

TEXAS ETHICS COMMISSION

IN THE MATTER OF

RAY C. JONES, SR.,
CAMPAIGN TREASURER,
HOUSTON BLACK AMERICAN
DEMOCRATS POLITICAL ACTION
COMMITTEE,

RESPONDENT

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BEFORE THE

TEXAS ETHICS COMMISSION

SC-31309151

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (Commission) met on October 5, 2015, to consider sworn complaint SC-31309151. A quorum of the Commission was present. The Commission determined that there is credible evidence of violations of sections 254.031, 254.036, 254.151, and 254.153 of the Election Code and section 20.62 of the Ethics Commission Rules, 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 the campaign treasurer of Houston Black American Democrats Political Action Committee, the respondent: 1) did not properly disclose political contributions and political expenditures; 2) did not disclose the principal occupation of contributors; 3) did not properly execute report affidavits; and 4) did not timely file reports.

III. Facts Supported by Credible Evidence

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

1. The respondent was the campaign treasurer of Houston Black American Democrats Political Action Committee (HBAD PAC), a general-purpose committee, during the period at issue.

2. The reports at issue are HBAD PAC's January and July 2012 and January and July 2013 semiannual reports.

Disclosure of Political Contributions and Political Expenditures

3. The complaint alleged that, on the cover sheet of the January 2012 semiannual report, the respondent did not properly disclose total political contributions and total political contributions maintained. The complaint alleged that total political contributions should be \$27,500 and that total political contributions maintained should be \$2,042.73.
4. The complaint alleged that, on the cover sheet of the July 2012 semiannual report, the respondent did not properly disclose: total political contributions of \$50 or less; total political expenditures of \$100 or less; total political expenditures; and total political contributions maintained. The complaint alleged that: total political contributions of \$50 or less should be \$0; total political expenditures of \$100 or less should be \$0; total political expenditures should be \$7,114; and total political contributions maintained should be \$2,478.73.
5. The complaint alleged that, on the cover sheet of the January 2013 semiannual report, the respondent did not properly disclose total political contributions maintained. The complaint alleged that total political contributions maintained should be \$2,478.73.
6. The complaint alleged that, on the cover sheet of the July 2013 semiannual report, the respondent did not properly disclose total political contributions maintained. The complaint alleged that total political contributions maintained should be \$2,478.73.
7. In response to the complaint, the respondent swore:

We have two accounts in this organization. A general fund account and a political action committee account. The general funds account is for funds that we raise through our annual fundraisers. Many political candidates contribute to the fundraiser. I have verbally asked the Texas Ethics Committee if I had to report these funds that go into our general funds. They responded that it is not necessary if we are not using the funds in a political way. The general fund is used for our operating expenses.

January 2012 Semiannual Report

8. The January 2012 semiannual report disclosed:

Total Political Contributions of \$50 or Less	\$	0.00
Total Political Contributions	\$	0.00
Total Political Expenditures of \$100 or Less	\$	0.00
Total Political Expenditures		\$25,457.27
Total Political Contributions Maintained	\$	1,292.73
Total Outstanding Loans	\$	0.00

9. The report did not include Schedule A (used for political contributions) but included Schedule B (used for pledged contributions) which disclosed 18 pledges totaling \$27,500 between October 5, 2011, and November 7, 2011.
10. The committee dissolved on May 24, 2011. The committee's dissolution report disclosed \$0 for total political contributions maintained as of the last day of the reporting period.
11. The committee filed a new campaign treasurer appointment on October 5, 2011, naming the respondent as the campaign treasurer of the committee.
12. The January 2012 semiannual report was the first report filed for the committee after the committee dissolved.
13. The respondent reported in the January 2012 semiannual report that the committee made \$25,457.27 in political expenditures. Based on the committee's dissolution report filed on May 24, 2011, the committee did not have any political contributions maintained from before the January 2012 reporting period. Therefore, it appears that the money disclosed as pledges, \$27,500, was actually political contributions the committee received and used to make their political expenditures of \$25,457.27. It appears that the respondent should have itemized political contributions totaling \$27,500 on Schedule A of the report at issue. It also appears that the respondent should have disclosed that total political contributions were \$27,500, as the complaint alleged, and not \$0.
14. The report disclosed \$1,292.73 for total political contributions maintained. As stated above, the committee did not have any political contributions maintained from before the reporting period. If you subtract the total expenditure amount of \$25,457.27 from what appears to be the correct total political contributions amount of \$27,500, it appears that total political contributions maintained should be \$2,042.73, as the complaint alleged.

July 2012 Semiannual Report

15. The July 2012 semiannual report disclosed:

Total Political Contributions of \$50 or Less	\$ 7,550.00
Total Political Contributions	\$ 7,550.00
Total Political Expenditures of \$100 or Less	\$ 7,114.00
Total Political Expenditures	\$14,228.00
Total Political Contributions Maintained	\$ 436.00
Total Outstanding Loans	\$ 0.00

16. The report did not include Schedule A, but included Schedule B which disclosed 12 pledges totaling \$7,550 between May 7, 2012, and June 7, 2012.

17. The respondent itemized \$7,114 in political expenditures.

18. From the face of the prior report, the January 2012 semiannual report, it appears that the committee only had \$2,042.73 in political contributions maintained at the beginning of the reporting period for this report, the July 2012 semiannual report. It appears that the \$7,550 itemized as pledges was actually political contributions used in part to pay the itemized political expenditures of \$7,114. It appears that the respondent should have itemized political contributions totaling \$7,550 on Schedule A of the report at issue.

19. It also appears that the respondent should have disclosed that total political contributions of \$50 or less was \$0, as the complaint alleged, instead of \$7,550, the amount disclosed for total political contributions and the amount itemized as pledges but which appear to actually be contributions.

20. It also appears that the respondent should have disclosed that total political expenditures of \$100 or less was \$0, as the complaint alleged, instead of \$7,114, the amount of political expenditures itemized on Schedule F (used to disclose political expenditures).

21. It also appears that the respondent should have disclosed that total political expenditures was \$7,114, as the complaint alleged, which was the amount of itemized political expenditures, instead of \$14,228, which is a double-reporting of the \$7,114.

22. The report disclosed \$436 for total political contributions maintained. However, if you add what appears to be the correct amount of total political contributions maintained from the prior report, the January 2012 semiannual report, of \$2,042.73, to what appears to be the correct amount of contributions for this reporting period, \$7,550, and subtract what appears to be the correct amount of total political expenditures for this reporting period, \$7,114, it

appears that the correct amount of total political contributions maintained is \$2,478.73, as the complaint alleged.

January 2013 Semiannual Report

23. The January 2013 semiannual report disclosed:

Total Political Contributions of \$50 or Less	\$0.00
Total Political Contributions	\$0.00
Total Political Expenditures of \$100 or Less	\$0.00
Total Political Expenditures	\$0.00
Total Political Contributions Maintained	\$0.00
Total Outstanding Loans	\$0.00

24. The report did not include Schedule A, Schedule B, or Schedule F.

25. The report disclosed \$0 for total political contributions maintained. However, the correct amount of total political contributions maintained from the prior report, the July 2012 semiannual report, appears to be \$2,478.73. Since there was no activity, total political contributions maintained should be approximately \$2,478.73 on this report also, as the complaint alleged.

July 2013 Semiannual Report

26. The July 2013 semiannual report disclosed:

Total Political Contributions of \$50 or Less	\$0.00
Total Political Contributions	\$0.00
Total Political Expenditures of \$100 or Less	\$0.00
Total Political Expenditures	\$0.00
Total Political Contributions Maintained	\$0.00
Total Outstanding Loans	\$0.00

27. The report did not include Schedule A, Schedule B, or Schedule F.

28. The report disclosed \$0 for total political contributions maintained. However, the correct amount of total political contributions maintained from the prior report, the January 2013 semiannual report, appears to be \$2,478.73. Since there was no activity, total political contributions maintained should be approximately \$2,478.73 on this report also, as the complaint alleged.

Properly Executing Report Affidavits

29. The complaint alleged that the respondent did not properly execute the affidavits on the January and July 2012 and January 2013 semiannual reports. The reports at issue were filed electronically and contained the digitized signature of someone other than the respondent. The reports at issue were not signed by the respondent and the individual whose name appeared on the reports was not listed as an assistant campaign treasurer on the Campaign Treasurer Appointment (CTA).

Disclosure of the Principal Occupations of Contributors

30. The complaint alleged that the respondent did not properly disclose in the January and July 2012 semiannual reports the principal occupation for four contributors who made five political contributions totaling \$3,250. One contributor made two political contributions, and each political contribution exceeded \$50.
31. The respondent entered “unknown” in the space for principal occupation for each of the contributions. In response to the complaint, the respondent stated that the omissions were an oversight.

Disclosure of the Actual Payees of Political Expenditures

32. The complaint alleged that the respondent did not disclose the actual payee of five political expenditures totaling approximately \$25,140 on the January 2012 semiannual report. The political expenditures at issue were disclosed on Schedule F of the report as follows:

10/27/2011	\$550.00	Cash – Check #1028 / P. O. Box 2893, Houston, TX 77252 / Purpose Category (PC): Polling Expense; Purpose Description (PD): Lunches for Poll Workers
11/08/2011	\$1,094.27	[Individual’s first and last name] / P. O. Box 2893, Houston, TX 77252 / PC: Printing Expense; PD: Reimbursement
11/03/2011	\$7,028.00	Cash – Check #1029 / P. O. Box 2893, Houston, TX 77252 / PC: Salaries/Wages/Contract Labor; PD: Early Voting payments to workers
11/08/2011	\$11,000.00	Cash – Check #1032 / P. O. Box 2893, Houston, TX 77252 / PC: Salaries/Wages/Contract Labor; PD: Election Day Program Expenses/ Approx. 80 polling locations cover. Also lunches included on election
10/21/2011	\$5,470.00	Cash – Check #1027 / P. O. Box 2893, Houston, TX 77252 / PC: Salaries/Wages/Contract Labor; PD: Early Voting Program – Payroll for Poll Workers

33. Regarding the expenditures to “cash,” the complaint alleged that the respondent was required to disclose the recipients of the payments. Regarding the expenditure to an individual, the complaint alleged that the respondent was required to disclose the actual vendor where the expenditure was made.
34. Based on the information disclosed, it appears that the expenditures were for lunches, printing expenses, and salaries. The expenditure of \$1,094.27 for printing expenses appears to be a staff reimbursement.

Late Filing of Semiannual Reports

35. The complaint alleged that the respondent did not timely file the January and July 2012 semiannual reports.
36. The respondent was the campaign treasurer during the reporting periods for the reports at issue and was therefore required to file the reports in question.
37. The January 2012 semiannual report was due by January 17, 2012 (deadline extended due to weekend and holiday). The respondent filed the January 2012 semiannual report on October 4, 2012.
38. The July 2012 semiannual report was due by July 16, 2012 (deadline extended due to weekend). The respondent filed the July 2012 semiannual report on September 19, 2012.

IV. Findings and Conclusions of Law

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

Disclosure of Political Contributions and Political Expenditures

1. Each campaign finance report must include the amount of political contributions from each person that in the aggregate exceed \$50, 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 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 \$100 or less made during the reporting period. *Id.* § 254.031(a)(5).
3. Each campaign finance report must include the total amount of all political contributions accepted and the total amount of all political expenditures made during the reporting period. *Id.* § 254.031(a)(6).

4. Each campaign finance report must include as of the last day of a reporting period, the total amount of all 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).

January 2012 Semiannual Report

5. The evidence indicates that the respondent should have itemized political contributions totaling approximately \$27,500 on Schedule A of the January 2012 semiannual report. Therefore, there is credible evidence of a violation of section 254.031(a)(1) of the Election Code.
6. The evidence indicates that the respondent should have disclosed that total political contributions were \$27,500, instead of \$0, on the January 2012 semiannual report. Therefore, there is credible evidence of a violation of section 254.031(a)(6) of the Election Code.
7. There is insufficient evidence to determine the correct amount of total political contributions maintained on the January 2012 semiannual report. Therefore, there is insufficient evidence of a violation of section 254.031(a)(8) of the Election Code.

July 2012 Semiannual Report

8. The evidence indicates that the respondent should have itemized political contributions totaling approximately \$7,550 on Schedule A of the July 2012 semiannual report. Therefore, there is credible evidence of a violation of section 254.031(a)(1) of the Election Code.
9. The evidence indicates that the respondent should have disclosed that total political contributions of \$50 or less were \$0, instead of \$7,550, on the July 2012 semiannual report. Therefore, there is credible evidence of a violation of section 254.031(a)(5) of the Election Code.
10. The evidence indicates that the respondent should have disclosed that total political expenditures of \$100 or less were \$0, instead of \$7,114, on the July 2012 semiannual report. Therefore, there is credible evidence of a violation of section 254.031(a)(5) of the Election Code.
11. The evidence indicates that the respondent should have disclosed that total political expenditures were \$7,114, the amount of itemized political expenditures, instead of \$14,228, on the July 2012 semiannual report. Therefore, there is credible evidence of a violation of section 254.031(a)(6) of the Election Code.

12. There is insufficient evidence to determine the correct amount of total political contributions maintained on the July 2012 semiannual report. Therefore, there is insufficient evidence of a violation of section 254.031(a)(8) of the Election Code.

January 2013 Semiannual Report

13. There is insufficient evidence to determine the correct amount of total political contributions maintained on the January 2013 semiannual report. Therefore, there is insufficient evidence of a violation of section 254.031(a)(8) of the Election Code.

July 2013 Semiannual Report

14. There is insufficient evidence to determine the correct amount of total political contributions maintained on the July 2013 semiannual report. Therefore, there is insufficient evidence of a violation of section 254.031(a)(8) of the Election Code.

Properly Executing Report Affidavits

15. Each report filed under chapter 254 of the Election Code by electronic transfer must be under oath by the person required to file the report and must contain, in compliance with Commission specifications, the digitized signature of the person required to file the report. A report filed under chapter 254 of the Election Code is considered to be under oath by the person required to file the report, and the person is subject to prosecution under Chapter 37, Penal Code, regardless of the absence of or a defect in the affidavit. ELEC. CODE § 254.036(h).
16. The respondent was the campaign treasurer of HBAD PAC during the periods at issue. Accordingly, the respondent was required to file HBAD PAC's January and July 2012 and January 2013 semiannual reports and execute the report affidavits. The respondent did not sign the reports, and the individual whose name appeared on the reports was not an assistant campaign treasurer on the CTA. Therefore, there is credible evidence of violations of section 254.036(h) of the Election Code.

Disclosure of the Principal Occupations of Contributors

17. 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).
18. Regarding the contributions at issue, each contribution exceeded \$50. The respondent did not disclose the principal occupation of any of the contributors. Therefore, there is credible evidence of violations of section 254.151(6) of the Election Code.

Disclosure of the Actual Payees of Political Expenditures

19. A campaign finance report must include, for all political expenditures that in the aggregate exceed \$100 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).
20. Ethics Commission Rules section 20.62 states that political expenditures made out of personal funds by a staff member of an officeholder, a candidate, or a political committee, with the intent to seek reimbursement from the officeholder, candidate, or political committee, that in the aggregate do not exceed \$5,000 during the reporting period may be reported as follows if the reimbursement occurs during the same reporting period that the initial expenditure was made:
 - (1) the amount of political expenditures that in the aggregate exceed \$100 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; and
 - (2) included with the total amount or a specific listing of the political expenditures of \$100 or less made during the reporting period.
21. One political expenditure of approximately \$1,090 disclosed its purpose as “reimbursement.” The expenditure appears to have been made to reimburse a staff member. The report at issue disclosed only the name of the individual who was reimbursed and did not disclose the original expenditure for which the reimbursement was made. Therefore, there is credible evidence of a violation of section 254.031(a)(3) of the Election Code and section 20.62 of the Ethics Commission Rules with respect to that expenditure.
22. Regarding the remaining four expenditures totaling approximately \$24,050, the respondent disclosed “cash” as the payee. The respondent did not disclose the names of the individuals who received wages, a salary, or were paid for contract labor, and did not list the payee to whom the political expenditures were made for lunches. Therefore, there is credible evidence of violations of section 254.031(a)(3) of the Election Code with regard to those expenditures.

Late Filing of Semiannual Reports

23. The campaign treasurer of a general-purpose committee shall file two reports for each year. ELEC. CODE § 254.153(a).
24. The first report shall be filed not later than July 15. *Id.* § 254.153(b).

25. The second report shall be filed not later than January 15. *Id.* § 254.153(c).
26. The respondent filed the January 2012 semiannual report approximately eight months and two weeks after the due date of January 17, 2012. The respondent filed the July 2012 semiannual report approximately two months after the due date of July 16, 2012. Therefore, there is credible evidence of violations of section 254.153 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) each report must include the amount of political contributions from each person that in the aggregate exceed \$50, the full name and address of the person making the contributions, and the dates of the contributions; 2) each campaign finance report must include the total amount of all political contributions accepted and the total amount of all political expenditures made during the reporting period; 3) 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 \$100 or less made during the reporting period; 4) each report filed under chapter 254 of the Election Code by electronic transfer must be under oath by the person required to file the report and must contain, in compliance with Commission specifications, the digitized signature of the person required to file the report. A report filed under chapter 254 of the Election Code is considered to be under oath by the person required to file the report, and the person is subject to prosecution under Chapter 37, Penal Code, regardless of the absence of or a defect in the affidavit; 5) 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; 6) a campaign finance report must include, for all political expenditures that in the aggregate exceed \$100 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; 7) political expenditures made out of personal funds by a staff member of an officeholder, a candidate, or a political committee must be reported in accordance with section 20.62 of the Ethics Commission Rules; and 8) the campaign treasurer of a general-purpose committee shall file two reports for each year. The first report shall be filed not later

than July 15. The second report shall be filed not later than January 15. 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 \$1,400 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-31309151.

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

Ray C. Jones, Sr., Respondent

EXECUTED ORIGINAL received by the Commission on: _____.

Texas Ethics Commission

By: _____
Natalia Luna Ashley, Executive Director