

TEXAS ETHICS COMMISSION

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| IN THE MATTER OF | § | BEFORE THE |
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| LESLIE POOL, | § | |
| CAMPAIGN TREASURER, | § | TEXAS ETHICS COMMISSION |
| AUSTIN PROGRESSIVE COALITION, | § | |
| | § | |
| RESPONDENT | § | SC-31009268 |

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) held a preliminary review hearing on February 8, 2012, to consider sworn complaint SC-31009268. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 254.031, 254.151, and 254.154 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: 1) did not timely file 8-day pre-election campaign finance reports, 2) did not disclose the full name and occupations of contributors on a campaign finance report, and 3) did not include on the committee's reports the name of each identified candidate supported or opposed, and officeholder assisted by the committee.

III. Facts Supported by Credible Evidence

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

1. During the periods at issue, the respondent was the campaign treasurer for Austin Progressive Coalition PAC (APC), a general-purpose political committee that files campaign finance reports with the commission.
2. The complaint alleged that based on activity disclosed on APC's July 2009 and July 2010 semiannual reports, and activity disclosed on the reports of certain candidates, the respondent failed to file 8-day pre-election reports in connection with the May 2009 general election, March 2010 primary election, May 2010 general election, and an 8-day runoff

- report in connection with the Austin Independent School District (AISD) Trustee runoff election on June 12, 2010.
3. APC filed no pre-election or runoff reports in connection with the elections at issue.
 4. The periods that would have been covered by the pre-election reports and runoff reports are as follows:
 - May 2009 8-day pre-election - March 31, 2009, through April 29, 2009.
 - March 2010 primary 8-day pre-election report - January 22, 2010, through February 20, 2010.
 - May 2010 8-day pre-election report - March 30, 2010, through April 28, 2010.
 - June 2010 AISD Trustee 8-day runoff report - April 29, 2010, through June 2, 2010.
 5. APC's July 2009 semiannual report disclosed the following:
 - an \$850.85 political expenditure on April 17, 2009, to payee Worley Printing for the purpose of, "print door hangers."
 - no political contributions.
 6. APC's July 2010 semiannual report disclosed the following:
 - \$1,549.06 on March 12, 2010, to payee Worley Printing for the purpose of, "Printing Expense" with a description, "door hangers."
 - \$778.59 on May 27, 2010, to payee CheckMark Typesetting for the purpose of, "Printing Expense" with a description, "door hangers."
 - \$332.33 on June 24, 2010, to payee CheckMark Typesetting for the purpose of, "Printing Expense" with a description, "door hangers."
 - approximately \$1,780 in political contributions from contributors including contributions from candidates for local and statewide office.
 7. The complaint also included selected pages from the campaign finance reports of certain candidates who were involved in the elections at issue. The candidates disclosed the following political expenditures to APC:
 - A judicial candidate in the March 2010 primary, disclosed a March 15, 2010, \$250 political expenditure to APC for the purpose of "Printing" on her July 2010 semiannual report.
 - A candidate for State Board of Education in the March 2010 primary, disclosed a February 24, 2010, \$150 political expenditure to APC for the purpose of "Advertising Expense/Endorsement Doorhangers" on her July 2010 semiannual report.

8. A search of records filed with the commission and local filing authorities disclosed that a candidate for governor in the March 2010 primary election, disclosed a February 20, 2010, \$350 political expenditure to APC on his 8-day pre-election report filed in connection with the March 2010 primary, for the purpose of "Voter outreach." It appears that other contributors to APC also made these political contributions as political expenditures for the committee's support.
9. The complaint alleged that the respondent failed to disclose the full name and occupation information for two contributors on APC's July 2010 semiannual report.
10. APC's July 2010 semiannual report disclosed political contributions from "Crain" and "Sosa" totaling \$450, and left blank the spaces provided to disclose principal occupation or job title and employer information for the contributors.
11. The complaint alleged that APC's July 2009 and July 2010 semiannual reports failed to disclose candidates supported and officeholders assisted on the cover sheet. Both reports left blank the spaces provided to disclose this information on the reports at issue.
12. The complaint alleged that the respondent failed to properly disclose political contributions maintained on APC's July 2010 semiannual report.
13. In response to the complaint, the respondent swore that "any required pre-election reports that were not filed will be filed in short order" and that she would file corrections to the contributors whose names, addresses and employer information were "inadvertently left incomplete." The respondent also swore that total political contributions maintained were correct as originally reported and provided a copy of APC's bank statement in support of this assertion. The balance reflected in the statement as of the last day of the reporting period for the July 2010 semiannual report is the same as the amount disclosed on that report (\$175.04).
14. The respondent filed a corrected July 2010 semiannual report, disclosing complete name and occupation information for the two contributors at issue, and disclosing support of each of the candidates disclosed as contributors to APC during that reporting period. The respondent stated that no expenditures supporting or opposing candidates or officeholders were made during the July 2009 semiannual reporting period.
15. Information gathered from Internet websites and conversations with the respondent indicate that APC is comprised of two local groups, the University Democrats and the Central Austin Democrats. When these two groups concur in endorsing candidates, APC receives political contributions, often from the candidates themselves, to offset costs associated with typesetting and printing door hangers and advertisements supporting these candidates. Endorsements by APC found on Internet websites indicate that the group did endorse individuals involved in each of the elections at issue.

16. The facebook page for APC included an entry dated March 28, 2009, titled, "Austin Progressive Coalition City Endorsements" and listing a number of candidates. The entry also included a comment that stated, "the endorsements will be placed on thousands of yellow flyers that will be distributed door to door."
17. A local political blog included a February 6, 2010, entry from an individual who identified himself as an officer of one of the groups that make up the coalition. The entry was titled, "Austin Progressive Coalition Endorsements," and included the names of individuals endorsed by APC for the 2010 Democratic Party primary. The entry also included the statement, "The Austin Progressive Coalition will combine efforts to make door hangers for the candidates the two groups endorsed. Block walks are scheduled for each of the three Saturdays after today. So, the APC endorsements could make a significant difference in the close races, such as the County Commissioner's race." February 13 and 20, were within the reporting period for the March 2010 8-day pre-election report.
18. A local political blog included an April 18, 2010, entry from an individual who identified himself as an officer of one of the groups that make up the coalition. The entry was titled, "Austin Progressive Coalition Endorses in ACC and AISD Elections," and listed five candidates supported by APC.

IV. Findings and Conclusions of Law

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

1. 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).
2. Each 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. *Id.* § 254.031(a)(8).
3. Each report by a campaign treasurer of a general-purpose committee must include the principal occupation of each person from whom political contributions that in the aggregate exceed \$50 are accepted during the reporting period. ELEC. CODE § 254.151(6).
4. The respondent, as campaign treasurer of APC failed to disclose the full name of two contributors for contributions totaling \$450. The respondent corrected the report. There is credible evidence of violations of section 254.031(a)(1) of the Election Code.

5. With regard to total political contributions maintained, there is credible evidence that the respondent properly disclosed the correct total on APC's July 2010 semiannual report. Therefore, there is credible evidence of no violation of section 254.031(a)(8) of the Election Code.
6. The respondent did not disclose the full occupation of the two contributors at issue. The respondent corrected the report to disclose that information. There is credible evidence of violations of section 254.151(6) of the Election Code.

Names of Candidates Supported or Opposed and Officeholders Assisted

7. Each report by a campaign treasurer of a general-purpose committee must include the name of each identified candidate or measure or classification by party of candidates supported or opposed by the committee, indicating whether the committee supports or opposes each listed candidate, measure, or classification by party of candidates, and the name of each identified officeholder or classification by party of officeholders assisted by the committee. *Id.* §§ 254.151(4), 254.151(5).
8. APC's July 2009 and July 2010 semiannual reports disclosed that the committee made political expenditures related to campaign activity for the May 2009 general election, March 2010 primary election, May 2010 general election, and June 2010 AISD runoff election. The respondent left blank the "Committee Activity" section of the July 2009 and July 2010 semiannual reports' cover pages. The respondent corrected the July 2010 semiannual report to reflect support of candidates. She stated that APC did not make any expenditure supporting or opposing candidates or officeholders during the July 2009 reporting period. However, there is evidence that APC was involved in the May 2009 election. The evidence indicated that the respondent should have filed pre-election reports for part of the periods covered by the two semiannual reports. She did not file those reports, and did not indicate on the reports filed the candidates that APC supported. The disclosures on the reports did not make clear the candidates that APC supported. Therefore, there is credible evidence of violations of section 254.151(4) of the Election Code.

8-day Pre-election Reports

9. In addition to other required reports, for each election in which a general-purpose committee is involved, the committee's campaign treasurer shall file two reports. *Id.* § 254.154(a). The first report must be received by the authority with whom the report is required to be filed not later than the 30th day before election day and 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.* § 254.154(b). The second report must be received by the authority with whom the report is required to be filed not later than the eighth day before election day and covers the period beginning the 39th day before election day and continuing through the 10th day before election day. *Id.* § 254.154(c).

10. A political expenditure is considered to have been made when the amount is readily determinable by the person making the expenditure. ELEC. CODE § 254.035.
11. In addition to other required reports, the campaign treasurer of a general-purpose committee involved in a runoff election shall file one report for the runoff election. The runoff election report must be received by the authority with whom the report is required to be filed not earlier than the 10th day or later than the eighth day before runoff election day. The report covers the period beginning the ninth day before the date of the main election and continuing through the 10th day before runoff election day. *Id.* § 254.154(e).
12. The evidence indicated that APC was involved in the May 2009 Austin municipal elections. According to its own facebook page the APC endorsed candidates, and the endorsement included the distribution of “thousands of yellow flyers.” There are similar endorsements and statements related to the March 2010 primary election and May 2010 election. Regarding the question of whether the respondent was required to file APC’s 8-day pre-election reports for the May 2009 election, March 2010 primary election, May 2010 election, and June 2010 run-off election, the evidence, including the respondent’s July 2010 corrected report and evidence published on the Internet, indicated that the APC was involved in each of the elections. The endorsements and activities in which APC engaged suggest that the dates of some of the expenditures did not reflect the date that the expenditures were readily determinable, but instead disclosed the date when a bill was received, i.e. holding block walks to distribute flyers during a period covered by an 8-day pre-election report, but disclosing the expenditure as having been made after that period.
13. The evidence indicated that APC was involved in all of the relevant elections. (In some instances the respondent may have been required to file both of APC’s 30-day and 8-day pre-election reports. Because an 8-day pre-election report is required when a 30-day pre-election report is filed in connection with a general election, the respondent would have been required to file APC’s 8-day pre-election report in each instance. The June 2010 8-day before run-off was also required.) Therefore, there credible evidence of a violation of section 254.154 of the Election Code with regard to the May 2009 general election, March 2010 primary election, May 2010 general election, and June 2010 run-off election.

V. Representations and Agreement by Respondent

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

1. The respondent neither admits nor denies the facts described under Section III or the commission's findings and conclusions of law described under Section IV, and consents to the entry of this order and agreed resolution solely for the purpose of resolving this sworn complaint.
2. The respondent consents to this order and agreed resolution and waives any right to further proceedings in this matter.
3. The respondent acknowledges: that each campaign finance report must include the amount of political contributions from each person that in the aggregate exceed \$50 and that are accepted during the reporting period by the person or committee required to file a report under this chapter, the full name and address of the person making the contributions, and the dates of the contributions; that each report by a campaign treasurer of a general-purpose committee must include the principal occupation of each person from whom political contributions that in the aggregate exceed \$50 are accepted during the reporting period; and that each report 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 further acknowledges: that in addition to other required reports, for each election in which a general-purpose committee is involved, the committee's campaign treasurer shall file two reports - the first report must be received by the authority with whom the report is required to be filed not later than the 30th day before election day and 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 second report must be received by the authority with whom the report is required to be filed not later than the eighth day before election day and covers the period beginning the 39th day before election day and continuing through the 10th day before election day; that in addition to other required reports, the campaign treasurer of a general-purpose committee involved in a runoff election shall file one report for the runoff election - the runoff election report must be received by the authority with whom the report is required to be filed not earlier than the 10th day or later than the eighth day before runoff election day, and the report covers the period beginning the ninth day before the date of the main election and continuing through the 10th day before runoff 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 seriousness of the violations described under Sections III and IV, including the nature, circumstances, and consequences of the violations, and after considering the sanction necessary to deter future violations, the commission imposes a \$250 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-31009268.

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

Leslie Pool, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director