

# TEXAS ETHICS COMMISSION

IN THE MATTER OF	§	BEFORE THE
PAMELA L. ELLIOTT,	§	TEXAS ETHICS COMMISSION
RESPONDENT	§	SC-3160232 AND SC-3160233

## ORDER and AGREED RESOLUTION

### I. Recitals

The Texas Ethics Commission (Commission) met on December 8, 2016, to consider sworn complaints SC-3160232 and SC-3160233. A quorum of the Commission was present. The Commission determined that there is credible evidence of violations of sections 254.031 and 255.004 of the Election Code, laws administered and enforced by the Commission. To resolve and settle these complaints without further proceedings, the Commission proposed this resolution to the respondent.

### II. Allegations

The complaints alleged that the respondent: 1) accepted campaign contributions and made or authorized campaign expenditures at a time when the respondent did not have a campaign treasurer appointment in effect; 2) did not disclose political expenditures for which a personal reimbursement was made, or in the alternative, converted political contributions to personal use; 3) did not disclose on a campaign finance report political contributions and political expenditures; and 4) misrepresented the true source of campaign communications or political advertising.

### III. Facts Supported by Credible Evidence

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

1. The respondent is the Edwards County Sheriff and has served in this position since 2012. The respondent was re-elected in the May 2016 election.

#### **Accepting Campaign Contributions and Authorizing Campaign Expenditures without a Campaign Treasurer Appointment in Effect**

2. The complaints alleged that the respondent accepted campaign contributions and made or authorized campaign expenditures without a campaign treasurer appointment in effect.

3. Edwards County records show that the respondent filed a campaign treasurer appointment with the Edwards County Clerk that was signed on December 1, 2015, but that was received by the Edwards County Clerk on December 22, 2015.
4. In response to the complaint, the respondent swore that she has had a campaign treasurer appointment on file since 2012. She also submitted a copy of a campaign treasurer appointment that shows it was received by the Edwards County Clerk on January 31, 2012. The respondent swore that on December 22, 2015, she filed a second campaign treasurer appointment to update the information and replace her campaign treasurer. The respondent also submitted the sworn affidavit of the Edwards County Clerk attesting that the Edwards County Clerk's Office has no record that the respondent's campaign treasurer appointment was ever terminated.

### **Conversion of Political Contributions to Personal Use**

5. The complaints alleged that the respondent converted campaign funds to personal use because the respondent listed herself as the payee of a \$750 political expenditure made on December 1, 2015, disclosed on Schedule F1 (used to disclose political expenditures made from political contributions) of her January 2016 semiannual report. However, the respondent did not disclose any loans or expenditures from personal funds to justify the \$750 political expenditure as a permissible reimbursement. This \$750 political expenditure was also included in the calculation of total political expenditures in the January 2016 semiannual report. On Schedule A1 (used to disclose monetary political contributions) the respondent also disclosed a \$750 political contribution from an individual on December 1, 2015.
6. In response to the complaint, the respondent swore that she did not convert campaign funds to personal use. The respondent swore that an individual paid for her ballot application filing fee on her behalf and that she incorrectly disclosed the transaction as a political expenditure to herself and as a monetary political contribution. The respondent submitted sworn affidavits from the individual and the payee of the \$750 supporting this account.

### **Did Not Disclose a Political Expenditure and Did Not Properly Disclose Total Political Contributions Maintained**

7. The complaints alleged that the respondent did not disclose a political expenditure for a newspaper advertisement appearing in a specified newspaper on December 3, 2015, in the respondent's January 2016 semiannual report. The respondent's January 2016 semiannual report does not disclose any expenditure for the advertisement at issue.
8. In response to the complaint, the respondent admitted that she did not disclose this political expenditure. The respondent included this expenditure, totaling \$181.20, in her first corrected report, filed on February 19, 2016.

9. The complaints also alleged that the respondent disclosed an incorrect amount for total political contributions maintained in the respondent's January 2016 semiannual report. The respondent originally disclosed the amount of total political contributions maintained as of the last day of the reporting period for the January 2016 semiannual report as "\$0."
10. In response to the complaint, the respondent admitted that she incorrectly disclosed the amount of total political contributions maintained as of the last day of the reporting period for the January 2016 semiannual report. The respondent disclosed the amount of total political contributions maintained as \$50.16 in her corrected report filed on October 24, 2016.

#### **True Source of Communication**

11. The complaints alleged that the respondent misrepresented the true source of a campaign communication or political advertising on signs containing the political advertising disclosure statement, "Pol. Ad. Pd. For by Friends of Sheriff Pamela Elliott P.O. Box 52 TX. 78880." The signs said "Re-Elect Sheriff Pamela Elliott" and "Edwards County."
12. In response to the complaint, the respondent admitted that she made two political expenditures for the signs in question, on December 1, 2015, and subsequently on January 15, 2016. The respondent also swore that, to her knowledge, there was never a specific-purpose political committee formed with this name.

#### **IV. Findings and Conclusions of Law**

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

##### **Accepting Campaign Contributions and Authorizing Campaign Expenditures without a Campaign Treasurer Appointment in Effect**

1. Each candidate and each political committee shall appoint a campaign treasurer as provided by chapter 252, Election Code. ELEC. CODE § 252.001.
2. An individual must file a campaign treasurer appointment for the individual's own candidacy with the county clerk, if the appointment is made for candidacy for a county office, a precinct office, or a district office other than one included in Subdivision (1). *Id.* § 252.005(2).
3. A candidate may not knowingly accept a campaign contribution or make or authorize a campaign expenditure at a time when a campaign treasurer appointment for the candidate is not in effect. *Id.* § 253.031(a).

4. Credible evidence indicates the respondent had an active campaign treasurer appointment on file with Edwards County at all times relevant to the complaint. Therefore, there is credible evidence of no violations of section 253.031(a) of the Election Code.

#### **Conversion of Political Contributions to Personal Use**

5. A person who accepts a political contribution as a candidate or officeholder may not convert the contribution to personal use. ELEC. CODE § 253.035(a).
6. 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, the full name and address of the person making the contributions, and the dates of the contributions. *Id.* § 254.031(a)(1).
7. 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. *Id.* § 254.031(a)(3).
8. Each 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).
9. Credible evidence indicates the respondent received a non-monetary, in-kind contribution valued at \$750 in the form of a filing fee to appear on the May 2016 election ballot. Credible evidence indicates, and the respondent admits, the respondent did not properly disclose this in-kind contribution, but disclosed it as a monetary contribution and political expenditure, included in the calculation of total political expenditures. Therefore, there is credible evidence of no violations of section 253.035(h) of the Election Code. There is credible evidence of violations of section 254.031(a)(1), (3), and (6) of the Election Code.

#### **Did Not Disclose a Political Expenditure and Did Not Properly Disclose Total Political Contributions Maintained**

10. 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).
11. Each 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).

12. Each report must include, as of the last day of a 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. *Id.* § 254.031(a)(8).
13. Credible evidence indicates, and the respondent admits, the respondent did not disclose one political expenditure of \$181.20 in her January 2016 semiannual report. As the political expenditure exceeded \$50, it was required to be itemized on Schedule F and included in the amount of total political expenditures. Further, credible evidence indicates, and the respondent admits, the respondent incorrectly disclosed the amount of total political contributions maintained in her January 2016 semiannual report. Therefore, there is credible evidence of violations of section 254.031(a)(3), (6), and (8) of the Election Code.

### **True Source of Communication**

14. A person commits an offense if, with intent to injure a candidate or influence the result of an election, the person enters into a contract or other agreement to print, publish, or broadcast political advertising that purports to emanate from a source other than its true source. ELEC. CODE § 255.004(a). A person commits an offense if, with intent to injure a candidate or influence the result of an election, the person knowingly represents in a campaign communication that the communication emanates from a source other than its true source. *Id.* § 255.004(b).
15. “Political advertising” means a communication supporting or opposing a candidate for nomination or election to a public office or office of a political party, a political party, a public officer, or a measure that, in return for consideration, is published in a newspaper, magazine, or other periodical or is broadcast by radio or television, or that appears in a pamphlet, circular, flyer, billboard or other sign, bumper sticker, or similar form of written communication, or on an Internet website. ELEC. CODE § 251.001(16).
16. Credible evidence indicates the respondent entered into an agreement to print the campaign signs in question on December 1, 2015, and again on January 15, 2016, with a disclosure statement indicating the signs were paid for by a group or political committee with the name, “Friends of Sheriff Pamela Elliott,” when in fact, the signs were purchased and distributed by the respondent individually. Because the disclosure statement indicated that a separate group or political committee paid for them, the campaign signs in question purported to emanate from a source other than their true source. The signs advocated the re-election of the respondent to the position of Edwards County Sheriff. Therefore, the signs constitute “political advertising” and were intended to influence the results of an election. Accordingly, there is credible evidence of a violation of section 255.004(a) 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 these sworn complaints.
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 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, the full name and address of the person making the contributions, and the dates of the contributions; 2) a 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 the expenditures are made, and the dates and purposes of the expenditures; 3) a 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; 4) a campaign finance report must include, as of the last day of a 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; and 5) a person commits an offense if, with intent to injure a candidate or influence the result of an election, the person enters into a contract or other agreement to print, publish, or broadcast political advertising that purports to emanate from a source other than its true source. 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 \$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 SC-3160232 and SC-3160233.

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

\_\_\_\_\_  
Pamela L. Elliott, Respondent

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

Texas Ethics Commission

By: \_\_\_\_\_  
Executive Director