

TEXAS ETHICS COMMISSION

IN THE MATTER OF
PHILLIP S. "PHIL" KING,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-31406140

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (Commission) met on August 7, 2015, to consider sworn complaint SC-31406140. 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, a law 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) made a political expenditure or political contribution in the name of or on behalf of another person; and 2) did not timely report a political contribution.

III. Facts Supported by Credible Evidence

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

1. The respondent was elected as state representative for District 61 in the November 6, 2012, general election.

Contribution on Behalf of Another

2. The complaint alleged that the respondent made a political contribution to a general-purpose committee in the name of or on behalf of another in connection with the July 31, 2012, primary runoff election for Texas Railroad Commissioner. The allegation was based on campaign finance reports filed with the Commission by the respondent, State Representative

Tom Craddick, and the DFW Conservative Voters PAC (DFW PAC), a general-purpose committee that supported eight candidates, including Christi Craddick.

3. According to campaign finance reports on file with the Commission, the respondent disclosed a \$25,000 political expenditure to DFW PAC on July 10, 2012, for “campaign support.” DFW PAC disclosed accepting the contribution from the respondent on July 11, 2012. DFW PAC disclosed approximately \$25,230 in political expenditures on July 18, 2012, for mailers and postage. Tom Craddick disclosed a \$25,000 political expenditure to the respondent on November 26, 2012, as a “Political donation.”
4. The complaint alleged that Tom Craddick’s \$25,000 contribution to the respondent was a reimbursement for the \$25,000 contribution the respondent had previously made to DFW PAC. Thus, the complaint alleged that the respondent made the \$25,000 contribution on behalf of Tom Craddick so that Tom Craddick would not be shown as the actual contributor to DFW PAC, and ultimately Christi Craddick. The complaint contends that there was a motive to conceal Tom Craddick as the actual contributor because Christi Craddick was under increasing scrutiny because her campaign had been relying heavily on Tom Craddick’s support. However, the complainant did not provide any direct evidence of coordination between the parties regarding the \$25,000 contribution at issue.
5. In response to the complaint, the respondent swore that he did not solicit or receive money from Tom Craddick for the contribution of \$25,000. Specifically, the respondent swore that he contacted an individual from DFW PAC approximately one month before the 2012 Republican primary runoff and learned that they needed \$25,000 by the end of the week in order to get the “Green Card” printed and mailed in time for early voting. The respondent swore that he made the \$25,000 contribution in an effort to support the Green Card. The respondent stated that eight candidates were endorsed by the Green Card for the 2012 Republican primary runoff, including statewide candidates, and that his contribution did not solely benefit Christi Craddick but was made to benefit each of the eight endorsed candidates.

Disclosure of Political Contributions

6. The complaint alleged that the respondent did not timely report a \$25,000 political contribution from Tom Craddick that was accepted on November 30, 2012. The respondent did not disclose the contribution at issue in his original January 2013 semiannual report that was filed on January 15, 2013.
7. On June 3, 2014, before the sworn complaint was filed, the respondent corrected the January 2013 semiannual report to add eight political contributions totaling \$37,250 (including the \$25,000 contribution from Tom Craddick). In the correction affidavit, the respondent swore

that the contributions at issue were received between December 3rd and 11th, 2012, which was during the time the respondent was moving his district, campaign, and law offices of 19 years, as well as his office at the Capitol. The respondent swore that the moving caused significant disruption for several weeks. The respondent swore that the documentation for the eight contributions was either lost or misplaced during the move.

8. In response to the complaint, the respondent reiterated what he stated in the correction affidavit and added that he filed the correction to the report after reading a May 29, 2014, press release about potential sworn complaints filed with the Commission with respect to the \$25,000 contribution. The respondent swore that, after reading the press release, he immediately initiated a self-audit of his campaign finance records and discovered the eight unreported political contributions. The respondent also swore that although the contributions were not disclosed in the original report, the contributions were reflected in the total political contributions maintained balance. The respondent provided a copy of his campaign account bank statement to support the claim.
9. The original January 2013 semiannual report disclosed the following relevant totals, along with the following corrections and bank statement totals:
 - \$54,566.81 in total political contributions (corrected to \$91,816.81)
 - \$13,488.08 in total political expenditures
 - \$179,729.04 in total political contributions maintained (bank statement showed \$180,762.69; difference is \$1,033.65)

IV. Findings and Conclusions of Law

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

Contribution on Behalf of Another

1. A person may not knowingly make or authorize a political contribution in the name of or on behalf of another unless the person discloses in writing to the recipient the name and address of the person actually making the contribution in order for the recipient to make the proper disclosure. ELEC. CODE § 253.001(a).
2. A person may not knowingly make or authorize a political expenditure in the name of or on behalf of another unless the person discloses in writing to the person on whose behalf the expenditure is made the name and address of the person actually making the expenditure in order for the person on whose behalf the expenditure is made to make the proper disclosure. *Id.* § 253.001(b).

3. A person may not knowingly make a political contribution in violation of this chapter. *Id.* § 253.003(a).
4. A person may not knowingly make or authorize a political expenditure in violation of this chapter. *Id.* § 253.004(a).
5. There is no direct evidence available to the Commission of any coordination between the parties at issue regarding the \$25,000 contribution. Moreover, there is no direct evidence available to the Commission that the respondent made an agreement with Tom Craddick or any other person to make a political contribution in the name of or on behalf of another. Therefore, there is insufficient evidence of a violation of sections 253.001, 253.003, and 253.004 of the Election Code.

Disclosure of Political Contributions

6. 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).
7. Each campaign finance report must include the total amount of all political contributions accepted and the total amount of all political expenditures made during the reporting period. *Id.* § 254.031(a)(6).
8. On June 3, 2014, the respondent filed a correction to his January 2013 semiannual report to add a \$25,000 political contribution from Tom Craddick. Although not specifically alleged in the complaint, the respondent also added seven other political contributions totaling \$12,250 to the corrected report. The contributions were not disclosed in the original report and were not included in the amount of total political contributions. Therefore, there is credible evidence of violations of sections 254.031(a)(1) and 254.031(a)(6) of the Election 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; and 2) each campaign finance report must include the total amount of all political contributions accepted and the total amount of all political expenditures made during the reporting period. 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 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-31406140.

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

Phillip S. "Phil" King, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
Natalia Luna Ashley, Executive Director