

# TEXAS ETHICS COMMISSION

IN THE MATTER OF  
MATT ARMSTRONG,  
RESPONDENT

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BEFORE THE  
TEXAS ETHICS COMMISSION  
SC-32202102CI

## FINAL ORDER

### I. Recitals

The Texas Ethics Commission (Commission) held a preliminary review hearing on September 28, 2022, to consider sworn complaint SC-32202102CI. 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 252.002(a) and 252.003(a)(1) of the Election Code, and Section 571.1242 of the Government Code. The Commission voted to issue this final order.

### II. Allegations

On February 24, 2022, the Commission, by its own motion, initiated a preliminary review in accordance with Section 571.124(b) of the Government Code. The Commission alleges that, on April 9, 2021, the respondent filed an amended campaign treasurer appointment form (AGTA) for the general-purpose committee, McKinney Citizens United, that incorrectly listed the following information: 1) the campaign treasurer's name, the campaign treasurer's residence or business street address, the campaign treasurer's telephone number, and the name of the person making the appointment, in violation of Section 252.002(a) of the Election Code; and 2) the name of each person who determines to whom the committee makes contributions (contribution decision makers) and the name of each person who determines for what purposes the committee makes expenditures (expenditure decision makers), in violation of Section 252.003(a)(1) of the Election Code.

The Commission also considered whether the respondent failed to respond to the complaint, in violation of Section 571.1242 of the Government 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 is a political consultant in Flower Mound, Texas.

### **Filing of False Campaign Treasurer Appointment**

2. On April 9, 2021, an amended campaign treasurer appointment form for McKinney Citizens United (“the PAC”), a general-purpose committee, was filed with the Commission, naming Carol Williams as the new treasurer. The form contained the street address and telephone number of Carol Williams, and indicated that Carol Williams was the person appointing the treasurer. The form listed Carol Williams and Jessica Hulcy as contribution and expenditure decision makers. Lastly, the form purported to contain the signature of Carol Williams in the section titled “signature of campaign treasurer.”
3. On January 26, 2022, the Commission sent a notice of late report to Carol Williams for the outstanding January 2022 semiannual report. In response to the notice, on January 31, 2022, Carol Williams contacted the Commission and notified staff that she had no affiliation with the committee. She stated that her name is Carol Mitchell and that the last name Williams is her maiden name. She confirmed that the mailing address and telephone number listed in the campaign treasurer appointment belong to her. She submitted an affidavit swearing that she had no involvement with the committee and was not aware that any forms were filed naming her as treasurer. She stated that she was approached in April 2021 by Kyle Sims to serve as campaign treasurer for Tom Meredith’s campaign for Mayor of McKinney, Texas. She agreed to serve but stated that she was never told anything about a PAC. She provided copies of email communications showing that Matt Armstrong, a political consultant with Grassroutes Public Relations, is the person who filed the campaign treasurer appointment at the request of Kyle Sims.
4. Regarding the initial campaign treasurer appointment to create the PAC that was signed by Jessica Hulcy, Commission staff contacted Ms. Hulcy by telephone on February 7, 2022. Similar to Carol Mitchell, Ms. Hulcy stated that she was asked by Kyle Sims to be the campaign treasurer. Ms. Hulcy confirmed that she did complete and sign the initial treasurer appointment form, but she stated that Matt Armstrong filed all of the paperwork. She then notified Kyle Sims when she no longer wanted to serve as campaign treasurer, and Mr. Sims told her that he would have Matt Armstrong handle the paperwork. The statements made by Ms. Hulcy corroborate that Matt Armstrong was responsible for filing all of the campaign treasurer appointment forms for the PAC.
5. 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. In response, the respondent submitted an affidavit admitting that he was the person who filed the amended treasurer appointment form. The respondent swore that he was told in writing that Carol had agreed to be the new treasurer, and he made the change. The respondent concluded by

swearing that the PAC did not accept any political contributions or make any political expenditures.

6. Section 252.002(a) of the Election Code states that a campaign treasurer appointment must be in writing and include: (1) the campaign treasurer's name; (2) the campaign treasurer's residence or business street address; (3) the campaign treasurer's telephone number; and (4) the name of the person making the appointment.
7. Section 252.003 of the Election Code states that, in addition to the information required by Section 252.002, a campaign treasurer appointment by a general-purpose committee must include: (1) the full name, and any acronym of the name that will be used in the name of the committee as provided by Subsection (d), of each corporation, labor organization, or other association or legal entity that directly establishes, administers, or controls the committee, if applicable, or the name of each person who determines to whom the committee makes contributions or the name of each person who determines for what purposes the committee makes expenditures.
8. There is credible evidence to show that the campaign treasurer appointment form submitted to the Commission by Matt Armstrong and filed on April 9, 2021 contained the following false information: 1) the campaign treasurer's name, the campaign treasurer's residence or business street address, the campaign treasurer's telephone number, and the name of the person making the appointment, in violation of Section 252.002(a) of the Election Code; and 2) the name of each person who determines to whom the committee makes contributions (contribution decision makers) and the name of each person who determines for what purposes the committee makes expenditures (expenditure decision makers), in violation of Section 252.003(a)(1) of the Election Code.

### **Failure to Respond to Sworn Complaint**

9. On February 24, 2022, the Commission voted to initiate sworn complaint SC-32202102CI. The Commission sent notice of the complaint by letters dated February 28, 2022, and April 13, 2022 to a Flower Mound office address that the respondent had given as his contact address on various campaign finance filings, including the campaign treasurer appointment form by which he was appointed treasurer of a different political committee and campaign finance reports that he filed for the committee. The notice letters were also sent by email to the respondent to two email addresses: one of the email addresses was obtained from the campaign treasurer appointment form by which the respondent was appointed treasurer of a political committee, and the other email address was the same email address the respondent used to communicate with Carol Mitchell, as shown in the documents that were included in her affidavit. United States Postal Service (USPS) records show the first notice was not delivered, and the second notice was delivered on April 16, 2022. The notice letters designated the alleged violations as Category One violations, to which a response was required within ten business days.

10. On August 1, 2022, Commission staff sent a notice of the September 28, 2022 preliminary review hearing to the respondent via email, first-class mail with delivery confirmation, and by personal service. The notice included the original notice of complaint letter with all original attachments. The respondent was personally served with the notice by a professional process server in Denton, Texas, on August 9, 2022. Therefore, even assuming the respondent did not receive the initial notice of complaint letters, there is credible evidence to show the respondent personally received notice of the complaint on August 9, 2022, and was required to respond, at the very latest, by August 23, 2022. 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.
11. 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).
12. If an alleged violation is a Category One violation, a respondent must respond to the notice required by Section 571.123(b) of the Government Code not later than the 10th business day after the date the respondent receives the notice. Tex. Gov't Code § 571.1242(a). A respondent's failure to timely respond as required by Subsection (a) is a Category One violation. *Id.* § 571.1242(c). The response required by Subsection (a) must include any challenge the respondent seeks to raise to the Commission's exercise of jurisdiction. In addition, the respondent may: (1) acknowledge the occurrence or commission of a violation; (2) deny the allegations contained in the complaint and provide evidence supporting the denial; or (3) agree to enter into an assurance of voluntary compliance or other agreed order, which may include an agreement to immediately cease and desist. *Id.* § 571.1242(d).
13. The respondent was required to file a written response to the complaint. The respondent did not file a written response to the complaint until September 28, 2022, despite receiving multiple notices from the Commission that he was required to respond in writing within 10 business days after receiving notice of the complaint under Section 571.1242(a) of the Government Code. Therefore, there is credible evidence of a violation of Section 571.1242 of the Government Code.

#### **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 a political committee; the email was sent to both of the email addresses Commission staff had for the respondent. The respondent was also personally served with the first notice of hearing on August 9, 2022.
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 252.002(a) and 252.003(a)(1) of the Election Code, and Section 571.1242 of the Government Code.

#### **IV. 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. The violations at issue are serious and may also constitute criminal offenses of forgery and tampering with a governmental record. There are also two other sworn complaints against the respondent that show a history of similar violations. Specifically, in sworn complaint SC-32105131, there is credible evidence to show the respondent intentionally failed to disclose a political expenditure for mailers and then corrected the report to disclose an inaccurate amount. In sworn complaint SC-32205248CI, there is credible evidence to show the respondent committed a similar violation as in the instant complaint by falsifying a campaign treasurer appointment for a political committee. The respondent has demonstrated a pattern of flagrant deception and malfeasance that justifies a severe civil

penalty. Lastly, the respondent has ignored the Commission by failing to timely respond to the complaint and failing to participate in the preliminary review hearing.

4. 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 \$10,000. If the respondent does not pay the \$10,000 civil penalty within 30 days of the date of this order, then 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