

TEXAS ETHICS COMMISSION

IN THE MATTER OF
CHRISTOPHER W. OLIVER,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-31305112

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) held a preliminary review hearing on October 29, 2014, to consider sworn complaint SC-31305112. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 254.031 and 254.036 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 did not properly disclose political contributions and political expenditures and did not properly execute an affidavit with a campaign finance report.

III. Facts Supported by Credible Evidence

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

1. At the time relevant to the complaint, the respondent was Houston Community College Trustee, District IX.

Disclosure of Political Contributions and Political Expenditures

2. The complaint alleged that the respondent did not properly disclose political contributions and political expenditures on his 30-day and 8-day pre-election reports for the November 2011 election and his January 2012 semiannual report.

30-day Pre-Election Report

3. The respondent's 30-day pre-election report for the November 2011 election disclosed the following in the totals sections:

Total Unitemized Contributions	\$
Total Political Contributions	\$23,440
Total Unitemized Expenditures	\$
Total Political Expenditures	\$17,115.41
Total Political Contributions Maintained	\$ 6,234.59
Total Principal Amount of Outstanding Loans	\$

4. The complaint alleged that the respondent did not disclose the correct amounts of political contributions, political expenditures, and total political contributions maintained on the report. The respondent disclosed no amounts in the spaces for total unitemized political contributions and total unitemized political expenditures. On Schedule A (used to disclose political contributions), the respondent disclosed \$19,400 in contributions. On Schedule F (used to disclose political expenditures), the respondent disclosed \$34,230.82 in political expenditures. However, it appears that the respondent reported each contribution and expenditure twice on each schedule. When the double reporting is taken into account, the amount disclosed in the total political expenditures section of the report is the same as the amount disclosed on Schedule F.

8-day Pre-Election Report

5. The respondent's 8-day pre-election report for the November 2011 election disclosed the following in the totals sections:

Total Unitemized Contributions	\$
Total Political Contributions	\$45,000
Total Unitemized Expenditures	\$
Total Political Expenditures	\$41,568.97
Total Political Contributions Maintained	\$
Total Principal Amount of Outstanding Loans	\$ 3,431.03

6. The complaint alleged that the respondent did not disclose the correct amounts of political contributions and political expenditures on the report. The respondent disclosed no amounts in the spaces for total unitemized political contributions and total unitemized political expenditures. On Schedule A (used to disclose political contributions), the respondent disclosed \$18,475 in political contributions. On Schedule F (used to disclose political expenditures), the respondent disclosed \$23,454.17 in political expenditures.
7. On November 11, 2011, the respondent filed a correction affidavit for the 8-day pre-election report for the November 2011 election and swore that the amount listed in the space for total principal amount of outstanding loans should have been disclosed in the space for total political contributions maintained.

January 2012 Semiannual Report

8. The respondent's January 2012 semiannual report disclosed the following in the totals sections:

Total Unitemized Contributions	\$
Total Political Contributions	\$54,500
Total Unitemized Expenditures	\$
Total Political Expenditures	\$51,352.97
Total Political Contributions Maintained	\$ 3,147.03
Total Principal Amount of Outstanding Loans	\$

9. The complaint alleged that the respondent did not disclose the correct amounts of political contributions and political expenditures on the report. The respondent disclosed no amounts in the spaces for total unitemized political contributions and total unitemized political expenditures. On Schedule A, the respondent disclosed \$7,500 in political contributions. On Schedule F, the respondent disclosed \$9,784 in political expenditures.

Execution of Report Affidavit

10. The complaint alleged that the respondent did not properly execute the affidavit on his 30-day pre-election report for the November 2011 election. The report was not signed by the respondent, nor did it include a notary stamp and seal. The respondent did not file a corrected report.

Response to Sworn Complaint

11. United States Postal Service records indicate that the notice of the sworn complaint was delivered to the respondent's address on June 5, 2013. The notice stated that the respondent was required to respond within 10 business days from receipt of the notice. To date, the respondent has not filed a response to the sworn complaint. The respondent appeared and testified at the preliminary review hearing.

IV. Findings and Conclusions of Law

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

Disclosure of Political Contributions and Political Expenditures

1. 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).

2. A campaign finance report must include, for all 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).
3. 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 \$100 (\$50 until September 28, 2011) or less made during the reporting period. ELEC. CODE § 254.031(a)(5). 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. ELEC. CODE § 254.031(a)(6).
4. 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. ELEC. CODE § 254.031(a)(8).
5. On each report, the amounts of political contributions and political expenditures disclosed in the totals sections were different from the amounts disclosed on the reporting schedules. The respondent also left blank spaces for unitemized political contributions and political expenditures. Therefore, there is credible evidence of violations of sections 254.031(a)(1), 254.031(a)(3), 254.031(a)(5), and 254.031(a)(6) of the Election Code. There is insufficient evidence of a violation of section 254.031(a)(8) of the Election Code.

Execution of Report Affidavit

6. Each report filed under this chapter that is not filed by electronic transfer must be accompanied by an affidavit executed by the person required to file the report. The affidavit must contain the statement: "I swear, or affirm, under penalty of perjury, that the accompanying report is true and correct and includes all information required to be reported by me under Title 15, Election Code." Each report filed under this chapter by electronic transfer must be under oath by the person required to file the report and must contain, in compliance with commission specifications, the digitized signature of the person required to file the report. A report filed under this chapter is considered to be under oath by the person required to file the report, and the person is subject to prosecution under Chapter 37, Penal Code, regardless of the absence of or a defect in the affidavit. ELEC. CODE § 254.036(h).
7. The respondent did not sign the report and the report did not include a notary stamp and seal. Therefore, there is credible evidence of a violation of section 254.036(h) of the Election Code.

Response to Sworn Complaint

8. The respondent must respond to the notice of Category One violations 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).
9. United States Postal Service records indicate that the notice of the sworn complaint was delivered to the respondent's address on June 5, 2013. To date, the respondent has not filed a response to the sworn complaint. Therefore, there is credible evidence of a violation of section 571.1242(a) 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: 1) 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; 2) each campaign finance report must include the amount of political expenditures that in the aggregate exceed \$100 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; 3) 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 \$100 or less made during the reporting period; 4) each campaign finance 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; 5) each campaign finance report that is not filed by electronic transfer must be accompanied by an affidavit executed by the person required to file the report. The affidavit must contain the statement: "I swear, or affirm, under penalty of perjury, that the accompanying report is true and correct and includes all information required to be reported by me under Title 15, Election Code." Each report filed by electronic transfer must be under oath by the person required to file the report and must contain, in compliance with commission specifications, the digitized signature of the person required to file the report. A report filed under this chapter is considered to be under oath by the person required to file the report, and the person is subject to prosecution under Chapter 37, Penal Code, regardless of the absence of or a defect in the affidavit; and 6) the 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. 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 nature, circumstances, and consequences of the violations described under Sections III and IV, and the sanction necessary to deter future violations, the commission imposes a \$750 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 sworn complaint SC-31305112.

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

Christopher W. Oliver, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
Natalia Luna Ashley,
Executive Director