

TEXAS ETHICS COMMISSION

IN THE MATTER OF
ALOYSIUS HOANG,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-31011387

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) held a preliminary review hearing on December 2, 2013, to consider sworn complaint SC-31011387. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 254.001, 254.031, 254.036, 254.061, 254.063, and 254.064 of the Election Code and section 20.61 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 the respondent accepted political contributions from corporations or labor organizations, did not properly disclose or did not include required information on multiple campaign finance reports, and accepted cash contributions from a single contributor that in the aggregate exceeded \$100 during a reporting period.

III. Facts Supported by Credible Evidence

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

1. The respondent is a member of the Houston City Council.
2. The reports at issue are the 30-day and 8-day pre-election campaign finance reports filed in connection with the November 2009 election, runoff report filed in connection with the December 2009 runoff election, and January 2010 semiannual report.

Political Contributions from Corporations or Labor Organizations

3. The complaint alleged that, based on disclosures in three campaign finance reports, the respondent accepted approximately \$33,000 in political contributions from businesses that were corporations or labor unions.
4. Evidence indicated that at least nine of the businesses alleged were incorporated.
5. In his response to the complaint, the respondent swore that approximately \$33,000 of the contributions at issue were from the owners of the businesses and not the entity that was disclosed on the report. The respondent filed a cumulative final report that disclosed individuals as the source of most of the contributions at issue.

Required Information on Campaign Finance Reports*30-day Pre Election Report*

6. The respondent filed a 30-day pre-election report on October 5, 2009. The complaint alleged that the respondent did not disclose an election date, election type or a period covered. The report did not include that information.
7. The complaint also alleged that the respondent did not include the correct amount of total political contributions and total political expenditures on the report.
8. The report disclosed the following on the totals page of the report at issue:
 - \$540 in total political contributions of \$50 or less
 - \$20,875 in total political contributions
 - No political expenditures of \$50 or less
 - \$8,842 in total political expenditures
9. The respondent itemized approximately \$21,420 in political contributions and approximately \$3,450 in political expenditures on the report at issue.
10. The complaint also alleged that the respondent did not properly disclose political contributions, pledges, and political expenditures on the report. The report disclosed the following:
 - Political Contributions
 - The report did not disclose dates for any of the approximately \$21,420 in political contributions itemized on the report.

- Political contributions totaling approximately \$1,000 itemized on the report did not include the street address, state and/or zip code of the contributor.
- One \$100 political contribution itemized on the report did not disclose the first name of a contributor.
- Pledges
 - One \$450 pledge did not include an address.
 - One \$5,000 pledge itemized on the report disclosed the term “An Danh” as the name of the pledgor. The term “An Danh” is Vietnamese for “anonymous.”
- Political Expenditures
 - The approximately \$3,450 in political expenditures disclosed on the report did not include dates or street addresses for the payees.

8-day Pre-Election Report

11. The respondent filed a campaign finance report on October 30, 2009. The report type box was marked as a 30-day pre-election report. The complaint alleged that the respondent checked the wrong box for “report type,” and that the report was actually an 8-day pre-election report. The complaint also alleged that the report did not disclose an election date, election type or a period covered. The report did not include that information.
12. The complaint also alleged that the respondent did not include the correct amount of total political contributions and total political expenditures on cover sheet page two of the report.
13. The report disclosed the following on the totals page of the report at issue:
 - No political contributions of \$50 or less
 - \$70,960 in total political contributions
 - No political expenditures of \$50 or less
 - \$67,416.55 in total political expenditures
14. The respondent itemized approximately \$70,960 in political contributions and approximately \$67,420 in political expenditures on the report at issue. However, the report included activity from the period covered by the respondent’s previously filed report and appears to be a cumulative total.
15. The complaint also alleged that the respondent did not properly disclose political contributions and political expenditures on the report. The report disclosed the following:

- Political Contributions
 - The report did not disclose dates for any of the approximately \$70,960 in political contributions itemized on the report.
 - Political contributions totaling approximately \$3,180 itemized on the report did not include the street address, state and/or zip code for the contributor, including two contributions totaling approximately \$110 whose address was described as “Trong boui Bieu Duong Luc Luong.” That term loosely translates to “in one of the meetings,” in Vietnamese.
 - Political contributions totaling approximately \$350 itemized on the report did not disclose the first name of a contributor. A \$100 contribution itemized on the report disclosed the term “An Danh” as the name of the contributor. The term “An Danh” is Vietnamese for “anonymous.”
 - One political contribution from “Ocean Palace” for \$9,910 included an in-kind description of, “5k in food contributed by owner, remainder collected in cash at the event, which paid for the rest of the food/event.”
- Political Expenditures
 - The report did not disclose dates for any of the \$67,420 in political expenditures itemized on the report.
 - Political expenditures totaling approximately \$23,500 did not include the street address, state and/or zip code for the payee, including a \$7,500 expenditure to an individual whose last name was not disclosed.
 - Approximately \$4,600 in political expenditures did not disclose a purpose.
 - Approximately \$11,500 in political expenditures disclosed either “campaign manager,” or “staff member” as the purpose.

Runoff Report

16. The respondent filed a campaign finance report on December 8, 2009. The complaint alleged that the respondent did not check a “report type,” and that the report was actually a runoff report for a December 2009 runoff election. The complaint also alleged that the report did not disclose an election date, election type or a period covered. The report did not include that information.
17. The complaint alleged that the respondent did not include the correct amount of total political contributions and expenditures on his runoff report.
18. The report disclosed the following on the totals page of the report at issue:
 - No political contributions of \$50 or less
 - \$82,125 in total political contributions

- No political expenditures of \$50 or less
 - \$90,656.55 in total political expenditures
19. The respondent itemized approximately \$82,580 in political contributions and approximately \$90,660 in political expenditures on the report at issue. However, the report included activity from the period covered by the respondent's previously filed report and appears to be a cumulative total.
20. The complaint also alleged that the respondent did not disclose total political contributions maintained on his runoff report. The report at issue disclosed \$0 in total political contributions maintained. Bank records provided by the respondent showed that his campaign account had \$6,331.80 on December 2, 2009, the last day required to be covered by a runoff report filed in connection with the December 2009 runoff election.
21. The complaint also alleged that the respondent did not properly disclose political contributions, a loan, and political expenditures on the report. The report disclosed the following:
- Political Contributions
 - The report did not contain dates for any of the approximately \$82,580 in political contributions itemized on the report.
 - Political contributions totaling approximately \$11,620 itemized on the report did not include a street address for the contributor.
 - Political contributions totaling approximately \$1,290 itemized on the report did not include a full name for the contributor.
 - The report disclosed one \$2,000 political contribution as "Cash Contributions (from Kim Son fundraiser)."
 - Loan
 - The report did not disclose a date for a \$20,000 loan.
 - Political Expenditures
 - The report did not disclose dates for any of the approximately \$90,660 in political expenditures itemized on the report.
 - Political expenditures totaling approximately \$23,240 itemized on the report did not include a street address for the payee.
 - Approximately \$4,240 in political expenditures did not disclose a purpose.
 - Approximately \$4,500 in political expenditures disclosed either "campaign manager," or "campaign" as the purpose.
 - One political expenditure did not disclose a street address, purpose or amount.

January 2010 Semiannual Report

22. The respondent filed his January 2010 semiannual report on January 12, 2010. The complaint alleged that the report did not disclose a period covered. The report did not disclose a period covered.
23. The complaint alleged that the respondent did not include the correct amount of total political contributions and expenditures on the report.
24. The report disclosed the following on the totals page of the report at issue:
 - No political contributions of \$50 or less
 - \$100,753 in total political contributions
 - No political expenditures of \$50 or less
 - \$116,499.08 in total political expenditures
25. The respondent itemized approximately \$100,750 in political contributions and approximately \$116,500 in political expenditures on the report at issue. However, the report included activity from the period covered by the respondent's previously filed report and appears to be a cumulative total.
26. The complaint also alleged that the respondent did not disclose total political contributions maintained on his January 2010 semiannual report. The report at issue disclosed \$0 in total political contributions maintained. Bank records provided by the respondent showed that his campaign account had \$1,990.80 on December 31, 2009, the last day required to be covered by the January 2010 semiannual report.
27. The complaint also alleged that the respondent did not properly disclose political contributions, and political expenditures on the report. The report disclosed the following:
 - Political Contributions
 - One \$30 political contribution disclosed on the report did not disclose a street address or zip code.
 - One \$4,400 political contribution disclosed the contributor as "Pete of Fort Bend Mechanical."
 - Political Expenditures
 - Political expenditures totaling approximately \$5,995 itemized on the report did not include a street address for the payee.

Political Contribution of Cash

28. The complaint alleged that the respondent accepted a \$2,000 cash contribution from an individual donor. The complaint based the allegations on the respondent's disclosure of a \$2,000 political contribution on Schedule A (the schedule provided to disclose political contributions) of his runoff report filed in connection with the November 2009 election. In the space provided to disclose the name of the contributor, the respondent disclosed, "Cash Contributions (from Kim Son fundraiser)."
29. Statements made by the respondent indicated that the \$2,000 at issue was from contributions at a fundraiser, and that the respondent believed that each of the individual contributions was under \$5, but he did not keep detailed records of those contributions.

Notarization of an Affidavit in Campaign Finance Reports

30. The complaint alleged that the respondent did not include a properly notarized affidavit on each of the reports at issue.
31. None of the reports were notarized or signed by the respondent, but the name of the respondent's campaign treasurer was typed in the space provided for the signature of the candidate on page two of the cover sheet of each report.
32. In his response to the complaint, the respondent stated that he believed that the filing of a campaign finance report "had to be done by the Campaign Treasurer." The respondent filed the reports at issue by electronic transfer with the City of Houston.

IV. Findings and Conclusions of Law

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

Political Contributions from Corporations or Labor Organizations

1. A person may not knowingly accept a political contribution that the person knows was made in violation of chapter 253 of the Election Code. ELEC. CODE § 253.003.
2. A corporation may not make a political contribution or political expenditure that is not authorized by subchapter D, chapter 253, Election Code. ELEC. CODE § 253.094.
3. The prohibition applies to corporations that are organized under the Texas Business Corporation Act, the Texas For-Profit Corporation Law, the Texas Non-Profit Corporation

Act, the Texas Nonprofit Corporation Law, federal law, or law of another state or nation. ELEC. CODE § 253.091.

4. The complaint alleged that the respondent accepted multiple political contributions from corporations during the period covered by the reports at issue. Although there is evidence that some of the contributors at issue were from corporations, it is unclear whether the entities disclosed on the respondent's originally filed campaign finance reports were the true source of the contributions or whether a contributor was a corporation that the respondent knew was incorporated. Therefore, there is insufficient evidence of violations of sections 253.003 and 253.094 of the Election Code.
5. It is unclear whether the entities disclosed on the respondent's originally filed campaign finance reports were actually the true source of the contributions or, if a contributor was a corporation, that the respondent knew of the contributor's status. However, in his response to the complaint, the respondent stated that approximately \$32,840 in contributions were from the owners of the businesses and not the entity that was disclosed on the report. Thus, the respondent admitted in his response to the sworn complaint that he did not disclose the correct contributor name for approximately \$32,840¹ of the political contributions. Therefore, there is credible evidence of violations of section 254.031(a)(1) of the Election Code with regard to those contributors.

Required Information on Campaign Finance Reports

Report Type and Period Covered

6. Each report filed under this chapter with an authority other than the commission must be in a format prescribed by the commission. ELEC. CODE § 254.036(a).
7. The complaint alleged that the respondent did not disclose the reporting period for his 30-day and 8-day pre-election reports, runoff report and January 2010 semiannual report at issue. Although neither statute nor rule specifically requires the report type be disclosed, the form prescribed by the commission requires that the filer indicate the period covered by the report being filed. The reports at issue left blank spaces for the period covered on the cover sheet of each report. There is credible evidence of violations of section 254.036(a) of the Election Code with regard to those allegations.
8. The form prescribed by the commission also requires that the filer indicate the type of report that the filer is filing. With regard to the respondent's 8-day pre-election report at issue, due to the activity disclosed on the report, the date it was filed, and the response to the complaint,

¹ One \$5,000 contribution is also addressed and included in the totals in the section regarding required information in campaign finance reports.

the evidence indicated that the report filed on October 30, 2009, was an 8-day pre-election report and not a 30-day pre-election report. Therefore, the respondent checked the wrong box for the “report type” on the 8-day report at issue. The respondent also did not indicate a “report type” on what the same evidence shows is his runoff report for the December 2009 runoff election. There is credible evidence of *technical or de minimis* violations of section 254.036(a) of the Election Code with regard to those allegations.

Identity and Date of Election

9. In addition to the contents required by section 254.031 of the Election Code, each campaign finance report filed by a candidate must include the candidate’s full name and address, the office sought, and the identity and date of the election for which the report is filed. ELEC. CODE § 254.061(1).
10. The complaint alleged that the respondent did not disclose the identity and date of the election on the 30-day pre-election report, 8-day pre-election report and runoff report at issue. The respondent did not include that information on the reports at issue. Therefore, there is credible evidence of violations of section 254.061(1) of the Election Code with regard to those reports.

Reporting Political Contributions and Political Expenditures

11. Each campaign finance report must include the amount of political contributions from each person that in the aggregate exceed \$50 and that are accepted during the reporting period by the person or committee required to file a report under this chapter, the full name and address of the person making the contributions, and the dates of the contributions. ELEC. CODE § 254.031(a)(1). The report must also 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. *Id.* § 254.031(a)(2). The report must also include the amount of political expenditures that in the aggregate exceed \$100 (\$50 during the period at issue) 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). The 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. *Id.* § 254.031(a)(6). The 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. *Id.* § 254.031(a)(8).
12. The purpose of an expenditure means a description of goods, services, or other thing of value and must include a brief statement or description of the candidate, officeholder, or political committee activity that is conducted by making the expenditure. The brief statement or description must include the item or service purchased and must be sufficiently specific, when considered within the context of the description of the category, to make the reason for the expenditure clear. Merely disclosing the category of goods, services, or other thing of value for which the expenditure is made does not adequately describe the purpose of an expenditure. Ethics Commission Rules § 20.61.
 13. A candidate shall file two reports for each year. ELEC. CODE § 254.063(a). The first report shall be filed not later than July 15. The report covers 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. *Id.* § 254.063(b). The second report shall be filed not later than January 15. The report covers 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. *Id.* § 254.063(c).
 14. 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. ELEC. CODE § 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. 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, and continuing through the 40th day before election day. ELEC. CODE § 254.064(b). The second report must be received by the authority with whom the report is required to be filed not later than the eighth day before election day. The report covers the period beginning the 39th day before election day and continuing through the 10th day before election day. ELEC. CODE § 254.064(c).
 15. In addition to other required reports, an opposed candidate in a runoff election shall file one report for that election. The runoff election report must be received by the authority with whom the report is required to be filed not later than the eighth day before runoff election day. The report covers the period beginning the ninth day before the date of the main election and continuing through the 10th day before runoff election day. ELEC. CODE § 254.064(e).

30-day Pre-Election Report

16. The complaint alleged that the respondent did not include the correct amount of total political contributions and total political expenditures on the 30-day pre-election report at issue. The totals at issue disclosed on the report are inconsistent with the total of political contributions and political expenditures itemized on the report. Therefore, there is credible evidence of violations of section 254.031(a)(6) of the Election Code with regard to the respondent's 30-day pre-election report at issue.
17. The complaint also alleged that the respondent did not properly disclose political contributions (including pledged contributions) on the 30-day pre-election report at issue. The report at issue did not disclose dates for approximately \$21,420 in political contributions. Political contributions totaling approximately \$1,000 itemized on the report did not include the street address, state and/or zip code of the contributor. One \$100 political contribution itemized on the report did not disclose the first name of a contributor. Additionally, one pledged contribution for \$450 did not include an address and another pledged contribution for \$5,000 did not disclose the name of the contributor (listing the contributor as anonymous). Therefore, there is credible evidence of violations of section 254.031(a)(1) of the Election Code.
18. The complaint also alleged that the respondent did not properly disclose political expenditures on the 30-day pre-election report at issue. The report did not disclose dates or street addresses for any of the approximately \$3,450 in political expenditures itemized on the report. Therefore, there is credible evidence violations of section 254.031(a)(3) of the Election Code.
19. The complaint also alleged that the respondent did not disclose the correct period covered. However, it is unclear what period is covered by the report. Therefore, there is insufficient evidence of a violation of section 254.064(b) of the Election Code.

8-day Pre-Election Report

20. The complaint alleged that the respondent did not include the correct amount of total political contributions and total political expenditures on the 8-day pre-election report at issue. Total political contributions and total political expenditures were consistent with the amounts disclosed on the report at issue. However, the report included activity from the period covered by the respondent's previously filed report and appears to be a cumulative total. The period covered by the 8-day pre-election report should have covered from September 25, 2009, through October 24, 2009. Since the totals disclosed on the report include activity from the respondent's previously filed report, the amount of total political contributions and total political expenditures disclosed on the report were incorrect for the period required to

- be covered by the 8-day pre-election report at issue. Additionally, by including the information from previously filed reports, the respondent did not cover the correct reporting period. Therefore, there is credible evidence of violations of sections 254.031(a)(6) and 254.064(c) of the Election Code.
21. The complaint also alleged that the respondent did not properly disclose political contributions on the 8-day pre-election report at issue. The report did not disclose dates for any of the approximately \$70,960 in political contributions itemized on the report. The respondent also included all of the political contributions disclosed on his previously filed report.
 22. Of the new political contributions disclosed on the report, approximately \$3,180 did not disclose the street address, state and/or zip code for the contributor, including two contributions totaling approximately \$110 whose address was described with an ambiguous Vietnamese term (that was not an address). Political contributions totaling approximately \$350 itemized on the report did not disclose the first name of a contributor, including a \$100 contribution whose contributor was disclosed as “anonymous,” in Vietnamese.
 23. Additionally, one political contribution for \$9,910 was described as, “5k in food contributed by owner, remainder collected in cash at the event, which paid for the rest of the food/event.” This itemized political contribution did not disclose the name and address of the owner who contributed food, and also did not include the names, addresses, and amounts contributed by each individual who contributed in cash to the respondent to pay for the event at issue.
 24. Therefore, there is credible evidence of violations of section 254.031(a)(1) of the Election Code with regard to the respondent’s 8-day pre-election report at issue.
 25. The complaint also alleged that the respondent did not properly disclose political expenditures on the 8-day pre-election report at issue. The report did not disclose dates for any of the approximately \$67,420 in political expenditures itemized on the report. The respondent included all of the political expenditures disclosed on his previously filed report.
 26. Of the new political expenditures disclosed on the report, approximately \$23,500 did not include the street address, state and/or zip code for the payee, including a \$7,500 expenditure to an individual whose last name was not disclosed.
 27. Additionally, approximately \$4,600 in political expenditures did not disclose a purpose. Another approximately \$11,500 in political expenditures disclosed either “campaign manager,” or “staff member” as the purpose. Those purposes do not sufficiently describe those political expenditures.

28. Therefore, there is credible evidence of violations of section 254.031(a)(3) of the Election Code and section 20.61 of the Ethics Commission Rules with regard to the respondent's 8-day pre-election report at issue.

Runoff Report

29. The complaint alleged that the respondent did not include the correct amount of total political contributions and total political expenditures on his runoff report. The report included activity from the period covered by the respondent's previously filed reports and appears to be a cumulative total. The period covered by the runoff report should have covered from October 25, 2009, through December 2, 2009. Since the totals disclosed on the report include activity from the respondent's previously filed reports, the amount of total political contributions and total political expenditures disclosed on the report are incorrect for the period required to be covered by the report at issue. Additionally, by including the information from previously filed reports, the respondent did not cover the correct reporting period. Therefore, there is credible evidence of violations of sections 254.031(a)(6) and 254.064(e) of the Election Code.
30. The complaint also alleged that the report at issue did not include the correct amount of total political contributions maintained. The report disclosed \$0 in total political contributions maintained. Bank records provided by the respondent showed that his campaign account had \$6,331.80 on December 2, 2009, the last day required to be covered by a runoff report filed in connection with the December 2009 runoff election. Thus, the respondent did not disclose the correct amount of total political contributions maintained on his report. Therefore, there is credible evidence of a violation of section 254.031(a)(8) of the Election Code.
31. The complaint also alleged that the respondent did not properly disclose political contributions on the runoff report at issue. The report did not disclose dates for any of the approximately \$82,580 in political contributions itemized on the report. The respondent included all of the political contributions disclosed on his previously filed reports.
32. Of the new political contributions disclosed on the report, approximately \$11,620 did not include the street address, state and/or zip code for the contributor. Of those political contributions, approximately \$1,290 did not include a full name for the contributor.
33. Therefore, there is credible evidence of violations of section 254.031(a)(1) of the Election Code with regard to the respondent's runoff report at issue.
34. The complaint also alleged that the respondent did not properly disclose a loan. The report at issue did not include a date for a loan. Therefore, there is credible evidence of a violation of section 254.031(a)(2) of the Election Code.

35. The complaint also alleged that the respondent did not properly disclose political expenditures on the runoff report at issue. The report did not disclose dates for any of the approximately \$90,660 in political expenditures itemized on the report. The respondent included all of the political expenditures disclosed on his previously filed reports.
36. All of the approximately \$23,240 in new political expenditures disclosed on the report did not include the street address for the payee. Approximately \$4,240 also did not disclose a purpose and one political expenditure did not disclose a street address, purpose or amount. Additionally, approximately \$4,500 did not disclose a sufficient purpose by describing those expenditures as “campaign manager,” or “campaign.” Therefore, there is credible evidence of violations of section 254.031(a)(3) of the Election Code and section 20.61 of the Ethics Commission Rules with regard to the respondent’s runoff report at issue.

January 2010 Semiannual Report

37. The complaint alleged that the respondent did not include the correct amount of total political contributions and total political expenditures on his January 2010 semiannual report. The report included activity from the period covered by the respondent’s previously filed reports and appears to be a cumulative total. The period covered by the July 2010 semiannual report should have covered from December 3, 2009, through December 31, 2009. The January 2010 semiannual report filed by the respondent includes activity prior to December 3, 2009. Therefore, the amount of total political contributions and total political expenditures disclosed on the report are incorrect for the period required to be covered by the report at issue. Additionally, by including the information from previously filed reports, the respondent did not cover the correct reporting period. Therefore, there is credible evidence of violations of sections 254.031(a)(6) and 254.063(c) of the Election Code.
38. The complaint also alleged that the report at issue did not include the correct amount of total political contributions maintained. The report disclosed \$0 in total political contributions maintained. Bank records provided by the respondent showed that his campaign account had \$1,990.80 on December 30, 2009, the last day required to be covered by the January 2010 semiannual report. Thus the respondent did not disclose the correct amount of total political contributions maintained on his report. Therefore, there is credible evidence of a violation of section 254.031(a)(8) of the Election Code.
39. Of the new political contributions disclosed on the report, a \$4,400 political contribution did not disclose the complete name of the contributor, disclosing instead “Pete of Fort Bend Mechanical.” Therefore, there is credible evidence of a violation of section 254.031(a)(1) of the Election Code with regard to the respondent’s January 2010 semiannual report at issue.

40. Of the new political expenditures disclosed on the report, approximately \$5,995 did not disclose a street address for the payee. Therefore, there is credible evidence of violations of section 254.031(a)(3) of the Election Code with regard to the respondent's January 2010 semiannual report at issue.

Political Contribution of Cash

41. A candidate, officeholder, or specific-purpose committee may not knowingly accept from a contributor in a reporting period political contributions in cash that in the aggregate exceed \$100. *Id.* § 253.033.
42. Each candidate and each officeholder shall maintain a record of all reportable activity. Each campaign treasurer of a political committee shall maintain a record of all reportable activity. The record must contain the information that is necessary for filing the reports required by chapter 254 of the Election Code. A person required to maintain a record under this section shall preserve the record for at least two years beginning on the filing deadline for the report containing the information in the record. *Id.* § 254.001.
43. The respondent's runoff report filed in connection with a November 2009 election disclosed one \$2,000 political contribution that disclosed the contributor as "Cash Contributions (from Kim Son fundraiser)." This itemized political contribution did not disclose the name and address or include the names, addresses, and amounts contributed by each individual who contributed in cash to the respondent. The respondent indicated that he has never received a cash contribution exceeding \$100. However, it is unknown whether any single contributor made a contribution in cash exceeding \$100 during the fundraiser at issue. The respondent admitted that he did not keep detailed records of those contributions. Therefore, there is insufficient evidence of a violation of section 253.033 of the Election Code, but credible evidence of a violation of section 254.001 of the Election Code.

Notarization of an Affidavit in Campaign Finance Reports

44. Each campaign finance report that is not filed by electronic transfer must be accompanied by an affidavit executed by the person required to file the report. The affidavit must contain the statement: "I swear, or affirm, under penalty of perjury, that the accompanying report is true and correct and includes all information required to be reported by me under Title 15, Election Code." ELEC. CODE § 254.036(h).
45. An affidavit is a voluntary declaration of facts written down and sworn to by the declarant before an officer authorized to administer oaths, such as a notary public. Black's Law Dictionary, 8th ed., 1999.

46. The complaint alleged that the respondent did not include a properly notarized affidavit with his reports. The respondent filed his reports by electronic transfer. However, the reports were signed by the campaign treasurer and the respondent's digitized signature was not included on the reports at issue. Therefore, there is credible evidence of violations of section 254.036(h) 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: 1) each campaign finance report must include the amount of political contributions from each person that in the aggregate exceed \$50 and that are accepted during the reporting period by the person or committee required to file a report under this chapter, the full name and address of the person making the contributions, and the dates of the contributions; 2) a 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; 3) a report must also include the amount of political expenditures that in the aggregate exceed \$100 (\$50 during the periods at issue) 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 that political expenditures must be disclosed in accordance with section 20.61 of the Ethics Commission Rules; 4) a 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; 5) a 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; 6) each campaign finance report filed with an authority other than the commission must be in a

format prescribed by the commission; 7) in addition to the contents required by section 254.031 of the Election Code, each campaign finance report by a candidate must include the candidate's full name and address, the office sought, and the identity and date of the election for which the report is filed; 8) a candidate shall file two reports for each year. The first report shall be filed not later than July 15, and covers 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 required report, as applicable, and continuing through June 30; the second report shall be filed not later than January 15, and covers 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 required report, as applicable, and continuing through December 31; 9) 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. 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 and 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 required report, as applicable, and continuing through the 40th day before election day; the second report must be received by the authority with whom the report is required to be filed not later than the eighth day before election day and covers the period beginning the 39th day before election day and continuing through the 10th day before election day; 10) in addition to other required reports, an opposed candidate in a runoff election shall file one report for that election. The runoff election report must be received by the authority with whom the report is required to be filed not later than the eighth day before runoff election day and covers the period beginning the ninth day before the date of the main election and continuing through the 10th day before runoff election day; 11) each candidate and each officeholder shall maintain a record of all reportable activity. The record must contain the information that is necessary for filing the reports required by chapter 254 of the Election Code. A person required to maintain a record under this section shall preserve the record for at least two years beginning on the filing deadline for the report containing the information in the record; and 12) each campaign finance report filed that is not filed by electronic transfer must be accompanied by an affidavit executed by the person required to file the report. The affidavit must contain the statement: "I swear, or affirm, under penalty of perjury, that the accompanying report is true and correct and includes all information required to be reported by me under Title 15, Election Code." Each report filed under this chapter by electronic transfer must be under oath by the person required to file the report and must contain, in compliance with commission specifications, the digitized signature of the person required to file the report. A report filed under this chapter is considered to be under oath by the person required to file the report, and the person is subject to prosecution under Chapter 37, Penal Code, regardless of the absence of or a defect in the affidavit.

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 nature, circumstances, and consequences of the violations described under Sections III and IV, and the sanction necessary to deter future violations, the commission imposes a \$2,000 civil penalty, contingent upon the respondent submitting full payment with this signed order to the commission no later than January 31, 2014.

If the respondent does not submit the \$2,000 civil penalty and this signed order to the commission by January 31, 2014, then the commission imposes a civil penalty of \$7,000.

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-31011387.

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

Aloysius Hoang, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
Executive Director