

TEXAS ETHICS COMMISSION

IN THE MATTER OF

ELIDA CARRASCO,
CAMPAIGN TREASURER,
CONCERNED CITIZENS
OF HIDALGO,

RESPONDENT

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BEFORE THE

TEXAS ETHICS COMMISSION

SC-31110242

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on May 30, 2013, to consider sworn complaint SC-31110242. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 253.003, 253.004, 253.031, 253.037, 254.123, 254.124, and 254.129 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, as campaign treasurer of Concerned Citizens of Hidalgo (CCH), the respondent: 1) accepted political contributions totaling more than \$500 and made or authorized political expenditures totaling more than \$500 when a campaign treasurer appointment for the committee was not in effect; 2) did not file 30-day and 8-day pre-election reports for the May 2011 uniform election; 3) did not file a July 2011 semiannual report; and 4) did not file a change of committee status.

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 Concerned Citizens of Hidalgo (CCH).
2. On April 13, 2011, CCH filed a campaign treasurer appointment for a specific-purpose committee with the Hidalgo city secretary. Based on CCH's treasurer appointment, the committee's purpose was to oppose a City of Hidalgo bond measure that was voted on in the May 2011 uniform election.

Accepting Political Contributions and Making Political Expenditures Over \$500 Without Campaign Treasurer Appointment

3. The complaint alleged that the respondent accepted political contributions totaling more than \$500 and made or authorized political expenditures totaling more than \$500 when a campaign treasurer appointment for CCH was not on file.
4. The complaint included a copy of a golf tournament registration form showing that CCH sponsored their *fourth* biennial golf tournament on October 29, 2011. The golf tournament registration form stated:

The Concerned Citizens Committee is composed of community leaders and residents from the City of Hidalgo, the City of Granjeno and Las Milpas who are committed to ensuring that the City of Hidalgo, the City of Granjeno, Hidalgo Independent School District and Valley View Independent School District are led by qualified, honest and hardworking individuals. Your Support of this tournament is greatly appreciated.

5. Based on the language from the golf tournament registration form, it appears that CCH sponsored their fourth biennial golf tournament on October 29, 2011, and was supporting unidentified local candidates. Accordingly, the evidence indicates that CCH had been active for eight years prior to the October 2011 golf tournament. The registration form also indicated that the entry fee was \$150 per team of three players, and that there were prizes of \$600 for first place, \$400 for second place, \$300 for third place, and \$200 for fourth place. The form also showed that there were hole sponsorships starting at \$1,000 per hole.
6. In response to the complaint, the respondent swore:

I have been a member of the Concerned Citizens of Hidalgo Committee (C.C.H.C.) for many years. The Special Political Committee has existed for many years too.

...

I was appointed the Committee treasurer about 6 years ago. Although my appointment has not been formalized, I have acted as the Treasurer for the Concerned Citizens of Hidalgo Committee. Attached are financial statements for the C.C.H.C. from March 2011 to December 2011.

...

In terms of any money contributions made to the Concerned Citizens of Hidalgo Committee, the Committee made expenditures when it sponsored a golf tournament on October 28, 2011.

7. The respondent provided bank statements for CCH covering from March 2011 through December 2011. The bank statement covering March 2011 shows that CCH had a bank balance of \$15.85 on March 1, \$1,115.85 on March 8, and \$455.34 on March 11. The statement shows that CCH made a deposit of \$1,100 on March 8, 2011, and also that CCH wrote a check for approximately \$660 on March 11, 2011.
8. The bank statement covering April 2011 shows that CCH had a bank balance of \$455.34 on April 1, \$880.34 on April 6, -\$154.65 on April 11, and \$45.35 on April 13. The statement shows that CCH made a deposit of \$425 on April 6, 2011, and also that CCH wrote a check for \$1,000 on April 11, 2011.
9. The complaint included a copy of a \$4,000 contribution check dated September 2007 (exact day is not clearly legible) that was made payable to Concerned Citizens of Hidalgo. The endorsement signature on the back of the check appears to be the signature of the respondent. Based on the fact that the respondent has been the treasurer of CCH for approximately six years, the fact that the respondent was able to provide bank statements, and the fact that the endorsement signature on the \$4,000 contribution check appears to be the respondent's signature, it appears that the respondent had signature authorization on the CCH bank account.

Filing of Campaign Finance Reports

10. The complaint alleged that the respondent did not file 30-day and 8-day pre-election reports for the May 14, 2011, uniform election, and also that the respondent did not file a July 2011 semiannual report.
11. On March 8, 2013, the commission requested from the Hidalgo city secretary all campaign finance reports and campaign treasurer appointments on file by CCH. The open records request indicated that there were no campaign finance reports on file with the Hidalgo city secretary.
12. Based on records on file with the Hidalgo city secretary, CCH filed a campaign treasurer appointment on April 13, 2011. According to the second page of the treasurer appointment, CCH selected a modified reporting declaration. However, the person who submitted the form did not indicate to which election cycle the modified reporting declaration would apply. Additionally, the bank statements show that CCH accepted and spent more than \$500 prior to the May 2011 election.

13. The complaint included a picture of a political advertising sign that appears to have been created by CCH. The top of the sign states “Concerned Citizens of Hidalgo,” and contains language that appears to be in opposition of a bond measure. The complaint stated that the sign was one of several that appeared in Hidalgo during the May 2011 bond election. Based on a May 9, 2011, news article appearing on the ValleyCentral.com Internet website titled “State Farm Arena bond election generates controversy,” pictures show that the same CCH yard signs opposing the bond measure were placed in areas that appear to be polling locations. Moreover, the article shows pictures of supporters wearing red t-shirts that contain the same bond opposition language appearing on the CCH yard signs. Accordingly, the yard signs and t-shirts appear to have emanated from CCH.
14. In response to the complaint, the respondent swore: “No funds from the Political Committee – Concerned Citizens of Hidalgo were used to oppose the Bond Election [...] [m]y failure to file a campaign financial report(s) was unintentional and merely an oversight on our part.”

Change of Committee Status

15. The complaint alleged that the respondent did not file a change of committee status with the Hidalgo city secretary.
16. The complaint included a copy of a golf tournament registration form showing that CCH sponsored their fourth biennial golf tournament on October 29, 2011. The language from the golf tournament registration form indicates that CCH was supporting unidentified candidates. In response to the complaint, the respondent swore that “the Committee made expenditures when it sponsored a golf tournament on October 28, 2011.”
17. The complaint also included a copy of a flyer showing that CCH supported eight specific school board candidates for Valley View Independent School District and Hidalgo Independent School District in the May 2012 uniform election. The flyer also showed that CCH supported four specific candidates for Hidalgo city commissioner. The evidence does not indicate when the flyer was created, but it appears that it was created sometime after the October 28, 2011, golf tournament.
18. On April 13, 2012, the respondent filed a campaign treasurer appointment with the commission and formed Concerned Citizens (CC), a general-purpose committee. The treasurer appointment form designated the respondent as the campaign treasurer of CC. The treasurer appointment form also listed four individuals as contribution and expenditure decision makers for CC. Although the respondent was not listed as one of CC’s decision makers, some of the listed individuals are the same individuals that were connected with CCH. Accordingly, CC appears to be substantially comprised of the same members as those of CCH.

Making Political Expenditures Over \$500 for a General-Purpose Committee Without Campaign Treasurer Appointment

19. The complaint alleged that the respondent made or authorized political expenditures totaling more than \$500 for a general-purpose committee when a campaign treasurer appointment for the committee was not on file.
20. On April 13, 2012, the respondent filed a campaign treasurer appointment with the commission and formed Concerned Citizens (CC), a general-purpose committee. The treasurer appointment form designated the respondent as the campaign treasurer of CC.
21. The golf tournament registration form that was submitted with the complaint shows that CCH sponsored their fourth biennial golf tournament on October 29, 2011, for the purpose of “ensuring that the City of Hidalgo, the City of Granjeno, Hidalgo Independent School District and Valley View Independent School District are led by qualified, honest and hardworking individuals.” Based on the language from the golf tournament registration form, it appears that CCH was supporting unidentified candidates.
22. The registration form also indicated that there was a \$150 entry fee, team prizes totaling \$1,500, and hole sponsorships starting at \$1,000 per hole. In response to the complaint, the respondent swore that “the Committee made expenditures when it sponsored a golf tournament on October 28, 2011.” Accordingly, the evidence indicates that CCH was accepting political contributions and making political expenditures.

IV. Findings and Conclusions of Law

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

Accepting Political Contributions and Making Political Expenditures Over \$500 Without Campaign Treasurer Appointment

1. Each political committee shall appoint a campaign treasurer as provided by chapter 252 of the Election Code. ELEC. CODE § 252.001. A campaign treasurer appointment must be in writing and include the campaign treasurer’s name, residence or business street address, and telephone number and the name of the person making the appointment. *Id.* § 252.002(a). The campaign treasurer appointment by a general-purpose committee must include additional information provided by section 252.003. *Id.* § 252.003(a).
2. A person may not knowingly accept a political contribution the person knows to have been made in violation of this chapter. *Id.* § 253.003(b). A person may not knowingly make or authorize a political expenditure in violation of this chapter. *Id.* § 253.004(a).

3. A political committee may not knowingly accept political contributions totaling more than \$500 or make or authorize political expenditures totaling more than \$500 at a time when a campaign treasurer appointment for the committee is not in effect. *Id.* § 253.031(b).
4. “Political committee” means a group of persons that has as a principal purpose accepting political contributions or making political expenditures. ELEC. CODE § 251.001(12).
5. “Political contribution” means a campaign contribution or an officeholder contribution. *Id.* § 251.001(5). “Campaign contribution” means a contribution to a candidate or political committee that is offered or given with the intent that it be used in connection with a campaign for elective office or on a measure. Whether a contribution is made before, during, or after an election does not affect its status as a campaign contribution. *Id.* § 251.001(3). “Contribution” means a direct or indirect transfer of money, goods, services, or any other thing of value and includes an agreement made or other obligation incurred, whether legally enforceable or not, to make a transfer. The term includes a loan or extension of credit, other than those expressly excluded by this subdivision, and a guarantee of a loan or extension of credit, including a loan described by this subdivision. *Id.* § 251.001(2).
6. “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). “Expenditure” means a payment of money or any other thing of value and includes an agreement made or other obligation incurred, whether legally enforceable or not, to make a payment. *Id.* § 251.001(6). “Measure” means a question or proposal submitted in an election for an expression of the voters’ will and includes the circulation and submission of a petition to determine whether a question or proposal is required to be submitted in an election for an expression of the voters’ will. *Id.* § 251.001(19).
7. Credible evidence indicates that CCH filed its campaign treasurer appointment with the Hidalgo city secretary on April 13, 2011, appointing the respondent as campaign treasurer. The respondent swore that CCH has existed for many years, and that she was informally appointed as treasurer about six years ago (approximately February 2, 2006). In addition, the golf tournament registration form indicated that CCH had been sponsoring golf tournaments and acting as a political committee for eight years prior to October 29, 2011. Thus, the evidence indicates that, prior to April 13, 2011, CCH was a political committee and that the respondent was acting as treasurer for the committee.
8. The bank statements submitted by the respondent show that CCH had both contributions and expenditures in excess of \$500 prior to April 13, 2011. Moreover, the copy of the contribution check submitted with the complaint shows that CCH accepted a \$4,000 contribution around September 2007. The golf tournament registration form is also evidence

that CCH had been active for approximately eight years before CCH filed its treasurer appointment. Accordingly, the evidence indicates that the respondent accepted political contributions totaling more than \$500 and made or authorized political expenditures totaling more than \$500 when a campaign treasurer appointment for CCH was not on file. Therefore, there is credible evidence of violations of sections 253.003(b), 253.004(a), and 253.031(b) of the Election Code.

Filing of Campaign Finance Reports

9. The campaign treasurer of a specific-purpose committee shall file two reports for each year as provided by this section. ELEC. CODE § 254.123(a). The first report shall be filed not later than July 15. The report covers the period beginning January 1, the day the committee's campaign treasurer appointment is filed, or the first day after the period covered by the last report required to be filed under this subchapter, as applicable, and continuing through June 30. *Id.* § 254.123(b).
10. In addition to other required reports, for each election in which a specific-purpose committee supports or opposes a candidate or measure, the committee's campaign treasurer shall file two reports. *Id.* § 254.124(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.* § 254.124(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.* § 254.124(c).
11. Regarding the 30-day and 8-day pre-election reports for the May 14, 2011, uniform election, the treasurer appointment on file by CCH indicates that CCH formed to oppose a bond measure in the May 14, 2011, uniform election. Although the respondent swore that no funds were used to oppose the bond election, CCH's bank records show that it was accepting and spending money during the periods covered by the pre-election reports. Moreover, the picture of the political advertising sign submitted with the complaint indicates that CCH created political advertisements opposing the bond measure. The Valley Central news article further depicts that CCH had political advertising signs and supporters wearing red t-shirts that opposed the bond measure. Accordingly, the evidence available to the commission indicates that CCH was involved in the May 2011 election, and therefore, the respondent was required to file a 30-day pre-election report by April 14, 2011, and an 8-day pre-election report by May 6, 2011. The reports were not filed. Therefore, there is credible evidence of violations of sections 254.124(a) and 254.124(b) of the Election Code.
12. Regarding the July 2011 semiannual report, CCH had an active campaign treasurer appointment on file and was required to file the semiannual report by July 15, 2011. The

report has not been filed. Therefore, there is credible evidence of a violation of section 254.123(b) of the Election Code.

Change of Committee Status

13. If a specific-purpose committee changes its operation and becomes a general-purpose committee, the committee's campaign treasurer shall deliver written notice of the change in status to the authority with whom the specific-purpose committee's reports under this chapter are required to be filed. ELEC. CODE § 254.129(a).
14. Here, the treasurer appointment on file with the Hidalgo city secretary indicates that CCH was formed for the purpose of opposing a bond measure. Credible evidence indicates that after the bond election for which CCH was formed, it changed its operations and began supporting various city commissioner candidates and school board candidates for Valley View Independent School District and Hidalgo Independent School District in the May 2012 uniform election. Based on the language from CCH's golf tournament registration form, it appears that no later than October 29, 2011, CCH had as a purpose supporting unidentified candidates (the evidence indicates that CCH likely should have filed with the commission as a general-purpose committee some time ago). Moreover, the fact that the respondent filed a treasurer appointment with the commission and formed a general-purpose committee with a similar name and membership base as that of CCH is evidence that CCH changed its operations and became a general-purpose committee. Based on records on file with the Hidalgo city secretary, the respondent did not deliver written notice of the change in committee status. Therefore, there is credible evidence of a violation of section 254.129 of the Election Code.

Making Political Expenditures Over \$500 for a General-Purpose Committee Without Campaign Treasurer Appointment

15. A political committee may not knowingly accept political contributions totaling more than \$500 or make or authorize political expenditures totaling more than \$500 at a time when a campaign treasurer appointment for the committee is not in effect. ELEC. CODE § 253.031(b).
16. A general-purpose committee may not make or authorize political expenditures totaling more than \$500 unless the committee has: (1) filed its campaign treasurer appointment not later than the 60th day before the date the expenditure is made that causes the total expenditures to exceed \$500, and (2) accepted political contributions from at least 10 persons. ELEC. CODE § 253.037(a); Ethics Advisory Opinion No. 161 (1993).
17. On April 13, 2012, the respondent filed a campaign treasurer appointment with the commission and formed Concerned Citizens (CC), a general-purpose committee. However, the evidence available to the commission indicates that CCH was acting as a general-purpose

committee no later than October 29, 2011, when it sponsored a golf tournament, which appeared to be in support of unidentified local candidates. In response to the complaint, the respondent acknowledged that CCH made expenditures when it sponsored the golf tournament in October 2011. Moreover, the entry fee and team prize amounts shown on the registration form is evidence that CCH accepted political contributions totaling more than \$500 and made political expenditures totaling more than \$500 prior to April 13, 2012. Therefore, there is credible evidence of violations of sections 253.031(b) and 253.037(a) 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 political committee may not knowingly accept political contributions totaling more than \$500 or make or authorize political expenditures totaling more than \$500 at a time when a campaign treasurer appointment for the committee is not in effect; 2) a general-purpose committee may not make or authorize political expenditures totaling more than \$500 unless the committee has: (a) filed its campaign treasurer appointment not later than the 60th day before the date the expenditure is made that causes the total expenditures to exceed \$500, and (b) accepted political contributions from at least 10 persons; 3) the campaign treasurer of a specific-purpose committee shall file two reports each year. The first report shall be filed not later than July 15. The report covers the period beginning January 1, the day the committee's campaign treasurer appointment is filed, or the first day after the period covered by the last report required to be filed under this subchapter, as applicable, and continuing through June 30; 4) in addition to other required reports, for each election in which a specific-purpose committee supports or opposes a candidate or measure, 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; and 5) if a specific-purpose committee changes its operation and becomes a

general-purpose committee, the committee's campaign treasurer shall deliver written notice of the change in status to the authority with whom the specific-purpose committee's reports under this chapter are required to be filed. 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 \$3,000 civil penalty.

The respondent agrees that the Texas Ethics Commission, P. O. Box 12070, Austin, Texas 78711, must receive from the respondent full payment of the \$3,000 civil penalty no later than January 1, 2014, and agrees to waive any right to a hearing related to this sworn complaint. The respondent agrees that if the full amount is not received by January 1, 2014, the matter of the collection of the civil penalty will be referred to the Office of the Attorney General of Texas.

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-31110242.

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

Elida Carrasco, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director