

TEXAS ETHICS COMMISSION

IN THE MATTER OF
MARJORIE KING,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-2804197

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on June 9, 2009, to consider sworn complaint SC-2804197. A quorum of the commission was present. The commission determined that there is credible evidence of a violation of section 254.063 of the Election Code, a law 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 made political contributions in another's name or, in the alternative, failed to properly report loans and political expenditures from personal funds on her January 2008 semiannual report. The complaint also alleged that the respondent failed to timely file her January 2008 semiannual report.

III. Facts Supported by Credible Evidence

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

1. The respondent was a successful candidate for Parker County tax assessor-collector in the 2008 general election.
2. On May 17, 2007, the respondent filed a campaign treasurer appointment.
3. On January 17, 2008, the respondent filed her January 2008 semiannual report.
4. The deadline for filing the January 2008 semiannual report was January 15, 2008.

5. The January 2008 semiannual report disclosed total political contributions of \$6,300, total political expenditures of \$1,747.32, and total political contributions maintained of \$4,552.68. The report disclosed the respondent as the contributor for all four contributions disclosed on Schedule A (used for disclosing political contributions other than pledges or loans), totaling \$6,300. The report disclosed 11 expenditures to various payees on Schedule F (for political expenditures), totaling \$1,747.32.
6. The respondent acknowledged that she failed to timely file her January 2008 semiannual report.
7. The evidence showed that the contributions at issue were deposits that the respondent made to her campaign account from her personal funds.
8. The respondent swore that she did not intend to seek reimbursement for the amounts at issue.

IV. Findings and Conclusions of Law

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

Failure to Timely File the January 2008 Semiannual Campaign Finance Report

1. 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.
2. The deadline for filing the January 2008 semiannual report was January 15, 2008.
3. The respondent filed her January 2008 semiannual report on January 17, 2008. Therefore, there is credible evidence of a violation of section 254.063 of the Election Code.

Contributions in Another's Name

4. A person may not knowingly make or authorize a political contribution in the name of or on behalf of another unless the person discloses in writing to the recipient the name and address of the person actually making the contribution in order for the recipient to make the proper disclosure. ELEC. CODE § 253.001.

5. If a candidate transfers money from a personal account to an account used for candidate purposes, no reportable transaction has occurred. *See* Ethics Advisory Opinion No. 258 (1995).
6. The contributions at issue were deposits that the respondent made to her campaign account from her personal funds.
7. The transfer of money from a candidate's personal account to an account used for candidate purposes is not a reportable transaction.
8. Although the respondent reported the deposits as contributions from herself to her campaign on Schedule A, she was not required to do so. Therefore, there is credible evidence of no violation of section 253.001 of the Election Code.

Failure to Properly Report Loans and Political Expenditures from Personal Funds

9. Each campaign finance report filed by a candidate is required to include the amount of loans that in the aggregate exceed \$50 made during the reporting period to the candidate, the dates the loans are made, the interest rate, maturity date, collateral, full name and address of the lender, and the aggregate principal amount of all outstanding loans as of the last day of the reporting period. ELEC. CODE § 254.031(a)(2).
10. Political expenditures from personal funds for which a candidate intends to seek reimbursement must be disclosed in the reporting period in which the expenditure is made and must indicate that reimbursement is intended. ELEC. CODE §§ 253.035(h), 254.031(a)(3).
11. In the alternative, a candidate who makes political expenditures from the candidate's personal funds with the intent to seek reimbursement may report the amount expended as a loan and may reimburse those personal funds from political contributions in the amount of the reported loan. ELEC. CODE § 253.0351(a).
12. The evidence indicated that all of the political expenditures at issue were made from the respondent's personal funds.
13. The respondent swore that she did not intend to seek reimbursement for the personal funds used to make the political expenditures. Thus, the respondent was not required to report a loan to her campaign on Schedule E or to indicate that reimbursement was intended.
14. Even when no reimbursement is intended campaign expenditures made from personal funds must be disclosed. The preferred method for disclosing such expenditures from personal funds is to use Schedule G (political expenditures from personal funds).

15. Although the respondent did not use that schedule, she disclosed all the expenditures at issue. Therefore, there is credible evidence of no violation of sections 253.035, 253.0351, and 254.031 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 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 agrees to comply with these requirements of the law.

VI. Confidentiality

This order and agreed resolution describes a violation that the commission has determined is 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 violation described under Sections III and IV, including the nature, circumstances, and consequences of the violation, and after considering the sanction necessary to deter future violations, the commission imposes a \$200 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-2804197.

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

Marjorie King, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director