

TEXAS ETHICS COMMISSION

IN THE MATTER OF
EVERETT J. BUBAK, III,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-31509155

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (Commission) met on October 13, 2016, to consider sworn complaint SC-31509155. A quorum of the Commission was present. The Commission determined that there is credible evidence of violations of section 254.064 of the Election Code, a law administered and enforced by the Commission. To resolve and settle this complaint without further proceedings, the Commission proposed this resolution to the respondent.

II. Allegation

The complaint alleged that the respondent did not file the 30-day and 8-day pre-election campaign finance reports for the May 2015 election.

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 Sealy City Council, Place 5, in the May 2015 election.
2. The complaint alleged that the respondent did not file the 30-day and 8-day pre-election campaign finance reports for the May 2015 election in which the respondent was an opposed candidate for Sealy City Council, Place 5.
3. Records on file with the City of Sealy confirm the respondent filed a campaign treasurer appointment on February 18, 2015, and did not elect to file campaign finance reports on the modified reporting schedule.

4. Regarding the 30-day pre-election report for the May 2015 election, the respondent was required to file the report with the Sealy city secretary by April 9, 2015. City of Sealy records indicate the respondent did not file the 30-day pre-election report by April 9, 2015.
5. Regarding the 8-day pre-election report for the May 2015 election, the respondent was required to file the report with the Sealy city secretary by May 1, 2015. City of Sealy records indicate the respondent did not file the 8-day pre-election report by May 1, 2015.
6. In response to the complaint, the respondent swore, "I had no campaign staff and deadline misses was [sic] error on my part." He further swore, "The required document [sic] have been filed with City of Sealy."
7. Records on file with the City of Sealy confirm that on August 22, 2016, the respondent filed his 30-day and 8-day pre-election campaign finance reports. The total activity disclosed in both reports was three political expenditures totaling \$711.92 made from the respondent's personal funds.

IV. Findings and Conclusions of Law

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

1. 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).
2. An opposed candidate or specific-purpose committee required to file reports under Subchapter C or E may file a report under this subchapter instead if the candidate or committee does not intend to accept political contributions that in the aggregate exceed \$500 or to make political expenditures that in the aggregate exceed \$500 in connection with the election. *Id.* § 254.181. To be entitled to file reports under this subchapter, an opposed candidate or specific-purpose committee must file with the campaign treasurer appointment a written declaration of intent not to exceed \$500 in political contributions or political expenditures in the election. *Id.* § 254.182(a). The declaration of intent must contain a

statement that the candidate or committee understands that if the \$500 maximum for contributions and expenditures is exceeded, the candidate or committee is required to file reports under Subchapter C or E, as applicable. *Id.* § 254.182(b).

3. Regarding the 30-day pre-election report for the May 2015 election, the respondent was an opposed candidate for Sealy City Council, Place 5, and was required to file the report with the Sealy city secretary by April 9, 2015. Records on file with the City of Sealy confirm the respondent filed the report on August 22, 2016, sixteen months late. Therefore, there is credible evidence of a violation of section 254.064(b) of the Election Code.
4. Regarding the 8-day pre-election report for the May 2015 election, the respondent was an opposed candidate for Sealy City Council, Place 5, and was required to file the report with Sealy city secretary by May 1, 2015. The respondent filed the report on August 22, 2016, fifteen months late. Therefore, there is credible evidence of a violation of section 254.064(c) 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 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 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 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 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 \$250 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-31509155.

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

Everett J. Bubak, III, Respondent

EXECUTED ORIGINAL received by the Commission on: _____.

Texas Ethics Commission

By: _____
Natalia Luna Ashley, Executive Director