

TEXAS ETHICS COMMISSION

IN THE MATTER OF
ROBERT J. MCGINTY,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-32012274

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (Commission) met on June 16, 2021, to consider sworn complaint SC-32012274. A quorum of the Commission was present. The Commission determined that there is credible evidence of violations of Sections 252.001, 254.063, and 254.064 of the Election Code, laws administered and enforced by the Commission. To resolve and settle this complaint without further proceedings, the Commission adopted this resolution.

II. Allegations

The complaint alleged that the respondent: 1) did not file a campaign treasurer appointment, in violation of Section 252.001 of the Election Code; 2) did not file a January 2020 semiannual report, in violation of Section 254.063 of the Election Code; 3) did not file a July 2020 semiannual report, in violation of Section 254.063 of the Election Code; 4) did not file a 30-day pre-election report for the November 3, 2020, election, in violation of Section 254.064 of the Election Code; 5) did not file an 8-day pre-election report for the November 3, 2020, election, in violation of Section 254.064 of the Election Code; and 6) did not file a January 2021 semiannual report, in violation of Section 254.063 of the Election Code.

III. Findings of Fact and Conclusions of Law

Credible evidence available to the Commission supports the following findings of fact and conclusions of law:

1. The respondent was an unopposed candidate for Tarrant County Constable, Precinct 2, in the March 3, 2020, primary election. The respondent had an opponent on the ballot in the November 3, 2020, general election and was successful. The respondent currently holds the office.

Failure to File Campaign Treasurer Appointment

2. The complaint alleged that the respondent did not file a campaign treasurer appointment. In response to the complaint, the respondent denied the allegation and provided evidence showing that he filed a campaign treasurer appointment along with his ballot application materials with the county party chair on December 9, 2019. The respondent swore that he was told by the county party chair that the documents would be filed accordingly.
3. Records on file with Tarrant County show the respondent filed an amended campaign treasurer appointment on March 4, 2021, after the complaint was filed. Tarrant County does not have any record of the respondent's December 9, 2019, campaign treasurer appointment.
4. Each candidate and each political committee shall appoint a campaign treasurer as provided by Chapter 252, Election Code. Tex. Elec. Code § 252.001.
5. 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). *Id.* § 252.005(2).
6. As a candidate for a county precinct office, the respondent was required to file his campaign treasurer appointment with the Tarrant County clerk when he became a candidate on December 9, 2019. Credible evidence indicates the respondent did not timely file a campaign treasurer appointment with the Tarrant County clerk. Therefore, there is credible evidence of a violation of Section 252.001 of the Election Code.

Failure to File Campaign Finance Reports

7. The complaint alleged that the respondent failed to file the following five campaign finance reports in connection with the 2020 election cycle: 1) January 2020 semiannual report, 2) July 2020 semiannual report, 3) 30-day pre-election report for the November 3, 2020, general election, 4) 8-day pre-election report for the November 3, 2020, general election, and 5) January 2021 semiannual report.
8. In response to the complaint, the respondent swore that he appointed a campaign worker to follow up with the filing of all reports as they became due. The respondent swore that, periodically, he would check with the campaign worker who assured him that all reports were filed electronically and there were no problems. The respondent swore that he didn't realize the reports had not been filed until after the sworn complaint. The respondent filed campaign finance reports with Tarrant County on March 4, 2021.
9. A candidate shall file two reports for each year. Tex. Elec. Code § 254.063(a). 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 under this subchapter, 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).
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. *Id.* § 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. Regarding the January 2020 semiannual report, the respondent was required to file the report by January 15, 2020. The report was required to disclose activity occurring from December 9, 2019, through December 31, 2019, and include the respondent's \$1,000 ballot application filing fee that was paid from his personal funds on December 9, 2019. Records on file with Tarrant County do not show the respondent filed a January 2020 semiannual report. Therefore, there is credible evidence of a violation of Section 254.063 of the Election Code regarding the January 2020 semiannual report.
 12. Regarding the July 2020 semiannual report, the respondent was required to file the report by July 15, 2020. On March 4, 2021, the respondent filed unrequired 30-day and 8-day pre-election reports for the March 3, 2020, primary election, and the July 2020 semiannual report. The 30-day pre-election report covered the period of January 1, 2020, through January 23, 2020, and disclosed \$950 in total political contributions and \$518.80 in total political expenditures. The 8-day pre-election report covered the period of January 24, 2020, through February 22, 2020, and disclosed \$401.94 in total political contributions and \$1,080 in total political expenditures. The July 2020 semiannual report covered the period of February 23, 2020, through June 30, 2020, and disclosed \$660.78 in total political contributions and \$800 in total political expenditures. Records on file with Tarrant County show the respondent filed the July 2020 semiannual report on March 4, 2021. Therefore, there is credible evidence of a violation of Section 254.063 of the Election Code.
 13. Regarding the 30-day pre-election report for the November 3, 2020, general election, the respondent was required to file the report by October 5, 2020. Records on file with Tarrant County show the respondent filed the report on March 4, 2021. Therefore, there is credible

evidence of a violation of Section 254.064 of the Election Code. The report disclosed \$1,704.42 in total political contributions and \$3,005 in total political expenditures.

14. Regarding the 8-day pre-election report for the November 3, 2020, general election, the respondent was required to file the report by October 26, 2020. Records on file with Tarrant County show the respondent filed the report on March 4, 2021. Therefore, there is credible evidence of a violation of Section 254.064 of the Election Code. The report disclosed \$485.20 in total political contributions and \$2,504 in total political expenditures.
15. Regarding the January 2021 semiannual report, the respondent was required to file the report by January 15, 2021. Records on file with Tarrant County show the respondent filed the report on March 4, 2021. Therefore, there is credible evidence of a violation of Section 254.063 of the Election Code. The report disclosed \$0 in total political contributions and \$2,435 in total political expenditures.

IV. 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 findings of fact and conclusions of law described under Section III, 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) candidates for a county or precinct office are required to file a campaign treasurer appointment with the county clerk; 2) a candidate shall file two reports for each year until a final report is filed. The first report shall be filed not later than July 15. The second report shall be filed not later than January 15; and 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 shall be filed not later than the 30th day before election day. The second report shall be filed not later than the eighth day before election day. The respondent agrees to comply with these requirements of the law.

V. 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.

VI. Sanction

After considering the nature, circumstances, and consequences of the violations described under Section III, and after considering the sanction necessary to deter future violations, the Commission imposes a \$1,500 civil penalty.

VII. 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-32012274.

AGREED to by the respondent on this _____ day of _____, 2021.

Robert J. McGinty, Respondent

EXECUTED by the Commission on: _____.

Texas Ethics Commission

By: _____
Anne Temple Peters, Executive Director