

TEXAS ETHICS COMMISSION

IN THE MATTER OF
MICHAEL L. MEADOR,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC--2406113

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission met on November 12, 2004, to consider sworn complaint SC-2406113. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 253.0351 and 254.031 of the Election Code, laws administered and enforced by the commission. To resolve and settle this complaint without further proceedings, the commission proposes this resolution to the respondent.

II. Allegations

The complainant alleges that the respondent violated the following provisions of the Election Code:

1. Section 253.003(b) by accepting political contributions from corporations;
2. Section 254.031(a)(3) by omitting dates when certain expenditures were made and by omitting payee addresses;
3. Section 254.031(a)(7) by omitting direct expenditure information; and
4. Sections 253.0351 or 253.035(h)(1) by not reporting use of personal funds.

III. Facts Supported by Credible Evidence

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

1. The respondent is a county commissioner in Montgomery County.
2. The complaint is based on the respondent's campaign finance reports filed since January 2001.

3. The respondent acknowledges having accepted contributions from the following business entities: Gray's Insurance Agency, Inc., Lone Star Services, Inc., Rods Surveying, Inc., and Summit Flow. The respondent returned the contributions in question.
4. According to the Secretary of State's Corporations Division, the business entities listed above were incorporated when the contributions were made.
5. The respondent returned the contributions in question.
6. The complaint also alleged that the respondent accepted contributions from Turner, Collie & Braden, Inc., and Arcadias G&M, Inc. The respondent submitted a copy of the checks for the contributions, which show that the checks were issued by the corporations' general-purpose political committees.
7. The respondent acknowledges that he accepted the contributions from the entities listed in Paragraphs 3 and 4 (Section III) and swears to the following:

However due to the fact that my daughter helps me with my campaign report and obvious lack of due diligence on my part these checks were overlooked. I know these people and I know they were small "Mom and Pop" businesses and never thought about checking their status. I did not knowingly accept corporate checks and in the future I will be more diligent.
8. The following campaign finance reports filed by the respondent were missing addresses: July 2002, January and July 2003, and January 2004.
9. In response to the complaint, the respondent filed corrected reports to provide the missing information.
10. As to the allegation that the respondent omitted direct expenditure information, the complainant did not specify when the alleged violation occurred and did not submit evidence to support the allegation.
11. The respondent reported making political expenditures in the form of contributions to other candidates and officeholders and told staff that he did not make direct expenditures.
12. As to the allegation that the respondent failed to report the use of personal funds either as an expenditure or as a loan, the complainant did not specify when the alleged violations occurred. The complainant's allegations appear to be based on the fact that the respondent listed himself as a payee on expenditures that he made from political funds.

13. In response to this complaint, the respondent filed corrected reports. The corrected January 2003 semiannual report included a \$1,200 loan to the respondent's campaign that had not been previously reported.

IV. Findings and Conclusions of Law

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

Allegation Number 1

1. A corporation organized under the Texas Business Corporations Act or the Texas Non-Profit Corporation Act may not make a political contribution to a candidate or officeholder. ELEC. CODE § 253.094. A candidate may not knowingly accept a political contribution that the candidate knows was made in violation of chapter 253 of the Election Code. ELEC. CODE § 253.003(b).
2. The respondent accepted political contributions from Gray's Insurance Agency, Inc., Lone Star Services, Inc., Rods Surveying, Inc., and Summit Flow.
3. Those entities were incorporated when the contributions were made.
4. The respondent does not deny that he knew that corporate contributions were illegal at the time he accepted the contributions at issue. The respondent returned those contributions.
5. The respondent swears that he was not conscious of the fact that the contributions at issue were from corporations. The respondent swears he did not knowingly accept corporate contributions. Therefore, there is credible evidence that the respondent did not violate section 253.003(b) of the Election Code.

Allegation Number 2

6. A candidate or officeholder filing a campaign finance report is required to itemize expenditures accepted during a reporting period that in the aggregate exceed \$50, including the name and address of the payee. ELEC. CODE §§ 254.031, 254.063, and 254.093.
7. A person commits an offense that is a Class C misdemeanor if the person knowingly fails to include required information in a campaign finance report. *Id.* § 254.041. Ethics Commission rules prohibit the commission from considering an allegation barred from criminal prosecution by operation of the applicable statute of limitations. Ethics Commission Rules §12.5(3). The statute of limitations for Class C misdemeanors is two years from the date of the commission of the offense. Code of Criminal Procedure, Article 12.02. Allegations relating to the two reports filed before June 7, 2002, are based on alleged

offenses that occurred more than two years before the complaint was filed (June 7, 2004), and are therefore not within the commission's sworn complaint jurisdiction.

8. The following four semiannual reports that are within the commission's jurisdiction are missing payee addresses: July 2002, January and July 2003, and January 2004. In response to this complaint, the respondent submitted corrected reports to provided all the missing addresses. Thus, there is credible evidence that the respondent violated section 254.031(a)(3) of the Election Code.

Allegation Number 3

9. A person filing a campaign finance report is required to include information about political expenditures made by the person and the name of each candidate or officeholder who benefits from a direct expenditure¹ made by the person. ELEC. CODE § 254.031(a)(7).
10. The respondent reported making political expenditures in the form of contributions to other candidates and officeholders. The respondent denies that any of those expenditures were direct expenditures. The complainant did not submit any evidence to support his allegation. Therefore, there is credible evidence that the respondent did not violate section 254.031(a)(7) of the Election Code.

Allegation Number 4

11. Title 15 of the Election Code requires that a candidate or officeholder report all political expenditures, including political expenditures made from personal funds. *Id.* § 254.031(a)(3).² On the reporting form, a candidate or officeholder may report a political expenditure from personal funds either on Schedule G of Form C/OH or on Schedule E, which is the schedule for reporting loans. *See id.* §§ 253.035(h), 253.0351.
12. Allegations relating to the July 2001 and January 2002 semiannual reports are based on alleged offenses that occurred more than two years before the complaint was filed (June 2004), and are therefore not within the commission's sworn complaint jurisdiction for purposes of this allegation.

¹ A direct campaign expenditure is a campaign expenditure that does not constitute a campaign contribution by the person making the expenditure. ELEC. CODE § 251.001(8); Ethics Commission Rules § 20.1(8). In order for an expenditure to constitute a direct campaign expenditure, it must have been made without the prior consent or approval of the candidate supported. *See generally*, Ethics Advisory Opinion No. 331 (1996).

² *But see id.* § 254.092 (officeholder is not required to report officeholder expenditures made from personal funds unless the officeholder intends to seek reimbursement from political contributions.)

13. In response to this allegation, the respondent filed corrected reports. The corrected January 2003 report included a \$1,200 loan to the respondent's campaign that had not been previously reported. Therefore, there is credible evidence that the respondent did not originally report all political expenditures in violation of section 254.031(a)(3) of the Election Code.

V. Representations and Agreement by Respondent

By signing this order and agreed resolution and returning it to the commission:

1. The respondent neither admits nor denies the facts described under Section III or the commission's findings and conclusions of law described under Section IV, and consents to the entry of this order and agreed resolution solely for the purpose of resolving this sworn complaint.
2. The respondent consents to this order and agreed resolution and waives any right to further proceedings in this matter.
3. The respondent acknowledges that a candidate or officeholder filing a campaign finance report is required to itemize expenditures accepted during a reporting period that in the aggregate exceed \$50, including the name and address of the payee. The respondent also acknowledges that a candidate or officeholder is required to report all political expenditures, including political expenditures made from personal funds. The respondent agrees to fully comply with this requirement 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 \$200 civil penalty for the violations described under Section 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-2406113.

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

Michael L. Meador, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director