

TEXAS ETHICS COMMISSION

IN THE MATTER OF	§	BEFORE THE
	§	
LOU MILLER,	§	
CAMPAIGN TREASURER,	§	TEXAS ETHICS COMMISSION
UNITING WINDCREST POLITICAL	§	
ACTION COMMITTEE,	§	
	§	
RESPONDENT	§	SC-31806246

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (Commission) met on October 3, 2018, to consider sworn complaint SC-31806246. A quorum of the Commission was present. The Commission determined that there is credible evidence of violations of section 254.154 of the Election Code, a law administered and enforced by the Commission. To resolve and settle this complaint without further proceedings, the Commission adopted this resolution.

II. Allegations

The complaint alleged that, as the campaign treasurer of a political committee, the respondent did not timely file 30-day and 8-day pre-election reports for the May 5, 2018, election.

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 Uniting Windcrest Political Action Committee ("the committee"), a general-purpose committee that filed its campaign treasurer appointment with the Commission on February 23, 2018.
2. The complaint alleged that the committee was involved in the May 5, 2018, election and that the respondent did not file 30-day and 8-day pre-election reports. Evidence submitted with the complaint indicated that in April 2018 the committee distributed push cards that opposed Proposition 1, which was on the ballot in the May 5, 2018, election.
3. Records on file with the Commission confirm that the respondent had not filed any pre-election reports for the committee at the time of the complaint. According to the

committee's July 2018 semiannual report, it appears that the committee accepted political contributions and made a political expenditure during the pre-election reporting periods. Regarding the political advertising push cards, the respondent provided a copy of the invoice for the push cards, which was dated April 19, 2018, in the amount of \$461.09.

4. In response to the complaint, the respondent filed the missing 30-day and 8-day pre-election reports on July 19, 2018. The reports show that the committee accepted six political contributions totaling \$600 during the 30-day pre-election reporting period, and accepted a \$100 political contribution and made a political expenditure totaling approximately \$460 during the 8-day pre-election reporting period.

IV. Findings and Conclusions of Law

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

1. In addition to other required reports, for each election in which a general-purpose committee is involved, the committee's campaign treasurer shall file two reports. ELEC. CODE § 254.154(a). The first report must be received by the authority with whom the report is required to be filed not later than the 30th day before election day. The report covers the period beginning 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 the 40th day before election day. *Id.* § 254.154(b). The second report must be received by the authority with whom the report is required to be filed not later than the eighth day before election day. The report covers the period beginning the 39th day before election day and continuing through the 10th day before election day. *Id.* § 254.154(c).
2. A general-purpose committee that accepts political contributions or makes political expenditures in support of or in opposition to a candidate or measure to be voted on in an election shall file pre-election reports. *See* Ethics Commission Rules § 20.425(a).
3. Pre-election reports are required to disclose activity occurring up to ten days before an election. As defined by Commission rule, pre-election reports are critical reports because they usually disclose the most election-related activity and contain the most recent information on which voters can rely to make a more informed decision. *See* Ethics Commission Rules § 18.24(b)(2).
4. The 30-day pre-election report for the May 5, 2018, election was due by April 5, 2018, and was required to disclose activity occurring through March 26, 2018. The 8-day pre-election report for the May 5, 2018, election was due by April 27, 2018, and was required to disclose activity from March 27, 2018, through April 25, 2018.

5. Credible evidence indicates that the committee accepted six political contributions totaling \$600 during the 30-day pre-election reporting period and used those contributions to oppose a measure that was on the ballot in the May 5, 2018, election. Credible evidence also indicates that the committee accepted a \$100 political contribution and made a political expenditure totaling approximately \$460 for political advertising that opposed the ballot measure during the 8-day pre-election reporting period. Accordingly, the committee was involved in the May 5, 2018, election and the respondent, as campaign treasurer of the committee, was required to file the 30-day and 8-day pre-election reports. The respondent filed both reports late on July 19, 2018, in response to the complaint and after the election. Therefore, there is credible evidence of violations of section 254.154 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: in addition to other required reports, for each election in which a general-purpose committee is involved, the committee's campaign treasurer shall file two reports. The first report must be received by the authority with whom the report is required to be filed not later than the 30th day before election day. The report covers the period beginning 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 the 40th day before election day. The second report must be received by the authority with whom the report is required to be filed not later than the eighth day before election day. The report covers the period beginning the 39th day before election day and continuing through the 10th day before election day.

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. No Sanction

The Commission may not impose a civil penalty on a general-purpose committee for a violation of this chapter if the report filed by the committee that is the subject of the violation discloses that the committee did not accept political contributions totaling \$3,000 or more, accept political contributions from a single person totaling \$1,000 or more, or make or authorize political expenditures totaling \$3,000 or more during: (1) the reporting period covered by the report that is the subject of the violation; or (2) either of the two reporting periods preceding the reporting period described by Subdivision (1). ELEC. CODE § 254.164.

Section 254.164 of the Election Code applies to the reports at issue. Therefore, the Commission imposes no 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-31806246.

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

Lou Miller, Respondent

EXECUTED by the Commission on: _____.

Texas Ethics Commission

By: _____
Seana Willing, Executive Director