

TEXAS ETHICS COMMISSION

IN THE MATTER OF
DAMARCUS OFFORD,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-3150486 AND SC-3150487

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (Commission) met on February 1, 2016, to consider sworn complaints SC-3150486 and SC-3150487. A quorum of the Commission was present. The Commission determined that there is credible evidence of violations of sections 254.031(a)(1) and 254.031(a)(3) of the Election Code and section 571.1242(c) of the Government Code, laws administered and enforced by the Commission. To resolve and settle these complaints without further proceedings, the Commission proposed this resolution to the respondent.

II. Allegations

Sworn complaint SC-3150486 alleged that the respondent did not properly disclose political contributions and political expenditures. Sworn complaint SC-3150487 alleged that the respondent did not properly disclose political contributions.

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 trustee of District 9 of the Dallas Independent School District (DISD) in the May 9, 2015, uniform election.
2. Sworn complaint SC-3150486 alleged that the respondent did not properly disclose contributor addresses and payee addresses on his 30-day pre-election report for the May 9, 2015, uniform election (30-day pre-election report).

3. Sworn complaint SC-3150487 made one of the allegations that sworn complaint SC-3150486 did, that the respondent did not properly disclose contributor addresses on his 30-day pre-election report.

Name and Address of Contributors

4. The sworn complaints alleged that the respondent did not properly disclose contributor addresses on his 30-day pre-election report.
5. On Schedule A (used to disclose political contributions) of his 30-day pre-election report, the respondent disclosed 13 political contributions totaling \$25,150, each of which exceeded \$50. The respondent disclosed "Dallas, TX" for the address of 12 of the contributors. The respondent left the address field blank for the other contribution which was in the amount of \$10,000.
6. In response to the sworn complaints, the respondent swore that the omissions were an error and should have been double checked before submitting the report.
7. On May 26, 2015, in response to the sworn complaints, the respondent filed a Correction/Amendment Affidavit For Candidate/Officeholder for each contribution with the local filing authority. The respondent sent copies of the correction affidavits to the Commission by facsimile that same day. The respondent changed the name of the contributor of a \$100 contribution from an entity to an individual and provided the individual's complete address. The respondent provided the complete addresses of each of the other contributors at issue.

Payee Addresses of Political Expenditures

8. Sworn complaint SC-3150486 also alleged that the respondent did not properly disclose the payee addresses of political expenditures on his 30-day pre-election report. On Schedule F (used to disclose political expenditures) of his 30-day pre-election report, the respondent did not disclose the complete addresses for two political expenditures. The respondent disclosed "Dallas, TX" for the address of both payees, one in the amount of \$1,700, and one in the amount of \$1,000.
9. In response to the complaint, the respondent swore that the omissions were an error and should have been double checked before submitting the report.
10. The respondent corrected the errors.

Response to Notice of a Sworn Complaint

11. Sworn complaints SC-3150486 and SC-3150487 were filed on April 21, 2015. The Commission sent notices of the sworn complaints to the respondent by delivery confirmation on April 28, 2015. According to United States Postal Service (USPS) records of the delivery, the notices of these complaints were delivered to the respondent on April 30, 2015. The notices informed the respondent that the alleged violations in the sworn complaints were Category One violations, and that responses to the sworn complaints were required not later than 10 business days from the date the notices were received and that failure to respond to the notices constituted separate violations for which separate civil penalties may be assessed. Based on the delivery date of the notices, the respondent was required to respond to the sworn complaints by May 14, 2015.
12. Regarding sworn complaint SC-3150486, the Commission received a written response on June 1, 2015, that addressed the allegation regarding not properly disclosing contributor addresses; however, the response did not address the allegation regarding not properly disclosing payee addresses. On November 16, 2015, the respondent submitted a written response addressing the allegation regarding not properly disclosing payee addresses. The respondent did not address all of the allegations in sworn complaint SC-3150486 until six months and two days after the deadline for responding.
13. Regarding sworn complaint SC-3150487, the Commission received a written response on June 1, 2015, 18 days after the response deadline.

IV. Findings and Conclusions of Law

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

Name and Address of Contributors

1. Except as otherwise provided by this chapter, each report under this chapter 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).
2. The respondent did not disclose the complete addresses of each of the 13 contributors at issue who made political contributions totaling \$25,150, and the respondent did not properly disclose the name of a contributor of \$100. Therefore, there is credible evidence of violations of section 254.031(a)(1) of the Election Code. The respondent corrected the errors.

Payee Addresses of Political Expenditures

3. Except as otherwise provided by this chapter, each report under this chapter 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).
4. The respondent did not disclose the complete addresses of two payees of political expenditures, one in the amount of \$1,700, and one in the amount of \$1,000. Therefore, there is credible evidence of violations of section 254.031(a)(3) of the Election Code. The respondent corrected the errors.

Response to Notice of a Sworn Complaint

5. If the alleged violation in a sworn complaint is a Category One violation, the respondent must respond to the notice required by section 571.123(b) not later than the 10th business day after the date the respondent receives the notice. GOV'T CODE § 571.1242(a)(1).
6. A respondent's failure to timely respond to a sworn complaint as required by subsection (a)(1) or (b)(1) is a Category One violation. *Id.* § 571.1242(c).
7. The response required by section 571.1242 of the Government Code must: (1) be in writing; (2) admit or deny the allegations set forth in the complaint; and (3) be signed by the respondent. Ethics Commission Rules § 12.52(a).
8. Notices of the sworn complaints were delivered to the respondent on April 30, 2015. Thus, the respondent was required to submit a written response to the sworn complaints by May 14, 2015.
9. Regarding sworn complaint SC-3150486, the Commission received a written response on June 1, 2015, that addressed the allegation regarding not properly disclosing contributor addresses; however, the response did not address the allegation regarding not properly disclosing payee addresses. On November 16, 2015, the respondent submitted a written response addressing the allegation regarding not properly disclosing payee addresses. The respondent did not address all of the allegations in sworn complaint SC-3150486 until six months and two days after the response deadline. Therefore, there is credible evidence of a violation of section 571.1242(c) of the Government Code.
10. Regarding sworn complaint SC-3150487, the Commission received a written response on June 1, 2015, 18 days after the response deadline. Therefore, there is credible evidence of a violation of section 571.1242(c) of the Government 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 these sworn complaints.
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 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) 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.

The respondent also acknowledges that a respondent must respond to a notice of a sworn complaint that contains a Category One violation within 10 business days of receiving the notice of the sworn complaint, and failure to respond to a notice of a sworn complaint within the time required is a separate Category One violation.

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 \$750 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 complaints SC-3150486 and SC-3150487.

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

Damarcus Offord, Respondent

EXECUTED ORIGINAL received by the Commission on: _____.

Texas Ethics Commission

By: _____
Natalia Luna Ashley, Executive Director