

TEXAS ETHICS COMMISSION

IN THE MATTER OF
JAMES GENTRY,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-2803114

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on October 13, 2008, to consider sworn complaint SC-2803114. 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 this complaint without further proceedings, the commission proposes this resolution to the respondent.

II. Allegations

The complaint alleges that the respondent's May 2006 8-day pre-election campaign finance report, and July 2006, January 2007, July 2007, and January 2008 semiannual campaign finance reports failed to properly disclose political contributions and political expenditures.

III. Facts Supported by Credible Evidence

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

1. The respondent is a city council member for the city of Conroe.
2. The complaint alleges that the respondent's 8-day pre-election report for the May 13, 2006, election failed to properly disclose total political contributions and total political contributions maintained. The report contains blank spaces for entries disclosing "total political contributions of \$50 or less," "total political expenditures of \$50 or less," "total political contributions maintained," and "total principal amount of all outstanding loans as of the last day of the reporting period." The report also does not include addresses for one political contribution and five political expenditures.
3. The complaint also alleges that the respondent's July 2006 semiannual report failed to disclose a contributor's address, the payee address for one expenditure, and the correct

amount of total political contributions maintained. The report contains blank spaces for entries disclosing “total political contributions of \$50 or less,” “total political expenditures of \$50 or less,” and “total principal amount of all outstanding loans as of the last day of the reporting period.” The report discloses \$100.63 of political contributions maintained. The report also does not include addresses for one political contribution and four political expenditures.

4. The complaint also alleges that the respondent failed to include the correct amount of political contributions maintained on his January 2007, July 2007, and January 2008 semiannual campaign finance reports. The January 2007 semiannual report discloses zero political expenditures, but does not include an amount in the remaining spaces. The July 2007 semiannual report discloses zero political contributions of \$50 or less and zero total political expenditures, but does not include an amount in the remaining spaces. The January 2008 semiannual report also discloses zero political contributions of \$50 or less and zero total political expenditures, but does not include an amount in the remaining spaces. There are no itemized contributions or expenditures attached to the reports.
5. In response to the complaint the respondent submitted an affidavit in which he acknowledges that he made some errors on his campaign finance reports. The respondent admits that he miscalculated the total political contributions and disclosed the wrong amount for total political contributions maintained on his 8-day pre-election campaign finance report. He also admitted that he failed to include addresses for some contributions and expenditures, and that he failed to disclose the proper amount of total political contributions maintained on the reports at issue.
6. The respondent has corrected all reports at issue by disclosing the missing addresses and totals. In correcting his May 2006 8-day pre election report, the respondent added a \$2,000 political expenditure to a newspaper that was not included on the originally filed report. He also changed the amount of one political expenditure from \$21.65 to \$21.25 on the same report. The respondent also changed the amount of political contributions maintained on his July 2006 semiannual report to \$61.33.

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 contributions from each person that in the aggregate exceed \$50 and that are accepted during the reporting period by the person required to file a report, the full name and address of the person making the contributions, and the dates of the contributions. The report must also include the amount of loans that are made during the reporting period for campaign or officeholder purposes to the person required to file the report and that in the aggregate exceed \$50, the dates the loans are made, the interest rate, the maturity date, the type of collateral for the loans, if any, the full name and address of the person or financial institution making the loans, the full name and

- address, principal occupation, and name of the employer of each guarantor of the loans, the amount of the loans guaranteed by each guarantor, and the aggregate principal amount of all outstanding loans as of the last day of the reporting period. The report must also 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 contributions of \$50 or less accepted and the total amount or a specific listing of the political expenditures of \$50 or less made during the reporting period. The report must also include the total amount of all political contributions accepted and the total amount of all political expenditures made during the reporting period. The report must also include, as of the last day of a 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.
2. The evidence indicates that the respondent's May 2006 8-day pre-election campaign finance report failed to properly disclose political contributions and political expenditures. The evidence indicates that one error was due to a miscalculation. Therefore, as to the calculation error, there is credible evidence of a technical or *de minimis* violation of section 254.031 of the Election Code. As to the remaining issues on the respondent's May 2006 8-day pre-election report, there is credible evidence of violations of section 254.031 of the Election Code
 3. The evidence indicates that the respondent's July 2006 semiannual report failed to properly disclose political contributions and political expenditures. Therefore, as to the respondent's July 2006 semiannual report, there is credible evidence of violations of section 254.031 of the Election Code.
 4. The evidence indicates that the respondent failed to properly disclose political contributions and political expenditures on his January 2007, July 2007, and January 2008 semiannual reports. Therefore, as to the respondent's January 2007, July 2007, and January 2008 semiannual campaign finance reports, there is credible evidence of violations of section 254.031 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 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 required to file a report, the full name and address of the person making the contributions, and the dates of the contributions. The respondent also acknowledges that the report must also include the amount of loans that are made during the reporting period for campaign or officeholder purposes to the person required to file the report and that in the aggregate exceed \$50, the dates the loans are made, the interest rate, the maturity date, the type of collateral for the loans, if any, the full name and address of the person or financial institution making the loans, the full name and address, principal occupation, and name of the employer of each guarantor of the loans, the amount of the loans guaranteed by each guarantor, and the aggregate principal amount of all outstanding loans as of the last day of the reporting period. The respondent also acknowledges that the report must also 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 must also include the total amount or a specific listing of the political contributions of \$50 or less accepted and the total amount or a specific listing of the political expenditures of \$50 or less made during the reporting period. The respondent also acknowledges that the report must also include the total amount of all political contributions accepted and the total amount of all political expenditures made during the reporting period. The respondent also acknowledges that the report must also include, as of the last day of a 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. 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 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 violations described under Sections III and IV, including the nature, circumstances, and consequences of the violations, and after considering the sanction necessary to deter future violations, the commission imposes a \$500 civil penalty.

VIII. Order

The commission hereby orders that if the respondent consents to the proposed resolution, this order and agreed resolution is a final and complete resolution of SC-2803114.

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

James Gentry, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director