

TEXAS ETHICS COMMISSION

IN THE MATTER OF
JOHN TERRY,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-31805197

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (Commission) met on October 3, 2018 and December 13, 2018, to consider sworn complaint SC-31805197. A quorum of the Commission was present. The Commission determined that there is credible evidence of violations of sections 254.031(a)(1) and 253.033(a) of the Election Code, laws administered and enforced by the Commission. To resolve and settle this complaint without further proceedings, the Commission adopted this resolution.

II. Allegations

The complaint alleged that the respondent: 1) accepted a political contribution in cash that exceeded \$100 in a reporting period from a single contributor; and 2) did not disclose on his campaign finance report the correct source of the contribution.

III. Facts Supported by Credible Evidence

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

1. During all times relevant to the complaint, the respondent was a candidate for the office of Guadalupe County Justice of the Peace, Precinct 3. The respondent was successful in the November 2018 general election.

Accepting a Political Contribution Over \$100 in Cash

2. The respondent received an envelope containing \$3,000 in cash as a political contribution from a single contributor. This contribution was not returned to the donor.
3. The complainant provided a photocopy of a bank withdrawal slip, documenting the withdrawal of \$3,000 cash from her account.

4. In response to written questions submitted by the Commission, the respondent acknowledged the violation.

Failing to Disclose on a Campaign Finance Report the Correct Source of a Contribution

5. The respondent disclosed on his January 2018 semiannual campaign finance report accepting a \$2,000 contribution from a donor, and a \$1,000 contribution from the donor's spouse, when the actual source of the contribution was the donor alone.
6. In response to the complaint and written questions, the respondent stated that he put both spouses' names on his campaign finance report because "I was told by [the donor] to report it that way."
7. However, the donor states that her spouse gave no money to the respondent. According to the donor's sworn complaint documentation, "I do not like the idea of him putting my husband that he gave 1,000 when he didn't. It was my money I gave to him."
8. The bank receipt for the withdrawal of the \$3,000 cash only has the donor's name on it, and not her spouse's.

IV. Findings and Conclusions of Law

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

Accepting a Political Contribution Over \$100 in Cash

1. A candidate, officeholder, or specific-purpose committee may not knowingly accept from a contributor in a reporting period political contributions in cash that in the aggregate exceed \$100. *Id.* § 253.033(a).
2. The respondent disclosed on his January 2018 semiannual campaign finance report accepting two political contributions on October 27, 2017 (from the donor and her spouse) totaling \$3,000. Credible evidence indicates that the contributions were in the form of cash. The respondent's inclusion of the donations on his campaign finance report is evidence of acceptance.
3. Therefore, there is credible evidence of a violation of section 253.033(a)(1) of the Election Code.

Failing to Disclose on a Campaign Finance Report the Correct Source of a Contribution

4. 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. ELEC. CODE § 254.031(a)(1).
5. It is undisputed that the respondent named, on his campaign finance report, the incorrect source of a \$1,000 contribution.
6. Therefore, there is credible evidence of a violation of section 254.031(a)(1) 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 agreed to reimburse, and has reimbursed the contributor for \$2,900.
3. The respondent acknowledges that: 1) a candidate or officeholder may not knowingly accept from a contributor in a reporting period political contributions in cash that in the aggregate exceed \$100; and 2) each 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, the full name and address of the person making the contributions, and the dates of the contributions.

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 of this order, in consideration for the respondent returning the excess amount at issue (\$2,900) to the contributor 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-31805197.

AGREED to by the respondent on this _____ day of January, 2019.

John Terry, Respondent

EXECUTED by the Commission on: _____.

Texas Ethics Commission

By: _____
Seana Willing, Executive Director