

TEXAS ETHICS COMMISSION

IN THE MATTER OF	§	BEFORE THE
	§	
JOAN ABSHIRE,	§	
CAMPAIGN TREASURER,	§	TEXAS ETHICS COMMISSION
KEEP DOLLARS IN LUMBERTON	§	
COMMITTEE,	§	
	§	
RESPONDENT	§	SC-3130227

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on May 30, 2013, to consider sworn complaint SC-3130227. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 253.004, 253.031, and 254.123 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, as campaign treasurer of Keep Dollars in Lumberton Committee (KDLC), the respondent: 1) accepted political contributions totaling more than \$500 and made or authorized political expenditures totaling more than \$500 when a campaign treasurer appointment for the committee was not on file; and 2) did not timely file a July 2012 semiannual report.

III. Facts Supported by Credible Evidence

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

1. On June 11, 2012, the respondent filed a campaign treasurer appointment for KDLC with the Lumberton, Texas city secretary appointing herself as campaign treasurer.

2. Based on KDLC's treasurer appointment that was filed on June 11, 2012, the committee was formed to circulate a petition to hold a special local option election on November 6, 2012, to legalize the sale of alcohol in the city limits.

Accepting Political Contributions and Making Political Expenditures Over \$500 Without Campaign Treasurer Appointment

3. The complaint alleged that the respondent accepted political contributions totaling more than \$500 and made or authorized political expenditures totaling more than \$500 when a campaign treasurer appointment for the committee was not on file.
4. On August 8, 2012, KDLC filed a July 2012 semiannual report with the Lumberton city secretary. The July 2012 semiannual report disclosed on Schedule A (used to disclose political contributions) that on May 21, 2012, the committee accepted a \$25,000 contribution from Wal-Mart. The report also disclosed on Schedule F (used to disclose political expenditures) that on May 21, 2012, the committee made a \$25,000 expenditure to Texas Petition Strategies (TPS), for "Petition." Accordingly, the July 2012 semiannual report indicates that the committee accepted political contributions totaling more than \$500 and made political expenditures totaling more than \$500 when a campaign treasurer appointment for the committee was not on file.
5. In response to the complaint, the respondent acknowledged that KDLC received a \$25,000 political contribution from Wal-Mart and subsequently made a \$25,000 political expenditure to Texas Petition Strategies. The respondent asserted that the contribution was not actually accepted until the campaign treasurer appointment was filed on June 11, 2012. However, credible evidence indicated that the \$25,000 political contribution was deposited by TPS on or around May 21, 2012, and that a decision to accept the money was made at that same time.
6. The evidence indicated before May 21, 2012, KDLC, as a group, intended to make political expenditures and accept political contributions.

Timely Filing of Campaign Finance Report

7. The complaint alleged that the respondent did not timely file a July 2012 semiannual report. Based on records on file with the Lumberton city secretary, the respondent was the active campaign treasurer of KDLC during the period at issue. Accordingly, the respondent was required to file a July 2012 semiannual report by July 16, 2012 (deadline extended because of weekend). Credible evidence indicates that the respondent filed the committee's July 2012 semiannual report on August 8, 2012, which was 23 days after the deadline.

IV. Findings and Conclusions of Law

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

Accepting Political Contributions and Making Political Expenditures Over \$500 Without Campaign Treasurer Appointment

1. Each political committee shall appoint a campaign treasurer as provided by chapter 252 of the Election Code. ELEC. CODE § 252.001. A campaign treasurer appointment must be in writing and include the campaign treasurer's name, residence or business street address, and telephone number and the name of the person making the appointment. *Id.* § 252.002(a). The campaign treasurer appointment by a general-purpose committee must include additional information provided by section 252.003. *Id.* § 252.003(a).
2. A person may not knowingly make or authorize a political expenditure in violation of this chapter. *Id.* § 253.004(a).
3. A political committee may not knowingly accept political contributions totaling more than \$500 or make or authorize political expenditures totaling more than \$500 at a time when a campaign treasurer appointment for the committee is not in effect. *Id.* § 253.031(b).
4. "Political committee" means a group of persons that has as a principal purpose accepting political contributions or making political expenditures. ELEC. CODE § 251.001(12).
5. "Political contribution" means a campaign contribution or an officeholder contribution. *Id.* § 251.001(5). "Campaign contribution" means a contribution to a candidate or political committee that is offered or given with the intent that it be used in connection with a campaign for elective office or on a measure. Whether a contribution is made before, during, or after an election does not affect its status as a campaign contribution. *Id.* § 251.001(3). "Contribution" means a direct or indirect transfer of money, goods, services, or any other thing of value and includes an agreement made or other obligation incurred, whether legally enforceable or not, to make a transfer. The term includes a loan or extension of credit, other than those expressly excluded by this subdivision, and a guarantee of a loan or extension of credit, including a loan described by this subdivision. *Id.* § 251.001(2).
6. "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). "Expenditure" means a payment of money or any other thing of value and includes an agreement made or other obligation incurred, whether legally

enforceable or not, to make a payment. *Id.* § 251.001(6). “Measure” means a question or proposal submitted in an election for an expression of the voters’ will and includes the circulation and submission of a petition to determine whether a question or proposal is required to be submitted in an election for an expression of the voters’ will. *Id.* § 251.001(19).

7. Credible evidence indicates that KDLC filed its campaign treasurer appointment with the Lumberton city secretary on June 11, 2012, and that the respondent appointed herself as campaign treasurer. KDLC’s July 2012 semiannual report disclosed that the committee accepted a \$25,000 political contribution and made a \$25,000 political expenditure on May 21, 2012. It appears that KDLC activities before that date made it a political committee. The fact that KDLC expended the \$25,000 on May 21, 2012, is evidence that the committee accepted the \$25,000 contribution on that same day. Moreover, credible evidence indicates that the respondent had knowledge of the transactions at issue. Accordingly, the respondent accepted political contributions totaling more than \$500 and made or authorized political expenditures totaling more than \$500 when a campaign treasurer appointment for the committee was not on file. Therefore, there is credible evidence of violations of sections 253.004(a) and 253.031(b) of the Election Code.

Timely Filing of Campaign Finance Report

8. The campaign treasurer of a specific-purpose committee shall file two reports for each year as provided by this section. ELEC. CODE § 254.123(a). The first report shall be filed not later than July 15. The report covers the period beginning January 1, the day the committee’s campaign treasurer appointment is filed, or the first day after the period covered by the last report required to be filed under this subchapter, as applicable, and continuing through June 30. *Id.* § 254.123(b). The second report shall be filed not later than January 15. The report covers the period beginning July 1, the day the committee’s campaign treasurer appointment is filed, or the first day after the period covered by the last report required to be filed under this subchapter, as applicable, and continuing through December 31. *Id.* § 254.123(c).
9. Regarding the July 2012 semiannual report at issue, KDLC had an active campaign treasurer appointment on file and was required to file the semiannual report by July 16, 2012 (deadline extended due to weekend). The respondent filed the report on August 8, 2012. Therefore, there is credible evidence of a violation of section 254.123(b) 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) a political committee may not knowingly accept political contributions totaling more than \$500 or make or authorize political expenditures totaling more than \$500 at a time when a campaign treasurer appointment for the committee is not in effect; and 2) the campaign treasurer of a specific-purpose committee shall file two reports each year. The first report shall be filed not later than July 15. The report covers the period beginning January 1, the day the committee's campaign treasurer appointment is filed, or the first day after the period covered by the last report required to be filed under this subchapter, as applicable, and continuing through June 30. 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 \$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-3130227.

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

Joan Abshire, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director