

TEXAS ETHICS COMMISSION

IN THE MATTER OF	§	BEFORE THE
	§	
MARK CAMPOS,	§	
FORMER CAMPAIGN TREASURER,	§	TEXAS ETHICS COMMISSION
EL PASO MUNICIPAL POLICE	§	
OFFICERS' ASSOCIATION PAC,	§	
	§	
RESPONDENT	§	SC-31310201

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (Commission) met on February 12, 2015, to consider sworn complaint SC-31310201. 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 sections 20.59 and 20.61 of the Ethics Commission Rules, laws administered and enforced by the Commission. To resolve and settle this complaint without further proceedings, the Commission proposed this resolution to the respondent.

II. Allegations

The complaint alleged that the respondent: 1) did not disclose total political contributions maintained on multiple campaign finance reports; 2) did not properly disclose total political expenditures on multiple campaign finance reports; 3) did not disclose the actual payees or full names of payees of political expenditures; 4) did not properly disclose the purposes of political expenditures; 5) did not disclose the actual payee of a political expenditure by credit card; and 6) did not identify the candidates or classification by party of candidates supported or opposed.

III. Facts Supported by Credible Evidence

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

1. At all times relevant to the complaint, the respondent was the campaign treasurer for the El Paso Municipal Police Officers' Association PAC (EMPOA PAC).

Total Political Contributions Maintained

2. The complaint alleged that nine of EPMPOA PAC's campaign finance reports did not properly disclose total political contributions maintained. The nine reports at issue are the 8-day pre-election report for the November 2011 general election, the January 2012 semiannual report, the 30-day and 8-day pre-election reports for the May 2012 primary election, the July 2012 semiannual report, the 30-day and 8-day pre-election reports for the November 2012 general election, the January 2013 semiannual report, and the 8-day pre-election report for the May 2013 primary election.
3. Each of these reports disclosed \$0 in total political contributions maintained.
4. The respondent provided EPMPOA PAC's bank records that show the committee had an average of approximately \$235,000 in total political contributions maintained on the last day of the periods covered by the reports at issue. The highest balance was \$241,926.36, and the lowest balance was \$220,886.10.
5. In response to the complaint, the respondent admitted that all of the reports disclosed incorrect amounts for total political contributions maintained and filed corrected reports.

Total Political Expenditures

6. The complaint alleged that the respondent did not properly disclose total political expenditures on eight campaign finance reports. On the reports at issue, the respondent reported expenditures for accounting and legal services on Schedule I (used to disclose non-political expenditures made from political contributions). The respondent did not include these expenditures when calculating total political expenditures. The complaint alleged that all expenditures for accounting and legal services were political expenditures that should have been included in the total political expenditures.
7. EPMPOA PAC's 8-day pre-election report for the November 2011 general election disclosed \$3,500 in total political expenditures. Schedule I of the report disclosed two expenditures, one for \$270 for accounting services, and another for \$2,875 for legal services.
8. EPMPOA PAC's January 2012 semiannual report disclosed \$0 in total political expenditures. Schedule I of the report disclosed a \$270 expenditure for accounting services.
9. EPMPOA PAC's 30-day pre-election report for the May 2012 primary election disclosed \$1,540.99 in total political expenditures. Schedule I of the report disclosed a \$168.75 expenditure for accounting services.

10. EPMPOA PAC's 8-day pre-election report for the May 2012 primary election disclosed \$11,732.44 in total political expenditures. Schedule I of the report disclosed a \$270 expenditure for accounting services.
11. EPMPOA PAC's July 2012 semiannual report disclosed \$3,525.35 in total political expenditures. Schedule I of the report disclosed one \$270 expenditure for accounting services.
12. EPMPOA PAC's 30-day pre-election report for the November 2012 general election disclosed \$233.78 in total political expenditures. Schedule I of the report disclosed two expenditures, one for \$213.75 for accounting services, and another for \$2,875 for legal services.
13. EPMPOA PAC's 8-day pre-election report for the May 2013 primary election disclosed \$20,611.34 in total political expenditures. Schedule I of the report disclosed a \$310.50 expenditure for accounting services.
14. EPMPOA PAC's July 2013 semiannual report disclosed \$36,955.04 in total political expenditures. Schedule I of the report disclosed two expenditures, one for \$202.50 for accounting services, and another for \$2,875 for legal services.
15. The total amount of expenditures for accounting and legal services reported on Schedule I of the reports at issue is approximately \$10,600.
16. In response, the respondent stated that he believed the expenditures for accounting and legal services were properly reported as non-political expenditures and therefore were not required to be included in the total political expenditures. The respondent corrected the reports at issue after receiving notice of the complaint.

Actual Payees or Full Names of Payees of Political Expenditures

17. The complaint alleged that the respondent did not disclose on three reports the actual payees or full names of payees of political expenditures.
18. Two of the expenditures at issue were for \$3,000 and \$2,500 to an entity on October 21, 2011, and October 29, 2012. The respondent named the entity using an acronym. The complaint alleged that the respondent did not provide the full name of the entity to which the expenditures were made. Credible evidence indicates that the expenditures were made to a general-purpose political committee established by a corporation with a similar name. The corporation and the political committee share an address. The respondent admitted violations in regard to these two expenditures. The respondent corrected the reports at issue to spell out the name of the entity to which the expenditures were made, but still did not include the word "PAC" to clarify that the expenditures were made to the committee rather than the corporation.

19. The last expenditure at issue was for \$6,676 to an individual on June 18, 2013, and was disclosed on EPMPOA PAC's July 2013 semiannual report. The category for this expenditure was "Polling Expense" and the description was "MONEY TO DISTRIBUTE TO POLL WORKERS." The complaint alleged that the respondent did not disclose the actual payees of this expenditure. In response to this allegation, the respondent stated that the funds were used to pay poll workers who were not paid individually but were paid through the listed party. The respondent did not correct the reports with regard to this expenditure.

Purpose of Political Expenditures

20. The complaint alleged that the respondent improperly disclosed the purpose of 22 political expenditures on five of EPMPOA PAC's campaign finance reports.
21. Two of the expenditures were categorized as "Professional Services" or "OTHER - LEGAL SERVICES" and described as "PAC Attorney" or "ATTORNEY FEES," respectively. Both expenditures were for \$2,875 to a professional corporation. In response, the respondent denied the allegation that these descriptions were insufficient to disclose the purposes of the expenditures.
22. Three of these expenditures were made to individuals and were categorized as "Event Expense" and described as "PAC Participation Drawing Award," "DRAWING FOR MEMBERSHIP MEETING," and "PAC DRAWING." These expenditures were for \$400, \$400, and \$450, respectively, and there was a different individual payee for each expenditure. In response, the respondent denied the allegations that these descriptions were insufficient to disclose the purposes of the expenditures. However, the respondent corrected the reports at issue after receiving notice of the complaint to clarify that these expenditures were for cash prize drawings to committee members for participation at committee meetings.
23. One of the expenditures was for \$1,333.16 to "EPMPOA-General Fund" and was made on December 19, 2012. The category was "Event Expense" and the description was "LEGISLATIVE REVIEW EXPENSES." In response, the respondent admitted to a violation in regard to this expenditure. However, the respondent did not correct the report at issue with regard to this expenditure.
24. Sixteen of the expenditures were categorized as "Polling Expense" and described as "POLLING EXPENSE." There were various payees for these expenditures. The total amount of those 16 expenditures was \$4,872. The respondent corrected the reports at issue after receiving notice of the complaint to clarify that these expenditures were made to compensate poll workers.

Actual Payee of Political Expenditure by Credit Card

25. The complaint alleged that the respondent did not disclose the actual payee of a \$108.25 political expenditure made on September 4, 2012, to a bank and disclosed on EPMPOA PAC's 30-day pre-election report for the November 2012 general election. The category of the expenditure was "Event Expense" and the description was "Expenses for Rally in the Valley Event."
26. The respondent did not address this allegation in his response. However, the respondent corrected the report at issue after receiving notice of the complaint to disclose that this expenditure was actually made to a pizza restaurant.

Candidates Supported or Opposed

27. The complaint alleged that the respondent did not disclose the candidates supported or opposed by the committee on eight of EPMPOA PAC's campaign finance reports. The respondent left the committee activity portions of the reports at issue blank. However, the reports disclosed political expenditures to candidates on Schedule F (used to disclose political expenditures).
28. The reports at issue are EPMPOA PAC's 8-day pre-election report for the November 2011 general election, the 30-day and 8-day pre-election reports for the May 2012 primary election, the July 2012 semiannual report, the 8-day pre-election report for the November 2012 general election, the January 2013 semiannual report, the 8-day pre-election report for the May 2013 primary, and the July 2013 semiannual report. Each one of these reports disclosed at least one expenditure on Schedule F to a candidate's campaign.
29. In response, the respondent admitted the violations and stated that the information was not included because the respondent believed disclosing the expenditures on Schedule F was sufficient.
30. The respondent corrected the reports at issue after receiving notice of the complaint.

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. A campaign finance report must include, as of the last day of a reporting period for which the person is required to file a report, the total amount of political contributions accepted, including interest or other income on those contributions, maintained in one or more

accounts in which political contributions are deposited as of the last day of the reporting period. ELEC. CODE § 254.031(a)(8).

2. Contributions maintained includes the balance on deposit in banks, savings and loan institutions and other depository institutions, and the present value of any investments that can be readily converted to cash, such as certificates of deposit, money market accounts, stocks, bonds, treasury bills, etc. Ethics Commission Rules § 20.50.
3. The respondent admitted that he did not disclose the total political contributions maintained for nine of EPMPOA PAC's campaign finance reports. Therefore, there is credible evidence of violations of section 254.031(a)(8) of the Election Code.

Total Political Expenditures

4. A campaign finance report must 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).
5. "Political expenditure" means a campaign expenditure or an officeholder expenditure. *Id.* § 251.001(10). "Campaign expenditure" means an expenditure made by any person in connection with a campaign for an elective office or on a measure. Whether an expenditure is made before, during, or after an election does not affect its status as a campaign expenditure. *Id.* § 251.001(7).
6. Expenditures that support the operation of a general-purpose committee, such as accounting and legal fees, ultimately support the carrying-out of the committee's political purposes. In this way, expenditures for accounting and legal services are political expenditures. *See* Ethics Advisory Opinion No. 132 (1993).
7. The respondent incorrectly reported political expenditures as non-political expenditures on Schedule I of the reports at issue and did not include them in calculating total political expenditures. Therefore, there is credible evidence of violations of section 254.031(a)(6) of the Election Code.

Actual Payees or Full Names of Payees of Political Expenditures

8. A campaign finance report must include the amount of political expenditures that in the aggregate exceed \$100 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).

9. Regarding the two expenditures made to an entity totaling \$5,500, the respondent did not disclose the full name of the entity receiving the expenditures and did not indicate that the expenditures were made to a general-purpose political committee rather than a corporation. The expenditure to an individual did not include the names of the individual poll workers who actually received the expenditures in exchange for their services. Therefore, there is credible evidence of violations of section 254.031(a)(3) of the Election Code regarding the three expenditures at issue.

Purpose of Political Expenditures

10. A campaign finance report must include the amount of political expenditures that in the aggregate exceed \$100 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).
11. The purpose of an expenditure means a description of the category of goods, services, or other thing of value for which an expenditure is made and a brief statement or description of the candidate, officeholder, or political committee activity that is conducted by making the expenditure. Ethics Commission Rules § 20.61. Merely disclosing the category of goods, services, or other thing of value for which the expenditure is made does not adequately describe the purpose of an expenditure. *Id.*
12. Section 20.61(e)(17) of the Ethics Commission Rules provides a list of examples for reporting the purpose of political expenditures. The rule states, in pertinent part:
 - a. Example: Candidate/Officeholder X pays his attorney for legal fees related to either campaign matters or officeholder matters. The acceptable category is “legal services” and an acceptable brief description is “legal fees for campaign” or “for officeholder matters.”
13. With regard to the two expenditures for legal fees, the descriptions given were substantially similar to the description given in the example, and thus were sufficiently specific to make the reasons for the expenditures clear. Therefore, there is credible evidence of no violations of section 254.031(a)(3) of the Election Code and section 20.61 of the Ethics Commission Rules with regard to those two expenditures.
14. With regard to the three expenditures for PAC drawing awards, the descriptions given were not sufficiently specific to make the reasons for the expenditures clear. Therefore, with regard to those expenditures, there is credible evidence of violations of section 254.031(a)(3) of the Election Code and section 20.61 of the Ethics Commission Rules.

15. With regard to the expenditure to “EPMPOA-General Fund,” the description “Legislative review expenses” was not sufficiently specific, given the context of the category “Event Expenses,” to make the reason for the expenditure clear. Therefore, with regard to that expenditure, there is credible evidence of a violation of section 254.031(a)(3) of the Election Code and section 20.61 of the Ethics Commission Rules.
16. With regard to the 16 expenditures made for polling expenses, the descriptions merely repeated the category of goods or services purchased, which did not adequately describe the purposes of the expenditures. Therefore, with regard to those 16 expenditures, there is credible evidence of violations of section 254.031(a)(3) of the Election Code and section 20.61 of the Ethics Commission Rules.

Actual Payee of Political Expenditure by Credit Card

17. A campaign finance report must include, for all expenditures that in the aggregate exceed \$100 and are made during the reporting period, the full name and address of the persons to whom reported expenditures are made and the dates and purposes of the expenditures. ELEC. CODE § 254.031(a)(3).
18. A report of a political expenditure by credit card must identify the vendor who receives payment from the credit card company. Ethics Commission Rules § 20.59.
19. The respondent did not identify the vendor that actually received payment from the credit card company. Therefore, there is credible evidence of a violation of section 254.031(a)(3) of the Election Code and section 20.59 of the Ethics Commission Rules.

Candidates Supported or Opposed

20. A campaign finance report for a general-purpose committee must disclose 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).
21. Each of the eight reports at issue disclosed expenditures to support candidates. The respondent did not disclose any candidates or party classification of candidates supported or opposed by the committee in the committee activity section of the eight reports at issue. However, information showing which candidates the committee supported was readily available on Schedule F of the reports, and the incomplete information was not misleading nor did it substantially affect disclosure. Therefore, with regard to those eight reports, there is credible evidence of technical or *de minimis* violations of section 254.151(4) of the Election Code.

V. Representations and Agreement by Respondent

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

1. The respondent neither admits nor denies the facts described under Section III or the Commission's findings and conclusions of law described under Section IV, and consents to the entry of this order and agreed resolution solely for the purpose of resolving this sworn complaint.
2. The respondent consents to this order and agreed resolution and waives any right to further proceedings in this matter.
3. The respondent acknowledges that: 1) a campaign finance report must include the amount of political expenditures that in the aggregate exceed \$100 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; 2) the purpose of an expenditure means a description of the category of goods, services, or other thing of value for which an expenditure is made and a brief statement or description of the candidate, officeholder, or political committee activity that is conducted by making the expenditure. Merely disclosing the category of goods, services, or other thing of value for which the expenditure is made does not adequately describe the purpose of an expenditure; 3) a report of a political expenditure by credit card must identify the vendor who receives payment from the card company; 4) a campaign finance report must include the total amount of all political contributions accepted and the total amount of all political expenditures made during the reporting period; 5) a campaign finance report must include, as of the last day of a reporting period for which the person is required to file a report, the total amount of political contributions accepted, including interest or other income on those contributions, maintained in one or more accounts in which political contributions are deposited as of the last day of the reporting period; and 6) a campaign finance report for 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 agrees to comply with these requirements of the law.

VI. Confidentiality

This order and agreed resolution describes violations that the Commission has determined are neither technical nor *de minimis*. Accordingly, this order and agreed resolution is not confidential under section 571.140 of the Government Code and may be disclosed by members and staff of the Commission.

VII. Sanction

After considering the nature, circumstances, and consequences of the violations described under Sections III and IV, and after considering the sanction necessary to deter future violations, the Commission imposes a \$5,000 civil penalty.

VIII. Order

The Commission hereby orders that if the respondent consents to the proposed resolution, this order and agreed resolution is a final and complete resolution of SC-31310201.

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

Mark Campos, Respondent

EXECUTED ORIGINAL received by the Commission on: _____.

Texas Ethics Commission

By: _____
Natalia Luna Ashley, Executive Director