

TEXAS ETHICS COMMISSION

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August 29, 2014

Dr. Jesse D. Sheffield
State Representative, District 59

**RE: Notice of Reporting Error
SC-31205156
(J. D. Sheffield, Respondent)**

Dear Representative Sheffield:

The Texas Ethics Commission (commission) met on August 21, 2014, to consider SC-31205156. A quorum of the commission was present. **The commission determined that there is credible evidence of reporting errors that do not materially defeat the purpose of disclosure.** To resolve and settle this case without further proceedings, the commission proposed this Notice of Reporting Error Agreement (agreement).

The commission **found credible evidence** that:

1. The respondent reimbursed himself for political expenditures without having itemized the political expenditures as required by section 253.035(h) of the Election Code and section 20.63 of the Ethics Commission Rules;
2. The respondent did not properly disclose the names of contributors as required by section 254.031(a)(1) of the Election Code;
3. The respondent did not properly disclose a loan and total outstanding loans as required by section 254.031(a)(2) of the Election Code;
4. The respondent did not properly disclose political expenditures as required by section 254.031(a)(3) of the Election Code and section 20.61(a) of the Ethics Commission Rules;
5. The respondent did not properly disclose total political expenditures of \$100 or less as required by section 254.031(a)(5) of the Election Code;

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6. The respondent did not properly disclose total political expenditures as required by section 254.031(a)(6) of the Election Code;
7. The respondent did not properly disclose total political contributions maintained as required by section 254.031(a)(8) of the Election Code; and
8. The respondent did not properly disclose the principal occupation or job title and employer information for contributors of \$500 or more as required by section 254.0612 of the Election Code.

The commission **did not find credible evidence** that:

1. The respondent converted political contributions to his personal use which is prohibited by section 253.035(a) of the Election Code; and
2. The respondent did not properly disclose the names of payees as required by section 254.031(a)(3) of the Election Code.

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

Disclosure of Total Political Contributions Maintained, Total Political Expenditures of \$100 or less, Total Political Expenditures, and Loans

1. It was contended that the respondent reported an incorrect balance of total political contributions maintained on the 30-day pre-election report for the May 2012 primary election or, in the alternative, if the balance for contributions maintained was correct, that the respondent did not report additional political contributions and/or expenditures. The complaint included no specific information to support the allegation other than disclosures from the respondent's reports.
2. The respondent corrected the January 2012 semiannual report to increase total political contributions maintained by approximately \$43,800 and corrected the 30-day pre-election report for the May 2012 primary election to increase this amount by approximately \$41,090. **Therefore, there is credible evidence of noncompliance with section 254.031(a)(8) of the Election Code with respect to the total amounts of political contributions maintained.**
3. The respondent corrected the January 2012 semiannual report to disclose a \$50,000 loan from the respondent and to increase the total amount of outstanding loans from \$0 to \$50,000. **Therefore, there is credible evidence of noncompliance with section 254.031(a)(2) of the Election Code with respect to the \$50,000 loan and total principal amount of outstanding loans.**
4. The respondent corrected the 30-day pre-election report for the May 2012 primary election to decrease the total amount of political expenditures of \$100 or less by approximately \$620 and to increase the amount of total political expenditures by approximately \$4,210. **Therefore, there is credible evidence of noncompliance**

with sections 254.031(a)(5) and 254.031(a)(6) of the Election Code with respect to these amounts.

5. The respondent corrected the 30-day pre-election report for the May 2012 primary election to itemize additional political expenditures totaling approximately \$4,030. **Therefore, there is credible evidence of noncompliance with section 254.031(a)(3) of the Election Code with respect to the expenditures.**

Name of Contributor

6. It was contended that the respondent did not fully disclose the names of 10 contributors that were disclosed on the 30-day pre-election report for the May 2012 primary election. The contributions totaled approximately \$8,100.
7. The respondent disclosed only the last name of one contributor and, for the other nine contributors, the contributor's last name and the initials of their first and middle names. **Therefore, there is credible evidence of noncompliance with section 254.031(a)(1) of the Election Code with respect to the contributions.**
8. The respondent corrected the report to disclose the full name of all of the contributors except for one contribution.

Principal Occupation or Job Title and Employer of Contributor

9. It was contended that the respondent did not disclose on Schedule A (used to disclose political contributions) of the 30-day pre-election report for the May 2012 primary election the principal occupation or job title and employer information for 17 individuals from whom the respondent accepted political contributions of \$500 or more during the reporting period. The individuals made political contributions totaling approximately \$25,100.
10. The respondent did not disclose any principal occupation or job title and employer information for the contributors at issue. **Therefore, there is credible evidence of noncompliance with section 254.0612 of the Election Code with respect to the contributions.** The respondent corrected the errors.

Personal Use of Political Contributions

11. It was contended that the respondent converted political contributions to his personal use. At issue are five political expenditures totaling approximately \$80 for food and beverages disclosed on Schedule G (used for political expenditures from personal funds) of the January 2012 semiannual report and one expenditure of approximately \$60 for food and beverages disclosed on Schedule F (used for political expenditures) of the 30-day pre-election report for the May 2012 primary election.
12. The respondent corrected his reports to show that the expenditures were for campaign purposes and that the expenditures at issue were made from political contributions and not from personal funds. There is no evidence that the respondent converted

political contributions to personal use. **Therefore, there is credible evidence of compliance with section 253.035(a) of the Election Code.**

Disclosure of Political Expenditures

13. It was contended that the respondent did not properly disclose political expenditures on the January 2012 semiannual report. The respondent corrected the report to itemize approximately \$4,030 in additional political expenditures. **Therefore, there is credible evidence of noncompliance with section 254.031(a)(3) of the Election Code with respect to the expenditures.**
14. It was contended that the respondent disclosed four expenditures to restaurants on the 30-day pre-election report for the May 2012 primary election and did not disclose the names of the individuals that received the meals purchased from the restaurants. The respondent disclosed the restaurants as the payees and disclosed the category of the purpose of each expenditure as “Food/Beverage Expense” and the description of the purpose of each expenditure as “Volunteer expense.”
15. The respondent sufficiently disclosed the expenditures to the restaurants at issue. **Therefore, there is credible evidence of compliance with section 254.031(a)(3) of the Election Code with respect to the four expenditures.**
16. It was contended that the respondent did not properly disclose the names of two payees.
17. The respondent corrected the names of the two payees; one of the expenditures was for approximately \$110, and the other expenditure was for approximately \$20. The errors did not significantly affect disclosure. **Therefore, there is credible evidence of technical or *de minimis* noncompliance with section 254.031(a)(3) of the Election Code with respect to the disclosure of these expenditures.**

Purpose of Political Expenditures

18. It was contended that the respondent did not fully disclose the purpose of political expenditures on the two reports at issue.
19. On the January 2012 semiannual report, there are 13 political expenditures at issue totaling approximately \$600 disclosed on Schedule G (used for political expenditures from personal funds). The respondent disclosed the category of the expenditure for each expenditure but the description of each expenditure repeated the category of each expenditure’s purpose. **Therefore, there is credible evidence of noncompliance with section 254.031(a)(3) of the Election Code and section 20.61(a) of the Ethics Commission Rules with respect to these expenditures.** The respondent corrected the report to disclose the expenditures on Schedule F (used for political expenditures from political contributions) and properly corrected the purposes of the expenditures.

20. On the 30-day pre-election report for the May 2012 primary election, there are 30 political expenditures at issue totaling approximately \$6,110 and disclosed on Schedule F. The respondent disclosed the category of each expenditure. The respondent properly described the purposes of four expenditures, totaling approximately \$2,620. **Therefore, there is credible evidence of compliance with section 254.031(a)(3) of the Election Code and section 20.61(a) of the Ethics Commission Rules with respect to these expenditures totaling approximately \$2,620.** The respondent left the purpose of the expenditure blank for 21 of the expenditures and the description of each expenditure repeated the category of each expenditure's purpose. **Therefore, there is credible evidence of noncompliance with section 254.031(a)(3) of the Election Code and section 20.61(a) of the Ethics Commission Rules with respect to these expenditures totaling approximately \$3,490.** The respondent properly corrected 19 of the 26 expenditures that did not properly disclose their purposes.

Actual Vendor Payee Information, Reimbursement of Political Expenditures

Expenditures to the Respondent

21. It was contended that the respondent did not disclose the actual vendor/company payee, address, date, and/or amount pertaining to the stated purpose of a political expenditure disclosed on the January 2012 semiannual report.
22. The expenditure at issue was disclosed as \$572.58 on November 15, 2011, to the respondent on Schedule G (used for political expenditures made from personal funds) for "Travel in District." The respondent corrected the report to move the expenditure at issue from Schedule G to Schedule F (used for political expenditures from political contributions). The respondent corrected the category of the expenditure to state "Loan Repayment/Reimbursement" and corrected the description of the expenditure to state "Reimburse for campaign expenses paid from personal checking."
23. The report does not disclose the expenses paid from the respondent's personal checking account. There is no evidence of when the respondent made the campaign expenses from his personal checking account.
24. The evidence indicates that the respondent did not disclose the actual vendor payee information for the expenditures for which he was reimbursed. **Therefore, there is credible evidence of noncompliance with section 254.031(a)(3) of the Election Code with respect to approximately \$570 in expenditures.**
25. The respondent was required to itemize these expenditures under section 253.035(h) of the Election Code and section 20.63 of the Ethics Commission Rules if he intended to seek reimbursement for the expenditures. The respondent reimbursed himself for these expenditures without itemizing them. **Therefore, there is credible evidence of noncompliance with section 253.035(h) of the Election Code and section 20.63 of the Ethics Commission Rules with respect to the approximately \$570 in expenditures.**

Expenditures to Another Individual

26. It was contended that the respondent did not disclose the actual vendor/company payee, address, date, and/or amount pertaining to the stated purpose of two political expenditures to another individual disclosed on the 30-day pre-election report for the May 2012 primary election.
27. The expenditures at issue were disclosed as made to an individual as follows on Schedule F:
- | | | |
|------------|----------|--|
| 01/27/2012 | \$700.00 | Category: Advertising Expense; Purpose: Campaign Advertising |
| 02/24/2012 | \$700.00 | Category: Advertising Expense; Purpose: [blank] |
28. The respondent corrected the purpose of each expenditure to state “5 days rental on The Sign.”
29. There is no evidence that the payee of the expenditures is not the actual vendor payee. **Therefore, there is credible evidence of compliance with section 254.031(a)(3) of the Election Code.**

By signing this agreement and returning it to the commission:

1. You consent to this agreement.
2. You accept the determinations made by the commission in this agreement.
3. You waive any right to further proceedings in this matter.
4. You understand and agree that the commission will consider this agreement in any future proceedings against you.
5. You acknowledge that:

A 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, the full name and address of the person making the contributions, and the dates of the contributions.

A campaign finance report must include the amount of loans that are made during the reporting period for campaign or officeholder purposes to the person or committee required to file the report and that in the aggregate exceed \$50, the dates the loans are made, the interest rate, the maturity date, the type of collateral for the loans, if any, the full name and address of the person or financial institution making the loans, the full name and address, principal occupation, and name of the employer of each guarantor of the loans, the amount of the loans guaranteed by each guarantor, and the

aggregate principal amount of all outstanding loans as of the last day of the reporting period.

A campaign finance report must include the amount of political expenditures that in the aggregate exceed \$50 (\$100 after September 28, 2011) 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.

A campaign finance 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 \$100 or less made during the reporting period.

A campaign finance report must include the total amount of all political contributions accepted and the total amount of all political expenditures made during the reporting period.

A campaign finance report must include as of the last day of the 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 as of the last day of the reporting period.

Each report by a candidate for a statewide office in the executive branch or a legislative office must include, for each individual from whom the person filing the report has accepted political contributions that in the aggregate equal or exceed \$500 and that are accepted during the reporting period: the individual's principal occupation or job title; and the full name of the individual's employer.

The purpose of an expenditure means a description of the category of goods, services, or other thing of value for which an expenditure is made and must include a brief statement or description of the candidate, officeholder, or political committee activity that is conducted by making the expenditure. The brief statement or description must include the item or service purchased and must be sufficiently specific, when considered within the context of the description of the category, to make the reason for the expenditure clear. Merely disclosing the category of goods, services, or other thing of value for which the expenditure is made does not adequately describe the purpose of an expenditure.

A candidate who makes political expenditures from the candidate's personal funds may reimburse those personal funds from political contributions in the amount of those expenditures only if the expenditures from personal funds were fully reported as political expenditures in accordance with section 253.035(h) of the Election Code and section 20.63 of the Ethics Commission Rules.

You agree to comply with these requirements of the law.

This agreement describes reporting errors that the commission has determined are neither technical nor *de minimis*. Accordingly, this agreement is not confidential under section 571.140 of the Government Code.

The respondent agrees to tender an \$850 assessment fee to the commission.

This agreement is a final and complete resolution of SC-31205156.

Dr. Jesse D. Sheffield, Respondent
(Signature)

Date signed by Respondent

Executed original agreement received by the commission on: _____.

Texas Ethics Commission

By: _____
Natalia Luna Ashley,
Executive Director