

# TEXAS ETHICS COMMISSION

IN THE MATTER OF	§	BEFORE THE
	§	
EDWARD O'ROURKE, CAMPAIGN	§	
TREASURER, CITIZENS AND LABOR	§	TEXAS ETHICS COMMISSION
FOR GOOD GOVERNMENT,	§	
	§	
RESPONDENT	§	SC-31008239

## ORDER and AGREED RESOLUTION

### I. Recitals

The Texas Ethics Commission (the commission) met on October 21, 2010, to consider sworn complaint SC-31008239. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 254.031 and 254.154 of the Election Code, as well as credible evidence of a technical or *de minimis* violation of section 254.151 of the Election Code, laws administered and enforced by the commission. To resolve and settle this complaint without further proceedings, the commission proposed this resolution to the respondent.

### II. Allegations

The complaint alleged that the respondent, as campaign treasurer of a political committee, failed to properly disclose political contributions, failed to disclose the names of candidates and officeholders supported or assisted by the committee, and failed to timely file campaign finance reports.

### 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 Citizens and Labor for Good Government (CLGG), a general-purpose committee.

#### Total Political Contributions Maintained

2. The complaint alleged that the respondent failed to properly disclose total political contributions maintained on five campaign finance reports filed from July 15, 2009, through July 15, 2010. The allegations are based on the disclosure of total political contributions maintained of \$8,065.23 in CLGG's report filed July 22, 2008, as a 10 day

after campaign treasurer termination report (the respondent was not treasurer at that time). CLGG's next report, filed by the respondent, disclosed no activity and political contributions maintained of \$5,433.89. The allegations appear to be based on the \$2,631.34 difference between the two reports.

3. In response to the complaint, the respondent swore that the amounts of total political contributions maintained disclosed on each campaign finance report were correctly reported, and provided a copy of the bank statement that showed the committee's bank balance when he became treasurer as \$5,433.89. (It appears that on June 3, 2009, the account was debited \$25.70 for a check order. Thus, the balance as of June 30, 2009, was actually \$5,408.19).

### **Full Name of Contributor**

4. The complaint alleged that the respondent failed to disclose on the 8-day pre-election report for the March 2010 primary election the full names of persons making political contributions. The report disclosed four contributions totaling \$2,150. The complaint alleged that three of the contributions, totaling \$1,625, did not disclose the full name of the contributor because they disclosed only an acronym. In response to the complaint, the respondent swore that he thought the use of common abbreviations for the names of the contributors was acceptable. The respondent filed a corrected report and disclosed the full names of the contributors.

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

5. The complaint alleged that the respondent failed to disclose the names of each identified candidate supported or opposed by the committee, and each identified officeholder assisted by the committee on two campaign finance reports. The "Committee Activity" section of the committee's 8-day pre-election report for the March 2010 primary did not disclose that the committee supported or opposed any candidates, or that the committee assisted any officeholders. Schedule F disclosed that the committee made three political expenditures totaling \$900 to three candidates with stated purposes of "County court 2" and "Mayor race." In response to the complaint, the respondent filed a corrected report and disclosed the names of the candidates supported on the "Committee Activity" section of the report's cover sheet.
6. The "Committee Activity" section of the respondent's 8-day pre-election report for the May 2010 uniform election did not disclose that the committee supported or opposed any candidates, or that the committee assisted any officeholders. Schedule F disclosed that the committee made expenditures totaling \$1,500 to five candidates with the stated purpose of "Support from CLGG." In response to the complaint, the respondent filed a corrected report and disclosed the names of all but one of the candidates supported on the "Committee Activity" section of the report's cover sheet.

**Timely Filing of Reports**

7. The complaint alleged that the respondent failed to file a January 2009 semiannual report and failed to timely file the 8-day pre-election report for the March 2010 primary election. The 8-day pre-election report was due on February 22, 2010. The respondent filed the report on March 9, 2010, 14 days after the deadline. The respondent acknowledged that the report was filed late. Commission records show that the respondent met the statutory requirements for an administrative penalty waiver and the commission had waived the penalty prior to the sworn complaint being filed.

**IV. Findings and Conclusions of Law**

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

**Total Political Contributions Maintained**

1. Each report must include as of the last day of the reporting period, the total amount of political contributions accepted, including interest or other income on those contributions, maintained in one or more accounts in which political contributions are deposited as of the last day of the reporting period. A *de minimis* error in calculating or reporting a cash balance is not a violation. ELEC. CODE § 254.031(a)(8) and (a-1).
2. The respondent swore that the amounts of total political contributions maintained disclosed on the political committee's campaign finance reports were correct. The bank statements generally confirm the respondent's statement (there appears to be a \$25.70 discrepancy). Any discrepancy appears to be a *de minimis* reporting error. Therefore, there is credible evidence that the respondent did not violate section 254.031(a)(8) of the Election Code.

**Full Name of Contributor**

3. 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).
4. The respondent filed corrections to the report and disclosed the full name of each contributor at issue. However, at the time the original report was filed the respondent failed to disclose this information. Therefore, there is credible evidence of violations of section 254.031(a)(1) of the Election Code.

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

5. Each report by a campaign treasurer of a general-purpose committee must include the name of each identified candidate or measure or classification by party of candidates supported or opposed by the committee, indicating whether the committee supports or opposes each listed candidate, measure, or classification by party of candidates, and the name of each identified officeholder or classification by party of officeholders assisted by the committee. ELEC. CODE § 254.151(4) and (5).
6. As a general-purpose committee that supported or assisted candidates by making campaign contributions, the respondent was required to disclose the names of the candidates supported in the “Committee Activity” section of its campaign finance reports. The committee’s reports disclosed political expenditures to support candidates on Schedule F. The reports did not disclose the information in the “Committee Activity” section of the reports’ cover sheets, but disclosed the information in Schedule F of the reports. Therefore, there is credible evidence of technical or *de minimis* violations of section 254.151(4) of the Election Code. Because the political committee’s expenditures were made to support candidates and not officeholders, there is credible evidence of no violation of section 254.151(5) of the Election Code.

**Timely Filing of Reports**January 2009 Semiannual Report

7. The campaign treasurer of a general-purpose committee shall file two reports for each year. The second report shall be filed not later than January 15. The report covers the period beginning July 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 December 31. ELEC. CODE § 254.153(c).
8. The respondent was not the campaign treasurer for the committee and the committee was inactive during the period covered by the January 2009 semiannual report. Thus, the respondent was not responsible for filing the report. Therefore, there is credible evidence that the respondent did not violate section 254.153 of the Elections Code regarding that report.

March 8-day Pre-election Report

9. 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. ELEC. CODE § 254.154(a). 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).

10. The commission may not impose a civil penalty on a general-purpose committee for a violation of this chapter if the report filed by the committee that is the subject of the violation discloses that the committee did not accept political contributions totaling \$3,000 or more, accept political contributions from a single person totaling \$1,000 or more, or make or authorize political expenditures totaling \$3,000 or more during, (1) the reporting period covered by the report that is the subject of the violation; or (2) either of the two reporting periods preceding the reporting period described by Subdivision (1).
11. The respondent's 8 day pre-election report for the March 2010 primary election was due on February 22, 2010. The commission previously considered the late report in the administrative process and waived the administrative penalty. There is credible evidence of a violation of section 254.154(c) of the Election Code, but the commission may assess no penalty.

### **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 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. The respondent also acknowledges that each report by a campaign treasurer of a general-purpose committee must include the name of each identified candidate or measure or classification by party of candidates supported or opposed by the committee, indicating whether the committee supports or opposes each listed candidate, measure, or classification by party of candidates. The respondent also acknowledges that a campaign treasurer of a general-purpose political committee must file two campaign finance reports for each election in which the committee is involved. The second report is due the 8th day before election day and covers the period beginning on 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 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 \$100 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-31008239.

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

\_\_\_\_\_  
Edward O'Rourke, Respondent

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

Texas Ethics Commission

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