

# TEXAS ETHICS COMMISSION

IN THE MATTER OF  
ELIZABETH TREVINO,  
RESPONDENT

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BEFORE THE  
TEXAS ETHICS COMMISSION  
SC-32312333

**RECEIVED**

**JUN 7 2024**

Texas Ethics Commission

## ORDER and AGREED RESOLUTION

### I. Recitals

The Texas Ethics Commission (TEC) met on June 18, 2024, to consider sworn complaint SC-32312333. A quorum of the TEC was present. Concerning certain apparent errors by a local filing authority, the TEC determined that there is credible evidence of violations of Section 254.0401 of the Election Code, a law administered and enforced by the TEC. To resolve and settle this complaint without further proceedings, and to clarify the applicable law prospectively, the TEC adopted this public resolution.

### II. Allegation

The complaint alleged that, as the city clerk of San Marcos, Texas, the respondent failed to make campaign finance reports filed by a candidate available to the public on the city's Internet website, in violation of Section 254.0401 of the Election Code.

### III. Findings of Fact and Conclusions of Law

Credible evidence available to the TEC supports the following findings of fact and conclusions of law:

1. At all times relevant to the complaint, the respondent was the city clerk of San Marcos, Texas.
2. Among other candidate filings not within the scope of this sworn complaint, the complaint identified two campaign finance reports filed by a candidate for city council: a 30-day pre-election report and an 8-day pre-election report, both filed on November 23, 2023. The campaign treasurer's address is redacted from both reports. According to the sworn complaint, the complainant obtained the 8-day pre-election report from the city's website, but had to submit a request under the Public Information Act to obtain the 30-day pre-election report because the link for the report on the website was broken.
3. While the respondent later fixed the link, it was still broken at the time the TEC accepted jurisdiction over the sworn complaint.

4. In her sworn response to the complaint, the respondent admitted to posting redacted campaign treasurer appointments and Code of Fair Campaign Practices agreements to the city's website. The respondent claimed that because Title 15 of the Election Code does not require political subdivisions to post these forms on their Internet websites, she could legally redact the versions posted to the city's Internet website.
5. The respondent further stated that when she began serving as city clerk, she had limited experience in elections. She explained that she relied on websites interpreting the Public Information Act and concluded that the redactions were allowed.
6. Candidates must file their campaign finance reports with the authority with whom the candidates' campaign treasurer appointments must be filed. Tex. Elec. Code § 254.066. An individual must file a campaign treasurer appointment for the individual's own candidacy with the clerk or secretary of the governing body of the political subdivision or, if the political subdivision has no clerk or secretary, with the governing body's presiding officer, if the appointment is made for candidacy for an office of a political subdivision other than a county. *Id.* § 252.005(3).
7. The clerk or secretary of a political subdivision's governing body, or, if the governing body does not have a clerk or secretary, the governing body's presiding officer shall make a campaign finance report filed with the political subdivision by a candidate, officeholder, or specific-purpose political committee available to the public on the political subdivision's Internet website not later than the 10th business day after the date the report is received. *Id.* § 254.0401. The access allowed by this provision to reports is in addition to the public's access to the information through other electronic or print distribution of the information. *Id.* § 254.0401(d). Before making a report available on the Internet, a political subdivision may remove each portion, other than city, state, and zip code, of the address of a person listed as having made a political contribution to the person filing the report. The address information must remain available on the report maintained in the authority's office. *Id.* § 254.0401(e-1).
8. Neither Section 254.0401 nor any other provision in Title 15 of the Election Code authorizes political subdivisions to redact any information from the campaign finance reports posted to its website except for the partial redaction of contributor addresses. *See generally id.* § 254.0401. The public rights of access to campaign finance reports created by Section 254.0401 of the Election Code for Internet access, and that of in-person access created by Section 254.0402 of the Election Code, are not premised on the Texas Public Information Act, and the Legislature did not subject these rights of access to the Public Information Act's exceptions from disclosure. *Compare* Tex. Elec. Code §§ 254.0401, - .0402 *with* Tex. Gov't Code, Ch. 552. By its own terms, the Public Information Act provides that the Act "does not authorize the withholding of public information or limit the availability of public information to the public, except as expressly provided by [the Act]." Tex. Gov't Code § 552.006. As the Austin Court of Appeals observed in a 2013 published opinion, "Nothing in the text of the PIA exceptions provides or authorizes withholding or limiting access to public information where the claimed right of access is based on law other than PIA section 552.021," the section of the Public Information Act that creates the

basic right of access under the Act. *Atty. Gen. of Tex. v. Farmers Ins. Exch.*, 411 S.W.3d 139, 143-144 (Tex. App.—Austin 2013, no pet.).

9. While she appears to have done so in the sincere belief that this was legally correct, and is not the first local filing authority to have come to this conclusion, the respondent redacted the campaign treasurer's address on the 8-day pre-election campaign finance report without valid legal authority. By redacting this information without legal authority, the respondent failed to make the report available to the public. Therefore, while the circumstances indicate that it was the product of a good faith misunderstanding of the law, there is credible evidence of a violation of Section 254.0401 of the Election Code as to the 8-day report.
10. Further, because the respondent is responsible for posting campaign finance reports to the city's Internet website pursuant to Section 254.0401 of the Election Code, but the link to the candidate's 30-day pre-election report was broken at the time the sworn complaint was filed. While this too appears to have been a mistake that the respondent corrected when she was able to do so, there is credible evidence of a further violation of Section 254.0401 of the Election Code as to the inaccessible 30-day report.

#### **IV. Representations and Agreement by Respondent**

By signing this order and agreed resolution and returning it to the TEC:

1. The respondent neither admits nor denies the findings of fact and conclusions of law described under Section III, 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 a city secretary or other campaign finance filing authority may not apply redactions to campaign finance reports posted to the filing authority's website or made available for public inspection unless those redactions are authorized by law.
4. The respondent further acknowledges that a city secretary or other campaign finance filing authority shall make each campaign finance report filed with the filing authority available to the public on the political subdivision's Internet website not later than the 10th day after the date the report is received, and that reports so posted to the political subdivision's Internet webpage must remain accessible on that website until the fifth anniversary of the date the report is first made available.

#### **V. Confidentiality**

This order and agreed resolution describes violations that the TEC 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 TEC. Further, there is a public need to clarify the extent to which local filing authorities may redact campaign finance reports, which a confidential resolution by its nature cannot satisfy.

## VI. Sanction

Section 571.177 of the Government Code requires the TEC to consider the following factors in assessing a sanction: 1) the seriousness of the violation, including the nature, circumstances, consequences, extent, and gravity of the violation; 2) the history and extent of previous violations; 3) the demonstrated good faith of the violator, including actions taken to rectify the consequences of the violation; 4) the penalty necessary to deter future violations; and 5) any other matters that justice may require.

The respondent appears to have premised her decision to redact the campaign treasurer's address on a misunderstanding of the law. TEC staff's examination of the TEC's public guidance on the redaction question reveals no public orders that squarely address the question of a filing authority's redaction authority, and training materials are also unclear on the matter. Further, concerning the report that was inaccessible due to the broken link, there is no indication of any intent to defeat disclosure through this apparent technical malfunction, and the respondent subsequently fixed the malfunction and made the report accessible on the website. Concerning the harm to disclosure from the unposted report, the complainant who filed this sworn complaint was still able to obtain a copy of the report through a request under the Public Information Act.

After considering the factors enumerated in Section 571.177 of the Government Code, with particular attention to the respondent's demonstrated good faith, the TEC imposes no penalty.

## VII. Order

The TEC hereby orders that if the respondent consents to the proposed resolution, this order and agreed resolution is a final and complete resolution of SC-32312333.

AGREED to by the respondent on this 6th day of June, 2024.

  
Elizabeth Trevino, Respondent

EXECUTED by the TEC on: June 20, 2024.

Texas Ethics Commission

By: J.R. Johnson  
J.R. Johnson, Executive Director