

TEXAS ETHICS COMMISSION

IN THE MATTER OF	§	BEFORE THE
JOHN W. “RUSTY” VALENTINE,	§	TEXAS ETHICS COMMISSION
RESPONDENT	§	SC-31205141

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on January 31, 2013, to consider sworn complaint SC-31205141. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 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) accepted political contributions at a time when he did not have a campaign treasurer appointment in effect; and 2) 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 sheriff in Live Oak County.
2. The respondent appointed a campaign treasurer on September 14, 2011. The respondent’s January 2012 semiannual report disclosed two contributions accepted before that date: a \$250 contribution disclosed as being accepted on August 22, 2011, and a \$500 contribution disclosed as being accepted on August 28, 2011.
3. In response to the complaint, the respondent stated that he accepted the \$500 contribution without knowing that he was prohibited from doing so prior to appointing a campaign treasurer.

4. He also stated that the \$250 contribution was incorrectly disclosed as being accepted on August 22, 2011, when it was actually accepted on September 22, 2011. The respondent included a copy of the contribution check, which was dated September 22, 2011, and a copy of his campaign account's bank statement, which shows a deposit in the amount of the check on September 29, 2011. The respondent filed a correction to his January 2012 semiannual report to disclose that the contribution was accepted on September 22, 2011.
5. The complaint alleged that the respondent did not timely file the required January 2012 semiannual campaign finance report. The report was filed with the county clerk on January 24, 2012.
6. In response to the complaint, the respondent acknowledged that the report was filed late. He stated that his campaign treasurer was hospitalized in early January, and was then in the intensive care unit for several days. The respondent stated that due to his concern for his treasurer, he completely forgot about the due date and that he filed the report as soon as he realized it was past due.

IV. Findings and Conclusions of Law

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

1. 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).
2. 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).
3. "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).

4. A campaign finance report filed by the respondent disclosed political contributions accepted prior to the filing of the campaign treasurer appointment. However, the respondent provided credible evidence that the \$250 contribution was erroneously disclosed and was actually accepted after he appointed a campaign treasurer. There is credible evidence of a violation of section 253.031 of the Election Code with regard to the \$500 contribution and credible evidence of no violation of section 253.031 of the Election Code with regard to the \$250 contribution.
5. The respondent was a candidate in the period covered by the semiannual campaign finance report due January 17, 2012. The respondent filed the report on January 24, 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) 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 2) 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 \$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-31205141.

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

John W. "Rusty" Valentine, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director