

TEXAS ETHICS COMMISSION

IN THE MATTER OF

**WILLIE BELLE BOONE, TREASURER,
HOUSTON BLACK AMERICAN
DEMOCRATS PAC,**

RESPONDENT

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BEFORE THE

TEXAS ETHICS COMMISSION

SC-31008237

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on August 11, 2011, to consider sworn complaint SC-31008237. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 254.031, 254.151, and 254.154 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 as the campaign treasurer for Houston Black American Democrats PAC (HBAD) the respondent: 1) did not disclose required information on campaign finance reports, 2) did not include on the committee's reports the name of each identified candidate supported or opposed, and (3) did not file an 8-day pre-election report in connection with the March 2010 primary election.

III. Facts Supported by Credible Evidence

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

1. The respondent was the treasurer for Houston Black American Democrats PAC (HBAD), a general-purpose political committee that filed campaign finance reports with the commission, during the periods at issue. The committee dissolved in May 2011.
2. HBAD's January and July 2009 semiannual reports left blank the spaces provided on the cover sheet page two to disclose total political contributions of \$50 or less, total political contributions, total political expenditures of \$50 or less, total political expenditures, and total principal amount of outstanding loans.

3. HBAD's January 2010 semiannual report left blank the spaces provided on the cover sheet page two to disclose total political contributions of \$50 or less, total political expenditures of \$50 or less, and total principal amount of outstanding loans.
4. The complaint alleged that HBAD's January and July 2010 semiannual reports failed to disclose candidates supported on the cover sheet. Both reports left blank the spaces provided to disclose this information on the reports at issue. The January 2010 semiannual report disclosed political expenditures on Schedule F (the schedule provided to disclose political expenditures) totaling approximately \$13,220 for "Printing" and "Poll workers," (there was a Houston city election in November 2009). The July 2010 semiannual report disclosed political expenditures for "Polling Expense," with a description indicating that these expenditures were made to distribute literature. The July 2010 semiannual report also disclosed political expenditures to campaign office workers. The expenditure dates disclosed in the July 2010 semiannual report are after January 1, 2010. Neither report indicated in the committee activity section of the report that the committee supported or opposed candidates or officeholders.
5. The complaint alleged that the respondent failed to disclose the purpose of two political expenditures totaling approximately \$2,200 on HBAD's January 2010 semiannual report. The two expenditures were to Chase Bank (\$84) and an individual payee (\$2,112). Both expenditure disclosures left blank the space provided to disclose the purpose of payment.
6. The complaint alleged that the respondent failed to properly disclose political contributions maintained on HBAD's January and July 2010 semiannual reports. The evidence was inconclusive as to whether the amounts disclosed were incorrect.
7. The complaint alleged that the respondent failed to disclose the actual payee for a \$524.77 political expenditure for "Printing" disclosed on HBAD's January 2010 semiannual report, and three political expenditures totaling \$2,250 disclosed on HBAD's July 2010 semiannual report. A \$250 expenditure was made to an individual for the purpose of "REIMBURSEMENT FOR COPY PAPER COFFEE FAN," with a description of, "CAMPAIGN OFFICE- COPY PAPER COFFEE ETC." The other two expenditures were made to an individual for the purpose of "Printing Expense" with a description of "PRINTING OF LITERATURE."
8. Based on twelve expenditures totaling approximately \$17,960, disclosed on HBAD's July 2010 semiannual report, the complaint alleged that HBAD failed to file an 8-day pre-election report for the March 2010 primary election. The report disclosed expenditures February 16, 2010, through February 19, 2010, to individual payees for such purposes as: "passing out literature - early voting," "Distributing literature," "Distribution of leaflet-early voting," and "Office worker in campaign office." This activity fell during the 8-day pre-election reporting period in connection with the March 2010 primary election.

IV. Findings and Conclusions of Law

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

Disclosure of Required Information in Campaign Finance Reports

1. Each report must include the amount of loans that are made during the reporting period for campaign or officeholder purposes to the person or committee required to file the report and that in the aggregate exceed \$50, the dates the loans are made, the interest rate, the maturity date, the type of collateral for the loans, if any, the full name and address of the person or financial institution making the loans, the full name and address, principal occupation, and name of the employer of each guarantor of the loans, the amount of the loans guaranteed by each guarantor, and the aggregate principal amount of all outstanding loans as of the last day of the reporting period. ELEC. CODE §254.031(a)(2).
2. Each report must include the total amount or a specific listing of the political contributions of \$50 or less accepted and the total amount or a specific listing of the political expenditures of \$50 or less made during the reporting period. *Id.* § 254.031(a)(5).
3. Each report must include the total amount of all political contributions accepted and the total amount of all political expenditures made during the reporting period. *Id.* § 254.031(a)(6).
4. 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).
5. The respondent, as campaign treasurer of HBAD, left blank the spaces to disclose total political contributions of \$50 or less, total political contributions, total political expenditures of \$50 or less, total political expenditures, and total principal amount of outstanding loans on HBAD's January and July 2009 semiannual reports.
6. The respondent, as campaign treasurer of HBAD, left blank the spaces to disclose total political contributions of \$50 or less, total political expenditures of \$50 or less, and total principal amount of outstanding loans on HBAD's January 2010 semiannual report. Therefore, there is credible evidence of violations of sections 254.031(a)(2), 254.031(a)(5), and 254.031(a)(6) of the Election Code.
7. With regard to total political contributions maintained, the evidence is insufficient to show that the respondent failed to properly disclose these totals on HBAD's January and July 2010 semiannual reports. Therefore, there is insufficient evidence of a violation of section 254.031(a)(8) of the Election Code.

Names of Candidates Supported or Opposed and Officeholders Assisted

8. 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. *Id.* § 254.151(4).
9. In a previous sworn complaint, SC-970419D, the commission considered an allegation that the Conservative Republicans of Harris County political committee did not identify the candidates or officeholders the committee supported or assisted in campaign finance reports. The commission found that the name of the committee satisfied the legal requirement that each report identify candidates supported by party classification.
10. HBAD's January and July 2010 semiannual reports disclosed that the committee made political expenditures that appear to be related to campaign activity for the November 2009 Houston City Election and March 2010 primary election. The respondent left blank the "Committee Activity" section of the reports' cover pages. Although in previous decisions the commission has determined that the name of a committee, such as Houston Black American Democrats, satisfies the legal requirement that each report identify candidates supported by party classification, municipal elections are non-partisan. Thus, the candidates supported or opposed by the committee in the city election should have been disclosed in the committee activity section of the report. The respondent did not include that information in the reports at issue. Therefore, there is credible evidence of violations of section 254.151(4) of the Election Code in connection with the January 2010 semiannual report. The July 2010 semiannual report appeared to include activity in connection with a primary election. Thus, the name of the committee satisfies the reporting requirement. Therefore, there is credible evidence of no violation of section 254.151(4) of the Election Code with respect to the July 2010 semiannual report.

Purpose of Expenditures and Political Expenditures as Reimbursements

11. 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).
12. 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.

13. The respondent left blank on the January 2010 semiannual report the purposes of two expenditures totaling approximately \$2,200. Therefore, with regard to these expenditures, there is credible evidence of violations of section 254.031(a)(3) of the Election Code with regard to these expenditures.
14. The respondent did not respond to the reimbursement allegations concerning the four political expenditures to individual payees totaling approximately \$2,770 and no corrections have been filed to these reports. However, from the face of the reports, it is clear that the \$250 political expenditure to the individual for office related expenditures was a reimbursement. Therefore, with regard to that expenditure, there is credible evidence of a violation of section 254.031(a)(3) of the Election Code and Ethics Commission Rules § 20.62.
15. With regard to the remaining expenditures, there is insufficient evidence of a violation of section 254.031(a)(3) of the Election Code and section 20.62 of the Ethics Commission Rules.

8-day Pre-election Report in Connection with the March 2010 Primary

16. In addition to other required reports, for each election in which a general-purpose committee is involved, the committee's campaign treasurer shall file two reports. *Id.* § 254.154(a). 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 and covers the period beginning the day the committee's campaign treasurer appointment is filed or the first day after the period covered by the committee's last required report, as applicable, and continuing through the 40th day before election day. *Id.* § 254.154(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 and covers the period beginning the 39th day before election day and continuing through the 10th day before election day. *Id.* § 254.154(c).

17. The evidence indicates that HBAD made expenditures in connection with the March 2010 primary election during the period covered by the 8-day pre-election report and therefore, was required to file that report. HBAD reported this activity on its July 2010 semiannual report, but to date has not filed an 8-day pre-election report in connection with the March 2010 primary. Therefore, there is credible evidence of a violation of section 254.154 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 a total amount or a specific listing of the political contributions of \$50 or less accepted and the total amount or a specific listing of the political expenditures of \$50 or less made during the reporting period. The respondent acknowledges that each 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 acknowledges that each report must include the amount of loans that are made during the reporting period for campaign or officeholder purposes to the person or committee required to file the report and that in the aggregate exceed \$50, the dates the loans are made, the interest rate, the maturity date, the type of collateral for the loans, if any, the full name and address of the person or financial institution making the loans, the full name and address, principal occupation, and name of the employer of each guarantor of the loans, the amount of the loans guaranteed by each guarantor, and the aggregate principal amount of all outstanding loans as of the last day of the reporting period. The respondent acknowledges that each 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 proper way to report reimbursements to staff is in accordance with section 20.62 of the Ethics Commission Rules. The respondent also acknowledges that each report by a campaign treasurer of a general-purpose committee must include the name of each identified candidate supported or opposed by the committee, indicating whether the committee supports or opposes each listed candidate. The respondent also acknowledges that in addition to other required reports, for each election in which a general-purpose committee is involved, the committee's campaign treasurer shall file two reports. 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 and

covers the period beginning the 39th day before election day and continuing through the 10th day before election day. 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 \$500 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 \$500 civil penalty no later than November 29, 2011, and waives any right to a hearing related to this sworn complaint. The respondent also acknowledges that if the \$500 civil penalty is not received by November 29, 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-31008237.

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

Willie Belle Boone, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director