

TEXAS ETHICS COMMISSION

IN THE MATTER OF

MATTHEW “MATEO” CLARK,

RESPONDENT

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BEFORE THE

TEXAS ETHICS COMMISSION

SC-31209243

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 Matthew “Mateo” Clark, whose last known mailing address is P. O. Box 9, Sandia, Texas 78383. A sworn complaint was filed with the Texas Ethics Commission against the respondent on September 5, 2012. The Notice of Hearing was mailed to the respondent on February 7, 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 11, 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 a candidate for constable in Jim Wells County. The respondent was unopposed in the May 2012 primary election and was opposed in the November 2012 general election.
5. The complaint alleged that the respondent made political expenditures at a time when a campaign treasurer appointment was not in effect.
6. The local filing authority did not have a campaign treasurer appointment or any campaign finance reports filed by the respondent as of August 20, 2012.
7. The complaint also contained a copy of a newspaper advertisement supporting the respondent as a candidate for constable that had a disclosure statement attributing the advertisement to the respondent.
8. In his response, the respondent stated that prior to receiving the complaint, he was unaware of his filing requirements as a candidate and that as soon as he received the complaint, he filed a treasurer appointment and the campaign finance reports at issue. He

stated that he was aware that his next required report was the 30-day pre-election report and that he would file it in a timely manner. That report, due October 9, 2012, was filed one day late as was the 8-day pre-election report due October 29, 2012.

9. The records filed with the Jim Wells County Clerk indicate that on October 2, 2012, after the complaint was filed, the respondent filed an appointment of a campaign treasurer, a January 2012 semiannual report, pre-election reports for the May 2012 primary election, and a July 2012 semiannual report. The reports indicated that the respondent made political expenditures as early as January 2012 and accepted political contributions as early as August 2012. The reports disclosed a total of \$310 in political contributions accepted and \$1,633.30 in total political expenditures made before the respondent filed a campaign treasurer appointment.

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. A candidate may not knowingly accept a campaign contribution or make or authorize a campaign expenditure at a time when a campaign treasurer appointment for the candidate is not in effect. ELEC. CODE § 253.031(a).
4. A candidate shall file two reports for each year. ELEC. CODE § 254.063(a). The first report shall be filed not later than July 15, and 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, as applicable, and continuing through June 30. *Id.* § 254.063(b). The second report shall be filed not later than January 15. The report covers 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 under this subchapter, as applicable, and continuing through December 31. *Id.* § 254.063(c).
5. 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). 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. The report covers the period beginning the 39th day before election day and continuing through the 10th day before election day. *Id.* § 254.064(c).

6. “Candidate” means a person who knowingly and willingly takes affirmative action for the purpose of gaining nomination or election to public office or for the purpose of satisfying financial obligations incurred by the person in connection with the campaign for nomination or election. Examples of affirmative action include: (1) the filing of an application for a place on the ballot; (2) the making of a public announcement of a definite intent to run for public office in a particular election, regardless of whether the specific office is mentioned in the announcement; and (3) the soliciting or accepting of a campaign contribution or the making of a campaign expenditure. *Id.* § 251.001(1).
7. Campaign finance reports filed by the respondent disclosed political contributions accepted and political expenditures made prior to the filing of a campaign treasurer appointment on October 2, 2012. Therefore, there is credible evidence of a violation of section 253.031 of the Election Code.
8. The reports filed by the respondent disclosed that the respondent made expenditures as early as January 2012. Therefore, the respondent was a candidate in the period covered by the semiannual report due July 16, 2012, and was required to file a semiannual report. (There is no evidence that the respondent was a candidate in the period covered by the semiannual report due January 17, 2012, which ended December 31, 2011.) There is credible evidence of a violation of section 254.063 of the Election Code with regard to the July 2012 semiannual report.
9. In response to the complaint, the respondent also filed pre-election reports for the May 2012 primary election. The respondent was unopposed in that election and therefore these reports were not required. Accordingly, there is credible evidence of no violation of section 254.064 of the Election Code with respect to those reports.
10. 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 \$500.

Order Date: _____

FOR THE COMMISSION

David A. Reisman
Executive Director
Texas Ethics Commission