

TEXAS ETHICS COMMISSION

IN THE MATTER OF	§	BEFORE THE
	§	
LESLIE ROSENBLATT, CAMPAIGN	§	
TREASURER, MONTGOMERY	§	
COUNTY DEMOCRATIC EXECUTIVE	§	TEXAS ETHICS COMMISSION
COMMITTEE,	§	
	§	
RESPONDENT	§	SC-2907188

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on August 12, 2010, to consider sworn complaint SC-2907188. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 254.031(a)(3), 254.031(a)(6), and 254.151(6) of the Election Code and section 20.62 of the Ethics Commission Rules, 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 campaign finance reports filed by the respondent failed to include and improperly disclosed required information.

III. Facts Supported by Credible Evidence

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

1. The respondent is the campaign treasurer for Montgomery County Democratic Executive Committee (MCDEC), a general-purpose committee.
2. The complaint alleged that the respondent:
 - Incorrectly reported the total principal amount of outstanding loans on MCDEC's January 2009 report.
 - Incorrectly reported total political expenditures on MCDEC's January and July 2009 semiannual reports.
 - Incorrectly reported total political contributions maintained on MCDEC's January and July 2009 semiannual reports.

- Improperly reported four political expenditures as reimbursements on MCDEC's July 2009 semiannual report.
 - Failed to disclose the principal occupation of 23 contributors for contributions that exceed \$50 during the reporting period on MCDEC's January and July 2009 reports.
3. In response to this sworn complaint, on September 30, 2009, the respondent filed corrections to both of the reports.

January 2009 Semiannual Report and Corrections

4. The respondent's January 2009 semiannual report for MCDEC disclosed:
- \$9,494.30 in total political contributions (corrected to \$9,605.11),
 - \$1,425.96 in total political expenditures (corrected to \$5,832.43),
 - \$9,948 in total political contributions maintained, and
 - \$0 total principal amount of all outstanding loans.
5. The report also disclosed a contributor's principal occupation as "unknown" for a \$250 political contribution and disclosed a \$1,700 expenditure to Montgomery County Elections Administration on Schedule I (used to disclose non-political expenditures made from political contributions) for the purpose of, "Payment from the debt reduction fund to pay on debt owed to MC-Elections Office."
6. MCDEC's corrected January 2009 semiannual report included expenditures on Schedule F that were previously reported on Schedule I and added those expenditures to the political expenditure totals. The corrected report disclosed an additional expenditure of \$250 unrelated to the complaint. The corrected report disclosed a principal occupation and employer for the \$250 contributor. The respondent swore in his correction affidavit that political contributions maintained and principal amount of outstanding loans were correct as originally reported, and that the payment to the Montgomery County Elections Administrator was not a loan payment.
7. The evidence indicated that the expenditure was to pay primary election expenses to the Montgomery County Elections Administrator.

July 2009 Semiannual Report and Corrections

8. The respondent's original July 2009 semiannual report for MCDEC disclosed:
- \$20,551.14 in total political contributions (corrected to \$20,643.94),
 - \$0 in total political expenditures (corrected to \$9,612.27),
 - \$18,427.37 in total political contributions maintained, and
 - \$0 total principal amount of all outstanding loans.

9. The report disclosed 22 out of 132 political contributions from contributors exceeding \$50 during the period, totaling \$2,390, for which the principal occupation disclosed is “Unknown.” The report also disclosed expenditures totaling \$1,438.84 on Schedule I that the complaint alleged failed to disclose the actual vendor payee.
10. On July 15, 2009, prior to the filing of this complaint, the respondent filed a corrected July 2009 semiannual report, explaining that one of the expenditures at issue was actually only \$110.02, but was erroneously reported as \$1,040.
11. MCDEC’s corrected July 2009 semiannual report changed all non-political expenditures disclosed on the original report to political expenditures. This changed the total amount of political expenditures from \$0 (on the originally filed report) to \$9,612.27. The report also removed the non-political expenditures and added nine vendor payees for the expenditures (disclosed as political expenditures). The report provided principal occupation and employer information for all but five of the contributions alleged, and for those five disclosed, “No contact/used several sources to contact.”
12. In his correction affidavit, the respondent swore that political contributions maintained were correct as originally reported, and that he had made a record of attempts to contact the contributors for whom occupation information was still unknown.

IV. Findings and Conclusions of Law

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

Reporting Political Contributions, Political Expenditures, and Principal Amount of Outstanding Loans

1. 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. ELEC. CODE § 254.031(a)(2).
2. Each campaign finance report must also include the total amount of all political contributions accepted and the total amount of all political expenditures made during the reporting period. ELEC. CODE § 254.031(a)(6).
3. Each campaign finance report must also 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. ELEC. CODE § 254.031(a)(8).

4. The complaint alleged that the respondent improperly reported the total principal amount of all outstanding loans on MCDEC's January 2009 semiannual report. The allegation was based on an expenditure with the purpose of, "Payment from the debt reduction fund to pay on debt owed to MC-Elections Office." The expenditure was an expenditure to pay election related expenses. Therefore, there is credible evidence of no violation of section 254.031(a)(2) of the Election Code.
5. The complaint alleged that the respondent improperly reported the amount of total political expenditures on MCDEC's January and July 2009 semiannual reports. The respondent admitted that total political expenditures were incorrect as originally reported due to accounting errors as well as the reporting of political expenditures on Schedule I instead of Schedule F. Thus, MCDEC's originally filed January and July 2009 semiannual reports did not disclose the correct amount of total political expenditures. Therefore, there is credible evidence of violations of section 254.031(a)(6) of the Election Code with regard to those expenditures.
6. The complaint alleged that total political contributions maintained disclosed on MCDEC's January and July 2009 semiannual reports were incorrect. The amount of political contributions maintained cannot necessarily be calculated by looking at the face of a report. The evidence indicated that the total political contributions maintained as disclosed on these reports were correct and reflected the committee's bank balance at the end of each reporting period. Therefore, there is credible evidence of no violation of section 254.031(a)(8) of the Election Code.

Reimbursements to Staff

7. Ethics Commission Rule § 20.62 states that political expenditures made out of personal funds by a staff member of an officeholder or candidate, with the intent to seek reimbursement from the officeholder or candidate, that in the aggregate do not exceed \$5,000 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.
8. The respondent admitted that four expenditures totaling approximately \$1,440 were incorrectly reported on MCDEC's July 2009 semiannual report. The respondent filed corrections disclosing the actual vendor payees. The respondent did not originally disclose the names and addresses of those vendors who were actually paid by the individuals. Thus, the respondent failed to properly disclose the names or addresses of the actual payees of those expenditures. Therefore, there is credible evidence that the respondent violated section 254.031(a)(3) of the Election Code and section 20.62 of the Ethics Commission Rules.

Principal Occupation of Contributors

9. In addition to the contents required by section 254.031 of the Election Code, each report by a campaign treasurer of a general-purpose committee must include the principal occupation of each person from whom political contributions that in the aggregate exceed \$50 are accepted during the reporting period. ELEC. CODE § 254.151(6).
10. The complaint alleged that the respondent failed to include the principal occupation of 23 persons from whom political contributions that in the aggregate exceeded \$50 were accepted during the reporting periods covered by MCDEC's January and July 2009 semiannual reports. The respondent disclosed "Unknown" as the principal occupation of these 23 political contributions. The contributions totaled approximately \$2,640.
11. The respondent swore that he entered "Unknown" for these contributors because at the time of filing the original report, this information was not known. The respondent filed corrected reports that disclosed occupation and employer information for all but five of the contributors at issue. The respondent originally failed to disclose a principal occupation for the 23 political contributions at issue. Therefore, there is credible evidence of violations of section 254.151(6) of the Election Code with regard to the contributions at issue.

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 campaign finance report must include the total amount of all political expenditures made during the reporting period. The respondent also acknowledges that the proper way to report staff reimbursement is set out in section 20.62 of the Ethics Commission Rules. The respondent also acknowledges that in addition to the contents required by section 254.031 of the Election Code, each report by a campaign treasurer of a general-purpose committee must include the principal occupation of each person from whom political contributions that in the aggregate exceed \$50 are accepted during 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-2907188.

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

Leslie Rosenblatt, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director