

TEXAS ETHICS COMMISSION

IN THE MATTER OF	§	BEFORE THE
	§	
DANIEL MELDER,	§	
CAMPAIGN TREASURER,	§	TEXAS ETHICS COMMISSION
TEXAS YOUNG DEMOCRATS PAC,	§	
	§	
RESPONDENT	§	SC-31011418

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on August 11, 2011, to consider sworn complaint SC-31011418. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 254.031 and 254.151 of the Election Code and section 20.62 of the Ethics Commission Rules, and credible evidence of 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, as campaign treasurer of a political committee, failed to 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 campaign treasurer of the Texas Young Democrats PAC (TYDPAC), a general-purpose committee.

Total Political Contributions Maintained

2. The complaint alleged that the respondent failed to properly disclose total political contributions maintained on four campaign finance reports. In response to the complaint, the respondent submitted an affidavit in which he swore that the total political contributions maintained disclosed on each campaign finance report was correct, and he

included copies of TYDPAC's bank account statements that showed the account balance as of the last day of the reporting period as disclosed in the reports at issue. However, the ending date for each report was incorrect because it reflected activity through the filing date and thus, the reports covered too many days. The ending date for the January 2009 semiannual report should have been December 31, 2008. The bank statement indicates total contributions maintained of \$6,174.89 as of that date. The report disclosed \$5,438.21, the amount as of January 15, 2009. The ending date for the July 2009 semiannual report should have been June 30, 2009. The bank statement indicates total political contributions maintained of \$11,977.25 as of that date. The report disclosed \$10,877.25, the amount maintained as of July 15, 2009. For the January 2010 semiannual report, the amount disclosed was correct for both the erroneous ending date disclosed on the report and the actual ending date of the reporting period. The ending date for the July 2010 semiannual report should have been June 30, 2010. The bank statement indicates total political contributions maintained of \$14,743.54 as of that date. The report disclosed \$12,243.54, the amount maintained as of July 15, 2010.

Total Political Expenditures

3. The complaint alleged that the respondent failed to properly disclose total political expenditures on his January 2009 and January 2010 semiannual campaign finance reports. In each case, the respondent disclosed the expenditures on Schedule I (used to disclose non-political expenditures) and did not include the amount in the total political expenditures section of the report. On the respondent's January 2009 semiannual report, he disclosed a \$3.00 expenditure to Wells Fargo bank with a stated purpose of "bank fee." On the respondent's January 2010 semiannual report, he disclosed a \$17.60 expenditure to the same payee, with the same stated purpose. In response to the complaint, the respondent swore that he believed the expenditures were correctly disclosed.

Disclosure of Purposes of Political Expenditures

4. The complaint alleged that, based on disclosures in the respondent's July 2009 semiannual report, the respondent failed to properly disclose the purposes of three political expenditures. However, the original descriptions adequately described the purposes of the expenditures.

Disclosure of Political Expenditures as Reimbursements

5. The complaint alleged that the respondent improperly reported 15 political expenditures as reimbursements on three campaign finance reports. In response to the complaint, the respondent swore that he did not disclose the actual vendor payee for 12 political expenditures totaling approximately \$5,840. The actual vendor was disclosed for three of the political expenditures at issue. The reports were not corrected.

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

6. 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 four campaign finance reports. On the four reports at issue, the "Committee Activity" sections of the report cover sheets were left blank. The respondent did not file corrected reports. The reports did not disclose any political expenditures to support or oppose candidates or assist officeholders on Schedule F (used for political expenditures).

Principal Occupation of Contributor

7. The complaint alleged that the respondent failed to disclose on the July 2009 semiannual report the principal occupation of one contributor whose contribution totaled \$314.30. The respondent did not file a corrected 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. The amounts of political contributions maintained on the January 2009, July 2009, and July 2010 semiannual reports were incorrect because the ending dates for those reports were incorrect. The amounts did coincide with the incorrect ending dates. In context, the errors did not substantially affect disclosure. Therefore, there is credible evidence of technical violations of section 254.031(a)(8) of the Election Code regarding those reports. There is credible evidence of no violation regarding the January 2010 semiannual report.

Total Political Expenditures

3. A campaign treasurer is required to include the amount of each payment made during the reporting period from a political contribution if the payment is not a political expenditure, the full name and address of the person to whom the payment is made, and the date and purpose of the payment. ELEC. CODE § 254.031(a)(4).
4. 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).

5. The respondent disclosed expenditures totaling approximately \$20 as non-political expenditures. Non-political expenditures are not required to be included in the totals section of a campaign finance report. However, the expenditures appear to have been made in connection with the maintenance of the committee's bank account, and thus they would be considered political expenditures that should have been disclosed in the totals section of the report. In context, the error was *de minimis*. Therefore, there is credible evidence of *de minimis* violations of section 254.031(a)(6) of the Election Code.

Disclosure of Purposes of Political Expenditures

6. 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).
7. The original purpose descriptions were adequate. Therefore, there is credible evidence of no violation of section 254.031(a)(3) of the Election Code.

Disclosure of Political Expenditures as Reimbursements

8. 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).
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. In response to the complaint, the respondent swore that he did not disclose the actual vendor payee for 12 political expenditures totaling approximately \$5,840. 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 those expenditures. With respect to the three remaining expenditures, 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 the Names of Candidates and Officeholders Supported or Assisted by the Committee

11. 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).
12. There is no evidence that the respondent supported or opposed candidates or assisted officeholders during the applicable reporting periods. In addition, the commission has previously determined that the name of a political committee that includes the name of the political party it supports satisfies the 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.

Principal Occupation of Contributor

13. 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).
14. The respondent did not disclose the principal occupation of a contributor whose contribution exceeded \$50. Therefore, there is credible evidence of violations of section 254.151(6) 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 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 each campaign finance report must include the total amount of all political expenditures made during the reporting period. The respondent also acknowledges that each 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 the proper way to report a committee expenditure for which an individual will seek reimbursement 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 principal occupation of each person from whom political contributions that in the aggregate exceed \$50 are accepted during the reporting period. 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-31011418.

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

Daniel Melder, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director