

TEXAS ETHICS COMMISSION

IN THE MATTER OF
BREE A. MCCLESKEY,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-3170591

FINAL ORDER

The Texas Ethics Commission (Commission), having heard this case and voting to find violations of laws under its jurisdiction, makes the following Findings of Fact and Conclusions of Law:

Findings of Fact

1. The respondent is Bree A. McCleskey, whose last known mailing address is 1008 S. Rock Street, Georgetown, Texas 78626. A sworn complaint was filed with the Commission against the respondent on June 1, 2017. The first Notice of Hearing was mailed to the respondent on February 26, 2018, by certified mail, return receipt requested, restricted delivery, and delivery confirmation. United States Postal Service records indicate that the first Notice of Hearing was delivered to the respondent on February 27, 2018. A second Notice of Hearing was mailed to the respondent on March 9, 2018, by delivery confirmation. United States Postal Service records indicate that the second Notice of Hearing was delivered to the respondent on March 9, 2018.
2. The preliminary review hearing was held on March 27, 2018, by the Texas Ethics Commission in Austin, Texas.
3. The respondent did not file a reply to the Notice of Hearing and did not appear at the hearing.
4. The respondent was a candidate for Rockwall City Council, Place 1, in the May 6, 2017, election.
5. The complaint alleged that the respondent did not file the 30-day and 8-day pre-election campaign finance reports for the May 2017 election, in which the respondent was an opposed candidate and appeared on the ballot.
6. Records on file with the City of Rockwall confirm the respondent filed a campaign treasurer appointment on February 2, 2017. The respondent did not elect to file campaign finance reports on the modified reporting schedule.

7. Regarding the 30-day pre-election report for the May 2017 election, the respondent was required to file the report with the Rockwall city secretary by April 6, 2017.
8. Regarding the 8-day pre-election report for the May 2017 election, the respondent was required to file the report with the Rockwall city secretary by April 28, 2017.
9. Records on file with the Rockwall city secretary show that the respondent emailed documents related to her campaign to the Rockwall city secretary on May 24, 2017. The documents consisted of cover sheet page 2 of the campaign finance report Form C/OH, a Schedule F1 (used to disclose political expenditures made from political contributions), excel spreadsheets with a list of itemized contributions, and two receipts showing contribution and expenditure transactions. The contribution spreadsheet contained all of the contributor information that is required to be disclosed. The cover sheet page of the campaign finance report form was signed by the respondent but not notarized. The documents indicate that the respondent accepted political contributions totaling \$675, and made political expenditures totaling \$666.58.
10. The respondent did not correct the filing in response to the complaint to disclose the information on the campaign finance report form.

Conclusions of Law

1. Disposition of this case is within the jurisdiction of the Texas Ethics Commission. GOV'T CODE § 571.061.
2. The respondent received legally sufficient notice of the hearing in this case. *Id.* § 571.032 and 1 TAC § 12.21. The hearing was held in accordance with section 12.23, 1 Texas Administrative Code.
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. 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).
4. 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).

5. Each report filed under chapter 254 of the Election Code with an authority other than the commission must be in a format prescribed by the commission. *Id.* § 254.036(a).
6. Regarding the 30-day and 8-day pre-election reports for the May 2017 election, credible evidence indicates the respondent did not timely file the reports. Therefore, there is credible evidence of a violation of sections 254.064(b) and 254.064(c) of the Election Code.
7. The Texas Ethics Commission may impose a sanction against the respondent of not more than \$5,000 or triple the amount at issue, whichever amount is greater. GOV'T CODE § 571.173.

Therefore, the Texas Ethics Commission orders that:

1. The respondent pay to the Commission, within 30 days of the date of this order, a civil penalty in the amount of \$500. If the respondent does not pay the \$500 civil penalty within 30 days of the date of this order, then the civil penalty is increased to \$1,000 and the matter of the collection of the civil penalty will be referred to the Office of the Attorney General of Texas.

Order Date: _____

FOR THE COMMISSION

Seana Willing
Executive Director
Texas Ethics Commission