

TEXAS ETHICS COMMISSION

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| IN THE MATTER OF | § | BEFORE THE |
| | § | |
| LENORA SOROLA-POHLMAN, | § | |
| CAMPAIGN TREASURER, | § | |
| HARRIS COUNTY TEJANO | § | TEXAS ETHICS COMMISSION |
| DEMOCRATS, | § | |
| | § | |
| RESPONDENT | § | SC-31009298 |

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on December 14, 2011, to consider sworn complaint SC-31009298. 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, 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, as campaign treasurer of a political committee, did not properly disclose political contributions and political expenditures, did not include required information on campaign finance reports, and failed to timely file pre-election 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 campaign treasurer of Harris County Tejano Democrats, a general-purpose committee that files campaign finance reports with the commission.

Total Political Contributions Maintained

2. The complaint alleged that the respondent failed to properly disclose total political contributions maintained on eight campaign finance reports. The respondent's 30-day

- pre-election report for the November 2008 election disclosed \$1,197.71 in total political contributions maintained. The complaint alleged that the total political contributions maintained should be \$10,598.71. In response to the complaint, the respondent stated that the amount was properly disclosed.
3. The respondent's 8-day pre-election report for the November 2008 election disclosed \$13,480.73 in total political contributions maintained. The complaint alleged that the total political contributions maintained should be \$13,640.57. In response to the complaint, the respondent filed a corrected report and acknowledged that the original report was incorrect, but not as alleged. The respondent stated that the correct amount of total political contributions maintained was \$13,485.73.
 4. The respondent's January 2009 semiannual report disclosed \$15,997.90 in total political contributions maintained. The complaint alleged that the total political contributions maintained should be \$17,784.02. In response to the complaint, the respondent filed a corrected report and acknowledged that the original report was incorrect, but not as alleged. The respondent stated that the correct amount of total political contributions maintained was \$16,045.19.
 5. The respondent's July 2009 semiannual report disclosed \$18,143.54 in total political contributions maintained. The complaint alleged that the total political contributions maintained should be \$23,339.53. In response to the complaint, the respondent filed a corrected report and acknowledged that the original report was incorrect, but not as alleged. The respondent stated that the correct amount of total political contributions maintained was \$18,568.98.
 6. The respondent's first corrected 30-day pre-election report for the November 2009 election disclosed \$39,396.53 in total political contributions maintained. The complaint alleged that the total political contributions maintained should be \$39,623.69. In response to the complaint, the respondent filed a corrected report and acknowledged that the original report was incorrect, but not as alleged. The respondent stated that the correct amount of total political contributions maintained was \$18,710.03.
 7. The respondent's 8-day pre-election report for the November 2009 election disclosed \$43,736.50 in total political contributions maintained. The complaint alleged that the total political contributions maintained should be \$25,387.91. In response to the complaint, the respondent stated that the amount was properly disclosed.
 8. The respondent's January 2010 semiannual report disclosed \$16,732.37 in total political contributions maintained. The complaint alleged that the total political contributions maintained should be \$20,395.88. In response to the complaint, the respondent stated that the amount was properly disclosed.
 9. The respondent's July 2010 semiannual report disclosed \$20,162.98 in total political contributions maintained. The complaint alleged that the total political contributions

maintained should be \$19,611.88. In response to the complaint, the respondent filed a corrected report and acknowledged that the original report was incorrect, but not as alleged. The respondent stated that the correct amount of total political contributions maintained was \$20,410.07.

Purposes of Political Expenditures

10. The complaint alleged that, based on disclosures in seven campaign finance reports, the respondent failed to properly disclose the purposes of 56 political expenditures. The original purposes of five political expenditures totaling approximately \$335 disclosed on the respondent's July 2010 semiannual report were stated as "For [sic] for volunteers (S&E 03/2010)." The original purposes of five political expenditures totaling approximately \$2,580 disclosed on the respondent's July 2009 semiannual report and 8-day pre-election report for the November 2009 election included the description "PC" or described a purpose different than that described in a corrected report.

Disclosure of Political Expenditures as Reimbursements

11. The complaint alleged that the respondent improperly reported three political expenditures as reimbursements on her January 2010 semiannual report. The report disclosed the name of an individual as the payee for three expenditures totaling \$4,400 for the purpose of "Block walkers for runoff 2009." In response to the complaint, the respondent filed a corrected report but did not change the payee name. The respondent listed the category of expenditure as "Salaries/wages/contract labor" and the description as "Block walkers for runoff 2009." The payee was a consultant paid by the committee.

Disclosure of Names of Candidates and Officeholders Supported or Assisted by the Committee

12. The complaint alleged that the respondent failed to disclose the names of each identified candidate supported or opposed by the committee, and each identified officeholder assisted by the committee on eight campaign finance reports. On all eight reports, the "Committee Activity" sections of the report cover sheets were left blank. In response to the complaint, the respondent filed corrections to the reports and listed candidates and officeholders supported or assisted by the committee, and in one instance, a ballot measure supported by the committee in the "Committee Activity" sections of the report cover sheets. The candidates and officeholders supported or assisted included those seeking or holding the office of city council or school board trustee. On the correction affidavits, the respondent identified these candidates and officeholders as having been endorsed by the committee. However, the committee reports did not disclose any political expenditures to support or oppose candidates or assist officeholders on Schedule F (used for political contributions).

Disclosure of Principal Occupation of Contributor

13. The complaint alleged that the respondent failed to disclose the principal occupation of a contributor on her 8-day pre-election report for the November 2009 election. The report disclosed a \$150 contribution from an individual on September 28, 2009. The individual's occupation was disclosed as "Owner." In response to the complaint, the respondent filed a corrected report and disclosed the occupation of the contributor as "Consultant."

Disclosure of Political Contribution from Corporation or Labor Organization

14. The complaint alleged that the respondent failed to properly disclose a political contribution from a corporation or labor organization on her 30-day pre-election report for the November 2009 election. The report disclosed a \$1,500 contribution from Plumbers Local Union #68 on September 23, 2009, on Schedule A (used for political contributions). In response to the complaint, the respondent filed a corrected report and disclosed the contribution on Schedule C-1 (which is used to disclose a contribution from a corporation or labor organization made and accepted to establish or administer the political committee).

Filing of Pre-Election Reports

15. The complaint alleged that the respondent failed to file 8-day pre-election reports for the December 2009 runoff election and March 2010 primary election. The respondent's January 2010 semiannual report disclosed expenditures for "food for conference for runoff election" and "postage mail out for reoff [sic] for 2009 election" during the reporting period for the 8-day pre-election report for the December 2009 runoff election. In response to the complaint, the respondent filed the report on April 5, 2011. The report disclosed \$600 in total political contributions, \$3,370.03 in total political expenditures, and \$21,732.41 in total political contributions maintained. The respondent swore that she failed to timely file the report due to her father's illness and death.
16. The respondent's July 2010 semiannual report disclosed expenditures for "postage for premary [sic] endorsement mail out 2010" and "post card for premary [sic] endorsement mail out 2010." The expenditures were made during the reporting period for the April 2010 primary runoff election. It does not appear that any expenditures were made in connection with the election during the reporting period for the 8-day pre-election report for the March 2010 primary election, however, a 30-day pre-election report for the March 2010 primary election was filed, and it disclosed election related expenditures. In response to the complaint, on April 6, 2011, the respondent filed both the 8-day pre-election report for the March 2010 primary election and the 8-day pre-election report for the April 2010 primary runoff election. The 8-day pre-election report for the March 2010 primary election disclosed \$435 in total political contributions, \$260.99 in total political expenditures, and \$22,639.81 in total political contributions maintained. The 8-day pre-election report for the April 2010 primary runoff election disclosed \$0 in total political

contributions, \$2,158.70 in total political expenditures, and \$22,611.82 in total political contributions maintained. The respondent stated that she failed to timely file the reports due to her having surgery and her father's illness and death.

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. A *de minimis* error in calculating or reporting a cash balance under subsection (a)(8) is not a violation. ELEC. CODE §§ 254.031(a)(8) and (a-1).
2. Regarding the respondent's total political contributions maintained disclosed on the respondent's 30-day pre-election report for the November 2008 election, 8-day pre-election report for the November 2009 election, and January 2010 semiannual report, the amounts disclosed were correct. There is insufficient evidence of violations of section 254.031(a)(8) of the Election Code. Regarding total political contributions maintained disclosed on the respondent's 8-day pre-election report for the November 2008 election, January 2009 semiannual report, July 2009 semiannual report, and July 2010 semiannual report, the amounts disclosed were incorrect. The respondent filed corrections to each report. Based on the corrected amounts, the difference between the amount disclosed on each original report and the correct amount for each report does not exceed the lesser of 10% of the original amount disclosed or \$2,500. Thus, the discrepancies are *de minimis*. Therefore, there is credible evidence of no violation of section 254.031(a)(8) of the Election Code. With respect to the respondent's 30-day pre-election report for the November 2009 election, the difference between the amount disclosed on the original report and the amount disclosed on the corrected report is \$20,686.50. There is credible evidence of a violation of section 254.031(a)(8) with respect to that report.

Purposes of Political Expenditures

3. 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).
4. With respect to the expenditures totaling approximately \$335 disclosed on the respondent's July 2010 semiannual report, the expenditures were to restaurants and it appears that the description should have read "Food for volunteers." "For for volunteers" appears to be a typographical error. Therefore, there is credible evidence of technical or

de minimis violations of section 254.031(a)(3) of the Election Code with respect to those expenditures. There were five expenditures totaling approximately \$2,580 that were disclosed on the committee's July 2009 semiannual report and 8-day pre-election report for the November 2009 election that included the description "PC" or that described a purpose different than that described in a corrected report. There is credible evidence of violations of section 254.031(a)(3) of the Election Code with respect to those expenditures. The remaining purpose descriptions were adequate. Therefore, as to those remaining purpose descriptions, there is credible evidence of no violation of section 254.031(a)(3) of the Election Code.

Disclosure of Political Expenditures as Reimbursements

5. 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).
6. 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.
7. The actual vendor payee was properly disclosed. There is credible evidence of no violation of section 254.031(a)(3) of the Election Code and section 20.62 of the Ethics Commission Rules.

Disclosure of Names of Candidates and Officeholders Supported or Assisted by the Committee

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, and the name of each identified officeholder or classification by party of officeholders assisted by the committee. ELEC. CODE §§ 254.151(4) and (5).

9. The eight campaign finance reports at issue did not disclose political expenditures to support or oppose candidates or assist officeholders. On the corrected reports, however, the respondent listed candidates and officeholders that she indicated were endorsed by the committee. The commission has previously decided that when the name of a committee includes a party identification, the legal requirement that each report identify candidates supported by party classification is satisfied. However, city and school board elections are non-partisan, so the names of candidates and officeholders should be disclosed in the "Committee Activity" section of the reports. The respondent listed city and school board candidates and officeholders endorsed by the committee on four corrected reports. Therefore, with respect to those corrected reports, there is credible evidence of violations of sections 254.151(4) and (5) of the Election Code. With respect to the remaining four reports, there is credible evidence of no violation of sections 254.151(4) and (5) of the Election Code.

Disclosure of Principal Occupation of Contributor

10. 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).
11. The respondent filed a corrected report to disclose the full occupation of the contributor at issue. However, at the time the original report was filed, the respondent failed to properly disclose this information. Therefore, there is credible evidence of a violation of section 254.151(6) of the Election Code.

Disclosure of Political Contribution from Corporation or Labor Organization

12. Each report by a campaign treasurer of a general-purpose committee must include on a separate page or pages of the report, the identification of any contribution from a corporation or labor organization made and accepted to establish or administer the political committee. ELEC. CODE § 254.151(8).
13. The respondent filed a corrected report to disclose the contribution on the correct schedule. At the time the original report was filed, the contribution was disclosed on the incorrect schedule. In context, the error was *de minimis*. Therefore, there is credible evidence of a technical or *de minimis* violation of section 254.151(8) of the Election Code.

Filing of Pre-Election Reports

14. In addition to other required reports, for each election in which a general-purpose committee supports or opposes a candidate or measure, the committee's campaign treasurer shall file two reports. The second report must 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 § 254.154(c). In addition to other required reports, the campaign treasurer of a general-purpose committee involved in a runoff election shall file one report for the runoff election. The runoff election report must be received by the authority with whom the report is required to be filed not earlier than the 10th day or later than the eighth day before runoff election day. The report covers the period beginning the ninth day before the date of the main election and continuing through the 10th day before runoff election day. *Id.* § 254.154(e).
15. Based on disclosures in the January 2010 semiannual report, it appears that the committee did have activity in connection with the December 2009 runoff election and that an 8-day pre-election report was required. The report was due on December 4, 2009. The respondent filed the report on April 5, 2011. Therefore, there is credible evidence of a violation of section 254.154(e) of the Election Code with respect to that report. Based on disclosures in the respondent's July 2010 semiannual report, it appears that the committee also had activity in connection with the April 2010 primary runoff election and that an 8-day pre-election report was required. The report was due on April 5, 2010. The respondent filed the report on April 6, 2011. There is credible evidence of a violation of section 254.154(e) of the Election Code with respect to that report. It does not appear that any expenditures were made in connection with the election during the reporting period for the 8-day pre-election report for the March 2010 primary election, however, a 30-day pre-election report was filed, and thus, an 8-day pre-election report was also required. Therefore, there is credible evidence of a violation of section 254.154(c) of the Election Code with respect to that report.

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 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 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 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, and the name of each identified officeholder or classification by party of officeholders assisted by the committee. The respondent also acknowledges that 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. The respondent also acknowledges that each report by a campaign treasurer of a general-purpose committee must include on a separate page or pages of the report, the identification of any contribution from a corporation or labor organization made and accepted to establish or administer the political committee. The respondent also acknowledges that in addition to other required reports, for each election in which a general-purpose committee supports or opposes a candidate or measure, the committee's campaign treasurer shall file two reports. The second report must 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. The respondent also acknowledges that in addition to other required reports, the campaign treasurer of a general-purpose committee involved in a runoff election shall file one report for the runoff election. The runoff election report must be received by the authority with whom the report is required to be filed not earlier than the 10th day or later than the eighth day before runoff election day. The report covers the period beginning the ninth day before the date of the main election and continuing through the 10th day before runoff 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 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.

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-31009298.

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

Lenora Sorola-Pohlman, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director