

TEXAS ETHICS COMMISSION

IN THE MATTER OF
ALLEN "CRAIG" EILAND,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-3100363

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on June 9, 2011, to consider sworn complaint SC-3100363. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 253.032, 254.031, 254.061, 254.0612, 254.064, and 254.091 of the Election Code and sections 20.29 and 20.61 of the Ethics Commission Rules, 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: 1) did not properly disclose political contributions and political expenditures on multiple campaign finance reports, 2) did not include on campaign finance reports the principal occupation or job title and the full name of the employer for individuals who contributed \$500 or more to him during a reporting period, 3) did not timely file his 30-day pre-election report for the November 3, 2008, election, 4) converted political contributions to personal use, 5) accepted political contributions from a corporation or labor organization, 6) on multiple campaign finance reports did not disclose his campaign treasurer's telephone number, office held, and information about a political committee that accepted contributions or made expenditures supporting him, and 7) did not include the information regarding political contributions from out-of-state political committees on his campaign finance reports.

III. Facts Supported by Credible Evidence

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

1. The respondent is the state representative for District 23, and held that office at all times relevant to this complaint.

2. At issue in the complaint are the respondent's 30-day and 8-day pre-election reports for a November 2008 election, January 2009, July 2009, and January 2010 semiannual reports, and a 30-day pre-election report for a March 2010 election.

Late 30-Day Pre-election Report

3. The complaint alleged that the respondent failed to timely file his 30-day pre-election report for a November 2008 election.
4. According to commission reports, the respondent filed his 30-day pre-election report for a November 2008 election on October 27, 2008. The report was due on October 6, 2010, and a \$500 administrative penalty was imposed. The penalty was waived by the commission at a meeting held on December 4, 2008. The respondent also corrected the report on April 12, 2010, as a result of this sworn complaint.

Campaign Treasurer's Telephone Number

5. The complaint alleged that the respondent failed to disclose the campaign treasurer's telephone number on each report at issue. The field on the cover sheet for "campaign treasurer phone" was left blank on each of those reports. During the reporting periods at issue, the respondent had an active campaign treasurer appointment on file with the commission.
6. On April 12, 2010, the respondent filed corrections to the reports at issue to include his campaign treasurer's telephone number.

Office Held

7. The complaint alleged that the respondent failed to disclose the office held on each report at issue. The field on the cover sheet for "office held" was left blank on each of those reports. During the reporting periods at issue, the respondent held the position of State Representative, District 23.
8. On April 12, 2010, the respondent filed corrections to the reports at issue to include the "office held."

Notice from Political Committees

9. The complaint alleged that for each report at issue the respondent failed to disclose a political committee that accepted contributions and made expenditures in support of him.
10. The field for "Notice from Political Committees" was left blank on each of the reports at issue.

11. On April 12, 2010, the respondent filed corrections to the reports at issue to include the "Committee for Craig Eiland," under the field for "Notice from Political Committees." That section also indicated that the political committee was a specific-purpose political committee, and disclosed the address of the political committee in addition to the name and address of the committee's campaign treasurer.

Political Contributions from Corporations or Labor Unions

12. The complaint alleged that, based on disclosures in the respondent's 30-day and 8-day pre-election reports for the November 2008 election, the respondent accepted four political contributions totaling approximately \$1,800 from corporations or labor organizations.
13. The evidence indicates that the contributions at issue were not from corporations or labor organizations, but from political committees (although they may have been affiliated with a corporation or labor organization).

Political Contributions from Out-of-State Political Committees

14. The complaint alleged that the respondent failed to disclose information related to political contributions from out-of-state political committees in his 30-day pre-election report for the November 2008 election. The respondent accepted three political contributions totaling \$2,500 from out of state political committees during the period covered by the 30-day pre-election report for the November 2008 election.
15. The committees filed their statements of organization with the FEC.
16. The respondent's originally filed 30-day pre-election report for the November 2008 election did not include the committee's statements of organization or Federal Election Commission (FEC) identification numbers. On April 12, 2010, the respondent filed corrections to the report at issue to include those numbers.

Disclosure of Full Names of Persons Making Political Contributions

17. The complaint alleged that the respondent failed to disclose the full name for approximately \$7,000 in political contributions disclosed on the respondent's 30-day and 8-day pre-election reports for the November 2008 election.
18. The three political contributions at issue disclosed the name, or the acronym commonly used as the name for each of the contributors.

Personal Use of Political Contributions

19. The complaint alleged that the respondent converted approximately \$200 in political contributions to personal use based on political expenditures that the respondent disclosed on his 30-day pre-election report for the November 2010 election.
20. The expenditures at issue were for food.
21. In his response to the complaint, the respondent swore that “these meals were campaign/legislative related.” The respondent also filed corrections to the reports at issue which further clarified the purposes for the expenditures at issue.

Purposes of Political Expenditures

22. The complaint alleged that the respondent failed to properly disclose a purpose for approximately \$16,210 on his 30-day and 8-day pre-election reports for the November 2008 election.
23. The respondent disclosed what appears to be telephone numbers, account numbers, blank spaces or unclear language (one expenditure was for “In Coil Trip”) for the purpose of approximately \$14,370 of the political expenditures at issue.
24. The purpose was adequately described for the remainder of the expenditures at issue.

Names and Addresses for Political Expenditures

25. The complaint alleged that the respondent failed to properly disclose the names and addresses for approximately \$13,960 in political expenditures on his 30-day and 8-day pre-election reports for the November 2008 election.
26. The respondent did not disclose complete addresses for the expenditures at issue, disclosing only “Tx.” Only one expenditure at issue did not include a complete name. The respondent disclosed “Democrats,” as the payee for one \$500 expenditure on his 8-day pre-election report.
27. In response to the complaint the respondent corrected the reports at issue adding complete addresses to the expenditures at issue. One expenditure at issue on the respondent’s 8-day pre-election report changed the payee from “Democrats,” to “Galveston County Democrats.”

Total Political Contributions Maintained

28. The complaint alleged that the respondent incorrectly reported the amount of total political contributions maintained on his 8-day pre-election report for a November 2008 election, January 2009, July 2009, and January 2010 semiannual reports, and a 30-day pre-election report for a May 2010 election.

29. The respondent's originally filed 8-day pre-election report for the November 2008 election disclosed \$35,109.44 in total political contributions maintained. The respondent corrected this report in response to this complaint to disclose \$30,160.87 in total political contributions maintained.
30. The respondent's originally filed January 2009 semiannual report disclosed \$0 in total political contributions maintained. The respondent corrected this report in response to this complaint to disclose \$30,160.87 in total political contributions maintained.
31. The respondent's originally filed July 2009 semiannual report disclosed \$0 in total political contributions maintained. The respondent corrected this report in response to this complaint to disclose \$30,160.87 in total political contributions maintained.
32. The respondent's originally filed January 2010 semiannual report disclosed \$0 in total political contributions maintained. The respondent corrected this report in response to this complaint to disclose \$30,160.87 in total political contributions maintained.
33. The respondent's originally filed 30-day pre-election report for the May 2010 election disclosed \$0 in total political contributions maintained. The respondent corrected this report in response to this complaint to disclose \$30,160.87 in total political contributions maintained.

Principal Occupation or Job Title and Employer Information for Contributors

34. The complaint alleged that the respondent failed to include the principal occupation or job title and employer for two political contributions totaling approximately \$10,600 on the respondent's 8-day pre-election report for the November 2008 election.
35. The expenditures at issue did not disclose the principal occupation or job title and the full name of the employer for two political contributions totaling approximately \$10,600 from individuals who contributed \$500 or more during the reporting period.

IV. Findings and Conclusions of Law

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

Late 30-Day Pre-election Report

1. In addition to other required reports, 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 first report must be received by the authority with whom the report is required to be filed not later than the 30th day before election day. ELEC. CODE § 254.064(a). The report covers the period beginning 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, as applicable, and continuing through the 40th day before election day. ELEC. CODE § 254.064(b). 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. ELEC. CODE § 254.064(c).
2. The due date for the 30-day pre-election report for the November 2008 election was October 6, 2008. The respondent filed the report on October 27, 2008. The commission originally imposed a \$500 civil penalty for the late filing of the report that was later waived. Therefore, there is credible evidence of a violation of section 254.064(b) of the Election Code with regard to the 30-day pre-election report for the November 2008 election.

Campaign Treasurer's Telephone Number

3. The respondent had an active campaign treasurer appointment on file during the periods at issue. Thus, the respondent was a candidate for title 15 filing purposes. Each campaign finance report by a candidate must include the campaign treasurer's name, residence or business street address, and telephone number. ELEC. CODE § 254.061(2).
4. The respondent corrected all the reports at issue to disclose the campaign treasurer's telephone number, but he did not disclose that information at the time the reports at issue were due. Therefore, there is credible evidence of violations of section 254.061(2) of the Election Code.

Office Held

5. Each campaign finance report by an officeholder must include the officeholder's full name and address and the office held. ELEC. CODE § 254.091.
6. The respondent corrected all the reports at issue to disclose the "office held," however he did not disclose that information at the time the reports at issue were due. Therefore, there is credible evidence of violations of section 254.091 of the Election Code.

Notice from Political Committees

7. Each campaign finance report by a candidate must include for each political committee from which the candidate received notice under section 254.128 or 254.161 of the Election Code: the committee's full name and address; an indication of whether the committee is a general-purpose committee or a specific-purpose committee; and the full name and address of the committee's campaign treasurer. ELEC. CODE § 254.061(3).
8. The respondent corrected the reports at issue to disclose that the respondent had received notice under section 254.128 of the Election Code from "Committee for Craig Eiland." However, the respondent did not include that information on his originally filed reports. Therefore, there is credible evidence that the respondent violated section 254.061(3) of the Election Code.

Political Contributions from Corporations or Labor Unions

9. A corporation or labor organization may not make a political contribution to a candidate for or holder of public office. ELEC. CODE § 253.094.
10. The contributions at issue were not from corporations or labor organizations, but from political committees. Therefore, there is credible evidence of no violations of sections 253.003 and 253.094 of the Election Code with regard to the contributions at issue.

Political Contributions from Out-of-State Political Committees

11. A person who files a report with the commission by electronic transfer and who accepts political contributions from an out-of-state political committee required to file its statement of organization with the Federal Election Commission shall either enter the out-of-state committee's federal PAC identification number in the appropriate place on the report or timely file a certified copy of the out-of-state committee's statement of organization that is filed with the Federal Election Commission. ELEC. CODE § 253.032; Ethics Commission Rules § 20.29(a).
12. The respondent accepted three political contributions totaling \$2,500 from out-of-state political committees during the periods covered by his 30-day pre-election report for the November 2008 election. The committees filed their statements of organization with the FEC. The respondent did not include the committees' statements of organization or FEC identification numbers in the original reports at issue. Therefore, there is credible evidence that the respondent violated section 253.032 of the Election Code and section 20.29(a) of the Ethics Commission Rules in connection with political contributions totaling \$2,500.

Disclosure of Full Names of Persons Making Political Contributions

13. 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).
14. The three political contributions at issue, totaling approximately \$7,000, properly disclosed the names of the contributors. Therefore, there is credible evidence of no violation of section 254.031(a)(1) of the Election Code with regard to those expenditures.

Personal Use of Political Contributions

15. A person who accepts a political contribution as a candidate or officeholder may not convert the contribution to personal use. Personal use means a use that primarily furthers individual or family purposes not connected with the performance of duties or activities as a candidate for or holder of a public office. ELEC. CODE § 253.035(a).
16. The commission stated in Ethics Advisory Opinion No. 241 that it is permissible for a legislator to use political contributions to pay for “meals for state business not reimbursed by the state.” Ethics Advisory Opinion No. 241 (1995) (EAO 241). For meals that do not take place in connection with the conduct of state business, the commission stated that it did not interpret the “reasonable housing or household expenses” exception to extend to the cost of meals in Austin in general. *Id.*
17. The complaint alleged that the respondent converted political contributions to personal use when he made payments totaling approximately \$200. The expenditures at issue were for food. The respondent swore that the “meals were campaign/legislative related.” The complaint did not include additional evidence to support the allegations that the respondent converted political contributions to personal use when he purchased those items and there is no additional evidence to rebut the respondent’s sworn statement. Therefore, there is insufficient evidence of a violation of section 253.035(a) of the Election Code.

Purposes of Political Expenditures

18. A campaign finance report must include, for all 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 political expenditures are made and the dates and purposes of the expenditures. ELEC. CODE § 254.031(a)(3).

19. The report of a political expenditure for goods or services must describe the categories of goods or services received in exchange for the expenditure. Ethics Commission Rules § 20.61.
20. The respondent disclosed what appears to be telephone numbers, account numbers, blank spaces or unclear language for the purpose of approximately \$14,370 in political expenditures. It is clear from the reports that the respondent did not originally provide a sufficient purpose or category of goods or services for those expenditures. Therefore, in regard to those expenditures, there is credible evidence of violations of section 254.031(a)(3) of the Election Code and section 20.61 of the Ethics Commission Rules.
21. Although the respondent filed corrected reports to further clarify many of the political expenditures at issue, the original disclosures for the remaining political expenditures at issue were adequate. Therefore, as to the remaining alleged expenditures, there is credible evidence of no violation of section 254.031(a)(3) of the Election Code and section 20.61 of the Ethics Commission Rules.

Names and Addresses for Political Expenditures

22. A campaign finance report must include, for all 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 political expenditures are made and the dates and purposes of the expenditures. ELEC. CODE § 254.031(a)(3).
23. It is clear from the face of the report that the respondent failed to disclose complete addresses for approximately \$13,960 in political expenditures. One of those expenditures also failed to include the complete name of a payee. Therefore, there is credible evidence of violations of section 254.031(a)(3) of the Election Code with regard to the expenditures at issue.

Total Political Contributions Maintained

24. 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).
25. It is clear from the respondent's corrections that he failed to disclose the actual amount of total political contributions maintained on the originally filed reports at issue. Therefore, there is credible evidence of violations of section 254.031(a)(8) of the Election Code.

Principal Occupation or Job Title and Employer Information for Contributors

26. In addition to the contents required by sections 254.031 and 254.061 of the Election Code, each report by a candidate for a statewide office in the executive branch or a legislative office must include, for each individual from whom the person filing the report has accepted political contributions that in the aggregate equal or exceed \$500 and that are accepted during the reporting period, the individual's principal occupation or job title and the full name of the individual's employer. ELEC. CODE § 254.0612. (The complaint alleged a violation of section 254.0912 of the Election Code, which applies to officeholders, but the respondent was a candidate during the period at issue, so section 254.0612 of the Election Code is the appropriate provision.)
27. By leaving blank spaces on the reports at issue the respondent failed to disclose the principal occupation or job title and the full name of the employer for two political contributions totaling approximately \$10,600 from individuals who contributed \$500 or more during the reporting period. Therefore, with regard to those allegations, there is credible evidence of violations of section 254.0612 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 in addition to other required reports, 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 first report must be received by the authority with whom the report is required to be filed not later than the 30th day before election day. The report covers the period beginning 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, as applicable, and continuing through the 40th day before election day.

The respondent also acknowledges that each campaign finance report by a candidate must include the campaign treasurer's name, residence or business street address, and telephone number.

The respondent also acknowledges that each campaign finance report by an officeholder must include the officeholder's full name and address and the office held.

The respondent also acknowledges that each campaign finance report by a candidate must include for each political committee from which the candidate received notice under section 254.128 or 254.161 of the Election Code: the committee's full name and address; an indication of whether the committee is a general-purpose committee or a specific-purpose committee; and the full name and address of the committee's campaign treasurer.

The respondent also acknowledges that a person who files a report with the commission by electronic transfer and who accepts political contributions from an out-of-state political committee required to file its statement of organization with the Federal Election Commission shall either enter the out-of-state committee's federal PAC identification number in the appropriate place on the report or timely file a certified copy of the out-of-state committee's statement of organization that is filed with the Federal Election Commission.

The respondent also acknowledges that a campaign finance report must include, for all 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 political expenditures are made and the dates and purposes of the expenditures. The respondent also acknowledges that the report of a political expenditure for goods or services must describe the categories of goods or services received in exchange for the expenditure.

The respondent also 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 in addition to the contents required by sections 254.031 and 254.061 of the Election Code, each report by a candidate for a statewide office in the executive branch or a legislative office must include, for each individual from whom the person filing the report has accepted political contributions that in the aggregate equal or exceed \$500 and that are accepted during the reporting period, the individual's principal occupation or job title and the full name of the individual's employer.

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 \$2,000 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-3100363.

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

Allen "Craig" Eiland, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director