

TEXAS ETHICS COMMISSION

IN THE MATTER OF

ATEJA DUKES, CAMPAIGN
TREASURER, DAWNNA DUKES
CAMPAIGN,

RESPONDENT

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BEFORE THE

TEXAS ETHICS COMMISSION

SC-3100124

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on October 21, 2010, to consider sworn complaint SC-3100124. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 253.032, 254.031, 254.124, and 254.1212 of the Election Code, and section 20.61 of the Ethics Commission Rules, and credible evidence of technical or *de minimis* violations of section 254.121 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: 1) failed to properly report political contributions and political expenditures, 2) accepted political contributions from corporations or labor organizations, and 3) converted political contributions to personal use.

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 the Dawnna Dukes Campaign, a specific-purpose committee.

Total Political Contributions Maintained

2. The complaint alleged that the respondent incorrectly reported the amount of total political contributions maintained on seven campaign finance reports. In response to the complaint, the respondent submitted an affidavit in which she swore that the total

political contributions maintained disclosed on each report was correct. The complaint did not provide specific evidence to support the allegations.

Political Contributions from Corporations or Labor Unions

3. The complaint alleged that, based on disclosures in five campaign finance reports, the respondent accepted 14 political contributions from 12 different corporations or labor organizations. The respondent denied that she accepted political contributions from any corporations or labor organizations.
4. Twelve of the contributions at issue did not come from a corporation or labor organization. For two contributions, the evidence did not clearly establish whether the contributions were from a corporation or labor organization, or its political committee.

Disclosure of Full Names of Persons Making Political Contributions and Receiving Political Expenditures

5. The complaint alleged that, based on disclosures in six campaign finance reports, the respondent failed to disclose the full name for 44 political contributions and two political expenditures.
6. Of the 46 disclosures at issue, 33 contributions did not include the full name of the contributor. Twenty-three contributions disclosed an acronym that was not actually a part of the committee's name, instead of the full name of the committee. Ten disclosed a partial name.

Disclosure of Purposes of Political Expenditures

7. The complaint alleged that, based on disclosures in six campaign finance reports, the respondent failed to properly disclose the purposes of 65 political expenditures. The respondent filed corrected reports to clarify the purposes of 30 political expenditures. However, the original description adequately described the purposes of the expenditures.

Disclosure of Payee Political Expenditures

8. The complaint alleged that the respondent improperly reported four political expenditures as reimbursements on three campaign finance reports. Three of the expenditures at issue disclosed the actual vendor as the payee. The respondent filed corrected reports to disclose the actual vendor payee of one political expenditure.

Disclosure of Political Expenditures for Travel Outside of Texas

9. The complaint alleged that the respondent failed to disclose political expenditures made for travel outside of Texas on Schedule T on the 30-day pre-election report for the November 2008 general election. The dates, amounts of the expenditures, and information as to whether or not they were corrected are as follows:

30-day Pre-election Report, November 2008 General Election

- July 15, 2008, \$467.95, Southwest Airlines – purpose: “travel to NCSL New Orleans...” travel outside of Texas undisclosed on Schedule T; corrected
- July 17, 2008, \$405.50, Southwest Airlines – purpose: “Staff travel to NCSL New Orleans” travel outside of Texas undisclosed on Schedule T; corrected
- July 25, 2008, \$183, Enterprise Rent-A-Car, Kenner, LA – purpose: NCSL Conference: rent-a-car” undisclosed on Schedule T; corrected
- July 28, 2008, \$509.18, Marriott Hotel, New Orleans, LA – purpose: lodging/food: NCSL Conference undisclosed on Schedule T; corrected
- July 29, 2008, \$150, National Conference of State Legislators, Washington, D.C. – purpose: New Orleans Conference staff attendance fee travel outside of Texas undisclosed on Schedule T; corrected

Contributions from Out-of-State Political Committees

10. The complaint alleged that the respondent failed to include the out-of-state political committee identification number on three contributions from out-of-state political committees on two campaign finance reports. One contributor, Chevron Employees Texas PAC, was not an out-of-state committee. The other two contributors were out-of-state committees that file with the Federal Elections Commission (FEC) and the respondent did not include out-of-state committee information on the reports at issue.

Failure to Include Occupation or Job Title and Name of Employer

11. The complaint alleged that the respondent failed to disclose the principal occupations or job titles and names of employers for 39 contributors on four campaign finance reports. On the reports at issue, the respondent did not fully provide the principal occupation or job title and full name of employer for 30 contributors who made contributions that totaled \$500 or more during the reporting periods at issue. The information was complete for nine contributors. The respondent filed corrected reports to fully disclose the occupation and employer information for 11 contributors.

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

12. 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 five campaign finance reports.

13. The respondent's 30-day pre-election report for the March 2008 primary election disclosed \$13,050 in total political contributions, \$11,056.33 in total political expenditures, and \$49,071.78 in total political contributions maintained. The "Committee Purpose" section of the report's cover sheet did not disclose that the committee supported or opposed any candidates, or that the committee assisted any officeholders. In response to the complaint, the respondent filed a corrected report and disclosed the required information in that section.
14. The respondent's 8-day pre-election report for the March 2008 primary election disclosed \$178,496.70 in total political contributions, \$169,783.01 in total political expenditures, and \$64,727.29 in total political contributions maintained. The "Committee Purpose" section of the report's cover sheet did not disclose that the committee supported or opposed any candidates, or that the committee assisted any officeholders. In response to the complaint, the respondent filed a corrected report and disclosed the required information in that section.
15. The respondent's 30-day pre-election report for the November 2008 general election disclosed \$5,750 in total political contributions, \$10,845.08 in total political expenditures, and \$17,805.52 in total political contributions maintained. The "Committee Purpose" section of the report's cover sheet did not disclose that the committee supported or opposed any candidates, or that the committee assisted any officeholders.
16. The respondent's 8-day pre-election report for the November 2008 general election disclosed \$7,311.11 in total political contributions, \$3,476.18 in total political expenditures, and \$22,519.36 in total political contributions maintained. The "Committee Purpose" section of the report's cover sheet did not disclose that the committee supported or opposed any candidates, or that the committee assisted any officeholders. In response to the complaint, the respondent filed a corrected report and disclosed the required information in that section.
17. The respondent's January 2009 semiannual report disclosed \$27,485 in total political contributions, \$11,213.13 in total political expenditures, and \$38,521.29 in total political contributions maintained. The "Committee Purpose" section of the report's cover sheet did not disclose that the committee supported or opposed any candidates, or that the committee assisted any officeholders. In response to the complaint, the respondent filed a corrected report and disclosed the required information in that section.

Personal Use of Political Contributions

18. The complaint alleged that the respondent converted political contributions to personal use based on political expenditures that the respondent disclosed on the July 2009 semiannual report. In response to the complaint, the respondent swore that no expenditures were made for personal use. There was no additional evidence related to the expenditures.

Timely Filing of Report

19. The complaint alleged that the respondent failed to timely file the 30-day pre-election report for the November 2008 general election. The report was due on October 6, 2008. The respondent filed the report on October 19, 2008, 13 days after the reporting deadline. Commission records show that the respondent was fined \$500 through the administrative process for filing the report late, and that fine was received by the commission on November 12, 2008.

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. ELEC. CODE § 254.031(a)(8).
2. The respondent swore that the total political contributions maintained disclosed on the political committee's campaign finance reports were correct. The amount of political contributions maintained cannot necessarily be calculated by looking at the face of a report. The evidence did not rebut the respondent's sworn statement. Therefore, there is insufficient evidence of violations of section 254.031(a)(8) of the Election Code.

Political Contributions from Corporations or Labor Unions

3. A person may not knowingly accept a political contribution that the person knows was made in violation of chapter 253 of the Election Code. ELEC. CODE § 253.003.
4. A corporation may not make a political contribution or political expenditure that is not authorized by subchapter D, chapter 253, Election Code. ELEC. CODE § 253.094.
5. The prohibition applies to corporations that are organized under the Texas Business Corporation Act, the Texas For-Profit Corporation Law, the Texas Non-Profit Corporation Act, the Texas Nonprofit Corporation Law, federal law, or law of another state or nation. ELEC. CODE § 253.091.
6. For 12 of the political contributions at issue, there is credible evidence of no violation of sections 253.003 and 253.094 of the Election Code. Regarding the two contributions from Texas AFL-CIO, there is insufficient evidence of violations of sections 253.003 and 253.094 of the Election Code.

Disclosure of Full Names of Persons Making Political Contributions and Receiving Political Expenditures

7. 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).
8. A campaign finance report must include, for all 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 political expenditures are made and the dates and purposes of the expenditures. ELEC. CODE § 254.031(a)(3).
9. The name of an entity that is required to be included in the name of the committee may be a commonly recognized acronym by which the entity is known. ELEC. CODE § 252.003(d).
10. Of the 46 disclosures at issue, 33 contributions did not include the full name of the contributor. Twenty-three contributions used an acronym that was not part of the committee's name instead of the full name of the committee. Ten disclosed a partial name. Therefore, with respect to those 33 entries, totaling approximately \$20,120, there is credible evidence of violations of sections 254.031(a)(1) of the Election Code. The remaining entries were correct or substantially complied with the statute. Therefore, regarding those entries, there is credible evidence of no violation of section 254.031(a)(1) of the Election Code.

Disclosure of Purposes of Political Expenditures

11. A campaign finance report must include, for all 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 political expenditures are made and the dates and purposes of the expenditures. ELEC. CODE § 254.031(a)(3).
12. The report of a political expenditure for goods or services must describe the categories of goods or services received in exchange for the expenditure. Ethics Commission Rules § 20.61.
13. Although the respondent filed corrected reports to provide additional information for most of the political expenditures at issue, the original disclosures were adequate. Therefore, there is credible evidence of no violation of section 254.031(a)(3) of the Election Code.

Disclosure of Payee of Political Expenditures

14. A campaign finance report must include, for all 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 political expenditures are made and the dates and purposes of the expenditures. ELEC. CODE § 254.031(a)(3).
15. Each campaign finance report must include the total amount or a specific listing of the political contributions of \$50 or less accepted and the total amount or a specific listing of the political expenditures of \$50 or less made during the reporting period. ELEC. CODE § 254.031(a)(5).
16. Three of the expenditures at issue disclosed the actual vendor payee. There is credible evidence of no violation regarding those expenditures. Regarding the remaining expenditures, although the amount at issue was \$50 or less, the respondent was required to include that amount in the total political expenditures of \$50 or less, or provide a specific listing of the expenditure. However, when the report was originally filed, the respondent failed to properly disclose this information. Therefore, there is credible evidence of a violation of section 254.031(a)(5) of the Election Code.

Disclosure of Political Expenditures for Travel Outside of Texas

17. A campaign finance report must include, for all 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 political expenditures are made and the dates and purposes of the expenditures. ELEC. CODE § 254.031(a)(3).
18. The description of a political expenditure for travel outside of the state of Texas must provide the name of the person or persons traveling on whose behalf the expenditure was made, the means of transportation, the name of the departure city or the name of each departure location, the name of the destination city or the name of each destination location, the dates on which the travel occurred, and the campaign or officeholder purpose of the travel, including the name of a conference, seminar, or other event. Ethics Commission Rules § 20.61(b).
19. The respondent was required to disclose information about travel outside of the state of Texas on Schedule T. The respondent filed a corrected report to disclose the information on Schedule T. The respondent was not required to disclose the rental car information, hotel information, and conference attendance fee on Schedule T. Therefore, there is credible evidence of no violation regarding these expenditures. The respondent was required to include the information regarding the means of out-of-state travel totaling approximately \$870 on Schedule T. At the time the report was originally filed, the respondent included this information only on Schedule F. Therefore, there is credible evidence of violations of section 254.031(a)(3) of the Election Code and section 20.61(b) of the Ethics Commission Rules.

Contributions from Out-of-State Political Committees

20. A candidate, officeholder, or political committee that accepts a political contribution from a political committee that files with the Federal Election Commission must include the FEC statement of organization or FEC identification number as a part of the report filed under Chapter 254 for the reporting period in which the contribution was accepted. ELEC. CODE § 253.032.
21. One of the committees at issue was not an out-of-state committee. The other two committees were out-of-state committees that file with the FEC. Therefore, there is credible evidence of no violation as to that contributor. The respondent filed corrections to disclose the FEC identification number for each out-of-state committee that contributed to her committee. However, at the time the reports were originally filed, the respondent failed to include this information. Therefore, there is credible evidence of violations of section 253.032 of the Election Code.

Failure to Include Occupation or Job Title and Name of Employer

22. A campaign treasurer of a specific-purpose political committee that supports or opposes a candidate for, or holder of, a statewide office in the executive branch or a legislative office must include a contributor's principal occupation or job title and the full name of the contributor's employer if the committee accepts political contributions of \$500 or more during the reporting period. ELEC. CODE §§ 254.0612, 254.1212.
23. As the campaign treasurer for a specific-purpose political committee supporting a state representative officeholder, the respondent was required to disclose the principal occupation or job title and full name of the employer of contributors whose contributions equaled or exceeded \$500 during a reporting period. The respondent failed to provide complete information for 30 contributors. The respondent filed corrections to the reports at issue to disclose the occupations and employers of 11 contributors at issue. However, the respondent failed to provide this information when the original reports were filed. Therefore, there is credible evidence of violations of section 254.1212 of the Election Code. There is credible evidence of no violation as to the remaining contributors.

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

24. Each report by a campaign treasurer of a specific-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 § 254.121(4) and (5).
25. As the campaign treasurer of a specific-purpose committee that supported or assisted an officeholder, the respondent was required to disclose the names of the candidates and

officeholders supported or assisted in the “Committee Purpose” section of its campaign finance reports. However, at the time the reports were filed, the respondent failed to include this information. There is credible evidence of technical or *de minimis* violations of section 254.121(4) and (5) of the Election Code.

Personal Use of Political Contributions

26. A specific-purpose committee that accepts a political contribution may not convert the contribution to the personal use of a candidate, officeholder, or former candidate or officeholder. ELEC. CODE § 253.035(a). Personal use is a use that primarily furthers individual or family purposes not connected with the performance of duties or activities as a candidate or officeholder. *Id.* § 253.035(d). Personal use does not include payments made to defray ordinary and necessary expenses incurred in connection with activities as a candidate or in connection with the performance of duties or activities as a public officeholder.
27. The campaign finance reports indicate that the political expenditures at issue were incurred in connection with constituent activities. There is insufficient evidence to show that the respondent violated section 253.035(a) of the Election Code.

Timely Filing of Report

28. For each election in which a specific-purpose political committee supports or opposes a candidate or measure, the committee’s campaign treasurer shall file two reports. *Id.* § 254.124(a). The first report shall be filed not later than the 30th day before election day. The report covers the period beginning the day the committee’s campaign treasurer appointment is filed or the first day after the period covered by the committee’s last required report, as applicable, and continuing through the 40th day before election day. *Id.* § 254.124(b).
29. The respondent’s 30-day pre-election report for the November 2008 general election was filed late. The committee was fined \$500 by the commission for filing a late report. The fine was paid by the committee. Nevertheless, there is credible evidence of a violation of section 254.124 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 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, the full name and address of the person making the contributions, and the dates of the contributions. The respondent also acknowledges that a campaign finance report must include, for all 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 political expenditures are made and the dates and purposes of the expenditures. The respondent also acknowledges that each campaign finance report must include the total amount or a specific listing of the political contributions of \$50 or less accepted and the total amount or a specific listing of the political expenditures of \$50 or less made during the reporting period. The respondent also acknowledges that political expenditures made for travel outside of Texas must comply with section 20.61(b) of the Ethics Commission Rules. The respondent also acknowledges that a candidate, officeholder, or political committee that accepts a political contribution from a political committee that files with the Federal Election Commission must include the FEC statement of organization or FEC identification number as a part of the report filed under Chapter 254 for the reporting period in which the contribution was accepted. The respondent also acknowledges that a campaign treasurer of a specific-purpose political committee that supports or opposes a candidate for, or holder of, a statewide office in the executive branch or a legislative office must include a contributor's principal occupation or job title and the full name of the contributor's employer if the committee accepts political contributions of \$500 or more from the contributor during the reporting period. The respondent also acknowledges that each report by a campaign treasurer of a specific-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. The respondent also acknowledges that for each election in which a specific-purpose political committee supports or opposes a candidate or measure, the committee's campaign treasurer shall file two reports. The first report shall be filed not later than the 30th day before election day. The report covers the period beginning the day the committee's campaign treasurer appointment is filed or the first day after the period covered by the committee's last required report, as applicable, and continuing through the 40th 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 an \$800 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-3100124.

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

Ateja Dukes, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director