

TEXAS ETHICS COMMISSION

IN THE MATTER OF

BRENT TAYLOR,
CAMPAIGN TREASURER,
TEAMSTERS LOCAL #745 DRIVE,

RESPONDENT

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BEFORE THE

TEXAS ETHICS COMMISSION

SC-31105144

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on January 31, 2013, to consider sworn complaint SC-31105144. 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, 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 on campaign finance reports the name of each identified candidate supported or opposed, and officeholders assisted by the committee; 2) did not properly disclose on multiple campaign finance reports total political expenditures; and 3) did not properly disclose on multiple campaign finance reports total political contributions maintained.

III. Facts Supported by Credible Evidence

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

1. The respondent is the campaign treasurer for Teamsters Local #745 Drive (TLD), a general-purpose political committee that files campaign finance reports with the commission.

Names of Candidates Supported or Opposed and Officeholders Assisted

2. The complaint alleged that the respondent did not disclose the names of each identified candidate supported or opposed by the committee, and each identified officeholder assisted by the committee on the following nine campaign finance reports: July 2009 semiannual report, 30-day and 8-day pre-election reports for the March 2010 primary election, runoff election report for the April 2010 runoff election, July 2010 semiannual report, 30-day and 8-day pre-election reports for the November 2010 general election, January 2011 semiannual report, and the 30-day pre-election report for the May 2011 uniform election.
3. On the reports at issue, the “Committee Activity” sections of the report cover sheets were left blank. However, Schedule F (used to disclose political expenditures) of the reports at issue disclosed multiple political expenditures that were made in support of identified candidates. For example, Schedule F of the July 2009 semiannual report disclosed a \$1,000 political expenditure to “[an individual candidate]” for the purpose of “Campaign Contribution – Dallas City Council District 1.” Thus, information showing which candidates the committee supported was readily apparent to anyone who may have viewed Schedule F of the reports.

Total Political Expenditures

4. The complaint alleged that the respondent reported an incorrect balance for total political expenditures in five committee reports. In each report at issue, the respondent disclosed on Schedule I (used to disclose non-political expenditures made from political contributions) expenditures that were made from political contributions. The respondent did not include those expenditures when calculating the amount of total political expenditures. The complaint alleged that the expenditures reported by the respondent appear to have been political expenditures.
5. The committee’s July 2009 semiannual report disclosed \$1,000 in total political expenditures. Schedule I of the report disclosed one expenditure of \$231.56. The respondent corrected the total political expenditure balance to \$1,231.56.
6. The committee’s 8-day pre-election report for the March 2010 primary election disclosed \$1,000 in total political expenditures. Schedule I of the report disclosed one expenditure of \$2,267.39. The respondent corrected the total political expenditure balance to \$3,267.39.
7. The committee’s runoff election report for the April 2010 runoff election disclosed \$4,434.99 in total political expenditures (\$434.99 of the total was reclassified and disclosed under total political contributions of \$50 or less in the corrected report). Schedule I of the report disclosed one expenditure of \$300.23. The respondent corrected the total political expenditure balance to \$4,300.23.

8. The committee's July 2010 semiannual report disclosed \$5,500 in total political expenditures. Schedule I of the report disclosed one expenditure of \$4,500. The respondent corrected the total political expenditure balance to \$10,000.
9. The committee's January 2011 semiannual report disclosed \$1,000 in total political expenditures. Schedule I of the report disclosed one expenditure of \$833.53. The respondent corrected the total political expenditure balance to \$1,833.53.

Total Political Contributions Maintained

10. The complaint alleged that the respondent reported an incorrect balance for total political contributions maintained on 11 committee reports. In response to the complaint, the respondent's agent provided copies of the committee's bank statements and stated that the committee also has an investment account in which political contributions are deposited. The respondent's agent stated that the investment account was not included in the total political contributions maintained balance when the original reports were filed. The respondent also submitted copies of the investment account statements and corrected all reports at issue to include the earned interest.
11. The original disclosures, along with the corrections, are as follows:
 - 8-day Pre-election Report for the November 2009 general election – disclosed \$75,469.68; corrected to \$114,530.91; difference is \$39,061.23
 - January 2010 Semiannual Report – disclosed \$87,750.85; corrected to \$126,199.83; difference is \$38,448.98
 - 30-day Pre-election Report for the March 2010 primary election – disclosed \$78,250.85; corrected to \$116,699.83; difference is \$38,448.98
 - 8-day Pre-election Report for the March 2010 primary election – disclosed \$76,710.18; corrected to \$115,159.16; difference is \$38,448.98
 - Runoff Report for the April 2010 runoff election – disclosed \$101,501.74; corrected to \$140,032.36; difference is \$38,530.62
 - 8-day Pre-election Report for the May 2010 uniform election – disclosed \$101,507.58; corrected to \$140,038.20; difference is \$38,530.62
 - July 2010 Semiannual Report – disclosed \$111,365.67; corrected to \$150,957.51; difference is \$39,591.84

- 30-day Pre-election Report for the November 2010 general election – disclosed \$113,613.46; corrected to \$153,205.30; difference is \$39,591.84
- 8-day Pre-election Report for the November 2010 general election – disclosed \$106,629.61; corrected to \$146,670.43; difference is \$40,040.82
- January 2011 Semiannual Report – disclosed \$110,949.85; corrected to \$150,133.53; difference is \$39,183.68
- 30-day Pre-election Report for the May 2011 uniform election – disclosed \$139,034.46; corrected to \$177,932.42; difference is \$38,897.96

IV. Findings and Conclusions of Law

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

Names of Candidates Supported or Opposed and Officeholders Assisted

1. 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. *Id.* §§ 254.151(4), 254.151(5).
2. Although the committee's reports at issue disclosed political expenditures to candidates on Schedule F, the reports did not disclose the information in the "Committee Activity" section of the cover sheets. However, the disclosures on Schedule F of the reports at issue made apparent the names of the candidates and their respective offices sought. Therefore, there is credible evidence of technical or *de minimis* violations of sections 254.151(4) and 254.151(5) of the Election Code with respect to the nine reports at issue.

Total Political Expenditures

3. A campaign finance report 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).
4. A political expenditure means a campaign expenditure or an officeholder expenditure. *Id.* § 251.001(10). Campaign expenditure means an expenditure made by any person in connection with a campaign for an elective office or on a measure. Whether an expenditure is made before, during, or after an election does not affect its status as a campaign

- expenditure. *Id.* § 251.001(7). Officeholder expenditure means an expenditure made by any person to defray expenses that are incurred by an officeholder in performing a duty or engaging in an activity in connection with the office and that are not reimbursable with public money. *Id.* § 251.001(9).
5. Title 15 of the Election Code treats administrative expenditures as political expenditures. *Id.* § 253.100; Ethics Advisory Opinion No. 132 (1993) (note that statute now explicitly requires reporting of political expenditures made for administrative purposes).
 6. The respondent was required to include officeholder expenditures, campaign expenditures, including any administrative expenditures, when calculating the total amount of political expenditures. Based on Schedule I of the reports at issue, the respondent was improperly categorizing certain expenses as non-political expenditures. Accordingly, the amount of total political expenditures was understated in the five reports at issue because the expenditures disclosed on Schedule I were not included in the calculation.
 7. Regarding the July 2009 semiannual report, the respondent improperly categorized one expenditure of \$231.56. Regarding the 8-day pre-election report for the March 2010 primary election, the respondent improperly categorized one expenditure of \$2,267.39. Regarding the runoff election report for the April 2010 runoff election, the respondent improperly categorized one expenditure of \$300.23. Regarding the July 2010 semiannual report, the respondent improperly categorized one expenditure of \$4,500. Regarding the January 2011 semiannual report, the respondent improperly categorized one expenditure of \$833.53. The respondent did not include these expenditures in the amount of total political expenditures in the original reports at issue.
 8. Although the respondent disclosed the expenditures at issue on Schedule I of the report schedules, someone viewing the expenditure totals section of the reports would not have been able to ascertain the true amount of total political expenditures. Based on the amounts at issue (approximately \$8,130), there is credible evidence of violations of section 254.031(a)(6) of the Election Code with respect to those five reports.

Total Political Contributions Maintained

9. 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).
10. The total amount of political contributions maintained in one or more accounts includes balance on deposit in banks, savings and loan institutions and other depository institutions, and the present value of any investments that can be readily converted to cash, such as

certificates of deposit, money market accounts, stocks, bonds, treasury bills, etc. Ethics Commission Rules § 20.50(a).

11. Credible evidence indicates that the respondent did not properly report total political contributions maintained in the 11 committee reports at issue. Therefore, there is credible evidence of violations of section 254.031(a)(8) 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: 1) each campaign finance report must include the total amount of all political contributions accepted and the total amount of all political expenditures made during the reporting period - Title 15 of the Election Code treats administrative expenditures as political expenditures; 2) each campaign finance 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; the total amount of political contributions maintained in one or more accounts includes balance on deposit in banks, savings and loan institutions and other depository institutions, and the present value of any investments that can be readily converted to cash, such as certificates of deposit, money market accounts, stocks, bonds, treasury bills, etc.; and 3) 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 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 nature, circumstances, and consequences of the violations described under Sections III and IV, and after considering the sanction necessary to deter future violations, the commission imposes a \$1,500 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-31105144.

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

Brent Taylor, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director