

Ck# 1585  
Amt. \$5,000.00  
Receipt# SC05302401  
Payment Rec'd 5-30-2024

**TEXAS ETHICS COMMISSION** *NE*

<b>IN THE MATTER OF</b>	§	<b>BEFORE THE</b>
	§	
<b>KENNETH K. "KYLE" BIEDERMANN,</b>	§	<b>TEXAS ETHICS COMMISSION</b>
	§	
<b>RESPONDENT</b>	§	<b>SC-32403176</b>



**ORDER  
and  
AGREED RESOLUTION**

**I. Recitals**

The Texas Ethics Commission ("TEC") met on June 18, 2024, to consider sworn complaint SC-32403176, which was filed on March 1, 2024. A quorum of the TEC was present. The TEC determined that there is credible evidence of violations of Section 254.031 of the Election Code, a law administered and enforced by the TEC. To resolve and settle this complaint without further proceedings, the TEC adopted this resolution.

**II. Allegations**

The sworn complaint alleged that the respondent did not disclose political contributions in his 8-day pre-election report for the March 5, 2024 primary election, in violation of Section 254.031 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 the former State Representative for District 73. The respondent was an unsuccessful candidate for State Representative, District 19, in the March 5, 2024 primary election.
2. The complaint allegation was based on the respondent's 8-day pre-election report for the March 5, 2024 primary election, where the respondent disclosed 14 political expenditures to Anedot – apparently for political contribution processing fees – but did not disclose corresponding contributions. The report disclosed \$84,205 in total monetary political contributions during the reporting period. However, the report only included two itemized political contributions totaling \$80,000.

3. In response to the complaint, the respondent corrected the report on March 26, 2024 to disclose \$55,033.60 in additional monetary contributions that were previously unreported. The corrected report disclosed \$139,238.60 in total monetary political contributions, compared to the \$84,205 that was previously disclosed.
4. In response to the complaint, the respondent stated:

Our campaign realized an attempted upload of a formatted .csv file containing the contributions had failed, and were not reported on the finance report. Once our campaign had realized this was the case, the report was amended to include the contributions. The absence of the contribution was not intentional nor the result of malicious intent.
5. Each report filed must include the amount of political contributions from each person that in the aggregate exceed \$50 (\$110 as of January 1, 2024) and that are accepted during the reporting period by the person required to file a report, the full name and address of the person making the contributions, and the dates of the contributions. Tex. Elec. Code § 254.031(a)(1); 1 Tex. Admin. Code § 18.31(a).
6. Each report filed must include the amount of political contributions from each person that are made electronically 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. Tex. Elec. Code § 254.031(a)(1-a).
7. Each report filed must include the total amount of all political contributions accepted and the total amount of all political expenditures made during the reporting period. *Id.* § 254.031(a)(6).
8. Credible evidence indicates the respondent failed to timely disclose political contributions totaling approximately \$55,000. Therefore, there is credible evidence of violations of Section 254.031 of the Election Code.

#### **IV. Representations and Agreement by Respondent**

By signing this order and agreed resolution and returning it to the TEC:

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 and settling the sworn complaint.
2. The respondent consents to this order and agreed resolution before any adversarial evidentiary hearings or argument before the TEC, and before any formal adjudication of law or fact by the TEC. The respondent waives any right to a hearing before the TEC or an administrative law judge and consents to TEC staff presenting this order and agreed resolution to the TEC outside of the respondent's presence. The respondent further waives

any right to a post-hearing procedure established or provided by law. The TEC and respondent agree that the entry of this order and agreed resolution will be a full and complete resolution of sworn complaint SC-32403176. The TEC and respondent further agree that the entry of this order and agreed resolution will be a full and complete resolution of any administrative penalties assessed under Section 254.042 of the Election Code for the correction to the 8-day pre-election report filed March 26, 2024.

3. The respondent understands and agrees that the TEC will consider this order and agreed resolution in any future sworn complaint proceedings against the respondent regarding similar violations that occur after the date this agreement is executed.

### V. Confidentiality

This order and agreed resolution describes violations that the TEC 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 TEC.

### VI. 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. Based on the amount of contributions at issue (\$55,033.60), the violations are serious. The fact that the contributions were not disclosed until after the March 2024 primary election, and only after a sworn complaint was filed, means the harm to public disclosure was substantial. As the candidate, the respondent was responsible for ensuring the accuracy of his campaign finance reports and affirming that each report was true and correct prior to filing. However, the TEC also takes into consideration that the respondent has no prior sworn complaint violations, and there was no evidence to indicate that the violations were intentional.
4. After considering the penalty factors prescribed by Section 571.177 of the Government Code, the TEC imposes a \$5,000 civil penalty.

**VII. Order**

The TEC hereby orders that if the respondent consents to this order and agreed resolution, it is a final and complete resolution of SC-32403176.

AGREED to by the respondent on this 28 day of May, 2024.

  
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Kyle Biedermann, Respondent

EXECUTED by the TEC on: June 20, 2024  
Texas Ethics Commission

By: J.R. Johnson  
J.R. Johnson, Executive Director