

TEXAS ETHICS COMMISSION

IN THE MATTER OF
DOROTHY WELCH,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-2803148

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on February 12, 2009, to consider sworn complaint SC-2803148. A quorum of the commission was present. The commission determined that there is credible evidence of violations of section 254.063 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 failed to file semiannual campaign finance reports.

III. Facts Supported by Credible Evidence

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

1. The respondent was a successful candidate in the March 3, 2006, election for city council in Splendora, Texas.
2. The respondent filed an amended appointment of a campaign treasurer that states that it was signed on March 3, 2006, indicating the office held as “council member position” and the office sought as “council member position III.”
3. On January 9, 2008, the respondent filed a campaign finance report. The report does not disclose the period covered. The report discloses the date of the election as May 12, 2006. The report is marked as a final report. The report discloses that there were no contributions and no expenditures. The respondent attached Form C/OH – FR (Candidate / Officeholder Report: Designation of Final Report) but failed to sign section 3 which requires the signature of the candidate/officeholder. That section states, “I do not expect any further political

contributions or political expenditures in connection with my candidacy. I understand that designating a report as a final report terminates my campaign treasurer appointment. I also understand that I may not accept any campaign contributions or make any campaign expenditures without a campaign treasurer appointment on file.” The respondent checked the box in part 5 for officeholders stating that she was aware that she remained subject to filing requirements applicable to an officeholder who does not have a campaign treasurer on file but she failed to sign that section.

4. The respondent filed an affidavit in response to the sworn complaint. As to all three of the semiannual reports at issue, the respondent’s affidavit states, “The former City Secretary left employment in October 2007 and the Interim City Secretary could not locate these records. I did not keep a copy for my records.”

IV. Findings and Conclusions of Law

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

1. A candidate is required to file two reports for each year, the first report is required to be filed not later than July 15, and cover 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, as applicable, and continuing through June 30; the second report shall be filed not later than January 15, and cover 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, as applicable, and continuing through December 31. ELEC. CODE § 254.063.
2. On or about March 3, 2006, the respondent filed an amended appointment of a campaign treasurer. An individual with a campaign treasurer on file is considered a candidate for campaign finance reporting purposes. ELEC. CODE § 251.001(1). A candidate has the duty to file semiannual reports until the candidate terminates her campaign treasurer appointment. ELEC. CODE § 254.065. The respondent attempted to terminate her campaign treasurer appointment on January 9, 2008, by filing a final report, but the report was incomplete and filed after the due date for the reports at issue. Thus, the respondent’s campaign treasurer appointment was in affect during the period at issue. Therefore, the respondent was required to file the July 2006, January 2007, and July 2007 semiannual reports as a candidate. (Section 254.093 of the Election Code requires an officeholder with no campaign treasurer in effect to file semiannual campaign finance reports. That section is not at issue because the respondent was required to file the reports at issue as a candidate.)
3. The evidence indicates that the respondent failed to file her July 2006, January 2007, and July 2007 semiannual reports. Therefore, there is credible evidence that the respondent

violated section 254.063 of the Election Code and credible evidence that the respondent did not violate section 254.093 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 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 a candidate is required to file two reports for each year, the first report is required to be filed not later than July 15, and cover 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, as applicable, and continuing through June 30; the second report shall be filed not later than January 15, and cover 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, as applicable, and continuing through December 31. 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 \$300 civil penalty.

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-2803148.

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

Dorothy Welch, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director