

TEXAS ETHICS COMMISSION

IN THE MATTER OF
PHYLLIS W. SANBORN,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-290234

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on August 6, 2009, to consider sworn complaint SC-290234. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 254.031 and 254.063 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 timely file her January 2007, January 2008, and July 2008 semiannual campaign finance reports, and failed to file her July 2007 semiannual campaign finance report. The complaint also alleged that the respondent failed to disclose required information on her January 2007, January 2008, July 2008, and January 2009 semiannual campaign finance reports.

III. Facts Supported by Credible Evidence

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

1. The respondent is a League City council member.
2. On April 18, 2007, the respondent filed a report marked as a semiannual report with the local filing authority that covered July 16, 2006, through January 15, 2007. The report disclosed \$1,009.36 in political contributions, \$175 in political expenditures, and left blank the space used to disclose the total principal of all outstanding loans. The January 2007 semiannual report was due January 16, 2007.
3. On January 22, 2008, the respondent filed a report marked as a semiannual report that covered July 15, 2007, through January 14, 2008. The report disclosed \$2.15 in political contributions, \$0 in political expenditures, and left blank the space used to disclose the total

- principal of all outstanding loans. The January 2008 semiannual report was due January 15, 2008.
4. On July 16, 2008, the respondent filed a report marked as a semiannual report that covered January 15, 2008, through July 14, 2008. The report disclosed \$2.18 in political contributions under \$50 and left blank the spaces used to disclose total political contributions, total political expenditures of \$50 or less, total political expenditures, and total principal of all outstanding loans. The July 2008 semiannual report was due July 15, 2008.
 5. On January 14, 2009, the respondent filed a report marked as a semiannual report that covered July 15, 2008, through January 14, 2009. The report disclosed \$2.04 in political contributions and left blank the spaces used to disclose total political contributions, total political expenditures of \$50 or less, total political expenditures, and total principal of all outstanding loans.
 6. The respondent acknowledged the late filing of her January 2007, January 2008, and July 2008 semiannual reports, and swore that her failure to file a July 2007 semiannual report was “due to an oversight stemming from no activity,” and failure to disclose required information was due to “oversight” and “misinterpretation of the Instruction Guide for Form C/OH.”
 7. On March 24, 2009, the respondent signed and had notarized corrected reports for her January 2007, January 2008, and July 2008 semiannual reports and filed a July 2007 semiannual report. The reports were notarized by Diana Stapp, the city secretary and records supervisor for League City but were not filed with the city at that time.
 8. On June 9, 2009, the respondent filed the corrected reports with the local filing authority. The July 2007 semiannual report disclosed \$2.79 in total political contributions of \$50 or less, \$1,746.38 in total principal amount of all outstanding loans as of the last day of the reporting period, and disclosed \$0 for all other entries. The report also contained an explanation of correction “Forgot to file July 2007 semiannual report to report \$2.79 in interest.” The corrected January 2007 semiannual report disclosed \$0 instead of a blank for the total principal amount of all outstanding loans. The corrected January 2008 semiannual report disclosed \$0 instead of a blank for the total principal amount of all outstanding loans. The corrected July 2008 semiannual report disclosed \$0 in the spaces for total political contributions, total political expenditures of \$50 or less, total political expenditures, and total principal of all outstanding loans. The corrected January 2009 semiannual report disclosed \$0 instead of blanks in the spaces for total political contributions, total political expenditures of \$50 or less, total political expenditures, and total principal of all outstanding loans.

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. An officeholder is required to file two reports each year. The first report is due 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 required to be filed, as applicable, and continuing through June 30. The second report is due 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.
3. If the deadline for a report falls on a Saturday, Sunday, or a legal state or national holiday, the report is due on the next regular business day. Ethics Commission Rules § 20.21.
4. Filing a final campaign finance report terminates an individual's status as a candidate. If that individual holds an elective public office but does not have a campaign treasurer on file, he or she may still have additional reporting requirements. ELEC. CODE § 254.065.
5. The respondent had not filed a final report during the period at issue. Thus, she was required to file semiannual campaign finance reports as a candidate. The respondent filed her January 2007 semiannual report on April 18, 2007, over three months after the due date of January 16, 2007. She did not file her July 2007 semiannual report until June 2009, after she received notice of this complaint. The January 2008 and July 2008 semiannual reports were also not timely filed. Therefore, there is credible evidence of violations of section 254.063 of the Election Code.

Failure to Include Required Information on Campaign Finance Reports

6. Each campaign finance report filed must include the aggregate principal amount of all outstanding loans as of the last day of the reporting period. The report must also 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 report must also include, as of the last day of a reporting period for which the person is required to file a report, the total amount of political contributions accepted, including interest or other income on those contributions,

maintained in one or more accounts in which political contributions are deposited as of the last day of the reporting period. ELEC. CODE § 254.031.

7. The respondent failed to disclose the total principal amount of all outstanding loans on her January 2007 and January 2008 semiannual reports.
8. The respondent failed to disclose the total political contributions, total political expenditures of \$50 or less, total political expenditures, and total principal of all outstanding loans on her July 2008 semiannual report.
9. The respondent failed to disclose the total political contributions, total political expenditures of \$50 or less, total political expenditures, and total principal of all outstanding loans on her January 2009 semiannual report.
10. The respondent failed to disclose the required information on the reports at issue. Therefore, as to these allegations there is credible evidence of violations of section 254.031 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 a candidate is required to file two reports each year. The first report is due not later than July 15, or if the deadline falls on a Saturday, Sunday, or a legal state or national holiday, the next regular business day. 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 required to be filed, as applicable, and continuing through June 30. The second report is due not later than January 15, or if the deadline falls on a Saturday, Sunday, or a legal state or national holiday, the next regular business day. 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. The respondent further acknowledges that each campaign finance report is required to include the amount of political contributions that in the aggregate exceed \$50 and that are accepted during the reporting period, 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 total amount of all political contributions accepted and the total amount of all political expenditures made during the reporting period, and the principal amount of all

outstanding loans as of the last day of 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-290234.

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

Phyllis W. Sanborn, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director