

# TEXAS ETHICS COMMISSION

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

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October 20, 2016

Mr. Bruce C. Tough

**RE: Notice of Reporting Error  
SC-31506130**

Dear Mr. Tough:

The Texas Ethics Commission (Commission) met on October 13, 2016, to consider SC-31506130. 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 name of a contributor as required by section 254.031(a)(1) of the Election Code;
2. did not disclose actual payees of political expenditures as required by section 254.031(a)(3) of the Election Code; and
3. did not properly 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.

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

1. accepted a political contribution from a corporation in violation of sections 253.003 and 253.094 of the Election Code;

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2. did not properly disclose full name of a contributor as required by section 254.031(a)(1) of the Election Code;
3. did not properly disclose staff reimbursements as required by section 20.62 of the Ethics Commission Rules; and
4. did not disclose the actual payee of an expenditure as required by section 254.031(a)(3) of the Election Code.

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

### **Contribution from Corporation/Contributor's Full Name**

1. It was contended that the respondent accepted a political contribution from a corporation, or in the alternative, did not disclose the full name of a contributor. The allegation was based on the respondent's July 2014 semiannual campaign finance report, wherein the respondent disclosed a contribution of \$500 from "Anadarko Petroleum Corp" on February 27, 2014.
2. In response to the complaint, the respondent stated that he did not accept the contribution from Anadarko Petroleum Corp., but from their political committee, Anadarko Petroleum PAC. The respondent provided a copy of the check which stated it was from "Anadarko Petroleum Corp Political Action Committee." Records on file with the Commission confirm that Anadarko Petroleum PAC made a political contribution to the respondent on February 14, 2014, which was reported on Anadarko Petroleum PAC's 8-day pre-election report filed February 24, 2014.
3. Credible evidence indicates that the respondent did not accept a contribution from Anadarko Petroleum Corp, but from their political committee, Anadarko Petroleum PAC. **Therefore, there is credible evidence of compliance with sections 253.094 and 253.003 of the Election Code.**
4. However, the respondent did not disclose "PAC" as part of the contributor's full name. **Thus, there is credible evidence of noncompliance with section 254.031(a)(1) of the Election Code.**

### **Contributor's Full Name**

5. It was contended that the respondent, on his July 2014 semiannual campaign finance report, did not disclose the full name of a person making a political contribution. Specifically, the respondent listed a contribution for \$260 and disclosed the contributor's name as a first and middle initial and last name.
6. In response to the complaint, the respondent stated that the individual's name was "reported as he reported it to us based on the personal note that was attached to his contribution."
7. The respondent was unable to provide a copy of the check, but did attach the note accompanying the contribution. The note stated the contributor's name and was signed by

the contributor using the same name as reported by the respondent. However, there is insufficient evidence to determine whether the name as disclosed by the respondent is the contributor's full name. **Therefore, there is insufficient evidence of compliance with section 254.031(a)(1) of the Election Code.**

### **Actual Payees**

8. It was contended that the respondent, on his July 2014 semiannual campaign finance report, did not disclose the actual payee for six political expenditures made on 3/6/2014, 3/5/2014, 3/5/2014, 3/14/2014, 2/23/2014, and 3/9/2014. Specifically, the complaint alleged that the respondent disclosed reimbursement expenditures to individuals but did not report the original expenditures to the actual vendor/company payee for which the reimbursements were made.
9. In response to the complaint, the respondent denied the allegation, stating in pertinent part, "These were reimbursements of costs and expenses made by individuals on my behalf at campaign election events." The respondent provided copies of the receipts from the vendors/companies as well as copies of the campaign checks written to the individuals for reimbursement.
10. Regarding the 3/6/2014 expenditure, a campaign check was made out to an individual for \$523.24 for "reimbursement – Austin campaign event." The reimbursement was for \$523.24 to an undisclosed vendor. On the respondent's report, he disclosed the reimbursement expenditure to the individual, but did not disclose the expenditure to the vendor.
11. Regarding the 3/5/2014 expenditure, a campaign check was made out to an individual for \$200 for "campaign event reimbursement." The reimbursement was for a \$200 political expenditure to Way Better Sound. On the respondent's report, he disclosed the reimbursement expenditure to the individual, but did not disclose the expenditure to Way Better Sound.
12. Regarding the 3/5/2014 expenditure, a campaign check was made out to an individual for \$440 for "event planning fee." The payment was for the individual's event fee of 20%. The respondent properly disclosed the expenditure to the individual for his services.
13. Regarding the 3/14/2014 expenditure, a campaign check was made out to an individual for \$439.85 for "Reimburse-Facebook Ads 7 invoices." The reimbursement was for a \$439.85 political expenditure to Facebook. On the respondent's report, he disclosed the reimbursement expenditure to the individual, but did not disclose the expenditure to Facebook.
14. Regarding the 2/23/2014 expenditure, a campaign check was made out to an individual for "campaign supplies reimbursement." The reimbursement was for \$366.16 in political expenditures to Best Buy and Office Depot. On the respondent's report, he disclosed the reimbursement expenditure to the individual, but did not disclose the expenditures to Best Buy and Office Depot.

15. Regarding the 3/9/2014 expenditure, a campaign check was made out to an individual for \$286.18 for “reimbursement/campaign.” The reimbursement was for \$286.18 in political expenditures to Walmart, Home Depot, and Office Depot. On the respondent’s report, he disclosed the reimbursement expenditure to the individual, but did not disclose the expenditures to Walmart, Home Depot, or Office Depot.
16. Regarding the payment on 3/5/2014 for \$440, the expenditure was for the individual’s event planning fee and not for a reimbursement. This individual was the actual payee. **Thus, in regards to this expenditure, 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.**
17. However, in regards to the five other expenditures, there is credible evidence that the respondent did not properly disclose the actual payee. Instead, the respondent disclosed reimbursements to individuals who incurred expenses on his behalf. The respondent swore that the individuals were not staff members. **Therefore, there is credible evidence of compliance with section 20.62 of the Ethics Commission Rules. However, there is credible evidence of noncompliance with section 254.031(a)(3) of the Election Code.**

#### **Purpose of Political Expenditures**

18. It was contended that the respondent, on his July 2014 semiannual campaign finance report, did not properly disclose the purpose of two political expenditures.
19. At issue were expenditures to Sam’s Club for \$429.28 for “Event expense” for “Event supplies” and to Shake FX LLC for \$515.50 for “Printing expense” for “Sales tax for web edits.”
20. The respondent was required to provide both a category and description for both expenditures at issue. The respondent’s descriptions did not include a description of the candidate, officeholder, or political committee activity conducted by making the expenditures in order for a person viewing the report to know the allowable activities for which the expenditures were made. **Therefore, 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.**

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 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.

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 activity that is conducted by making the expenditure.

You agree to comply with these requirements of the law.

This agreement describes some 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 \$100 assessment fee to the Commission.

This agreement is a final and complete resolution of SC-31506130.

\_\_\_\_\_  
Bruce C. Tough, Respondent

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

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

Texas Ethics Commission

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