

TEXAS ETHICS COMMISSION

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June 18, 2015

Mr. Raynaldo T. "Ray" Lopez

**RE: Notice of Reporting Error
SC-3130341**

Dear Mr. Lopez:

The Texas Ethics Commission (Commission) met on June 11, 2015, to consider SC-3130341. 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 the respondent:

1. did not properly disclose the full names of contributors as required by section 254.031(a)(1) of the Election Code;
2. did not disclose the respondent as the payee of political expenditures for reimbursement of political expenditures made from personal funds as required by section 254.031(a)(3) of the Election Code and section 20.59 of the Ethics Commission Rules;
3. did not properly disclose the purpose of political expenditures as required by section 254.031(a)(3) of the Election Code and section 20.61 of the Ethics Commission Rules;
4. did not disclose the respondent's telephone number on a campaign finance report as required by section 254.036 of the Election Code; and
5. did not properly disclose total political contributions maintained as required by section 254.031(a)(8) of the Election Code.

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The Texas Ethics Commission does not discriminate on the basis of race, color, national origin, sex, religion, age or disability in employment or the provision of services.

The Commission **did not find credible evidence** that the respondent:

1. improperly disclose the full names of persons receiving political expenditures as required by section 254.031(a)(3) of the Election Code and section 20.62 of the Ethics Commission Rules;
2. did not disclose the actual payee of political expenditures as required by section 254.031(a)(3) of the Election Code and section 20.62 of the Ethics Commission Rules;
3. accepted contributions from corporations as prohibited by sections 253.003 and 253.094 of the Election Code; and
4. converted political contributions to personal use as prohibited by section 253.035 of the Election Code.

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

Full Names of Contributors

1. It was contended that the respondent did not disclose the full names of one person and two entities making five political contributions totaling approximately \$800 disclosed on each of the reports at issue.
2. The respondent disclosed the full name of the contributors of four of the political contributions at issue. **Therefore, there is credible evidence of compliance with section 254.031(a)(1) of the Election Code with respect to those contributions.**
3. The respondent did not disclose the full name of one of the political contributions at issue. However, in context the error was not misleading and did not substantially affect disclosure. **Therefore, there is credible evidence of technical or *de minimis* noncompliance with section 254.031(a)(1) of the Election Code with respect to that contribution.**

Names of Persons Receiving Expenditures

4. It was contended that the respondent did not disclose the names of persons receiving 83 political expenditures totaling approximately \$10,500. The respondent disclosed the expenditures on Schedule F (used to disclose political expenditures) of the 30-day pre-election report filed in connection with the May 2011 election, and the July 2011, January and July 2012, and January 2013 semiannual reports.
5. In response to the complaint, the respondent swore that the names of the persons receiving political expenditures were all fully disclosed.
6. For 63 expenditures totaling approximately \$6,740 and made to purchase gasoline, meals, and repairs, it was contended that the respondent was required to disclose the ultimate recipient of the gasoline, meals, or repairs as the payees of the political expenditures. However, the disclosures on their face are not incorrect and there is no evidence to show that the respondent did not disclose the proper payees. **Therefore, there is credible evidence of**

compliance with section 254.031(a)(3) of the Election Code and section 20.62 of the Ethics Commission Rules with respect to those 63 expenditures.

7. For 13 expenditures totaling approximately \$2,750, the respondent disclosed expenditures made by staff members from personal funds as political expenditures with the actual vendor disclosed as the payee in the report. The expenditures by staff members from personal funds did not exceed \$5,000 in the aggregate during the reporting period. Further, there is no evidence to show that the reimbursements did not occur during the same reporting period that the initial expenditures were made, and the disclosures on their face are not incorrect. **Therefore, there is credible evidence of compliance with section 254.031(a)(3) of the Election Code and section 20.62 of the Ethics Commission Rules with respect to those 13 expenditures.**
8. For seven expenditures totaling approximately \$1,030 for constituent gifts and gift cards, it was contended that the respondent was required to disclose the ultimate recipients of the gifts and gift cards as the payees of the political expenditures. However, the term “expenditure” requires that a “payment” or an agreement to make a “payment” be made. Based on the ordinary meaning of payment, a gift or award may not constitute a “payment” for purposes of the definition of “expenditure” or “political expenditure.” Although the respondent subsequently gave the items away, even if such a gift would be considered a payment or political expenditure, there is no evidence that any such putative payment exceeded the threshold for which detailed reporting was required. The initial recipients of the payments at issue were properly disclosed. There is no evidence that any person who received a gift card or gift was a payee of a political expenditure that exceeded \$100. **Therefore, there is credible evidence of compliance with section 254.031(a)(3) of the Election Code with respect to those seven expenditures.**

Actual Vendor Payee

9. It was contended that that the respondent did not disclose the actual vendor payee of five expenditures totaling approximately \$6,440 disclosed in the 30-day pre-election report filed in connection with the May 2011 election, and the July 2011 and January 2012 semiannual reports.
10. It is unclear whether one of the expenditures was a reimbursement for political expenditures made for event expenses or for providing contract services. **Therefore, there is insufficient evidence to establish noncompliance with section 254.031(a)(3) of the Election Code and section 20.62 of the Ethics Commission Rules with respect to that expenditure.**
11. The respondent disclosed the actual payees for the remaining four expenditures totaling approximately \$6,080. **Therefore, there is credible evidence of compliance with section 254.031(a)(3) of the Election Code and section 20.62 of the Ethics Commission Rules with respect to those four expenditures.**

Reimbursement of Political Expenditures

12. It was contended that the respondent did not properly disclose two expenditures for which the respondent reimbursed himself approximately \$4,500. The reports at issue are the respondent’s 30-day pre-election report filed in connection with the May 2011 election and the July 2011 semiannual report.

13. In response to the complaint, the respondent swore that he was paying himself back for expenditures that were reported on Schedule G in prior reports. The respondent corrected the campaign finance reports at issue to disclose himself as the payee.
14. The respondent corrected the reports at issue to disclose himself as the payee of the two expenditures to Amex. The respondent swore the expenditures were for reimbursement of political expenditures made from his personal funds. **Therefore, there is credible evidence of noncompliance with section 254.031(a)(3) of the Election Code and section 20.59 of the Ethics Commission Rules with respect to those two expenditures.**

Purpose of Political Expenditures

15. It was contended that the respondent did not fully disclose the purpose descriptions of 25 political expenditures totaling approximately \$3,930 in the respondent's July 2011, January and July 2012, and January 2013 semiannual reports.
16. In response to the complaint, the respondent swore that all the expenditures at issue were reported similarly to the examples set forth in Ethics Commission Rules section 20.61 of how to report such expenditures.
17. Five of the expenditures totaling approximately \$130 did not exceed \$50 in the aggregate to any one vendor.¹ Thus, the respondent was not required to provide a purpose description for those expenditures. **Therefore, there is credible evidence of compliance with section 254.031(a)(3) of the Election Code and section 20.61 of the Ethics Commission Rules with respect to those five expenditures.**
18. The respondent disclosed adequate purpose descriptions for 11 expenditures totaling approximately \$1,470. **Therefore, there is credible evidence of compliance with section 254.031(a)(3) of the Election Code and section 20.61 of the Ethics Commission Rules with respect to those 11 expenditures.**
19. The respondent did not sufficiently describe the goods or services that were purchased for three expenditures totaling approximately \$760 and did not sufficiently indicate the candidate or officeholder activity that was conducted for five expenditures totaling approximately \$430. **Therefore, there is credible evidence of noncompliance with section 254.031(a)(3) of the Election Code and section 20.61 of the Ethics Commission Rules with respect to those eight expenditures.**
20. The respondent did not sufficiently describe the goods or services that were purchased or sufficiently indicate the candidate or officeholder activity that was conducted for one expenditure totaling approximately \$1,140. **Therefore, there is credible evidence of noncompliance with section 254.031(a)(3) of the Election Code and section 20.61 of the Ethics Commission Rules with respect to that expenditure.**

¹Expenditures exceeding \$50 in the aggregate were required to be itemized.

Accepted Corporate Contributions

21. The complaint alleged that the respondent accepted three contributions totaling approximately \$1,100 from corporations or labor organizations. The contributions at issue were disclosed on Schedule A (used to disclose political contributions) of the respondent's 8-day pre-election report filed in connection with the May 2011 election and the July 2012 semiannual report.
22. Records on file with the Commission show that two of the contributions were from general-purpose committees that file with the Commission, and the contributions at issue were disclosed on the committees' campaign finance reports as political expenditures. **Therefore, there is credible evidence of compliance with sections 253.003 and 253.094 of the Election Code with respect to those contributions.**
23. The remaining contribution was from a limited liability company (LLC). There is no evidence to establish that the contributor LLC is owned in whole or in part by a corporate entity. **Therefore, there is insufficient evidence to establish noncompliance with sections 253.003 and 253.094 of the Election Code with respect to that contribution.**

Converted Political Contributions to Personal Use

24. It was contended that the respondent converted political contributions to personal use based on 160 political expenditures totaling approximately \$5,650 disclosed in the respondent's 30-day and 8-day pre-election reports filed in connection with the May 2011 election, the July 2011, January and July 2012, and July 2013 semiannual reports. The expenditures were disclosed on Schedule F (used to disclose political expenditures).
25. In response to the complaint, the respondent swore that all the expenditures were reported in accordance with Ethics Commission Rules section 20.61.
26. For the expenditure of approximately \$60 for uniform repair, the description provided by the respondent did not clearly indicate whether the expenditure was candidate or officeholder related. **Therefore, there is insufficient evidence of noncompliance with section 253.035(a) of the Election Code with respect to that expenditure.**
27. For the remaining 159 expenditures at issue, the descriptions of the expenditures disclosed by the respondent indicate that the expenditures were made in connection with the respondent's duties and activities as a candidate and officeholder, and there is no evidence to the contrary. **Therefore, there is credible evidence of compliance with section 253.035(a) of the Election Code with respect to those expenditures.**

Cover Sheet Information

28. It was contended that the respondent did not include his telephone number on the 30-day pre-election report filed in connection with the May 2011 election. The respondent did not include the last four digits of his telephone number on page 1 of the cover sheet of the report at issue. In response to the complaint, the respondent filed a corrected report to include his complete telephone number.

29. The respondent did not include his complete telephone number on the cover sheet of the report at issue. However, the error in this case was not misleading and did not substantially affect disclosure. **Therefore, there is credible evidence of technical or *de minimis* noncompliance with section 254.036(a) of the Election Code.**

Total Political Contributions Maintained

30. It was contended that the respondent did not properly disclose total political contributions maintained on four campaign finance reports. In response to the complaint, the respondent provided copies of bank statements establishing the balance of political contributions maintained as of the last day of the reporting period for the 30-day and 8-day pre-election reports filed in connection with the May 2011 election, and the July 2011 semiannual report.
31. For the January 2012 semiannual report, the last day of the reporting period was December 31, 2011. The respondent provided a bank statement dated January 12, 2012, establishing a balance as of that date of \$307.04. The bank statement provided by the respondent does not establish the balance of political contributions in the account as of December 31, 2011.
32. For the 30-day pre-election report in connection with the May 2011 election the difference between the contributions maintained originally disclosed and the bank statement amount does not exceed the lesser of 10% of the amount disclosed or \$2,500. **Therefore, there is credible evidence of compliance with section 254.031(a)(8) of the Election Code with respect to that report.**
33. For the 8-day pre-election report in connection with the May 2011 election, and the July 2011 semiannual report, the difference between the contributions maintained originally disclosed and the bank statement amounts exceeds the lesser of 10% of the amount disclosed or \$2,500. **Therefore, there is credible evidence of noncompliance with section 254.031(a)(8) of the Election Code with respect to those two reports.**
34. With regard to the January 2012 semiannual report, the respondent did not provide a bank statement establishing the total political contributions maintained in his bank account as of December 31, 2011. **Therefore, there is insufficient evidence to establish noncompliance with section 254.031(a)(8) of the Election Code with respect to that report.**

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 regarding similar allegations.
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 by

the person or committee required to file a report under this chapter, 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 political expenditures that in the aggregate exceed \$100 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 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 filed under this chapter with an authority other than the Commission must be in a format prescribed by the Commission.

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 a \$350 assessment fee to the Commission.

This agreement is a final and complete resolution of SC-3130341.

Raynaldo T. "Ray" Lopez, Respondent

Date signed by Respondent

Executed original agreement received by the Commission on: _____.

Texas Ethics Commission

By: _____
Natalia Luna Ashley, Executive Director