

# TEXAS ETHICS COMMISSION

IN THE MATTER OF  
THOMAS WILLIAMS,  
RESPONDENT

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BEFORE THE  
TEXAS ETHICS COMMISSION  
SC-290107

## ORDER and AGREED RESOLUTION

### I. Recitals

The Texas Ethics Commission (the commission) met on February 11, 2010, to consider sworn complaint SC-290107. A quorum of the commission was present. The commission determined that there is credible evidence of violations of section 254.031(a)(1) of the Election Code and section 20.433(11)(f) of the Ethics Commission Rules, and credible evidence of technical or *de minimis* violations of sections 254.151(4) and 254.151(5) 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, as campaign treasurer for a political committee: (1) failed to include the name of each identified candidate supported or opposed by the committee, and the name of each identified officeholder assisted by the committee, on the committee's July 2008 and January 2009 semiannual reports, as well as on the committee's 8-day pre-election report for the November 2008 general election; (2) disclosed an incorrect contribution balance on the committee's July 2008 and January 2009 semiannual reports, as well as on the committee's 30-day and 8-day pre-election reports for the November 2008 general election; (3) failed to provide a description of an in-kind political contribution on the committee's July 2008 semiannual report; (4) failed to include on the committee's July 2008 semiannual report the principal occupation of each person from whom political contributions that in the aggregate exceeded \$50 were accepted during the reporting period; and (5) failed to properly disclose a political contribution on the committee's January 2009 semiannual report.

### III. Facts Supported by Credible Evidence

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

1. The respondent is state senator for District 4 and campaign treasurer for the general-purpose political committee, Twenty-One Pac.

2. On July 9, 2008, the respondent filed an original July 2008 semiannual report that disclosed \$297,658.97 in total political contributions, \$255,000 in total political expenditures, and \$19,750 in total political contributions maintained as of the last day of the reporting period. The “Committee Activity” section of the report’s cover page disclosed that the committee assisted four officeholders and did not disclose that the committee supported any candidates. The respondent included occupation information for all contributors disclosed on Schedule A (used for reporting political contributions). Schedule A disclosed a political contribution of \$4,682.64 and provided an in-kind contribution description of “Contributions In Kind\n [sic].” Schedule F (used for reporting political expenditures), disclosed that the committee made two political expenditures of \$25,000 each to two state senators’ campaigns for the purpose of “Political Promotion: Sponsorship,” and two political expenditures of \$100,000 each to two state senators’ campaigns for the same purpose. The four senators disclosed on Schedule F were opposed candidates in the November 2008 general election.
3. On February 18, 2009, after receiving notice of the sworn complaint allegations, the respondent filed a corrected July 2008 semiannual report that added the description “Food & Beverage for Fundraising Event\n [sic]” for the \$4,682.64 in-kind political contribution at issue. The report also identified another contribution of \$6,156.33 as an in-kind political contribution for “Food & Beverage for Fundraising Event.”
4. The committee’s July 2008 semiannual report, as corrected, disclosed in-kind political contributions totaling approximately \$13,410. No reports as of December 31, 2009, other than the July 2008 semiannual report, disclosed any in-kind political contributions.
5. On October 6, 2008, the respondent filed an original 30-day pre-election report for the November 2008 general election that disclosed \$13,000 in total political contributions, no political expenditures, and \$42,750 in total political contributions maintained as of the last day of the reporting period.
6. On October 27, 2008, the respondent filed an original 8-day pre-election report for the November 2008 general election that disclosed no political contributions, \$40,000 in total political expenditures, and \$2,750 in total political contributions maintained as of the last day of the reporting period. The “Committee Activity” section of the report’s cover page did not disclose that the committee supported or opposed any candidates, or that the committee assisted any officeholders. Schedule F disclosed that the committee made two political expenditures of \$20,000 each to two state senators’ campaigns for the purpose of “Political Promotion: Sponsorship.” Both senators disclosed on Schedule F were opposed candidates in the November 2008 general election. The respondent did not file any corrections to the report.

7. On October 28, 2008, the respondent filed an original special pre-election report for the November 2008 general election that disclosed one political contribution of \$15,000, on October 28, 2008, from a state senator.
8. On January 15, 2009, the respondent filed an original January 2009 semiannual report that disclosed \$20,000 in total political contributions, \$21,000 in total political expenditures, and \$1,750 in total political contributions maintained as of the last day of the reporting period. The "Committee Activity" section of the report's cover page did not disclose that the committee supported or opposed any candidates, or that the committee assisted any officeholders. Schedule A disclosed a political contribution of \$5,000, on December 12, 2008, from the state senator named in the committee's special pre-election report, and a political contribution of \$15,000, on October 28, 2008, from another state senator. Schedule F disclosed three political expenditures totaling approximately \$21,000 to three state senate campaigns for the purpose of "Political Promotion:Sponsorship [sic]." Two senators disclosed on Schedule F were opposed candidates in the November 2008 general election, and one payee was an opposed candidate for state senate in the December 16, 2008, special runoff election to fill an unexpired senate term.
9. On February 3, 2009, after receiving notice of the sworn complaint allegations, the respondent filed a corrected January 2009 semiannual report that disclosed the same contribution dates and amounts as the original January 2009 semiannual report, but that reversed the two senators' names and addresses. The correction affidavit that accompanied the report stated that the amounts of the two political contributions disclosed on Schedule A were "inadvertently transposed," and that the \$15,000 political contribution was properly and previously reported on the report filed October 28th [2008].
10. In response to sworn complaint SC-290107, the respondent submitted an affidavit in which he swore that the July 2008 semiannual report properly disclosed officeholders supported, that the contribution balance was correct, that occupation information was disclosed for all contributions, and that the in-kind contribution at issue was properly reported as "in-kind." The respondent swore the July 2008 semiannual report would be corrected to provide a more specific description of the in-kind contribution. With regard to the 30-day pre-election report for the November 2008 general election, the respondent swore that the contribution balance was correct. With regard to the 8-day pre-election report for the November 2008 general election, the respondent swore that the contribution balance was correct, and that "[t]he two officeholders that received contributions were clearly identified." With regard to the January 2009 semiannual report, the respondent swore that the contribution balance was correct, that the report was corrected to show the "juxtaposition of the numbers," and that "[t]he officeholders that received contributions were clearly identified."

#### IV. Findings and Conclusions of Law

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

1. 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, and the dates of the contributions. ELEC. CODE § 254.031(a)(1).
2. 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, 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. *Id.* § 254.031(a)(8). A *de minimis* error in calculating or reporting a cash balance under Subsection (a)(8) is not a violation of this section. *Id.* § 254.031(a-1).
3. Each report must include, for each person from whom the general-purpose committee accepted a political contribution other than a pledge or a loan of more than \$50 in value, a description of any in-kind contribution. Ethics Commission Rules § 20.433(11)(f).
4. Each report by a campaign treasurer of a general-purpose committee must include the name of each identified candidate or measure or classification by party of candidates supported or opposed by the committee, indicating whether the committee supports or opposes each listed candidate, measure, or classification by party of candidates, the name of each identified officeholder or classification by party of officeholders assisted by the committee, and the principal occupation of each person from whom political contributions that in the aggregate exceed \$50 are accepted during the reporting period. ELEC. CODE § 254.151(4), (5), and (6).
5. The respondent swore that the contribution balance was correct on each of the reports at issue and the complaint included no evidence that the amounts were improperly disclosed.<sup>1</sup> In addition, when considering all of the reports filed by the respondent, and the in-kind contributions disclosed by the respondent, the amount of political contributions maintained, as disclosed in the committee's January 2009 semiannual report, would be approximately \$1,250, not \$9,973.33 as alleged by the complainant. The difference between the amount disclosed and the amount calculated from the reports is \$500. In context, that amount is *de minimis*, and the reports do not show that the total amount of political contributions maintained, as disclosed by the respondent, was otherwise incorrect. Therefore, there is credible evidence of no violation of section 254.031(a)(8) of the Election Code.

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<sup>1</sup> The total amount of political contributions maintained cannot necessarily be calculated from the face of a campaign finance report.

6. The respondent included occupation information for all itemized political contributions on the committee's July 2008 semiannual report. Therefore, there is credible evidence of no violation of section 254.151(6) of the Election Code.
7. The respondent failed to include descriptions for a \$4,682.64 in-kind political contribution and a \$6,156.33 in-kind political contribution on the committee's original July 2008 semiannual report. Although the respondent filed a corrected July 2008 semiannual report that described the in-kind contributions as food and beverage for a fundraising event, the information was not included when the report was originally due. Therefore, there is credible evidence of violations of section 20.433(11)(f) of the Ethics Commission Rules.
8. The respondent disclosed a \$15,000 political contribution on the committee's October 28, 2008, special pre-election report.<sup>2</sup> The respondent made a transposition error on the committee's January 2009 semiannual report when he reversed the names and addresses of two contributors. Although the respondent filed a corrected January 2009 semiannual report to properly report the contribution, the contribution was not properly disclosed when the report was originally due. Therefore, there is credible evidence of a violation of section 254.031(a)(1) of the Election Code.
9. The cover page of the respondent's original July 2008 semiannual report disclosed that the committee assisted four officeholders but did not disclose that the committee supported any candidates. Schedule F disclosed four political expenditures totaling approximately \$250,000 to four state senators seeking re-election. The cover page of the respondent's original 8-day pre-election report for the November 2008 general election did not disclose that the committee supported or opposed any candidates, or that the committee assisted any officeholders. Schedule F disclosed that the committee made two political expenditures totaling approximately \$40,000 to two state senators seeking re-election. The respondent did not correct the 8-day pre-election report for the November 2008 general election. The cover page of the respondent's original January 2009 semiannual report did not disclose that the committee supported or opposed any candidates, or that the committee assisted any officeholders. Schedule F disclosed three political expenditures totaling approximately \$21,000 to three state senate campaigns. The respondent did not correct the January 2009 semiannual report to include the information on the report's cover page. Although the committee's reports disclosed political expenditures to candidates and officeholders on

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<sup>2</sup> In addition to other required reports, a general-purpose committee shall file additional reports during the period beginning the ninth day before election day and ending at 12 noon on the day before election day if, in pertinent part, the committee accepts political contributions from a person that in the aggregate exceed \$5,000 during that reporting period. ELEC. CODE § 254.039(a)(1). Thus, a political contribution required to be disclosed on a special pre-election report must also be disclosed on the next regular required report.

Schedule F, the reports did not disclose the information in the “Committee Activity” section of the reports’ cover pages. However, the information was readily apparent to anyone who may have viewed the reports. Therefore, there is credible evidence of technical or *de minimis* violations of sections 254.151(4) and 254.151(5) 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 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, the full name and address of the person making the contributions, and the dates of the contributions. The respondent acknowledges that each campaign finance report must include, for each person from whom the general-purpose committee accepted a political contribution other than a pledge or a loan of more than \$50 in value, a description of any in-kind contribution. The respondent acknowledges that each campaign finance report by a campaign treasurer of a general-purpose committee must include the name of each identified candidate or measure or classification by party of candidates supported or opposed by the committee, indicating whether the committee supports or opposes each listed candidate, measure, or classification by party of candidates, and the name of each identified officeholder or classification by party of officeholders assisted by the committee. 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 \$200 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-290107.

AGREED to by the respondent on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Thomas Williams, Respondent

EXECUTED ORIGINAL received by the commission on: \_\_\_\_\_.

Texas Ethics Commission

By: \_\_\_\_\_  
David A. Reisman, Executive Director