

TEXAS ETHICS COMMISSION

IN THE MATTER OF
LARRY J. LYNCH,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-2803113

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) held a preliminary review hearing on June 9, 2009, to consider sworn complaint SC-2803113. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 254.031 and 254.036(a) of the Election Code, laws administered and enforced by the commission. To resolve and settle this complaint without further proceedings, the commission proposed this resolution to the respondent.

II. Allegations

The complaint alleged that the respondent failed to include information on his semiannual campaign finance reports filed in July 2006, January 2007, July 2007, and January 2008, and on his 30-day pre-election report for the March 4, 2008, primary election.

III. Facts Supported by Credible Evidence

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

1. The respondent is the sheriff of McLennan County and was elected to that office in 2000. The respondent has a campaign treasurer appointment in effect that was filed on December 5, 2007.
2. The respondent filed a response and filed corrected reports with the local filing authority on April 16, 2008. In his response, the respondent swore that he has made all corrections to address the allegations.

Failure to Properly Complete the Report Period Covered

3. The complaint alleged that the respondent failed to properly complete the period covered on his semiannual reports filed in July 2006, January 2007, July 2007, and January 2008. The July 2006, July 2007, and January 2008 semiannual reports disclosed no period covered. The January 2007 semiannual report discloses an incorrect period covered. The February 2008 30-day pre-election report also discloses an incorrect period covered. The respondent filed corrected reports. The reporting periods of the corrected reports begin on the day the prior report was due and go through the date the report was due.

Failure to Properly Disclose Political Contributions

4. The complaint alleged that the respondent's 30-day pre-election report failed to properly disclose the address of eight out of 14 contributors. The contributions totaled approximately \$2,600. The respondent failed to disclose the city in the contributors' addresses and failed to disclose the zip code for two of the contributors' addresses. The respondent filed a corrected report disclosing the missing information.

Failure to Properly Disclose Political Expenditures

5. The respondent's July 2006 semiannual report disclosed \$1,943.91 in total political expenditures. The complaint alleged that the respondent failed to properly disclose the address of the payee for approximately \$1,340 of political expenditures on his July 2006 semiannual report. Five of these expenditures, totaling approximately \$150, are less than or equal to \$50 per payee. The remaining amount is approximately \$1,190.
6. The respondent's January 2007 semiannual report disclosed \$775 in total political expenditures. The complaint alleged that the respondent failed to properly disclose the address of the payee for approximately \$670 of political expenditures on his January 2007 semiannual report. Five of these expenditures, totaling approximately \$140, are less than or equal to \$50 per payee. The remaining amount is approximately \$530. The report does not disclose the complete address of the payee for these expenditures.
7. The respondent's July 2007 semiannual report disclosed \$1,038.10 in total political expenditures. The complaint alleged that the respondent failed to properly disclose the address of the payee for approximately \$640 of political expenditures on his July 2007 semiannual report. Four of these expenditures, totaling approximately \$110, are less than or equal to \$50 per payee. The remaining amount is approximately \$530. The report does not disclose the complete address of the payee for these expenditures.
8. The respondent's January 2008 semiannual report disclosed \$1,847.40 in total political expenditures. The complaint alleged that the respondent failed to properly disclose the address of the payee for approximately \$1,800 of political expenditures on his January 2008 semiannual report. Five of these expenditures, totaling approximately \$170, are less than or

- equal to \$50 per payee. The remaining amount is approximately \$1,630. The report does not disclose the complete address of the payee for these expenditures.
9. The respondent's 30-day pre-election report disclosed \$2,002.20 in total political expenditures. The complaint alleged that the respondent failed to properly disclose the address of the payee for approximately \$1,790 of political expenditures on his 30-day pre-election report. One of the expenditures was for \$49 and there were no other expenditures to that payee. The remaining amount is approximately \$1,740. The report does not disclose the complete address of the payee for these expenditures.
 10. The total of these expenditures for which the address is not properly disclosed and that are more than \$50 per payee during a reporting period is approximately \$5,620.
 11. The complaint alleged that the respondent failed to properly disclose the purpose of a \$150 expenditure on his July 2006 semiannual report. This expenditure is also included above as an expenditure that did not include a complete address.
 12. The complaint alleged that the respondent failed to properly disclose the purpose of two expenditures, one for \$48 and one for \$100, on his July 2007 semiannual report. There were no other expenditures to the payee of the \$48 expenditure.
 13. The complaint alleged that the respondent failed to properly disclose the purpose of approximately \$1,510 of expenditures on his 30-day pre-election report. One of the expenditures is for approximately \$1,304. This expenditure is also included above as an expenditure that did not include a complete address.
 14. The total of these expenditures for which the purpose of the expenditure is not properly disclosed and that are more than \$50 per payee during a reporting period is approximately \$1,800. All but \$310 of these expenditures are included in the total for the missing payee address. Therefore, the total at issue is approximately \$5,930.
 15. The respondent disclosed all of his expenditures on Schedule I (Non-Political Expenditures Made From Political Contributions) of each report.
 16. The respondent filed a corrected report for each report and disclosed all of his expenditures including the missing information on Schedule F (Political Expenditures).

Failure to Properly Disclose Unitemized Political Contributions

17. The complaint alleged that the respondent failed to properly disclose unitemized political contributions on his semiannual reports filed in July 2006, January 2007, July 2007, and January 2008, and on his 30-day pre-election report.

18. On all of these reports the respondent drew a line through the space for unitemized political contributions. The respondent filed corrected reports for all of the reports. The respondent put “none,” “n/a,” or “0” for unitemized political contributions on the corrected reports.

Failure to Properly Disclose Unitemized Political Expenditures

19. The complaint alleged that the respondent failed to properly disclose unitemized political expenditures on his semiannual reports filed in July 2006, January 2007, July 2007, and January 2008, and on his 30-day pre-election report.
20. On his semiannual report filed in July 2006 the respondent drew a line through the space for total unitemized political expenditures and wrote “All Expenditures Itemized” in the space for unitemized political expenditures. On his semiannual reports filed in January 2007, July 2007, and January 2008 the respondent wrote “See Schedule” in the space for unitemized political expenditures. On his 30-day pre-election report the respondent did not make an entry regarding the unitemized political expenditures amount.
21. The respondent corrected his July 2006 semiannual report regarding the unitemized political expenditures amount by writing “All Expenditures Itemized See Schedule I” in the space that asks for unitemized political expenditures. The respondent corrected his January 2007 semiannual report regarding this amount by writing “All Expenditures are Itemized” in the space that asks for unitemized political expenditures and entering \$145 in the amount space. The \$145 is itemized. The respondent corrected his July 2007 semiannual report regarding this amount by circling the word “Itemized” in the space that asks for unitemized political expenditures and entering \$163 in the amount space. The \$163 is itemized. The respondent corrected his January 2008 semiannual report regarding this amount by circling the word “Itemized” in the space that asks for unitemized political expenditures and entering \$217.40 in the amount space. The \$217.40 is itemized. The respondent corrected his 30-day pre-election report regarding this amount by circling the word “Itemized” in the space that asks for unitemized political expenditures and entering \$49.20 in the amount space. The \$49.20 is itemized.

Failure to Properly Disclose Total Political Contributions

22. The complaint alleged that the respondent failed to properly disclose total political contributions on his semiannual reports filed in January 2007, July 2007, and January 2008.
23. On all of these reports the respondent drew a line through the space for total political contributions. The respondent filed corrected reports for all of the reports. The respondent put “none,” “n/a,” or “0” for total political contributions on the corrected reports.

Failure to Properly Disclose Total Political Contributions Maintained

24. The complaint alleged that the respondent failed to properly disclose total political contributions maintained on his semiannual reports filed in July 2006, January 2007, July 2007, and January 2008, and on his 30-day pre-election report.
25. The respondent did not enter amounts on these reports for total political contributions maintained. He drew a line through the space for this amount on the July 2006 semiannual report and on the 30-day pre-election report.
26. The respondent filed corrected reports disclosing total political contributions maintained. The amounts disclosed on the corrected semiannual reports are as follows: July 2006 - \$25,314.33, January 2007 - \$24,316.33, July 2007 - \$23,401.23, and January 2008 - \$21,568.83. The corrected 30-day pre-election report discloses \$24,086.63.

Failure to Disclose Outstanding Loans

27. The complaint alleged that the respondent failed to properly disclose outstanding loans on his semiannual reports filed in July 2006, January 2007, July 2007, and January 2008, and on his 30-day pre-election report.
28. The respondent drew a line through the box for outstanding loans on each of these reports.
29. The respondent filed corrected reports for the other reports disclosing "0," "none," or "N/A" for outstanding loans.

IV. Findings and Conclusions of Law

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

Failure to Properly Complete the Report Period Covered

1. Each report filed under this chapter with an authority other than the commission must be in a format prescribed by the commission. ELEC. CODE § 254.036(a).
2. The form used to disclose political contributions and expenditures includes a space to disclose the period covered by the report. The evidence shows that the respondent failed to properly complete the period covered on his semiannual reports filed in July 2006, January 2007, July 2007, and January 2008. Therefore, there is credible evidence that the respondent violated section 254.036(a) of the Election Code.

Failure to Properly Disclose Political Contributions

3. 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. ELEC. CODE § 254.031(a)(1).
4. The evidence indicates that the respondent failed to properly disclose contributors' addresses regarding approximately \$2,600 in contributions on his 30-day pre-election report. Therefore, there is credible evidence that the respondent violated section 254.031(a)(1) of the Election Code.

Failure to Properly Disclose Political Expenditures

5. Each report must include the amount of political expenditures that in the aggregate exceed \$50 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).
6. The evidence indicates that the respondent failed to properly disclose political expenditures. Therefore, there is credible evidence that the respondent violated section 254.031(a)(3) of the Election Code.

Failure to Properly Disclose Unitemized Political Contributions

7. Each report must disclose the total amount or a specific listing of the political contributions of \$50 or less accepted during the reporting period. ELEC. CODE § 254.031(a)(5).
8. The evidence indicates that the respondent did not fail to properly disclose unitemized political contributions on the reports at issue. There were no political contributions of \$50 or less to disclose on those reports and the respondent indicated that by drawing a line through the amount space to show that there were not any political contributions of \$50 or less that were not itemized. Therefore, there is credible evidence that the respondent did not violate section 254.031(a)(5) of the Election Code.

Failure to Properly Disclose Unitemized Political Expenditures

9. Each report must disclose the total amount or a specific listing of the political expenditures made during the reporting period. ELEC. CODE § 254.031(a)(5).
10. The evidence shows that the respondent indicated on his semiannual reports filed in July 2006, January 2007, July 2007, and January 2008 that he itemized all of his expenditures. (He also reported the amount on the cover page as unitemized expenditures which was not required.) Therefore, there is credible evidence that the respondent did not violate section

254.034(a)(5) of the Election Code as to these reports. The evidence indicates that the respondent failed to properly disclose \$49.20 in unitemized political expenditures on his 30-day pre-election report. Therefore, there is credible evidence that the respondent violated section 254.034(a)(5) of the Election Code as to this report.

Failure to Properly Disclose Total Political Contributions

11. Each report must disclose the total amount of all political contributions accepted during the reporting period. ELEC. CODE § 254.031(a)(6).
12. The evidence indicates that the respondent did not fail to properly disclose total political contributions on the reports at issue. There were no political contributions to disclose on those reports and the respondent indicated that by drawing a line through the amount space to show that there were not any political contributions. Therefore, there is credible evidence that the respondent did not violate section 254.031(a)(6) of the Election Code.

Failure to Properly Disclose Total Political Contributions Maintained

13. Each report must include as of the last day of the reporting period, 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).
14. The evidence indicates that the respondent failed to properly disclose total political contributions maintained. The average amount that was not disclosed was approximately \$23,740. Therefore, there is credible evidence that the respondent violated section 254.031(a)(8) of the Election Code.

Failure to Disclose Outstanding Loans

15. Each report must include the aggregate principal amount of all outstanding loans as of the last day of the reporting period. ELEC. CODE § 254.031(a)(2).
16. The evidence indicates that the respondent did not have outstanding loans to disclose and that the respondent disclosed that fact by drawing a line through the box for total outstanding loans. Therefore, there is credible evidence that the respondent did not violate section 254.031(a)(2) 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 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 report filed under this chapter with an authority other than the commission must be in a format prescribed by the commission. The respondent also acknowledges that 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. The respondent also acknowledges that each report must include the amount of political expenditures that in the aggregate exceed \$50 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. The respondent also acknowledges that each report must disclose the total amount or a specific listing of the political expenditures made during the reporting period. The respondent also acknowledges that each report must include as of the last day of the reporting period, 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. 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 seriousness of the violations described under Sections III and IV, including the nature, circumstances, and consequences of the violations, 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-2803113.

AGREED to by the respondent on this _____ day of _____, 20__.

Larry J. Lynch, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director