

TEXAS ETHICS COMMISSION

IN THE MATTER OF
BILL THOMAS WEBB,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-2708199

FINAL ORDER

The Texas Ethics Commission, having heard this case and voting to find violations of laws under its jurisdiction, makes the following Findings of Fact and Conclusions of Law:

Findings of Fact

1. The respondent is Bill Thomas Webb, whose last known mailing address is P.O. Box 1523, Tomball, Texas 77377-1523. Sworn complaint SC-2708199 was filed with the Texas Ethics Commission against the respondent on August 28, 2007. The Notice of Hearing was mailed to the respondent on May 11, 2009.
2. The preliminary review hearing was held on June 9, 2009, by the Texas Ethics Commission in Austin, Texas.
3. The respondent did not file a reply to the Notice of Hearing and did not appear at the hearing.
4. The complaint alleged that the respondent, failed to include a disclosure statement and included an improper disclosure statement on political advertising and failed to properly complete the 30-day and 8-day pre-election campaign finance reports for the May 12, 2007, election, the runoff report for the June 16, 2007, runoff election, and the July 2007 semiannual report.
5. The respondent was a candidate for city council Position 3 in the June 16, 2007, Tomball city election.
6. “30 day” and “8-day” reports refer to the pre-election reports for the May 12, 2007, Tomball city election. “Runoff” report refers to the June 16, 2007, runoff election.

Failure to Include a Disclosure Statement and Including an Improper Disclosure Statement on Political Advertising

7. On or about May 9, 2007, the respondent included on his political advertising the name of a person as his campaign treasurer who was no longer his campaign treasurer. The advertisement indicated it was paid for by “The Committee to Elect Bill Webb City Council.” On or about May 23, 2007, and June 13, 2007, the respondent caused to be published political advertising that did not include political advertising disclosure statements.

Failure to Properly Complete the Report Type and the Period Covered

8. The complaint alleged that the respondent failed to properly complete the report type on his June 2007 runoff report and July 2007 semiannual report. On the runoff report the respondent checked the report types “30th day before election,” “8th day before election,” and “runoff.” On the July 2007 semiannual report the respondent checked the report type “30th day before election.” The evidence also indicates that on his 8-day pre-election report the respondent checked the boxes for both 30-day and 8-day reports. The respondent corrected the 8-day pre-election report and runoff report but not the July 2007 semiannual report. He indicated in the correction that the reports at issue reflected a “running total” and that he misunderstood the reporting instructions.
9. The complaint alleged that the respondent failed to properly complete the period covered on his June 2007 runoff report. The period covered disclosed on that report was disclosed as April 13, 2007, through May 4, 2007. The proper period covered for that report was May 3, 2007, through June 6, 2007. The respondent corrected the period covered to read “5/5/07 through 6/06/07.” The period covered on the respondent’s 30-day pre-election report went through the report due date instead of ending on the 40th day before the election. The period covered on the respondent’s 8-day pre-election report went through the report due date instead of ending on the 10th day before the election.

Failure to Properly Complete the Election Date

10. The complaint alleged that the respondent failed to properly complete the election date on his runoff report and on his July 2007 semiannual report. The respondent disclosed May 12, 2007, as the election date on his runoff report. The date of the runoff election was June 16, 2007. The respondent did not correct the election date on his corrected runoff report. The respondent disclosed May 12, 2007, as the date of the election on his July 2007 semiannual report. The respondent corrected his July 2007 semiannual report, which he incorrectly marked as a runoff report, to disclose the date of the runoff as the election date.

Failure to Properly Complete Cover Sheet Box 14 (Notice of Direct Campaign Expenditure by Other Individuals)

11. The complaint alleged that the respondent failed to properly complete cover sheet box 14 on his 30-day and 8-day pre-election reports and runoff report. The respondent entered his own name and address in this box, which should only be used to disclose a notice of direct expenditures by another individual. The respondent corrected each report to remove his name and leave the space blank. The respondent did not explain why he disclosed his name in that section of the form.

Failure to Properly Disclose Total Political Contributions

12. The complaint alleged that the respondent failed to properly disclose total political contributions on his 30-day and 8-day pre-election reports, runoff report, and July 2007 semiannual report.
13. On his 30-day pre-election report the respondent disclosed total political contributions of \$50 or less, unless itemized, of \$250, itemized political contributions of \$11,350, and total political contributions of \$11,350. These figures indicate that total political contributions should have been \$11,600. The respondent filed a corrected report disclosing total political contributions of \$11,600.
14. On his 8-day pre-election report the respondent disclosed total political contributions of \$50 or less, unless itemized, of \$560, itemized political contributions of \$7,030, and total political contributions of \$18,350. These figures indicate that total political contributions should have been \$7,590. The respondent filed a corrected report disclosing total political contributions of \$50 or less, unless itemized, of \$310, itemized political contributions of \$7,030, and total political contributions of \$7,340.
15. On his runoff report the respondent disclosed total political contributions of \$50 or less, unless itemized, of \$710, itemized political contributions of \$11,850, and total political contributions of \$30,200. These figures indicate that total political contributions should have been \$12,560. The respondent filed a corrected report disclosing total political contributions of \$50 or less, unless itemized, of \$150, itemized political contributions of \$11,850, and total political contributions of \$12,000.
16. On his July 2007 semiannual report the respondent disclosed total political contributions of \$50 or less, unless itemized, of \$710, itemized political contributions of \$6,000, and total political contributions of \$30,200. These figures indicate that total political

contributions should have been \$6,710. The respondent filed a corrected report disclosing total political contributions of \$50 or less, unless itemized, of zero, itemized political contributions of \$6,000, and total political contributions of \$6,000.

17. The respondent stated in his explanation of correction that he misunderstood the directions and was including running totals forward.

Failure to Properly Disclose Total Political Expenditures

18. The complaint alleged that the respondent failed to properly disclose total political expenditures on his 8-day pre-election report, runoff report, and July 2007 semiannual report.
19. On his 8-day pre-election report the respondent disclosed total political expenditures of \$50 or less, unless itemized, of \$1,019, itemized political expenditures of approximately \$9,696, and total political expenditures of \$17,870. These figures indicate that total political expenditures should have been approximately \$10,715. The respondent filed a corrected report disclosing total political expenditures of \$50 or less, unless itemized, of \$456, itemized political expenditures of approximately \$8,928, and total political expenditures of \$9,385.
20. On his runoff report the respondent disclosed total political expenditures of \$50 or less, unless itemized, of \$1,639, itemized political expenditures of \$11,701, and total political expenditures of \$28,402. These figures indicate that total political expenditures should have been \$13,340. The respondent filed a corrected report disclosing total political expenditures of \$50 or less, unless itemized, of \$620, itemized political expenditures of \$9,933, and total political expenditures of \$10,553.
21. On his July 2007 semiannual report the respondent disclosed total political expenditures of \$50 or less, unless itemized, of \$2,138, itemized political expenditures of approximately \$7,790, and total political expenditures of \$36,694. These figures indicate that total political expenditures should have been approximately \$9,930. The respondent filed a corrected report disclosing total political expenditures of \$50 or less, unless itemized, of \$499, itemized political expenditures of approximately \$7,790, and total political expenditures of \$8,292.
22. The respondent stated in his explanation of correction that he misunderstood the directions and was including running totals forward.

Failure to Properly Disclose Total Political Contributions Maintained

23. The complaint alleged that the respondent failed to properly disclose total political contributions maintained as of the last day of the reporting period on his 30-day and 8-day pre-election reports, runoff report, and July 2007 semiannual report.
24. The respondent disclosed total political contributions maintained of \$11,600 on his 30-day pre-election report, \$18,910 on his 8-day pre-election report, \$30,910 on his runoff report, and \$36,910 on his July 2007 semiannual report.
25. The respondent filed corrected reports disclosing total political contributions maintained of \$3,427 on his 30-day pre-election report, \$584 on his 8-day pre-election report, \$1,447 on his runoff report, and \$507 on his July 2007 semiannual report.

Failure to Properly Disclose a Political Contribution

26. The complaint alleged that the respondent failed to properly disclose the contributor's name and address for an April 24, 2007, political contribution of \$6,500 disclosed on the respondent's 8-day pre-election report. The information is illegible.
27. The respondent filed a corrected 8-day pre-election report to legibly disclose the contributor's name and address.

Failure to Properly Disclose Political Expenditures

28. The complaint alleged that the respondent failed to disclose on his 30-day pre-election report the purpose of all eight of his itemized political expenditures totaling approximately \$7,810 and the complete payee address for three of those political expenditures. The report did not disclose the purpose of any of the expenditures and disclosed only "Tomball, TX" as the address for three expenditures. The three expenditures without complete addresses are each to "HCN." Each one is for \$768. The total of the expenditures is \$2,304.
29. The respondent filed a corrected 30-day pre-election report which disclosed the purpose of each of the expenditures and provided a complete address for the three expenditures to HCN.

30. The complaint alleged that the respondent failed to disclose on his 8-day pre-election report the purpose of all seven of his itemized political expenditures totaling approximately \$9,700 and the complete payee address for four of those political expenditures. The report did not disclose the purpose of any of the expenditures or the complete address of four expenditures. Two of the expenditures without complete addresses are to HCN for \$768 each. One of the expenditures without a complete address is to Minuteman Press for approximately \$483 and the other one is to Main Street Crossing for \$360. The report discloses only "Tomball, TX" as the address for all four expenditures.
31. The respondent swore that the April 18, 2007, expenditure for a newspaper advertisement for \$768 was reported twice on the 8-day pre-election report.
32. The respondent filed a corrected 8-day pre-election report. The corrected report did not include the April 18, 2007, expenditure for a newspaper advertisement for \$768 that the respondent swore was reported twice. The corrected report disclosed the purpose of each of the other expenditures and provided a complete address for the other expenditures that were missing a complete address.
33. The complaint alleged that the respondent failed to include the amount of an expenditure on his runoff report.
34. The respondent's runoff report disclosed two expenditures on May 29, 2007, to What's Up Radio. The amount was left blank on one of the expenditures and the other expenditure amount is \$5,000.
35. The respondent swore that a May 30, 2007, expenditure for an advertisement was reported twice.
36. The respondent filed a corrected runoff report which discloses one \$5,000 expenditure on May 29, 2007, to What's Up Radio.
37. The complaint alleged that the respondent failed to disclose on his runoff report the purpose of all 11 of his itemized political expenditures totaling approximately \$11,700, and the complete payee address for five of those political expenditures. The report did not disclose the purpose of any of the expenditures or the complete address of five political expenditures. The expenditures without complete addresses are all to HCN. Four of them are for \$768. One of them is for \$1,798. The report discloses only "Tomball, TX" and a zip code as the payee address for each of the expenditures.

38. The respondent filed a corrected runoff report. The corrected report disclosed the purpose of each of the expenditures and provided a complete address for the expenditures that were missing a complete address.
39. The complaint alleged that the respondent failed to disclose on his July 2007 semiannual report the purpose of all four of his itemized political expenditures totaling approximately \$7,790 and the complete payee address for one of those political expenditures. The respondent's report did not disclose the purpose of any of the expenditures or the address of one expenditure. The expenditure without the complete address is to HCN for \$768. The report disclosed only "Tomball, TX, 77377" for the payee address.
40. The respondent filed a corrected July 2007 semiannual report. The corrected report disclosed the purpose of each of the expenditures and provided a complete address for the expenditure that was missing a complete address.

Failure to File Final Report

41. The complaint alleged that the respondent failed to include the Form C/OH-FR (Candidate/Officeholder Report: Designation of Final Report) with his July 2007 semiannual report.
42. The respondent did not designate the July 2007 semiannual report as a final report.

Conclusions of Law

1. Disposition of this case is within the jurisdiction of the Texas Ethics Commission. GOV'T CODE § 571.061.
2. The respondent was provided 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.

Failure to Include a Disclosure Statement and Including an Improper Disclosure Statement on Political Advertising

3. Political advertising means, in relevant part, a communication supporting or opposing a candidate for nomination or election to a public office that in return for consideration, is published in a newspaper, magazine, or other periodical. ELEC. CODE § 251.001(16).

4. Campaign communication means, in relevant part, a written or oral communication relating to a campaign for nomination or election to public office. ELEC. CODE § 251.001(17).
5. A person may not knowingly cause to be published, distributed, or broadcast political advertising containing express advocacy that does not indicate in the advertising that it is political advertising, and the full name of the person who paid for the political advertising, the political committee authorizing the political advertising, or the candidate or specific-purpose committee supporting the candidate, if the political advertising is authorized by the candidate. ELEC. CODE § 255.001.
6. The advertisements at issue were political advertising because they supported the respondent as a candidate for public office and in return for consideration were published in a newspaper, magazine, or other periodical. The advertisements contained express advocacy and therefore, were required to have a disclosure statement.
7. The respondent's May 9, 2007, advertisement states that it was paid for by "The Committee to Elect Bill Webb City Council," and listed an individual as treasurer who was no longer the respondent's campaign treasurer. Although the sworn complaint focuses on whether or not the use of that individual's name as the treasurer constitutes a violation, the disclosure statement at issue is incorrect because no such political committee exists. The fact that the respondent incorrectly listed the name of an individual as campaign treasurer in the disclosure statement does not violate section 255.001 of the Election Code. However, the statute requires the name of the candidate or committee that authorized the political advertising be included in the disclosure statement. The disclosure statement at issue states that the political advertising was authorized by a political committee, not the respondent. No such committee existed. Therefore, there is credible evidence that the respondent violated section 255.001 of the Election Code as to this political advertisement.
8. The May 23, 2007, and June 13, 2007, newspaper advertisements were political advertising and they failed to include a political advertising disclosure statement. Therefore, there is credible evidence that the respondent violated section 255.001 of the Election Code as to those advertisements.

Failure to Properly Complete the Report Type and the Period Covered

9. Each report filed under this chapter with an authority other than the commission must be in a format prescribed by the commission. ELEC. CODE § 254.036(a).
10. The respondent failed to properly complete the report type on his 8-day pre-election report, runoff report, and July 2007 semiannual report. The respondent failed to properly complete the period covered on his runoff report. Therefore, there is credible evidence that the respondent violated section 254.036(a) of the Election Code.

Failure to Properly Complete the Election Date

11. Each report by a candidate must include the date of the election for which the report is filed. ELEC. CODE § 254.061(1).
12. The respondent failed to properly complete the election date on his runoff report and July 2007 semiannual report. Therefore, there is credible evidence that the respondent committed a technical or *de minimis* violation of section 254.061(1) of the Election Code.

Failure to Properly Complete Cover Sheet Box 14 (Notice of Direct Campaign Expenditure by Other Individuals)

13. Each report by a candidate must include the full name and address of each individual acting as a campaign treasurer of a political committee under section 253.062 of the Election Code from whom the candidate received notice under section 254.128 or 254.161 of the Election Code. ELEC. CODE § 254.061(4).
14. The respondent disclosed his name in cover sheet box 14 (Notice of Direct Campaign Expenditure By Other Individuals) on his 30-day and 8-day pre-election reports and runoff report. That section of the form should be used to disclose third party direct expenditures to support the candidate, but should not be used to disclose the candidate's name. The respondent entered his own name and address in that section. Therefore, there is credible evidence that the respondent committed a technical or *de minimis* violation of section 254.061(4) of the Election Code.

Failure to Properly Disclose Total Political Contributions

15. Each report must disclose the total amount of all political contributions accepted during the reporting period. ELEC. CODE § 254.031(a)(6).
16. The respondent failed to properly disclose total political contributions on his 30-day and 8-day pre-election reports, runoff report, and July 2007 semiannual report. Therefore, there is credible evidence that the respondent violated section 254.031(a)(6) of the Election Code.

Failure to Properly Disclose Total Political Expenditures

17. Each report must disclose the total amount of all political expenditures made during the reporting period. ELEC. CODE § 254.031(a)(6).

18. The respondent failed to properly disclose total political expenditures on his 8-day pre-election report, runoff report, and July 2007 semiannual report. Therefore, there is credible evidence that the respondent violated section 254.031(a)(6) of the Election Code.

Failure to Properly Disclose Total Political Contributions Maintained

19. Each report must include as of the last day of the reporting period, the total amount of political contributions accepted, including interest or other income on those contributions, maintained in one or more accounts in which political contributions are deposited as of the last day of the reporting period. ELEC. CODE § 254.031(a)(8).
20. The respondent failed to properly disclose total political contributions maintained on his 30-day and 8-day pre-election reports, runoff report, and July 2007 semiannual report. Therefore, there is credible evidence that the respondent violated section 254.031(a)(8) of the Election Code.

Failure to Properly Disclose a Political Contribution

21. Each report must include the amount of political contributions from each person that in the aggregate exceed \$50 and that are accepted during the reporting period, the full name and address of the person making the contributions, and the dates of the contributions. ELEC. CODE § 254.031(a)(1).
22. The respondent failed to properly disclose the contributor information regarding a \$6,500 contribution on his 8-day pre-election report. Therefore, there is credible evidence that the respondent violated section 254.031(a)(1) of the Election Code.

Failure to Properly Disclose Political Expenditures

23. Each report must include the amount of political expenditures that in the aggregate exceed \$50 and that are made during the reporting period, the full name and address of the persons to whom the expenditures are made, and the dates and purposes of the expenditures. ELEC. CODE § 254.031(a)(3).
24. The respondent failed to properly disclose political expenditures on his 30-day and 8-day pre-election reports, runoff report, and July 2007 semiannual report. Therefore, there is credible evidence that the respondent violated section 254.031(a)(3) of the Election Code.

Failure to File Final Report

25. There is no requirement that a candidate file a final report by any certain date.
26. The Texas Ethics 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 Texas Ethics Commission, within 30 days of the date of this order, a civil penalty in the amount of \$2,000.

Date: _____

FOR THE COMMISSION

David A. Reisman
Executive Director
Texas Ethics Commission