

TEXAS ETHICS COMMISSION

IN THE MATTER OF
JAMES "JIM" SHELTON,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-3170332

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (Commission) met on July 11, 2017, to consider sworn complaint SC-3170332. A quorum of the Commission was present. The Commission determined that there is credible evidence of violations of sections 252.001, 253.031 and 254.064 of the Election Code, laws 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: 1) did not file a campaign treasurer appointment; 2) accepted campaign contributions or made or authorized campaign expenditures at a time when the respondent did not have a campaign treasurer appointment in effect; and 3) did not timely file the 30-day and 8-day pre-election reports for the November 8, 2016, general election.

III. Facts Supported by Credible Evidence

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

1. The respondent was a candidate for Windcrest City Council, Place 3, in the November 8, 2016, general election.

Campaign Treasurer Appointment and Contributions and Expenditures without a Campaign Treasurer Appointment in Effect

2. The complaint alleged that the respondent did not file a campaign treasurer appointment and accepted campaign contributions and made campaign expenditures at a time when he did not have a campaign treasurer appointment in effect.
3. The respondent filed a final report on December 10, 2014, after his previous re-election, thereby terminating his campaign treasurer appointment.

4. On August 22, 2016, the respondent filed an application for a place on the ballot in the November 8, 2016, general election, seeking re-election for Windcrest City Council, Place 3. The respondent did not file a new campaign treasurer appointment, as required by section 252.001 of the Election Code, when he became a candidate for re-election in the November 8, 2016, general election.
5. In response to the complaint, the respondent stated that a political committee, Go Windcrest PAC, supported his campaign. The respondent stated that he gave \$500 to Go Windcrest PAC.
6. The respondent also stated that the political committee gave him campaign signs and that he participated in distributing campaign flyers supporting his re-election campaign, which were created or purchased by the political committee.
7. Go Windcrest PAC is a general-purpose political committee registered with the Commission, and it filed a January 2017 semiannual report wherein it disclosed, in relevant part: 1) a \$350 political expenditure on September 28, 2016, with a description of "Distribute Flyers;" and 2) a \$3,602.42 political expenditure on September 28, 2016, with a description of "Signs, Flyers, stakes, cards."
8. Go Windcrest PAC did not disclose a political contribution from Shelton, but in the January 2017 semiannual report did list him as one of the candidates/officeholders that the political committee supported.
9. The complaint included documentation showing that Go Windcrest PAC paid for campaign signs and flyers for the respondent and two other candidates.

Pre-Election Reports

10. The complaint alleged that the respondent did not timely file the 30-day and 8-day pre-election reports for the November 8, 2016, general election.
11. The respondent's name appeared on the ballot for the November 8, 2016, general election as an opposed candidate for Windcrest City Council, Place 3. The respondent did not file a campaign treasurer appointment on which he could have elected to file reports on the modified reporting schedule.
12. The 30-day pre-election report was due by October 11, 2016, and the 8-day pre-election report was due by October 31, 2016.
13. After the complaint was filed, the respondent filed the pre-election reports on June 23, 2017. In his 8-day pre-election report, he disclosed a \$500 political expenditure to Go Windcrest PAC made on October 17, 2016, and a \$500 in-kind political contribution from Go

Windcrest PAC accepted on October 17, 2016, with the description: "Campaign Signs and Advertising."

IV. Findings and Conclusions of Law

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

Campaign Treasurer Appointment and Contributions and Expenditures without a Campaign Treasurer Appointment in Effect

1. Each candidate and each political committee shall appoint a campaign treasurer as provided by Chapter 252, Election Code. ELEC. CODE § 252.001.
2. 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. *Id.* § 253.031(a).
3. On August 22, 2016, the respondent filed an application for a place on the ballot in the November 8, 2016, general election, seeking re-election for Windcrest City Council, Place 3. The respondent's name appeared on the ballot for the November 8, 2016, general election. Therefore, the respondent was a candidate for purposes of Chapter 252 of the Election Code.
4. Because the respondent was a candidate, he was required to file a campaign treasurer appointment with the Windcrest city secretary. The respondent did not file a campaign treasurer appointment when he became a candidate for re-election in the November 8, 2016, general election.
5. Credible evidence shows the respondent accepted at least one political contribution and made a political expenditure when he did not have a campaign treasurer appointment on file. Accordingly, there is credible evidence of violations of sections 252.001 and 253.031(a) of the Election Code.

Pre-Election Reports

6. 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. 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 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. ELEC. CODE § 254.064.
7. The respondent did not file a campaign treasurer appointment on which he could have elected to file reports on the modified reporting schedule. In addition, the respondent's name appeared on the ballot for the November 8, 2016, general election as an opposed candidate. Therefore, the respondent was required to file the 30-day and 8-day pre-election reports. The respondent did not timely file the 30-day and 8-day pre-election reports. Therefore, there is credible evidence of violations of sections 254.064(b) and 254.064(c) 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: 1) each candidate shall appoint a campaign treasurer as provided by chapter 252, Election Code; 2) 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; 3) 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; 4) 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 and 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 chapter 254, as applicable, and continuing through the 40th day before election day; 5) 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 covers the period beginning the 39th day before election day and continuing through the 10th day before election day. 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 after considering the sanction necessary to deter future violations, the Commission imposes a \$600 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-3170332.

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

James "Jim" Shelton, Respondent

EXECUTED ORIGINAL received by the Commission on: _____.

Texas Ethics Commission

By: _____

Seana Willing, Executive Director