

TEXAS ETHICS COMMISSION

IN THE MATTER OF
MICHAEL WOLFE,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-3190102

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (Commission) met on November 20, 2019, to consider sworn complaint SC-3190102. A quorum of the Commission was present. The Commission determined that there is credible evidence of violations of sections 254.031 and 254.040 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: 1) failed to report two campaign loans from the complainant on his campaign finance reports; and 2) failed to keep political contributions in a separate account.

III. Facts Supported by Credible Evidence

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

1. The respondent is a trustee for the Harris County Department of Education. During the period at issue in the complaint, the respondent was an opposed candidate for Harris County Justice of the Peace in the May 22, 2018, primary runoff election.
2. On May 7, 2018, in response to the respondent's request for funds to pay for campaign mailers, the complainant gave the respondent a \$15,000 campaign loan check. Although the respondent had a campaign bank account, the respondent stated that he deposited the campaign loan check in a personal bank account.
3. On May 14, 2018, the respondent filed his primary runoff campaign finance report, which covered campaign finance activity from February 25, 2018, through May 12, 2018. The report did not include the \$15,000 May 7 campaign loan from the complainant. It did, however, include a \$17,200 expenditure for campaign mailers on May 12, 2018.

4. On May 17, 2018, the respondent asked the complainant for another campaign loan, again to pay for campaign mailers. The complainant gave the respondent a campaign loan check for \$13,000. The respondent stated that he deposited this campaign loan check in a personal bank account.
5. The respondent's July 2018 semiannual campaign finance report, which covered campaign finance activity from May 13, 2018, through June 31, 2018,¹ did not include the \$13,000 May 17 campaign loan check from the complainant, but did include a \$13,000 expenditure, also for campaign mailers, on May 22, 2018.
6. The respondent lost the May 22, 2018, primary runoff election. On January 22, 2019, the complainant filed this complaint. The complaint included copies of the loan checks and sworn statements from the complainant that the checks were given to the respondent as campaign loans. In response to the Commission's inquiries, the complainant provided additional sworn statements to further substantiate the allegations.
7. In his sworn response to the Commission's written questions, the respondent alleged that the loans from the complainant were made for personal purposes unrelated to his campaign. The respondent provided no further evidence to support this contention, and did not further explain what the purported personal purposes were.

IV. Findings and Conclusions of Law

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

1. A campaign finance report must include the amount of loans that are made during the reporting period for campaign or officeholder purposes to the person or committee required to file the report and that in the aggregate exceed \$50, the dates loans are made, the interest rate, the maturity date, the type of collateral for the loans, if any, the full name and address of the person or financial institution making the loans, the full name and address, principal occupation, and name of the employer of each guarantor of the loans, the amount of the loans guaranteed by each guarantor, and the aggregate principal amount of all outstanding loans as of the last day of the reporting period. ELEC. CODE § 254.031(a)(2).
2. Credible evidence shows that the respondent received a \$15,000 campaign loan on May 7, 2018, which he was required to report on his campaign finance report for the May 22, 2018, primary runoff election. The respondent failed to disclose the loan. Therefore, there is credible evidence of a violation of section 254.031(a)(2) of the Election Code.

¹ The report purports to cover through June 31, 2018, but there are only thirty days in June.

3. Credible evidence shows that the respondent received a \$13,000 campaign loan on May 17, 2018, which he was required to report as a loan on his July 2018 semiannual campaign finance report. The respondent failed to disclose the loan. Therefore, there is credible evidence of a second violation of section 254.031(a)(2) of the Election Code.
4. Except as provided by section 253.0351(c) of the Election Code, each candidate or officeholder shall keep the person's campaign and officeholder contributions in one or more accounts that are separate from any other account maintained by the person. ELEC. CODE § 253.040.
5. The Election Code defines a "political contribution" as a campaign contribution or an officeholder contribution. *Id.* § 251.001(5). The term "campaign contribution" is defined as a contribution to a candidate or political committee that is offered or given with the intent that it be used in connection with a campaign for elective office or on a measure. *Id.* § 251.001(3). A "contribution" is a direct or indirect transfer of money, goods, services, or any other thing of value, and includes an agreement made or other obligation incurred, whether legally enforceable or not, to make a transfer. *Id.* § 251.001(2).
6. The complainant made two loans totaling \$28,000 to the respondent with the intent that the respondent use the money in connection with his campaign. The respondent acknowledged that he deposited these loans in an account that he used for personal purposes. There is therefore credible evidence of two violations of section 253.040 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 among other information, the filer of a campaign finance report must disclose all loans made to the filer for campaign or officeholder purposes during the reporting period. The respondent further acknowledges that a candidate or officeholder must keep political contributions in one or more accounts that are separate from any other account maintained by the person. The respondent agrees to fully and strictly comply with these requirements of 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 \$3,500 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 \$3,500 civil penalty no later than April 3, 2020.

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-3190102.

AGREED to by the respondent on this _____ day of _____, 2019.

Michael Wolfe, Respondent

EXECUTED by the Commission on: _____.

Texas Ethics Commission

By: _____
Anne Temple Peters, Executive Director