

TEXAS ETHICS COMMISSION

IN THE MATTER OF	§	BEFORE THE
	§	
RICHARD K. STUM,	§	
CAMPAIGN TREASURER, TEXAS	§	TEXAS ETHICS COMMISSION
STATE COUNCIL OF MACHINIST &	§	
AEROSPACE WORKERS, MNPL,	§	
	§	
RESPONDENT	§	SC-31105152

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on August 30, 2012, to consider sworn complaint SC-31105152. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 254.031 and 254.151 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 properly disclose political contributions and political expenditures, 2) did not disclose or improperly disclosed required information on campaign finance reports, and 3) accepted contributions from corporations or labor organizations.

III. Facts Supported by Credible Evidence

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

1. The respondent is campaign treasurer of the Texas State Council of Machinist & Aerospace Workers, MNPL, a general-purpose committee.

Total Political Contributions Maintained

2. The complaint alleged that the respondent did not properly disclose on four campaign finance reports total political contributions maintained. The respondent submitted the committee's bank statements covering the period at issue in the complaint.

The amount disclosed, amount alleged, and amount reflected by each bank statement are as follows:

- 30-day Pre-election Report, November 2010 Election – disclosed \$1,609.24; alleged \$309.14; bank statement amount \$3,109.24
- Corrected 8-day Pre-election Report, November 2010 Election – disclosed \$1,359.24; alleged -\$2,041.06; bank statement amount \$1,609.24
- January 2011 Semiannual Report – disclosed \$1,359.24; alleged -\$2,041.16; bank statement amount \$1,359.24
- Corrected 8-day Pre-election Report, May 2011 Election – disclosed \$1,359.24; alleged: -\$2,241.06; bank statement amount \$1,259.24 (corrected \$1,159.24)

Disclosure of Political Contributions and Political Expenditures

3. The complaint alleged that the respondent did not properly disclose political contributions and political expenditures on three campaign finance reports.
4. The committee's July 2009 semiannual report disclosed a \$280 contribution and identified the contributor as "Mass Collection- Sale of tickets for drawings on TV & other items." The complaint alleged that the respondent did not properly itemize each contribution. In response to the complaint, the respondent filed a corrected report and swore that the reported contribution was the sum of \$1 contributions received by the committee during the reporting period. On the corrected report, the respondent disclosed those contributions in the section for total political contributions of \$50 or less on the second page of the report's cover sheet.
5. The committee's January 2010 semiannual report disclosed three contributions, totaling \$2,001, and identified the contributors as "Mass Collection- Sale of tickets for drawings on TV & other items," "Sale of tickets for drawing of door prizes," and "Sale of tickets for drawing at local lodge meeting." The complaint alleged that the respondent did not properly itemize the names of each contributor. In response to the complaint, the respondent filed a corrected report and swore that the reported contributions were the sum of \$1 contributions received by the committee during the reporting period. On the corrected report, the respondent disclosed those contributions in the section for total political contributions of \$50 or less on the second page of the report's cover sheet (he disclosed it as "\$2,0001").
6. The committee's first corrected 8-day pre-election report for the November 2010 election disclosed \$2,699.90 in total political contributions and \$3,500 in total political expenditures. The complaint alleged that the respondent disclosed incorrect amounts of total political contributions and total political expenditures. The respondent reported political contributions and political expenditures on his 8-day pre-election report that were previously disclosed on the respondent's 30-day pre-election report.

7. The deadline for the November 2010 8-day pre-election report was October 25, 2010. The report should have covered the period of September 24, 2010, through October 23, 2010. The respondent filed the following five reports with regard to the 8-day pre-election report for the November 2010 election:

October 24, 2010, covering July 1, 2010, through September 30, 2010 (included too many days)

Unitemized Contributions	\$ 2,699.90
Total Political Contributions	\$ 2,699.90
Total Unitemized Expenditures	\$ 4,250.00
Total Political Expenditures	\$ 3,500.00
Total Political Contributions Maintained	\$ 1,359.24
Total Principal Amount of Outstanding Loans	\$ 0

October 25, 2010, covering September 30, 2010, through October 23, 2010 (included too many days)

Unitemized Contributions	\$ 0
Total Political Contributions	\$ 0
Total Unitemized Expenditures	\$ 0
Total Political Expenditures	\$ 250.00
Total Political Contributions Maintained	\$ 1,359.24
Total Principal Amount of Outstanding Loans	\$ 0

October 25, 2010 (marked as a corrected report) covering July 1, 2010, through September 30, 2010 (too many days) – at issue in complaint

Unitemized Contributions	\$ 2,699.90
Total Political Contributions	\$ 2,699.90
Total Unitemized Expenditures	\$ 4,250.00
Total Political Expenditures	\$ 3,500.00
Total Political Contributions Maintained	\$ 1,369.24
Total Principal Amount of Outstanding Loans	\$ 0

June 22, 2011 (marked as a corrected report) covering September 24, 2010, through October 23, 2010

Unitemized Contributions	\$ 0
Total Political Contributions	\$ 0
Total Unitemized Expenditures	\$ 250.00
Total Political Expenditures	\$ 250.00
Total Political Contributions Maintained	\$ 1,359.24
Total Principal Amount of Outstanding Loans	\$ 0

June 23, 2011 (marked as a corrected report) covering the period September 24, 2010, through October 23, 2010

Unitemized Contributions	\$	0
Total Political Contributions	\$	0
Total Unitemized Expenditures	\$	0
Total Political Expenditures	\$	250.00
Total Political Contributions Maintained	\$	1,359.24
Total Principal Amount of Outstanding Loans	\$	0

8. The \$2,699.90 that the respondent disclosed in total political contributions on his first corrected 8-day pre-election report was received from labor organizations during the reporting period for the 30-day pre-election report and was previously disclosed on that report. Of the \$3,500 that the respondent disclosed in total political expenditures, \$2,000 in expenditures were made during the reporting period for the 30-day pre-election report and were previously disclosed on that report. The remaining \$1,500 in expenditures were properly disclosed. In response to the complaint, the respondent filed corrected reports and disclosed \$0 in total political contributions and \$250 in total political expenditures, which was an expenditure that was not disclosed on the respondent's first corrected 8-day pre-election report, but was disclosed on the other four reports. The correct amount of total political expenditures on the 8-day pre-election report should have been \$1,750.

Political Contributions from Corporations or Labor Unions

9. The complaint alleged that, based on disclosures in the committee's 30-day and 8-day pre-election reports for the November 2010 election, the respondent accepted political contributions from corporations or labor unions. The contributions at issue, totaling \$2,699.90, were originally reported as a single contribution from a labor union conference. The contributions were accepted during the reporting period for the 30-day pre-election report but were reported on both the 30-day and 8-day pre-election reports. In response to the complaint, the respondent filed a corrected 30-day pre-election report and disclosed that the contributions at issue came from five labor unions. The corrected report indicated that \$699.90 in contributions consisted of ticket sales, and \$2,000 in contributions consisted of sponsorships received by the committee in connection with its golf tournament fundraiser.

Campaign Treasurer's Mailing Address

10. The complaint alleged that the respondent did not disclose his mailing address on the committee's July 2009 and January 2010 semiannual reports. In response to the complaint, the respondent filed corrected reports and disclosed his mailing address, which was the same as his street address that was disclosed on each report.

Disclosure of Names of Candidates and Officeholders Supported or Assisted by the Committee

11. The complaint alleged that the respondent did not disclose the names of each identified candidate supported or opposed by the committee, and each identified officeholder assisted by the committee on its 30-day and corrected 8-day pre-election reports for the November 2010 election and its corrected 8-day pre-election report for the May 2011 election. On each report, political expenditures made to support candidates or assist officeholders were disclosed on Schedule F (used to disclose political expenditures). However, the "Committee Activity" sections of the report cover sheets were left blank. In response to the complaint, the respondent filed corrected reports and disclosed the required information in those sections.

Disclosure of Political Contributions from Corporations or Labor Unions

12. The complaint alleged that the respondent did not properly disclose political contributions from corporations or labor unions on the committee's 30-day and 8-day pre-election reports for the November 2010 election. The reports disclosed on Schedule A (used to disclose political contributions) political contributions totaling \$2,699.90 related to a labor union conference. In response to the complaint, the respondent filed corrected reports and disclosed the contributions on Schedule C-1 (used to disclose corporation or labor organization support).

IV. Findings and Conclusions of Law

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

Total Political Contributions Maintained

1. Each 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. A *de minimis* error in calculating or reporting a cash balance under subsection (a)(8) is not a violation. ELEC. CODE §§ 254.031(a)(8) and (a-1).
2. Regarding the committee's 30-day and corrected 8-day pre-election reports for the November 2010 election, there is credible evidence of a violation of section 254.031(a)(8) of the Election Code. Regarding the committee's 8-day pre-election report for the May 2011 election, the difference between the amount originally disclosed and the correct amount does not exceed 10% of the amount originally disclosed. In context, the error is *de minimis*. Therefore, there is credible evidence of no violation of section 254.031(a)(8) of the Election Code with respect to that report. With respect to the committee's January 2011 semiannual report, the amount of total political contributions maintained was properly disclosed. Therefore, there is credible evidence of no violation of section 254.031(a)(8) of the Election Code with respect to that report.

Disclosure of Political Contributions and Political Expenditures

3. A campaign finance report must include, for all political expenditures that in the aggregate exceed \$100 (\$50 until September 28, 2011) 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).
4. Each campaign finance report must include the total amount or a specific listing of the political contributions of \$50 or less accepted and the total amount or a specific listing of the political expenditures of \$100 (\$50 until September 28, 2011) or less made during the reporting period. ELEC. CODE § 254.031(a)(5). The report must also 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).
5. Regarding the \$1 contributions disclosed on the committee's July 2009 and January 2010 semiannual reports, totaling approximately \$2,280, they were not required to be itemized but should have been disclosed in the section for total political contributions of \$50 or less. The respondent filed corrected reports. However, at the time the reports were originally filed the respondent improperly disclosed this information. Therefore, there is credible evidence of violations of section 254.031(a)(5) of the Election Code.
6. The respondent disclosed incorrect amounts of total political contributions and total political expenditures on the committee's first corrected 8-day pre-election report for the November 2010 election, in part because contributions and expenditures previously disclosed on the committee's 30-day pre-election report were also disclosed on the committee's corrected 8-day pre-election report.
7. Regarding the expenditures that were disclosed on the 8-day pre-election report that should have only been disclosed on the 30-day pre-election report, totaling \$2,000, there is credible evidence of violations of section 254.031(a)(6) of the Election Code. The respondent also did not disclose a \$250 political expenditure on the committee's first corrected 8-day pre-election report. However, that expenditure was disclosed on the committee's second original 8-day pre-election report filed on October 25, 2010, and was not required to be disclosed on a corrected report. Therefore, there is credible evidence of no violation of section 254.031(a)(3) of the Election Code with respect to that political expenditure.

Political Contributions from Corporations or Labor Unions

8. A person may not knowingly accept a political contribution that the person knows was made in violation of chapter 253 of the Election Code. ELEC. CODE § 253.003.
9. A corporation may not make a political contribution or political expenditure that is not authorized by subchapter D, chapter 253, Election Code. ELEC. CODE § 253.094.

10. The prohibition applies to corporations that are organized under the Texas Business Corporation Act, the Texas For-Profit Corporation Law, the Texas Non-Profit Corporation Act, the Texas Nonprofit Corporation Law, federal law, or law of another state or nation. ELEC. CODE § 253.091.
11. A corporation, acting alone or with one or more other corporations, may make one or more political expenditures to finance the establishment or administration of a general-purpose committee. ELEC. CODE § 253.100.
12. A corporation or labor union may make political expenditures for the administration of a general-purpose committee. However, while the respondent's corrected report indicated that the committee collected proceeds from ticket sales as well as sponsorships from labor unions in connection with the committee's golf tournament fundraiser, the nature of the labor unions' involvement in the fundraiser is unclear. There is insufficient evidence of violations of sections 253.003 and 253.094 of the Election Code.

Campaign Treasurer's Mailing Address

13. Each report by a campaign treasurer of a general-purpose committee must include the full name, residence or business street address, and telephone number of the committee's campaign treasurer and if the campaign treasurer's mailing address is different from the street address provided for the campaign treasurer, the campaign treasurer's mailing address. ELEC. CODE § 254.151(2); Ethics Commission Rules § 20.411(4)(C).
14. On the reports at issue, the respondent included his full name and street address, which was also his mailing address. There was no requirement for the respondent to disclose his mailing address again on the reports. Therefore, there is credible evidence of no violation of section 254.151(2) of the Election Code.

Disclosure of Names of Candidates and Officeholders Supported or Assisted by the Committee

15. 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. ELEC. CODE § 254.151(4) and (5).
16. Although the reports at issue disclosed political expenditures to support candidates and assist officeholders on Schedule F, the reports did not disclose that information in the "Committee Activity" section of the report cover sheets. However, the information was readily apparent to anyone who may have viewed the reports. Therefore, there is credible evidence of technical or *de minimis* violations of sections 254.151(4) and 254.151(5) of the Election Code.

Disclosure of Political Contributions from Corporations or Labor Unions

17. Each report by a campaign treasurer of a general-purpose committee must include on a separate page or pages of the report, the identification of any contribution from a corporation or labor organization made and accepted to establish or administer the political committee. ELEC. CODE § 254.151(8).
18. The respondent filed corrected reports and disclosed the contributions at issue on Schedule C-1. At the time the original reports were filed, the contributions were improperly disclosed. In context, the errors were *de minimis*. Therefore, there is credible evidence of technical or *de minimis* violations of section 254.151(8) 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 each 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. The respondent also acknowledges that each campaign finance report must include the total amount or a specific listing of the political contributions of \$50 or less accepted and the total amount or a specific listing of the political expenditures of \$100 (\$50 until September 28, 2011) or less made during the reporting period. The report must also include the total amount of all political contributions accepted and the total amount of all political expenditures made during the reporting period. The respondent also 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 also acknowledges that each report by a campaign treasurer of a general-purpose committee must include on a separate page or pages of the report, the identification of any contribution from a corporation or labor organization made and accepted to establish or administer the political committee. 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 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 \$500 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-31105152.

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

Richard K. Stum, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director