

TEXAS ETHICS COMMISSION

IN THE MATTER OF	§	BEFORE THE
ROBERT “BOB” RAY,	§	TEXAS ETHICS COMMISSION
RESPONDENT	§	SC-3120370

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on January 31, 2013, to consider sworn complaint SC-3120370. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 252.001, 253.031, 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: 1) did not file a campaign treasurer appointment in connection with his campaign for Bexar County Justice of the Peace; 2) accepted political contributions and made political expenditures at a time when he did not have a campaign treasurer appointment in effect; and 3) did not timely file a January 2012 semiannual report.

III. Facts Supported by Credible Evidence

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

1. The respondent was a candidate for justice of the peace in Bexar County.
2. The respondent’s application for a place on the ballot for the Republican primary election was dated December 9, 2011.
3. The respondent’s campaign finance reports disclosed that the respondent accepted contributions as early as September 29, 2011.
4. In response to the complaint, the respondent stated that he had appointed a treasurer, but acknowledged that he did not file a campaign treasurer appointment form.

5. Campaign finance reports filed in response to the complaint disclosed that the respondent accepted approximately \$1,550 in political contributions and made \$1,359.67 in political expenditures before he filed a campaign treasurer appointment on March 21, 2012.
6. The complaint alleged that the respondent did not timely file the required January 2012 semiannual report. In response to the complaint, the respondent filed the report on March 26, 2012.

IV. Findings and Conclusions of Law

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

1. Each candidate shall appoint a campaign treasurer as provided by chapter 252 of the Election Code. ELEC. CODE § 252.001.
2. An individual must file a campaign treasurer appointment for the individual's own candidacy with the county clerk, if the appointment is made for candidacy for a county office, a precinct office, or a district office other than one included in section 252.005(1) of the Election Code. ELEC. CODE § 252.005(2).
3. A candidate may not knowingly accept a campaign contribution or make or authorize a campaign expenditure at a time when a campaign treasurer appointment for the candidate is not in effect. ELEC. CODE § 253.031(a).
4. A candidate shall file two reports for each year. ELEC. CODE § 254.063(a). The first report shall be filed not later than July 15 and 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. *Id.* § 254.063(b). 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 under this subchapter, as applicable, and continuing through December 31. *Id.* § 254.063(c).
5. "Candidate" means a person who knowingly and willingly takes affirmative action for the purpose of gaining nomination or election to public office or for the purpose of satisfying financial obligations incurred by the person in connection with the campaign for nomination or election. Examples of affirmative action include: (1) the filing of an application for a place on the ballot; (2) the making of a public announcement of a definite intent to run for public office in a particular election, regardless of whether the specific office is mentioned in the announcement; and (3) the soliciting or accepting of a campaign contribution or the making of a campaign expenditure. *Id.* § 251.001(1).

6. The respondent accepted campaign contributions beginning on September 29, 2011 and completed his application for a place on the Bexar County Republican primary election ballot on December 9, 2011. These are affirmative acts to gain nomination or election to public office. Therefore, the respondent was a candidate for public office no later than September 29, 2011, and was required to file a campaign treasurer appointment. The respondent failed to do so until March 21, 2012. Therefore, there is credible evidence of a violation of section 252.001 of the Election Code.
7. Campaign finance reports filed by the respondent in response to the complaint disclosed political contributions accepted and political expenditures made prior to the filing of the campaign treasurer appointment. Therefore, there is credible evidence of a violation of section 253.031 of the Election Code.
8. The respondent was a candidate in the period covered by the semiannual report due January 17, 2012. The respondent filed the report on March 26, 2012. Therefore, 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: 1) each candidate shall appoint a campaign treasurer as provided by chapter 252 of the Election Code; 2) a candidate may not knowingly accept a campaign contribution or make or authorize a campaign expenditure at a time when a campaign treasurer appointment for the candidate is not in effect; and 3) a candidate shall file two reports for each year. The first report shall be filed not later than July 15 and 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 under this subchapter, 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 certain 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 nature, circumstances, and consequences of the violations described under Sections III and IV, and after considering the sanction necessary to deter future violations, the commission imposes a \$500 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-3120370.

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

Robert "Bob" Ray, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director