

TEXAS ETHICS COMMISSION

IN THE MATTER OF

ALBERT E. "AL" EDWARDS,

RESPONDENT

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BEFORE THE

TEXAS ETHICS COMMISSION

SC-2802101

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on April 16, 2009, to consider sworn complaint SC-2802101. A quorum of the commission was present. The commission determined that there is credible evidence of violations of section 254.031 of the Election Code, a law administered and enforced by the commission. To resolve and settle this complaint without further proceedings, the commission proposes this resolution to the respondent.

II. Allegations

The complaint alleges that the respondent failed to properly disclose political expenditures on his July 2006 and January 2007 semiannual campaign finance reports.

III. Facts Supported by Credible Evidence

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

1. During the period at issue, the respondent was a former state representative of District 146, and a candidate for that office in the 2008 primary election.
2. The respondent's July 2006 semiannual report disclosed one political expenditure to "Al Edwards Campaign Fund," for \$2,000 for the purpose of "Block Walkers," one political expenditure to an individual for \$3,000, for the purpose of "Contract Salaries for Poll Workers," and two political expenditures to an individual, totaling \$1,500 for the purpose of "Campaign Materials" and "Postage."

3. The respondent's January 2007 semiannual report disclosed two political expenditures to an individual, totaling \$650, for the purpose of "Office Supplies."
4. The evidence indicates that the expenditures for the purpose of "Block Walkers" were made to various individuals, none of which received an aggregate amount exceeding \$50 during the reporting period.
5. With regard to the expenditure for "Contract Salaries for Poll Workers," the respondent swore that he paid \$3,000 to the individual payee for her services as "a contract worker and community outreach coordinator."
6. In addition, the respondent swore that the payee for the political expenditures for "Campaign Materials," "Postage," and "Office Supplies" was a volunteer. The respondent swore that the volunteer "was reimbursed by check for materials brought [sic] at Office Depot and the Post Office. Campaign Materials were paper, printing, cartilage [sic], envelope, pen, paper, pencils, staples [sic], stamps, etc."
7. The respondent corrected the expenditures at issue related to staff reimbursements to disclose the actual vendor, rather than the staff member.
8. The respondent corrected the expenditure at issue related to salaries for poll workers to change the purpose of the expenditure to indicate the expenditure was for one person's salary, not multiple salaries.
9. The respondent corrected the expenditures at issue related to the block walkers to change the purpose of the expenditure to indicate that cash was paid out of the campaign for individuals to block walk.

IV. Findings and Conclusions of Law

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

1. 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 report must also include the total amount or a specific listing of the political expenditures of \$50 or less made during the reporting period. In addition, the report must include the total amount of all political expenditures made during the reporting period. ELEC. CODE § 254.031(a)(3)(5)(6). 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.

2. The complaint alleged that the respondent failed to disclose the individual payees for political expenditures made for block walking. The evidence indicates that no individual related to this expenditure received over \$50 in the aggregate during the reporting period. Thus, disclosing the individual payees was not required. Therefore, there is credible evidence of no violation of section 254.031 of the Election Code with regard to the political expenditures for block walkers.
3. The complaint alleged that the respondent failed to disclose the proper payee for political expenditures for poll workers. The respondent's original July 2006 semiannual report disclosed an expenditure of \$3,000 to an individual payee for the purpose of "Contract Salaries for Poll Workers." The use of the plural "salaries" and "workers" indicates that the expenditure may have been for multiple individuals. However, in response to the complaint, the respondent swore that the political expenditure at issue was for the individual payee's "services only," and he corrected the expenditure at issue to disclose the purpose as "Contract salary for poll worker." Thus, there is some ambiguity as to whether the expenditure was for an individual's services or for multiple individuals. There is no additional evidence related to the purpose of the expenditure. Therefore, there is insufficient evidence of a violation of section 254.031 of the Election Code with regard to the political expenditure at issue.
4. The complaint alleged that three expenditures to an individual, totaling \$2,150, failed to provide the actual payee and an adequate description of the purpose for each political expenditure. The reports at issue disclosed that the expenditures were for the purpose of "Campaign Materials," "Postage," and "Office Supplies." The reports disclosed the payee as a staff member, and that the purpose for the expenditures at issue was to reimburse the staff member for items purchased from various vendors.
5. During the period covered by the reports at issue, Ethics Advisory Opinion No. 450 (2003) described the proper way to report staff reimbursement. The commission determined that a political expenditure made to reimburse a staff member may be reported in one of two ways: (1) reporting it as a loan to the candidate from the staff member and then as an expenditure by the candidate to repay the staff member; or (2) if the expenditure and reimbursement occur during the same reporting period, report a single expenditure by listing the name of the individual or entity paid by the campaign worker as the payee, showing the date of the expenditure as the date the staff member made the expenditure, and explaining in the "purpose" section that a staff member made the expenditure from personal funds and that the candidate subsequently reimbursed the staff member.¹

¹ In February 2007, the commission adopted section 20.62 of the Ethics Commission Rules, which set forth the method for reporting staff reimbursements. The rule was amended in October 2007 to raise the threshold for reporting staff reimbursements from \$500 to \$5,000.

6. The evidence indicates that the respondent did not properly disclose the staff reimbursements at issue. Therefore, there is credible evidence of a violation of section 254.031 of the Election Code with regard to these expenditures.

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 each campaign finance report filed by an officeholder is required to include the full name and address of the payees, and the dates and purposes of political expenditures that in the aggregate exceed \$50 to a single payee in the reporting period, and that the proper way to report reimbursement to staff is in accordance with section 20.62 of the Ethics Commission Rules. The respondent agrees to comply with these requirements of the law.

VI. Confidentiality

This order and agreed resolution describes a violation that the commission has determined is 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 violation described under Sections III and IV, including the nature, circumstances, and consequences of the violation, and after considering the sanction necessary to deter future violations, the commission imposes a \$200 civil penalty.

The respondent agrees that the Texas Ethics Commission, P. O. Box 12070, Austin, Texas 78711, must receive from the respondent full payment of the \$200 civil penalty no later than July 7, 2009, and agrees to waive any right to a hearing related to this sworn complaint. The respondent agrees

that if the full amount is not received by July 7, 2009, the matter of the collection of the civil penalty will be referred to the Office of the Attorney General of Texas.

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-2802101.

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

Albert E. "Al" Edwards, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director