

TEXAS ETHICS COMMISSION

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Austin, Texas 78711-2070

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December 9, 2013

James Keffer

RE: Notice of Reporting Error
SC – 3120497
(James Keffer, Respondent)

Dear Representative Keffer:

The Texas Ethics Commission (commission) met on December 2, 2013, to consider SC-3120497. A quorum of the commission was present. **The commission determined that there is credible evidence of reporting errors that do not materially defeat the purpose of disclosure.** To resolve and settle this case without further proceedings, the commission proposed this Notice of Reporting Error Agreement (agreement).

The commission **found credible evidence** that:

1. The respondent did not include in campaign finance reports his campaign treasurer's telephone number, his office sought, and his office held, as required by sections 254.061 and 254.091 of the Election Code.
2. The respondent did not include in campaign finance reports documentation relating to political contributions from out-of-state political committees, as required by section 253.032 of the Election Code and section 20.29 of the Ethics Commission Rules.
3. The respondent did not include in a campaign finance report the full name of the employer for an individual who contributed \$500 or more to the respondent during a reporting period, as required by section 254.0612 of the Election Code.
4. The respondent did not disclose a complete purpose of political expenditures, as required by section 254.031(a)(3) of the Election Code and section 20.61 of the Ethics Commission Rules.

The commission **did not find credible evidence** that:

1. The respondent did not properly disclose total amount of all outstanding loans as required by section 254.031(a)(2) of the Election Code.

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The Texas Ethics Commission does not discriminate on the basis of race, color, national origin, sex, religion, age or disability in employment or the provision of services.

2. The respondent did not disclose the full name of a person making a political contribution as required by section 254.031(a)(1) of the Election Code.
3. The respondent did not disclose the full name of person to whom a political expenditure was made, as required by section 254.031(a)(3) of the Election Code.
4. The respondent did not disclose the actual vendor payee of a political expenditure, as required by section 254.031(a)(3) of the Election Code and section 20.62 of the Ethics Commission Rules.
5. The respondent accepted political contributions from a corporation or labor organization, which is prohibited by sections 253.003 and 253.094 of the Election Code.

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

1. It was contended that the respondent did not include in campaign finance reports his campaign treasurer's telephone number, his office sought, and his office held. The respondent did not disclose an office sought on the cover page of his July 2012 semiannual report or a telephone number for his campaign treasurer on the cover sheets of his July 2010, January 2011, July 2011, and January 2012 semiannual reports. In context, the errors were *de minimis*. **Therefore, there is credible evidence of technical or *de minimis* noncompliance with section 254.061 of the Election Code.** The respondent did not disclose an office held on the cover page of his July 2012 semiannual report. **There is credible evidence of technical or *de minimis* noncompliance with section 254.091 of the Election Code.**
2. It was contended that the respondent did not include information concerning an out-of-state political committee for 18 contributions disclosed on his July 2010, January 2011, and January 2012 semiannual reports. With regard to 10 of the contributions at issue, Ethics Commission records show that the contributors are Texas general purpose political committees. Therefore, the additional information was not required on or with the reports, and **there is credible evidence of compliance with section 253.032 of the Election Code and section 20.29(a) of the Ethics Commission Rules with regard to these 10 contributions.** With regard to the remaining eight contributions totaling \$8,000, the respondent filed corrections to provide the missing information. **There is credible evidence of noncompliance with section 253.032 of the Election Code and section 20.29(a) of the Ethics Commission Rules.**
3. It was contended that the respondent did not properly disclose in his July 2010, January 2011, and January 2012 semiannual reports, the principal occupations or job titles and names of employers of contributors for 37 contributions of \$500 or more. For 32 contributions totaling approximately \$40,750, the respondent did not include all of the required information in the reports at issue. The respondent filed corrections to provide the missing information. **There is credible evidence of noncompliance with section 254.0612 of the Election Code with respect to these contributions.** For four contributions totaling approximately \$8,060, the respondent disclosed an occupation and employer for the contributor or disclosed the contributor's employer as self-employed. The evidence indicated that the contributors at issue were either employed at the entity originally disclosed or were employed at an entity that contained the contributor's name in the business title. **Therefore, there is credible evidence of compliance with section 254.0612 of the Election Code with respect to these contributions.** For one contribution of \$500, the respondent listed the contributor's principal occupation as "self-employed businessman" and left the employer field blank. The evidence indicated that the contributor was employed by an entity that contained the contributor's name in the business title. Although the employer field was initially left blank, the contributor was identified as

self-employed in the principal occupation field. Because the information was not misleading and did not substantially affect disclosure, **there is credible evidence of technical or *de minimis* noncompliance with section 254.0612 of the Election Code with respect to this contribution.**

4. It was contended that the respondent did not disclose the purpose of 22 expenditures totaling approximately \$42,230 in his January 2011, July 2011, and January 2012 semiannual reports. For two expenditures totaling approximately \$1,220, the purpose of payment was adequate as originally disclosed or was not required to be disclosed. **Therefore, there is credible evidence of compliance with section 254.031(a)(3) of the Election Code and section 20.61 of the Ethics Commission Rules with respect to those expenditures.** For 19 expenditures totaling approximately \$40,800, the purpose description merely repeated the category of the expenditure. **Therefore, there is credible evidence of noncompliance with section 254.031(a)(3) of the Election Code and section 20.61 of the Ethics Commission Rules with respect to those expenditures.** For an expenditure to an airline for out-of-state travel, the respondent did not initially disclose all the purpose information required for expenditures for out-of-state travel. **Therefore, there is credible evidence of noncompliance with section 254.031(a)(3) of the Election Code and section 20.61 of the Ethics Commission Rules with respect to this expenditure.**
5. It was contended that the respondent did not properly disclose the total principal amount of all outstanding loans as of the last day of the reporting period on his July 2010 semiannual report. There is no evidence that there were any loans to the campaign other than personal funds the respondent deposited in his campaign account in 1996. Political expenditures from personal funds are not required to be included in the total disclosed under “aggregate principal amount of all outstanding loans as of the last day of the reporting period.” **Therefore, there is credible evidence of compliance with section 254.031(a)(2) of the Election Code.**
6. It was contended that the respondent did not disclose the full name of persons making political contributions in the respondent’s July 2010, January 2011, and January 2012 semiannual reports. For each of the entries for which the complaint contended that the full name of the contributor was not properly disclosed, the respondent disclosed the name of the contributor as it appeared on the check for the political contribution or an acronym that is commonly used as the name of the payee. **Therefore, there is credible evidence of compliance with section 254.031(a)(1) of the Election Code with regard to these entries.**
7. It was contended that the respondent did not disclose the full name of the person receiving a political expenditure in five instances on the respondent’s January 2011, July 2011, and January 2012 semiannual reports and that the respondent did not disclose the actual vendor as the payee of a political expenditure in six instances on the respondent’s January 2011, July 2011, and January 2012 semiannual reports. For each of the entries for which it was contended that the full name of the payee was not properly disclosed, the respondent disclosed the name of the payee as an acronym found in commission records or that is commonly used as the name of the payee. **Therefore, there is credible evidence of compliance with section 254.031(a)(3) of the Election Code with regard to these entries.** For the entries for which it was contended the respondent did not disclose the actual vendor payee, the respondent disclosed the owner of a business that provided the services described, an officeholder who was a recipient of a committee gift, or a staff member to whom a mileage reimbursement was made. **With regard to these expenditures, there is credible evidence of compliance with section 254.031 of the Election Code and section 20.62 of the Ethics Commission Rules.**

8. It was contended that the respondent accepted 18 contributions totaling \$16,650 from a corporation or labor organization. Six of the political contributions at issue appear to be from political committees. **Therefore, there is credible evidence of compliance with sections 253.003 and 253.094 of the Election Code with respect to these political contributions.** The evidence does not establish that 10 of the political contributions at issue were from prohibited sources. **There is insufficient evidence of noncompliance with sections 253.003 and 253.094 of the Election Code with respect to these political contributions.** The evidence indicates that two of the political contributions at issue were from prohibited sources. **However, there is insufficient evidence of noncompliance with sections 253.003 and 253.094 of the Election Code with respect to these political contributions.**

By signing this agreement and returning it to the commission:

1. You consent to this agreement.
2. You accept the determinations made by the commission in this agreement.
3. You waive any right to further proceedings in this matter.
4. You understand and agree that the commission will consider this agreement in any future proceedings against you.
5. You acknowledge that:

Each report by a candidate must include the candidate's full name and address, the office sought, and the identity and date of the election for which the report is filed.

Each report by a candidate must include the campaign treasurer's name, residence or business street address, and telephone number.

Each report by an officeholder must include the officeholder's full name and address and the office held.

A person who files a report with the commission by electronic transfer and who accepts political contributions from an out-of-state political committee required to file its statement of organization with the Federal Election Commission shall either enter the out-of-state committee's federal PAC identification number in the appropriate place on the report or timely file a certified copy of the out-of-state committee's statement of organization that is filed with the Federal Election Commission.

Each report by a candidate for statewide office in the executive branch or legislative office must include, for each individual from whom the person filing the report has accepted political contributions that in the aggregate equal or exceed \$500 during the reporting period, the individual's principal occupation or job title, and the full name of the individual's employer.

Each report must include 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.

The purpose of an expenditure includes 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; and 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 description of a political expenditure for travel outside of the state of Texas must provide the name of the person or persons traveling on whose behalf the expenditure was made; the means of transportation; the name of the departure city or the name of each departure location; the name of the destination city or the name of each destination location; the dates on which the travel occurred; and the campaign or officeholder purpose of the travel, including the name of a conference, seminar, or other event.

You agree to comply with these requirements of the law.

This agreement describes reporting errors that the commission has determined are neither technical nor *de minimis*. Accordingly, this agreement is not confidential under section 571.140 of the Government Code.

The respondent agrees to tender a \$400 assessment fee to the commission.

This agreement is a final and complete resolution of SC-3120497.

James Keffer, Respondent
(Signature)

Date signed by Respondent

Executed original agreement received by the commission on: _____.

Texas Ethics Commission

By: _____
Executive Director