

TEXAS ETHICS COMMISSION

IN THE MATTER OF
TARRIS WOODS,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-2811379

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on December 2, 2009, to consider sworn complaint SC-2811379. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 254.031(a)(3), 254.063, and 254.064 of the Election Code, and a technical or *de minimis* violation of section 254.031(a)(6) 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 January 2007, July 2007, and January 2008 semiannual campaign finance reports as a candidate or officeholder, failed to timely file his 8-day pre-election report for a May 2008 election, failed to properly disclose the correct total amount of outstanding loans on his 30-day and 8-day campaign finance reports for a May 2008 election, and failed to disclose the total amount of political contributions accepted and the date, payee and address of a political expenditure on his July 2008 semiannual campaign finance report.

III. Facts Supported by Credible Evidence

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

1. The respondent was a successful opposed candidate for Galveston City Council, District 1, in an election held on May 10, 2008.
2. On February 13, 2006, the respondent filed his initial treasurer appointment with the City of Galveston, naming himself as the campaign treasurer. The respondent was an unsuccessful opposed candidate for Galveston City Council, District 1, in the May 13, 2006, election.
3. On April 13, 2006, the respondent filed a 30-day pre-election report in connection with the May 2006 election. The report disclosed no political contributions or expenditures and no political contributions maintained.

4. On May 5, 2006, the respondent filed an 8-day pre-election report in connection with the May 2006 election. The report disclosed no political contributions, \$100 in political expenditures and no political contributions maintained. The report was not marked as a final report.
5. On February 12, 2008, the respondent filed a second treasurer appointment with the City of Galveston, naming himself as the campaign treasurer. The respondent did not select modified reporting.
6. On April 14, 2008, the respondent filed a 30-day pre-election report in connection with the May 10, 2008, election. The report disclosed no political contributions or expenditures and no political contributions maintained. The report itemized one loan for \$3,000 from the respondent, however, the totals page on the report disclosed no outstanding loans.
7. On May 5, 2008, the respondent filed an 8-day pre-election report in connection with the May 10, 2008, election. The report disclosed no political contributions or expenditures and \$3,000 in total political contributions maintained, and \$3,000 in outstanding loans. The report also itemized a \$3,000 loan from the respondent. The respondent swore that the report was filed late due to illness.
8. On July 15, 2008, the respondent filed a July 2008 semiannual report. The report disclosed no political contributions, and \$150 in total political expenditures. The report also disclosed no political contributions maintained and no outstanding loans. The report itemized one political expenditure of \$150 for “flyers/cards,” with no payee name, address or date of the expenditure. The report also itemized one loan from the respondent for \$150 with no payee address or date of the loan.
9. In response to the complaint, the respondent submitted an affidavit in which he swore that there was no reportable activity between May 5, 2006, though April 14, 2008. The response also indicated that the respondent did not accept any political contributions during the period covered on his July 2008 semiannual report. The respondent swore that the 8-day pre-election report was filed late due to illness. The respondent also swore that expenditures for flyers and push cards disclosed on his July 2008 semiannual report were made from his personal computer, and that he made a mistake by not listing stationery he bought from Office Depot. The respondent filed January 2009 and July 2009 semiannual reports. Both reports disclosed a \$150 expenditure to Office Depot for “flyers/stationery/cards”. Both reports included a completed designation of final report form, but neither was marked as a final report on the cover sheet. The respondent has not filed corrected reports.

IV. Findings and Conclusions of Law

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

Failure to File Semiannual Campaign Finance Reports

1. A candidate is required to 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 required to be filed, 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.
2. A person remains a candidate for purposes of Title 15 of the Election Code reporting requirements until the candidate files a final report. ELEC. CODE § 254.065.
3. The respondent filed his initial treasurer appointment on February 13, 2006. The respondent did not file a final report prior to the time he filed a second campaign treasurer appointment on February 12, 2008. Therefore, the respondent remained a candidate for purposes of Title 15 reporting requirements. As a candidate, the respondent was required to file January 2007, July 2007, and January 2008 semiannual reports. The respondent failed to do so. Therefore, there is credible evidence of violations of section 254.063 of the Election Code as to the respondent's January 2007, July 2007, and January 2008 semiannual reports.

Failure to Timely File Pre-Election Campaign Finance Reports

4. 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 shall 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, as applicable, and continuing through the 40th day before election day. The second report shall 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.
5. The respondent was an opposed candidate for Galveston City Council in an election held on May 10, 2008. As an opposed candidate the respondent was required to file a 30-day pre-election report by April 10, 2008, and an 8-day pre-election report by May 2, 2008. The evidence indicates that the respondent filed his 30-day pre-election report for the May 2008 election on April 12, 2008 and his 8-day pre-election report for the May 2008 election on May 5, 2008. Thus, both reports were filed late and there is credible evidence of violations of section 254.064 of the Election Code.

Failure to Properly Disclose “Total Amount of Outstanding Loans”

6. Each campaign finance report filed by a candidate is required to include the amount of loans that in the aggregate exceed \$50 made during the reporting period to the candidate, the dates the loans are made, the interest rate, maturity date, collateral, full name and address of the lender, and the aggregate principal amount of all outstanding loans as of the last day of the reporting period. ELEC. CODE § 254.031(a)(2).
7. A candidate or officeholder is not required to include political expenditures from personal funds under the aggregate total for outstanding loans, and if a candidate transfers money from a personal account to an account used for candidate purposes, no reportable transaction has occurred. *See* Ethics Advisory Opinion Nos. 258 (1995) and 349 (1996).
8. Political expenditures from personal funds for which a candidate intends to seek reimbursement must be disclosed on Schedule G, and must indicate that reimbursement is intended. ELEC. CODE §§ 253.035(h), 254.031(a)(3).
9. In the alternative, a candidate who makes political expenditures from the candidate’s personal funds may report the amount expended as a loan and may reimburse those personal funds from political contributions in the amount of the reported loan. ELEC. CODE § 253.0351(a).
10. The complaint alleged that the respondent failed to properly disclose the correct total amount of outstanding loans on his 30-day and 8-day pre-election reports for the May 2008 election. Both the respondent’s 30-day and 8-day pre-election reports disclosed \$3,000 in total outstanding loans. Both reports itemized loans from the respondent to his campaign for \$3,000. Section 253.0351 of the Election Code requires a candidate to report only the amount *expended* from personal funds as a loan. Even if the respondent transferred money from a personal account to an account used for candidate purposes, no reportable transaction would have occurred. Thus, the loans were not required to be reported. There is no additional evidence that the respondent acquired any additional loans. Therefore, with respect to the respondent’s 30-day and 8-day pre-election reports for the May 2008 election, there is credible evidence of no violation of section 254.031(a)(2) of the Election Code.

Failure to Properly Disclose Required Information on a Campaign Finance Report

11. Each campaign finance 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 report must also include the total amount of all political contributions accepted and the total amount of all political expenditures made during the reporting period. ELEC. CODE § 254.031(a)(3) and (6).

12. The complaint alleged that the respondent failed to disclose the total amount of political contributions accepted on his July 2008 semiannual report. The space for total political contributions accepted during the reporting period on the respondent's report was left blank. There is no evidence that the respondent received contributions. Therefore, there is credible evidence of a technical or *de minimis* violation of section 254.031(a)(6) of the Election Code.
13. The complaint also alleged that the respondent failed to disclose the date, payee and address of a political expenditure on his July 2008 semiannual report. The respondent itemized one \$150 political expenditure to an unnamed payee for "Flyers/cards" on his July 2008 semiannual report. The itemization did not include a date, payee name or address for the political expenditure. Therefore, there is credible evidence of a violation of section 254.031(a)(3) of the Election Code with regard to that expenditure.

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 candidate is required to 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 required to be filed, 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 also 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 shall 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, as applicable, and continuing through the 40th day before election day. The second report shall 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 each campaign finance 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 report must also include the total amount of all political contributions accepted and the total amount of all political expenditures made during the reporting period.

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-2811379.

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

Tarris Woods, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director