

TEXAS ETHICS COMMISSION

IN THE MATTER OF	§	BEFORE THE
	§	
ALVIN SCHNEIDER,	§	
CAMPAIGN TREASURER,	§	TEXAS ETHICS COMMISSION
NEIGHBORHOOD DEMOCRATS	§	
OF GALVESTON COUNTY,	§	
	§	
RESPONDENT	§	SC-31005157

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on June 9, 2011, to consider sworn complaint SC-31005157. A quorum of the commission was present. The commission determined that there is credible evidence of violations of section 254.031 of the Election Code and section 20.62 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 include the name of each identified candidate supported or opposed by the committee, or the name of each identified officeholder assisted by the committee in four campaign finance reports; 2) did not properly disclose the amount of total political expenditures in three reports; 3) did not properly disclose the amount of total political contributions maintained in four reports; 4) improperly disclosed political expenditures as reimbursements in three reports; 5) did not properly disclose the occupation of contributors in a report; 6) did not properly disclose the full name of contributors in a report; and 7) did not fully disclose the purpose of expenditures in a report.

III. Facts Supported by Credible Evidence

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

1. During the time relevant to this complaint, the respondent was campaign treasurer for Neighborhood Democrats of Galveston County (NDGC), a general-purpose committee that files with the commission.

2. At issue in the complaint are the following four campaign finance reports: July 2008 semiannual report, 30-day and 8-day pre-election reports for the November 2008 general election, and January 2009 semiannual report.

Names of Candidates Supported and Officeholders Assisted by the Committee

3. The complaint alleged that the respondent did not identify each candidate supported or opposed by the committee, or each officeholder assisted by the committee, in all four reports. The "Committee Activity" section on the cover sheet of each report at issue was left blank.
4. The website of the NDGC indicates, in part, that its purpose is to "work to get Democrats and those that hold Democratic beliefs elected, support our elected officials, and maintain an active and visible presence in the county."

Total Political Expenditures and Total Political Contributions Maintained

5. The complaint alleged that the respondent reported an incorrect amount of total political expenditures in three reports and an incorrect amount for total political contributions maintained in all four reports at issue. In the alternative, the complaint alleged that the respondent failed to disclose additional political contributions and expenditures.
6. The complaint alleged that the amount of total political expenditures in the July 2008 semiannual report should be \$1,649.39. The report itemized six political expenditures totaling approximately \$800 on Schedule F (used for political expenditures from political contributions) and six expenditures totaling approximately \$800 on Schedule I (used for disclosing non-political expenditures made from political contributions). The non-political expenditures were made for such purposes as postcards, stamps, rental charge for a promotional booth, and use of a pavilion.
7. The complaint alleged that the amount of political expenditures in the 30-day pre-election report should be \$16,339.93. The report itemized six political expenditures totaling approximately \$14,110 on Schedule F and eight non-political expenditures totaling approximately \$2,230 on Schedule I. The non-political expenditures were made for such purposes as headquarter supplies, luncheon, refund of overpayment of club dues, party decorations, and party supplies.
8. The complaint did not allege that the amount of total political contributions maintained disclosed on the 8-day pre-election report was incorrect. The report itemized two political expenditures totaling \$780 on Schedule F and included no other activity.
9. The complaint alleged that the amount of total political expenditures in the January 2009 semiannual report should be \$5,817.51. The report itemized two political expenditures totaling approximately \$350 on Schedule F and six non-political expenditures totaling approximately \$5,460 on Schedule I. The non-political expenditures were made for such

purposes as campaign advertisement, campaign supplies, club supplies, mail box rental, and telephone service for campaign headquarters.

10. The 30-day pre-election report disclosed \$10,379 in total political contributions maintained. The July 2008 semiannual report, 8-day pre-election report, and January 2009 semiannual report disclosed \$0 for the amount of total political contributions maintained.
11. The respondent denied the allegations and swore that, “The collection of monies . . . were not directed to the support of or opposition to any political candidate.” During a telephone conversation with commission staff, the respondent stated that the account in which the committee maintains political contributions never had a zero balance.
12. The January 2009 semiannual report was corrected to disclose \$1,237.98 in total political expenditures and \$11,122.79 in total political contributions maintained. Two expenditures totaling approximately \$880 for campaign or club supplies were moved from Schedule I to Schedule F of the report. To date, no other corrections have been filed.

Disclosure of Political Expenditures as Reimbursements

13. The complaint alleged that the respondent did not properly disclose “the actual vendor payee, address, date, and amount pertaining to the stated purpose” for 24 expenditures in three campaign finance reports. Three of the expenditures at issue disclosed the actual vendor as the payee. For the remaining 21 expenditures at issue totaling approximately \$13,720, based on the disclosed purpose of payment, the individuals listed as the payees do not appear to be the actual vendors of the goods or services. The respondent acknowledged that some of the payments were for reimbursement of expenses by individual members. To date, the respondent has not filed any corrections.

Principal Occupation of Contributors

14. The complaint alleged that the respondent did not disclose the principal occupation of contributors in “3 places” on the 30-day pre-election report. All 31 political contributions itemized on Schedule A of the report included the contributor’s occupation or job title.

Full Name of Contributors

15. The complaint alleged that the respondent failed to disclose the full name of the contributor for two political contributions in the 30-day pre-election report (\$25 and \$100 contributions). The contributions at issue were made by the same individual. The report disclosed the contributor’s last name and first initial. The respondent did not address this allegation in his affidavit. As of June 1, 2011, the respondent had not filed corrections.

Purpose of Expenditures

16. The complaint alleged that the respondent did not fully disclose the purpose of two political expenditures in the 8-day pre-election report. The two expenditures at issue totaling approximately \$800 were made to Verizon Southwest for “telephone service.”

IV. Findings and Conclusions of Law

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

Names of Candidates Supported and Officeholders Assisted by the Committee

1. 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. ELEC. CODE §§ 254.151(4) and (5).
2. In a previous sworn complaint, SC-970419D, the commission considered an allegation that the campaign treasurer for a political committee did not identify in the committee’s campaign finance reports the candidates or officeholders the committee supported or assisted. The commission found that the name of the committee satisfied the legal requirement that each report identify candidates supported by party classification.
3. In the four reports at issue in this complaint, the respondent did not specifically identify or classify by party the candidates supported or opposed by the committee, or the officeholders assisted by the committee. Nevertheless, it is clear that NDGC exists to support Democratic candidates. Based on the commission’s previous decision, the name of the committee, Neighborhood Democrats of Galveston County, satisfies the legal requirement that each report identify candidates supported by party classification. Therefore, there is credible evidence of no violation of sections 254.151(4) and 254.151(5) of the Election Code in connection with these reports.

Total Political Expenditures and Total Political Contributions Maintained

4. Each report by a candidate must include the total amount of all political contributions accepted and the total amount of all political expenditures made during the reporting period. ELEC. CODE § 254.031(a)(6).
5. 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. ELEC. CODE § 254.031(a)(8).

6. The amount of total political expenditures does not include the amount of total non-political expenditures itemized on Schedule I of a report. It appears, from the face of the reports at issue, that some political expenditures were incorrectly reported as non-political expenditures on Schedule I. Thus, the evidence indicates that the amounts of total political expenditures disclosed in the reports at issue were incorrect. Therefore, there is credible evidence that the respondent violated section 254.031(a)(6) of the Election Code.
7. The respondent disclosed \$0 in total political contributions maintained in three of the reports at issue. He acknowledged that the political account never had a zero balance. One corrected report was filed to disclose over \$11,000 in political contributions maintained. There is credible evidence that the respondent violated section 254.031(a)(8) of the Election Code.

Disclosure of Political Expenditures as Reimbursements

8. 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).
9. Political expenditures made out of personal funds by a staff member of an officeholder, a candidate, or a political committee with the intent to seek reimbursement from the officeholder, candidate, or political committee that in the aggregate do not exceed \$5,000 during the reporting period may be reported as follows if the reimbursement occurs during the same reporting period that the initial expenditure was made: 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 included with the total amount or a specific listing of the political expenditures of \$50 or less made during the reporting period. Except as provided above, a political expenditure made out of personal funds by a staff member of an officeholder, a candidate, or political committee with the intent to seek reimbursement from the officeholder, candidate, or political committee must be reported as follows: the aggregate amount of the expenditures made by the staff member as of the last day of the reporting period is reported as a loan to the officeholder, candidate, or political committee; the expenditure made by the staff member is reported as a political expenditure by the officeholder, candidate, or political committee; and the reimbursement to the staff member to repay the loan is reported as a political expenditure by the officeholder, candidate, or political committee. Ethics Commission Rules § 20.62.
10. For three expenditures, there was no evidence that the actual payees were incorrectly disclosed, and the payee disclosures on their face complied with the reporting requirements. Therefore, there is credible evidence of no violation of section 254.031(a)(3) of the Election Code or section 20.62 of the Ethics Commission Rules with respect to these three expenditures.

11. For the remaining 21 expenditures at issue totaling approximately \$13,720, based on the disclosed purpose of payment, the individuals listed as the payees do not appear to be the actual vendors of the goods or services. Thus, the respondent failed to properly disclose the actual payee vendors. Therefore, there is credible evidence of violations of section 254.031(a)(3) of the Election Code and section 20.62 of the Ethics Commission Rules with respect to these expenditures.

Principal Occupation of Contributors

12. Each report by a campaign treasurer of a general-purpose committee must include 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(6).
13. The disclosures were adequate. Therefore, there is credible evidence of no violation of section 254.151(6) of the Election Code.

Full Name of Contributors

14. A 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 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).
15. The full name of the person making the contributions was required to be disclosed because the person made over \$50 in political contributions during the reporting period. The respondent did not include the full name of the contributor. Therefore, there is credible evidence of a violation of section 254.031(a)(1) of the Election Code with respect to the contributions.

Purpose of Expenditures

16. 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).
17. 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.
18. The original disclosures were adequate. 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 with respect to disclosure of the purpose of payment for the two expenditures at issue.

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, and the full name and address of the person making the contributions; 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 total amount of all political expenditures made during the reporting period; and 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 the proper way to report reimbursements to staff is in accordance with section 20.62 of the Ethics Commission Rules.

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 \$1,000 civil penalty.

The respondent agrees that the Texas Ethics Commission, P. O. Box 12070, Austin, Texas 78711, must receive from the respondent full payment of the \$1,000 civil penalty no later than October 7, 2011, and agrees to waive any right to a hearing related to this sworn complaint. The respondent

further agrees that if the full amount is not received by October 7, 2011, the matter of the collection of the civil penalty will be referred to the Office of the Attorney General of Texas.

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-31005157.

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

Alvin Schneider, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director