

# TEXAS ETHICS COMMISSION

**IN THE MATTER OF**  
**DARRELL F. CASTILLO,**  
**RESPONDENT**

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**BEFORE THE**  
**TEXAS ETHICS COMMISSION**  
**SC-31209262**

## **ORDER and AGREED RESOLUTION**

### **I. Recitals**

The Texas Ethics Commission (Commission) met on June 11, 2015, to consider sworn complaint SC-31209262. A quorum of the Commission was present. The Commission determined that there is credible evidence of violations of sections 253.035, 254.031, and 254.063 of the Election Code and section 20.63 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) reimbursed himself for political expenditures made from personal funds without complying with section 253.035 or 253.0351 of the Election Code; 2) did not report political contributions and political expenditures on multiple campaign finance reports; and 3) did not file a July 2012 semiannual campaign finance report.

### **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 a candidate for Arlington City Council in the May 12, 2012, city election.
2. At issue in the complaint are the 30-day pre-election report for the May 12, 2012, city election (30-day pre-election report), the 8-day pre-election report for the May 12, 2012, city election (8-day pre-election report), and the July 2012 semiannual report.

**Disclosure of, and Reimbursement of, Political Expenditures from Personal Funds**

3. The complaint alleged that the respondent did not properly disclose, and improperly reimbursed, political expenditures made from personal funds.
4. The respondent disclosed on his 30-day pre-election report two political expenditures totaling approximately \$1,080 that were made as reimbursements to the respondent. The respondent did not disclose the actual vendor payees of the original expenditures for which the reimbursements were made, and the descriptions do not make clear who the ultimate vendors were. The respondent corrected the errors.

**Political Contributions, Total Political Contributions, and Total Political Expenditures**

5. The complaint alleged that the respondent did not properly disclose total political contributions and total political expenditures on the cover sheet of the 8-day pre-election report. In the report at issue, the respondent disclosed total political contributions of \$15,822.35 and total political expenditures of \$15,870.60.
6. The report disclosed \$48.25 for total political contributions of \$50 or less. A contribution of \$48.25 was included on Schedule A (used to disclose political contributions) of the report. The name of the contributor was disclosed as "Paypal Online Contribution." The address of the contributor was disclosed as "Unknown." Schedule A disclosed three additional contributions that were in-kind contributions. Two were from A.T.P. P.A.C., one in the amount of \$992.52 for "Payment for Additional Political Signs" and the other one in the amount of \$3,224.94 for "Payment for First Mailer." The third one was from [an individual] in the amount of \$2,564.89 for "Credit Card Payment for Signs." The four political contributions total \$6,830.60. Therefore, it appears that the respondent over-reported total political contributions by \$8,991.75.
7. The respondent filed a response that stated:

Regarding the 8<sup>th</sup> Day Candidate / Office Holder Campaign Report Schedule A Political Contributions reported the A.T.P. P.A.C. for contributions of \$992.52 and \$3,224.94 respectively. Contributions in the amount of \$8,991.75 reflected monies that were spent on behalf of the campaign by the third party and, as such, were not reported at the time since these monies never passed through the campaign account.
8. It appears that the \$8,991.75 included in the total political contributions amount reflected in-kind contributions and therefore the total political contributions amount was correct. However, the respondent was required to itemize these contributions and failed to do so.

9. The report disclosed \$0 for total political expenditures of \$100 or less. Schedule F (used to disclose political expenditures) of the report disclosed the three in-kind contributions described above, totaling \$6,830.60 as political expenditures. In-kind political contributions are not to be listed as political expenditures. Schedule G (used to disclose political expenditures made from personal funds) of the report did not disclose any political expenditures. Total political expenditures were actually \$0. Therefore, it appears that the respondent over-reported total political expenditures by \$15,870.60.

10. The respondent's response also stated:

Regarding the 8<sup>th</sup> Day Candidate / Office Holder Campaign Report Schedule F Political Expenditures, the amount of \$10,080.77 was inadvertently omitted from the report, although details regarding the source was reported. This omission occurred because these were monies spent on behalf of the campaign by a third party P. A. C.

11. It appears that the respondent is saying that A.T.P. P.A.C., which is disclosed as the entity paying for a mailer and signs, was the source of this additional \$10,080.77 of "monies spent on behalf of the campaign by a third party P. A. C." As stated above, in-kind political contributions are not to be listed as political expenditures. Therefore, these "monies" were not to be reported on Schedule F.

### **Political Contributions**

12. The complaint alleged that the respondent did not properly report two political contributions.

13. The respondent did not disclose a complete address for a contribution of \$3,000, disclosed on the 30-day pre-election report, and did not disclose a complete address for a contribution of \$2,564.89, disclosed on the 8-day pre-election report. The respondent did not report the contribution of \$2,564.89, which was dated March 14, 2012, in the proper reporting period. The contribution should have been reported on the 30-day pre-election report for the May 12, 2012, city election. The respondent corrected the errors.

### **Political Expenditures**

14. The complaint alleged that the respondent did not properly report two political expenditures.

15. The respondent did not disclose a complete payee address for an expenditure of \$1,400 disclosed on the 30-day pre-election report. The respondent corrected the error.
16. The respondent disclosed an expenditure of \$2,564.89 on the 8-day pre-election report. The respondent did not disclose a complete payee address for the expenditure. The evidence indicates that the expenditure was actually an in-kind contribution and should not have been disclosed as an expenditure. The respondent corrected the error.

### **Filing of Report**

17. The complaint alleged that the respondent did not file the July 2012 semiannual report.
18. The respondent admitted in his affidavit that he did not file the report. He stated that it was an oversight.
19. The complaint was filed on September 19, 2012. The respondent filed the report on April 10, 2015. The report did not disclose any activity during the reporting period. The report disclosed contributions maintained of \$710.48.

## **IV. Findings and Conclusions of Law**

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

### **Disclosure of, and Reimbursement of, Political Expenditures from Personal Funds**

1. A campaign finance 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 political expenditures are made, and the dates and purposes of the expenditures. ELEC. CODE § 254.031(a)(3).
2. A candidate who makes political expenditures from the candidate's personal funds may reimburse those personal funds from political contributions in the amount of those expenditures only if the expenditures from personal funds were fully reported as political expenditures, including the payees, dates, purposes, and amounts of the expenditures, in the report required to be filed under this title that covers the period in which the expenditures from personal funds were made, and the report on which the expenditures from personal funds are disclosed clearly designates those expenditures as having been made from the person's personal funds and that the expenditures are subject to reimbursement. *Id.* § 253.035(h).

3. The respondent disclosed two political expenditures totaling approximately \$1,080 that were reimbursements to the respondent. The respondent did not disclose the actual vendor payees, and the descriptions do not make clear who the ultimate vendors were. In addition, because the respondent did not properly report the original political expenditures made from personal funds, the respondent was not allowed to reimburse himself for these expenditures. The respondent corrected the errors. Therefore, there is credible evidence of violations of sections 253.035(h) and 254.031(a)(3) of the Election Code.

### **Political Contributions, Total Political Contributions, and Total Political Expenditures**

4. A campaign finance report must include the amount of political contributions from each person that in the aggregate exceed \$50 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).
5. A campaign finance 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 political expenditures are made, and the dates and purposes of the expenditures. ELEC. CODE § 254.031(a)(3).
6. 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. ELEC. CODE § 254.031(a)(6).
7. The evidence indicates that the respondent disclosed the correct amount for total political contributions in the report at issue. Therefore, there is credible evidence of no violation of section 254.031(a)(6) of the Election Code.
8. The evidence indicates that the respondent did not itemize \$8,991.75 of in-kind political contributions as required in the report at issue. Therefore, there is credible evidence of a violation of section 254.031(a)(1) of the Election Code.
9. The evidence indicates that the respondent over-reported total political expenditures by \$15,870.60 in the report at issue. Therefore, there is credible evidence of a violation of section 254.031(a)(6) of the Election Code.

### **Political Contributions**

10. Each report must include the amount of political contributions from each person that in the aggregate exceed \$50, the full name and address of the person making the contributions, and the dates of the contributions. ELEC. CODE § 254.031(a)(1).

11. The respondent did not disclose a complete address for a contribution of \$3,000, disclosed on the 30-day pre-election report, and did not disclose a complete address for a contribution of \$2,564.89, disclosed on the 8-day pre-election report. The respondent did not report the contribution of \$2,564.89, which was dated March 14, 2012, in the proper reporting period. The contribution should have been reported on the 30-day pre-election report. The respondent corrected the errors. Therefore, there is credible evidence of violations of section 254.031(a)(1) of the Election Code.

### **Political Expenditures**

12. Each report must include the amount of political expenditures that in the aggregate exceed \$100, 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).
13. The respondent did not disclose a complete payee address for an expenditure of \$1,400 disclosed on the 30-day pre-election report. Therefore, there is credible evidence of a violation of section 254.031(a)(3) of the Election Code. The respondent corrected the error.
14. The respondent disclosed an expenditure of \$2,564.89 on the 8-day pre-election report for the May 12, 2012, city election. The evidence indicates that the expenditure was actually an in-kind contribution and should not have been disclosed as an expenditure. Therefore, there is credible evidence of a violation of section 254.031(a)(3) of the Election Code. The respondent corrected the error.

### **Filing of Report**

15. A candidate shall file two reports for each year. The first report shall be filed not later than July 15. ELEC. CODE § 254.063.
16. The respondent admitted in his affidavit that he did not file the July 2012 semiannual report. There is credible evidence of a violation of section 254.063 of the Election Code.

## **V. Representations and Agreement by Respondents**

By signing this order and agreed resolution and returning it to the Commission:

1. The respondents neither admit nor deny 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 respondents consent to this order and agreed resolution and waive any right to further proceedings in this matter.
3. The respondent acknowledges that: 1) a campaign finance 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 political expenditures are made, and the dates and purposes of the expenditures; 2) a candidate who makes political expenditures from the candidate's personal funds may reimburse those personal funds from political contributions in the amount of those expenditures only if the expenditures from personal funds were fully reported as political expenditures, including the payees, dates, purposes, and amounts of the expenditures, in the report required to be filed under this title that covers the period in which the expenditures from personal funds were made, and the report on which the expenditures from personal funds are disclosed clearly designates those expenditures as having been made from the person's personal funds and that the expenditures are subject to reimbursement; 3) political expenditures made out of personal funds by a candidate must be reported and reimbursed in accordance with section 20.63 of the Ethics Commission Rules; 4) a campaign finance report must include the amount of political contributions from each person that in the aggregate exceed \$50 that are accepted during the reporting period, the full name and address of the person making the contributions, and the dates of the contributions; 5) 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; and 6) a candidate shall file two reports for each year. The first report shall be filed not later than July 15. 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 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-31209262.

AGREED to by the respondent on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Darrell F. Castillo, Respondent

EXECUTED ORIGINAL received by the Commission on: \_\_\_\_\_.

Texas Ethics Commission

By: \_\_\_\_\_  
Natalia Luna Ashley, Executive Director