

TEXAS ETHICS COMMISSION

IN THE MATTER OF
WILLIAM EASTLAND,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-32304105

FINAL ORDER

I. Recitals

The Texas Ethics Commission (“TEC”) held a preliminary review hearing on March 20, 2024, to consider sworn complaint SC-32304105. A quorum of the TEC was present. The respondent received legally sufficient notice of the hearing but did not appear at the hearing. The TEC proceeded with the hearing in the respondent’s absence and found credible evidence of violations of Section 254.031 of the Election Code and Section 571.1242 of the Government Code. The TEC voted to issue this final order.

II. Allegations

The complaint alleged that the respondent, as campaign treasurer for the general-purpose committee, Texans for Freedom (the PAC): 1) failed to disclose political contributions and/or expenditures for a political advertising banner sign, in violation of Section 254.031 of the Election Code; and 2) failed to disclose the Royal ISD school bond proposition as a measure opposed on the PAC’s 30-day pre-election campaign finance report, in violation of Section 254.151(4) of the Election Code.

III. Findings of Fact and Conclusions of Law

Credible evidence available to the TEC supports the following findings of fact and conclusions of law:

1. The respondent is William Eastland, campaign treasurer for the general-purpose committee Texans for Freedom (the PAC). The sworn complaint was filed on April 17, 2023.

Failure to Disclose Political Contributions and/or Political Expenditures

2. The complaint alleged that the respondent had failed to disclose political contributions and/or political expenditures for a political advertising banner sign.

3. The complaint included a picture of the banner sign at issue. The sign included a political advertising disclosure statement, which was printed on paper and taped to the sign. The disclosure statement read “Pol. Ad Paid for by Texans for Freedom.” The picture was taken on April 10, 2023.
4. During a telephone call with a third party on April 11, 2023, which was described in the sworn complaint, the respondent allegedly stated that the banner did use the PAC’s graphics, but that “his group” did not pay for the banner. He further stated that the PAC does not do banners, only yard signs.
5. One of the candidates supported by the PAC stated in a Facebook comment that she had spoken with the respondent. The comment implied that the banner had been paid for by the PAC.
6. The PAC’s 30-day pre-election report, filed on April 7, 2023, disclosed a single political expenditure, dated March 16, 2023, in the amount of \$302.96, for yard signs. The PAC’s 8-day pre-election report, filed on April 28, 2023, disclosed \$3,000 in unitemized political expenditures.
7. Each report filed must include the amount of political expenditures that in the aggregate exceed \$100 (\$200 as of January 1, 2023) and that are made during the reporting period, the full name and address of the persons to whom the expenditures are made, and the dates and purposes of the expenditures. Tex. Elec. Code § 254.031(a)(3).
8. By the respondent’s own admission, the banner sign used the PAC’s graphics. Further, an opponent of the bond measure tacitly admitted in her Facebook posts that the signs were paid for by the PAC. The PAC’s treasurer pointedly differentiated between “yard signs,” for which it disclosed an expenditure on its 30-day pre-election report, and banner signs of the type at issue in this complaint. The PAC disclosed a \$302.96 expenditure for yard signs on its 30-day pre-election report, but no expenditure for banner signs on either its 30-day or 8-day pre-election report. Therefore, there is credible evidence that the PAC paid for the banner sign and did not include that political expenditure on a campaign finance report. Therefore, there is credible evidence of a violation of Section 254.031 of the Election Code.

Failure to Disclose Opposing a Measure

9. The complaint alleged that the respondent failed to disclose that the PAC opposed the Royal ISD bonds in the May 6, 2023 election on the PAC’s 30-day pre-election campaign finance report.

10. The complaint included pictures of a political advertising banner sign that reads “\$144 Million! RISD Bond NO! Total Debt \$220,000,000.00! Early Vote April 24 – May 2. Election Day May 6.” The political advertising disclosure statement originally read “Political Ad Paid for by Local Action PAC.” However, as discussed above, a sheet of paper was taped over the words “Local Action PAC,” which read “Pol. Ad Paid for by Texans for Freedom.”
11. The PAC’s 8-day pre-election report, filed on April 28, 2023, disclosed the Royal ISD bonds as measures opposed by the PAC. However, the PAC’s 30-day pre-election report did not disclose the Royal ISD bonds as measures opposed by the PAC.
12. Section 254.151(4) of the Election Code requires that each report by a campaign treasurer of a general-purpose political committee include, among other disclosures, the name of each identified candidate or measure or classification by party of candidates supported or opposed by the committee, indicating whether the committee supports or opposes each listed candidate, measure, or classification by party of candidates.
13. As discussed above, while the information submitted with the complaint indicates that the PAC made expenditures for banner signs during the reporting period for either the 30-day or 8-day pre-election report, the facts do not clearly establish during which of these two periods the expenditures were made.
14. Because the evidence available to TEC staff is ambiguous as to during which period the PAC made expenditures to publish the signs, and the respondent disclosed opposition to the Royal ISD bonds on the PAC’s 8-day pre-election report, there is no credible evidence that the PAC violated Section 254.151(4) of the Election Code.

Failure to Respond to the Sworn Complaint

15. Sworn complaint SC-32304105 was filed on April 17, 2023. On April 17, 2023, TEC staff contacted the respondent at the telephone number provided in the sworn complaint and notified him of the complaint. In the same conversation, the respondent verified his mailing address and provided his email address. The respondent signed a waiver permitting the TEC to send him notices by regular mail or email on April 19, 2023. Jurisdiction was accepted over the complaint on April 20, 2023. The TEC sent a notice of the sworn complaint to the email address that the respondent provided over the telephone, which was the same address that he provided on the mailing waiver form. During a telephone call with TEC staff, the respondent verbally acknowledged receipt of the notice.

16. The notice informed the respondent that the alleged violations were Category One violations, that a response was required not later than 10 business days from the date the notice was received, and that failure to respond constituted a separate violation for which a separate civil penalty could be assessed.
17. 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).
18. 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 TEC'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).
19. 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 TEC 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 Section 12.52 of the TEC Rules, the TEC may issue an order imposing a penalty for failure to file a complete response. *Id.* § 12.52(c).
20. The respondent did not file a response to the complaint, despite receiving notice from the TEC that the allegations were Category One violations 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. Default Judgment

1. The preliminary review hearing was held in person, with the respondent given the option to appear remotely, on March 20, 2024, at 10:00 a.m.
2. 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).
3. If a respondent fails to appear at a hearing, the TEC may proceed in the respondent's absence and may find credible evidence of the violations alleged in the complaint and may issue a final order imposing a civil penalty. *Id.* § 12.23.
4. The first notice of hearing was sent to the respondent on February 1, 2024, by email. The notice stated that the hearing would be held on March 20, 2024, at 10:00 a.m. in State Capitol Extension, Room E1.014, and gave the respondent the option to appear by video teleconference. The notice also stated that if the respondent failed to appear at the hearing, then the allegations may be deemed admitted as true and the relief sought may be granted by default. A second notice of hearing was sent to the respondent on February 14, 2024, by email. The respondent responded to that email to acknowledge receipt of the notice of hearing. The notice stated that the hearing would be held on March 20, 2024 at 10:00 a.m. in State Capitol Extension, Room E1.014, and gave the respondent the option to appear by video teleconference. All notices were sent to the email address provided to the TEC and verified by the respondent.
5. The TEC finds that the respondent received legally sufficient notice of the sworn complaint and the March 20, 2024 preliminary review hearing in this case. The respondent did not respond to the notices of hearing or appear at the hearing, despite multiple notices from the TEC and attempts by TEC staff to communicate with the respondent and resolve the complaint. The TEC proceeded in the respondent's absence and issued this final order in accordance with Section 12.23 of the Texas Administrative Code. By failing to appear at the preliminary review hearing, the respondent forfeited his right to further proceedings before the TEC in this matter. This final order is a final and complete resolution of this complaint before the TEC, except for the issue of collection of the civil penalty.
6. The TEC finds credible evidence of violations of Section 254.031 of the Election Code and Section 571.1242 of the Government Code.

V. Sanction

1. The TEC may impose a civil penalty of not more than \$5,000 or triple the amount at issue under a law administered and enforced by the TEC, whichever amount is more, for a delay

in complying with a TEC order or for violation of a law administered and enforced by the TEC. Tex. Gov't Code § 571.173.

2. The TEC shall consider the following factors in assessing a sanction: 1) the seriousness of the violation, including the nature, circumstances, consequences, extent and gravity of the violation; 2) the history and extent of previous violations; 3) the demonstrated good faith of the violator, including actions taken to rectify the consequences of the violation; 4) the penalty necessary to deter future violations, and 5) any other matters that justice may require. *Id.* § 571.177.
3. The respondent's lack of good faith is relevant to the appropriate penalty for this sworn complaint. In particular, the respondent's failure to participate in the preliminary review hearing and failure to participate in the sworn complaint process are factors that the TEC considers in assessing the civil penalty. *See Id.*
4. Therefore, the TEC orders that the respondent pay to the TEC, within 30 days of the date of this order, a civil penalty in the amount of \$1,000. If the respondent does not pay the \$1,000 civil penalty within 30 days of the date of this order, then the civil penalty is increased to \$2,500 and the matter of the collection of the civil penalty will be referred to the Office of the Attorney General of Texas.

Order Date: March 25, 2024

FOR THE TEC

J.R. Johnson

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Executive Director
Texas Ethics Commission