

TEXAS ETHICS COMMISSION

IN THE MATTER OF
ERIC DICK,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-32203126

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (Commission) met on September 27, 2023, to consider resubmitted sworn complaint SC-32203126. A quorum of the Commission was present. The Commission determined that there is credible evidence of violations of Sections 254.031(a)(3) and 254.031(a)(6) of the Election Code, laws administered and enforced by the Commission. To resolve and settle this complaint without further proceedings, the Commission adopted this resolution.

II. Allegation

The complaint alleged that the respondent failed to properly disclose political expenditures on his 30-day and 8-day pre-election campaign finance reports for the March 1, 2022 primary election, in violation of Sections 254.031(a)(3) and 254.031(a)(6) of the Election Code.

The Commission also considered whether the respondent failed to timely respond to the complaint, in violation of Section 571.1242 of the Government Code.

III. Findings of Fact and Conclusions of Law

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

1. The respondent was an unsuccessful candidate for Harris County Treasurer in the March 1, 2022 primary election.
2. The Commission accepted jurisdiction over resubmitted sworn complaint SC-32203126 on March 31, 2022.

Failure to Report Political Expenditures

3. The complaint alleged the respondent violated Sections 254.031(a)(3) and 254.031(a)(6) of the Election Code by failing to disclose political expenditures on his 30-day and 8-day pre-election campaign finance reports. Specifically, the complaint alleged that the respondent failed to report as political expenditures two separate \$25,000 political contributions he made to the general-purpose committee Conservative Republicans of Texas (“CRT”) in exchange for his inclusion on their slate mailer. The complaint also identified a discrepancy on the respondent’s 8-day pre-election report between the total political expenditures disclosed and the respondent’s itemized expenditures. Namely, the respondent disclosed \$208,916.43 in total political expenditures. However, the itemized political expenditures disclosed by the respondent only totaled \$107,750. Therefore, the complaint alleged that the respondent failed to report further unidentified political expenditures totaling \$101,166.43.
4. In support of these allegations, the complaint included a copy of CRT’s slate mailer endorsing the respondent for Harris County Treasurer, copies of the respondent’s 30-day and 8-day pre-election reports, and copies of CRT’s 30-day and 8-day pre-election reports. CRT’s reports show that it accepted two separate \$25,000 political contributions from the respondent. The first was dated January 13, 2022, and the second was dated February 7, 2022. The respondent did not disclose either of these political contributions as political expenditures on his reports. Additionally, both of CRT’s reports for the March 1, 2022 primary election listed the respondent as a supported candidate and identified the respondent as one of the beneficiaries of the direct campaign expenditures to “The Yates Company” for “direct mail campaign ads.”
5. Furthermore, on his 8-day pre-election report, the respondent disclosed \$0 in unitemized political expenditures and \$208,916.43 in total political expenditures. However, the itemized political expenditures disclosed by the respondent only totaled \$107,750. Additionally, there was one itemized political expenditure to “The Yates Company” dated February 16, 2022, which did not disclose the amount of the expenditure. The difference between the total political expenditures and itemized political expenditures disclosed by the respondent in his 8-day pre-election report was \$101,166.43.
6. In response to the complaint, the respondent filed an amended 8-day pre-election report on April 1, 2022. The amended report disclosed that his political expenditure to “The Yates Company” on February 16, 2022, totaled \$101,166.43. However, the respondent denied the allegations related to the \$25,000 political contributions made to CRT. The respondent swore that he was not required to disclose these political contributions as political expenditures because they were not made to secure CRT’s endorsement or a place on CRT’s slate mailer. Rather, the respondent swore that he had been supporting CRT for many years and the political contributions were made from his personal bank account. The respondent also swore that only the first of the two \$25,000 political contributions (dated January 13, 2022) was for CRT, and that the other political contribution was for the general-purpose committee Conservative Republican of Harris County (“CRHC”). The respondent attached to his response two checks from a bank account in his name. One

- check, dated January 12, 2022, was to CRT for \$25,000 and the memo line read, “Ads/Donation.” The second check, dated February 7, 2022, was to CRHC for \$25,000 and the memo line was blank.
7. Commission staff confirmed through Commission records that CRT has been an active political committee since March 27, 1998. Commission staff also confirmed through Commission records that CRHC has been an active political committee since June 2, 1994.
 8. Each report filed under Chapter 254.031 of the Election Code must include the amount of political expenditures that in the aggregate exceed \$100 (\$190 as of January 4, 2022) 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. Tex. Elec. Code § 254.031(a)(3).
 9. Each report must also 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).
 10. “Expenditure” means a payment of money or any other thing of value and includes an agreement made or other obligation incurred, whether legally enforceable or not, to make a payment. *Id.* § 251.001(6).
 11. “Campaign expenditure” means an expenditure made by any person in connection with a campaign for an elective office or on a measure. Whether an expenditure is made before, during, or after an election does not affect its status as a campaign expenditure. *Id.* § 251.001(7).
 12. “Political expenditure” means a campaign expenditure or an officeholder expenditure. *Id.* § 251.001(10).
 13. An expenditure is made in connection with a campaign for an elective office if it is a campaign contribution to a group that, at the time of the contribution, already qualifies as a political committee. 1 Tex. Admin. Code § 20.1(18)(A)(iv)(II).
 14. As a candidate for Harris County Treasurer in the March 1, 2022 primary election, the respondent was required to disclose all political expenditures he made during the reporting periods at issue in the complaint.
 15. Credible evidence indicates that the respondent disclosed on his 8-day pre-election report a total of \$0 in unitemized political expenditures and \$208,916.43 in total political expenditures. However, the itemized political expenditures disclosed by the respondent only totaled \$107,750. Therefore, credible evidence indicates that the respondent failed to report \$101,166.43 in political expenditures on his 8-day pre-election report. The respondent did file an amended 8-day pre-election report on April 1, 2022, disclosing that he made a \$101,166.43 political expenditure to “The Yates Company” on February 16, 2022, but the amended report was filed a day after the Commission accepted

jurisdiction over the complaint and 31 days after the primary election. There is, therefore, credible evidence of a violation of Section 254.031(a)(3) of the Election Code as to the \$101,166.43 political expenditure to “The Yates Company.”

16. Credible evidence indicates that the respondent made a \$25,000 political contribution to CRT, which it accepted on January 13, 2022. Credible evidence further indicates that this contribution constituted a political expenditure made by the respondent because at the time of the contribution CRT was an active political committee and, based on its 30-day pre-election report and slate mailer, CRT supported various candidates in the March 1, 2022 primary election. However, the respondent did not disclose this political contribution on his 30-day pre-election report. Therefore, concerning this \$25,000 expenditure, there is credible evidence of violations of Sections 254.031(a)(3) and 254.031(a)(6) of the Election Code. That violations occurred is further supported by the language included in the memo line of the contribution check (“Ads/Donations”), the inclusion of the respondent’s name on CRT’s reports as a supported candidate and on CRT’s slate mailer, and CRT’s direct campaign expenditures on behalf of the respondent, all of which indicate that this political contribution was a political expenditure by the respondent in support of his own candidacy for Harris County Treasurer.
17. Credible evidence indicates that the respondent made a \$25,000 political contribution to CRHC, which was accepted on February 7, 2022. Credible evidence further indicates that this contribution constituted a political expenditure made by the respondent because at the time of the contribution CRHC was an active political committee and, based on its campaign finance reports covering the period in which the respondent made the contribution, it supported various candidates for public office. However, the respondent did not disclose this political contribution on his 8-day pre-election report. Concerning this expenditure, therefore, there is credible evidence of violations of Sections 254.031(a)(3) and 254.031(a)(6) of the Election Code.

Failure to Respond to Sworn Complaint

18. Resubmitted sworn complaint SC-32203126 was filed on March 25, 2022. That same day, Commission staff called the telephone number provided in the complaint and received a message stating that the call could not be completed as dialed. To confirm that the telephone number was entered correctly, Commission staff called the number a second time and received the same message. Commission staff then called the telephone number provided in a prior complaint filed against the respondent. This number is also the telephone number listed on the respondent’s Texas State Bar profile and on Google as the telephone number for the respondent’s law firm. This call went to a voicemail message that identified the number as belonging to the respondent. Commission staff left a message for the respondent to return the Commission’s call.
19. Since the Commission did not receive a response from the respondent, Commission staff made a follow-up telephone call on March 28, 2022, to the number provided on sworn complaint SC-32203126. Unlike the attempt made on March 25, 2022, Commission staff was able to reach an automated directory and voicemail for the respondent through this

- telephone number. A message was left for the respondent to return the Commission's call, but the respondent never responded.
20. On March 31, 2022, the Commission accepted jurisdiction over the complaint and sent notice of the complaint by certified mail, return receipt requested, to the address listed on the complaint, 3701 Brookwoods Drive, Houston, Texas 77092-8317.
 21. The notice letter designated the allegation as a Category One violation and notified the respondent that, by law, he was required to respond to the allegation not later than 10 business days after the notice was received, and that a failure to respond constituted a separate violation for which a separate civil penalty could be assessed.
 22. By May 26, 2022, it appeared to Commission staff that the notice of complaint mailed to the respondent on March 31, 2022, had been delayed. Therefore, on May 26, 2022, Commission staff sent the respondent a quarterly notice letter, which included the first notice of complaint and its associated attachments, by delivery confirmation through USPS to the address listed on the complaint. USPS records show the notice of complaint was delivered on May 28, 2022.
 23. Since the respondent did not respond to the complaint, Commission staff sent the respondent another copy of the notice of complaint by certified mail on June 15, 2022, to the address listed on the complaint, which USPS records show was delivered on June 17, 2022. Additionally, Commission staff sent a second copy of the notice by delivery confirmation to the same address on June 15, 2022. USPS records show that this copy was delivered on June 18, 2022. Based on the delivery date of the notice letter sent by certified mail, the respondent was required to respond to the complaint by July 1, 2022.
 24. By July 7, 2022, the respondent had not responded to the complaint. Therefore, Commission staff placed a telephone call to the respondent that same day at the number provided in sworn complaint SC-32203126. Although, Commission staff had previously been successful in reaching the respondent's voicemail at this number, on this date Commission staff received a recorded message stating "this call cannot be completed as dialed." To confirm that the telephone number was entered correctly, Commission staff called the number three separate times, but received the same message. Commission staff then tried calling the telephone number provided in a prior complaint filed against the respondent, which was the same telephone number listed on the respondent's Texas State Bar profile and on Google as the respondent's law firm, but received a message stating "the number you are trying to reach is no longer in service." Commission staff next tried calling the telephone number listed on the respondent's law firm website. However, once again, Commission staff received a message stating "the number you are trying to reach is no longer in service."
 25. On August 26, 2022, the Commission sent the respondent a quarterly notice via first class mail informing him that the complaint was still pending.

26. On January 5, 2023, the Commission sent the respondent a quarterly notice via first class mail informing him that his response to the complaint had not been received and that a failure to respond would constitute a separate violation for which a separate civil penalty may be assessed.
27. On February 3, 2023, the Commission received a letter of representation from attorney Jared Woodfill stating that he would be representing the respondent in this matter.
28. Mr. Woodfill submitted the respondent's response to the complaint on March 9, 2023.
29. If the alleged violation is a Category One violation, the respondent must respond to the notice required by Section 571.123(b) not later than the 10th business day after the date the respondent receives the notice under Section 571.123(b). Tex. Gov't Code § 571.1242(a). A respondent's failure to timely respond is a Category One violation. *Id.* § 571.1242(c).
30. The response must include any challenge the respondent seeks to raise to the Commission's exercise of jurisdiction. In addition, the respondent may: (1) acknowledge the occurrence or commission of a violation; (2) deny the allegations contained in the complaint and provide evidence supporting the denial; or (3) agree to enter into an assurance of voluntary compliance or other agreed order, which may include an agreement to immediately cease and desist. *Id.* § 571.1242(d).
31. The respondent received legally sufficient notice of the complaint and was required to submit a written response by July 1, 2022. The respondent did not submit a response to the complaint until March 9, 2023, despite receiving multiple notices from the Commission. Therefore, there is credible evidence of a violation of Section 571.1242 of the Government 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 and settling this sworn complaint.
2. The respondent consents to this order and agreed resolution before any adversarial evidentiary hearings or argument before the Commission, and before any formal adjudication of law or fact by the Commission. The respondent waives any right to a hearing before the Commission or an administrative law judge, and further waives any right to a post-hearing procedure established or provided by law. The Commission and respondent agree that the entry of this order and agreed resolution will be a full and complete resolution of sworn complaint SC-32203126 and the respondent's failure to timely respond to the complaint.

3. The respondent acknowledges that a person violates Section 254.031(a)(3) of the Election Code, by filing a report that does not include the amount of political expenditures that in the aggregate exceed \$100 (\$190 as of January 4, 2022) 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. The respondent further acknowledges that a person violates Section 254.031(a)(6) of the Election Code by filing a report that does not include the total amount of all political expenditures made during the reporting period. The respondent agrees to comply with these requirements of the law.
4. The respondent understands and agrees that the Commission will consider this order and agreed resolution in any future sworn complaint proceedings against the respondent regarding similar violations that occur after the date this agreement is executed.

V. 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.

VI. Sanction

1. The Commission may impose a civil penalty of not more than \$5,000 or triple the amount at issue under a law administered and enforced by the Commission, whichever amount is more, for a delay in complying with a Commission order or for violation of a law administered and enforced by the Commission. Tex. Gov't Code § 571.173.
2. The Commission shall consider the following factors in assessing a sanction: 1) the seriousness of the violation, including the nature, circumstances, consequences, extent and gravity of the violation; 2) the history and extent of previous violations; 3) the demonstrated good faith of the violator, including actions taken to rectify the consequences of the violation; 4) the penalty necessary to deter future violations, and 5) any other matters that justice may require. *Id.* § 571.177.
3. A substantial civil penalty is warranted in this case given the large sum of political expenditures the respondent failed to disclose. As detailed above, the respondent failed to report a total of \$151,166.43 in political expenditures between his 30-day and 8-day pre-election reports.
4. Although the respondent corrected his 8-day pre-election report to reflect the \$101,166.43 political expenditure he made to “The Yates Company” on February 16, 2022, he did so 31 days after the March 1, 2022 primary election. Therefore, the harm to disclosure and public transparency had already occurred.

5. Additionally, as of the date of this order and agreed resolution, the respondent has not disclosed his \$25,000 political contribution to CRT or his \$25,000 political contribution to CRHC.
6. The respondent has also acted in bad faith with Commission staff throughout the sworn complaint process. He not only ignored the Commission's repeated attempts over the course of many months to contact him regarding the complaint, but when he finally submitted his response it was over eight months late.
7. Lastly, the respondent has a history of prior violations. On May 17, 2022, the Commission ordered the respondent to pay a \$30,000 civil penalty for political advertising and campaign finance reporting violations. *In the Matter of Eric Dick*, SC-31912186. Not only did the respondent fail to pay the civil penalty, but he made an effort to obfuscate the discovery process and unnecessarily delay the processing of the sworn complaint in that case.
8. Given the significance of the violations at issue in this complaint and the respondent's history of bad faith with Commission staff, a substantial civil penalty is needed to deter the respondent from committing future violations. The maximum civil penalty the Commission may impose in this case is \$453,499.29. Tex. Gov. Code § 571.173.
9. Therefore, 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 \$10,000 civil penalty.

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-32203126.

AGREED to by the respondent on this _____ day of _____, 2023.

Eric Dick, Respondent

EXECUTED by the Commission on: _____.

Texas Ethics Commission

By: _____
J.R. Johnson, Executive Director