

TEXAS ETHICS COMMISSION

IN THE MATTER OF
KATHY HUBBARD,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-2911290

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on February 23, 2011, to consider sworn complaint SC-2911290. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 254.031, 254.151, 254.156, and 254.157 of the Election Code, and section 20.62 of the Ethics Commission Rules, 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: 1) did not disclose the full name of a contributor, 2) incorrectly reported total political expenditures, 3) incorrectly reported total political contributions maintained, 4) did not disclose the actual payee for political expenditures, 5) did not disclose required employer and occupation information for contributions, and 6) did not timely file a monthly report.

III. Facts Supported by Credible Evidence

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

1. The respondent is the campaign treasurer for Planned Parenthood of Houston and Southeast Texas PAC (PPHST), a monthly filing general-purpose committee.

Full Name of Person Making Political Contribution

2. The complaint alleged that the respondent failed to fully disclose the name of a person making a political contribution disclosed in the committee's November 2008 monthly report. The respondent disclosed a \$5,000 contribution from "HPAC" on October 1, 2008, on that report, disclosing an address of, "Houston, Texas."

3. A general-purpose committee named HPAC that files with the commission, with an address in Houston, Texas, disclosed a \$5,000 expenditure on September 17, 2008, to “Planned Parenthood of Houston & Southeast Texas Action Fund.”

Total Political Expenditures and Political Contributions Maintained

4. The complaint alleged that the respondent incorrectly reported total political expenditures on PPHST’s December 2007, corrected March 2008, June, August, October, and November 2008, and February 2009 monthly reports and incorrectly reported total political contributions maintained on PPHST’s March 2008 through November 2009 monthly reports. The allegation regarding political contributions maintained were based on calculations made using information disclosed on the face of the reports.
5. In response to the complaint, the respondent addressed each report, stating the amounts disclosed for total political expenditures on the December 2007, March 2008, June 2008, August 2008, October 2008, November 2008, and February 2009 monthly reports were correct as originally disclosed, suggesting that the complainant might not have considered expenditures disclosed on Schedule I (the schedule provided to disclose non-political expenditures), which would not be included in total political expenditures.
6. The respondent disclosed expenditures to payee Planned Parenthood of Houston & Southeast Texas Action Fund Inc., for the purpose of “Management - Administrative Services” on Schedule I of the following reports:
 - On the December 2007 monthly report in the amount of \$1,000,
 - On the corrected March 2008 monthly report, in the amount of \$5,000,
 - On the June 2008 monthly report, in the amount of \$5,000,
 - On the August 2008 monthly report, in the amount of \$15,000,
 - On the October 2008 monthly report, in the amount of \$5,000,
 - On the November 2008 monthly report, in the amount of \$7,500, and
 - On the February 2009 monthly report, in the amount of \$3,000.

The total amount of these expenditures is \$41,500.

7. The respondent filed corrections to the committee’s December 2007, March, June, August, October, and November 2008, and February 2009 monthly reports, placing these expenditures on Schedule F, and adding these totals to total political expenditures on the coversheet.

8. The respondent also stated that the balance disclosed for total political contributions maintained on each of the reports at issue was correct as originally disclosed.

Reporting Reimbursements to Staff

9. The complaint alleged that the respondent failed to disclose the actual payee for three political expenditures totaling \$258 on PPHST's November 2008, December 2008, and November 2009 monthly reports.
10. In response to the complaint, the respondent filed corrections to each of the reports removing the original expenditures and the actual vendor payees.

Principal Occupation of Contributors

11. The complaint alleged that the respondent failed to disclose the principal occupation of the contributor for 21 contributions on PPHST's June through December 2008, October 2009 and November 2009 monthly reports.
12. The reports at issue disclosed 21 contributions totaling \$9,700, each individual contribution exceeded \$10. The respondent disclosed "unknown" as the principal occupation of 11 political contributions totaling \$1,500. The remaining contributions at issue included occupation information.

Timely Filing of Report

13. The complaint alleged that the respondent failed to timely file PPHST's February 2008 monthly report. The due date for the February 2008 monthly report was February 5, 2008. The respondent filed that report for PPHST on February 7, 2008. The late filing of this report was considered through the commission's administrative process, and no fine was imposed regarding this report.

IV. Findings and Conclusions of Law

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

Full Name of Person Making Political Contribution

1. Each 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 the report, the full name and address of the person making the contributions, and the dates of the contributions. ELEC. CODE § 254.031(a)(1).

2. The respondent disclosed the full name of the contributor at issue. Therefore, there is credible evidence of no violation of section 254.031(a)(1) of the Election Code.

Total Political Expenditures and Political Contributions Maintained

3. Each campaign finance report is required to include the total amount of all political contributions accepted and the total amount of all political expenditures made during the reporting period. ELEC. CODE § 254.031(a)(6).
4. Each campaign finance report must also 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).
5. Seven expenditures totaling \$41,500 were incorrectly reported on the original reports and not included in the political expenditures totals. Therefore, there is credible evidence of violations of section 254.031(a)(6) of the Election Code with regard to these allegations.
6. Regarding the disclosure of total political contributions maintained, there is insufficient evidence of a violation of section 254.031(a)(8) of the Election Code.

Reporting Reimbursements to Staff

7. A campaign finance report must include, for all political expenditures that in the aggregate exceed \$50 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).
8. For committees that file monthly, reports must include names of contributors who contribute more than \$10 in a reporting period. ELEC. CODE § 254.156.
9. Political expenditures made out of personal funds by a staff member of a political committee with the intent to seek reimbursement from the officeholder, candidate, or political committee that in the aggregate do not exceed \$5,000 during the reporting period may be reported as follows if the reimbursement occurs during the same reporting period that the initial expenditure was made: the amount of political expenditures that in the aggregate exceed \$50 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; and included with the total amount or a specific listing of the political expenditures of \$50 or less made during the reporting period. Except as provided above, a political expenditure made out of personal funds by a staff member of an officeholder, a candidate, or political committee with the intent to seek reimbursement from the officeholder, candidate, or political committee must be reported as follows: the aggregate amount of the expenditures

made by the staff member as of the last day of the reporting period is reported as a loan to the officeholder, candidate, or political committee; the expenditure made by the staff member is reported as a political expenditure by the officeholder, candidate, or political committee; and the reimbursement to the staff member to repay the loan is reported as a political expenditure by the officeholder, candidate, or political committee. Ethics Commission Rules § 20.62.

10. The respondent admitted that the expenditures at issue were incorrect as originally disclosed and filed corrected reports disclosing the actual payees. Therefore, there is credible evidence of violations of section 254.031(a)(3) of the Election Code and section 20.62 of the Ethics Commission Rules.

Principal Occupation of Contributors

11. In addition to the contents required by section 254.031 of the Election Code, each report by a campaign treasurer of a general-purpose committee must include the principal occupation of each person from whom political contributions that in the aggregate exceed \$50 are accepted during the reporting period. ELEC. CODE § 254.151(6).
12. Each monthly report by a campaign treasurer of a monthly filing general-purpose committee must comply with sections 254.031 and 254.151 of the Election Code except that the maximum amount of a political contribution, expenditure, or loan that is not required to be individually reported is \$10 in the aggregate. ELEC. CODE § 254.156(1).
13. The respondent disclosed “unknown” as the principal occupation for 11 of the political contributions at issue. Therefore, there is credible evidence of a violation of sections 254.151 and 254.156 of the Election Code with regard to these contributions. With regard to the remaining contributions, the respondent provided disclosure that complies with the statute. Therefore, there is credible evidence of no violation of sections 254.151 and 254.156 of the Election Code with regard to those contributions.

Timely Filing of Report

14. The campaign treasurer of a general-purpose committee filing monthly reports shall file a report not later than the fifth day of the month following the period covered by the report. ELEC. CODE § 254.157(a).
15. PPHST’s February 2008 monthly report was not timely filed. Therefore, there is credible evidence of a violation of section 254.157(a) 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 a campaign finance report must include, for all political expenditures that in the aggregate exceed \$50 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. The respondent also acknowledges that the proper way to report staff reimbursement is set out in section 20.62 of the Ethics Commission Rules. The respondent further acknowledges that each campaign finance report must include the total amount of all political expenditures made during the reporting period. The respondent acknowledges that a general-purpose committee filing monthly must include the principal occupation of each person from whom political contributions that in the aggregate exceed \$10 are accepted during the reporting period. The respondent also acknowledges that the campaign treasurer of a general-purpose committee filing monthly reports shall file a report not later than the fifth day of the month following the period covered by the report. 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 \$600 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-2911290.

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

Kathy Hubbard, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director