

TEXAS ETHICS COMMISSION

IN THE MATTER OF
DEBORAH SARGEANT,
RESPONDENT

§
§
§
§
§

BEFORE THE
TEXAS ETHICS COMMISSION
SC-31006189

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on December 7, 2010, to consider sworn complaint SC-31006189. 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 and section 20.62 of the Ethics Commission Rules, and credible evidence of technical or *de minimis* violations of section 254.031 of the Election Code and section 571.1242 of the Government Code, laws administered and enforced by the commission. To resolve and settle this complaint without further proceedings, the commission proposed this resolution to the respondent.

II. Allegations

The complaint alleged that the respondent 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 was a candidate for The Woodlands Township Board of Directors, Position 4.

Total Political Contributions Maintained

2. The complaint alleged that the respondent failed to properly disclose total political contributions maintained on two campaign finance reports. The respondent's 30-day pre-election report for the May 2010 election disclosed \$2,212.66 in total political contributions maintained. The amount of total political contributions maintained should have been disclosed as \$2,312.66.

3. The respondent's 8-day pre-election report for the May 2010 election disclosed \$3,361 in total political contributions maintained. The complaint alleged that the total political contributions maintained should be \$3,418.84. In response to the complaint, the respondent swore that the amount of total political contributions maintained was properly disclosed.

Disclosure of Political Contributions

4. The complaint alleged that the respondent failed to properly disclose political contributions on her 30-day and 8-day pre-election reports for the May 2010 election.

30-day Pre-election Report, May 2010

5. The report disclosed \$50 in total political contributions of \$50 or less, \$2,306.98 in total political contributions, \$0 in total political expenditures of \$50 or less, \$5,745.71 in total political expenditures, \$2,212.66 in total political contributions maintained, and \$0 in total amount of outstanding loans. The complaint alleged that the total political contributions should have been \$2,256.98. The amount of total political contributions should have been disclosed as \$2,206.98.
6. The complaint also alleged that the respondent failed to disclose the date of a \$50 political contribution. The respondent filed a corrected report and disclosed the date of the contribution.
7. The complaint also alleged that the respondent failed to disclose the full name of a person making a \$100 contribution. The report disclosed RM & DS Silver. The name remains uncorrected. The complaint also alleged that the respondent failed to disclose the address of a person making a \$300 contribution. The report disclosed only the contributor's name. The respondent filed a corrected report and disclosed the address of the contributor.
8. The complaint also alleged that the respondent failed to disclose the full dates in the "period covered" section in the report. The report disclosed the month and year, but did not disclose the "day" in the first part of the "period covered" section. Although that information is not specifically required by statute or rule, the respondent filed a corrected report and disclosed the full dates in the "period covered" section.

8-day Pre-election Report, May 2010

9. The report left blank the space to disclose total political contributions of \$50 or less, and disclosed \$2,118 in total political contributions, no amount of total political expenditures of \$50 or less, \$408.02 in total political expenditures, \$3,361 in total political contributions maintained, and \$0 in total amount of outstanding loans. The complaint alleged that the respondent failed to disclose the amount of total political contributions of \$50 or less. In response to the complaint, the respondent filed a corrected report and

disclosed \$0 as the amount of total political contributions of \$50 or less and wrote “All contributions were itemized.”

10. The complaint also alleged that the respondent failed to disclose the date of a \$50 political contribution. The respondent filed a corrected report and disclosed the date of the contribution.
11. The complaint also alleged that the respondent failed to disclose the full names or addresses of three persons who made political contributions totaling approximately \$1,018. The report disclosed the names of the contributors. In regards to one contribution of \$500, the respondent disclosed the contributor’s street address but did not disclose the zip code. That entry was not corrected. The respondent disclosed only a date and contributor name for the other two contributions. One contribution was \$50 for which detailed information was not required. The other was for \$468. In regards to the remaining two contributors, the respondent filed a corrected report and disclosed the full addresses of the contributors.

Disclosure of Political Expenditures

12. The complaint alleged that the respondent failed to properly disclose political expenditures on her 30-day and 8-day pre-election reports for the May 2010 election.

30-day Pre-election Report, May 2010

13. The complaint alleged that the respondent failed to disclose the full names or addresses of seven persons to whom she made political expenditures totaling approximately \$2,450. For four of the expenditures at issue, totaling approximately \$1,570, the respondent disclosed no address information. One of the expenditures was for \$12.50. A \$750 expenditure failed to disclose the zip code, and a \$27.61 expenditure disclosed no city or zip code. An expenditure for \$108.25 disclosed only the city. The respondent filed a corrected report and provided the full addresses for five of the entries at issue. Two of the entries (one of which was less than \$50), totaling approximately \$780, still disclosed no zip code.
14. The complaint also alleged that the respondent failed to disclose the purposes of two political expenditures totaling approximately \$860. In response to the complaint, the respondent filed a corrected report and disclosed the purposes of the expenditures.

8-day Pre-election Report, May 2010

15. The complaint alleged that the respondent failed to disclose the amount of total political expenditures of \$50 or less. The report left blank the space to disclose total political expenditures of \$50 or less. In response to the complaint, the respondent filed a corrected report and disclosed \$0 as the amount of total political contributions of \$50 or less and wrote “All were itemized.”

16. The complaint also alleged that the respondent failed to properly disclose the amount of total political expenditures. The complaint alleged that the total political expenditures should be \$323.77. The amount of total political expenditures should have been disclosed as \$404.96.
17. The complaint also alleged that the respondent failed to disclose the amount of an itemized political expenditure. In response to the complaint, the respondent filed a corrected report and disclosed the amount of the political expenditure as \$81.19.
18. The complaint also alleged that the respondent failed to disclose the actual vendor payee of a political expenditure for \$135.89. The respondent disclosed the name of an individual as the payee. In response to the complaint, the respondent filed a corrected report and included the individual's name as well as that of the actual vendor as the payee.
19. The complaint also alleged that the respondent failed to disclose the purposes of two political expenditures totaling approximately \$190. In response to the complaint, the respondent filed a corrected report and disclosed the purposes of the expenditures.

Timely Response to Sworn Complaint

20. The United States Postal Service website shows that the notice of this complaint was delivered on July 9, 2010. The commission received the response to this complaint on July 26, 2010.

IV. Findings and Conclusions of Law

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

Total Political Contributions Maintained

1. Each report must include as of the last day of the reporting period, 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. A *de minimis* error in calculating or reporting a cash balance under subsection (a)(8) is not a violation. ELEC. CODE §§ 254.031(a)(8) and (a-1).
2. The original 30-day pre-election report incorrectly disclosed the total amount of political contributions maintained. In context, the amount was *de minimis*. Regarding the 8-day pre-election report for the May 2010 election, the respondent swore that the amount of total political contributions maintained was correctly reported. The amount of political contributions maintained cannot necessarily be calculated by looking at the face of a report and the difference between the amount alleged and the amount disclosed was *de minimis*. Therefore, there is credible evidence of no violation of section 254.031(a)(8) of the Election Code with respect to the reports at issue.

Disclosure of Political Contributions

3. 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 or committee required to file a report under this chapter, the full name and address of the person making the contributions, and the dates of the contributions. ELEC. CODE § 254.031(a)(1).
4. Each campaign finance report must 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. ELEC. CODE § 254.031(a)(5).
5. Each campaign finance report is required to include the total amount of all political contributions accepted and the total amount of all political expenditures made during the reporting period. ELEC. CODE § 254.031(a)(6).
6. The respondent filed corrections to the reports at issue to disclose the correct amounts of political contributions, the dates on which they were received, and the names and addresses of the contributors. Regarding the allegation related to failure to disclose the total amount of political contributions at issue on the 30-day pre-election report, the respondent incorrectly disclosed this information. The amount at issue was small. There is credible evidence of a technical or *de minimis* violation of section 254.031(a)(6) of the Election Code.
7. The allegation related to failure to disclose the total amount of political contributions of \$50 or less on the 8-day pre-election report was based on the fact that the respondent left the space used to report those totals blank. There is credible evidence of a technical or *de minimis* violation of section 254.031(a)(5) of the Election Code.
8. With respect to the allegations that the respondent failed to include complete information for certain political contributions, there is credible evidence of no violation of section 254.031(a)(1) of the Election Code regarding the two \$50 contributions because detailed disclosure was not required. There is credible evidence of a technical or *de minimis* violation with respect to that section for the contribution that was missing only a zip code. There is credible evidence of violations for the \$100 contribution that disclosed only the contributor's initials and the \$300 and \$468 contributions that disclosed only the contributor's name but no address.

Disclosure of Political Expenditures

9. A campaign finance report must include, for all 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 political expenditures are made and the dates and purposes of the expenditures. ELEC. CODE § 254.031(a)(3).

10. Each campaign finance report must 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. ELEC. CODE § 254.031(a)(5).
11. Each campaign finance report is required to include the total amount of all political contributions accepted and the total amount of all political expenditures made during the reporting period. ELEC. CODE § 254.031(a)(6).
12. Political expenditures made out of personal funds by a staff member of an officeholder, a candidate, or a political committee with the intent to seek reimbursement from the officeholder, candidate, or political committee that in the aggregate do not exceed \$5,000 during the reporting period maybe reported as follows if the reimbursement occurs during the same reporting period that the initial expenditure was made: 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; and included with the total amount or a specific listing of the political expenditures of \$50 or less made during the reporting period. Except as provided above, a political expenditure made out of personal funds by a staff member of an officeholder, a candidate, or political committee with the intent to seek reimbursement from the officeholder, candidate, or political committee must be reported as follows: the aggregate amount of the expenditures made by the staff member as of the last day of the reporting period is reported as a loan to the officeholder, candidate, or political committee; the expenditure made by the staff member is reported as a political expenditure by the officeholder, candidate, or political committee; and the reimbursement to the staff member to repay the loan is reported as a political expenditure by the officeholder, candidate, or political committee. Ethics Commission Rules § 20.62.
13. The total amount of political expenditures were incorrectly disclosed on the 8-day pre-election report. Therefore, there is credible evidence of violations of section 254.031(a)(6) of the Election Code.
14. The allegation related to failure to disclose the total amount of political expenditures of \$50 or less on the 8-day pre-election report was based on the fact that the respondent left the space used to report those totals blank. There is credible evidence of a technical or *de minimis* violation of section 254.031(a)(5) of the Election Code.
15. With respect to the allegations that the respondent failed to include complete information for certain political expenditures, there is credible evidence of no violation of section 254.031(a)(1) of the Election Code regarding the two political expenditures for \$50 or less because detailed disclosure was not required. There is credible evidence of a technical or *de minimis* violation of that section regarding the \$750 expenditure for which no zip code was disclosed. There is credible evidence of a violation of section 254.031(a)(3) of the Election Code regarding \$1,130 in political expenditures and section 20.62 of the Ethics Commission Rules regarding the \$135.89 expenditure.

Timely Response to Sworn Complaint

16. A respondent must respond to the notice of a Category One violation not later than the 10th business day after the date the respondent receives the notice and failure to respond to a notice of sworn complaint within the time required is a separate Category One violation. GOV'T CODE § 571.1242(a)(c).
17. United States Postal Service records show that the notice of this complaint was delivered on July 9, 2010. The notice stated that the respondent was required to respond within 10 business days from receipt of the notice. On July 23, 2010, staff notified the respondent that her response was due that day. The respondent filed her response to the complaint on July 26, 2010. The delay was not significant. Therefore, there is credible evidence of a technical or *de minimis* violation of section 571.1242(a)(c) of the Government 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 or committee 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 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 respondent also acknowledges that each campaign finance report must 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 respondent also acknowledges that the proper way to report reimbursements to staff is in accordance with section 20.62 of the Ethics Commission Rules. The respondent also acknowledges that a respondent must respond to the notice of a Category One violation not later than the 10th business day after the date the respondent receives the notice. 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 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.

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-31006189.

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

Deborah Sargeant, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director