

TEXAS ETHICS COMMISSION

IN THE MATTER OF
JOHN W. WIESNER,
RESPONDENT

§
§
§
§
§

BEFORE THE
TEXAS ETHICS COMMISSION
SC-270336

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on June 10, 2008, to consider sworn complaint SC-270336. A quorum of the commission was present. The commission determined that there is credible evidence of a violation of section 254.123 of the Election Code, a law 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

The complaint alleges that the respondent failed to timely file a specific-purpose political committee's January 2007 semiannual campaign finance report. The complaint also alleges that the respondent failed to give written notice of direct expenditures to three candidates that the committee supported.

III. Facts Supported by Credible Evidence

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

1. The respondent is the campaign treasurer of "Friends of NHMCCD" a specific-purpose political committee supporting candidates for and officeholders of the North Harris Montgomery Community College District Board of Trustees (NHMCCD).
2. The committee's 30-day and 8-day pre-election reports for the November 7, 2006, trustee election, and the committee's January 2007 semiannual report disclose that the committee's purpose is to support three individuals as candidates and to assist them as officeholders (Martin Basaldua, David McIver, and Randy Bates).
3. The 8-day pre-election report discloses a \$2,500 political contribution from "William Randy

Bates, Jr. Campaign Fund.” The report discloses a \$5,473.76 political expenditure for newspaper ads supporting “Basaldua –Position #1, McIver – Position #2, Bates – Position #8.” The January 2007 semiannual report discloses a \$3,000 political contribution from “Martin Basaldua Campaign” and two political contributions totaling \$1,128.46 from “David McIver Campaign.” The report discloses approximately \$7,089 in political expenditures to support Basaldua, McIver, and Bates.

4. The copy of the respondent’s January 2007 semiannual report is stamped as filed on January 26, 2007.
5. The evidence indicates that a third-party was assisting the respondent in filing the committee’s reports. The evidence indicates that the third-party failed to prepare the reports before the deadline due to personal problems. The respondent acknowledges that he was responsible for filing the reports correctly and timely.
6. The evidence indicates that each of the three candidates had actual knowledge of the contributions and expenditures of the committee before and after they were made and that the candidates had actual written notice of the expenditures through various forms, including checks.

IV. Findings and Conclusions of Law

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

1. The campaign treasurer of a specific-purpose committee is required to file two reports each year. The first report is required to be filed by July 15. The second report is required to be filed by January 15. ELEC. CODE § 254.123.
2. If a specific-purpose committee accepts political contributions or makes political expenditures for a candidate or officeholder, the committee’s campaign treasurer is required to deliver written notice of that fact to the affected candidate or officeholder not later than the end of the period covered by the report in which the reportable activity occurs. ELEC. CODE § 254.128.
3. The evidence shows that the respondent failed to timely file the committee’s January 2007 semiannual report. Therefore, there is credible evidence that the respondent violated section 254.123 of the Election Code.
4. The evidence shows that the committee accepted political contributions and made political expenditures for three candidates. The evidence shows that the political expenditures supporting the three candidates were approved by the candidates and were, therefore, political contributions to the candidates. Because the political expenditures were contributions to the candidates there was no requirement for the respondent to provide

written notice of the committee's support to the candidates. Therefore, there is credible evidence that the respondent did not violate section 254.128 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 the campaign treasurer of a specific-purpose committee is required to file two reports each year. The first report is required to be filed by July 15. The second report is required to be filed by January 15. The respondent agrees to comply with these requirements of the law.

VI. Confidentiality

This order and agreed resolution describes a violation that the commission has determined is 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 violation described under Sections III and IV, including the nature, circumstances, and consequences of the violation, and after considering the sanction necessary to deter future violations, the commission imposes a \$100 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-270336.

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

John W. Wiesner, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director