

TEXAS ETHICS COMMISSION

IN THE MATTER OF

MICHAEL K. "MIKE" BASS,

RESPONDENT

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BEFORE THE

TEXAS ETHICS COMMISSION

SC-31506128

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (Commission) met on May 17, 2017, to consider sworn complaint SC-31506128. A quorum of the Commission was present. The Commission determined that there is credible evidence of violations of sections 254.031, 254.036, 254.061, and 253.035 of the Election Code and section 20.59 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 include the residence or business street address for his campaign treasurer on campaign finance reports; 2) did not properly disclose political contributions and political expenditures; 3) did not file reports in a format prescribed by the Commission; 4) accepted an in-kind political contribution from a corporation; and 5) did not properly report political expenditures for which reimbursements were made.

III. Facts Supported by Credible Evidence

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

1. The respondent is the Position 2 Director of The Woodlands Township and has served in this position since 2012.
2. The reports at issue are the July 2013 and January and July 2014 semiannual reports; 30-day and 8-day pre-election reports for the November 2014 general election; and January 2015 semiannual report. The respondent has filed corrected reports for the reports at issue.

Reporting Political Contributions and Expenditures in a Format Prescribed by the Commission

3. The complaint alleged that the respondent did not file the reports at issue in a format prescribed by the Commission.
4. In each report at issue, the respondent did not disclose political expenditures on a Schedule F Form (used to disclose political expenditures from political contributions) or Schedule G Form (used to disclose political expenditures from personal funds). He instead attached Excel spreadsheets that disclosed 29 political expenditures totaling \$20,120.74. The spreadsheets disclosed the required information for Schedule F and G expenditures.
5. In his 30-day and 8-day pre-election reports for the November 2014 general election and the January 2015 semiannual report, the respondent did not disclose political contributions on a Schedule A Form (used to disclose political contributions). He instead attached Excel spreadsheets that disclosed 27 political contributions totaling \$5,345. The spreadsheets disclosed the required information for Schedule A contributions.
6. The respondent stated that he used Excel spreadsheets to reduce the clerical effort in filing the required reports.

Campaign Treasurer's Address

7. The complaint alleged that the respondent did not include the residence or business street address for his campaign treasurer on the reports at issue.
8. The respondent served as his own campaign treasurer. He disclosed a mailing address, rather than his residence or business street address, in the field for disclosing the campaign treasurer's residence or business street address in each report at issue.
9. In response to the complaint, the respondent admitted he disclosed his mailing address instead of his residence or business street address.

Disclosure of Political Contributions and Expenditures

10. The complaint alleged that the respondent did not properly disclose a political contribution and two political expenditures.
11. In his January 2015 semiannual report, the respondent did not disclose the addresses of the payees of two political expenditures totaling \$700.

12. In his 30-day pre-election report for the November 2014 general election, the respondent did not disclose the address of the contributor of one in-kind political contribution valued at \$100.
13. In response to the complaint, the respondent stated that at the time the contributor told him of the contribution, he did not have the contributor's address.

Political Contribution from a Corporation

14. The complaint alleged that the respondent accepted an in-kind contribution from a prohibited corporation.
15. In the respondent's January 2015 semiannual report, the respondent disclosed the contributor of an in-kind contribution valued at \$100 as an individual. The respondent disclosed the description of this contribution as "Indian Springs Village Taste of the Town Booth Fee," with a date of September 19, 2014.
16. The Indian Springs Village Association is listed as a domestic nonprofit corporation with the Texas Secretary of State. The individual whose name was disclosed as the contributor is the corporation's treasurer.
17. In response to the complaint, the respondent stated that the contribution was received from the individual. He also submitted a copy of a personal canceled check for \$100 from the individual to the corporation for a "booth for M. Bass," with a date of September 15, 2014.

Personal Reimbursements

18. The complaint alleged that the respondent made improper personal reimbursements because he did not disclose the original political expenditures from personal funds for which reimbursements were made. The complaint also alleged that the respondent did not properly disclose political expenditures made with a credit card and did not properly disclose reimbursements made to campaign staff.
19. The respondent disclosed nine political expenditures totaling \$10,228.33 on his 30-day and 8-day pre-election reports for the November 2014 general election and January 2015 semiannual report, disclosing his own name and address under the fields for the payee name and payee address.
20. The original expenditures for which these reimbursements were made were not disclosed.
21. In response to the complaint, the respondent submitted receipts and credit card statements showing the original expenditures from personal funds for which the reimbursements at issue were made and disbursement sheets documenting the expenditures made as reimbursements.

22. The documentation reveals that the respondent made multiple reimbursements for 26 undisclosed political expenditures made with a personal credit card totaling \$8,631.94.
23. Further, the respondent stated that he incorrectly reported two expenditures: 1) a political expenditure of \$108.03 made with his personal credit card to "Zulee's," a gifts and stationery shop in The Woodlands, Texas; and 2) the reimbursement from his campaign account for this expenditure. The respondent combined these expenditures into one, which was disclosed as a political expenditure from political contributions.

Total Political Contributions Maintained

24. The complaint alleged that the respondent did not properly disclose total political contributions maintained in each report at issue.
25. In each report at issue, the respondent disclosed the amount of total political contributions maintained as "0."
26. The respondent admitted that these disclosures were incorrect and submitted bank statements indicating the amounts should have been disclosed as \$823.36, \$1,373.38, \$2,008.83, \$4,713.46, \$4,889.46, and \$502.38, respectively.

IV. Findings and Conclusions of Law

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

Reporting Political Contributions and Expenditures in a Format Prescribed by the Commission

1. Each report filed under this chapter with an authority other than the commission must be in a format prescribed by the commission. ELEC. CODE § 254.036(a).
2. Credible evidence shows, and the respondent admits, in each report at issue, the respondent disclosed political contributions and expenditures on Excel spreadsheets, which is a format not prescribed by the Commission. Therefore, there is credible evidence of violations of section 254.036(a) of the Election Code.

Campaign Treasurer's Address

3. In addition to the contents required by Section 254.031, a campaign finance report must include the campaign treasurer's name, residence or business street address, and telephone number. ELEC. CODE § 254.061(2).
4. The respondent served as his own campaign treasurer. Credible evidence shows, and the respondent admits, for each report at issue, the respondent did not disclose his residence or business street address in the appropriate field for the campaign treasurer's address, but rather disclosed a mailing address. Therefore, there is credible evidence of violations of section 254.061(2) of the Election Code.

Disclosure of Political Contributions and Expenditures

5. A 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).
6. 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 the expenditures are made, and the dates and purposes of the expenditures. *Id.* § 254.031(a)(3).
7. Credible evidence shows, and the respondent admits, that the respondent did not disclose the address of a contributor who made an in-kind contribution of \$100 and the addresses of the payees of two political expenditures totaling \$700. Therefore, there is credible evidence of violations of sections 254.031(a)(1) and 254.031(a)(3) of the Election Code.

Political Contribution from a Corporation

8. 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.
9. A corporation or labor organization may not make a political contribution or political expenditure that is not authorized by Subchapter D, Chapter 253, Election Code. *Id.* § 253.094.

10. 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. *Id.* § 253.091.
11. Credible evidence shows that the contributor of the in-kind contribution at issue was an individual, and not a corporation. Therefore, there is credible evidence of no violation of sections 253.003 and 253.094 of the Election Code.

Personal Reimbursements

12. 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).
13. Except as provided by Section 253.0351 or 253.042, a candidate or officeholder who makes political expenditures from the candidate's or officeholder's personal funds may reimburse those personal funds from political contributions in the amount of those expenditures only if: (1) 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 (2) 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).
14. 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 the expenditures are made, and the dates and purposes of the expenditures. *Id.* § 254.031(a)(3).
15. A report of an expenditure charged to a credit card must be disclosed on the Expenditures Made to Credit Card Schedule and identify the vendor who receives payment from the credit card company. Ethics Commission Rules § 20.59. A report of a payment to a credit card company must be disclosed on the appropriate disbursements schedule and identify the credit card company receiving the payment. *Id.*
16. Political expenditures made out of personal funds by a staff member of an officeholder, a candidate, or a political committee, with the intent to seek reimbursement from the officeholder, candidate, or political committee, that in the aggregate do not exceed \$5,000 during the reporting period may be reported as follows if the reimbursement occurs during the same reporting period that the initial expenditure was made: 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 included with the total amount or a specific listing of the political expenditures of \$100 or less made during the reporting period. *Id.* § 20.62.

17. Credible evidence shows, and the respondent admits, that the respondent did not disclose political expenditures made with a personal credit card for which reimbursements were made. Since the respondent did not disclose the original expenditures from personal funds, the expenditures were not eligible for reimbursement. In addition, the respondent admitted, and credible evidence shows, that he improperly disclosed a political expenditure made with a personal credit card and its subsequent reimbursement as merely one political expenditure made from political contributions. Credible evidence shows that the reimbursements were not made as campaign staff reimbursements. Therefore, there is credible evidence of violations of sections 253.035(h) and 254.031(a)(3) of the Election Code and section 20.59 of the Ethics Commission Rules. There is credible evidence of no violations of section 20.62 of the Ethics Commission Rules.

Total Political Contributions Maintained

18. A campaign finance report must include, as of the last day of a reporting period for which the person is required to file a report, 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).
19. Credible evidence indicates, and the respondent admits, the respondent did not properly disclose the amount of total political contributions maintained in each report at issue. Therefore, there is credible evidence of violations of section 254.031(a)(8) 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) campaign finance reports filed with an authority other than the commission must be in a format prescribed by the commission; 2) campaign finance reports 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; 3) campaign finance reports 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; 4) campaign finance reports must include the campaign treasurer's name, residence or business street address, and telephone number; 5) except as provided by section 253.0351 or 253.042 of the Election Code, a candidate or officeholder who makes political expenditures from the candidate's or officeholder'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; 6) a report of an expenditure charged to a credit card must be disclosed on the Expenditures Made to Credit Card Schedule and identify the vendor who receives payment from the credit card company, and a report of a payment to a credit card company must be disclosed on the appropriate disbursements schedule and identify the credit card company receiving the payment; and 7) campaign finance reports must include, as of the last day of a reporting period for which the person is required to file a report, 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. 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-31506128.

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

Michael K. "Mike" Bass, Respondent

EXECUTED ORIGINAL received by the Commission on: _____.

Texas Ethics Commission

By: _____
Seana Willing, Executive Director