs of the political advertising displayed at the races. The photographs show racecars painted with the words “Re-Elect Ed Rinehart County Commissioner Pct. 4” and “Ed Rinehart.”

47. The respondent's response does not specifically address the three expenditures to 105 Speedway disclosed in the January 2010 semiannual report that are described as being for race sponsorships. However, the response does say that all the expenditures at issue in that report were for political advertising purposes to promote his campaign.
48. The respondent also stated that the expenditures to Mister Car Wash and Mister Lube Express were for permissible campaign expenditures. He stated that he uses his vehicle "extensively for campaign purposes, hundreds of miles per year" and does not charge the campaign mileage.
49. The respondent stated that the expenditures to Bentwater Yacht & Country Club and Oakhurst Golf Club were for permissible promotion expenses. With regard to the expenditure to Bentwater Yacht & Country Club, he stated that he sponsored a golf putting contest to publicize his candidacy and that he is not a member of the country club.

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 report must include as of the last day of the reporting period, 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). A *de minimis* error in calculating or reporting a cash balance under subsection (a)(8) is not a violation. *Id.* § 254.031(a-1).
2. The appropriate method of determining the total political contributions maintained is by determining the balance of any and all accounts in which political contributions are maintained as of the last day of the reporting period.
3. The respondent provided bank statements substantiating his reported total political contributions maintained. However the reported totals deviate from the bank statements in two instances.
4. With regard to the July 2011 semiannual report, the respondent initially reported an amount of total political contributions maintained that deviated from the correct amount by \$1,420. The respondent then corrected the report to disclose a different amount that deviated from the correct amount by \$4,580. However, based on the bank records, the correction appears to be incorrect. The allegation is based on the original report, and the difference between the

amount originally disclosed and the correct amount does not exceed the lesser of 10% of the amount originally disclosed or \$2,500 and thus, is on its face *de minimis*. Therefore, there is credible evidence of no violation of section 254.031(a)(8) of the Election Code with regard to this report.

5. With regard to the 30-day pre-election report for the March 2010 primary election, the respondent reported as the amount of total contributions maintained, the bank account balance as of the day after the last day of the reporting period. Therefore, there was a *de minimis* error in calculating or reporting a cash balance under subsection (a)(8). Consequently, there is credible evidence of no violation of section 254.031(a)(8) of the Election Code with regard to this report.
6. The remaining reports correctly disclosed the amount of total political contributions maintained. Therefore, there is credible evidence of no violation of section 254.031(a)(8) of the Election Code with regard to the remaining reports at issue.

Reporting Political Expenditures

7. A campaign finance report must include, for all 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 political expenditures are made and the dates and purposes of the expenditures. ELEC. CODE § 254.031(a)(3).
8. Bank records and corrections filed by the respondent disclose that the respondent did not originally disclose political expenditures totaling \$32,300. Because the respondent did not disclose political expenditures that were made during the reporting periods at issue, there is credible evidence of violations of section 254.031(a)(3) of the Election Code with regard to \$32,300 in expenditures.

Total Amount of Outstanding Loans

9. Each campaign finance report must include the aggregate principal amount of all outstanding loans as of the last day of the reporting period. ELEC. CODE § 254.031(a)(2).
10. The respondent initially did not disclose any amount for the totals at issue but swore that the total outstanding loan amount for each report was \$0. Because the respondent's reports were not misleading and did not substantially affect disclosure, there is credible evidence of technical or *de minimis* violations of section 254.031(a)(2) of the Election Code.

Timely Disclosure of Political Contributions

11. 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).
12. The contributions at issue were properly reported on the respondent's July 2010 semiannual report. Therefore there is credible evidence of no violation of section 254.031(a)(1) of the Election Code.

Full Name of Contributor

13. 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).
14. It is not a valid basis of a complaint to allege that a report required under Chapter 254, Election Code, contains the improper name or address of a person from whom a political contribution was received if the name or address in the report is the same as the name or address that appears on the check for the political contribution. GOV'T CODE § 571.122(e) (provision effective as of September 28, 2011).
15. With regard to the contributions from LAN-PAC, the respondent disclosed the contributor's name as it is used in commission records. Therefore, there is credible evidence of no violation of section 254.031(a)(1) of the Election Code with regard to this contributor.
16. With regard to the remaining contributions, the respondent swore that all the contributions were reported using the contributors' names as they appeared on the check for the political contribution and provided copies of the checks, which displayed the contributors names as they appeared on the respondent's campaign finance reports. The above referenced provisions were not in effect during the periods at issue. Therefore, there is credible evidence of a violation of section 254.031(a)(1) of the Election Code.

Name of Person Receiving Expenditure

17. "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 § 251.001(6).

18. 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).
19. Payment means the performance of an obligation by the delivery of money or some other valuable thing accepted in partial or full discharge of the obligation. Black's Law Dictionary, 8th ed., 1999.
20. Regarding the expenditures to Wal-Mart, the complaint alleges that the respondent was required to disclose the ultimate recipients of the gift cards as the payees of the political expenditure. The initial recipient of the payment at issue was properly disclosed. There is no evidence that any person who received a gift card was a payee of a political expenditure that exceeded \$50. Therefore, there is credible evidence of no violation of section 254.031(a)(3) of the Election Code.
21. The expenditures to US Touring Modified Series and Golden Triangle Raceway Park disclosed recognized acronyms commonly used as the names of the entities. Because the acronyms are commonly used as the names of the payees, the disclosures substantially comply. Therefore, with regard to those expenditures, there is credible evidence of no violation of section 254.031(a)(3) of the Election Code.

Actual Vendor Payee of Expenditure

22. 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).
23. Ethics Commission Rules § 20.62 states that political expenditures made from personal funds by a staff member of a candidate with the intent to seek reimbursement from the candidate 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: (1) 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 (2) included with the total amount or a specific listing of the political expenditures of \$50 or less made during the reporting period.
24. The evidence is insufficient to show that the respondent improperly disclosed the expenditure at issue. Therefore, there is insufficient evidence of a violation of section 254.031(a)(3) of the Election Code and section 20.62 of the Ethics Commission Rules.

Purpose of Political Expenditure

25. A campaign finance report must include, for all 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 political expenditures are made and the dates and purposes of the expenditures. ELEC. CODE § 254.031(a)(3).
26. 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. 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. *Id.* § 20.61(a)(2).
27. The respondent has not corrected any of the reports at issue.
28. The respondent disclosed descriptions similar to “senior bingo,” “senior birthdays,” and “bingo for constituents” for the purpose of approximately \$9,123.42 in expenditures. The respondent also disclosed four expenditures totaling \$1,737.91 to Wal-Mart, Community Hardware, and Ace Mart Restaurant Supply with descriptions similar to “East Montgomery Co. Improvement District Back to School Bash,” “Splendora Area Softball Assn – Opening Day Parade,” “Campaign Expenses – Early Voting Camp,” and “donation to senior constituents.” The respondent did not originally provide a sufficient purpose or category of goods or services for those expenditures. 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 (complete rule applicable to expenditures made after July 1, 2010).
29. The original disclosures for the remaining \$23,597.42 in political expenditures were adequate. Therefore, as to the remaining alleged 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.

Timely Filing of Campaign Finance Report

30. In addition to other required reports, for each election in which a person is a candidate and has an opponent whose name is to appear on the ballot, the person shall file two reports. ELEC. CODE § 254.064(a). The first report must be received by the authority with whom the report is required to be filed not later than the 30th day before election day. The report covers the period beginning 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 under this chapter, as applicable, and continuing through the 40th day before election day. *Id.* § 254.064(b).
31. The respondent was an opposed candidate in the March 2010 primary election and was therefore required to file a 30-day pre-election report no later than February 1, 2010. The report was not filed until February 16, 2010. Therefore, there is credible evidence of a violation of section 254.064(b) of the Election Code.

Filing a Complete Corrected Report

32. Each report filed under this chapter with an authority other than the commission must be in a format prescribed by the commission. ELEC. CODE § 254.036. A corrected/amended report must clearly identify how the corrected/amended report is different from the report being corrected/amended. Ethics Commission Rules §18.9(b).
33. The complaint alleged that the respondent did not make corrections as described in the explanation of correction to the actual report. The corrections were fully described in the correction affidavit accompanying the report, but were not transferred to the actual report itself. Because the respondent's corrected report clearly identifies how the corrected/amended report is different from the report being corrected/amended, there is credible evidence of no violation of section 254.036 of the Election Code and section 18.9(b) of the Ethics Commission Rules.

Conversion of Political Funds to Personal Use

34. 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). Personal use is a use that primarily furthers individual or family purposes not connected with the performance of duties or activities as a candidate or officeholder. *Id.* § 253.035(d). Personal use 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.

35. The campaign finance reports indicate that the political expenditures to Mister Car Wash, Mister Lube Express, Bentwater Yacht and Country Club, and Oakhurst Golf Club were incurred in connection with campaign activities. There is insufficient evidence of a violation of section 253.035(a) of the Election Code with regard to these expenditures.
36. The respondent provided some evidence indicating the expenditures for political advertising to Showtime Signs, 105 Speedway, US Modified Touring Series, and Golden Triangle Raceway Park were for political advertising purposes. Therefore there is credible evidence of no violation of section 253.035(a) of the Election Code with regard to these expenditures.
37. Regarding the expenditures for race sponsorships to 105 Speedway disclosed in the January 2010 semiannual report, the evidence is insufficient to show that these expenditures were for personal use. Therefore, there is insufficient evidence of a violation with regard to these 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 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.

The respondent acknowledges 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.

The respondent acknowledges 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. 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.

The respondent acknowledges that each campaign finance report must include the aggregate principal amount of all outstanding loans as of the last day of the reporting period.

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 the report, the full name and address of the person making the contributions, and the dates of the contributions.

The respondent acknowledges that, in addition to other required reports, for each election in which a general-purpose committee supports or opposes a candidate or measure, the committee's campaign treasurer shall file two reports. The first report must be filed not later than the 30th day before election day. The report covers the period beginning the day the committee's campaign treasurer appointment is filed or the first day after the period covered by the committee's last required report, and continuing through the 40th day before election day. The second report must be filed not later than the eighth day before election day. The report covers the period beginning the 39th day before election day and continuing through the 10th day before election day.

The respondent agrees to comply with these requirements of the law.

VI. Confidentiality

This order and agreed resolution describes certain 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 \$7,000 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-31110244 and SC-31112264.

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

Edwin Rinehart, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director