

TEXAS ETHICS COMMISSION

IN THE MATTER OF
NICK SANDERS,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-31004102

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on August 12, 2010, to consider sworn complaint SC-31004102. 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 proposed this resolution to the respondent.

II. Allegations

The complaint alleged that the respondent failed to file semiannual campaign finance reports due after May 1, 2009.

III. Facts Supported by Credible Evidence

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

1. The respondent is currently a director of the Trophy Club Municipal Utility District (MUD), and during the time at issue was the mayor of the town of Trophy Club and a candidate for re-election in the May 9, 2009, election.
2. The town secretary provided copies of the respondent's campaign treasurer appointment and campaign finance reports filed since January 2009.
3. The respondent filed a campaign treasurer appointment dated February 10, 2009, with the town secretary. (The respondent also filed a campaign treasurer appointment dated March 8, 2010, for a May 2010 election with the MUD secretary.)
4. The respondent filed a campaign finance report that was signed and notarized by the town secretary on April 9, 2009. The report did not include Cover Sheet Pg 1 indicating the report type or period covered, but the attached Schedule A disclosed political contributions from March 25, 2009, through April 9, 2009. The report disclosed \$4,595 in total political

contributions, \$69.01 in total political expenditures, and \$4,525.99 in total political contributions maintained as of the last day of the reporting period.

5. The respondent filed an 8-day pre-election report, covering the period beginning April 8, 2009, through April 30, 2009, that was signed and notarized by the town secretary on May 1, 2009. The report disclosed \$1,605 in total political contributions, \$4,412.46 in total political expenditures, and \$1,718.53 in total political contributions maintained as of the last day of the reporting period.
6. On April 8, 2010, the respondent filed by e-mail a campaign finance report marked as a final report, covering the period beginning May 1, 2009, through May 31, 2009. The report did not include Cover Sheet Pg 2 which contains the affidavit section that is required to be notarized and filed with each report.
7. On May 25, 2010, the respondent filed by e-mail a campaign finance report marked as a July and January semiannual and as a final report, covering the period beginning May 1, 2009, through March 11, 2010. The report included a properly executed affidavit that was signed and notarized on May 25, 2010. The report disclosed no political expenditures and \$0 in total political contributions maintained as of the last day of the reporting period.¹ Another document attached to this e-mail was the missing Cover Sheet Pg 1 for the 30-day pre-election report which the respondent stated should have been part of the report that was notarized on April 9, 2009.
8. On June 3, 2010, the respondent filed by e-mail a correction to the report dated May 25, 2010. The corrected report disclosed \$3,853.24 in total political expenditures, and included a Schedule F disclosing a \$1,718.53 political expenditure on May 1, 2009, and a Schedule G disclosing a \$2,134.71 political expenditure made from personal funds on May 1, 2009.

IV. Findings and Conclusions of Law

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

1. A candidate is required to file two reports for each year. The first report shall be filed not later than July 15 and covers the period beginning the first day after the period covered by the last report and continuing through June 30. The second report shall be filed not later than January 15 and covers the period beginning July 1 and continuing through December 31. ELEC. CODE § 254.063.

¹ The respondent's 8-day pre-election report for the May 2009 election indicated that the respondent had \$1,718.53 in total political contributions maintained as of April 30, 2009.

2. A candidate has the duty to file campaign finance reports until the candidate terminates his campaign treasurer appointment. The designation of a report as a final report terminates a candidate's campaign treasurer appointment. ELEC. CODE § 254.065.
3. The records of the town secretary indicate that the respondent did not file a final report and did not terminate his campaign treasurer appointment before January 1, 2010. Thus, he was required to file semiannual reports due July 15, 2009, and January 15, 2010.
4. The respondent filed an 8-day pre-election report for the May 2009 election on or about May 1, 2009, but did not file any other report until April 8, 2010, when he attempted to file a final report that was incomplete. Although the respondent filed a new campaign treasurer appointment with a MUD secretary on or about March 8, 2010, he was required to file semiannual reports that were due prior to March 8, 2010, with the town secretary. (Filing a CTA with the MUD terminated the respondent's CTA with the town.) The respondent filed the July 15, 2009, and January 15, 2010, semiannual reports after the respective due dates. Therefore, there is credible evidence that the respondent violated section 254.063 of the Election Code with respect to the July 2009 and January 2010 semiannual reports.

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 person remains a candidate for campaign finance reporting purposes until the person properly files a final report. The respondent also acknowledges that a candidate is required to file two reports for each year. 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. 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.

The respondent agrees to comply with these requirements of the law.

VI. Confidentiality

This order and agreed resolution describes a violation that the commission has determined is 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 violation described under Sections III and IV, including the nature, circumstances, and consequences of the violation, 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-31004102.

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

Nick Sanders, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director