

# TEXAS ETHICS COMMISSION

IN THE MATTER OF

ATEJA DUKES, TREASURER,  
DAWNNA DUKES CAMPAIGN

RESPONDENT

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BEFORE THE

TEXAS ETHICS COMMISSION

SC-280128

## ORDER and AGREED RESOLUTION

### I. Recitals

The Texas Ethics Commission (the commission) met on December 4, 2008, to consider sworn complaint SC-280128. A quorum of the commission was present. The commission determined that there is credible evidence of violations of section 254.031(a)(3) of the Election Code and section 20.59 of the Ethics Commission Rules, laws administered and enforced by the commission. To resolve and settle this complaint without further proceedings, the commission proposes this resolution to the respondent.

### II. Allegations

The complaint alleges that the respondent failed to properly report political expenditures made by credit card.

### III. Facts Supported by Credible Evidence

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

1. The respondent is the treasurer for the Dawnna Dukes Campaign, a specific-purpose political committee supporting Dawnna Dukes.
2. The complaint includes a number of allegations related to the committee's campaign finance reports filed from January 2005 through July 2007.
3. Ethics Commission rules prohibit the commission from considering an allegation barred from criminal prosecution by operation of the applicable statute of limitations. Ethics Commission Rules § 12.5(a). The criminal offense for a violation of section 254.031 of the Election Code is a Class C misdemeanor. ELEC. CODE § 254.041. The statute of limitations for a Class C misdemeanor is two years from the date of the commission of the offense. Code of Criminal Procedure, Article 12.02. Therefore, the reports that were filed prior to

January 29, 2008, are not within the commission's sworn complaint jurisdiction. The remaining four reports are within the commission's sworn complaint jurisdiction.

4. The respondent disclosed the credit card company as payee for a total of approximately \$7,007 in political expenditures on her July 2006 semiannual, October 2006 8-day pre-election, January 2007 semiannual, and July 2007 semiannual reports.
5. For political expenditures totaling approximately \$1,392 on the July 2007 semiannual report, the respondent disclosed the purpose as being for "interest" or "interest payments."
6. For political expenditures totaling approximately \$5,615 on the remaining three reports at issue, the respondent disclosed the purpose of the expenditures, in general, as being related to supplies and meals.
7. The respondent filed a sworn response notarized on February 14, 2008, in which she stated:

I am currently in the process of amending the relevant Title 15 reports to properly address the issues brought up in the sworn complaint. I will file the corrected reports as soon as I am able to gather the required information and file complete and accurate reports. I anticipate filing the corrected reports shortly. I am in the process of rectifying any reporting mistakes I may have made.
8. The respondent did not correct the reports at issue. Although requested, the respondent did not provide additional information related to the purpose of the expenditures made for "interest" or "interest payment."

#### **IV. Findings and Conclusions of Law**

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

1. A campaign finance report must include the full name and address of the payees, and the dates and purposes of political expenditures that in the aggregate exceed \$50 to a single payee in the reporting period. ELEC. CODE § 254.031(a)(3).
2. A report of a political expenditure by credit card must identify the vendor who receives payment from the credit card company. Ethics Commission Rules § 20.59.
3. On her July 2007 semiannual report the respondent disclosed a credit card company as the payee for political expenditures for the purpose of "interest" or "interest payment," for approximately \$1,392. Although a credit card company is the correct payee for political expenditures for the purpose of the payment of interest on a credit card debt, it is unclear from the report whether the payments at issue were for interest on credit card debt or interest on some other debt unrelated to the credit card. It is also unclear whether the interest

payments were related solely to campaign activity or if portions were related to personal use of the credit card. The respondent failed to clarify, and the evidence does not clarify the purpose of these payments. Therefore, there is insufficient evidence of violations of section 254.031(a)(3) of the Election Code and section 20.59 of the Ethics Commission Rules related to these expenditures.

4. On the three remaining reports at issue, the respondent disclosed the name of the credit card company as the payee and not the name or address of the vendors who actually received payment from the credit card company, for approximately \$5,615 in political expenditures. The improper reporting was clear from the face of the reports. Therefore, there is credible evidence of violations of section 254.031(a)(3) of the Election Code and section 20.59 of the Ethics Commission Rules.

### **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 a campaign finance report must include the full name and address of the payees, and the dates and purposes of political expenditures that in the aggregate exceed \$50 to a single payee in the reporting period. The respondent also acknowledges that a report of a political expenditure by credit card must identify the vendor who receives payment from the credit card company. 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 seriousness of the violations described under Sections III and IV, including the nature, circumstances, and consequences of the violations, and after considering the sanction necessary to deter future violations, the commission imposes a \$2,800 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-280128.

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

\_\_\_\_\_  
Ateja Dukes, Respondent

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

Texas Ethics Commission

By: \_\_\_\_\_  
David A. Reisman, Executive Director