

TEXAS ETHICS COMMISSION

IN THE MATTER OF

JOHN BRIAN HUTCHESON,

RESPONDENT

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BEFORE THE

TEXAS ETHICS COMMISSION

SC-3160244 AND SC-31607164

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (Commission) met on July 11, 2017, to consider sworn complaints SC-3160244 and SC-31607164. 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 and section 20.61 of the Ethics Commission Rules, laws administered and enforced by the Commission. To resolve and settle these complaints without further proceedings, the Commission proposed this resolution to the respondent.

II. Allegations

The complaints alleged that the respondent did not properly disclose political contributions, political expenditures, and loans.

III. Facts Supported by Credible Evidence

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

1. At all times relevant to the complaint, the respondent was a candidate for Justice of the Peace, Precinct 2, Place 1, in Dallas County in the March 2016 primary election.

Disclosure of Political Expenditures for Campaign Signs

2. The complaints alleged that the respondent did not disclose political expenditures for campaign signs in the reporting periods in which the expenditures were made.
3. The respondent did not disclose political expenditures for campaign signs in the January 2016 semiannual report or the 30-day and 8-day pre-election reports for the March 2016 primary election.
4. One of the complainants provided the Commission with screenshots of cell phone photographs depicting what appear to be new campaign signs for the respondent. The

screenshots display the dates the photographs were taken: February 17, 2016, and February 21, 2016.

5. In response to the complaint, the respondent swore that he did not purchase new signs until after the reporting period for the 8-day pre-election report ended on February 20, 2016, and provided the Commission with a February 22, 2016, invoice from "First Graphic Services" for signs worth \$1,916.57. The respondent's July 2016 semiannual report discloses a \$1,916.57 political expenditure on February 24, 2016, for signs. The respondent swore that February 22, 2016, was the first day on which he contacted First Graphic Services to purchase new campaign signs.
6. The respondent also swore that some of his signs were recycled from a prior election. The respondent stated that he created stickers to place on the recycled signs, using materials that were contributed by his father, John Hutcheson. The respondent did not initially report the contributed materials as in-kind contributions (discussed in next section). The respondent also provided the Commission with photographs of the stickers that he created. Two types of stickers covered the entireties of the signs they were placed upon, and two other types of stickers covered a substantial portion of the remaining signs.

Reporting Political Contributions and Political Expenditures

7. Sworn complaint SC-3160244 alleged that the respondent did not properly disclose political contributions and expenditures in the January 2016 semiannual report and the 30-day pre-election report for the March 2016 primary election.
8. In his January 2016 semiannual report and 30-day pre-election report for the March 2016 primary election, the respondent did not include: 1) full addresses for six contributors of \$1,475 in monetary political contributions, each of which exceeded \$50; 2) full addresses of two contributors of \$2,500 in non-monetary political contributions, each of which exceeded \$50; and 3) full addresses of payees and descriptions of six political expenditures totaling \$7,932.75, each of which exceeded \$100.
9. In his January 2016 semiannual report, the respondent disclosed a \$710 loan from his father on Schedule E (used to disclose loans), but this activity was also disclosed on Schedule G (used to disclose political expenditures made from personal funds) as political expenditures of \$350 and \$360 from personal funds, with the categories "Advertising Expense" and "Event Expenses," respectively. The respondent filed corrected reports for the January 2016 semiannual report and 30-day pre-election report, wherein he disclosed the \$710 of activity as two non-monetary in-kind political contributions from his father, in the amounts of \$350 and \$360, for "Political Advertising" and "Campaign Volunteer Meals," respectively. The respondent confirmed that this activity constituted in-kind political contributions from his father.

10. The respondent disclosed himself as the payee of each political expenditure disclosed on Schedule G of the January 2016 semiannual report. Of the activity that should have been disclosed on Schedule G and was required to be itemized, the respondent did not disclose the actual payee name of two political expenditures totaling \$6,102.75.

Total Political Contributions, Political Expenditures, and Loans

11. Sworn complaint SC-3160244 alleged that the respondent did not properly disclose total political contributions, total political expenditures, and loans in the January 2016 semiannual report and the 30-day pre-election report.
12. In the respondent's January 2016 semiannual report, he did not include his political expenditures from personal funds, totaling \$6,239.99, in his calculation of total political expenditures. The respondent disclosed total political expenditures as \$1,150, the amount of his political expenditures from political contributions. Accordingly, total political expenditures in the January 2016 semiannual report should have been disclosed as \$7,389.99.
13. In his January 2016 semiannual report and 30-day pre-election report, the respondent included his political expenditures from personal funds in his calculation of total outstanding loans. The respondent disclosed \$9,449.99 in total outstanding loans, which is the sum of the activity he disclosed on Schedule G and a \$2,500 personal loan he had disclosed on Schedule E of his January 2016 semiannual report.
14. In his January 2016 semiannual report, the respondent did not include unitemized political contributions totaling \$95 in his calculation of total political contributions. He disclosed \$295 in total political contributions, which should have been disclosed as \$390. In his 30-day pre-election report, the respondent did not include \$100 in unitemized political contributions and \$2,500 in non-monetary, in-kind political contributions in his calculation of total political contributions. He disclosed \$1,325 in total political contributions, which should have been disclosed as \$3,925.
15. The respondent filed corrections for the January 2016 semiannual report and 30-day pre-election report, but did not include the \$100 in unitemized political contributions in his calculation of total political contributions in the corrected 30-day pre-election report.

IV. Findings and Conclusions of Law

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

Disclosure of Political Expenditures for Campaign Signs

1. 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. ELEC. CODE § 254.031(a)(3).

2. Obligations which are incurred, but not paid during a reporting period must be reported under Schedule F2 (relating to unpaid incurred obligations). Ethics Commission Rules § 20.58.
3. The respondent provided an invoice for campaign signs dated February 22, 2016, which was after the reporting period for the 8-day pre-election report. He swore that he did not contact First Graphic Services to purchase new campaign signs until February 22, 2016.
4. The respondent provided documentation showing that he used recycled signs and stickers prior to the purchase of new signs after the 8-day pre-election reporting period. The respondent swore that he did not make any other political expenditures for signs. Therefore, there is credible evidence of no violation of section 254.031(a)(3) of the Election Code and section 20.58 of the Ethics Commission Rules with respect to the disclosure of political expenditures for campaign signs.

Reporting Political Contributions and Political Expenditures

5. 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. ELEC. CODE § 254.031(a)(1).
6. 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. *Id.* § 254.031(a)(3).
7. For reporting required under section 254.031 of the Election Code, the purpose of an expenditure means: (1) A description of the category of goods, services, or other thing of value for which an expenditure is made. (2) 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. Ethics Commission Rules § 20.61(a).
8. The respondent disclosed partial addresses, without the streets and street numbers, for the contributors of eight political contributions totaling \$3,975. He also disclosed partial addresses, without the street names and street numbers, as well as incomplete descriptions for six political expenditures totaling \$7,932.75. The respondent did not disclose two in-kind

political contributions totaling \$710 on the correct reporting schedule, Schedule A2, but reported them as a loan on Schedule E. Further, the respondent disclosed his own name, rather than the actual payee names of two political expenditures totaling \$6,102.75. The political expenditures were made to the United States Postal Service and a local restaurant, and the respondent disclosed the categories of the political expenditures as “postage” and “volunteer meal.”

Total Political Contributions, Political Expenditures, and Loans

9. A campaign finance 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).
10. 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. *Id.* § 254.031(a)(6).
11. The respondent did not properly disclose total political expenditures in the January 2016 semiannual report. The respondent also did not properly disclose total political contributions, loans, and total outstanding loans in the January 2016 semiannual and 30-day pre-election report. Political contributions, political expenditures, and loans were reflected in the reports filed, but the total amounts were incorrectly calculated, partially due to some activity being disclosed on the wrong reporting schedule. Therefore, there is credible evidence of violations of section 254.031(a)(2) and (6) 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 these sworn complaints.
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: 1) campaign finance reports 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; 2) campaign finance reports 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; 3) the purpose of an expenditure means: (1) a description

of the category of goods, services, or other thing of value for which an expenditure is made, and (2) a brief statement or description of the candidate, officeholder, or political committee activity that is conducted by making the expenditure; 4) campaign finance reports must include the aggregate principal amount of all outstanding loans as of the last day of the reporting period; and 5) campaign finance reports must include the total amount of all political contributions accepted and the total amount of all political expenditures made during 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 nature, circumstances, and consequences of the violations described under Sections III and IV, and after considering the sanction necessary to deter future violations, the Commission imposes a \$500 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-3160244 and SC-31607164.

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

John Brian Hutcheson, Respondent

EXECUTED ORIGINAL received by the Commission on: _____.

Texas Ethics Commission

By: _____
Seana Willing, Executive Director