

Ck# 3140
Amt. \$1,000.00
Receipt# SC12192301
Pymt Rec'd 12-19-2023

TEXAS ETHICS COMMISSION *NM*

IN THE MATTER OF	§	BEFORE THE
WILLIAM H. KING, III	§	TEXAS ETHICS COMMISSION
RESPONDENT	§	SC-3230229



**ORDER
and
AGREED RESOLUTION**

I. Recitals

The Texas Ethics Commission (Commission) met on December 18, 2023, to consider sworn complaint SC-3230229. A quorum of the Commission was present. The Commission determined that there is credible evidence of violations of Sections 253.031(a), 254.063, and 254.064 of the Election Code and Section 571.1242 of the Government 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 the respondent: 1) made a political expenditure without a campaign treasurer appointment on file in violation of Section 253.031(a) of the Election Code; 2) did not timely file his July 2022 semiannual campaign finance report in violation of Section 254.063 of the Election Code; 3) did not timely file his 30-day pre-election report for the November 8, 2022 election in violation of Section 254.064 of the Election Code; and 4) did not file his January 2023 semiannual campaign finance report in violation of Section 254.063 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 unsuccessful candidate for Galveston County Judge in the November 8, 2022 election.

Political Expenditure without a Campaign Treasurer on File

2. The complaint alleged that the respondent made a political expenditure without a campaign treasurer appointment on file.

3. The information submitted with the complaint showed that the respondent filed his campaign treasurer appointment on December 15, 2021. On his January 2022 semiannual report, the respondent reported a political expenditure made from personal funds, dated December 13, 2021, in the amount of \$1,250 for his ballot application filing fee.
4. In response to the complaint, the respondent stated that he had intended to file his campaign treasurer appointment on December 14, 2021; however was unable to do so due to construction and parking accessibility issues at the County Clerk's office. The respondent further stated that he paid the ballot application filing fee to meet the deadline and filed his campaign treasurer appointment the next day, December 15, 2021.
5. 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. Tex. Elec. Code § 253.031(a).
6. A technical, clerical, or *de minimis* violation for purposes of § 571.0631 of the Government Code may include a first-time allegation against a respondent for failure to timely file a campaign treasurer appointment if, before filing the campaign treasurer appointment, the total amount of political contributions accepted does not exceed \$2,500 and the total amount of political expenditures made or authorized does not exceed \$2,500. 1 Tex. Admin. Code § 12.81(a)(9).
7. Credible evidence indicates that the respondent made a political expenditure to pay his ballot application filing fee before he filed his campaign treasurer appointment. However, credible evidence also indicates that the political expenditure did not exceed \$2,500. Therefore, credible evidence indicates a technical or *de minimis* violation of Section 253.031(a) of the Election Code.

Failure to Timely File Semiannual Campaign Finance Reports

8. The complaint alleged that the respondent failed to timely file his July 2022 semiannual campaign finance report. The complaint also alleged that the respondent failed to file his January 2023 semiannual campaign finance report.
9. The information submitted with the complaint showed that the respondent filed his July 2022 semiannual campaign finance report, which was due on July 15, 2022, on October 17, 2022. The information submitted with the complaint also showed that as of February 27, 2023, the respondent had not filed his January 2023 semiannual campaign finance report, which was due on January 17, 2023.
10. The respondent's July 2022 semiannual campaign finance report, filed on October 17, 2022, disclosed \$28,099 in total political contributions, \$10,728.32 in total political expenditures, and \$18,861.69 in total political contributions maintained.

11. The respondent filed his January 2023 semiannual report on April 5, 2023. The report disclosed \$1,170 in total political contributions, \$126.75 in total political expenditures, and \$29,527.45 in total political contributions maintained.
12. In his response to the complaint, the respondent stated that his campaign treasurer had health issues and was not fully aware of the statutory requirements for timely filing reports. The respondent further stated that his treasurer submitted the reports to the best of her ability.
13. 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, and continuing through June 30. *Id.* § 254.063(b). The second report shall be filed not later than January 15. The report covered 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, and continuing through December 31. *Id.* § 254.063(c).
14. A candidate, not the candidate's campaign treasurer, is responsible for complying with the filing requirements. 1 Tex. Admin. Code § 20.209.
15. Credible evidence indicates that the respondent failed to timely file both his July 2022 semiannual campaign finance report and his January 2023 semiannual campaign finance report. Therefore, credible evidence indicates violations of Section 254.063 of the Election Code.

Failure to Timely File 30-Day Pre-election Report

16. The complaint alleged that the respondent failed to timely file his 30-day pre-election report for the November 8, 2022 election, despite not selecting modified reporting on his campaign treasurer appointment and having a named opponent on the ballot in the election.
17. The information submitted with the complaint showed that the respondent submitted his 30-day pre-election report on October 31, 2022. The report covered the time period from July 1, 2022, through September 29, 2022. The report disclosed \$12,518.87 in total political contributions, \$6,965.67 in total political expenditures, and \$24,695.85 in total political contributions maintained.
18. In his response to the complaint, the respondent stated that his campaign treasurer had health issues and was not fully aware of the statutory requirements for timely filing reports. The respondent further stated that his treasurer submitted the reports to the best of her ability.
19. 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. Tex. Elec. Code § 254.064(a). The first report must be received by the authority with whom the

report is required to be filed on 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).

20. A candidate, not the candidate's campaign treasurer, is responsible for complying with the filing requirements. 1 Tex. Admin. Code § 20.209.
21. The respondent did not select modified reporting when he filed his campaign treasurer appointment and had an opponent whose name appeared on the ballot for the November 8, 2022 election. Therefore, the respondent was required to file a 30-day pre-election report by October 9, 2022.
22. The respondent filed his 30-day pre-election report on October 31, 2023. Therefore, there is credible evidence of a violation of Section 254.064 of the Election Code.

Failure to Timely File Response to Complaint

23. Sworn complaint SC-3230229 was filed on February 27, 2023. Jurisdiction was accepted over the complaint on March 6, 2023. The Commission sent a notice of the sworn complaint to the respondent by certified mail, return receipt requested, to the address provided on the complaint. According to the United States Postal Service's (USPS) website, the notice was never delivered. A second notice was sent on April 14, 2023 by certified mail, return receipt requested. According to USPS tracking, delivery was attempted but the notice was not claimed by the respondent. A third notice was sent on May 5, 2023, by both certified mail, return receipt requested and by delivery confirmation. The notice was delivered on May 8, 2023. During a telephone conversation with Commission staff on June 28, 2023, the respondent stated that he was not aware that he needed to respond to the notice and that he would file a response shortly.
24. The notice of complaint letter informed the respondent that the alleged violation was a Category One violation, that a response was required not later than 10 business days from the date the notice was received, and that failure to respond would constitute a separate violation for which a separate civil penalty could be assessed.
25. The respondent filed his response on July 26, 2023. In his response, the respondent stated that the response had been delayed due to familial illness and subsequent death in the family.
26. A notice required to be sent to a respondent under Chapter 571 of the Government Code shall be sent to the address provided by the complainant or to the address most recently provided by the respondent. 1 Tex. Admin. Code § 12.21(b).
27. If an alleged violation is a Category One violation, a respondent must respond to the notice required by Section 571.123(b) of the Government Code not later than the 10th business day after the date the respondent receives the notice. Tex. Gov't Code § 571.1242(a). A

respondent's failure to timely respond as required by Subsection (a) is a Category One violation. *Id.* § 571.1242(c). The response required by Subsection (a) must include any challenge the respondent seeks to raise to the Commission's exercise of jurisdiction. In addition, the respondent may: (1) acknowledge the occurrence or commission of a violation; (2) deny the allegations contained in the complaint and provide evidence supporting the denial; or (3) agree to enter into an assurance of voluntary compliance or other agreed order, which may include an agreement to immediately cease and desist. *Id.* § 571.1242(d).

28. The response required by Section 571.1242 of the Government Code must: (1) be in writing; (2) admit or deny the allegations set forth in the complaint; and (3) be signed by the respondent. 1 Tex. Admin. Code § 12.52(a). If a respondent does not submit a response within the time period prescribed by Section 571.1242 of the Government Code, the Commission may issue an order imposing a civil penalty for failure to file a response. *Id.* § 12.52(b). If a respondent does not submit a response that satisfies the requirements of subsection (a) of this section, the Commission may issue an order imposing a penalty for failure to file a complete response. *Id.* § 12.52(c).
29. The respondent did not file a response to the complaint within ten business days of receiving notice of the complaint. The evidence shows the respondent received legally sufficient notice from the Commission that the allegation was a Category One violation and that he was required to respond within 10 business days under Section 571.1242 of the Government Code. Because Section 571.1242(c) of the Government Code provides that a respondent's failure to timely respond to a notice of a Category One complaint constitutes a Category One violation, there is credible evidence of a violation of Section 571.1242 of the Government 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. The respondent consents to Commission staff presenting this resolution to the Commission outside of the respondent's presence.
3. The respondent acknowledges the filing requirements and restrictions prescribed by Sections 253.031, 254.063, and 254.064 of the Election Code. The respondent also acknowledges the requirement to timely file a response to a sworn complaint as prescribed by Section 571.1242 of the Government 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.

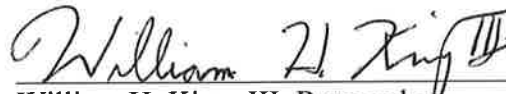
VI. Sanction

After considering the nature, circumstances, and consequences of the violations described under Section III, and after considering the sanction necessary to deter future violations, the Commission imposes a \$1,000 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-3230229.

AGREED to by the respondent on this 11th day of December, 2023.



William H. King, III, Respondent

EXECUTED by the Commission on: **December 21, 2023**.

Texas Ethics Commission

By: **J.R. Johnson**

J.R. Johnson, Executive Director