

TEXAS ETHICS COMMISSION

IN THE MATTER OF
JOSEPH JAWORSKI,
RESPONDENT

§
§
§
§
§

BEFORE THE
TEXAS ETHICS COMMISSION
SC-2908193 AND SC-2909202

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on April 21, 2010, to consider sworn complaints SC-2908193 and SC-2909202. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 253.032, 254.031, and 254.0612 of the Election Code and Ethics Commission Rules 20.29, 20.59, 20.61, and 20.62, laws and rules administered and enforced by the commission. To resolve and settle these complaints without further proceedings, the commission proposed this resolution to the respondent.

II. Allegations

The complaints alleged that the respondent: 1) failed to properly report political contributions, political expenditures, and loans, 2) accepted political contributions from corporations or labor organizations, and 3) converted political contributions to personal use.

III. Facts Supported by Credible Evidence

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

1. The respondent is a candidate for mayor of Galveston, Texas. Prior to his mayoral campaign, the respondent was a candidate for State Senator, District 11.

Total Political Contributions Maintained

2. The respondent's January 2008 semiannual report disclosed \$310,449.71 in total political contributions maintained. The complaint alleged that the total political contributions maintained should be \$306,298.27. In response to the complaint, the respondent filed a corrected report and acknowledged that the original report was incorrect, but not as

- alleged. The respondent stated that the correct amount of total political contributions maintained was \$306,186.21.
3. The respondent's 30-day pre-election report for the March 2008 primary election disclosed \$299,700.60 in total political contributions maintained. The complaint alleged that the total political contributions maintained should be \$295,371.14. In response to the complaint, the respondent filed a corrected report and acknowledged that the original report was incorrect, but not as alleged. The respondent stated that the correct amount of total political contributions maintained was \$295,259.08.
 4. The respondent's 8-day pre-election report for the March 2008 primary election disclosed \$243,553.47 in total political contributions maintained. The complaint alleged that the total political contributions maintained should be \$238,034.29. In response to the complaint, the respondent filed a corrected report and acknowledged that the original report was incorrect, but not as alleged. The respondent stated that the correct amount of total political contributions maintained was \$237,922.23.
 5. The respondent's July 2008 semiannual report disclosed \$410,390.49 in total political contributions maintained. The complaint alleged that the total political contributions maintained should be \$367,376.68. In response to the complaint, the respondent filed a corrected report and acknowledged that the original report was incorrect, but not as alleged. The respondent stated that the correct amount of total political contributions maintained was \$413,264.62, but that amount included a \$46,000 campaign loan.
 6. The respondent's 30-day pre-election report for the November 2008 general election disclosed \$101,018.25 in total political contributions maintained. The complaint alleged that the total political contributions maintained should be \$43,560.44. In response to the complaint, the respondent filed a corrected report and acknowledged that the original report was incorrect, but not as alleged. The respondent stated that the correct amount of total political contributions maintained was \$89,448.38.
 7. The respondent's 8-day pre-election report for the November 2008 primary election disclosed \$13,996.42 in total political contributions maintained. The complaint alleged that the total political contributions maintained should be -\$45,076.96. In response to the complaint, the respondent filed a corrected report and acknowledged that the original report was incorrect, but not as alleged. The respondent stated that the correct amount of total political contributions maintained was \$15,810.98.
 8. The respondent's January 2009 semiannual report disclosed \$3,017.99 in total political contributions maintained. The complaint alleged that the total political contributions maintained should be -\$57,986.25. In response to the complaint, the respondent filed a corrected report and acknowledged that the original report was incorrect, but not as alleged. The respondent stated that the correct amount of total political contributions maintained was \$2,901.69.

9. The respondent's July 2009 semiannual report disclosed \$19,872.46 in total political contributions maintained. The complaint alleged that the total political contributions maintained should be \$22,136.91. In response to the complaint, the respondent filed a corrected report and acknowledged that the original report was incorrect but not as alleged. The respondent stated that the correct amount of total political contributions maintained was \$16,686.91.

Political Contributions from Corporations or Labor Unions

10. The respondent's January 2008 semiannual report disclosed a contribution of \$97.75 from The Adams House on July 12, 2007. The complaint included information from the comptroller's website for Adams House, Inc. In response to the complaint, the respondent stated that The Adams House is not the same entity as Adams House, Inc. and has no relationship to it, and it is not a corporation. Records of the Texas Secretary of State show an entity called Adams House, LLC that has the same address as that of the contributor at issue. Adams House, LLC was formed after the date of the contribution at issue and there are no records to indicate that it was ever incorporated.
11. The respondent's 30-day pre-election report for the March 2008 primary election disclosed a contribution of \$5,000 from the International Longshoremen's Association on January 23, 2008. In response to the complaint, the respondent stated that the contribution was from the organization's political committee and not from the labor union's funds. The respondent also added the word "PAC" to the name of the contributor on his corrected report and a Federal Election Commission (FEC) identification number. FEC records disclose that the committee made a political contribution to the Friends of Joe Jaworski on January 10, 2008.
12. The respondent's 8-day pre-election report for the March 2008 primary election disclosed a contribution of \$500 from KNA Partners on February 17, 2008. The complaint included information from the comptroller's website for KNA Partners, Inc. Records from the Texas Secretary of State show an entity named KNA Partners, Inc. at the address of the contributor at issue. However, the evidence did not establish whether the contribution was from KNA Partners, Inc., or an unincorporated entity named KNA Partners.
13. The respondent's 8-day pre-election report for the March 2008 primary election disclosed a contribution of \$250 from the Houston Federation of Teachers on February 20, 2008. In response to the complaint, the respondent stated that the contribution was from the organization's political committee and not from the labor union's funds. The respondent also added the words C.O.P.E. to the name of the contributor on his corrected report to reflect the full name of the organization's political committee. The committee's 8-day pre-election report for the March 2008 primary election disclosed a \$250 political contribution to the respondent on February 20, 2008.

14. The respondent's July 2008 semiannual report disclosed a contribution of \$1,000 from PACE LOCAL 4-1 on June 26, 2008. In response to the complaint, the respondent stated that the contribution was from the organization's political committee and not from the labor union's funds. The respondent also added the words PAC to the name of the contributor on his corrected report. The committee's July 2008 semiannual report disclosed a \$1,000 political contribution to the Friends of Joe Jaworski on June 19, 2008.
15. The respondent's July 2008 semiannual report disclosed a contribution of \$1,000 from United Steel Workers on June 28, 2008. In response to the complaint, the respondent stated that the contribution was from the organization's political committee and not from the labor union's funds. The respondent also added the words "of America" to the name of the contributor on his corrected report as well as the committee's FEC identification number. FEC records disclose that on June 23, 2008, the political committee "United Steel Workers Political Action Fund" made a \$1,000 contribution to the Friends of Joe Jaworski.
16. The respondent's July 2008 semiannual report disclosed a contribution of \$500 from KNA Partners on June 30, 2008. The complaint included information from the comptroller's website for KNA Partners, Inc. Records from the Texas Secretary of State also show an entity named KNA Partners, Inc. at the address of the contributor at issue. However, the evidence did not establish whether the contribution was from KNA Partners, Inc., or an unincorporated entity named KNA Partners.
17. The respondent's 30-day pre-election report disclosed a contribution of \$400 from The Ash Group, LLC on September 24, 2008. The complaint included information from the comptroller's website for Ash Group, Inc. In response to the complaint, the respondent stated that The Ash Group, LLC is not a corporation and has no relationship to The Ash Group, Inc. Records from the Texas Secretary of State show an entity called The Ash Group, LLC located at the address of the contributor at issue. Those records do not indicate The Ash Group, LLC has any corporate members or partners. The Ash Group, LLC does not appear to be affiliated with The Ash Group, Inc.
18. The respondent's 8-day pre-election report for the November 2008 general election disclosed a contribution of \$5,000 from the American Federation of State County and Municipal Employees on October 8, 2008. In response to the complaint, the respondent stated that the contribution was from the organization's political committee and not from the labor union's funds. The respondent also added the word "PAC" to the name of the contributor on his corrected report as well as the committee's FEC identification number. FEC records do not disclose a report of this contribution.
19. The respondent's 8-day pre-election report for the November 2008 general election disclosed a contribution of \$500 from the Brotherhood of Locomotive Engineers on

- October 13, 2008. In response to the complaint, the respondent stated that the contribution was from the organization's political committee and not from the labor union's funds. The respondent also added the word "PAC" to the name of the contributor on his corrected report. The committee's November 2008 monthly report disclosed a \$500 contribution to the Joe Jaworski Campaign on October 2, 2008.
20. The respondent's 8-day pre-election report for the November 2008 general election disclosed a contribution of \$5,000 from C&M, LLC on October 9, 2008. In response to the complaint, the respondent stated the contributor is an LLC and not a corporation and thus, the contribution was not prohibited. Records from the Texas Secretary of State show an entity by the same name in existence at the time of the contribution, but it is not located at the address of the contributor at issue.
 21. The respondent's 8-day pre-election report for the November 2008 general election disclosed a contribution of \$25,000 from Cahaba Disaster Recovery, LLC on October 9, 2008. In response to the complaint, the respondent stated that the contributor is an Alabama LLC and not a corporation and thus, the contribution was not prohibited. Records from the Texas Secretary of State show an entity called Cahaba Disaster Recovery, LLC located at the address of the contributor at issue. The entity is registered as a foreign LLC. Texas Secretary of State records do not disclose that it has any incorporated members or directors.
 22. The respondent's 8-day pre-election report for the November 2008 general election disclosed a contribution of \$25,000 from Equipment Leasing, LLC on October 9, 2008. In his sworn response to the complaint, the respondent stated that the contributor is an Alabama LLC and not a corporation and, thus, the contribution was not prohibited. Records from the Texas Secretary of State do not show such an entity at the address of the contributor at issue. Records of the Alabama Secretary of State show an entity with that name and address registered as a domestic limited liability company. The members are not incorporated.
 23. The respondent's 8-day pre-election report for the November 2008 general election disclosed a contribution of \$5,000 from Teamsters Local Union #988 on October 24, 2008. In his sworn response to the complaint, the respondent stated that the contribution was from the organization's political committee and not from the labor union's funds. The respondent also added the words "DRIVE Political Fund" to the name of the contributor on his corrected report. The committee's 8-day pre-election report for the November 2008 general election disclosed a \$5,000 contribution to Joe Jaworski on October 24, 2008.
 24. The respondent's July 2009 semiannual report disclosed a contribution of \$100 from Arnold Interests on June 30, 2009. The complaint included information from the comptroller's website for Arnold Interests/Texas State Hotel, Inc. Records from the

Texas Secretary of State show an entity called Arnold Interests/Texas State Hotel, Inc. located at the address of the contributor at issue. There was some evidence that the contribution was made from the personal funds of an individual.

25. The respondent's July 2009 semiannual report disclosed a contribution of \$1,500 from Teamsters Local Union #988 on April 8, 2009. In response to the complaint, the respondent stated that the contribution was from the organization's political committee and not from the labor union's funds. The respondent also added the words "DRIVE Political Fund" to the name of the contributor on his corrected report. The committee's 8-day pre-election report for the May 9 uniform election disclosed a \$1,500 contribution to the Friends of Joe Jaworski on April 8, 2009.
26. The respondent's July 2009 semiannual report disclosed a contribution of \$500 from The Sunflower Bakery on June 5, 2009. The complaint included information from the comptroller's website for The Sunflower Bakery, Inc. In response to the complaint, the respondent included The Sunflower Bakery's Certificate of Limited Partnership and stated that the company has no relationship to The Sunflower Bakery, Inc. Records from the Texas Secretary of State show an entity called The Sunflower Bakery, Inc. that is not located at the address of the contributor at issue.

Disclosure of Purposes of Political Expenditures

27. The complaint alleged that the respondent failed to properly report the purposes of his political expenditures on eight campaign finance reports. The first allegation arose from eight political expenditures totaling approximately \$1,450 disclosed on the respondent's January 2008 semiannual report. The report disclosed 44 political expenditures totaling \$92,379.71. Two expenditures, totaling approximately \$320 were made to American Express Merchant Services. Two expenditures totaling approximately \$50 were made to Authnet Gateway. Three expenditures totaling approximately \$360 were made to Merchant Bankcard. The purposes of the expenditures made to American Express Merchant Services, Authnet Gateway, and Merchant Bankcard were disclosed as "Fee." The purpose of the expenditure made to Jessica Martinez was disclosed as "Contract Services." The respondent filed a corrected report and changed the purposes of the expenditures made to American Express Merchant Services, Authnet Gateway, and Merchant Bankcard as "Online Contribution Service Fee" and changed the purpose of the expenditure to Jessica Martinez to "Consulting Services."
28. The next allegation arose from three political expenditures totaling approximately \$1,410 disclosed on the respondent's 30-day pre-election report for the March 2008 primary election. The report disclosed 24 political expenditures totaling \$19,863.19. The purpose of an expenditure for \$120 made to an individual was disclosed as "Brazoria County Democrat Party." The purpose of an expenditure for \$1,000 made to another individual was disclosed as "Independent Contract Work." The purpose of an expenditure for \$293.83 made to Merchant Bankcard was disclosed as "Fee." The respondent filed a

corrected report and changed the purpose of the expenditure made to one individual to “Brazoria County Democrat Party Donation.” The purpose of the expenditure made to the other individual was changed to “Consulting Services.” And the purpose of the expenditure made to Merchant Bankcard was changed to “Online Contribution Service Fee.”

29. The next allegation arose from five political expenditures totaling approximately \$5,290 on the respondent’s 8-day pre-election report for the March 2008 primary election. The report disclosed 26 political expenditures totaling \$88,074.24. The purpose of an expenditure made to American Express Merchant Services for \$186.96 was disclosed as “Fee.” The purpose of an expenditure made to Moody National Bank for \$107 was disclosed as “Charge Fee.” The purpose of two expenditures totaling \$4,000 made to an individual were disclosed as “Contract Service.” And the purpose of an expenditure for \$1,000 made to another individual was disclosed as “Contract Services.” The respondent filed a corrected report and changed the purpose of the expenditure made to American Express Merchant Services to “Online Contribution Service Fee.” The purpose of the expenditure made to Moody National Bank was changed to “Bank Service Fee.” And the purposes of the expenditures made to the individuals were changed to “Consulting Services.”
30. The next allegation arose from nine political expenditures totaling approximately \$8,410 disclosed on the respondent’s July 2008 semiannual report. The report disclosed 118 political expenditures totaling \$122,555.23. The purpose of an expenditure made to Coyote Market for \$69.38 was disclosed as “District Convention.” The purposes of three expenditures totaling approximately \$340 made to Merchant Bankcard were disclosed as “Fee.” The purposes of three expenditures totaling \$6,000 made to an individual were disclosed as “Contract Services.” And the purposes of two expenditures totaling \$2,000 made to another individual were disclosed as “Contract Services.” The respondent filed a corrected report and changed the purpose of the expenditure made to Coyote Market to “Campaign Gas and Beverage.” The purposes of the three expenditures made to Merchant Bankcard were changed to “Online Contribution Service Fee.” The purposes of the expenditures made to the individuals were changed to “Consulting Services.”
31. The next allegation arose from 21 political expenditures totaling approximately \$25,900 disclosed on the respondent’s 30-day pre-election report for the November 2008 general election. The report disclosed 88 political expenditures totaling \$458,964.25. The purpose of three expenditures totaling approximately \$570 made to American Express Merchant Services were disclosed as “Fee.” The purpose of an expenditure for \$250 made to an individual was disclosed as “Independent Contract Work.” The purposes of two expenditures totaling \$3,000 made to another individual were disclosed as “Contract Services.” The purposes of four expenditures totaling approximately \$1,470 made to Merchant Bankcard were disclosed as “Fee.” The purposes of six expenditures totaling \$15,600 made to another individual were disclosed as “Contract Services.” And the purposes of five political expenditures totaling \$5,000 made to another individual were disclosed as “Contract Services.” The respondent filed a corrected report and changed

the purposes of the three expenditures made to American Express Merchant Services and the four expenditures made to Merchant Bankcard to “Online Contribution Service Fee.” The purposes of the expenditures made to the individuals were changed to “Consulting Services.”

32. The next allegation arose from 16 political expenditures totaling approximately \$17,090 disclosed on the respondent’s 8-day pre-election report for the November 2008 general election. The report disclosed 69 political expenditures totaling \$285,364. The purpose of an expenditure for \$103.35 made to American Express Merchant Services was disclosed as “Fee.” The purpose of an expenditure for \$65.06 made to Arlan’s Market was disclosed as “Supplies.” The purpose of an expenditure for \$1,500 made to an individual was disclosed as “Contract Services.” The purpose of an expenditure for \$702.32 made to Holiday Inn was disclosed as “Hotel.” The purpose of an expenditure for \$51.80 to Merchant Bankcard was disclosed as “Fee.” The purpose of an expenditure for \$25 made to Moody National Bank was disclosed as “Fee.” The purpose of an expenditure for \$4,000 made to another individual was disclosed as “Contract Services.” The purposes of two expenditures totaling \$5,200 made to another individual were disclosed as “Contract Services.” The purposes of two expenditures totaling approximately \$1,630 made to Residence Inns was disclosed as “Hotel.” The purposes of three expenditures totaling \$3,500 made to another individual were disclosed as “Contract Services.” The purposes of two expenditures totaling approximately \$310 made to the Sheraton were disclosed as “Hotel.” The respondent filed a corrected report and changed the purpose of the expenditure made to American Express Merchant Services to “Online Contribution Service Fee.” The purpose of the expenditure made to Arlan’s Market was changed to “Campaign Office and Grocery Supplies.” The purpose of the expenditure made to Holiday Inn was changed to “Campaign Lodging.” The purpose of the expenditure made to Merchant Bankcard was changed to “Online Contribution Service Fee.” The purpose of the expenditure made to Moody National Bank was changed to “Wire Transfer Fee.” The purposes of the expenditures made to Residence Inns were changed to “Campaign Lodging.” The purposes of the expenditures made to the individuals were changed to “Consulting Services.” And the purposes of the expenditures made to the Sheraton were changed to “Campaign Lodging.”
33. The next allegation arose from five political expenditures totaling approximately \$5,920 disclosed on the respondent’s July 2009 semiannual report. The report disclosed 26 political expenditures totaling \$16,386.08. Three of the expenditures, totaling \$5,800, were made to Invitation Only, Inc. Two of the expenditures, totaling approximately \$120 were made to Click & Pledge. The purposes of the three expenditures made to Invitation Only, Inc. were disclosed as “Contract Services.” The purposes of the two expenditures made to Click & Pledge were disclosed as “Fee.” The respondent filed a corrected report. The respondent changed the purposes of the three expenditures made to Invitation Only, Inc. to “Consulting Services” and changed the purposes of the two expenditures made to Click & Pledge to “Online contribution service fee.”

Political Expenditures as Reimbursements

34. The complaint alleged that the respondent improperly reported political expenditures as reimbursements on eight campaign finance reports. The first allegation arose from three expenditures totaling approximately \$1,220 disclosed on the respondent's January 2008 semiannual report. The report disclosed two expenditures to American Express Merchant Services totaling approximately \$320. The report disclosed one expenditure to an individual totaling \$904.67. The complaint alleged that the respondent did not disclose the actual vendor payees of the expenditures. In response to the complaint, the respondent stated that American Express Merchant Services was the actual vendor payee who provided online contribution services. The payment to the individual totaling \$904.67 was corrected to show the true vendors of the products or services that were purchased.
35. The next allegation arose from one expenditure for \$293.83 disclosed on the respondent's 30-day pre-election report for the March 2008 primary election. The report disclosed the one expenditure to Merchant Bankcard. The complaint alleged that the respondent did not disclose the actual vendor payee of the payment. In response to the complaint, the respondent stated that Merchant Bankcard was the actual vendor payee who provided online contribution services.
36. The next allegation arose from four expenditures totaling approximately \$1,430 disclosed on the respondent's 8-day pre-election report for the March 2008 primary election. The report disclosed one expenditure to American Express Merchant Services totaling \$186.96. The report also disclosed three expenditures totaling approximately \$1,240 to three individuals. The complaint alleged that the respondent did not disclose the actual vendor payees of the payments. In response to the complaint, the respondent stated that American Express Merchant Services was the actual vendor payee who provided online contribution services. The payments to the individuals totaling approximately \$1,240 were corrected to disclose the true vendors of the products or services that were purchased.
37. The next allegation arose from seven expenditures totaling approximately \$2,850 disclosed on the respondent's July 2008 semiannual report. The report disclosed three expenditures to Merchant Bankcard totaling approximately \$340. The report also disclosed four expenditures totaling approximately \$2,510 to four individuals. The complaint alleged that the respondent did not disclose the actual vendor payees of the payments. In response to the complaint, the respondent stated that Merchant Bankcard and one of the individuals were the actual vendor payees who provided online contribution services and entertainment services, respectively. The payments to the other individuals totaling approximately \$510 were corrected to disclose the true vendors of the products or services that were purchased.
38. The next allegation arose from 18 expenditures totaling approximately \$21,230 disclosed on the respondent's 30-day pre-election report for the November 2008 general election.

The report disclosed eight expenditures to American Express Merchant Services, Chase, Citi, Merchant Bankcard for approximately \$12,580. The report disclosed 10 expenditures made to Bay Area New Democrats and five individuals totaling approximately \$8,650. In response to the complaint, the respondent stated that American Express Merchant Services and Merchant Bankcard were the actual vendor payees who provided online contribution services. In addition, the respondent swore that the payments to Bay Area New Democrats and two of the individuals identified the correct vendor payees. The payments to Chase, Citi, and three individuals totaling approximately \$13,350 were corrected to disclose the true vendors of the products or services that were purchased.

39. The next allegation arose from seven expenditures totaling approximately \$1,500 disclosed on the respondent's 8-day pre-election report for the November 2008 general election. The report disclosed one expenditure to American Express Merchant Services for \$103.55. The report also disclosed expenditures to PayPal and four individuals totaling approximately \$1,390. In response to the complaint, the respondent stated that American Express Merchant Services and one of the individuals were the actual vendor payees who provided online contribution services and consulting services, respectively. The payments to the other individuals totaling approximately \$1,280 were corrected to disclose the true vendors of the products or services that were purchased.
40. The next allegation arose from seven expenditures totaling approximately \$3,900 disclosed on the respondent's January 2009 semiannual report. The report disclosed five expenditures to American Express Merchant Services and Merchant Bankcard for approximately \$1,100. The report also disclosed payments to two individuals totaling \$2,500. In response to the complaint, the respondent stated that American Express Merchant Services, Merchant Bankcard, and one of the individuals were the actual vendor payees who provided online contribution services and entertainment services, respectively. The payment to the other individual totaling \$1,000 was corrected to disclose the true vendor of the products or services that were purchased.
41. The final allegation arose from one \$250 expenditure to an individual disclosed on the respondent's July 2009 semiannual report. The complaint alleged that the respondent did not disclose the actual vendor payee of the payment. In response to the complaint, the respondent stated that the individual was paid for services that she provided.

Out-of-State Political Committee Information

42. The complaint alleged that the respondent failed to include the out-of-state political committee identification number on contributions from out-of-state political committees on two campaign finance reports. The respondent's 8-day pre-election report for the March 2008 primary election disclosed three contributions totaling approximately \$62 from ActBlue, an out-of-state political committee. The committee is listed in FEC records. The respondent did not include the out-of-state committee's FEC identification

number. In response to the complaint, the respondent filed a corrected report and included the committee's FEC identification number on each applicable contribution.

43. The respondent's July 2008 semiannual report disclosed seven contributions from two out-of-state political committees. Six contributions, totaling approximately \$106, were from ActBlue and one contribution for \$250 was from People for the American Way Voters Alliance of Texas. Both committees are listed in FEC records. The contributions did not disclose the out-of-state political committees' FEC identification numbers. In response to the complaint, the respondent filed a corrected report and included the committee's FEC identification number on each applicable contribution.

Occupation or Job Title and Name of Employer

44. The complaint alleged that the respondent failed to disclose the principal occupations or job titles and names of employers for his contributors on seven campaign finance reports. The first allegation was that the respondent failed to disclose the occupations and employers of 13 contributors on his January 2008 semiannual report. The report disclosed 371 political contributions, 102 of which equaled or exceeded \$500. Three of the 102 contributions, totaling \$3,000, did not disclose the principal occupations or job titles and employers of the contributors (two disclosed employer information, one provided no disclosure). The respondent filed a corrected report and disclosed the occupations and employers of the three contributors that were not included in the original report.
45. The next allegation was that the respondent failed to report the occupation and employer of one unspecified contributor on his 30-day pre-election report for the March 2008 primary election. The report disclosed 14 political contributions, 3 of which equaled or exceeded \$500. Where required, the occupations and employers of the contributors were disclosed.
46. The next allegation was that the respondent failed to report the occupations and employers of four unspecified contributors on his 8-day pre-election report for the March 2008 primary election. The report disclosed 50 political contributions, 18 of which equaled or exceeded \$500. Where required, the occupations and employers of the contributors were disclosed.
47. The next allegation was that the respondent failed to report the occupations and employers of 28 unspecified contributors on his July 2008 semiannual report. The report disclosed 392 political contributions, 129 of which equaled or exceeded \$500. Where required, the occupations and employers of the contributors were disclosed.
48. The next allegation was that the respondent failed to report the occupations and employers of 16 unspecified contributors on his 30-day pre-election report for the November 2008 general election. The report disclosed 183 political contributions, 63 of

which equaled or exceeded \$500. Where required, the occupations and employers of the contributors were disclosed.

49. The next allegation was that the respondent failed to report the occupations and employers of nine unspecified contributors on his 8-day pre-election report for the November 2008 general election. The report disclosed 101 political contributions, 51 of which equaled or exceeded \$500. Five of the 51 contributions, totaling \$9,300, did not disclose the principal occupations and employers of the contributors. The respondent filed a corrected report and disclosed the occupations and employers of the five contributors that were not included in the original report.
50. The final allegation was that the respondent failed to report the occupations and employers of five contributors on his January 2009 semiannual report. The report disclosed 35 political contributions, eight of which equaled or exceeded \$500. Where required, the occupations and employers of the contributors were disclosed.

Personal Use of Political Contributions

51. The complaint alleged that the respondent converted political contributions to personal use based on political expenditures that the respondent disclosed on four campaign finance reports. The respondent's 8-day pre-election report for the March 2008 primary election disclosed two political expenditures totaling approximately \$1,060. One expenditure for \$790.58 was made to Joseph S. Jaworski PC and one expenditure for 268.45 was made to T-Mobile. The stated purpose of each expenditure was "Telephone." In response to the complaint, the respondent stated that the expenditure to Joseph S. Jaworski PC was a reimbursement for the payment it made for campaign cellular phone units and service. The respondent corrected the report to identify the actual payee of the expenditure. The respondent corrected the purpose of expenditure to T-Mobile to reflect that it was made for campaign purposes.
52. The respondent's July 2008 semiannual report disclosed 12 political expenditures totaling approximately \$3,240. Ten expenditures totaling approximately \$2,200 were made to AT&T Mobility Cingular for the purpose of "Campaign Telephone", two expenditures totaling \$70 were made to Harris County Toll Road Authority for the purpose of "EZ Pass", and one expenditure totaling \$966.60 was made to Fry's Electronics for the purpose of "Office Supplies." In response to the complaint, the respondent stated that the expenditures to AT&T Mobility Cingular were made for campaign blackberry monthly service charges for himself and several campaign workers, the expenditures made to Harris County Toll Road Authority were for toll road charges incurred when going to and from campaign events and appearances, and the expenditure made to Fry's Electronics was made for campaign office equipment.
53. The respondent's 8-day pre-election report for the November 2008 general election disclosed six political expenditures totaling approximately \$1,370. Four expenditures

totaling approximately \$1,290 were made to AT&T Mobility Cingular for the purpose of "Campaign Telephone" and two expenditures totaling \$80 were made to Harris County Toll Road Authority for the purpose of "EZ Pass." In response to the complaint, the respondent stated that the expenditures to AT&T Mobility Cingular were made for campaign blackberry monthly service charges for himself and campaign workers, and the expenditures made to Harris County Toll Road Authority were for toll road charges incurred when going to and from campaign events and appearances.

54. The respondent's January 2009 semiannual report disclosed two political expenditures totaling approximately \$750 made to AT&T Mobility Cingular for the purpose of "Campaign Telephone." In response to the complaint, the respondent stated that the expenditures to AT&T Mobility Cingular were made for campaign blackberry monthly service charges for himself and campaign workers.

Outstanding Loans

55. The complaint alleged that the respondent failed to properly report an outstanding loan on his January 2009 semiannual report. The respondent reported \$64,000 as the total principal amount of all outstanding loans. The complaint alleged that the respondent failed to provide detailed information about the loans. Beginning with the January 2007 semiannual report through the January 2009 semiannual report, the respondent disclosed itemized loans totaling \$74,000. The respondent's original and corrected 30-day pre-election reports for the November 2008 general election disclose that on August 6, 2008, the respondent made a \$10,000 loan payment. The respondent reported detailed loans totaling \$64,000 on his 8-day pre-election report for the November 2008 general election.

IV. Findings and Conclusions of Law

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

Total Political Contributions Maintained

1. Each report must include as of the last day of the reporting period, 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).
2. The respondent filed corrected reports to disclose the correct amount of total political contributions maintained on the eight reports at issue. The corrected reports disclose discrepancies for total political contributions maintained ranging from approximately \$116 to \$11,570. At the time the original reports were filed the respondent incorrectly reported his total political contributions maintained. Therefore, there is credible evidence of violations of section 254.031(a)(8) of the Election Code.

Contributions from Corporations or Labor Unions

3. A person may not knowingly accept a political contribution that the person knows was made in violation of chapter 253 of the Election Code. ELEC. CODE § 253.003.
4. A corporation may not make a political contribution or political expenditure that is not authorized by subchapter D, chapter 253, Election Code. ELEC. CODE § 253.094.
5. The prohibition applies to corporations that are organized under the Texas Business Corporation Act, the Texas For-Profit Corporation Law, the Texas Non-Profit Corporation Act, the Texas Nonprofit Corporation Law, federal law, or law of another state or nation. ELEC. CODE § 253.091.
6. For 12 of the political contributions at issue, there is credible evidence of no violation of sections 253.003 and 253.094 of the Election Code. Regarding the contributions from KNA Partners (two contributions), American Federation of State County and Municipal Employees, C&M, LLC, and Arnold Interests, there is insufficient evidence of violations of sections 253.003 and 253.094 of the Election Code.

Purposes of Political Expenditures

7. Each campaign finance report must include the amount of political expenditures that in the aggregate exceed \$50 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).
8. The report of a political expenditure for goods or services must describe the categories of goods or services received in exchange for the expenditure. Ethics Commission Rules § 20.61.
9. The respondent's original reports disclosed political expenditures totaling approximately \$80,030 that did not provide a complete purpose description or that did not include a description of the categories of goods and services provided. However, the respondent filed corrections to the reports at issue to more specifically disclose the purposes of his campaign expenditures. At the time the original reports were filed, the respondent did not properly disclose the purposes of his campaign expenditures. Therefore, there is credible evidence of violations of section 254.031(a)(3) of the Election Code and Ethics Commission Rule 20.61.

Political Expenditures as Reimbursements

10. A report of a political expenditure by credit card must identify the vendor who receives payment from the credit card company. Ethics Commission Rules § 20.59.

11. Political expenditures made out of personal funds by a staff member of an officeholder, a candidate, or a political committee with the intent to seek reimbursement from the officeholder, candidate, or political committee that in the aggregate do not exceed \$5,000 during the reporting period may be reported as follows if the reimbursement occurs during the same reporting period that the initial expenditure was made: the amount of political expenditures that in the aggregate exceed \$50 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; and, as applicable, included with the total amount or a specific listing, the political expenditures of \$50 or less made during the reporting period. Except as provided above, a political expenditure made out of personal funds by a staff member of an officeholder, a candidate, or political committee with the intent to seek reimbursement from the officeholder, candidate, or political committee must be reported as follows: the aggregate amount of the expenditures made by the staff member as of the last day of the reporting period is reported as a loan to the officeholder, candidate, or political committee; the expenditure made by the staff member is reported as a political expenditure by the officeholder, candidate, or political committee; and the reimbursement to the staff member to repay the loan is reported as a political expenditure by the officeholder, candidate, or political committee. Ethics Commission Rules § 20.62.
12. The respondent failed to properly disclose the vendor for political expenditures made by credit card totaling approximately \$11,260. The respondent disclosed the name of the person he reimbursed instead of the actual payee for political expenditures totaling approximately \$7,030. The respondent filed corrections to each report at issue to identify the true vendor payee of the goods or services purchased. However, when the reports were originally filed they did not include the required information. Therefore, there is credible evidence of violations of section 254.031(a)(3) of the Election Code and Ethics Commission Rules §§ 20.59 and 20.62.

Out-of-State Political Committee Information

13. A candidate, officeholder, or political committee that accepts a political contribution from a political committee that files with the Federal Election Commission must include the FEC statement of organization or FEC identification number as a part of the report filed under Chapter 254 for the reporting period in which the contribution was accepted. ELEC. CODE § 253.032; Ethics Commission Rule § 20.29.
14. The respondent filed corrections to each report at issue to disclose the FEC identification number for each out-of-state committee that contributed to his campaign. However, at the time the reports were originally filed, the respondent failed to include this information for two out-of-state political committees. Therefore, there is credible evidence of violations of section 253.032 of the Election Code and Ethics Commission Rules § 20.29.

Occupation or Job Title and Name of Employer

15. Each report by a candidate for statewide office in the executive branch or 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 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.
16. As a candidate for state senator, the respondent was required to disclose the occupations and employers of contributors whose contributions equaled or exceeded \$500. The respondent failed to provide complete information for eight contributors. The respondent filed corrections to the reports at issue to disclose the occupations and employers of the contributors at issue. However, he failed to provide this information when the original reports were filed. Therefore, there is credible evidence of violations of section 254.0612 of the Election Code.

Personal Use of Political Contributions

17. A person who accepts a political contribution as a candidate or officeholder may not convert the contribution to personal use. ELEC. CODE § 253.035(a). Personal use is a use that primarily furthers individual or family purposes not connected with the performance of duties or activities as a candidate or officeholder. *Id.* § 253.035(d). Personal use does not include payments made to defray ordinary and necessary expenses incurred in connection with activities as a candidate or in connection with the performance of duties or activities as a public officeholder, including payment of reasonable housing or household expenses incurred in maintaining a residence in Travis County by members of the legislature who do not ordinarily reside in Travis County. *Id.* § 253.035(d)(1).
18. The campaign finance reports and corrections indicate that the political expenditures at issue were incurred in connection with the respondent's activities as a state senate candidate and were not made for personal use. There was no evidence that showed a conversion to personal use. Therefore, there is credible evidence of no violation of section 253.035(a) of the Election Code.

Outstanding Loans

19. Each campaign finance report must include the aggregate principal amount of all outstanding loans as of the last day of the reporting period. ELEC. CODE § 254.031(a)(2).
20. The respondent provided detailed information about each loan at the time it was received by his campaign. On his January 2009 semiannual report, he disclosed the aggregate principal amount of all outstanding loans as of the last day of the reporting period, as required by the Election Code. The reports filed with the commission indicated that this

was correct. Therefore, there is credible evidence of no violation of section 254.031(a)(2) 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 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 report must include as of the last day of the reporting period, 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. The respondent also acknowledges that each campaign finance report must include the amount of political expenditures that in the aggregate exceed \$50 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 respondent also acknowledges that the report of a political expenditure for goods or services must describe the categories of goods or services received in exchange for the expenditure. The respondent also acknowledges that a report of a political expenditure by credit card must identify the vendor who receives payment from the credit card company. The respondent also acknowledges that the proper way to report reimbursements to staff is in accordance with section 20.62 of the Ethics Commission Rules. The respondent also acknowledges that a candidate that accepts a political contribution from a political committee that files with the Federal Election Commission must include the FEC statement of organization or FEC identification number as a part of the report filed under Chapter 254 for the reporting period in which the contribution was accepted. The respondent also acknowledges that each report by a candidate for statewide office in the executive branch or 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 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 \$3,000 civil penalty for the violations described under sections III and IV.

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-2908193 and SC-2909202.

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

Joseph Jaworski, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director