

# TEXAS ETHICS COMMISSION

<b>IN THE MATTER OF</b>	§	<b>BEFORE THE</b>
	§	
<b>JOHN W. BLAND,</b>	§	
<b>CAMPAIGN TREASURER,</b>	§	<b>TEXAS ETHICS COMMISSION</b>
<b>TRANSPORT WORKERS UNION</b>	§	
<b>STATE PAC,</b>	§	
	§	
<b>RESPONDENT</b>	§	<b>SC-31310162</b>

## **ORDER and AGREED RESOLUTION**

### **I. Recitals**

The Texas Ethics Commission (the commission) met on February 13, 2014, to consider sworn complaint SC-31310162. 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 20.61 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 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; and 2) did not properly disclose in campaign finance reports political expenditures and political contributions.

### **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 the Transport Workers Union State PAC, a general-purpose committee.

#### **Names of Candidates Supported or Opposed and Officeholders Assisted**

2. The complaint alleged that the respondent did not disclose the name of each identified candidate supported or opposed by the committee and each identified officeholder assisted by

the committee in the “Committee Activity” section of the January 2012, July 2012, January 2013, and July 2013 semiannual reports.

3. Regarding the January 2012 semiannual report at issue, the “Committee Activity” section of the report cover sheet was left blank. Schedule I (used to disclose non-political expenditures made from political contributions) of the report disclosed that the committee made four political contributions totaling \$4,000 to four different candidates. Although the information showing which candidates the committee supported was readily apparent to anyone who may have viewed Schedule I of the report, the respondent improperly disclosed the expenditures as non-political and did not include the expenditures in the total political expenditures section of the report.
4. Regarding the July 2012 and July 2013 semiannual reports at issue, the “Committee Activity” section of the report cover sheets was left blank. However, Schedule F (used to disclose political expenditures) of each report disclosed a political expenditure that was made in support of an identified candidate. Thus, information showing which candidates the committee supported was readily apparent to anyone who may have viewed Schedule F of those reports.
5. Regarding the January 2013 semiannual report at issue, the “Committee Activity” section of the report cover sheet was left blank. The complaint allegation was based on two political expenditures that were made for “Voter Education” and “Phone Bank Office Equipment.” Note that the report did not disclose any political contributions to candidates or officeholders, and the disclosures do not otherwise indicate whether the committee supported or opposed any candidates or officeholders. In response to the complaint, the respondent swore that the two expenditures referenced in the complaint were made in support of getting out the vote for Local Union members, and that the committee supported all Democratic candidates.

#### **Full Name of Payee**

6. The complaint alleged that the respondent did not disclose the full name of a payee of a \$750 political expenditure that was disclosed on Schedule F of the committee’s January 2013 semiannual report. Based on the report, the expenditure at issue was made on October 10, 2012, to “ULLCO.”
7. In response to the complaint, the respondent swore that the expenditure was made to the United Labor Legislative Committee/Lobbyists for Labor.

#### **Purpose of Political Expenditures**

8. The complaint alleged that the respondent did not properly disclose the purpose of 13 expenditures totaling approximately \$8,880 that were disclosed in the committee’s January 2012, January 2013, and July 2013 semiannual reports.

9. Regarding the 13 expenditures at issue, the descriptions provided by the respondent merely repeated the category and did not sufficiently make the reasons for the expenditures clear.

### **Total Political Expenditures**

10. The complaint alleged that the respondent reported an incorrect balance for total political expenditures in the committee's January 2012, January 2013, and July 2013 semiannual reports. In the reports at issue, the respondent disclosed on Schedule I numerous political expenditures that were made from political contributions. The respondent did not include those expenditures when calculating the amount of total political expenditures. In response to the complaint, the respondent corrected some of the nonpolitical expenditures at issue to categorize them as political.
11. The committee's original January 2012 semiannual report disclosed \$0 in total political expenditures. Schedule I of the report disclosed nine expenditures totaling approximately \$8,910, all of which appear to be political expenditures. The respondent corrected the total political expenditure balance to \$4,000.
12. The committee's January 2013 semiannual report disclosed \$10,116 in total political expenditures. Schedule I of the report disclosed four expenditures totaling approximately \$3,880, all of which appear to be political expenditures. The respondent did not correct the total political expenditure balance.
13. The committee's original July 2013 semiannual report disclosed \$9,919.44 in total political expenditures. Schedule I of the report disclosed three expenditures totaling approximately \$2,070, all of which appear to be political expenditures. The respondent corrected the total political expenditure balance to \$6,994.44.

### **Total Political Contributions Maintained**

14. The complaint alleged that the respondent did not properly disclose total political contributions maintained in the committee's July 2012, January 2013, and July 2013 semiannual reports. Note that in the reports at issue, the respondent extended the periods covered through each respective report filing deadline. In response to the complaint, the respondent provided copies of the committee's bank statements.
15. The July 2012 semiannual report at issue disclosed \$9,464.60 in total political contributions maintained as of July 14, 2012. The report was required to disclose total political contributions maintained as of June 30, 2012. However, the copy of the bank statement that was provided by the respondent indicated that the total political contributions maintained balance was \$9,464.60 as of June 30 and July 14, 2012.

16. The January 2013 semiannual report at issue disclosed \$7,270.73 in total political contributions maintained as of January 15, 2013. The report was required to disclose total political contributions maintained as of December 31, 2012. However, the copy of the bank statement that was provided by the respondent indicated that the total political contributions maintained balance was \$7,270.73 as of December 31, 2012, and January 15, 2013.
17. The July 2013 semiannual report at issue disclosed \$5,792.54 in total political contributions maintained as of July 15, 2013. The report was required to disclose total political contributions maintained as of June 30, 2013. However, the copy of the bank statement that was provided by the respondent indicated that the total political contributions maintained balance was \$5,792.54 as of June 30, 2013, and \$5,692.54 as of July 15, 2013.

#### **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. ELEC. CODE §§ 254.151(4), 254.151(5).
2. Regarding the January 2012 semiannual report at issue, the committee made four political contributions totaling \$4,000 to four different candidates. The candidates were not identified in the “Committee Activity” section of the report, and the political expenditures were improperly disclosed as non-political expenditures on Schedule I. Therefore, there is credible evidence of a violation of section 254.151(4) of the Election Code with respect to that report.
3. Regarding the July 2012 and July 2013 semiannual reports at issue, the disclosures on Schedule F of the reports made apparent the names of the candidates whom the committee supported. Therefore, there is credible evidence of technical or *de minimis* violations of section 254.151(4) of the Election Code with respect to those reports.
4. Regarding the January 2013 semiannual report at issue, the evidence does not indicate whether the committee supported or opposed any specific candidates or officeholders. However, the evidence indicates that the committee made political expenditures to generate support for candidates of a political party. The respondent did not disclose the specific candidates or the classification by party of candidates supported or opposed. Therefore, there

is credible evidence of a violation of section 254.151(4) of the Election Code with respect to that report.

5. There is no evidence that the committee assisted any officeholders. Therefore, there is credible evidence of no violation of section 254.151(5) of the Election Code.

### **Full Name of Payee**

6. Each campaign finance report must include the amount of 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. ELEC. CODE § 254.031(a)(3).
7. The respondent was required to disclose the full name of the payee at issue because the expenditure exceeded \$100. The respondent did not disclose the full name of the payee at issue, and the name as disclosed is not a commonly recognized acronym by which the entity is known. Therefore, there is credible evidence of a violation of section 254.031(a)(3) of the Election Code.

### **Purpose of Political Expenditures**

8. Each campaign finance report must include the amount of 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. ELEC. CODE § 254.031(a)(3).
9. The purpose of an expenditure means a description of goods, services, or other thing of value and must include a brief statement or description of the candidate, officeholder, or political committee activity that is conducted by making the expenditure. The brief statement or description must include the item or service purchased and must be sufficiently specific, when considered within the context of the description of the category, to make the reason for the expenditure clear. Merely disclosing the category of goods, services, or other thing of value for which the expenditure is made does not adequately describe the purpose of an expenditure. Ethics Commission Rules § 20.61.
10. Regarding the 13 expenditures at issue, the respondent was required to disclose both a category and description for the purpose of each expenditure. The descriptions of the expenditures disclosed by the respondent repeated the category and did not sufficiently make the reasons for the expenditures clear. Therefore, there is credible evidence of violations of section 254.031(a)(3) of the Election Code and section 20.61 of the Ethics Commission Rules.

**Total Political Expenditures**

11. 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).
12. 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).
13. 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).
14. The respondent was required to include campaign expenditures, officeholder expenditures, and 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 administrative expenses and other political expenditures as non-political expenditures. Accordingly, the amount of total political expenditures was understated in the three reports at issue because the expenditures disclosed on Schedule I were not included in the expenditure total.
15. Regarding the January 2012 semiannual report, the respondent improperly categorized nine expenditures totaling approximately \$8,910. Regarding the January 2013 semiannual report, the respondent improperly categorized four expenditures totaling approximately \$3,880. Regarding the July 2013 semiannual report, the respondent improperly categorized three expenditures totaling approximately \$2,070. Although the respondent disclosed the expenditures 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. There is credible evidence of violations of section 254.031(a)(6) of the Election Code.

**Total Political Contributions Maintained**

16. Each report must include as of the last day of the 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. ELEC. CODE § 254.031(a)(8).

17. Although the respondent did not cover the proper reporting periods with respect to the three reports at issue, credible evidence indicates that the respondent properly reported the total political contributions maintained as of the last day of the reporting periods for which the reports were required to be filed. In addition, the amounts disclosed by the respondent substantially represented the amount of total political contributions maintained as of the last day of the reporting periods that were disclosed by the respondent. Regarding the July 2013 semiannual report at issue, 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. The amount disclosed on that report is within the threshold. Therefore, there is credible evidence of no violations of section 254.031(a)(8) of the Election Code with respect to the three semiannual reports at issue.

#### **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 amount of 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; 2) the purpose of an expenditure means a description of goods, services, or other thing of value and must include a brief statement or description of the candidate, officeholder, or political committee activity that is conducted by making the expenditure. The brief statement or description must include the item or service purchased and must be sufficiently specific, when considered within the context of the description of the category, to make the reason for the expenditure clear. Merely disclosing the category of goods, services, or other thing of value for which the expenditure is made does not adequately describe the purpose of an expenditure; 3) 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, and that Title 15 of the Election Code treats administrative expenditures as political expenditures; and 4) 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. 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-31310162.

AGREED to by the respondent on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
John W. Bland, Respondent

EXECUTED ORIGINAL received by the commission on: \_\_\_\_\_.

Texas Ethics Commission

By: \_\_\_\_\_  
Executive Director