

# TEXAS ETHICS COMMISSION

IN THE MATTER OF  
MATT ARMSTRONG,  
RESPONDENT

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BEFORE THE  
TEXAS ETHICS COMMISSION  
SC-32105131

## FINAL ORDER

### I. Recitals

The Texas Ethics Commission (Commission) held a preliminary review hearing on September 28, 2022, to consider sworn complaint SC-32105131. 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 Sections 254.031(a)(3), 254.031(a)(6), and 254.031(a)(8) of the Election Code, Section 571.1242 of the Government Code, and Section 12.52 of the Ethics Commission Rules. The Commission voted to issue this final order.

### II. Allegations

The sworn complaint alleged that, as campaign treasurer of the We Love Farmers Branch general-purpose political committee (the GPAC), the respondent: 1) failed to disclose political expenditures on the GPAC's 8-day pre-election report or January 2021 semiannual report, in violation of Sections 254.031(a)(3) and 254.031(a)(6) of the Election Code; and 2) failed to correctly disclose the amount of political contributions maintained on the GPAC's 8-day pre-election report or January 2021 semiannual report, in violation of Section 254.031(a)(8) 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. The respondent was appointed as the campaign treasurer of the "We Love Farmers Branch" general-purpose political committee (the GPAC) on October 22, 2020, succeeding a predecessor treasurer. The respondent has filed campaign finance reports for the GPAC since that time, beginning with the GPAC's 8-day pre-election report for the November 3, 2020 election.

**Failure to Report Political Expenditure for Mailer**

2. The sworn complaint alleges that, as campaign treasurer for the GPAC, the respondent failed to disclose on the GPAC's 8-day pre-election report for the November 3, 2020 election or its January 2021 semiannual report expenditures to publish a mailer supporting Farmers Branch city council candidate Nicholas "Nic" Rady.
3. On or around October 22, 2020, a mailer was distributed to voters in Farmers Branch, Texas. The mailer promoted the candidacy of Nic Rady, who was then running for the Farmers Branch city council.<sup>1</sup> The mailer bore a political advertising disclosure statement reading "Pol. Adv. paid for by WE LOVE FARMERS BRANCH."
4. After the sworn complaint was filed, the respondent filed a corrected January 2021 semiannual campaign finance report disclosing a \$10,000 political expenditure to PrintPlace, an online print shop and mailing house.<sup>2</sup> The expenditure was dated October 27, 2020. Records obtained from the United States Postal Service (USPS) pursuant to a Freedom of Information Act request indicate that the mailer supporting Nic Rady was sent using Digital Room LLC's bulk mailing permit. Digital Room LLC acquired PrintPlace in 2015, and continues to operate in Texas under the PrintPlace name.
5. In response to the Commission's subpoena, Digital Room LLC produced an invoice for the mailers at issue in the complaint, among other apparently unrelated mailer purchases by the respondent. Attached to the invoice as produced by the mailing house was a copy of the Rady mailer as it was sent, the computer file name for which matched the line item on the invoice for a \$345.15 expenditure. The invoice was billed to the respondent and was stamped "paid." The invoice bears two dates: October 23, 2020, labeled "date created," and October 30, 2020, labeled "invoice date." Digital Room LLC also produced the October 22, 2020 email by which the respondent ordered the mailers.
6. The respondent did not disclose his \$345.15 expenditure for the mailers on the GPAC's 8-day pre-election campaign finance report for the November 3, 2020 general election, its original January 2021 semiannual report, or any of its other original campaign finance reports, either in itemized form on one of the schedules for political expenditures, or as part of the figure given for total political expenditures. Further, while the respondent disclosed an October 27, 2020 political expenditure to PrintPlace on his corrected January 2021 semiannual report, as noted above, he disclosed the amount of the expenditure on that report as \$10,000, not \$345.15.

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<sup>1</sup> Mr. Rady subsequently lost the election.

<sup>2</sup> This Final Order refers to the respondent's later-filed semiannual report as a "corrected report" to maintain consistency with the Commission's usual terminology, not to confer credibility on any false representations in the report.

7. In the respondent's initial sworn response to the complaint, which he did not file until the morning of the preliminary review hearing, the respondent mentioned only his failure to include the mailer expenditure on his original January 2021 semiannual report. The respondent did not acknowledge the discrepancy between the amount he disclosed for the expenditure and the amount reflected in the invoice, of which the respondent was aware because he had already received Commission staff's hearing memorandum in which this was discussed.
8. For political expenditures made in 2020, each campaign finance report filed under Chapter 254 of the Election Code must include the amount of political expenditures that in the aggregate exceed \$180 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. Tex. Elec. Code § 254.031(a)(3); 44 Tex. Reg. 1979 (2019) (codified at 1 Tex. Admin. Code § 18.31) (Tex. Ethics Comm'n). Further, each campaign finance report must include the total amount of all political expenditures made during the reporting period. Tex. Elec. Code § 254.031(a)(6).
9. There is credible evidence that the respondent failed to disclose his \$345.15 expenditure for mailers to support Nicholas Rady on the GPAC's original January 2021 semiannual report. Therefore, there is credible evidence of violations of Sections 254.031(a)(3) and 254.031(a)(6) of the Election Code. Further, there is credible evidence that the respondent failed to accurately report the expenditure on the GPAC's corrected January 2021 semiannual report, upon which the respondent appears to have falsified the amount of the expenditure by reporting the amount of the expenditure as \$10,000.

#### **Failure to Properly Disclose Contributions Maintained**

10. The sworn complaint further alleges that on the 8-day pre-election report or the January 2021 semiannual report that the respondent filed for the GPAC, the respondent failed to correctly report the amount of contributions maintained by the GPAC as of the end of the reporting period. The sworn complaint specifically notes that the GPAC accepted a contribution during the reporting period for the 8-day pre-election report, but the respondent disclosed no political expenditures on the GPAC's original reports during the relevant period, and the GPAC reported zero dollars in contributions maintained as of the end of the January 2021 semiannual reporting period. The complaint posits that either: 1) the respondent failed to disclose expenditures made by the GPAC during the reporting period for the January 2021 semiannual report, or 2) the GPAC had \$10,000 in contributions maintained as of the end of the reporting period for the January 2021 semiannual report, and the zero-dollar figure given for contributions maintained was false.

11. For the GPAC, the respondent filed an 8-day pre-election report on October 26, 2020, covering September 25, 2020 through October 24, 2020, and a January 2021 semiannual report covering October 25, 2020, through the end of the calendar year.<sup>3</sup> On the 8-day pre-election report, the respondent disclosed that the GPAC accepted a \$10,000 contribution from a certain individual, apparently the only contribution the GPAC accepted during this time frame. Commission staff confirmed the amount of the contribution in a telephone interview with the individual. As noted above, neither of these original reports disclosed the \$345.15 expenditure for the mailers, nor did they disclose any other expenditures. However, despite the fact that no expenditure or other disbursement was disclosed on either report, the respondent swore that the GPAC had no political contributions maintained as of the end of the reporting period for the January 2021 semiannual report. Therefore, according to the GPAC's original campaign finance reports, the \$10,000 simply disappeared.
12. On July 15, 2021, the respondent filed the corrected January 2021 semiannual report that disclosed a \$10,000 expenditure for the mailer on October 27, 2020. As previously discussed, documents obtained by Commission staff indicate that the GPAC paid only \$345.15 for the mailers, not \$10,000.
13. In his sworn response to the complaint, the respondent did not acknowledge the complaint's allegations concerning the GPAC's contributions maintained as of the end of the relevant reporting periods.
14. Each campaign finance report must include 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. Tex. Elec. Code § 254.031(a)(8).
15. The evidence available to the Commission indicates that during the reporting periods at issue—the reporting periods for the 8-day pre-election report for the November 3, 2020 election and the January 2021 semiannual report—the GPAC accepted a \$10,000 political contribution and made a \$345.15 political expenditure. No other activity was disclosed. Therefore, as of the end of the reporting period for the GPAC's January 2021 semiannual report, the GPAC should have reported approximately \$9,654.85 in contributions maintained, this figure being the difference between the receipts and disbursements reported by the GPAC. Both the GPAC's original and corrected January 2021 semiannual reports stated that the GPAC had zero dollars in contributions maintained as of the end of the reporting period. There is therefore credible evidence of violations of Section 254.031(a)(8) of the Election Code.

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<sup>3</sup> Despite the fact that the respondent's predecessor was the GPAC's campaign treasurer for most of the reporting period for the GPAC's 8-day pre-election report, there is no sign that he had any involvement in preparing or filing the report. The predecessor treasurer confirmed in a telephone interview with Commission staff that he had no personal involvement in the GPAC's activities despite serving as the GPAC's notional treasurer.

**Failure to Respond to the Sworn Complaint**

16. Sworn complaint SC-32105131 was filed on May 13, 2021. On the same day the complaint was filed, Commission staff called the number given for the respondent on the sworn complaint. While the respondent did not answer, the voicemail greeting identified the number as belonging to the respondent. Commission staff left a voicemail message identifying themselves and asking that the respondent call back. On the following day, May 14, 2021, Commission staff again attempted to reach the respondent at the telephone number on the sworn complaint, and left a second voicemail message. The respondent did not return Commission staff's calls.
17. On May 20, 2021, Commission staff sent a notice of the sworn complaint to the respondent at an office address in Flower Mound, Texas. The respondent had given this address as his contact address on various campaign finance filings, including the campaign treasurer appointment form by which he was appointed treasurer of the GPAC and campaign finance reports that he filed for the GPAC. This notice letter designated the alleged violations as Category One violations, to which the respondent was required to file a response within ten business days. Commission staff sent the notice letter via both certified mail with return receipt requested and first-class mail with delivery confirmation. USPS records confirm the copy sent to the respondent via delivery confirmation was delivered on May 22, 2021. The copy sent via certified mail was not delivered; USPS tracking records indicate that the mail carrier left a notice of attempted delivery, but that the respondent never picked the certified letter up.
18. On June 14, 2021, Commission staff called the respondent again at the number listed on the complaint. The respondent answered, but after Commission staff identified themselves, the respondent complained that the call was breaking up and the call ended. Staff called back immediately, and the call went straight to voicemail. The voicemail greeting again confirmed that the number belonged to the respondent. Staff left a voicemail message reminding the respondent of the response deadline, which was June 7, 2021, and reminding the respondent that failure to file a response could constitute an additional violation.
19. On July 15, 2021, the respondent filed a nominally corrected January 2021 campaign finance report for the GPAC, as discussed above. On the cover sheet for the corrected report, the respondent admitted that he "made a mistake and failed to report the cost of the mailer." However, the respondent did not inform Commission staff that he had filed the corrected report.
20. On November 29, 2021, the respondent sent Commission staff an email inquiring about the November 23, 2021 quarterly status letter that staff had sent him pursuant to Section 571.1351(c) of the Government Code. Commission staff responded by explaining that a complaint had been filed and emailing the respondent copies of the May 20, 2021 notice letter. The respondent's reply made no mention of any missing attachments, despite

staff's specific mention of the attached notice letter in its email body text. In a further email response, staff reiterated that the Commission had accepted jurisdiction in this complaint, and that the complaint remained pending. Staff attached to its email response yet another copy of the notice letter, and stated that because the respondent now had actual notice of the complaint, Commission staff would expect his response within ten business days, or not later than December 14, 2021. After this deadline passed, Commission staff sent further email inquiries to the respondent, but received in return only dilatory questions and excuses, never a response to the allegations in the complaint.

21. The respondent did not file a written response to the allegations in the complaint until the morning of the preliminary review hearing, on September 28, 2022.
22. Section 571.1242 of the Government Code provides that for a Category One violation, the respondent must respond to the initial notice letter not later than the 10th business day after the date the respondent receives the notice. The response must: 1) be in writing; 2) admit or deny the allegations set forth in the complaint; and 3) be signed by the respondent. 1 Tex. Admin. Code § 12.52(a). If the respondent does not submit a response within the time period prescribed by Section 571.1242 of the Government Code, the Commission may issue an order imposing a civil penalty for failure to file a response. *Id.* § 12.52(b).
23. The USPS delivered the Commission's notice of compliance letter to the respondent's office address, as provided in both the sworn complaint and in the respondent's previous campaign finance filings for the GPAC, on May 22, 2021. Further, Commission staff provided actual notice of the complaint, along with a copy of the notice of compliance letter, in an email sent to the respondent on November 30, 2021, to which the respondent replied the same day. Despite receiving legally sufficient notice of the complaint, the respondent did not file a written response to the sworn complaint as required by Section 571.1242 of the Government Code until September 28, 2022, the morning of the preliminary review hearing on the sworn complaint. There is therefore credible evidence of violations of Section 571.1242 of the Government Code and Section 12.52 of the Ethics Commission Rules for the respondent's failure to timely file a response to the sworn complaint.

#### **IV. Default Judgment**

1. The preliminary review hearing was held in person and by video teleconference on September 28, 2022, 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. 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. 1 Tex. Admin. Code § 12.23.
5. Commission staff sent the first notice of hearing to the respondent on August 1, 2022. The notice stated that the hearing would be held on September 28, 2022, at 1:45 p.m., in the State Capitol Extension, Room E1.014, Austin, Texas. The notice further stated that the respondent could participate in the hearing either by appearing physically or by video teleconference. The notice cautioned that if the respondent failed to appear at the hearing, then the allegations may be deemed admitted as true and the relief sought may be granted by default. Commission staff sent the first notice of hearing to the respondent's Flower Mound office address via first class mail with delivery confirmation, and via email. The physically mailed notice was sent to the Flower Mound address used in the respondent's campaign finance filings for the GPAC; the email was sent to both of the email addresses Commission staff had for the respondent, including the email address at which Commission staff had previously corresponded with the respondent. The respondent was also personally served with the first notice of hearing in Denton, Texas.
6. Commission staff sent a second notice of hearing to the respondent on August 29, 2022. This notice also stated that the hearing would be held on September 28, 2022, at 1:45 p.m., in the State Capitol Extension, Room E1.014, Austin, Texas, and that the allegations may be deemed admitted as true and the relief sought may be granted by default if the respondent failed to appear. Commission staff sent the second notice of hearing by physical mail to a new address that the respondent had given the process server, and by email to the same email addresses as the first notice of hearing. The respondent's last known address was 2201 Spinks Road, #168, Flower Mound, Texas 75022-4451.
7. On the morning of the preliminary review hearing, the respondent sent to Commission staff an email informing staff that he was "unable to attend the hearing this afternoon." The respondent explained that he would be undergoing a medical procedure at the time of the hearing; the respondent had not previously expressed any need to reschedule the preliminary review hearing for medical reasons. Commission staff again cautioned the respondent that if he did not appear at the hearing, the Commission could proceed in his absence on a default basis. In response to Commission staff's question, the respondent

confirmed that he was not requesting a continuance of the hearing, and had simply contacted staff to inform them that he would be “unable to attend.”

8. The Commission finds that the respondent received legally sufficient notice of the sworn complaint and the September 28, 2022 preliminary review hearing in this case. The respondent received actual notice of the hearing and contacted Commission staff to inform them that he would not attend. 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 Sections 254.031(a)(3), 254.031(a)(6), and 254.031(a)(8) of the Election Code, Section 571.1242 of the Government Code, and Section 12.52 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 substantial penalty is required for the violations found by the Commission in this sworn complaint. First, while failure to disclose a single expenditure in a campaign finance report disclosing many other expenditures could be an accidental oversight, failure to disclose any political expenditures where a single significant political expenditure was made is likely to be intentional. Therefore, the respondent likely intentionally omitted the mailer expenditure from the GPAC’s original report. Further, the respondent did not react to the sworn complaint by attempting to set his disclosures right, but instead evaded Commission staff’s efforts to obtain a response to the allegations and filed a false “corrected” report indicating the wrong amount for the mailer expenditure. While the respondent has not explained why he grossly overreported the amount of the mailer, a plausible motive would be to conceal other political expenditures made with the rest of the \$10,000 political

contribution that the GPAC received. The respondent's concealment of the mailer expenditures is consistent with a broader pattern of deception and concealment that is apparent in the other two sworn complaints resolved at the September 28, 2022 preliminary review hearing, SC-32202102CI and SC-32205248CI. These sworn complaints concern political committees that the respondent established under the names of other persons without those persons' consent, evidently to evade accountability for campaign finance disclosure violations and conceal his association with the efforts undertaken in the political committees' names.

4. Furthermore, the GPAC received the \$10,000 contribution at issue, the only contribution on the relevant campaign finance reports, from a single individual. At the time the contribution was made, this individual was the corporate controller for a title company associated with the activities of a prominent Dallas-Fort Worth area real estate developer. Both the real estate development company and its principal are mentioned as potential funding sources in emails that Commission staff obtained between the respondent and Nic Rady during Rady's campaign for Farmers Branch City Council, in which the respondent served as Rady's campaign manager. Further, at the time of Rady's city council campaign, the developer was planning a major mixed-use development in Farmers Branch, which could incentivize the developer to influence elections in Farmers Branch. No contributions from either the development company or its principal are disclosed on the GPAC's reports. However, in an interview with Commission staff, the GPAC's sole contributor, the corporate controller for the title company, admitted that her boss at the title company gave her the \$10,000 and directed her to make the contribution to the GPAC. There is therefore circumstantial evidence to suggest that the respondent's failure to disclose the GPAC's expenditure for mailers was motivated by a desire to further obscure involvement by the developer in the city council election via the contribution from the title company's controller, the sole contribution that the GPAC disclosed accepting.
5. In the respondent's sworn response to the complaint, he did not acknowledge any of the facts indicating deceit and deliberate misrepresentation, treating the complaint and the subsequent factual developments as if they indicated only a minor lapse in diligence. Commission staff had previously alerted the respondent to the above-discussed facts indicating serious misconduct by providing with the second notice of hearing a copy of the memorandum that Commission staff had prepared for the preliminary review hearing.
6. In consideration of the respondent's pattern of evasion, deception, and outright false representation, and the circumstantial indications that the violations at issue were part of a deliberate attempt to conceal corrupt influence from public view, the Commission imposes civil penalties totaling \$12,500: a \$5,000 civil penalty for failure to disclose the \$345.15 political expenditure for the mailer, a further \$5,000 civil penalty for the respondent's failure to correctly disclose the amount of contributions maintained by the GPAC as of the end of the reporting periods at issue, and an additional \$2,500 civil penalty for the respondent's failure to timely file a response to the sworn complaint. 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 \$12,500. If the respondent does not pay the \$12,500 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

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J.R. Johnson  
Executive Director  
Texas Ethics Commission