

TEXAS ETHICS COMMISSION

IN THE MATTER OF

JIMMY A. HILL,

RESPONDENT

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BEFORE THE

TEXAS ETHICS COMMISSION

SC-31205127

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on August 8, 2013, to consider sworn complaint SC-31205127. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 254.001, 254.031, 254.061, 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, on his 30-day pre-election campaign finance report for the May 29, 2012, primary election, the respondent: 1) did not include the campaign treasurer's telephone number; 2) did not cover the correct reporting period; and 3) did not properly disclose political contributions and political expenditures.

III. Facts Supported by Credible Evidence

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

1. The respondent was a candidate for Angelina County Sheriff.
2. On December 19, 2011, the respondent filed a campaign treasurer appointment with the Angelina County Clerk indicating that he was seeking the office of Angelina County Sheriff. Thus, the respondent was a candidate during the period at issue. The respondent's January 2012 semiannual report covered the period through January 15, 2012.

Telephone Number

3. The complaint alleged that the respondent did not include the campaign treasurer's telephone number on the cover sheet of the report at issue. The campaign treasurer's telephone number was not disclosed by the respondent in the report.

Reporting Period

4. The complaint alleged that the respondent did not cover the correct reporting period on the report at issue.
5. The respondent timely filed the report at issue. The report covered the period from January 16, 2012, through April 30, 2012. The report disclosed political contributions totaling \$3,500 and political expenditures totaling \$3,625.

Political Contributions

6. The complaint alleged that the respondent did not itemize political contributions on the report at issue.
7. The entry at issue was disclosed on Schedule A (used for political contributions) of the report as follows:

4/12 \$3,200 Cash raised at political fund raiser / Lufkin TX

Political Expenditures

8. The complaint alleged that the respondent did not properly disclose the full names and addresses of the payees and the purposes of the political expenditures on the report at issue.
9. The complaint did not provide any evidence to show that the names disclosed by the respondent are not the full names of the payees. The names of the payees disclosed by the respondent appear to be the full names of the payees.
10. Two of the expenditures at issue were for amounts less than \$100.
11. The respondent did not disclose an address for an expenditure of \$2,600, and only disclosed the city and state for the address of an expenditure of \$900.
12. The respondent did not disclose the description portion of the purpose of the expenditure of \$2,600 and the expenditure of \$900.

13. In response to the complaint, the respondent filed an affidavit on June 5, 2012, that stated:

As per our conversation I will find as many of the cash donors as possible and refile [sic] a corrected finance report to correct all issues. Any cash I cannot account for I will donate to a local charity. I still have the money as I was not sure what to do with it.

I will address all other issues as well when I refile [sic]. Should be done within a week.

14. To date, the respondent has not filed a corrected report, and at this time the respondent's telephone number is no longer a working number.

IV. Findings and Conclusions of Law

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

Telephone Number

1. Each report by a candidate must include the campaign treasurer's name, residence or business street address, and telephone number. ELEC. CODE § 254.061(2).
2. The respondent did not list a telephone number for his campaign treasurer in the report. Therefore, there is credible evidence of a violation of section 254.061(2) of the Election Code.

Reporting Period

3. 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 is required to 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. 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, as applicable, and continuing through the 40th day before election day. ELEC. CODE § 254.064.
4. The respondent's January 2012 semiannual report covered the period through January 15, 2012. That report was required to only cover the period through December 31, 2011. The report at issue was required to cover the period from January 1, 2012, through April 19, 2012. The period disclosed by the respondent began January 16, 2012, and ended on April 30, 2012. Therefore, there is credible evidence of a violation of section 254.064 of the Election Code.

Political Contributions

5. Each 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, the full name and address of the person making the contributions, and the dates of the contributions. ELEC. CODE § 254.031(a)(1).
6. Each candidate and each officeholder shall maintain a record of all reportable activity. ELEC. CODE § 254.001.
7. As stated above, the respondent's affidavit stated, "I will find as many of the cash donors as possible and refile [sic] a corrected finance report to correct all issues." The respondent did not properly disclose the contributor information for \$3,200 of contributions. The amount of each contribution is not known. However, based on his response, there is evidence that the respondent did not keep a record of reportable activity. Therefore, there is insufficient evidence of a violation of section 254.031(a)(1) of the Election Code, but credible evidence of a violation of section 254.001 of the Election Code.

Political Expenditures

8. Each report must include the amount of political expenditures that in the aggregate exceed \$100 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. ELEC. CODE § 254.031(a)(3).
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. The names of the payees disclosed by the respondent appear to be the full names of the payees. Therefore, there is credible evidence of no violation of section 254.031(a)(3) of the Election Code as to the names of the payees.
11. The expenditures that were for amounts less than \$100 were not required to be detailed. Therefore, there is credible evidence of no violation with regard to those expenditures. The respondent did not disclose an address for an expenditure of \$2,600, and only disclosed the city and state for the address of an expenditure of \$900. The omissions did not substantially

affect disclosure. Therefore, there is credible evidence of technical or *de minimis* violations of section 254.031(a)(3) of the Election Code as to the addresses of the payees.

12. The respondent did not disclose the description portion of the purpose of the expenditure of \$2,600 and the expenditure of \$900. 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 as to the purposes of the 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: 1) each report by a candidate must include the campaign treasurer's name, residence or business street address, and telephone number; 2) 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 is required to 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. 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, as applicable, and continuing through the 40th day before election day; 3) each candidate and each officeholder shall maintain a record of all reportable activity; 4) each report must include the amount of political expenditures that in the aggregate exceed \$100 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 5) 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. 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 \$500 civil penalty.

The respondent agrees that the Texas Ethics Commission, P. O. Box 12070, Austin, Texas 78711, must receive from the respondent full payment of the \$500 civil penalty no later than March 5, 2014, and agrees to waive any right to a hearing related to this sworn complaint. The respondent agrees that if the full amount is not received by March 5, 2014, the matter of the collection of the civil penalty will be referred to the Office of the Attorney General of Texas.

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-31205127.

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

Jimmy A. Hill, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director