

TEXAS ETHICS COMMISSION

IN THE MATTER OF
MARK FLETCHER,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-31005154

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on February 23, 2011, to consider sworn complaint SC-31005154. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 252.001, 253.031, and 253.037 of the Election Code, laws administered and enforced by the commission. To resolve and settle this complaint as to the respondent without further proceedings, the commission proposed this resolution to the respondent.

II. Allegations

The complaint alleged that the respondent knowingly accepted political contributions totaling more than \$500 and made or authorized political expenditures totaling more than \$500 for a political committee at a time when a campaign treasurer appointment for the committee was not in effect, and that the respondent knowingly made or authorized political expenditures totaling more than \$500 earlier than the 60th day after the date the political committee filed its campaign treasurer appointment.

III. Facts Supported by Credible Evidence

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

1. The respondent is a contribution and expenditure decision maker for Midlothian Together, a general-purpose political committee that previously filed campaign finance reports as a specific-purpose political committee.
2. On April 6, 2009, Midlothian Together filed with the Midlothian City Secretary an appointment of a campaign treasurer for a specific-purpose political committee that disclosed that the committee supported two candidates for city council. Midlothian Together filed with the Midlothian City Secretary as a specific-purpose political committee until it filed a dissolution report on October 9, 2009.

3. On October 5, 2009, Midlothian Together filed with the Midlothian City Secretary a campaign treasurer appointment for a general-purpose political committee that named the respondent as a contribution and expenditure decision maker for the committee.
4. Midlothian Together's 30-day pre-election report for the November 3, 2009, election, filed October 5, 2009, with the Midlothian City Secretary on Form GPAC (the campaign finance report form for general-purpose political committees), disclosed \$195.28 in total political contributions and \$8.99 in total political expenditures of \$50 or less (unless itemized). Although the report left blank the portion of the report's cover page used for disclosing total political expenditures, Schedule F (used for reporting political expenditures) disclosed a single political expenditure of \$8.99. The report disclosed activity from October 5, 2010.
5. Midlothian Together's 8-day pre-election report for the November 3, 2009, election, filed October 26, 2009, with the Midlothian City Secretary on Form GPAC, disclosed \$1,400 in total political contributions and \$1,534.99 in total political expenditures. The report disclosed a reporting period from October 6, 2009, through October 26, 2009. The report disclosed October 16, 2009, as the earliest date the committee accepted political contributions or made political expenditures during the reporting period.
6. Midlothian Together's semiannual report, filed January 15, 2010, with the Midlothian City Secretary on Form GPAC, disclosed \$245 in total political contributions and \$0 in total political expenditures.
7. In response to the sworn complaint allegations, the respondent stated that Midlothian Together was established as a specific-purpose political committee to support two candidates in the May 2009 municipal election, but that, in October 2009, the committee was converted to a general-purpose political committee. The respondent stated that, "We were under the assumption the appointment of the treasurer in the SPAC carried over to the GPAC and waiting periods were not required."
8. On August 4, 2010, Midlothian Together filed with the commission a semiannual report on Form GPAC that covered a reporting period from May 2, 2010, through June 15, 2010. The report disclosed \$300 in total political contributions of \$50 or less (unless itemized) and \$2,157.13 in total political expenditures. The report left blank the portion of the report's cover page used for disclosing total political contributions and did not include Schedule A (used for reporting political contributions).
9. On August 31, 2010, Midlothian Together filed with the commission a campaign treasurer appointment for a general-purpose political committee that listed the respondent as a contribution and expenditure decision maker for the committee. Midlothian Together also filed with the commission a copy of the campaign treasurer appointment for a general-purpose political committee originally filed on October 5, 2009, with the Midlothian City Secretary.

10. On January 11, 2011, Midlothian Together filed a semiannual report with the commission on Form GPAC that disclosed \$0 in total political contributions and \$0 in total political expenditures.
11. Between October 9, 2009, the date Midlothian Together filed a dissolution report for a specific-purpose political committee, and August 31, 2010, the date Midlothian Together filed a campaign treasurer appointment with the commission, Midlothian Together accepted political contributions totaling approximately \$3,250 and made political expenditures totaling approximately \$4,290.

IV. Findings and Conclusions of Law

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

1. Each candidate and each political committee shall appoint a campaign treasurer as provided by chapter 252, Election Code. ELEC. CODE § 252.001.
2. A specific-purpose committee for supporting or opposing a candidate or assisting an officeholder must file its campaign treasurer appointment with the same authority as the appointment for candidacy for the office. *Id.* § 252.006. An individual must file a campaign treasurer appointment for the individual's own candidacy with the clerk or secretary of the governing body of the political subdivision or, if the political subdivision has no clerk or secretary, with the governing body's presiding officer, if the appointment is made for candidacy for an office of a political subdivision other than a county. *Id.* § 252.005(3).
3. A general-purpose committee must file its campaign treasurer appointment with the commission. *Id.* § 252.009.
4. A campaign treasurer appointment takes effect at the time it is filed with the authority specified by chapter 252, Election Code, and continues in effect until terminated. *Id.* § 252.011.
5. The filing of a dissolution report terminates a specific-purpose committee's campaign treasurer appointment. Ethics Commission Rule § 20.341(c)(2).
6. 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(b).
7. A general-purpose committee may not knowingly make or authorize a political contribution or political expenditure unless the committee has filed its campaign treasurer appointment not later than the 60th day before the date the contribution or expenditure is made. *Id.* § 253.037(a)(1).

8. A specific-purpose committee that changes its operation and becomes a general-purpose committee is subject to the requirements applicable to a general-purpose committee as of the date it files its campaign treasurer appointment as a general-purpose committee with the commission. Ethics Commission Rules § 20.313.
9. Midlothian Together filed a dissolution report using Form SPAC on October 9, 2009, with the local filing authority. The dissolution report terminated the committee's campaign treasurer appointment. In response to the sworn complaint allegations, the respondent stated that Midlothian Together converted to a general-purpose political committee in October 2009. Although the committee filed a campaign treasurer appointment for a general-purpose political committee with the local filing authority on October 5, 2009, a campaign treasurer appointment for a general-purpose political committee does not take effect until the date it is filed with the commission. Thus, Midlothian Together did not have a campaign treasurer appointment in effect from October 9, 2009, the date the committee filed a dissolution report with the local filing authority, until August 31, 2010, the date the committee filed a campaign treasurer appointment with the commission. Midlothian Together accepted political contributions totaling approximately \$3,250 and made political expenditures totaling approximately \$4,290 during the period of time it did not have a campaign treasurer appointment in effect. The respondent was a contribution and expenditure decision maker for Midlothian Together during the period at issue. Therefore, there is credible evidence of violations of sections 252.001, 253.031, and 253.037 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 each candidate and each political committee shall appoint a campaign treasurer as provided by chapter 252, Election Code. The respondent acknowledges that 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. The respondent acknowledges that a general-purpose political committee may not knowingly make or authorize a political contribution or political expenditure unless the committee has filed its campaign treasurer appointment not later than the 60th day before the date the contribution or expenditure is made. 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 \$200 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-31005154 as to the respondent.

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

Mark Fletcher, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director