

TEXAS ETHICS COMMISSION

IN THE MATTER OF	§	BEFORE THE
	§	
TIM MCGRATH,	§	
CAMPAIGN TREASURER,	§	
SHEET METAL WORKERS LOCAL	§	TEXAS ETHICS COMMISSION
UNION NO. 67 POLITICAL	§	
ACTION LEAGUE,	§	
	§	
RESPONDENT	§	SC-3110496

FINAL ORDER

The Texas Ethics Commission, having heard this case and voting to find a violation of laws under its jurisdiction, makes the following Findings of Fact and Conclusions of Law:

Findings of Fact

1. The respondent is Tim McGrath, whose last known mailing address is 4418 Tamaron Knoll, San Antonio, Texas 78253. A sworn complaint was filed with the Texas Ethics Commission against the respondent on April 25, 2011. The Notice of Hearing was mailed to the respondent on March 19, 2012, by certified mail, return receipt requested, restricted delivery and delivery confirmation.
2. The preliminary review hearing was held on April 18, 2012, at 12:30 p.m., by the Texas Ethics Commission in Austin, Texas.
3. The respondent did not file a reply to the Notice of Hearing and did not appear at the hearing.
4. The respondent was appointed campaign treasurer of Sheet Metal Workers Local Union No. 67 Political Action League (SMWLU), a general-purpose committee. The respondent was replaced as campaign treasurer on April 6, 2010.
5. Based on six expenditures that are alleged to be contributions to candidates involved in local elections held on May 9, 2009, the complaint alleged that the respondent failed to file an 8-day pre-election report for SMWLU.
6. The six expenditures at issue were disclosed on SMWLU's July 2009 semiannual report, totaled approximately \$2,250, and were described as campaign contributions dated April 24, 2009.

7. The six expenditures at issue were to candidates involved in local elections held on May 9, 2009.
8. The respondent did not file an 8-day pre-election report in connection with the May 9, 2009, local elections for SMWLU until February 16, 2012. However, the committee activity during the period covered by that report was disclosed on SMWLU's July 2009 semiannual report filed by the respondent.
9. The complaint also alleged that the respondent failed to disclose on SMWLU's July 2009 semiannual report the candidates supported or opposed and officeholders assisted by the committee. The spaces provided to disclose this information on the cover sheet, page two of the report were left blank. Schedule F of the report disclosed political expenditures that supported multiple candidates for public office.

Conclusions of Law

1. Disposition of this case is within the jurisdiction of the Texas Ethics Commission. GOV'T CODE § 571.061.
2. The respondent received legally sufficient notice of the hearing in this case. GOV'T CODE § 571.032 and 1 TAC § 12.21. The hearing was held in accordance with section 12.23, 1 Texas Administrative Code.

Pre-election Campaign Finance Reports

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 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 § 254.001(7).
5. The complaint alleged that SMWLU was involved in the May 9, 2009, local elections during the period covered by the 8-day pre-election report, and that the respondent failed to file that report. The ending date covered by the 8-day pre-election report for the May 9, 2009, elections was April 29, 2009. On April 24, 2009, SMWLU made six political expenditures supporting six candidates in the May 9, 2009, elections. Thus on April 24, 2009, SMWLU was involved in the May 9, 2009, election. Those expenditures occurred

during the period covered by the 8-day pre-election report. Therefore, the respondent was required to file that report for SMWLU. The respondent failed to do so. Therefore, there is credible evidence of a violation of section 254.154(c) of the Election Code.

Disclosure of Candidates or Officeholders Supported, Opposed, or Assisted

6. 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 during the reporting period. ELEC. CODE §§ 254.151(4) and (5).
7. The complaint alleged that the respondent did not disclose on SMWLU's July 2009 semiannual report candidates supported or opposed or officeholders assisted by SMWLU. That information is required to be disclosed on cover sheet page 2 of a political committee's campaign finance report. SMWLU's July 2009 semiannual report disclosed that on April 24, 2009, it made political contributions to six candidates in the May 9, 2009, elections. Those candidates were not disclosed as candidates supported by the committee on cover sheet, page 2, of the report. However, the contributions to those candidates were disclosed on Schedule F (used for political expenditures) of the committee's report and the committee's support of those candidates was readily apparent to anyone viewing the report. Therefore, there is credible evidence of a technical or *de minimis* violation of section 254.151(4) of the Election Code. The evidence did not show that the committee assisted any officeholders during the period covered by the report. There is credible evidence of no violation of section 254.151(5) of the Election Code.
8. The Texas Ethics Commission may impose a sanction against the respondent of not more than \$5,000 or triple the amount at issue, whichever amount is greater. GOV'T CODE § 571.173.

Therefore, the Texas Ethics Commission orders that:

1. The respondent pay to the Texas Ethics Commission, within 30 days of the date of this order, a civil penalty in the amount of \$1,500.

Order Date: _____

FOR THE COMMISSION

David A. Reisman
Executive Director
Texas Ethics Commission