

TEXAS ETHICS COMMISSION

IN THE MATTERS OF

JOSEPH "JOE" BASEL,
AUSTIN4ALL PAC,

RESPONDENTS

§
§
§
§
§

BEFORE THE

TEXAS ETHICS COMMISSION

SC-3160237 AND SC-3160238

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (Commission) met on June 26, 2018, to consider sworn complaints SC-3160237 and SC-3160238. A quorum of the Commission was present. The Commission determined that there is credible evidence of a violation of section 253.031 of the Election Code and section 571.1242 of the Government Code, laws administered and enforced by the Commission. To resolve and settle these complaints without further proceedings, the Commission adopted this resolution.

II. Allegations

The complaints alleged that the respondents accepted political contributions totaling more than \$500 and made or authorized political expenditures totaling more than \$500 for a political committee at a time when a campaign treasurer appointment for the committee was not in effect. The Commission also considered whether respondent Joe Basel timely submitted a response to sworn complaint SC-3160238.

III. Facts Supported by Credible Evidence

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

1. Respondent Joe Basel is the president and director of Austin 4 All, a nonprofit corporation that was in existence during the period at issue. The complaint relates to Austin4All PAC ("the PAC"), a specific-purpose committee that was formed in January 2016 to circulate a petition to hold a recall election for an Austin City Council member. The PAC filed its campaign treasurer appointment with the City of Austin ("the City") on February 8, 2016, and dissolved on July 15, 2016.

Political Contributions and Expenditures Without Treasurer Appointment

2. The complaints alleged that the respondents accepted political contributions and made or authorized political expenditures totaling more than \$500 at a time when a campaign treasurer appointment for the PAC was not in effect.
3. Attached to the complaints were several news articles discussing an effort by a group, Austin4All, to recall an Austin City Council member for her attempts to impose tighter regulations on transportation network companies. One of the articles from KUT.org titled "Tracking Down the Austin PAC Behind the Ann Kitchen Recall Petition" was posted on February 10, 2016, and indicated that canvassers had started collecting petition signatures on behalf of the PAC on January 20, 2016. The article included a picture of one of the petitions, which stated it was "Political advertising paid for by AUSTIN4ALL PAC" and listed Rachel Kania as the PAC's campaign treasurer. The article also indicated that Rachel Kania was a co-director of the PAC, along with Victoria "Tori" Moreland. Although Joe Basel is not identified as a director of the PAC, the evidence indicates that he created the PAC and was acting on behalf of the PAC and directing its activities.
4. The February 10, 2016, article from KUT.org quoted an employee with a staffing agency stating that the group, Austin4All, had hired the company to gather people to canvass for a recall petition against an Austin City Council member. In addition to the news articles, the sworn complaint contained a copy of a Craig's List advertisement posted January 23, 2016, advertising for canvassers that stated 12 canvassers had already been hired by Austin4All and that 30 canvassers were needed in total. The advertisement offered \$16.50 per hour for collecting signatures on a petition. The advertisement contained the phrase "APPLY TODAY – BE WORKING TOMORROW!!!"
5. The Commission obtained e-mail correspondence between the staffing agency and C3 Strategies LLC (aka C3 Strats LLC), which is the company that was hired by the PAC to assist the PAC in obtaining canvassers. Texas Secretary of State (SOS) records list Joe Basel as a managing member of C3 Strategies LLC. The e-mail correspondence and other documentation showed that on January 19, 2016, Joe Basel, on behalf of C3 Strategies LLC, signed a New Account Form and Staffing Agreement with the staffing agency. The documents also show that on January 21, 2016, Joe Basel wrote a check to the staffing agency for \$25,000 on behalf of C3 Strategies LLC to hire canvassers. The registered agent and general counsel for C3 Strategies LLC was also the registered agent for Austin 4 All, the nonprofit corporation. Additionally, the registered agent is the same attorney that assisted the PAC in filing its campaign treasurer appointment and campaign finance reports. The attorney was also involved in the hiring of the canvassers and was listed as a credit reference for Joe Basel on the New Account Form.
6. The Commission obtained copies of all correspondence between the City and the PAC. In response, the City provided copies of email communications between certain employees of

the City and the PAC's attorney. The first email was sent from the attorney to the City at 1:56 a.m. on February 3, 2016, wherein the attorney stated that he has a client who is filing a campaign treasurer appointment form and asked what the preferred method of filing was. The attorney subsequently emailed a copy of the campaign treasurer appointment to the City that same day at 2:15 a.m. On February 5, 2016, the attorney followed up with the City and was informed that they required a hard copy of the campaign treasurer appointment form. On February 8, 2016, the attorney filed a hard copy of the campaign treasurer appointment form and it was accepted by the City and effective on that same day.

7. Another article posted in the *Austin Monitor* reported that Rachel Kania, Tori Moreland, and Joe Basel appeared at the Austin city clerk's office on February 19, 2016, to turn in the petition signatures. The Commission obtained from the City copies of the petitions that were submitted. The petitions show that a majority of the signatures were collected in January 2016 before the PAC filed its campaign treasurer appointment.
8. On February 19, 2016, the PAC filed its first campaign finance report with the City. The report was notarized by the PAC's attorney. The report reflected \$0 in total political expenditures for the period February 3, 2016, through February 17, 2016. The report also reflected that the PAC accepted political contributions totaling \$46,600 between February 12, 2016, and February 17, 2016.
9. On July 15, 2016, the PAC filed its next July 2016 semiannual report that was also marked as a dissolution report. The report was signed by the PAC's attorney. That report indicates that the PAC made a \$15,000 political expenditure to C3 Strategies on March 22, 2016, for "Field Work." The report also showed a \$1,514.33 political expenditure to Uproot Strategies LLC (Rachel Kania's company), and a \$2,725 political expenditure to Moreland Consulting, LLC (Tori Moreland's company) both on March 9, 2016, for "Consulting." SOS records show that the corporation Austin 4 All forfeited its existence on January 27, 2017; C3 Strategies LLC forfeited its existence on August 5, 2016; Uproot Strategies LLC forfeited its existence on July 28, 2017; and Moreland Consulting, LLC forfeited its existence on January 29, 2016.
10. In response to the complaint, Joe Basel stated that "any oversight on this was not purposeful. The PAC didn't even exist yet. We understood to file within the deadlines as soon as the PAC was formed."

Response to Sworn Complaint

11. Sworn complaint SC-3160238 was filed on February 5, 2016, and listed Joe Basel as the respondent. The Commission sent a notice of the sworn complaint to the respondent at the address listed on the complaint by certified mail, return receipt requested. The notice was returned to the Commission. The Commission sent a second notice of the sworn complaint by certified mail, return receipt requested, to the address listed on SOS records for the

respondent as president of Austin 4 All, the nonprofit corporation. This notice was also returned to the Commission. The Commission sent another notice to one of the addresses listed on the PAC's most recent campaign finance report. The Commission did not receive a response from the respondent.

12. On August 11, 2017, the Commission obtained a new mailing address for the respondent and sent another notice of the complaint by certified mail, return receipt requested, and delivery confirmation. USPS records indicate that the notice sent by delivery confirmation was delivered to the respondent on August 12, 2017. The notice informed the respondent that the alleged violation in the sworn complaint was a Category One violation, and that a response was required not later than 10 business days from the date the notice was received and that failure to respond constituted a separate violation for which a separate civil penalty may be assessed. The notice sent by certified mail, return receipt requested, was refused by the respondent and returned to the Commission as unclaimed. On August 14, 2017, the respondent contacted the Commission and was informed of the allegation in the complaint and the requirement to submit a written response not later than 10 business days from the date notice was received. The respondent did not submit a written response until September 18, 2017.

IV. Findings and Conclusions of Law

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

Political Contributions and Expenditures Without Treasurer Appointment

1. A political committee may not knowingly accept political contributions totaling more than \$500 or make or authorize political expenditures totaling more than \$500 at a time when a campaign treasurer appointment for the committee is not in effect. ELEC. CODE § 253.031(b).
2. The PAC filed its campaign treasurer appointment with the City on February 8, 2016. The evidence indicates that Joe Basel formed the PAC and was responsible for authorizing the activity at issue. The evidence shows that Joe Basel wrote a check for \$25,000 on January 21, 2016, to hire canvassers for the PAC. In response to the complaint, the respondent did not deny the allegation and stated that any oversight was not purposeful. The evidence available to the Commission did not indicate that the respondents accepted political contributions in violation of section 253.031 of the Election Code.
3. There is credible evidence that the respondents made a political expenditure exceeding \$500 on behalf of the PAC at a time when a campaign treasurer appointment for the PAC was not in effect. Therefore, there is credible evidence of a violation of section 253.031 of the Election Code.

Response to Sworn Complaint

4. If the alleged violation in a sworn complaint is a Category One violation, the respondent must respond to the notice required by section 571.123(b) of the Government Code not later than the 10th business day after the date the respondent receives the notice. GOV'T CODE § 571.1242(a)(1). A respondent's failure to timely respond to a sworn complaint as required by subsection (a)(1) or (b)(1) is a Category One violation. *Id.* § 571.1242(c).
5. A notice required to be sent to a respondent under chapter 571 of the Government Code shall be sent to the address provided by the complainant or to the address most recently provided by the respondent. Ethics Commission Rules § 12.21(b).
6. The response required by section 571.1242 of the Government Code must be in writing, admit or deny the allegations set forth in the complaint, and be signed by the respondent. *Id.* § 12.52(a). If a respondent does not submit a response within the time period prescribed by section 571.1242 of the Government Code, the Commission may issue an order imposing a civil penalty for failure to file a response. *Id.* § 12.52(b).
7. Credible evidence indicates that respondent Joe Basel received legally sufficient notice of sworn complaint SC-3160238 and did not timely submit a response. Therefore, there is credible evidence of a violation of section 571.1242 of the Government Code.

V. Representations and Agreement by Respondent

By signing this order and agreed resolution and returning it to the Commission:

1. The respondents admit to the facts described under Section III and to the Commission's findings and conclusions of law described under Section IV, and consent to the entry of this order and agreed resolution for the purpose of resolving these sworn complaints.
2. The respondents consent to this order and agreed resolution and waive any right to further proceedings in these matters.
3. The respondents acknowledge that a political committee may not knowingly accept political contributions totaling more than \$500 or make or authorize political expenditures totaling more than \$500 at a time when a campaign treasurer appointment for the committee is not in effect.

Respondent Joe Basel also acknowledges that a respondent must respond to a notice of a sworn complaint that contains a Category One violation within 10 business days of receiving the notice of the sworn complaint, and failure to respond to a notice of a sworn complaint within the time required is a separate Category One violation.

The respondents agree 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 \$1,900 civil penalty against respondent Joe Basel. If the respondent does not pay the civil penalty in full by December 21, 2018, then the Commission imposes a \$5,000 civil penalty against respondent Joe Basel.

VIII. Order

The Commission hereby orders that if the respondents consent to the proposed resolution, this order and agreed resolution is a final and complete resolution of SC-3160237 and SC-3160238.

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

Joseph "Joe" Basel, Respondent
Austin4All PAC, Respondent

EXECUTED by the Commission on: _____.

Texas Ethics Commission

By: _____
Seana Willing, Executive Director