

# TEXAS ETHICS COMMISSION

IN THE MATTER OF  
MIKE CANTRELL,  
RESPONDENT

§  
§  
§  
§  
§

BEFORE THE  
TEXAS ETHICS COMMISSION  
SC-31410238

## ORDER and AGREED RESOLUTION

### I. Recitals

The Texas Ethics Commission (Commission) met on October 13, 2016, to consider sworn complaint SC-31410238. A quorum of the Commission was present. The Commission determined that there is credible evidence of violations of sections 253.035, 254.031, and 254.036 of the Election Code and sections 20.61, 20.62, and 20.63 of the Ethics Commission Rules, and credible evidence of a technical or *de minimis* violation of section 254.031 of the Election Code, laws administered and enforced by the Commission. To resolve and settle the complaint without further proceedings, the Commission proposed this resolution to the respondent.

### II. Allegations

The complaint alleged that the respondent: 1) did not file multiple campaign finance reports in a format prescribed by the Commission; 2) did not properly disclose political contributions and political expenditures on multiple campaign finance reports; 3) did not properly report political expenditures for which personal reimbursements were made; and 4) did not disclose the total amount of political expenditures of \$100 or less.

### III. Facts Supported by Credible Evidence

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

1. The respondent is the Dallas County Commissioner for District 2 in Dallas County, Texas. The respondent has held this position since 1994.

**Total Political Expenditures of \$100 or Less**

2. The complaint alleged that the respondent did not disclose on his January 2013 semiannual campaign finance report the total amount of the political expenditures of \$100 or less made during the reporting period. The respondent's January 2013 semiannual report disclosed the following relevant totals:
  - \$ (blank) in total political expenditures of \$100 or less, unless itemized
  - \$11,408.94 in total political expenditures
3. In response to the complaint, the respondent swore that he chose to itemize all political expenditures in his January 2013 semiannual report. Thus, he did not enter an amount for total political expenditures of \$100 or less in his January 2013 semiannual report. The respondent did itemize \$1,425.95 of political expenditures of \$100 or less in his January 2013 semiannual report. The expenditures were disclosed on a spreadsheet that the respondent included with the report. The total amount of itemized expenditures on the spreadsheet was \$11,408.94.

**Format of Campaign Finance Reports**

4. The complaint alleged that the respondent filed multiple campaign finance reports on forms not prescribed by the Commission. The respondent attached a multi-paged spreadsheet of his political contributions to his July 2013 semiannual report and a multi-page spreadsheet of his political expenditures to his January and July 2013, and July 2014 semiannual reports. For the political contributions spreadsheet that was attached to the July 2013 semiannual report, the respondent labeled the spreadsheet "Schedule A – Political Contributions Other Than Pledges or Loans" and had columns labeled "Date," "Full Name of Contributor," "Contributor Address," and "Amount of Contribution." The respondent disclosed on the spreadsheet that was attached to the July 2013 semiannual report accepting \$55,751 from 203 contributors.
5. Similarly, the respondent labeled the spreadsheets containing his political expenditures "Schedule F" "Political Expenditures" and had columns labeled "Date," "Amount," "Payee Name," "Payee Address," and "Purpose of Expenditure" (purpose information did not include columns for category and description). The respondent disclosed 40 expenditures totaling \$11,408.94 on his January 2013 spreadsheet, 61 expenditures totaling \$38,577.47 on his July 2013 spreadsheet, and 31 expenditures totaling \$6,404.77 on his July 2014 spreadsheet.

6. In response to the complaint, the respondent swore that the spreadsheets “conformed to the same format and paper size as the form prescribed by the commission” and the spreadsheet “included the same categories of information.” However, the respondent admitted that “category” and “description” were not categories that were “specifically stated on the form” (expenditure spreadsheet), but that “the category and description of the expenditure were necessarily made a part of the overall ‘purpose.’”

**Proper Disclosure of Political Expenditures**

7. The complaint alleged that the respondent did not properly disclose political expenditures on multiple campaign finance reports by not reporting actual names of payees, not sufficiently reporting the purpose of political expenditures, and not properly reporting staff reimbursements.

Actual Payee Names

8. The complaint specifically alleged that the respondent did not disclose the actual payees for two political expenditures, one that occurred on December 5, 2012 (reported on the January 2013 report), and the second that occurred on December 10, 2013 (reported on the January 2014 report). The respondent’s January 2013 and 2014 semiannual reports disclosed the following relevant information:

<u>Date</u>	<u>Amount</u>	<u>Payee Name</u>	<u>Purpose of Expenditure</u>
12/5/12	\$1,150	Veritex Community Bank	Employee Christmas Bonuses
12/10/13	\$2,100	Cash	Other, Office staff bonuses

9. The respondent swore in his response that he listed the bank as the payee for the December 5, 2012, expenditure, because the bank housed his campaign account and he withdrew cash from that account to pay staff bonuses. Also, the respondent admitted that he did not name as a payee in the reports each staff member who received a bonus and did not report the amount of money each staff member received as a bonus. Also in his response, the respondent provided the bonus amount, name, and address of the seven staff members who received bonuses on December 5, 2012, and December 10, 2013.
10. Regarding the \$1,150 political expenditure, the respondent indicated in his response that five staff members received \$200 each, one received \$100, and another received \$50. Regarding the \$2,100 political expenditure, the respondent indicated in his response that two staff members each received \$550, and that five staff members each received \$200.

Purpose of Political Expenditures

11. The complaint also alleged that the respondent did not sufficiently report the purpose of 45 political expenditures in his January and July 2013, and January and July 2014 semiannual reports. The respondent attached a spreadsheet of his political expenditures to the January and July 2013, and July 2014 semiannual reports. The spreadsheets contained one column entitled "Purpose of Expenditure." The "Purpose of Expenditure" column included short, two to three word descriptions such as "Reimbursement for expenses," "25th Anniversary," or "Consulting Fee." The respondent used the Commission's prescribed form (Schedule F) and disclosed both a category and description of political expenditures in the January 2014 semiannual report.
12. In response to this allegation, the respondent swore that "[a]lthough the purpose of each of the expenditures was fully disclosed in the report, the precise category for each expense was unintentionally omitted." The respondent also swore that future reports will include both the category and description for each political expenditure.

Reimbursements to Staff and Others

13. The complaint alleged that the respondent did not properly disclose 19 political expenditures made as staff reimbursements in the January and July semiannual reports for 2013 and 2014. The complaint specifically alleged that the respondent did not report the actual vendor/company payee name, address, date, and amount of the political expenditures that the respondent's staff members paid for with their personal funds. The respondent reported 13 political expenditures on the four reports at issue to individuals for the purpose of reimbursement for various expenses such as, chamber events, flowers, luncheons, and awards, from July 31, 2012, through June 11, 2014, totaling approximately \$2,850. The respondent also reported three political expenditures, made on March 3, 2013, and May 7, 2013, to one individual and on April 16, 2013, to another individual for the purpose of reimbursements in connection with a fundraiser totaling approximately \$956. The remaining three political expenditures at issue, totaling \$800, were made on: March 28, 2013, to an individual for the purpose of "Books for fundraiser door prizes; November 18, 2013, to an individual for the purpose of "Food & Beverage – Dallas County Thanksgiving Lunch;" and January 28, 2014, to an individual for the purpose of "25th Anniversary."
14. In response to the complaint, the respondent swore that he correctly reported the payee, address, date, and amount of funds reimbursed to staff members and others. In addition, the respondent admitted that he did not itemize the political expenditures paid by his staff members. The respondent submitted receipts and charts with his response that show the expenditures made by the individuals. The respondent also disclosed in those documents that a \$500 payment at issue to a staff member was not a reimbursement, but rather a gift/award

payment to the individual for 25 years of service as an employee. In regards to the political expenditures for Thanksgiving food and beverage, and fundraiser door prizes, the respondent swore that the individuals were the vendors who provided goods and services to him and the expenditures were not reimbursements to those individuals.

15. In response to written questions from the Commission, the respondent further explained that his political expenditures for reimbursements made in connection with a fundraiser were made by his political consultant and her mother. The first reimbursement of \$185.49 to his political consultant was for her expenditures for food and drinks provided to volunteers who worked on sponsorship mailers for the respondent's fundraiser. The respondent stated that he did not have copies of the receipts, but the political consultant swore in an affidavit provided by the respondent that \$185.49 was her actual out-of-pocket costs for meals and refreshments for the volunteers and that she was reimbursed that amount from the respondent's political funds.
16. In addition, the respondent stated that the second reimbursement of \$586.99 to the political consultant was for the consultant's expenditures for the respondent's fundraising event held on April 20, 2013. The respondent stated that the political consultant "did all the preparation work for decorations, ordering and picking up the cake, photography, door prize, and table decorations." The respondent provided copies of the receipts for the political consultant's expenditures for the fundraiser. Lastly, the respondent swore that he did not have input or control over the vendors used or the type of goods bought with the money the political consultant spent for the fundraiser and that the consultant "made the decision for all vendors."
17. Regarding the third reimbursement of \$184, the respondent stated that the individual, the political consultant's mother, bought postage stamps for the fundraiser mailing at the direction of the political consultant. The political consultant's mother "went to the post office and purchased additional postage stamps for the fundraiser mailing and paid for those postage stamps with her personal funds." The respondent provided a copy of the receipt for the postage stamps.

### **Officeholder Reimbursements**

18. The complaint alleged that the respondent did not properly report political expenditures for which he reimbursed himself, or in the alternative, converted campaign funds to personal use. The respondent reported the following reimbursements to himself on his spreadsheet of political expenditures attached to his July 2013 and 2014 semiannual reports and on Schedule F of his January 2014 semiannual report:

July 2013 Semiannual Report

- 4/30/2013 Reimbursement expenses for fundraiser \$487.05
- 6/17/2013 Reimburse expenses \$959.32

January 2014 Semiannual Report

- 9/16/2013 Other, Reimburse expenses \$619.40

July 2014 Semiannual Report

- 6/24/2014 Reimbursement – Craig Pardue retirement gift \$100.00

19. In response to the complaint, the respondent swore that he correctly reported himself as the payee of the political expenditures, because he received reimbursements from his political funds for political expenditures made out of his personal funds. The respondent also swore that \$419.67 of the \$959.32 reimbursement he received on June 17, 2013, was for political expenditures made from his personal funds in 2011. The respondent admitted that he neither reported the political expenditures made in 2011 from his personal funds in his campaign finance reports nor did he itemize the political expenditures made after 2011 from his personal funds in his campaign finance reports. The respondent submitted lists of the itemized political expenditures made after 2011 from his personal funds along with receipts for some of those political expenditures.

#### IV. Findings and Conclusions of Law

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

##### **Total Political Expenditures of \$100 or Less**

1. Each report must include the total amount or a specific listing of the political expenditures of \$100 or less made during the reporting period. ELEC. CODE § 254.031(a)(5).
2. Since the respondent itemized all of his political expenditures in his January 2013 semiannual report, the respondent should have reported \$0 for total political expenditures of \$100 or less in his report; however, the respondent left the amount for the total political expenditures of \$100 or less blank. The error did not substantially affect disclosure. Therefore, there is credible evidence of a technical or *de minimis* violation of section 254.031(a)(5) of the Election Code.

**Format of Campaign Finance Reports**

3. Each report filed with an authority other than the commission must be in a format prescribed by the commission. ELEC. CODE § 254.036(a).
4. The executive director may issue a certificate approving a form submitted to the commission for approval if the form: (1) provides for the reporting of all information required on the prescribed form; (2) is substantially similar in paper size and format to the prescribed form; and (3) will not be confusing to those who use the form. Ethics Commission Rules § 18.1(b).
5. There is no evidence that the respondent submitted to the Commission a copy of the spreadsheets that he used to report his political contributions and expenditures for approval by the Commission's Executive Director. A review of the Commission's records failed to disclose that the executive director issued a certificate approving the form submitted by the respondent. In addition, the respondent did not submit copies of a certificate from the executive director of the Commission approving the spreadsheets that the respondent used to report his political contributions and expenditures. Thus, there is no evidence that the respondent received permission from the Commission to use the spreadsheets to report political expenditures and contributions. Regarding the January and July 2013 semiannual reports and the July 2014 semiannual report, the respondent did not file the reports in a format prescribed by the Commission. Therefore, there is credible evidence of violations of section 254.036(a) of the Election Code.

**Proper Disclosure of Political Expenditures**Actual Payee Names

6. Each 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 the expenditures are made, and the dates and purposes of the expenditures. ELEC. CODE § 254.031(a)(3).
7. For the two political expenditures at issue, the respondent reported the bank where his political account was held and "cash" as the payees of the political expenditures. However, the respondent admitted that the true recipients of the political expenditures were seven of his staff members. Since the payments were made directly to the staff members, the respondent was required to disclose the staff members as the payees. The two expenditures at issue consisted of 12 payments that exceeded \$100 to individual payees, thus the respondent was required to itemize those expenditures totaling \$3,100. The respondent did not disclose the actual payees of the expenditures. Therefore, there is credible evidence of violations of section 254.031(a)(3) of the Election Code.

Purpose of Political Expenditures

8. Each 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 the expenditures are made, and the dates and purposes of the expenditures. ELEC. CODE § 254.031(a)(3).
9. The purpose of an expenditure means a description of the category of goods, services, or other thing of value for which an expenditure is made and a brief statement or description of the candidate, officeholder, or political committee activity that is conducted by making the expenditure. Ethics Commission Rules § 20.61. The brief statement or description must include the item or service purchased and must be sufficiently specific, when considered within the context of the description of the category, to make the reason for the expenditure clear. *Id.* Merely disclosing the category of goods, services, or other thing of value for which the expenditure is made does not adequately describe the purpose of an expenditure. *Id.*
10. All 45 of the expenditures at issue exceeded \$100 in the aggregate, and therefore the respondent was required to provide both a category and description for the purpose of the expenditures. The respondent provided a sufficient category and description for the political expenditures at issue in his January 2014 semiannual report and thus, there is credible evidence of no violation of section 254.031(a)(3) of the Election Code and section 20.61 of the Ethics Commission Rules as to those nine political expenditures. However, the respondent did not provide both a category and a description for the remaining 36 political expenditures at issue, and the information disclosed by the respondent did not otherwise sufficiently describe the purpose of each expenditure. In addition, the respondent admitted that the categories of each of the 36 political expenditures were omitted. Thus, there is credible evidence of violations of section 254.031(a)(3) of the Election Code and section 20.61 of the Ethics Commission Rules regarding 36 of the political expenditures at issue.

Reimbursements to Staff and Others

11. Each 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 the expenditures are made, and the dates and purposes of the expenditures. ELEC. CODE § 254.031(a)(3).



12. Ethics Commission Rules section 20.62 states that political expenditures made out of personal funds by a staff member of an officeholder or candidate, with the intent to seek reimbursement from the officeholder or candidate, 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:
- (1) 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 the expenditures are made and the dates and purposes of the expenditures; and
  - (2) included with the total amount or a specific listing of the political expenditures of \$100 or less made during the reporting period.

Ethics Commission Rules § 20.62(a).

13. The expenditures for food and beverage, and fundraiser door prizes to the two individuals appear to be payments for goods and services provided to the respondent by the actual individuals listed as the payees, and not reimbursements. Also, the expenditure to the staff member appears to be a gift/award payment for her many years of service as the respondent's staff member, and not a 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 as to these three political expenditures.
14. Regarding the two expenditures to the political consultant and the one expenditure to the political consultant's mother, there is no evidence that the respondent exercised discretion or control over the details of how the consultant made the payments. The two reimbursements to the respondent's political consultant were for expenditures made in connection with a fundraiser that the political consultant was hired to organize, and the reimbursement to the political consultant's mother was made for an expenditure made at the direction of the respondent's political consultant in connection with the fundraiser. The evidence available to the Commission indicates that the respondent properly disclosed the payees of the expenditures. 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 as to these three expenditures.
15. However, the remaining 13 expenditures at issue were made to the respondent's staff members as reimbursements, and thus the reporting of those reimbursements falls under section 20.62 of the Ethics Commission Rules. The respondent did not disclose the original political expenditures to the actual vendors made by his staff members for which the reimbursements were made. Given that the respondent did not report the 13 reimbursements

as prescribed by section 20.62 of the Ethics Commission Rules, there is credible evidence of violations of section 254.031(a)(3) of the Election Code and section 20.62 of the Ethics Commission Rules with respect to the remaining 13 political expenditures.

### **Officeholder Reimbursements**

16. Each 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 the expenditures are made, and the dates and purposes of the expenditures. ELEC. CODE § 254.031(a)(3).
17. 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:
  - (1) 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
  - (2) 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.

*Id.* § 253.035(h).
18. A candidate is required to report a campaign expenditure from his or her personal funds. Ethics Commission Rules § 20.63(a). An officeholder is not required to report an officeholder expenditure from his or her personal funds unless he or she intends to be reimbursed from political contributions. *Id.* § 20.63(b). A candidate or officeholder must report a political expenditure from his or her personal funds using one of the following methods:
  - (1) as a political expenditure made from personal funds reported on the political expenditure made from personal funds schedule (Schedule G);
  - (2) as a loan without depositing the personal funds in an account in which political contributions are held. The amount reported as a loan may not exceed the total amount actually spent in the reporting period. A political expenditure made from these funds must also be reported as a political expenditure made from political funds, not as made from personal funds; or

- (3) if the candidate or officeholder deposits personal funds in an account in which political contributions are held, he or she must report that amount as a loan with an indication that personal funds were deposited in that account. A political expenditure made from an account in which political contributions are maintained must be reported as a political expenditure made from political funds, not as made from personal funds.

*Id.* § 20.63(c).

19. A candidate or officeholder who makes political expenditures from his or her personal funds may reimburse those personal funds from political contributions only if:
  - (1) the expenditures were fully reported using one of the methods in subsection (c) on the report covering the period during which the expenditures were made; and
  - (2) if the method in subsection (c)(1) was used, the report disclosing the expenditures indicates that the expenditures are subject to reimbursement.

*Id.* § 20.63(d).

20. A candidate's or officeholder's failure to comply with subsection (d) may not be cured by filing a corrected report after the report deadline has passed. *Id.* § 20.63(e). A candidate or officeholder whose personal funds have been reimbursed from political contributions must report the amount of the reimbursement as a political expenditure in the report covering the period during which the reimbursement was made. *Id.* § 20.63(f).
21. The respondent reimbursed himself \$2,165.77 from his political contributions for political expenditures made out of his personal funds. The respondent did not report the political expenditures made from his personal funds or report the amount of personal funds used for the political expenditures as a loan as prescribed in section 253.035(h) of the Election Code and section 20.63(b) of the Ethics Commission Rules. Thus, the respondent did not properly report the original political expenditures made from personal funds for which he received reimbursement. Moreover, submitting an itemized list of the political expenditures from the respondent's personal funds and receipts with his response to the complaint does not cure the failure to properly report political expenditures for which he reimbursed himself. Therefore, there is credible evidence of violations of section 253.035(h) of the Election Code and section 20.63 of the Ethics Commission Rules.

### 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 report filed with an authority other than the commission must be in a format prescribed by the commission, 2) each report must include the total amount or a specific listing of the political expenditures of \$100 or less made during the reporting period; 3) each 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 the expenditures are made, and the dates and purposes of the expenditures; 4) the purpose of an expenditure means a description of goods, services, or other thing of value and must include a brief statement or description of the candidate, officeholder, or political committee activity that is conducted by making the expenditure. The brief statement or description must include the item or service purchased and must be sufficiently specific, when considered within the context of the description of the category, to make the reason for the expenditure clear. Merely disclosing the category of goods, services, or other thing of value for which the expenditure is made does not adequately describe the purpose of an expenditure; 5) political expenditures made out of personal funds by a staff member of an officeholder, candidate, or a political committee with the intent to seek reimbursement from the officeholder, candidate, or political committee must be reported in accordance with section 20.62 of the Ethics Commission Rules; and 6) 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 in accordance with section 253.035(h) of the Election Code and section 20.63 of the Ethics Commission Rules.

The respondent agrees to comply with these requirements of the law.

### VI. Confidentiality

This order and agreed resolution describes certain 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 \$1,500 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-31410238.

AGREED to by the respondent on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Mike Cantrell, Respondent

EXECUTED ORIGINAL received by the Commission on: \_\_\_\_\_.

Texas Ethics Commission

By: \_\_\_\_\_  
Natalia Luna Ashley, Executive Director