

TEXAS ETHICS COMMISSION

IN THE MATTER OF

JACKIE BLACK,

RESPONDENT

§
§
§
§
§

BEFORE THE

TEXAS ETHICS COMMISSION

SC-31110235

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on June 6, 2012, to consider sworn complaint SC-31110235. A quorum of the commission was present. The commission determined that there is credible evidence of a violation of section 254.064 of the Election Code, a law administered and enforced by the commission. To resolve and settle this complaint without further proceedings, the commission proposed this resolution to the respondent.

II. Allegations

The complaint alleged that the respondent did not timely file a 30-day pre-election campaign finance report or an "Exceeded \$500" campaign finance report.

III. Facts Supported by Credible Evidence

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

1. The respondent was an opposed candidate for Keller City Council in a November 8, 2011, election and a candidate in a subsequent December 13, 2011, runoff election. The complaint alleged that the respondent filed late either a 30-day pre-election report or an "Exceeded \$500" report.
2. On September 26, 2011, the respondent filed a campaign treasurer appointment with the City of Keller and did not choose to follow the modified reporting schedule. The respondent's 30-day pre-election report was received by the City of Keller on October 17, 2011. The due date for the report was October 11, 2011. The report disclosed the following:
 - \$0 in total political contributions of \$50 or less
 - \$0 in total political contributions

- \$0 in total political expenditures of \$50 or less
- \$2,618.76 in total political expenditures
- \$0 in total political contributions maintained
- \$3,618.76 in total principal amount of outstanding loans

3. In response to the allegations, the respondent swore, in pertinent part:

As a first time candidate, it was unclear to me and my treasurer on the instructions for filing certain items.

I had not received any contributions as of the first filing on October 11, 2011. Additionally, all expenditures had been made by personal credit card and I had not received the final receipts from the suppliers by that date.

I was unaware that these expenditures were required to be reported at the time of filing on October 11, 2011 and felt they should be reported on the next filing.

I was advised to the contrary and immediately filed the property [sic] forms with the City Secretary of the City of Keller.

IV. Findings and Conclusions of Law

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

1. 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. ELEC. CODE § 254.064(a). The first report must be received by the authority with whom the report is required to be filed not later than the 30th day before election day. The report covers the period beginning 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 under this chapter, as applicable, and continuing through the 40th day before election day. *Id.* § 254.064(b).
2. An opposed candidate required to file pre-election reports may file a report under a modified reporting schedule instead if the candidate does not intend to accept political contributions that in the aggregate exceed \$500 or to make political expenditures that in the aggregate exceed \$500 in connection with the election. *Id.* § 254.181(a). To be entitled to file reports under this subchapter, an opposed candidate must file with the campaign treasurer appointment a written declaration of intent not to exceed \$500 in political contributions or political expenditures in the election. *Id.* § 254.182(a). If a candidate exceeds the \$500 maximum after the filing deadline for the first pre-election report required to be filed, the

candidate shall file a report not later than 48 hours after the maximum is exceeded. *Id.* § 254.184(b).

3. The respondent was a candidate in the November 8, 2011, election and had an opponent whose name appeared on the ballot. The respondent did not choose to follow the modified reporting schedule for the election. Thus, the respondent was required to file a 30-day pre-election report, which was required to be received by the City of Keller no later than October 11, 2011. The report was received on October 17, 2011. Therefore, there is credible evidence of a violation of section 254.064(b) of the Election Code.
4. The complaint also alleged that the respondent did not timely file an “Exceeded \$500” report. The “Exceeded \$500” report is required for an opposed candidate who chooses to follow the modified reporting schedule and accepts over \$500 in political contributions or makes over \$500 in political expenditures after the due date for the 30-day pre-election report. The report was not required because the respondent did not choose to follow the modified reporting schedule. Therefore, there is credible evidence that the respondent did not violate section 254.184(b) 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, 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. The first report must be received by the authority with whom the report is required to be filed not later than the 30th day before election day. The report covers the period beginning 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 under this chapter, as applicable, and continuing through the 40th day before election day. The respondent agrees to comply with these requirements of the law.

VI. Confidentiality

This order and agreed resolution describes a violation that the commission has determined is 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 violation described under Sections III and IV, including the nature, circumstances, and consequences of the violation, and after considering the sanction necessary to deter future violations, the commission imposes a \$250 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-31110235.

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

Jackie Black, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director