

TEXAS ETHICS COMMISSION

IN THE MATTER OF
SUE LOVELL,
RESPONDENT

§
§
§
§
§

BEFORE THE
TEXAS ETHICS COMMISSION
SC-2906164

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on August 12, 2010, to consider sworn complaint SC-2906164. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 253.032, 253.035, and 254.031 of the Election Code, sections 20.59 and 20.62 of the Ethics Commission Rules, and section 571.1242 of the Government Code, as well as credible evidence of technical or *de minimis* violations of section 254.031 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 sworn complaint alleged that the respondent: 1) failed to disclose the total amount or a specific listing of the political contributions of \$50 or less accepted and the total amount or a specific listing of the political expenditures of \$50 or less made during the reporting period, the aggregate principal amount of all outstanding loans as of the last day of the reporting period, and the total amount of political contributions maintained as of the last day of the reporting period, in semiannual reports filed in July 2007, January 2008, July 2008, and January 2009, as well as in 30-day and 8-day pre-election reports for the November 6, 2007, election; 2) failed to disclose the total amount of political contributions accepted in the January 2009 semiannual report; 3) failed to disclose the full name of persons to whom the respondent made political expenditures in semiannual reports filed in July 2007, July 2008, and January 2009, as well as in the 8-day pre-election report for the November 6, 2007, election; 4) improperly disclosed political expenditures as reimbursements in semiannual reports filed in July 2007 and January 2009; 5) failed to include required information for out-of-state political committees in the July 2007 semiannual report and the 30-day pre-election report for the November 6, 2007, election; 6) failed to timely file the 30-day pre-election report for the November 6, 2007, election; 7) converted political contributions to personal use; and 8) accepted a political contribution from a corporation or labor organization.

III. Facts Supported by Credible Evidence

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

1. The respondent is a Houston city council member.
2. With regard to the allegation that the respondent failed to disclose the total amount of political contributions maintained, the complaint based the allegation on a calculation wherein total political contributions are added to the previous contribution balance, and then total political expenditures and in-kind contributions are subtracted from that amount.
3. With regard to the allegation that the respondent converted political contributions to personal use, the complaint included a list of 42 political expenditures disclosed by the respondent in semiannual reports filed in July 2007, January 2008, July 2008, and January 2009, as well as in 30-day and 8-day pre-election reports for the November 6, 2007, election.
4. On July 16, 2007, the respondent filed a July 2007 semiannual report that disclosed \$78,836 in total political contributions, \$25,955.72 in total political expenditures, and \$68,455.25 in total political contributions maintained as of the last day of the reporting period. The respondent left blank the spaces provided for disclosing total political contributions of \$50 or less (unless itemized), total political expenditures of \$50 or less (unless itemized), and total principal amount of outstanding loans as of the last day of the reporting period. The report detailed political contributions and political expenditures of \$50 or less. Schedule A (used for reporting political contributions) disclosed a \$2,500 political contribution on June 26, 2007, from Plumbers Local Union No. 68, which the sworn complaint alleged was a prohibited contribution from a corporation or labor organization. Schedule A also disclosed a \$500 political contribution from CWA-COPE PCC, and did not include out-of-state political committee information for the contributor. The report did not disclose any loans. Schedule F (used for reporting political expenditures) disclosed two political expenditures totaling approximately \$250 for the purpose of "Scholarship for scholar girls camp" and "Sponsorship for MS150 bike ride," which the complaint alleged were improperly disclosed reimbursements. Schedule F disclosed political expenditures totaling approximately \$150 to "HGAC"¹ and "MCCR Church."² Schedule F also disclosed the following political expenditures, which the complaint alleged were conversions of political contributions to personal use:

¹ Based on the disclosed address for the payee and the results of an Internet search using the terms "HGAC" and "Houston," the payee appeared to be the Houston-Galveston Area Council.

² Based on the disclosed address for the payee and the results of an Internet search using the terms "MCCR Church" and "Houston," the payee appeared to be the Resurrection Metropolitan Community Church. According to records of the Texas Secretary of State (SOS), Resurrection Metropolitan Community Church was a domestic nonprofit corporation that previously used the name Metropolitan Community Church of the Resurrection, but has never registered an assumed name.

- \$412.13 to Verizon for “Cell phone”
 - \$350 to Verizon for “Cell phone”
 - \$43.17 to Randalls for “Food”
 - \$100 to Randalls for “Food for office”
 - \$30.76 to Kroger for “Birthday cake and flowers”
 - \$118.02 to Artista for “Luncheon”
 - \$174 to Verizon for “Cell phone”
 - \$160 to Villa Arcos for “Council breakfast”
 - \$100 to Randalls for “Food for office”
 - \$281.83 to Verizon for “Cell phone bill/wireless antennae”
5. On October 9, 2007, the respondent filed a 30-day pre-election report³ for the November 6, 2007, election that disclosed \$27,416 in total political contributions, \$15,343.58 in total political expenditures, and \$80,527.67 in total political contributions maintained as of the last day of the reporting period. The respondent left blank the spaces provided for disclosing total political contributions of \$50 or less (unless itemized), total political expenditures of \$50 or less (unless itemized), and total principal amount of outstanding loans as of the last day of the reporting period. The report detailed political contributions and political expenditures of \$50 or less. Schedule A disclosed a \$500 political contribution on July 27, 2007, from the Gay and Lesbian Victory Fund, which the complaint alleged was a political contribution from an out-of-state political committee. The report did not disclose any loans. Schedule F disclosed the following political expenditures, which the complaint alleged were conversions of political contributions to personal use:
- \$277.37 to Verizon for “cell phone”
 - \$54.62 to Krogers for “birthday cake”
 - \$20 to Randalls for “supplies for council breakfast”
 - \$65 to Fiesta Foods for “supplies and food”
 - \$97.34 to Papa John Pizza for “food for meeting”
 - \$39.99 to Fiesta Foods for “food for meeting”
 - \$350 to Verizon for “cell phone”
 - \$34.47 to Randalls for “food”
 - \$75 to Krogers for “food for council breakfast”
 - \$54.62 to Krogers for “birthday cake”
6. On October 29, 2007, the respondent filed an 8-day pre-election report for the November 6, 2007, election that disclosed \$12,937.50 in total political contributions, \$7,022.23 in total political expenditures, and \$85,180.44 in total political contributions maintained as of the last day of the reporting period. The respondent left blank the spaces provided for disclosing

³ As stated in the commission’s filing schedule, the reporting deadline was extended due to a weekend and holiday and was due on October 9, 2007. *See* Ethics Commission Rule § 20.21(a).

total political contributions of \$50 or less (unless itemized), total political expenditures of \$50 or less (unless itemized), and total principal amount of outstanding loans as of the last day of the reporting period. The report detailed political contributions and political expenditures of \$50 or less. The report did not disclose any loans. Schedule F disclosed a political expenditure of \$1,000 on October 12, 2007, to “HGLBT PAC.”⁴ Schedule F also disclosed a political expenditure of \$718 to Verizon Wireless for “Cell phone bill,” which the complaint alleged was a conversion of political contributions to personal use.

7. On January 15, 2008, the respondent filed a January 2008 semiannual report that disclosed \$14,636 in total political contributions, \$13,589.47 in total political expenditures, and \$86,226.97 in total political contributions maintained as of the last day of the reporting period. The respondent left blank the spaces provided for disclosing total political contributions of \$50 or less (unless itemized), total political expenditures of \$50 or less (unless itemized), and total principal amount of outstanding loans as of the last day of the reporting period. The report detailed political contributions and political expenditures of \$50 or less. Schedule F disclosed the following political expenditures, which the complaint alleged were conversions of political contributions to personal use:

- \$378.01 to Comcast for “Internet”
- \$434.46 to Verizon for “Cell phone”
- \$73.33 to Kroger for “Food”
- \$140 to Villa Arcos for “Breakfast tacos for council”
- \$540.51 to Verizon for “Cell phone”

8. On July 15, 2008, the respondent filed a July 2008 semiannual report that disclosed \$31,713.35 in total political contributions, \$18,240.60 in total political expenditures, and \$99,699.72 in total political contributions maintained as of the last day of the reporting period. The respondent left blank the spaces provided for disclosing total political contributions of \$50 or less (unless itemized), total political expenditures of \$50 or less (unless itemized), and total principal amount of outstanding loans as of the last day of the reporting period. Schedule F disclosed a political expenditure of \$1,000 on February 12, 2008, to “Houston GLBT PAC.”⁵ Schedule F also disclosed the following political expenditures, which the complaint alleged were conversions of political contributions to personal use:

⁴ Houston GLBT Political Caucus PAC, a general-purpose committee, disclosed a \$1,000 political contribution on October 15, 2007, from the respondent.

⁵ Houston GLBT Political Caucus PAC disclosed a \$1,000 political contribution on February 15, 2008, from the respondent.

- \$329.39 to Verizon Wireless for “Cell phone”
 - \$140.71 to Verizon Wireless for “wireless computer”
 - \$49.24 to Kroger for “cards and food”
 - \$1,280.33 to Gravitas for “food, beverage and room”
 - \$712.85 to Verizon for “Feb & March cell phone/computer”
 - \$26.20 to Kroger for “food”
 - \$170 to Villa Arcos for “breakfast for city council”
 - \$700 to Verizon for “April/May cell/ computer [sic]”
 - \$65 to Kroger for “food/drink”
 - \$345 to Verizon for “June cell/computer invoice”
9. On January 15, 2009, the respondent filed a January 2009 semiannual report that disclosed \$6,359.81 in total political expenditures and \$93,339.91 in total political contributions maintained as of the last day of the reporting period. The respondent left blank the spaces provided for disclosing total political contributions of \$50 or less (unless itemized), total political contributions, total political expenditures of \$50 or less (unless itemized), and total principal amount of outstanding loans as of the last day of the reporting period. The report detailed political contributions and political expenditures of \$50 or less. The report did not include Schedule A or otherwise disclose any political contributions. Schedule F disclosed two political expenditures totaling approximately \$210 to “WPG,”⁶ a political expenditure of \$100 to “CMC,”⁷ and a political expenditure of \$50 to “HLSR.”⁸ Schedule F also disclosed 11 political expenditures that the complaint alleged were improperly reported as reimbursements. Five political expenditures totaling approximately \$430 disclosed an individual (other than the respondent) as the payee and a purpose of reimbursement for various expenses. Three political expenditures totaling approximately \$180 disclosed an individual as the payee and purposes including “school booklet” and “birthday cards.” Two political expenditures totaling approximately \$290 disclosed Bank of America as the payee and purposes of “computer supplies” and “travel.” Schedule F also disclosed a political expenditure of \$1,500 to the respondent for travel reimbursement. In addition, the complaint alleged the following political expenditures constituted a conversion of political contributions to personal use:
- \$345 to Verizon for “cell phone”
 - \$70 to WPG for “membership”⁹

⁶ Based on the disclosed address for the payee and the results of an Internet search using the terms “WPG” and “Houston,” the payee appears to be Women Professionals in Government.

⁷ The respondent did not disclose a complete address for the payee, and an Internet search using the terms “CMC” and “Houston” identified multiple entities.

⁸ Based on the disclosed address for the payee and the results of an Internet search using the terms “HLSR” and “Houston,” the payee appears to be the Houston Livestock Show and Rodeo.

- \$1,500 to the respondent for “travel reimbursement”¹⁰
 - \$190 to Villa Arcos Tacos for “council breakfast”
 - \$140 to WPF for “membership”¹¹
 - \$335 to Verizon for “cell phone”
10. Reports filed by the respondent since 2003 do not disclose any political expenditures from personal funds for travel that were subject to reimbursement from political contributions.
 11. Plumbers Local Union No. 68 PAC, a general-purpose political committee, disclosed in its July 2007 semiannual report a \$2,500 political expenditure on June 26, 2007, to the respondent’s campaign for the purpose of “Direct Contribution.”
 12. Gay and Lesbian Victory Fund, a general-purpose political committee, disclosed in its 30-day pre-election report for the November 2006 election, a \$500 political expenditure on July 27, 2007, to the respondent’s campaign for the purpose of “PAC contribution.”
 13. According to records of the Federal Election Commission (FEC), Communications Workers of America-Cope Political Contribution Committee (CWA-COPE PCC) is a multicandidate committee that files campaign finance reports with the FEC. According to FEC records, CWA-COPE PCC disclosed a \$500 contribution on April 4, 2007, to “Elect Sue Lovell for City Council 2.” CWA-COPE PCC has not filed a campaign treasurer appointment with the Texas Ethics Commission.
 14. On June 22, 2009, the Ethics Commission received sworn complaint SC-2906164. On that date, commission staff contacted the respondent by telephone and notified her that a sworn complaint had been filed against her.
 15. On June 26, 2009, commission staff sent the respondent a notice of noncompliance by certified mail, which stated that the complaint did not comply with the legal and technical form requirements for a complaint filed with the commission. The notice letter stated that the complaint could be revised and resubmitted within 21 days of the date of the letter, and that, if properly filed, the respondent would receive a notice explaining the next few steps of the sworn complaint process. United States Postal Service (USPS) records do not indicate the date the respondent received the notice of noncompliance.
 16. On July 8, 2009, the commission received resubmitted sworn complaint SC-2906164.

⁹ The complaint also included allegations of a reporting violation with regard to this expenditure.

¹⁰ The complaint also included allegations of a reporting violation with regard to this expenditure.

¹¹ The complaint also included allegations of a reporting violation with regard to this expenditure.

17. On July 16, 2009, commission staff sent the respondent a notice of sworn complaint by certified mail, which stated that the commission determined that the resubmitted complaint met the technical form requirements for a complaint filed with the commission, and that the executive director had determined that the commission had jurisdiction over violations of law alleged in the complaint. The notice letter stated that the allegations would be processed as Category Two violations and that the respondent was required to respond to an allegation of a Category Two violation not later than 25 business days from the date she received the notice. The notice also stated that the response must be in writing and under oath. USPS records show that an individual signed for the notice of complaint on July 29, 2009, and checked the box on the USPS form that he was acting as the respondent's agent.
18. In October 2009, January 2010, and April 2010, commission staff sent the respondent a quarterly status letter, notifying her that the sworn complaint was still pending.
19. Commission staff attempted to contact the respondent by telephone multiple times after the initial date the sworn complaint was filed but was unable to contact her.
20. On March 26, 2010, commission staff sent the respondent a copy of the notice of sworn complaint (originally mailed July 16, 2009) by delivery confirmation. USPS records show the respondent received the document on March 29, 2010.
21. To date, the respondent has not submitted a response to the sworn complaint allegations.

IV. Findings and Conclusions of Law

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

Political Contributions and Political Expenditures

1. Each campaign finance report must include, in pertinent part, the aggregate principal amount of all outstanding loans as of the last day of the reporting period. ELEC. CODE § 254.031(a)(2).
2. Each campaign finance 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. *Id.* § 254.031(a)(3).
3. Each campaign finance report must include the total amount or a specific listing of the political contributions of \$50 or less accepted and the total amount or a specific listing of the political expenditures of \$50 or less made during the reporting period. *Id.* § 254.031(a)(5).

4. Each campaign finance report must include, in pertinent part, the total amount of all political contributions accepted during the reporting period. *Id.* § 254.031(a)(6).
5. Each campaign finance report must include, as of the last day of a reporting period for which the person is required to file a report, 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. *Id.* § 254.031(a)(8).
6. The respondent failed to disclose the aggregate principal amount of outstanding loans in semiannual reports filed in July 2007, January 2008, July 2008, and January 2009, as well as in 30-day and 8-day pre-election reports for the November 6, 2007, election. Therefore, there is credible evidence of violations of section 254.031(a)(2) of the Election Code.
7. On two reports at issue, the respondent disclosed two political expenditures to “HGLBT PAC” and “Houston GLBT PAC.” The actual name of the payee was Houston GLBT Political Caucus PAC. Reports filed by Houston GLBT Political Caucus PAC, a general-purpose committee, disclosed the contributions from the respondent. Therefore, with regard to these political expenditures, there is credible evidence of technical or *de minimis* violations of section 254.031(a)(3) of the Election Code. On two reports at issue, the respondent failed to disclose the full payee name for six additional political expenditures (made to five different payees). Therefore, with regard to these political expenditures, there is credible evidence of violations of section 254.031(a)(3) of the Election Code.
8. On all reports at issue, the respondent left blank the spaces for disclosing political contributions and political expenditures of \$50 or less (unless itemized). However, the reports provided detailed information for political contributions and political expenditures of \$50 or less and the aggregate amounts disclosed on Schedule A and Schedule F for the reports at issue approximately match the contribution and expenditure totals disclosed on the reports’ cover pages. However, there is insufficient evidence as to whether the respondent properly disclosed all political contributions of \$50 or less accepted and all political expenditures of \$50 or less made during the reporting periods. Therefore, there is insufficient evidence to determine whether or not the respondent violated section 254.031(a)(5) of the Election Code.
9. The respondent failed to disclose the total amount of political contributions accepted on her January 2009 semiannual report. Therefore, there is credible evidence of a violation as to section 254.031(a)(6) of the Election Code.
10. The complaint based the allegation that the respondent failed to disclose the total amount of political contributions maintained as of the last day of the relevant reporting periods on a calculation whereby total political contributions are added to the previous contribution balance, and then total political expenditures and in-kind contributions are subtracted from

that amount. However, the total amount of political contributions maintained cannot necessarily be calculated from the face of a report. Applying this formula to the reports filed between July 2007 and January 2009, the calculated balance for the January 2009 semiannual report is higher than the disclosed balance of \$93,330.91 by approximately \$4,710. However, the complaint did not include any additional evidence to support the allegation and the evidence is insufficient to show that the amount disclosed was incorrect. Therefore, there is insufficient evidence of a violation of section 254.031(a)(8) of the Election Code.

Payees of Expenditures

11. The complaint alleged that the respondent disclosed the incorrect payees for 13 political expenditures.

Staff Reimbursement

12. Political expenditures made out of personal funds by a staff member of a candidate, officeholder, or political committee with the intent to seek reimbursement from the candidate, officeholder, or political committee that in the aggregate do not exceed \$5,000 (\$500 until November 18, 2007) during the reporting period may be reported as follows if the reimbursement occurs during the same reporting period that the initial expenditure was made:
 - (1) 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; and
 - (2) Included with the total amount or a specific listing of the political expenditures of \$50 or less made during the reporting period.

Ethics Commission Rules § 20.62(a).¹²

13. The respondent's July 2007 semiannual report disclosed two political expenditures totaling approximately \$250 for the purpose of "Scholarship for scholar girls camp," and "Sponsorship for MS150 bike ride." Based on the respondent's disclosure, the political expenditures were not reimbursements. Therefore, with regard to these political expenditures, there is credible evidence of no violation of section 254.031(a)(3) of the Election Code and section 20.62 of the Ethics Commission Rules.

¹² Ethics Commission Rule § 20.62 originally became effective on February 25, 2007. Prior to its adoption, Ethics Advisory Opinion No. 450 (2003) described the proper way to report staff reimbursement. On October 26, 2007, the rule was amended to raise the threshold for reporting staff reimbursements as a loan from \$500 to \$5,000. The change became effective on November 18, 2007.

14. The respondent's January 2009 semiannual report disclosed five political expenditures totaling approximately \$430 as reimbursements to individuals for various expenses, but did not disclose the ultimate payee for the expenditures. Therefore, with regard to these political expenditures, there is credible evidence of violations of section 254.031(a)(3) of the Election Code and section 20.62 of the Ethics Commission Rules.
15. The respondent's January 2009 semiannual report disclosed three political expenditures totaling approximately \$180 to individuals for purposes including "birthday cards" and "school booklet." The evidence is unclear as to whether these payments were reimbursements. Therefore, with regard to these political expenditures, there is insufficient evidence of violations of section 254.031(a)(3) of the Election Code and section 20.62 of the Ethics Commission Rules.

Reimbursement to Self

16. A candidate or officeholder who makes political expenditures from the candidate's or officeholder's personal funds may reimburse those personal funds from political contributions in the amount of those expenditures only if the expenditures from personal funds were fully reported as political expenditures, including the payees, dates, purposes, and amounts of the expenditures, in the report required to be filed under this title that covers the period in which the expenditures from personal funds were made, and the report on which the expenditures from personal funds are disclosed clearly designates those expenditures as having been made from the person's personal funds and that the expenditures are subject to reimbursement. ELEC. CODE § 253.035(h).
17. The respondent's January 2009 semiannual report disclosed that she reimbursed herself \$1,500 for travel expenses. The respondent did not disclose a political expenditure from personal funds for travel that was subject to reimbursement. Therefore, there is credible evidence of a violation of sections 253.035(h) and 254.031(a)(3) of the Election Code.

Political Expenditures Made by Credit Card

18. A report of a political expenditure by credit card must identify the vendor who receives payment from the card company. Ethics Commission Rules § 20.59.
19. The respondent's January 2009 semiannual report disclosed two payments totaling approximately \$290 to Bank of America for "computer supplies" and "travel." The respondent failed to disclose the vendor who ultimately received payment for the political expenditures. Therefore, there is credible evidence of violations of section 254.031(a)(3) of the Election Code and section 20.59 of the Ethics Commission Rules.

Out-of-State Political Committee Information

20. Out-of-state political committee means a political committee that makes political expenditures outside this state and in the 12 months immediately preceding the making of a political expenditure by the committee inside this state (other than an expenditure made in connection with a campaign for a federal office or made for a federal officeholder) makes 80 percent or more of the committee's total political expenditures in any combination of elections outside this state and federal offices not voted on in this state. ELEC. CODE § 251.001(15).
21. A candidate that accepts political contributions totaling \$500 or less from an out-of-state political committee shall include as part of the report that covers the reporting period in which the contribution is accepted the same information for the out-of-state political committee required for general-purpose committees by sections 252.002 and 252.003 of the Election Code, or a copy of the out-of-state committee's statement of organization filed as required by law with the Federal Election Commission and certified by an officer of the out-of-state committee. *Id.* § 253.032(e).
22. The respondent accepted a political contribution of \$500 from CWA-COPE PCC, an out-of-state political committee on file with the FEC, but did not include the information required by section 253.032 of the Election Code in her July 2007 semiannual report. Therefore, with regard to this political contribution, there is credible evidence of a violation of section 253.032 of the Election Code.
23. Gay and Lesbian Victory Fund disclosed the \$500 political contribution at issue in its 30-day pre-election report for the November 6, 2006, election. Gay and Lesbian Victory Fund is a Texas general-purpose committee, not an out-of-state committee. Therefore, with regard to this political contribution, there is credible evidence of no violation of section 253.032 of the Election Code.

30-Day Pre-Election Report Deadline

24. 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. *Id.* § 254.064(a). The first report must be received by the authority with whom the report is required to be filed not later than the 30th day before election day. *Id.* § 254.064(b). The report covers the period beginning 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 under this chapter, as applicable, and continuing through the 40th day before election day. *Id.*
25. If the deadline for a report falls on a Saturday, Sunday, or a legal state or national holiday, the report is due on the next regular business day. Ethics Commission Rules § 20.21(a).

26. Due to a weekend and holiday, the due date for the 30-day pre-election report for the November 6, 2007, election was October 9, 2007. The respondent filed the report on October 9, 2007. Therefore, there is credible evidence of no violation of section 254.064(b) of the Election Code.

Personal Use of Political Contributions

27. A person who accepts a political contribution as a candidate or officeholder may not convert the contribution to personal use. Personal use means a use that primarily furthers individual or family purposes not connected with the performance of duties or activities as a candidate for or holder of a public office. ELEC. CODE § 253.035(a).
28. The commission stated in Ethics Advisory Opinion No. 241 that it is permissible for a legislator to use political contributions to pay for “meals for state business not reimbursed by the state.” Ethics Advisory Opinion No. 241 (1995) (EAO 241). However, an officeholder may not use political contributions to pay for meals in general. *See* EAO 241.
29. The Election Code does not permit the use of political contributions to pay for travel if the primary purpose of the trip is personal. *See* Ethics Advisory Opinion No. 297 (1996).
30. The complaint alleged that the respondent converted political contributions to personal use when she made expenditures for a variety of purposes, including expenses for cell phone usage, a computer, Internet services, food, and travel. There is insufficient evidence that the expenditures at issue for food and travel were not made for candidate or officeholder purposes. As to the expenditures related to cell phone, computer, and Internet expenses, as well as the other expenditures at issue, there is insufficient evidence that the expenditures primarily furthered an individual or family purpose not connected with the respondent’s activities as a candidate or officeholder. The complaint did not include additional evidence to support the allegation that the respondent converted political contributions to personal use. Therefore, there is insufficient evidence of a violation of section 253.035 of the Election Code.

Political Contribution from a Corporation or Labor Organization

31. A person may not knowingly make a political contribution in violation of chapter 253 of the Election Code. ELEC. CODE § 253.003(a).
32. A corporation or labor organization may not make a political contribution or political expenditure that is not authorized by subchapter D, chapter 253, Election Code. *Id.* § 253.094(a).
33. Plumbers Local Union No. 68 PAC, a Texas general-purpose political committee, disclosed that it made a \$2,500 political contribution on June 26, 2007, to the respondent’s campaign.

Although the respondent did not disclose in her July 2007 semiannual report that the contribution was from the entity's political committee, the respondent disclosed the political contribution on the same date and in the same amount. Therefore, there is credible evidence of no violation of sections 253.003(a) and 253.094(a) of the Election Code.

Response to Sworn Complaint

34. A respondent must respond to the notice of a Category Two violation not later than the 25th business day after the date the respondent receives the notice. GOV'T CODE § 571.1242(b). Failure to respond to a notice of sworn complaint within the time required is a separate Category One violation. *Id.* § 571.1242(c).
35. USPS records show that the notice of this complaint was delivered to the respondent's address on July 29, 2009, and that an individual acting as the respondent's agent signed for the notice. The notice stated that the respondent was required to respond within 25 business days from receipt of the notice, and that the response must be in writing and under oath. USPS records show that a subsequent copy of the notice of complaint was delivered to the respondent's address by delivery confirmation on March 29, 2010. Commission staff also sent the respondent three quarterly status letters, notifying her that the sworn complaint was still pending. The respondent did not respond to the notice of sworn complaint. Therefore, there is credible evidence of a violation of section 571.1242 of the Government 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 that accepts political contributions totaling \$500 or less from an out-of-state political committee shall include as part of the report that covers the reporting period in which the contribution is accepted the same information for the out-of-state political committee required for general-purpose committees by sections 252.002 and 252.003 of the Election Code, or a copy of the out-of-state committee's statement of organization filed as required by law with the Federal Election Commission and certified by an officer of the out-of-state committee. The respondent acknowledges that a candidate who makes political expenditures from the candidate's personal funds may reimburse those personal funds from political contributions in the amount of those expenditures only if the expenditures from personal funds were fully reported as political

expenditures, including the payees, dates, purposes, and amounts of the expenditures, in the report required to be filed that covers the period in which the expenditures from personal funds were made, and the report on which the expenditures from personal funds are disclosed clearly designates those expenditures as having been made from the person's personal funds and that the expenditures are subject to reimbursement. The respondent acknowledges that each campaign finance report must include the amount of loans that are made during the reporting period for campaign or officeholder purposes to the person or committee required to file the report and that in the aggregate exceed \$50, the dates the loans are made, the interest rate, the maturity date, the type of collateral for the loans, if any, the full name and address of the person or financial institution making the loans, the full name and address, principal occupation, and name of the employer of each guarantor of the loans, the amount of the loans guaranteed by each guarantor, and the aggregate principal amount of all outstanding loans as of the last day of the reporting period. The respondent acknowledges that each campaign finance 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 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. The respondent acknowledges that a report of a political expenditure by credit card must identify the vendor who receives payment from the card company. The respondent acknowledges that the proper way to report reimbursements to staff is in accordance with section 20.62 of the Ethics Commission Rules. The respondent acknowledges that a respondent must respond to a sworn complaint that contains a Category Two violation within 25 business days of receiving the notice of the sworn complaint. The respondent agrees to comply with these requirements of the law.

VI. 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.

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 \$2,000 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-2906164.

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

Sue Lovell, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director