

The \$162.38 political expenditure was made to purchase advertising, and the political expenditure was reported on Schedule F (used to disclose political expenditures made from political contributions). Thus, it is unclear whether the respondent did not report expenditures made to reimburse the loan, or whether the respondent did not include the loan in total political contributions maintained.

7. In response to the sworn complaint, the respondent addressed the personal loan that he made to his campaign, but he did not address the specific allegation of not properly reporting total political contributions maintained. Also, the respondent did not respond to a written question from the Commission based on the respondent's response regarding the allegation.

Response to Notice of a Sworn Complaint

8. Sworn complaint SC-3150140 was filed on January 26, 2015. The respondent was notified, by telephone by the Commission, about the filing of the complaint on January 27, 2015. On February 2, 2015, the Commission did not accept jurisdiction of the complaint because it did not comply with the legal and technical requirements for filing a sworn complaint.
9. On February 13, 2015, the complainant resubmitted the sworn complaint, and the Commission spoke with the respondent, by telephone, to inform him that the sworn complaint had been resubmitted to the Commission. The Commission sent a notice of the resubmitted sworn complaint to the respondent by delivery confirmation on February 23, 2015. According to the United States Postal Service's record of the delivery, the notice of this complaint was delivered to the respondent on February 26, 2015. The notice informed the respondent that the alleged violation in the sworn complaint was a Category One violation, and that a response was required not later than 10 business days from the date the notice was received and that failure to respond constituted a separate violation for which a separate civil penalty may be assessed. Based on the delivery date of the notice, the respondent was required to respond to the sworn complaint by March 13, 2015.
10. On May 1, 2015, the Commission contacted the respondent regarding the status of his response. The respondent informed the Commission that he would mail his response to the Commission on May 4, 2015. The Commission received a response to the sworn complaint from the respondent on May 12, 2015. The respondent swore that his response was untimely because "this [notice of sworn complaint] was misplaced as the result of the business of campaigning day in and day out." The respondent's response to the sworn complaint was 60 days late.

Response to Written Question

11. On August 11, 2015, the Commission mailed a written question to the respondent requesting records relating to the allegation in the complaint. In the document, the Commission informed the respondent that failure to respond would result in a separate

violation and possible civil penalty. According to the United States Postal Service's records of the delivery, the written question was delivered to the respondent on August 13, 2015. A response to the written question was required not later than 15 business days from the date the written question was received by the respondent. Based on the delivery date of the written question, the respondent was required to respond to the written question by September 3, 2015. To date, the Commission has not received a response to the written question from the respondent.

Conclusions of Law

1. Disposition of this case is within the jurisdiction of the Commission. GOV'T CODE § 571.061.
2. The respondent received legally sufficient notice of the hearing in this case. GOV'T CODE § 571.032 and 1 TAC § 12.21. The hearing was held in accordance with section 12.23, 1 Texas Administrative Code.

Disclosure of Political Expenditures and Total Political Contributions Maintained

3. Each report must include the amount of political expenditures that in the aggregate exceed \$100 and that are made during the reporting period, the full name and address of the persons to whom the expenditures are made, and the dates and purposes of the expenditures. ELEC. CODE § 254.031(a)(3).
4. Each report filed must include, as of the last day of a reporting period for which the person is required to file a report, 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. *Id.* § 254.031(a)(8).
5. The total amount of political contributions maintained in one or more accounts includes balance on deposit in banks, savings and loan institutions and other depository institutions, and the present value of any investments that can be readily converted to cash, such as certificates of deposit, money market accounts, stocks, bonds, treasury bills, etc. Ethics Commission Rules § 20.50(a). The total amount of political contributions maintained includes personal funds that the filer intends to use for political expenditures only if the funds have been deposited in an account in which political contributions are held. *Id.* § 20.50(b).
6. The respondent reported \$162.38 in total political expenditures, \$0 in total political contributions, and \$0 in total political contributions maintained on his January 2015 semiannual campaign finance report. Although the respondent reported a \$2,000 personal loan to his campaign, there is no evidence to show whether the respondent deposited personal funds into a campaign account, or whether the respondent made political expenditures directly from his personal funds. If the respondent deposited personal funds into a campaign account and maintained any of those funds at the end of

the reporting period, then he would have been required to include the amount in total political contributions maintained. The respondent did not address this allegation in his response to the sworn complaint and he did not respond to a written question about this allegation from the Commission. Therefore, there is insufficient evidence of a violation of sections 254.031(a)(3) and 254.031(a)(8) of the Election Code.

Response to Notice of Sworn Complaint

7. If the alleged violation in a sworn complaint is a Category One violation, the respondent must respond to the notice required by section 571.123(b) not later than the 10th business day after the date the respondent receives the notice. GOV'T CODE § 571.1242(a)(1).
8. A respondent's failure to timely respond to a sworn complaint as required by subsection (a)(1) or (b)(1) is a Category One violation. *Id.* § 571.1242(c).
9. The notice of complaint was delivered to the respondent on February 26, 2015. Thus, the respondent was required to submit a written response to the sworn complaint by March 13, 2015. The Commission received a written response to the sworn complaint from the respondent 60 days after the deadline, on May 12, 2015. Therefore, there is credible evidence of a violation of section 571.1242(c) of the Government Code.

Response to Written Questions

10. During a preliminary review, the commission may submit to the complainant or respondent written questions reasonably intended to lead to the discovery of matters relevant to the investigation. GOV'T CODE § 571.1243.
11. A respondent must respond to written questions submitted to the respondent pursuant to section 571.1243 of the Government Code not later than 15 business days after the respondent receives the written questions. The executive director may grant an extension of the time period for good cause shown. Ethics Commission Rules § 12.83(a).
12. The Commission's written question was delivered to the respondent on August 13, 2015. Thus, the respondent was required to submit a response to the written question by September 3, 2015. To date, the Commission has not received a response to the written question. Therefore, there is credible evidence that the respondent violated section 571.1243 of the Government Code and section 12.83(a) of the Ethics Commission Rules.
13. The Commission may impose a sanction against the respondent of not more than \$5,000 or triple the amount at issue, whichever amount is greater. GOV'T CODE § 571.173.

Therefore, the Texas Ethics Commission orders that:

1. The respondent pay to the Commission, within 30 days of the date of this order, a civil penalty in the amount of \$2,500.

Order Date: _____

FOR THE COMMISSION

Natalia Luna Ashley
Executive Director
Texas Ethics Commission