

TEXAS ETHICS COMMISSION

| | | |
|----------------------------------|---|------------------------------------|
| IN THE MATTER OF | § | BEFORE THE |
| CRESENSCIO “CRIS” MEDINA, | § | TEXAS ETHICS COMMISSION |
| RESPONDENT | § | SC-31406142 and SC-31407151 |

FINAL ORDER

The Texas Ethics Commission (Commission), having heard this case and voting to find a violation of a law under its jurisdiction, makes the following Findings of Fact and Conclusions of Law:

Findings of Fact

1. The preliminary review hearing was held on June 27, 2019, by the Commission in Austin, Texas. The first Notice of Hearing was sent to the respondent on May 8, 2019, by United States Postal Service delivery confirmation and email. A second Notice of Hearing was sent to the respondent by the same methods on May 23, 2019.
2. The respondent, in writing, waived his right to a hearing under section 12.25 of the Ethics Commission Rules and consented to the imposition of a final order. He did not appear at the hearing.
3. The respondent is a former San Antonio City Council Member for District 7. The respondent was a city council member at all times relevant to the complaint.
4. Sworn complaint SC-31406142 alleged that the respondent:
 - accepted political contributions made in the name of or on behalf of another, which is prohibited by sections 253.001 and 253.003 of the Election Code;
 - did not report political contributions and political expenditures as required by section 254.031 of the Election Code and sections 20.61 and 20.62 of the Ethics Commission Rules;
 - did not include information in a campaign treasurer appointment, as required by section 252.002 of the Election Code;
 - did not include information regarding a campaign treasurer on the January 2013 semiannual report and 30-day pre-election report for the May 2013 election, as required by section 254.061 of the Election Code;
 - converted political contributions to personal use, which is prohibited by section 253.035 of the Election Code; and

- made political expenditures and accepted political contributions at a time when a campaign treasurer appointment was not in effect, which is prohibited by section 253.031 of the Election Code.
5. Sworn Complaint SC-31407151 alleged that the respondent:
- did not report political contributions and political expenditures as required by section 254.031 of the Election Code and sections 20.61 and 20.62 of the Ethics Commission Rules;
 - did not include information regarding a campaign treasurer on the 8-day pre-election report for the May 2013 election and the July 2013 semiannual report, as required by section 254.061 of the Election Code;
 - converted political contributions to personal use, which is prohibited by section 253.035 of the Election Code; and
 - accepted political contributions from corporations or labor organizations, which is prohibited by sections 253.003 and 253.094 of the Election Code.
6. The notices of hearing also included an allegation that the respondent failed to timely respond to the notice of the sworn complaint, in violation of section 571.1242 of the Government Code.
7. The reports at issue in the complaints are the July 2012 and January 2013 semiannual reports, 30-day and 8-day pre-election reports for the May 11, 2013, uniform election, and the July 2013 and January 2014 semiannual reports.

Corporate Contributions

8. The complaint alleged that the respondent accepted political contributions from two corporations. The allegation was based on the respondent's January 2014 semiannual campaign finance report, on which the respondent appeared to report accepting a political contribution from two corporations.
9. The respondent reported accepting a \$500 political contribution from TXTOW Corp. on August 16, 2013. Texas Secretary of State (SOS) records indicate TXTOW Corp. is a domestic for-profit corporation. The contribution check clearly indicates that the contribution was from "TXTOW Corp."
10. The second alleged corporate contribution is a \$500 political contribution from Raba-Kistner PAC, Inc., accepted on October 7, 2013. Raba-Kistner PAC, Inc. is a political committee that, according to its articles of incorporation, organized as a domestic non-profit corporation "for liability purposes only with the only principal purpose being to accept political contributions and make political expenditures as a political committee."
11. In response to the complaint, the respondent stated that the contribution was from a political committee and provided a copy of the contributor's check. Records on file with the Commission confirm that Raba-Kistner PAC made a political contribution to the

respondent on October 7, 2013, which was reported on the MPAC's November 2013 monthly campaign finance report.

12. In response to the written questions sent by Commission staff, the respondent acknowledged that at the time of each contribution at issue he was aware that accepting a political contribution from a corporation was prohibited by law.

Disclosure of Political Contributions and Political Expenditures

In-kind Political Contribution for Office Space

13. The complaint alleged that the respondent did not disclose an in-kind political contribution he accepted for the use of office space for campaign purposes.
14. In response to written questions sent by Commission staff, the respondent admitted that he accepted an in-kind contribution from Brass Real Centerview 2012, LLC for the use of office space for campaign purposes. The respondent provided a copy of a lease agreement for the time period of March 1, 2013, through May 31, 2013. According to the lease agreement, the market value of the office space was \$500 per month. The respondent did not disclose the in-kind contribution on any of his campaign finance reports.

Itemization of Expenditures

15. The complaint alleged that the respondent did not properly disclose 280 political expenditures. Commission staff compared the respondent's campaign bank statements and copies of some of the cleared checks from the respondent's campaign bank account to the respondent's campaign finance reports. That analysis showed the following.
16. The respondent combined multiple expenditures to the same payee and itemized them as a single lump-sum expenditure on the reports at issue as shown in the chart below.

| Report | Number of Expenditures | Approximate Amount at Issue |
|--------------------------------|-------------------------------|------------------------------------|
| July 2012 semiannual | 34 | \$1,562 |
| January 2013 semiannual | 85 | \$6,381 |
| 30-day pre-election report | 12 | \$860 |
| 8-day pre-election report | 11 | \$397 |
| July 2013 semiannual report | 23 | \$5,728 |
| January 2014 semiannual report | 79 | \$12,964 |
| Total | 244 | \$27,892 |

17. The respondent did not itemize 14 political expenditures totaling approximately \$3,500. Each expenditure exceeded \$100 in the aggregate to a single payee during the reporting periods at issue.

18. The respondent under-reported the total amount of 20 political expenditures made to HEB by \$306.80. The respondent's bank records showed he made \$710.94 in expenditures to HEB. However, the respondent reported only \$404.14 to HEB.
19. The respondent disclosed on the January 2014 semiannual report a political expenditure for \$200 to an individual paid as a reimbursement. However, the respondent's campaign bank statements show that only \$100 was paid to the individual during the time period at issue.
20. In response to the complaint, the respondent generally denied the allegation and swore that he made a good faith effort to disclose all contributions and expenditures. The respondent swore that he was unaware of any contributions or expenditures that had not been disclosed.

Purpose of Political Expenditures

21. The respondent disclosed multiple expenditures totaling approximately \$30,700 on the campaign finance reports the complaints alleged contained an insufficient description of the purpose.
22. The respondent did not clearly describe the purpose of many of the political expenditures reported on the campaign finance reports at issue in the complaints. For example, the respondent merely repeated the category and description of 11 political expenditures. For 27 political expenditures, the respondent described the category of the expenditure as "other: campaign expense" rather than a more specific category such as "advertising expense."

Actual Payee of Political Expenditures

23. The respondent disclosed 43 political expenditures totaling approximately \$19,590 on six campaign finance reports that the complaint alleged the respondent disclosed making to the incorrect payee.
24. The Commission previously addressed nine of the expenditures totaling approximately \$2,950 in SC-3130342 (2015, open order).
25. Of the remaining 34 expenditures, Commission staff sent written questions to the respondent addressing expenditures totaling approximately \$16,643. In response, the respondent swore that:
 - The respondent made ten expenditures totaling approximately \$4,860 to pay individuals as salary or wages for campaign work.
 - The respondent made five expenditures totaling approximately \$5,380 to an individual for block walking services for the respondent's campaign. The individual the respondent paid for block walking services sub-contracted with other individuals to provide services to the respondent. The individual maintains her own contacts and

rates and the respondent swore that the names of the individual sub-contractors were not available.

- The respondent made three expenditures totaling \$2,500 with a category of “Consulting Expense” for election support related to the respondent’s office sought.
- The respondent made eleven expenditures totaling approximately \$2,450, to reimburse various individuals who purchased office supplies, stakes, fuel, lunches, and gift cards for the respondent with their personal funds. The respondent does not maintain documentation related to those eleven expenditures and the names of the vendors paid by the individuals are unknown.
- The respondent reimbursed \$100 to an individual who paid for a fundraising event at a restaurant from his personal funds. The respondent made additional expenditures to the same restaurant which exceeded \$100 in the aggregate during the reporting period at issue.
- The respondent made two expenditures to reimburse individuals for payments they made from their personal funds to a restaurant for a fundraising event and to the United States Postal Service (USPS) to purchase stamps. The respondent’s campaign bank statements do not show any other payments made to the restaurant or USPS during the reporting periods at issue.
- The respondent paid an individual \$750 for advertising relating to the respondent’s office sought. The respondent swore that the purchased advertisement appeared in an event program for an Alzheimer’s 5K event, and the individual the respondent paid was the actual payee.

26. Regarding the remaining expenditure for \$500, the respondent disclosed the expenditure as a contribution made to a candidate at an event on November 20, 2013. The candidate disclosed a corresponding contribution from the Cris Medina Campaign on his January 2014 semiannual report filed with the Commission.

Personal Use of Political Contributions

Improper Reimbursements

27. According to bank records, the respondent made three expenditures totaling approximately \$670 to himself that he claims were reimbursements for political expenditures he made from personal funds. The respondent reported the reimbursements on the appropriate campaign finance report. However, previous to the putative reimbursements, the respondent did not report making any political expenditures from personal funds on either Schedule G (used to disclose political expenditures made from personal funds) or Schedule E (used to disclose loans). The respondent swore that he was unaware of the requirement to report political expenditures from personal funds in order to be eligible for reimbursement from political contributions.

Conversion of Political Contributions to Personal Use

28. The respondent made about 500 expenditures totaling approximately \$60,000 from his campaign bank account from January 2012 through December 2013. The complaint

- alleged that about 340 expenditures of these expenditures, totaling \$47,445, constituted the conversion of political contributions to personal use.
29. Commission staff sent written questions to the respondent addressing all of the disputed expenditures. In response, the respondent swore that 229 expenditures totaling approximately \$43,240 were made for the candidate/officeholder purposes and provided a specific explanation for each.
 30. The respondent did not provide a detailed explanation for 111 questioned expenditures totaling about \$4,200. The respondent swore that they were all under \$50 and were not required to be itemized. The respondent did not give any explanation for how those expenditures related to the respondent's duties or activities as a candidate or officeholder.
 31. The Commission previously addressed 71 expenditures totaling approximately \$3,090 in SC-3130342 (2015, open order), and found credible evidence of no violations of section 253.035(a) of the Election Code.
 32. Of the remaining 100 expenditures during the time period at issue, 67 of the expenditures totaling approximately \$8,700 were itemized on the respondent's campaign finance reports and appear to be for political advertising, email service, food, supplies, telephone service, contributions to others, and printing expenses. Thirty-three of the expenditures totaling approximately \$850 were not itemized on the respondent's campaign finance reports and were for bank fees, as well as various retail stores, hotels, and taxi services (but appear to be for political expenditures based on the debit card description displayed on the bank records).
 33. However, there is a pattern of the respondent using political contributions to pay for frequent meals, sometimes multiple times in a day. Some of the transactions at restaurants are small (between \$8-\$15) indicating that only one person was eating.
 34. Other meals were alleged to be personal holiday meals that took place on Christmas Eve (Texas Land & Cattle for \$146.59) and Valentine's Day (Nicha's #2 for \$59.15).

Late Response to Notices of Sworn Complaints

35. The Commission sent the respondent notice of sworn complaint SC-31406142 on June 30, 2014, and sworn complaint SC-31407151 on July 18, 2014.
36. On August 4, 2014, the notices of sworn complaints SC-31406142 and SC-31407151 were returned to the Commission as undeliverable. The notices were re-sent to the respondent on August 7, 2014. According to United States Postal Service (USPS) records, the respondent received the re-sent notices on August 9, 2014. The notices informed the respondent that the alleged violations in the sworn complaints were Category Two violations, and that a response to the sworn complaints was required not later than 25 business days from the date the notices were received and that failure to respond to the notices constituted a separate violation for which a separate civil penalty may be assessed.

37. Based on the delivery date of the notices, the respondent was required to respond to the sworn complaints by September 16, 2014 (deadline extended two days for holidays). The Commission received the respondent's response to both complaints on December 16, 2014 (92 days late).

Campaign Treasurer Information

38. On December 18, 2012, the respondent filed an amended campaign treasurer appointment (Form ACTA) naming an individual as his campaign treasurer.
39. The respondent did not disclose a telephone number for his campaign treasurer on the January 2013 semiannual report. In response to the complaint, the respondent swore that the omission of the campaign treasurer's telephone number was the result of a clerical error.
40. On March 1, 2013, the respondent filed an ACTA naming a new individual as his campaign treasurer. On April 11, 2013, the respondent filed his 30-day pre-election report and disclosed the first individual as his campaign treasurer. The respondent omitted the full name of the street disclosed as the campaign treasurer's address.
41. In response to the complaint, the respondent swore that the full street name for the campaign treasurer was inadvertently omitted on the 30-day pre-election report due to a clerical oversight.
42. The complaint also alleged that the respondent did not include the name, address, and telephone number of his campaign treasurer and the name of the person making the appointment on two amended campaign treasurer appointments (Form ACTA) filed on December 18, 2012, and March 1, 2013, with the City of San Antonio city clerk.
43. The complaint included copies of the ACTAs filed by the respondent on December 18, 2012, and March 1, 2013. These ACTAs do not include the name, address, and telephone number of the respondent's campaign treasurer. The ACTAs were signed by the respondent. According to the complaint, the campaign treasurer's name was redacted from both the ACTAs by the San Antonio city clerk.
44. The complaint also alleged that the respondent made political expenditures and accepted political contributions at a time when a campaign treasurer appointment (CTA) was not in effect, beginning on July 1, 2012, and continuing through February 28, 2013.
45. Based on this alleged discrepancy, the complaint alleged that the respondent accepted political contributions and made political expenditures at a time when a campaign treasurer appointment was not in effect.

Expenditures for Out-of-State Travel

46. Medina made six political expenditures which the complaint alleged should have included information regarding out-of-state travel. Four of the expenditures did not exceed \$100 in the aggregate during the reporting period. The Commission previously addressed the remaining two expenditures totaling approximately \$811 in SC-3130342 (2015, open order), and found credible evidence of violations of section 254.031(a)(3) of the Election Code and section 20.61(b) of the Ethics Commission Rules.

Improperly Reporting Source of Political Contributions or Actual Payees of Political Expenditures

47. The respondent made 45 political expenditures totaling approximately \$1,870 for food and beverages provided to the respondent's staff members or constituents. The complaint alleged that the respondent did not disclose the full name of the persons who received the food and beverages from the respondent.
48. The Commission previously addressed 39 of the expenditures totaling approximately \$1,520 in SC-3130342 (2015, open order), and found credible evidence of no violation of section 254.031(a)(3) of the Election Code.
49. The complaint also alleged the respondent reported accepting a \$500 political contribution from an individual who did not actually make the contribution. The complaint alleged that the individual told the complainant that she did not make the contribution. In response to the complaint, the respondent swore that he is not aware of any contributions made in the name of or on behalf of another. Commission staff was unable to contact the individual who the respondent disclosed as having made the contribution.

Conclusions of Law

1. The Commission shall administer and enforce, among other laws, Title 15, Election Code. GOV'T CODE § 571.061(a). Disposition of this case is within the jurisdiction of the Commission.
2. After written notice under section 571.123(b) regarding the filing of a sworn complaint has been sent to a person in the manner required by subsection (a), the Commission may send the person any additional notices regarding the complaint by regular mail unless the person has notified the Commission to send all notices regarding the complaint by registered or certified mail, restricted delivery, return receipt requested. *Id.* § 571.032(b).
3. A notice required to be sent to a respondent under chapter 571 of the Government Code shall be sent to the address provided by the complainant or to the address most recently provided by the respondent. ETHICS COMMISSION RULES § 12.21(b). A respondent may waive the right under section 571.032 of the Government Code to receive written notice related to the complaint by registered or certified mail, restricted delivery, return receipt

requested, and may agree to receive written notices related to the complaint by first class mail, electronic mail, or other means. *Id.* § 12.21(d).

4. The respondent received legally sufficient notice of the June 27, 2019, preliminary review hearing in these cases.
5. A respondent may waive the right to a hearing. *Id.* § 12.25. If a respondent fails to appear at a hearing, the Commission may proceed in the respondent's absence and may find credible evidence of the violations alleged in the complaint and may issue a final order imposing a civil penalty. *Id.* § 12.23. The June 27, 2019, preliminary review hearing was held in accordance with section 12.23, Ethics Commission Rules.

Corporate Contributions

6. Under sections 253.003 and 253.094 of the Election Code, candidates may not accept corporate contributions. The elements of a violation are:
 - a. The contribution was accepted;
 - b. The contributor was a corporation covered by the corporate contribution prohibition; and
 - c. At the time of acceptance, the respondent knew that:
 - i. corporate contributions are illegal; and
 - ii. the contribution was from a corporation.
7. However, the prohibition on corporate contributions does not apply to a political committee, the only principal purpose of which is to act as a political committee, that incorporates for liability purposes only. ELEC. CODE § 253.092.
8. The respondent accepted both contributions at issue. TXTOW Corp. is a for-profit corporation covered by the corporate contribution prohibition. The respondent admits that he was aware at the time he accepted the contribution that corporate contributions were prohibited, and the contribution check clearly indicates on its face that it was from a corporation. Therefore, there is credible evidence of a violation of sections 253.003 and 253.094 of the Election Code with respect to that \$500 contribution.
9. Raba-Kistner PAC, Inc. is a monthly political committee registered with the Commission. Although it is organized as a corporation, it did so for liability purposes only and its only principal purpose is to act as a political committee under section 253.092 of the Election Code. Therefore, there is credible evidence of no violation of sections 253.003 and 253.094 of the Election Code with respect to that contribution.

Disclosure of Political Contributions and Political Expenditures*In-kind Political Contribution for Office Space*

10. Under section 254.031(a)(1) of the Election Code, each campaign finance report must include the full name and address of each political contributor whose contribution exceeds \$50 in the aggregate during the reporting period. The value of a non-monetary (in-kind) political contribution in the form of a discount on rent is the difference between the market value of the rental property and the amount charged to the candidate. *See* ETHICS COMMISSION RULES § 20.66.
11. The respondent admits that he accepted an in-kind contribution for the use of office space for campaign purposes from March 1, 2013, through May 31, 2013.
12. There is credible evidence that the market value of the office space was \$500 per month. The respondent used the office space for campaign purposes for a total of three months, and he made no expenditures for use of the space. Thus, there is credible evidence that the respondent accepted an in-kind contribution worth \$1,500.
13. The respondent was required to itemize the in-kind contribution on the 30-day pre-election report for the May 11, 2013, uniform election, and he did not do so. Therefore, there is credible evidence of a violation of section 254.031(a)(1) of the Election Code.

Itemization of Expenditures

14. Under section 254.031(a)(3) of the Election Code, each political expenditure exceeding \$100 in the aggregate during the reporting period must include the full name and address of the payee, the date, and the purpose of the expenditure.
15. For 244 expenditures totaling approximately \$27,892, the respondent combined multiple political expenditures made to a single payee and reported a single political expenditure to each payee. The respondent did not include the correct dates and amounts for each of these expenditures. However, in context, the errors did not substantially affect disclosure. Therefore, there is credible evidence of technical or *de minimis* violations of section 254.031(a)(3) of the Election Code with regard to those 244 expenditures.
16. For 14 expenditures totaling approximately \$3,500, the expenditures exceeded \$100 in the aggregate to a single payee during the reporting periods at issue. The respondent was required to itemize those 14 expenditures separately on Schedule F of the reports at issue and he did not do so. Therefore, there is credible evidence of violations of section 254.031(a)(3) of the Election Code regarding those 14 expenditures.
17. For 20 expenditures totaling \$710.94 made to HEB, the respondent combined multiple political expenditures made to a single payee. The respondent did not include the correct dates and amounts for each of these expenditures. Additionally, the respondent under-reported the amount of the expenditures by \$306.80. Therefore, there is credible

evidence of violations of section 254.031(a)(3) of the Election Code with regard to those 20 expenditures.

18. The respondent over-reported an expenditure to an individual by \$100. Therefore, there is credible evidence of a violation of section 254.031(a)(3) of the Election Code with regard to that expenditure.

Purpose of Political Expenditures

19. Under section 254.031(a)(3) of the Election Code and section 20.61(a) of the Ethics Commission Rules, a campaign finance report must include a description of the purpose of each political expenditure exceeding \$100 in the aggregate during the reporting period. Section 20.61 of the Ethics Commission Rules requires the description of a purpose of an expenditure to include:
 - a. a description of the category of goods, services, or other thing of value for which an expenditure is made;
 - b. a brief statement or description of the political activity conducted by making the expenditure; and
 - c. a description of the item or service purchased.
20. The respondent made multiple political expenditures alleged to have an insufficient purpose description.
21. For 11 expenditures totaling approximately \$7,380, the respondent disclosed a description that repeats the category disclosed and does not sufficiently describe the candidate and/or officeholder activity conducted or the goods or services purchased. Therefore, there is credible evidence of violations of section 254.031(a)(3) of the Election Code and section 20.61(a) of the Ethics Commission Rules regarding those expenditures.
22. For 11 expenditures totaling approximately \$3,060, the respondent identified the goods or services purchased but did not sufficiently describe the candidate and/or officeholder activity that was conducted by making each expenditure. Therefore, there is credible evidence of violations of section 254.031(a)(3) of the Election Code and section 20.61(a) of the Ethics Commission Rules regarding those expenditures.
23. For 27 expenditures totaling approximately \$6,930, the respondent disclosed the category as "Other: Campaign Expense." However, a more specific category, such as "Advertising Expense," "Food/Beverage Expense," or "Office Overhead/Rental Expense," is more appropriate. However, in context, the expenditure purpose descriptions did not substantially affect disclosure. Therefore, there is credible evidence of technical or *de minimis* violations of section 254.031(a)(3) of the Election Code and section 20.61(a) of the Ethics Commission Rules with regard to those 27 expenditures.
24. Fifteen of the disputed expenditures contained a sufficient description of the purpose.

Actual Payee of Political Expenditures

25. Under section 254.031(a)(3) of the Election Code and section 20.62 of the Ethics Commission Rules, a campaign finance report must disclose political expenditures exceeding \$100 in the aggregate to a single payee and made out of personal funds by a staff member of a candidate or officeholder by reporting the full name and address of the persons to whom the expenditures are made if:
 - a. the political expenditures made out of the staff member's personal funds do not exceed \$5,000 in the aggregate during the reporting period; and
 - b. the reimbursement to the staff member occurs during the same reporting period that the initial expenditures were made.
26. Of all the alleged misreported payees, credible evidence supports the finding of a violation for only one expenditure made for \$100. For one expenditure of \$100, the respondent disclosed the name of the individual the respondent reimbursed from political contributions and not the name of the restaurant to whom the individual made the payment for a fundraising event. The respondent's expenditures to the restaurant exceeded \$100 in the aggregate during the reporting period. Thus, the respondent was required to itemize the expenditure and disclose the name of the restaurant as the payee, and he did not do so. Therefore, there is credible evidence of a violation of section 254.031(a)(3) of the Election Code and section 20.62 of the Ethics Commission Rules regarding that expenditure.
27. For 11 expenditures totaling approximately \$2,450, the respondent reimbursed individuals for expenditures they made from their personal funds for various office supplies, stakes, fuel, lunches, and gift cards. However, it is unclear from the evidence whether the expenditures exceeded \$100 in the aggregate during each reporting period at issue to any single payee. Therefore, there is insufficient evidence of violations of section 253.031(a)(3) of the Election Code and section 20.62 of the Ethics Commission Rules regarding those 11 expenditures.
28. For one expenditure of \$750, the respondent swore that an individual was the actual payee. However, it appears that the respondent purchased advertising for a fundraising event benefiting a nonprofit organization. It is unclear whether the nonprofit organization was the actual payee who received the payment from the respondent. Therefore, there is insufficient evidence of violations of section 253.031(a)(3) of the Election Code and section 20.62 of the Ethics Commission Rules regarding that expenditure.
29. For 14 expenditures for salaries, wages, consulting for election support, and a contribution to another candidate, the respondent named the correct payee for each expenditure.
30. For five expenditures made to an individual for block walking services, the evidence indicates that the respondent named the correct payee for each expenditure.
31. For two expenditures made to individuals to a restaurant and the USPS for postage, the respondent reimbursed the individuals but did not disclose the actual payees who were paid

by the individuals. Credible evidence indicates that the expenditures did not exceed \$100 in the aggregate during the reporting period to each payee. Thus, the respondent was not required to itemize the expenditures.

32. 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 regarding those 21 expenditures.
33. The Commission previously addressed the remaining nine expenditures totaling approximately \$2,950 in SC-3130342 (2015, open order).

Personal Use of Political Contributions

Improper Reimbursements

34. A candidate or officeholder who makes political expenditures from the candidate or officeholder's personal funds may reimburse those personal funds from political contributions in the amount of those expenditures only if: (1) the expenditures from personal funds were fully reported as political expenditures in the proper campaign finance report; and (2) 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. ELEC. CODE § 253.035(h).
35. For three expenditures totaling approximately \$670, the respondent swore that the expenditures were made to reimburse himself for miscellaneous post-campaign supplies purchased with personal funds. The respondent did not disclose any personal loans or political expenditures made from personal funds that would entitle him to any reimbursement.
36. Therefore, there is credible evidence of violations of sections 254.031(a)(3) and 253.035(h) of the Election Code with regard to those three expenditures.

Conversion of Political Contributions to Personal Use

37. A person who accepts a political contribution as a candidate or officeholder may not convert the contribution to personal use. *Id.* § 253.035(a). "Personal use" means a use that primarily further individual or family purposes not connected with the performance of duties or activities as a candidate for or holder of a public office. *Id.* § 253.035(d).
38. For 229 expenditures totaling approximately \$43,240, the respondent swore that the expenditures were made in connection with his duties and activities as a candidate or officeholder. Although several expenditures are dubious, there is no direct evidence to indicate that the expenditures primarily furthered individual or family purposes and were not connected with his campaign.

39. Therefore, there is insufficient evidence of a violation of section 253.035(a) of the Election Code with regard to those 229 expenditures.
40. For 111 un-itemized expenditures totaling approximately \$4,205, the respondent did not provide information regarding how the expenditures were related to his duties or activities as a candidate or officeholder. In response to written questions the respondent did not give an explanation for how these expenditures related to his duties. These expenditures included expenditures made for an event with an unknown purpose and an unexplained \$200 cash withdrawal. Considering there is no apparent political purpose to these expenditures and the respondent is unable or unwilling to provide an explanation, despite an obligation to properly report political expenditures and retain records necessary to complete a report, there is credible evidence of a violation of section 253.035(a) of the Election Code for the 111 expenditures for which the respondent did not provide an explanation.
41. For 71 expenditures totaling approximately \$3,090, the Commission previously found credible evidence of no violation of section 253.035(a) of the Election Code in SC-3130342 (2015, open order).

Late Response to Notices of Sworn Complaints

42. Under section 571.1242(b)(1) of the Government Code, a respondent must respond to the notice of an allegation of Category Two violations within 25 business days of receiving the notice of complaint. A respondent's failure to timely respond is a Category One violation. Section 571.1242(c), Government Code.
43. The respondent received the notices of sworn complaints SC-31406142 and SC-31407151 on August 9, 2014. The respondent was required to respond by September 16, 2014. The respondent did not respond until December 16, 2014. Thus, the respondent did not timely respond to the notices of sworn complaints. Therefore, there is credible evidence of violations of section 571.1242(c) of the Government Code.

Campaign Treasurer Information

44. Under section 254.061(2) of the Election Code, each campaign finance report must include the campaign treasurer's name and residence or business street address.
45. The respondent did not disclose a telephone number for his campaign treasurer on the January 2013 semiannual report or the 30-day pre-election report and disclosed the name of his former campaign treasurer. Therefore, there is credible evidence of technical or *de minimis* violations of section 254.061(2) of the Election Code.
46. Under section 252.002(a) of the Election Code, a candidate's campaign treasurer appointment must include the name, residence or business street address, and telephone number of the candidate's campaign treasurer.

47. The respondent included the name, address, and telephone number of his campaign treasurer on both ACTAs at issue. Therefore, there is credible evidence of no violation of section 252.002(a) of the Election Code. The respondent also had a campaign treasurer appointment in effect at all times relevant to these complaints. Therefore, there is credible evidence of no violation of section 253.031 of the Election Code.

Expenditures for Out-of-State Travel

48. Under section 254.031(a)(3) of the Election Code, each political expenditure exceeding \$100 in the aggregate during the reporting period must include the full name and address of the payee, the date, and the purpose of the expenditure.
49. Under section 20.61(b) of the Ethics Commission Rules, a description of a political expenditure for travel outside of Texas must include certain additional information.
50. The respondent made six political expenditures during the reporting periods at issue. Four of the expenditures did not exceed \$100 in the aggregate during the reporting periods at issue. Thus, the respondent was not required to provide additional information regarding travel outside of Texas relating to those four expenditures. Therefore, there is credible evidence of no violation of section 254.031(a)(3) of the Election Code and section 20.61(b) of the Ethics Commission Rules. The remaining two expenditures were previously addressed by the Commission in SC-3130342 (2015, open order).

Improperly Reporting Source of Political Contributions or Actual Payees of Political Expenditures

51. Under sections 253.001 and 253.003 of the Election Code, a person may not knowingly accept a political contribution made or authorized in the name of or on behalf of another unless the full name and address of the person making the contribution is disclosed in writing to the recipient of the political contribution. The elements of a violation are:
- a. The respondent accepted a political contribution made or authorized in the name of or on behalf of another;
 - b. The full name and address of the person making the contribution was not disclosed in writing to the respondent; and
 - c. The respondent had knowledge that a contribution was made in the name of or on behalf of another person.
52. The respondent swore that he is not aware of any contributions made in the name of or on behalf of another, and there is insufficient credible evidence to show the respondent had such knowledge. Therefore, there is insufficient evidence of a violation of sections 253.001 and 253.003 of the Election Code with regard to that contribution.
53. Under section 254.031(a)(3) of the Election Code, each political expenditure exceeding \$100 in the aggregate during the reporting period must include the full name and address of the payee, the date, and the purpose of the expenditure. Section 254.031(a)(3) of the

Election Code does not require the disclosure of the names of individuals receiving goods or services purchased as a political expenditure.

54. The respondent made 45 political expenditures to purchase food and beverages for his staff and constituents. Regarding six of the expenditures at issue, the respondent properly disclosed the names of the vendors who were paid for the food and beverages. Therefore, there is credible evidence of no violation of section 254.031(a)(3) of the Election Code.
55. The remaining 39 expenditures were previously addressed by the Commission in SC-3130342 (2015, open order).

Sanction

1. The commission may impose a civil penalty of not more than \$5,000 or triple the amount at issue under a law administered and enforced by the commission, whichever amount is more, for a delay in complying with a commission order or for a violation of a law administered and enforced by the commission. GOV'T CODE § 571.173.
2. Therefore, the Texas Ethics Commission orders that the respondent pay to the Commission, within 30 days of the date of this order, a civil penalty in the amount of \$4,500.

Order Date: _____

FOR THE COMMISSION

Ian M. Steusloff
Interim Executive Director
Texas Ethics Commission