

TEXAS ETHICS COMMISSION

IN THE MATTER OF
HAROLD BEAIRD,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-2811381

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on April 16, 2009, to consider sworn complaint SC-2811381. 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 contributions and political expenditures for a political committee in campaign finance reports.

III. Facts Supported by Credible Evidence

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

1. The respondent is the campaign treasurer of a specific-purpose political committee named “Finally! A Jail Plan We Can Afford!” The committee supported an unsuccessful bond measure in Smith County in a November 4, 2008, general election. The measure would have authorized Smith County to issue a \$59.6 million bond to expand and refurbish a county jail.
2. The complaint alleges that the respondent failed to disclose the amount of political contributions maintained by the committee in two pre-election reports and failed to disclose political expenditures. The respondent filed corrections to the reports on December 8, 2008, after the complaint was filed. The respondent indicated in the correction affidavit for each report that it was filed not later than the 14th business day after the date he learned that the report as originally filed was inaccurate or incomplete and that any error or omission in the report as originally filed was made in good faith.

3. The committee's original 30-day pre-election report was due on October 6, 2008, and disclosed:
 - \$0 in total political contributions of \$50 or less
 - \$25,050 in total political contributions (corrected to \$23,300)
 - \$0 in total political expenditures of \$50 or less
 - \$0 in total political expenditures
 - \$0 in total political contributions maintained as of the last day of the reporting period (corrected to \$23,300)
 - \$0 in outstanding loans

4. The committee's original 8-day pre-election report was due on October 27, 2008, and disclosed:
 - \$0 in total political contributions of \$50 or less
 - \$4,000 in total political contributions (corrected to \$5,750)
 - \$0 in total political expenditures of \$50 or less
 - \$0 in total political expenditures (corrected to \$21,618.83)
 - \$0 in total political contributions maintained as of the last day of the reporting period (corrected to \$11,590.17)
 - \$0 in outstanding loans

5. The respondent also filed a dissolution report on December 8, 2008, that disclosed:
 - \$0 in total political contributions of \$50 or less
 - \$1,550 in total political contributions
 - \$0 in total political expenditures of \$50 or less
 - \$27,794.34 in total political expenditures (corrected to \$6,175.51)
 - \$0 in total political contributions maintained as of the last day of the reporting period (corrected to \$1,830.90)
 - \$0 in outstanding loans

6. The dissolution report was filed after the election occurred and after the complaint was filed. It is the only report that included any expenditures when it was originally filed. The respondent corrected the dates of approximately \$21,620 in political expenditures in the dissolution report and moved the expenditures to the 8-day pre-election report when the corrections were filed.

7. The respondent also swears:

We understand that we made inadvertent reporting errors with respect to our campaign finance reports associated with the November 2008 Smith County Jail Bond Election.

Please be aware that all contributions and all expenditures were reported on the originally filed reports. No contributions or expenditures were unreported.

We have filed corrected reports ... that have remedied our inadvertent reporting errors. We have adjusted the reports so that they cover the appropriate periods; accurately reflect the activity that occurred within those periods and entered the appropriate "Contribution Balance" information.

We regret any inadvertent reporting errors we may have made.

8. According to records filed with the Smith County Clerk, the respondent was appointed as the campaign treasurer of the committee on September 5, 2008. The appointment did not indicate that the respondent chose to follow the modified reporting schedule. The appointment stated that the committee's purpose was to support a Smith County bond measure in the election held on November 4, 2008.

IV. Findings and Conclusions of Law

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

1. For each election in which a specific-purpose committee supports or opposes a 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. *Id.* § 254.124(b). The second report must be received by the authority with whom the report is required to be filed not later than the eighth day before election day. *Id.* § 254.124(c).
2. A campaign finance report filed by the campaign treasurer of a specific-purpose committee 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. *Id.* § 254.031(a)(3). A 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. *Id.* § 254.031(a)(8).
3. The evidence indicates that the respondent was the campaign treasurer of a specific-purpose committee that supported a measure submitted to voters of a single county in an election ordered by Smith County. The committee's campaign finance reports indicate that the committee had accepted political contributions during the period covered by the 30-day pre-election report and had accepted political contributions and made political expenditures

during the period covered by the 8-day pre-election report. Thus, the respondent was required to file both pre-election reports for the committee.

4. The respondent filed pre-election reports by their respective due dates but the reports did not disclose the total amount of political contributions maintained as of the last day of the respective reporting period. The 8-day pre-election report also did not include any political expenditures when it was originally filed. Only after the complaint was filed did the respondent correct the reports to include the expenditures on the 8-day pre-election report, as required. Therefore, there is credible evidence that the respondent violated sections 254.031(a)(3) and (a)(8) of the Election Code by failing to disclose \$21,618.83 in political expenditures, and political contributions maintained of \$23,300 on the 30-day pre-election report and \$11,590.17 on the 8-day pre-election report.

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 campaign finance report filed by the campaign treasurer of a specific-purpose committee 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 respondent also acknowledges that a campaign finance 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 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 \$3,000 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-2811381.

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

Harold Beard, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director