

# TEXAS ETHICS COMMISSION

IN THE MATTER OF  
KENDRA H. STEPHENSON,  
RESPONDENT

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BEFORE THE  
TEXAS ETHICS COMMISSION  
SC-31105145

## ORDER and AGREED RESOLUTION

### I. Recitals

The Texas Ethics Commission (the commission) met on August 30, 2012, to consider sworn complaint SC-31105145. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 252.001, 253.031, 254.031, 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 proposed this resolution to the respondent.

### II. Allegations

The complaint alleged that the respondent: 1) did not appoint a campaign treasurer; 2) made political expenditures and accepted political contributions at a time when the respondent did not have a campaign treasurer appointment in effect; 3) did not file campaign finance reports; 4) did not properly maintain records of reportable activity; and 5) accepted a political contribution from a corporation or labor organization.

### III. Facts Supported by Credible Evidence

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

1. The respondent was a non-incumbent candidate for Flower Mound Town Council, Place 1, in an election held on May 14, 2011.
2. The complaint alleged that the respondent accepted political contributions and made political expenditures at a time when the respondent did not have a campaign treasurer appointment on file with the town of Flower Mound, Texas.

3. On March 14, 2011, an appointment of a campaign treasurer by a specific-purpose committee (Form STA) was filed with the town of Flower Mound. The appointment indicated that the committee name was “Kendra Stephenson for Town Counsel.” Keith D. Simonson was disclosed as the campaign treasurer for the committee. He signed the acknowledgement of his responsibilities located on the form.
4. On April 14, 2011, Keith Simonson filed a 30-day pre-election report for the committee, Kendra Stephenson for Town Council, on Form SPAC, (used for specific-purpose committees). The report covered the period beginning March 10, 2011, through April 13, 2011. The report disclosed \$570 in total political contributions of \$50 or less and \$4,449.16 in total political contributions accepted during the period covered by the report. Two of the political contributions totaling approximately \$2,200 that were itemized on the report were disclosed as coming from the respondent. The report disclosed \$103.64 in political expenditures of \$50 or less and \$3,304.67 in total political expenditures during the period covered by the report.
5. On May 6, 2011, Keith Simonson filed an 8-day pre-election report for the committee, Kendra Stephenson for Town Council, on Form SPAC. The report covered the period beginning April 14, 2011, through May 5, 2011. The report disclosed \$200 in total political contributions of \$50 or less and \$4,664.69 in total political contributions accepted during the period covered by the report. One political contribution for \$64.69 that was itemized on the report was disclosed as coming from the respondent. The report disclosed \$43.03 in political expenditures of \$50 or less and \$5,681.09 in total political expenditures during the period covered by the report.
6. On May 11, 2011, the respondent filed a correction affidavit for Form STA. The explanation of correction indicated that the respondent “used form STA instead of CTA.” The respondent also included a signed and completed (campaign treasurer appointment for a candidate) Form CTA that indicated she sought the office of, “Town Council Place 1.”
7. On May 11, 2011, the respondent filed a correction affidavit for a 30-day pre-election report. The explanation of correction indicated that the respondent used Form SPAC instead of Form C/OH (used for candidates) when filing her 30-day pre-election report. The totals were consistent with the previously filed Form SPAC report.
8. On May 11, 2011, the respondent filed a correction affidavit for an 8-day pre-election report. The explanation of correction indicated that the respondent used Form SPAC instead of Form C/OH (used for candidates) when filing her 8-day pre-election report. The totals were consistent with the previously filed Form SPAC report.

9. The complaint alleged that the respondent did not properly file 30-day and 8-day pre-election reports as a candidate in connection with an election held on May 14, 2011.
10. The respondent did not file her 30-day and 8-day pre-election reports until May 11, 2011, after the due dates for the reports.
11. The complaint alleged that the respondent did not keep and maintain proper records involving campaign contributions and expenditures.
12. The respondent's late filing of the reports at issue appear to show her reportable activity for the periods covered by those reports.
13. The complaint alleged that the respondent accepted campaign contributions from a corporation by holding fundraising events at a local business.
14. According to Texas Secretary of State (SOS) records, the business at issue is a domestic for-profit corporation.
15. The respondent submitted an affidavit in which she swore that the business did not contribute to her campaign and that part of each donation went to the business to pay for the events.
16. The president of the business submitted an affidavit stating that it followed its normal business practice with regard to the events at issue.

#### **IV. Findings and Conclusions of Law**

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

##### **Political Activity without a Campaign Treasurer**

1. Each candidate and each political committee shall appoint a campaign treasurer as provided by chapter 252 of the Election Code. ELEC. CODE § 252.001.
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. ELEC. CODE § 253.001(a).
3. The complaint alleged that the respondent accepted political contributions and made political expenditures at a time when the respondent did not have a campaign treasurer appointment on file with the town of Flower Mound.

4. On March 14, 2011, an appointment of a campaign treasurer by a specific-purpose political committee (Form STA) was filed with the town of Flower Mound. The appointment indicated that the committee name was “Kendra Stephenson for Town Counsel.” The committee treasurer filed 30-day and 8-day pre-election reports for Kendra Stephenson for Town Council.
5. The evidence shows that the respondent’s political contributions and political expenditures as a candidate were disclosed on the reports filed by a specific-purpose committee. According to those reports, the respondent accepted approximately \$9,110 in political contributions (approximately \$2,260 of which appears to be from the use of personal funds) and made approximately \$8,990 in political expenditures during the period beginning March 10, 2011, through May 5, 2011.
6. The respondent did not file a campaign treasurer appointment until she corrected Form STA on May 11, 2011. Thus, the respondent did not properly appoint a campaign treasurer until that date. The respondent accepted political contributions and made political expenditures at a time when a campaign treasurer appointment for the respondent was not in effect. Therefore, there is credible evidence of violations of sections 252.001 and 253.001(a) of the Election Code.

### **Filing Pre-Election Reports**

7. Except as otherwise provided by chapter 254 of the Election Code, each report filed under chapter 254 must include the information required by section 254.031 of the Election Code. ELEC. CODE § 254.031.
8. 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, and continuing through the 40th day before election day. ELEC. CODE § 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. ELEC. CODE § 254.064(c).
9. The complaint alleged that the respondent did not properly file 30-day and 8-day pre-election reports as a candidate in connection with an election held on May 14, 2011.

10. The 30-day and 8-day pre-election reports for the May 14, 2011, election were due on April 14, 2011, and May 6, 2011, respectively. A specific-purpose political committee filed 30-day and 8-day pre-election reports disclosing the respondent's political contributions and political expenditures. The respondent did not file the campaign finance reports at issue until May 11, 2011. Therefore, there is credible evidence of violations of sections 254.031, 254.064(b) and (c) of the Election Code.

### **Record Of Reportable Activity**

11. Each candidate and each officeholder shall maintain a record of all reportable activity. ELEC. CODE § 254.001(a). The record must contain the information that is necessary for filing the reports required by chapter 254 of the Election Code. ELEC. CODE § 254.001(b). A person required to maintain a record shall preserve the record for at least two years beginning on the filing deadline for the report containing the information in the record. ELEC. CODE § 254.001(d).
12. The complaint alleged that the respondent did not "keep and maintain proper records involving campaign contributions and expenditures." The respondent's late filing of the reports at issue appear to show her reportable activity for the periods covered by those reports. There is no additional evidence to show that the respondent did not maintain records of reportable activity. Therefore, there is insufficient evidence of a violation of section 254.001 of the Election Code.

### **Corporate Contribution**

13. A person may not knowingly accept a political contribution that the person knows was made in violation of chapter 253 of the Election Code. ELEC. CODE § 253.003(b).
14. A corporation or labor organization may not make a political contribution that is not authorized by subchapter D, chapter 253, Election Code. ELEC. CODE § 253.094. That subchapter does not authorize a corporation or labor organization to make a political contribution to a candidate or officeholder.
15. There is insufficient evidence to show that the respondent violated sections 253.003 and 253.094 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 each candidate and each political committee shall appoint a campaign treasurer.

The respondent acknowledges that 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.

The respondent acknowledges that 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, 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. The report should include all information required by section 254.031 of the Election Code.

The respondent agrees to comply with these requirements of the law.

## VI. 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.

**VII. Sanction**

After considering the seriousness of the violations described under Sections III and IV, including the nature, circumstances, and consequences of the violations, 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-31105145.

AGREED to by the respondent on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Kendra H. Stephenson, Respondent

EXECUTED ORIGINAL received by the commission on: \_\_\_\_\_.

Texas Ethics Commission

By: \_\_\_\_\_  
David A. Reisman, Executive Director