

TEXAS ETHICS COMMISSION

IN THE MATTER OF

SCOTT LIEBLING,
CAMPAIGN TREASURER,
BALANCE PAC,

RESPONDENT

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BEFORE THE

TEXAS ETHICS COMMISSION

SC-3140266

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (Commission) met on June 11, 2015, to consider sworn complaint SC-3140266. A quorum of the Commission was present. The Commission determined that there is credible evidence of violations of sections 254.031 and 254.039 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 properly disclose in a campaign finance report political contributions; 2) did not properly disclose in a campaign finance report direct campaign expenditures; and 3) did not properly disclose in a campaign finance report total political contributions and total political expenditures.

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 Balance PAC, a general-purpose committee (committee). The reports at issue in the complaint are the committee's 8-day pre-election report and special pre-election report that were filed in connection with the March 4, 2014, primary election.

Disclosure of Political Contributions

2. The complaint alleged that the respondent improperly reported in the committee's 8-day pre-election report two political contributions totaling \$18,500. The contributions at issue were disclosed as two in-kind contributions from two candidates for "share of media consulting expenses." The complaint included copies of letters from the two candidates indicating that the candidates and their campaigns never made any contributions to, or received any direct contributions from, Balance PAC.
3. In response to the complaint, the respondent stated that the contributions were never made by the candidates and were erroneously reported. The respondent filed corrections to the 8-day pre-election report to remove the two contributions at issue totaling \$18,500. The respondent also corrected the report to include a \$150 political contribution from a law firm that was not originally disclosed and to change the amount of a political contribution from a law firm from \$150 to \$500.

Disclosure of Direct Campaign Expenditures

4. The complaint alleged that the respondent did not properly disclose in the committee's 8-day pre-election report political expenditures that were made as direct campaign expenditures to benefit multiple candidates who were running for offices of Texas Supreme Court, Texas Attorney General, Texas Commissioner of Agriculture, Texas State Senate, and Texas State House of Representatives.
5. In the 8-day pre-election report at issue, the respondent disclosed on Schedule F (used to disclose political expenditures) 12 expenditures to 12 candidates totaling \$150,000 under the category of "OTHER – In-kind contribution" with descriptions of "Share of media consulting expenses." The respondent also disclosed in the same report four expenditures to Sachs Media Group Inc. totaling \$150,000 under the category of "Consulting Expense" with a description of "Media Consulting." The complaint included copies of letters from some of the candidates indicating that the candidates and their campaigns never made any contributions to, or received any direct contributions from, Balance PAC. Some of the candidates stated that they never gave any prior consent or approval to Balance PAC and that they never received any notice from Balance PAC that any in-kind contributions were made to support their campaign.
6. In response to the complaint, the respondent corrected the report at issue to remove the 12 expenditures totaling \$150,000 that were reported as in-kind contributions to the candidates and stated in the correction affidavit that the committee did not make in-kind contributions to the candidates. The respondent stated that the expenditures were made to Sachs Media Group as direct campaign expenditures to benefit the 12 candidates who were disclosed as payees. Accordingly, the evidence indicates that the respondent double-reported the direct

campaign expenditures by also disclosing the expenditures as in-kind contributions to the individual candidates. In response to the complaint, the respondent swore that he did not fully understand how to report direct expenditures and that he mistakenly reported them as contributions and in-kind contributions. The respondent swore that there was never any intent or attempt to hide or mask any funds received or disbursed and that he did his best to review and understand the reporting requirements.

7. Based on the corrections that were filed to the 8-day pre-election report at issue, the respondent added direct campaign expenditures to Sachs Media Group Inc. totaling \$14,500 that were not included in the original report. The expenditures did not support any new candidates in addition to the 12 who were originally disclosed.

Total Political Contributions and Total Political Expenditures

8. The complaint alleged that the respondent reported an incorrect balance for total political contributions and total political expenditures in the committee's 8-day pre-election report for the March 4, 2014, primary election. In response to the complaint, the respondent filed corrections to the report at issue. The original disclosures along with the corrected amounts were reported as follows:

- Total political contributions – \$249,818.29; corrected to \$231,818.29; difference is \$18,000
- Total political expenditures – \$300,500; corrected to \$165,000; difference is \$135,500

Timely Filing of Campaign Finance Report

9. The respondent filed a special pre-election report on March 5, 2014, that disclosed 12 direct expenditures to Sachs Media totaling \$60,000 in support of the 12 candidates at issue, all of whom were running in the March 4, 2014, primary election. The report indicates that the direct expenditures were all made on February 24, 2014.

IV. Findings and Conclusions of Law

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

Disclosure of Political Contributions

1. Each campaign finance report must include the amount of political contributions from each person that in the aggregate exceed \$50 and that are accepted during the reporting period by

the person or committee required to file a report under this chapter, the full name and address of the person making the contributions, and the dates of the contributions. ELEC. CODE § 254.031(a)(1).

2. Credible evidence indicates that the respondent erroneously reported in the committee's 8-day pre-election report for the March 2014 primary election two political contributions from candidates totaling \$18,500. In addition, the respondent corrected the report to include a \$150 political contribution from a law firm that was not originally disclosed and to change the amount of a \$150 political contribution to \$500. Therefore, there is credible evidence of violations of section 254.031(a)(1) of the Election Code.

Disclosure of Direct Campaign Expenditures

3. 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).
4. Each campaign finance report must include the name of each candidate or officeholder who benefits from a direct campaign expenditure made during the reporting period by the person or committee required to file the report, and the office sought or held, excluding a direct campaign expenditure that is made by the principal political committee of a political party on behalf of a slate of two or more nominees of that party. *Id.* § 254.031(a)(7).
5. Credible evidence indicates that Balance PAC made direct campaign expenditures to Sachs Media Group totaling \$164,500 during the 8-day pre-election reporting period for the March 4, 2014, primary election. The respondent did not properly indicate that the expenditures were made as direct campaign expenditures and did not properly identify the candidates who benefitted from the direct expenditures. In addition, the respondent did not include \$14,500 in direct expenditures when the 8-day pre-election report at issue was originally filed. Therefore, there is credible evidence of violations of sections 254.031(a)(3) and 254.031(a)(7) of the Election Code.

Total Political Contributions and Total Political Expenditures

6. 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).
7. The respondent did not properly disclose total political contributions and total political expenditures in the 8-day pre-election report at issue. Therefore, there is credible evidence of a violation of section 254.031(a)(6) of the Election Code.

Timely Filing of Campaign Finance Report

8. In addition to other reports required by this chapter, a general-purpose committee shall file additional reports during the period beginning the ninth day before election day and ending at 12 noon on the day before election day if the committee accepts political contributions from a person that in the aggregate exceed \$5,000 during that reporting period or makes direct campaign expenditures supporting or opposing either a single candidate that in the aggregate exceed \$1,000 or a group of candidates that in the aggregate exceed \$15,000 during that reporting period. ELEC. CODE § 254.039(a)(1),(2).
9. A report under this section shall be filed electronically, by telegram or telephonic facsimile machine, or by hand, in the form required by Section 254.036. The Commission must receive a report under this section not later than 5 p.m. of the first business day after the date the contribution is accepted or the expenditure is made. *Id.* § 254.039(a-1).
10. The respondent filed a special pre-election report on March 5, 2014, disclosing that the committee made 12 direct campaign expenditures totaling \$60,000 to support 12 candidates who were running in the March 4, 2014, primary election. The report filed by the respondent indicates that the direct expenditures were all made on February 24, 2014. The special pre-election reporting period for the March 2014 primary election was from February 23, 2014, through 12 noon on March 3, 2014. Since the committee made direct campaign expenditures supporting a group of candidates that in the aggregate exceeded \$15,000 during the special pre-election reporting period on February 24, 2014, the respondent was required to file the special pre-election report by February 25, 2014. The report was filed on March 5, 2014, which was eight days after the filing deadline. Therefore, there is credible evidence of a violation of section 254.039 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 amount of political contributions from each person that in the aggregate exceed \$50 and that

are accepted during the reporting period by the person or committee required to file a report under this chapter, the full name and address of the person making the contributions, and the dates of the contributions; 2) 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; 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; 4) each campaign finance report must include the name of each candidate or officeholder who benefits from a direct campaign expenditure made during the reporting period by the person or committee required to file the report, and the office sought or held, excluding a direct campaign expenditure that is made by the principal political committee of a political party on behalf of a slate of two or more nominees of that party; and 5) a general-purpose committee shall file additional reports during the period beginning the ninth day before election day and ending at 12 noon on the day before election day if the committee accepts political contributions from a person that in the aggregate exceed \$5,000 during that reporting period, or makes direct campaign expenditures supporting or opposing either a single candidate that in the aggregate exceed \$1,000 or a group of candidates that in the aggregate exceed \$15,000 during that reporting period. The commission must receive a report under this section not later than 5 p.m. of the first business day after the date the contribution is accepted or the expenditure is made.

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 \$15,000 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-3140266.

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

Scott Liebling, Respondent

EXECUTED ORIGINAL received by the Commission on: _____.

Texas Ethics Commission

By: _____
Natalia Luna Ashley, Executive Director