

TEXAS ETHICS COMMISSION

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|--------------------------|---|-------------------------|
| IN THE MATTER OF | § | BEFORE THE |
| | § | |
| WESTON LOEGERING, | § | |
| CAMPAIGN TREASURER, | § | TEXAS ETHICS COMMISSION |
| JONES DAY TEXAS ELECTION | § | |
| COMMITTEE, | § | |
| | § | |
| RESPONDENT | § | SC-31108196 |

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on November 29, 2012, to consider sworn complaint SC-31108196. 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: 1) did not properly disclose total political contributions maintained; 2) did not timely file campaign finance reports; 3) did not include on campaign finance reports the names of candidates supported by the committee; and 4) did not timely report political expenditures.

III. Facts Supported by Credible Evidence

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

1. During the period of time relevant to the complaint, the respondent was the campaign treasurer for the Jones Day Texas Election Committee (JDTEC), a general-purpose political committee that files campaign finance reports with the commission.

Total Political Contributions Maintained

2. The complaint alleged that the respondent reported an incorrect amount for total political contributions maintained on the committee's January 2010, July 2010, January 2011, and July 2011 semiannual reports. In response to the complaint, the respondent provided copies of the committee's bank statements. The bank statement balance at the end of each reporting period was the same as the amount disclosed for political contributions maintained, with the exception of the July 2011 semiannual report, which disclosed \$6,315.65. The bank statement showed \$5,815.65 (respondent corrected).

Timely Filing of Campaign Finance Reports

3. The complaint alleged that the respondent did not file a 30-day pre-election report for the November 2, 2010, general election, and also that the respondent did not timely file a July 2011 semiannual report. In response to the complaint, the respondent filed 30-day and 8-day pre-election reports for the November 2010 general election and also filed a correction to the July 2011 semiannual report. The three reports at issue disclosed the following activity:

30-day Pre-election Report (due 10/4/10; filed 9/30/11)

- Period covered: 7/1/10 – 9/23/10
- \$0 in political contributions of \$50 or less
- \$10,000 in total political contributions
- \$0 in total political expenditures of \$50 or less
- \$8,500 in total political expenditures
- \$17,777.65 in total political contributions maintained
- \$0 in total principal amount of all outstanding loans

8-day Pre-election Report (due 10/25/10; filed 9/30/11)

- Period covered: 9/24/10 – 10/23/10
- \$0 in political contributions of \$50 or less
- \$0 in total political contributions
- \$0 in total political expenditures of \$50 or less
- \$10,000 in total political expenditures
- \$10,273.95 in total political contributions maintained
- \$0 in total principal amount of all outstanding loans

July 2011 Semiannual Report (due 7/15/11; filed 7/29/11; corrected on 9/30/11)

- Period covered: 1/1/11 – 6/30/11
- \$0 in political contributions of \$50 or less

- \$5,000 in total political contributions (corrected to \$0)
- \$0 in total political expenditures of \$50 or less
- \$0 in total political expenditures (corrected to \$5,000)
- \$6,315.65 in total political contributions maintained (corrected to \$5,815.65)
- \$0 in total principal amount of all outstanding loans

Names of Candidates Supported or Opposed and Officeholders Assisted

4. The complaint alleged that the respondent did not identify the candidates supported and officeholders assisted by the committee in the January 2011 and July 2011 semiannual reports. On the reports at issue, the “Committee Activity” sections of the cover sheets were left blank, and Schedule A (used to disclose political contributions) disclosed numerous political contributions from candidates. However, the respondent was erroneously reporting political expenditures as political contributions, and therefore, the reports indicated that the committee was accepting political contributions from candidates, as opposed to making political contributions to the candidates.
5. In response to the complaint, the respondent corrected the reports at issue and changed the political contributions to political expenditures on Schedule F (used to disclose political expenditures). Note that the respondent also filed late 30-day and 8-day pre-election reports for the November 2010 general election. Therefore, the committee activity that was disclosed in the original January 2011 semiannual report at issue was disclosed in the late pre-election reports. On the “Committee Activity” sections of the late 30-day and 8-day pre-election reports for the November 2010 election, and the corrected July 2011 semiannual report, the respondent wrote “See Schedule F.”

Disclosure of Political Expenditures

6. The complaint alleged that the respondent did not timely disclose two political expenditures totaling \$1,500 that were made to two different candidates. The allegation was based on each candidate’s campaign finance report. Regarding one of the expenditures of \$1,000, the candidate’s 30-day pre-election report for the November 2010 general election disclosed a \$1,000 contribution from Jones Day Fund on July 30, 2010. Regarding the other expenditure of \$500, the candidate’s January 2011 semiannual report disclosed a \$500 political contribution from Jones Day Texas PAC on November 16, 2010. The committee’s original January 2011 semiannual report covered from July 1, 2010, through December 31, 2010, and did not disclose the two political expenditures at issue.
7. In response to the complaint, the respondent filed late 30-day and 8-day pre-election reports for the November 2, 2010, general election that collectively covered from July 1, 2010, through October 23, 2010. The \$1,000 political expenditure at issue was disclosed in the committee’s 30-day pre-election report as being made on July 30, 2010. The \$500 political

expenditure at issue was disclosed in the committee's 8-day pre-election report as being made on October 4, 2010.

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 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). 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).
2. Regarding the January 2010, July 2010, and January 2011 semiannual reports at issue, credible evidence indicates that the respondent properly reported the total political contributions maintained balances. Regarding the July 2011 semiannual report, the difference between the amount of political contributions maintained as disclosed and the correct amount did not exceed the lesser of 10% of the amount originally disclosed or \$2,500. The error was *de minimis*. Therefore, there is credible evidence of no violations of section 254.031(a)(8) of the Election Code with respect to the four semiannual reports at issue.

Timely Filing of Campaign Finance Reports

3. The campaign treasurer of a general-purpose committee shall file two reports for each year as provided by this section. ELEC. CODE § 254.153(a). The first report shall be filed not later than July 15. The report covers the period beginning January 1, the day the committee's campaign treasurer appointment is filed, or the first day after the period covered by the last report required to be filed under this subchapter, as applicable, and continuing through June 30. *Id.* § 254.153(b).
4. 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. *Id.* § 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).

5. Regarding the 30-day and 8-day pre-election reports for the November 2010 general election, credible evidence indicated that JDTEC made political expenditures totaling \$18,500 to support candidates in the November 2, 2010, general election. Accordingly, the committee was involved in the November 2010 election and the respondent was required to file a 30-day pre-election report by October 4, 2010, and an 8-day pre-election report by October 25, 2010. The reports were not filed until September 30, 2011. Therefore, there is credible evidence of violations of section 254.154 of the Election Code.
6. Regarding the July 2011 semiannual report, the committee had an active campaign treasurer appointment on file and was required to file the semiannual report by July 15, 2011. The report was not filed until July 29, 2011. Therefore, there is credible evidence of a violation of section 254.153(b) of the Election Code.

Names of Candidates Supported or Opposed and Officeholders Assisted

7. 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. *Id.* §§ 254.151(4), 254.151(5).
8. The activity at issue for which a violation may be found appears to be candidate, not officeholder, related. Credible evidence indicated that the committee supported specific candidates during the periods covered by the original January 2011 and July 2011 semiannual reports at issue, and the respondent did not disclose that information in the “Committee Activity” section of the reports. Moreover, since the respondent erroneously disclosed political expenditures as political contributions, it appeared that the committee was accepting political contributions from candidates, as opposed to making political contributions to candidates. There is credible evidence of violations of section 254.151(4) of the Election Code.

Disclosure of Political Expenditures

9. A campaign finance report must include the amount of political expenditures that in the aggregate exceed \$100 (\$50 at time of complaint) 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).

10. The respondent did not timely report the two political expenditures at issue totaling \$1,500. Therefore, there is credible evidence of violations of section 254.031(a)(3) 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 \$100 (\$50 at time of complaint) 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; 2) 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; 3) the campaign treasurer of a general-purpose committee shall file two reports for each year, the first report shall be filed not later than July 15 and covers the period beginning January 1, the day the committee's campaign treasurer appointment was filed, or the first day after the period covered by the last report required to be filed, as applicable, and continuing through June 30; and 4) 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, 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 was 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, and 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.

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 nature, circumstances, and consequences of the violations described under Sections III and IV, and after considering the sanction necessary to deter future violations, the commission imposes a \$1,000 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-31108196.

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

Weston Loegering, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director