

TEXAS ETHICS COMMISSION

IN THE MATTER OF

ERIC DICK,

RESPONDENT

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BEFORE THE

TEXAS ETHICS COMMISSION

SC-31912186

FINAL ORDER

I. Recitals

The Texas Ethics Commission (Commission) met on February 24, 2022, to consider sworn complaint SC-31912186 at a formal hearing held in accordance with Sections 571.061, 571.121, 571.126 through 571.132, 571.137, and 571.139 of the Government Code. A quorum of the Commission was present.

II. Allegations

The complaint alleged that the respondent: 1) did not properly disclose political expenditures on his 30-day and 8-day pre-election reports for the November 5, 2019, election for Houston City Council, At-Large Position 5, in violation of Section 254.031 of the Election Code; 2) did not include on political advertising the required disclosure statement, in violation of Section 255.001 of the Election Code; and 3) with the intent to injure a candidate or influence the result of an election, misrepresented the true source of political advertising or campaign communications, in violation of Section 255.004 of the Election Code.

III. Findings of Facts

The evidence admitted in the formal hearing or officially noticed supports the following findings of fact:

1. Sworn complaint SC-31912186 was filed on December 23, 2019. The respondent was represented by counsel, Christopher Carmona.
2. The complaint alleged that the respondent, as a candidate for Houston City Council, At-Large Position 5, did not properly report ten political expenditures, all for political advertising, on his 30 and 8-day pre-election reports for the November 5, 2019, election. The expenditures were made to four companies, PFS, Blaze Campaign Consulting, WS Services, and Famous Group. The complaint also alleged that the respondent misrepresented the true source of political advertising with the intent to influence the result of an election, and published political advertising without a political advertising disclosure

statement. The advertising allegations were related to a series of endorsement mailers (Exhibit A) that were published under the names Harris County Black Democratic News/Harris County Democratic News and that did not contain a political advertising disclosure statement.

3. In response to the complaint, the respondent, through counsel, denied the allegations. Specifically, the respondent stated that he had properly disclosed all political expenditures at issue, and that “Complainant [sic] inability to properly utilize the Secretary of States Direct Search or DBA search options is not sufficient grounds to place an onus on any respondent, much less Mr. Dick, to have to go above and beyond the plain language and requirements of the Election code to satisfy the reporting requirements as Mr. Dick has done in this instance.” The respondent further stated that the mailers at issue did not require a political advertising disclosure statement, as they were newspaper publications, and the only connection he had to the publication was that he “has represented the owner and founder of the publication.” With regards to the true source allegation, the respondent stated that the complainant was racist for implying that an organization named “Harris County Black Democratic News” was funded by a white man, and that the true source of the mailers was Harris County Black Democratic News.
4. Commission staff sent written questions and requests for production of documents to Eric Dick, Christopher Carmona, Phillip Bryant, and the other two founding members of Harris County Black Democratic News and Harris County Democratic News on March 13, 2020.
5. Christopher Carmona responded to the written questions and requests for production of documents with an invoice totaling \$900 on July 3, 2020, and an email stating that the requested responses would be submitted upon receipt of the funds.
6. On May 26, 2020, the respondent requested an extension to July 15, 2020, to respond to the written questions and requests for production of documents. The request was granted on May 26, 2020.
7. On June 25, 2020, the respondent requested an additional 30-day extension due to COVID-19 closing his office. The request was granted on June 25, 2020.
8. On August 12, 2020, the respondent submitted answers to the written questions and propounded 11,384 pages of documents in response to the requests for production. The respondent objected to 20 of the 39 questions as requesting information that was privileged and protected by attorney/client privilege, including questions regarding where he learned the address and contact information for the companies at issue in the complaint. The respondent stated that he had learned of PFS and Famous Group from Chris Carmona. The respondent stated that he had learned of WS Services and Blaze Campaign Consulting from Rebecca White, and to “see attached documents which are to be incorporated by its reference.” The name Rebecca White did not appear once in the 11,384 produced pages. The respondent stated that the expenditures that he had reported on his 30-day and 8-day pre-election reports had never occurred. The respondent stated that he understood the

definition of political expenditures “to mean that a candidate must report any transaction where some type of obligation could have incurred regardless of whether the obligation is even legally enforceable” and that he reported the potential expenditures out of an abundance of caution.

9. The respondent stated in response to written questions that he knew and routinely represented Phillip Bryant, the owner of Harris County Black Democratic News, in legal matters. He further stated that he understood that “Mr. Phillip Bryant or a representative of Harris County Black Democratic News created, printed, designed, and distributed the mailer [at issue]. [The respondent] does not recall having made any comment regarding [the mailers].”
10. On September 25, 2020, Commission staff sent written questions and requests for production of documents to Jim and Belinda Fultz, owners of Minuteman Press Northwest, the company that printed the mailers at issue.
11. On October 17, 2020, Commission staff sent follow-up written questions and requests for production of documents to the respondent, seeking clarification on the provided discovery responses.
12. On October 27, 2020, the respondent requested a 30-day extension to December 4, 2020, to respond to the follow-up written questions and requests for production of documents. The request was granted on October 28, 2020.
13. On November 9, 2020, Belinda Fultz produced an invoice, dated November 25, 2019, which billed Eric Dick \$4,862.64 for the “Black Deomocrat [sic] Endorsement PC.”
14. On November 28, 2020, respondent requested a “2 to 3 week” extension due to a medical issue.
15. On December 8, 2020, the respondent’s extension request was granted, giving a due date of December 11, 2020.
16. The respondent submitted a response to the follow-up written questions and requests for production of documents on December 30, 2020. In his response, the respondent asserted objections based on trade secrets, attorney-client privilege, and the attorney work product doctrine.
17. On January 11, 2021, Commission staff sent a second set of written questions to the respondent specifically relating to the Minuteman Press invoice that had been produced on November 9, 2020, with a response deadline of February 3, 2021.
18. On February 5, 2021, the respondent submitted a response to the second set of written questions. In his answers, the respondent objected based on the attorney-client privilege and trade secrets. He also copied his previous discovery responses asserting the same

- privileges. In reference to the Minuteman Press invoices showing Eric Dick paid for the mailers, the respondent stated that he was not required to disclose any expenditure incurred on behalf of his clients on his campaign finance reports, implying that the respondent was representing Phillip Bryant as an attorney in that transaction.
19. On February 24, 2021, Commission staff presented the respondent with a proposed order and agreed resolution with a \$10,000 civil penalty to resolve the complaint, subject to the final approval of the Commission. The proposed resolution expired on March 10, 2021. The respondent did not respond to the proposed order.
 20. A preliminary review hearing was scheduled for June 16, 2021. A first notice of hearing was sent on April 28, 2021; and a second notice of hearing was sent on May 17, 2021.
 21. On May 17, 2021, counsel for the respondent requested a continuance due to a conflicting hearing, scheduled for June 16, 2021. The respondent's request for continuance was granted on May 25, 2021.
 22. On June 17, 2021, Commission staff filed a motion for subpoena for the owner of Minuteman Press Northwest to produce all invoices, receipts, checks, purchase orders, and written communications (including emails) related to, or involving, both Eric Dick and/or Phillip Bryant between September 1, 2019, through December 15, 2019, and to secure the appearance and testimony of the owner at the preliminary review hearing. The motion was granted on June 25, 2021 and the subpoena was served on July 15, 2021.
 23. The continued preliminary review hearing was scheduled for August 31, 2021. The first notice of hearing was sent on July 16, 2021; and the second notice of hearing was sent on July 30, 2021.
 24. On July 27, 2021, counsel for the respondent proposed a resolution of a one-time payment of \$2,750, without findings and with no admission of wrongdoing.
 25. On July 28, 2021, Commission staff provided a counter-offer of a proposed order with a \$5,000 civil penalty, findings, and no admission of wrongdoing.
 26. On July 29, 2021, Belinda Fultz, complying with the July 15, 2021 subpoena, produced 232 files from Minuteman Press Northwest, and a properly executed business records affidavit. Commission staff withdrew the counter-offer in light of the produced documents, which included three invoices for the Harris County Black Democratic News mailers, all billed to Eric Dick. The produced documents also included emails showing that the respondent had initiated contact with Minuteman Press Northwest to publish and distribute the mailers, determined the mailers were to be published without a political advertising disclosure statement, determined the dates the mailers were to be published, and provided the distribution lists. The produced documents also included a series of text messages between the respondent and Belinda Fultz, where the respondent stated that he was sending payment for the mailers.

27. On August 6, 2021, the respondent requested a continuance of the preliminary hearing as his counsel “need[ed] sufficient time to thoroughly examine and verify the documents submitted and also need[ed] time to conduct interviews with potential witnesses.”
28. Also on August 6, 2021, the respondent provided an exhibit list of the documents he would potentially use at the hearing, as well as a preliminary witness list through a Dropbox link. The provided documents were the same 11,384 pages that had been provided in response to the requests for production of documents. The respondent did not use any of the documents at the hearing.
29. On August 10, 2021, Commission staff filed a response to the respondent’s request for continuance and a motion to exclude some of the respondent’s witnesses and the produced documents from the hearing.
30. The second request for continuance was denied on August 18, 2021.
31. The motion to exclude was granted in part with regards to the respondent’s witnesses on August 19, 2021.
32. The Commission held a preliminary review hearing on August 31, 2021. At the conclusion of the preliminary review hearing the Commission found credible evidence of violations of Sections 254.031, 255.001, and 255.004 of the Election Code.
33. On December 8, 2021, after the Commission and respondent were unable to resolve and settle the sworn complaint following the preliminary review hearing, the Commission ordered a formal hearing to be held on February 24, 2022.
34. At the December 8, 2021 Commission meeting, the Commission granted staff’s motion to consolidate sworn complaints SC-31912186 and SC-31912187 (filed against Phillip Bryant), and staff’s second motion for subpoenas for Belinda Fultz, Phillip Bryant, and Eric Dick to appear at the formal hearing scheduled for February 24, 2022.
35. The first notice of formal hearing was sent to the respondent and the complainant on December 15, 2021.
36. On January 24, 2022, the respondent submitted his witness list and documents he intended to use at the formal hearing. The witness list and documents were provided via the same Dropbox link that had been provided for the preliminary review hearing, and no changes had been made to the witness list or 11,384 pages of documents. The respondent did not use any of the documents at the hearing.
37. Commission staff filed an opposed motion to pre-admit evidence and the record on January 25, 2022. Counsel for the respondent noted his opposition via email, but did not file a formal response. The motion to pre-admit was granted on February 14, 2022, after the respondent’s deadline to file a formal response had passed. Commission staff also

- provided the respondent with a potential witness list and copies of documents intended to be used at the formal hearing.
38. On January 26, 2022, after the process server was unable to serve the subpoenas for Belinda Fultz, Phillip Bryant, and Eric Dick, Commission staff filed a motion for substituted service, which was granted on January 27, 2022.
 39. Also on January 26, 2022, Commission staff filed a motion to exclude regarding the respondent's witness list. The motion was granted on January 27, 2022.
 40. The subpoenas were served by substituted service on February 3, 2022.
 41. On February 23, 2022, the respondent's counsel emailed the Commission's General Counsel a JPEG of a protective order, signed on February 23, 2022. The protective order required the respondent's appearance at a trial in Harris County Civil Court at Law No. 1 beginning on February 23, 2022, and running through February 28, 2022. Counsel for the respondent requested a continuance in light of this protective order. The protective order was withdrawn on February 23, 2022, after the judge became aware that the respondent was already under subpoena to appear before the Commission at the formal hearing.
 42. The respondent's request for a continuance was denied on February 23, 2022.
 43. The respondent did not appear at the formal hearing. The respondent's counsel appeared remotely.
 44. The respondent's counsel objected to the pre-admitted evidence at the formal hearing as hearsay. The objection was overruled.
 45. The evidence pre-admitted by Commission staff included the respondent's campaign finance reports, response to sworn complaint, first response to written questions, certificates of fact from the Secretary of State showing no registered business for WS Services, Blaze Campaign Consulting, and PFS, certified copies of the certificate of formation of Famous Group, showing Chris Carmona, the attorney for the respondent, as the registered agent, and emails, text messages, and invoices produced by Belinda Fultz, owner of Minuteman Press Northwest.
 46. The pre-admitted evidence showed that the respondent reported \$125,750 of political expenditures for political advertising on his 30-day and 8-day pre-election reports for the November 5, 2019 election. The pre-admitted evidence also showed that the respondent asserted in response to the allegation that each business could be found by searching the Texas Secretary of State's (SOS) filing database. The pre-admitted evidence also showed that the respondent admitted that he reported the expenditures based on his interpretation of the definition of expenditure to include possible obligations to pay that had not occurred.

47. Regarding WS Services, the address disclosed belongs to a storage facility, Big Cheap Storage. The address is also the site of Dick Investments, LLP, which is owned by the respondent's father. Documents produced by the respondent show that it was also the address used by the respondent for his law firm in 2013. The pre-admitted evidence included a certificate of fact from the SOS stating that there are no records on file for "WS Services." The respondent stated that he received the address information from a third party, but did not produce the third party's contact information, as requested. The respondent did produce an invoice for one of the political expenditures to WS Services that showed the same address disclosed on the respondent's reports.
48. Regarding Blaze Campaign Consulting, the address disclosed was for a UPS store. The pre-admitted evidence included a certificate of fact from the SOS stating that there are no records on file for "Blaze Campaign Consulting." The respondent stated that he received the address information from a third party, but did not produce the third party's contact information, as requested. The respondent did produce invoices for some of the political expenditures to Blaze Campaign Consulting that showed the same address disclosed on the respondent's reports. However, the invoices state "due upon receipt" and all have the same invoice number even though the transactions are separate and occurred on different dates.
49. Regarding PFS, the address disclosed was for the Carmona Law Firm, PLLC ("Carmona Firm"). The Carmona Firm does not disclose PFS as an assumed name. The pre-admitted evidence included a certificate of fact from the SOS stating that there are no records on file for "PFS." The respondent stated in his response to the discovery that he obtained the address information from his attorney, Christopher Carmona. The respondent produced an assumed name certificate filed with the Harris County Clerk. The certificate stated a name of Panoramic Field Solutions and named Christopher Ryan Carmona as owner. The certificate did not disclose the company's actual name nor did the respondent provide any other documentation showing that a company operates under the name Panoramic Field Solutions or PFS. At the preliminary review hearing, the respondent's counsel refused to provide any information related to this certificate, PFS, Panoramic Field Solutions, or the political expenditures made to PFS as disclosed in the respondent's campaign finance reports. At the formal hearing, the respondent's counsel alluded to PFS being an abbreviation for Panoramic Field Solutions and that the respondent disclosed the abbreviation rather than the full name out of habit.
50. Regarding Famous Group, the address disclosed is for an office building. Records on file with the SOS show that Famous Group is an incorporated entity and is located in a suite at the address disclosed in the respondent's reports. In response to the discovery, the respondent stated that he obtained the address information from his attorney, Christopher Carmona. The respondent did not produce any documents relating to Famous Group.
51. The respondent's 30-day pre-election report covered the period of time between July 31, 2019, and October 5, 2019. The respondent's 8-day pre-election report covered the period of time between October 1, 2019, and October 28, 2019. The expenditures at issue were disclosed in the respondent's 30-day and 8-day pre-election report as follows:

Date	Payee	Amount	Address reported
10/21/19	PFS	\$17,500.00	PO Box 7137, Houston, TX 77248
10/21/19	Famous Group	\$21,250.00	13201 Northwest Freeway, Houston, TX 77248
08/21/19	WS Services	\$7,250.00	4325 Tulsa, Houston, Texas 77092
09/05/19	WS Services	\$7,250.00	
09/20/19	WS Services	\$7,250.00	
10/15/19	WS Services	\$12,500.00	
08/19/19	BCC	\$12,500.00	5380 W. 34 th , Houston, Texas 77092
09/01/19	BCC	\$12,500.00	
10/01/19	BCC	\$12,500.00	
10/15/19	BCC	\$15,250.00	

52. The pre-admitted evidence showed that on or about November 27, 2019, the endorsement mailers were distributed under the name Harris County Democratic News (“HCDN”)/Harris County Black Democratic News (“HCBDN”) without a political advertising disclosure statement. The endorsement mailers expressly advocated for the election of Eric Dick, among other candidates, for public office and contained the early voting dates and election date for the December 14, 2019, runoff election. The mailers also stated that they could be taken into the voting booth.
53. The pre-admitted evidence also showed that the respondent contacted Minuteman Press Northwest to arrange the printing of the Harris County Black Democratic News mailers for the December 14, 2019 runoff election. The pre-admitted business records showed that the respondent paid for the mailers to be published and distributed, not Phillip Bryant, HCDN, or HCBDN. The records also showed the respondent gave final approval for the mailers and sent text messages to the owner of Minuteman Press Northwest to submit payment for the mailers.
54. The pre-admitted invoices showed that the cost to publish and distribute the mailers at issue was \$25,909.07.

IV. Conclusions of Law

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

- Disposition of this case is within the jurisdiction of the Commission. Tex. Gov’t Code § 571.061.

2. The respondent received legally sufficient notice of the formal hearing, which met the requirements of Section 12.173(b) of the Ethics Commission Rules. *Id.* §§ 571.126, 571.032, 2001.051, 2001.052.
3. A campaign finance report must include the amount of all political expenditures that in the aggregate exceed \$100 (\$180 as of January 1, 2019) 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. Tex. Elec. Code § 254.031(a)(3), 1 Tex. Admin. Code § 18.31.¹
4. 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. Tex. Elec. Code § 254.031(a)(6).
5. “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).
6. “Campaign expenditure” means an expenditure made by any person in connection with a campaign for 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).
7. “Political expenditure” means a campaign expenditure or an officeholder expenditure. *Id.* § 251.001(10).
8. A person may not knowingly cause to be published, distributed, or broadcast political advertising containing express advocacy that does not indicate in the advertising that it is political advertising and the full name of the person who paid for the political advertising or the candidate, if the political advertising is authorized by the candidate. *Id.* § 255.001(a).
9. Political advertising that is authorized by a candidate shall be deemed to contain express advocacy. *Id.* § 255.001(b).
10. Section 255.001 of the Election Code does not apply to circulars or flyers that cost in the aggregate less than \$500 to publish and distribute. *Id.* § 255.001(d)(3).
11. A “flier” is “an advertising circular” and a “circular” is a “paper (such as a leaflet) intended for wide distribution.” MERRIAM-WEBSTER’S DICTIONARY (March 9, 2021).

¹ Citations and references to the Election Code and Administrative Code are to the codes as they existed in August 2019 through December 2019, the time relevant to this complaint.

12. Express advocacy can be inferred from the inclusion of words such as “vote for,” “elect,” “support,” “defeat,” “reject,” or “Smith for Senate,” but is not limited to communications that use those words. Political Advertising, What You Need to Know (Revised January 1, 2017).
13. An advertisement includes express advocacy or its functional equivalent “if the ad is susceptible to no reasonable interpretation other than as an appeal to vote for or against a specific candidate.” *FEC v. Wisconsin Right to Life, Inc.*, 127 S.Ct. 2652 (2007).
14. A person commits an offense if, with intent to injure a candidate or influence the result of an election, the person enters into a contract or other agreement to print, publish, or broadcast political advertising that purports to emanate from a source other than its true source. *Id.* § 255.004.
15. “Political advertising” means a communication supporting or opposing a candidate for nomination or election to a public office that in return for consideration, is published in a newspaper, magazine, or other periodical, or appears in a pamphlet, circular, flier, billboard, or similar form of written communication. *Id.* §251.001(16).
16. In the past, the Commission has found express advocacy when the advertising was “susceptible or no reasonable interpretation other than as an appeal to vote against the individual.” *In re Burridge*, SC-31005160 (2013). It can be reasoned from *In re Burridge* that express advocacy can also be found when the advertising was susceptible to no reasonable interpretation than as an appeal to vote for an individual.
17. Endorsing a candidate in an election is expressly advocating for that candidate’s election. *See Wis. Right to Life, Inc.*, 127 S.Ct. 2652 (2007). The endorsement mailers expressly advocate for the election of Eric Dick to Houston City Council, At-Large, Position 5, among other clearly identified candidates. The mailers contain the words “Endorsement Announcement” and the pictures, names, and positions of the candidates endorsed. The mailers both contain a notice that the voters are allowed to take the mailer into the voting booth. The mailers do not contain other material or information that would make it susceptible to a reasonable interpretation other than to support and an appeal to vote for Mr. Dick and the identified slate of candidates. *See id.* Therefore, the endorsement mailers contain express advocacy.
18. Unlike traditional endorsements by newspaper organizations, HCDN/HCBND did not publish their endorsements as part of a newspaper, magazine or other periodical. Furthermore, although the putative organizations contains the word “news” in their names, the mailers are circulars or fliers and not a newspaper, magazine, or other periodical. As such, the standalone endorsements are circulars, fliers, or a similar form of written communication that expressly advocates for the election of candidates for elective office. In addition, the Minuteman Press Northwest business records for the endorsement mailers showed that they were paid to be published and distributed by the respondent, not

- HCDN/HCBDN. The invoices for the endorsement mailers showed that the respondent paid \$25,909.07 to publish and distribute the mailers, and therefore, the exception under Section 255.001(d)(3) of the Election Code for circulars or fliers that cost less than \$500 is inapplicable.
19. Since the mailers were circulars or fliers that contained express advocacy and cost more than \$500 to publish and distribute, they required a political advertising disclosure statement. The respondent paid for the mailers, therefore knowingly causing them to be published and distributed. The mailers did not contain a political advertising disclosure statement. Therefore, the Commission finds by a preponderance of the evidence that the respondent violated Section 255.001 of the Election Code.
 20. The respondent contends that his only involvement in the mailers was as Phillip Bryant's attorney. The respondent produced no documentation to show that relationship existed in this instance. The attorney-client privilege does not encompass such non-confidential matters as the terms and conditions of an attorney's employment, the purpose for which an attorney has been engaged, or any of the other external trappings of the relationship between the parties. *See Wirtz v. Fowler*, 372 F.2d 315, 322 n. 36 (5th Cir. 1966); Texas Law of Evidence § 425 (Texas Practice 3rd ed. 1980). To establish the existence of an agency relationship, the evidence must demonstrate the purported agent's consent to act on the principal's behalf and subject to the principal's control, together with the purported principal's authorization for the agent to act on his behalf. *Cnty. Health Sys. Prof'l Servs. Corp. v. Hansen*, 525 S.W.3d 671, 677 (Tex. 2017). No presented evidence demonstrates the consent from Phillip Bryant, for the respondent to act on his behalf, or on behalf of HCDN/HCBDN in this instance. No presented evidence demonstrates the respondent's consent to act on behalf of Phillip Bryant in this instant.
 21. Although the respondent maintained that Phillip Bryant was, as the owner of HCDN/HCBDN, the true source of the endorsement mailers, the Minuteman Press business records establish that the respondent was the true source of the mailers, not Phillip Bryant or HCDN/HCBDN. The respondent was a candidate in the December 14, 2019, runoff election. By knowingly publishing and distributing the endorsement mailers under the name of HCDN/HCBDN, in conjunction with not including the required disclosure statement, the respondent intended to influence the results of the December 14, 2019 runoff election by hiding his involvement in the creation of the mailers and making it appear that HCDN/HCBDN was the true source. The respondent, with intent to injure a candidate or influence the result of an election, entered into a contract or other agreement to print, publish, or broadcast political advertising that purported to emanate from a source other than its true source. Therefore, the Commission finds by a preponderance of the evidence that the respondent violated Section 255.004 of the Election Code.
 22. The political expenditures at issue total \$125,750 and were both itemized and included in the amount of total political expenditures in the 30-day and 8-day pre-election reports at issue. By the respondent's own admission, the political expenditures were never actually

made, nor was there an obligation incurred to make the expenditures. Therefore, the respondent improperly itemized the expenditures and improperly included the expenditures in the amount of total political expenditures made during each reporting period, which grossly inflated the total amount of money spent by the respondent's campaign. The Commission finds by a preponderance of the evidence that the respondent violated Sections 254.031(a)(3) and 254.031(a)(6) of the Election Code.

V. Confidentiality

This final order is not confidential under Sections 571.132 and 571.140 of the Government Code and may be disclosed by members and staff of the Commission.

VI. Sanction

Section 571.177 of the Government Code provides that the Commission shall consider the following factors when assessing a civil penalty: 1) the seriousness of the violation, including the nature, circumstances, consequences, extent, and gravity of the violation; 2) the history and extent of previous violations; 3) the demonstrated good faith of the violator, including actions taken to rectify the consequences of the violation; 4) the penalty necessary to deter future violations; and 5) any other matters that justice may require. Given the deceptive nature of the political advertising at issue, and the respondent's intent to misrepresent the true source of the communication and hide his involvement in its creation, the violations are serious. Moreover, the respondent falsely disclosed political expenditures totaling \$125,750 in his campaign finance reports that gave the appearance that his campaign spent significant amounts of money that it did not actually spend. The harm to disclosure and public transparency was significant. Lastly, the procedural history shows a pattern of bad faith by the respondent to obfuscate the discovery process and unnecessarily delay the processing of the sworn complaint.

In consideration of the aforementioned factors, and after considering the sanction necessary to deter future violations, the Commission imposes a \$30,000 civil penalty.

Date: _____

FOR THE COMMISSION

Randall H. Erben
Vice-Chair
Texas Ethics Commission