

TEXAS ETHICS COMMISSION

IN THE MATTER OF

KELLY D. HORSLEY,
CAMPAIGN TREASURER,
SAVE OUR TEACHERS,

RESPONDENT

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BEFORE THE

TEXAS ETHICS COMMISSION

SC-31205153

FINAL ORDER

The Texas Ethics Commission, having heard this case and voting to find a violation of laws under its jurisdiction, makes the following Findings of Fact and Conclusions of Law:

Findings of Fact

1. The respondent is Kelly D. Horsley, whose last known mailing address is 5619 Bear Meadow Lane, Katy, Texas 77449. A sworn complaint was filed with the Texas Ethics Commission against the respondent on May 14, 2012. The Notice of Hearing was mailed to the respondent on February 21, 2013, by certified mail, return receipt requested, restricted delivery and delivery confirmation. United States Postal Service records indicate that the respondent received the Notice of Hearing on February 23, 2013.
2. The preliminary review hearing was held on March 27, 2013, by the Texas Ethics Commission in Austin, Texas.
3. The respondent did not file a reply to the Notice of Hearing and did not appear at the hearing.
4. The respondent was appointed as campaign treasurer for Save Our Teachers (SOT) on October 13, 2010, and served until March 14, 2011. The respondent was subsequently re-appointed as campaign treasurer for SOT on May 4, 2012.
5. The complaint alleged that the respondent, as campaign treasurer of Save Our Teachers (SOT), did not file a January 2011 semiannual report and a 10th day after termination report.
6. Based on SOT's treasurer appointment that was filed on October 13, 2010, the committee was formed to oppose the Katy Independent School District (KISD) bond measure that was voted on in the November 2, 2010, general election. Thus, the committee was required to file reports with KISD during the period of time relevant to the complaint.

7. The complaint alleged that the respondent did not file a January 2011 semiannual report. Based on records from KISD, the respondent was campaign treasurer of SOT from October 13, 2010, through March 14, 2011. Accordingly, the respondent was required to file a January 2011 semiannual report by January 17, 2011 (deadline extended because of weekend). The respondent did not file a January 2011 semiannual report with KISD.
8. The complaint alleged that the respondent did not file a 10th day after campaign treasurer termination report. Public record shows that SOT filed a new campaign treasurer appointment with KISD on March 14, 2011. Accordingly, the respondent's campaign treasurer appointment for SOT was terminated on March 14, 2011, and the respondent was required to file a termination report no later than March 24, 2011. The respondent did not file a 10th day after termination report with KISD.
9. The respondent has not submitted a response to the complaint.

Conclusions of Law

1. Disposition of this case is within the jurisdiction of the Texas Ethics Commission. GOV'T CODE § 571.061.
2. The respondent received legally sufficient notice of the hearing in this case. GOV'T CODE § 571.032 and 1 TAC § 12.21. The hearing was held in accordance with section 12.23, 1 Texas Administrative Code.
3. The campaign treasurer of a specific-purpose committee shall file two reports for each year as provided by this section. ELEC. CODE § 254.123(a). The first report shall be filed not later than July 15. The report covers the period beginning January 1, the day the committee's campaign treasurer appointment is filed, or the first day after the period covered by the last report required to be filed under this subchapter, as applicable, and continuing through June 30. *Id.* § 254.123(b). The second report shall be filed not later than January 15. The report covers the period beginning July 1, the day the committee's campaign treasurer appointment is filed, or the first day after the period covered by the last report required to be filed under this subchapter, as applicable, and continuing through December 31. *Id.* § 254.123(c).
4. Based on records from KISD, the respondent was required to file a January 2011 semiannual report by January 17, 2012. The report should have covered from October 26, 2010, through December 31, 2010. The respondent did not file the report. Therefore, there is credible evidence of a violation of section 254.123(c) of the Election Code.
5. The appointment of a successor terminates the appointment of the campaign treasurer who is removed. ELEC. CODE § 252.012(b). If the campaign treasurer appointment of a specific-purpose committee is terminated, the terminated campaign treasurer shall file a termination report. ELEC. CODE § 254.127(a). A termination report is not required if the termination occurs on the last day of a reporting period under this subchapter and a report for that period is filed as provided by this subchapter. *Id.* § 254.127(b). The report covers the period beginning the day after the period covered by the last report required to

be filed under this subchapter and continuing through the day the campaign treasurer appointment is terminated. *Id.* § 254.127(c). The report shall be filed not later than the 10th day after the date the campaign treasurer appointment is terminated. *Id.* § 254.127(d).

6. Credible evidence shows that the respondent did not file a 10th day after termination report. Therefore, there is credible evidence of a violation of section 254.127 of the Election Code.
7. If an alleged violation in a sworn complaint is a Category One violation, the respondent must respond to the notice required by section 571.123(b) not later than the 10th business day after the date the respondent receives the notice. GOV'T CODE § 571.1242(a)(1). A respondent's failure to timely respond to a sworn complaint as required by subsection (a)(1) or (b)(1) is a Category One violation. *Id.* § 571.1242(c).
8. To date, the respondent has not submitted a written response. Therefore, there is credible evidence that the respondent violated section 571.1242(c) of the Government Code by not responding to the complaint.
9. The Texas Ethics Commission may impose a sanction against the respondent of not more than \$5,000 or triple the amount at issue, whichever amount is greater. GOV'T CODE § 571.173.

Therefore, the Texas Ethics Commission orders that:

1. The respondent pay to the Texas Ethics Commission, within 30 days of the date of this order, a civil penalty in the amount of \$1,000.

Order Date: _____

FOR THE COMMISSION

David A. Reisman
Executive Director
Texas Ethics Commission