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Pymt Rec'd 2-20-2024

TEXAS ETHICS COMMISSION

JTH

IN THE MATTER OF
ROBB TEMPLE,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-32305186

RECEIVED
MAR 4 2024
Texas Ethics Commission

ORDER
and
AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (TEC) met on March 20, 2024, to consider sworn complaint SC-32305186. A quorum of the TEC was present. The TEC determined that there is credible evidence of a violation of Section 254.124 of the Election Code, a law administered and enforced by the TEC. To resolve and settle this complaint without further proceedings, the TEC adopted this resolution.

II. Allegations

Concerning the 8-day pre-election report that the respondent filed for the specific-purpose political committee McKinney Above the Rest, the complaint alleged that the respondent: 1) failed to timely file the report, in violation of Section 254.124(c) of the Election Code; and 2) failed to cover the correct dates on the report, also in violation of Section 254.124(c) of the Election Code.

III. Findings of Fact and Conclusions of Law

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

1. At all times relevant to the complaint, the respondent was the treasurer of McKinney Above the Rest, a specific-purpose political committee.
2. The McKinney Above the Rest political committee (the PAC) filed its campaign treasurer appointment with the McKinney City Secretary on March 31, 2023. The campaign treasurer appointment named the respondent as the PAC's campaign treasurer, and indicated that the PAC's purpose was to support a measure in the May 6, 2023 election. The measure, which was for bonds to expand the local airport, was unsuccessful.
3. On April 6, 2023, the respondent timely filed for the PAC a 30-day pre-election report for the May 6, 2023 election.

4. On May 3, 2023, the respondent filed for the PAC an 8-day pre-election report for the May 6, 2023 election. According to the cover sheet, this report covered a period beginning April 28, 2023, and ending May 7, 2023.¹ On the cover sheet were disclosed \$10,000 in political contributions to the PAC dated April 17 and April 18, before the period covered according to the cover sheet, but during the period properly covered by an 8-day pre-election report. *See* Tex. Elec. Code § 254.124(c).
5. In response to the sworn complaint, the respondent provided a spreadsheet tracking the PAC's contributions and expenditures. This spreadsheet included activity not disclosed on the PAC's original reports. Seeking further information about what was required to be disclosed on the 8-day pre-election report at issue in the sworn complaint, TEC staff sent to the respondent written questions and requests for production.
6. The responses and documents received by TEC staff confirmed that substantial unreported activity had occurred. Most notably, the documents revealed that the respondent had not reported a \$46,000 expenditure for a mailer campaign at the time it was incurred. *See* 1 Tex. Admin. Code § 20.58(a) ("An expenditure that is not paid during the reporting period in which the obligation to pay the expenditure is incurred shall be reported on the Unpaid Incurred Obligations Schedule for the reporting period in which the obligation to pay is incurred."). Neither did the respondent report \$16,913.84 in in-kind contributions from the McKinney Chamber of Commerce to the PAC, or an \$11,472.22 monetary contribution from an organization called "CIVBIC" to the PAC. Concerning the 8-day report specifically, the documents indicated that the respondent failed to report a \$3,910 in-kind contribution from one Adrienne Micheletto for a campaign strategist, and a \$1,173.28 expenditure by the PAC to the same strategist.
7. In addition to other required reports, for each election in which a specific-purpose committee supports or opposes a candidate or measure, the committee's campaign treasurer shall file two reports. Tex. Elec. Code § 254.124(a). The first report must be received by the authority with whom the report is required to be filed not later than the 30th day before election day. The report covers the period beginning the day the committee's campaign treasurer appointment is filed or the first day after the period covered by the committee's last required report, as applicable, and continuing through the 40th day before election day. *Id.* § 254.124(b). The second report must be received by the authority with whom the report is required to be filed not later than the eighth day before election day. The report covers the period beginning the 39th day before election day and continuing through the 10th day before election day. *Id.* § 254.124(c).
8. The eighth day before the May 6, 2023 election was April 28, 2023, a Friday. As the PAC's campaign treasurer, the respondent did not file the PAC's 8-day pre-election report until May 3, 2023, the following Wednesday. According to the respondent, he was unable to timely file the report because "unforeseeable" travel delays prevented him from returning to Texas before it was due. Therefore, as the respondent has acknowledged, there is

¹ The dates on the cover sheet specifying the period covered are reversed, such that the report appears to cover the period from May 7, 2023, through April 28, 2023.

credible evidence that the respondent failed to timely file the 8-day pre-election report, in violation of Section 254.124(c) of the Election Code.

9. As noted above, the cover sheet of the PAC's 8-day pre-election report covered from April 28, 2023, through May 7, 2023. This is clearly an error, as the report was due on April 28, 2023. However, the report included some PAC activity from during the proper reporting period. In his response to the complaint, the respondent states that the dates on the cover sheet are "pure clerical error."
10. The evidence indicates that the 8-day pre-election report that the respondent filed for the PAC actually covered the correct dates, despite listing the wrong dates on the cover sheet. Therefore, there is no credible evidence of any violation of Section 254.124(c) of the Election Code for failure to cover the correct dates on the 8-day report.

IV. Representations and Agreement by Respondent

By signing this order and agreed resolution and returning it to the TEC:

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. The respondent consents to TEC staff presenting this resolution to the TEC outside of the respondent's presence.
3. The 8-day pre-election 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. The 8-day pre-election report covers the period beginning the 39th day before election day and continuing through the 10th day before election day. The respondent agrees to fully and strictly comply with these requirements of law.

V. Confidentiality

This order and agreed resolution describes violations that the TEC 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 TEC.

VI. Sanction

The TEC 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.

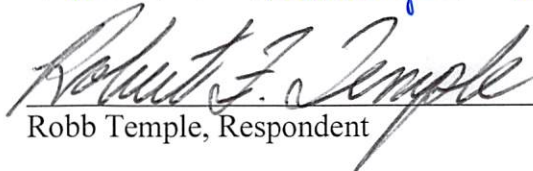
As discussed in Section III, the PAC accepted in-kind contributions and made political expenditures that the respondent did not disclose on the PAC's campaign finance reports. The \$3,910 in contributions and the \$1,173.28 in expenditures that should have been disclosed on the PAC's late-filed 8-day report are only a small portion of the PAC's unreported activity. The respondent denies that he intentionally failed to report this activity, and notes that he has filed corrected reports disclosing the PAC's missing activity. The respondent further states that he filed the original 8-day pre-election report late because of unanticipated travel delays, which prevented him from returning to Texas to file the report. However, even if these failures were unintentional, serious harm to disclosure resulted. Further, because the respondent's corrections come months after the election, they can only partly rectify the harm to public disclosure.

Section 571.173 of the Government Code authorizes the TEC to impose a civil penalty of up to \$5,000 or triple the amount at issue for each violation of a law administered and enforced by the TEC. After considering the nature, circumstances, and consequences of the violations described under Section III, including the substantial harm to disclosure only partially rectified by the respondent's post-election corrections, the TEC imposes a \$2,500 civil penalty.

VII. Order

The TEC hereby orders that if the respondent consents to the proposed resolution, and files corrected reports disclosing the unreported expenditures discussed in Section VI, this order and agreed resolution is a final and complete resolution of SC-32305186.

AGREED to by the respondent on this 2nd day of February, 2024.


Robb Temple, Respondent

EXECUTED by the TEC on: March 25, 2024.

Texas Ethics Commission

By: J.R. Johnson
J.R. Johnson, Executive Director