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TEXAS ETHICS COMMISSION

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IN THE MATTER OF

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BEFORE THE

JASON SANCHEZ,

TEXAS ETHICS COMMISSION

RESPONDENT

SC-3230218

RECEIVED
JUNE 21 2023
Texas Ethics Commission

**ORDER
and
AGREED RESOLUTION**

I. Recitals

The Texas Ethics Commission (Commission) met on June 27, 2023, to consider sworn complaint SC-3230218. A quorum of the Commission was present. The Commission determined that there is credible evidence of violations of Section 254.261 of the Election Code, a law administered and enforced by the Commission. To resolve and settle this complaint without further proceedings, the Commission adopted this resolution.

II. Allegation

The complaint alleges that the respondent failed to file direct campaign expenditure reports for the San Antonio Police Officers' Association (SAPOA), instead filing reports in his own name, in violation of Section 254.261 of the Election Code.

III. Findings of Fact and Conclusions of Law

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

1. At all times relevant to the complaint, the respondent was the treasurer of the San Antonio Police Officers' Association (SAPOA). SAPOA is a Texas nonprofit corporation that represents San Antonio police officers in collective bargaining. The respondent was also appointed treasurer of the San Antonio Police Officers' Association PAC, a monthly-filing general-purpose political committee, on May 5, 2021.¹
2. On April 16, 2021, the respondent filed a direct campaign expenditure report pursuant to Section 254.261 of the Election Code. The report was marked as a 30-day pre-election

¹ In the Commission's filing system, the political committee's name is abbreviated to "San Antonio Police Officers' Assn. PAC." The political committee's first filings with the Commission appear to have been filled out with a typewriter. The political committee's full unabbreviated name would not have fit in the space provided on the forms, in the wide monospaced typewriter font used, and thus it appears that the political committee used an abbreviation.

report for the May 1, 2021 election,² and indicated that the respondent made a \$299,110 political expenditure to an advertising agency to oppose a San Antonio ballot measure. In a memorandum that he attached to the cover sheet, the respondent stated the following: “I am filing in my name as the Treasurer of a Labor organization, the San Antonio Police Officer’s Association. This is the first report I am filing and I am unaware of previous filings by the San Antonio Police Officer’s Association.”

3. On April 22, 2021, the respondent filed a second direct campaign expenditure report under Section 254.261 of the Election Code. On this report, the respondent disclosed a \$301,610 expenditure to the same advertising agency, to oppose the same ballot measure. The respondent included a similar annotation memorandum, which stated that he was “filing this report in [his] name as the treasurer of a labor organization, the San Antonio Police Officer’s Association (SAPOA).” The report was marked as an 8-day pre-election report for the May 1, 2021 election.
4. On August 18, 2021, the respondent filed a third direct campaign expenditure report, this one marked as a July semiannual report. On this report, the respondent disclosed \$14,662.70 in miscellaneous political expenditures. Unlike the preceding reports, this report did not include a memorandum indicating that the respondent was filing the report for SAPOA as the organization’s treasurer. However, the cover sheet for this report indicated the respondent’s support for the same ballot measure identified by the previous two reports.
5. The respondent filed no further direct campaign expenditure reports after the August 18, 2021 report.
6. A person not acting in concert with another person who makes one or more direct campaign expenditures in an election from the person’s own property shall comply with Chapter 254 of the Election Code as if the person were the campaign treasurer of a general-purpose committee that does not file monthly reports under Section 254.155 of the Election Code. Tex. Elec. Code § 254.261(a). Under the Code Construction Act, the definition of “person” includes a “corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, and any other legal entity.” Tex. Gov’t Code § 311.005(2); *see also Tex. Lottery Comm’n v. First State Bank of DeQueen*, 325 S.W.3d 628, 636 (Tex. 2010). As noted above, SAPOA is a Texas nonprofit corporation.
7. The campaign treasurer of a general-purpose committee shall file two reports for each year. Tex. Elec. Code § 254.153(a). The first report shall be filed not later than July 15. *Id.* § 254.153(b). The second report shall be filed not later than January 15. *Id.* § 254.153(c). In addition to the semiannual reports, for each election in which a general-purpose committee is involved, the committee’s campaign treasurer shall file two reports. *Id.* § 254.154(a). The first report must be received by the authority with whom the report is required to be filed not later than the 30th day before election day. *Id.* § 254.154(b). The

² The deadline for a 30-day pre-election report preceding the May 1, 2021 election was Thursday, April 1, 2021. Because the report was filed late, the Commission assessed a \$500 late penalty, which the respondent paid.

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. *Id.* § 254.154(c). In addition to other contents required by the Election Code, each report by a campaign treasurer of a general-purpose committee must include the committee's full name and address. Tex. Elec. Code § 254.151(1).

8. The Commission publishes a form to facilitate individual disclosure of direct campaign expenditures, called Form DCE, and an instruction guide to accompany the form. Form DCE and the associated instruction guide make clear that entities may file the form, and shall file under their own names. The filer signature block in Form DCE is labeled "Signature of Filer or signature of individual with authority to sign on behalf of entity (only if Filer is an entity)." Tex. Ethics Comm'n, Direct Campaign Expenditures Campaign Finance Report (2022), *available at* <https://www.ethics.state.tx.us/data/forms/dce/dce.pdf>. Concerning entry of the filer's name in Form DCE, the instruction guide directs that "[i]f the filer is an entity, enter the full name of the entity." Tex. Ethics Comm'n, Form DCE – Instruction Guide (2022), *available at* https://www.ethics.state.tx.us/data/forms/dce/DCE_ins22.pdf.
9. However, electronic filers of direct campaign expenditure reports do not fill in the filer name field on the report. Instead, before they file their first report, they file a form called a "Form Security," so that Commission filing staff can create a Filer ID and issue to the filer login credentials for the electronic filing system. Upon processing the Form Security, Commission filing staff associate the newly issued Filer ID with the name given by the filer on the Form Security. For reports filed electronically, the filing system automatically populates the field for the filer's name based on the name on file in the electronic filing system; this field is not modifiable by the filer.
10. The respondent swears that he gave his own name rather than SAPOA's name on the Form Security because SAPOA's name would not fit in the field provided for the filer's name, and because it appeared that this was what the form requested. The respondent observed that neither the Form Security nor the instructions attached to it mentioned the word "entity," but asked instead for the "Name of [the] Filer Submitting [the] Primary Email Address."³ According to the respondent, he provided his own name and email address in accordance with this description. The respondent further swears that he did not intend to conceal the source of the direct campaign expenditures. As it was written on the Form Security, the respondent's name was the filer name on file with the filing system, and therefore the direct campaign expenditure reports filed by the respondent automatically, because of the nature of the filing system, bore the respondent's name as well.
11. On the Commission's website, direct campaign expenditure reports are searchable by the filer's name. However, reports are not searchable by information contained in attached memoranda. Therefore, in order to see the direct campaign expenditure reports filed by the

³ A separate field of the Form Security is labeled "Committee Name (if committee)." The instructions for the form direct the filer to "[e]nter the committee name if this request [for filing credentials] is for a committee." The respondent was not filing for a political committee, so this field and the associated instructions were inapplicable as written.

respondent, a member of the public would have to know that the reports were filed in the respondent's name. A search for the entity's name, "San Antonio Police Officers' Association," does not reveal the direct campaign expenditure reports.

12. The evidence available to the Commission indicates that the respondent, because he incorrectly filled out the initial Form Security, reported SAPOA's direct campaign expenditures under his own name rather than SAPOA's name. Section 254.261 requires a person making direct campaign expenditures who is not acting in concert with another person to comply with the filing requirements applicable to general-purpose political committees. *See* Tex. Elec. Code § 254.261(a). A general-purpose political committee must file semiannual and pre-election campaign finance reports. *See id.* §§ 254.153, -.154. Further, each campaign finance report filed by a general-purpose political committee must include the committee's full name and address. *Id.* § 254.151(a). As the person responsible for filing an entity's reports, therefore, the respondent did not properly file direct campaign expenditure reports for the entity as required by Section 254.261 of the Election Code. There is therefore credible evidence of violations of Section 254.261 of the Election Code.

IV. 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 findings of fact and conclusions of law described under Section III, 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 a person not acting in concert with another person who makes one or more direct campaign expenditures in an election from the person's own property shall comply with Chapter 254 of the Election Code as if the person were the campaign treasurer of a general purpose political committee that does not file monthly reports under Section 254.155 of the Election Code. The respondent specifically acknowledges that the representative of an entity obligated to file such direct campaign expenditure reports must file those reports in the entity's name.
4. The respondent agrees to fully and strictly comply with the above requirements of law.
5. The respondent further agrees to provide a copy of this order and agreed resolution to SAPOA. The respondent acknowledges that the Commission will consider this Order and Agreed Resolution in any future sworn complaint proceedings against the respondent, SAPOA, or any future treasurer or other representative of SAPOA responsible for reporting SAPOA's campaign financial activity.

V. 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.

VI. Sanction

The Commission shall consider the following factors in assessing a sanction: 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. Tex. Gov't Code § 571.177.

The respondent's organization, SAPOA, spent \$615,382.70 in connection with a measure election. None of this spending was reported where it could easily be seen by members of the public, but only under the respondent's name, where it could not easily be found. These expenditures were not publicly noted until a May 12, 2021 article in the San Antonio Express-News, which noted that "[t]he spending flew under the radar because the union didn't use its own name when reporting the full scope of its political activity" to the Commission. Joshua Fechter, *San Antonio Police Union Quietly Spent \$600K to Defeat Prop B; Activists Cry 'Foul'*, San Antonio Express-News, May 12, 2021, available at <https://www.expressnews.com/news/local/article/San-Antonio-police-union-quietly-spent-600K-to-16172028.php>. This article was published almost two weeks after the election, in which the measure opposed by SAPOA was narrowly defeated. Because of the respondent's error when filing the Form Security, the reports of direct campaign expenditures were made under his name rather than SAPOA's name. Although the respondent included memos with the first two reports identifying SAPOA as the entity making the expenditures, these memos did not cause the reports to appear in searches for SAPOA's filings, and did not provide the public effective notice of the activity.

The respondent swears that he filed the reports under his own name because there was not enough space for the name of SAPOA in the field for the filer's name on the Form Security and the instructions associated with the form were not clear as to which name should go on the form. As noted above, the electronic filing system automatically populates the Form DCE field with the filer's name. Where a Form DCE filer has filed a Form Security to gain access to the electronic filing system, as the respondent did, Commission filing staff name the filer in the system in accordance with the Form Security.

The respondent therefore claims that the disclosure violations were the product of a mistake rather than intentional malfeasance, and points out that, in his efforts to properly identify the true filer, he included the clarifying memos mentioned above. The respondent further notes that he had never previously filed reports with the Texas Ethics Commission and had been in the job of SAPOA's treasurer for less than three months while still working full time as a police officer. However, the

respondent's error made SAPOA's political expenditures difficult for the public to find and thereby frustrated effective disclosure of a substantial amount of activity.

After considering the nature, circumstances, and consequences of the violations described under Section III, after considering the sanction necessary to deter future violations, and particularly in view of the extent of harm done to disclosure, the Commission imposes a \$5,000 civil penalty.

VII. 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-3230218.

AGREED to by the respondent on this 20th June day of June, 2023.



Jason Sanchez, Respondent

EXECUTED by the Commission on: June 29, 2023.

Texas Ethics Commission

By: J.R. Johnson

J.R. Johnson, Executive Director