

TEXAS ETHICS COMMISSION

IN THE MATTER OF

DAVID M. MEDINA,
CAMPAIGN TREASURER,
TEXANS FOR MEDINA,

RESPONDENT

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BEFORE THE

TEXAS ETHICS COMMISSION

SC-31205185

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on December 2, 2013, to consider sworn complaint SC-31205185. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 253.035, 253.1611, 254.031, 254.0611, 254.1211, and 254.124 of the Election Code and section 20.61 of the Ethics Commission Rules, laws administered and enforced by the commission. To resolve and settle this complaint without further proceedings, the commission proposed this resolution to the respondent.

II. Allegations

The complaint alleged that the respondent: 1) did not properly disclose on campaign finance reports total political contributions maintained; 2) did not properly disclose on multiple campaign finance reports political contributions and political expenditures; 3) accepted a political contribution from a corporation or labor organization; 4) did not properly report an asset valued at \$500 or more; 5) did not disclose in campaign finance reports the principal occupation or job title and full name of employer for certain contributors; 6) converted political contributions to personal use; 7) did not follow statutory guidelines when making political contributions to candidates, officeholders, and political committees; 8) did not timely file a pre-election campaign finance report; and 9) did not properly report political expenditures for which reimbursements were made.

III. Facts Supported by Credible Evidence

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

1. During the period of time relevant to the complaint, the respondent was the campaign treasurer for Texans for Medina, a specific-purpose committee created to support and

assist the respondent as a candidate for and holder of the office of Texas Supreme Court justice.

Total Political Contributions Maintained

2. The complaint alleged that the respondent reported an incorrect balance for total political contributions maintained in the committee's January 2012 semiannual report and 30-day pre-election report for the May 29, 2012, primary election. In response to the complaint, the respondent provided copies of the committee's bank statements. The original disclosures along with the account balances shown on the committee's bank statements were as follows:
 - January 2012 Semiannual Report - disclosed \$102,757.84; bank statement showed \$97,370.52; difference is \$5,387.32
 - 30-day Pre-election Report - disclosed \$144,733.40; bank statement showed \$144,733.40

Full Names of Contributors

3. The complaint alleged that the respondent did not properly disclose the full names of four contributors who made political contributions totaling \$2,600. The political contributions were disclosed on Schedule A (used to disclose political contributions) of the committee's January 2012 semiannual report and 30-day pre-election report for the May 2012 primary election. Three contributions totaling \$1,100 were disclosed from individuals with an initial as the first name, and the remaining \$1,500 in contributions were disclosed from law firms.
4. In response to the complaint, the respondent swore that the names of the contributors are true and provided copies of the contribution checks. Regarding a contribution from one individual, the name disclosed by the respondent is the same as the name that appears on the check. Regarding the contributions from another individual, the checks bear a name with an additional initial and the name of another individual on the account.

Timely Reporting Political Contributions

5. The complaint alleged that the respondent did not timely report a \$5,000 political contribution from Texans for Lawsuit Reform PAC (TLR), a general-purpose committee that files with the commission. The complaint allegation was based on TLR's 30-day pre-election report for the May 2012 primary election, which disclosed a \$5,000 campaign contribution to "Justice David Medina Campaign" on January 9, 2012.
6. The respondent disclosed the \$5,000 contribution from TLR with the date of May 1, 2012.

7. In response to the complaint, the respondent provided bank statements from January 1, 2012, through May 31, 2012, and claimed that the check was not actually received until May 1, 2012 (the respondent was unable to obtain a copy of the contribution check). The bank records show that on May 8, 2012, the respondent made a deposit of \$19,700, a portion of which included a \$5,000 contribution. However, the bank records do not indicate the source of the \$5,000 contribution.

Payee Addresses

8. The complaint alleged that the respondent did not disclose the complete payee address for 22 political expenditures. Fourteen of the political expenditures at issue were less than \$100 in the aggregate during the reporting period. The remaining eight political expenditures at issue were disclosed on Schedule F (used to disclose political expenditures) of the committee's January 2012 semiannual report and 30-day pre-election report for the May 2012 primary election.
9. Regarding the January 2012 semiannual report, the respondent disclosed three political expenditures totaling approximately \$405 that were made to businesses. Regarding these expenditures, the respondent did not provide a zip code for the businesses. The respondent also disclosed a \$500 political expenditure to an individual. Regarding that expenditure, the respondent did not provide the individual's street address, city, and zip code.
10. Regarding the 30-day pre-election report, the respondent disclosed four political expenditures totaling approximately \$1,255 that were made to political parties and other organizations. Regarding these expenditures, the respondent did not include portions of the payees' address, such as a street number or P. O. Box number.

Payee Names

11. The complaint alleged that the respondent did not disclose the full names of two payees of political expenditures. The relevant portions of the political expenditures at issue were disclosed on Schedule F of the committee's 30-day pre-election report for the May 2012 primary election as follows:
 - February 27, 2012, \$200 to LLS, under the category of "Advertising Expense" with a description of "advertising/donation"
 - March 4, 2012, \$300 to TCHA, under the category of "Event Expense" with a description of "donation"
12. In response to the complaint, the respondent swore that "LLS" is the name of the company, and that "TCHA" will be spelled out in a corrected report.
13. Regarding the expenditures at issue, the payees appeared to be non-profit organizations or associations.

Purpose of Political Expenditures

14. The complaint alleged that the respondent did not properly disclose the purpose of two political expenditures. One of the expenditures was less than \$100 in the aggregate. The remaining political expenditure at issue was disclosed on Schedule F of the committee's 30-day pre-election report for the May 2012 primary election as follows:
- January 9, 2012, \$2,298.18 to an individual, under the category of "Solicitation/Fundraising Expense" with a description of "fundraising expense"
15. In response to the complaint, the respondent swore that the description of the expenditure is proper and correct.

Political Expenditures for Travel Outside of Texas

16. The complaint alleged that the respondent did not disclose on Schedule T (used to disclose political expenditures for travel outside of Texas) three political expenditures made for travel outside of Texas. The political expenditures at issue were disclosed on Schedule F of the committee's reports as follows:

January 2012 Semiannual Report

- July 18, 2011, \$587.60 to US Airways (Atlanta, Georgia address), under the category of "Travel Out of District" with a description of "airline ticket to attend Hispanic National Bar Association meeting"

30-day Pre-election Report for the May 2012 Primary Election

- March 12, 2012, \$34 to American Airlines, under the category of "Travel Out of District" with a description of "Flight change. Travel to Hispanic National Bar Association Conference"
 - March 13, 2012, \$286.80 to American Airlines, under the category of "Travel Out of District" with a description of "Attend Hispanic National Bar Association Conference in New Jersey"
17. The political expenditures at issue were not disclosed on Schedule T of the committee reports. In response to the complaint, the respondent swore that the reports would be corrected to include a Schedule T.

Actual Payees of Political Expenditures

18. The complaint alleged that the respondent did not disclose the actual recipient of two political expenditures totaling approximately \$110. The political expenditures at issue were disclosed on Schedule F of the committee's 30-day pre-election report for the May 2012 primary election as follows:

- February 21, 2012, \$49.27 to a gas station, under the category of “Travel In District” with a description of “gas for volunteer”
- March 9, 2012, \$60.18 to a gas station, under the category of “Travel In District” with a description of “gas for volunteer”

Accepting a Political Contribution from a Corporation

19. The complaint alleged that the respondent accepted a political contribution from a corporation. The contribution at issue was disclosed on Schedule A of the committee’s 30-day pre-election report for the May 2012 primary election as follows:
 - April 12, 2012, \$100 from Cafferytown LTD
20. In response to the complaint, the respondent swore that Cafferytown informed him that they were a permissible contributor. Credible evidence indicated that the contribution was made by an individual partner of Cafferytown Ltd. out of his personal funds, which were distributed to him in the form of a partnership check made payable to Texans for Medina. The contribution check at issue was from Cafferytown Ltd. but included a notation that it was a contribution from the individual partner. The contributor address disclosed in the respondent’s 30-day pre-election report was the address of the individual partner.

Reporting an Asset of \$500 or More

21. The complaint alleged that the respondent did not properly report the purchase of an asset valued at \$500 or more. The political expenditure at issue was disclosed on Schedule F of the committee’s January 2012 semiannual report as follows:
 - November 21, 2011, \$595.36 to a vendor, under the category of “Office Overhead/Rental Expense” with a description of “campaign computer”
22. The asset was not disclosed on Schedule M (used to disclose the purchase of assets valued at \$500 or more) of any committee reports. In response to the complaint, the respondent swore that the value of the campaign computer became less than \$500 after it was purchased and taken out of the store.

Contributor Employer and Law Firm

23. The complaint alleged that the respondent did not properly disclose the principal occupation or job title and the full name of the employer or law firm for 40 contributors that were disclosed in the committee’s January 2012 semiannual report and 30-day pre-election report for the May 2012 primary election.
24. Regarding the January 2012 semiannual report, the respondent did not provide any principal occupation and employer information for 37 contributors who made political

contributions totaling \$25,750. In response to the complaint, the respondent swore that the information was mistakenly omitted.

25. Regarding the 30-day pre-election report, there are three contributions at issue totaling \$1,450. For two of the contributions totaling \$450, the respondent listed the contributors' principal occupation and job titles as "attorney," and employer/law firm as "self employed." Regarding these contributions, the contributors were sole proprietors whose names appeared in the title of each law firm. For one of the contributions of \$1,000, the respondent listed the contributor's principal occupation and job title as "CEO," and employer/law firm as "CWEL." Regarding this contribution, credible evidence indicated that the contributor was the CEO of an entity using the acronym "CWEL."

Personal Use of Political Contributions

26. The complaint alleged that the respondent converted political contributions to personal use based on 76 political expenditures totaling approximately \$2,580 that were disclosed in the committee's January 2012 semiannual report and 30-day pre-election report for the May 2012 primary election.
27. Regarding the 76 political expenditures at issue, all of the expenditures were made to restaurants and convenience stores with stated descriptions of "campaign meeting," "court meeting," "campaign meal," "meal," "meeting," or "travel expense."

Contributions to Candidates, Officeholders, and Political Committees

28. The complaint alleged that the respondent made political contributions that in the aggregate exceeded \$100 to candidates and officeholders during calendar years 2011 and 2012. The complaint also alleged that the respondent used political contributions to knowingly make political contributions to political committees in excess of \$250 during calendar year 2011 in which the respondent's office held was not on the ballot. The contributions at issue were disclosed on Schedule F of the committee's January 2012 semiannual report and 30-day pre-election report for the May 2012 primary election as follows:

January 2012 Semiannual Report

- August 22, 2011, \$369.93 to Justice Don Willette Campaign, under the category of "Food/Beverage Expense" with a description of "food and beverage costs for courts event" (disclosed as a credit in Texans for Willett's January 2012 semiannual report)
- September 15, 2011, \$1,801.39 to Justice Don Willette Campaign, under the category of "Food/Beverage Expense" with a description of "food and beverages for court events" (disclosed as a credit in Texans for Willett's January 2012 semiannual report)

- September 15, 2011, \$3,173.73 to Justice Paul Green Campaign, under the category of “Food/Beverage Expense” with a description of “court holiday events and court seminars” (disclosed as a credit in Justice Green’s January 2012 semiannual report)
- September 15, 2011, \$204.71 to Justice Phil Johnson Campaign, under the category of “Food/Beverage Expense” with a description of “food and beverages for court event”
- November 14, 2011, \$155.56 to Justice Don Willette Campaign, under the category of “OTHER – Texas Lawyer Subscription” with a description of “Texas Lawyer Subscription”

30-day Pre-election Report

- January 3, 2012, \$542.83 to Justice Paul Green Campaign, under the category of “Food/Beverage Expense” with a description of “court holiday reception” (disclosed as a credit in Justice Green’s July 2012 semiannual report)
29. In response to the complaint, the respondent swore that the expenditures at issue were not political contributions. The respondent swore that the expenditures were for his share of food and beverage costs for court events, court seminars, and court subscriptions. The recipients of the payments at issue did not disclose the expenditures as political contributions from the respondent.

Contributions to Political Committees for Primary Election

30. The complaint alleged that the respondent made unlawful political contributions to political committees in connection with the May 29, 2012, Republican Party primary election, in which the respondent was an opposed incumbent candidate for Texas Supreme Court Justice. One of the payees at issue, the Texas Police Association, is not a political committee. The remaining political contributions at issue were disclosed on Schedule F of Texans for Medina’s 30-day pre-election report for the May 2012 primary election as follows:

Republican Women of Milam County (RWMC)

- February 9, 2012, \$230, under the category of “Advertising Expense” with a description of “advertising expense”
 - February 9, 2012, \$50, under the category of “Event Expense” with a description of “candidate forum”
31. RWMC is a general-purpose committee that files campaign finance reports semiannually with the commission. The two expenditures at issue were disclosed by RWMC as a \$280 political contribution. The payments appeared to have been made in connection with

RWMC's Reagan Day Celebration event that was held on February 9, 2012. In response to the complaint, the respondent swore that the expenditures were not political contributions, but rather, campaign expenditures to pay for campaign advertising and forums.

Tarrant County Republican Party (TCRP)

- February 1, 2012, \$300, under the category of "Event Expense" with a description of "GOP Straw Poll"
32. TCRP is a county executive committee that files campaign finance reports semiannually with the commission. The expenditure at issue was disclosed by TCRP as a political contribution. The payment was made in connection with TCRP's Candidate Fair and Straw Poll event that was held on February 4, 2012. In response to the complaint, the respondent swore that the expenditure was not a political contribution, but rather, a campaign expenditure to pay for a straw poll.

Williamson County Republican Party General Election Campaign Fund (WCRP)

- February 6, 2012, \$975, under the category of "Advertising Expense" with a description of "advertisement expense"
 - February 6, 2012, \$75, under the category of "Event Expense" with a description of "candidate forum"
33. WCRP is a general-purpose committee that files campaign finance reports semiannually with the commission.
34. The two expenditures at issue were disclosed by WCRP as political contributions in its July 2012 semiannual report. The payments appeared to have been made in connection with WCRP's Reagan Dinner event that was held on February 6, 2012. In response to the complaint, the respondent swore that the expenditures were not political contributions, but rather, campaign expenditures to pay for campaign advertising and forums.

Timely Filing Campaign Finance Report

35. The complaint alleged that the respondent did not timely file the committee's 30-day pre-election report for the May 29, 2012, Republican Party primary election, in which the respondent was an opposed incumbent candidate for Texas Supreme Court Justice, Place 4.
36. During the periods at issue, the respondent was the campaign treasurer of Texans for Medina, a specific-purpose committee that files campaign finance reports with the commission. Accordingly, the respondent was required to file the committee's 30-day pre-election report for the May 2012 primary election by April 30, 2012. The respondent filed the report on May 1, 2012, which was one day after the filing deadline.

Disclosure of Reimbursements

37. The complaint alleged that the respondent did not properly disclose original expenditures for which a \$3,600 reimbursement was made. The reimbursement at issue was disclosed on Schedule F of the committee's January 2012 semiannual report as follows:
- October 30, 2011, \$3,600 to David Medina, under the category of "Loan Repayment/Reimbursement" with a description of "office holder campaign phone expense Jan. 2009-Dec 2009 \$1800. Jan 2010 to Dec 2010 \$1800."
38. The committee's campaign finance reports that are on file with the commission do not disclose any telephone-related political expenditures or personal loans from the respondent from January 2009 through December 2010. Moreover, the respondent's judicial candidate/officerholder reports from 2001 to 2013 that are on file with the commission disclose \$0 in total activity. Accordingly, the respondent did not disclose the original telephone expenditures during the periods for which the \$3,600 reimbursement was alleged to have been made.

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 for which the person is required to file a report, 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. Regarding the January 2012 semiannual report at issue, there is credible evidence of a violation of section 254.031(a)(8) of the Election Code with respect to that report.
3. Regarding the 30-day pre-election report at issue, the respondent properly reported the total political contributions maintained balance. Therefore, there is credible evidence of no violation of section 254.031(a)(8) of the Election Code with respect to that report.

Full Names of Contributors

4. Each 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 not a valid basis of a complaint to allege that a report required under Chapter 254, Election Code, contains the improper name or address of a person from whom a political

contribution was received if the name or address in the report is the same as the name or address that appears on the check for the political contribution. GOV'T CODE § 571.122(2).

6. Regarding a \$1,000 contribution from one law firm, the respondent disclosed the contributor's full name. Therefore, there is credible evidence of no violation of section 254.031(a)(1) of the Election Code with respect to that contribution. Regarding a \$500 contribution from another law firm, the fact that the respondent did not disclose the full name of the law firm was not misleading and did not substantially affect disclosure. Therefore, there is credible evidence of a technical or *de minimis* violation of section 254.031(a)(1) of the Election Code with respect to that contribution.
7. Regarding the three contributions totaling \$1,100 that were from individuals, the respondent was required to provide each contributor's full name because each contribution exceeded \$50 during the reporting period. Regarding a \$100 contribution from an individual, the name disclosed by the respondent is the same as the name that appears on the check. Therefore, there is credible evidence of no violation of section 254.031(a)(1) of the Election Code with respect to that contribution. Regarding the remaining \$1,000 in contributions, the checks bear the names of one individual with an additional initial and the name of another individual. The respondent did not provide the contributor's complete first name, and the name disclosed by the respondent is not the same as the name that appears on the checks. Therefore, there is credible evidence of violations of section 254.031(a)(1) of the Election Code with respect to those two contributions.

Timely Reporting Political Contributions

8. Each 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).
9. A campaign finance report must include the total amount of all political contributions accepted and the total amount of all political expenditures made during the reporting period. ELEC. CODE § 254.031(a)(6).
10. Regarding the contribution from TLR, there is insufficient evidence to determine whether the date reported by the respondent was incorrect. Therefore, there is insufficient evidence of a violation of sections 254.031(a)(1) and 254.031(a)(6) of the Election Code.

Payee Addresses

11. A campaign finance report must include the amount of political expenditures that in the aggregate exceed \$100 and that are made during the reporting period, the full name and

address of the persons to whom political expenditures are made, and the dates and purposes of the expenditures. ELEC. CODE § 254.031(a)(3).

12. The respondent was not required to provide complete address information for 14 expenditures at issue because they did not exceed \$100 in the aggregate. The respondent was required to provide complete address information for the eight remaining political expenditures at issue that exceeded \$100 in the aggregate. Regarding the political expenditure for \$500 that was made to an individual, the respondent did not provide a street address, city, and zip code. Therefore, there is credible evidence of a violation of section 254.031(a)(3) of the Election Code with respect to that expenditure. Regarding the remaining seven political expenditures totaling approximately \$1,660 that were made to businesses and other organizations, the respondent did not provide complete address information. However, the omissions were not misleading and did not substantially affect disclosure because complete address information for each entity would have been readily ascertainable. Therefore, there is credible evidence of technical or *de minimis* violations of section 254.031(a)(3) of the Election Code with respect to those seven expenditures.

Payee Names

13. The name of an entity that is required to be included in the name of the committee may be a commonly recognized acronym by which the entity is known. ELEC. CODE § 252.003(d).
14. Regarding the contribution from LLS, the acronym used by the respondent is a commonly recognized acronym by which the payee is known. Therefore, there is credible evidence of no violation of section 254.031(a)(3) of the Election Code with respect to that expenditure.
15. Regarding the contribution from TCHA, the acronym used by the respondent is a commonly recognized acronym by which the payee is known. However, the address information provided by the respondent does not appear to be correct. Therefore, there is credible evidence of a technical or *de minimis* violation of section 254.031(a)(3) of the Election Code with respect to that expenditure.

Purpose of Political Expenditures

16. The purpose of an expenditure means a description of goods, services, or other thing of value and must include a brief statement or description of the candidate, officeholder, or political committee activity that is conducted by making the expenditure. The brief statement or description must include the item or service purchased and must be sufficiently specific, when considered within the context of the description of the category, to make the reason for the expenditure clear. Merely disclosing the category of goods, services, or other thing of value for which the expenditure is made does not adequately describe the purpose of an expenditure. Ethics Commission Rules § 20.61.

17. The respondent was not required to disclose the purpose of one expenditure at issue because it did not exceed \$100 in the aggregate. Regarding the remaining expenditure at issue, the description of “fundraising expense” repeats the category that was disclosed and does not sufficiently describe what goods or services the respondent purchased. Therefore, there is credible evidence of a violation of section 254.031(a)(3) of the Election Code and section 20.61 of the Ethics Commission Rules.

Political Expenditures for Travel Outside of Texas

18. A campaign finance report must include, for all political expenditures that in the aggregate exceed \$50 (\$100 as of September 28, 2011) and that are made during the reporting period, the full name and address of the persons to whom political expenditures are made and the dates and purposes of the expenditures. ELEC. CODE § 254.031(a)(3).
19. The description of a political expenditure for travel outside of the state of Texas must provide the name of the person or persons traveling on whose behalf the expenditure was made, the means of transportation, the name of the departure city or the name of each departure location, the name of the destination city or the name of each destination location, the dates on which the travel occurred, and the campaign or officeholder purpose of the travel, including the name of the conference, seminar, or other event. Ethics Commission Rules § 20.61(b).
20. The respondent made three political expenditures totaling approximately \$910 for travel outside the state of Texas and did not disclose the expenditures on Schedule T of the committee’s January 2012 semiannual report and 30-day pre-election report for the May 2012 primary election. Therefore, there is credible evidence of violations of section 254.031(a)(3) of the Election Code and section 20.61(b) of the Ethics Commission Rules.

Actual Payees of Political Expenditures

21. A campaign finance report must include the amount of political expenditures that in the aggregate exceed \$100 and that are made during the reporting period, the full name and address of the persons to whom political expenditures are made, and the dates and purposes of the expenditures. ELEC. CODE § 254.031(a)(3).
22. Ethics Commission Rule § 20.62 states that political expenditures made out of personal funds by a staff member of an officeholder or candidate, with the intent to seek reimbursement from the officeholder or candidate, 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:
 - (1) 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

- (2) Included with the total amount or a specific listing of the political expenditures of \$50 or less made during the reporting period.
23. The complaint alleges that the respondent was required to disclose the ultimate recipient of the expenditure for gas. However, the disclosures on their face are not incorrect and there is no evidence to show that the disclosed payee was not the proper payee. Therefore, there is credible evidence of no violation of section 254.031(a)(3) of the Election Code and section 20.62 of the Ethics Commission Rules.

Accepting a Political Contribution from a Corporation

24. 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(b). In order to show a violation of section 253.003(b) of the Election Code, the evidence must show that the contributor was a corporation or labor organization, that at the time the respondent accepted the contribution he knew that corporate contributions were illegal, and that the respondent knew the particular contribution at issue was from a corporation or labor organization.
25. A corporation or labor organization may not make a political contribution or political expenditure that is not authorized by subchapter D, chapter 253, of the Election Code. ELEC. CODE § 253.094.
26. 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.
27. A partnership including one or more corporate partners is subject to the same restrictions on political activity that apply to corporations. Ethics Advisory Opinion No. 215 (1994).
28. A political contribution from a partnership does not become a corporate contribution simply because the partnership uses a corporation to disburse its funds. Ethics Advisory Opinion No. 108 (1992).
29. Credible evidence indicates that the contribution at issue was not made by a prohibited corporation or labor organization. Therefore, there is credible evidence of no violation of sections 253.003 and 253.094 of the Election Code.

Reporting an Asset of \$500 or More

30. Each report by a specific-purpose committee for supporting or opposing a candidate for or assisting a holder of a judicial office must include a specific listing of each asset valued at \$500 or more that was purchased with political contributions and on hand as of the last day of the reporting period. ELEC. CODE §§ 254.1211, 254.0611(a)(3).

31. The respondent purchased a single asset valued at approximately \$595 on or around November 21, 2011, and did not disclose the asset on Schedule M of the committee's reports. Therefore, there is credible evidence of a violation of section 254.0611(a)(3) of the Election Code.

Contributor Employer and Law Firm

32. Each report by a specific-purpose committee for supporting or opposing a candidate for or assisting a holder of a judicial office covered by Subchapter F, Chapter 253, must include the contents prescribed by Section 254.0611. ELEC. CODE § 254.1211.
33. Each report by a candidate for a judicial office must include, for each individual from whom the person filing the report has accepted political contributions that in the aggregate exceed \$50 and that are accepted during the reporting period, the principal occupation and job title of the individual and the full name of the employer of the individual or of the law firm of which the individual or the individual's spouse is a member, if any. *Id.* § 254.0611(a)(2)(A).
34. "Law firm" means a partnership, limited liability partnership, or professional corporation organized for the practice of law. *Id.* § 253.157(e).
35. Black's Law Dictionary defines "employer" as "a person who controls and directs a worker under an express or implied contract of hire and who pays the worker's salary or wages." Black's Law Dictionary 565 (8th ed. 2004).
36. Regarding the January 2012 semiannual report, the respondent did not provide any principal occupation and employer information for 37 contributors who made political contributions totaling \$25,750. Therefore, there is credible evidence of violations of section 254.1211 of the Election Code with respect to those contributions.
37. Regarding the 30-day pre-election report, two contributions totaling \$450 were from contributors who were sole proprietors whose names were included in the name of each respective entity. Regarding the \$1,000 contribution, the information disclosed by the respondent is correct, and the acronym used to represent the contributor's employer was a commonly recognized acronym by which the entity was known. Therefore, there is credible evidence of no violations of section 254.1211 of the Election Code with respect to these three contributions.

Personal Use of Political Contributions

38. 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).

39. Regarding the 76 political expenditures at issue totaling approximately \$2,580, there is insufficient evidence of a violation of section 253.035(a) of the Election Code.

Contributions to Candidates, Officeholders, and Political Committees

40. A judicial candidate or officeholder or a specific-purpose committee for supporting or opposing a judicial candidate or assisting a judicial officeholder may not use a political contribution to knowingly make political contributions that in the aggregate exceed \$100 in a calendar year to a candidate or officeholder. ELEC. CODE § 253.1611(a).
41. A judicial officeholder may not, in any calendar year in which the office held is not on the ballot, use a political contribution to knowingly make a political contribution to a political committee that, when aggregated with each other political contribution to a political committee in that calendar year, exceeds \$250. *Id.* § 253.1611(d).
42. “Political contribution” means a campaign contribution or an officeholder contribution. *Id.* § 251.001(5).
43. “Contribution” means a direct or indirect transfer of money, goods, services, or any other thing of value and includes an agreement made or other obligation incurred, whether legally enforceable or not, to make a transfer. *Id.* § 251.001(2).
44. “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).
45. “Officeholder contribution” means a contribution to an officeholder or political committee that is offered or given with the intent that it be used to defray expenses that are incurred by the officeholder in performing a duty or engaging in an activity in connection with the office and are not reimbursable with public money. *Id.* § 251.001(4).
46. The payments at issue were not political contributions, but payments to other judges as reimbursement for costs associated with court events and subscription services. Accordingly, the payments were not political contributions to candidates, officeholders, or political committees. Therefore, there is credible evidence of no violations of sections 253.1611(a) and 253.1611(d) of the Election Code.

Contributions to Political Committees for Primary Election

47. A judicial candidate or a specific-purpose committee for supporting or opposing a judicial candidate may not use a political contribution to knowingly make political

- contributions to a political committee in connection with a primary election. ELEC. CODE § 253.1611(b).
48. “In connection with an election” means, with regard to a contribution that is designated in writing for a particular election, the election designated or, with regard to a contribution that is not designated in writing for a particular election or that is designated as an officeholder contribution, the next election for that office occurring after the contribution is made. *Id.* § 253.152(2).
 49. An expense incurred in connection with the conduct of a meeting of an organization or club affiliated with a political party at which a candidate for an office regularly filled at the general election of state and county officers, or a person holding that office, appears before the members of the organization or club is not considered to be a political contribution or political expenditure if no political contributions are made to or solicited for the candidate or officeholder at the meeting. *Id.* § 251.008.
 50. This section does not apply to a political contribution made to the principal political committee of the state executive committee or a county executive committee of a political party that is (1) made in return for goods or services, including political advertising or a campaign communication, the value of which substantially equals or exceeds the amount of the contribution, or (2) in an amount that is not more than the candidate’s or officeholder’s pro rata share of the committee’s normal overhead and administrative or operating costs. *Id.* § 253.1611(e)(1), (2).
 51. For purposes of Subsection (e)(2), a candidate’s or officeholder’s pro rata share of a political committee’s normal overhead and administrative or operating costs is computed by dividing the committee’s estimated total expenses for a period by the number of candidates and officeholders to whom the committee reasonably expects to provide goods or services during that period. *Id.* § 253.1611(f).
 52. “Political contribution” means a campaign contribution or an officeholder contribution. *Id.* § 251.001(5).
 53. “Contribution” means a direct or indirect transfer of money, goods, services, or any other thing of value and includes an agreement made or other obligation incurred, whether legally enforceable or not, to make a transfer. *Id.* § 251.001(2).
 54. “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).
 55. “Officeholder contribution” means a contribution to an officeholder or political committee that is offered or given with the intent that it be used to defray expenses that are incurred by the officeholder in performing a duty or engaging in an activity in connection with the office and are not reimbursable with public money. *Id.* § 251.001(4).

56. “Political committee” means a group of persons that has as a principal purpose accepting political contributions or making political expenditures. *Id.* § 251.001(12).

57. In Ethics Advisory Opinion No. 131 (EAO 131), the commission stated:

A contribution given with the restriction that it be used to hire lobbyists to influence legislators in regard to legislation would not be a political contribution since it does not meet the definition of either campaign contribution or officeholder contribution. If, on the other hand, funds are not restricted to uses not regulated by title 15, the funds must be reported as a political contribution.

Ethics Advisory Opinion No. 131 (1993). The commission also stated in Ethics Advisory Opinion No. 132 (EAO 132) that a contribution earmarked for payment of general-purpose committee expenses that are neither general administrative nor political expenses would not be required to be reported under chapter 254 of the Election Code. Ethics Advisory Opinion No. 132 (1993).

58. Under section 253.152(2) of the Election Code, if the respondent did not designate the contributions in writing for a particular election, the contributions would have been made in connection with “the next election for that office occurring after the contribution is made.” There is no evidence that the respondent designated the contributions at issue for a particular election. In addition, the next election for the office in which the respondent was a candidate for was the May 29, 2012, primary election.

Republican Women of Milam County (RWMC)

59. Regarding the two expenditures totaling \$280, the evidence indicates that the respondent made the payments to the committee with the intent that the committee use the funds for political purposes. The payments were a direct or indirect transfer of money to a political committee. Furthermore, under EAOs 131 and 132, the payments to the committee would have been political contributions unless they were earmarked for nonpolitical purposes. There is no evidence that the respondent earmarked the payments for nonpolitical purposes. Thus, the payments were political contributions to a political committee in connection with a primary election. Therefore, there is credible evidence of a violation of section 253.1611(b) of the Election Code.

Tarrant County Republican Party (TCRP)

60. Regarding the expenditure of \$300, the evidence indicates that the respondent made the payment to the committee with the intent that the committee use the funds for political purposes. The payment was a direct or indirect transfer of money to a political committee. Furthermore, under EAOs 131 and 132, the payment to the committee would have been a political contribution unless it was earmarked for nonpolitical purposes. There is no evidence that the respondent earmarked the payment for nonpolitical purposes. Moreover, there is no evidence that the respondent received any specific goods

or services in return for the payment. Thus, the payment was a political contribution to a political committee in connection with a primary election. Therefore, there is credible evidence of a violation of section 253.1611(b) of the Election Code.

Williamson County Republican Party General Election Campaign Fund (WCRP)

61. Regarding the two expenditures totaling \$1,050, the evidence indicates that the respondent made the payments to the committee with the intent that the committee use the funds for political purposes. The payments were a direct or indirect transfer of money to a political committee. Furthermore, under EAOs 131 and 132, the payments to the committee would have been political contributions unless they were earmarked for nonpolitical purposes. There is no evidence that the respondent earmarked the payments for nonpolitical purposes. Moreover, there is no evidence that the respondent received any specific goods or services in return for the payments. Thus, the payments were political contributions to a political committee in connection with a primary election. Therefore, there is credible evidence of a violation of section 253.1611(b) of the Election Code.

Timely Filing Campaign Finance Report

62. In addition to other required reports, for each election in which a specific-purpose committee supports or opposes a candidate or measure, the committee's campaign treasurer shall file two reports. ELEC. CODE § 254.124(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. The report covers the period beginning the day the committee's campaign treasurer appointment is filed or the first day after the period covered by the committee's last required report, as applicable, and continuing through the 40th day before election day. *Id.* § 254.124(b).
63. The respondent was required to file the committee's 30-day pre-election report for the May 2012 primary election by April 30, 2012. The respondent filed the report on May 1, 2012, which was one-day late. Therefore, there is credible evidence of a violation of section 254.124(b) of the Election Code.

Disclosure of Reimbursements

64. A candidate who makes political expenditures from the candidate's personal funds may reimburse those personal funds from political contributions in the amount of those expenditures only if the expenditures from personal funds were fully reported as political expenditures, including the payees, dates, purposes, and amounts of the expenditures, in the report required to be filed under this title that covers the period in which the expenditures from personal funds were made, and the report on which the expenditures from personal funds are disclosed clearly designates those expenditures as having been made from the person's personal funds and that the expenditures are subject to reimbursement. ELEC. CODE § 253.035(h).

65. Regarding the January 2012 semiannual report at issue, the respondent disclosed a \$3,600 political expenditure that was made as a reimbursement to himself for phone expenses incurred from January 2009 through December 2010. However, the respondent did not disclose any telephone-related expenditures or personal loans during the periods at issue. Therefore, there is credible evidence of a violation of section 253.035(h) 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: 1) a candidate who makes political expenditures from the candidate's personal funds may reimburse those personal funds from political contributions in the amount of those expenditures only if the expenditures from personal funds were fully reported as political expenditures, including the payees, dates, purposes, and amounts of the expenditures, in the report required to be filed under this title that covers the period in which the expenditures from personal funds were made, and the report on which the expenditures from personal funds are disclosed clearly designates those expenditures as having been made from the person's personal funds and that the expenditures are subject to reimbursement; 2) a judicial candidate or a specific-purpose committee for supporting or opposing a judicial candidate may not use a political contribution to knowingly make political contributions to a political committee in connection with a primary election; 3) 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 under this chapter, the full name and address of the person making the contributions, and the dates of the contributions; 4) each campaign finance report must include the amount of political expenditures that in the aggregate exceed \$100 (\$50 until September 28, 2011) and that are made during the reporting period, the full name and address of the persons to whom political expenditures are made, and the dates and purposes of the expenditures; 5) the purpose of an expenditure means a description of goods, services, or other thing of value and must include a brief statement or description of the candidate, officeholder, or political committee activity that is conducted by making the expenditure. The brief statement or description must include the item or service purchased and must be sufficiently specific, when considered within the context of the description of the category, to make the reason for the expenditure clear. Merely disclosing the category of goods, services, or other thing of value for which the expenditure is made does not adequately describe the purpose of an expenditure; 6) the description of a political expenditure for travel outside of the state of Texas must provide

the name of the person or persons traveling on whose behalf the expenditure was made, the means of transportation, the name of the departure city or the name of each departure location, the name of the destination city or the name of each destination location, the dates on which the travel occurred, and the campaign or officeholder purpose of the travel, including the name of the conference, seminar, or other event; 7) each campaign finance report must include as of the last day of the reporting period for which the person is required to file a report, 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; 8) each report by a specific-purpose committee for supporting or opposing a candidate for or assisting a holder of a judicial office must include a specific listing of each asset valued at \$500 or more that was purchased with political contributions and on hand as of the last day of the reporting period; 9) each report by a specific-purpose committee for supporting or opposing a candidate for or assisting a holder of a judicial office must include, for each individual from whom the person filing the report has accepted political contributions that in the aggregate exceed \$50 and that are accepted during the reporting period, the principal occupation and job title of the individual and the full name of the employer of the individual or of the law firm of which the individual or the individual's spouse is a member, if any; and 10) for each election in which a specific-purpose committee supports or opposes a candidate or measure, the committee's campaign treasurer shall file two reports. 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 and covers the period beginning the day the committee's campaign treasurer appointment is filed or the first day after the period covered by the committee's last required report, as applicable, and continuing through the 40th day before election day.

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, 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-31205185.

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

David M. Medina, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
Executive Director