

# TEXAS ETHICS COMMISSION

IN THE MATTER OF

DWAYNE EUGENE ADAMS,

RESPONDENT

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§

BEFORE THE

TEXAS ETHICS COMMISSION

SC-2906159

## ORDER and AGREED RESOLUTION

### I. Recitals

The Texas Ethics Commission (the commission) held a preliminary review hearing on August 12, 2010, to consider sworn complaint SC-2906159. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 254.153 and 254.154 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, as campaign treasurer for the Bexar County Democratic Party, failed to file 30-day and 8-day pre-election campaign finance reports, and a semiannual campaign finance report.

### III. Facts Supported by Credible Evidence

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

1. During the time at issue, the respondent was the campaign treasurer for the Bexar County Democratic Party (BCDP), a county executive committee.
2. On August 13, 2008, BCDP filed an amended campaign treasurer appointment to name the respondent as its campaign treasurer.
3. On February 23, 2009, the respondent filed a January 2009 semiannual report for BCDP. The report was due on January 15, 2009. The report disclosed:
  - \$100,487.52 in total political contributions of \$50 or less;
  - \$100,487.52 in total political contributions;
  - \$132,154.42 in total political expenditures of \$50 or less;

- \$132,304.42 in total political expenditures;
  - \$3,493.63 in total political contributions maintained; and
  - No outstanding loans.
4. The report disclosed approximately \$47,500 in non-political expenditures including:
- A \$632.24 non-political expenditure to Cambridge Realty on August 1, 2008, for “Campaign Office (GET OUT THE VOTE DRIVE)”;
  - A \$3,000 non-political expenditure to Cambridge Realty on September 1, 2008, for “Campaign Office (GET OUT THE VOTE DRIVE)”;
  - A \$3,000 non-political expenditure to Cambridge Realty on October 1, 2008, for “Campaign Office (GET OUT THE VOTE DRIVE)”;
  - A \$3,000 non-political expenditure to Cambridge Realty on November 1, 2008, for “Campaign Office (GET OUT THE VOTE DRIVE)”;
  - A \$15,000 non-political expenditure to Allied Advertising on November 1, 2009, for “Yard Signs Bumber [sic] Stickers etc.”; and
  - A \$12,967 non-political expenditure to Time Warner Cable Media Services on November 1, 2009, for “Cable Media Services Bexar County Metro Area.”
5. The website for BCDP listed some of the many ways that BCDP helped to elect Democratic candidates. The list included a statement that read: “We will coordinate a Get Out the Vote (GOTV) effort to elect all democratic [sic] candidates.”
6. The general election was held November 4, 2008.
7. On July 30, 2009, the respondent filed a corrected January 2009 semiannual report. The report disclosed:
- \$10,976.40 in total political contributions of \$50 or less;
  - \$62,031.49 in total political contributions;
  - No political expenditures of \$50 or less;
  - \$28,137 in total political expenditures;
  - \$3,493.63 in total political contributions maintained; and
  - No outstanding loans.

#### IV. Findings and Conclusions of Law

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

1. The state or county executive committee of a political party may designate a general-purpose committee as the principal political committee for that party in the state or county, as applicable. ELEC. CODE § 257.001.
2. The campaign treasurer of a general-purpose committee is responsible for properly filing the committees' campaign finance reports. ELEC. CODE §§ 254.153, 254.154.
3. In addition to other required reports, for each election in which a general-purpose committee supports or opposes a candidate or measure, the committee's campaign treasurer shall file two reports. The first report must 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, and continuing through the 40th day before election day. The second report must 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. ELEC. CODE § 254.154.
4. A political expenditure is a campaign expenditure or an officeholder expenditure. ELEC. CODE § 251.001(10).
5. A campaign expenditure is 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. ELEC. CODE § 254.154(7).
6. The respondent's original and corrected January 2009 semiannual reports disclosed multiple non-political expenditures to Cambridge Realty for "Campaign Office (GET OUT THE VOTE DRIVE)." The website for BCDP indicated that its get out the vote drives were an effort to elect all Democratic candidates. As such, expenditures to Cambridge Realty for a campaign office were used to support all Democratic candidates in the November 2008 general election. Therefore, the expenditures to Cambridge Realty were political expenditures.
7. The general election was held on November 4, 2008. The respondent's originally filed January 2009 semiannual report did not itemize any political contributions but did itemize approximately \$8,280 in expenditures during the period that would have been covered by the 30-day pre-election report. The respondent's corrected January 2009 semiannual report itemized approximately \$29,270 in political contributions and approximately \$8,430 in expenditures during the period that would have been covered by the 30-day pre-election report. BCDP made political expenditures to Cambridge Realty on August 1 and September

- 1, 2008, to support all Democratic candidates. Thus, BCDP was involved in the November 2008 election during the period covered by the 30-day pre-election report. Therefore, the respondent was required to file a 30-day pre-election report for the November 4, 2008, election.
8. If the respondent had filed a 30-day pre-election report, the 8-day pre-election report would have covered from September 26, 2008, through October 25, 2008. The respondent's originally filed January 2009 semiannual report did not itemize any political contributions but did itemize approximately \$5,050 in expenditures during the period that would have been covered by the 8-day pre-election report. The respondent's corrected January 2009 semiannual report itemized approximately \$15,530 in political contributions and approximately \$4,900 in expenditures during the period that would have been covered by the 8-day pre-election report. Since BCDP was involved in the November 2008 election during the period covered by the 30-day pre-election report, the respondent was required to file both 30-day and 8-day pre-election reports for BCDP. The respondent failed to do so. Therefore, there is credible evidence of violations of sections 254.154(b) and (c) of the Election Code.
  9. The campaign treasurer of a general-purpose committee shall file two reports for each year. The first report shall be filed not later than July 15 and 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 last report required to be filed under this subchapter, as applicable, and continuing through June 30. The second report shall be filed not later than January 15 and 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 last report required to be filed under this subchapter, as applicable, and continuing through December 31. ELEC. CODE § 254.153.
  10. As the campaign treasurer for BCDP, a general-purpose committee, the respondent was required to file a January 2009 semiannual report by January 15, 2009. Commission records show that the respondent filed BCDP's January 2009 semiannual report on February 23, 2009. On July 30, 2009, the respondent filed a corrected January 2009 semiannual report for BCDP that significantly changed the disclosures made on the original January 2009 semiannual report. The respondent did not timely file BCDP's January 2009 semiannual report. Therefore, there is credible evidence of a violation of section 254.153 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 the campaign treasurer of a general-purpose committee shall file two reports for each year. The first report shall be filed not later than July 15 and 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 last report required to be filed under this subchapter, as applicable, and continuing through June 30. The second report shall be filed not later than January 15 and 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 last report required to be filed under this subchapter, as applicable, and continuing through December 31.

The respondent also acknowledges that in addition to other required reports, for each election in which a general-purpose committee supports or opposes a candidate or measure, the committee's campaign treasurer shall file two reports. The first report must 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, and continuing through the 40th day before election day. The second report must 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. 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 \$1,500 civil penalty.

The respondent agrees that the Texas Ethics Commission, P. O. Box 12070, Austin, Texas 78711, must receive from the respondent full payment of the \$1,500 civil penalty no later than December 20, 2010, and agrees to waive any right to a hearing related to this sworn complaint. The respondent

further agrees that if the full amount is not received by December 20, 2010, the matter of the collection of the civil penalty will be referred to the Office of the Attorney General of Texas.

**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-2906159.

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

\_\_\_\_\_  
Dwayne Eugene Adams, Respondent

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

Texas Ethics Commission

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