

TEXAS ETHICS COMMISSION

IN THE MATTER OF
DEBRA LEHRMANN,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-31004125

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on February 23, 2011, to consider sworn complaint SC-31004125. A quorum of the commission was present. The commission determined that there is credible evidence of a violation of section 253.155 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. Allegation

The complaint alleged that the respondent accepted political contributions in excess of the contribution limits of the Judicial Campaign Fairness Act.

III. Facts Supported by Credible Evidence

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

1. The respondent is a Justice of the Supreme Court of Texas and was an opposed candidate for that office in the March 2010 primary election.
2. The respondent's January 2010 semiannual report disclosed a political contribution of \$100 from an individual.
3. The respondent's 30-day pre-election report for the March 2010 primary election disclosed a loan of \$20,000 from the same individual.

4. In response to the sworn complaint allegations, the respondent submitted an affidavit in which she admitted that the individual at issue, her mother-in-law for almost 27 years, contributed \$100 early in the campaign, and later made a \$20,000 loan to the campaign. The respondent swore that, "I understood that the \$5,000 limit in section 253.155 does not apply to contributions from family members." She also stated that she learned later that her mother-in-law was not considered a family member for purposes of the Judicial Campaign Fairness Act.
5. The respondent provided a copy of a check dated May 12, 2010, for \$15,100, made payable to the contributor at issue.
6. The respondent's July 2010 semiannual report disclosed a political expenditure of \$15,100 to the contributor at issue for "Return of loaned funds."

IV. Findings and Conclusions of Law

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

1. "Contribution" means a direct or indirect transfer of money, goods, services, or any other thing of value and includes an agreement made or other obligation incurred, whether legally enforceable or not, to make a transfer. The term includes a loan or extension of credit, other than those expressly excluded by this subdivision, and a guarantee of a loan or extension of credit, including a loan described by this subdivision. The term does not include a loan made in the due course of business by a corporation that is legally engaged in the business of lending money and that has conducted the business continuously for more than one year before the loan is made, or an expenditure required to be reported under section 305.006(b), Government Code. ELEC. CODE § 251.001(2).
2. A judicial candidate or officeholder may not accept political contributions from a person that in the aggregate exceed \$5,000 in connection with an election for a statewide judicial office. *Id.* §§ 253.155(a), (b).
3. The contribution limits in section 253.155 of the Election Code do not apply to an individual who is related to the candidate or officeholder within the second degree by consanguinity, as determined under subchapter B, chapter 573, Government Code. *Id.* § 253.159.
4. The respondent accepted two political contributions totaling \$20,100 in connection with the March 2010 primary election from an individual to whom she is not related within the second degree by consanguinity. The maximum amount the respondent could legally accept from the individual in connection with the election was \$5,000. Although the respondent's affidavit indicated that at the time she accepted the \$20,000 loan she did not know that the

\$5,000 limit applied to her mother-in-law, and although the respondent made a \$15,100 payment back to the contributor after receiving notice of the sworn complaint allegation, the respondent nonetheless exceeded the contribution limits when she accepted the political contributions at issue. Therefore, there is credible evidence of a violation of section 253.155 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 judicial candidate or officeholder may not accept political contributions from a person that in the aggregate exceed the limits prescribed by section 253.155 of the Election Code. The respondent agrees to comply with this requirement 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 violation described under Sections III and IV, including the nature, circumstances, and consequences of the violation, the commission imposes a \$1,500 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-31004125.

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

Debra Lehrmann, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director