

TEXAS ETHICS COMMISSION

IN THE MATTER OF
RANDI K. SHADE,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-31006195

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on April 21, 2011, to consider sworn complaint SC-31006195. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 254.031 and 254.063 of the Election Code, and technical or *de minimis* violations of section 254.061 of the Election 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 alleges that the respondent: 1) did not disclose the campaign treasurer's street address on campaign finance reports; 2) did not properly disclose political contributions and political expenditures on campaign finance reports; and 3) did not timely file a January 2009 semiannual campaign finance report.

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 Austin city council in a May 2008 election.
2. At issue in the complaint are five campaign finance reports that the respondent filed with the Austin city clerk, including the respondent's corrected 8-day pre-election report for the May 2008 election, July 2008 semiannual report, January and July 2009 semiannual reports, and January 2010 semiannual report.

Address of Campaign Treasurer

3. The complaint alleged that the respondent failed to include the campaign treasurer's street address on all five reports at issue. On each report, the campaign treasurer's post office box was disclosed instead of a street address.

Disclosure of Full Name of Person Making a Political Contribution

4. The complaint alleged that the respondent failed to disclose the full name of two contributors on her 8-day pre-election report and one contributor on her July 2008 semiannual report. The reports at issue disclosed the contributors' last name and two initials. In response to the allegation, the respondent swore that, "These contributors' names were shown by first and middle initials because that is how they appear on their checks."

Disclosing Political Expenditures

5. The complaint alleged that the respondent "failed to disclose the actual vendor payee, address, date, and amount pertaining to the stated purpose" for eight political expenditures totaling approximately \$2,310 on her 8-day pre-election report and July 2008 semiannual report.
6. At issue in the 8-day pre-election report were three expenditures totaling approximately \$230 to "Authorize.net" for "Credit card processing fees."
7. At issue in the July 2008 semiannual report were three expenditures totaling approximately \$1,180 to "Authorize.net" for "Credit card processing fees," a \$750 payment to an individual for "database services," and a \$150 payment to an individual for "photography."
8. The complaint also alleged that the respondent failed to sufficiently describe the purpose of 20 political expenditures totaling approximately \$42,720 on her 8-day pre-election report and July 2008 semiannual report.
9. At issue in the 8-day pre-election report are 10 political expenditures totaling approximately \$30,520 for such purposes as "airfare," "telephone," "Event expenses," campaign supplies," "printing & mailing," and "gas."
10. At issue in the July 2008 semiannual report are 10 political expenditures totaling approximately \$12,200 for such purposes as "telephone," "rent," "utilities," "event expenses," "data," and "equipment rental."

Timely Filing of Report

11. The complaint alleged that the respondent failed to timely file the January 2009 semiannual report. The report was due on January 15, 2009. The respondent filed the report on January 20, 2009, five days after the reporting deadline. The respondent filed a July 2008

semiannual report on July 15, 2008, which was not marked as a final report. The January 2009 semiannual report disclosed \$0 in total political contributions and total political expenditures, and \$2,105.90 in total political contributions maintained.

IV. Findings and Conclusions of Law

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

Address of Campaign Treasurer

1. Each report by a candidate must include the candidate's campaign treasurer's name, residence or business street address, and telephone number. ELEC. CODE § 254.061.
2. In each report at issue, the respondent disclosed the campaign treasurer's post office box instead of a street address. However, the omission did not substantially affect disclosure. Therefore, there is credible evidence of technical or *de minimis* violations of section 254.061 of the Election Code.

Disclosure of Full Name of Person Making a Political Contribution

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. The full name of the person making a contribution was required to be disclosed because each contribution at issue exceeded \$50. The respondent did not include the full name of the three contributors at issue. Therefore, there is credible evidence of a violation of section 254.031(a)(1) of the Election Code with respect to the contributions.

Disclosing Political Expenditures

5. 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).
6. A report of a political expenditure by credit card must identify the vendor who receives payment from the credit card company. Ethics Commission Rules § 20.59.

7. 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.
8. 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 may be 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.
9. The payee disclosures on their face complied with the reporting requirements and there was no evidence that the actual payees were incorrectly disclosed for the expenditures at issue. The original purpose descriptions were adequate. There is credible evidence of no violation of section 254.031(a)(3) of the Election Code, or sections 20.59, 20.61, and 20.62 of the Ethics Commission Rules.

Timely Filing of Report

10. A candidate is required to file two reports for each year. The first report shall be filed not later than July 15 and covers the period beginning the first day after the period covered by the last report and continuing through June 30. The second report shall be filed not later than January 15 and covers the period beginning July 1 and continuing through December 31. ELEC. CODE § 254.063.
11. A candidate has the duty to file campaign finance reports until the candidate terminates her campaign treasurer appointment. The designation of a report as a final report terminates a candidate's campaign treasurer appointment. ELEC. CODE § 254.065.
12. The evidence indicates that the respondent did not terminate her campaign treasurer appointment after the May 2008 election. Thus, the respondent was required to file semiannual reports. The respondent filed the January 2009 semiannual report after the due

date. Therefore, there is credible evidence of a violation of section 254.063 of the Election Code with respect to the January 2009 semiannual 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 each campaign finance report must include the candidate's campaign treasurer's name, residence or business street address, and telephone number and the amount of political contributions from each person that in the aggregate exceed \$50 and that are accepted during the reporting period, the full name and address of the person making the contributions, and the dates of the contributions.

The respondent also acknowledges that a candidate is required to file two reports for each year. The first report must be filed not later than July 15 and covers the period beginning the first day after the period covered by the last report and continuing through June 30. The second report must be filed not later than January 15 and covers the period beginning July 1 and continuing through December 31.

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-31006195.

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

Randi K. Shade, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director