

TEXAS ETHICS COMMISSION

IN THE MATTER OF
DONALD R. SMITH,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-31308135

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (Commission) held a preliminary review hearing on October 13, 2016, to consider sworn complaint SC-31308135. A quorum of the Commission was present. The Commission determined that there is credible evidence of violations of sections 254.031, 254.036, 254.063, 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 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 on campaign finance reports political contributions, political expenditures, and loans; 2) accepted political contributions from corporations or labor organizations; 3) did not timely file campaign finance reports; 4) did not report political contributions and political expenditures in a format prescribed by the Commission; and 5) did not disclose the period covered by the 30-day pre-election report for the May 11, 2013, uniform election.

III. Facts Supported by Credible Evidence

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

1. The respondent is a current member of the Missouri City City Council for District B. The respondent was appointed to the position in May 2010 and has subsequently been re-elected to the position. The complaint was filed in connection with the May 11, 2013, uniform election.

Corporate Contributions

2. The complaint alleged that the respondent accepted three contributions totaling approximately \$2,600 from three different corporations. The contributions at issue were disclosed on the respondent's 30-day pre-election report for the May 11, 2013, uniform election as follows:
 - \$500 from Precious Properties, Inc. / [Individual]
 - In response to the complaint, the respondent corrected the contributor name to remove Precious Properties, Inc. The respondent provided a copy of the contribution check showing the contribution was from an individual and not from the corporation.
 - \$2,000 from Skymark Development Corp. / [Individual]
 - In response to the complaint, the respondent corrected the contributor name to remove Skymark Development Corp. The respondent provided a copy of the contribution check showing the contribution was from an individual and not from the corporation.
 - \$100 from Marshall Management Group / [Individual]
 - In response to the complaint, the respondent corrected the contributor name to remove Marshall Management Group. The respondent provided a copy of the contribution check showing the contribution was from an individual and not from the corporation.

Timely Filing of Campaign Finance Reports

3. The complaint alleged that the respondent did not timely file the January and July 2012 and January and July 2013 semiannual reports, and the 30-day and 8-day pre-election reports for the May 11, 2013, uniform election.
4. The respondent filed an appointment of a campaign treasurer (CTA) on February 7, 2011. At all times relevant to the reports at issue, the respondent had a CTA on file with the Missouri City City Secretary. The respondent was required to file the January 2012 semiannual report by January 17, 2012 (deadline extended due to weekend and holiday). The respondent filed the report on January 23, 2012.
5. The respondent was required to file the July 2012 semiannual report by July 16, 2012 (deadline extended due to weekend). The respondent did not file the report until August 21, 2013, after the sworn complaint was filed.

6. The respondent was required to file the January 2013 semiannual report by January 15, 2013. The respondent filed the report on February 13, 2013.
7. The respondent had an opponent on the ballot in the May 11, 2013, uniform election and did not elect on his CTA to file on the modified reporting schedule. The respondent was, therefore, required to file the 30-day pre-election report by April 11, 2013, and the 8-day pre-election report by May 3, 2013. The respondent filed the 30-day pre-election report on April 15, 2013, and the 8-day pre-election report on August 21, 2013, after the sworn complaint was filed.
8. The original 30-day pre-election report disclosed approximately \$17,500 in political contributions and \$9,800 in political expenditures. The 8-day pre-election report disclosed \$0 in political contributions and approximately \$1,200 in political expenditures. In response to the complaint, the respondent filed a corrected 30-day pre-election report that disclosed approximately \$20,700 in political contributions and \$8,700 in political expenditures.
9. The respondent was required to file the July 2013 semiannual report by July 15, 2013. The respondent filed the report on August 21, 2013, after the sworn complaint was filed.
10. In response to the complaint, the respondent did not give any reasons why any of the six reports at issue were not timely filed.

Dates and Amounts of Political Contributions

11. The complaint alleged that the respondent did not disclose the dates of 12 political contributions and the amounts of two political contributions itemized on the respondent's 30-day pre-election report for the May 11, 2013, uniform election. For 12 of the contributions totaling approximately \$5,400, the respondent did not disclose a date. Each contribution exceeded \$50. For two contributions, the respondent did not disclose an amount.
12. In response to the complaint, the respondent filed a corrected report disclosing dates for 10 of the contributions at issue totaling approximately \$5,200. The respondent also corrected the contributor name for seven of the contributions at issue. For two of the contributions at issue totaling approximately \$200, the respondent did not itemize the contributions on the corrected report.
13. Regarding the two contributions for which the respondent did not disclose an amount, the respondent corrected the report to disclose \$500 as the amount of one of the contributions. The respondent did not itemize the contribution from the other contributor on the corrected report. The respondent stated that he had no record of receiving a contribution from the other contributor, but the respondent did not explain why he originally disclosed accepting a contribution from the contributor.

14. Also of note, the respondent itemized on the corrected report nine contributions totaling approximately \$4,000 that were not itemized on the 30-day pre-election report as originally filed.

Political Contributions

January 2012 Semiannual Report

15. The complaint alleged that the respondent did not itemize political contributions exceeding \$50 during the reporting period and disclosed an incorrect amount for total political contributions.
16. The respondent did not itemize any contributions on the January 2012 semiannual report. In response to the complaint, the respondent filed a corrected report covering the period of July 15, 2011, through January 14, 2012. (Note the January 2012 semiannual report at issue should have covered the period of July 1, 2011, through December 31, 2011.)
17. The respondent's original January 2012 semiannual report disclosed the following relevant totals, with corrections in brackets:

Total political contributions of \$50 or less	\$9,276.43	[\$0]
Total political contributions	\$4,200	[\$0]

January 2013 Semiannual Report

18. The complaint alleged that the respondent did not itemize political contributions exceeding \$50 during the reporting period.
19. In response to the complaint, the respondent filed a corrected report covering the period of July 15, 2012, through January 14, 2013. (Note the January 2013 semiannual report at issue should have covered the period of July 1, 2012, through December 31, 2012.)
20. The respondent's original January 2013 semiannual report disclosed the following relevant totals, with corrections in brackets:

Total political contributions of \$50 or less	\$0	[\$0]
Total political contributions	\$1,000	[\$0]

30-day Pre-election Report

21. The complaint alleged that the respondent did not disclose the total amount of political contributions of \$50 or less and the total amount of all political contributions.

22. The respondent included an attached spreadsheet itemizing 37 contributions totaling approximately \$17,550 with the report as originally filed. In response to the complaint, the respondent filed a corrected report covering the period of January 15, 2013, through April 11, 2013. The corrected report itemized 37 contributions on Schedule A (used to disclose political contributions) totaling approximately \$21,150.

23. The respondent’s original 30-day pre-election report for the May 11, 2013, uniform election disclosed the following relevant totals, with corrections in brackets:

Total political contributions of \$50 or less	blank	[\$125]
Total political contributions	blank	[\$20,750]

Political Expenditures

January 2012 Semiannual Report

24. The complaint alleged that the respondent did not itemize political expenditures exceeding \$100 in the aggregate.

25. The respondent did not itemize any political expenditures on Schedule F (used to disclose political expenditures) of the report as originally filed. In response to the complaint, the respondent corrected the report to itemize three expenditures totaling approximately \$890.

26. The respondent’s original January 2012 semiannual report disclosed the following relevant totals, with corrections in brackets:

Total political expenditures of \$100 or less	\$4,303.43	[\$100]
Total political expenditures	\$8,503.43	[\$890]

January 2013 Semiannual Report

27. The complaint alleged that the respondent did not disclose the total amount of political expenditures of \$100 or less on the totals page of the report.

28. In response to the complaint, the respondent corrected the report. The respondent’s original January 2013 semiannual report disclosed the following relevant totals, with corrections in brackets:

Total political expenditures of \$100 or less	blank	[\$124]
Total political expenditures	\$0	[\$124]

30-day Pre-election Report

29. The complaint alleged that the respondent did not disclose the total amount of political expenditures of \$100 or less and did not disclose the total amount of political expenditures on the totals page of the report.
30. In response to the complaint, the respondent corrected the report. The respondent's original 30-day pre-election report for the May 11, 2013, uniform election disclosed the following relevant totals, with corrections in brackets:
- | | | |
|---|-------|--------------|
| Total political expenditures of \$100 or less | blank | [\$250] |
| Total political expenditures | blank | [\$8,710.03] |

Purpose of Political Expenditures

31. The complaint alleged that the respondent did not fully disclose the purpose of 18 political expenditures totaling approximately \$9,600 disclosed on the respondent's 30-day pre-election report for the May 11, 2013, uniform election.
32. On the report at issue, the respondent attached an Excel spreadsheet disclosing his political expenditures. The spreadsheet provided a brief description of each expenditure but did not provide a category for the expenditures at issue. The descriptions provided did not specifically indicate whether the expenditures were in connection with campaign or officeholder activities.
33. In response to the complaint, the respondent corrected the report to include a category for 16 of the expenditures at issue totaling approximately \$9,060. The remaining two expenditures were not itemized on the respondent's corrected report.

Outstanding Loan Totals

34. The complaint alleged that the respondent did not disclose the total principal amount of all outstanding loans on the respondent's January 2012 semiannual report and the 30-day pre-election report for the May 11, 2013, uniform election. The respondent left the total principal amount of all outstanding loans blank on both reports.
35. In response to the complaint, the respondent corrected the 30-day pre-election report for the May 11, 2013, uniform election to disclose \$0 in total principal amount of all outstanding loans. Although the respondent made other corrections to the January 2012 semiannual report, the total principal amount of all outstanding loans was left blank on the corrected report as well.

Total Political Contributions Maintained

36. The complaint alleged that the respondent did not properly disclose total political contributions maintained on the 30-day pre-election report for the May 11, 2013, uniform election. The report as originally filed disclosed \$17,555 in total political contributions maintained as of the last day of the reporting period.
37. In response to the complaint, the respondent corrected the report to disclose \$12,039.97 in total political contributions maintained as of the last day of the reporting period. The respondent stated that he subtracted the amount of expenditures from the amount of contributions and recorded the result as his total political contributions maintained as of the last day of the reporting period.

Format and Period Covered

38. The complaint alleged that the respondent did not report political contributions and political expenditures in a format prescribed by the Commission and did not disclose the period covered on the 30-day pre-election report for the May 11, 2013, uniform election.
39. The respondent attached two spreadsheets to the 30-day pre-election report listing the political contributions accepted by the respondent and the political expenditures made by the respondent. The respondent left the period covered blank on the cover page of the report at issue.
40. In response to the complaint, the respondent corrected the 30-day pre-election report to disclose the political contributions on Schedule A and the political expenditures on Schedule F. The respondent also corrected the report to disclose the period covered as January 15, 2013, through April 11, 2013. (Note that the report should have covered January 1, 2013, through April 1, 2013.)

IV. Findings and Conclusions of Law

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

Corporate Contributions

1. 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.
2. A corporation may not make a political contribution or political expenditure that is not authorized by subchapter D, chapter 253, Election Code. *Id.* § 253.094.

3. The prohibition applies to corporations that are organized under the Texas Business Corporation Act, the Texas For-Profit Corporation Law, the Texas Non-Profit Corporation Act, the Texas Nonprofit Corporation Law, federal law, or law of another state or nation. *Id.* § 253.091.
4. Credible evidence indicates that the three contributions at issue were made by individuals, not corporations. Therefore, there is credible evidence of no violation of sections 253.003 and 253.094 of the Election Code with regard to those three contributions.

Timely Filing of Campaign Finance Reports

5. A candidate shall file two reports for each year. ELEC. CODE § 254.063(a). The first report shall be filed not later than July 15. The report covers the period beginning January 1, 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 subchapter, as applicable, and continuing through June 30. *Id.* § 254.063(b). The second report shall be filed not later than January 15. The report covers the period beginning July 1, 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 subchapter, as applicable, and continuing through December 31. *Id.* § 254.063(c).
6. 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. *Id.* § 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). The second report must be received by the authority with whom the report is required to 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. *Id.* § 254.064(c).
7. The respondent filed the January and July 2012, and January and July 2013 semiannual reports after each respective filing deadline. The January 2012 semiannual report was six days late, the July 2012 semiannual report was 401 days late, the January 2013 semiannual report was 29 days late, and the July 2013 semiannual report was 37 days late. Therefore, there is credible evidence of violations of section 254.063 of the Election Code with regard to those four campaign finance reports.
8. The respondent was an opposed candidate in the May 11, 2013, uniform election and did not elect to file on the modified reporting schedule. Accordingly, the respondent was required to file the 30-day and 8-day pre-election reports. The 30-day pre-election report was four days

late and the 8-day pre-election report was 110 days late. Therefore, there is credible evidence of violations of section 254.064 of the Election Code with regard to those two reports.

Dates and Amounts of Political Contributions

9. A campaign finance report must include the amount of political contributions 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).
10. 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. *Id.* § 254.031(a)(6).
11. The respondent did not disclose the dates for 12 contributions totaling approximately \$5,400, all of which exceeded \$50 during the reporting period. Therefore, there is credible evidence of violations of section 254.031(a)(1) of the Election Code with regard to those 12 contributions.
12. The respondent did not disclose the amounts for two contributions. Based on the respondent's corrected report, one of the contributions exceeded \$50 during the reporting period. Therefore, there is credible evidence of a violation of section 254.031(a)(1) of the Election Code with regard to that contribution.
13. Regarding the contribution from the other individual, the respondent did not itemize the contribution on the corrected report and stated that he had no record of receiving a contribution from this contributor. It is unclear whether the respondent accepted the contribution. Therefore, there is insufficient evidence of a violation of section 254.031(a)(1) of the Election Code with regard to that contribution.
14. In addition, the respondent corrected the 30-day pre-election report to itemize nine contributions totaling approximately \$4,000 that were not included in the original report. All of the contributions exceeded \$50 during the reporting period and thus were required to be itemized on the original report. The respondent was also required to include the contributions in the amount of total political contributions accepted during the reporting period. Therefore, there is credible evidence of violations of sections 254.031(a)(1) and 254.031(a)(6) of the Election Code with regard to those nine contributions.

Political Contributions

15. A campaign finance report must include the amount of political contributions 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).

16. 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. *Id.* § 254.031(a)(5).
17. A 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. *Id.* § 254.031(a)(6).

January 2012 Semiannual Report

18. The complaint alleged that the respondent did not itemize political contributions exceeding \$50 during the reporting period and disclosed an incorrect amount for total political contributions.
19. Based on the respondent's corrected reports, there is credible evidence that the respondent did not accept any contributions exceeding \$50 in the aggregate during the reporting period at issue. Therefore, there is credible evidence of no violation of section 254.031(a)(1) of the Election Code.
20. However, based on the respondent's corrected report, the respondent disclosed incorrect amounts for total political contributions of \$50 or less and for total political contributions on the original report. Therefore, there is credible evidence of a violation of sections 254.031(a)(5) and 254.031(a)(6) of the Election Code.

January 2013 Semiannual Report

21. The complaint alleged that the respondent did not itemize political contributions exceeding \$50 during the reporting period.
22. Based on the respondent's corrected reports, there is credible evidence that the respondent did not accept any contributions exceeding \$50 in the aggregate during the reporting period at issue. Therefore, there is credible evidence of no violation of section 254.031(a)(1) of the Election Code.
23. However, there is credible evidence that the respondent disclosed an incorrect amount for total political contributions. Therefore, there is credible evidence of a violation of section 254.031(a)(6) of the Election Code.

30-day Pre-election Report

24. The complaint alleged that the respondent did not disclose the total amount of political contributions of \$50 or less and the total amount of all political contributions.

25. The respondent left the fields for total political contributions of \$50 or less and total political contributions blank on the original report. Therefore, there is credible evidence of a violation of sections 254.031(a)(5) and 254.031(a)(6) of the Election Code.

Political Expenditures

26. 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).
27. 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. *Id.* § 254.031(a)(5).
28. A 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. *Id.* § 254.031(a)(6).

January 2012 Semiannual Report

29. The complaint alleged that the respondent did not itemize political expenditures exceeding \$100 in the aggregate.
30. Based on the corrected report, the respondent made three political expenditures totaling approximately \$890, each of which exceeded \$100 or more to each payee during the reporting period. Thus, the respondent was required to itemize those expenditures on Schedule F of the original report, and he did not do so. Therefore, there is credible evidence of a violation of section 254.031(a)(3) of the Election Code with respect to those three expenditures.
31. Although not specifically alleged in the complaint, based on the corrected report, the respondent did not disclose the correct amount of total political expenditures of \$100 or less and total political expenditures. Therefore, there is credible evidence of a violation of sections 254.031(a)(5) and 254.031(a)(6) of the Election Code.

January 2013 Semiannual Report

32. The complaint alleged that the respondent did not disclose the total amount of political expenditures of \$100 or less on the totals page of the report.

33. The respondent left the amount of total political expenditures of \$100 or less blank on the original report. Although not specifically alleged in the complaint, based on the corrected report, the respondent did not disclose the correct amount of total political expenditures. Therefore, there is credible evidence of a violation of sections 254.031(a)(5) and 254.031(a)(6) of the Election Code.

30-day Pre-election Report

34. The complaint alleged that the respondent did not disclose the total amount of political expenditures of \$100 or less and did not disclose the total amount of political expenditures on the totals page of the report.
35. The respondent left the amount of total political expenditures of \$100 or less and the amount of total political expenditures blank on the original report. Therefore, there is credible evidence of a violation of sections 254.031(a)(5) and 254.031(a)(6) of the Election Code.

Purpose of Political Expenditures

36. 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 the expenditures are made, and the dates and purposes of the expenditures. ELEC. CODE § 254.031(a)(3).
37. For reporting required under section 254.031 of the Election Code, the purpose of an expenditure means 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 and an additional indication if the expenditure is an officeholder expenditure for living in Austin, Texas. 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. *Id.* 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.*
38. Regarding the 18 expenditures at issue, the respondent was required to provide a category and a description because each expenditure exceeded \$100 in the aggregate. The respondent did not provide a category for the expenditures at issue. Although the respondent corrected 16 of the expenditures at issue, the report as originally filed was incorrect. 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 regard to those 18 expenditures.

Outstanding Loan Totals

39. A campaign finance 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).
40. The respondent left the total principal amount of all outstanding loans blank on the two campaign finance reports at issue. Therefore, there is credible evidence of violations of section 254.031(a)(2) of the Election Code.

Total Political Contributions Maintained

41. A campaign finance 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).
42. Based on the corrections made by the respondent, the respondent did not disclose the correct amount of total political contributions maintained as of the last day of the 30-day pre-election reporting period. Therefore, there is credible evidence of a violation of section 254.031(a)(8) of the Election Code.

Format and Period Covered

43. 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). The format prescribed by the Commission requires a candidate/officeholder to disclose the period covered by the report.
44. 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. *Id.* § 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).

45. The respondent attached spreadsheets to the 30-day pre-election report listing his political contributions and political expenditures, and he did not disclose the period covered by the report. The spreadsheets used by the respondent are not in a format prescribed by the Commission. Therefore, there is credible evidence of violations of sections 254.036(a) and 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: 1) a campaign finance report must include the amount of political contributions 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; 2) a campaign finance 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; 3) 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; 4) the purpose of an expenditure means a description of goods, services, or other thing of value and must include a brief statement or description of the candidate, officeholder, or political committee activity that is conducted by making the expenditure. The brief statement or description must include the item or service purchased and must be sufficiently specific, when considered within the context of the description of the category, to make the reason for the expenditure clear. Merely disclosing the category of goods, services, or other thing of value for which the expenditure is made does not adequately describe the purpose of an expenditure; 5) 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; 6) a 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; 7) a campaign finance 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; 8) a report filed under this chapter with an authority other than the Commission must be in a format prescribed by the Commission; 9) a candidate shall file two reports for each year. The first report shall be filed not later than July 15. The report covers the period beginning January 1, 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 subchapter, as applicable, and continuing through June 30. The second report shall be filed not later than January 15. The report covers the period beginning July 1, 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 subchapter, as applicable, and continuing through December 31; and 10) 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 under this chapter, as applicable, and continuing through the 40th day before election day. The second report must be received by the authority with whom the report is required to 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 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 after considering the sanction necessary to deter future violations, the Commission imposes a \$1,000 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-31308135.

The respondent agrees that the Texas Ethics Commission, P. O. Box 12070, Austin, Texas 78711, must receive from the respondent full payment of the \$1,000 civil penalty no later than October 13, 2017, and agrees to waive any right to a formal hearing related to this sworn complaint. The respondent agrees that if the \$1,000 civil penalty is not received by October 13, 2017, then the Commission imposes a civil penalty of \$2,000, and the matter of the collection of the civil penalty will be referred to the Office of the Attorney General of Texas.

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

Donald R. Smith, Respondent

EXECUTED ORIGINAL received by the Commission on: _____.

Texas Ethics Commission

By: _____
Natalia Luna Ashley, Executive Director