

TEXAS ETHICS COMMISSION

IN THE MATTER OF
SYLVIA CEDILLO,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-3120117, SC-31205186,
AND SC-31205187

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) held a preliminary review hearing on August 8, 2013, to consider sworn complaints SC-3120117, SC-31205186, and SC-31205187. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 254.063 and 254.064 of the Election Code, and section 571.1242 of the Government Code, laws administered and enforced by the commission. To resolve and settle these complaints without further proceedings, the commission proposed this resolution to the respondent.

II. Allegations

The complaints alleged that the respondent did not timely file semiannual campaign finance reports and pre-election reports.

III. Facts Supported by Credible Evidence

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

1. At the time relevant to the complaints, the respondent was Waller County Commissioner, Precinct 3.

Timely Filing of Reports

2. Sworn complaint SC-3120117 alleged that the respondent did not timely file the January 2012 semiannual report. Sworn complaints SC-31205186 and SC-31205187 alleged that the respondent did not timely file 30-day and 8-day pre-election reports for the May 2012 primary election. The complaints stated that the respondent's last campaign finance

report was filed on September 20, 2010, indicating that the respondent did not file January and July 2011 semiannual reports.

3. On January 2, 2008, the respondent filed a campaign treasurer appointment with the Waller County Clerk's Office indicating that she was seeking the office of Waller County Commissioner, Precinct 3. The respondent was elected to that office in the November 2008 general election. The respondent was also an opposed candidate in the May 2012 primary election.
4. Regarding sworn complaint SC-3120117, which was filed January 25, 2012, the respondent did not respond to the complaint. On June 14, 2012, the commission received the respondent's response to sworn complaints SC-31205186 and SC-31205187. Documents received from the county clerk's office show that the respondent did not timely file semiannual reports for the January and July 2011 reporting deadlines. The respondent also did not timely file a January 2012 semiannual report and did not timely file 30-day and 8-day pre-election reports for the May 2012 primary election.
5. In response to the complaints, on June 5, 2012, the respondent filed a report with the Waller County Clerk marked as a January semiannual report, 30-day pre-election report and 8-day pre-election report. The report covered the period from July 16, 2011, through May 21, 2012. The report disclosed the following:

Unitemized Contributions	\$ 630.00
Total Political Contributions	\$4,380.00
Total Unitemized Expenditures	\$ 0
Total Political Expenditures	\$3,759.63
Total Political Contributions Maintained	\$ 620.37
Total Principal Amount of Outstanding Loans	\$ 750.00

6. On May 30, 2013, the respondent filed three separate reports with the Waller County Clerk to cover the reporting periods at issue.

Response to Sworn Complaint

7. Postal records show that the notice of sworn complaint SC-3120117 was delivered to the respondent on February 3, 2012. The notice stated that the respondent was required to respond within 10 business days from receipt of the notice. To date, the respondent has not filed a response to sworn complaint SC-3120117, although the respondent appeared at the preliminary review hearing.

IV. Findings and Conclusions of Law

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

Timely Filing of Reports

1. A candidate or officeholder is required to file two reports for each year; the first report shall be filed not later than July 15. The report covers 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 under this subchapter, as applicable, and continuing through June 30. ELEC. CODE §§ 254.063(b) and 254.093(b). 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. *Id.* §§ 254.063(c) and 254.093(c).
2. 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. *Id.* § 254.064(b). The second report must be received by the authority with whom the report is required to be filed not later than the eighth day before election day. *Id.* § 254.064(c).
3. On January 2, 2008, the respondent filed a campaign treasurer appointment with the Waller County Clerk's Office indicating that she was seeking the office of Waller County Commissioner, Precinct 3. The respondent was elected to that office in the November 2008 general election. The respondent was required to timely file semiannual campaign finance reports. The respondent did not file reports for the January and July 2011 semiannual reporting periods. The January 2012 semiannual report was due on January 17, 2012. On June 5, 2012, the respondent filed a report marked as a January semiannual report, 30-day pre-election report, and 8-day pre-election report. The report covered the period from July 16, 2011, through May 21, 2012 (the correct period for the January 2012 semiannual report would have begun on July 1, 2011). On May 30, 2013, the respondent filed three separate reports with the Waller County Clerk to cover the reporting periods at issue. However, the reports were incorrect as originally filed. Therefore, there is credible evidence of violations of section 254.063(b) and 254.063(c) of the Election Code with respect to those reports.
4. The respondent was also an opposed candidate in the May 2012 primary election. As an opposed candidate, the respondent was required to file 30-day and 8-day pre-election reports for the May 2012 primary election. The 30-day and 8-day pre-election reports for the May 2012 primary election were due on April 30, 2012, and May 21, 2012, respectively. As noted, on June 5, 2012, the respondent filed one report for the January 2012 semiannual report, 30-day pre-election report, and 8-day pre-election report. The report was filed after the filing deadlines. On May 30, 2013, the respondent filed three separate reports with the Waller County Clerk to cover the reporting periods at issue.

However, the reports were incorrect as originally filed. There is credible evidence of violations of section 254.064 of the Election Code.

Response to Sworn Complaint

5. The respondent must respond to the notice of a Category One violation not later than the 10th business day after the date the respondent receives the notice and failure to respond to a notice of sworn complaint within the time required is a separate Category One violation. GOV'T CODE § 571.1242(a) and (c).
6. The response required by section 571.1242 of the Government Code must be in writing, admit or deny the allegations set forth in the complaint, and be signed by the respondent. If a respondent does not submit a response within the time period prescribed by section 571.1242 of the Government Code, the commission may issue an order imposing a civil penalty for failure to file a response.
7. Postal records show that the notice of sworn complaint SC-3120117 was delivered on February 3, 2012. The notice stated that the respondent was required to respond within 10 business days from receipt of the notice.
8. The respondent did not file a response to sworn complaint SC-3120117, and did not address the issues in that complaint until two subsequent complaints were filed approximately four months after that complaint. Therefore, there is credible evidence of a violation of section 571.1242(a) of the Government 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 these sworn complaints.
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: 1) a candidate or officeholder 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; 2) 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 second report must be received by the authority with whom the report is required to be filed not later than the eighth day before election day; and 3) the respondent must respond to the notice of a Category One violation not later than the 10th business day after the date the respondent receives the notice and failure to respond to a notice of sworn complaint within the time required is a separate Category One violation. 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 nature, circumstances, and consequences of the violations described under Sections III and IV, and the sanction necessary to deter future violations, the commission imposes a \$500 civil penalty, contingent upon the respondent filing January and July 2011 semiannual reports with the Waller County Clerk's Office by September 9, 2013. If the respondent does not file the reports at issue, the commission imposes a \$1,500 civil penalty. The respondent will furnish to the commission evidence of the required filings.

The respondent agrees that the Texas Ethics Commission, P. O. Box 12070, Austin, Texas 78711, must receive from the respondent evidence of the filing of the January and July 2011 semiannual reports and the \$500 civil penalty no later than September 9, 2013, or full payment of a \$1,500 civil penalty no later than September 9, 2013, and agrees to waive any right to a hearing related to this sworn complaint. The respondent further agrees that if evidence of the filing of the January and July 2011 semiannual reports and the \$500 civil penalty is not received by September 9, 2013, the civil penalty will be \$1,500 and the matter of the collection of the civil penalty will be referred to the Office of the Attorney General of Texas.

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-3120117, SC-31205186, and SC-31205187.

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

Sylvia Cedillo, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director