

TEXAS ETHICS COMMISSION

IN THE MATTER OF
DON SURRATT,
RESPONDENT

§
§
§
§
§

BEFORE THE
TEXAS ETHICS COMMISSION
SC-290473

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on December 2, 2009, to consider sworn complaint SC-290473. A quorum of the commission was present. The commission determined that there is credible evidence of violation of section 254.031(a)(3) of the Election Code, a law 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 failed to properly disclose political contributions and political expenditures.

III. Facts Supported by Credible Evidence

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

1. The respondent was a successful incumbent candidate for mayor in Lumberton, Texas, in an election held on May 9, 2009.
2. The complaint alleged that the respondent failed to properly disclose political contributions and political expenditures on his 30-day pre-election report for the May 9, 2009, election.
3. The respondent filed the 30-day pre-election report for the May 9, 2009, election with the local filing authority on April 8, 2009. The report consisted of the cover sheet, pages one and two, and did not itemize any political contributions or expenditures. The report disclosed the following:
 - \$2,850 in total political contributions of \$50 or less
 - \$2,850 in total political contributions

- A blank field for total political expenditures of \$50 or less (corrected to a line through the field)
 - \$2,049.34 in total political expenditures (corrected to \$2,146.63)
 - \$800.66 in total political contributions maintained as of the last day of the reporting period (corrected to \$703.37)
 - A blank field for outstanding loans (corrected to \$0)
4. The report did not include a Schedule F (used to disclose details of political expenditures made from political contributions).
 5. The respondent filed one correction to the report at issue on April 24, 2009, but did not include a correction affidavit. The corrected report disclosed 13 political expenditures on Schedule F totaling approximately \$2,147 for t-shirts for political advertisement, signs and cards for political advertisement, cable ties to anchor political signs, yard signs for political advertisement, printed handouts for political advertisement, and political newspaper advertisements.
 6. In response to the allegation, the respondent swore that, as for the contributions he received, he did not receive more than \$50.00 from any person. The respondent also swore that his failure to file the Schedule F to itemize his expenditures was an oversight.

IV. Findings and Conclusions of Law

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

1. Each 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, the full name and address of the person making the contributions, and the dates of the contributions. ELEC. CODE § 254.031(a)(1).
2. Each campaign finance 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).
3. Each campaign finance 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).
4. The 30-day pre-election report for the May 9, 2009, election disclosed \$2,850 in total political contributions. The respondent swore that he did not receive political contributions of more than \$50 from one person. There is no evidence to dispute this fact. The respondent disclosed all political contributions of \$50 or less as a lump sum total amount in the report at

issue. Therefore, there is credible evidence that the respondent did not violate sections 254.031(a)(1) and 254.031(a)(5) of the Election Code in connection with the political contributions at issue.

5. The evidence indicated that the respondent's 30-day pre-election report for the May 9, 2009, election did not properly disclose political expenditures totaling approximately \$2,147.
6. Although the respondent corrected the report at issue well before the election to disclose the payee names, payee addresses, and purpose descriptions for the political expenditures at issue, the respondent did not properly disclose the expenditures when the reports were originally due. Therefore, there is credible evidence that the respondent violated section 254.031(a)(3) of the Election Code in connection with the political expenditures at issue.

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 campaign finance 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 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 \$200 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-290473.

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

Don Surratt, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director