

# TEXAS ETHICS COMMISSION

IN THE MATTER OF  
JOHN BRAMLETT,  
RESPONDENT

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BEFORE THE  
TEXAS ETHICS COMMISSION  
SC-2803137

## ORDER and AGREED RESOLUTION

### I. Recitals

The Texas Ethics Commission (the commission) met on August 14, 2008, to consider sworn complaint SC-2803137. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 253.031, 254.031, 254.036, 254.063, and 254.064 of the Election Code. To resolve and settle this complaint without further proceedings, the commission proposes this resolution to the respondent.

### II. Allegations

The complaint alleges that the respondent accepted campaign contributions and made campaign expenditures at a time when he did not have a campaign treasurer appointment in effect. The complaint also alleges that the respondent failed to properly disclose political contributions, failed to execute a notary affidavit with a campaign finance report, and failed to file semiannual campaign finance reports.

### III. Facts Supported by Credible Evidence

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

1. The respondent was a successful opposed candidate in the May 2007 Magnolia city council election.
2. On, February 12, 2007, the respondent filed an application to be placed on the Magnolia May 2007 general election ballot.
3. On April 27, 2007, the respondent filed a campaign treasurer appointment. The respondent elected modified reporting.
4. On April 27, 2007, the respondent also filed a report designated as an 8-day before the election report for the May 12, 2007, general election. The report disclosed a period covered

of April 10, 2007, through April 27, 2007. The report disclosed \$0 for total contributions of \$50 or less, \$0 for total political contributions, \$276.04 for total political expenditures of \$50 or less, \$276.04 for total political expenditures, \$276.04 for total political contributions maintained as of the last day of the reporting period, and \$0 outstanding loans as of the last day of the reporting period. The affidavit section of the report was incomplete. There were no schedules attached to the report.

5. The respondent swears that he called to get the price of the signs that he “was going to get made but had not picked up and put that amount on the Form.”
6. The respondent swears that he did not receive any contributions from anyone and used his own money for the election.
7. The respondent swears that when he gave the forms to the city secretary she said she would “stamp them for me” but that he did not go back to see if this had been done.
8. The 30-day pre-election report for the May 2007 election was due on April 12, 2007, covering the period of the date of the campaign treasurer appointment or the date after the last report ended through April 2, 2007.
9. The 8-day pre-election report was due on May 4, 2007, covering the period of the date of the campaign treasurer appointment or the date after the last report ended through May 2, 2007.
10. On March 24, 2008, the respondent filed a corrected report designated as a 30-day and an 8-day pre-election report. The report disclosed the period covered as February 12, 2007, (the date the respondent requested to be placed on the ballot) through May 2, 2007 (the last day of the period covered by the 8-day pre-election report). The report disclosed \$0 political contributions, \$276.04 total political expenditures, \$0 political contributions maintained as of the last day of the reporting period, and \$0 outstanding loans as of the last day of the reporting period. The report included a Schedule G (used to disclose political expenditures made from personal funds), itemizing one expenditure on April 27, 2007, for campaign signs.
11. On March 24, 2008, the respondent also filed a report designated as a July and January semiannual report, and a final report. The report covered the period of May 3, 2007, through March 24, 2008. The report disclosed \$0 political contributions, \$0 political expenditures, \$0 political contributions maintained as of the last day of the reporting period, \$0 outstanding loans as of the last day of the reporting period.

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

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

**Making Political Expenditures without a Campaign Treasurer Appointment in Effect**

1. A candidate is defined as a person who knowingly and willingly takes affirmative action for the purpose of gaining nomination or election to public office or for the purpose of satisfying financial obligations incurred by the person in connection with the campaign for nomination or election. Examples of affirmative action include, in pertinent part, the filing of an application to be placed on the ballot. ELEC. CODE § 254.001(1)(B).
2. Each candidate shall appoint a campaign treasurer and 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. ELEC. CODE §§ 252.001, 253.031.
3. A political expenditure is not considered to have been made until the amount is readily determinable by the person making the expenditure, unless the character of an expenditure is such that under normal business practice the amount is not disclosed until receipt of a periodic bill. In that case, the expenditure is not considered made until the date the bill is received. ELEC. CODE § 254.035.
4. The evidence indicates that the respondent became a candidate no later than February 12, 2007, when he filed an application for a place on the ballot. The respondent filed a campaign treasurer appointment on April 27, 2007.
5. The evidence indicates that on that same day, April 27, 2007, the respondent called the sign company from which he had previously ordered signs and asked how much the signs cost. The evidence indicates that on that same day, the respondent filed a report disclosing no political contributions, total political expenditures of \$276.04, and total political contributions maintained of \$276.04. The respondent filed a corrected report disclosing that the respondent made one political expenditure, of \$276.04, for campaign signs and that the expenditure occurred on April 27, 2007.
6. Although the respondent disclosed the political expenditure as having been made on April 27, 2007, (the same day that he filed the report and his campaign treasurer appointment) it is reasonable to deduce that the cost of the signs was readily determinable at the time that the respondent ordered the signs rather than on the date that the respondent filed the report. Thus, the evidence indicates that the respondent made the political expenditure at a time when he was a candidate but that he did not have a campaign treasurer appointment in effect. Therefore, there is credible evidence of a violation of section 253.031 of the Election Code with regard to political expenditures. The evidence indicates that the respondent did not accept any political contributions. Therefore, there is credible evidence of no violation of section 253.031 of the Election Code with regard to political contributions.

### **Failure to Include Required Information on Report**

7. 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.
8. Each report must be accompanied by an affidavit executed by the person required to file the report. ELEC. CODE § 254.036(h).
9. The evidence indicates that the respondent made a political expenditure of \$276.04. The respondent's April 27, 2007, report did not itemize the political expenditure, further, the affidavit section of the report was incomplete. Thus, the evidence indicates that the report did not include required information. Therefore, there is credible evidence of violations of section 254.031 of the Election Code with regard to political expenditures, and credible evidence of a violation of section 254.036(h) of the Election Code with regard to the incomplete affidavit. Additionally, there is credible evidence of no violation of section 254.031 of the Election Code with regard to political contributions.

### **Failure to File Reports**

10. A candidate shall file two reports for each year, the first report shall be filed not later than July 15, and cover 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, and cover 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. ELEC. CODE § 254.063. The designation of a report as a final report relieves a candidate of the duty to file semiannual reports as a candidate, unless the candidate has reportable activity after filing a final report. ELEC. CODE § 254.065.
11. In addition to other required reports, an opposed candidate is required to file reports 30-days and 8-days before an election. ELEC. CODE § 254.064. An opposed candidate is not required to file 30-day and 8-day pre-election reports if the opposed candidate selects modified reporting on his campaign treasurer appointment at least 30 days prior to the election and declares that he does not intend to accept political contributions or make political expenditures that in aggregate exceed \$500 in connection with the election. ELEC. CODE §§ 254.181, 254.182; Ethics Commission Rules § 20.217.
12. The respondent became a candidate no later than February 12, 2007, when he filed an application to be placed on the ballot. The respondent was an opposed candidate in the 2007 election. An opposed candidate is required file 30-day and 8-day pre-election reports, unless

the opposed candidate meets the requirements for modified reporting. Although the respondent filed a campaign treasurer appointment on April 27, 2007, electing modified reporting, his choice to elect modified reporting was not made at least 30 days prior to the May 12, 2007, election and, therefore, was not an effective election of modified reporting. Thus, the respondent was required to file 30-day and 8-day pre-election reports.

13. The 30-day pre-election report was due on April 12, 2007, and the 8-day pre-election report was due on May 4, 2007. On April 27, 2007, the respondent filed a report designated as an 8-day pre-election report. The report at issue was filed after the due date for the 30-day pre-election report and before the due date for the 8-day pre-election report. Thus, the evidence indicates that the respondent did not timely file the 30-day pre-election report. Therefore, there is credible evidence of a violation of section 254.064 of the Election Code.
14. Because the respondent had not terminated the campaign treasurer appointment filed on April 27, 2007, until he filed a final report on March 24, 2008, he was also subject to the requirement to file July 2007 and January 2008 semiannual reports. The evidence indicates that the respondent filed the reports at issue on March 24, 2008. Thus, the respondent did not timely file those reports. Therefore, there is credible evidence that the respondent violated section 254.063 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 candidate shall appoint a campaign treasurer and 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. The respondent also acknowledges that a candidate shall file two reports for each year, the first report shall be filed not later than July 15, and cover 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, and cover 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. The respondent acknowledges that, in addition to other required reports, an opposed candidate is required to file reports 30-days and 8-days before

an election. The respondent further 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 acknowledges that each report must be accompanied by an affidavit executed by the person required to file the report. 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 \$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-2803137.

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

\_\_\_\_\_  
John Bramlett, Respondent

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

Texas Ethics Commission

By: \_\_\_\_\_  
David A. Reisman, Executive Director