

TEXAS ETHICS COMMISSION

IN THE MATTER OF
MELISSA GOODWIN,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-3100385

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on April 21, 2011, to consider sworn complaint SC-3100385. A quorum of the commission was present. The commission determined that there is credible evidence of a violation of sections 253.155 and 254.0611 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 accepted political contributions in excess of the contribution limits of the Judicial Campaign Fairness Act.

III. Facts Supported by Credible Evidence

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

1. The respondent was a successful candidate for Justice of the Third Court of Appeals of Texas in the March 2010 primary election.
2. The respondent's 30-day pre-election report for the March 2010 primary election disclosed a loan of \$25,000 from her father-in-law and mother-in-law.
3. The respondent's 8-day pre-election report for the March 2010 primary election disclosed an in-kind political contribution of \$274.26 from her father-in-law and mother-in-law.
4. In response to the sworn complaint allegations, the respondent submitted an affidavit in which she stated that the individuals at issue, her father-in-law and mother-in-law, contributed \$25,000 as a loan to her campaign. The respondent stated through her attorney that she, "mistakenly thought that her husband and his parents were included within the immediate family exception provided by law." After receiving notice of this complaint, she

stated that she “reviewed the exception for immediate family more closely and determined that she mistakenly read the provision to include affinity.”

5. The respondent provided a copy of a check dated September 15, 2010, for \$20,274.26, made payable to one of the individual contributors at issue.
6. The respondent’s 30-day pre-election report for the November 2010 election disclosed a political expenditure of \$20,274.26 to the contributors at issue for “return of loaned funds.”
7. On July 22, 2010, the respondent filed corrections to her 8-day pre-election report for the March 2010 primary election and July 2010 semiannual report. The correction affidavits to the reports explain, “Schedule L is included in the corrected report. Totals for Schedule L were included on the cover page originally filed.” Both corrected reports contain a Schedule L disclosing the individual contributors at issue in this complaint. The original reports disclosed \$25,000 in outstanding loans on the coversheet of each report, but no Schedule L.

IV. Findings and Conclusions of Law

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

1. “Contribution” means a direct or indirect transfer of money, goods, services, or any other thing of value and includes an agreement made or other obligation incurred, whether legally enforceable or not, to make a transfer. The term includes a loan or extension of credit, other than those expressly excluded by this subdivision, and a guarantee of a loan or extension of credit, including a loan described by this subdivision. The term does not include a loan made in the due course of business by a corporation that is legally engaged in the business of lending money and that has conducted the business continuously for more than one year before the loan is made, or an expenditure required to be reported under section 305.006(b), Government Code. ELEC. CODE § 251.001(2).
2. A judicial candidate or officeholder may not accept political contributions from a person that in the aggregate exceed \$5,000 in connection with an election for a statewide judicial office. *Id.* §§ 253.155(a), (b).
3. The contribution limits in section 253.155 of the Election Code do not apply to an individual who is related to the candidate or officeholder within the second degree by consanguinity, as determined under subchapter B, chapter 573, Government Code. *Id.* § 253.159. For purposes of the contribution limit, a contribution by the spouse or child of an individual is considered to be a contribution by that individual. *Id.* § 253.158(a).
4. Two individuals are related to each other by consanguinity if one is a descendant of the other, or they share a common ancestor. GOV’T CODE § 573.022.

5. The respondent accepted two political contributions totaling \$25,274.26 in connection with the March 2010 primary election from an individual and her spouse to whom she is not related within the second degree by consanguinity. The maximum amount the respondent could legally accept from the individual in connection with the election was \$5,000. Although the respondent made a \$20,274.26 payment back to the contributor, the respondent exceeded the contribution limits when she accepted the political contributions at issue. Therefore, there is credible evidence of a violation of section 253.155 of the Election Code.
6. In addition to the contents required by sections 254.031 and 254.061 of the Election Code, each report by a candidate for a judicial office covered by Subchapter F, Chapter 253, must include for each outstanding loan to the person filing the report as of the last day of the reporting period the full name and address of the person or financial institution making the loan; and the full name and address of each guarantor of the loan other than the candidate. ELEC. CODE § 254.0611(a)(5).
7. The respondent filed corrected 8-day pre-election and July 2010 semiannual reports and good-faith affidavits providing a Schedule L for each report disclosing the outstanding loan originally disclosed on her 30-day pre-election report filed in connection with the March 2010 primary.
8. Although the original reports disclosed the outstanding loan on the coversheet of each report, the respondent failed to include the information required by section 254.0611 of the Election Code. Therefore, there is credible evidence that the respondent violated section 254.0611 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 a judicial candidate or officeholder may not accept political contributions from a person that in the aggregate exceed the limits prescribed by section 253.155 of the Election Code. The respondent also acknowledges that each report by a candidate for a judicial office covered by Subchapter F, Chapter 253, must include for each outstanding loan to the person filing the report as of the last day of the reporting period the full name and address of the person or financial institution making the loan; and the full

name and address of each guarantor of the loan other than the candidate. The respondent agrees to comply with these requirements of the law.

VI. Confidentiality

This order and agreed resolution describes a violation that the commission has determined is 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 violation described under Sections III and IV, including the nature, circumstances, and consequences of the violation, and after considering the sanction necessary to deter future violations, the commission imposes a \$2,050 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-3100385.

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

Melissa Goodwin, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director