

# TEXAS ETHICS COMMISSION

IN THE MATTER OF  
TERRENCE SHANKS,  
RESPONDENT

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BEFORE THE  
TEXAS ETHICS COMMISSION  
SC-32107163

## FINAL ORDER

### I. Recitals

The Texas Ethics Commission (Commission) held a preliminary review hearing on February 15, 2023, to consider sworn complaint SC-32107163. A quorum of the Commission was present. The respondent received legally sufficient notice of the hearing but did not appear at the hearing. The Commission proceeded with the hearing in the respondent's absence and found credible evidence of violations of Section 253.031(b) of the Election Code, Section 571.1242(f) of the Government Code, and Section 12.83(a) of the Ethics Commission Rules. The Commission voted to issue this final order.

### II. Allegation

The sworn complaint alleged that Terrence Shanks accepted political contributions or made political expenditures on behalf of Texas Coalition of Black Democrats – Harris County (TCBD-HC), a political committee, at a time when the committee did not have a campaign treasurer appointment in effect, in violation of Section 253.031(b) of the Election Code.

### III. Findings of Fact and Conclusions of Law

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

1. At all times relevant to the complaint, the respondent Terrence Shanks was president of the Texas Coalition of Black Democrats – Harris County (TCBD-HC). As of February 15, 2023, Shanks was still listed as president of TCBD-HC on TCBD-HC's website, and was listed as an administrator of TCBD-HC's Facebook group.
2. The sworn complaint specifically identifies numerous monetary contributions to TCBD-HC disclosed as expenditures on candidates' campaign finance reports, and notes various public activities by TCBD-HC since TCBD-HC's campaign treasurer appointment became inactive in 2016.

**Initiation and Investigation**

3. Sworn complaint SC-32107163 was filed on July 26, 2021. Upon receiving initial notice of the complaint by telephone, Shanks confirmed that the address given for him in the sworn complaint was valid. Shanks provided a signed email waiver, and then filed his unsworn initial response to the sworn complaint on August 13, 2021.
4. Around the time this sworn complaint was filed, related sworn complaint SC-32107157 was filed against Darnella Wilkerson, the campaign treasurer of the “African American Caucus” general-purpose political committee.<sup>1</sup> In telephone conversations with Commission staff around the time these complaints were filed, Shanks indicated to Commission staff that this “African American Caucus” political committee was a “break-off” of TCBD-HC.
5. In Shanks’s initial response to SC-32107163 (the sworn complaint directly addressed by this order), Shanks stated that TCBD-HC had been inactive since July 15, 2014, and that TCBD-HC had a separate “PAC account.” Wilkerson attached to her initial response to SC-32107157, the other complaint, documents that suggested that the African American Caucus maintains, or maintained, its bank accounts with Woodforest National Bank, and that the account shown had received intra-bank fund transfers that neither Shanks nor Wilkerson had adequately explained.
6. On October 21, 2021, Commission staff sent written questions and requests for production of documents to Shanks. Despite repeated follow-up emails, and his acknowledgment in a telephone discussion with Commission staff that he received the written questions and requests for documents, Shanks did not answer the questions or produce the requested documents. Shanks told Commission staff that he was no longer president of TCBD-HC, and that his attorney would contact Commission staff. Commission staff have been contacted by no attorney representing Shanks.
7. Because neither respondent responded to Commission staff’s written questions or requests for production, and because the documents produced by Wilkerson suggested that the African American Caucus, and possibly TCBD-HC generally, maintained accounts with Woodforest National Bank, Commission staff requested that the Commission authorize a subpoena against the bank. On September 28, 2022, the Commission authorized the requested subpoena. In response to the subpoena, the bank produced 264 pages of responsive banking records.

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<sup>1</sup> Sworn complaint SC-32107157 is the subject of a companion public order adopted by the Commission along with this order.

## **Factual Background**

1. Despite TCBD-HC's supposed inactivity since 2014, the sworn complaint identifies political expenditures to TCBD-HC on campaign finance reports filed by numerous political candidates and officeholders. These expenditures are disclosed on the Schedule F1 or G portion of the candidates' and officeholders' reports, for political expenditures from political contributions or political expenditures from personal funds, respectively. The descriptions provided for the expenditures vary, but some examples read "contribution," "donation," "membership dues," "[c]ommunity [r]eception for [c]andidate," and "[s]ponsorship for [s]tate convention." Some descriptions read "GOTV," a common abbreviation for "get out the vote." The identified expenditures to TCBD-HC total \$5,494.01. Several, but not all, of the expenditures list Shanks's residential address, as confirmed to Commission staff by Shanks himself, as TCBD-HC's address.
2. Among other political activity, TCBD-HC's Facebook page and website include, or included, "slates" of endorsed candidates for numerous election cycles, including the 2018, 2020, and 2022 primary elections. These "slates" are graphical layouts listing the candidates endorsed by TCBD-HC, similar to the "slate mailers" that some political committees send by mail. Six of the eight candidates for office in 2020 that the sworn complaint identified as having made expenditures to TCBD-HC are included on TCBD-HC's endorsement slate for the 2020 primary elections.

## **Shanks's Control of TCBD-HC and AAC**

3. From 2011 through 2016, TCBD-HC had a treasurer appointment on file with the Commission as a general-purpose political committee (GPAC). According to TCBD-HC's original October 2011 treasurer appointment, Terrence Shanks appointed a certain Julie Thompson as campaign treasurer. Shortly thereafter, in May 2012, TCBD-HC filed an amended treasurer appointment appointing Dennis Bowman as the political committee's campaign treasurer. Both the original and amended treasurer appointment forms list Terrence Shanks as the person appointing the treasurer. After filing its July 2014 semiannual campaign finance report, TCBD-HC ceased filing campaign finance reports. Due to TCBD-HC's apparent inactivity, and based on Terrence Shanks' statements to Commission staff that Dennis Bowman had died, Commission staff placed TCBD-HC on inactive status in 2016. However, in all three of the telephone communications with Commission staff noted in the GPAC's file with the Commission's Division of Filing Services (DFS), DFS staff spoke with Terrence Shanks, not Dennis Bowman. Commission staff have no record of any direct communications between Commission staff and Dennis Bowman. Shanks even filed TCBD-HC's original July 2012 semiannual report; Bowman only filed a corrected report after DFS staff sent him a letter informing him that only TCBD-HC's campaign treasurer or assistant campaign treasurer could validly sign the report. Further, public records indicate that Bowman voted in the November 2020 election

and registered a motor vehicle as recently as August 12, 2022, which casts doubt on Shanks's statements to Commission staff that Bowman is dead.

4. In September 2019, Darnella Wilkerson filed a treasurer appointment creating the African American Caucus general-purpose political committee (AAC). The treasurer appointment named Wilkerson as the campaign treasurer, listed Shanks as the person appointing the treasurer, and listed TCBD-HC as the controlling entity. In addition to being campaign treasurer of AAC, Wilkerson was TCBD-HC's Director of Finance; while she recently resigned her post with TCBD-HC, she held it at all times relevant to this sworn complaint.
5. After related sworn complaint SC-32107157 was filed against Wilkerson, alleging that Wilkerson failed to report financial activity on AAC's campaign finance reports, Shanks attempted to communicate with Commission staff on Wilkerson's behalf, and Wilkerson attempted to defer to Shanks. Upon staff's insistence, Wilkerson filed with the Commission a form signed by both herself and Shanks, permitting Shanks to speak on her behalf in the sworn complaint against her. On its face, the sworn complaint against Wilkerson solely concerned AAC; it did not mention TCBD-HC. Shanks's expressed desire to speak on behalf of both TCBD-HC and AAC in both complaints, Wilkerson's deference to Shanks in responding to the sworn complaint against her, and Shanks's filing of TCBD-HC's campaign finance report while Bowman was treasurer all indicate his dominant role in both TCBD-HC and AAC. Shanks's dominance is further indicated by both TCBD-HC's and AAC's campaign treasurer appointments, which list Shanks as the person appointing the political committees' campaign treasurers. Further, neither social media nor the Internet show any trace of public activity by AAC. Considered together with Shanks's reference to AAC as TCBD-HC's "PAC account," and TCBD-HC's status as AAC's controlling entity, these facts demonstrate that AAC was an instrument of TCBD-HC, created to foster the appearance of compliance with campaign finance law. The facts further indicate Shanks's effective control of both TCBD-HC and AAC.

#### **Identifying TCBD-HC's and AAC's Accounts**

6. The banking records obtained by Commission staff include statements and other documents for three different bank accounts.
7. Terrence Shanks is listed as the owner of two of the three accounts for which the bank produced account agreements; in these agreements, Wilkerson is listed as an additional signatory. For these two accounts, the last two digits of the account numbers are 73 and 98. The first of these accounts, which saw by far the most activity, was a business checking account held in the business name "Texas Coalition of Black Democrats." This Order will refer to this account as TCBD-HC's "main account." The second account, for which the last two digits of the account number were "98," was a business savings account, also held in the name "Texas Coalition of Black Democrats." Consistent with the account number, this Order will refer to this account as the "98 account." The facts indicate that this account

served as AAC's primary bank account; therefore, this Order sometimes also refers to this account as AAC's "main account."

8. A third account, which was only in use briefly, and for which the last two digits of the account number were "39," is identified on the account statement as a personal savings account held by Wilkerson.<sup>2</sup> This Order will refer to this last account as the "39 account." The facts indicate that this 39 account served as a conduit for funds to be deposited in AAC's main account, the 98 account.
9. During the period of time in which TCBD-HC maintained its account, and AAC's accounts, with Woodforest National Bank – from when Shanks opened the TCBD-HC main account in November 2019 through the closure of all remaining accounts and withdrawal of all remaining funds in September 2021 – Wilkerson signed or endorsed the large majority of TCBD-HC's and AAC's checks, withdrawals, and deposits, at least for those bearing a signature. This is consistent with Wilkerson's official role as TCBD-HC's Director of Finance. Wilkerson was also the only signer appearing in the bank records for the accounts associated with AAC's activity, the 98 and 39 accounts.
10. Only three deposits were ever made to the 39 account, the personal savings account held in Wilkerson's name. There were three contribution checks from candidates, all made out to TCBD-HC or "Texas Coalition of Black Democrats – Hou[ston]." There was also a \$1,250 check drawn on TCBD-HC's main account, and a \$25 cash deposit that matched a \$25 cash withdrawal from TCBD-HC's main account made the same day. All of these deposits were made on February 20 and 21, 2020. The following day, February 22, 2020, Wilkerson withdrew the entire contents of the account, \$2,775, and closed the account. Also on February 22, 2020, Wilkerson deposited an identical amount of cash, \$2,775, in the 98 account. A duplicate copy of the withdrawal slip removing the cash from the 39 account can be found in the records for the 98 account, attached to a deposit slip for the same amount, \$2,775.
11. No single document in the record makes clear why Wilkerson deposited several thousand dollars in the 39 personal savings account, immediately withdrew the entire amount in cash, and then deposited the funds in the 98 main AAC account. However, that the 39 account is in Wilkerson's name as a personal account formally unattached with the other two accounts and that Shanks and Wilkerson opted to withdraw the funds from the 39 account in cash rather than effecting the transfer by more convenient means suggest that Shanks and Wilkerson wished to conceal the source of the funds. The memo lines on the checks, which read "[e]ndorsed candidate GOTV," "slate card," and "[p]oll working for [e]lection," suggest that the payments were in nature political contributions to TCBD-HC. Public knowledge that TCBD-HC had accepted political contributions from AAC might

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<sup>2</sup> The bank's officer for subpoena compliance confirmed to Commission staff that the bank had no agreement on file for this account. However, Commission staff were able to determine the account's type and ownership from the one statement that the bank issued for the account.

have compelled TCBD-HC to file a campaign treasurer appointment, as Section 253.031 of the Election Code prohibits political committees from accepting political contributions or making political expenditures exceeding a certain threshold without having a campaign treasurer appointment on file, a threshold which these contributions exceeded.<sup>3</sup>

12. In the following days, a further \$1,690 was deposited in the 98 account, including an additional \$750 from the TCBD-HC main account. After February 2020, the 98 account contained approximately \$4,345; the account was left open, but apart from accrual of interest, no further activity occurred until April 6, 2021.
13. On April 6, 2021, either Shanks or Wilkerson transferred \$2,379 from the 98 account to the TCBD-HC main account. About this time, from its main account, TCBD-HC made the only expenditures that AAC ever disclosed on a campaign finance report, namely several expenditures to allow TCBD-HC members to attend the above-mentioned political event in Austin. AAC's disclosure of these expenditures on its July 2021 semiannual campaign finance report, without disclosing contributions from which these expenditures from political contributions could have been made, was the subject of the related complaint against Wilkerson, SC-32107157.
14. There were sufficient funds in TCBD-HC's main account to pay for the Austin trip. However, AAC transferred the funds to TCBD-HC's main account to pay the expenses, and disclosed the expenditures (which, as noted above, were the only activity of any kind that AAC ever disclosed on any report) on its July 2021 semiannual report. All of TCBD-HC's and AAC's activities are conducted under the TCBD-HC name. Every check deposited in all three accounts was made out to TCBD-HC or some variant of that name; none were ever made out to AAC. As noted above, Commission staff have uncovered no publicly-visible trace of AAC's existence except for the campaign finance reports that Wilkerson filed for AAC, and the political expenditures disclosed on those reports. That the 98 account, and by extension the 39 account through which most of the funds in the 98 account were laundered, was used to fund the only activities that have ever been publicly attributed to AAC makes obvious that Shanks and Wilkerson employed the 39 and 98 accounts as AAC's accounts.

### **TCBD-HC's Financial Activity**

15. In total, as shown in the bank records, the deposits made to the three accounts (TCBD-HC's main account and the two AAC accounts) include checks for \$12,215 and \$5,725 in cash, excluding transfers between the three bank accounts. All checks were made out to TCBD-HC; none were made out to AAC. Some of the checks deposited in the TCBD-HC and AAC accounts are from candidates or officeholders. Others appear to be from members of TCBD-HC, bearing memo lines like "dues" or "membership dues." Further,

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<sup>3</sup> During the 2020 calendar year, this threshold was \$870. Tex. Elec. Code § 253.031(b); 44 Tex. Reg. 1979 (2019) (codified at 1 Tex. Admin. Code § 18.31) (Tex. Ethics Comm'n).

some of the checks are from Wilkerson; while a few of these checks are labeled as Wilkerson's own dues payments, many are labeled in the memo line as payments from other persons, mainly TCBD-HC members. The obvious conclusion concerning these payments is that on behalf of TCBD-HC, Wilkerson accepted payments from these other persons in cash or by electronic transfer, and made corresponding payments to TCBD-HC or AAC from her own funds. Further, one of the checks deposited in TCBD-HC's main account is from a sitting state representative who was up for reelection at the time, and is labeled "Donation to Mailer for Primary."

16. The bank records indicate that various political expenditures were made from TCBD-HC's main account, including payments for "polls work," and payments to Wix (a web development company), MailChimp (an email marketing platform), Absolute All Sports (a manufacturer of branded promotional products), and the Harris County Democratic Party. The bank records further include checks to a photographer and to four other individuals. The checks to these four other individuals were labeled in the memo line: "Police Detail." These expenditures to the photographer and other individuals correspond to the expenditures disclosed on campaign finance reports for the "African American Caucus" general-purpose political committee, at issue in related complaint SC-32107157, and relate to the above-mentioned political event that members of TCBD-HC attended in Austin in the spring of 2021.
17. The statements for TCBD-HC's main account include other small expenditures. These were mainly paid to office supply stores, gas stations, restaurants, and the United States Postal Service. These expenditures were not separated from those expenditures that are clearly political expenditures. Section 20.1(18) of the Ethics Commission Rules, which defines what expenditures are made "in connection with" a campaign for an elective office, prescribes a more inclusive definition applicable to political committees, to which any expenditure made to support or oppose a candidate conforms. TCBD-HC's regular publication of endorsement slates reflects its primary concern, influencing its favored party's primary elections. Commission staff's examination of TCBD-HC's public activities and private financial records did not reveal any other purpose for the organization, beyond general expressions of support for its favored party in its social media channels. Therefore, at the times TCBD-HC was a political committee, its minor administrative expenditures, in the nature of office supplies, fuel, meals, and other minor incidentals, were attributable to TCBD-HC's larger mission and therefore constituted political expenditures.
18. Further shown in the bank records for TCBD-HC's accounts are numerous withdrawals and checks made out to cash. Excluding amounts clearly withdrawn from one TCBD-HC account in cash and immediately deposited in another TCBD-HC account, the cash withdrawals total \$9,660.70. This figure includes \$4,414.70 withdrawn by Wilkerson at September 17, 2021, at which time Commission staff were attempting to persuade Wilkerson to file corrected reports for AAC. The circumstances surrounding these final

withdrawals suggest that Wilkerson withdrew the funds because of increasing pressure from Commission staff and moved the funds to an account unknown to Commission staff, with a different bank.

19. Excluding the final withdrawals made upon the closing of TCBD-HC's main account, but including the sums withdrawn in cash without apparent explanation and the amounts transferred to AAC's accounts, the expenditures made by TCBD-HC without a campaign treasurer appointment on file, from the opening of TCBD-HC's main account through the closing of TCBD's and AAC's accounts with Woodforest National Bank, total \$15,486.58.
20. Excluding amounts transferred to TCBD-HC's main account from AAC's accounts, the contributions accepted by TCBD-HC in the form of cash deposited in TCBD-HC's main account or checks made out to TCBD-HC (whether deposited in TCBD-HC's main account or endorsed to one of the AAC accounts) total \$17,940. TCBD-HC accepted \$2,379 in further contributions in the form of transfers or other payments from the AAC accounts to the main TCBD-HC account. Therefore, from the opening of the main TCBD-HC account to the closing of all TCBD-HC and AAC accounts with the bank, TCBD-HC accepted \$20,319 in contributions.
21. The status of these contributions and expenditures as political contributions and political expenditures is partially contingent on TCBD-HC's status as a political committee.

#### **TCBD-HC's Status as a Political Committee**

22. While Commission staff placed TCBD-HC on inactive status as a political committee in 2016, TCBD-HC's financial activity in 2020 once again made TCBD-HC a political committee required to file campaign finance reports, if TCBD-HC hadn't been required to file reports from the beginning.
23. As relevant, Title 15 of the Election Code defines a "political committee" as two or more persons acting in concert with a principal purpose of accepting political contributions or making political expenditures. Tex. Elec. Code § 251.001(12).
24. "Political contribution" means a campaign contribution or an officeholder contribution. *Id.* § 251.001(5). "Campaign contribution" means a contribution to a candidate or political committee that is offered or given with the intent that it be used in connection with a campaign for elective office or on a measure. *Id.* § 251.001(3). A group has as a principal purpose accepting political contributions if the proportion of the political contributions to the total contributions to the group is more than 25 percent within a calendar year. 1 Tex. Admin. Code § 20.1(17)(B). Further, contributions that support the operation of a general-purpose committee ultimately support the carrying-out of the committee's principal purposes, including the making of political expenditures in connection with elections. Tex. Ethics Comm'n Op. No. 132 (1993) (statutes interpreted by other portions



of the opinion superseded without effect to relevant portion of the opinion). Contributions to defray the administrative expenses of a general-purpose committee are therefore political contributions. *Id.*; *see also* Tex. Ethics Comm'n Op. No. 394 (1998) (“[Even c]ontributions earmarked to cover the general administrative costs of a political committee are political contributions.”).

25. “Political expenditure” means a campaign expenditure or an officeholder expenditure. Tex. Elec. Code § 251.001(11). “Campaign expenditure” means an expenditure made by any person in connection with a campaign for an elective office or on a measure. *Id.* § 251.001(7).
26. On February 18, 2020, someone, perhaps Wilkerson, deposited three checks totaling \$3,750 to TCBD-HC’s main account. The three checks were all from candidates who were running in the then-upcoming March 2020 primary elections. The memo line for one of the three checks read “endorsement rollout.” Also during February 2020, TCBD-HC accepted checks from two other primary candidates, which totaled \$1,250. The memo line for one of these checks read “Donation to Mailer for Primary.” Checks totaling \$1,500 were deposited into the 39 account, the personal savings account held in Wilkerson’s name, during the same month. These checks were from the campaign accounts of three different primary candidates, and all were made out to TCBD-HC. The memo lines on the checks read as follows: “endorsed candidate GOTV,” “slate card,” and “poll working for election.” Wilkerson deposited a \$250 check from still another candidate to the 98 account, AAC’s main account; this check was made out to “TCBD.” From the memo lines, and from the substantial amounts contributed in a short period, these payments to TCBD-HC appear to have been made in connection with the March 2020 primary elections in general, and with anticipated TCBD-HC expenditures in that election in particular, specifically to publish a slate mailer.
27. While Commission staff were not able to locate a printed copy of any slate mailer issued by TCBD-HC during this time period, Commission staff recovered from TCBD-HC’s Facebook page a digital image of a promotional slate of endorsed candidates for the March 2020 primary elections. Of the \$6,750 in contributions that TCBD-HC accepted from candidates during February 2020, most contributions were exactly \$250 in amount; however, a few candidates in higher-profile contested races contributed more. All nine candidates who contributed to TCBD-HC in February 2020 appeared on TCBD-HC’s list of endorsed candidates. Further, within the same week TCBD-HC accepted these candidate contributions, TCBD-HC’s February 2020 bank statement for its main account shows \$2,465 in cash withdrawals. How TCBD-HC disposed of this \$2,465 is not clear from the bank records; however, as noted above, the memo lines for two of the checks that TCBD-HC accepted in February 2020, from contributors whose names appeared on the “slate,” read “donation to mailer for primary” and “slate card.” TCBD-HC’s February 2020 statement also shows \$322.96 in expenditures at Office Depot at around this time. These circumstances suggest that the funds withdrawn by TCBD-HC in February 2020,

and possibly also the funds spent at Office Depot, were political expenditures made to publish a slate mailer supporting certain candidates in the March 2020 primary elections.

28. During the 2020 calendar year, TCBD-HC accepted \$7,950 in contribution checks from candidates and its members.<sup>4</sup> Further, during the 2020 calendar year, TCBD-HC also deposited \$2,620 in cash in its main account, the large majority of it in the early part of the year when TCBD-HC was accepting large contributions by check. Assuming that the \$2,620 in cash deposited in TCBD-HC's main account consisted of contributions to TCBD-HC, TCBD-HC accepted some \$10,570 in total contributions during 2020. Therefore, the \$6,750 in likely political contributions that TCBD-HC accepted in February 2020, which appear to be related to TCBD-HC's March 2020 primary endorsements and a possible advertising mailer, constitute 63.8 percent of the total contributions that TCBD-HC accepted during the 2020 calendar year. While there is no basis to conclude that TCBD-HC's cash receipts were the proceeds of commercial activity or any other form of non-contribution income, assuming for purposes of argument that none of TCBD-HC's cash receipts were contributions, the \$6,750 in likely political contributions constitutes 84.9% of the \$7,950 in contributions that TCBD-HC accepted by check. Therefore, either way the percentage is calculated, the political contributions that TCBD-HC accepted preceding the March 2020 primary elections exceed 25 percent of the total contributions received by TCBD-HC during the calendar year.
29. As noted above, TCBD-HC deposited the first political contribution checks on February 18, 2022. These checks, which were all from candidates who received TCBD-HC's endorsement, totaled \$3,750. \$3,750 constitutes 35.4% of the \$10,570 in likely contributions that TCBD-HC accepted in 2020. Therefore, even if TCBD-HC was *not* a political committee before February 18, 2022, TCBD-HC became a political committee on that date. *See* Tex. Elec. Code § 251.001, 1 Tex. Admin. Code § 20.1(17)(B).

### **Contributions Accepted and Expenditures Made Without Treasurer Appointment**

30. TCBD-HC made its first cash withdrawals associated with the March 2020 primary elections, of \$580 and \$600 respectively, on February 18 and February 20. As discussed above, in conducting TCBD-HC's and AAC's operations, Shanks and Wilkerson misused cash to conceal the source or disposition of funds. The bank statements for both organizations show extensive reliance on cash; during active periods, TCBD-HC made frequent deposits and withdrawals of several hundred dollars each. TCBD-HC's use of the 39 account, the personal account held in Wilkerson's name, to obscure the true nature of the political contributions to TCBD-HC illuminates the motive behind TCBD-HC's cash

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<sup>4</sup> This total includes checks that were made out to TCBD-HC but which were deposited in bank accounts other than the main TCBD-HC account. That some checks were subsequently deposited in accounts associated with AAC constitutes further reportable activity for both TCBD-HC and AAC, but does not alter the nature of TCBD-HC's initial acceptance of the checks, which is independently reportable as a contribution to TCBD-HC.

dealing: keeping anything that might indicate that TCBD-HC is in fact a political committee, such as a payment to a mailing house or a check that says “slate mailer” in the memo line, off TCBD-HC’s main account statements.

31. During the 2020 calendar year, a political committee could not knowingly accept political contributions totaling more than \$870 or make or authorize political expenditures totaling more than \$870 at a time when a campaign treasurer appointment for the committee was not in effect. Tex. Elec. Code § 253.031(b); 44 Tex. Reg. 1979 (2019) (codified at 1 Tex. Admin. Code § 18.31) (Tex. Ethics Comm’n). At no time since 2016 has TCBD-HC had a campaign treasurer appointment on file. Therefore, since TCBD-HC became a political committee not later than February 18, 2022, and since TCBD-HC had cumulatively accepted more than \$870 in political contributions evidenced by a February 18, 2022 deposit, and cumulatively made more than \$870 in political expenditures evidenced by February 18 and February 20, 2022 cash withdrawals, all political contributions that TCBD-HC accepted and all political expenditures that TCBD-HC made on or after these respective dates it accepted or made in violation of Section 253.031(b) of the Election Code.
32. Including all checks made out to TCBD-HC, whether deposited in TCBD-HC’s main account or AAC’s accounts, all cash of unknown origin deposited in TCBD-HC’s main account, and all transfers from AAC to TCBD-HC, the bank records indicate that TCBD-HC accepted \$10,284 in political contributions from TCBD-HC’s definite assumption of status as a political committee on February 18, 2020 through the closure of the accounts with Woodforest National Bank on September 17, 2021. There is therefore credible evidence that, as president of TCBD-HC, Shanks accepted political contributions totaling more than \$870 – namely, \$10,284 in political contributions – at a time when no campaign treasurer appointment was in effect for TCBD-HC, in violation of Section 253.031(b) of the Election Code.
33. Including all expenditures made from TCBD-HC’s main account, but excluding the final withdrawal of funds from the account on September 17, 2021, which circumstances suggest was intended to evade the Commission’s investigation and which therefore did not necessarily represent an expenditure of funds, the bank records indicate that TCBD-HC made \$11,514.04 in political expenditures from TCBD-HC’s assumption of the status of a political committee on February 18, 2020, through the closure of the accounts with Woodforest National Bank on September 17, 2021. There is therefore credible evidence that, as president of TCBD-HC, Shanks made or authorized political expenditures totaling more than \$870 – namely, \$11,514.04 in political expenditures – at a time when no campaign treasurer appointment was in effect for TCBD-HC, in violation of Section 253.031(b) of the Election Code.

**Failure to Respond to Written Questions**

34. The sworn complaint was filed on July 26, 2021. Upon receiving initial notice of the sworn complaint, Shanks confirmed the validity of the address in the sworn complaint and provided a signed email waiver allowing the Commission to send correspondence to him by email.
35. On October 21, 2021, Commission staff sent written questions and requests for production of documents to Shanks. Commission staff sent the written questions and requests for production to the email address that Shanks specified in his email waiver. Despite repeated prompting in an email exchange with Commission staff, Wilkerson never answered the questions or produced the requested documents.
36. During a preliminary review, Commission staff may submit to the respondent written questions reasonably intended to lead to the discovery of matters relevant to the investigation. Tex. Gov't Code § 571.1242(f). A respondent must respond to written questions sent pursuant to Section 571.1242(f) of the Government Code not later than 15 business days after receiving the written questions. 1 Tex. Admin. Code § 12.83(a).
37. Because Shanks never responded to Commission staff's written questions, there is credible evidence of a violation of Section 571.1242 of the Government Code and Section 12.83(a) of the Ethics Commission Rules.

**IV. Default Judgment**

1. The preliminary review hearing was held in person and by video teleconference on February 15, 2023, at the State Capitol Extension, Room E1.014, in Austin, Texas. The respondent failed to appear at the hearing, either in person or remotely.
2. 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. 1 Tex. Admin. Code § 12.21(b).
3. After the initial written notice regarding the filing of a sworn complaint has been sent to a respondent by registered or certified mail, restricted delivery, return receipt requested, the Commission may send the respondent any additional notices regarding the complaint by regular mail unless the respondent has notified the Commission to send all notices regarding the complaint by registered or certified mail, restricted delivery, return receipt requested. Tex. Gov't Code § 571.032.
4. A respondent may waive the right under Section 571.032 of the Government Code to receive written notices related to the complaint by registered or certified mail, restricted delivery, return receipt requested, and may agree to receive written notices related to the

- complaint by first class mail, electronic mail, or other means. 1 Tex. Admin. Code § 12.21(d).
5. If a respondent fails to appear at a hearing, the Commission may proceed in the respondent's absence and may find credible evidence of the violations alleged in the complaint and may issue a final order imposing a civil penalty. *Id.* § 12.23.
  6. On December 30, 2022, Commission staff sent an initial notice of the February 15, 2023 preliminary review hearing to Shanks via email and first-class mail with delivery confirmation. The email was sent to the email address included in the waiver that Shanks filed with the Commission, at which Commission staff had previously corresponded with him. The physically mailed notice was sent to the address provided for Shanks in the sworn complaint, which he had confirmed as valid. USPS records confirm that the physically mailed notice was delivered.
  7. On January 13, 2023, Commission staff sent a second notice of the preliminary review hearing to Shanks; this notice was also sent by email and first class mail, delivery confirmation, to the same addresses. Commission staff included with the second notice Commission staff's memorandum to the Commissioners concerning the allegations, copies of all documents expected to be used at the hearing, and a list of all witnesses that Commission staff proposed to call at the meeting. USPS records confirm that the physically mailed copy of the second notice was also delivered.
  8. The Commission finds that the respondent received legally sufficient notice of the sworn complaint and the February 15, 2023 preliminary review hearing in this case. Commission staff sent the required notices of the hearing, which were delivered to email and physical mail addresses previously confirmed as valid by the respondent. The Commission proceeded in the respondent's absence and issued this final order in accordance with Section 12.23 of the Ethics Commission Rules. By failing to appear at the preliminary review hearing, the respondent forfeited his right to further proceedings before the Commission in this matter. This final order is a final and complete resolution of this complaint before the Commission, except for the issue of collection of the civil penalty.
  9. The Commission finds credible evidence of violations of Section 253.031(b) of the Election Code, Section 571.1242 of the Government Code, and Section 12.83(a) of the Ethics Commission Rules.

## **V. Sanction**

1. The Commission may impose a civil penalty of not more than \$5,000 or triple the amount at issue under a law administered and enforced by the Commission, whichever amount is more, for a delay in complying with a Commission order or for violation of a law administered and enforced by the Commission. Tex. Gov't Code § 571.173.

2. The Commission shall consider the following factors in assessing a sanction: 1) the seriousness of the violation, including the nature, circumstances, consequences, extent, and gravity of the violation; 2) the history and extent of previous violations; 3) the demonstrated good faith of the violator, including actions taken to rectify the consequences of the violation; 4) the penalty necessary to deter future violations; and 5) any other matters that justice may require. *Id.* § 571.177.
3. A heavy penalty is required for the violations found by the Commission in this sworn complaint. First, even if the violations at issue in the complaint are considered in isolation, separately from factors pertaining particularly to the respondent and the special deterrence concerns raised here, a substantial penalty is required. The evidence indicates that Shanks, as president of TCBD-HC, participated in the March 2020 primary elections by accepting political contributions and making political expenditures. The public must be able to rely on political committees to file campaign treasurer appointments and campaign finance reports to provide information about the sources of their funding and the nature of their political expenditures. Since TCBD-HC's activity preceding the March 2020 elections, TCBD-HC has accepted at least \$11,514.04 in political expenditures. The public received none of the disclosure to which it is entitled about this activity; a search of Commission filings by TCBD-HC and AAC would reveal nothing about the sources of TCBD-HC's financial support.
4. TCBD-HC's activity presents particular cause for public concern because it appears from TCBD-HC's 2020 endorsement slate and its banking records that TCBD-HC may be "selling" its endorsements in exchange for financial contributions. TCBD-HC has avoided potentially unpleasant public inquiry on this unsavory topic by evading its reporting obligations. Further, Commission staff uncovered TCBD-HC candidate endorsement slates for the 2018 and 2022 primary elections, which suggest that TCBD-HC's involvement in the March 2020 primary election was not an isolated event.
5. Not only are the violations serious in extent and consequences, the circumstances indicate that they were committed in a bad faith attempt to evade public disclosure. In 2013 and 2014, sworn complaints SC-31309150 and SC-3140267 were filed against then-current TCBD-HC campaign treasurer Dennis Bowman for various reporting violations associated with TCBD-HC. These sworn complaints resulted in public orders finding violations. In 2014, Bowman ceased filing campaign finance reports for TCBD-HC. Shanks represented to Commission staff that TCBD-HC stopped filing because Bowman was dead, but public records uncovered by Commission staff indicate that Bowman is still alive. The circumstances indicate instead that TCBD-HC instead stopped filing reports to avoid potential further scrutiny for filing violations. In particular, given the extensive cash dealing shown in TCBD-HC's banking records, Shanks may have desired to avoid detailed disclosure of the sources and disposition of TCBD-HC's funds. Whatever his specific motive, Shanks evaded the campaign finance disclosure requirements by fabricating Bowman's death and lying to Commission staff.

6. Finally, the respondent did not respond in good faith to the sworn complaint resolved by this Order. Shanks evaded Commission staff's written questions, and TCBD-HC and AAC moved all remaining funds out of the bank accounts of which Commission staff were aware. That after years of evasion and using others to deflect scrutiny, Shanks's response to this sworn complaint was to ignore it and move funds to cut off the trail of documentary evidence is the capstone on a series of deceptions going back to at least 2014.
7. Due to the seriousness of the violations, Shanks's demonstrated bad faith (in committing the violations at issue, in his response to this sworn complaint, and in his unscrupulous evasion of TCBD-HC's reporting responsibilities in general), and the need to deter future violations, the Commission imposes on Shanks civil penalties totaling \$27,500: a \$25,000 civil penalty for the reporting violations found in this Order, and an additional \$2,500 civil penalty for his failure to respond to Commission staff's written questions.
8. Therefore, the Commission orders that the respondent pay to the Commission, within 30 days of the date of this order, a civil penalty in the amount of \$27,500. If the respondent does not pay the \$27,500 civil penalty within 30 days of the date of this order, the matter of the collection of the civil penalty will be referred to the Office of the Attorney General of Texas.

Order Date: \_\_\_\_\_

FOR THE COMMISSION

\_\_\_\_\_  
J.R. Johnson  
Executive Director  
Texas Ethics Commission