

# TEXAS ETHICS COMMISSION

IN THE MATTER OF	§	BEFORE THE
GERALD JOUBERT,	§	TEXAS ETHICS COMMISSION
RESPONDENT	§	SC-31804184 AND SC-31906122CI

## ORDER and AGREED RESOLUTION

### I. Recitals

The Texas Ethics Commission (Commission) met on November 20, 2019, to consider sworn complaints SC-31804184 and SC-31906122CI. A quorum of the Commission was present. The Commission determined that there is credible evidence of violations of sections 253.003, 253.005, 253.094, 254.031, 254.036, 254.061, 254.063, and 254.064 of the Election Code, laws administered and enforced by the Commission. To resolve and settle these complaints without further proceedings, the Commission adopted this resolution.

### II. Allegations

The complaints alleged that the respondent: 1) accepted political contributions from corporations; 2) made or authorized political expenditures wholly or partly from political contributions that he knew to have been made by corporations; 3) did not properly report political contributions and expenditures, and if expenditures were direct campaign expenditures, did not report information for the candidate or officeholder who benefited from the expenditures; 4) did not include his full name and address, the office sought, the identity and date of the election, and the campaign treasurer's name, address, and telephone number in the 30-day pre-election report for the May 6, 2017, election and the 30-day pre-election report for the May 5, 2018, election; 5) did not execute an affidavit for the 30-day pre-election report for the May 5, 2018, election; 6) did not file July 2017, January 2018, July 2018, and January 2019 semiannual reports; 7) did not file an 8-day pre-election report for the May 5, 2018, election; and 8) did not file runoff reports for the June 16, 2018, and June 8, 2019, runoff elections.

### III. Findings of Fact and Conclusions of Law

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

1. The Commission met on June 27, 2019, and on its own motion initiated sworn complaint SC-31906122CI. Sworn complaint SC-31804184 had previously been filed.

2. The respondent was the unsuccessful incumbent candidate for Mayor of Forest Hill, Texas, in the May 6, 2017, election. He was the successful candidate for City Council, Place 3, of Forest Hill, Texas, in the May 5, 2018, election and the June 16, 2018, runoff election. He was the successful candidate for Mayor of Forest Hill, Texas, in the May 4, 2019, election and the June 8, 2019, runoff election. He was an opposed candidate who did not elect to file on the modified reporting schedule in each of the above-referenced elections.

### **Acceptance of Corporate Contributions**

3. Sworn complaint SC-31804184 alleged that the respondent accepted four prohibited political contributions from corporations, three of which were from persons “intertwined” with Conatser Construction, Inc., a corporation. The complaint further alleged that the persons intertwined with Conatser Construction, Inc., included JRC Investments, Inc., JRC Management, L.L.C., and Jerry Conatser.
4. The respondent did not disclose any contribution(s) from Conatser Construction, Inc., JRC Investments, Inc., or JRC Management, L.L.C. However, the respondent disclosed one contribution of \$5,000 from “Jerry Conatser” on July 14, 2016, one contribution of \$2,500 from “Conatser Construction TX, L.P.,” on March 3, 2017, and one contribution of \$2,500 from “Conatser Site Services TX, L.P.,” on March 3, 2017, on the 30-day pre-election report for the May 2017 election.
5. Records on file with the City Secretary of Forest Hill show the respondent filed a campaign treasurer appointment with the City of Forest Hill on January 18, 2017. On his campaign treasurer appointment, the respondent signed a statement acknowledging: “I am aware of the restrictions in title 15 of the Election Code on contributions from corporations and labor organizations.”
6. In the respondent’s sworn response to written questions from Commission staff, the respondent admitted that, at the time he accepted the contributions, he knew acceptance of a political contribution from a corporation is prohibited.

### **Conatser Construction TX, L.P.**

7. Regarding the \$2,500 contribution disclosed as having been accepted from “Conatser Construction TX, L.P.,” in response to the complaint, the respondent swore that he believed the contribution was from Jerry Conatser, who was a personal friend.
8. In response to a request from Commission staff, the respondent produced a copy of a check, dated February 28, 2017, in the amount of \$2,500, which he swore was a true and correct

copy. The check was imprinted with:

Conatser Construction TX, L.P.  
5327 Wichita St., P.O. Box 15488  
Fort Worth, TX 76119.

9. Records from the Texas Secretary of State (SOS) show that Conatser Construction TX, L.P., is a domestic limited partnership, whose general partner is Conatser Management Group, Inc., a domestic for-profit corporation. Both Conatser Construction TX, L.P., and Conatser Management Group, Inc., are domiciled at 5327 Wichita Street, Fort Worth, Texas 76119.
10. The check from Conatser Construction TX, L.P., did not indicate it was from Jerry Conatser, an individual.
11. The respondent accepted a \$2,500 corporate political contribution from Conatser Construction TX, L.P., on March 3, 2017, and disclosed it on the 30-day pre-election report for the May 2017 election. The check for the contribution clearly indicated that the contributor was a limited partnership, not the individual the respondent claimed had made the contribution. The respondent has not provided any documentation to show the contribution was returned.
12. A person may not knowingly accept a political contribution the person knows to have been made in violation of Chapter 253 of the Election Code. ELEC. CODE § 253.003(b).
13. A corporation may not make a political contribution or political expenditure that is not authorized by subchapter D, Chapter 253, Election Code. *Id.* § 253.094(a). Subchapter D does not authorize a corporation to make a political contribution to a candidate or officeholder.
14. The prohibition applies to corporations that are organized under the Texas Business Corporation Act, the Texas For-Profit Corporation Law, the Texas Non-Profit Corporation Act, the Texas Nonprofit Corporation Law, federal law, or law of another state or nation. *Id.* § 253.091.
15. A partnership that has corporate partners is subject to the same restrictions on political activity that apply to corporations. Ethics Advisory Opinion Nos. 221 (1994) and 215 (1994).
16. In order to find a violation of sections 253.003 and 253.094 of the Election Code, credible evidence must show that a corporation made a political contribution to the respondent, that at the time the respondent accepted the contribution he knew the law prohibited political

contributions from corporations, and that the respondent knew the particular political contribution at issue was from a corporation.

17. At the time the respondent accepted the \$2,500 political contribution from Conatser Construction TX, L.P., for the May 2017 election, he was aware of the restrictions in Chapter 253 of the Election Code on the acceptance of contributions from corporations.
18. Conatser Construction TX, L.P., has a general partner that is a corporation. Therefore, Conatser Construction TX, L.P., is prohibited from making a political contribution. *See* Ethics Advisory Opinion Nos. 221 (1994) and 215 (1994). However, there is insufficient credible evidence that the respondent knew that the limited partnership had a corporate partner, and that the contribution was made in violation of the Election Code. Therefore, as to Conatser Construction TX, L.P., there is insufficient credible evidence of a violation of sections 253.003 and 253.094 of the Election Code.

Conatser Site Services TX, L.P.

19. Regarding the \$2,500 contribution disclosed as having been accepted from “Conatser Site Services TX, L.P.,” in response to the complaint, the respondent swore that he believed the contribution was from Jerry Conatser, who was a personal friend.
20. In response to a request from Commission staff, the respondent produced a copy of a check, dated February 28, 2017, in the amount of \$2,500, which he swore was a true and correct copy. The check was imprinted with:

Conatser Site Services TX, L.P.  
P.O. Box 15804  
Fort Worth, TX 76119.
21. SOS records show that Conatser Site Services TX, L.P., is a domestic limited partnership, whose general partner is JRC Management, L.L.C., a domestic limited liability company. JRC Management, L.L.C., is manager-managed. Both Conatser Site Services TX, L.P., and JRC Management, L.L.C., are domiciled at 5327 Wichita Street, Fort Worth, Texas 76119.
22. The check from Conatser Site Services TX, L.P., did not indicate it was from Jerry Conatser, an individual.
23. The respondent accepted a \$2,500 political contribution from Conatser Site Services TX, L.P., on March 3, 2017, and disclosed it on the 30-day pre-election report for the May 2017 election. The check for the contribution clearly indicated that the contributor was a limited partnership, not the individual the respondent claimed had made the contribution. The

respondent has not provided any documentation to show the contribution was returned.

24. A limited liability company owned in whole or in part by a corporation is subject to the restrictions in subchapter D, Chapter 253, Election Code. The restrictions also apply to a limited liability company that is owned in part by another limited liability company that is owned in part by a corporation. Ethics Advisory Opinion No. 383 (1997).
25. Conatser Site Services TX, L.P., has a general partner that is a limited liability company. There is insufficient credible evidence that the respondent knew that the limited partnership was owned in whole or in part by a limited liability company owned in whole or in part by a corporation, and that the contribution was made in violation of the Election Code. Therefore, as to Conatser Site Services TX, L.P., there is insufficient credible evidence of a violation of sections 253.003 and 253.094 of the Election Code.

#### Jerry Conatser

26. Regarding the \$5,000 contribution disclosed as having been accepted from “Jerry Conatser,” in response to the complaint, the respondent swore that he believed the contribution was from Jerry Conatser, who was a personal friend.
27. In response to a request from Commission staff, the respondent produced a copy of a check, dated July 11, 2016, in the amount of \$5,000, which he swore was a true and correct copy. The check was imprinted with:  
  
Jerry Conatser  
Cheryl Conatser  
6716 Saint Andrews Road  
Fort Worth, TX 76132.
28. The check from Jerry Conatser did not indicate it was from a business.
29. The respondent accepted a \$5,000 political contribution from Jerry Conatser, an individual, on July 14, 2016, and disclosed it on the 30-day pre-election report for the May 2017 election. The check for the contribution clearly indicated that the contributor was an individual. Credible evidence indicates the contribution was not from a corporation. Therefore, as to Jerry Conatser, there is credible evidence of no violation of sections 253.003 and 253.094 of the Election Code.

#### Northeast Service, Inc., D.B.A. Horton Tree Service

30. The complaint alleged that the respondent accepted one contribution on February 28, 2018,

in the amount of \$5,000, from D.B.A. Horton Tree Service, an “agent” of Northeast Investments, a corporation.

31. The respondent disclosed on his 30-day pre-election report for the May 2018 election that he accepted one contribution of \$5,000 on February 28, 2018, from “D.B.A. Horton Tree Service.”
32. SOS records show that Horton Tree Service is the assumed name of Northeast Service, Inc., a domestic for-profit corporation with the mailing address of P.O. Box 1185, Kennedale, Texas 76060 and the principal place of business at 5120 SE Loop 820, Fort Worth, Texas 76140.
33. In response to the complaint, the respondent swore that he believed the contribution was from Johnny Horton, who was a personal friend.
34. In response to a request from Commission staff, the respondent produced a copy of a check dated February 28, 2018, in the amount of \$5,000, which he swore was a true and correct copy. The check was imprinted with:

Northeast Service, Inc.  
D.B.A. Horton Tree Service  
P.O. Box 1185  
Kennedale, TX 76060.
35. The name of the contributor on the check included the abbreviation “Inc.” The check did not indicate it was from Johnny Horton, an individual.
36. The respondent accepted a \$5,000 corporate political contribution from Northeast Service, Inc., on February 28, 2018, and disclosed it on the 30-day pre-election report for the May 2018 election. The check for the contribution clearly indicated that the contributor was a corporation with the abbreviation “Inc.” in its name, not the individual the respondent claimed had made the contribution. The respondent has not provided any documentation to show the contribution was returned.
37. At the time the respondent accepted the \$5,000 political contribution from Northeast Service, Inc., for the May 2018 election, he was aware of the restrictions in Chapter 253 of the Election Code on the acceptance of contributions from corporations.
38. As to the \$5,000 contribution from Northeast Service, Inc., there is credible evidence that the respondent knowingly accepted the political contribution, and that he knew the contribution was from a corporation. Therefore, there is credible evidence of a violation of sections 253.003 and 253.094 of the Election Code.

**Expenditures Made or Authorized from Corporate Contributions**

39. Sworn complaint SC-31804184 alleged that the respondent made or authorized 32 political expenditures between September 7, 2016, and April 26, 2017, from prohibited corporate contributions. The complaint also alleged that the respondent made or authorized 52 expenditures from prohibited corporate contributions and disclosed those expenditures on the 30-day pre-election report for the May 2018 election.
40. The respondent disclosed 12 expenditures on the 30-day pre-election report totaling \$5,728.69 and 12 expenditures on the 8-day pre-election report totaling \$2,693.81 for the May 2017 election. The respondent disclosed 51 expenditures totaling \$10,481.01 on the 30-day pre-election report for the May 2018 election. For some of the disclosed expenditures, the respondent listed multiple dates for a single expenditure.
41. In the respondent's sworn response to written questions from Commission staff, the respondent admitted that he deposited the checks from the above-referenced corporate entities into an account that contained political contributions and made or authorized one or more political expenditures from the same account.
42. A person may not knowingly make or authorize a political expenditure wholly or partly from a political contribution the person knows to have been made in violation of this chapter. ELEC. CODE § 253.005(a).
43. The respondent deposited a \$5,000 political contribution he knew to have been made by Northeast Service, Inc., into an account from which he made political expenditures. There is credible evidence that the respondent knew he made political expenditures wholly or partly from a contribution he knew was from a corporation. Therefore, there is credible evidence of violations of sections 253.003 and 253.005 of the Election Code.
44. The respondent deposited political contributions from Conatser Construction TX, L.P., and Conatser Site Services TX, L.P., into an account from which he made political expenditures. There is insufficient credible evidence as to Conatser Construction TX, L.P., and Conatser Site Services TX, L.P., that the respondent made political expenditures wholly or partly from contributions he knew were from a corporation. Therefore, as to Conatser Construction TX, L.P., and Conatser Site Services TX, L.P., there is insufficient credible evidence of a violation of sections 253.003 and 253.005 of the Election Code.
45. The respondent deposited a political contribution from Jerry Conatser into an account from which he made political expenditures. The contribution from Jerry Conatser was not made in violation of chapter 253 of the Election Code, and therefore, as to said individual, there is

credible evidence of no violation of sections 253.003 and 253.005 of the Election Code.

### **Reporting of Political Contributions and Expenditures**

46. Regarding the 30-day pre-election report for the May 2017 election, sworn complaint SC-31804184 alleged that the respondent did not disclose the full name and address of certain persons making contributions and persons to whom political expenditures were made. The complaint also alleged that the respondent did not disclose the name of each candidate or officeholder who benefitted from a direct campaign expenditure and the office sought or held, for seven expenditures to vendor payees. The complaint further alleged that the respondent did not disclose the total political contributions maintained as of the last day of the reporting period.
47. The respondent did not disclose the full address for four contributions totaling \$10,300 and three expenditures totaling \$2,277.99. The contributions for which full addresses were not disclosed included Jerry Conatser, Conatser Construction TX. L.P., Conatser Site Services TX, L.P., and one other individual. The respondent left a blank for the contributions maintained on cover sheet page two. The respondent disclosed seven expenditures to vendor payees that were alleged to have been made as direct campaign expenditures for the benefit of another candidate. The respondent did not disclose any of the expenditures as direct campaign expenditures.
48. In response to the complaint, the respondent swore that he inadvertently missed the line on cover sheet page two for the contributions maintained, and inadvertently missed writing down addresses for certain contributors on the 30-day pre-election report for the May 2017 election. The respondent did not respond to the allegations concerning payee information and direct campaign expenditures that were not properly disclosed.
49. In response to the complaint, the respondent filed a corrected 30-day pre-election report for the May 2017 election, which disclosed contributions maintained of \$0 on cover sheet page two, and complete addresses for contributors and payees. The respondent did not disclose any direct campaign expenditures on the corrected 30-day pre-election report for the May 2017 election.
50. Regarding the 30-day pre-election report for the May 2018 election, the complaint alleged that the respondent did not disclose the full name and address of persons making contributions, the name of each candidate or officeholder who benefitted from direct campaign expenditures, and the office sought or held, and “other campaign finance information” that should have been contained in cover sheet page two.



51. The respondent did not disclose the full address for three contributions totaling \$11,000 and 47 expenditures totaling \$8,171.55. The three contributions for which the full addresses were not disclosed included D.B.A. Horton Tree Service and two other business entities. The respondent did not disclose any expenditures as direct campaign expenditures. The respondent did not file cover sheet page two.
52. In response to the complaint, the respondent swore that he inadvertently missed writing down addresses for the contributions at issue in the 30-day pre-election report for the May 2018 election, and misplaced cover sheet page two. He did not respond to the allegations concerning expenditures that were not fully disclosed or direct campaign expenditures for which the candidates or officeholders who benefited were not disclosed.
53. In response to the complaint, the respondent filed a corrected 30-day pre-election report for the May 2018 election, which disclosed \$11,000 in total political contributions, \$10,517.60 in total political expenditures, \$482.40 in total political contributions maintained, and \$0 in outstanding loans as of the last day of the reporting period on cover sheet page two, and complete contributor and payee address information. The respondent did not disclose any direct campaign expenditures on the corrected 30-day pre-election report for the May 2018 election.
54. Each 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, the full name and address of the person making the contributions, and dates of the contributions. ELEC. CODE § 254.031(a)(1).
55. Each report must include the aggregate principal amount of all outstanding loans as of the last day of the reporting period. *Id.* § 254.031(a)(2).
56. Each 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).
57. Each 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).
58. Each report must include the name of each candidate or officeholder who benefits from a direct campaign expenditure made during the reporting period by the person or committee required to file the report, and the office sought or held. *Id.* § 254.031(a)(7).
59. Each report must include, as of the last day of a reporting period for which the person is

required to file a report, the total amount of political contributions accepted maintained in one or more accounts in which political contributions are deposited as of the last day of the reporting period. *Id.* § 254.031(a)(8).

60. There is credible evidence that the respondent did not disclose the full address of each person from whom the respondent accepted political contributions in excess of \$50 for four contributions, and the total contributions maintained on the 30-day pre-election report for the May 2017 election. There is credible evidence that the respondent did not disclose the full address of each person from whom the respondent accepted political contributions in excess of \$50 for three contributions, and the full address of each person to whom he made political expenditures in excess of \$100 for 47 expenditures on the 30-day pre-election report for the May 2018 election. There is additional credible evidence that the respondent did not disclose the total political contributions maintained on the 30-day pre-election report for the May 2018 election. There is also credible evidence that the respondent did not disclose the principal amount of all outstanding loans as of the last day of the reporting period, the total amount of political contributions accepted, and the total amount of political expenditures made during the reporting period on the 30-day pre-election report for the May 2018 election. Therefore, there is credible evidence of violations of section 254.031 of the Election Code.
61. There is insufficient credible evidence that any expenditures the respondent made and disclosed were direct campaign expenditures made for the benefit of another candidate. Therefore, as to the seven expenditures alleged to be direct campaign expenditures, there is insufficient credible evidence of a violation of section 254.031(a)(7) of the Election Code.

#### **Reporting of Required Information about the Respondent and Campaign Treasurer**

62. Sworn complaint SC-31804184 alleged that the respondent did not include his full name and address, the office sought, the identity and date of the election, and the campaign treasurer's name, address, and telephone number in the 30-day pre-election report for the May 2017 election and the 30-day pre-election report for the May 2018 election.
63. Regarding the 30-day pre-election report for the May 2017 election, the respondent did not file cover sheet page one with his full name and address, the office sought, the identity and date of the election, and the campaign treasurer's name, address, and telephone number.
64. In response to the complaint, the respondent swore that he inadvertently stapled cover sheet page one to another document and missed filing the required information for the 30-day pre-election report for the May 2017 election.
65. The respondent's corrected 30-day pre-election report for the May 2017 election included cover sheet page one with the required information.

66. Regarding the 30-day pre-election report for the May 2018 election, the respondent did not file cover sheet page one with his full name and address, the office sought, the identity and date of the election, and the campaign treasurer's name, address, and telephone number.
67. In response to the complaint, the respondent swore that he had misplaced cover sheet page one for the 30-day pre-election report for the May 2018 election.
68. The respondent's corrected 30-day pre-election report for the May 2018 election included cover sheet page one with the required information.
69. 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. ELEC. CODE § 254.061(1). Each report by a candidate must include the campaign treasurer's name, residence or business street address, and telephone number. *Id.* § 254.061(2).
70. There is credible evidence that the respondent did not include cover sheet page one with his full name and address, the office he sought, the identity and date of the election, and his campaign treasurer's name, address, and telephone number for the 30-day pre-election reports for the May 2017 and May 2018 elections. Therefore, there is credible evidence of violations of section 254.061 of the Election Code.

### **Execution of Affidavit for Report**

71. Sworn complaint SC-31804184 alleged that the respondent did not execute an affidavit for the 30-day pre-election report for the May 2018 election.
72. As the respondent did not file cover sheet page two, which included the affidavit form, he did not execute the affidavit for the 30-day pre-election report for the May 2018 election.
73. In response to the complaint, the respondent properly executed the affidavit for the corrected 30-day pre-election report for the May 2018 election.
74. Each report must be accompanied by an affidavit executed by the person required to file the report. The affidavit must contain the statement: "I swear, or affirm, under penalty of perjury, that the accompanying report is true and correct and includes all information required to be reported by me under Title 15, Election Code." ELEC. CODE § 254.036(h).
75. There is credible evidence that the respondent did not execute the affidavit on cover sheet page two of the 30-day pre-election report for the May 2018 election. Therefore, there is credible evidence of a violation of section 254.036(h) of the Election Code.

**Failure to File Semiannual Reports**

76. Sworn complaint SC-31804184 alleged that the respondent did not file a January 2018 semiannual report. Sworn complaint SC-31906122CI alleged that the respondent did not file the July 2017, July 2018, and January 2019 semiannual reports.
77. The respondent filed his campaign treasurer appointment on January 18, 2017, and did not file a final report until July 8, 2019. Therefore, he was a candidate during the reporting periods covered by the July 2017, January 2018, July 2018, and January 2019 semiannual reports.
78. Regarding the July 2017 semiannual report, the report was due by July 17, 2017 (deadline extended due to weekend). Records on file with the City Secretary of Forest Hill show the respondent had not filed a July 2017 semiannual report as of the date sworn complaint SC-31906122CI was initiated by the Commission.
79. Regarding the January 2018 semiannual report, the report was due by January 16, 2018 (deadline extended due to holiday). Records on file with the City Secretary of Forest Hill show the respondent had not filed a January 2018 semiannual report as of the date sworn complaint SC-31804184 was filed.
80. Regarding the July 2018 semiannual report, the report was due by July 16, 2018 (deadline extended due to weekend). Records on file with the City Secretary of Forest Hill show the respondent had not filed a July 2018 semiannual report as of the date sworn complaint SC-31906122CI was initiated by the Commission.
81. Regarding the January 2019 semiannual report, the report was due by January 15, 2019. Records on file with the City Secretary of Forest Hill show the respondent had not filed a January 2019 semiannual report as of the date sworn complaint SC-31906122CI was initiated by the Commission.
82. In response to sworn complaint SC-31804184, the respondent swore that he did not remember to file the January 2018 semiannual report because he was “out of political office.” In response to sworn complaint SC-31906122CI, the respondent swore that he thought he had completed and filed all of the necessary financial reports, and “must have forgotten them or was not made aware that reports had to be filed[.]”
83. In response to sworn complaint SC-31906122CI, the respondent filed the July 2017 semiannual report late on July 8, 2019. The July 2017 semiannual report disclosed \$2,577.50 in political contributions and \$0 in political expenditures.

84. In response to sworn complaint SC-31804184, the respondent filed the January 2018 semiannual report late on March 11, 2019. The January 2018 semiannual report disclosed \$3,059.00 in political contributions and \$3,164.49 in political expenditures.
85. In response to sworn complaint SC-31906122CI, the respondent filed the July 2018 semiannual report late on July 8, 2019. The July 2018 semiannual report disclosed \$247.46 in political contributions and \$0 in political expenditures.
86. In response to sworn complaint SC-31906122CI, the respondent filed the January 2019 semiannual report late on July 8, 2019. The January 2019 semiannual report disclosed \$247.46 in political contributions and \$0 in political expenditures.
87. A candidate shall file two reports for each year as provided by this section. ELEC. CODE § 254.063(a). The first report shall be filed not later than July 15. The report covers the period beginning January 1, the day the candidate's campaign treasurer appointment is filed, or the first day after the period covered by the last report required to be filed under this subchapter, as applicable, and continuing through June 30. *Id.* § 254.063(b). The second report shall be filed not later than January 15. The report covers the period beginning July 1, the day the candidate's campaign treasurer appointment is filed, or the first day after the period covered by the last report required to be filed under this subchapter, as applicable, and continuing through December 31. *Id.* § 254.063(c).
88. There is credible evidence that the respondent did not timely file the July 2017, January 2018, July 2018, and January 2019 semiannual reports. Therefore, there is credible evidence of violations of section 254.063 of the Election Code.

#### **Failure to File 8-Day Pre-election Report**

89. Sworn complaint SC-31906122CI alleged that the respondent did not file an 8-day pre-election report for the May 5, 2018, election.
90. The report was due by April 27, 2018. Records on file with the City Secretary of Forest Hill show the respondent had not filed the report as of the date sworn complaint SC-31906122CI was initiated by the Commission.
91. In response to the complaint, the respondent filed the report late on July 8, 2019. The report disclosed \$482.40 in political contributions and \$234.94 in political expenditures.
92. For each election in which a person is a candidate and has an opponent whose name is to appear on the ballot, the person shall file two reports. ELEC. CODE § 254.064(a). The second

report must be received by the authority with whom the report is required to be filed not later than the eighth day before election day. The report covers the period beginning the 39th day before election day and continuing through the 10th day before election day. *Id.* § 254.064(c).

93. There is credible evidence that the respondent did not timely file an 8-day pre-election report for the May 5, 2018, election. Therefore, there is credible evidence of a violation of section 254.064 of the Election Code.

### **Failure to File Runoff Reports**

94. Sworn complaint SC-31906122CI alleged that the respondent did not file runoff reports for the June 16, 2018, and June 8, 2019, runoff elections.
95. Regarding the runoff report for the June 2018 runoff election, the report was due by June 8, 2018. Records on file with the City Secretary of Forest Hill show the respondent had not filed the report as of the date sworn complaint SC-31906122CI was initiated by the Commission.
96. In response to the complaint, the respondent filed the report late on July 8, 2019. The June 2018 runoff report disclosed \$247.46 in political contributions and \$0 in political expenditures.
97. Regarding the runoff report for the June 2019 runoff election, the report was due by May 31, 2019. Records on file with the City Secretary of Forest Hill show the respondent had not filed the report as of the date sworn complaint SC-31906122CI was initiated by the Commission.
98. In response to the complaint, the respondent filed the report late on July 8, 2019. The June 2019 runoff report disclosed \$1,000 in political contributions and \$1,007.34 in political expenditures.
99. An opposed candidate in a runoff election shall file one report for that election. The runoff election report must be received by the authority with whom the report is required to be filed not later than the eighth day before runoff election day. The report covers the period beginning the ninth day before the date of the main election and continuing through the 10th day before runoff election day. ELEC. CODE § 254.064(e).
100. There is credible evidence that the respondent did not timely file runoff reports for the June 16, 2018, and June 8, 2019, runoff elections. Therefore, there is credible evidence of violations of section 254.064(e) of the Election Code.

#### IV. 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 findings of fact and conclusions of law described under Section III, 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 these matters.
3. The respondent acknowledges that: 1) a person may not knowingly accept a political contribution the person knows to have been made in violation of Chapter 253 of the Election Code; 2) a corporation may not make a political contribution or political expenditure that is not authorized by subchapter D, Chapter 253, Election Code. Subchapter D does not authorize a corporation to make a political contribution to a candidate or officeholder; 3) a person may not knowingly make or authorize a political expenditure wholly or partly from a political contribution the person knows to have been made in violation of Chapter 253 of the Election Code; 4) each 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, the aggregate principal amount of all outstanding loans as of the last day of the reporting period, 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, the total amount of all political contributions accepted and the total amount of all political expenditures made during the reporting period, and the total amount of political contributions accepted maintained in one or more accounts in which political contributions are deposited as of the last day of the reporting period; 5) 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, and the campaign treasurer's name, residence or business street address, and telephone number; 6) each report must be accompanied by an affidavit executed by the person required to file the report; 7) a candidate shall file two reports for each year. The first report shall be filed not later than July 15. The second report shall be filed not later than January 15; 8) for each election in which a person is a candidate and has an opponent whose name is to appear on the ballot, the person shall file two reports. The second report must be received by the authority with whom the report is required to be filed not later than the eighth day before election day; and 9) an opposed candidate in a runoff election shall file one report for that election. The runoff election report must be received by the authority with whom the report is required to be filed not later than the eighth day before runoff election day. The respondent agrees to fully and strictly comply with these requirements of the law.

### V. 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.

### VI. Sanction

After considering the nature, circumstances, and consequences of the violations described under Section III, and after considering the sanction necessary to deter future violations, the Commission imposes a \$2,500 civil penalty. The respondent agrees that the Texas Ethics Commission, P. O. Box 12070, Austin, Texas 78711, must receive from the respondent full payment of the \$2,500 civil penalty no later than April 3, 2020, and agrees to waive any right to a hearing related to these complaints. The respondent agrees that if the full amount is not received by April 3, 2020, the matter of the collection of the civil penalty will be referred to the Office of the Attorney General of Texas.

### VII. 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-31804184 and SC-31906122CI.

AGREED to by the respondent on this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Gerald Joubert, Respondent

EXECUTED by the Commission on: \_\_\_\_\_.

Texas Ethics Commission

By: \_\_\_\_\_  
Anne Temple Peters, Executive Director