

TEXAS ETHICS COMMISSION

IN THE MATTER OF	§	BEFORE THE
	§	
DENNIS L. BOWMAN,	§	
CAMPAIGN TREASURER,	§	TEXAS ETHICS COMMISSION
TEXAS COALITION OF BLACK	§	
DEMOCRATS – HARRIS COUNTY,	§	
	§	
RESPONDENT	§	SC-31309150 AND SC-3140267

FINAL ORDER

The Texas Ethics Commission (Commission), having heard these cases and voting to find a violation of laws under its jurisdiction, makes the following Findings of Fact and Conclusions of Law:

Findings of Fact

1. The respondent is Dennis L. Bowman, whose last known mailing address is 8918 Bissonnet Street, Apt. 108, Houston, Texas 77074. Sworn complaint SC-31309150 was filed with the Commission against the respondent on September 9, 2013. Sworn complaint SC-3140267 was filed with the Commission against the respondent on February 25, 2014. The Notice of Hearing was mailed to the respondent on March 18, 2015, by certified mail, return receipt requested, restricted delivery and delivery confirmation. United States Postal Service records indicate that the Notice of Hearing was delivered to the respondent on March 20, 2015.
2. The preliminary review hearing was held on April 16, 2015, by the Commission in Austin, Texas.
3. The respondent did not file a reply to the Notice of Hearing and did not appear at the hearing.
4. The respondent is the campaign treasurer for Texas Coalition of Black Democrats – Harris County (TCBD), a general-purpose political committee that files with the Commission.

Disclosure of Political Contributions and Political Expenditures

5. Sworn complaint SC-3140267 alleged that the respondent did not disclose the actual payees of five expenditures totaling approximately \$1,275 that were disclosed on Schedule I (used to disclose non-political expenditures made from political contributions) of TCBD's corrected July 2013 and January 2014 semiannual reports. The respondent

disclosed as the payee of the five expenditures at issue Texas Coalition Black Democrats – HC, but the category and description of the expenditures indicates that the respondent did not disclose the actual payees of the expenditures.

6. Sworn complaint SC-3140267 also alleged that the respondent reported an incorrect balance for total political expenditures in the two reports at issue because the expenditures reported by the respondent were actually political expenditures that should have been included in the amount of total political expenditures. In response to the complaint, the respondent filed corrections to the reports at issue. The expenditures at issue were disclosed as follows:

First Corrected July 2013 Semiannual Report

- March 22, 2013, \$200 to Texas Coalition of Black Democrats – HC, under the category of “Transportation Equipment & Related Expense” with a description of “Texas Coalition of Black Democrats (State Meeting)”
 - March 23, 2013, \$120 to Texas Coalition black Democrats – HC, under the category of “OTHER – Membership Dues” with a description of “Membership dues to state organization”
7. In response to the complaint, the respondent filed a second correction to the July 2013 semiannual report. Regarding the \$200 expenditure, the respondent moved the expenditure from Schedule I to Schedule F (used to disclose political expenditures) and changed the payee name to Budget Rental Car. Regarding the \$120 expenditure, the respondent stated in the report’s correction affidavit that the expenditure was actually political contributions of \$50 or less in the form of committee membership dues. The respondent corrected the report to move the \$120 from Schedule I to unitemized political contributions of \$50 or less.

January 2014 Semiannual Report

- September 27, 2013, \$238.80 to Texas Coalition Black Democrats – HC, under the category of “OTHER – K.R. productions” with a description of “flyers”
 - September 27, 2013, \$216.50 to Texas Coalition of Black Democrats – Hc, under the category of “OTHER – C.S.T. Connections L.[sic]L.C” with a description of “Website”
 - December 31, 2013, \$500 to Texas Coalition of Black Democrats – HC, under the category of “Transportation Equipment & Related Expense” with a description of “Quarterly meeting Texas Coalition Black Democrats (State Meeting)”
8. The committee’s original January 2014 semiannual report disclosed \$55 in total political expenditures. Schedule I of the report disclosed three expenditures totaling approximately \$955, all of which appear to be political expenditures. In response to the

complaint, the respondent corrected the January 2014 semiannual report to move the three expenditures totaling approximately \$955 from Schedule I to Schedule F and added the amount to total political expenditures. However, note that the respondent also added the amount to total political expenditures of \$100 or less, so the amount of total political expenditures was overstated by approximately \$955 in the corrected report. The respondent also corrected the report to disclose the actual payees of the expenditures.

Total Political Contributions Maintained

9. Both sworn complaints alleged that the respondent reported an incorrect balance for total political contributions maintained in TCBD's July 2012 and January 2013 semiannual reports. In response to the complaint, the respondent filed corrections to the reports. In both reports at issue, the respondent originally disclosed \$2,500 for the total amount of political contributions maintained. In response to the complaint, the respondent filed corrected reports and changed both amounts to \$2,925. Accordingly, the amounts in each report were incorrect by \$425.
10. Sworn complaint SC-3140267 also alleged that the respondent reported an incorrect balance for total political contributions maintained in TCBD's July 2013 and January 2014 semiannual reports. In response to the complaint, the respondent corrected the reports at issue. The original disclosures and the corrected amounts are as follows:
 - July 2013 Semiannual Report – disclosed \$2,500; first corrected report disclosed \$2,068.37; second corrected report disclosed \$2,925; difference is \$425.
 - January 2014 Semiannual Report – disclosed \$1,088.07; corrected to \$1,965.60; difference is \$877.53

Report Affidavit

11. The complaints alleged that the respondent did not include a properly executed affidavit on TCBD's July 2012 semiannual report. The report at issue was filed electronically and contained the digitized signature of the individual who appointed the respondent as campaign treasurer. The report at issue was not signed by the respondent, and the individual whose name appeared on the report was not listed as an assistant campaign treasurer.

Timely Filing of Campaign Finance Reports

12. On May 15, 2012, the respondent was appointed as campaign treasurer for TCBD. The complaints alleged that the respondent did not timely file the committee's July 2012, January 2013, and July 2013 semiannual reports.
13. Regarding the July 2012 semiannual report, the respondent was required to file the report by July 16, 2012 (deadline extended due to weekend). Based on Commission records,

the respondent filed the report on September 17, 2012, which was 63 days after the filing deadline.

14. Regarding the January 2013 semiannual report, the respondent was required to file the report by January 15, 2013. Based on Commission records, the respondent filed the report on March 15, 2013, which was 59 days after the filing deadline.
15. Regarding the July 2013 semiannual report, the respondent was required to file the report by July 15, 2013. Based on Commission records, the respondent filed the report on September 17, 2013, which was 64 days after the filing deadline.

Response to Notice of a Sworn Complaint

16. Sworn complaint SC-31309150 was filed on September 9, 2013. The Commission sent a notice of the sworn complaint to the respondent by certified mail, return receipt requested, on September 16, 2013. The notice was returned to the Commission as unclaimed on October 8, 2013. On October 15, 2013, the Commission sent another notice of the sworn complaint to the respondent by certified mail, return receipt requested, and delivery confirmation. According to the United States Postal Service's record of the delivery, the notice of this complaint was delivered to the respondent on October 17, 2013. The notice informed the respondent that the alleged violations in the sworn complaint were Category One violations, and that a response was required not later than 10 business days from the date the notice was received and that failure to respond constituted a separate violation for which a separate civil penalty may be assessed. Based on the delivery date of the notice, the respondent was required to respond to the sworn complaint by October 31, 2013. Although the respondent filed corrections to the reports at issue, the respondent did not submit a written response to sworn complaint SC-31309150.
17. Sworn complaint SC-3140267 was filed on February 25, 2014. The Commission sent a notice of the sworn complaint to the respondent by certified mail, return receipt requested, on March 4, 2014. According to the United States Postal Service's record of the delivery, the first notice of the complaint was unclaimed by the respondent. On April 1, 2014, the Commission sent a second notice of the sworn complaint to the respondent by certified mail, return receipt requested, and delivery confirmation. According to the United States Postal Service's record of the delivery, the notice of the complaint was delivered to the respondent on April 3, 2014. The notice informed the respondent that the alleged violations in the sworn complaint were Category One violations, and that a response was required not later than 10 business days from the date the notice was received and that failure to respond constituted a separate violation for which a separate civil penalty may be assessed. The notice also informed the respondent that one of the reports at issue was outside the statute of limitations and would not be considered by the Commission. Based on the delivery date of the notice, the respondent was required to respond to the sworn complaint by April 17, 2014. Although the respondent filed corrections to the reports at issue, the respondent did not submit a written response to sworn complaint SC-3140267.

Conclusions of Law

1. Disposition of these cases is within the jurisdiction of the Texas Ethics Commission. GOV'T CODE § 571.061.
2. The respondent received legally sufficient notice of the hearing in these cases. GOV'T CODE § 571.032 and 1 TAC § 12.21. The hearing was held in accordance with section 12.23, 1 Texas Administrative Code.

Disclosure of Political Contributions and Political Expenditures

3. A 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. ELEC. CODE § 254.031(a)(3).
4. Each campaign finance report must include the total amount or a specific listing of the political contributions of \$50 or less accepted and the total amount or a specific listing of the political expenditures of \$100 or less made during the reporting period. *Id.* § 254.031(a)(5).
5. 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. *Id.* § 254.031(a)(6).
6. An 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).
7. 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).
8. A political expenditure means a campaign expenditure or an officeholder expenditure. *Id.* § 251.001(10).
9. Regarding the first corrected July 2013 semiannual report, the respondent improperly categorized two expenditures totaling \$320. Regarding the \$200 expenditure, the respondent did not include the amount in total political expenditures and did not disclose the actual payee. Regarding the \$120 transaction that was disclosed as an expenditure, the respondent stated that the expenditure was actually political contributions of \$50 or less in the form of membership dues. The respondent improperly reported the amount as a non-political expenditure and did not include the amount under total political contributions of \$50 or less. Therefore, there is credible evidence of a violation of sections 254.031(a)(3), 254.031(a)(5), and 254.031(a)(6) of the Election Code.

10. Regarding the original January 2014 semiannual report, the respondent improperly categorized three expenditures totaling approximately \$955 and did not include the expenditures in the totals. Additionally, the respondent did not disclose the actual payees of the expenditures. Therefore, there is credible evidence of a violation of sections 254.031(a)(3) and 254.031(a)(6) of the Election Code.

Total Political Contributions Maintained

11. 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).
12. Regarding the four reports at issue, the respondent did not properly disclose total political contributions maintained. Therefore, there is credible evidence of violations of section 254.031(a)(8) of the Election Code.

Report Affidavit

13. Each report filed under chapter 254 of the Election Code that is not filed by electronic transfer must be accompanied by an affidavit executed by the person required to file the report. The affidavit must contain the statement: "I swear, or affirm, under penalty of perjury, that the accompanying report is true and correct and includes all information required to be reported by me under Title 15, Election Code." Each report filed under chapter 254 of the Election Code by electronic transfer must be under oath by the person required to file the report and must contain, in compliance with commission specifications, the digitized signature of the person required to file the report. A report filed under chapter 254 of the Election Code is considered to be under oath by the person required to file the report, and the person is subject to prosecution under Chapter 37, Penal Code, regardless of the absence of or a defect in the affidavit. ELEC. CODE § 254.036(h).
14. Commission records indicate that the respondent was appointed as campaign treasurer for TCBD on May 15, 2012. Accordingly, the respondent was required to file TCBD's July 2012 semiannual report and execute the report affidavit. The respondent did not sign the report when it was originally filed. Therefore, there is credible evidence of a violation of section 254.036(h) of the Election Code.

Timely Filing of Campaign Finance Reports

15. The campaign treasurer of a general-purpose committee shall file two reports for each year. ELEC. CODE § 254.153(a).
16. 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 committee's last required report, as applicable, and continuing through June 30. *Id.* § 254.153(b).
17. 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 committee's last required report, as applicable, and continuing through December 31. *Id.* § 254.153(c).
 18. The respondent was required to file the committee's July 2012 semiannual report by July 16, 2012. The respondent filed the report on September 17, 2012, which was 63 days after the filing deadline. Therefore, there is credible evidence of a violation of section 254.153(b) of the Election Code.
 19. The respondent was required to file the committee's January 2013 semiannual report by January 15, 2013. The respondent filed the report on March 15, 2013, which was 59 days after the filing deadline. Therefore, there is credible evidence of a violation of section 254.153(c) of the Election Code.
 20. The respondent was required to file the committee's July 2013 semiannual report by July 15, 2013. The respondent filed the report on September 17, 2013, which was 64 days after the filing deadline. Therefore, there is credible evidence of a violation of section 254.153(b) of the Election Code.

Response to Notice of a Sworn Complaint

21. If the alleged violation in a sworn complaint is a Category One violation, the respondent must respond to the notice required by section 571.123(b) not later than the 10th business day after the date the respondent receives the notice. GOV'T CODE § 571.1242(a)(1). A respondent's failure to timely respond to a sworn complaint as required by subsection (a)(1) or (b)(1) is a Category One violation. *Id.* § 571.1242(c).
22. The response required by section 571.1242 of the Government Code must be in writing, admit or deny the allegations set forth in the complaint, and be signed by the respondent. Ethics Commission Rules § 12.52(a). If a respondent does not submit a response within the time period prescribed by section 571.1242 of the Government Code, the commission may issue an order imposing a civil penalty for failure to file a response. *Id.* § 12.52(b).
23. Regarding sworn complaint SC-31309150, the respondent was required to submit a written response by October 31, 2013. The respondent did not submit a written response to the complaint. Therefore, there is credible evidence of a violation of section 571.1242(c) of the Government Code. The Commission assesses a \$750 civil penalty with respect to this violation.
24. Regarding sworn complaint SC-3140267, the respondent was required to submit a written response by April 17, 2014. The respondent did not submit a written response to the complaint. Therefore, there is credible evidence of a violation of section 571.1242(c) of

the Government Code. The Commission assesses a \$750 civil penalty with respect to this violation.

25. The Texas Ethics Commission may impose a sanction against the respondent of not more than \$5,000 or triple the amount at issue, whichever amount is greater. GOV'T CODE § 571.173.

Therefore, the Commission orders that:

1. The respondent pay to the Commission, within 30 days of the date of this order, a civil penalty in the amount of \$1,500.

Order Date: _____

FOR THE COMMISSION

Natalia Luna Ashley
Executive Director
Texas Ethics Commission