

TEXAS ETHICS COMMISSION

IN THE MATTER OF
STEVEN NOSKIN,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-3180393

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (Commission) met on June 26, 2018, to consider sworn complaint SC-3180393. A quorum of the Commission was present. The Commission determined that there is credible evidence of violations of sections 254.031(a)(1) and 254.031(a)(6) of the Election Code, and a technical or *de minimis* violation of section 254.036(h) 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 alleges the respondent: 1) did not report political contributions and political expenditures in connection with the May 2016 election; and 2) did not properly execute the affidavit on the 30-day pre-election report for the May 2016 election.

III. Facts Supported by Credible Evidence

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

Failure to Report Political Expenditures and/or Political Contributions

1. The respondent was a successful candidate for Place Two of the Frisco Independent School District (FISD) board of trustees.
2. The complaint alleged that the respondent failed to report political expenditures or in-kind contributions on the 30-day and 8-day pre-election reports for the May 2016 FISD election.

3. The allegation was based on the fact that in advance of the May 2016 FISD school board trustee election the complainant saw multiple signs and other political advertising for the respondent, but the respondent did not report corresponding expenditures or in-kind contributions to account for the political advertising in his campaign finance reports.
4. The respondent admitted that he did not report an in-kind contribution from a friend who is the owner of Olympia Promotions, a corporation that specializes in printing promotional material.
5. The respondent filed a corrected 30-day pre-election report to indicate that he received a \$1,995 in-kind contribution on May 3, 2018.
6. The respondent, his campaign treasurer, and the contributor all submitted affidavits stating that the contributor's delay in providing the respondent the information about the value of the in-kind contribution led to the respondent's failure to include the in-kind contribution on his campaign finance report.

Improperly Executing the Affidavit on Campaign Finance Reports

7. The sworn complaint also alleged that the respondent's campaign treasurer signed the 30-day pre-election report rather than the respondent himself.
8. The respondent's 30-day pre-election report contains the notarized signature of his campaign treasurer.
9. The respondent stated that he believed that his campaign treasurer could sign campaign finance reports on his behalf and that his campaign treasurer did so with his authorization.

IV. Findings and Conclusions of Law

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

Failure to Report Political Expenditures and/or Political Contributions

1. Each campaign finance report must include the amount of political contributions from each person that in the aggregate exceed \$50 and that are accepted during the reporting period by the person or committee required to file a report under this chapter, the full name and address of the person making the contributions, and the dates of the contributions. ELEC. CODE § 254.031(a)(1).

2. "Contribution" means, in relevant part, a direct or indirect transfer of money, goods, services, or any other thing of value and includes an agreement made or other obligation incurred, whether legally enforceable or not, to make a transfer. *Id.* § 251.001(2). "Campaign contribution" means a contribution to a candidate or political committee that is offered or given with the intent that it be used in connection with a campaign for elective office or on a measure. Whether a contribution is made before, during, or after an election does not affect its status as a campaign contribution. *Id.* § 251.001(3).
3. Each campaign finance report must also include the total amount of all political contributions accepted during the reporting period. *Id.* § 254.031(a)(6).
4. The respondent did not disclose the political signs and other advertisements he received as in-kind contributions on the 30-day pre-election report for the May 2016 election, in the report filed on April 7, 2018. Therefore, there is credible evidence of a violation of sections 254.031(a)(1) and 254.031(a)(6) of the Election Code.

Improperly Executing the Affidavit on Campaign Finance Reports

5. Each report filed under this chapter that is not filed by electronic transfer must be accompanied by an affidavit executed by the person required to file the report. *Id.* § 254.036(h). The respondent, as the candidate, is required to file campaign finance reports. *Id.* § 254.064. However, a campaign finance report filed is considered to be under oath by the person required to file the report, and the person is subject to prosecution under Chapter 37, Penal Code, regardless of the absence of or a defect in the affidavit. *Id.*
6. The Commission has consistently found a violation when a person other than the person legally required to file campaign finance report, signs a paper campaign finance report. *See, e.g.,* SC-31011387 (open order), SC-31604110 (open order).
7. The law plainly requires the signature of the "person required to file the report." *Id.* § 254.036(h). The respondent's campaign treasurer rather than the respondent signed the 30-day pre-election report. However, the respondent swore that his campaign treasurer did so with his authorization and on his behalf. There does not appear to be any attempt by the respondent to evade responsibility for the contents of the report. Therefore, there is credible evidence of a technical or *de minimis* violation of section 254.036(h) 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 deny 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 campaign finance report must include the amount of political contributions from each person that in the aggregate exceed \$50 and that are accepted during the reporting period by the person or committee required to file a report under this chapter, the full name and address of the person making the contributions, and the dates of the contributions, and each campaign finance report must also include the total amount of all political contributions accepted during the reporting period.
4. The respondent further acknowledges that each report filed under chapter 254 of the Election Code that is not filed by electronic transfer must be accompanied by an affidavit executed by the person required to file the report.

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

VI. Confidentiality

This order and agreed resolution describes a violation that the Commission has determined is 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 consent to the proposed resolution, this order and agreed resolution is a final and complete resolution of SC-3180393.

AGREED to by the respondent on this _____ day of _____, 2018.

Steven Noskin, Respondent

EXECUTED by the Commission on: _____.

Texas Ethics Commission

By: _____
Seana Willing, Executive Director