

TEXAS ETHICS COMMISSION

IN THE MATTER OF
MELANIE M. OBERLIN,
RESPONDENT

§
§
§
§
§

BEFORE THE
TEXAS ETHICS COMMISSION
SC-260245

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on September 21, 2006, to consider sworn complaint SC-260245. A quorum of the commission was present. The commission determined that there is credible evidence of violations of section 254.123 of the Election Code, a law administered and enforced by the commission. To resolve and settle this complaint without further proceedings, the commission proposes this resolution to the respondent.

II. Allegations

The complaint alleges that the respondent, as the campaign treasurer of a political committee, failed to file semiannual and pre-election campaign finance reports for the committee and failed to disclose the committee's purpose in a campaign treasurer appointment.

III. Facts Supported by Credible Evidence

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

1. On May 27, 2003, the Save Our Springs PAC ("SOSP") political committee filed a campaign treasurer appointment with the City of Austin, appointing the respondent as campaign treasurer.
2. The campaign treasurer appointment stated that the purpose of SOSP was to support a candidate for Austin City Council in a runoff election held on June 7, 2003.
3. On September 20, 2006, the respondent filed the only campaign finance report for SOSP with the City of Austin. The report was a dissolution report that disclosed "< 500" as the total amount of political contributions and political expenditures.

4. The complainant submitted a copy of an e-mail message from the Save Our Springs Alliance (“SOS”) that states that SOS was collecting signatures on petitions for calling an election on two measures in a May 13, 2006, election and was willing to pay individuals to collect signatures.
5. The evidence indicates that SOS’s purpose has not changed and that it was not involved in the measure elections at issue.

IV. Findings and Conclusions of Law

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

1. The campaign treasurer of a specific-purpose committee is required to file a campaign finance report by January 15 and July 15 of each year. ELEC. CODE § 254.123.
2. For each election in which a specific-purpose committee supports or opposes a candidate, the campaign treasurer is also required to file a campaign finance report not later than the 30th day and the 8th day before the election day. *Id.* §§ 254.124(b), (c). The campaign treasurer of a specific-purpose committee is also required to file a report by the 8th day before the date of a runoff election if the committee supports or opposes a candidate in an election and an ensuing runoff election. *Id.* § 254.124(e).
3. Ethics Commission rules prohibit the commission from considering an allegation barred from criminal prosecution by operation of the applicable statute of limitations. 1 T.A.C. § 12.5(3). The criminal offense for a violation of section 254.123 or 254.124 of the Election Code is a Class C misdemeanor. ELEC. CODE § 254.041(b). The statute of limitations for a Class C misdemeanor is two years from the date of the commission of the offense. Code of Criminal Procedure Article 12.02. The complaint was filed on February 13, 2006. Therefore, allegations relating to campaign finance reports that were due before February 13, 2004, are not within the commission’s sworn complaint jurisdiction.
4. The due dates for the pre-election reports at issue are April 3, April 25, and May 30, 2003. The due dates are more than two years before the date the complaint was filed. Therefore, consideration of the allegations related to these reports is barred by the statute of limitations.
5. The respondent was required to file five semiannual campaign finance reports for SOS since February 13, 2004. Records with the City of Austin show that none of those campaign finance reports for SOS were filed. In response to this sworn complaint the respondent filed a single report on September 20, 2006. Therefore, there is credible evidence that the respondent violated section 254.123 of the Election Code by failing to timely file five campaign finance reports.

6. A campaign treasurer appointment for a specific-purpose committee must include, in pertinent part, the description of each measure supported or opposed by the committee. 1 T.A.C. § 20.309(7). If there is a change in any information that is required to be reported in a specific-purpose committee's campaign treasurer appointment, the campaign treasurer must notify the filing authority of the change no later than the 10th day after the date on which the change occurs. *Id.* § 20.311(a).
7. There is credible evidence that SOSA did not support the measures at issue. Therefore, there is credible evidence that the respondent did not violate section 20.311(a) of the Ethics Commission Rules because there was no requirement to notify the City of Austin because the purposes of SOSA had not changed.

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 denies 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 the campaign treasurer of a specific-purpose committee is required to file a campaign finance report by January 15 and July 15 of each year. The respondent agrees to comply with these requirements of the law.

VI. 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.

VII. Sanction

After considering the seriousness of the violations described under Sections III and IV, including the nature, circumstances, and consequences of the violations, and after considering the sanction necessary to deter future violations, the commission imposes a \$500 civil penalty for the violations described under Sections III and IV.

VIII. 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-260245.

AGREED to by the respondent on this _____ day of _____, 20____.

Melanie M. Oberlin, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director