

TEXAS ETHICS COMMISSION

IN THE MATTER OF

CHARLES M. MILES, CAMPAIGN
TREASURER, BLACK VOTERS
ACTION PROJECT,

RESPONDENT

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BEFORE THE

TEXAS ETHICS COMMISSION

SC-31008238

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on December 7, 2010, to consider sworn complaint SC-31008238. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 254.031 and 254.154 of the Election Code, and technical or *de minimis* violations of section 254.031 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 failed to properly disclose political contributions and political expenditures, and failed to file an 8-day pre-election report.

III. Facts Supported by Credible Evidence

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

1. The respondent was the campaign treasurer for the Black Voters Action Project, a general-purpose committee.

Total Political Contributions Maintained

2. The complaint alleged that the respondent failed to properly disclose total political contributions maintained on the committee's July 2010 semiannual report. The report disclosed \$1,000 in total political contributions, \$318.86 in total political expenditures of \$50 or less, \$1,000 in total political expenditures, and \$0 in total political contributions

maintained. The complaint alleged that the total political contributions maintained should be -\$318.86. The complainant reached this amount by subtracting the amounts of total political expenditures and total political expenditures of \$50 or less from the amount of total political contributions. The complaint erroneously alleged that the report disclosed political contributions maintained of \$1,000. As noted, the report disclosed \$0 in total political contributions maintained. In response to the complaint, the respondent swore that all amounts in the report were properly disclosed.

Disclosure of Political Contributions and Political Expenditures

3. The complaint alleged that the report disclosed no amount of total political contributions of \$50 or less. The amount was left blank on the original report. There is no evidence that the respondent accepted political contributions that were required to be disclosed in that category. In response to the complaint, the respondent swore that all amounts in the report were properly disclosed.
4. The complaint further alleged that the respondent failed to report the correct amount of total political expenditures. The report disclosed \$318.86 in total political expenditures of \$50 or less, and \$1,000 in total political expenditures. The complaint alleged that the correct amount of total political expenditures was \$1,318.86. The complainant reached this amount by adding the amount of total political expenditures disclosed on Schedule F to the amount of total political expenditures of \$50 or less. In response to the complaint, the respondent swore that all amounts in the report were properly disclosed.
5. The complaint further alleged that the respondent failed to disclose the purposes of two political expenditures totaling approximately \$525, and failed to disclose the date for one political expenditure for \$315.86. The relevant fields were left blank on the respondent's original report.

Filing of Pre-Election Report

6. The complaint alleged that the respondent failed to file the 8-day pre-election report for the March 2010 primary election. The 8-day pre-election report was due on February 22, 2010. All general-purpose committees who had activity in connection with the March 2010 primary election during the reporting period were required to file the 8-day pre-election report. The respondent's July 2010 semiannual report lists the name of seven candidates supported by the committee, some of whom were on the ballot in the March 2010 primary election. The report also lists one political contribution received and one political expenditure made by the committee during the 8-day reporting period, totaling approximately \$725. In response to the complaint the respondent filed a correction to the July 2010 semiannual report, marking it as both an 8-day pre-election report for the March 2010 primary election and a July 2010 semiannual report.

IV. Findings and Conclusions of Law

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

Total Political Contributions Maintained

1. 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).
2. Contrary to the allegation, the amount of political contributions maintained should not be disclosed as a negative amount. The amount of political contributions maintained should reflect the contributions held in one or more accounts. There is credible evidence of no violation of section 254.031(a)(8) of the Election Code.

Disclosure of Political Contributions and Political Expenditures

3. Each campaign finance 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).
4. Each campaign finance 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. ELEC. CODE § 254.031(a)(5).
5. Each report must include the total amount of all political contributions and the total amount of all political expenditures made during the reporting period. ELEC. CODE § 254.031(a)(6).
6. The allegation related to failure to disclose the total amount of political contributions of \$50 or less was based on the fact that the respondent left the space used to report that total blank on the report at issue. There is no evidence that the respondent accepted political contributions required to be disclosed in that category. Therefore, with respect to that total, there is credible evidence of technical or *de minimis* violations of section 254.031(a)(5) of the Election Code. Regarding the allegation related to the failure to properly disclose total political expenditures, the respondent swore that he disclosed the full amount of political expenditures made during the reporting period. However, based on the disclosures in the report, the respondent failed to add the amount of total political expenditures of \$50 or less to the amount of total political expenditures. In context, the reporting error was *de minimis*. Therefore, there is credible evidence of a technical or *de minimis* violation of section 254.031(a)(6) of the Election Code. Regarding the allegation that the respondent failed to disclose the purposes of two political expenditures and the

date of one political expenditure, there is credible evidence of violations of section 254.031(a)(3) of the Election Code.

Filing of Pre-Election Report

7. 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. ELEC. CODE § 254.154(a). 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).
8. As campaign treasurer for a general-purpose committee that supported candidates in the March 2010 primary election, the respondent was required to file an 8-day pre-election report. The 8-day pre-election report was due on February 22, 2010. On September 10, 2010, the respondent filed a correction to his July 2010 semiannual report to also mark it as an 8-day pre-election report. Therefore, there is credible evidence of violations of section 254.154(c) 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 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 respondent also acknowledges that each campaign finance 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. The respondent also 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 also acknowledges that 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. No Sanction

After considering the violations described under Sections III and IV, including the nature, circumstances, and consequences of the violations, the commission imposes no civil penalty for the violations described under sections III and IV.

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-31008238.

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

Charles M. Miles, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director