

TEXAS ETHICS COMMISSION

IN THE MATTER OF

CHRIS HALE,

RESPONDENT

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BEFORE THE

TEXAS ETHICS COMMISSION

SC-31809322 AND SC-31810333

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (Commission) met on March 21, 2019, to consider sworn complaints SC-31809322 and SC-31810333. A quorum of the Commission was present. The Commission determined that there is credible evidence of violations of sections 254.031, 254.0612, and 254.064 of the Election Code and section 20.63 of the Ethics Commission Rules, laws administered and enforced by the Commission. To resolve and settle these complaints without further proceedings, the Commission voted to propose this resolution to the respondent.

II. Allegations

The complaints alleged that the respondent: 1) did not properly disclose the total amount of political contributions maintained as of the last day of the reporting period for the July 2018 semiannual report; 2) did not disclose the principal occupation or job title and employer information for the contributors of two political contributions of \$500; 3) did not properly disclose political expenditures from personal funds; 4) did not timely file the 30-day pre-election report for the November 6, 2018, general election; 5) did not disclose an in-kind political contribution; and 6) did not properly disclose political expenditures.

III. Facts Supported by Credible Evidence

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

1. At all times relevant to the complaints, the respondent was a candidate for State Representative, District 34.
2. The respondent was opposed in the November 2018 general election and did not elect to file campaign finance reports on the modified reporting schedule.

Political Contributions Maintained

3. The complaint alleged that the respondent did not properly disclose the total amount of political contributions he maintained as of the last day of the reporting period for the July 2018 semiannual report.
4. The respondent reported \$0 in total political contributions maintained in his original July 2018 semiannual report. In response to the complaint, the respondent admitted that he did not correctly disclose the total amount of political contributions maintained and filed a corrected report disclosing total political contributions maintained of \$2,545.24.

Principal Occupation or Job Title and Employer Information

5. The complaint also alleged that the respondent did not disclose the principal occupation or job title and employer information for the contributors of two political contributions of \$500.
6. The respondent left blank the space for disclosing the principal occupation or job title and employer information for the contributors at issue in the original July 2018 semiannual report. The respondent filed a corrected report to disclose this information.

Political Expenditures from Personal Funds

7. The complaint alleged that the respondent did not properly disclose political expenditures from personal funds.
8. In the respondent's first amended July 2018 semiannual report, the respondent disclosed a political expenditure from personal funds of \$650, listing "Elect Chris Hale" as the payee, with the description: "Campaign out of pocket expenses for bookkeeping and graphics." This amended report was filed on July 18, 2018, two days after the filing deadline. The respondent's timely-filed original report did not disclose this expenditure.
9. In the respondent's 30-day pre-election report for the November 6, 2018, general election, the respondent disclosed an in-kind political contribution totaling \$1,000, listing himself as the contributor, with the description: "Advertisement for Patriot."
10. In response to the complaint, the respondent filed a second amended July 2018 semiannual report, with a text annotation as follows: "For the \$650.00 entry amount: 'Payee' should be revised to Gulf Coast Mailing, for an un-reimbursable out of pocket expense, as paid by the candidate."

11. The respondent also filed a corrected 30-day pre-election report that re-classified the \$1,000 contribution as a political expenditure from personal funds and disclosed the payee as "Patriot Digital Advertising, LLC."

Political Contributions and Political Expenditures

12. The complaint alleged that the respondent did not disclose an in-kind political contribution.
13. The respondent filed a corrected 30-day pre-election report on October 10, 2018, to disclose an in-kind political contribution from an individual totaling \$1,320, with the description: "KLTG-FM Advertising Fee," that had not been disclosed in the originally-filed 30-day pre-election report.
14. The complaint also alleged that the respondent did not properly disclose the full names and addresses of the payees of political expenditures.
15. In the respondent's original 30-day pre-election report, the respondent disclosed: 1) a \$102.50 political expenditure, with the payee name: "ATM withdrawl [sic]," and the payee address: "1111;" 2) six political expenditures totaling \$252.94, with the payee listed as either "SE 40833" or "SE 40855" and a description of either "fuel," "fuel/food," or "food;" and 3) nine political expenditures totaling \$335.16, with the payee listed as 7-11, Shell Service Station, Sunoco, or Walmart, with a description of either: "fuel," "fuel/food," or "supplies," and the payee address: "1111." The political expenditures to 7-11, Sunoco, and Walmart did not exceed \$100 in the aggregate in the reporting period.
16. In response to the complaint, the respondent again corrected his 30-day report to include the missing names and addresses and to omit the expenditures not exceeding \$100 in the aggregate. The corrected 30-day report did not, however, reflect the increase in total unitemized political expenditures.

30-day Pre-Election Report

17. The complaint alleged that the respondent did not timely file the 30-day pre-election report for the November 6, 2018, general election.
18. The 30-day pre-election report at issue was due by October 9, 2018. The respondent filed the 30-day pre-election report on October 10, 2018.

IV. Findings and Conclusions of Law

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

Total Political Contributions Maintained

1. 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. ELEC. CODE § 254.031(a)(8).
2. The respondent admitted he did not properly disclose the amount of total political contributions maintained in the July 2018 semiannual report and corrected the report. Therefore, there is credible evidence of a violation of section 254.031(a)(8) of the Election Code.

Principal Occupation or Job Title and Employer Information

3. In addition to the contents required by Sections 254.031 and 254.061, each report by a candidate for a statewide office in the executive branch or a legislative office must include, for each individual from whom the person filing the report has accepted political contributions that in the aggregate equal or exceed \$500 and that are accepted during the reporting period: 1) the individual's principal occupation or job title; and 2) the full name of the individual's employer. *Id.* § 254.0612.
4. The respondent was a candidate for legislative office and did not disclose the principal occupation or job title and employer information for the contributors of two political contributions of \$500 in the July 2018 semiannual report, which he later corrected. Therefore, there is credible evidence of violations of section 254.0612 of the Election Code.

Political Expenditures from Personal Funds

5. 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. *See id.* § 254.031(a)(3).
6. A candidate is required to report a campaign expenditure from his or her personal funds. Ethics Commission Rules § 20.63(a). 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 expenditures made

from personal funds schedule; 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).

7. Credible evidence shows that the respondent did not disclose the actual payee for political expenditures made from personal funds, or disclose the expenditures in accordance with section 20.63 of the Ethics Commission Rules. Therefore, there is credible evidence of violations of section 254.031(a)(3) of the Election Code and section 20.63 of the Ethics Commission Rules.

Political Contributions and Political Expenditures

8. 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 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).
9. 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. *Id.* § 254.031(a)(3).
10. A campaign finance report must include the total amount or a specific listing of the political expenditures of \$100 or less made during the reporting period. *Id.* § 254.031(a)(5).
11. 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. *Id.* § 254.031(a)(6).
12. A person may not knowingly make or authorize a political contribution or political expenditure in the name of or on behalf of another unless the person discloses the name and address of the person who is the true source of the contribution or expenditure. Ethics Commission Rules § 20.53.

13. Credible evidence shows that the respondent did not include a \$1,320 in-kind contribution in his originally-filed 30-day pre-election report for the November 6, 2018, general election. Therefore, there is credible evidence of violations of sections 254.031(a)(1) and 254.031(a)(6) of the Election Code. Later the same day he filed his original 30-day report, the respondent disclosed the political contribution in a corrected report.
14. Credible evidence shows that the respondent disclosed an ATM withdrawal as a political expenditure. An ATM withdrawal is not an “expenditure.” See ELEC. CODE § 251.001(6) (defining “expenditure”). The person who received the cash from the ATM withdrawal would be the payee of an expenditure from political contributions. Therefore, there is credible evidence of a violation of sections 254.031(a)(3) and 254.031(a)(6) of the Election Code.
15. Credible evidence shows that the respondent did not disclose the payee name and address for six political expenditures totaling \$252.94. Therefore, there is credible evidence of violations of section 254.031(a)(3) of the Election Code, with respect to these political expenditures.
16. Credible evidence also shows that the respondent did not disclose an address for the payees of the remaining political expenditures at issue. The political expenditures to 7-11, Sunoco, and Walmart did not exceed \$100 in the aggregate, according to the information disclosed in the respondent’s 30-day pre-election report. Therefore, these expenditures were not required to be reported individually. *Id.* § 254.031(a)(3). The respondent did not update his total figure for unitemized political expenditures in his corrected 30-day report. Credible evidence therefore shows that the respondent underreported unitemized expenditures, in violation of section 254.031(a)(5) of the Election Code. However, these excluded expenditures total only \$158.94. Because \$158.94 is less than five percent of the respondent’s total political expenditures, this is a *de minimis* violation. See GOVERNMENT CODE § 571.0631; Texas Ethics Commission Rules § 12.81(b)(2)(B) (classifying incomplete or incorrectly reported campaign expenditures as *de minimis* if they do not exceed five percent of total political expenditures). The political expenditures to Shell Service Station did exceed \$100 in the aggregate. Therefore, there is credible evidence of violations of section 254.031(a)(3) of the Election Code, with respect to the respondent’s failure to report an address for the Shell Service Station expenditures.
17. There is no credible evidence that the respondent made the political expenditures at issue on another’s behalf. Therefore, there is no credible evidence of any violation of section 20.53 of the Ethics Commission Rules.

30-day Pre-Election Report

18. In addition to other required reports, for each election in which a person is a candidate and has an opponent whose name is to appear on the ballot, the person shall file two reports. ELEC. CODE § 254.064(a). The first report must be received by the authority with whom the report is required to be filed not later than the 30th day before election day. The report covers the period beginning the day the candidate's campaign treasurer appointment is filed or the first day after the period covered by the last report required to be filed under this chapter, as applicable, and continuing through the 40th day before election day. *Id.* § 254.064(b).
19. The respondent was an opposed candidate in the November 2018 general election and was therefore required to file the 30-day pre-election report by October 9, 2018. He filed the 30-day pre-election report one day late. Therefore, there is credible evidence of a violation of section 254.064(b) 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) campaign finance reports 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; 2) campaign finance reports 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) each report by a candidate for a legislative office must include, for each contributor from whom the candidate filing the report has accepted political contributions that in the aggregate equal or exceed \$500 and that are accepted during the reporting period, the principal occupation or job title and the full name of the contributor's employer; 4) campaign finance reports 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; 5) a candidate must report the use of personal funds for political expenditures by one of the methods enumerated in Ethics Commission Rules section 20.63; and 6) a candidate who has an opponent whose name is to appear on the ballot must file a campaign finance report covering the period from the candidate's campaign treasurer appointment or last campaign finance report through the 40th day before election day, not later than the 30th day before election day. 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 \$300 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-31809322 and SC-31810333.

AGREED to by the respondent on this _____ day of _____, 2019.

Chris Hale, Respondent

EXECUTED by the Commission on: _____.

Texas Ethics Commission

By: _____
Executive Director