

TEXAS ETHICS COMMISSION

IN THE MATTER OF
WILLIAM B. BROOKS,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-2506120

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on May 11, 2006, to consider sworn complaint SC-2506120. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 254.031(a)(2), 254.031(a)(3), 254.031(a)(8), and 254.124 of the Election Code, laws administered and enforced by the commission. To resolve and settle this complaint without further proceedings, the commission proposes this resolution to the respondent.

II. Allegations

1. The complaint alleges that the respondent failed to report payments of principal or interest on loans on an 8-day pre-election report for a May 15, 2004, city election, on the 10th day after campaign treasurer termination report, and on the committee's July 2004 semiannual/dissolution report.
2. The complaint alleges that the respondent failed to report the correct amount of all outstanding loans on the committee's 8-day pre-election report for a May 15, 2004, city election and on the committee's 10th day after campaign treasurer termination report.
3. The complaint alleges that the respondent failed to report the total political contributions maintained as of the last day of the reporting period on the committee's 8-day pre-election report for a May 15, 2004, city election, on the committee's 10th day after campaign treasurer termination report, and on the committee's July 2004 semiannual/dissolution report.
4. The complaint alleges that the respondent, as a member of the committee, accepted a political contribution on behalf of the committee in the form of the forgiveness of the committee's loans and or interest accruals after the dissolution of the committee.
5. The complaint alleges that if the loans were repaid and or interest paid after the dissolution of the committee by the respondent then the respondent made a political expenditure after the dissolution of the committee.

6. The complaint alleges that alternatively, if the respondent did not fail to report political contributions maintained on the last day of the reporting period on the July 2004 semiannual/dissolution report, then he failed to report political expenditures during the period covered by the 2004 semiannual/dissolution report.
7. The complaint alleges that the respondent failed to disclose the names and addresses of the original payees and the original dates of political expenditures on campaign finance reports.
8. The complaint alleges that some political expenditures were not disclosed on the report covering the period during which the political expenditures were made.
9. The complaint alleges that the respondent failed to cover the proper reporting period on the 30-day pre-election report for the May 15, 2004, city election.

III. Facts Supported by Credible Evidence

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

1. The complaint is against the campaign treasurer of Firefighters For Public Safety PAC (the committee), a specific-purpose political committee. The committee filed a campaign treasurer appointment with the City of Austin on February 17, 2004.
2. A sponsoring association of the committee is the Austin Association of Professional Firefighters (AAPF) also known as the Austin Association of Professional Firefighters Local 975 and sometimes referred to as Local 975.
3. The following reports and corrected reports are at issue (the corrections were filed January 9, 2006, in response to this complaint):
 - The committee's 30-day pre-election report for a May 15, 2004, city election.
 - The committee's 8-day pre-election report for the May 15, 2004, city election.
 - The committee's 10th day after campaign treasurer termination report.
 - The committee's July 2004 semiannual/dissolution report.The committee's reports disclose a total of approximately \$156,144 in loans and a total of approximately \$153,423 in political expenditures.
4. The respondent filed corrected reports for the reports at issue. The corrected reports show that a number of the loans disclosed on the original reports were, in fact, contributions.

5. The committee's corrected reports disclose a loan repayment not disclosed on the original reports.
6. The 8-day pre-election report at issue discloses a \$4,770 loan from AAPF. It does not report the payment of principal or interest on loans. It does not disclose a total for all outstanding loans.
7. The 10th day after campaign treasurer termination report at issue discloses \$90,933.99 in loans from AAPF. It does not report the payment of principal or interest on loans. It does not disclose a total for all outstanding loans.
8. The committee did not disclose an amount for the total political contributions maintained as of the last day of the reporting period on the 8-day pre-election, the 10th day after campaign treasurer termination, or on the July 2004 semiannual/dissolution reports at issue.
9. The committee's corrected reports disclose a smaller amount of loans from AAPF and also disclose the repayment or reimbursement of approximately the same amount as the loans. The corrected reports showed the rest of the funds from AAPF as contributions.
10. On the corrected final report the respondent discloses a non-political expenditure on October 8, 2004, to AAPF the purpose of which is listed as "transfer of unexpended contribution."
11. Expenditures reported on the 8-day pre-election report, the 10th day after campaign termination report, and the July 2004 semiannual report do not properly disclose payee information.
12. The 10th day after campaign treasurer termination report covered the period May 8, 2004, through May 25, 2004. The respondent disclosed a reimbursement to an individual for "Consulting for 2/15/04 & 3/1/04," a period outside the report's reporting period.
13. Two of the expenditures that the complaint alleges were not reported in the proper reporting period were made for advertisements in two newspapers. The advertisements are dated April 23, 2004, and May 6, 2004. The advertisements were seeking votes for the proposition. The political committee's reports do not disclose expenditures for those advertisements.
14. In a response to the complaint, the respondent stated that the committee failed to disclose an expenditure for check printing and a bank service charge, a \$2,025.60 expenditure, and three other expenditures totaling \$76 for petition expenses.
15. The committee filed an appointment of campaign treasurer on February 17, 2004. The committee's first report was the 30-day pre-election report for a May 15, 2004, city election. The proper reporting for that report was February 17, 2004, through April 4, 2004. The

report filed by the respondent covered the period from March 8, 2004, through April 14, 2004.

IV. Findings and Conclusions of Law

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

1. A report must include the amount of political expenditures that in the aggregate exceed \$50 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).
2. The evidence indicates that the source of the committee's funds was AAPF, which had received a loan from another organization. The reports as corrected disclose certain political expenditures as loan repayments and reimbursements to either AAPF or Local 975 (the same organization). Although the source of the funds and many of the payees of political expenditures are apparent, even as corrected it is difficult to discern the actual amount of political contributions that were made and accepted as loans and those that were not, and the amount of political expenditures that were actually loan payments. There is credible evidence that the respondent failed to properly report on the originally filed 8-day pre-election report and on the originally filed 10th day after campaign treasurer termination report the repayment of loans made to the committee by AAPF. Therefore, there is credible evidence that the respondent violated section 254.031(a)(3) of the Election Code.
3. A report must include the aggregate principal amount of all outstanding loans as of the last day of the reporting period. ELEC. CODE § 254.031(a)(2).
4. The evidence shows that the committee received loans that were not properly reported on the original 8-day pre-election report and on the 10th day after campaign treasurer termination report. Therefore, there is credible evidence that the respondent violated section 254.031(a)(2) of the Election Code.
5. A report must include the total political contributions maintained as of the last day of the reporting period. ELEC. CODE § 254.031(a)(8).
6. The evidence shows that the respondent failed to include the political contributions maintained as of the last day of the reporting period on the 8-day pre-election report, the 10th day after campaign treasurer termination report, and the July 2004 semiannual/dissolution report. Therefore, there is credible evidence that the respondent violated section 254.031(a)(8) of the Election Code as to these reports.
7. A political committee may not knowingly accept political contributions totaling more than \$500 or make or authorize political expenditures totaling more than \$500 at a time when a campaign treasurer appointment for the committee is not in effect. ELEC. CODE § 253.031.

8. The complaint alleges that the respondent violated section 253.031 of the Election Code by accepting the forgiveness of a loan after the campaign treasurer was no longer in effect. The evidence shows that the committee repaid or reimbursed the loans. Therefore, there is credible evidence that there was not an acceptance of the forgiveness of loans or accrued interest as a contribution at a time when no campaign treasurer was in effect. There is credible evidence that the respondent did not violate section 253.031 of the Election Code.
9. The complaint alleges that the respondent violated section 253.031 of the Election Code by repaying loans or paying interest on loans after the campaign treasurer was no longer in effect. The evidence shows that the committee repaid or reimbursed the loans before the committee was dissolved. Therefore, there is credible evidence that loans were not repaid or interest paid at a time when no campaign treasurer was in effect. There is credible evidence that the respondent did not violate section 253.031 of the Election Code.
10. A report must include the amount of political expenditures that in the aggregate exceed \$50 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).
11. The evidence shows that the respondent failed to report expenditures for check printing and a bank service charge, as well as four other political expenditures that totaled \$2,101.60. With respect to the reimbursement for "Consulting for 2/15/04 & 3/1/04," the evidence shows that the respondent failed to disclose political expenditures in the reporting period in which they were made. With respect to the newspaper advertisements published in April and May 2004 the evidence indicates that expenditures for those advertisements were not reported.
12. When a campaign worker makes a campaign expenditure from personal funds and in the same reporting period receives reimbursement from a political committee for which the expenditure was made, it is permissible to report a single expenditure by listing the name of the individual or entity paid by the campaign worker as the payee, showing the date of the expenditure as the date the campaign worker made the expenditure, and explaining in the "purpose" section that a campaign worker made the expenditure from personal funds and that the political committee subsequently reimbursed the campaign worker. Ethics Advisory Opinion No. 450 (2003).
13. The political expenditures at issue were not disclosed as described by that opinion. In most instances the respondent did disclose the actual payee of the political expenditure. However, in a number of instances the actual payee was disclosed in the "Purpose of Expenditure" section as opposed to the payee section of the form. Further, with respect to the dates of the political expenditures the original reports make it difficult to ascertain the dates of the expenditures, and the address of the actual payees were not disclosed.

14. The evidence shows that the respondent failed to properly disclose political expenditures, failed to properly disclose political expenditures during the period in which they were made, and failed to properly disclose the names and addresses of the original payees and the original dates of political expenditures. Therefore, there is credible evidence that the respondent violated section 254.031(a)(3) of the Election Code.
15. The campaign treasurer of a specific-purpose committee is required to file a 30-day pre-election report for each election in which the committee supports or opposes a candidate or measure. ELEC. CODE § 254.124. The report is required to cover 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 the election. *Id.* § 254.124.
16. The period covered on the first report filed by the respondent for the committee, the 30-day pre-election report for a May 15, 2004, city election, was required to begin with the date the campaign treasurer appointment was filed, February 17, 2004, and end April 4, 2004. That report discloses the period covered as March 8, 2004, through April 14, 2004. There is credible evidence that the respondent violated section 254.124 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 a report must include the amount of political expenditures that in the aggregate exceed \$50 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. The respondent also acknowledges that a report must include the aggregate principal amount of all outstanding loans as of the last day of the reporting period. The respondent also acknowledges that a report must include the total political contributions maintained as of the last day of the reporting period. The respondent also acknowledges that the campaign treasurer of a specific-purpose committee is required to file a 30-day pre-election report for each election in which the committee supports or opposes a candidate or measure and that the report is required to cover 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 the election. 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 seriousness of the violations described under Sections III and IV, including the nature, circumstances, and consequences of the violations, and after considering the sanction necessary to deter future violations, the commission imposes a \$500 civil penalty for the violations described under Sections III and IV.

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-2506120.

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

William B. Brooks, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director