

# TEXAS ETHICS COMMISSION

IN THE MATTER OF	§	BEFORE THE
ANGELA Y. CONRAD,	§	TEXAS ETHICS COMMISSION
RESPONDENT	§	SC-31804165 AND SC-31807271

## ORDER and AGREED RESOLUTION

### I. Recitals

The Texas Ethics Commission (Commission) met on February 27, 2020, to consider sworn complaints SC-31804165 and SC-31807271. A quorum of the Commission was present. The Commission determined that there is credible evidence of violations of section 254.031 of the Election Code, a law administered and enforced by the Commission. To resolve and settle the complaints without further proceedings, the Commission adopted this resolution.

### II. Allegations

The complaints alleged that the respondent: 1) did not disclose certain political contributions accepted from the Humble ISD Supporters political committee, in violation of section 254.031 of the Election Code; 2) did not disclose the total political contributions maintained on the 8-day pre-election report for the May 6, 2017, election, in violation of section 254.031(a)(8) of the Election Code; 3) as an officer or employee of a political subdivision, spent or authorized the spending of public funds for political advertising in support of a May 5, 2018, Humble ISD school bond, in violation of section 255.003 of the Election Code; 4) did not disclose political contributions and/or did not disclose receiving notice from the Kingwood Tea Party political committee in connection with the May 6, 2017, election, in violation of sections 254.031 and 254.061(3) of the Election Code; 5) accepted political contributions and made political expenditures at a time when a campaign treasurer appointment was not in effect, in violation of section 253.031(a) of the Election Code; 6) did not timely file the 30-day pre-election report for the May 6, 2017, election, in violation of section 254.064(b) of the Election Code; 7) did not file a July 2017 semiannual report, as required by section 254.063(b) of the Election Code; 8) did not timely file a January 2018 semiannual report, in violation of section 254.063(c) of the Election Code; 9) did not disclose the identity of her campaign treasurer in the January 2018 and July 2018 semiannual reports, in violation of section 254.061(2) of the Election Code; and 10) did not cover the correct reporting periods in the January 2018 and July 2018 semiannual reports, in violation of section 254.063 of the Election Code.

### III. Findings of Fact and Conclusions of Law

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

1. The respondent was a successful candidate for the Humble Independent School District (HISD) Board of Trustees in the May 6, 2017, election, and was a member of the Board of Trustees during the May 2018 bond election and at all other times relevant to the complaints.

#### **Failure to Disclose In-Kind Contributions from Humble ISD Supporters Political Committee**

2. Sworn complaint SC-31804165 alleges that the respondent failed to disclose three in-kind contributions totaling \$8,494.21 from the Humble ISD Supporters political committee on her 8-day pre-election report for the May 2017 election, and failed to disclose 10 more in-kind contributions totaling \$3,555.79 from the Humble ISD Supporters political committee from the period preceding the political committee's dissolution on May 17, 2017.
3. The Humble ISD Supporters political committee made a series of expenditures totaling \$12,050 for campaign communications that supported the respondent and other candidates for HISD trustee. The respondent gave her prior consent and approval to the expenditures.
4. In her sworn response to the complaint, the respondent admitted the violation, conceding that she should have disclosed the in-kind contributions on her campaign finance reports. The respondent filed a corrected 8-day pre-election report disclosing an \$8,494.21 in-kind contribution from the Humble ISD Supporters political committee for "printing/ mailing." However, the amount reported in the corrected 8-day report should have been reduced proportionally to reflect that the \$8,494.21 in expenditures was made to benefit multiple candidates. *See* ETHICS COMMISSION RULES § 20.51(c) ("If political advertising supporting or opposing two or more candidates is an in-kind contribution, each person benefiting from the contribution shall report the amount determined by dividing the full value of the political advertising by the number of persons benefited by the political advertising."). Further, the respondent did not file a corrected final report reflecting her share of the Humble ISD Supporters political committee's \$3,555.79 in expenditures reportable as contributions for that reporting period.
5. The Election Code requires candidates to include in their campaign finance reports the amount of political contributions from each person that in the aggregate exceed \$50 and that are accepted during the reporting period, the full name and address of the person making the contributions, and the dates of the contributions. ELEC. CODE § 254.031(a)(1). Candidates must further include in each campaign finance report the total amount of all political contributions accepted during the reporting period. *Id.* § 254.031(a)(6). The Election Code defines the term "contribution" as "a direct or indirect transfer of money, goods, services, or

any other thing of value.” *Id.* § 251.001(2). “Campaign contribution” means a contribution to a candidate or political committee that is offered or given with the intent that it be used in connection with a campaign for elective office or on a measure. *Id.* § 251.001(3). The definition of a political contribution includes a campaign contribution. *Id.* § 251.001(5). “In-kind contribution” means a contribution of goods, services, or any other thing of value, except money. ETHICS COMMISSION RULES § 20.1(8). A campaign expenditure is not a contribution if it is made without the prior consent or approval of the candidate on whose behalf the expenditure was made. *Id.* § 20.1(5)(A). If a candidate gives prior consent or approval to a third party to make political expenditures on behalf of the candidate, the third party has made an in-kind contribution to the candidate, and the candidate has accepted the in-kind contribution and must report it on the campaign finance report covering the period in which the contribution is accepted. Ethics Advisory Opinion No. 331 (1996).

6. According to the respondent’s own sworn admission, the expenditures for the respondent’s benefit by the Humble ISD Supporters political committee were made with the respondent’s knowledge and prior consent, and were therefore required to be disclosed by the respondent as in-kind political contributions. The respondent did not disclose the in-kind contributions on her original campaign finance reports. There is therefore credible evidence of the alleged violations of sections 254.031(a)(1) and 254.031(a)(6) of the Election Code.

#### **Failure to Report Total Contributions Maintained on the 8-Day Pre-election Report**

7. Sworn complaint SC-31804165 alleges that the respondent failed to include her total contributions maintained in her 8-day pre-election report for the May 6, 2017, election.
8. The Election Code requires candidates to include in their campaign finance reports 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. ELEC. CODE § 254.031(a)(8).
9. The respondent left the field for total political contributions maintained blank on her original 8-day pre-election report. In her response to the sworn complaint, the respondent admitted the violation, and on May 1, 2018, she filed a corrected 8-day pre-election report disclosing \$20.59 in contributions maintained. There is therefore credible evidence that the respondent committed a violation of section 254.031(a)(8) of the Election Code by failing to disclose contributions maintained on her original 8-day pre-election report.

#### **Use of Public Funds for Political Advertising**

10. Sworn complaint SC-31807271 alleges that as a member of the Humble ISD Board of Trustees, the respondent authorized the spending of public funds for political advertising,

namely a pamphlet promoting HISD's bond measure in the May 2018 election. A copy of the pamphlet is attached to this order as an appendix.

11. An officer or employee of a political subdivision may not knowingly spend or authorize the spending of public funds for political advertising. ELEC. CODE § 255.003(a). However, this prohibition does not apply to a communication that factually describes the purposes of a measure if the communication does not advocate passage or defeat of the measure. *Id.* § 255.003(b).
12. In advance of the May 2018 bond election, HISD published and mailed a pamphlet to district voters. This pamphlet discusses in some depth the proposed bond. It enumerates the projects to be funded by the bond, providing details about the planned expenditures and the problems they were intended to address. The pamphlet also provides contextual information about the measure, including details about voting and about the bond's tax implications. The pamphlet includes a link to an HISD website with further information about the bond, including videos about the planned projects.
13. Because the pamphlet factually describes the purposes of the bond measure without advocating its passage, it complies with the Election Code. The pamphlet is largely a recitation of facts about the bond measure's purposes. For example, the pamphlet lists as one of the proposed projects "add[ing] multipurpose rooms/gyms to 22 schools without indoor space for PE/assemblies so that inclement weather does not limit instruction." This statement and the other assertions in the pamphlet are in nature factual descriptions of the purposes of the measure, and are therefore permitted under the statute. Nor does the pamphlet as a whole advocate passage of the measure. While it provides facts about the measure, many of which tend to justify the bond's necessity, it contains no endorsement of the measure, does not call on voters to back the measure, and does not contain argumentative rhetoric intended to compel the conclusion that the measure is required. *Compare In re Williams et al.*, SC-211170 (finding that brochure supported sales tax measure by describing "attractive amenities" that the tax would pay for); *In re Israel*, SC-210964 (newsletter supported a measure because it entreated voters to "sustain the excellence" by supporting the measure). The pamphlet does contain a few questionable inclusions, such as a graphic on the cover depicting two schoolchildren in hard hats and a section discussing the work of a "citizen's bond advisory committee," neither of which is relevant to the purposes of the measure. Evaluated as a whole, however, the pamphlet does not advocate for the measure. Therefore, there is no credible evidence that the respondent's participation in publishing the pamphlet was a violation of section 255.003 of the Election Code. *See* ELEC. CODE § 255.003 ("[This prohibition] does not apply to a communication that factually describes the purposes of a measure if the communication does not advocate passage or defeat of the measure.").

14. While emails obtained from the respondent indicate that she reviewed the pamphlet and recommended changes to its text, there is no evidence that the respondent authorized or was otherwise involved in creating the online videos or other materials published at the website linked to by the pamphlet. Further, the respondent provided a sworn affidavit denying involvement in the publication of these materials, averring that she did not view or approve them before they were posted. There is therefore no credible evidence of a violation of section 255.003 of the Election Code as to the online materials.

#### **Failure to Disclose Contributions or Direct Expenditures from Kingwood Tea Party PAC**

15. Sworn complaint SC-31807271 alleges that the respondent failed to disclose various in-kind contributions from the Kingwood Tea Party PAC, a general-purpose political committee. The alleged in-kind contributions consist of a mailer endorsing the respondent and other HISD trustee candidates, also posted on the Kingwood Tea Party's website, campaigning efforts for the respondent at polling places, and inviting the respondent to speak at a March 2, 2017, meeting of the Kingwood Tea Party. In the alternative, the complaint alleges that the respondent failed to disclose receiving notice from the Kingwood Tea Party PAC that it had made direct campaign expenditures on her behalf.
16. As noted above, the Election Code requires candidates to include in their campaign finance reports the amount of political contributions from each person that in the aggregate exceed \$50 and that are accepted during the reporting period, the full name and address of the person making the contributions, and the date of the contributions. ELEC. CODE § 254.031(a)(1). Candidates must further include in each campaign finance report the total amount of all political contributions accepted during the reporting period. *Id.* § 254.031(a)(6). Contributions required to be disclosed include "in-kind contributions," defined as any contribution of goods, services, or any other thing of value, except money. *See* ETHICS COMMISSION RULES § 20.1(8).
17. In her sworn response to the complaint, the respondent stated that the Kingwood Tea Party did not notify her or ask for her consent before publishing the mailer endorsing her or posting the mailer on the organization's website. The Ethics Commission Rules provide that a campaign expenditure is not a contribution from the person making the expenditure if it is made without the prior consent or approval of the candidate or officeholder on whose behalf the expenditure was made. *Id.* § 20.1(5)(A). Because the Kingwood Tea Party created and distributed the mailer without the respondent's consent or approval, there is no credible evidence of a violation of section 254.031 of the Election Code concerning the mailer.
18. Nor was the respondent's appearance at the March 2, 2017, Kingwood Tea Party meeting an in-kind contribution from the Kingwood Tea Party. While a meeting intended to promote or raise funds for a candidate would be a reportable in-kind contribution, the purpose of the meeting at issue was not to promote the respondent's candidacy. According to the

respondent's sworn response and supplemental affidavit, and as corroborated by local news coverage of the event, the respondent was invited to a regular meeting of the Kingwood Tea Party to answer questions from the public. The meeting was not intended to benefit the respondent. Neither the respondent nor the Kingwood Tea Party solicited or accepted contributions or votes for the respondent at the meeting. Because the meeting was informational rather than promotional in nature, the Kingwood Tea Party's expenditures for the meeting were not reportable by the respondent as in-kind contributions, and there is no credible evidence of a violation by the respondent for failing to so report them. *See* ELEC. CODE §§ 251.001(3), (5), 254.031(a)(1), (6).

19. The complaint further alleges that "the Kingwood Tea Party campaigned for [the respondent] throughout the election period including at polling locations where [the respondent] was present." However, the only documentation the complainant provides to support this allegation is a series of social media posts by a member of the Kingwood Tea Party documenting with photographs a visit to the polls on election day. While these include photographs of tables with campaign volunteers and placards, it is not clear whether these depict activities by the Kingwood Tea Party or by other organizations. The social media posts alone do not constitute credible evidence of contributions subject to disclosure by the respondent. Nor is the social media poster's own activity at the polls reportable as a contribution or expenditure. The only activity that is apparent from the social media posts is speaking with voters and documenting activity at the polls on election day. A political contribution consisting of an individual's personal service is not required to be reported if the individual received no compensation for the service. *Id.* § 254.033. Because there is no indication that the Kingwood Tea Party member received compensation for his visit to the polls, the social media posts do not depict any reportable contribution. There is therefore no credible evidence that the Kingwood Tea Party's alleged campaign efforts for the respondent constitute a violation. *See id.*
20. In the alternative, assuming that the Kingwood Tea Party's activities were direct campaign expenditures, the complaint contends that the respondent failed to disclose notices received from the Kingwood Tea Party of these alleged direct expenditures, in violation of section 254.061 of the Election Code.
21. Sections 254.128 and 254.161 of the Election Code require specific-purpose and general-purpose political committees, respectively, to provide notice to a candidate or officeholder of any contribution accepted or expenditure made for the candidate or officeholder.

22. Section 254.061 of the Election Code requires that each campaign finance report by a candidate include for each political committee from which the candidate received notice under sections 254.128 or 254.161 the committee's full name and address, an indication of whether the committee is a general-purpose committee or a specific-purpose committee, and the full name and address of the committee's campaign treasurer.
23. The complainant provides no documentation that the Kingwood Tea Party provided notice to the respondent under sections 254.128 or 254.161 of the Election Code. The respondent denies that she received any such notice from the Kingwood Tea Party in her sworn response. There is therefore no credible evidence of a violation of section 254.061 of the Election Code.

### **Failure to File Campaign Treasurer Appointment**

24. Sworn complaint SC-31804165 alleges that the respondent did not file a campaign treasurer appointment before accepting campaign contributions and making campaign expenditures for the May 6, 2017, election.
25. Each candidate and each political committee shall appoint a campaign treasurer as required by chapter 252 of the Election Code. ELEC. CODE § 252.001. "Candidate" means a person who knowingly and willingly takes affirmative action for the purpose of gaining nomination or election to public office or for the purpose of satisfying financial obligations incurred by the person in connection with the campaign for nomination or election. *Id.* § 251.001(1). A candidate may not knowingly accept a campaign contribution or make or authorize a campaign expenditure at a time when a campaign treasurer appointment for the candidate is not in effect. *Id.* § 253.031(a).
26. In her response to the complaint, the respondent swore that she filed her campaign treasurer appointment on January 31, 2017. The respondent attached her campaign treasurer appointment to the response, along with her ballot application. While neither was stamped as filed, both bear the respondent's signature, dated January 31, 2017.
27. To confirm that the campaign treasurer appointment was filed as indicated by the respondent, Commission staff contacted HISD's secretary to the Board of Trustees, who is in charge of accepting campaign finance filings for HISD. Because the campaign treasurer appointment at issue was filed before the current secretary's tenure and lacked a filing stamp, the secretary could not confirm with certainty that the respondent filed the appointment on January 31, 2017. The secretary observed, however, that her predecessor's practice was to notarize all campaign finance documents at the time of filing. Because the ballot application attached to the campaign treasurer appointment was notarized by her predecessor on January 31, 2017, the secretary concluded that the respondent must have filed the campaign treasurer appointment on that date.

28. The respondent's sworn statement and the filing secretary's response to Commission staff's inquiry both support the respondent's position that she filed the campaign treasurer appointment on January 31, 2017. The complaint does not identify any campaign contributions or expenditures by the respondent before that date. There is therefore no credible evidence of a violation of section 253.031(a) of the Election Code.

### **Failure to Timely File 30-Day Pre-election Report**

29. Sworn complaint SC-31804165 alleges that the respondent failed to timely file the 30-day pre-election report for the May 6, 2017, election.
30. In addition to other required reports, for each election in which a person is a candidate and has an opponent whose name is to appear on the ballot, the person shall file two reports. ELEC. CODE § 254.064(a). The first report must be received by the authority with whom the report is required to be filed not later than the 30th day before election day. *Id.* § 254.064(b). The report covers the period beginning the day the candidate's campaign treasurer appointment is filed or the first day after the period covered by the last report required to be filed under chapter 254 of the Election Code, as applicable, and continuing through the 40th day before election day. *Id.* § 254.064(c).
31. The respondent's 30-day pre-election report was due by April 6, 2017. *See id.* § 254.064(b).
32. The complaint observes that the report is not properly dated. The report is missing a stamp for filing date, and the notary signature block is missing the month, reading "the \_\_ day of 21, 2017." Other campaign finance filings posted on the Humble ISD website from 2017 also lack a filing date stamp.
33. The respondent contends in her sworn response to the complaint that she swore to the contents of the report and filed it on the day it was due, April 6, 2017. The HISD filing secretary was unable to confirm when the report was filed, but noted that it was in the 2017 campaign finance records when she assumed the position.
34. Due to the lack of a file stamp by HISD, and the respondent's sworn statement that she timely filed the report, there is insufficient credible evidence of a violation of section 254.064(b) of the Election Code.

### **Failure to File Semiannual Reports**

35. Sworn complaint SC-31804165 alleges that the respondent failed to file a July 2017 semiannual report. Sworn complaint SC-31807271 further alleges various violations pertaining to the respondent's January and July 2018 semiannual reports, namely that the



- January 2018 semiannual report was filed late, that both reports fail to identify the respondent's campaign treasurer, and that both reports cover the wrong reporting periods.
36. A candidate shall file two reports for each year as provided by the Election Code. The first report shall be filed not later than July 15. The report covers the period beginning January 1, the day the candidate's campaign treasurer appointment is filed, or the first day after the period covered by the last report required to be filed, as applicable, and continuing through June 30. The second report shall be filed not later than January 15. The report covers the period beginning July 1, the day the candidate's campaign treasurer appointment is filed, or the first day after the period covered by the last report required to be filed, as applicable, and continuing through December 31. ELEC. CODE § 254.063.
  37. Each report by a candidate must include, among other disclosures, the campaign treasurer's name, residence or business street address, and telephone number. *Id.* § 254.061(2).
  38. A candidate may terminate a campaign treasurer appointment by filing a final report. ETHICS COMMISSION RULES § 20.207(a)(2). If at the end of any reporting period an officeholder who is required to file a report with an authority other than the commission has not accepted political contributions that in the aggregate exceed \$500 or made political expenditures that in the aggregate exceed \$500, the officeholder is not required to file a report covering that period. ELEC. CODE § 254.095. Officeholders are required to file semiannual reports on the same schedule as candidates, subject to the foregoing limitation. *See id.* § 254.093.
  39. The respondent claims in her sworn responses to the complaints that she filed a final report terminating her campaign treasurer appointment on May 27, 2017. By filing a final report, the respondent terminated her campaign treasurer appointment. *See* ETHICS COMMISSION RULES § 20.207(a)(2). By terminating her campaign treasurer appointment and ceasing campaign activities, the respondent ceased to be a candidate. *See* ELEC. CODE § 251.001(1) (defining "candidate"); ETHICS COMMISSION RULES § 20.207(a)(2). As an officeholder without a campaign treasurer appointment on file, the respondent was not obligated to file semiannual reports unless she accepted more than \$500 in political contributions or made more than \$500 in political expenditures in the aggregate during the relevant reporting periods. ELEC. CODE § 254.095.
  40. The respondent's campaign finance reports covering the reporting periods for the July 2017, January 2018, and July 2018 semiannual reports, filed in response to the complaints, show that the respondent accepted no political contributions and made no political expenditures during the reporting periods at issue. The respondent was therefore not required to file the reports. *See id.* Because the respondent was not required to file the July 2017, January 2018, and July 2018 semiannual reports, there is no credible evidence of violations of sections 254.061 or 254.063 of the Election Code by the respondent for failure to timely file

the reports or include the correct campaign treasurer information or period covered on the reports.

#### **IV. 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 Commission's findings of fact and conclusions of law described under Section III, and consents to the entry of this order and agreed resolution solely for the purpose of resolving these sworn complaints.
2. The respondent consents to this order and agreed resolution and waives any right to further proceedings in this matter.
3. The respondent acknowledges that each campaign finance report must include: 1) a listing of political contributions from each person that in the aggregate exceed \$50 and that are accepted during the reporting period, including all in-kind contributions; 2) the total amount of all political contributions accepted during the reporting period; and 3) 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.
4. The respondent also acknowledges that if a candidate or officeholder gives prior consent or approval to a third party to make political expenditures on behalf of the candidate, the third party has made an in-kind contribution to the candidate, and the candidate has accepted the in-kind contribution and must report it on the campaign finance report covering the period in which the contribution is accepted. The respondent further acknowledges that if political advertising supporting or opposing two or more candidates is an in-kind contribution, each person benefiting from the contribution shall report the amount determined by dividing the full value of the political advertising by the number of persons benefited by the political advertising. The respondent agrees to fully and strictly comply with these requirements of law.

#### **V. 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.

**VI. Sanction**

After considering the nature, circumstances, and consequences of the violations described under Section III, and after considering the sanction necessary to deter future violations, the Commission imposes a \$500 civil penalty.

**VII. 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 sworn complaints SC-31804165 and SC-31807271.

AGREED to by the respondent on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Angela Y. Conrad, Respondent

EXECUTED by the Commission on: \_\_\_\_\_.

Texas Ethics Commission

By: \_\_\_\_\_  
Anne Temple Peters, Executive Director