

TEXAS ETHICS COMMISSION

IN THE MATTER OF
CORBIN VAN ARSDALE,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-280248

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on December 4, 2008, to consider sworn complaint SC-280248. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 253.032 and 254.0612 of the Election Code, and section 20.29 of the Ethics Commission Rules, laws administered and enforced by the commission. To resolve and settle this complaint without further proceedings, the commission proposes this resolution to the respondent.

II. Allegations

The complaint alleges that the respondent failed to disclose information regarding contributions from out-of-state political committees on his July 2006 and January 2008 semiannual campaign finance reports. The complaint also alleges that the respondent failed to disclose a contributor's principal occupation or job title and the full name of the contributor's employer on his January 2008 semiannual campaign finance report.

III. Facts Supported by Credible Evidence

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

1. During the time in question, the respondent was the state representative of District 130 and was an unsuccessful candidate for that office in the March 4, 2008, primary election.
2. The complaint was filed on February 11, 2008.
3. The respondent filed a sworn response to the complaint.

4. The complaint alleges that the respondent failed to disclose information regarding contributions from out-of-state political committees on his January 2006, July 2006, and January 2008 semiannual reports.
5. The respondent's July 2006 semiannual report discloses that the respondent accepted a \$250 political contribution from Hewlett Packard PAC and a \$500 political contribution from UPS PAC. The committees do not have campaign treasurer appointments on file with the commission. Federal Election Commission records show "Hewlett Packard Company PAC" and "United Parcel Service Inc., PAC" at the addresses disclosed on the respondent's report. The report includes the name and address of the political committees, the dates of the contributions, and the amounts of the contributions, but does not include either political committee's federal identification number, or provide any additional information about the committees.
6. The respondent's January 2008 semiannual report discloses that the respondent accepted a \$1,500 political contribution from ConocoPhillips Spirit PAC. This political committee is a Texas general-purpose political committee.
7. The complaint alleges that the respondent failed to disclose a contributor's principal occupation or job title and the full name of the contributor's employer on his January 2008 semiannual report.
8. The respondent's January 2008 semiannual report discloses a \$3,100 in-kind political contribution in the form of a "web design" from an individual. The respondent disclosed the name and address of the individual, the date of the contribution, and the value of the contribution, but failed to disclose the contributor's principal occupation or job title and the full name of the contributor's employer.
9. The respondent's affidavit states, "The two alleged violations on the July 15, 2006 report regarding failure to list PAC ID numbers for out-of-state PACs appear to be true. . . . The two alleged violations on the January 15, 2008 report regarding failure to list a PAC ID number for an (sic) out-of-state PAC and failure to report occupation and employer for an in-kind contribution appear to be true. The Ethics Commission software system did not notify me of these deficiencies when I verified and filed the report electronically. I will file a corrected report." The respondent filed a corrected July 2006 semiannual report on January 15, 2009, disclosing the two missing FEC numbers. The respondent filed a corrected January 2008 semiannual report on February 1, 2009, disclosing the missing information regarding a contributor's principal occupation / job title and employer.

IV. Findings and Conclusions of Law

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

1. Ethics Commission rules prohibit the commission from considering an allegation barred from criminal prosecution by operation of the applicable statute of limitations. Ethics Commission Rules § 12.5(a). The allegations of reporting violations are Class C misdemeanors. The statute of limitations for a Class C misdemeanor is two years from the date of the commission of the offense. Code of Criminal Procedure, Article 12.02. The January 2006 semiannual report was filed more than two years before the filing of the complaint. Therefore, the alleged reporting violations regarding the January 2006 semiannual report are not within the commission's sworn complaint jurisdiction.
2. A candidate, officeholder, or political committee that accepts political contributions totaling \$500 or less from an out-of-state political committee shall include as part of the report filed under chapter 254 of the Election Code that covers the reporting period in which the contribution is accepted the same information for the out-of-state political committee required for general-purpose committees by sections 252.002 and 252.003 of the Election Code (pertaining to the contents of a campaign treasurer appointment), or a copy of the out-of-state's statement of organization filed as required by law with the Federal Election Commission and certified by an officer of the out-of-state committee. ELEC. CODE § 253.032(e).
3. "Out-of-state political committee" means a political committee that makes political expenditures outside this state, and in the 12 months immediately preceding the making of a political expenditure by the committee inside this state (other than an expenditure made in connection with a campaign for a federal office or made for a federal officeholder), makes 80 percent or more of the committee's total political expenditures in any combination of elections outside of this state and federal offices not voted on in this state. ELEC. CODE § 251.001(15).
4. A person who files a report with the commission by electronic transfer and who accepts political contributions from an out-of-state political committee required to file its statement of organization with the Federal Election Commission shall either enter the out-of-state committee's federal PAC identification number in the appropriate place on the report, or timely file a certified copy of the out-of-state committee's statement of organization that is filed with the Federal Election Commission. Ethics Commission Rules § 20.29(a).
5. The evidence indicates that both Hewlett Packard PAC and UPS PAC were out-of-state committees that filed with the Federal Election Commission. The respondent reported accepting political contributions from both committees but failed to disclose the additional information required when reporting a contribution from an out-of-state political committee.

Therefore, there is credible evidence that the respondent violated section 253.032 of the Election Code and section 20.29 of the Ethics Commission Rules.

6. Each report by a candidate for a statewide office in the executive branch or a legislative office must include, for each individual from whom the person filing the report has accepted political contributions that in the aggregate equal or exceed \$500 and that are accepted during the reporting period, the individual's principal occupation or job title, and the full name of the individual's employer. ELEC. CODE § 254.0612.
7. The respondent's January 2008 semiannual report discloses a \$3,100 in-kind political contribution from an individual. The report does not disclose the contributor's principal occupation or job title and the full name of the contributor's employer. Therefore, there is credible evidence that the respondent violated section 254.0612 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 acknowledges that a candidate, officeholder, or political committee that accepts political contributions totaling \$500 or less from an out-of-state political committee shall include as part of the report filed under chapter 254 of the Election Code that covers the reporting period in which the contribution is accepted the same information for the out-of-state political committee required for general-purpose committees by sections 252.002 and 252.003 of the Election Code (pertaining to the contents of a campaign treasurer appointment), or a copy of the out-of-state's statement of organization filed as required by law with the Federal Election Commission and certified by an officer of the out-of-state committee. The respondent also acknowledges that a person who files a report with the commission by electronic transfer and who accepts political contributions from an out-of-state political committee required to file its statement of organization with the Federal Election Commission shall either enter the out-of-state committee's federal PAC identification number in the appropriate place on the report, or timely file a certified copy of the out-of-state committee's statement of organization that is filed with the Federal Election Commission. The respondent also acknowledges that each report by a candidate for a statewide office in the executive branch or a legislative office must include, for each

individual from whom the person filing the report has accepted political contributions that in the aggregate equal or exceed \$500 and that are accepted during the reporting period, the individual's principal occupation or job title, and the full name of the individual's employer. 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 seriousness of the violations described under Sections III and IV, including the nature, circumstances, and consequences of the violations, and after considering the sanction necessary to deter future violations, the commission imposes a \$500 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-280248.

AGREED to by the respondent on this _____ day of _____, 20__.

Corbin Van Arsdale, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director