

TEXAS ETHICS COMMISSION

IN THE MATTER OF
ANDREW J. MYTELKA,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-2708185

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on February 12, 2008, to consider sworn complaint SC-2708185. A quorum of the commission was present. The commission determined that there is credible evidence of violations of section 254.063 of the Election Code, a law administered and enforced by the commission. To resolve and settle this complaint without further proceedings, the commission proposes this resolution to the respondent.

II. Allegations

The complaint alleges that the respondent failed to file semiannual campaign finance reports for January 2006, July 2006, and January 2007.

III. Facts Supported by Credible Evidence

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

1. During the relevant time in question the respondent was a trustee for the Galveston Independent School District.
2. The respondent filed a campaign treasurer appointment dated September 8, 2005. The treasurer appointment is not dated stamped to indicate the date filed.
3. On June 14, 2007, the respondent filed a final campaign finance report, covering the period of October 31, 2005, through June 14, 2007.
4. The respondent filed a corrected final report on August 23, 2007.
5. The respondent changed the report type to indicate that it included the January 2006, July 2006, and January 2007 semiannual reports.

6. The respondent also changed the amount of total expenditures from zero to approximately \$5,180.
7. The respondent attached a Schedule F (used to disclose expenditures from political contributions) disclosing a political expenditure of approximately \$2,970 for the payment of a bank loan and a Schedule G (used to disclose expenditures from personal funds) disclosing a political expenditure from personal funds of approximately \$2,200, for payment of a bank loan.

IV. Findings and Conclusions of Law

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

1. 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. Examples of affirmative action include, in pertinent part, the filing of a campaign treasurer appointment. ELEC. CODE § 251.001(1).
2. A candidate shall file two reports for each year. The first report shall be filed not later than July 15, covering 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; and the second report shall be filed not later than January 15, covering 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. ELEC. CODE § 254.063.
3. A candidate has the duty to file semiannual reports until the candidate terminates his campaign treasurer appointment. ELEC. CODE § 254.065.
4. The evidence indicates that the respondent filed a campaign treasurer appointment on or about September 2005.
5. The treasurer appointment triggered the requirement to file campaign finance reports as a candidate.
6. The evidence indicates that the respondent did not terminate his campaign treasurer appointment until he filed a final report, on June 14, 2007.
7. Thus, the respondent was required to file January 2006, July 2006, and January 2007 semiannual reports.

8. Although the evidence indicates that the respondent filed a final campaign finance report on June 14, 2007, covering the period for the reports at issue, the evidence indicates that the respondent did not file the semiannual reports at issue in a timely manner.
9. Therefore, there is credible evidence of violations of section 254.063 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 a candidate shall file two reports for each year, the first report shall 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; and 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. 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 seriousness of the violations described under Sections III and IV, including the nature, circumstances, and consequences of the violations, and after considering the sanction necessary to deter future violations, the commission imposes a \$200 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-2708185.

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

Andrew J. Myltelka, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director