

TEXAS ETHICS COMMISSION

IN THE MATTER OF
JARVIS JOHNSON,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-290467

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on October 21, 2010, to consider sworn complaint SC-290467. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 253.032, 253.035(a), 254.031, 254.063, and 254.064 of the Election Code, and section 20.62 of the Ethics Commission Rules, as well as 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) did not properly disclose political contributions, political expenditures, and loans in campaign finance reports, (2) failed to include information regarding political contributions from out-of-state political committees on his campaign finance reports, (3) failed to timely file campaign finance reports, (4) converted political contributions to personal use, and (5) accepted political contributions from corporations or labor organizations.

III. Facts Supported by Credible Evidence

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

1. The respondent is a Houston city council member and has held that office since November 2005. He was re-elected in 2007 and 2009.

July 2007 Semiannual Report

2. The report disclosed:
 - \$250 - total political contributions of \$50 or less, unless itemized
 - \$54,401 - total political contributions (corrected to \$59,931)

- \$0 - total political expenditures of \$50 or less, unless itemized (most recent correction \$0)
 - \$16,172 - total political expenditures
 - \$54,404 - total political contributions maintained (corrected to \$54,654)
 - \$0 - total principal amount of all outstanding loans (most recent correction \$0)
3. The complaint alleged that the respondent failed to properly disclose total political contributions maintained, failed to include required information on the report for contributions from out-of-state committees, improperly disclosed reimbursements, accepted political contributions from a corporation or labor organization, and converted political contributions to personal use.
 4. Schedule A (used for reporting political contributions) disclosed \$59,931 in political contributions.
 5. Schedule F (used for reporting political expenditures) disclosed \$13,195 in political expenditures including the following political expenditures that the complaint alleged were improperly disclosed reimbursements.
 - \$60 to an individual for “Re-imbusement for purchase of coffee and donuts”
 - \$200 to an individual for “Bus transportation for elderly residents on neighborhood tour”
 - \$45 to an individual for “Easter baskets for elderly residents”
 - \$560 to an individual for “Re-imbusement for advertising in church program”
 - \$150 to an individual for “Re-imbusement for banners & supplies at Lyons Street Festival”
 - \$60 to an individual for “Re-imbusement for gasoline for bus transportation of elderly residents”
 - \$600 to an individual for “Home repair for elderly resident”
 6. The respondent’s affidavit acknowledged that he incorrectly disclosed the four political expenditures totaling \$830 that stated they were reimbursements. The respondent filed a corrected report disclosing the actual vendor’s information.
 7. The remaining expenditures at issue were made directly to individuals who provided goods or services.
 8. Schedule F also disclosed a political expenditure of \$250 to First Impressions Custom Clothier for the purpose of “Dress shirts when speaking during formal public events,” which the complaint alleged was a conversion of political contributions to personal use.

9. The complaint alleged that a \$500 political contribution from Central Landscape & Maintenance with an address of Houston, Texas 77026, and a \$1,000 political contribution from “transport Workers Union State” with an address of Houston, Texas 77018, were prohibited contributions from corporations or labor organizations.
10. The respondent submitted several sworn statements in response to the complaint. In an initial statement he swore the check from Central Landscape & Maintenance did not have “Inc.” printed on it. In a subsequent statement he swore that Central Landscape & Maintenance is ‘solely owned by the owner.’ Records of the Texas Secretary of State (SOS) show that Central Landscape and Maintenance became incorporated on January 7, 2008, after the contribution at issue. The respondent’s statement indicated that the contribution from the union was actually from its political committee. The July 2007 semiannual report for Transport Workers Unions State PAC that was filed with the commission disclosed a \$1,000 political contribution to the respondent.
11. The complaint alleged that in disclosing a \$500 political contribution on May 3, 2007, from CWA-COPE PCC with an address of Washington, DC 20001, a \$1,000 political contribution on May 27, 2007, from Union Pacific Corporation Fund For Effective Government (UPCFEG) with an address of Washington, DC 20005, and a \$1,000 political contribution on April 16, 2007, from Washington Group International PAC with an address of Arlington, Virginia 22202 (the report actually shows two contributions), the respondent failed to include out-of-state political committee information.
12. The respondent’s affidavit stated, “The FEC ID numbers for the three PACs in question were inadvertently omitted from the original report. All documentation has been maintained by the campaign as required by state law.”
13. The Union Pacific Corporation Fund For Effective Government had a campaign treasurer appointment on file with the commission during the time at issue and its May 2007 monthly report disclosed a \$1,000 contribution to the respondent on April 17, 2007. Federal Election Commission (FEC) records show that a political committee with the same name also disclosed a \$1,000 contribution to the respondent on the same day.
14. The FEC identification number for Washington Group International is actually for a committee named Washington Division of URS Corporation Political Action Committee. The committee’s report for the period at issue disclosed a \$1,000 contribution to the respondent.
15. Communications Workers of America-COPE Political Contributions Committee (CWA-COPE PCC) is an out-of-state political committee that files with the FEC. The committee’s report for the period at issue disclosed a \$500 contribution to the respondent.

16. The respondent's report did not provide the additional information required when reporting a contribution from an out-of-state political committee that is filed with the FEC with his original report. The respondent corrected his report to include copies of the statements of organization for Washington Division of URS Corporation Political Action Committee and Communications Workers of America – COPE Political Contributions Committee.
17. The respondent submitted a copy of a personal check for \$250 made out to the respondent's campaign and stated in his affidavit that the expenditure to First Impressions Custom Clothier was refunded to the campaign.

30-day Pre-election Report, and Corrected 30-day Pre-election Report, November 2007 Election

18. The reports disclosed:
 - Blank - total political contributions of \$50 or less, unless itemized (corrected to \$0; most recent correction \$0)
 - Blank - total political contributions (corrected to \$5,850)
 - Blank - total political expenditures of \$50 or less, unless itemized (corrected to \$0)
 - Blank - total political expenditures (most recent correction, \$15,314.85)
 - \$42,780 - total political contributions maintained (most recent correction, \$45,189.15)
 - \$0 - total principal amount of all outstanding loans (most recent correction \$0)
19. The complaint alleged that the respondent filed the report late, failed to disclose total political contributions and total political expenditures of \$50 or less, failed to disclose total political contributions and total political expenditures, failed to properly disclose total political contributions maintained, failed to timely report political expenditures, and improperly disclosed reimbursements.
20. Schedule A of the original report disclosed \$5,850 in political contributions. The report did not disclose any loans.
21. Schedule F of the original report disclosed \$3,233 in political expenditures including a \$171 political expenditure to an individual for the purpose of "Re-imbusement: Food & Decorations for Reception" which the complaint alleged was an improperly disclosed reimbursement. The respondent's affidavit acknowledged that this expenditure was a reimbursement and stated that the actual vendor paid will be reported on a corrected report, which the respondent has filed.

22. On November 9, 2007, the respondent filed a corrected 30-day pre-election report for the November 2007 election. The report disclosed \$12,081.85 for total political expenditures. These were expenditures that were not reported on the original report, but the corrected total did not include the expenditures disclosed in the original report (they are in the most recent correction). The report also disclosed \$42,780 for total political contributions maintained as of the last day of the reporting period which is the same amount that was reported on the original report. The report did not disclose any political contributions accepted or loans made during the reporting period.
23. Schedule F of the corrected report disclosed \$12,081.85 in political expenditures that were not disclosed on the original report including a \$1,250 political expenditure to an individual for the purpose of "Sponsorship of football uniforms for [Inwood] Dad's Club Little League Football" which the complaint alleged was an improperly disclosed reimbursement. The respondent's corrected 30-day pre-election report disclosed a \$1,250 political expenditure to an individual for "Sponsorship of football uniforms for [Inwood] Dad's Club Little League Football." The respondent's affidavit acknowledged that this expenditure was a reimbursement and stated that the actual vendor paid will be reported on a corrected report, which he has filed.
24. Regarding total political contributions of \$50 or less, the respondent's affidavit stated that this amount was \$0 on each of these reports so a total was not included in this field. The respondent corrected the error.
25. Regarding total political contributions, the respondent's affidavit stated, "This report failed to disclose the total amount of political contributions because it was assumed that the software would calculate the totals when filed. A corrected report will be filed to reflect the total amount of political contributions." The respondent corrected the error.
26. Regarding total political expenditures of \$50 or less, the respondent's affidavit stated that this amount was \$0 on each of these reports so a total was not included in this field. The respondent corrected the error.
27. Regarding total political expenditures, the respondent's affidavit stated that these expenditures were inadvertently omitted from the original report. The respondent corrected the error.
28. Regarding total political contributions maintained, the respondent originally stated that the amount disclosed was correct, but subsequently changed the amount in a corrected report.

8-day Pre-election Report, and Corrected 8-day Pre-election Report, November 2007 Election

29. The reports disclosed:
- Blank - total political contributions of \$50 or less, unless itemized (corrected to \$0)
 - \$7,601 - total political contributions (corrected to \$10,000; most recent correction \$17,601)
 - Blank - total political expenditures of \$50 or less, unless itemized (corrected to \$0)
 - \$5,309.25 - total political expenditures (corrected to \$4,745.36; most recent correction \$10,054.61)
 - \$38,247 - total political contributions maintained (corrected to \$50,297.41; most recent correction \$52,735.34)
 - Blank - total principal amount of all outstanding loans (corrected to \$0)
30. The complaint alleged that the respondent filed the report late, failed to disclose total political contributions and total political expenditures of \$50 or less, failed to disclose total political contributions and total political expenditures, failed to disclose total political contributions maintained, failed to disclose outstanding loans, failed to disclose political contributions, failed to disclose political expenditures, and accepted a political contribution from a corporation.
31. Schedule A of the original report disclosed \$7,601 in political contributions including a \$1,000 political contribution from Central Landscape & Maintenance which the sworn complaint alleged was a prohibited contribution from a corporation or labor organization. As noted above, the contributor was not incorporated at the time that it made the political contribution. The report did not disclose any loans.
32. On November 9, 2007, the respondent filed a corrected 8-day pre-election report for the November 2007 election. Schedule A disclosed two \$5,000 political contributions that were not disclosed on the original report. The report disclosed \$10,000 for total political contributions which did not include the total political contributions disclosed on the original report. The report disclosed \$4,745.36 for total political expenditures which did not include the total political expenditures disclosed on the original report. The report disclosed \$50,297.41 for total political contributions maintained. The original report disclosed \$38,247 for this amount. The report did not disclose any loans.
33. On October 6, 2010, the respondent filed another corrected 8-day pre-election report for the November 2007 election. The report disclosed \$52,735.34 for total political contributions maintained.

34. Regarding total political contributions of \$50 or less, the respondent's affidavit stated that this amount was \$0 on each of these reports so a total was not included in this field. The respondent corrected the error.
35. Regarding total political contributions, the respondent's acknowledged that the amount was incorrect because two \$5,000 contributions were not included in the original report. The respondent corrected the error.
36. Regarding total political expenditures of \$50 or less, the respondent's affidavit stated that this amount was \$0 on each of these reports so a total was not included in this field. The respondent corrected the error.
37. Regarding total political expenditures, the respondent acknowledged that the amount was incorrect because \$4,745.36 of expenditures were not included in the report. The respondent corrected the error.
38. The respondent acknowledges that total political contributions maintained was incorrectly disclosed in the original report. The respondent corrected the error.
39. The respondent swore there were no loans to disclose so the field was left blank. The respondent corrected the error.

January 2008 Semiannual Report

40. The report disclosed:
 - Blank - total political contributions of \$50 or less, unless itemized (corrected to \$0)
 - \$1,700 - total political contributions
 - Blank - total political expenditures of \$50 or less, unless itemized (corrected to \$0)
 - \$4,217.32 - total political expenditures
 - \$34,700 - total political contributions maintained (corrected to \$50,218.22)
 - Blank - total principal amount of all outstanding loans (corrected to \$0)
41. The complaint alleged that the respondent failed to disclose total political contributions and total political expenditures of \$50 or less, failed to properly disclose total political contributions maintained, failed to disclose outstanding loans, and improperly disclosed reimbursements.
42. Schedule A disclosed \$1,700 in political contributions. The report did not disclose any loans.

43. Schedule F disclosed \$3,967.32 in political expenditures including the following that the complaint alleged were improperly disclosed reimbursements.
- \$200 to an individual for “Food for election day poll workers”
 - \$200 to an individual for “Food for after-party on election night”
 - \$100 to an individual for “Food for after-party on election night”
 - \$250 to an individual for “Disc-Jockey for election night victory party”
 - \$100 to Jarvis Johnson for “Gasoline for political campaign activities”
 - \$30.82 to an individual for “Picture processing: State of Dist. B breakfast”
 - \$51.50 to an individual for “Council Staff luncheo[n] at Star Pizza”
 - \$60 to an individual for “Transport of table to Christmas Seniors Party”
44. The respondent’s affidavit acknowledged that a \$200 expenditure and a \$100 expenditure were reimbursements. The respondent’s affidavit acknowledged that the \$51.50 political expenditure was a reimbursement for a campaign meeting but stated “We believe this expenditure is correct as originally filed.” The report did not disclose the ultimate payee for these three expenditures. The respondent corrected the errors.
45. The remaining expenditures were made to the individuals that actually provided the service.
46. As to the \$100 expenditure to himself the respondent’s affidavit stated, “This expenditure was made for gas cards that were given to campaign staff members for GOTV efforts. This was a political expenditure from personal funds.” The respondent submitted a copy of a check reimbursing his campaign fund for the \$100.
47. Regarding total political contributions of \$50 or less, the respondent’s affidavit stated that this amount was \$0 on each of these reports so a total was not included in this field. The respondent corrected the error.
48. Regarding total political expenditures of \$50 or less, the respondent’s affidavit stated that this amount was \$0 on each of these reports so a total was not included in this field. The respondent corrected the error.
49. The respondent acknowledged that total political contributions maintained was incorrectly disclosed in the original report. The respondent corrected the error.
50. The respondent swore there were no loans to disclose so the field was left blank. The respondent corrected the error.

July 2008 and January 2009 Semiannual Reports

51. At the time that the complaint was filed, the respondent had not filed the July 2008 and January 2009 semiannual reports. On May 5, 2009, the respondent filed those reports.

IV. Findings and Conclusions of Law

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

Political Contributions

Disclosure of Political Contributions

1. The complaint alleged that the respondent failed to timely disclose political contributions on his 8-day pre-election report for the November 2007 election.
2. Each 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).
3. The respondent filed a corrected 8-day pre-election report for the November 2007 election after the report's due date disclosing \$10,000 of political contributions that were not on the original report. There is credible evidence of a violation of section 254.031(a)(1) of the Election Code.

Disclosure of Total Political Contributions of \$50 or Less

4. The complaint alleged that the respondent failed to disclose the total amount of political contributions of \$50 or less accepted during the reporting period on his 30-day and 8-day pre-election reports for the November 2007 election and January 2008 semiannual report.
5. Each report must include the total amount or a specific listing of the political contributions of \$50 or less accepted during the reporting period. ELEC. CODE § 254.031(a)(5).
6. On all the reports at issue, the respondent left blank the spaces for disclosing total political contributions of \$50 or less (unless itemized). The amount should have been disclosed as \$0. The respondent has corrected the errors. There is credible evidence of technical or *de minimis* violations of section 254.031(a)(5) of the Election Code.

Disclosure of Total Political Contributions

7. The complaint alleged that the respondent failed to properly disclose total political contributions on his 30-day and 8-day (original and corrected) pre-election reports for the November 2007 election.

8. Each report must include the total amount of all political contributions accepted during the reporting period. ELEC. CODE § 254.031(a)(6).
9. On the 30-day pre-election report, the respondent left blank the space for disclosing total political contributions. Schedule A of the report disclosed \$5,850 of political contributions. The respondent's affidavit stated that total political contributions of \$50 or less, unless itemized, was \$0. Therefore, the total political contributions amount was at least \$5,850. The respondent corrected the error. There is credible evidence that the respondent violated section 254.031(a)(6) of the Election Code as to this report.
10. On the 8-day pre-election report, the respondent's original report disclosed \$7,601 for total political contributions. The respondent filed a corrected report disclosing \$10,000 of political contributions on Schedule A that were not disclosed on the original report. The respondent's affidavit stated that total political contributions of \$50 or less, unless itemized, was \$0. Therefore, the total political contributions amount was at least \$17,601. The respondent has corrected the error. There is credible evidence that the respondent violated section 254.031(a)(6) of the Election Code as to this report.

Disclosure of Political Contributions Maintained

11. The complaint alleged that the respondent failed to disclose the total amount of political contributions maintained as of the last day of the reporting period on the July 2007 and January 2008 semiannual reports, and the 30-day and 8-day pre-election reports for the November 2007 election.
12. Each 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).
13. The respondent filed a corrected July 2007 semiannual report changing the contributions maintained amount from \$54,404 to \$54,654.
14. The respondent filed a corrected 30-day pre-election report for the November 2007 election changing the contributions maintained amount from \$42,780 to \$45,189.15.
15. The respondent filed a corrected 8-day pre-election report for the November 2007 election changing the contributions maintained amount from \$38,247 to \$52,735.34.
16. The respondent filed a corrected January 2008 semiannual report changing the contributions maintained amount from \$34,700 to \$50,218.22, the amount the complaint alleged it should be.

17. There is credible evidence of violations of section 254.031(a)(8) of the Election Code as to the reports at issue.

Political Expenditures

Disclosure of Political Expenditures

18. The complaint alleged that the respondent failed to timely report political expenditures on his 30-day and 8-day pre-election reports for the November 2007 election.
19. 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).
20. The respondent filed a corrected 30-day pre-election report disclosing \$12,081.85 of political expenditures that were not on the original report. The respondent filed a corrected 8-day pre-election report disclosing \$4,745.36 of political expenditures that were not on the original report. There is credible evidence of violations of section 254.031(a)(3) of the Election Code.

Disclosure of Total Political Expenditures of \$50 or Less

21. The complaint alleged that the respondent failed to disclose the total amount of political expenditures of \$50 or less made during the reporting period on his 30-day and 8-day (original and corrected) pre-election reports and January 2008 semiannual report.
22. 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).
23. On all the reports at issue, the respondent left blank the spaces for disclosing total political expenditures of \$50 or less (unless itemized). The amount should have been disclosed as \$0. The respondent has corrected the errors. There is credible evidence of technical or *de minimis* violations of section 254.031(a)(5) of the Election Code.

Disclosure of Total Political Expenditures

24. The complaint alleged that the respondent failed to properly disclose total political expenditures on his 30-day and 8-day (original and corrected) pre-election reports for the November 2007 election.

25. Each report must include the total amount of all political expenditures made during the reporting period. ELEC. CODE § 254.031(a)(6).
26. On the 30-day pre-election report, the respondent left blank the space for disclosing total political expenditures. Schedule F of the report disclosed \$3,233 of political expenditures. The respondent had filed a corrected report before the complaint was filed disclosing \$12,081.85 of political expenditures on Schedule F that were not disclosed on the original report, and disclosed that amount in the totals section of the report. That amount did not include the original \$3,233. The respondent's affidavit stated that total political expenditures of \$50 or less, unless itemized, was \$0. Therefore, the total political expenditures amount was at least \$15,314.85. The corrected report disclosed \$12,081.85 for total political expenditures. The respondent has corrected the error.
27. On the 8-day pre-election report, the respondent disclosed \$5,309.25 for total political expenditures. The respondent filed a corrected report disclosing \$4,745.36 of political expenditures on Schedule F that were not disclosed on the original report, and disclosed that amount in the totals section of the report. That amount did not include the original \$5,309.25. The respondent's affidavit stated that total political expenditures of \$50 or less, unless itemized, was \$0. Therefore, the total political expenditures amount was at least \$10,054.61. The corrected report disclosed \$4,745.36 for total political expenditures. The respondent's affidavit stated that the expenditure total was incorrect because expenditures were inadvertently omitted. The respondent has corrected the error.
28. There is credible evidence of violations of section 254.031(a)(6) of the Election Code regarding the two reports.

Disclosure of Reimbursed Political Expenditures

29. The complaint alleged that the respondent improperly disclosed political expenditures which were reimbursements in the 30-day pre-election report for the November 2007 election and in the semiannual reports due in July 2007 and January 2008.
30. Political expenditures made out of personal funds by a staff member of a candidate, officeholder, or political committee with the intent to seek reimbursement from the candidate, officeholder, or political committee that in the aggregate do not exceed \$5,000 (\$500 until November 18, 2007) during the reporting period may be reported as follows if the reimbursement occurs during the same reporting period that the initial expenditure was made:
 - (1) 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; and

- (2) Included with the total amount or a specific listing of the political expenditures of \$50 or less made during the reporting period.

Ethics Commission Rules § 20.62(a).¹

31. The July 2007 semiannual report disclosed four political expenditures totaling \$830 that stated as part of the description of the purpose of the expenditures that they were reimbursements. The report did not disclose the actual payee for these four expenditures. Therefore, there is credible evidence of violations of section 254.031(a)(3) of the Election Code and section 20.62 of the Ethics Commission Rules, as to these expenditures. The respondent corrected these errors.
32. The July 2007 semiannual report also disclosed political expenditures to individuals that were not reimbursements. Therefore, there is credible evidence of no violation of section 254.031(a)(3) of the Election Code and section 20.62 of the Ethics Commission Rules as to these expenditures.
33. The respondent's original 30-day pre-election report disclosed a \$171 political expenditure that stated as part of the description of the purpose of the expenditure that it was a reimbursement. The actual payee was not disclosed. Therefore, with regard to this expenditure, there is credible evidence of a violation of section 254.031(a)(3) of the Election Code and section 20.62 of the Ethics Commission Rules. The respondent corrected this error.
34. The respondent's corrected 30-day pre-election report disclosed a \$1,250 political expenditure to an individual for "Sponsorship of football uniforms for [Inwood] Dad's Club Little League Football." The report did not disclose the actual payee for this expenditure. Therefore, with regard to this expenditure, there is credible evidence of a violation of section 254.031(a)(3) of the Election Code and section 20.62 of the Ethics Commission Rules. The respondent corrected this error.
35. The respondent's January 2008 semiannual report disclosed a \$200 political expenditure to an individual for "Food for election day poll workers" and a \$100 political expenditure to an individual for "Food for after-party on election night." The report also disclosed a \$51.50 political expenditure to an individual for "Council Staff luncheon at Star Pizza." The report did not disclose the actual payee for these three expenditures. Therefore, with regard to these expenditures, there is credible evidence of violations of section 254.031(a)(3) of the Election Code and section 20.62 of the Ethics Commission Rules. The respondent corrected the errors.

¹ Ethics Commission Rule § 20.62 originally became effective on February 25, 2007. Prior to its adoption, Ethics Advisory Opinion No. 450 (2003) described the proper way to report staff reimbursement. On October 26, 2007, the rule was amended to raise the threshold for reporting staff reimbursements as a loan from \$500 to \$5,000. The change became effective on November 18, 2007.

36. The respondent's January 2008 semiannual report also disclosed political expenditures to individuals that were not reimbursements. Therefore, with regard to these expenditures, there is credible evidence of no violation of section 254.031(a)(3) of the Election Code and section 20.62 of the Ethics Commission Rules.
37. The report also disclosed a \$100 political expenditure to the respondent for "Gasoline for political campaign activities." The respondent's affidavit stated, "This expenditure was made for gas cards that were given to campaign staff members for GOTV efforts. This was a political expenditure from personal funds." The report did not disclose the actual payee for this expenditure. Therefore, with regard to this expenditure, there is credible evidence of a violation of section 254.031(a)(3) of the Election Code. The respondent has not corrected the error.

Disclosure of Total Outstanding Loans

38. The complaint alleged that the respondent failed to disclose the total principal amount of all outstanding loans on his 8-day pre-election report for the November 2007 election and January 2008 semiannual report.
39. Each report must include the aggregate principal amount of all outstanding loans as of the last day of the reporting period. ELEC. CODE § 254.031(a)(2).
40. The respondent left the space for total outstanding loans blank on both reports. The amount should have been disclosed as \$0. There is credible evidence of technical or *de minimis* violations of section 254.031(a)(2) of the Election Code. The respondent has corrected the errors.

Timely Filing of Reports

41. The complaint alleged that the respondent failed to timely file his 30-day and 8-day pre-election reports for the November 2007 election.
42. In addition to other required reports, for each election in which a person is a candidate and has an opponent whose name is to appear on the ballot, the person shall file two reports. ELEC. CODE § 254.064(a). The first report must be received by the authority with whom the report is required to be filed not later than the 30th day before election day. ELEC. CODE § 254.064(b). The second report must be received by the authority with whom the report is required to be filed not later than the eighth day before election day. ELEC. CODE § 254.064(c).
43. If the deadline for a report falls on a Saturday, Sunday, or a legal state or national holiday, the report is due on the next regular business day. Ethics Commission Rules § 20.21(a).

44. Due to a weekend and holiday, the due date for the 30-day pre-election report for the November 6, 2007, election was October 9, 2007. The respondent's 30-day pre-election report was received by the filing authority on October 9, 2007. However, the respondent filed a corrected 30-day pre-election report on November 9, 2007. Therefore, the respondent did not file a complete and accurate report by the deadline.
45. The deadline for the 8-day pre-election report was October 29, 2007. The respondent's 8-day pre-election report was received on October 30, 2007. The respondent also filed a corrected 8-day pre-election report on November 9, 2007.
46. There is credible evidence of violations of section 254.064 of the Election Code.
47. The complaint alleged that the respondent failed to file the July 2008 and January 2009 semiannual reports.
48. A candidate is required to file two reports each year. The first report is required to be filed by July 15 and the second report is required to be filed by January 15. ELEC. CODE § 254.063.
49. The respondent filed his July 2008 and January 2009 semiannual reports on May 5, 2009. There is credible evidence of violations of section 254.063 of the Election Code.

Out-of-State Political Committee Information

50. The complaint alleged that the respondent failed to include information regarding political contributions from out-of-state political committees on his July 2007 semiannual report.
51. Out-of-state political committee means a political committee that makes political expenditures outside this state and in the 12 months immediately preceding the making of a political expenditure by the committee inside this state (other than an expenditure made in connection with a campaign for a federal office or made for a federal officeholder) makes 80 percent or more of the committee's total political expenditures in any combination of elections outside this state and federal offices not voted on in this state. ELEC. CODE § 251.001(15).
52. A candidate that accepts political contributions totaling \$500 or less from an out-of-state political committee shall include as part of the report that covers the reporting period in which the contribution is accepted the same information for the out-of-state political committee required for general-purpose committees by sections 252.002 and 252.003 of the Election Code, or a copy of the out-of-state committee's statement of organization filed as required by law with the Federal Election Commission and certified by an officer of the out-of-state committee. *Id.* § 253.032(e).

53. In a reporting period, a candidate, officeholder, or political committee may not knowingly accept political contributions totaling more than \$500 from an out-of-state political committee unless, before accepting a contribution that would cause the total to exceed \$500, the candidate, officeholder, or political committee, as applicable, receives from the out-of-state committee a written statement, certified by an officeholder of the out-of-state committee, listing the full name and address of each person who contributed more than \$100 to the out-of-state committee during the 12 months immediately preceding the date of the contribution; or a copy of the out-of-state committee's statement of organization filed as required by law with the Federal Election Commission and certified by an officer of the out-of-state committee. ELEC. CODE § 253.032(a).
54. A candidate, officeholder, or political committee shall include the statement or copy required by Subsection (a) as a part of the report filed under Chapter 254 that covers the reporting period to which Subsection (a) applies. *Id.* § 253.032(d).
55. The respondent's affidavit stated, "The FEC ID numbers for the three PACs in question were inadvertently omitted from the original report. All documentation has been maintained by the campaign as required by state law."
56. A person who files a report with the commission by electronic transfer and who accepts political contributions from an out-of-state political committee required to file its statement of organization with the Federal Election Commission shall either enter the out-of-state committee's federal PAC identification number in the appropriate place on the report or timely file a certified copy of the out-of-state committee's statement of organization that is filed with the Federal Election Commission. Ethics Commission Rules § 20.29(a).
57. The respondent does not file his reports with the commission. Therefore, the provision for entering the out-of-state committee's federal PAC identification number in the appropriate place on the report instead of submitting the required documentation is not applicable.
58. One of the committees (UPCFFEG) filed with both the commission and the FEC and disclosed the contribution on its filing with both the commission and the FEC. If the committee is both an FEC committee and a Texas committee, then it is not an out-of-state committee for purposes of the requirement at issue, although it may file reports in both jurisdictions. Therefore, there is credible evidence of no violation of the statute with respect to that contribution. The other two committees at issue were out-of-state committees and the required information was not provided for their contributions. The contributions at issue totaled \$1,500. There is credible evidence of violations of section 253.032 of the Election Code. The respondent has corrected these errors.

Personal Use of Political Contributions

59. The complaint alleged that the expenditure of \$250 of political contributions to First Impressions Custom Clothier for “Dress shirts when speaking during formal public events,” which was disclosed on the July 2007 semiannual report, was a conversion of political contributions to personal use.
60. 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). The prohibitions include the personal use of an asset purchased with the contribution and the personal use of any interest and other income earned on the contribution. *Id.* § 253.035(c).
61. “Personal use” means a use that primarily furthers individual or family purposes not connected with the performance of duties or activities as a candidate for or holder of a public office. *Id.* § 253.035(d).
62. Personal use does not include payments made to defray ordinary and necessary expenses incurred in connection with activities as a candidate or in connection with the performance of duties or activities as a public officeholder, including payment of reasonable housing or household expenses incurred in maintaining a residence in Travis County by members of the legislature who do not ordinarily reside in Travis County. *Id.* § 253.035(d)(1).
63. The commission has determined that it is permissible under title 15 of the Election Code: for an officeholder to use political contributions to pay clothing expenses if the clothing (1) is of a type appropriate for the performance of duties or activities of the office held, (2) is not adaptable to general usage as ordinary clothing, and (3) is not so worn; and clothing expenses are permissible as campaign expenditures if the clothing (1) is used for campaign purposes, (2) is not adaptable to general usage as ordinary clothing, and (3) is not so worn. Ethics Advisory Opinion No. 407 (1998) (EAO 407).
64. Dress shirts are adaptable to general usage as ordinary clothing. Therefore, a candidate or officeholder may not use political contributions to pay for that type of clothing. The respondent provided evidence that he reimbursed his political contributions for the expenditure. There is credible evidence of a violation of section 253.035(a) of the Election Code.

Acceptance of Corporate and Labor Organization Contributions

65. The complaint alleged that the respondent accepted two political contributions from a corporation, Central Landscape & Maintenance, and a political contribution from a labor organization, Transport Workers Union State.

66. 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).
67. 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.
68. Central Landscape & Maintenance was not incorporated when it made the contribution to the respondent and the political contribution from Transport Workers Union State was from its political committee. Therefore, there is credible evidence of no violation of sections 253.003(b) and 253.094 of the Election Code as to these contributions.

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 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; the aggregate principal amount of all outstanding loans as of the last day of the reporting period; 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 total amount or a specific listing of the political contributions of \$50 or less accepted and the total amount or a specific listing of the political expenditures of \$50 or less made during the reporting period; the total amount of all political contributions accepted and the total amount of all political expenditures made during the reporting period; and, 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 also acknowledges that in addition to other required reports, for each election in which a person is a candidate and has an opponent whose name is to appear on the ballot, the person shall file two reports, the first report must be received by the authority with whom the report is required to be filed not later than the 30th day before election day and the second report must be received by the authority with whom the report is required to be filed not later than the eighth day before election day. The respondent acknowledges that the proper way to report political contributions from out-of-

state political committees is in accordance with section 253.032 of the Election Code. The respondent further acknowledges that a person who accepts a political contribution as a candidate or officeholder may not convert the contribution to personal use, and that the proper way to report reimbursements to staff is in accordance with section 20.62 of the Ethics Commission Rules. 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 \$2,400 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 \$2,400 civil penalty no later than September 23, 2011, and waives any right to a hearing related to this sworn complaint. The respondent also acknowledges that if the \$2,400 civil penalty is not received by September 23, 2011, the matter of the collection of the civil penalty will be referred to the Office of the Attorney General of Texas.

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-290467.

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

Jarvis Johnson, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director