

# TEXAS ETHICS COMMISSION

IN THE MATTER OF  
MARTINA L. DIXON,  
RESPONDENT

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BEFORE THE  
TEXAS ETHICS COMMISSION  
SC-3190579

## ORDER and AGREED RESOLUTION

### I. Recitals

The Texas Ethics Commission (Commission) met on June 18, 2020, to consider sworn complaint SC-3190579. A quorum of the Commission was present. The Commission determined that there is credible evidence of violations of Sections 254.031 and 254.064 of the Election Code, laws administered and enforced by the Commission. To resolve and settle the complaint without further proceedings, the Commission adopted this resolution.

### II. Allegations

The complaint alleged that the respondent: 1) filed an 8-day pre-election campaign finance report covering the wrong dates, in violation of Section 254.064(c) of the Election Code; 2) failed to disclose as a political expenditure a \$28 political contribution that the respondent made to the Kingwood Area Republican Women (KARW), a general-purpose political committee, on the respondent's 8-day pre-election report, in violation of Section 254.031 of the Election Code; 3) disclosed incorrect figures for her total political contributions and total political expenditures on her 8-day pre-election report, in violation of Section 254.031 of the Election Code; 4) failed to disclose on her 8-day pre-election report repayment of loans, in violation of Section 254.031 of the Election Code; and 5) failed to file semiannual campaign finance reports for July 2017, January 2018, July 2018, and January 2019, in violation of Section 254.063 of the Election Code.

### III. Findings of Fact and Conclusions of Law

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

1. The respondent was a successful opposed non-incumbent candidate for the Humble Independent School District (HISD) Board of Trustees in the May 6, 2017, election.

**Failure to Cover Correct Dates in 8-Day Pre-Election Report**

2. The sworn complaint alleges that the respondent's 8-day pre-election report for the May 6, 2017, election covered the incorrect dates.
3. 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. Tex. Elec. Code § 254.064(a). The second report must be received by the authority with whom the report is required to be filed not later than the eighth day before election day. *Id.* § 254.064(c). The report covers the period beginning the 39th day before election day and continuing through the 10th day before election day. *Id.*
4. According to the dates provided on the cover sheet, the respondent's 8-day pre-election report for the May 6, 2017, election covers the period beginning April 7, 2017, and continuing through April 28, 2017. Section 254.064(c) of the Election Code requires that the 8-day pre-election report for the May 6, 2017, election cover the period beginning on March 28, 2017, and continuing through April 26, 2017. However, the dates which were required to be included in the respondent's 8-day pre-election report but which were not included were covered in the respondent's 30-day pre-election report instead. The respondent's failure to cover the correct dates in her 8-day pre-election report did not therefore substantially affect disclosure. There is therefore credible evidence of a technical or *de minimis* violation of Section 254.064(c) of the Election Code. *See* 1 Tex. Admin. Code § 12.81(a)(8)(H).

**Failure to Disclose Expenditure to Political Committee**

5. The sworn complaint alleges that the respondent failed to disclose as a political expenditure a \$28 political contribution to the Kingwood Area Republican Women (KARW) political committee.
6. The complaint observes that KARW reported receiving a political contribution of \$28 from the respondent on April 26, 2017, and that the respondent did not report this payment as an expenditure on her corresponding campaign finance report. In her response to the complaint, the respondent swore that her \$28 expenditure on that date was to pay for lunch at a KARW meeting, which she attended as a private citizen. In response to further questions from Commission staff, the respondent filed a sworn affidavit in which she averred that she attended the KARW meeting in a personal capacity and paid the \$28 fee for lunch out of her personal funds.
7. The Election Code requires that candidates report 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. Tex. Elec. Code § 254.031(a)(3). The Election Code further requires that

candidates disclose 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). Further, candidates must disclose the total amount of all political expenditures made during the reporting period. *Id.* § 254.031(a)(6).

8. The term “political expenditure” means a campaign expenditure or an officeholder expenditure. *Id.* § 251.001(10). The Election Code defines a campaign expenditure as an expenditure made by any person in connection with a campaign for elective office or on a measure. *Id.* § 251.001(7).
9. According to the respondent’s sworn statements, she attended the April 26, 2017, KARW meeting as a private individual rather than as a candidate, and paid the fee for lunch out of her own personal funds. There is no evidence to indicate that the payment was made in connection with a campaign for elective office or on a measure, or that it was intended as a political contribution to KARW. Therefore, there is insufficient evidence that the respondent failed to disclose it as a campaign expenditure in violation of Section 254.031 of the Election Code.

#### **Failure to Disclose Correct Total Political Contributions and Political Expenditures**

10. The sworn complaint alleges that the respondent disclosed incorrect figures for her total political contributions and total political expenditures on her 8-day pre-election report.
11. Section 254.031(a)(6) of the Election Code requires each campaign finance report to include the total amount of all political contributions accepted and the total amount of all political expenditures made during the reporting period.
12. The respondent’s 8-day pre-election report for the May 6, 2017, election lists total political contributions of \$841.00 and total political expenditures of \$2,109.31. However, the report only reports a single \$100 monetary contribution and a \$50 political expenditure. The respondent’s 30-day pre-election report lists total political contributions of \$741.00 and total political expenditures of \$2,059.31; adding to these totals the \$100 contribution and \$50 expenditure reported on the 8-day pre-election report produces the totals disclosed by the respondent of \$841.00 and \$2,109.31. The figures disclosed by the respondent on the 8-day report, then, are evidently cumulative totals for the campaign’s entire duration through the end of the reporting period. The amended totals in the respondent’s corrected reports, filed in response to the sworn complaint, confirm that the totals disclosed on the original 8-day pre-election report were cumulative totals for the campaign’s duration to date. Section 254.031 of the Election Code requires that each campaign finance report include the total amount of political contributions accepted and the total amount of political expenditures made during the reporting period, not the cumulative totals for the campaign so far. There is therefore credible evidence of violations of Section 254.031 of the Election Code.

**Failure to Disclose Repayment of Campaign Loans**

13. The sworn complaint alleges that the respondent failed to disclose her repayment of loans owed by her campaign on her 8-day pre-election report.
14. The sworn complaint observes that the respondent did not disclose any expenditures to repay campaign loans on her 8-day pre-election report for the May 6, 2017, election, despite the fact that she disclosed only \$1,268.31 in total outstanding loans on the 8-day pre-election report, down from \$1,937.68 in total outstanding loans on her 30-day report.
15. As noted above, the Election Code requires that candidates report 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. Tex. Elec. Code § 254.031(a)(3). The Election Code further requires that candidates disclose 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). Further, candidates must disclose the total amount of all political expenditures made during the reporting period. *Id.* § 254.031(a)(6). Any payment made for campaign purposes, including a loan repayment, is a reportable political expenditure. *See* Tex. Ethics Comm'n Op. No. 429 (2000).
16. In response to Commission staff's written questions, the respondent filed a sworn affidavit stating that she placed an order with a print shop for campaign signs on March 23, 2017. The respondent swore that she paid the \$1,937.68 fee out of her personal funds on March 30, 2017, providing a canceled check from her bank records to document the payment. The respondent further swore that she reduced the amount of outstanding loans she reported on her 8-day pre-election report to reflect reimbursements to herself from her campaign contributions. The respondent did not disclose on her campaign finance reports the unpaid order as an unpaid incurred obligation, nor did she disclose her payment for the signs as a campaign expenditure from personal funds. Further, the respondent did not disclose her reimbursement payments to herself as campaign expenditures. In response to the complaint, however, the respondent filed corrected reports reflecting this previously undisclosed activity, in addition to other corrections.
17. The evidence indicates that the respondent did not disclose her reimbursement payments to herself as campaign expenditures on the appropriate campaign finance reports. There is therefore credible evidence of violations of Section 254.031 of the Election Code for failure to disclose these reimbursement expenditures.

**Failure to File Semiannual Campaign Finance Reports**

18. The sworn complaint alleges that the respondent failed to file semiannual campaign finance reports for July 2017, January 2018, July 2018, and January 2019.

19. The Election Code requires that each candidate file two reports for each year. The first report shall be filed not later than July 15. The report covers the period beginning January 1, 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, as applicable, and continuing through June 30. The second report shall be filed not later than January 15. The report covers the period beginning July 1, 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, as applicable, and continuing through December 31. Tex. Elec. Code § 254.063.
20. A candidate may terminate a campaign treasurer appointment by filing a final report. 1 Tex. Admin. Code § 20.207(a)(2). If at the end of any reporting period an officeholder who is required to file a report with an authority other than the Commission has not accepted political contributions that in the aggregate exceed \$500 or made political expenditures that in the aggregate exceed \$500, the officeholder is not required to file a report covering that period. Tex. Elec. Code § 254.095. Officeholders are required to file semiannual reports on the same schedule as candidates, subject to the foregoing limitation. *See id.* § 254.093.
21. The respondent claims in her sworn response to the complaint that she filed a July 2017 semiannual report on July 10, 2017. She attached to her response a July semiannual report, which includes an executed designation of final report. While the July semiannual report provided by the respondent was not stamped as filed by the filing authority, it bears the respondent's signature, notarized by HISD's then-current filing secretary and dated July 10, 2017. HISD's filing secretary indicated in communications with Commission staff that it was her predecessor's practice to notarize all campaign finance documents at the time they were filed.
22. The respondent's sworn statement and the filing secretary's comments both support the respondent's position that she filed the July 2017 semiannual report on July 10, 2017. There is therefore credible evidence of no violation of Section 254.063 as to the respondent's July 2017 semiannual report.
23. The complaint further alleges that the respondent was required to file the semiannual reports at issue because the respondent made political expenditures during the relevant reporting periods to pay off loans owed by her campaign.

24. In a sworn affidavit filed in response to questions by Commission staff, the respondent provided the dates and amounts of her expenditures to reimburse herself for campaign expenditures paid from personal funds. The respondent made the last payment on April 28, 2017. The sworn complaint identifies no further expenditures after the dates covered by the respondent's July 2017 semiannual report that would obligate the respondent to file subsequent semiannual reports. There is therefore no credible evidence of violations of Section 254.063 of the Election Code regarding the respondent's alleged failure to file the subsequent semiannual reports at issue.

#### **IV. 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 Commission's findings of fact and conclusions of law described under Section III, and consents to the entry of this order and agreed resolution solely for the purpose of resolving the 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) the 8-day pre-election campaign finance report must cover the period beginning the 39th day before election day and continuing through the 10th day before election day; 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; and 3) each 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 total amount or a specific listing of the political expenditures of \$100 or less made during the reporting period, and the total amount of all political expenditures made during the reporting period. The respondent further acknowledges that a payment from campaign funds made to reimburse political expenditures from personal funds or to repay a loan is reportable as a political expenditure. The respondent agrees to fully and strictly comply with these requirements of law.

#### **V. 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.

**VI. Sanction**

After considering the nature, circumstances, and consequences of the violations described under Section III, and after considering the sanction necessary to deter future violations, the Commission imposes a \$250 civil penalty.

**VII. 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-3190579.

AGREED to by the respondent on this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Martina L. Dixon, Respondent

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

Texas Ethics Commission

By: \_\_\_\_\_  
Anne Temple Peters, Executive Director