

# TEXAS ETHICS COMMISSION

IN THE MATTER OF

DALE TILLERY,

RESPONDENT

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BEFORE THE

TEXAS ETHICS COMMISSION

SC-31206195

## ORDER and AGREED RESOLUTION

### I. Recitals

The Texas Ethics Commission (Commission) met on October 5, 2015, to consider sworn complaint SC-31206195. A quorum of the Commission was present. The Commission determined that there is credible evidence of violations of sections 253.035(h), 254.091, 254.0611, and 254.031 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 properly disclose political contributions and political expenditures; 2) accepted political contributions from a corporation or labor organization; 3) did not include in campaign finance reports documentation relating to political contributions from out-of-state political committees; 4) did not disclose the principal occupation and job title, and full name of the employer of each individual from whom the respondent accepted political contributions that in the aggregate exceeded \$50 during the reporting period; 5) made political contributions in excess of the amounts permitted; and 6) did not disclose on a campaign finance report the respondent's office held.

### III. Facts Supported by Credible Evidence

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

1. At the time at issue, the respondent was the sitting district judge of the 134th Judicial District, Dallas, Texas. The respondent was elected to the office in November 2010.

2. At issue are the respondent's corrected 30-day and corrected 8-day pre-election reports for the November 2010 general election and the respondent's originally filed January 2011, corrected July 2011, and originally filed January 2012 semiannual reports. The respondent filed additional corrections to some of the reports at issue in response to the complaint.

### **Cover Sheet Information**

3. The complaint alleged that the respondent did not disclose his office held on the July 2011 semiannual report. The field on the cover sheet for "office held" was left blank on the report at issue.
4. In response to the complaint, the respondent stated that an inadvertent clerical error caused the unintentional omission of this information.

### **Outstanding Loan Totals**

5. The complaint alleged 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 the January 2012 semiannual report. The respondent disclosed the amount as \$0. The complaint alleged the total amount of all outstanding loans should be \$8,000. The respondent's previous campaign finance report disclosed an outstanding loan balance of \$8,000 and the respondent did not disclose any loan repayments made during the reporting period at issue. The respondent's previous campaign finance reports indicate that the respondent made several personal loans to his campaign. There are no loans disclosed from third parties.
6. In response to the complaint, the respondent stated that an inadvertent clerical error in preparing the January 2012 semiannual report caused the unintentional omission of the outstanding loan balance. The respondent stated that the information had been consistently reported before the report at issue.

### **Total Political Contributions Maintained**

7. The complaint alleged that the respondent disclosed an incorrect amount of total political contributions maintained on his corrected 30-day and corrected 8-day pre-election reports for the November 2010 general election, January 2011 semiannual report, corrected July 2011 semiannual report, and January 2012 semiannual report. The allegations are as follows:
  - Corrected 30-day Pre-election report, November 2010 election – disclosed \$14,116.89; alleged \$12,050.96 (difference \$2,065.93)
  - Corrected 8-day Pre-election report; November 2010 election – disclosed \$4,031.62; alleged \$1,965.69 (difference \$2,065.93)

- January 2011 Semiannual report – disclosed \$4,258; alleged <\$12,809.19> (difference \$17,067.19)
  - Corrected July 2011 Semiannual report – disclosed \$21,866.59; alleged \$5,344.60 (difference \$16,521.99)
  - January 2012 Semiannual report – disclosed \$14,793.17; alleged <\$1,728.84> (difference \$16,522.01)
8. In his response, the respondent denied the allegation and stated that his campaign assistant keeps a running ledger of credits and debits and reports that balance as of the last day of the reporting period.

### **Full Name of Contributors**

9. The complaint alleged that the respondent did not disclose the full name of persons making political contributions in the respondent's corrected 30-day pre-election report for the November 2010 general election. The allegations include two instances in which the respondent disclosed the contributor's name as the name of a political committee containing an acronym.
10. In response to the complaint, the respondent swore that a contribution disclosed from "CWA Cope PCC" used the name that appeared on the contribution check. CWA is a commonly used acronym for Communication Workers of America. An entity called CWA Cope-PCC regularly files out-of-state political committee notices with the Commission indicating they have made expenditures in Texas. The remaining contribution was disclosed as being from "X UAW Cap Voluntary Fund Committee." The respondent swore that the contribution was from Texas United Auto Workers CAP Voluntary Fund and that an inadvertent clerical error was made in transcribing the information. UAW is a commonly used acronym for United Auto Workers.

### **Principal Occupation and Employer Information**

11. The complaint alleged that the respondent did not properly disclose in his corrected 30-day pre-election report for the November 2010 general election, and the January 2011 and corrected July 2011 semiannual reports, the principal occupations or job titles and names of employers for 16 contributions totaling approximately \$4,450.
12. For 11 of the contributions totaling approximately \$3,050, the respondent swore that the information was properly disclosed on the original reports. The respondent initially disclosed a principal occupation or job title, and disclosed that the contributor was self-employed. These contributors were self-employed or were employed at a business that contains the contributor's name.

13. For four of the contributions totaling approximately \$1,300, the respondent originally disclosed the contributor's occupation in the field for the contributor's name (*e.g.*, John Doe, Attorney) and left the job title, principal occupation, and employer fields blank. For three of the contributions, the contributor was employed at a firm that contained his name. One of the contributors was employed at a firm that did not contain his name. The respondent swore that the "reported trade name contains the information required by law" and that the fact that the information is reported in the contributor field does not mean it is not substantially provided.
14. For the remaining \$100 contribution, there is no occupation, job title, or employer disclosed for either of the two individuals disclosed as a single contributor. The respondent swore that he exercised his best efforts by having his campaign assistant contact the contributor for this information and asserts that since he made his best effort and could not determine the information, he is not required to report it.

#### **Out-of-State PAC Information**

15. The complaint alleged that the respondent did not include information concerning an out-of-state political committee for a \$2,500 contribution disclosed on his corrected 30-day pre-election report for the November 2010 general election. The contribution at issue was disclosed as being from "X UAW Cap Voluntary Fund Committee."
16. The respondent swore that an inadvertent clerical error caused a transcription error in reporting the committee's name, which is actually Texas United Auto Workers CAP Voluntary Fund. The respondent swore that the committee is a Texas general-purpose committee. Commission records indicate that Texas United Automobile Workers CAP Volunteer Fund Committee is a general-purpose committee that files with the Commission and disclosed a corresponding contribution to the respondent.

#### **Actual Vendor Payee**

17. The complaint alleged that the respondent did not disclose the actual vendor payees of 24 political expenditures totaling approximately \$8,200 on the respondent's corrected 30-day and corrected 8-day pre-election reports for the November 2010 general election and the January 2011, corrected July 2011, and January 2012 semiannual reports.
18. In response to the complaint, the respondent made corrections to the corrected 8-day pre-election report for the November 2010 general election, corrected July 2011, and January 2012 semiannual reports. The political expenditures at issue and the subsequent corrections are as follows:

Corrected 30-day Pre-election Report (No corrections)

- September 17, 2010, \$9.20 to Dale Tillery under the category of “Printing Expenses” with a description of “Thank You Cards”
- September 23, 2010, \$861 to Dale Tillery under the category of “Food/Beverage Expenses” with a description of “Fundraiser”

Corrected 8-day Pre-election Report

- October 19, 2010, \$121.03 to Tillery & Tillery under the category of “Other – Labels and Supplies” with a description of “Mailing”
- October 19, 2010, \$22.30 to Tillery & Tillery under the category of “Other – Renewal” with a description of “Domain Name”
- October 21, 2010, \$151.54 to Dale Tillery under the category of “Other – Software” with a description of “Excel 2010”
  - Corrected payee to Microsoft Store

January 2011 Semiannual Report (No corrections)

- November 22, 2010, \$511.63 to an individual under the category of “Food/Beverage Expense” with a description of “Thanksgiving Turkey”
- December 14, 2010, \$60.50 to an individual under the category of “Transportation Equipment & Related Expense” with a description of “Expense Reimbursement”
- December 17, 2010, \$573.76 to an individual under the category of “Food/Beverage Expense” with a description of “Christmas Ham”
- December 31, 2010, \$250 to an individual under the category of “Food/Beverage Expense” with a description of “Expense Reimbursement”
- December 31, 2010, \$192.66 to an individual under the category of “Food/Beverage Expense” with a description of “Expense Reimbursement”
- December 31, 2010, \$365.91 to Tillery & Tillery under the category of “Gifts/Awards/Memorial Expense” with a description of “Framing Expense Reimbursement”

- December 31, 2010, \$100.73 to Tillery & Tillery under the category of “Printing Expense” with a description of “Copies & Postage Expense Reimbursement”

#### Corrected July 2011 Semiannual Report

- January 28, 2011, \$297.14 to an individual under the category of “Other – Miscellaneous” with a description of “Postage, Courtroom Name Plates, Dry Cleaning, Parking”
  - Corrected to disclose three expenditures totaling \$262.46 as follows:
    - January 13, 2011, \$51.96 to Accurate Signs under the category of “OTHER – Courtroom Name Plates” with a description of “Courtroom signs”
    - January 28, 2011, \$122.50 to USPS – Northwest Station under the category of “OTHER – Postage” with a description of “Postage”
    - January 28, 2011, \$88 to USPS White Station under the category of “OTHER – Postage” with a description of “Postage”
- February 10, 2011, \$184.67 to an individual under the category of “Food/Beverage Expense” with a description of “Valentine Project for Precinct Chairs”
  - Corrected to disclose two expenditures totaling \$184.67 as follows:
    - February 9, 2011, \$129.90 to Dollar General Store under the category of “Gifts/Awards/Memorials Expense” with a description of “Valentine project for precinct chairs”
    - February 10, 2011, \$54.77 to Wal-Mart under the category of “Gifts/Awards/Memorials Expense” with a description of “Valentine project for precinct chairs”
- February 22, 2011, \$118.29 to an individual under the category of “Printing Expense” with a description of “Toner”
  - Corrected amount to \$78.79 and payee to 4inkjets.com (\$40 difference)

- April 4, 2011, \$234.03 to an individual under the category of “Gifts/Awards/Memorial Expense” with a description of “Custom Framing”
  - Corrected payee to Michaels Store
- April 5, 2011, \$132 to an individual under the category of “Other – Postage” with a description of “Thank You Letters to Jurors”
  - Corrected payee to USPS Parkdale Station

#### January 2012 Semiannual Report

- December 20, 2011, \$1,175 to an individual under the category of “Food/Beverage Expense” with a description of “Christmas Ham & Turkey”
  - Corrected to disclose four expenditures totaling \$1,175.40 as follows:
    - December 20, 2011, \$328.66 to Brookshire under the category of “Gifts/Awards/Memorial Expense” with a description of “Christmas Ham”
    - December 20, 2011, \$303.05 to Hoss BBQ under the category of “Gifts/Awards/Memorial Expense” with a description of “Smoking Ham & Turkey”
    - December 20, 2011, \$402.86 to Wal-Mart under the category of “Gifts/Awards/Memorial Expense” with a description of “Christmas Ham”
    - December 20, 2011, \$140.83 to Wal-Mart under the category of “Gifts/Awards/Memorial Expense” with a description of “Christmas Turkey”
- July 12, 2011, \$95.04 to an individual under the category of “Office Overhead/Rental Expense” with a description of “Postage Expense”
  - Corrected to disclose two expenditures totaling \$95.04 as follows:
    - July 12, 2011, \$47.52 to USPS Irving Valley Ranch under the category of “Office Overhead/Rental Expense” with a description of “Postage Expense”

- July 12, 2011, \$47.52 to USPS Irving Valley Ranch under the category of “Office Overhead/Rental Expense” with a description of “Postage Expense”
  - July 23, 2011, \$2,402 to Tillery & Tillery under the category of “Advertising Expense” with a description of “Reimbursement for Cups, Pencils, & Magnets”
  - August 26, 2011, \$86.99 to an individual under the category of “Office Overhead/Rental Expense” with a description of “Toner”
    - Corrected report to remove this expenditure
  - September 22, 2011, \$44.98 to an individual under the category of “Other – Allposters.com” with a description of “Barack Obama 2009 Official Portrait”
    - Corrected report to remove this expenditure
  - September 23, 2011, \$101.60 to an individual under the category of “Office Overhead/Rental Expense” with a description of “Namecheap.com Renewal of Domain Registration”
    - Corrected payee to Namecheap.com
  - November 15, 2011, \$110.52 to an individual under the category of “Office Overhead/Rental Expense” with a description of “Postage and Water (Sparkletts)”
    - Corrected to disclose two expenditures totaling \$87.12 as follows:
      - November 2, 2011, \$39.60 to USPS Irving Valley Ranch under the category of “Office Overhead/Rental Expense” with a description of “Postage”
      - November 15, 2011, \$47.52 to USPS Irving Valley Ranch under the category of “Office Overhead/Rental Expense” with a description of “Postage”
19. The respondent also added an expenditure of \$28.80 to Namecheap.com under the category of “Office Overhead/Rental Expense” with a description of “renewal of domain security/guard” that was not previously disclosed on the prior report.
20. The respondent disclosed a \$4,000 loan from himself on Schedule E (used to disclose loans) on the 30-day pre-election report for the November 2010 general election.



**Purpose of Expenditure**

21. The complaint alleged that the respondent did not properly disclose the purposes of seven expenditures totaling approximately \$1,290 in the January 2011, corrected July 2011, and January 2012 semiannual reports. The expenditures at issue include six expenditures to a mass retailer described with a category of “food/beverage expense” or “office overhead/rental expense” and a description of “jury room supplies.” One expenditure was described as made to a business which contained the respondent’s name and was described with a category of “gifts/awards/memorials expenses” and a description of “expense reimbursement.”
22. In response to the complaint, the respondent denied that he knowingly failed to properly report the purposes of expenditures and that the law does not require him to disclose the purpose in such a way that would enable a person to know specific items purchased as alleged by the complainant.

**Corporate Contributions**

23. The complaint alleged that the respondent accepted a contribution of \$500 from a corporation or labor organization. The contribution at issue was disclosed as being from “UA Plumbers & Steamfitters Local Union No. 100.”
24. In response to the complaint, the respondent stated he did not knowingly accept a contribution from a corporation or labor organization. The respondent swore that the contribution at issue was from the disclosed entity’s political committee and that PAC Fund was printed in small type on the check.
25. The entity’s political committee disclosed a contribution to the respondent that corresponds to the contribution identified in the complaint.

**Political Contribution to Candidate**

26. The complaint alleged that the respondent used political contributions to knowingly make political contributions in excess of \$100 in a calendar year to a candidate. The respondent disclosed a \$250 contribution to another candidate on December 15, 2010. The expenditure was disclosed as having a category of “Contributions/Donations Made By Candidate/Officeholder/Political Committee” and a description of “campaign expense.”
27. The respondent swore that the expenditure at issue was made to the candidate as payment for a ticket to a bar association event. The candidate did not report a corresponding contribution on his campaign finance report covering the period at issue.

**Contribution to Committee for General Election**

28. The complaint alleged that the respondent used political contributions to knowingly make political contributions to a political committee in excess of \$500 in connection with a general election. The respondent's office was on the ballot in the 2010 election cycle.
29. The political contributions at issue were disclosed on Schedule F (used to disclose political expenditures) of the respondent's corrected 30-day pre-election report in connection with the November 2010 election and the January 2011 semiannual report as follows:

Dallas County Democratic Party (DCDP)

- July 16, 2010, \$2,500 to DCDP under the category of "Contributions/Donations" with a description of "Coordinated Campaign" (disclosed by DCDP as a contribution)
- August 23, 2010, \$100 to DCDP under the category of "Contributions/Donations" with a description of "Coordinated Campaign" (disclosed by DCDP as a contribution)
- August 31, 2010, \$2,500 to DCDP under the category of "Contributions/Donations" with a description of "Coordinated Campaign" (disclosed by DCDP as a contribution)
- December 7, 2010, \$1,320 to DCDP under the category of "Event Expense" with a description of "1/1 swearing-in ceremony" (disclosed by DCDP as a contribution)

Texas Democratic Party (TDP)

- August 2, 2010, \$1,000 to TDP under the category of "Other – VAN" with a description of "Voter's File" (disclosed by TDP as a contribution)
30. DCDP is a county executive committee that files with the Commission. The DCDP disclosed three contributions totaling approximately \$5,100 from the respondent in the committee's 30-day pre-election report in connection with the November 2010 general election. The DCDP disclosed one contribution for \$1,320 from the respondent in the committee's January 2011 semiannual report. Of note, DCDP's January 2011 semiannual report also disclosed a political contribution totaling \$2,500 from the respondent dated November 10, 2010, that was not disclosed as a political expenditure on the respondent's January 2011 semiannual report.

31. TDP is a state executive committee that files with the Commission. TDP disclosed a contribution of \$1,000 from the respondent in the committee's 30-day pre-election report in connection with the November 2010 general election.
32. In response to the complaint, the respondent swore:

The expenditures on July 16, 2010, and August 31, 2010, were for costs related to the county executive committee's campaign activity on behalf of all Democratic candidates. The remaining expenditures were in amounts that were not more than Judge Tillery's pro rata share of the committee's overhead and were made for the purchase of tickets to events held by [the] county executive committee or for political advertising at those events, which are clearly stated in the description of the expenditure, all as permitted under Section 253.1611(c) [of the Election Code].
33. On February 2, 2015, the respondent provided a sworn statement from the former party chair of the DCDP detailing the respondent's pro rata share of DCDP's coordinated campaign activity on behalf of the respondent. According to the former party chair, DCDP raised approximately \$888,550 for its 2010 coordinated campaign, in which 52 county-wide candidates participated. The previous party chair indicated that in return for his contribution, the respondent received goods and services including "block walking, phone banking, email solicitations, direct mail, hand-delivered voter guides, field staff, yard signs and other political services." The former party chair calculated that the respondent's pro rata share for the coordinated campaign, if all candidates on the ballot were included, was \$9,872.77.
34. The respondent also provided a letter from the Operations Director of the TDP indicating that the \$1,000 payment to the TDP was in return for goods and services of equal or greater value, specifically the purchase of the party's voter file on August 2, 2010.

#### **Contribution to Political Committee When Not on Ballot**

35. The complaint alleged that the respondent used political contributions to knowingly make a political contribution to a political committee in excess of \$250 in a calendar year in which his office held was not on the ballot. The respondent's office held was on the ballot in 2010.
36. The respondent disclosed two expenditures totaling approximately \$4,000 to the DCDP in 2011. One expenditure of \$1,500 was disclosed with a category of "Other – Leadership Council" and a description of "Membership fee." The remaining expenditure of \$2,500 was disclosed with a category of "Solicitation/Fundraising Expense" and a description of "Jackson/Silver Level."

37. In response to the complaint, the respondent swore the expenditures at issue were permitted under section 253.1611(c) of the Election Code as detailed in the previous section. On August 12, 2015, the respondent provided a letter from the current chair of the DCDP detailing the respondent's pro rata share of DCDP's normal overhead and administrative or operating costs for 2011. According to the party chair, total expenses for maintenance of DCDP's office were \$273,353. The letter indicates that 44 individuals, including the respondent, contributed to DCDP's operating costs. Thus, the respondent's pro rata share for DCDP's normal overhead and administrative or operating costs for 2011 was approximately \$6,200.

#### IV. Findings and Conclusions of Law

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

##### Cover Sheet Information

1. Each report by an officeholder must include the officeholder's full name and address and the office held. ELEC. CODE § 254.091(1).
2. The respondent was the sitting district judge of the 134th Judicial District during the period at issue. The respondent did not disclose the office held on the cover page of his July 2011 semiannual report. However, the error in context was not misleading and did not substantially affect disclosure. Therefore, there is credible evidence of a technical or *de minimis* violation of section 254.091 of the Election Code.

##### Outstanding Loan Totals

3. Each report must include the amount of loans that are made during the reporting period for campaign or officeholder purposes to the person or committee required to file the report and that in the aggregate exceed \$50, the dates the loans are made, the interest rate, the maturity date, the type of collateral for the loans, if any, the full name and address of the person or financial institution making the loans, the full name and address, principal occupation, and name of the employer of each guarantor of the loans, the amount of the loans guaranteed by each guarantor, and the aggregate principal amount of all outstanding loans as of the last day of the reporting period. ELEC. CODE § 254.031(a)(2).
4. In Ethics Advisory Opinion No. 349, the Commission stated:

Although political expenditures from personal funds may be reported on the schedule for loans, the statute does not identify such expenditures as loans....We conclude, therefore, that a candidate or officeholder is not required to include political expenditures from personal funds under

‘aggregate principal amount of all outstanding loans as of the last day of the reporting period.’

Ethics Advisory Opinion No. 349 (1996).

5. The complaint alleged the respondent did not disclose the total principal amount of all outstanding loans as of the last day of the reporting period on the January 2012 semiannual report. There is no evidence that there were any loans to the campaign other than the personal funds the respondent deposited in his campaign account. The Commission has stated that 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 no violation of section 254.031(a)(2) of the Election Code.

#### **Total Political Contributions Maintained**

6. 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).
7. The total amount of political contributions maintained in one or more accounts includes balance on deposit in banks, savings and loan institutions and other depository institutions, and the present value of any investments that can be readily converted to cash, such as certificates of deposit, money market accounts, stocks, bonds, treasury bills, etc. Ethics Commission Rules § 20.50(a).
8. The complaint alleged that the respondent did not correctly disclose the total amount of political contributions maintained as of the last day of the reporting period in five campaign finance reports.
9. With respect to two of the reports at issue, the complaint alleged that the respondent should have disclosed a negative balance. There is credible evidence of no violation of section 254.031(a)(8) of the Election Code with regard to those two reports.
10. With respect to the remaining three reports, there is insufficient evidence of a violation of section 254.031(a)(8) of the Election Code with regard to those three reports.

**Full Name of Contributors**

11. 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).
12. Regarding the two contributions at issue, the respondent disclosed an acronym that is commonly used as the name of the payee and the disclosures substantially comply. Therefore, there is credible evidence of no violation of section 254.031(a)(1) of the Election Code with respect to those two contributions.

**Principal Occupation and Employer Information**

13. Each report by a candidate for a judicial office covered by Subchapter F, Chapter 253, must include, for each individual from whom the person filing the report has accepted political contributions that in the aggregate exceed \$50 and that are accepted during the reporting period, the principal occupation and job title of the individual and the full name of the employer of the individual or of the law firm of which the individual or the individual's spouse is a member, if any. ELEC. CODE § 254.0611.
14. A person required to file a report is considered to be in compliance with Section 254.0612, 254.0912, or 254.1212 only if the person or the person's campaign treasurer shows that the person has used best efforts to obtain, maintain, and report the information required by those sections. *Id.* § 254.0312.
15. There is credible evidence of violations of section 254.0611 of the Election Code.
16. For 11 of the contributions at issue totaling approximately \$3,050, the respondent disclosed the contributor's employer as self-employed. The Commission has previously determined that there is no violation of section 254.0611 of the Election Code for listing a contributor as self-employed as long as the contributor is an officer or principal of an entity that bears the contributor's name, or if the contributor is otherwise self-employed. The evidence indicated that each contributor at issue was employed at an entity that contained the contributor's name in the business title. Therefore, there is credible evidence of no violation of section 254.0611 of the Election Code with respect to those 11 contributions.

**Out-of-State PAC Information**

17. 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. ELEC. CODE § 253.032

18. Commission records show that the contributor at issue is a Texas general-purpose political committee. Therefore, the additional information was not required to be provided, and there is credible evidence of no violation of section 253.032 of the Election Code.

### **Actual Vendor Payee**

19. A campaign finance report must include, for all 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).
20. A campaign finance 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).
21. A candidate who makes political expenditures from the candidate's personal funds may reimburse those personal funds from political contributions in the amount of those expenditures only if the expenditures from personal funds were fully reported as political expenditures, including the payees, dates, purposes, and amounts of the expenditures, in the report required to be filed under this title that covers the period in which the expenditures from personal funds were made, and the report on which the expenditures from personal funds are disclosed clearly designates those expenditures as having been made from the person's personal funds and that the expenditures are subject to reimbursement. *Id.* § 253.035(h).
22. 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 \$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; and included with the total amount or a specific listing of the political expenditures of \$100 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.
23. The complaint alleged that the respondent did not disclose the actual vendor payee of 24 political expenditures totaling approximately \$8,200 on the respondent's corrected 30-day and corrected 8-day pre-election reports in connection with the November 2010 general election, and the January 2011, corrected July 2011, and January 2012 semiannual campaign finance reports.
  24. 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.
  25. The two expenditures to Tillery & Tillery totaling approximately \$140 appear to disclose the actual payee. There is no evidence that the respondent was reimbursing the payee for expenditures it made. Therefore, there is credible evidence of no violation of section 254.031(a)(3) of the Election Code and section 20.62 of the Ethics Commission Rules with respect to those two expenditures.
  26. One political expenditure to a staff member totaling \$44.98 disclosed a purpose that appears to indicate the expenditure was made as a staff reimbursement for a purchase from Allposters.com. The expenditure did not exceed \$100 to the payee. Nevertheless, section 20.62 of the Ethics Commission Rules requires that the expenditure be listed or disclosed in the aggregate totals of political expenditures of \$100 or less. The respondent did not properly itemize the expenditure and did not include the expenditure in the totals section of the report. Although the respondent corrected the report to remove this expenditure from Schedule F, the report as originally filed was incorrect. Therefore, there is credible evidence of a violation of section 254.031(a)(5) of the Election Code and section 20.62 of the Ethics Commission Rules with regard to that expenditure.
  27. There is credible evidence of violations of sections 253.035(h) and 254.031(a)(3) of the Election Code.

### **Purpose of Expenditure**

28. A 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 political expenditures are made, and the dates and purposes of the expenditures. ELEC. CODE § 254.031(a)(3).
29. For reporting required under section 254.031 of the Election Code, the purpose of an expenditure includes a description of the category of goods, services, or other thing of value



for which an expenditure is made, and 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(a).

30. For the six expenditures totaling approximately \$1,130 for jury room supplies, the purpose was adequate as originally disclosed. Therefore, 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 with respect to those six expenditures.
31. For the remaining expenditure of approximately \$160 for an expense reimbursement, the description provided by the respondent did not sufficiently indicate the candidate or officeholder activity that was conducted so that a person reading the report would know the allowable activity for which the expenditure was made. Therefore, there is credible evidence of a violation of section 254.031(a)(3) of the Election Code and section 20.61 of the Ethics Commission Rules with respect to that expenditure.

### **Corporate Contributions**

32. 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.
33. A corporation or labor organization may not make a political contribution or political expenditure that is not authorized by subchapter D, chapter 253, Election Code. *Id.* § 253.094.
34. In order to show a violation of section 253.003 of the Election Code, the evidence must show that the contributor was a corporation or labor organization, that at the time the respondent accepted the contribution he knew that corporate contributions were illegal, and that the respondent knew the particular contribution at issue was from a corporation or labor organization.
35. The political contribution was from a political committee. Therefore, there is credible evidence of no violation of sections 253.003 and 253.094 of the Election Code.

### **Political Contribution to Candidate**

36. A judicial candidate or officeholder or a specific-purpose committee for supporting or opposing a judicial candidate or assisting a judicial officeholder may not use a political contribution to knowingly make political contributions that in the aggregate exceed \$100 in a

calendar year to a candidate or officeholder. ELEC. CODE § 253.1611(a).

37. A 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 political expenditures are made, and the dates and purposes of the expenditures. *Id.* § 254.031(a)(3).
38. Credible evidence indicates that the payment at issue was not a political contribution, but a payment for a ticket to a bar association event. Therefore, there is credible evidence of no violation of section 253.1611(a) of the Election Code.
39. However, based on the respondent's sworn statement that the expenditure was to purchase a ticket for a bar association event, the respondent did not disclose the correct payee of the expenditure. Therefore, there is credible evidence of a violation of section 254.031(a)(3) of the Election Code.

#### **Contribution to Committee for General Election**

40. A judicial candidate or a specific-purpose committee for supporting or opposing a judicial candidate may not 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 connection with a general election, exceeds \$500. ELEC. CODE § 253.1611(c).
41. This section 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 is (1) 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) 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. *Id.* § 253.1611(e)(1), (2).
42. "In connection with an election" means, with regard to a contribution that is designated in writing for a particular election, the election designated or, with regard to a contribution that is not designated in writing for a particular election or that is designated as an officeholder contribution, the next election for that office occurring after the contribution is made. *Id.* § 253.152(2).
43. In Ethics Advisory Opinion No. 131 (EAO 131), the Commission stated:

A contribution given with the restriction that it be used to hire lobbyists to influence legislators in regard to legislation would not be a political contribution since it does not meet the definition of either campaign contribution or officeholder contribution. If, on the other hand, funds are not

restricted to uses not regulated by title 15, the funds must be reported as a political contribution.

Ethics Advisory Opinion No. 131 (1993). The Commission also stated in Ethics Advisory Opinion No. 132 (EAO 132) that a contribution earmarked for payment of general-purpose committee expenses that are neither general administrative nor political expenses would not be required to be reported under chapter 254 of the Election Code. Ethics Advisory Opinion No. 132 (1993).

44. District judges in the state of Texas serve four-year terms. TEX. CONST. ART. V, § 7.
45. The respondent was a candidate in the November 2010 general election. Thus, the respondent could not use political contributions to make political contributions to a political committee that exceeded \$500 in connection with the general election, unless the exception under section 253.1611(e) of the Election Code was satisfied.

#### Dallas County Democratic Party (DCDP)

46. The respondent used political contributions to knowingly make four political contributions totaling approximately \$6,420 to DCDP. According to section 253.152(2) of the Election Code, if the respondent did not designate the contributions in writing for a particular election, the contributions would have been made in connection with “the next election for that office occurring after the contribution is made.” There is no evidence that the respondent designated any of the contributions for a particular election.
47. Regarding the contribution to DCDP totaling \$1,320, made on December 7, 2010, the contribution was not made to a political committee in connection with a general election. Therefore, there is credible evidence of no violation of section 253.1611(c) of the Election Code with respect to that contribution.
48. Regarding the remaining three contributions to DCDP totaling approximately \$5,100, the next election for the office in which the respondent was a candidate was the November 2010 general election. Thus, the respondent made political contributions totaling approximately \$5,100 to a political committee, DCDP, in connection with a general election. However, the prohibition against making contributions would not apply if they were made in accordance with section 253.1611(e) of the Election Code.
49. The respondent swore that the contributions were made in accordance with section 253.1611(e) of the Election Code because they were made in return for goods or services. There is credible evidence that DCDP provided goods and services to the respondent as part of its coordinated campaign. If each candidate on the ballot received equal value, then it can be said that the respondent received an approximate value of \$9,870 in goods and services from DCDP in return for the remaining three contributions at issue totaling approximately

\$5,100. Accordingly, the value of the goods and services the respondent received substantially equaled or exceeded the amount of the contributions. Therefore, there is credible evidence of no violation of section 253.1611(c) of the Election Code with regard to those three contributions.

#### Texas Democratic Party (TDP)

50. The respondent used political contributions to make a political contribution of \$1,000 to TDP. There is no evidence that the respondent designated the contribution for a particular election. In addition, the next election for the office in which the respondent was a candidate was the November 2010 general election.
51. The respondent swore that the contribution was made in accordance with section 253.1611(e) of the Election Code because it was made in return for goods or services. There is credible evidence that TDP provided goods or services to the respondent in return for the \$1,000 payment. The statement from the Operations Director of TDP indicates that TDP provided access to TDP's voter file and that the value of such access equaled or exceeded the amount of the contribution at issue. Therefore, there is credible evidence of no violation of section 253.1611(c) of the Election Code with regard to this contribution.

#### **Contribution to Political Committee When Not on Ballot**

52. A judicial officeholder or a specific-purpose committee for assisting 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. ELEC. CODE § 253.1611(d).
53. This section 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 is (1) 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) 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. *Id.* § 253.1611(e)(1), (2).
54. The respondent was elected as district judge in November 2010, and was not up for reelection until 2014. Thus, the respondent's office was not on the ballot in 2011, the calendar year in which the political contributions at issue were made. Therefore, the respondent could not use political contributions to make political contributions to a political committee that exceeded \$250 in 2011, unless the exception under section 253.1611(e) of the Election Code was satisfied.

55. The respondent made approximately \$4,000 in contributions to DCDP in 2011. There is credible evidence that the respondent's contributions did not exceed his pro rata share of the committee's normal overhead and administrative or operating costs. Therefore, there is credible evidence of no violation of section 253.1611(d) 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 herein or the Commission's findings and conclusions of law, 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 report by an officeholder must include the officeholder's full name and address and the office held.

The respondent acknowledges that each report by a candidate for a judicial office covered by Subchapter F, Chapter 253, must include, for each individual from whom the person filing the report has accepted political contributions that in the aggregate exceed \$50 and that are accepted during the reporting period, the principal occupation and job title of the individual and the full name of the employer of the individual or of the law firm of which the individual or the individual's spouse is a member, if any.

The respondent acknowledges that a campaign finance report must include, for all 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 political expenditures are made and the dates and purposes of the expenditures.

The respondent acknowledges that a campaign finance 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 or less made during the reporting period.

The respondent acknowledges that political expenditures made as staff reimbursements must identify the actual vendor and be disclosed in accordance with section 20.62 of the Ethics Commission Rules.

The respondent acknowledges that the purpose of an expenditure includes a description of the category of goods, services, or other thing of value for which an expenditure is made, and

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.

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 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-31206195.

AGREED to by the respondent on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Dale Tillery, Respondent

EXECUTED ORIGINAL received by the Commission on: \_\_\_\_\_.

Texas Ethics Commission

By: \_\_\_\_\_  
Natalia Luna Ashley, Executive Director