

# TEXAS ETHICS COMMISSION

IN THE MATTER OF	§	BEFORE THE
	§	
NOEMI M. LOPEZ, CAMPAIGN	§	
TREASURER, TEXAS WOMEN'S	§	TEXAS ETHICS COMMISSION
POLITICAL CAUCUS CAMPAIGN	§	
SUPPORT COMMITTEE	§	
	§	
RESPONDENT	§	SC-2912308

## ORDER and AGREED RESOLUTION

### I. Recitals

The Texas Ethics Commission (the commission) met on June 11, 2010, to consider sworn complaint SC-2912308. 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 and section 20.62 of the Ethics Commission Rules, and technical or *de minimis* 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 as the campaign treasurer for the Texas Women's Political Caucus Campaign Support Committee the respondent: (1) failed to properly report political contributions and political expenditures, (2) improperly reported political expenditures as reimbursements, (3) failed to 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 (4) failed to include the name of each identified officeholder or classification by party of officeholders assisted by the committee.

### III. Facts Supported by Credible Evidence

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

1. The respondent is the campaign treasurer for Texas Women's Political Caucus Campaign Support Committee (TWPCSC), a general-purpose committee that files on the regular reporting schedule with the Ethics Commission.

2. The respondent was TWPCCSC's campaign treasurer at all times relevant to the complaint and filed all campaign finance reports for TWPCCSC at issue in this sworn complaint.
3. The complaint alleged that the respondent:
  - Failed to fully disclose the name or address of one political expenditure and one political contribution on TWPCCSC's 8-day pre-election report for the November 2008 election.
  - Improperly reported the amount of total political expenditures on TWPCCSC's 30-day pre-election report for the November 2008 election, 8-day pre-election report for the November 2008 election, January 2009 semiannual report and July 2009 semiannual report.
  - Failed to properly report total political contributions maintained on TWPCCSC's 30-day pre-election report for the November 2008 election, 8-day pre-election report for the November 2008 election, January 2009 semiannual report, and July 2009 semiannual report.
  - Improperly reported reimbursement to staff on TWPCCSC's 8-day pre-election report for the November 2008 election.
  - Failed to include the name of each identified officeholder or classification by party of officeholders assisted by the committee on TWPCCSC's July 2009 semiannual report.
  - Failed to 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 on TWPCCSC's July 2009 semiannual report.

### **30-Day Pre-Election Report**

4. On October 3, 2008, the respondent filed a 30-day pre-election report for the November 2008 election covering from July 1, 2008, through September 25, 2008. The report disclosed zero for political contributions, \$100 in total political expenditures, and \$1,248 in total political contributions maintained. The report itemized one \$84 non-political expenditure to the "U.S. Postmaster" for "postage" and one \$100 political expenditure to "National Women's Political Caucus PAC" for "contribution to PAC."
5. On January 14, 2010, the respondent filed a second 30-day pre-election report for the November 2008 election, covering from July 1, 2008, through September 25, 2008. The report did not include a correction affidavit, and the information disclosed is identical to the originally filed report. The only difference between this report and the originally filed report is the fact that this report was filed electronically.

6. On January 14, 2010, the respondent filed a corrected 30-day pre-election report for the November 2008 election, covering from July 1, 2008, through September 25, 2008. The report disclosed zero political contributions, \$703.84 in total political expenditures and \$727.92 in total political contributions maintained. In the correction affidavit filed with the report the respondent stated that she “misinterpreted what I had considered to be administrative as non-political,” and acknowledged that “a bank service charge was inadvertently omitted from the original report.” The \$84 non-political expenditure to the “U.S. Postmaster” was moved to the schedule for political expenditures on the report. A \$500 political expenditure to the “Mexiarte Museum” for “rental space for fundraiser” was also added to the schedule used to itemize political expenditures.

### **8-Day Pre-Election Report**

7. On October 26, 2008, the respondent filed an 8-day pre-election report for the November 2008 election covering from September 26, 2008, through October 24, 2008. The report disclosed \$5,655 in total political contributions, zero political expenditures, and \$5,587 in total political contributions maintained.
8. On October 28, 2008, the respondent filed a corrected 8-day pre-election report for the November 2008 election covering from September 26, 2008, through October 24, 2008. The report disclosed \$5,905 in total political contributions, zero political expenditures, and \$5,587 in total political contributions maintained. The report added one \$250 in kind-contribution. The report also disclosed the \$500 political contribution from UTU PAC that is at issue in this complaint. UTU PAC is the recognized abbreviation of the United Transportation Union PAC, a general-purpose committee that files with the commission. The report also disclosed approximately \$1,320 in non-political expenditures, including the following:
  - A \$51.33 expenditure to an individual for “Sound system and address list for fundraiser.”
  - A \$324.13 expenditure to an individual for “Food for fundraiser.”
  - A \$11.09 expenditure to an individual for “Ice for fundraiser.”
  - A \$15.97 expenditure to an individual for “Soft drinks and cups for fundraiser.”
9. The complaint alleged that the respondent failed to fully disclose the name or address of a \$258.80 political expenditure to TASB, however, there is no payee by that name disclosed in the report. There is a \$258.80 non-political expenditure to CRT for “award (placques) [sic] for honorees at fundraiser,” itemized on the report that contains a complete address, and there is a company, CRT awards, at the address disclosed on the report.
10. On January 15, 2010, the respondent filed a second corrected 8-day pre-election report for the November 2008 election, covering from September 26, 2008, through October 24, 2008.

The report disclosed \$5,905 in total political contributions, \$752.28 in total political expenditures (including \$98.75 of expenditures of \$50 or less), and \$5,630.64 in total political contributions maintained. The corrected report:

- Removed a \$500 non-political expenditure to the Mexiarte Museum and disclosed it as a political expenditure on TWPCCSC's corrected 30-day pre-election report for the November 2008 election.
  - Removed an \$84 non-political expenditure to the U.S. Postmaster and disclosed it as a political expenditure on TWPCCSC's corrected 30-day pre-election report for the November 2008 election.
  - Changed the \$324.13 non-political expenditure to an individual for "Food for fundraiser," to a \$324.13 political expenditure to "H.E.B." for "Food for fundraiser-reimburse an individual"
  - Approximately \$330 in previously itemized non-political expenditures to CRT and Dan's Liquor were changed to political expenditures. The report also added \$98.75 in total political expenditures of \$50 or less.
  - The report no longer discloses any non-political expenditures.
11. On January 15, 2010, the respondent filed a third corrected 8-day pre-election report for the November 2008 election, covering from September 26, 2008, through October 24, 2008. The report disclosed \$5,905 in total political contributions, \$752.28 in total political expenditures (including \$98.75 of expenditures of \$50 or less), and \$5,630.64 in total political contributions maintained. The name of UTU PAC disclosed as a contributor on TWPCCSC's originally filed reports was changed to "United Transportation Union PAC."

### **Special Pre-Election Report**

12. On November 1, 2008, the respondent filed a special pre-election report for the November 2008 election for TWPCCSC, detailing expenditures made on October 31, 2008. The report detailed \$5,300 in expenditures made by TWPCCSC. The purpose of all but one campaign expenditure was "Campaign Contribution." The remaining expenditure disclosed "Political Action Committee," as its purpose.

### **January 2009 Semiannual Report**

13. On January 15, 2009, the respondent filed a January 2009 semiannual report for TWPCCSC, covering from October 25, 2008, though December 31, 2009. The report disclosed zero political contributions, zero political expenditures, and \$210 in total political contributions maintained. The expenditures disclosed on TWPCCSC's November 1, 2008, special pre-election report were not disclosed on this report.
14. On January 15, 2010, the respondent filed a corrected January 2009 semiannual report covering from October 25, 2008, though December 31, 2009. The report disclosed \$250 in

total political contributions, \$62.37 in total political expenditures, and \$518.27 in total political contributions maintained. The report added two itemized political contributions totaling approximately \$250.

15. The expenditures disclosed on TWPCSC's November 1, 2008, special pre-election report were still not disclosed on this report.

### **July 2009 Semiannual Report**

16. On July 15, 2009, the respondent filed a July 2009 semiannual report for TWPCSC, covering from January 1, 2009, through June 30, 2009. The report disclosed \$500 in total political contributions, \$350 in total political expenditures, and \$295 in total political contributions maintained.
17. On January 15, 2010, the respondent filed a corrected July 2009 semiannual report, covering from January 1, 2009, through June 30, 2009. The report disclosed \$500 in total political contributions, \$435.34 in total political expenditures, and \$582.93 in total political contributions maintained.

### **IV. Findings and Conclusions of Law**

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

1. Each campaign finance report must include the amount of political contributions from each person that in the aggregate exceed \$50 and that are accepted during the reporting period by the person or committee required to file a report under this chapter, the full name and address of the person making the contributions, and the dates of the contributions. ELEC. CODE § 254.031(a)(1). Each campaign finance report must include the amount of political expenditures that in the aggregate exceed \$50 and that are made during the reporting period, the full name and address of the persons to whom the expenditures are made, and the dates and purposes of the expenditures. ELEC. CODE § 254.031(a)(3). 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). The report must also 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).

#### Disclosure of Names and Addresses of Political Contributions and Expenditures

2. The complaint alleged that the respondent failed to fully disclose the name of a \$500 political contribution from UTU PAC on TWPCSC's 8-day pre-election report for the November 2008 election. UTU PAC is the recognized abbreviation of the United

Transportation Union PAC, a general-purpose committee that files with the commission. Thus, TWPCCSC included the name of the \$500 contribution at issue on their 8-day pre-election report for the November 2008 election. Therefore, with regard to the political contribution from UTU PAC, there is credible evidence of no violation of section 254.031(a)(1) of the Election Code.

3. The complaint alleged that the respondent failed to fully disclose the payee name or address of a \$258.80 political expenditure from TASB on TWPCCSC's 8-day pre-election report for the November 2008 election. That report did not contain a political expenditure to a payee named TASB, and there is no additional evidence that TWPCCSC made a political expenditure to that payee during the period covered by the report. There is an expenditure in that amount to another entity that is properly disclosed. Therefore, as to the alleged expenditure to TASB, there is credible evidence of no violation of section 254.031(a)(3) of the Election Code.

#### Reporting Total Political Contributions and Expenditures

4. The complaint alleged that the respondent improperly reported the amount of total political expenditures on TWPCCSC's 30-day pre-election report for the November 2008 election. The respondent corrected TWPCCSC's 30-day pre-election report for the November 2008 election as a result of this sworn complaint. The respondent's originally filed report disclosed \$100 in total political expenditures. TWPCCSC's most recent corrected report disclosed \$703.84 in total political expenditures. Therefore, as to TWPCCSC's 30-day pre-election report for the November 2008 election, there is credible evidence of a violation of section 254.031(a)(6) of the Election Code.
5. The complaint alleged that the respondent improperly reported the amount of total political expenditures on TWPCCSC's 8-day pre-election report for the November 2008 election. The complainant based his allegations on the corrected 8-day pre-election report filed by TWPCCSC on October 28, 2008. That report disclosed no political expenditures, but did itemize approximately \$1,320 in non-political expenditures. The respondent filed a second corrected 8-day pre-election report for the November 2008 election on January 15, 2010. The second corrected report disclosed \$752.28 in total political expenditures. Various expenditures were also moved between schedules and reports. The respondent later filed a third corrected report but did not change the total amount of political expenditures. However, it is clear from the previous changes that the respondent did not disclose the correct amount of total political expenditures on TWPCCSC's originally filed 8-day pre-election report for the November 2008 election. Therefore, as to TWPCCSC's 8-day pre-election report for the November 2008 election, there is credible evidence of a violation of section 254.031(a)(6) of the Election Code.

6. The complaint alleged that the respondent improperly reported the amount of total political expenditures on TWPCCSC's January 2009 semiannual report. TWPCCSC's originally filed report did not disclose any political expenditures. The respondent filed a corrected January 2009 semiannual report on January 15, 2010. TWPCCSC's corrected report disclosed \$62.37 in total political expenditures. The corrected report does not disclose the \$5,300 in expenditures shown on TWPCCSC's special pre-election report filed November 1, 2008. Those expenditures occurred during the period covered by TWPCCSC's January 2009 semiannual report, and should have been disclosed on that report. Therefore, the respondent did not disclose the correct amount of total political expenditures on TWPCCSC's originally filed January 2009 semiannual report.
7. The evidence also indicated that the respondent added two contributions totaling approximately \$250 to TWPCCSC's corrected January 2009 semiannual report. TWPCCSC's originally filed January 2009 semiannual report disclosed no political contributions, while the corrected report disclosed \$250 in total political contributions. From those changes, it is clear that the respondent did not disclose the correct amount of total political contributions on TWPCCSC's originally filed January 2009 semiannual report. Therefore, as to TWPCCSC's originally filed January 2009 semiannual report, there is credible evidence of violations of section 254.031(a)(6) of the Election Code with respect to the total political contributions and total political expenditures.
8. The complaint alleged that the respondent improperly reported the amount of total political expenditures on TWPCCSC's July 2009 semiannual report. TWPCCSC's originally filed report disclosed \$350 in total political expenditures. The respondent filed a corrected July 2010 semiannual report on January 15, 2010. The corrected report disclosed \$435.34 in total political expenditures, the additional expenses consisted of bank service charges. The difference between the reports is \$85. Therefore, as to TWPCCSC's originally filed July 2009 semiannual report, there is credible evidence of a *de minimis* violation of section 254.031(a)(6) of the Election Code.

#### Reporting Total Political Contributions Maintained

9. The complaint alleged that the respondent failed to properly report total political contributions maintained on TWPCCSC's 30-day pre-election report for the November 2008 election, 8-day pre-election report for the November 2008 election, January 2009 semiannual report and July 2009 semiannual report. The amount of political contributions maintained cannot necessarily be calculated by looking at the face of a report. However, the respondent's corrected reports disclosed different amounts of total political contributions maintained than what was originally reported. The corrected amounts disclosed discrepancies between \$43 and \$310. Therefore, with regard TWPCCSC's 30-day pre-election report for the November 2008 election, 8-day pre-election report for the November 2008 election, January 2009 semiannual report and July 2009 semiannual report, there is credible evidence of violations of section 254.031(a)(8) of the Election Code.

Reporting Reimbursement

10. Ethics Commission Rule § 20.62 states that political expenditures made out of personal funds by a staff member of an officeholder or candidate, with the intent to seek reimbursement from the officeholder or candidate, that in the aggregate do not exceed \$5,000 during the reporting period may be reported as follows if the reimbursement occurs during the same reporting period that the initial expenditure was made:
  - (1) The amount of political expenditures that in the aggregate exceed \$50 and that are made during the reporting period, the full name and address of the persons to whom the expenditures are made and the dates and purposes of the expenditures; and
  - (2) Included with the total amount or a specific listing of the political expenditures of \$50 or less made during the reporting period.
11. The complaint alleged that the respondent improperly reported reimbursement on TWPCCSC's 8-day pre-election report for the November 2008 election. The total amount of expenditures at issue on that report was approximately \$400. TWPCCSC's originally filed reports disclosed the names and addresses of the individuals who were reimbursed by TWPCCSC. The respondent did not disclose the names and addresses of those vendors who were actually paid by the individuals. Thus, the respondent failed to properly disclose the names or addresses of the actual payees of those expenditures. Therefore, there is credible evidence that the respondent violated section 254.031(a)(3) of the Election Code and section 20.62 of the Ethics Commission Rules.

**Candidate/Officeholder Information on a Campaign Finance Report**

12. Each campaign finance report 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. ELEC. CODE § 254.151(4). The report must also include the name of each identified officeholder or classification by party of officeholders assisted by the committee. ELEC. CODE § 254.151(5).
13. The complaint alleged that the respondent failed to 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 on TWPCCSC's July 2009 semiannual report. The evidence indicates that the respondent made one political expenditure in the form of a campaign contribution to one candidate during the period covered by TWPCCSC's July 2009 semiannual report. TWPCCSC's July 2009 semiannual report failed to disclose in section 13 (used to disclose committee activity) that they supported that candidate. However, it is clear from the face of the report that they supported that candidate by



contributing to his campaign. Therefore, there is credible evidence of a technical or *de minimis* violation of section 254.151(4) of the Election Code.

14. The complaint alleged that the respondent failed to include the name of each identified officeholder or classification by party of officeholders assisted by the committee on TWPCSC's July 2009 semiannual report. There is no evidence that the respondent assisted any officeholders during the time at issue. Therefore, there is insufficient evidence of a violation of section 254.151(5) 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 campaign finance report must include the amount of political expenditures that in the aggregate exceed \$50 and that are made during the reporting period, the full name and address of the persons to whom the expenditures are made, and the dates and purposes of the expenditures. The respondent acknowledges that 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 the report must also 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. The respondent also acknowledges that section 20.62 of the Ethics Commission Rules describes the proper method for disclosing reimbursements. The respondent also acknowledges that each campaign finance report 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.

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 seriousness of 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 \$400 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-2912308.

AGREED to by the respondent on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Noemi M. Lopez, Respondent

EXECUTED ORIGINAL received by the commission on: \_\_\_\_\_.

Texas Ethics Commission

By: \_\_\_\_\_  
David A. Reisman, Executive Director