

TEXAS ETHICS COMMISSION

IN THE MATTER OF
JOHN C. SKELTON,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-31610206

FINAL ORDER

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

Findings of Fact

1. The respondent is John C. Skelton, whose last known mailing address is P.O. Box 421473, Del Rio, Texas 78842-1473. The sworn complaint was filed against the respondent on October 19, 2016. The first Notice of Hearing was mailed to the respondent on June 9, 2017, by certified mail, return receipt requested, restricted delivery and delivery confirmation. United States Postal Service (USPS) records indicate that the first notice of hearing was delivered to the respondent on June 12, 2017. A second notice of hearing was mailed to the respondent by Lone Star Overnight (LSO) on June 26, 2017. LSO records indicate the Second Notice of Hearing was delivered to the respondent on June 27, 2017.
2. The preliminary review hearing was held on July 11, 2017, by the Texas Ethics Commission in Austin, Texas.
3. The respondent did not file a response to the Notice of Hearing or appear at the hearing.

Did Not File the July 2016 Semiannual Report

4. The respondent was a candidate in the November 2016 general election for Val Verde County Constable, Precinct 2.
5. The respondent filed a campaign treasurer appointment with Val Verde County on December 14, 2015, and did not file a final report prior to the July 2016 semiannual report due date.
6. The July 2016 semiannual report was due by July 15, 2016. The respondent did not file the July 2016 semiannual report, according to records on file with the Val Verde County Clerk.

Response to a Notice of a Sworn Complaint and Written Questions

7. The Commission received the sworn complaint on October 19, 2016, and the Commission sent the respondent notice of the sworn complaint on October 25, 2016. The original notice of the sworn complaint was sent to the respondent's physical address, but it was returned to the Commission on November 9, 2016, as undeliverable because there was no mail receptacle at the respondent's physical address.
8. After the initial notice of the sworn complaint was returned to the Commission as undeliverable, the Commission re-sent the notice on December 5, 2016, by certified mail, return receipt requested, to the P.O. Box the respondent listed as his mailing address on campaign finance reports. According to USPS records, the respondent received the re-sent notice on December 9, 2016. The notice informed the respondent that the alleged violation in the sworn complaint was a Category One violation, and that a response to the sworn complaint was required not later than 10 business days from the date the notice was received and that failure to respond to the notice constituted a separate violation for which a separate civil penalty may be assessed.
9. Based on the delivery date of the notice, the respondent was required to respond to the sworn complaint by December 23, 2016. To date, the respondent has not responded to the sworn complaint.
10. Commission staff sent a notice of late response to the respondent on January 24, 2017, by delivery confirmation, that informed the respondent that the Commission had not received his response to the sworn complaint. USPS records show the respondent received the notice on January 26, 2017.
11. Commission staff sent written questions to the respondent regarding this complaint on February 6, 2017, by delivery confirmation. USPS records show the respondent received the written questions on February 7, 2017. The written questions included a notice that the questions must be answered within 15 business days of receipt and that failure to timely respond to the written questions would constitute a separate violation for which a separate additional civil penalty may be assessed.
12. Based on the delivery date, the respondent was required to respond to the written questions by March 1, 2017.
13. The respondent did not file a response to the sworn complaint or to the written questions.

Conclusions of Law

1. Disposition of this case is within the jurisdiction of the 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.

Did Not File the July 2016 Semiannual Report

3. A 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. ELEC. CODE § 251.001(1).
4. Examples of affirmative action include the filing of a campaign treasurer appointment. *Id.* § 251.001(1)(a).
5. A candidate shall file two reports for each year. *Id.* § 254.063(a). 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. *Id.* § 254.063(b).
6. The respondent filed his campaign treasurer appointment with Val Verde County on December 14, 2015, and had an active campaign treasurer appointment on file during all periods relevant to the complaint. Thus, the respondent was a candidate and was required to file the July 2016 semiannual report.
7. The July 2016 semiannual report was due by July 15, 2016. The respondent did not file the July 2016 semiannual report. Therefore, there is credible evidence of a violation of section 254.063(b) of the Election Code.

Response to a Notice of a Sworn Complaint and Written Questions

8. If the 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).
9. 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).
10. A respondent must respond to written questions sent during a preliminary review under section 571.1243 of the Government Code within 15 business days of receipt. Ethics Commission Rules § 12.83.
11. According to USPS records, the respondent received the re-sent notice of complaint on December 9, 2016. Based on the delivery date of the notice, the respondent was required to respond to the sworn complaint by December 23, 2016.

12. The respondent did not submit a response to the sworn complaint. Therefore, there is credible evidence of a violation of section 571.1242(c) of the Government Code.
13. USPS records show the respondent received the written questions sent under section 571.1243 of the Government Code on February 7, 2017.
14. Based on the delivery date, the respondent was required to respond to the written questions by March 1, 2017. The respondent did not file a response to the written questions. Therefore, there is credible evidence of a violation of section 571.1243 of the Government Code and section 12.83(a) of the Ethics Commission Rules.
15. The 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 Commission, within 30 days of the date of this order, a civil penalty in the amount of \$1,000.

Order Date: _____

FOR THE COMMISSION

Seana Willing
Executive Director
Texas Ethics Commission