

TEXAS ETHICS COMMISSION

IN THE MATTER OF

DAVID REYNOLDS,
CAMPAIGN TREASURER,
TEXAS MEDICAL ASSOCIATION PAC,

RESPONDENT

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BEFORE THE

TEXAS ETHICS COMMISSION

SC-31209260

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (Commission) met on June 11, 2015, to consider sworn complaint SC-31209260. A quorum of the commission was present. The Commission determined that there is credible evidence of violations of sections 252.003, 253.037, and 254.031 of the Election Code and section 20.59 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 campaign treasurer for a political committee, the respondent: 1) did not properly disclose political contributions and political expenditures; 2) did not properly disclose contributions from corporations or labor organizations; 3) accepted political contributions from corporations or labor organizations; and 4) did not disclose recipient general-purpose committees on a campaign treasurer appointment.

III. Facts Supported by Credible Evidence

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

1. At the time relevant to the complaint, the respondent was campaign treasurer of the Texas Medical Association PAC (TEXPAC), the general-purpose committee of the Texas Medical Association (TMA), a non-profit corporation.
2. At issue in the complaint are 24 monthly campaign finance reports filed by the respondent.

Total Political Contributions Maintained

3. The complaint alleged that the respondent did not properly disclose total political contributions maintained on 24 campaign finance reports. The respondent provided bank statements of the accounts that the committee kept political contributions in for 16 of the reports at issue, covering the months of October 2010 through January 2012. The respondent did not provide the bank statements of these accounts for the remaining eight reports, for the months of February 2012 through September 2012. The respondent stated that he did not include corporate contributions for administrative expenses in the amount of total political contributions maintained. The respondent was required to include these contributions in the amount of total political contributions maintained.
4. Regarding the October 2011 monthly report, the difference between the amount of political contributions maintained as originally disclosed and the correct amount did not exceed the lesser of 10% of the amount originally disclosed or \$2,500.
5. Regarding the other 15 monthly reports due between October 5, 2010, and January 5, 2012, the reports disclosed total political contributions maintained differing from the amounts shown in the bank statements by more than the lesser of 10% of the amount originally disclosed or \$2,500. The total amount of the difference between the amounts disclosed on the reports and the amounts shown in the bank statements is approximately \$955,970. The average amount per report is approximately \$63,730.
6. With respect to the remaining eight reports (February 2012 Monthly Report through September 2012 Monthly Report), the respondent admitted that he did not include corporate contributions for administrative expenses in the amount of total political contributions maintained. The amounts of corporate contributions for administrative expenses for the remaining reports ranged from \$28,125.57 to \$120,830.38, and totaled \$284,075.89. These amounts all exceeded the lesser of 10% of the amount originally disclosed or \$2,500.

Disclosure of Political Expenditures and Total Political Expenditures

7. The complaint alleged that the respondent did not properly disclose political expenditures totaling approximately \$255,580 on 22 campaign finance reports. Based on the purpose descriptions (such as non-federal legislative consulting, bank fees associated with dues collection, website administration, etc.), the expenditures were made in connection with committee activity and should have been disclosed as political expenditures on Schedule F (used to disclose political expenditures). The respondent improperly disclosed the expenditures on Schedule I (used to disclose non-political expenditures made from political contributions) instead of Schedule F and did not include the expenditures in the total political expenditures section of the report. The reports at issue were not corrected.

8. The complaint alleged that the respondent did not disclose the actual vendor payee of eight expenditures disclosed on three campaign finance reports totaling approximately \$3,435 that were made to "Chase." In response to the complaint, the respondent stated that Chase was the "PAC specific credit card." As to these expenditures, the respondent did not disclose the vendor who received payment from the credit card company and did not correct the reports.
9. The complaint alleged that the respondent did not disclose the actual vendor payee of 24 expenditures disclosed on seven campaign finance reports totaling approximately \$33,260 to the TMA. As to these expenditures, the evidence shows that TMA was the actual vendor for 10 of the expenditures at issue, totaling approximately \$13,550, where the purpose of the expenditure was for video production or printing and graphics. The evidence shows that the remaining 14 expenditures totaling approximately \$19,710 to TMA were reimbursements and that the actual vendor information was not disclosed. The respondent stated that these expenditures were reimbursements for multiple credit cards that were issued to TMA staff.

Contributions from Corporations or Labor Organizations

10. The complaint alleged that, based on disclosures in 14 campaign finance reports, the respondent accepted 41 political contributions from 24 corporations or labor organizations.
11. In response to the complaint, the respondent stated that the committee accepted some contributions from non-profit and for-profit corporations in error, and those contributions were refunded.
12. Six of the contributors at issue were not corporations or labor organizations.
13. With respect to eight contributors at issue, either no records were found indicating that the contributors were incorporated or the contributors were incorporated but were not located at the addresses of the contributors disclosed in the reports.
14. Nine of the contributors at issue were non-profit or for-profit corporations and were located at the addresses disclosed by the respondent. With respect to these contributions, the respondent returned the contributions to the corporations and reported the returns on the committee's October 2012 monthly report. There is no evidence that the respondent knew that the contributors were corporations at the time the contributions were accepted.
15. One contribution appears to be a reimbursement.

Disclosure of Political Contributions from Corporations or Labor Organizations

16. The complaint alleged that, based on disclosures in 14 campaign finance reports, the respondent did not properly disclose 41 political contributions from corporations or labor organizations. Each contribution was disclosed on Schedule A (used to disclose political contributions) of the reports instead of Schedule C-2 (used to disclose corporation or labor organization contributions for administration/solicitation). The evidence (based on public records) shows that 10 of the contributors at issue were non-profit or for-profit corporations. In his response, the respondent stated that none of the contributions at issue were accepted to establish or administer the committee.

Disclosure of Recipient General-Purpose Committees

17. The complaint alleged that the respondent made political contributions to general-purpose political committees without disclosing the committees on TEXPAC's campaign treasurer appointment.
18. The committee's November 2010 monthly campaign finance report disclosed an expenditure to the Texas Civil Justice League. The report disclosed that the purpose category of the expenditure was "Contributions/Donations Made By Candidate/Officeholder/Political Committee", and that the purpose description of the expenditure was "Todd Hunter - STATE HOUSE/032 In kind reception. Food and beverage expense." The TCJL did not disclose a corresponding contribution from the respondent on its campaign finance report.
19. The committee's May 2011 monthly campaign finance report and April 2012 monthly campaign finance report disclosed expenditures to The Republican Party of Texas. The reports disclosed that the purpose of the expenditures was "State Party Contribution." The evidence indicates that the expenditures made to The Republican Party of Texas were made as political contributions to The Republican Party of Texas.
20. In response to the complaint, the respondent filed an amended appointment of a campaign treasurer by a general-purpose committee (AGTA) on September 24, 2012, naming "The Republican Party of Texas" as a recipient general-purpose committee.
21. The respondent did not identify the Texas Civil Justice League (TCJL) as a recipient general-purpose committee. With respect to the expenditure to the TCJL, in response to the complaint, the respondent stated that the expenditure at issue was actually a reimbursement to TCJL for expenses paid in connection with a campaign event for a candidate.

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 Commission has previously determined that there is no violation of section 254.031(a)(8) of the Election Code if the difference between the amount of political contributions maintained as originally disclosed and the correct amount does not exceed the lesser of 10% of the amount originally disclosed or \$2,500.
3. Regarding the October 2011 monthly report, the difference between the amount of political contributions maintained as originally disclosed and the correct amount did not exceed the lesser of 10% of the amount originally disclosed or \$2,500; therefore, there is credible evidence of no violation of section 254.031(a)(8) of the Election Code with respect to that report.
4. Regarding the other 15 monthly reports due between October 5, 2010, and January 5, 2012, the reports disclosed total political contributions maintained differing from the amounts shown in the bank statements by more than \$2,500; therefore, there is credible evidence of violations of section 254.031(a)(8) of the Election Code with respect to those reports.
5. With respect to the remaining eight reports (February 2012 Monthly Report through September 2012 Monthly Report), the respondent did not provide copies of bank statements for the periods at issue. The respondent admitted that he did not include corporate contributions for administrative expenses in the amount of total political contributions maintained for the reports at issue. The amounts of corporate contributions for administrative expenses for the remaining reports ranged from \$28,125.57 to \$120,830.38, and totaled \$284,075.89. Since these amounts all exceeded the lesser of 10% of the amount originally disclosed or \$2,500, there is credible evidence of violations of section 254.031(a)(8) of the Election Code with respect to those reports.

Disclosure of Political Expenditures and Total Political Expenditures

6. A campaign finance report must include, for all political expenditures that in the aggregate exceed \$100 (\$50 until September 28, 2011) 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. 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. *Id.* § 254.031(a)(6).
8. A report of a political expenditure by credit card must identify the vendor who receives payment from the credit card company. Ethics Commission Rules § 20.59.
9. The Commission stated in Ethics Advisory Opinion No. 132 (EAO 132) that expenditures for administrative expenses of a general-purpose committee are political expenditures. Ethics Advisory Opinion No. 132 (1993).
10. The complaint alleged that the respondent did not properly disclose political expenditures totaling approximately \$255,580 on 22 campaign finance reports. In each case, the respondent improperly disclosed the expenditures on Schedule I instead of Schedule F and did not include the amount in the total political expenditures section of the report. Therefore, there is credible evidence of violations of sections 254.031(a)(3) and 254.031(a)(6) of the Election Code.
11. The complaint alleged that the respondent did not disclose the actual vendor payee of eight expenditures totaling approximately \$3,435 to Chase. As to these expenditures, the respondent did not disclose the vendor who received payment from the credit card company and did not correct the reports. Therefore, there is credible evidence of violations of section 254.031(a)(3) of the Election Code and section 20.59 of the Ethics Commission Rules with respect to those expenditures.
12. The complaint alleged that the respondent did not disclose the actual vendor payee of 24 expenditures totaling approximately \$33,260 to the TMA. As to these expenditures, the evidence shows that TMA was the actual vendor for 10 of the expenditures at issue, totaling approximately \$13,550, where the purpose of the expenditure was for video production or printing and graphics. Therefore, there is credible evidence of no violation of section 254.031(a)(3) of the Election Code and section 20.59 of the Ethics Commission Rules with respect to those expenditures. The evidence shows that the remaining 14 expenditures totaling approximately \$19,710 to TMA were reimbursements and that the actual vendor information was not disclosed. Therefore, there is credible evidence of violations of section 254.031(a)(3) of the Election Code and section 20.59 of the Ethics Commission Rules with respect to those expenditures.

Contributions from Corporations or Labor Organizations

13. A person may not knowingly accept a political contribution that the person knows was made in violation of chapter 253 of the Election Code. ELEC. CODE § 253.003.
14. A corporation may not make a political contribution or political expenditure that is not authorized by subchapter D, chapter 253, Election Code. *Id.* § 253.094.
15. The prohibition applies to corporations that are organized under the Texas Business Corporation Act, the Texas For-Profit Corporation Law, the Texas Non-Profit Corporation Act, the Texas Nonprofit Corporation Law, federal law, or law of another state or nation. *Id.* § 253.091.
16. In order to show a violation of section 253.003 of the Election Code, the evidence must show that the contributor was a corporation, that at the time the respondent accepted the contribution he knew that corporate contributions were illegal, and that the respondent knew the particular contribution at issue was from a corporation.
17. The complaint alleged that, based on disclosures in 14 campaign finance reports, the respondent accepted 41 political contributions from 24 corporations or labor organizations.
18. In response to the complaint, the respondent stated that the committee accepted some contributions from non-profit and for-profit corporations in error, and those contributions were refunded.
19. Six of the contributors at issue were not corporations or labor organizations. Therefore, there is credible evidence of no violation of sections 253.003 and 253.094 of the Election Code with respect to those contributors.
20. With respect to eight contributors at issue, either no records were found indicating that the contributors were incorporated, or the contributors were incorporated but were not located at the addresses of the contributors disclosed in the reports. There is insufficient evidence of violations of sections 253.003 and 253.094 of the Election Code with respect to those contributors.
21. Nine of the contributors at issue were non-profit or for-profit corporations and were located at the addresses disclosed by the respondent. With respect to these contributions, the respondent returned the contributions to the corporations and reported the returns on the committee's October 2012 monthly report. There is no evidence that the respondent knew that the contributors were corporations at the time the contributions were accepted. Therefore, there is insufficient evidence of violations of sections 253.003 and 253.094 of the Election Code with respect to contributions from those contributors.

22. With respect to the contribution that appears to be a reimbursement, there is insufficient evidence of a violation of sections 253.003 and 253.094 of the Election Code.

Disclosure of Political Contributions from Corporations or Labor Organizations

23. 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).
24. The respondent stated that none of the contributions at issue were accepted to establish or administer the committee. The evidence indicates that the respondent properly reported the contributions on Schedule A. Therefore, there is credible evidence of no violation of section 254.151(8) of the Election Code.

Disclosure of Recipient General-Purpose Committees

25. The campaign treasurer appointment of a general-purpose committee must include the full name and address of each general-purpose committee to whom the committee intends to make political contributions. ELEC. CODE § 252.003(2).
26. A general-purpose committee may not knowingly make a political contribution to another general-purpose committee unless the other committee is listed in the campaign treasurer appointment of the contributor committee. *Id.* § 253.037(b).
27. The complaint alleged that the respondent made political contributions to general-purpose political committees without disclosing the committees on its campaign treasurer appointment.
28. TEXPAC made an expenditure to the Texas Civil Justice League, at a time when the Texas Civil Justice League was not named on TEXPAC's appointment of campaign treasurer as a recipient general-purpose committee. The report described the expenditure as a contribution and as a food and beverage expense. The respondent stated that the expenditure at issue was actually a reimbursement to TCJL for expenses paid in connection with a campaign event for a candidate. There is insufficient evidence to show that the expenditure at issue was a contribution. Therefore, there is insufficient evidence of a violation of sections 252.003(2) and 253.037(b) of the Election Code with respect to the expenditure.
29. TEXPAC made two political contributions to The Republican Party of Texas at a time when The Republican Party of Texas was not named on TEXPAC's appointment of campaign treasurer as a recipient general-purpose committee.

30. In response to the complaint, the respondent filed an amended appointment of a campaign treasurer by a general-purpose committee (AGTA) on September 24, 2012, naming “The Republican Party of Texas” as a recipient general-purpose committee.
31. At the time the contributions were originally made, this information was not disclosed on the committee’s campaign treasurer appointment. However, the name and address of the recipient committee was disclosed on Schedule F of the committee’s campaign finance reports. Thus, the information was readily apparent to anyone who may have viewed the report, and in context the omission did not substantially affect disclosure. Therefore, there is credible evidence of technical or *de minimis* violations of sections 252.003(2) and 253.037(b) of the Election Code with respect to those contributions.

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 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; 2) a campaign finance report must include, for all political expenditures that in the aggregate exceed \$100 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; 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; 4) a campaign finance report must include, for all political expenditures that in the aggregate exceed \$100 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; 5) a report of a political expenditure by credit card must identify the vendor who receives payment from the credit card company; 6) the campaign treasurer appointment of a general-purpose committee must include the full name and address of each general-purpose committee to whom the committee intends to make political contributions; 7) a general-purpose committee may not knowingly make a political contribution to another general-purpose committee unless the other committee is listed in the campaign treasurer appointment of the contributor committee; and 8) corporations and labor organizations can

only contribute to general-purpose committees to pay for administrative and operating expenses. 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 \$5,000 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-31209260.

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

David Reynolds, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
Natalia Luna Ashley, Executive Director