

TEXAS ETHICS COMMISSION

IN THE MATTER OF
PATRICIA HARLESS,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-3110471

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on February 8, 2012, to consider sworn complaint SC-3110471. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 254.031 and 254.0612 of the Election Code, and sections 20.61 and 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 the respondent: 1) did not properly disclose political contributions and political expenditures, and 2) accepted political contributions from corporations or labor unions.

III. Facts Supported by Credible Evidence

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

1. The respondent is State Representative, District 126.

Total Political Contributions Maintained

2. The complaint alleged that the respondent failed to properly disclose total political contributions maintained on six campaign finance reports. The allegations are as follows:
 - July 2009 Semiannual Report - disclosed \$80,320.40; alleged \$79,946
 - January 2010 Semiannual Report - disclosed \$121,340.41; alleged \$119,060.75
 - July 2010 Semiannual Report - disclosed \$143,399.18; alleged \$139,389.57

- 30-day Pre-election Report, November 2010 Election - disclosed \$173,895.67; alleged \$168,888.42
 - 8-day Pre-election Report, November 2010 Election - disclosed \$185,196.67; alleged \$180,212.37
 - January 2011 Semiannual Report - disclosed \$200,033.34; alleged \$195,048.37
3. In response to the complaint, the respondent swore that the amounts of total political contributions maintained were properly disclosed. The complaint did not provide specific evidence to support the allegations.

Political Contributions from Corporations or Labor Unions

4. The complaint alleged that, based on disclosures in the respondent's January 2010 semiannual report, the respondent accepted two political contributions from corporations or labor unions. The contributions at issue did not come from corporations or labor unions.

Disclosure of Full Names of Persons Making Political Contributions and Receiving Political Expenditures

5. The complaint alleged that, based on disclosures in six campaign finance reports, the respondent failed to disclose the full name for 21 political contributions and two political expenditures. The following disclosures did not include a full name for the contributor or payee:

July 2009 Semiannual Report

- April 15, 2009, \$1,676.53, AIA

January 2010 Semiannual Report

- September 21, 2009, \$250, Haa Better Government Fund
- October 23, 2009, \$1,000, Texas Employee Political Action Committee of TXU Corp

July 2010 Semiannual Report

- May 20, 2010, \$25, Mr. C.S. [_____]
- June 18, 2010, \$25, J.N. [_____]
- May 25, 2010, \$25, W. [_____]

30-day Pre-election Report, November 2010 Election

- July 27, 2010, \$50, Mr. C.C. [_____]

Disclosure of Purposes of Political Expenditures

6. The complaint alleged that, based on disclosures in the respondent's 30-day and 8-day pre-election reports for the November 2010 election, the respondent failed to disclose the categories for 26 political expenditures. In response to the complaint, the respondent filed corrected reports and disclosed the categories for the 26 political expenditures, totaling approximately \$22,800.

Disclosure of Political Expenditure as Reimbursement

7. The complaint alleged that the respondent disclosed a \$150 political expenditure as a reimbursement on her January 2011 semiannual report. In response to the complaint, the respondent filed a corrected report and disclosed the actual vendor payee of the expenditure.

Occupation or Job Title and Name of Employer

8. The complaint alleged that the respondent failed to disclose the principal occupations or job titles and names of employers for six contributors on three campaign finance reports. The respondent filed a corrected report to disclose the employer information for one contributor whose contribution totaled \$732.84. The respondent swore that the occupations or job titles and employers of the remaining five contributors were properly disclosed. Those five contributors were all officers or principals in companies that included their name, or were otherwise self-employed as disclosed.

IV. Findings and Conclusions of Law

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

Total Political Contributions Maintained

1. Each report must include as of the last day of the reporting period, 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). A *de minimis* error in calculating or reporting a cash balance under Subsection (a)(8) is not a violation of this section. ELEC. CODE § 254.031(a-1).
2. The respondent swore that the amounts of total political contributions maintained were properly disclosed. With respect to the respondent's July 2009 and January 2010 semiannual reports, the differences between the amounts originally disclosed and the amounts alleged do not exceed the lesser of 10% of the amounts originally disclosed or \$2,500 and, thus, are on their face *de minimis*. Therefore, there is credible evidence of no

violation of section 254.031(a)(8) of the Election Code with respect to those reports. With respect to the remaining four reports, there is insufficient evidence of violations of section 254.031(a)(8) of the Election Code.

Political Contributions from Corporations or Labor Unions

3. 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.
4. 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.
5. 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.
6. With respect to both contributions, there is credible evidence of no violation of sections 253.003 and 253.094 of the Election Code.

Disclosure of Full Names of Persons Making Political Contributions and Receiving Political Expenditures

7. 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).
8. A campaign finance report must include, for all 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 political expenditures are made and the dates and purposes of the expenditures. ELEC. CODE § 254.031(a)(3).
9. Of the 23 disclosures at issue, six contributions, totaling approximately \$1,375, did not include the full name of the contributor. Therefore, there is credible evidence of violations of section 254.031(a)(1) of the Election Code with respect to those contributions. One expenditure for \$1,676.53 did not include the full name of the payee. Therefore, there is credible evidence of a violation of section 254.031(a)(3) of the Election Code with respect to that expenditure. The remaining entries were properly disclosed. Therefore, there is credible evidence of no violation of sections 254.031(a)(1) and 254.031(a)(3) of the Election Code with respect to those entries.

Disclosure of Purposes of Political Expenditures

10. A campaign finance report must include, for all 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 political expenditures are made and the dates and purposes of the expenditures. ELEC. CODE § 254.031(a)(3).
11. The report of a political expenditure for goods or services must describe the categories of goods or services received in exchange for the expenditure. Ethics Commission Rules § 20.61.
12. The respondent filed corrected reports to disclose the categories of 26 political expenditures. However, at the time the original reports were filed, the respondent failed to disclose this information. 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.

Disclosure of Political Expenditure as Reimbursement

13. A campaign finance report must include, for all 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 political expenditures are made and the dates and purposes of the expenditures. ELEC. CODE § 254.031(a)(3).
14. Political expenditures made out of personal funds by a staff member of an officeholder, a candidate, or a political committee with the intent to seek reimbursement from the officeholder, candidate, or political committee 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: 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 included with the total amount or a specific listing of the political expenditures of \$50 or less made during the reporting period. Except as provided above, a political expenditure made out of personal funds by a staff member of an officeholder, a candidate, or political committee with the intent to seek reimbursement from the officeholder, candidate, or political committee must be reported as follows: the aggregate amount of the expenditures made by the staff member as of the last day of the reporting period is reported as a loan to the officeholder, candidate, or political committee; the expenditure made by the staff member is reported as a political expenditure by the officeholder, candidate, or political committee; and the reimbursement to the staff member to repay the loan is reported as a political expenditure by the officeholder, candidate, or political committee. Ethics Commission Rules § 20.62.
15. The respondent filed a corrected report to disclose the actual vendor payee of the expenditure at issue. However, at the time the original report was filed, the respondent failed to properly disclose this information. Therefore, there is credible evidence of a

violation of section 254.031(a)(3) of the Election Code and section 20.62 of the Ethics Commission Rules.

Occupation or Job Title and Name of Employer

16. Each report by a candidate for statewide office in the executive branch or legislative office must include, for each individual from whom the person filing the report has accepted political contributions that in the aggregate equal or exceed \$500 during the reporting period, the individual's principal occupation or job title, and the full name of the individual's employer. ELEC. CODE § 254.0612.
17. As state representative, the respondent was required to disclose the occupations and employers of contributors whose contributions equaled or exceeded \$500. The respondent filed a corrected report to disclose the employer information for one contributor who contributed \$500 or more. However, at the time the original report was filed, the respondent failed to properly disclose this information. Therefore, there is credible evidence of a violation of section 254.0612 of the Election Code with respect to that contribution. The remaining contributions disclosed that the contributors were self-employed. The contributors were officers or principals of entities that bore their name, or were otherwise self-employed. The entries did not substantially affect disclosure. Therefore, there is credible evidence of no violation of section 254.0612 of the Election Code with respect to those expenditures.

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 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. The respondent also acknowledges that a campaign finance report must include, for all political expenditures that in the aggregate exceed \$50 (\$100 beginning September 28, 2011) and that are made during the reporting period, the full name and address of the persons to whom political expenditures are made and the dates and purposes of the expenditures. The respondent also acknowledges that the report of a political expenditure for goods or services must describe the categories of goods or services received in exchange for the expenditure. The respondent also acknowledges that the proper way to report reimbursements to staff is in accordance with

section 20.62 of the Ethics Commission Rules. The respondent also acknowledges that each report by a candidate for statewide office in the executive branch or legislative office must include, for each individual from whom the person filing the report has accepted political contributions that in the aggregate equal or exceed \$500 during the reporting period, the individual's principal occupation or job title, and the full name of the individual's employer. 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 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-3110471.

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

Patricia Harless, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director