

TEXAS ETHICS COMMISSION

IN THE MATTER OF
LINDA YOUNG-ANGLLEY,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-3100391

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on June 9, 2011, to consider sworn complaint SC-3100391. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 254.031 and 254.063 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 did not properly disclose political contributions and political expenditures.

III. Facts Supported by Credible Evidence

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

1. The respondent was an opposed candidate for Justice of the Peace Precinct 1, Ector County, in the 2010 primary election.
2. The complaint alleged that the respondent failed to properly disclose political contributions accepted and political expenditures made in connection with the 2010 primary election.
3. The complaint alleged that the respondent did not report any campaign expenses other than her filing fee.
4. The complaint alleged that the respondent posted approximately 100 4X4 full color and double-sided campaign signs, smaller “yard-type” signs, as well as “door knocker” advertisements.

5. The respondent filed a January 2010 semiannual report that covered the period from July 16, 2009, through January 15, 2010, that did not disclose any political contributions and disclosed one political expenditure in the amount of \$750 for the filing fee for a place on the primary ballot. The respondent filed a corrected January 2010 semiannual report on January 26, 2010, covering the same reporting period, that corrected the amount paid for the filing fee to \$325.
6. The respondent filed a 30-day pre-election report for the 2010 primary election, covering the period from January 15, 2010, through February 1, 2010, that disclosed \$300 for total political contributions of \$50 or less unless itemized and itemized a \$500 political contribution from an individual. The report disclosed one political expenditure to the Republican Party in the amount of \$50 with the notation "correct filing mistate (sp)."
7. On February 16, 2010, the respondent filed a report covering the period from February 2, 2010, through February 15, 2010, that did not disclose any activity.
8. The respondent filed an 8-day pre-election report for the 2010 primary election, covering the period from February 16, 2010, through February 22, 2010, that disclosed a \$200 political contribution from a couple but did not disclose any political expenditures.
9. The respondent filed an affidavit in response to the sworn complaint. The affidavit stated:

All donations received for my campaign running for Justice of the Peace, Precinct One in Ector County have been reported.

All expenses have not been reported due to the invoice not being received in time to report before each financial statement filing deadline. It will be reflected on the financial statement due in July, 2010.
10. The respondent filed a report on December 30, 2010, covering the period from February 22, 2010, through December 30, 2010. The report did not disclose any political contributions and disclosed one political expenditure of \$7,881.95 on March 15, 2010, to Howell & Windham Advertising. Evidence indicated that the respondent had political advertising on display as early as January 2010.

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 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).
 3. For purposes of reporting under chapter 254 of the Election Code, a political expenditure is not considered to have been made until the amount is readily determinable by the person making the expenditure, except as provided by subsection (b). ELEC. CODE § 254.035(a).
 4. If the character of an expenditure is such that under normal business practice the amount is not disclosed until receipt of a periodic bill, the expenditure is not considered made until the date the bill is received. ELEC. CODE § 254.035(b).
 5. A candidate is required to file a report by July 15 and a report by January 15 each year. ELEC. CODE § 254.063.
 6. The respondent made a political expenditure of \$7,881.95 for her political advertising. There is no evidence that there was political advertising for the respondent other than the advertising paid for by the respondent. There is no evidence that the respondent accepted in-kind political contributions of political advertising that she failed to disclose. Therefore, there is credible evidence of no violation of section 254.031(a)(1) of the Election Code.
 7. According to the respondent's affidavit, she did not report her \$7,881.95 political expenditure for political advertising on her 30-day or 8-day pre-election reports because she did not receive the invoice for the expenditure before the deadline for filing the reports. The deadline for filing the 8-day pre-election report was February 22, 2010. The respondent's report filed December 30, 2010, disclosed March 15, 2010, as the date of the expenditure. According to section 254.035(a) of the Election Code, her political expenditure for political advertising was not considered to have been made until the amount was readily determinable by her, except as provided by subsection (b). Subsection (b) does not apply to the expenditure by the respondent because the bill for the political advertising was not a periodic bill such as a telephone bill. The evidence shows that the respondent's political advertising signs were on display in January 2010. The end of the reporting period for the 30-day pre-election report was January 21, 2010. The end of the reporting period for the 8-day pre-election report was February 20, 2010. Because the political advertising signs were on display in January 2010 the respondent could have readily determined the amount of any political expenditure related to those signs by a simple inquiry to the sign company. There was a political expenditure that was readily determinable by the respondent no later than

February 20, 2010, if not by January 21, 2010. Therefore, there is credible evidence that the respondent violated section 254.031(a)(3) of the Election Code by not reporting the political expenditure on her 8-day pre-election report.

8. The respondent was required to file a July semiannual report by July 15, 2010. The respondent did not file a report covering the period for the July semiannual report until December 30, 2010. Therefore, there is credible evidence of a violation of section 254.063 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 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, and acknowledges that a candidate is required to file a report by July 15 and a report by January 15 each year. 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 \$400 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-3100391.

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

Linda Young-Angley, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director