

TEXAS ETHICS COMMISSION

IN THE MATTER OF
MICHAEL L. MEADOR,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-2808314

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on August 6, 2009, to consider sworn complaint SC-2808314. A quorum of the commission was present. The commission determined that there is credible evidence of a violation of section 254.031(a)(2) 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 alleged that the respondent accepted corporate contributions. The complaint further alleged that the respondent failed to disclose the total principal amount of all outstanding loans in his July 2006, January 2007, July 2007, and January 2008 semiannual campaign finance reports.

III. Facts Supported by Credible Evidence

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

1. The respondent holds the position of Montgomery County Precinct One Commissioner.
2. The complaint alleged that the respondent accepted five corporate contributions, totaling approximately \$1,780.
3. The respondent's July 2006 semiannual report disclosed a political contribution of \$978.75 from "Conroe Chamber." His January 2007 semiannual report disclosed that on July 10, 2006, the respondent accepted a political contribution of \$200 from "StraCol Partnership," and that on July 14, 2006, he accepted a political contribution of \$200 from "Twin Shore Property Owners." The respondent's January 2008 semiannual report disclosed that on July 9, 2007, he accepted a political contribution of \$200 from "StraCol Partnership Ltd," and that on July 10, 2007, he accepted a political contribution of \$200 from "Twin Shore POA." Both of the contributions from "StraCol Partnership" disclosed a principal occupation/job title of, "Insurance."

4. The complaint included information from the Texas Secretary of State's (SOS) website for two incorporated entities, "Conroe-Montgomery County Chamber of Commerce," with an assumed name of "Greater Lake Conroe/Lake Conroe Area Chamber of Commerce" (Chamber) and "Twin Shore Property Owners Association" (Twin Shore). SOS records indicate that both the Chamber and Twin Shore are domestic non-profit corporations. Twin Shore was involuntarily dissolved by the SOS in August 2007. A search of the SOS's Business Organizations Database returned a record of "StraCol Partnership Ltd." (StraCol) as a domestic limited partnership. The records show no corporate partners. A search of the Texas Department of Insurance online database returns no insurance companies with the name StraCol.
5. The respondent's January 2007, July 2007, and January 2008 semiannual reports each left blank the space used to disclose the total principal amount of all outstanding loans.
6. In response to the sworn complaint, the respondent provided copies of the checks of the contributions at issue and submitted an affidavit in which he acknowledged that while the contributions he accepted from Twin Shore were corporate contributions, he was not aware that the entity was incorporated.
7. The respondent swore that the check reported as a contribution from the Chamber was not actually a contribution, but a reimbursement for expenses he incurred for a Chamber party. The respondent attached copies of Schedule F (used to disclose political expenditures from political contributions) from his July 2006 semiannual report that he swore details the expenditures, and copies of the checks from the Chamber and from an individual that he accepted in connection with the party.
8. The respondent provided an affidavit from the president of the Chamber. He swore that the respondent has in the past provided a donation to the Chamber in the form of an auction item, a fish fry for 25 couples, and in 2005 the Chamber auctioned this item three times, with the understanding that the two additional events would be paid for by the respondent. He swore that the Chamber reimbursed the respondent for his expenses for those two events, and did not intend the reimbursement as a political contribution.
9. The respondent swore that StraCol is not a prohibited contributor, because it is "not an insurance company" but is a limited partnership that engages in the business of real estate. He explained that his use of the word "Insurance" when he disclosed the occupation of StraCol was a mistake.

10. The respondent also swore, "I have no outstanding loans and did not have any during the last 4 years."

IV. Findings and Conclusions of Law

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

1. The complaint included an allegation of a violation of section 254.031(a)(2) of the Election Code (loans) related to the respondent's semiannual campaign finance report filed on July 17, 2006. The complaint was postmarked August 19, 2008. 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(a). The criminal offense for a violation of section 254.031 of the Election Code is a Class C misdemeanor. ELEC. CODE § 254.041. The statute of limitations for a Class C misdemeanor is two years from the date of the commission of the offense. Code of Criminal Procedure, Article 12.02. Thus, the allegation of a violation of section 254.031(a)(2) of the Election Code that relates to the respondent's July 2006 semiannual report will not be considered because it is not within the commission's jurisdiction.

Acceptance of Corporate Contributions

2. 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.
3. 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.
4. 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.
5. In order to show a violation of section 253.003 of the Election Code, the evidence must show that the contributor was a corporation, 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.
6. Copies of the checks made to the respondent from Twin Shore did not contain the words "incorporated" or "inc" in the name of the company, or anywhere on the check. However, SOS records show that Twin Shore was a nonprofit incorporated entity from March 3, 1983, through its involuntary dissolution on August 8, 2007, the time period when the two contributions were made to the respondent. Thus, the contributions from Twin Shore were corporate contributions. The respondent swore that he was not aware that Twin Shore was an incorporated entity when he accepted the checks. The evidence is insufficient to refute his assertion.

7. The respondent swore that the check from the Chamber was a reimbursement that he incorrectly reported as a contribution. The affidavit from the Chamber president supported the respondent's statement, and the evidence is insufficient to refute their statements. Therefore, there is insufficient evidence that the respondent violated sections 253.003 and 253.094 of the Election Code with respect to the political contributions from Twin Shore and the Chamber.
8. StraCol is not incorporated, has no corporate partners, and is not an insurance company. Thus, the contribution from StraCol was not a corporate political contribution. Therefore, there is credible evidence of no violation of sections 253.003 and 253.094 of the Election Code with respect to the political contribution from StraCol.

Failure to Properly Report Outstanding Loans

9. 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).
10. The complaint alleged that the respondent failed to disclose the total principal amount of all outstanding loans as of the last day of the reporting period on his January 2007, July 2007, and January 2008 semiannual reports. The respondent has corrected the reports at issue in connection with the other allegations, but failed to disclose a zero or other total for outstanding loans, leaving these totals blank. Although the respondent swore he had no loans to report, it is not readily apparent when looking at the report that he had no loans because the totals space is blank. Therefore, there is credible evidence of violations 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 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 aggregate principal amount of all outstanding loans as of the last day of the reporting period. The respondent agrees to 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 \$100 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-2808314.

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