

TEXAS ETHICS COMMISSION

IN THE MATTER OF
PRISCILLA KELLY,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-2905137

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on December 7, 2010, to consider sworn complaint SC-2905137. A quorum of the commission was present. The commission determined that there is credible evidence of violations of section 254.031 of the Election Code, as well as credible evidence of technical or *de minimis* violations of section 254.031 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: (1) properly disclose political contributions, political expenditures, and loans, (2) disclose on her campaign finance reports notice of political committee support, and (3) file a complete campaign finance report.

III. Facts Supported by Credible Evidence

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

1. The respondent is a trustee of the Lone Star College System.

Respondent's 30-day Pre-election Report, and Corrected 30-day Pre-election Report, May 2008 Election

2. The reports disclosed:

- A blank space for total political contributions of \$50 or less (corrected to a dash)
- A blank space for total political contributions (corrected to \$450)

- A blank space for total political expenditures of \$50 or less (corrected to a dash)
 - A blank space for total political expenditures (corrected to \$650)
 - A blank space for total political contributions maintained (corrected to a dash)
 - A blank space for total outstanding loans (corrected to a dash)
 - \$450 in political contributions itemized on Schedule A (used for reporting political contributions)
 - No Schedule F (used for reporting political expenditures) (corrected to \$450 in political expenditures itemized on Schedule F)
 - \$200 in political expenditures itemized on Schedule G (used for reporting political expenditures made from personal funds)
2. Schedule F on the corrected report disclosed:
- 4/7/08 \$100 to Friends of The Lone Star College System for “Endorsed check from [an individual]”
 - 4/7/08 \$200 to Friends of The Lone Star College System for “Endorsed check from [an individual]”
 - 4/7/08 \$150 to Friends of The Lone Star College System for “Endorsed check from [an individual]”
3. Schedule G disclosed:
- 3/6/08 \$200 to Lone Star College System for filing fee
4. Schedule G on the corrected report disclosed:
- \$200 to Lone Star College System for filing fee
5. The complaint alleged that the respondent failed to file cover sheet page one of the report, failed to disclose information about a political committee from which she received notice that the political committee accepted political contributions or made political expenditures on her behalf, 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 total outstanding loans, and failed to disclose the date of the political expenditure disclosed on Schedule G of the corrected report.
6. The respondent’s affidavit stated that the coversheet was submitted as required. The filing authority provided a copy of cover sheet page one of the report filed by the respondent which is properly completed and shows that it was filed by the due date.

7. Regarding disclosure of information about a political committee from which the respondent received notice that the political committee accepted political contributions or made political expenditures on her behalf, the respondent's affidavit stated:

The allegation is untrue. As of 4/09/08, I had no knowledge of an official or specific written notice of expenditures received by a political committee which would have required disclosure.

8. The respondent's affidavit stated that she disclosed a total amount of political contributions and a total amount of political expenditures as required. (The spaces were actually blank.)
9. The respondent's affidavit stated that she disclosed a total amount of zero for each of the other totals as denoted by a dash. (Some of the spaces were actually blank.)

Respondent's 8-day Pre-election Report, May 2008 election

10. The report disclosed:
- A dash in the space for total political contributions of \$50 or less
 - \$1,699.19 in total political contributions
 - A dash in the space for total political expenditures of \$50 or less
 - \$300 in total political expenditures
 - A dash in the space for total political contributions maintained
 - A dash in the space for total outstanding loans
 - \$1,699.19 in political contributions itemized on Schedule A
 - \$300 in political expenditures itemized on Schedule F
11. The complaint alleged that the respondent failed to disclose total political contributions and total political expenditures of \$50 or less, failed to disclose total political contributions maintained, and failed to disclose total outstanding loans.
12. The respondent's affidavit stated that she disclosed a total amount of zero for each of the totals as denoted by a dash.

Respondent's Final Report

13. The report disclosed:
- A blank space for total political contributions of \$50 or less
 - \$2,900.81 in total political contributions
 - A blank space for total political expenditures of \$50 or less
 - A blank space for total political expenditures

- A blank space for total political contributions maintained
 - A blank space for total outstanding loans
 - \$2,900.81 in political contributions itemized on Schedule A
14. The complaint alleged that the respondent failed to disclose total political contributions and total political expenditures of \$50 or less, failed to disclose total political expenditures, failed to disclose total political contributions maintained, and failed to disclose total outstanding loans.
 15. The respondent's affidavit stated that she disclosed a total amount of zero for each of the totals as denoted by a blank space.

IV. Findings and Conclusions of Law

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

Filing of Complete Report

1. The complaint alleged that the respondent failed to file cover sheet page one of the 30-day pre-election report for the May 2008 election. The filing authority provided a copy of cover sheet page one of the report filed by the respondent, which is properly completed and shows that it was filed by the due date.
2. Each report by a candidate must include the candidate's full name and address, the office sought, and the identity and date of the election for which the report is filed, the campaign treasurer's name, residence or business street address, and telephone number, and the full name and address of each individual acting as a campaign treasurer of a political committee under section 253.062 of the Election Code from whom the candidate received notice under section 254.128 or 254.161 of the Election Code. ELEC. CODE § 254.061(1), (2), and (4). Each report by an officeholder must include the officeholder's full name and address and the office held. ELEC. CODE § 254.091(1). That information is disclosed on the cover sheet, page one, of a campaign finance report.
3. There is credible evidence that the respondent did not violate sections 254.061(1), (2), and (4) and 254.091(1) of the Election Code.

Disclosure of Information Regarding a Political Committee Supporting the Respondent

4. The complaint alleged that the respondent failed to disclose information on her 30-day pre-election report regarding a political committee from which the respondent received notice under section 254.128 or 254.161 of the Election Code.

5. The respondent's affidavit stated:

The allegation is untrue. As of 4/09/08, I had no knowledge of an official or specific written notice of expenditures received by a political committee which would have required disclosure.

6. If a specific-purpose committee accepts political contributions or makes political expenditures for a candidate or officeholder, the committee's campaign treasurer shall deliver written notice of that fact to the affected candidate or officeholder not later than the end of the reporting period covered by the report in which the reportable activity occurs. The notice must include the full name and address of the political committee and its campaign treasurer and an indication that the committee is a specific-purpose committee. ELEC. CODE § 254.128.
7. Each report by a candidate must include for each political committee from which the candidate received notice under section 254.128 or 254.161 of the Election Code: the committee's full name and address; an indication of whether the committee is a general-purpose committee or a specific-purpose committee; and the full name and address of the committee's campaign treasurer. ELEC. CODE § 254.061(3).
8. Each report by an officeholder must include for each political committee from which the officeholder received notice under section 254.128 or 254.161 of the Election Code: the committee's full name and address; an indication of whether the committee is a general-purpose committee or a specific-purpose committee; and the full name and address of the committee's campaign treasurer. ELEC. CODE § 254.091(2).
9. The respondent swears that she did not receive written notice from a political committee that the committee accepted political contributions or made political expenditures on her behalf and the evidence is insufficient to show such notice. There is insufficient evidence that the respondent violated section 254.061(3) or section 254.091(2) of the Election Code.

Total Political Contributions and Expenditures of \$50 or Less

10. The complaint alleged that the respondent failed to disclose the total amount of political contributions and expenditures of \$50 or less accepted during the reporting period on the 30-day (original and corrected) and 8-day pre-election reports for the May 2008 election, and the final report.
11. On the 30-day pre-election report and the final report, the respondent left blank the spaces for disclosing total political contributions and expenditures of \$50 or less. The respondent filed a corrected 30-day pre-election report that disclosed a dash in the spaces for disclosing total political contributions and expenditures of \$50 or less. The respondent did not correct total political contributions and expenditures of \$50 or less on the final report. On the 8-day

pre-election report, the respondent disclosed a dash in the spaces for disclosing total political contributions or expenditures of \$50 or less.

12. The respondent's response stated that she disclosed a total amount of zero for these amounts as denoted by a dash or a blank space.
13. Each report must include 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. ELEC. CODE § 254.031(a)(5).
14. The evidence did not show that there were political contributions and expenditures of \$50 or less to be disclosed in those spaces. The corrected 30-day and 8-day pre-election reports denoted that the totals were \$0 by using a dash. Therefore, there is credible evidence of no violation of section 254.031(a)(5) of the Election Code regarding those reports. The remaining reports left the spaces blank. There is credible evidence of technical or *de minimis* violations of section 254.031(a)(5) of the Election Code regarding those reports.

Disclosure of Total Political Contributions

15. The complaint alleged that the respondent failed to disclose the total amount of political contributions on the 30-day pre-election report.
16. On the 30-day pre-election report, the respondent left blank the space for disclosing total political contributions. The original report disclosed three political contributions totaling \$450 on Schedule A. The respondent filed a corrected report disclosing \$450 in total political contributions in the totals section of the report.
17. Each report must include the total amount of all political contributions accepted during the reporting period. ELEC. CODE § 254.031(a)(6).
18. The respondent failed to disclose \$450 in total political contributions in the totals section of the report. The contributions were disclosed on Schedule A. There is credible evidence of a technical or *de minimis* violation of section 254.031(a)(6) of the Election Code.

Disclosure of Political Expenditures

19. The complaint alleged that the respondent failed to disclose total political expenditures on the 30-day pre-election report and final report. The complaint also alleged that the respondent failed to disclose the date of a \$200 political expenditure to Lone Star College for the filing fee disclosed on the corrected 30-day pre-election report.
20. On the 30-day pre-election report and final report, the respondent left blank the spaces for total political expenditures. The 30-day pre-election report disclosed a \$200 political expenditure from personal funds (filing fee) on Schedule G. The report disclosed no other

- political expenditures. The respondent filed a corrected 30-day pre-election report disclosing \$650 in total political expenditures. The corrected report disclosed on Schedule F \$450 in political expenditures that were not disclosed on the original report. Regarding the final report, the respondent's response stated that she disclosed a total amount of zero as denoted by a blank space.
21. The respondent's original 30-day pre-election report disclosed the date of the \$200 expenditure on Schedule G as March 6, 2008. The respondent's corrected 30-day pre-election report did not disclose the date of the expenditure at issue.
 22. 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).
 23. Each report must include the total amount of all political expenditures made during the reporting period. ELEC. CODE § 254.031(a)(6).
 24. On the 30-day pre-election report, the respondent failed to timely disclose \$650 in total political expenditures on the totals section of the report. The corrected report disclosed \$450 in political expenditures that were not disclosed on the original report. Therefore, there is credible evidence of a violation of sections 254.031(a)(3) and 254.031(a)(6) of the Election Code as to this report. Regarding the final report, the evidence did not show that there were any political expenditures. The respondent left blank the space to disclose that information. There is credible evidence of a technical or *de minimis* violation of section 254.031(a)(6) of the Election Code as to this report.
 25. The respondent failed to report the date of the expenditure at issue on the corrected 30-day pre-election report. The respondent reported the date on the original 30-day pre-election report. The correction affidavit for the correction did not state that the respondent was correcting the expenditure at issue. Therefore, the entry on the original report was still valid. There is credible evidence that the respondent did not violate section 254.031(a)(3) of the Election Code.

Disclosure of Total Political Contributions Maintained

26. The complaint alleged that the respondent failed to disclose total political contributions maintained on the 30-day (original and corrected) and 8-day pre-election reports for the May 2008 election, and the final report.
27. On the 30-day pre-election report and the final report, the respondent left blank the spaces for disclosing total political contributions maintained. The respondent filed a corrected 30-day pre-election report that disclosed a dash in the space for disclosing total political contributions maintained. The respondent did not correct total political contributions

- maintained on the final report. On the 8-day pre-election report, the respondent disclosed a dash in the space for disclosing total political contributions maintained.
28. The respondent's response stated that she disclosed a total amount of zero for these amounts as denoted by a dash or a blank space.
 29. 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).
 30. The evidence did not show that there were political contributions maintained. The corrected 30-day and 8-day re-election reports denoted that total political contributions maintained was \$0 by using a dash. Therefore, there is credible evidence of no violation of section 254.031(a)(8) of the Election Code regarding those reports. The remaining reports left the spaces blank. There is credible evidence of technical or *de minimis* violations of section 254.031(a)(8) of the Election Code regarding those reports.

Disclosure of Total Outstanding Loans

31. The complaint alleged that the respondent failed to disclose total outstanding loans on the 30-day (original and corrected) and 8-day pre-election reports for the May 2008 election and the final report.
32. On the 30-day pre-election report and the final report, the respondent left blank the spaces for disclosing total outstanding loans. The respondent filed a corrected 30-day pre-election report that disclosed a dash in the space for disclosing total outstanding loans. The respondent did not correct total outstanding loans on the final report. On the 8-day pre-election report, the respondent disclosed a dash in the space for disclosing total outstanding loans.
33. The respondent's affidavit stated that she disclosed a total amount of zero for these amounts as denoted by a dash or a blank space.
34. 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).
35. The evidence did not show that there were loans. The corrected 30-day and 8-day pre-election reports denoted that the total was \$0 by using a dash. Therefore, there is credible evidence of no violation of section 254.031(a)(2) of the Election Code regarding those reports. The remaining reports left the space blank. There is credible evidence of technical or *de minimis* violations of section 254.031(a)(2) of the Election Code regarding those reports.

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 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; 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; 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; and the aggregate principal amount of all outstanding loans 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 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-2905137.

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

Priscilla Kelly, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director