

TEXAS ETHICS COMMISSION

IN THE MATTER OF

THOMAS D. “DAN” STRICKLIN,

RESPONDENT

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BEFORE THE

TEXAS ETHICS COMMISSION

SC-32011247

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (Commission) met on June 16, 2021, to consider sworn complaint SC-32011247. A quorum of the Commission was present. The Commission determined that there is credible evidence that certain allegations made in the sworn complaint constituted 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 adopted this resolution.

II. Allegations

The complaint alleged that the respondent: 1) failed to properly disclose the addresses of political contributors on his campaign finance reports, in violation of Section 254.031(a)(1) of the Election Code; 2) failed to individually disclose political expenditures, in violation of Section 254.031(a)(3) of the Election Code; and 3) failed to properly disclose the addresses of expenditure payees, in violation of Section 254.031(a)(3) 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 an opposed candidate for the city council of Frisco, Texas, in the November 3, 2020, election, and was successful in the subsequent December 8, 2020, runoff election.

Failure to Disclose Addresses of Contributors

2. The sworn complaint alleges that the respondent failed to properly disclose the addresses of several political contributors on his 30-day and 8-day pre-election campaign finance reports for the November 3, 2020, election.

3. For contributions accepted during the 2020 calendar year, each campaign finance report filed under Chapter 254 of the Election Code must include the amount of political contributions from each person that in the aggregate exceed \$90 and that are accepted during the reporting period by the person or committee required to file a report under Chapter 254, the full name and address of the person making the contributions, and the dates of the contributions. Tex. Elec. Code § 254.031(a)(1); 44 Tex. Reg. 1979 (2019) (codified at 1 Tex. Admin. Code § 18.31) (Tex. Ethics Comm'n); *see also* Tex. Gov't Code § 571.064(b) (requiring the Commission to adjust statutorily set dollar amounts for inflation).
4. A technical, clerical, or *de minimis* violation for purposes of Section 571.0631 of the Government Code may include allegations against a respondent for typographical or incomplete information on a campaign finance report that is not misleading and does not substantially affect disclosure. 1 Tex. Admin. Code § 12.81(a)(1).
5. On his 30-day pre-election report, the respondent disclosed one monetary political contribution of \$2,500 and two in-kind contributions – of “contract labor” and of a “billboard,” valued at \$740 and \$1,333 respectively – from the “Frisco Firefighters’ Association” (the Association). While the respondent did disclose the Association’s full address on the portion of the campaign finance report provided for disclosure of political committees from which the respondent received notice under Sections 254.128 or 254.161 of the Election Code, the respondent omitted part of the Association’s address in his entries on Schedules A1 and A2 for the contributions he accepted from the Association, listing the Association’s address only as “Frisco, TX.”
6. On his 8-day pre-election report, the respondent disclosed an \$8,000 monetary political contribution from “Bounmy Vail,” whose address the respondent disclosed as “1112 Swan Lake Dr., Bossier City, LA, 7111.” The sworn complaint included an excerpt from the Bossier Parish Tax Assessor’s records, which indicated that a “Bounmy Thammavongsa” lived at 2408 Swan Lake Rd., Bossier City, LA 71111-7202. Further, a search of United States Postal Service records indicates that while no such address as “1112 Swan Lake Dr.” exists in Bossier City, Louisiana, the address “2408 Swan Lake Rd.” does exist. In his corrected 8-day report, the respondent changed the address to “2408 Swan Lake Dr., Bossier City, LA, 7111.”
7. In his sworn response to the complaint, the respondent did not expressly admit or deny any of the allegations. However, the respondent promised that he would “update the CFR’s in question with additional data,” and filed corrected reports promptly thereafter.
8. The respondent averred that any irregularities in his disclosure of these contributors’ addresses were simple good-faith mistakes, and that he had no intent to conceal activity or deceive the public. The respondent further explained that while he endeavored to disclose

accurate and complete information on his campaign finance reports, he ultimately relied on his contributors' representations for their address information.

9. There is credible evidence that the respondent failed to disclose an address for the contributions from the Frisco Firefighters' Association, and that the address disclosed by the respondent for the contribution from "Bounmy Vail" was incorrect as to the street number, street name, and zip code. Therefore, there is credible evidence of violations of Section 254.031(a)(1) of the Election Code for the respondent's failure to properly disclose contributor information for political contributions totaling \$12,573 in value. However, because these disclosure errors were not misleading and did not substantially affect disclosure, the violations are technical or *de minimis*. See 1 Tex. Admin. Code § 12.81(a)(1).
10. The respondent also failed to include addresses for the contributors of four monetary contributions that were beneath the applicable \$90 itemized disclosure threshold. These four contributions totaled \$55 in value; none was individually larger than \$25. Because Section 254.031(a)(1) of the Election Code and Section 18.31 of the Ethics Commission Rules only required the respondent to itemize political contributions that in the aggregate exceeded \$90 during the reporting period at issue, the respondent was not required to disclose the addresses of these contributors. There is therefore credible evidence of no violation of Section 254.031(a)(1) of the Election Code for the respondent's failure to disclose address information for these political contributions.

Failure to Disclose Addresses of Expenditure Payees

11. The sworn complaint alleges that the respondent failed to properly disclose the addresses of the payees of political expenditures on his July 2020 semiannual campaign finance report and his 30-day and 8-day pre-election campaign finance reports for the November 3, 2020, election.
12. For expenditures made during the 2020 calendar year, each campaign finance report filed under Chapter 254 must include the amount of political expenditures that in the aggregate exceed \$180 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); 44 Tex. Reg. 1979 (2019) (codified at 1 Tex. Admin. Code § 18.31) (Tex. Ethics Comm'n); see also Tex. Gov't Code § 571.064(b) (requiring the Commission to adjust statutorily set dollar amounts for inflation).
13. A technical, clerical, or *de minimis* violation for purposes of § 571.0631 of the Government Code may include allegations against a respondent for typographical or incomplete information on a campaign finance report that is not misleading and does not substantially affect disclosure. 1 Tex. Admin. Code § 12.81(a)(1).

14. On his July 2020 semiannual report, the respondent disclosed expenditures to “Signs on the Cheap” and “Vistaprint” of \$2,290 and \$999.95, respectively. On his 30-day pre-election report, the respondent disclosed expenditures to “E-Canvasser” and “Vistaprint” of \$1,047 and \$911.93, respectively. On his 8-day pre-election report, the respondent disclosed a \$399 expenditure to “E-Canvasser.” The respondent left the field for the payee’s address in all of these entries blank. The respondent explained that his failure to include the address information for these expenditure payees was a good-faith mistake, and that he omitted the addresses because he did not think it was required to disclose the addresses of businesses the location of which was public knowledge. There is therefore credible evidence of violations of Section 254.031(a)(3) of the Election Code for failure to disclose addresses for the payees of these expenditures. However, under these circumstances, the respondent’s failure to include the addresses was not misleading and did not substantially affect disclosure. Therefore, the violations are technical or *de minimis*. See 1 Tex. Admin. Code § 12.81(a)(1).
15. The respondent further failed to include a complete address for a \$35.70 expenditure to Papa John’s, a \$23.97 expenditure to Tom Thumb, and a \$47.97 expenditure to Constant Contact on the reports at issue. The respondent disclosed only a company-assigned store identification number in the address field for the expenditure to Papa John’s, and left the address field blank for the other two expenditures. However, because the itemized reporting threshold for expenditures was \$180 during the reporting period for the campaign finance reports at issue, the respondent was not required to individually disclose these three expenditures. See Tex. Elec. Code § 254.031(a)(3); 44 Tex. Reg. 1979 (2019). There is therefore credible evidence of no violation of Section 254.031(a)(3) of the Election Code for the respondent’s failure to include address information for these expenditure payees.

Failure to Individually Disclose Expenditures for “Contract Labor”

16. The sworn complaint alleges that the respondent failed to individually disclose expenditures made for “contract labor” on his July 2020 semiannual campaign finance report and his 30-day and 8-day pre-election reports for the November 3, 2020, election.
17. On the three campaign finance reports at issue, the respondent disclosed \$24,315 in expenditures for “contract labor.” The description field for some of these disclosures elaborated that they were for “canvassing.” While the precise manner in which the respondent reported these expenditures varied from instance to instance, the respondent did not separate out the expenditures by the individual payee, disclosing all of the expenditures of this nature in a single entry for each reporting schedule on which the expenditures were required to be reported. Except for a single entry for \$1,896 that the respondent disclosed on Schedule G (political expenditures from personal funds) in his 30-day pre-election report, all of these expenditures were disclosed on Schedule F1 (political expenditures made from political contributions).

18. The respondent explained that he made these payments to students at the local high school that he employed to canvas for him. The respondent filed corrected reports that, in addition to disclosing the missing address information discussed above, individually disclosed the expenditures made to pay the students for their canvassing work. These expenditures were made to a dozen different individuals in disbursements of a few hundred dollars at a time throughout the reporting periods at issue. The aggregate expenditures to each payee all exceeded the \$180 itemized reporting threshold for the reporting periods in which they were made. As disclosed in the corrected reports, the expenditures totaled \$24,385.
19. The respondent further explained that he did not disclose the identity of the individual students because he did not realize that the campaign finance law required him to identify them individually. The respondent expressed concern about revealing the identity of individual minors on a public campaign finance filing.
20. As noted above, for expenditures made during the 2020 calendar year, each campaign finance report filed under Chapter 254 must include the amount of political expenditures that in the aggregate exceed \$180 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); 44 Tex. Reg. 1979 (2019) (codified at 1 Tex. Admin. Code § 18.31) (Tex. Ethics Comm'n); *see also* Tex. Gov't Code § 571.064(b) (requiring the Commission to adjust statutorily set dollar amounts for inflation).
21. The respondent failed to properly disclose the political expenditures made to the team members for the canvassing work in the original campaign finance reports at issue. Specifically, the respondent did not identify the date and amount of the specific expenditures or the name and address of the payees on his original reports. There is therefore credible evidence of violations of Section 254.031(a)(3) of the Election Code. However, as noted above, the respondent voluntarily filed corrected campaign finance reports to correct the errors.

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 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 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 each campaign finance report filed under Chapter 254 of the Election Code must include: 1) the amount of political contributions from each person that in the aggregate exceed the applicable itemized reporting threshold 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; and 2) the amount of political expenditures that in the aggregate exceed the applicable itemized reporting threshold 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 respondent further acknowledges that all political expenditures to a particular payee that in the aggregate exceed the itemized reporting threshold during the reporting period must be disclosed individually and separately, and may not be combined with expenditures to different payees, or with separate expenditures made to the same payee.
5. The respondent agrees to fully and strictly comply with the above requirements of law.

V. Confidentiality

The Commission has determined that some of the violations described in this order and agreed resolution 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

Section 571.177 of the Government Code provides that the Commission shall consider the following factors when assessing a civil penalty: 1) the seriousness of the violation, including the nature, circumstances, consequences, extent, and gravity of the violation; 2) the history and extent of previous violations; 3) the demonstrated good faith of the violator, including actions taken to rectify the consequences of the violation; 4) the penalty necessary to deter future violations; and 5) any other matters that justice may require. In addition to the *de minimis* reporting errors described above, the respondent failed to individually disclose \$24,385 in political expenditures. The particular circumstances surrounding this violation do not indicate that the respondent intended to conceal payments for corrupt purposes, and the respondent offers a good-faith justification for his failure to identify the specific payees. However, the total amount of the expenditures was large, as were the payments to each individual payee. Section 571.177 of the Government Code directs the Commission to consider the seriousness of a violation in assessing a civil penalty, including the extent and gravity of the violation. The substantial amount of the payments requires a comparatively heavy penalty. However, the respondent has no prior violations and has cooperated with the Commission in good faith to correct the disclosure violations and resolve the sworn complaint. Further, the respondent has represented to the Commission that he was an inexperienced filer when

he committed the violations and that he has engaged a specialist to help him comply in the future.¹ Section 571.177 of the Government Code further directs the Commission to consider past violations, the respondent's good faith, and what penalty may be necessary to deter future violations, in addition to the circumstances of the violation and any other matters that justice may require. After considering these mitigating factors, the Commission imposes a \$1,000 civil penalty. The respondent agrees that the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711, must receive from the respondent full payment of the \$1,000 civil penalty no later than November 3, 2021. If the \$1,000 civil penalty is not paid by November 3, 2021, then the civil penalty is increased to \$2,500 and will be referred to the Office of the Attorney General of Texas for collection.

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 SC-32011247.

AGREED to by the respondent on this _____ day of _____, 2021.

Thomas D. "Dan" Stricklin, Respondent

EXECUTED by the Commission on: _____.

Texas Ethics Commission

By: _____
Anne Temple Peters, Executive Director

¹ Before running in 2020, the respondent was an unsuccessful candidate for Frisco City Council in the February 18, 2017, special election.