

TEXAS ETHICS COMMISSION

IN THE MATTER OF
PEGGY S. HAUSMAN,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-2908198

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on December 2, 2009 to consider sworn complaint SC-2908198. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 253.031(a), 254.031(a)(3), 254.031(a)(6), and 254.036(a) of the Election Code, and credible evidence of technical or *de minimis* violations of sections 254.031(a)(6) and 254.031(a)(8) of the Election Code, laws administered and enforced by the commission. To resolve and settle this complaint without further proceedings, the commission proposed this resolution to the respondent.

II. Allegations

The complaint alleged that the respondent failed to properly disclose total political contributions maintained, political contributions, political expenditures, failed to report political contributions on a form prescribed by the commission, and made political expenditures at a time when no campaign treasurer appointment was in effect.

III. Facts Supported by Credible Evidence

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

1. The respondent was a successful candidate for Director, The Woodlands Township.
2. The complaint alleged that the respondent: (1) failed to properly disclose total political contributions maintained on her 30-day and 8-day pre-election reports for the May 2008 general election, and on her final report, (2) failed to properly disclose political contributions in her 30-day and 8-day pre-election reports for the May 2008 general election, (3) reported an incorrect amount of total political expenditures in her 30-day and 8-day pre-election reports for the May 2008 general election, (4) made campaign expenditures without a campaign treasurer appointment in effect on her 30-day pre-election report for the May 2008 general election, (5) failed to report political contributions in a format prescribed by the commission on her 30-day and 8-day pre-election reports for the May 2008 general election, and on her final report.

Total Political Contributions Maintained

3. The respondent's 30-day pre-election report for the May 2008 general election disclosed \$16,260 in total political contributions, \$15,937.98 in total political expenditures, and \$6,689.89 in total political contributions maintained. The complaint alleged that the total political contributions maintained should be \$127.48. The complainant reached this amount by subtracting the total political expenditures from the total political contributions. In a sworn response to the complaint and in a statement attached to a corrected report, the respondent stated that the original contribution balance was correctly reported when political expenditures from personal funds are considered, and \$6,689.89 was her ledger balance as of the last day of the reporting period.
4. The respondent's 8-day pre-election report for the May 2008 general election disclosed \$1,000 in total political contributions, \$590 in total political contributions of \$50 or less, \$8,203.14 in total political expenditures, and \$73.55 in total political contributions maintained. The complaint alleged that the total political contributions maintained should be -\$6,488.76. The complainant reached this amount by adding the total political contributions maintained from the respondent's 30-day pre-election report for the May 2008 primary election and the respondent's 8-day pre-election report for the May 2008 general election. From that number, the total political expenditures in the 8-day pre-election report for the May 2008 general election was subtracted. Thus, the complainant concluded that the total political contributions maintained was -\$6,488.76. In a sworn response to the complaint and in a statement attached to a corrected report, the respondent stated that the original contribution balance was correctly reported when political expenditures from personal funds are considered, and \$73.55 was her ledger balance as of the last day of the reporting period.
5. The respondent's final campaign finance report disclosed \$325 in total political contributions, \$3,101.43 in total political expenditures, and \$0 in total political contributions maintained. The complaint alleged that the total political contributions maintained should be -\$9,265.19. The complaint reached this amount by adding the total political contributions maintained from the respondent's 8-day pre-election report for the May 2008 general election to the total political contributions in the respondent's final report. From that number, the total political expenditures in the respondent's final report was subtracted. Thus, the complainant concluded that the total political contributions maintained, should be -\$9,265.19. The respondent filed a sworn response and a corrected final report and acknowledged that the original report was incorrect, but not as alleged. The correct balance was \$0.09.

Disclosure of Political Contributions

6. The complaint alleged that the respondent's 30-day pre-election report for the May 2008 general election disclosed the receipt of an in-kind contribution but failed to disclose the amount of the contribution. The contribution was an in-kind contribution of personal photography services and the photographs were in digital form with minimal or no ancillary expenses incurred by the contributor.

7. The respondent's 8-day pre-election report for the May 2008 general election disclosed \$590 in total political contributions of \$50 or less and \$1,000 in total political contributions. The complaint alleged that the total amount of political contributions should have been \$1,590. The original report did not add the aggregate of the total political contributions of \$50 or less to the total itemized contributions. The respondent filed a corrected report disclosing the total amount of political contributions as \$1,590.

Disclosure of Political Expenditures

8. The respondent's 30-day pre-election report for the May 2008 general election disclosed \$15,937.98 in total political expenditures. The complaint alleged that the total political expenditures should be \$16,132.52. In response to the complaint, the respondent acknowledged that the original report was incorrect, but not as alleged. The respondent stated that the correct amount of total political expenditures was \$16,070.11. The respondent stated that she incorrectly disclosed a \$489.41 political expenditure twice – once on Schedule G (used to disclose political expenditures from personal funds) and again as a reimbursement to herself on Schedule F (used to disclose political expenditures from political contributions). The respondent also stated that she underreported a political expenditure by \$427. The respondent filed a corrected report to reflect the changes.
9. The respondent's 8-day pre-election report for the May 2008 general election disclosed \$8,203.14 in total political expenditures. The complaint alleged that the total political expenditures should be \$8,206.24. In a sworn response to the complaint, the respondent acknowledged that the original report was incorrect, but not as alleged. The correct amount of total political expenditures was \$8,206.34.

Making Campaign Expenditures Without A Campaign Treasurer Appointment in Effect

10. The respondent's 30-day pre-election report disclosed six political expenditures made from personal funds. The first expenditure of \$35 was made to the County of Montgomery on November 6, 2007, and the second expenditure of \$20 was made to the United States Postal Service on January 22, 2008. The expenditures were reimbursed by the respondent's campaign. The respondent appointed her campaign treasurer on January 30, 2008. In a sworn response to the complaint, the respondent stated that at the time she made these expenditures, she did not consider herself a candidate because she had not solicited any donations or support and she had not yet filed for a place on the ballot. However, the respondent acknowledged that the making of the political expenditures did make her a candidate as defined in the Election Code.

Filing Reports in a Format Prescribed by the Commission

11. The respondent filed the three campaign finance reports at issue with The Woodlands Township. On each report, Schedule A (Political Contributions Other Than Pledges or Loans) had the words "See Attached List Donors" written on the front page. Attached to Schedule A was a spreadsheet list of the names and addresses of each contributor and the

amount that each contributed. In response to the complaint, the respondent asserted that she used the proper format to file the report, even if not the proper form, and that she was not required to use the Schedule A form to report her contributors. The respondent filed corrected reports with her response and listed each of her contributors on Schedule A.

IV. Findings and Conclusions of Law

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

Total Political Contributions Maintained

1. Each 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. ELEC. CODE § 254.031(a)(8). A *de minimis* error in calculating or reporting a cash balance is not a violation. ELEC. CODE § 254.031(a-1).
2. The respondent incorrectly reported the contribution balance in her final report, leaving out \$0.09. The error was a *de minimis* calculation error. Therefore, there is credible evidence of no violation of section 254.031(a)(8) of the Election Code.

Disclosure of Political Contributions

3. Each 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).
4. Each report must include the total amount of all political contributions and the total amount of all political expenditures made during the reporting period. ELEC. CODE § 254.031(a)(6).
5. A political contribution consisting of an individual's personal service is not required to be reported if the individual receives no compensation for the service. ELEC. CODE § 254.033.
6. Regarding the allegation that the respondent received an in-kind contribution without disclosing its amount on her 30-day pre-election report, a person who was not in the photography business and was not compensated, contributed his personal services to photograph the respondent. Although digital records have value and detailed reporting would be required if the value of the contributed records exceeds \$50 during a reporting period, here the records had minimal value. Thus, the contribution at issue consisted of a non-reportable personal service and a digital record of little or no value, and no detailed reporting was required. Therefore, there is credible evidence of no violation of section

254.031(a)(1) of the Election Code regarding the alleged failure to report the amount of an in-kind contribution.

7. Regarding the second allegation that the respondent failed to disclose the correct amount of total political contributions, the respondent reported the total amount of political contributions received during the reporting period, but she failed to add the aggregate of the total political contributions of \$50 or less to the total itemized contributions and disclose the correct total on the report's cover sheet. In context, the error was minor. Therefore, there is credible evidence of technical or *de minimis* violations of section 254.031(a)(6) of the Election Code.

Disclosure of Political Expenditures

8. Each campaign finance report must include the amount of political expenditures that in the aggregate exceed \$50 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).
9. Each report must include the total amount of all political contributions and the total amount of all political expenditures made during the reporting period. ELEC. CODE § 254.031(a)(6).
10. In the respondent's correction to the 30-day pre-election report, she indicated that she had incorrectly disclosed a political expenditure from personal funds twice – once on Schedule G as a political expenditure from personal funds, and once on Schedule F as a reimbursement to herself. However, reporting the expenditures in that manner is correct, and both should be included in the expenditures total, as they apparently were in the original report. Nevertheless, the respondent underreported total political expenditures by at least \$427 on her original 30-day pre-election report. Therefore, there is credible evidence of violations of section 254.031(a)(3) and (a)(6) of the Election Code. The respondent underreported total political expenditures by approximately \$3 on her 8-day pre-election report. Therefore, there is credible evidence of a technical or *de minimis* violation of section 254.031(a)(6) of the Election Code with respect to that report.

Making Campaign Expenditures Without a Campaign Treasurer Appointment in Effect

11. A candidate may not knowingly accept a campaign contribution or make or authorize a campaign expenditure at a time when a campaign treasurer appointment for the candidate is not in effect. ELEC. CODE § 253.031(a).
12. The respondent acknowledged that she made two campaign expenditures totaling \$55 on November 6, 2007, and on January 22, 2008. The respondent also acknowledged that she did not have a campaign treasurer appointment on file at the time she made these expenditures. Therefore, there is credible evidence of violations of section 253.031(a) of the Election Code.

Filing Reports in a Format Prescribed by the Commission

13. Each campaign finance report filed with an authority other than the commission must be in a format prescribed by the commission. ELEC. CODE § 254.036(a).
14. Although the respondent filed corrected reports listing each of her contributors on Schedule A, her original reports improperly reported her contributors on a spreadsheet format that was not prescribed by the commission. Therefore, there is credible evidence of violations of section 254.036(a) 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 this sworn complaint.
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 each 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. The respondent also acknowledges that each campaign finance report must include the amount of political expenditures that in the aggregate exceed \$50 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 also acknowledges that each 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. The respondent also acknowledges that a candidate may not knowingly accept a campaign contribution or make or authorize a campaign expenditure at a time when a campaign treasurer appointment for the candidate is not in effect. The respondent also acknowledges that each campaign finance report filed with an authority other than the commission must be in a format prescribed by the commission. 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 seriousness of the violations described under Sections III and IV, including the nature, circumstances, and consequences of the violations, and after considering the sanction necessary to deter future violations, the commission imposes a \$100 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-2908198.

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

Peggy S. Hausman, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director