

TEXAS ETHICS COMMISSION

P.O. Box 12070, Capitol Station
Austin, Texas 78711-2070

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October 22, 2020

Ms. Delia Parker-Mims
1079 W. Round Grove Road
Suite 300, Box 14
Lewisville, Texas 75067-7927

**CERTIFIED MAIL NO. 9236 0901 9403 8323 4403 52,
RETURN RECEIPT REQUESTED**

Re: Notice of Complaint, SC-32010221

Dear Ms. Parker-Mims:

We received sworn complaint SC-32010221 on October 15, 2020. The complaint meets the legal and technical form requirements for a complaint filed with the Texas Ethics Commission (Commission), and the executive director has determined that the Commission has jurisdiction over some of the matters alleged in the sworn complaint.

The complaint alleges that you: 1) failed to include in political advertisements political advertising disclosure statements correctly identifying the person who paid for or authorized the political advertisements, in violation of Section 255.001 of the Election Code; 2) 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, or, with intent to injure a candidate or influence the outcome of an election, knowingly represented in a campaign communication that the communication emanated from a source other than its true source, namely by representing in political advertisements or campaign communications that the political advertisements or campaign communications were paid for or authorized by the Better Together DC political committee, in violation of Section 255.004 of the Election Code; and 3) failed to file a 30-day pre-election report for the November 3, 2020, election. **The Commission accepts jurisdiction over these allegations.**

Please note that the complaint includes further allegations over which the Commission does not accept jurisdiction. In order to meet the legal and technical form requirements, a sworn complaint must state on its face an allegation that, if true, constitutes a violation of a rule adopted by or a law administered and enforced by the Commission. Tex. Gov't Code § 571.122. The complaint must also allege facts that provide sufficient detail to reasonably place the respondent on notice of the law violated and of the manner and means by which the violation allegedly occurred and to afford the respondent a basis on which to prepare a response. 1 Tex. Admin. Code § 12.61.

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The complaint alleges that you failed to include the political advertising disclosure statement required by Section 255.001 of the Election Code in an article published in the September/October 2020 issue of the Lake Cities Living magazine. The complaint does not allege facts to indicate that you caused the article to be published, or that the article constituted paid political advertising. The Election Code defines political advertising in relevant part as a communication that *in return for consideration* is published in a newspaper, magazine, or other periodical. See Tex. Elec. Code § 251.001(16). Because the complaint does not allege sufficient facts to establish that you paid the magazine to publish the article, the allegation will not be considered.

The complaint alleges that you accepted contributions made in violation of the law by the Better Together DC political committee, in violation of Section 253.003 of the Election Code. However, the complaint does not indicate how the alleged contributions were made in violation of the law. A political contribution is not illegal merely because the contributor subsequently fails to report the contribution as a political expenditure. Further, while it is a violation of Section 253.031 for a political committee to authorize political expenditures exceeding \$870 without having a campaign treasurer appointment on file, the complaint does not indicate that the PAC made the alleged contributions while it did not have a treasurer appointment on file. See Tex. Elec. Code § 253.031; 1 Tex. Admin. Code § 20.301(a). Because the complaint does not allege sufficient facts to indicate that the Better Together DC political committee made the alleged contributions in violation of the law, the allegation that you violated Section 253.003 of the Election Code by accepting the alleged contributions will not be considered.

The complaint alleges that you made expenditures from political contributions you knew to have been made in violation of Chapter 253 of the Election Code, in violation of Section 253.005 of the Election Code. The complaint does not identify any monetary contributions to you from the Better Together DC political committee, nor does it identify any political expenditures that you might have made from such monetary contributions. The complaint therefore does not allege sufficient facts to state a violation of Section 253.005 of the Election Code, and this allegation will not be considered.

The complaint further alleges that you violated Section 253.004 of the Election Code. Section 253.004 prohibits a person from knowingly making or authorizing a political expenditure in violation of Chapter 253 of the Election Code, which imposes restrictions on political contributions and political expenditures. The complaint does not explain which provisions of Chapter 253 of the Election Code you violated or how you violated them. Further, while the complaint alleges that you failed to report expenditures for political advertising, Title 15's campaign finance reporting obligations are located in Chapter 254 of the Election Code, not Chapter 253. The complaint therefore does not allege sufficient facts to state a violation of Section 253.004 of the Election Code, and this allegation will not be considered.

The complaint alleges that you violated Section 254.031 of the Election Code by failing to disclose expenditures you made for political communications or in-kind contributions you received in the form of political communications. The complaint does not include your relevant campaign finance reports. It therefore does not include all documents that are available to the complainant and that are relevant to the allegation, as required by Section 571.122 of the Government Code. Further, the complaint does not allege facts to indicate that you failed to disclose political expenditures to publish the political communications at issue in the complaint, or facts to indicate

that the Better Together DC political committee made, and you accepted, in-kind contributions that you failed to disclose. The complaint therefore does not comply with the legal and technical form requirements for a complaint as to this allegation, and this allegation will not be considered.

The sworn complaint allegations will be processed as Category One violations. Under the law you are required to respond to the allegations not later than 10 business days from the date you receive this notice. Failure to respond will constitute a separate violation for which a separate civil penalty may be assessed.

The response must be in writing, admit or deny the allegations, and be signed by you. If you deny the allegations, then you should provide evidence supporting the denial. The response must include any challenge you seek to raise to the Commission's exercise of jurisdiction. The response should be under oath. We have enclosed an affidavit form that you may wish to use for the response. You may by writing submitted to the Commission designate an agent with whom the Commission staff may communicate regarding the complaint. If you have any information relevant to the complaint, please provide it at this time. Also, please be advised that you should preserve all documents and evidence related to the allegations in this complaint.

To comply with legal requirements regarding the initial notice of a sworn complaint, I have also included a copy of the sworn complaint, the Commission's sworn complaint rules, a Statement of Respondent's Rights, and copy of the relevant statutes of the Election Code. More information about the complaint process is available on the Commission's website at www.ethics.state.tx.us.

Please note that at this stage in the process, Commission members and staff are required by law to keep the complaint and all documents relating to it strictly confidential.

Please contact me if you have any questions.

Sincerely,

/s/ Jordan T. Hunn

Jordan T. Hunn
Assistant General Counsel

Jurisdiction accepted over some allegations
For the Texas Ethics Commission

/s/ Anne Temple Peters

Anne Temple Peters
Executive Director

JTH:mc

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Enclosures: Copy of Sworn Complaint
Commission Rules Concerning Sworn Complaints
Statement of Respondent's Rights
Relevant Statutes
Affidavit (for respondent only)

c: Mrs. Veronica Cade

SENT BY EMAIL