

TEXAS ETHICS COMMISSION

IN THE MATTER OF
RICHARD A. JOHNSON,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-31205157

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on April 3, 2014, to consider sworn complaint SC-31205157. 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, 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 political contributions and political expenditures as required by section 254.031 of the Election Code; and 2) did not cover the correct reporting period on a campaign finance report, as required by section 254.064 of the Election Code.

III. Facts Supported by Credible Evidence

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

Total Political Expenditures

1. The complaint alleged that the respondent did not disclose the correct amount of total political expenditures on his January 2012 semiannual report and 30-day pre-election report filed in connection with a May 29, 2012, election.
2. The respondent's January 2012 semiannual report disclosed \$0 in total political expenditures. The report itemized one \$750 political expenditure from personal funds.

3. In response to the complaint, on July 2, 2012, the respondent filed a corrected January 2012 semiannual report that disclosed \$750 in total political expenditures.
4. On April 30, 2012, the respondent filed a 30-day pre-election report in connection with a May 29, 2012, election. Cover sheet page 2 of the report disclosed \$0 in total political expenditures. The report itemized one \$750 political expenditure from personal funds.
5. In response to the complaint, on July 2, 2012, the respondent filed a corrected 30-day pre-election report that disclosed \$2,528.88 in total political expenditures. The report appears to have removed the previously reported \$750 political expenditure, but added four itemized political expenditures from personal funds totaling approximately \$2,528.88.

Reporting Period Covered

6. The complaint alleged that the respondent did not cover the correct period on his 30-day pre-election report filed in connection with a May 29, 2012, election.
7. On April 30, 2012, the respondent filed a 30-day pre-election report in connection with a May 29, 2012, election. The report disclosed a period covered of April 30, 2012, through May 29, 2012.

IV. Findings and Conclusions of Law

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

Total Political Expenditures

1. Each campaign finance report must 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).
2. The respondent disclosed \$0 in total political expenditures on his originally filed January 2012 semiannual report at issue; however, the report itemized one \$750 political expenditure from personal funds. That amount should have been reflected on the amount of total political expenditures disclosed on the report. In response to the complaint, the respondent filed a corrected January 2012 semiannual report that disclosed \$750 in total political expenditures. The error did not substantially affect disclosure because the respondent itemized all of his political expenditures on his originally filed report at issue. In context, the error was *de minimis*. Therefore, there is credible evidence of a technical or *de minimis* violation of section 254.031(a)(6) of the Election Code.

3. Each campaign finance 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. ELEC. CODE § 254.031(a)(3).
4. The respondent disclosed \$0 in total political expenditures on his originally filed 30-day pre-election report at issue; however, the report itemized one \$750 political expenditure from personal funds that was disclosed on his previously filed January 2012 semiannual report. In response to the complaint the respondent filed a corrected report that removed the \$750 political expenditure from personal funds, but added four itemized political expenditures from personal funds totaling approximately \$2,528.88. The corrected report also disclosed \$2,528.88 in total political expenditures on the totals page of his report. The respondent did not disclose the correct amount of total political expenditures on his originally filed 30-day pre-election report. Therefore, there is credible evidence of violations of sections 254.031(a)(3) and 254.031(a)(6) of the Election Code.

Reporting Period Covered

5. 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, as applicable, and continuing through the 40th day before election day. ELEC. CODE § 254.064(b).
6. The respondent's originally filed report at issue disclosed covering a period beginning on April 30, 2012, through May 29, 2012. The correct reporting period for the 30-day pre-election report at issue was January 1, 2012, through April 19, 2012. In response to the complaint the respondent filed a corrected report to cover the correct period. The respondent did not cover the correct reporting period on his originally filed 30-day pre-election report at issue. Therefore, there is credible evidence of a violation of section 254.064(b) 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 each campaign finance 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 respondent also acknowledges that each campaign finance report must include the total amount of all political contributions accepted and the total amount of all political expenditures made during the reporting period.

The respondent also acknowledges that 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. 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, as applicable, and continuing through the 40th day before election day.

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 \$200 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-31205157.

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

Richard A. Johnson, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
Executive Director