

# TEXAS ETHICS COMMISSION

IN THE MATTER OF

MARILYN FREDERICK,  
CAMPAIGN TREASURER,  
METROTEX ASSOCIATION OF  
REALTORS PAC,

RESPONDENT

§  
§  
§  
§  
§  
§  
§

BEFORE THE

TEXAS ETHICS COMMISSION

SC-31407159

## ORDER and AGREED RESOLUTION

### I. Recitals

The Texas Ethics Commission (Commission) met on August 7, 2015, to consider sworn complaint SC-31407159. A quorum of the Commission was present. The Commission determined that there is credible evidence of violations of sections 254.031(a)(1), 254.031(a)(3), 254.031(a)(6), and 254.031(a)(8) 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 the respondent disclosed an incorrect amount of total political contributions maintained, or, in the alternative did not disclose political contributions and expenditures in the committee's 30-day and 8-day pre-election reports for the November 2012 general election and the January 2013 semiannual report.

### III. Facts Supported by Credible Evidence

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

1. At the time of the reports at issue, the respondent was the campaign treasurer of MetroTex Association of Realtors PAC (MetroTex PAC), a general-purpose political committee.
2. The complaint allegations, that the respondent did not report the correct amount of total political contributions maintained, or did not disclose political contributions and expenditures, were based on reports filed by the respondent as campaign treasurer for MetroTex PAC that showed political contributions maintained at the end of the reporting periods substantially increasing relative to political expenditures, without disclosing any contributions or credits to account for the increase in total political contributions

maintained. The reports at issue are the 30-day and 8-day pre-election reports filed in advance of the November 2012 general election and the January 2013 semiannual report.

3. In response to the complaint, the respondent admitted “[w]e erred in our reporting.” She swore “[w]e received political contributions from only one contributor, the Texas Association of Realtors Political Action Committee. Because of confusion with respect to reporting responsibility, we inadvertently neglected to report those contributions on the appropriate campaign finance reports.”
4. Texas Association of Realtors Political Action Committee (TRE PAC) is a general-purpose political committee that files monthly with the Commission. TRE PAC is the statewide political committee for the Texas Association of Realtors. It collects money from members across the state and then distributes some of that money to local political committees, such as MetroTex PAC, where specific expenditure decisions are made.
5. After receiving the complaint, the respondent filed corrections to the reports at issue and provided bank statements for the five bank accounts in which MetroTex PAC maintains political contributions.
6. The respondent reported in the 30-day pre-election report filed in advance of the November 2012 general election that MetroTex PAC accepted no political contributions, made \$5,500 in political expenditures, and maintained \$485,806.90 in political contributions at the end of the reporting period.
7. The respondent filed a corrected 30-day pre-election report that disclosed MetroTex PAC accepted \$17,852.80 in political contributions from TRE PAC, made \$5,500 in political expenditures, and maintained \$488,163.65 in political contributions. The correction represents a difference from the original report of \$2,356.75 in total political contributions maintained and \$17,852.80 in total political contributions accepted. *See* the chart below.

		<b>Contributions Maintained</b>	<b>Political Contributions Accepted</b>	<b>Political Expenditures</b>
30 day pre-election report	Original	\$485,806.90	\$0	\$5,500
	Corrected	\$488,163.65	\$17,852.80	\$5,500
	Difference	\$2,356.75	\$17,852.80	\$0

8. The respondent reported in the 8-day pre-election report filed in advance of the November 2012 general election that MetroTex PAC accepted no political contributions, made no political expenditures, and maintained \$479,306.94 in political contributions at the end of the reporting period.

9. The respondent filed a corrected 8-day pre-election report that disclosed MetroTex PAC accepted no political contributions, made no political expenditures, and maintained \$483,487.05 in political contributions at the end of the reporting period. The correction represents a difference from the original report of \$4,180.11 in total political contributions maintained. *See* the chart below.

		<b>Contributions Maintained</b>	<b>Political Contributions Accepted</b>	<b>Political Expenditures</b>
8-day pre-election report	Original	\$479,306.94	\$0	\$0
	Corrected	\$483,487.05	\$0	\$0
	Difference	\$4,180.11	\$0	\$0

10. The respondent reported in the January 2013 semiannual report that MetroTex PAC accepted no political contributions, made no political expenditures, and maintained \$516,008.03 in political contributions at the end of the reporting period.

11. The respondent filed a corrected January 2013 semiannual report that disclosed MetroTex PAC accepted \$39,705.75 in political contributions, made one campaign expenditure of \$1,000, and maintained \$528,606.89 in political contributions at the end of the reporting period. The correction represents a difference from the original report of \$12,598.86 in total political contributions maintained, \$1,000 in political expenditures made, and \$39,705.75 in political contributions accepted. The corrected report added a \$1,000 political expenditure that was a political contribution to a candidate in the Grand Prairie City Council runoff election. *See* the chart below.

		<b>Contributions Maintained</b>	<b>Political Contributions Accepted</b>	<b>Political Expenditures</b>
January 2013 semiannual report	Original	\$516,008.03	\$0	\$0
	Corrected	\$528,606.89	\$39,705.75	\$1,000
	Difference	\$12,598.86	\$39,705.75	\$1,000

**IV. Findings and Conclusions of Law**

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

1. Each report must include, as of the last day of a 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).

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. A 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. *Id.* § 254.031(a)(1).
4. A 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 the expenditures are made, and the dates and purposes of the expenditures. *Id.* § 254.031(a)(3).
5. 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).
6. Regarding the 30-day pre-election report, the corrected report and bank records indicate that the amount of campaign contributions maintained as of the last day of the reporting period disclosed was less than \$2,500 or 10% difference of the balance disclosed in the original report. Therefore, there is credible evidence of no violation of section 254.031(a)(8) of the Election Code.
7. The 30-day pre-election report the respondent filed did not disclose a \$17,852.80 political contribution that MetroTex PAC accepted. The corrected report and bank records show that MetroTex PAC accepted the contribution during the 30-day pre-election reporting period. Therefore, there is credible evidence of a violation of sections 254.031(a)(1) and 254.031(a)(6) of the Election Code.
8. The 8-day pre-election report the respondent filed disclosed total political contributions maintained differing from the amounts shown in the bank statements and from the corrected report by more than \$2,500, therefore there is credible evidence of a violation of section 254.031(a)(8) of the Election Code. The bank statements confirm that the committee did not accept any political contributions or make any political expenditures during the reporting period.

9. The January 2013 semiannual report the respondent filed disclosed total political contributions maintained differing from the amounts shown in the bank statements and from the corrected report by more than \$2,500, therefore there is credible evidence of a violation of section 254.031(a)(8) of the Election Code.
10. The January 2013 semiannual report did not disclose a \$39,705.75 political contribution that MetroTex PAC accepted. The corrected report and bank records show that MetroTex PAC accepted the contribution during the January 2013 semiannual reporting period. Therefore, there is credible evidence of a violation of sections 254.031(a)(1) and 254.031(a)(6) of the Election Code.
11. The January 2013 semiannual report did not disclose a \$1,000 political expenditure that MetroTex PAC made to a candidate. The corrected report and bank records show that MetroTex PAC made the political expenditure during the January 2013 semiannual reporting period. Therefore, there is credible evidence of a violation of sections 254.031(a)(3) and 254.031(a)(6) 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 each report must include, as of the last day of a 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. The respondent further acknowledges a 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. The respondent further acknowledges a campaign finance report must also 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 the expenditures are made, and the dates and purposes of the expenditures. The respondent further acknowledges 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. 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 \$1,500 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-31407159.

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

\_\_\_\_\_  
Marilyn Frederick, Respondent

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

Texas Ethics Commission

By: \_\_\_\_\_  
Natalia Luna Ashley, Executive Director