

TEXAS ETHICS COMMISSION

IN THE MATTER OF	§	BEFORE THE
	§	
KANE WILT,	§	
FORMER CAMPAIGN TREASURER,	§	TEXAS ETHICS COMMISSION
DALLAS FIRE FIGHTERS PUBLIC	§	
SAFETY COMMITTEE,	§	
	§	
RESPONDENT	§	SC-31310200

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (Commission) met on March 30, 2017, to consider sworn complaint SC-31310200. A quorum of the Commission was present. The Commission determined that there is credible evidence of violations of sections 254.031 and 254.151 of Election Code, section 571.1242(c) of the Government Code, and sections 12.83 and 20.61 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 the respondent, as the campaign treasurer for the Dallas Fire Fighters Public Safety Committee (DFF PAC), did not disclose political contributions and political expenditures and did not identify candidates or measures supported or opposed by DFF PAC.

III. Facts Supported by Credible Evidence

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

1. The respondent is the former campaign treasurer for DFF PAC, a general-purpose committee that files reports with the Commission. The complaint was filed in connection with the May 11, 2013, uniform election. The respondent was the campaign treasurer for DFF PAC during the period at issue in the complaint.

Full Name of Contributors

2. The respondent did not disclose the full name of three contributors on DFF PAC's January and July 2012 semiannual reports. For two of the contributors who made political contributions totaling approximately \$240, the respondent did not disclose each contributor's

first name. For the remaining contribution, the respondent disclosed the contributor's first name as initials.

3. Each contribution exceeded \$50 in the aggregate during the reporting periods at issue. In response to the complaint, the respondent corrected the names of all three contributors to disclose their full first and last names.

Total Political Contributions Maintained

4. The respondent disclosed the following amount of total political contributions maintained on each original report at issue, along with the amount of total political contributions maintained disclosed on each corrected report, as follows:

Report	Original Report Contributions Maintained	Corrected Report Contributions Maintained	Difference
January 2012	\$112,716.74	\$103,465.84	\$9,250.90
July 2012	\$161,212.99	\$135,678.03	\$25,630.21
January 2013	\$198,535.18	\$177,274.12	\$21,261.06
8-day pre-election report	\$158,681.24	\$149,295.88	\$9,385.36
July 2013	134,469.74	\$124,814.38	\$9,655.36

5. In response to the Commission's request for bank records, the respondent swore that he no longer maintained those records.

Full Names of Persons Receiving Political Expenditures

6. The respondent did not disclose the full name of three persons or entities receiving political expenditures from DFF PAC. The respondent disclosed the acronym for the Dallas Fire Fighter's Association, DFFA, for one expenditure at issue. The respondent disclosed initials as the first name of the payee for the remaining two expenditures at issue. Each expenditure exceeded \$100 in the aggregate during the reporting periods at issue. In response to the complaint, the respondent corrected the report to disclose the full name of each payee originally disclosed with initials.

Purpose of Political Expenditures

7. The respondent disclosed nine political expenditures totaling approximately \$6,460 on four of the campaign finance reports at issue. In response to the complaint, the respondent corrected the category and/or description for all of the expenditures at issue. The expenditures were originally disclosed as follows, with the corrections made by the respondent in italics:

Date	Amount	Category	Description
7/5/2011	\$528.39	Loan Repayment/Reimbursement	2nd Quarter Reimbursement <i>(Mileage and meals)</i>
8/16/2011	\$1,000	Event Expense	Benefit fundraiser <i>(Benefit fundraiser for city council)</i>
12/19/2011	\$220	Loan Repayment/Reimbursement <i>(Salaries/Wages/Contract Labor)</i>	Reimbursement 24 hr sub <i>(24 hr sub for PAC work)</i>
3/13/2012	\$221	Transportation Equipment & Related Expenses <i>(Loan Repayment/Reimbursement)</i>	TSR PAC Travel <i>(TSR PAC Travel/Mileage/Room)</i>
3/13/2012	\$2,625	Solicitation/Fundraising Expense	PAC drive <i>(PAC drive – key fobs/shirts/hats/bags)</i>
5/10/2012	\$399.21	Transportation Equipment & Related Expenses <i>(Loan Repayment/Reimbursement)</i>	TSR PAC Travel <i>(TSR PAC Travel/Mileage/Room)</i>
9/11/2012	\$228.38	Loan Repayment/Reimbursement	TSR <i>(TSR PAC travel/mileage/room)</i>
5/17/2013	\$800.48	Loan Repayment/Reimbursement <i>(Salaries/Wages/Contract Labor)</i>	Reimbursement <i>(PAC work)</i>
6/15/2013	\$425	Event Expense	Reception <i>(Reception PAC work)</i>

Actual Vendor Payee

8. The respondent disclosed seven political expenditures totaling approximately \$2,820 on four campaign finance reports at issue. The expenditures at issue all disclosed individuals as payees, and the category and description for each expenditure indicated that the expenditures were made as reimbursements.
9. In response to the complaint, the respondent corrected the category and/or description for all of the expenditures at issue. The expenditures were originally disclosed as follows, with the corrections made by the respondent in italics:

Date	Amount	Category	Description
7/05/11	\$528.39	Loan Repayment/Reimbursement	2nd Quarter Reimbursement (<i>Mileage & meals</i>)
12/19/11	\$220	Loan Repayment/Reimbursement (<i>Salaries/Wages/Contract Labor</i>)	Reimbursement 24 hour sub (<i>24 hr sub for PAC work</i>)
3/13/12	\$221	Transportation Equipment & Related Expenses (<i>Loan Repayment/Reimbursement</i>)	TSR PAC Travel (<i>TSR Travel/mileage/room</i>)
5/10/12	\$399.21	Transportation Equipment & Related Expenses (<i>Loan Repayment/Reimbursement</i>)	TSR PAC Travel (<i>TSR Travel/mileage/room</i>)
9/11/12	\$228.38	Loan Repayment/Reimbursement	TSR (<i>TSR Travel/mileage/room</i>)
5/17/13	\$800.48	Loan Repayment/Reimbursement (<i>Salaries/Wages/Contract Labor</i>)	Reimbursement (<i>PAC Work</i>)
6/15/13	\$425	Event Expense	Reception (<i>Reception PAC work</i>)

10. The Commission requested additional information from the respondent regarding each expenditure at issue. The respondent swore that he no longer had the requested documentation.

Total Political Expenditures

11. The respondent reported 37 political expenditures totaling approximately \$61,000 as non-political expenditures on Schedule I (used to disclose non-political expenditures from political contributions) of the six campaign finance reports at issue. Those expenditures were not included in the amount of total political expenditures disclosed on each report.
12. The expenditures at issue were made to pay for consulting expenses, a contribution to another political committee, web design, office supplies and equipment, travel reimbursements, and payments for salaries or contract labor.
13. In response to the complaint, the respondent corrected all the reports at issue to disclose all the political expenditures on Schedule F (used to disclose political expenditures from political contributions) and included the expenditures in the amount of total political expenditures disclosed on the corrected reports at issue.

14. The amount of total political expenditures disclosed on the original reports, along with the corrections, are as follows:

Report	Original Amount Disclosed	Corrected Amount Disclosed	Difference
January 2012	\$3,000	\$5,005.26	\$2,005.26
July 2012	\$1,500	\$25,630.21	\$24,130.21
January 2013	\$5,500	\$7,854.81	\$2,354.81
30-day for May 2013 election	\$23,950	\$24,430	\$480
8-day for May 2013 election	\$11,157	\$37,898.84	\$26,741.84
July 2013	\$36,011.45	\$41,324.30	\$5,312.85

Supported Candidates or Measures

15. The respondent did not disclose the names of any candidates or measures supported by DFF PAC on the Committee Activity section of the six reports at issue. The evidence establishes that DFF PAC supported:
- Five candidates during the January 2012 semiannual reporting period. All five candidates were disclosed as payees on Schedule F of the report.
 - One candidate during the July 2012 semiannual reporting period. This candidate was disclosed as a payee on Schedule F of the report.
 - Five candidates and one measure during the January 2013 semiannual reporting period. All five candidates and one SPAC supporting a measure were disclosed as payees on Schedule F of the report.
 - Thirteen candidates during the 30-day pre-election reporting period for the May 11, 2013, uniform election. Two candidates were disclosed as payees on Schedule F of the report. Eleven candidates were not disclosed on Schedule F of the report.
 - Twelve candidates during the 8-day pre-election reporting period for the May 11, 2013, uniform election. Three candidates were disclosed as payees on Schedule F of the report. Nine candidates were not disclosed on Schedule F of the report.
 - Eleven candidates during the July 2013 semiannual reporting period. Seven candidates were disclosed as payees on Schedule F of the report. Four candidates were not disclosed on Schedule F of the report.

Late Response to Sworn Complaint and Written Questions

16. Sworn complaint SC-31310200 was filed on October 21, 2013. The Commission sent a notice of the sworn complaint to the respondent by certified mail dated October 28, 2013. According to the United States Postal Service's (USPS) record of delivery, the notice of this complaint was delivered to the respondent on October 30, 2013. The notice informed the respondent that the alleged violations in the sworn complaint were Category One violations, and that a response was required not later than 10 business days from the date the notice was received. The respondent was notified that failure to timely respond constituted a violation for which a separate civil penalty may be assessed.
17. Based on the delivery date of the notice, the respondent was required to respond to the sworn complaint by November 13, 2013. The respondent filed a response to the sworn complaint that was received by the Commission on December 9, 2013. The respondent did not address why he was late in responding to the notice of sworn complaint.
18. The Commission sent written questions to the respondent on July 19, 2016. According to the USPS record of delivery, the letter was delivered on July 21, 2016. The letter informed the respondent that a response was required not later than 15 business days from the date the written questions were received and that failure to timely respond constituted a violation for which a separate civil penalty may be assessed.
19. Based on the delivery date of the written questions, the respondent was required to respond by August 11, 2016. The respondent filed a response to the written questions that was received by the Commission on September 1, 2016. The respondent did not address why he was late in responding to the written questions.

IV. Findings and Conclusions of Law

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

Full Name of Contributors

1. A 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. DFF PAC accepted three contributions exceeding \$50 in the aggregate from each contributor during the reporting period. The respondent did not include the full name of each contributor on the reports as originally filed. Therefore, there is credible evidence of violations of section 254.031(a)(1) of the Election Code with respect to those three contributions.

Total Political Contributions Maintained

3. A campaign finance 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).
4. Based on the corrections the respondent made to the reports at issue, the respondent did not include the correct amount of total political contributions maintained as of the last day of each reporting period on five campaign finance reports. Therefore, there is credible evidence of violations of section 254.031(a)(8) of the Election Code with respect to those five reports.

Full Names of Persons Receiving Political Expenditures

5. A campaign finance report must include 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. ELEC. CODE § 254.031(a)(3).
6. DFF PAC made three political expenditures exceeding \$100 in the aggregate to each payee during the reporting period. The respondent did not disclose the full first name of two payees of political expenditures on the reports at issue. Therefore, there is credible evidence of violations of section 254.031(a)(3) of the Election Code with regard to those two expenditures.
7. The respondent disclosed a commonly recognized acronym by which one entity is known, and disclosed address information that made the identity of the payee reasonably ascertainable. Therefore, there is credible evidence of no violation of section 254.031(a)(3) of the Election Code with regard to this expenditure.

Purpose of Political Expenditures

8. A campaign finance report must include 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. ELEC. CODE § 254.031(a)(3).
9. The purpose of an expenditure means a description of goods, services, or other thing of value and must include a brief statement or description of the candidate, officeholder, or political committee activity that is conducted by making the expenditure. The brief statement or description must include the item or service purchased and must be sufficiently specific, when considered within the context of the description of the category, to make the reason for the expenditure clear. Merely disclosing the category of goods, services, or other thing of

value for which the expenditure is made does not adequately describe the purpose of an expenditure. Ethics Commission Rules § 20.61(a)(2).

10. DFF PAC made nine political expenditures during the reporting periods at issue. Based on the reports at issue, it appears DFF PAC made four expenditures to reimburse individuals for expenditures they made to purchase meals and hotel rooms. It is unclear from the evidence whether the expenditures exceeded \$100 in the aggregate to any single payee. Therefore, there is insufficient evidence of violations of section 254.031(a)(3) of the Election Code and section 20.61(a) of the Ethics Commission Rules with regard to those four expenditures.
11. The respondent did not sufficiently describe the political activity conducted or the item or service purchased for the remaining five expenditures at issue. Therefore, there is credible evidence of violations of section 254.031(a)(3) of the Election Code and section 20.61(a) of the Ethics Commission Rules with regard to those five expenditures.

Actual Vendor Payee

12. A campaign finance report must include 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. ELEC. CODE § 254.031(a)(3).
13. 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. Ethics Commission Rules § 20.62.
14. DFF PAC made seven political expenditures to individuals. Based on the corrections made by the respondent, it appears that DFF PAC reimbursed individuals for expenditures they made to purchase meals and hotel rooms. It is unclear from the evidence whether the expenditures exceeded \$100 in the aggregate during a reporting period to any single payee.
15. Based on the corrections made by the respondent, it appears that DFF PAC paid individuals for their personal services. It is unclear from the evidence whether any part of these expenditures were made to reimburse the individuals for expenditures made from their personal funds.

16. Therefore, there is insufficient evidence of violations of section 254.031(a)(3) of the Election Code and section 20.62 of the Ethics Commission Rules with regard to the seven political expenditures at issue.

Total Political Expenditures

17. A campaign finance report must include 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. ELEC. CODE § 254.031(a)(3).
18. A 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).
19. The respondent disclosed 37 political expenditures totaling approximately \$61,000 as nonpolitical expenditures on Schedule I of each report at issue. The expenditures were made to pay for DFF PAC's administrative and political expenses, and the expenditures were therefore political.
20. The expenditures were disclosed on the wrong schedule and were not included in the amount of total political expenditures made by DFF PAC on each report at issue. Thus, the amount of total political expenditures made by DFF PAC was understated on each report at issue. Therefore, there is credible evidence of violations of section 254.031(a)(6) of the Election Code with regard to those six campaign finance reports.
21. Twenty-seven of the political expenditures totaling approximately \$58,000 exceeded \$100 in the aggregate during each reporting period and should have been disclosed on Schedule F, rather than Schedule I, of each report at issue. Therefore, there is credible evidence of violations of section 254.031(a)(3) of the Election Code with regard to those 27 political expenditures.

Supported Candidates or Measures

22. A campaign finance 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. ELEC. CODE § 254.151(4).
23. A technical, clerical, or *de minimis* violation for purposes of section 571.0631 of the Government Code may include a first-time allegation against a respondent for typographical or incomplete information on a campaign finance report that is not misleading or does not substantially affect disclosure. Ethics Commission Rules § 12.81(a)(1).

24. The respondent did not disclose the names of any candidates or measures supported by DFF PAC in the Committee Activity section of the six reports at issue. DFF PAC supported 47 candidates and one measure during the reporting periods for the reports at issue.
25. Twenty-three candidates were disclosed as payees on Schedule F of the reports at issue. Thus, the respondent's omission of the name of each candidate in the Committee Activity section of the reports at issue did not substantially affect disclosure. Therefore, there is credible evidence of technical or *de minimis* violations of section 254.151(4) of the Election Code with regard to those 23 candidates.
26. Twenty-four candidates and one measure were not disclosed on Schedule F of the six reports at issue. Therefore, there is credible evidence of violations of section 254.151(4) of the Election Code with regard to those 24 candidates and one measure.

Late Response to Sworn Complaint and Written Questions

27. If the alleged violation is a Category One violation, the respondent must respond to the notice required by Section 571.123(b) not later than the 10th business day after the date the respondent receives the notice. GOV'T CODE § 571.1242(a)(1). A respondent's failure to timely respond to a sworn complaint is a Category One violation. *Id.* § 571.1242(c).
28. A respondent must respond to written questions submitted to the respondent pursuant to section 571.1243 of the Government Code not later than 15 business days after the respondent receives the written questions. Ethics Commission Rules § 12.83(a).
29. The respondent did not timely respond to the sworn complaint. According to USPS records, the notice of the complaint was delivered to the respondent on October 30, 2013. The respondent was required to respond by November 13, 2013. The respondent's response was received by the Commission on December 9, 2013.
30. The respondent did not timely respond to written questions. According to USPS records, the written questions were delivered to the respondent on July 21, 2016. The respondent was required to respond by August 11, 2016. The respondent's response was received by the Commission on September 1, 2016.
31. Therefore, there is credible evidence of a violation of section 571.1242(c) of the Government Code and section 12.83(a) of the Ethics Commission Rules.

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 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; 2) a campaign finance 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; 3) a campaign finance report must include 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; 4) the purpose of an expenditure means a description of goods, services, or other thing of value and must include a brief statement or description of the candidate, officeholder, or political committee activity that is conducted by making the expenditure. The brief statement or description must include the item or service purchased and must be sufficiently specific, when considered within the context of the description of the category, to make the reason for the expenditure clear. Merely disclosing the category of goods, services, or other thing of value for which the expenditure is made does not adequately describe the purpose of an expenditure; 5) staff reimbursements must be reported in accordance with section 20.62 of the Ethics Commission Rules; 6) a 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; 7) a campaign finance 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; 8) a respondent must respond to the notice of a sworn complaint that contains a Category One violation not later than 10 business days after the respondent receives the notice of the sworn complaint, and failure to respond to a notice of a sworn complaint within the time required is a separate Category One violation; and 9) a respondent must respond to written questions submitted to the respondent pursuant to section 571.1243 of the Government Code not later than 15 business days after the respondent receives the written questions.

The respondent agrees to comply with these requirements of the law.

VI. Confidentiality

This order and agreed resolution describes certain 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 \$1,500 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-31310200.

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

Kane Wilt, Respondent

EXECUTED ORIGINAL received by the Commission on: _____.

Texas Ethics Commission

By: _____
Seana Willing, Executive Director