

TEXAS ETHICS COMMISSION

IN THE MATTER OF
GREG P. HENINGTON,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-32207299

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (Commission) met on December 13, 2022, to consider sworn complaint SC-32207299. A quorum of the Commission was present. The Commission determined that there is credible evidence of violations of Sections 254.031, 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, as a candidate for Brewster County Judge in the March 1, 2022 primary election, and the May 24, 2022 primary runoff election, the respondent: 1) did not timely file the 8-day pre-election report, which was due by February 22, 2022 (February 21 deadline extended due to holiday), in violation of Section 254.064 of the Election Code; 2) did not file a July 2022 semiannual report, which was due by July 15, 2022, in violation of Section 254.063 of the Election Code; and 3) did not properly disclose political contributions and political expenditures in four campaign finance reports filed between January 15, 2022 and May 16, 2022, in violation of Section 254.031 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 opposed candidate for Brewster County Judge in the March 1, 2022 primary election. The respondent was successful in the subsequent May 24, 2022 primary runoff election and has an opponent on the ballot in the November 8, 2022 general election.

Failure to Timely File Campaign Finance Reports

2. Sworn complaint SC-32207299 was filed on July 26, 2022. The complaint alleged the respondent did not timely file the 8-day pre-election report for the March 1, 2022 primary election, which was due by February 22, 2022. The complaint also alleged the respondent did not file the July 2022 semiannual report, which was due by July 15, 2022.
3. Records on file with Brewster County show the respondent filed the 8-day pre-election report one-day late on February 23, 2022. The report disclosed \$13,692.10 in total political contributions and \$13,692.10 in total political expenditures.
4. At the time of the complaint, the respondent did not have a July 2022 semiannual report on file with Brewster County. In response to the complaint, the respondent filed the July 2022 semiannual report late on July 28, 2022. The report was filed as a comprehensive report covering the period of November 17, 2021 through July 26, 2022. The report disclosed \$0 in total political contributions and \$19,745.94 in total political expenditures made from the respondent's personal funds. The report indicated that the respondent made three political expenditures from his personal funds totaling \$2,154.13 during the statutorily required reporting period of May 15, 2022 through June 30, 2022. The respondent stated in his written response to the complaint that he was not aware of the July 15, 2022 filing deadline.
5. Although not specifically alleged in the complaint, records on file with Brewster County also show the respondent filed the 30-day pre-election report for the March 1, 2022 primary election late on February 11, 2022 (report was due by January 31, 2022). The report disclosed \$8,831.37 in total political contributions and \$8,831.37 in total political expenditures.
6. A candidate shall file two reports for each year as provided by this section. 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).
7. 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 this chapter, 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).

8. Credible evidence shows the respondent did not timely file the 30-day and 8-day pre-election reports for the March 1, 2022 primary election, and the July 2022 semiannual report. Therefore, there is credible evidence of violations of Sections 254.063 and 254.064 of the Election Code.

Failure to Properly Disclose Political Contributions and Expenditures

9. The complaint alleged that the respondent failed to properly disclose political contributions and political expenditures in four campaign finance reports filed between January 15, 2022 and May 16, 2022. In each report at issue, the respondent disclosed the following relevant totals and did not itemize any contributions or expenditures:

January 2022 Semiannual Report (covering 11/17/21 – 1/15/22)

- \$0 in total unitemized political contributions
- \$0 in total political contributions
- \$5,300.89 in total unitemized political expenditures
- \$5,300.89 in total political expenditures

30-day Pre-election Report (covering 1/1/22 – 1/31/22)

- \$8,831.37 in total unitemized political contributions
- \$0 in total political contributions
- \$8,831.37 in total unitemized political expenditures
- \$8,831.37 in total political expenditures

8-day Pre-election Report (covering 1/1/22 – 2/22/22)

- \$13,692.10 in total unitemized political contributions
- \$0 in total political contributions
- \$13,692.10 in total unitemized political expenditures
- \$13,692.10 in total political expenditures

Runoff Report (covering 1/1/[22] – 5/14/22)

- \$17,003.77 in total unitemized political contributions
- \$0 in total political contributions
- \$17,003.77 in total unitemized political expenditures
- \$17,003.77 in total political expenditures

10. In response to the complaint, the respondent swore that he did not receive any political contributions or loans from any third party, and that it was assumed, in error, that personal contributions by the candidate were considered “political contributions.” The respondent promptly filed a corrected report on July 28, 2022, two days after the complaint was filed, and properly itemized his political expenditures. The respondent stated in the correction affidavit that the expenditure amounts were initially reported cumulatively rather than

incrementally. The corrected report covered the entire period of November 17, 2021 through July 26, 2022, and disclosed \$0 in total political contributions and \$19,745.94 in total political expenditures made from the respondent's personal funds, all of which were properly itemized on Schedule G.

11. The corrected report shows the respondent made the following expenditures during each statutorily required reporting period:

January 2022 Semiannual Report (covering 11/17/21 – 12/31/22)

- two expenditures totaling \$2,750 (both required itemization)

30-day Pre-election Report (covering 1/1/22 – 1/20/22)

- two expenditures totaling \$2,550.89 (one for \$2,420.99 required itemization)

8-day Pre-election Report (covering 1/21/22 – 2/19/22)

- seven expenditures totaling \$4,937.48 (six totaling \$4,852.08 required itemization)

Runoff Report (covering 2/20/22 – 5/14/22)

- nine expenditures totaling \$6,455.98 (eight totaling \$6,435.90 required itemization)

12. Each campaign finance report must include the amount of political expenditures that in the aggregate exceed \$100 (\$190 as of January 1, 2022) 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. Tex. Elec. Code § 254.031(a)(3); 1 Tex. Admin. Code § 18.31(a).
13. Each campaign finance report must include the total amount or a specific listing of the political contributions of \$50 (\$90 as of January 1, 2022) or less accepted and the total amount or a specific listing of the political expenditures of \$100 (\$190 as of January 1, 2022) or less made during the reporting period. Tex. Elec. Code § 254.031(a)(5); 1 Tex. Admin. Code § 18.31(a).
14. Each campaign finance report must include the total amount of all political contributions accepted and the total amount of all political expenditures made during the reporting period. Tex. Elec. Code § 254.031(a)(6).
15. Credible evidence shows the respondent improperly disclosed political expenditures from his personal funds as political contributions. Credible evidence also shows the respondent did not properly disclose and itemize political expenditures. The respondent has no prior violations and promptly corrected the report two days after the complaint was filed. There is credible evidence of violations of Sections 254.031(a)(3), 254.031(a)(5), and 254.031(a)(6) of the Election Code.

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: 1) the filing schedules for campaign finance reports prescribed by Sections 254.063 and 254.064 of the Election Code; and 2) the reporting requirements for political contributions and political expenditures prescribed by Section 254.031 of the Election Code. 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, extent, and consequences of the violations described under Section III, and after considering the sanction necessary to deter future violations, the Commission imposes a \$600 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-32207299.

AGREED to by the respondent on this _____ day of _____, 2022.

Greg P. Henington, Respondent

EXECUTED by the Commission on: _____.

Texas Ethics Commission

By: _____
J.R. Johnson, Executive Director