

TEXAS ETHICS COMMISSION

IN THE MATTER OF

DION RAMOS,

RESPONDENT

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BEFORE THE

TEXAS ETHICS COMMISSION

SC-31109207

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on May 30, 2013, to consider sworn complaint SC-31109207. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 253.1611, 254.031, and 254.0611 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 alleged that the respondent: 1) did not properly disclose on multiple campaign finance reports political contributions and political expenditures; 2) did not disclose in campaign finance reports the principal occupation or job title and full name of employer for certain contributors; 3) did not properly report an asset valued at \$500 or more; and 4) did not follow statutory guidelines when making political contributions to political committees.

III. Facts Supported by Credible Evidence

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

1. The respondent was elected to serve an unexpired term as judge for the 55th Judicial District on November 4, 2008. The respondent was not reelected in the November 2010 general election.

Full Names of Contributors

2. The complaint alleged that the respondent did not disclose the full names of 16 contributors that were disclosed on Schedule A (used to disclose political contributions) of the respondent's January 2010 semiannual report, 30-day and 8-day pre-election reports for the November 2010 general election, and January 2011 semiannual report.

3. Four of the contributions at issue totaling \$1,750 were from law firms. However, the respondent did not list the full names of the law firms. The remaining 12 contributions at issue totaling \$7,200 were from individuals. However, the respondent disclosed only the contributors' last name and first initial.
4. In response to the complaint, the respondent swore that all political contributions were accurately and completely reported, and that the reports are substantially correct. Regarding the contributions that were made from individuals, the respondent provided sufficient principal occupation and employer information so that someone viewing Schedule A of the report could have reasonably ascertained the contributors' full names.

Total Political Contributions Maintained

5. The complaint alleged that the respondent reported an incorrect balance for total political contributions maintained in six campaign finance reports. In response to the complaint, the respondent provided copies of his campaign account bank statements. The original disclosures along with the account balances shown on the bank statements are as follows:
 - January 2010 Semiannual Report – disclosed \$149,059.96; bank statement showed \$147,349.30; difference is \$1,710.66
 - July 2010 Semiannual Report – disclosed \$150,873.50; bank statement showed \$150,873.50
 - 30-day Pre-election Report for the November 2010 general election – disclosed \$138,375.90; bank statement showed \$138,375.90
 - 8-day Pre-election Report for the November 2010 general election – disclosed \$116,972.79; bank statement showed \$116,972.79
 - January 2011 Semiannual Report – disclosed \$98,689.84; bank statement showed \$98,689.84
 - July 2011 Semiannual Report – disclosed \$96,935.61; bank statement showed \$96,935.61

Disclosure of Political Expenditures

Payee Name

6. The complaint alleged that the respondent did not disclose the full names of four payees of political expenditures that were disclosed on Schedule F (used to disclose political expenditures) of the respondent's July 2010 and January 2011 semiannual reports. The relevant portions of the political expenditures at issue were disclosed as follows:

July 2010 Semiannual Report

- May 27, 2010, \$500 to KPFT, under the category of “Gift/Awards/Memorials Expense” with a description of “Donation”
- May 28, 2010, \$300 to MABA Texas, under the category of “Gift/Awards/Memorials Expense” with a description of “Sponsorship” (note that the respondent disclosed the address for MABA headquarters in Los Angeles, California)

January 2011 Semiannual Report

- December 17, 2010, \$200 to R.K. Sandill, under the category of “Event Expense” with a description of “Pro-Rata Share of Judges Event”
 - December 31, 2010, \$1,000 to KPFT, under the category of “Gift/Awards/Memorials Expense” with a description of “Contribution”
7. In response to the complaint, the respondent swore that all political expenditures were accurately and completely reported, and that the reports are substantially correct.
 8. Regarding the two expenditures to KPFT, an Internet search using the term “KPFT” returned an exact match for the Houston radio station, KPFT 90.1 FM. Regarding the expenditure to MABA Texas, the acronym used by the respondent is a commonly recognized acronym that is used to represent the Mexican-American Bar Association of Texas. Regarding the expenditure to R.K. Sandill, credible evidence indicates that the payee at issue uses the name “R.K.” as a nickname, and an Internet search using the term “R.K. Sandill” returned an exact match for the payee at issue.

Purpose of Political Expenditures

9. The complaint alleged that the respondent did not properly disclose the purpose of a political expenditure. The political expenditure at issue was disclosed on Schedule F of the respondent’s July 2010 semiannual report as follows:
 - February 3, 2010, \$183.45 to Gambino’s under the category of “Event Expense” with a stated description of “Event Expense”
10. In response to the complaint, the respondent swore that Gambino’s is a bakery located in New Orleans that makes “King Cakes,” and that he purchased “King Cakes” for the court staff in order to discuss officeholder issues.

Actual Payees of Political Expenditures

11. The complaint alleged that the respondent did not disclose the actual vendor payee, address, date, and amount pertaining to the stated purpose of nine political expenditures

that were disclosed on Schedule F of the respondent's January 2010, July 2010, and January 2011 semiannual reports.

12. Regarding the January 2010 semiannual report, the respondent disclosed a \$200 political expenditure to another district judge for "Pro-rata share of Holiday Party." Credible evidence indicated that the respondent made the payment directly to another judge as an event coordinator for a holiday party.
13. Regarding the July 2010 semiannual report, the respondent disclosed two expenditures totaling approximately \$1,475 that were made to an individual for "Printing of T Shirts." Credible evidence indicated that the payee is the owner of a t-shirt printing business, and thus the payee was properly disclosed. The respondent also disclosed a political expenditure of approximately \$190 that was made payable to himself for "Mileage Reimbursement for Out of District Seminar."
14. Regarding the January 2011 semiannual report, the respondent disclosed three expenditures totaling \$1,500 that were made to individuals with stated descriptions of "GOTV Efforts" and "Contract Labor." The expenditures do not appear to have been made as staff reimbursements. The respondent also disclosed a \$1,000 political expenditure that was made payable to himself for "Reimbursement for Campaign & Office Holder Mileage." The respondent also disclosed a \$200 political expenditure to another district judge for "Pro-rata share of Judges Event." Credible evidence indicated that the respondent made the payment directly to another judge as an event coordinator for an event.
15. In response to the complaint, the respondent swore that all political expenditures were accurately and completely reported, and that the reports are substantially correct.

Contributor Employer and Law Firm

16. The complaint alleged that the respondent did not properly disclose the principal occupation or job title and the full name of the employer or law firm for 55 contributors. Note that all contributions exceeded \$50, and therefore the respondent was required to provide principal occupation and employer information for all contributors at issue.
17. For 37 of the contributions, the respondent listed the contributors' principal occupation as "Attorney" and employer/law firm as "Self." The respondent did not list the formal name of each contributor's employer or law firm. However, credible evidence indicated that the contributors were sole practitioners whose names' appeared in the title of each respective law firm.
18. For three contributors who made 12 contributions totaling approximately \$2,300, the respondent stated "Requested" in the principal occupation and employer fields.
19. For the remaining six contributions, the respondent listed the contributors' employer as "Self" and principal occupation as either "Rancher," "Homemaker," "Business Owner,"

or “Physician.” Regarding these contributions, there was insufficient evidence to determine whether the information disclosed by the respondent was inaccurate or incorrect.

Reporting an Asset of \$500 or More

20. The complaint alleged that the respondent did not properly report the purchase of an asset valued at \$500 or more. The political expenditure at issue was disclosed on Schedule F of the respondent’s January 2010 semiannual report as follows:
- October 29, 2009, \$699 to B&H Photo Video, with a purpose of “Camera for Campaign Events”
21. In response to the complaint, the respondent swore that he purchased a camera for photographing campaign events and for other social networking purposes. The respondent swore that the camera should have been reported on Schedule M (used to disclose the purchase of assets valued at \$500 or more), if that was a requirement as of December 31, 2009. The respondent filed a correction to the January 2010 semiannual report and disclosed the asset on Schedule M.

Contribution to Political Committee for Primary Election

22. The complaint alleged that the respondent made an unlawful political contribution to a political committee in connection with a March 2, 2010, Democratic Party primary election, in which the respondent was an unopposed incumbent candidate for district judge. One of the organizations at issue, the Houston Bar Association, is not a political committee. The remaining political contribution at issue was disclosed on Schedule F of the respondent’s July 2010 semiannual report as follows:
- January 19, 2010, \$120 to Harris County Democratic Party (HCDP), under the category of “Contributions/Donations” with a description of “Contribution” (disclosed by HCDP as a contribution)
23. Commission records show that HCDP is a county executive committee that files campaign finance reports semiannually with the commission. In response to the complaint, the respondent swore that the contribution was made in accordance with section 253.1611(e) of the Election Code, and that HCDP provided goods and services to his election and re-election campaigns that substantially equaled or exceeded the amount of any contributions.
24. The respondent also provided a letter from the former chair of HCDP, who was the chairman from early January 2003 until late December 2011. In the letter, the former chairman swore that the contribution was made in return for goods or services of greater or equal value, including petition signature gathering activities for the 2010 primary election, meet and greet functions at law firms, the development of a mailing list, and judicial candidate training seminars. However, note that HCDP’s campaign finance

reports on file with the commission indicate that HCDP's expenditures that occurred around the March 2010 primary election were for salaries, bank fees, consulting services, and transfers to HCDP's federal committee.

Contributions to Political Committees for General Election

25. The complaint alleged that the respondent made aggregate contributions exceeding \$500 to three political committees in connection with the November 2010 general election, in which the respondent was an opposed candidate. One of the organizations at issue, the NAACP Freedom Fund, is not a political committee. The remaining political contributions at issue were disclosed on Schedule F of the respondent's July 2010 semiannual report, 30-day and 8-day pre-election reports for the November 2010 general election, and January 2011 semiannual report as follows:

Harris County Democratic Party (HCDP)

- March 12, 2010, \$3,000 to HCDP, under the category of "Contributions/Donations" with a description of "Contribution" (disclosed by HCDP as a contribution)
- July 27, 2010, \$4,500 to HCDP, under the category of "Contributions/Donations" with a description of "Contribution" (disclosed by HCDP as a contribution)
- July 30, 2010, \$1,000 to HCDP, under the category of "Contributions/Donations" with a description of "Contribution" (not disclosed by HCDP)
- September 15, 2010, \$5,000 to HCDP, under the category of "Contributions/Donations" with a description of "Contribution" (disclosed by HCDP as a contribution)
- October 1, 2010, \$500 to HCDP, under the category of "Contributions/Donations" with a description of "Donation" (disclosed by HCDP as a contribution)
- October 7, 2010, \$100 to HCDP, under the category of "Advertising Expense" with a description of "Program Advertisement" (disclosed by HCDP as a contribution)
- October 27, 2010, \$5,000 to HCDP, under the category of "Contributions/Donations" with a description of "Contribution" (disclosed by HCDP as a contribution on October 23, 2010)
- November 3, 2010, \$5,000 to HCDP, under the category of "Contributions/Donations" with a description of "Contribution" (disclosed by HCDP as a contribution on November 2, 2010)

- November 4, 2010, \$1,000 to HCDP, under the category of “Contributions/Donations” with a description of “Contribution” (disclosed by HCDP as a contribution on November 2, 2010)
26. Regarding the nine expenditures to HCDP totaling \$25,100, the respondent provided a letter from the former chairman of HCDP. In the letter, the former chairman swore that he was, and currently is, knowledgeable as to all contributions made to HCDP by judicial candidates in calendar year 2009 and calendar year 2010 as related to the 2010 election cycle. In summary, the former chairman swore that the respondent received goods and services that substantially equaled or exceeded the amount of his contributions, and that if the respondent had paid for the goods and services on his own, the cost would have been, in his opinion, well over \$100,000.
 27. Specifically, the former chairman swore that the contributions were made in return for petition signature gathering activities for the 2010 primary, meet and greet functions at law firms, the development of a mailing list, judicial candidate training seminars, the opening of satellite offices in Harris County for the 2010 general election, get-out-the-vote rallies, the HCDP church outreach program, political advertising, Internet posting of his resume and contact information, news print political advertising, and the use of an extensive phone bank program and affiliated software. The former chair also swore that the listed activities benefitted other Democratic judicial candidates generally in the 2010 election cycle.
 28. The former chair submitted an additional letter with examples of campaign communications from the 2010 election cycle. The communications consisted of door hangers and flyers that encouraged people to vote straight ticket Democrat. Accordingly, the communications supported all Democratic candidates on the straight ticket. Moreover, the former chair submitted an excel spreadsheet detailing HCDP’s expenditures during the 2010 election cycle. The former chairman swore that “the expenditures were entered into the attached spreadsheets by me personally in the usual course of business of the Harris County Democratic Party, based on my own personal, firsthand knowledge of the expenditures, as I personally approved each one of them and I personally signed all the checks.” Based on the spreadsheets provided, HCDP spent approximately \$742,765 between March 16, 2010, and December 31, 2010 (note that HCDP’s campaign finance reports on file with the commission show that the party spent approximately \$472,815 between March 16, 2010, and December 31, 2010).
 29. According to a sample ballot from the Harris County Elections website, the Democratic Party had approximately 115 candidates on the November 2010 general election ballot in Harris County. Based on the spreadsheets provided by the former chair of HCDP, the party spent approximately \$742,765 between March 16, 2010, and December 31, 2010. If each candidate received equal value, then it can be said that, based on the figures provided by the former chair, the respondent received an approximate value of \$6,460 in goods and services from HCDP in return for his contributions totaling \$25,100.

Harris County Democratic Lawyers Association (HCDLA)

- August 16, 2010, \$500 to HCDLA, under the category of “Contributions/Donations” with a description of “Contribution” (disclosed by HCDLA as a contribution)
 - The respondent swore that this expenditure was for event sponsorship.
 - August 26, 2010, \$75 to HCDLA, under the category of “Contributions/Donations” with a description of “Contribution” (not disclosed by HCDLA)
 - The respondent swore that this expenditure was for annual dues.
30. Commission records show that HCDLA is a general-purpose committee that files campaign finance reports semiannually with the commission. The \$500 expenditure at issue was disclosed as a political contribution in HCDLA’s January 2010 semiannual report.

Harris County Tejano Democrats (HCTD)

- September 7, 2010, \$800 to HCTD, under the category of “Contributions/Donations” with a description of “Contribution” (disclosed by HCTD as a contribution)
 - The respondent swore that this expenditure was for an entry fee for a Cinco de Mayo parade (note that the expenditure was made approximately four months after the event).
31. Commission records show that HCTD is a general-purpose committee that files campaign finance reports semiannually with the commission. The expenditure at issue was disclosed as a political contribution in HCTD’s 30-day pre-election report for the November 2010 general election.

Contributions to Political Committees When Not on Ballot

32. The complaint alleged that the respondent used political contributions to knowingly make political contributions to two political committees in excess of \$250 during calendar year 2009 in which the respondent’s office held was not on the ballot. Two of the organizations at issue, the Houston Bar Association and the Hispanic Bar Association, are not political committees. The remaining political contributions at issue were disclosed on Schedule F of the respondent’s July 2009 and January 2010 semiannual reports as follows:

Harris County Democratic Party (HCDP)

- January 26, 2009, \$370 to HCDP, for the purpose of “Sponsorship” (disclosed by HCDP as a contribution)
 - February 3, 2009, \$1,000 to HCDP, for the purpose of “Sponsorship” (disclosed by HCDP as a contribution)
 - April 18, 2009, \$500 to HCDP, for the purpose of “Sponsorship” (disclosed by HCDP as a contribution)
 - August 21, 2009, \$2,500 to HCDP, for the purpose of “Contribution for JRR Dinner” (disclosed by HCDP as a contribution)
 - October 5, 2009, \$2,500 to HCDP, for the purpose of “Contribution” (disclosed by HCDP as a contribution)
 - December 24, 2009, \$2,500 to HCDP, for the purpose of “Contribution” (not disclosed by HCDP)
33. In response to the complaint, the respondent swore that the contributions to HCDP were made in return for goods or services, the value of which substantially equaled or exceeded the amount of the contributions. Moreover, the letter from the former chair of HCDP stated that the contributions in question were made in compliance with section 253.1611(e)(1) of the Election Code.

Houston GLBT Political Caucus PAC

- October 5, 2009, \$500 to Houston GLBT PC PAC, for the purpose of “Contribution for GOTV Efforts” (disclosed by Houston GLBT as a contribution)
 - The respondent swore that the expenditure should have been reported as an event sponsorship, rather than a contribution.
34. Commission records show that Houston GLBT Political Caucus is a general-purpose committee that files campaign finance reports monthly with the commission. The expenditure at issue was disclosed as a political contribution with an in-kind description of “Political Funds Raised” in the committee’s November 2009 monthly report. Based on that report, the committee disclosed that it spent approximately \$4,256 in connection with a fundraiser at the House of Blues on or around October 10, 2009. The report also disclosed that the committee made a political expenditure of approximately \$9,330 on October 13, 2009, to National Mail Advertising, Inc., for a “General mail out.”

IV. Findings and Conclusions of Law

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

Full Names of Contributors

1. Each 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).
2. Regarding the four contributions totaling \$1,750 that were made from law firms, the fact that the respondent did not report the full names of the law firms was not misleading and did not substantially affect disclosure. Moreover, the respondent provided complete address information for each law firm so that someone viewing Schedule A of the report could have reasonably ascertained the contributors' full names. Therefore, there is credible evidence of technical or *de minimis* violations of section 254.031(a)(1) of the Election Code with respect to those four contributions.
3. Regarding the 12 contributions totaling \$7,200 that were from individuals, the respondent was required to provide each contributor's full name because each contribution exceeded \$50 during the reporting period. However, the respondent disclosed complete address and employer information for each contributor so that someone viewing Schedule A of the report could have reasonably ascertained the contributors' full names. In context, the omissions were not misleading and did not substantially affect disclosure. Therefore, there is credible evidence of technical or *de minimis* violations of section 254.031(a)(1) of the Election Code with respect to those 12 contributions.

Total Political Contributions Maintained

4. Each report must include as of the last day of the 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(a)(8). A *de minimis* error in calculating or reporting a cash balance under Subsection (a)(8) is not a violation of this section. ELEC. CODE § 254.031(a-1).
5. Regarding the January 2010 semiannual report, the commission has previously determined that there is no violation of section 254.031(a)(8) of the Election Code if the difference between the amount of political contributions maintained as originally disclosed and the correct amount does not exceed the lesser of 10% of the amount originally disclosed or \$2,500. The amount disclosed on the January 2010 semiannual report is within that threshold. Therefore, there is credible evidence of no violation of section 254.031(a)(8) of the Election Code with respect to that report.

6. Regarding the other five reports at issue, the evidence indicates that the respondent properly reported the total political contributions maintained balance in each report. Therefore, there is credible evidence of no violations of section 254.031(a)(8) of the Election Code.

Disclosure of Political Expenditures

7. A campaign finance report must include the amount of political expenditures that in the aggregate exceed \$100 (\$50 until September 28, 2011) 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).

Payee Name

8. Regarding the two expenditures to KPFT, an Internet search using the term “KPFT” returned an exact match for the Houston radio station, KPFT 90.1 FM. Moreover, the respondent disclosed the correct business address for the radio station so that someone viewing Schedule F of the report could have reasonably ascertained the identity of the payee. The acronym used by the respondent is a commonly recognized acronym by which the entity is known. Therefore, there is credible evidence of no violation of section 254.031(a)(3) of the Election Code.
9. Regarding the expenditure to MABA Texas, the acronym used by the respondent is a commonly recognized acronym by which the entity is known. Therefore, there is credible evidence of no violation of section 254.031(a)(3) of the Election Code.
10. Regarding the expenditure to R.K. Sandill, the respondent was required to disclose the full name of the payee because the expenditure exceeded \$100 during the reporting period. However, credible evidence indicates that the payee at issue uses the name “R.K.” as a nickname, and an Internet search using the term “R.K. Sandill” returned an exact match for the payee at issue. Therefore, there is credible evidence of no violation of section 254.031(a)(3) of the Election Code.

Purpose of Political Expenditures

11. Regarding the political expenditure at issue, the information provided by the respondent does not describe the specific goods that were purchased. Therefore, there is credible evidence of a violation of section 254.031(a)(3) of the Election Code.

Actual Payees of Political Expenditures

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 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.

13. Regarding the nine political expenditures at issue, the information disclosed by the respondent does not seem to indicate that the expenditures were made as staff reimbursements. The available evidence indicated that the respondent made the payments directly to the stated payees either as event coordinators, business owners, for campaign services rendered, or for mileage reimbursement. Therefore, there is credible evidence of no violations of section 254.031(a)(3) of the Election Code and section 20.62 of the Ethics Commission Rules.

Contributor Employer and Law Firm

14. Each report by a candidate for a judicial office must include, for each individual from whom the person filing the report has accepted political contributions that in the aggregate exceed \$50 and that are accepted during the reporting period, the principal occupation and job title of the individual and the full name of the employer of the individual or of the law firm of which the individual or the individual's spouse is a member, if any. ELEC. CODE § 254.0611(a)(2)(A).
15. "Law firm" means a partnership, limited liability partnership, or professional corporation organized for the practice of law. *Id.* § 253.157(e).
16. Black's Law Dictionary defines "employer" as "a person who controls and directs a worker under an express or implied contract of hire and who pays the worker's salary or wages." Black's Law Dictionary 565 (8th ed. 2004).
17. For 37 of the contributions, the respondent listed the contributors as self-employed attorneys. The respondent did not list the formal name of each contributor's employer or law firm. The commission has previously determined that there is no violation of section 254.0611(a)(2)(A) of the Election Code for listing a contributor as self-employed as long as the contributor is an officer or principal of an entity that bears the contributor's name, or if the contributor is otherwise self-employed. Credible evidence indicated that the contributors were sole proprietors and that the contributors' names were all included in

the name of each respective entity. Therefore, there is credible evidence of no violations of section 254.0611(a)(2)(A) of the Election Code with respect to those 37 contributions.

18. For three contributors who made 12 contributions totaling approximately \$2,300, the respondent did not provide any principal occupation and employer information. Therefore, there is credible evidence of violations of section 254.0611(a)(2)(A) of the Election Code with respect to those 12 contributions.
19. For six of the contributions at issue, the evidence was inconclusive as to the contributors' employers. Therefore, there is insufficient evidence of violations of section 254.0611(a)(2)(A) of the Election Code with respect to those six contributions.

Reporting an Asset of \$500 or More

20. Each report by a candidate for judicial office must include a specific listing of each asset valued at \$500 or more that was purchased with political contributions and on hand as of the last day of the reporting period. ELEC. CODE § 254.0611(a)(3).
21. Credible evidence indicated that the respondent purchased with political contributions a single asset valued at \$500 or more and had the asset on hand as of the last day of the period covered by the January 2010 semiannual report. Accordingly, the respondent was also required to disclose the asset on Schedule M of the report. The respondent did not disclose the asset on Schedule M when the January 2010 semiannual report was originally filed. Therefore, there is credible evidence of a violation of section 254.0611(a)(3) of the Election Code.

Contribution to Political Committee for Primary Election

22. A judicial candidate or a specific-purpose committee for supporting or opposing a judicial candidate may not use a political contribution to knowingly make political contributions to a political committee in connection with a primary election. ELEC. CODE § 253.1611(b).
23. Section 253.1611 of the Election Code does not apply to a political contribution made to the principal political committee of the state executive committee or a county executive committee of a political party that is (1) made in return for goods or services, including political advertising or a campaign communication, the value of which substantially equals or exceeds the amount of the contribution, or (2) in an amount that is not more than the candidate's or officeholder's pro rata share of the committee's normal overhead and administrative or operating costs. *Id.* § 253.1611(e)(1), (2).
24. For purposes of Subsection (e)(2), a candidate's or officeholder's pro rata share of a political committee's normal overhead and administrative or operating costs is computed by dividing the committee's estimated total expenses for a period by the number of candidates and officeholders to whom the committee reasonably expects to provide goods or services during that period. *Id.* § 253.1611(f).

25. “In connection with an election” means, with regard to a contribution that is designated in writing for a particular election, the election designated or, with regard to a contribution that is not designated in writing for a particular election or that is designated as an officeholder contribution, the next election for that office occurring after the contribution is made. *Id.* § 253.152(2).
26. “Political contribution” means a campaign contribution or an officeholder contribution. *Id.* § 251.001(5). “Contribution” means a direct or indirect transfer of money, goods, services, or any other thing of value and includes an agreement made or other obligation incurred, whether legally enforceable or not, to make a transfer. *Id.* § 251.001(2). “Campaign contribution” means a contribution to a candidate or political committee that is offered or given with the intent that it be used in connection with a campaign for elective office or on a measure. *Id.* § 251.001(3). “Officeholder contribution” means a contribution to an officeholder or political committee that is offered or given with the intent that it be used to defray expenses that are incurred by the officeholder in performing a duty or engaging in an activity in connection with the office and are not reimbursable with public money. *Id.* § 251.001(4). “Political committee” means a group of persons that has as a principal purpose accepting political contributions or making political expenditures. *Id.* § 251.001(12).
27. Under section 253.152(2) of the Election Code, if the respondent did not designate the contributions in writing for a particular election, the contributions would have been made in connection with “the next election for that office occurring after the contribution is made.” There is no evidence that the respondent designated the contribution at issue for a particular election. In addition, the next election for the office that the respondent was a candidate for was the March 2010 primary election.
28. Regarding the \$120 contribution at issue, there is insufficient evidence to determine whether the respondent received any specific goods or services in return for the contribution, and whether the value of any goods or services substantially equaled or exceeded the amount of the contribution. Based on the amount at issue, there is insufficient evidence of a violation of section 253.1611(b) of the Election Code.

Contributions to Political Committees for General Election

29. A judicial candidate may not use a political contribution to knowingly make a political contribution to a political committee that, when aggregated with each other political contribution to a political committee in connection with a general election, exceeds \$500. ELEC. CODE § 253.1611(c).
30. Ethics Commission Rule § 20.51(c) states that if political advertising supporting or opposing two or more candidates is an in-kind contribution, each person benefitting from the contribution shall report the amount determined by dividing the full value of the political advertising by the number of persons benefitted by the political advertising. Ethics Commission Rules § 20.51(c).

31. A contribution given with the restriction that it be used to hire lobbyists to influence legislators in regard to legislation would not be a political contribution since it does not meet the definition of either campaign contribution or officeholder contribution. If, on the other hand, funds are not restricted to uses not regulated by title 15, the funds must be reported as a political contribution. Ethics Advisory Opinion No. 131 (1993).
32. A contribution earmarked for payment of general-purpose committee expenses that are neither general administrative nor political expenses would not be required to be reported under chapter 254 of the Election Code. Ethics Advisory Opinion No. 132 (1993).
33. In our opinion, the exception in section 253.1611(e) allows a judicial candidate to make a contribution to a party political committee *only for goods and services that benefit the donor candidate*, not for goods and services that benefit any other candidate or officeholder. Otherwise, donations to political party committees could be used to circumvent the other restrictions in section 253.1611 of the Election Code. Ethics Advisory Opinion No. 444, at n.3 (2002).
34. Under section 253.152(2) of the Election Code, if the respondent did not designate the contributions in writing for a particular election, the contributions would have been made in connection with “the next election for that office occurring after the contribution is made.” There is no evidence that the respondent designated any of the contributions for a particular election. In addition, the next election for the office that the respondent was a candidate for was the November 2010 general election.

Harris County Democratic Party (HCDP)

35. The respondent used political contributions to knowingly make nine political contributions totaling \$25,100 to HCDP. Under section 253.152(2) of the Election Code, if the respondent did not designate the contributions in writing for a particular election, the contributions would have been made in connection with “the next election for that office occurring after the contribution is made.” There is no evidence that the respondent designated any of the contributions for a particular election. In addition, the next election for the office that the respondent was a candidate for was the November 2010 general election. Accordingly, the respondent made political contributions totaling \$25,100 to a political committee, HCDP, in connection with a general election, which is \$24,600 over the statutory limit. However, the prohibition against making the contributions would not apply if made in accordance with section 253.1611(e) of the Election Code.
36. In order to claim the exception under section 253.1611(e)(1) of the Election Code, the political contributions must be made in return for goods or services, the value of which substantially equals or exceeds the amount of the contributions. The statement from the former chair of HCDP indicates that the respondent was receiving goods and services of greater or equal value in return for the contributions. The method of computing in-kind contribution value as stated in Ethics Commission Rule § 20.51 is a reasonable method of determining the value received by each candidate. Based on that method, the evidence indicates that the respondent received an approximate value of \$6,460 in goods and

services from HCDP in return for his contributions totaling \$25,100. Accordingly, the value of the goods or services the respondent received does not appear to substantially equal or exceed the amount of the contributions. The respondent's contributions appear to exceed the value of the goods and services by approximately \$18,640. Therefore, there is credible evidence of a violation of section 253.1611(c) of the Election Code with respect to \$18,140 of the contributions.

Harris County Democratic Lawyers Association (HCDLA)

37. Regarding the two expenditures totaling \$575, the respondent swore that the expenditure of \$500 was for an event sponsorship, and that the expenditure of \$75 was for annual dues. Since the \$500 expenditure did not exceed the limit, there is credible evidence of no violation of section 253.1611(c) of the Election Code with respect to that expenditure. Regarding the \$75 expenditure for annual dues, considering that the respondent was likely aware that the payee was a political committee, and that the purpose of the committee was to support Democratic candidates, the evidence indicates that the respondent made the payment to the committee with the intent that the committee use the funds for political purposes. The payment was a direct or indirect transfer of money to a political committee. Furthermore, under EAOs 131 and 132, the payments to the committee would have been political contributions unless they were earmarked for nonpolitical purposes. There is no evidence that the respondent earmarked the payments for nonpolitical purposes. Thus, the \$75 payment was a political contribution to a political committee that, when aggregated with each other political contribution to HCDLA in connection with a general election, exceeded \$500. Therefore, there is credible evidence of a violation of section 253.1611(c) of the Election Code with respect to the \$75 expenditure at issue.

Harris County Tejano Democrats (HCTD)

38. Regarding the \$800 expenditure at issue, the respondent swore that the expenditure was for admission to an event for which he received goods and services of greater or equal value. Nevertheless, considering that the respondent was likely aware that the payee was a political committee, that the purpose of the committee was to support Democratic candidates, and that the committee disclosed that it received a political contribution from the respondent, the evidence indicates that the respondent made the payments to the committee with the intent that the committee use the funds for political purposes. The payment was a direct or indirect transfer of money to a political committee. Furthermore, under EAOs 131 and 132, the payment to the committee would have been a political contribution unless it was earmarked for nonpolitical purposes. There is no evidence that the respondent earmarked the payment for nonpolitical purposes. Thus, the payment was a political contribution to a political committee in connection with a general election that exceeded \$500. Therefore, there is credible evidence of a violation of section 253.1611(c) of the Election Code with respect to \$300 of the expenditure at issue.

Contributions to Political Committees When Not on Ballot

39. A judicial officeholder may not, in any calendar year in which the office held is not on the ballot, use a political contribution to knowingly make a political contribution to a political committee that, when aggregated with each other political contribution to a political committee in that calendar year, exceeds \$250. *Id.* § 253.1611(d).
40. District judges in the state of Texas serve four-year terms. TEX. CONST. ART. V, § 7. The respondent was elected to serve an unexpired term as district judge in November 2008. The respondent was not up for reelection until 2010. Therefore, the respondent's office of district judge was not on the ballot in 2009, the calendar year when the political contributions at issue were made. Thus, the respondent could not use political contributions to make political contributions to a political committee that exceeded \$250 in 2009, unless the exception under section 253.1611(e) of the Election Code was satisfied.

Harris County Democratic Party (HCDP)

41. In calendar year 2009, the respondent made six political contributions totaling \$9,370 to HCDP. The respondent swore that the contributions were made in accordance with section 253.1611(e) of the Election Code (the party chair's affidavit indicated that the contributions were made under section 253.1611(e)(1)). However, the respondent did not provide evidence to show whether he received any specific goods or services in return for these contributions. In addition, the respondent was not involved as a candidate in the November 2009 election. Therefore, there is credible evidence of a violation of section 253.1611(d) of the Election Code with respect to \$9,120 of this expenditure.

Houston GLBT Political Caucus PAC

42. In calendar year 2009, the respondent made one political contribution of \$500 to Houston GLBT Political Caucus PAC for "GOTV Efforts." The respondent claimed that the expenditure was not a political contribution. Records show that the committee was actively involved in the November 2009 Houston municipal elections. Considering that the respondent was likely aware that the payee was a political committee, that the purpose of the committee was to support certain candidates, and that the committee disclosed that it received a political contribution from the respondent, the evidence indicates that the respondent made the payment to the committee with the intent that the committee use the funds for political purposes. The payment was a direct or indirect transfer of money to a political committee. Furthermore, under EAOs 131 and 132, the payment to the committee would have been a political contribution unless it was earmarked for nonpolitical purposes. There is no evidence that the respondent earmarked the payment for nonpolitical purposes. Thus, the payment was a political contribution to a political committee that exceeded \$250 during a calendar year in which the respondent's office held was not on the ballot. Therefore, there is credible evidence of a violation of section 253.1611(d) of the Election Code with respect to \$250 of this expenditure.

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: 1) a judicial candidate may not use a political contribution to knowingly make a political contribution to a political committee that, when aggregated with each other political contribution to a political committee in connection with a general election, exceeds \$500; 2) a judicial officeholder may not, in any calendar year in which the office held is not on the ballot, use a political contribution to knowingly make a political contribution to a political committee that, when aggregated with each other political contribution to a political committee in that calendar year, exceeds \$250; 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; 4) each campaign finance report must include the amount of political expenditures that in the aggregate exceed \$100 (\$50 until September 28, 2011) 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; 5) each report by a candidate for a judicial office must include, for each individual from whom the person filing the report has accepted political contributions that in the aggregate exceed \$50 and that are accepted during the reporting period, the principal occupation and job title of the individual and the full name of the employer of the individual or of the law firm of which the individual or the individual's spouse is a member, if any; and 6) each report by a candidate for judicial office must include a specific listing of each asset valued at \$500 or more that was purchased with political contributions and on hand as of the last day of the reporting period.

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 nature, circumstances, and consequences of the violations described under Sections III and IV, and after considering the sanction necessary to deter future violations, the commission imposes a \$1,000 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-31109207.

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

Dion Ramos, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director