

TEXAS ETHICS COMMISSION

IN THE MATTER OF

SUSAN CRISS,

RESPONDENT

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BEFORE THE

TEXAS ETHICS COMMISSION

SC-3120101

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on November 29, 2012, to consider sworn complaint SC-3120101. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 253.1611, 254.031, and 254.061 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: 1) did not properly disclose on multiple campaign finance reports political expenditures; 2) accepted a political contribution from a corporation; 3) did not properly disclose on multiple campaign finance reports cover sheet information; 4) converted political contributions to personal use; and 5) did not follow statutory guidelines when making political contributions to political committees.

III. Facts Supported by Credible Evidence

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

1. The respondent has served as the judge for the 212th Judicial District since she was elected on November 3, 1998.

Disclosure of Political Expenditures

Actual Payees of Political Expenditures

2. The complaint alleged that the respondent did not disclose the ultimate recipients of five political expenditures that were disclosed in the respondent's January 2011 and July 2011 semiannual campaign finance reports. The respondent disclosed five political

expenditures totaling approximately \$700 that were made to purchase holiday gifts for staff members. The respondent disclosed the stores where the gifts were purchased and indicated in the description that the expenditures were for gifts to staff. The complaint alleged that the respondent was required to disclose the recipients of the gifts as the payees of the political expenditures.

3. Regarding the January 2011 semiannual report, the respondent disclosed three political expenditures totaling \$300 that were made to purchase holiday gifts for staff members. One of the political expenditures for \$150 was made to purchase gift cards that were donated for “sponsorship of Senior Christmas lunch.”
4. Regarding the July 2011 semiannual report, the respondent disclosed two political expenditures totaling approximately \$400 that were made to purchase “staff birthday gifts” and “flowers for staff on Secretary Day.”

Total Political Expenditures

5. The complaint alleged that the respondent reported an incorrect balance for total political expenditures in her July 2010, January 2011, and July 2011 semiannual reports. In each report at issue, the respondent disclosed on Schedule I (used to disclose non-political expenditures made from political contributions) numerous expenditures that were made from political contributions. The respondent did not include those expenditures when calculating the amount of total political expenditures. The complaint alleged that the expenditures reported by the respondent were actually political expenditures, and that they should have been included in the total political expenditures balance.
6. The respondent’s July 2010 semiannual report disclosed \$16,720.37 in total political expenditures. Schedule I of the report disclosed nine expenditures totaling \$508.24, all of which appear to be officeholder expenditures. The complaint alleged that the total political expenditure balance should include Schedule I and be \$17,228.61.
7. The respondent’s January 2011 semiannual report disclosed \$30,511.09 in total political expenditures. Schedule I of the report disclosed 19 expenditures totaling \$1,707.16, all of which appear to be officeholder expenditures. The complaint alleged that the total political expenditure balance should include Schedule I and be \$32,218.25.
8. The respondent’s July 2011 semiannual report disclosed \$6,391.21 in total political expenditures. Schedule I of the report disclosed 29 expenditures totaling \$2,885.30, all of which appear to be officeholder expenditures. The complaint alleged that the total political expenditure balance should include Schedule I and be \$9,276.51.

Purpose of Political Expenditures

9. The complaint alleged that the respondent did not properly disclose the purpose of 24 political expenditures that were disclosed in three semiannual reports. For 22 of the

political expenditures at issue, the respondent provided descriptions of “office supplies,” or some other similar variation such as “supplies for office kitchen and jury room.”

10. The remaining two political expenditures at issue were disclosed on Schedule F (used to disclose political expenditures) of the respondent’s January 2011 semiannual report as follows:
 - August 25, 2010, \$88.64 to Gracie’s, under the category of “Advertising Expense” with a description of “donation of items for silent auction Santa Fe Chamber event”
 - September 3, 2010, \$100 to Lone Star Strategies, under the category of “Advertising Expense” with a description of “sponsorship”
11. Regarding the expenditure to Gracie’s, the respondent swore that the expenditure was to purchase cookbooks that she donated to the silent auction at the Santa Fe Chamber of Commerce Buffet Magic Chef Cuisine event, and that the silent auction display advertised her name, office and candidacy.
12. Regarding the expenditure to Lone Star Strategies, the respondent swore that the expenditure was for the sponsorship of a birthday party for an individual who maintains and writes for a Democratic list service, and that the sponsorship guaranteed advertising of her name and office.

Accepting Political Contributions from Corporations

13. The complaint alleged that the respondent accepted a political contribution from a corporation or labor organization. The contribution at issue was disclosed on Schedule A (used to disclose political contributions) of the respondent’s July 2010 semiannual report as follows:
 - April 29, 2010, \$127.53 from Love Advertising Inc., with an in-kind description of “reimburse me for hotel for Ike seminar; Returned to company June 13, 2010”
14. According to records from the Texas Secretary of State, Love Advertising Inc. is a domestic for-profit corporation.
15. In response to the complaint, the respondent swore:

I spoke at a seminar on hurricane insurance litigation in Houston on April 29, 2010. I was asked to arrive by 6:30 a.m. I stayed overnight at a nearby La Quinta hotel. Love Advertising Inc., a sponsor of the seminar, sent me \$127.53 to cover my hotel costs. There was some controversy at the time about Texas Ethics Commission Ethics Advisory Opinion 484 issued August 2009. That opinion stated that judges could not allow corporations to reimburse them for expenses incurred while speaking at a

seminar. The Texas Judiciary vigorously contested that opinion. In December 2010 that opinion was withdrawn. During the time I had to submit this report the leadership of the judiciary in Texas was informing us they were trying to persuade the TEC to withdraw or change the opinion. I am pretty certain that I contacted the TEC about how to report this. Since I could not be sure whether the TEC would ultimately decide to withdraw the advisory opinion I sent a check to the corporation reimbursing them for reimbursing me.

Cover Sheet Allegations

Office Sought

16. The complaint alleged that the respondent disclosed an incorrect office sought on the cover page of her July 2010 semiannual report. The report was filed on July 14, 2010, and indicated that the respondent was seeking the office of “District Attorney District 212” in the November 2, 2010, general election.
17. In response to the complaint, the respondent swore that when she was filling out the report through the software, she inadvertently clicked the wrong office sought on the drop-down menu and chose the option closest to district judge.

Campaign Treasurer’s Telephone Number

18. The complaint alleged that the respondent did not include the campaign treasurer’s telephone number in the January 2011 and July 2011 semiannual reports. The respondent did not list a telephone number for her campaign treasurer in both semiannual reports at issue.
19. In response to the complaint, the respondent swore that she thought the campaign treasurer’s information would carry-over on the software from the last report since the information had not changed.

Personal Use of Political Contributions

20. The complaint alleged that the respondent converted political contributions to personal use. The complaint specified the following 13 expenditures disclosed in the respondent’s July 2010, January 2011, and July 2011 semiannual reports, which are followed by the respondent’s specific response for each expenditure:

July 2010 Semiannual Report (Schedule G with reimbursement intended on all)

- January 17, 2010, \$161.71 to Barnes & Noble, under the category of “OTHER – officeholder” with a description of “software to learn Spanish”

- The respondent swore: “I purchased Rosetta software to learn Spanish to better communicate with the Spanish speaking persons who come to court. This was an expense related to my campaign and/or my duties, obligations and activities as an officeholder. The number of non-English speaking citizens who appear in my court as well as the number of Hispanic registered voters has greatly increased in Galveston County over the last few years which has created a need for me to become more fluent in Spanish.”
- January 18, 2010, \$29 to Marina’s Mexican Restaurant, under the category of “Food/Beverage Expense” with a description of “Neighborhood Democrats dinner meeting”
 - The respondent swore: “This was for purchase of a meal while attending a Neighborhood Democrats Club dinner meeting.”
- February 3, 2010, \$28 to Golden Corral, under the category of “Food/Beverage Expense” with a description of “dinner at Galveston Democrat Club meeting for me & my father”
 - The respondent swore: “This was for purchase of a meal while attending a dinner meeting with the Galveston County Democrats Club.”
- February 15, 2010, \$32 to Marina’s Mexican Restaurant, under the category of “Food/Beverage Expense” with a description of “Neighborhood Democrats dinner meeting”
 - The respondent swore: “This was for purchase of a meal while attending a Neighborhood Democrats Club dinner meeting.”
- March 15, 2010, \$21 to Las Brisa’s Mexican Bar & Grill, under the category of “Food/Beverage Expense” with a description of “Neighborhood Democrat dinner meeting”
 - The respondent swore: “This was for purchase of a meal while attending a Neighborhood Democrats Club dinner meeting.”
- April 19, 2010, \$30 to Las Brisa’s Mexican Bar & Grill, under the category of “Food/Beverage Expense” with a description of “Neighborhood Democrats dinner meeting”
 - The respondent swore: “This was for purchase of a meal while attending a Neighborhood Democrats Club dinner meeting.”

- June 24, 2010, \$28 to City Diner and Oyster Bar, under the category of “Food/Beverage Expense” with a description of “meal during Texas Democratic Convention”
 - The respondent swore: “This was for a lunch meeting with two members of the State Democratic Executive Committee and the Progressive Populists Democrats. We discussed Texas Democratic Party business. This was an expense related to my campaign and/or my duties, obligations and activities as an officeholder.”
- June 24, 2010, \$24 to K2 Steakhouse, under the category of “Food/Beverage Expense” with a description of “meal expense during Texas Democratic Convention”
 - The respondent swore: “This was for a meeting with the Chair of the Galveston County Democratic Party on the way to the Texas Democratic Party Convention. We discussed the Get Out the Vote plan for the Democratic candidates Galveston County, planning Democratic Party events and Texas Democratic Party business, Texas Democratic Party Chair business, Texas Democratic Senate Districts 11 and 17 business. This was an expense related to my campaign and/or my duties, obligations and activities as an officeholder.”
- June 25, 2010, \$22 to American Bank Center, under the category of “Food/Beverage Expense” with a description of “meals and snacks at Texas Democratic Convention”
 - The respondent swore: “This was to purchase beverages and snacks to consume while attending the meeting parts of the Texas Democratic Party convention. There were meetings that went late into the night where party business was conducted. My father was with me and he is a diabetic. Our obligations during the meetings required that we remain present in the auditorium for many hours therefore there were periods when there were no opportunities to leave for meals. If he skipped meals there was the potential that he would have problems with his insulin level so the purchase of food and beverages were for both of us during that time period. My attendance at the Texas Democratic Party Convention was related to my duties, obligations and activities as a candidate and officeholder.”
- June 25, 2010, \$40 to Water Street, under the category of “Food/Beverage Expense” with a description of “meal during Texas Democratic Convention expense”
 - The respondent swore: “This was for parking and beverages during a Democratic political bloggers get together during the Texas

Democratic Party convention. I discussed coordinated campaign strategy with other Galveston County judicial candidate, lawyer, political bloggers, and Texas Democratic Party officials. Again this was an event that I attended in my capacity and for the purpose of performing duties related to my duties, obligations and activities as an officeholder and/or candidate.”

21. The respondent disclosed in her July 2010 semiannual report ten payments to herself totaling \$3,928 that were made from political contributions. The descriptions provided by the respondent indicate that the payments were reimbursements for personal expenditures she made from January 2010 through June 2010. Thus, it appears that the respondent used political contributions to make the expenditures at issue. The respondent also disclosed a payment to herself of \$2,044.58, but the description indicates that it was reimbursement for expenses that were reported in the January 2009 and January 2010 semiannual reports.

January 2011 Semiannual Report (Schedule I)

- December 14, 2010, \$47.45 to Gaido’s, under the category of “Food/Beverage Expense” with a description of “Judges lunch”
 - The respondent swore: “This was to purchase a cookbook that I donated to the silent auction at the Santa Fe Chamber of Commerce Buffet Magic Chef Cuisine event. The silent auction display advertised my name, office and candidacy and the expenditure was in my capacity as an officeholder and candidate.”

July 2011 Semiannual Report (Schedule I)

- February 22, 2011, \$21.99 to The Fisherman’s Wharf, under the category of “Event Expense” with a description of “Galveston Criminal Defense Lawyers lunch CLE”
 - The respondent swore: “This was a lunch meeting of the Galveston County Criminal Defense Attorney’s Association. This was also a lunch class where a continuing legal education class was presented.”
- May 12, 2011, \$15.77 to Mario’s Ristorante, under the category of “Food/Beverage Expense” with a description of “judge probation committee lunch”
 - The respondent swore: “This was a working lunch meeting of a subcommittee of judges on the Community Supervision Board to review candidates for the Executive Director position.”

22. In summary, the respondent swore that all of the expenditures were for ordinary and necessary expenses, including purchase of goods or services, required to attend events or perform activities that were related to her duties, obligations and activities as an officeholder and/or candidate.

Contributions to Political Committees for Primary Election

23. The complaint alleged that the respondent made unlawful political contributions to six political committees in connection with a March 2, 2010, Democratic Party primary election, in which the respondent was an unopposed incumbent candidate for district judge. The complaint specified the following nine expenditures disclosed in the respondent's July 2010 semiannual report, which are followed by the respondent's specific response for each expenditure:

Galveston County Democratic Party (GCDP)

- January 18, 2010, \$300 to Galveston County Democratic Party, under the category of "Advertising Expense" with a description of "ad" (Schedule G with reimbursement intended)
- January 20, 2010, \$300 to Galveston County Democratic Party, under the category of "Advertising Expense" with a description of "Ad for Party in Galveston County Daily News for primary election" (Schedule F)
 - Regarding these two expenditures totaling \$600, the respondent swore that this was a double-entry that she made in error and that the expenditure was actually made on January 18, 2010. The respondent swore: "The Galveston County Democratic Party produces an insert for the Galveston County Daily News newspaper as part of their promotion of party candidates. The insert resembled a little newspaper encouraging readers to vote in the Democratic Primary based on the individual candidate ads in it. I purchased an ad promoting my candidacy. This was made in return for goods or services, the value of which substantially equaled or exceeded the amount of the contribution."
- January 27, 2010, \$250 to Galveston County Democratic Party, under the category of "Advertising Expense" with a description of "sponsorship of Legends of Galveston Dinner" (Schedule F)
 - The respondent swore: "I paid to be a sponsor of a Legends of Galveston Banquet. That guaranteed that my name would be published in the promotional material and program advertising the event. Therefore this was an expenditure that promoted my name and office and thus my candidacy. It was made in return for goods or

services the value of which substantially equaled or exceeded the amount of the expenditure.”

24. Commission records show that the Galveston County Democratic Party (GCDP) is a county executive committee that files campaign finance reports semiannually with the commission. Regarding the two expenditures of \$300 each, GCDP’s 30-day pre-election report for the March 2010 primary election disclosed one \$300 political contribution from the respondent on January 20, 2010. The \$250 expenditure was disclosed as a political contribution in GCDP’s 8-day pre-election report for the March 2010 primary election. The respondent provided a letter from the chair of GCDP to address the two expenditures at issue. Regarding the \$300 expenditure, the chair stated that the donation was for the respondent’s pro rata share for advertisements in local newspapers for a party event. Regarding the \$250 expenditure, the chair stated in the letter that the donation was for the respondent’s sponsorship of an annual dinner party where she also served as one of the speakers.
25. Regarding the \$300 expenditure that the respondent disclosed on Schedule G (used to disclose political expenditures made from personal funds), the respondent disclosed in her July 2010 semiannual report ten payments to herself totaling \$3,928 that were made from political contributions. The descriptions provided by the respondent indicate that the payments were reimbursements for personal expenditures she made from January 2010 through June 2010. Therefore, it can be concluded that the respondent used political contributions to make the expenditure at issue.

Galveston County Democrats Club (GCDC)

- February 8, 2010, \$500 to Galveston County Democratic Club, under the category of “Advertising Expense” with a description of “sponsorship of Cookbook to raise money for headquarters” (Schedule F)
 - The respondent swore: “This entry clearly indicates it was an advertising expense and not a contribution. I bought an ad in a cookbook to promote my candidacy.” The respondent provided an additional response and stated that she was wrong in thinking that she bought an ad in the cookbook, and that the expenditure was a donation to the committee.
 - February 8, 2010, \$10 to Galveston County Democratic Club, under the category of “Fees” with a description of “membership dues” (Schedule F)
 - The respondent swore: “This entry clearly indicates it was for payment of my club dues and not a contribution.
26. Commission records show that the Galveston County Democrats Club is a general-purpose committee that files campaign finance reports semiannually with the commission. The two expenditures at issue were disclosed as a \$510 political

contribution in GCDC's July 2010 semiannual report. Regarding the \$500 expenditure for the cookbook, the respondent provided a statement from the president of GCDC, wherein the president stated: "In the Spring of 2010, the Galveston County Democrats Club put together a Club Cookbook for a fundraiser. It was a group of favorite recipes of our Democrats in the county and some national Democrats. It also included historical tidbits, quotations, and photographs about Texas and Democratic politics. The goal was to raise money to cover such club activities as voter education and to open a campaign office during the election season. We did ask for donations to help in the printing and production of our cookbook. Judge Susan Criss assisted us with a donation at this time."

North Galveston County Democrat Club (NGCDC)

- January 24, 2010, \$10 to North Galveston County Democrat Club, under the category of "Fees" with a description of "membership dues" (Schedule F)
 - The respondent swore: "This entry clearly indicates that it was for payment of my club dues and not a political contribution."

27. Commission records do not contain any information about NGCDC, thus it is unclear whether the group is a political committee.

Texas Democratic Party (TDP)

- January 20, 2010, \$350 to Texas Democratic Party, under the category of "OTHER – voter data software" with a description of "voter data software" (Schedule G with reimbursement intended)
 - The respondent swore: "This purchase was for access to voter data software from the Texas Democratic Party which allowed me to access voter records for my district to use to get out the vote and access other data in my capacity as officeholder and candidate."

28. Commission records show that TDP is the principal political committee of the state executive committee. The expenditure was disclosed as a political contribution in TDP's 30-day pre-election report for the March 2010 primary election. Regarding the \$350 political expenditure at issue that was made from the respondent's personal funds, the respondent disclosed in her July 2010 semiannual report ten payments to herself totaling \$3,928 that were made from political contributions. The descriptions provided by the respondent indicate that the payments were reimbursements for personal expenditures she made from January 2010 through June 2010.

Texas Democratic Women (TDW)

- February 10, 2010, \$255 to Texas Democratic Women, under the category of "Event Expense" with a description of "convention fee" (Schedule F)

- The respondent swore: “This was for the Annual Texas Democratic Women’s Convention and was not a political contribution.”
29. Commission records show that TDW is a general-purpose political committee. The expenditure was disclosed as a political contribution in TDW’s July 2010 semiannual report. The respondent stated that the convention was a two-day event and that the \$255 was for admission to different sub-events. In response to the complaint, the respondent submitted a statement from the current president of TDW. The president stated that the respondent paid for: 1) \$90 early bird registration for respondent; 2) \$90 early bird registration for respondent’s father; 3) \$25 lunch for respondent’s mother; and 4) \$50 for respondent’s mother.

Texas Tejano Democrats

- January 11, 2010, \$30 to Texas Tejano Democrats, under the category of “Event Expense” with a description of “Texas Tejano Convention fee” (Schedule F)
 - The respondent swore: “This entry clearly indicates it was for a convention fee. This was for the Annual Texas Tejano Democrats Convention.”
30. Commission records do not contain any information about the Texas Tejano Democrats, thus it is unclear whether the group is a political committee. However, the address disclosed by the respondent for the expenditure is the same as the address used by the Austin Tejano Democrats PAC, a general-purpose political committee that files campaign finance reports semiannually with the commission. The \$30 expenditure was not itemized in any reports filed by the Austin Tejano Democrats PAC.

Contributions to Political Committee for General Election

31. The complaint alleged that the respondent made aggregate contributions exceeding \$500 to GCDP in connection with the November 2010 general election, in which the respondent was an unopposed incumbent candidate. The evidence indicated that the respondent used political contributions to knowingly make one political contribution of \$1,000 to GCDP. The political contribution at issue was disclosed on Schedule F of the respondent’s January 2011 semiannual report as follows:
- August 24, 2010, \$1,000 to Galveston County Democratic Party, under the category of “Advertising Expense” with a description of “sponsorship of banquet”
32. The expenditure at issue was disclosed as a political contribution in GCDP’s 30-day pre-election report for the November 2, 2010, general election, and the information reported by the committee is consistent with the respondent’s disclosure.
33. In response to the complaint, the respondent swore: “This was for an advertising expense. I was a banquet sponsor and as a consequence my sponsorship was advertised

promoting my name and office. This expense/contribution was in return for goods or services the value of which substantially equaled or exceeded the amount of the expenditure/contribution.” The respondent also provided a statement from the chair of GCDP. The chair stated that the “sponsors were listed in the Galveston County Daily Newspaper in a paid advertisement as supporters of local law enforcement. They were also listed on the program as sponsors and acknowledged at the event. Each sponsor was also given a reserved table with 10 seats at the event.”

Contributions to Political Committee When Not on Ballot

34. The complaint alleged that the respondent used political contributions to knowingly make political contributions to a political committee in excess of \$250 during calendar year 2011 in which the respondent’s office held was not on the ballot. The political contributions at issue were disclosed on the respondent’s July 2011 semiannual campaign finance report as follows:
- March 11, 2011, \$500 to The Galveston County Democratic Party, under the category of “Advertising Expense” with a description of “sponsorship of Women’s Brunch” (Schedule G with reimbursement intended)
 - June 17, 2011, \$100 to The Galveston County Democratic Party, under the category of “Advertising Expense” with a description of “sponsor rally” (Schedule F)
35. The \$500 political expenditure at issue was disclosed in GCDP’s July 2011 semiannual report as political contribution, and the information reported by the committee is consistent with the respondent’s disclosure. The \$100 political expenditure at issue was not itemized in GCDP’s July 2011 semiannual report, but the committee disclosed \$1,330 in total political contributions of \$100 or less (report qualified for higher itemization threshold).
36. Regarding the expenditure of \$100 for “sponsor rally,” the respondent swore: “This was for the sponsorship of a political rally. This sponsorship guaranteed my name and office be promoted in a newspaper ad.” The letter from the county chair of GCDP stated that the “\$100 in June was a minimum sponsor of a party sponsored Rally in Support of Social Security and Medicare. She was one of about 50 local elected officials and local people who donated to support this rally.”
37. Regarding the expenditure of \$500 for “sponsorship of Women’s Brunch,” the respondent swore: “This was the sponsorship of a Women’s Trailblazer Brunch. This sponsorship guaranteed the advertisement and promotion of my name and office.” In summary, the respondent swore that both expenditures were made in return for goods or services, the value of which substantially equaled or exceeded the amount of the contributions. The letter from the county chair of GCDP stated that the \$500 payment was for the annual Democratic Woman’s Trailblazer Brunch in which the respondent “served as one of many sponsors and as the Master of Ceremonies of the event.”

IV. Findings and Conclusions of Law

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

Disclosure of Political Expenditures

1. A campaign finance report must include the amount of political expenditures that in the aggregate exceed \$100 (\$50 until 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. ELEC. CODE § 254.031(a)(3).

Actual Payees of Political Expenditures

2. An expenditure means a payment of money or any other thing of value and includes an agreement made or other obligation incurred, whether legally enforceable or not, to make a payment. *Id.* § 251.001(6). A political expenditure means a campaign expenditure or an officeholder expenditure. *Id.* § 251.001(10).
3. Regarding the five political expenditures at issue, although the respondent subsequently gave the items away as gifts, the descriptions provided by the respondent make it clear that the items were ultimately given to staff members or donated in connection with specific events. The initial recipients of the payments at issue were properly disclosed. Therefore, there is credible evidence of no violations of section 254.031(a)(3) of the Election Code.

Total Political Expenditures

4. A 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. ELEC. CODE § 254.031(a)(6).
5. A political expenditure means a campaign expenditure or an officeholder expenditure. *Id.* § 251.001(10). Campaign expenditure means an expenditure made by any person in connection with a campaign for an elective office or on a measure. Whether an expenditure is made before, during, or after an election does not affect its status as a campaign expenditure. *Id.* § 251.001(7). Officeholder expenditure means an expenditure made by any person to defray expenses that are incurred by an officeholder in performing a duty or engaging in an activity in connection with the office and that are not reimbursable with public money. *Id.* § 251.001(9).
6. The respondent was required to include both campaign expenditures and officeholder expenditures when calculating the total amount of political expenditures. Based on Schedule I of the reports at issue, the respondent was improperly categorizing officeholder expenditures as non-political expenditures. Accordingly, the amount of total political expenditures was understated in the three semiannual reports at issue because the officeholder expenditures disclosed on Schedule I were not included in the calculation.

7. Regarding the July 2010 semiannual report, the respondent improperly categorized nine officeholder expenditures totaling \$508.24 and did not include the expenditures in the amount of total political expenditures. Regarding the January 2011 semiannual report, the respondent improperly categorized 19 officeholder expenditures totaling \$1,707.16 and did not include the expenditures in the amount of total political expenditures.
8. Regarding the July 2011 semiannual report, the respondent improperly categorized 29 officeholder expenditures totaling \$2,885.30 and did not include the expenditures in the amount of total political expenditures. Although the respondent disclosed all of her expenditures on Schedule I of the report schedules, someone viewing the expenditure totals section of the reports would not have been able to ascertain the true amount of total political expenditures. Based on the amounts at issue (approximately \$5,100), there is credible evidence of violations of section 254.031(a)(6) of the Election Code with respect to those three reports.

Purpose of Political Expenditures

9. 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.
10. Regarding the 22 political expenditures that included a description such as “office supplies,” or a similar variation, and the expenditure to Gracie’s (where the specific event was disclosed), there is credible evidence of no violations of section 254.031(a)(3) of the Election Code and section 20.61 of the Ethics Commission Rules.
11. Regarding the expenditure to Lone Star Strategies, the description of “sponsorship” does not adequately describe what goods or services the respondent was receiving, or what event the expenditure was in connection with. Therefore, there is credible evidence of a violation of section 254.031(a)(3) of the Election Code and section 20.61 of the Ethics Commission Rules with respect to that expenditure.

Accepting Political Contributions from Corporations

12. 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(b). In order to show a violation of section 253.003(b) of the Election Code, the evidence must show that the contributor was a corporation or labor organization, that at the time the respondent accepted the contribution she knew that corporate contributions were illegal, and that the respondent knew the particular contribution at issue was from a corporation or labor organization.

13. A corporation or labor organization may not make a political contribution or political expenditure that is not authorized by subchapter D, chapter 253, of the Election Code. ELEC. CODE § 253.094. 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.
14. A determination to accept or refuse a political contribution that is received by a candidate, officeholder, or political committee shall be made not later than the end of the reporting period during which the contribution is received. *Id.* § 254.034(a).
15. Pursuant to Title 15 of the Election Code, an elected officeholder may not accept transportation, meals, and lodging from a corporation or labor organization in return for addressing an audience or participating in a seminar if the officeholder's services are in connection with his or her duties or activities as an officeholder. Ethics Advisory Opinion No. 484 (August 6, 2009; withdrawn December 7, 2010).
16. Credible evidence indicates that the contribution at issue was made by a prohibited corporation. Although the respondent disclosed the \$127.53 check as a political contribution, the respondent returned the contribution on June 13, 2010. Based on the respondent's sworn statement and the fact that the contribution was returned before the end of the July 2010 semiannual reporting period, there is insufficient evidence to show whether the respondent intended to accept the contribution. Therefore, there is insufficient evidence of a violation of sections 253.003 and 253.094 of the Election Code.

Cover Sheet Allegations

Office Sought

17. Each 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. ELEC. CODE § 254.061(1).
18. The respondent did not disclose the correct office sought on the cover page of her July 2010 semiannual report. Therefore, there is credible evidence of a violation of section 254.061(1) of the Election Code.

Campaign Treasurer's Telephone Number

19. Each report by a candidate must include the campaign treasurer's name, residence of business street address, and telephone number. ELEC. CODE § 254.061(2).
20. The respondent did not list a telephone number for her campaign treasurer on the cover sheets of her January 2011 and July 2011 semiannual reports. Therefore, there is credible evidence of violations of section 254.061(2) of the Election Code.

Personal Use of Political Contributions

21. A person who accepts a political contribution as a candidate or officeholder may not convert the contribution to personal use. ELEC. CODE § 253.035(a). Personal use is a use that primarily furthers individual or family purposes not connected with the performance of duties or activities as a candidate or officeholder. *Id.* § 253.035(d). Personal use does not include payments made to defray ordinary and necessary expenses incurred in connection with activities as a candidate or in connection with the performance of duties or activities as a public officeholder, including payment of reasonable housing or household expenses incurred in maintaining a residence in Travis County by members of the legislature who do not ordinarily reside in Travis County. *Id.* § 253.035(d)(1).
22. Regarding the 13 expenditures at issue totaling approximately \$500, the respondent swore that the expenditures were for ordinary and necessary expenses incurred in connection with her duties and activities as a candidate and officeholder. There is insufficient evidence of violations of section 253.035(a) of the Election Code.

Contributions to Political Committees for Primary Election

23. A judicial candidate or a specific-purpose committee for supporting or opposing a judicial candidate may not use a political contribution to knowingly make political contributions to a political committee in connection with a primary election. ELEC. CODE § 253.1611(b).
24. Section 253.1611 of the Election Code does not apply to a political contribution made to the principal political committee of the state executive committee or a county executive committee of a political party that is (1) made in return for goods or services, including political advertising or a campaign communication, the value of which substantially equals or exceeds the amount of the contribution, or (2) in an amount that is not more than the candidate's or officeholder's pro rata share of the committee's normal overhead and administrative or operating costs. *Id.* § 253.1611(e)(1), (2).
25. For purposes of Subsection (e)(2), a candidate's or officeholder's pro rata share of a political committee's normal overhead and administrative or operating costs is computed by dividing the committee's estimated total expenses for a period by the number of candidates and officeholders to whom the committee reasonably expects to provide goods or services during that period. *Id.* § 253.1611(f).
26. "In connection with an election" means, with regard to a contribution that is designated in writing for a particular election, the election designated or, with regard to a contribution that is not designated in writing for a particular election or that is designated as an officeholder contribution, the next election for that office occurring after the contribution is made. *Id.* § 253.152(2).
27. "Political contribution" means a campaign contribution or an officeholder contribution. *Id.* § 251.001(5). "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. *Id.* § 251.001(2). “Campaign contribution” means a contribution to a candidate or political committee that is offered or given with the intent that it be used in connection with a campaign for elective office or on a measure. *Id.* § 251.001(3). “Officeholder contribution” means a contribution to an officeholder or political committee that is offered or given with the intent that it be used to defray expenses that are incurred by the officeholder in performing a duty or engaging in an activity in connection with the office and are not reimbursable with public money. *Id.* § 251.001(4). “Political committee” means a group of persons that has as a principal purpose accepting political contributions or making political expenditures. *Id.* § 251.001(12).

28. The Judicial Campaign Fairness Act prohibits a judicial candidate from using political contributions to knowingly make political contributions to a political committee in connection with a primary election. Under section 253.152(2) of the Election Code, if the respondent did not designate the contributions in writing for a particular election, the contributions would have been made in connection with “the next election for that office occurring after the contribution is made.” There is no evidence that the respondent designated any of the contributions at issue for a particular election. In addition, the next election for the office that the respondent was a candidate for was the March 2010 primary election. However, the prohibition against making the contributions would not apply if made in accordance with section 253.1611(e) of the Election Code. In order to claim the exception under section 253.1611(e)(1) of the Election Code, the political contribution must be made in return for goods or services, the value of which substantially equals or exceeds the amount of the contribution.

Galveston County Democratic Party (GCDP)

29. The \$300 expenditure for “Ad for Party in Galveston County Daily News for primary election,” constituted a political contribution. The letter from the chair indicates that the respondent’s contribution did not exceed her pro rata share of the advertising expense. Since the \$300 contribution paid for advertising, the value of which equaled or exceeded the amount of the contribution, there is credible evidence of no violation of section 253.1611(b) of the Election Code with respect to that expenditure.
30. The \$250 expenditure for “sponsorship of Legends of Galveston Dinner,” constituted a political contribution. The letter from the chair indicates that the donation was for the respondent’s sponsorship of an annual party dinner. The respondent also swore that she received advertising that promoted her name and office. However, there is insufficient evidence to determine the value of those goods or services, and whether that amount substantially equals or exceeds the amount of the \$250 contribution. Therefore, there is insufficient evidence of a violation of section 253.1611(b) of the Election Code with respect to this expenditure.

Galveston County Democratic Club (GCDC)

31. Regarding the two expenditures totaling \$510, the evidence indicated that the payments were contributions to GCDC, and that the respondent did not receive any goods or services in return for the contributions. Therefore, there is credible evidence that the respondent violated section 253.1611(b) of the Election Code by using political contributions to make \$510 in political contributions to a political committee in connection with a primary election.

North Galveston County Democrat Club (NGCDC)

32. Regarding the \$10 expenditure for “club dues,” there is insufficient evidence to show whether NGCDC is a political committee and whether the \$10 constitutes a political contribution. Therefore, there is insufficient evidence of a violation of section 253.1611(b) of the Election Code with respect to this expenditure.

Texas Democratic Party (TDP)

33. Regarding the \$350 expenditure for “voter data software,” the respondent swore that the payment was not a contribution to the committee, but was the cost to access TDP’s voter data software. Credible evidence indicated that the respondent was receiving goods or services in return for the payment, and that even if the expenditure constituted a political contribution, the value of gaining access to the voter data system equaled or exceeded the amount of the contribution at issue. Therefore, there is credible evidence of no violation of section 253.1611(b) of the Election Code with respect to this expenditure.

Texas Democratic Women (TDW)

34. Regarding the \$255 expenditure for “convention fee,” the respondent swore that the payment was not a contribution to the committee, but was the cost to attend an event as a candidate. The letter from the president of TDW also indicated that the respondent received specific goods and services in return for the payment. However, if the expenditure was a contribution, there is insufficient evidence to determine the value of those goods or services, and whether that amount substantially equals or exceeds the amount of the \$255 contribution. Therefore, there is insufficient evidence of a violation of section 253.1611(b) of the Election Code with respect to this expenditure.

Texas Tejano Democrats

35. Regarding the \$30 expenditure for “Texas Tejano Convention fee,” the respondent swore that the expenditure was for admission to attend a convention. However, if the expenditure was a political contribution, there is insufficient evidence to determine whether the respondent received any goods or services, and whether the value of any goods or services substantially equals or exceeds the amount of the \$30 contribution. Therefore, there is insufficient evidence of a violation of section 253.1611(b) of the Election Code with respect to this expenditure.

Contributions to Political Committee for General Election

36. A judicial candidate may not use a political contribution to knowingly make a political contribution to a political committee that, when aggregated with each other political contribution to a political committee in connection with a general election, exceeds \$500. ELEC. CODE § 253.1611(c).
37. Under section 253.152(2) of the Election Code, if the respondent did not designate the contribution in writing for a particular election, the contribution would have been made in connection with “the next election for that office occurring after the contribution is made.” There is no evidence that the respondent designated the contribution for a particular election. In addition, the next election for the office that the respondent was a candidate for was the November 2010 general election. Accordingly, the respondent made a political contribution totaling \$1,000 to a political committee in connection with a general election, which is \$500 over the statutory limit. However, the prohibition against making the contribution would not apply if made in accordance with section 253.1611(e) of the Election Code.
38. In order to claim the exception under section 253.1611(e)(1) of the Election Code, the political contribution must be made in return for goods or services, the value of which substantially equals or exceeds the amount of the contribution. The statement from the chair of GCDP indicates that the respondent was receiving goods and services of greater or equal value in return for the contribution. However, the evidence was not conclusive as to the value of the goods or services the respondent received, and whether that amount substantially equaled or exceeded the amount of the contribution. Therefore, there is insufficient evidence of a violation of section 253.1611(c) of the Election Code.

Contributions to Political Committee When Not on Ballot

39. A judicial officeholder may not, in any calendar year in which the office held is not on the ballot, use a political contribution to knowingly make a political contribution to a political committee that, when aggregated with each other political contribution to a political committee in that calendar year, exceeds \$250. *Id.* § 253.1611(d).
40. District judges in the state of Texas serve four-year terms. TEX. CONST. ART. V, § 7. Since the respondent was re-elected as district judge in November of 2006, she was not up for reelection until 2010. Therefore, the respondent’s office of district judge was not on the ballot in 2011, the calendar year when the political contributions at issue were made. Thus, the respondent could not use political contributions to make political contributions to a political committee that exceeded \$250 in 2011, unless the exception under section 253.1611(e) of the Election Code was satisfied.
41. In calendar year 2011, the respondent made two political contributions totaling \$600 to GCDP. The respondent swore that the contributions were made in return for goods or services of equal or greater value in the form of advertising benefits. However, the evidence was not conclusive as to the value of the goods or services the respondent

received, and whether that amount substantially equaled or exceeded the amount of the contributions at issue. Therefore, there is insufficient evidence of violations of section 253.1611(d) 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 total amount of all political contributions accepted and the total amount of all political expenditures made during the reporting period; 2) each campaign finance report must include the amount of political expenditures that in the aggregate exceed \$100 (\$50 until 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 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; 3) each 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 as well as the campaign treasurer's name, residence or business street address, and telephone number; and 4) a judicial candidate or a specific-purpose committee for supporting or opposing a judicial candidate may not use a political contribution to knowingly make political contributions to a political committee in connection with a primary election. 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 \$350 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-3120101.

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

Susan Criss, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director