

TEXAS ETHICS COMMISSION

IN THE MATTER OF

SILVIA BROOKS WILLIAMS,

RESPONDENT

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BEFORE THE

TEXAS ETHICS COMMISSION

SC-2807292

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on August 6, 2009, to consider sworn complaint SC-2807292. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 254.063 and 254.064 of the Election Code, laws administered and enforced by the commission. To resolve and settle this complaint without further proceedings, the commission proposed this resolution to the respondent.

II. Allegations

The complaint alleged that the respondent failed to file a campaign finance report fifteen days after she appointed a campaign treasurer. The complaint also alleged that the respondent failed to file 30-day and 8-day pre-election reports for the November 2007 general election, and the semiannual reports due January 2007, July 2007, and January 2008.

III. Facts Supported by Credible Evidence

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

1. The respondent was first appointed to office as a school board trustee for North Forest Independent School District (NFISD) on September 18, 2006, to finish the term of a trustee who had resigned from his position. The respondent was then a successful opposed candidate in the November 2007 general election for NFISD school board trustee.
2. The respondent filed an application for a place on the ballot on September 6, 2007. The respondent filed a campaign treasurer appointment that was not date stamped by the local filing authority to show when it was received, but that was signed by the respondent on August 10, 2007. The respondent did not elect to file on the modified reporting schedule.
3. On January 23, 2008, the respondent signed a report that is on file with the local authority and that is marked as a January 2008 semiannual report. The report was not date stamped by the local filing authority to show when it was received.

4. On April 28, 2008, the respondent filed a 30-day pre-election report for the November 2007 election that covers the period from September 4, 2007, through October 7, 2007.
5. On April 28, 2008, the respondent filed an 8-day pre-election report for the November 2007 election that covers the period from October 8, 2007, through October 29, 2007.
6. On April 28, 2008, the respondent filed a report marked as a January 2008 semiannual report, covering the period beginning October 30, 2007, through January 15, 2008.
7. The evidence did not show that the respondent made political expenditures or accepted political contributions during the period between September 18, 2006, through the date that she filed a campaign treasurer appointment.

IV. Findings and Conclusions of Law

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

1. An officeholder shall file two reports for each year. The first report shall be filed not later than July 15. The report covers the period beginning January 1, the day the officeholder takes office, or the first day after the period covered by the last report, as applicable, and continuing through June 30. The second report shall be filed not later than January 15. The report covers the period beginning July 1, the day the officeholder takes office, or the first day after the period covered by the last report required to be filed, as applicable, and continuing through December 31. ELEC. CODE § 254.093.
2. An officeholder who appoints a campaign treasurer shall file, not later than the 15th day after the date the officeholder's campaign treasurer is appointed, a report covering the period beginning the first day after the period covered by the last report required to be filed under this chapter or the day the officeholder takes office, as applicable, and continuing through the day before the date the officeholder's campaign treasurer is appointed. ELEC. CODE § 254.094.
3. If at the end of any reporting period an officeholder who is required to file a report with an authority other than the commission has not accepted political contributions that in the aggregate exceed \$500 or made political expenditures that in the aggregate exceed \$500, the officeholder is not required to file a report covering that period. ELEC. CODE § 254.095.
4. The respondent was first appointed to the school board on September 18, 2006, and was required to file campaign finance reports with an authority other than the commission. The respondent filed her campaign treasurer appointment on or about August 10, 2007. Thus, the respondent was an officeholder from September 18, 2006, through August 10, 2007, without an active campaign treasurer on file. As an officeholder during that time, the respondent was required to file January 2007 and July 2007 semiannual reports if she accepted political contributions that in the aggregate exceeded \$500 or made political expenditures that in the aggregate exceeded \$500 during the periods covered by those reports. There is insufficient

- evidence to show that the respondent accepted any political contributions or made any political expenditures from September 18, 2006, (the day she was appointed to office) through the date she filed her campaign treasurer appointment (on or about August 10, 2007). Therefore, with regard to the respondent's January 2007 and July 2007 semiannual reports, there is insufficient evidence of a violation of section 254.093 of the Election Code.
5. As an officeholder at the time she appointed her campaign treasurer, the respondent was required to file a campaign finance report within 15 days after she appointed her campaign treasurer. However, that report was not required if the respondent had not accepted political contributions that in the aggregate exceeded \$500 or made political expenditures that in the aggregate exceeded \$500 during the period covered by the report. As noted, the evidence is insufficient to show that the respondent accepted any political contributions or made any political expenditures during the period or periods that would be covered by that report. Therefore, there is insufficient evidence of a violation of section 254.094 of the Election Code.
 6. In addition to other required reports, for each election in which a person is a candidate and has an opponent whose name is to appear on the ballot, the person shall file two reports. 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 candidate's campaign treasurer appointment is filed or the first day after the period covered by the last report required to be filed under this chapter, as applicable, and continuing through the 40th day before election day. 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. ELEC. CODE § 254.064(c).
 7. An opposed candidate is not required to file pre-election reports if the candidate filed with his campaign treasurer appointment a declaration of intent not to accept political contributions that in the aggregate exceed \$500 or to make political expenditures that in the aggregate exceed \$500 in connection with the election. ELEC. CODE §§ 254.181, 254.182.
 8. The respondent was an opposed candidate in the November 2007 general election and was not entitled to file campaign finance reports on the modified reporting schedule. Therefore, the respondent was required to file 30-day and 8-day pre-election reports for the November 2007 general election that were due on October 9, 2007, and October 29, 2007, respectively. Although the respondent filed her 30-day and 8-day pre-election reports on or about January 23, 2008, the reports were not filed by the respective deadlines. Therefore, there is credible evidence of violations of section 254.064 of the Election Code.

9. A candidate shall file two reports for each year. The first report shall be filed not later than July 15. The report covers the period beginning January 1, the day the candidate's campaign treasurer appointment is filed, or the first day after the period covered by the last report, as applicable, and continuing through June 30. The second report shall be filed not later than January 15. The report covers the period beginning July 1, the day the candidate's campaign treasurer appointment is filed, or the first day after the period covered by the last report required to be filed, as applicable, and continuing through December 31. ELEC. CODE § 254.063.
10. The respondent filed her campaign treasurer appointment on or about August 10, 2007, and did not file a final report during the time in question. Therefore, as a candidate, the respondent was required to file a January 2008 semiannual report due on January 15, 2008. The respondent did not file her January 2008 semiannual report until sometime on or about January 23, 2008. Therefore, with regard to the respondent's January 2008 semiannual report, there is credible evidence of a violation of section 254.063 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 in addition to other required reports, for each election in which a person is a candidate and has an opponent whose name is to appear on the ballot, the person shall file two reports. 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 candidate's campaign treasurer appointment is filed or the first day after the period covered by the last report required to be filed under this chapter, as applicable, and continuing through the 40th day before election day. 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.

The respondent also acknowledges that a candidate shall file two reports for each year. The first report shall be filed not later than July 15. The report covers the period beginning January 1, the day the candidate's campaign treasurer appointment is filed, or the first day after the period covered by the last report, as applicable, and continuing through June 30. The second report shall be filed not later than January 15. The report covers the period beginning July 1, the day the candidate's campaign treasurer appointment is filed, or the first

day after the period covered by the last report required to be filed, as applicable, and continuing through December 31. 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-2807292.

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

Silvia Brooks Williams, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director