

TEXAS ETHICS COMMISSION

IN THE MATTER OF

TOM LAZO, SR.,
CAMPAIGN TREASURER,
HISPANIC PAC OF DALLAS,

RESPONDENT

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BEFORE THE

TEXAS ETHICS COMMISSION

SC-31008241

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on February 8, 2012, to consider sworn complaint SC-31008241. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 254.031, 254.151, 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 of a political committee: 1) did not timely file a semiannual campaign finance report; 2) did not include on campaign finance reports the name of each candidate supported or opposed by the committee, and the name of each officeholder assisted by the committee; 3) did not file pre-election reports in connection with multiple elections; 4) did not properly disclose the amount of total political expenditures or total political contributions maintained; and 5) did not disclose the occupation of contributors.

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 Hispanic PAC of Dallas, a general-purpose committee.
2. The allegations are related to the committee's January 2009, July 2009, January 2010, and July 2010 semiannual campaign finance reports.

Timely Filing of Campaign Finance Report

3. The complaint alleged that the respondent did not timely file a semiannual report that was due January 15, 2009. According to commission records, the respondent filed the committee's January 2009 semiannual report on January 27, 2009. The respondent acknowledged that the report was filed late. At its April 2009 commission meeting, the commission waived the \$500 administrative penalty for the late filing.

Disclosing Candidates/Officeholders Supported

4. The complaint alleged that in all four semiannual reports at issue, the respondent did not identify the names of each candidate supported or opposed by the committee, and each officeholder assisted by the committee. The "Committee Activity" section on each report's cover sheet was left blank. Each report at issue disclosed political expenditures to candidates, officeholders, or specific-purpose political committees.

Filing of Pre-election Reports

5. The complaint alleged that the respondent did not file pre-election reports in connection with multiple elections.
6. The committee's July 2009 semiannual report disclosed the following 12 expenditures totaling \$5,500:
 - nine political contributions totaling \$3,750 on April 20, 2009, to nine different individuals who were candidates for Dallas city council in the May 9, 2009, uniform election
 - a \$500 expenditure dated April 15, 2009, to the "Vote No Dallas Campaign" for the purpose of "Dallas convention center hotel vote" (The Dallas city secretary's office has records of a specific-purpose committee named "Vote No Dallas" which opposed Proposition 1 on the May 9, 2009, ballot. Proposition 1 sought to amend the city charter to prohibit the city from owning a convention center hotel.)
 - a \$1,000 political contribution on May 15, 2009, to a candidate for Dallas city council in the June 13, 2009, runoff election
 - a \$250 expenditure to the Greater Dallas Hispanic Chamber of Commerce on June 29, 2009, for the purpose of a reception
7. The 8-day pre-election report for the May 2009 uniform election was due May 1, 2009, and covered a period from March 31, 2009, or the day after the date the last report ended, through April 29, 2009. On July 26, 2011, the respondent filed the committee's 8-day pre-election report, disclosing \$5,250 in total political contributions, \$4,250 in total political expenditures, and \$3,302.95 in total political contributions maintained.

8. The runoff report for the June 2009 runoff election was due June 5, 2009, and covered a period from April 30, 2009, or the day after the date the last report ended, through June 3, 2009. On July 26, 2011, the respondent filed the committee's runoff report, disclosing \$750 in total political contributions, \$1,000 in total political expenditures, and \$2,552.95 in total political contributions maintained.
9. The committee's January 2010 semiannual report disclosed the following three political expenditures totaling \$5,300:
 - two political contributions of \$400 each on September 24, 2009, to two individuals who were candidates in the November 3, 2009, Dallas Independent School District (DISD) School Board election
 - a \$4,500 contribution to the "Vote NO Campaign" on July 16, 2009, for the purpose of "Retire Campaign debt"
10. The 30-day pre-election report for the November 2009 uniform election was due October 5, 2009, and covered a period from July 1, 2009, through September 24, 2009. The 8-day pre-election report for the November 2009 election was due October 26, 2009, and covered a period from September 25, 2009, or the day after the date the last report ended, through October 24, 2009. On July 26, 2011, the respondent filed the committee's 30-day pre-election report, disclosing \$4,500 in total political contributions, \$5,300 in total political expenditures, and \$1,402.95 in total political contributions maintained. The respondent also filed an 8-day pre-election report, disclosing no political contributions or expenditures and \$1,002.95 in total political contributions maintained.
11. The committee's July 2010 semiannual report disclosed the following five political expenditures totaling \$3,500:
 - a \$1,000 political contribution on February 9, 2010, to a candidate for Dallas County commissioner in the March 2010 Democratic primary election
 - a \$1,000 political contribution on February 23, 2010, to a candidate for the Texas Supreme Court in the March 2010 Republican primary election
 - a \$500 political contribution on March 26, 2010, to a candidate for Irving city council in the May 8, 2010, uniform election
 - a \$500 political contribution on April 27, 2010, to a Dallas County commissioner
 - a \$500 political contribution on April 29, 2010, to a candidate for DISD school board in the May 8, 2010, uniform election
12. The 8-day pre-election report for the March 2010 primary election was due February 22, 2010, and covered a period from January 22, 2010, or the day after the date the last report ended, through February 20, 2010. On July 26, 2011, the respondent filed the committee's 8-day pre-election report, disclosing \$7,675 in total political contributions, \$1,000 in total political expenditures, and \$4,002.95 in total political contributions maintained.

13. The 30-day pre-election report for the May 2010 uniform election was due April 8, 2010, and covered a period from January 1, 2010, or the day after the date the last report ended, through March 29, 2010. On July 26, 2011, the respondent filed the committee's 30-day pre-election report, disclosing \$3,000 in total political contributions, \$1,500 in total political expenditures, and \$7,926.65 in total political contributions maintained.
14. The 8-day pre-election report for the May 2010 uniform election was due April 30, 2010, and covered a period from March 30, 2010, through April 28, 2010. On July 26, 2011, the respondent filed the committee's 8-day pre-election report, disclosing \$1,250 in total political contributions, \$500 in total political expenditures, and \$9,032.95 in total political contributions maintained.

Total Political Expenditures and Political Contributions Maintained

15. The complaint alleged that the respondent disclosed an incorrect amount of total political expenditures in the committee's July 2009 and July 2010 semiannual reports, and an incorrect amount of total political contributions maintained in all four reports at issue.
16. The July 2009 semiannual report included a \$250 expenditure for the purpose of a reception which was disclosed on Schedule I (used for disclosing non-political expenditures made from political contributions).
17. The July 2010 semiannual report included two expenditures totaling \$1,175 for "Stop Payment on check # 120" and "Committee Operation" which were disclosed on Schedule I.
18. The respondent swore that for each report at issue the amount of political contributions maintained was reported in accordance with Ethics Commission Rule § 20.50 and the amount of political expenditures was accurate and automatically calculated by the campaign finance software.
19. On November 28, 2011, the respondent filed corrections to the July 2009, January 2010, and July 2010 semiannual reports to remove political contributions and expenditures that were also disclosed in the pre-election reports filed on July 26, 2011. The amount of total political contributions, total political expenditures, and total political contributions maintained were revised accordingly.

Disclosure of Principal Occupation of Contributors

20. The complaint alleged that the respondent did not disclose the principal occupation of contributors in "25 places" on the July 2009 semiannual report. Of the 25 political contributions totaling \$6,250 itemized on Schedule A (used for political contributions) of the report, all of the contributions exceeded \$50 and none disclosed the contributor's principal occupation.

21. The complaint alleged that the respondent did not disclose the principal occupation of contributors in “7 places” on the January 2010 semiannual report. Of the seven political contributions totaling \$4,000 itemized on Schedule A of the report, all of the contributions exceeded \$50 and none disclosed the contributor’s principal occupation.
22. The complaint alleged that the respondent did not disclose the principal occupation of contributors in “47 places” on the July 2010 semiannual report. Of the 47 political contributions totaling \$12,925 itemized on Schedule A of the report, all of the contributions exceeded \$50 and none disclosed the contributor’s principal occupation.
23. On July 26, 2011, the respondent filed pre-election reports, moving some activity that was originally disclosed in the semiannual reports at issue to the pre-election reports. The pre-election reports included the occupation of all contributors. On November 28, 2011, the respondent filed corrections to the July 2009, January 2010, and July 2010 semiannual reports. The corrected reports included the occupation of all contributors.

IV. Findings and Conclusions of Law

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

Timely Filing of Campaign Finance Report

1. The campaign treasurer of a general-purpose committee shall file two reports for each year. ELEC. CODE § 254.153(a). The first report shall be filed not later than July 15. *Id.* § 254.153(b). The second report shall be filed not later than January 15. *Id.* § 254.153(c).
2. The January 2009 semiannual report was due January 15, 2009. The respondent filed the report on January 27, 2009, which was 12 days late. Although the commission waived the late filing penalty, the report was not timely filed. Therefore, there is credible evidence of a violation of section 254.153 of the Election Code. Since the late filing of the report was considered through the administrative process, no fine is imposed regarding this violation.

Disclosing Candidates/Officeholders Supported

3. Each campaign finance report by a campaign treasurer of a general-purpose committee must include the name of each identified candidate or measure or classification by party of candidates supported or opposed by the committee, indicating whether the committee supports or opposes each listed candidate, measure, or classification by party of candidates, and the name of each identified officeholder or classification by party of officeholders assisted by the committee. ELEC. CODE §§ 254.151(4) and (5).

4. The name of any candidate supported by the committee must be disclosed in the “Committee Activity” section on a report’s cover sheet. The respondent did not disclose that information in the “Committee Activity” section on the reports at issue. However, the names of the candidates and officeholders supported or assisted by the committee were disclosed on the political expenditure schedule of each report at issue. There is credible evidence of technical or *de minimis* violations of sections 254.151(4) and 254.151(5) of the Election Code.

Filing of Pre-election Reports

5. 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 and 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 and covers the period beginning the 39th day before election day and continuing through the 10th day before election day. *Id.* § 254.154(c).
6. In addition to other required reports, the campaign treasurer of a general-purpose committee involved in a runoff election shall file one report for the runoff election. The runoff election report must be received by the authority with whom the report is required to be filed not earlier than the 10th day or later than the eighth day before runoff election day. The report covers the period beginning the ninth day before the date of the main election and continuing through the 10th day before runoff election day. *Id.* § 254.154(e).
7. Based on disclosures in the committee’s July 2009 semiannual report, the committee had activity in connection with the May 2009 uniform election that occurred during the reporting period for the 8-day pre-election report. Thus, an 8-day pre-election report was required to be filed. The report was due on May 1, 2009. The respondent filed the committee’s report on July 26, 2011. Therefore, there is credible evidence of a violation of section 254.154(c) of the Election Code with respect to that report.
8. The committee also had activity in connection with the June 2009 runoff election that occurred during the reporting period for the runoff report. Thus, a runoff report was required to be filed. The runoff report was due on June 5, 2009. The respondent filed the runoff report on July 26, 2011. Therefore, there is credible evidence of a violation of section 254.154(e) of the Election Code with respect to that report.
9. Based on disclosures in the committee’s January 2010 semiannual report, the committee had activity in connection with the November 2009 uniform election that occurred during the reporting period for the 30-day pre-election report. Thus, a 30-day pre-election report was required to be filed. The report was due on October 5, 2009. The respondent filed the

committee's report on July 26, 2011. Therefore, there is credible evidence of a violation of section 254.154(b) of the Election Code with respect to that report.

10. It does not appear that any expenditures were made in connection with the November 2009 election during the reporting period for the 8-day pre-election report. However, a 30-day pre-election report was filed, and thus, an 8-day pre-election report was also required to be filed. The 8-day pre-election report was due on October 26, 2009. The respondent filed the report on July 26, 2011. Therefore, there is credible evidence of a violation of section 254.154(c) of the Election Code with respect to that report.
11. Based on disclosures in the committee's July 2010 semiannual report, the committee had activity in connection with the March 2010 primary election that occurred during the reporting period for the 8-day pre-election report. Thus, an 8-day pre-election report was required to be filed. The report was due on February 22, 2010. The respondent filed the report on July 26, 2011. Therefore, there is credible evidence of a violation of section 254.154(c) of the Election Code with respect to that report.
12. The committee also had activity in connection with the May 2010 uniform election that occurred during the reporting periods for the 30-day and the 8-day pre-election reports. Thus, a 30-day and an 8-day pre-election report were required to be filed. The 30-day pre-election report was due on April 8, 2010. The 8-day pre-election report was due on April 30, 2010. The respondent filed both reports on July 26, 2011. Therefore, there is credible evidence of violations of section 254.154(b) and 254.154(c) of the Election Code with respect to those reports.

Total Political Expenditures and Political Contributions Maintained

13. 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).
14. *A de minimis* error in calculating or reporting a cash balance under Subsection (a)(8) is not a violation of this section. ELEC. CODE § 254.031(a-1).
15. The appropriate method of determining the total political contributions maintained is by determining the balance of any and all accounts in which political contributions are maintained as of the last day of the reporting period. The respondent swore that the amounts of total political contributions maintained were properly disclosed. However, he corrected the amounts in the July 2009 and July 2010 semiannual reports. The difference between the amount originally disclosed and the corrected amount are \$250 and \$5 respectively.

16. The commission has previously determined that 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, then, based on section 254.031(a-1) of the Election Code, there is no violation of section 254.031(a)(8) of the Election Code.
17. The difference between the amount originally disclosed in the July 2009 semiannual report and the correct amount is greater than 10% of the original amount. Therefore, there is credible evidence of a violation of section 254.031(a)(8) of the Election Code with respect to the July 2009 semiannual report.
18. The difference in the July 2010 semiannual report is less than 10% of the original amount and was not over \$2,500. Therefore, there is credible evidence of no violation of section 254.031(a)(8) of the Election Code with respect to the July 2010 semiannual report.
19. Regarding the January 2009 and January 2010 semiannual reports, the evidence is not sufficient to show that the amount of political contributions maintained disclosed on the reports at issue were incorrect. Therefore, there is insufficient evidence of a violation of section 254.031(a)(8) of the Election Code with respect to those reports.
20. Each campaign finance report must include the total amount of all political expenditures made during the reporting period. ELEC. CODE § 254.031(a)(6).
21. The amount of total political expenditures does not include the amount of total non-political expenditures itemized on Schedule I (used for non-political expenditures) of a report. However, on the face of the two reports at issue, it appears that the political expenditures were incorrectly reported as non-political expenditures on Schedule I. Therefore, there is credible evidence of a violation of section 254.031(a)(6) of the Election Code with respect to the July 2009 and July 2010 semiannual reports.

Disclosure of Principal Occupation of Contributors

22. 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).
23. The respondent corrected the disclosures to include the occupation of all contributors at issue. However, at the time the original reports were filed, the respondent did not disclose this information. Therefore, there is credible evidence of violations of section 254.151(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: the campaign treasurer of a general-purpose committee shall file two reports each year. The first report shall be filed not later than July 15, the second report shall be filed not later than January 15; for each election in which a general-purpose committee is involved, the committee's campaign treasurer shall file two reports. The first report shall be filed not later than the 30th day before election day, the second report shall be filed not later than the eighth day before election day; and for each runoff election in which a general-purpose committee is involved, the committee's campaign treasurer shall file one report for the runoff election.

The respondent acknowledges that each report by a campaign treasurer of a general-purpose committee must include the name of each identified candidate or measure or classification by party of candidates supported or opposed by the committee, indicating whether the committee supports or opposes each listed candidate, measure, or classification by party of candidates, and the name of each identified officeholder or classification by party of officeholders assisted by the committee.

The respondent acknowledges that: each campaign finance report must include the total amount of all political expenditures made during the reporting period; each campaign finance report must include as of the last day of the reporting period, 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; and 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.

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 \$3,000 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-31008241.

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

Tom Lazo, Sr., Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director