

TEXAS ETHICS COMMISSION

IN THE MATTER OF
PATRICIA BOLTON-LEGG,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-290236

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on June 11, 2010, to consider sworn complaint SC-290236. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 254.031 and 254.063 of the Election Code, and credible evidence of technical or *de minimis* violations of section 254.031 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) made campaign expenditures at a time when she did not have a campaign treasurer appointment in effect, 2) failed to properly disclose political contributions and political expenditures on her campaign finance reports, 3) failed to timely file the July 2007 semiannual campaign finance report, 4) failed to file the July 2008 and January 2009 semiannual campaign finance reports, and 5) accepted a political contribution from a corporation.

III. Facts Supported by Credible Evidence

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

1. The respondent is a former member of the Galveston city council.

Campaign Expenditures When a Campaign Treasurer Appointment Was Not in Effect

2. The complaint alleged that the respondent made campaign expenditures totaling \$75 at a time when she did not have a campaign treasurer appointment in effect. The respondent's July 2007 semiannual report was not marked as a final report but the designation of final report page was completed and the respondent signed two of the three sections that are required to be signed. The report was stamped as received by the city secretary's office on August 23, 2007. The respondent's July 2007 semiannual report disclosed total political contributions maintained of \$243.92. The respondent's January 2008 semiannual report

disclosed on Schedule F (used to disclose political expenditures) a \$25 political expenditure on May 15, 2007, to Big Brothers Big Sisters for an advertisement (the address was not disclosed) and a \$50 political expenditure on July 13, 2007, to Tornette Booster Club without disclosing a purpose for the political expenditure or a payee address. The respondent's January 2008 semiannual report disclosed total political contributions maintained of \$170.20, a decrease of \$73.72.

3. On March 19, 2009, the respondent filed a corrected July 2007 semiannual report. The explanation of the correction stated in part, "7. Unsigned designation of final report." The report includes a designation of final report which is not signed. On March 19, 2009, the respondent also filed a corrected January 2008 semiannual report. The explanation of the correction stated in part, "No expenditures made."

Disclosure of Political Contributions and Political Expenditures

Political Expenditures

4. The complaint alleged that the respondent's July 2007 semiannual report disclosed 10 political expenditures without disclosing the addresses of the payees, and disclosed four political expenditures without disclosing the purposes of the expenditures.
5. Regarding the addresses, four of the expenditures were to payees to which no more than \$50 in expenditures were made during the reporting period. Regarding the purposes, one of the expenditures was made to a payee to which no more than \$50 was made during the reporting period. A \$115 political expenditure disclosed no purpose. Some of the expenditures disclosed the purpose in the wrong space.
6. The total political expenditures exceeding \$50 was \$1,910.
7. The respondent filed a corrected report properly disclosing the information, and correcting the expenditure totals to reflect the correct amount disclosed on Schedule F (\$2,060).
8. The complaint also alleged that the respondent failed to include the addresses and purposes for two political expenditures, neither of which exceeded \$50 to the payee during the reporting period, and that the political expenditure total was incorrect.

Disclosure of Total Political Expenditures of \$50 or Less

9. The complaint alleged that the respondent failed to disclose total political expenditures of \$50 or less, unless itemized, on her July 2007 and January 2008 semiannual reports.

10. The respondent's reports did not have an entry for this amount. There is no evidence that the respondent made political expenditures that she did not disclose.
11. The respondent filed corrected reports disclosing "0" for these amounts.

Disclosure of Contributions Maintained

12. The complaint alleged that the respondent under reported the amount of total political contributions maintained as of the last day of the reporting period on her July 2007 semiannual report by \$143.92, and under reported total political contributions maintained on her January 2008 semiannual report by at least \$142.64.
13. The respondent's July 2007 semiannual report disclosed that the total political contributions maintained amount was \$243.92. The respondent filed a corrected report disclosing that the correct amount was \$143.92. The correction affidavit indicated that the error was an addition error. The respondent's January 2008 semiannual report disclosed that the total political contributions maintained amount was \$170.20. The respondent filed a corrected report disclosing that the correct amount was \$143.92.

Filing of Campaign Finance Reports

14. The complaint alleged that the respondent failed to timely file her July 2007 semiannual report and failed to file her July 2008 and January 2009 semiannual reports. The respondent's July 2007 semiannual report is stamped as received by the Galveston city secretary's office on August 23, 2007. The July 2007 semiannual report included a partially completed and signed designation of final report page. The respondent's affidavit states in part, "Additionally, I filed those reports alleged in the complaint which were not previously filed (July 08 and January 09). According to section 254.095 Report Not Required . . . It was my understanding that neither report needed to be filed at this time." The respondent filed July 2008 and January 2009 semiannual reports, which are stamped as received by the Galveston city secretary's office on March 19, 2009, after the complaint was filed.

Acceptance of Corporate Contributions

15. The complaint alleged that on October 23, 2006, the respondent accepted a \$100 political contribution from the Galveston County Apartment Assoc., a corporation.
16. The respondent's January 2007 semiannual report disclosed that on October 23, 2006, the respondent accepted a \$100 political contribution from the Galveston County Apartment Assoc. The respondent submitted a letter from the contributor that stated that the contribution to the respondent came from the Galveston County Apartment Association's political committee account. Texas Secretary of State Records show that Galveston County Apartment Association Inc. is registered as a non-profit corporation.

17. Commission records show that the “Galveston County Apartment Association PAC” was dissolved in July 1999. The available evidence does not show that the respondent was aware that the political committee had dissolved, or of the source of the funds used to make the political contribution.

IV. Findings and Conclusions of Law

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

Campaign Expenditures When a Campaign Treasurer Appointment Was Not in Effect

1. Each candidate and each political committee shall appoint a campaign treasurer as provided by this chapter. ELEC. CODE § 252.001.
2. A candidate may not knowingly accept a campaign contribution or make or authorize a campaign expenditure at a time when a campaign treasurer appointment for the candidate is not in effect. *Id.* § 253.031 (a).
3. The respondent filed her July 2007 semiannual report on August 23, 2007. The report was not marked as a final report, but the respondent signed the final report page indicating that she expected no further activity as a candidate and acknowledging the ongoing filing requirement applicable to an officeholder. The respondent’s next report, her January 2008 semiannual report, disclosed two political expenditures totaling \$75. The dates of the expenditures are before the date that the respondent filed her August 23, 2007, report, and similar expenditures were also disclosed on the respondent’s July 2007 semiannual report. In response to the sworn complaint, the respondent filed a corrected July 2007 semiannual report indicating that she did not intend to file a final report.
4. Based on corrections made in response to the complaint, it appears that the respondent did not intend to file a final report. Regardless of whether she had an active campaign treasurer appointment on file, based on the dates of the expenditures as disclosed in the report, and absent evidence to the contrary, the expenditures were made before the respondent filed the July 2007 semiannual report on August 23, 2007. Therefore, there is credible evidence that the respondent did not violate sections 252.001 and 253.031 of the Election Code.

Disclosure of Political Contributions and Political Expenditures

Political Expenditures

5. Each report must include the amount of political expenditures that in the aggregate exceed \$50 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).

6. Each report must include the total amount of all political expenditures made during the reporting period. ELEC. CODE § 254.031(a)(6).
7. The respondent failed to disclose the addresses of political expenditure payees to which political expenditures exceeded \$50 during the reporting period for expenditures totaling \$1,910. The respondent failed to properly disclose the purpose of a \$115 political expenditure. Therefore, there is credible evidence that the respondent violated section 254.031(a)(3) of the Election Code as to these expenditures totaling \$2,025. The respondent disclosed all political expenditures on Schedule F of the July 2007 semiannual report and the total was \$2,060. However, the respondent disclosed that the total of political expenditures was \$1,960 on the report's cover sheet. The error was readily apparent when viewing the report. Therefore, there is credible evidence of a technical or *de minimis* violation of section 254.031(a)(6) of the Election Code.

Disclosure of Total Political Expenditures of \$50 or Less

8. Each report must include the total amount or a specific listing of the political expenditures of \$50 or less made during the reporting period. ELEC. CODE § 254.031(a)(5).
9. The respondent failed to indicate that there were no political expenditures of \$50 or less made during the reporting periods at issue. In viewing the reports, it is apparent that the respondent listed all expenditures on Schedule F. Therefore, there is credible evidence that the respondent committed technical or *de minimis* violations of section 254.031(a)(5) of the Election Code.

Disclosure of Contributions Maintained

10. Each report must include as of the last day of a 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. ELEC. CODE § 254.031(a)(8). A *de minimis* error in calculating or reporting a cash balance under section 254.031(a)(8) of the Election Code is not a violation of this section. ELEC. CODE § 254.031(a-1).
11. The complaint alleged that the respondent under reported political contributions maintained. The allegation appears to be based on totals taken from previous reports, but the complainant provided no additional evidence to support the allegation, and the total cannot necessarily be computed by simply looking at the report totals.
12. The evidence shows that the respondent over reported the total political contributions maintained amount on her July 2007 semiannual report by \$100 and over reported this amount on her January 2008 semiannual report by \$26.28. In context, the amounts at issue are small, appear to result from addition errors, and are *de minimis*. Therefore, there is

credible evidence that the respondent did not violate section 254.031(8) of the Election Code.

Filing of Campaign Finance Reports

13. A candidate shall file two reports for each year as provided by this section. The first report shall be filed not later than July 15. The second report shall be filed not later than January 15. ELEC. CODE § 254.063.
14. If a candidate expects no reportable activity in connection with the candidacy to occur after the period covered by a report filed under subchapter E of the Election Code, the candidate may designate the report as a final report. ELEC. CODE § 254.065. A local officeholder who terminates her campaign treasurer appointment is not required to file semiannual reports if she does not accept officeholder contributions or make officeholder expenditures exceeding \$500 during the period covered by the report. ELEC. CODE §§ 254.093, 254.095.
15. The respondent had a campaign treasurer appointment in effect at the time the July 2007 semiannual report was due. Therefore, the respondent was required to file the July 2007 semiannual report as a candidate. The respondent filed the July 2007 semiannual report on or about August 23, 2007, approximately five weeks after the due date.
16. The July 2007 semiannual report included a final report affidavit. The respondent later indicated in her corrections that she “unsigned” the declaration. If the respondent did not intend the report to be a final report, then she had a continuing responsibility to file semiannual reports as a candidate. The fact that the respondent filed the January 2008 semiannual report, and her corrections indicating that she did not intend to file a final report, is evidence that the July 2008 and January 2009 semiannual reports were required. The activity disclosed by these reports is minimal. Nevertheless, there is credible evidence that the respondent violated section 254.063 of the Election Code with respect to the July 2007, July 2008, and January 2009 semiannual reports by not timely filing the reports.

Acceptance of Corporate Contributions

17. 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(b).
18. A corporation may not make a political contribution or political expenditure that is not authorized by subchapter D, chapter 253, Election Code. ELEC. CODE § 253.094.
19. The evidence is insufficient to show that corporate funds were used to make the contribution, or, if corporate funds were used, that the respondent was aware of the source of the funds used to make the contribution. Therefore, there is insufficient evidence that the respondent violated sections 253.003(b) and 253.094 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 each report must include the amount of political expenditures that in the aggregate exceed \$50 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 acknowledges that each report must include the total amount of all political expenditures made during the reporting period and that each report must include the total amount or a specific listing of the political expenditures of \$50 or less made during the reporting period. The respondent also acknowledges that a candidate shall file two reports for each year as provided by section 254.063 of the Election Code, and that the first report shall be filed not later than July 15, and the second report shall be filed not later than January 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 seriousness of the violations described under Sections III and IV, including the nature, circumstances, and consequences of the violations, and after considering the sanction necessary to deter future violations, the commission imposes a \$100 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-290236.

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

Patricia Bolton-Legg, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director