

# TEXAS ETHICS COMMISSION

P.O. Box 12070, Capitol Station  
Austin, Texas 78711-2070

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December 7, 2015

Dr. Elba Garcia

**RE: Notice of Reporting Error  
SC-31410236**

Dear Dr. Garcia:

The Texas Ethics Commission (Commission) met on November 30, 2015, to consider SC-31410236. A quorum of the Commission was present. **The Commission determined that there is credible evidence of reporting errors that do not materially defeat the purpose of disclosure.** To resolve and settle this case without further proceedings, the Commission proposed this Notice of Reporting Error Agreement (agreement).

The Commission **found credible evidence** that the respondent:

1. did not disclose the full names of contributors as required by section 254.031(a)(1) of the Election Code;
2. did not report the correct amount of total outstanding loans as required by section 253.0351(c) of the Election Code;
3. did not disclose actual vendor payees as required by section 254.031(a)(3) of the Election Code;
4. did not disclose the purpose of political expenditures as required by section 254.031(a)(3) of the Election Code and section 20.61 of the Ethics Commission Rules; and
5. did not disclose the full names and addresses of persons to whom political expenditures were made as required by section 254.031(a)(3) of the Election Code.

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

The Commission **did not find credible evidence** that the respondent:

1. did not disclose total political expenditures as required by section 254.031(a)(6) of the Election Code;
2. did not disclose the total political contributions maintained as required by section 254.031(a)(8) of the Election Code; and
3. converted political contributions to personal use as prohibited by section 253.035 of the Election Code.

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

### **Full Names of Contributors**

1. It was contended that the respondent did not disclose the full names of three individuals and two entities making five political contributions totaling \$2,850 on the July 2013 semiannual report.
2. Regarding the three individuals, the respondent disclosed the contributors' names as they appeared on each respective contribution check. **Therefore, there is credible evidence of compliance with section 254.031(a)(1) of the Election Code with respect to those contributions.**
3. The respondent did not disclose the full name of one of the entities who gave one of the political contributions at issue. The full name of the entity is Metrotex Association of Realtors, Inc. PAC and the respondent disclosed "Metrotex Assoc. PAC." A search of Commission records shows that there is only one political committee with the word "Metrotex" in its name. Thus, in context the error was not misleading and did not substantially affect disclosure. **Therefore, there is credible evidence of technical or *de minimis* noncompliance with section 254.031(a)(1) of the Election Code with respect to that contribution.**
4. The respondent did not disclose the full name of one of the entities who gave one of the political contributions at issue. The full name of the entity is Apartment Association of Greater Dallas PAC and the respondent disclosed "Apartment Assoc. PAC." A search of Commission records shows that there are nine political committees with the words "Apartment Association" in their names. Thus, it is unclear from the face of the report from which general-purpose political committee the respondent accepted the contribution. **Therefore, there is credible evidence of noncompliance with section 254.031(a)(1) of the Election Code with respect to that contribution.**

### **Total Outstanding Loans**

5. It was contended that the respondent did not disclose the correct amount of total outstanding loans on the July 2013 semiannual report and the January and July 2014 semiannual reports. The respondent disclosed \$130,000 in total outstanding loans on each of the campaign finance reports at issue. The complaint alleged that the correct amount for total outstanding loans should have been \$127,000 for each of the campaign

finance reports at issue. The allegation appeared to be based on the fact that the respondent disclosed on Schedule G (used to disclose political expenditures from personal funds) a \$3,000 political expenditure to herself.

6. In response to the complaint, the respondent swore that the \$3,000 was a loan from personal funds she made to her campaign. The respondent incorrectly disclosed the \$3,000 loan on Schedule G rather than Schedule E (used to disclose loans) in the July 2013 semiannual report.
7. The respondent filed a corrected July 2013 semiannual report to disclose the \$3,000 personal loan on Schedule E.
8. The total amount of outstanding loans was not required to include the \$3,000 in personal funds that the respondent deposited into her political account. Nonetheless, the respondent included the personal loan in the total amount of outstanding loans, and the amount disclosed was correct. **Therefore, there is credible evidence of compliance with section 254.031(a)(2) of the Election Code with regard to the three campaign finance reports at issue.**
9. However, credible evidence indicates that the respondent loaned \$3,000 of her personal funds to her campaign and erroneously reported the \$3,000 in personal funds as an expenditure on Schedule G rather than a loan on Schedule E. **Therefore, there is credible evidence of noncompliance with section 253.0351(c) of the Election Code.**

#### **Actual Vendor Payee**

10. It was contended that the respondent did not disclose the actual vendor payee of five expenditures disclosed in the January and July 2013 semiannual reports, and the January 2014 semiannual report. The expenditures totaled \$4,130. It was also contended that the expenditures were reimbursements to the respondent's staff members that were not properly reported as staff reimbursements.
11. The respondent did not disclose the actual vendor payee for two of the political expenditures. However, the respondent swore that the individuals to whom the political expenditures were made were not staff members. **Therefore, there is credible evidence of noncompliance with section 254.031(a)(3) of the Election Code and insufficient evidence to establish noncompliance with section 20.62 of the Ethics Commission Rules with respect to those expenditures.**
12. It is unclear whether two of the expenditures made to an individual were made as reimbursements. **Therefore, there is insufficient evidence to establish noncompliance with section 254.031(a)(3) of the Election Code and section 20.62 of the Ethics Commission Rules with respect to those expenditures.**
13. The final expenditure at issue was personal funds that the respondent deposited into her political account. As discussed above, the respondent incorrectly disclosed the transaction of Schedule G, rather than on Schedule E. **Therefore, there is credible evidence of compliance with section 254.031(a)(3) of the Election Code and section 20.62 of the Ethics Commission Rules with respect to that expenditure.**

## Purpose of Political Expenditures

14. It was contended that the respondent did not fully disclose the purpose descriptions of 57 political expenditures totaling approximately \$33,000 in the respondent's January and July 2013, and January and July 2014 semiannual reports. For most of the expenditures at issue, the respondent did not provide a description.
15. In response to the complaint, the respondent swore that, for each of the reports at issue, each political expenditure is explained and documented sufficiently to where a reasonable person could clearly ascertain the payee and purpose of each expenditure on the report. Additionally, in response to the complaint, the respondent filed corrections to each report at issue to add a description of the purpose of each expenditure reported on Schedule F.
16. The respondent was required to provide both a category and a description for the expenditures at issue because each one exceeded \$100. However, with the exception of two entries, there was no description provided on the original reports that made the reason for the expenditures clear. In the two instances in which a description was provided, it was still not sufficiently specific, when considered within the context of the category entered, to make the reason for the expenditures clear. **Thus, there is credible evidence of noncompliance with section 254.031(a)(3) of the Election Code and section 20.61 of the Ethics Commission Rules.**

## Full Names and Address of Persons to Whom Political Expenditures Were Made

17. It was contended that the respondent did not disclose either the full name or the full address of persons to whom political expenditures were made on the January and July 2013, and January and July 2014 semiannual reports. At issue were six expenditures totaling approximately \$2,515.
18. With respect to three of the expenditures totaling approximately \$890, the respondent reported the full names of the businesses to which the expenditures were made. **Therefore, there is credible evidence of compliance with section 254.031(a)(3) of the Election Code with respect to those three expenditures.**
19. With respect to one of the expenditures, totaling \$1,250, the respondent reported the payee name as "DCM" and swore that she made her best efforts to obtain more information and determine whether the name reported was in fact the full name of the entity to which the expenditure was made. It is unclear whether the full name was reported. **Therefore, there is insufficient evidence of noncompliance with section 254.031(a)(3) of the Election Code with respect to this expenditure.**
20. With respect to one of the expenditures, totaling \$125, the respondent reported "RECPTA" as the name of the organization to which the political expenditure was made. The full name of the organization is Rosemont Early Childhood PTA, and the acronym used by the respondent is not a commonly recognized acronym by which the entity is identified. Thus, the respondent did not report the full name of the payee receiving a political expenditure. In context, the error was not misleading. **Therefore, there is credible evidence of technical or *de minimis* noncompliance with section 254.031(a)(3) of the Election Code with respect to this expenditure.**

21. With respect to the last expenditure at issue, totaling \$250, the respondent did not provide the full address of the payee receiving the political expenditure. The respondent admitted in her sworn response that the address was not provided due to a clerical oversight. In response to the complaint, the respondent corrected the expenditure to include the address of the entity. **Therefore, there is credible evidence of noncompliance with section 254.031(a)(3) of the Election Code with respect to this expenditure.**

#### **Total Amount of Political Expenditures Made During the Reporting Period**

22. It was contended that the respondent reported an incorrect amount of total political expenditures on the July 2013 semiannual report. It was alleged that the expenditure total should have been \$14,075.69, not \$11,559.07, as reported by the respondent.
23. The respondent swore that all the expenditures on Schedule F (used to disclose expenditures) totaled \$11,559.07.
24. When all of the expenditures on Schedules F and G, and unitemized expenditures under \$100 are calculated, the total is \$14,559.07. However, in regard to another allegation, the respondent filed a corrected report to remove a \$3,000 loan from Schedule G and moved it to Schedule E. Thus, the total should have been \$11,559.07, which is what the respondent disclosed on her original report at issue. **Therefore, there is credible evidence of compliance with section 254.031(a)(6) of the Election Code.**

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

25. It was contended that the respondent did not report the correct amount of total political contributions maintained on her January and July 2013, and January and July 2014 semiannual reports.
26. In response to the complaint, the respondent provided bank statements showing the balance in her campaign bank account on the last day of the reporting period for each semiannual report at issue. The balance on each bank statement matches exactly what the respondent reported for total political contributions maintained on the campaign finance reports.
27. Credible evidence indicates that the respondent disclosed the correct amount of total political contributions maintained on each of the reports at issue. **Therefore, there is credible evidence of compliance with section 254.031(a)(8) of the Election Code.**

#### **Personal Use of Political Contributions**

28. It was contended that the respondent converted political contributions to personal use based on an expenditure disclosed on Schedule F of the July 2014 semiannual report in which the respondent reported spending \$161.83 at "Texas Smokehouse." The description of the expenditure stated that it was for "Food" and "C.E. course/RB 4."
29. In response, the respondent swore that the expenditure was made to purchase lunch for her road and bridge employees at a continuing education course. As a county commissioner, the respondent has responsibilities related to construction and maintenance of roads and bridges in the county that are not part of the state's highway

system. Accordingly, the respondent has road and bridge employees whose activities she oversees.

30. It does not appear that this expenditure primarily furthered an individual or family purpose that was not connected with the performance of the respondent's duties or activities as an officeholder. **Therefore, there is credible evidence of compliance with section 253.035 of the Election Code.**

By signing this agreement and returning it to the Commission:

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

A campaign finance 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.

A candidate or officeholder who deposits personal funds in an account in which political contributions are held shall report the amount of personal funds deposited as a loan and may reimburse the amount deposited as a loan from political contributions or unexpended personal funds deposited in the account. The reimbursement may not exceed the amount reported as a loan. Personal funds deposited in an account in which political contributions are held are subject to section 253.035 of the Election Code and must be included in the reports of the total amount of political contributions maintained required by sections 254.031(a)(8) and 254.0611(a) of the Election Code.

A campaign finance report must include the amount of political expenditures that in the aggregate exceed \$100 (\$50 prior to September 28, 2011) and that are made during the reporting period, the full name and address of the persons to whom the expenditures are made, and the dates and purposes of the expenditures.

The purpose of an expenditure 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. 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.

You agree to comply with these requirements of the law.

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

The respondent agrees to tender a \$350 assessment fee to the Commission.

This agreement is a final and complete resolution of SC-31410236.

\_\_\_\_\_  
Dr. Elba Garcia, Respondent

\_\_\_\_\_  
Date signed by Respondent

Executed original agreement received by the Commission on: \_\_\_\_\_.

Texas Ethics Commission

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