

TEXAS ETHICS COMMISSION

P.O. Box 12070, Capitol Station
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August 22, 2016

Mr. Larry B. "Larry" Mitchell

**RE: Notice of Reporting Error
SC-3140268**

Dear Mr. Mitchell:

The Texas Ethics Commission (Commission) met on August 15, 2016, to consider SC-3140268. A quorum of the Commission was present. **The Commission determined that there is credible evidence of reporting errors that do not materially defeat the purpose of disclosure.** To resolve and settle this case without further proceedings, the Commission proposed this Notice of Reporting Error Agreement (agreement).

The Commission **found credible evidence** that the respondent:

1. did not properly disclose total political contributions maintained as required by section 254.031(a)(8) of the Election Code;
2. did not disclose a personal loan and made an improper reimbursement thereof, in violation of sections 253.0351(c) and 253.035(h) of the Election Code; and
3. did not disclose the job title and employer/law firm of contributors as required by section 254.0611(a)(2)(A) of the Election Code.

The Commission **did not find credible evidence** that the respondent:

1. did not properly disclose political contributions maintained in certain reports as required by section 254.031(a)(8) of the Election Code;
2. did not properly disclose total principal amount of outstanding loans as required by section 254.031(a)(2) of the Election Code; and

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3. accepted a contribution from a labor organization as prohibited by sections 253.003 and 253.094 of the Election Code.

Credible evidence available to the Commission supports the following findings of fact and conclusions of law:

Total Political Contributions Maintained

1. It was contended that the respondent did not properly disclose total political contributions maintained in five campaign finance reports.
2. In response to the complaint, the respondent provided copies of his campaign account bank statements. The amounts as originally disclosed, along with the amounts shown on the bank statements, are as follows:

July 2012 Semiannual Report

- Disclosed \$326.28 as of July 1, 2012; bank statement showed \$326.28 as of June 30, 2012 (last day of correct period covered), and \$326.28 as of July 1, 2012.

January 2013 Semiannual Report

- Disclosed \$268.28 as of January 15, 2013; bank statement showed \$326.28 as of December 31, 2012 (last day of correct period covered), and \$268.28 as of January 15, 2013. The difference between the amount disclosed and the correct amount is \$58.

July 2013 Semiannual Report

- Disclosed \$1,268.28 as of June 30, 2013; bank statement showed \$1,268.28.

January 2014 Semiannual Report

- Disclosed \$12,631.14 as of January 15, 2014; bank statement showed \$12,790.21 as of December 31, 2013 (last day of correct period covered), and \$12,631.14 as of January 15, 2014. The difference between the amount disclosed and the correct amount is \$159.07.

30-Day Pre-election Report for the March 2014 Primary Election

- Disclosed \$557.17 as of February 4, 2014; bank statement showed \$6,381.14 as of January 23, 2014 (last day of correct period covered), and \$1,782.17 as of February 4, 2014. The difference between the amount disclosed and the correct amount is \$5,823.97.
3. Regarding the July 2012 and July 2013 semiannual reports at issue, credible evidence indicates that the respondent disclosed the correct amount of total political contributions

maintained. **Therefore, there is credible evidence of compliance with section 254.031(a)(8) of the Election Code with respect to those reports.**

4. Regarding the January 2014 semiannual report at issue, the difference between the amount disclosed and the correct amount does not exceed the lesser of 10% of the amount disclosed or \$2,500. **Therefore, there is credible evidence of compliance with section 254.031(a)(8) of the Election Code with respect to that report.**
5. Regarding the January 2013 semiannual report and the 30-day pre-election report at issue, the respondent did not properly disclose total political contributions maintained as of the last day of each reporting period. **Therefore, there is credible evidence of noncompliance with section 254.031(a)(8) of the Election Code regarding those two reports.**

Total Principal Amount of Outstanding Loans

6. It was contended that the respondent reported an incorrect amount for total principal amount of all outstanding loans on the July 2013 semiannual report. The report disclosed \$2,500 for total principal amount of all outstanding loans. The report at issue disclosed a \$1,000 loan. The respondent's prior report, the January 2013 semiannual report, disclosed \$0 for total principal amount of all outstanding loans. On March 12, 2014, in response to the sworn complaint, the respondent corrected the January 2013 semiannual report to disclose a \$1,500 loan.
7. The respondent's prior report, the January 2013 semiannual report, disclosed \$0 for total principal amount of all outstanding loans. The respondent corrected the January 2013 semiannual report to disclose a \$1,500 personal loan. The report at issue disclosed a \$1,000 loan. No payments were made on either the \$1,500 loan from the prior report or the \$1,000 loan disclosed on the report at issue, therefore, the correct amount for total principal amount of all outstanding loans on the report at issue was \$2,500, as the respondent disclosed. **Therefore, there is credible evidence of compliance with section 254.031(a)(2) of the Election Code.**

Disclosure and Repayment of Personal Loan

8. It was contended that the respondent did not properly disclose a loan and repaid a \$1,500 personal loan that was not properly reported. The respondent disclosed making the following two loan repayments on the January 2014 semiannual report:

08/22/2013 \$1,000.00 mitchell, larry / [address] / Purpose Category (PC): Loan Repayment/Reimbursement; Purpose Description (PD): loan repayment

09/08/2013 \$1,500.00 mitchell, larry / [address] / Purpose Category (PC): Loan Repayment/Reimbursement; Purpose Description (PD): repay loan

9. The respondent had disclosed a May 20, 2013, loan of \$1,000 from his wife on the July 2013 semiannual report. That loan matches the August 22, 2013, loan repayment of \$1,000 in the January 2014 semiannual report. The respondent had not disclosed any other loans at the

time that he paid himself \$1,500 from political contributions on September 8, 2013, to “repay loan.”

10. In response to the complaint, the respondent acknowledged that he did not report a personal loan of \$1,500. The respondent corrected the January 2013 semiannual report to disclose a December 20, 2012, loan of \$1,500 from “Mitchell, pauletteand [sic] larry.” The respondent also provided documentation to verify the loan information that was disclosed.
11. Credible evidence indicates that the respondent deposited \$1,500 of personal funds in an account in which political contributions were held on December 20, 2013. The respondent was required to report the \$1,500 deposit of personal funds as a loan on the report covering the period during which the personal funds were deposited into the political funds account. The respondent did not disclose the transaction as a loan when the January 2013 semiannual report was originally filed. In addition, the respondent repaid himself on the \$1,500 loan that was not properly reported. **Therefore, there is credible evidence of noncompliance with sections 253.035(h) and 253.0351(c) of the Election Code.**

Job Title and Employer/Law Firm of Contributors

12. It was contended that the respondent did not disclose the job title and the employer/law firm of 57 contributions from individuals totaling approximately \$17,600 on the January 2014 semiannual report. The respondent did not include the job title and the employer/law firm of the 57 contributions from individuals totaling approximately \$17,600 disclosed on the report at issue.
13. In response to the complaint, the respondent swore:

In the January 2014 report I provided each contribution to my campaign, all of which were from attorneys except for the above described union contribution. I did not provide a “title” because in my mind there was no title (i.e. President, CEO, CFO, etc.) associated with that occupation. I did not note the employer because each attorney was not “employed” by any person or entity. I have now corrected that report to give each of the attorneys the title of “attorney” and noted that each attorney is self-employed.
14. The respondent corrected the January 2014 semiannual report at issue to disclose “attorney” for each individual contributor’s job title, and to disclose “self” for each individual contributor’s employer/law firm.
15. The respondent did not include the job title and the employer/law firm of the 57 contributions from individuals totaling approximately \$17,600 that were disclosed on the January 2014 semiannual report at issue. **Therefore, there is credible evidence of noncompliance with section 254.0611(a)(2)(A) of the Election Code. The respondent corrected the errors.**

Political Contribution from Labor Organization

16. It was contended that the respondent accepted a political contribution from a corporation or labor organization as disclosed on the January 2014 semiannual report. That report disclosed the following political contribution on Schedule A (used to disclose political contributions):
 - 12/03/2013 \$500.00 general warehousemen and helpers / dallas, TX 75217
17. In response to the complaint, the respondent swore that the contribution at issue was from a political committee of a labor union. The respondent provided a copy of the contribution check showing that it was from General Drivers Warehousemen and Helpers Local Union 745 Drive Fund. The respondent corrected the January 2014 semiannual report to disclose that the contribution at issue came from “general warehousemen and helpers Local Union 745 Drive Fund.”
18. The general-purpose committee Teamsters Local 745, which files reports with the Commission, disclosed making a \$500 political contribution to Re-Elect Judge Larry Mitchell on December 3, 2013, on its January 2014 semiannual report. Credible evidence indicates that the respondent did not accept a political contribution from a labor organization but from the political committee of a labor organization. **Therefore, there is credible evidence of compliance with sections 253.003(b) and 253.094(a) of the Election Code.**

By signing this agreement and returning it to the Commission:

1. You consent to this agreement.
2. You accept the determinations made by the Commission in this agreement.
3. You waive any right to further proceedings in this matter.
4. You understand and agree that the Commission will consider this agreement in any future proceedings against you regarding similar allegations.
5. You acknowledge that:

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.

Except as provided by section 253.0351 or 253.042 of the Election Code, a candidate or officeholder who makes political expenditures from the candidate’s or officeholder’s personal funds may reimburse those personal funds from political contributions in the amount of those expenditures only if the expenditures from personal funds were fully reported as political expenditures, including the payees, dates, purposes, and amounts of the expenditures, in the report required to be filed under this title that covers the period in which the expenditures from personal funds were made; and the report on which the expenditures

from personal funds are disclosed clearly designates those expenditures as having been made from the person's personal funds and that the expenditures are subject to reimbursement.

A candidate or officeholder who deposits personal funds in an account in which political contributions are held shall report the amount of personal funds deposited as a loan and may reimburse the amount deposited as a loan from political contributions or unexpended personal funds deposited in the account. The reimbursement may not exceed the amount reported as a loan. Personal funds deposited into an account in which political contributions are held are subject to section 253.035 of the Election Code and must be included in the reports of the total amount of political contributions maintained required by sections 254.031(a)(8) and 254.0611(a) of the Election Code.

Each report by a candidate for a judicial office covered by Subchapter F, Chapter 253, 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.

You agree to comply with these requirements of the law.

This agreement describes reporting errors that the Commission has determined are neither technical nor *de minimis*. Accordingly, this agreement is not confidential under section 571.140 of the Government Code.

The respondent agrees to tender a \$250 assessment fee to the Commission.

This agreement is a final and complete resolution of SC-3140268.

Lawrence B. "Larry" Mitchell, Respondent

Date signed by Respondent

Executed original agreement received by the Commission on: _____.

Texas Ethics Commission

By: _____
Natalia Luna Ashley, Executive Director