

TEXAS ETHICS COMMISSION

IN THE MATTER OF	§	BEFORE THE
TERRI TIPTON HOLDER,	§	TEXAS ETHICS COMMISSION
RESPONDENT	§	SC-31207223

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on December 2, 2013, to consider sworn complaint SC-31207223. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 254.031, 254.0611, and 253.1611 of the Election Code, 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 did not properly disclose political contributions and political expenditures or campaign finance reports and made political contributions exceeding \$100 to candidates in a calendar year.

III. Facts Supported by Credible Evidence

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

1. At the time relevant to the complaint, the respondent was Judge of the 149th District Court.

Total Political Contributions Maintained

2. The complaint alleged that the respondent did not properly disclose total political contributions maintained on six campaign finance reports. In response to the complaint, the respondent submitted her campaign bank account statements covering the period at issue in the complaint. With respect to three of the reports, the amounts of total political contributions maintained were properly disclosed. With respect to the three remaining reports, the difference between the contributions maintained disclosed and the bank statement amounts do not exceed the lesser of 10% of the amount disclosed or \$2,500.

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

3. The complaint alleged that, based on disclosures in three campaign finance reports, the respondent did not disclose the full names of three persons making political contributions and three persons receiving political expenditures. With respect to two contributions, the names provided on the contribution checks were the same names disclosed on the respondent's campaign finance reports. With respect to the remaining contribution and three expenditures, totaling \$1,200, the contributor and payee names were incomplete as originally reported. The respondent filed corrected reports to disclose the full names of the contributor and payees.

Occupation or Job Title and Name of Employer

4. The complaint alleged that the respondent did not disclose the principal occupations or job titles and names of employers or law firms for 72 contributors on three campaign finance reports. With respect to 18 contributions, the respondent did not disclose the contributors' principal occupations and job titles and the full names of their employers or law firms. With respect to one contribution, the respondent did not disclose the contributor's job title. In response to the complaint, the respondent filed corrected reports and disclosed the missing information for each contributor.

Disclosure of Assets

5. The complaint alleged that the respondent did not properly disclose assets purchased with political contributions valued at \$500 or more on her January 2011 semiannual report. The expenditure at issue was disclosed only on Schedule F (used to disclose political expenditures made from political contributions) of the report as follows:

November 7, 2010, \$933.33, Brazoria County Fair Ass'n – category: Solicitation/Fundraising Expense; description: youth live stock auction

6. In response to the complaint, the respondent swore that the expenditure was for the purchase of livestock at the youth livestock auction. The respondent further swore that the animals purchased were butchered, the meat was donated to charity, and the auction proceeds were used for scholarships for local youth. The respondent also swore that she pooled her funds with other election officials to purchase the livestock and the proceeds were donated to the Brazoria County Women's Center and Brazoria County Youth Home.

Political Contributions to Candidate or Officeholder

7. The complaint alleged that the respondent made political contributions to candidates or officeholders exceeding \$100 in a calendar year. The expenditures at issue were disclosed on the respondent's 8-day pre-election report for the November 2010 election as follows:

October 2, 2010, \$140, Mr. Richard Davis – category: Event Expense;
description: fundraiser

September 25, 2010, \$200, Mr. Matt Sebesta – category: Event Expense;
description: fundraiser

8. At the time the contributions were made, the recipients were candidates for justice of the peace and county commissioner, respectively. In response to the complaint, the respondent swore that the contributions were made at a fundraiser and auction for the candidates at issue. The respondent further swore that she did not understand that the contribution restrictions applied when she purchased an item for later use in her campaign. The respondent stated that she purchased the items with the intent of donating them to local community organizations and events to keep her name out in the community as a judicial candidate.

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. ELEC. CODE §§ 254.031(a)(8) and (a-1).
2. With respect to the respondent's July 2011 and January and July 2012 semiannual reports, the amounts of total political contributions maintained were properly disclosed. 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 three remaining reports, the difference between the contributions maintained disclosed and the bank statement amounts do not exceed the lesser of 10% of the amount disclosed or \$2,500, thus, the errors 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.

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

3. 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).

4. A campaign finance report must include, for all 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).
5. It is not a valid basis of a complaint to allege that a report required under Chapter 254, Election Code, contains the improper name or address of a person from whom a political contribution was received if the name or address in the report is the same as the name or address that appears on the check for the political contribution. GOV'T CODE § 571.122(e).
6. With respect to two contributions, the names provided on the contribution checks were the same names disclosed on the respondent's campaign finance reports. Therefore, there is credible evidence of no violation of section 254.031(a)(1) of the Election Code with respect to those contributions. With respect to the remaining contribution and three expenditures, totaling \$1,200, the contributor and payee names were incomplete as originally reported. The respondent filed corrected reports to disclose the full names of the contributor and payees. Therefore, there is credible evidence of violations of sections 254.031(a)(1) and 254.031(a)(3) of the Election Code with respect to those entries.

Occupation or Job Title and Name of Employer

7. Each report by a candidate for a judicial office must include, for each individual from whom the person filing the report has accepted political contributions that in the aggregate exceed \$50 and that are accepted during the reporting period, the principal occupation and job title of the individual and the full name of the employer of the individual or of the law firm of which the individual or the individual's spouse is a member, if any. ELEC. CODE § 254.0611(a)(2)(A).
8. The contributions at issue exceeded \$50. Therefore, the respondent was required to disclose the principal occupation and job title and the full name of employer or law firm information of each contributor. The respondent did not disclose complete information for 19 contributions, totaling \$3,530. Therefore, there is credible evidence of violations of section 254.0611(a)(2)(A) of the Election Code with respect to those contributions. The remaining entries were properly disclosed. Therefore, there is credible evidence of no violation of section 254.0611(a)(2)(A) of the Election Code with respect to those contributions.

Disclosure of Assets

9. Each report by a candidate for judicial office must include a specific listing of each asset valued at \$500 or more that was purchased with political contributions and on hand as of the last day of the reporting period. ELEC. CODE § 254.0611(a)(3).
10. The respondent swore that the expenditure at issue was to pay for a portion of the purchase of livestock from which the proceeds were donated. There is no evidence that

the expenditure was used for assets for the respondent's campaign, or that the respondent maintained any of the purchased assets. Therefore, there is credible evidence of no violation of section 254.0611(a)(3) of the Election Code.

Political Contributions to Candidate or Officeholder

11. A judicial candidate or officeholder or a specific-purpose committee for supporting or opposing a judicial candidate or assisting a judicial officeholder may not use a political contribution to knowingly make political contributions that in the aggregate exceed \$100 in a calendar year to a candidate or officeholder. ELEC. CODE § 253.1611(a).
12. The respondent disclosed two political expenditures to candidates totaling \$340 at fundraiser and auction events for the candidates. Although the respondent swore that she did not understand that the restriction applied when she purchased items for use in her campaign, the fact that the items were purchased at candidate fundraising events indicate that purchases made would benefit the candidates holding the fundraisers. Therefore, there is credible evidence of a violation of section 253.1611(a) 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 campaign finance report must include, for all 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; 3) each report by a candidate for a judicial office must include, for each individual from whom the person filing the report has accepted political contributions that in the aggregate exceed \$50 and that are accepted during the reporting period, the principal occupation and job title of the individual and the full name of the employer of the individual or of the law firm of which the individual or the individual's spouse is a member, if any; and 4) a judicial candidate or officeholder or a specific-purpose committee for supporting or opposing a judicial candidate or assisting a judicial officeholder may not use a political contribution to knowingly make political contributions that in the aggregate exceed \$100 in a calendar year to a candidate or officeholder. 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 \$300 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 sworn complaint SC-31207223.

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

Terri Tipton Holder, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
Executive Director