

TEXAS ETHICS COMMISSION

IN THE MATTER OF
TODD A. WEAVER,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-3160379

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (Commission) met on September 27, 2017, to consider sworn complaint SC-3160379. A quorum of the Commission was present. The Commission determined that there is credible evidence of violations of sections 252.001, 253.031, 254.061, 254.063, 254.031, and 254.064 of the Election Code and credible evidence of technical or *de minimis* violations of section 254.031 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 timely file the January 2016 semiannual campaign finance report; 2) did not timely file a campaign treasurer appointment and knowingly accepted a campaign contribution or made or authorized a campaign expenditure at a time when he did not have a campaign treasurer appointment in effect; 3) did not file the 30-day and 8-day pre-election reports for the March 1, 2016, primary election; 4) did not properly include his campaign treasurer's information in the January 2016 semiannual campaign finance report; and 5) did not properly disclose political contributions, political expenditures, and outstanding loans.

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 Edwards County Commissioner, Precinct 1, in the March 1, 2016, primary election.

January 2016 Semiannual Report

2. The complaint alleged that the respondent did not timely file the January 2016 semiannual report.

3. The respondent was a candidate, required to file the January 2016 semiannual report. The January 2016 semiannual report was due by January 15, 2016. Records on file with the Edwards County Clerk show that the respondent filed the January 2016 semiannual report on January 20, 2016.
4. In response to the complaint, the respondent stated that the clerk's office was closed for a holiday on January 18, 2016, and he signed the report on January 19, 2016, and left it with the assistant county clerk. He stated that the County Clerk's office date-stamped it on January 20, 2016.

Activity Without Campaign Treasurer Appointment On File

5. The complaint alleged that the respondent did not timely file a campaign treasurer appointment and knowingly accepted a campaign contribution or made or authorized a campaign expenditure at a time when he did not have a campaign treasurer appointment in effect.
6. The respondent filed his campaign treasurer appointment on December 22, 2015.
7. In the January 2016 semiannual report, the respondent disclosed total political expenditures of \$495 and the period covered by the report as "11/15/2015 – 1/15/2016," although no political expenditures were itemized, with dates.
8. In response to the complaint, the respondent stated that he did not receive any political contributions. The respondent stated that he incorrectly reported the \$495 in political expenditures and that he did not actually have any political expenditures during the period of November 15, 2015, through January 15, 2016. However, credible evidence indicates the respondent made a \$750 political expenditure on December 12, 2015, for a ballot application filing fee.

Pre-Election Reports

9. The complaint alleged that the respondent did not file the 30-day and 8-day pre-election reports for the March 1, 2016, primary election.
10. The respondent had an opponent in the March 2016 primary election whose name appeared on the ballot. The respondent did not file a 30-day or 8-day pre-election report for the March 1, 2016, primary election. The 30-day pre-election report was due by February 1, 2016, and the 8-day pre-election report was due by February 22, 2016.
11. In response to the complaint, the respondent claimed that he signed the Modified Reporting Declaration and filed it with the County Clerk on December 22, 2015.

12. According to records on file with the Edwards County Clerk, the respondent's campaign treasurer appointment did not contain the Modified Reporting Declaration.
13. According to the respondent's final report, which covered the 30-day and 8-day pre-election reporting periods, the respondent exceeded the \$500 threshold for modified reporting on January 16, 2016, when he made a political expenditure of \$540.

Campaign Treasurer's Information

14. The complaint alleged that the respondent did not properly include his campaign treasurer's information in the January 2016 semiannual campaign finance report.
15. On cover sheet, page 1, of the January 2016 semiannual report, in fields 6 through 8, which ask for the campaign treasurer's information, the respondent disclosed his wife's information. However, the respondent had appointed himself as his campaign treasurer when he filed his campaign treasurer appointment on December 22, 2015.

Disclosure of Total Political Contributions, Total Political Expenditures, and Outstanding Loans

16. The complaint alleged that the respondent did not properly disclose political contributions, political expenditures, and outstanding loans.
17. On page 2 of the campaign finance report cover sheet, fields 1 through 6 of section 17 require the disclosure of total unitemized political contributions, total political contributions, total unitemized political expenditures, total political expenditures, total political contributions maintained, and the total amount of outstanding loans as of the last day of the reporting period, respectively. In his January 2016 semiannual report, the respondent disclosed \$495 in total political expenditures and left the remaining fields at issue blank.
18. In response to the complaint, the respondent stated that he did not make any political expenditures in the reporting period for the January 2016 semiannual report. However, as discussed, the respondent made a political expenditure of \$750 on December 12, 2015.

IV. Findings and Conclusions of Law

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

January 2016 Semiannual Report

1. A candidate shall file two reports for each year as provided by this section. ELEC. CODE § 254.063(a). 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).

2. Credible evidence shows the respondent did not timely file the January 2016 semiannual report. Therefore, there is credible evidence of a violation of section 254.063(c) of the Election Code.

Activity Without Campaign Treasurer Appointment On File

3. Each candidate and each political committee shall appoint a campaign treasurer as provided by chapter 252 of the Election Code. ELEC. CODE § 252.001.
4. 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. *Id.* § 253.031(a).
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, among other things, filing a campaign treasurer appointment; filed an application for a place on a ballot, made a public announcement of a definite intent to run for public office in a particular election; made a statement of definite intent to run for public office and solicited support by letter or other mode of communication; or solicited or accepted a campaign contribution or made a campaign expenditure. *Id.* § 251.001(1)(A).
6. A campaign finance report must include the amount of political contributions from each person that in the aggregate exceed \$50 and that are accepted during the reporting period by the person or committee required to file a report under this chapter, the full name and address of the person making the contributions, and the dates of the contributions. *Id.* § 254.031(a)(1).
7. Credible evidence shows the respondent took affirmative action by filing an application for a place on a ballot before he filed his campaign treasurer appointment. Credible evidence also indicates the respondent, in filing his application for a place on the ballot, made a political expenditure of \$750 before he filed his campaign treasurer appointment.
8. Therefore, there is credible evidence of violations of sections 252.001 and 253.031(a) of the Election Code.
9. Credible evidence indicates the respondent did not disclose the \$750 political expenditure in his January 2016 semiannual report. Therefore, there is credible evidence of a violation of

section 254.031(a)(3) of the Election Code. The respondent swore that he did not accept any political contributions. Therefore, there is credible evidence of no violation of section 254.031(a)(1) of the Election Code.

Pre-Election Reports

10. 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. ELEC. CODE § 254.064(a). 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 chapter 254, as applicable, and continuing through the 40th day before election day. *Id.* § 254.064(b). 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. *Id.* § 254.064(c).
11. Credible evidence shows that the respondent did not file pre-election reports in connection with the March 1, 2016, primary election.
12. The respondent had an opponent whose name appeared on the ballot for the March 1, 2016, election. According to the Edwards County Clerk, the respondent did not file the Modified Reporting Declaration. Regardless, according to his final report, Weaver exceeded the \$500 threshold for modified reporting on January 16, 2016, and would have therefore been required to file the 30-day and 8-day pre-election reports notwithstanding the Modified Reporting Declaration. Therefore, there is credible evidence of a violation of section 254.064(b) and (c) of the Election Code.

Campaign Treasurer's Information

13. In addition to the content required by Section 254.031, each report by a candidate must include the campaign treasurer's name, residence or business street address, and telephone number. ELEC. CODE § 254.061(2).
14. The respondent served as his own campaign treasurer. Credible evidence shows the respondent did not disclose his information in the field for disclosing one's campaign treasurer's information. Therefore, there is credible evidence of violations of section 254.061(2) of the Election Code.

Disclosure of Total Political Contributions, Total Political Expenditures, and Outstanding Loans

15. Each campaign finance report must include the aggregate principal amount of all outstanding loans as of the last day of the reporting period. ELEC. CODE § 254.031(a)(2).
16. Each report must include the total amount or a specific listing of the political contributions of \$50 or less accepted and the total amount or a specific listing of the political expenditures of \$100 or less made during the reporting period. *Id.* § 254.031(a)(5).
17. Each report must include the total amount of all political contributions accepted and the total amount of all political expenditures made during the reporting period. *Id.* § 254.031(a)(6).
18. Each report must 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. *Id.* § 254.031(a)(8).
19. Credible evidence shows that the respondent did not disclose the correct amount of total political expenditures and left blank the fields for disclosing the remaining fields at issue. Therefore, there is credible evidence of violations of section 254.031(a)(6) of the Election Code and technical or *de minimis* violations of section 254.031(a)(2), (5), and (8) 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 shall file two reports for each year. 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; 2) Each candidate and each political committee shall

appoint a campaign treasurer as provided by chapter 252 of the Election Code. 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; 3) 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 chapter 254, 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; 4) In addition to the content required by Section 254.031 of the Election Code, each report by a candidate must include the campaign treasurer's name, residence or business street address, and telephone number; 5) Each campaign finance report must include the aggregate principal amount of all outstanding loans as of the last day of the reporting period; 6) Each report must include the total amount or a specific listing of the political contributions of \$50 or less accepted and the total amount or a specific listing of the political expenditures of \$100 or less made during the reporting period; 7) Each report must include the total amount of all political contributions accepted and the total amount of all political expenditures made during the reporting period; and 8) Each report must 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. 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-3160379.

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

Todd A. Weaver, Respondent

EXECUTED ORIGINAL received by the Commission on: _____.

Texas Ethics Commission

By: _____
Seana Willing, Executive Director