

TEXAS ETHICS COMMISSION

IN THE MATTER OF

MEGAN WOODBURN,
CAMPAIGN TREASURER,
AUSTIN WOMEN'S POLITICAL
CAUCUS PAC

RESPONDENT

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BEFORE THE

TEXAS ETHICS COMMISSION

SC-31009276

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on October 6, 2011, to consider sworn complaint SC-31009276. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 254.031, 254.151, and 254.154 of the Election Code, and sections 20.61 and 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 alleges that the respondent, as the campaign treasurer of Austin Women's Political Caucus PAC: 1) did not properly disclose political contributions and political expenditures, 2) did not disclose the principal occupation of contributors, and 3) did not file the 8-day pre-election report for the May 8, 2009, Austin, Texas city council 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 of the general-purpose committee Austin Women's Political Caucus PAC (AWPC PAC).
2. The allegations were based on the respondent's January 2009, July 2009, January 2010, and July 2010 semiannual campaign finance reports.

Political Expenditures

3. Out of four political expenditures itemized in the January 2009 semiannual report, the complaint alleged that the respondent did not properly disclose a \$288.69 political expenditure made to an individual on November 1, 2008. The respondent did not disclose the address for the payee and disclosed "Supplies" in the "Purpose of Payment" field on Schedule F (used for political expenditures). The respondent submitted an affidavit stating that the expenditure was a reimbursement for two expenditures made by an individual. The respondent corrected the errors.

Total Political Expenditures

4. The complaint alleged that the respondent did not properly disclose the amount of total political expenditures made during the period covered in the July 2010 semiannual report. The complaint alleged that this amount should have been \$225 instead of \$0 as disclosed by the respondent.
5. Schedule F of the report did not have any entries. Schedule I (used for non-political expenditures) disclosed a \$225 expenditure for "Website Consulting" and the evidence indicated that the expenditure was a non-political expenditure.

Total Political Contributions Maintained

6. The complaint alleged that the respondent disclosed an incorrect amount for the total political contributions maintained as of the last day of the reporting period on each report at issue or, in the alternative, did not report additional political contributions or political expenditures.
7. The respondent's affidavit stated that the dollar amount that was reported for each report is correct. The respondent provided a copy of the bank account statement of AWPC PAC for each report.

January 2009 Semiannual Report

8. In the January 2009 semiannual report, the respondent disclosed \$753.75 in total political contributions maintained as of the last day of the reporting period. The copy of the bank account statement for this report disclosed a balance of \$753.75 on December 31, 2008.

July 2009 Semiannual Report

9. In the July 2009 semiannual report, the respondent disclosed \$1,163.56 in total political contributions maintained as of the last day of the reporting period. The copy of the account statement for this report disclosed a balance of \$1,766.85 on June 30, 2009. The respondent corrected the error.

January 2010 Semiannual Report

10. In the January 2010 semiannual report, the respondent disclosed \$1,163.56 in total political contributions maintained as of the last day of the reporting period. The copy of the bank account statement for this report disclosed a balance of \$1,163.56 on November 30, 2009, and a subsequent statement indicates that amount was the balance as of December 31, 2009.

July 2010 Semiannual Report

11. In the July 2010 semiannual report, the respondent disclosed \$938.56 in total political contributions maintained as of the last day of the reporting period. The complaint alleged that the amount of total political contributions maintained should be \$1,658.12. The difference between the amount disclosed and amount alleged is \$719.56. The copy of the bank account statement for this report disclosed a balance of \$938.56 on June 30, 2010.

Principal Occupation

12. The complaint alleged that the respondent did not disclose the principal occupation of two persons that contributed \$65 each as disclosed on the January 2009 semiannual report.
13. The report itemized nine contributions of over \$50. The "Principal Occupation" field on Schedule A (used for political contributions) of the report was left blank for the two contributors at issue.
14. The respondent corrected the errors.

Filing 8-day Pre-election Report

15. The complaint alleged that the respondent did not file the 8-day pre-election report for the May 2009 election.
16. The July 2009 semiannual report of the AWPC PAC disclosed in the Committee Activity field on Cover Sheet page 2 that the committee supported four candidates for Austin City, Council. The report stated the election date was May 9, 2009. The report disclosed on Schedule F approximately \$1,600 of expenditures made to support candidates.
17. The respondent submitted an affidavit stating:

Yes, the complaint about failing to file the 8th day pre-election report is correct. Until this time, I believed that the 8 day pre-election report was only applicable when triggered by State Legislative and Statewide races. I did not realize that this was a requirement at the City Council level. I will correct this and submit a Corrected Report.

18. The respondent filed an 8-day pre-election report for the May 9, 2009, election on August 26, 2011. The report disclosed \$1,660 for total political contributions and approximately \$1,600 for total political expenditures.

IV. Findings and Conclusions of Law

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

Political Expenditures

1. Each campaign finance report must include 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. ELEC. CODE § 254.031(a)(3).
2. The report of a political expenditure for goods or services must describe the categories of goods or services received in exchange for the expenditure. Ethics Commission Rules § 20.61.
3. A political expenditure made out of personal funds by a staff member of an officeholder, a candidate, or 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: (1) 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 (2) 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 by subsection (a) of this section, a political expenditure made out of personal funds by a staff member of an officeholder, a candidate, or a political committee with the intent to seek reimbursement from the officeholder, candidate, or political committee must be reported as follows: (1) 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; (2) the expenditure made by the staff member is reported as a political expenditure by the officeholder, candidate, or political committee; and (3) 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.

4. The respondent failed to properly report the \$288.69 of expenditures at issue. The report disclosed as the payee the individual who made the expenditures with personal funds. The information about the actual vendors was not disclosed, and the respondent failed to adequately disclose the purposes of the two expenditures. The respondent corrected the errors. There is credible evidence of violations of section 254.031(a)(3) of the Election Code and sections 20.61 and 20.62 of the Ethics Commission Rules.

Total Political Expenditures

5. Each campaign finance report must include the total amount of all political expenditures made during the reporting period. ELEC. CODE § 254.031(a)(6).
6. “Political expenditure” means a campaign expenditure or an officeholder expenditure. ELEC. CODE § 251.001(10).
7. “Campaign expenditure” means 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 § 251.001(7).
8. “Officeholder expenditure” means an expenditure made by any person to defray expenses that are incurred by an officeholder in performing a duty or engaging in an activity in connection with the office and are not reimbursable with public money. ELEC. CODE § 251.001(9).
9. “Political expenditure” means a campaign expenditure or an officeholder expenditure. ELEC. CODE § 251.001(10).
10. “Campaign expenditure” means an expenditure made by any person in connection with a campaign for an elective office or on a measure. ELEC. CODE § 251.001(7).
11. “Political committee” means a group of persons that has as a principal purpose accepting political contributions or making political expenditures. ELEC. CODE § 251.001(12).
12. The evidence indicated that the expenditure at issue was a non-political expenditure. Therefore, there is credible evidence of no violation of section 254.031(a)(6) of the Election Code.

Total Political Contributions Maintained

13. A campaign finance 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. The total amount of political contributions maintained in one or more accounts includes balance on deposit in banks, savings and loan institutions and other depository institutions, and the present value of any investments that can be readily converted to cash, such as certificates of deposit, money market accounts, stocks, bonds, treasury bills, etc. Ethics Commission Rules § 20.50(a).
15. The complaint alleged that the respondent did not correctly disclose the total political contributions maintained as of the last day of the reporting period in the January and July 2009 and January and July 2010 semiannual reports.
16. There is credible evidence that the respondent violated section 254.031(a)(8) of the Election Code with respect to the July 2009 semiannual report by under reporting total political contributions maintained by approximately \$600. The respondent corrected the error.
17. There is credible evidence that the respondent did not violate section 254.031(a)(8) of the Election Code with respect to the January 2009, January 2010, and July 2010 semiannual reports.

Principal Occupation

18. 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).
19. The respondent failed to provide the principal occupation of two individuals that made political contributions of \$65 each. The respondent corrected the errors. There is credible evidence that the respondent violated section 254.151(6) of the Election Code.

Filing 8-day Pre-election Report

20. 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 second report must be received by the authority with whom the report is required to be filed not later than the 8th day before election day. ELEC. CODE § 254.154.
21. The respondent was required to file AWPC PAC's 8-day pre-election report in connection with the May 9, 2009, election. She filed the report on August 26, 2011. The committee made approximately \$1,600 of political expenditures to support four candidates in the May 9, 2009, city election. Therefore, there is credible evidence of a violation 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: 1) each campaign finance report must include 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, 2) the report of a political expenditure for goods or services must describe the categories of goods or services received in exchange for the expenditure, 3) the proper way to report reimbursements is in accordance with section 20.62 of the Ethics Commission Rules, 4) a campaign finance 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, 5) 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, and 6) 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, and that the second report must be received by the authority with whom the report is required to be filed not later than the 8th 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 \$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-31009276.

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

Megan Woodburn, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director