

No. \_\_\_\_\_

**In the Court of Appeals  
for the Second Judicial District  
Fort Worth, Texas**

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IN RE: JACE YARBROUGH,  
*Relator.*

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Original Proceeding for Writ of Mandamus to  
Matt Rinaldi in his official capacity as  
Chairman of the Republican Party of Texas

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**Relator's Supplement to his  
Petition for Writ of Mandamus**

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COUNSEL FOR RELATOR

## IDENTITY OF PARTIES AND COUNSEL

**Relator** Jace Yarbrough

**Counsel for Relator** Timothy Davis  
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**Respondent** Matt Rinaldi in his official capacity as Chairman of the Republican Party of Texas  
P.O. Box 2206  
Austin, Texas 78768  
[chairmanrinaldi@texasgop.org](mailto:chairmanrinaldi@texasgop.org)

**Real Party in Interest** Brent Hagenbuch

**Counsel for Real Party in Interest** Donna Garcia Davidson  
State Bar No.: 00783931  
P.O. Box 12131  
Austin, Texas 78711-2131  
[donna@dgdlawfirm.com](mailto:donna@dgdlawfirm.com)

**Other Parties** Carrie deMoor  
Cody Clark  
These individuals are also candidates for the Republican nomination to Senate District 30 but are not “parties” to this action (though they may intervene). Nevertheless, Relator lists them in an abundance of caution.

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## STATEMENT OF THE CASE

<b>Nature of the Case</b>	This is an original proceeding seeking mandamus review of the Republican Party of Texas's Chairman's decision to accept Brent Hagenbuch as a candidate for the Republican nomination for Texas Senate District 30 pursuant to TEX. ELEC. CODE § 145.003.
<b>Respondent</b>	Matt Rinaldi in his Official Capacity as Chairman of the Republican Party of Texas.
<b>Respondent's Action from which Relator seeks Relief</b>	Respondent's denial of Relator's Administrative Challenge to Brent Hagenbuch's candidacy.

## **TO THE HONORABLE COURT OF APPEALS:**

Relator, Jace Yarbrough, is a candidate for the Republican party nomination to Senate District 30. Relator previously filed his Petition for a Writ of Mandamus with this Court relating to his administrative challenge to the candidacy of another candidate for that same nomination, Brent Hagenbuch. Since that time, additional information from public documents has been obtained that will assist this Court with its review.

Relator first presented this information to the Respondent via a supplemental administrative challenge. Relator attaches that supplemental challenge at Appendix 1. Yesterday, the Respondent denied that challenge in writing. Relator attaches that denial to this Supplemental Petition at Appendix 2.

For the reasons discussed previously in Relator's Petition and as further discussed below, this Court should not only consider this supplemental material but rely on it to issue a writ to Respondent.

### **I. Hagenbuch's campaign treasurer designation is another public document that conclusively establishes he does not reside in SD 30.**

As raised in Relator's Petition, Mr. Hagenbuch did not designate a campaign treasurer for his Senate District 30 campaign until November 29, 2023, a whole two weeks after he filed his candidacy paperwork with the Republican Party of Texas. In response to a request pursuant to Texas public information laws, the Texas Ethics Commission provided Mr. Hagenbuch's campaign treasurer appointment forms on December 29, 2023.

The first, attached at Appendix 3, is Mr. Hagenbuch’s appointment for his time spent as a candidate and officeholder as Chair of the Denton County Republican Party. In that form, he lists the Hagenbuch Residence, in Senate District 12, as his mailing address. He also designates his wife as his treasurer at the same residential address. *Id.* The form also requires a street address for the treasurer. Mr. Hagenbuch used the address for the Hagenbuch Residence because that is where his wife is physically located.

When Mr. Hagenbuch went to designate a treasurer for his Senate District 30 campaign, he listed the Denton Commercial Building—2800 Shoreline Drive in Denton—as his mailing address. That new form is attached at Appendix 4.

Mr. Hagenbuch did not change anything about his wife’s appointment ***including her residence in Senate District 12.*** By leaving those fields blank on the new form, Mr. Hagenbuch intended to leave the designation of his wife and her Little Elm address in place. The instructions state, “...enter only the information that is *different* from what is on your current campaign treasurer appointment. Do not repeat information that has not changed.”<sup>1</sup>

Thus, it is clear from these public forms that Mrs. Hagenbuch is residing where she always has: at the Hagenbuch Residence in Senate District 12 with her husband. This is all further evidence of the ruse Mr. Hagenbuch is attempting to pass off as legitimate: that he moved to a commercial building (where, for all the reasons stated in

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<sup>1</sup> Amendment, Appointment of a Campaign Treasurer by a Candidate, available at: [FORM ACTA INSTRUCTION GUIDE \(state.tx.us\)](https://www.state.tx.us/forms/acta/instructionguide) (last accessed December 30, 2023) (emphasis in original).

the Petition, he could not lawfully or practically reside) but that his wife remained in their lakeside home in Senate District 12.

## **II. Hagenbuch certified his residence in SD 12 on October 29, 2023.**

When a voter presents to the polling place during an election, poll workers ask him or her to certify that their address is correct. TEX. ELEC. CODE § 63.0011(a) (saying, “Before a voter may be accepted for voting, an election officer shall ask the voter if the voter’s residence address on the precinct list of registered voters is current and whether the voter has changed residence within the county”). Mr. Hagenbuch would have had to answer that question when he voted on October 29, 2023 in Senate District 12 as set out in the Petition.

Yet, he claims by that time he had been residing in Senate District 30 for weeks according to his candidate filings with the Republican Party of Texas. *See* Petition, App. 9. He did not inform the poll workers of his change of address because if he had, he would have been required to submit a statement at the polling place regarding his move. *See* TEX. ELEC. CODE § 63.0011(b) & (c). Such a statement is required to be kept with Mr. Hagenbuch’s voter registration application. TEX. ELEC. CODE § 63.0011(d). Yet, no such statement appears in his in voter information as maintained and produced by the Denton County Elections Administrator.

## **III. Relator respectfully requests a writ.**

Respondent apparently seeks this Court’s intervention and resolution of this matter. In the closing line of his decision regarding this issue, he said, “There remain



factual questions outside of the Application and what is conclusively established by the identified public records, which must be resolved by judicial action.” *See* App. 2, at p. 4. The Respondent did not provide much analysis of his decision to deny Relator’s challenge. Instead, he stated the challenge “raises serious factual questions” that were more appropriate for judicial resolution. *Id.*

Mandamus is appropriate not only because the public documents substantively demonstrate that Mr. Hagenbuch is not an eligible candidate for Senate District 30 but also because Respondent did not analyze the issue apart from Mr. Hagenbuch’s application itself. For that additional reason, this Court should issue a writ to Respondent.

### **PRAYER**

Relator respectfully requests that the Court issue the writ to compel Respondent to declare Mr. Hagenbuch administratively ineligible to be a candidate for the Republican nomination for the senator from District 30.

Respectfully submitted,

/s/ Timothy Davis

Timothy Davis

State Bar No. 24086142

*tdavis@jw.com*

JACKSON WALKER L.L.P.

777 Main Street, Suite 2100

Fort Worth, Texas 76102

[Tel.] (817) 334-7270

[Fax] (512) 334-7290

*Counsel for Relator Jace Yarbrough*

### **Rule 52.3(j) Certification**

I certify that I have reviewed the petition and concluded that every factual statement in the petition is supported by competent evidence included in the appendix or record.

/s/ Timothy Davis  
Jackson Walker LLP

### **Certificate of Service**

I hereby certify that a true and correct copy of the foregoing document was served upon all counsel of record via email and/or e-File Texas on this 5th day of January 2024.

/s/ Timothy Davis  
Jackson Walker LLP

## APPENDIX 1

**VIA ELECTRONIC MAIL**

December 30, 2023

Chairman Matt Rinaldi  
Republican Party of Texas  
PO Box 2206  
Austin, Texas 78768  
chairmanrinaldi@texasgop.org

RE: *Administrative Declaration of Ineligibility of Brent Hagenbuch*  
Supplemental Material

Dear Chairman Rinaldi:

My firm and I represent Jace Yarbrough and his campaign. Please consider this letter a supplement to our December 15, 2023 administrative challenge to the candidacy of Brent Hagenbuch for the Republican nomination to Senate District 30.

I understand that you previously denied that challenge. However, as new information becomes available, we will provide it to you with a renewed challenge. Your prior denial does not preclude granting the administrative challenge to Mr. Hagenbuch's candidacy. On the basis of TEX. ELEC. CODE § 145.003, and in the interests of election integrity, you should declare Mr. Hagenbuch an ineligible candidate for this nomination because he has not resided within Senate District 30 for the constitutionally-required amount of time.

**HAGENBUCH'S CAMPAIGN TREASURER DESIGNATION**

As you know from the first part of our challenge, Mr. Hagenbuch did not designate a campaign treasurer for his Senate District 30 campaign until November 29, 2023, a whole *two weeks after* he filed his candidacy paperwork with your office.<sup>1</sup> Yesterday, in response to a request pursuant to Texas public information laws, the Texas Ethics Commission provided Mr. Hagenbuch's campaign treasurer appointment forms.

The first, attached as Exhibit 1, is Mr. Hagenbuch's appointment for his time spent as a candidate and officeholder as Chair of the Denton County Republican Party. In that form, he lists his Little Elm residence as his mailing address (please recall this address is in Senate District 12). He also designates his wife as his treasurer at the same residential address.

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<sup>1</sup> These publicly-available records can be found at:  
[https://www.ethics.state.tx.us/data/search/cf/CTA\\_Office\\_Sought.xlsx](https://www.ethics.state.tx.us/data/search/cf/CTA_Office_Sought.xlsx) (last accessed December 15, 2023).

When Mr. Hagenbuch went to designate a treasurer for his Senate District 30 campaign, he listed his office address at a commercial building—2800 Shoreline Drive in Denton—as his residence address. I attach this new form as Exhibit 2.

However, he did not change anything about his wife’s appointment *including her residence in Senate District 12*. By leaving those fields blank on the new form, Mr. Hagenbuch intended to leave the designation of his wife and her Little Elm address in place. The instructions state, “...enter only the information that is *different* from what is on your current campaign treasurer appointment. Do not repeat information that has not changed.”<sup>2</sup>

Thus, it is clear from these public forms that Mrs. Hagenbuch is residing where she always has: at the Little Elm residence in Senate District 12 with her husband. This is all further evidence of the ruse Mr. Hagenbuch is attempting to pass off as legitimate: that he moved to a commercial building (where, for all the reasons stated in our challenge, he could not lawfully or practically reside) but that his wife remained in their lakeside home in Senate District 12.

That simply did not happen and Mr. Hagenbuch’s own public documents confirm that. He has never had a residence in Senate District 30 and I again reiterate my request that you find him administratively ineligible.

#### **MR. HAGENBUCH CERTIFIED HIS RESIDENCE IN SD 12 ON OCTOBER 29, 2023**

Although it was noted in my prior challenge, one fact is worth repeating in this amended challenge. When a voter presents to the polling place during an election, poll workers ask him or her to certify that their address is correct. TEX. ELEC. CODE § 63.0011(a) (saying, “Before a voter may be accepted for voting, an election officer shall ask the voter if the voter’s residence address on the precinct list of registered voters is current and whether the voter has changed residence within the county”). Mr. Hagenbuch would have had to answer that question when he voted on October 29, 2023 in Senate District 12.

Yet, he claims by that time he had been residing in Senate District 30 for weeks. He did not inform the poll workers of his change of address because if he had, he would have been required to submit a statement at the polling place regarding his move. *See* TEX. ELEC. CODE § 63.0011(b) & (c). Such a statement is required to be kept with Mr. Hagenbuch’s voter registration application. TEX. ELEC. CODE § 63.0011(d). Yet, no such statement appears in his in voter information as maintained and produced by the Denton County Elections Administrator.

Once again, these public records demonstrate what is patently obvious: Mr. Hagenbuch has never resided in Senate District 30. Even as late as October 29, weeks after he now claims his residency began, Mr. Hagenbuch resided in Senate District 12 with his wife at his homesteaded lakefront home.

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<sup>2</sup> Amendment, Appointment of a Campaign Treasurer by a Candidate, available at: [FORM ACTA INSTRUCTION GUIDE \(state.tx.us\)](https://www.elections.state.tx.us/forms/FORM_ACTA_INSTRUCTION_GUIDE_(state.tx.us)) (last accessed December 30, 2023) (emphasis in original).

Chairman Matt Rinaldi

December 30, 2023

Page 3

These public records conclusively establish Mr. Hagenbuch's residency in Senate District 12 after the deadline for him to establish residency in Senate District 30 in order to be a proper candidate. In the interest of the integrity of our candidates and elections, please declare Mr. Hagenbuch ineligible. Thank you for your attention to this important matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Timothy Davis". The signature is stylized with a large initial "T" and "D" and a long horizontal stroke extending to the right.

Timothy Davis

Enclosures

**EXHIBIT 1**

Exhibit 1: Mr. Hagenbuch's Application

Exhibit 2: City of Denton Certificate of Occupancy for 2800 Shoreline Drive, Number 310

Exhibit 3: Denton County Appraisal District information for 1504 Highland Circle, Little Elm, Texas 75068

Exhibit 4: Representation information for 1504 Highland Circle, Little Elm, Texas 75068

Exhibit 5: An image of Mr. Hagenbuch's Texas Voter Registration Application dated October 11, 2017

Exhibit 6: An image of Mr. Hagenbuch's Texas Voter Registration Application dated November 13, 2023

Exhibit 7: A purported record of Mr. Hagenbuch's voting history.

On December 15, 2023, Mr. Davis sent a letter on behalf of Jace Yarbrough, another candidate for Senate District 30. In the letter, Mr. Davis raised questions about Mr. Hagenbuch's residency qualifications and included eleven exhibits:

Exhibit 1: Image of Denton CAD Property Search dated December 6, 2023

Exhibit 2: A purported record of Mr. Hagenbuch's voter file with Denton County Election

Exhibit 3: Texas Legislative Council record dated January 19, 2023 and titled "Precincts by District"

Exhibit 4: An image of Mr. Hagenbuch's Texas Voter Registration Application dated October 11, 2017

Exhibit 5: A purported record of Mr. Hagenbuch's voter file with Denton County Election

Exhibit 6: Press Release from Senator Drew Springer, dated November 7, 2023

Exhibit 7: An image of Mr. Hagenbuch's Texas Voter Registration Application dated November 13, 2023

Exhibit 8: Deed of Trust recorded in the property records of Denton County on August 3, 2020

Exhibit 9: Mr. Hagenbuch's Application

Exhibit 10: City of Denton Certificate of Occupancy for 2800 Shoreline Drive, Number 310



Exhibit 11: An image of the check remitted to the Republican Party of Texas for Mr. Hagenbuch's filing fee.

On December 15, 2023, Mr. Stick filed a lawsuit on behalf of Dr. de Moor in the 431<sup>st</sup> District Court and, on December 28, 2023, Mr. Davis filed an original proceeding on behalf of Jace Yarbrough in the Second Court of Appeals, each challenging Mr. Hagenbuch's eligibility.<sup>2</sup>

On December 30, 2023, Mr. Davis sent the following supplemental material:

Exhibit 1: Mr. Hagenbuch's Appointment of a Campaign Treasurer, dated June 28, 2021

Exhibit 2: Mr. Hagenbuch's Amendment to Appointment of a Campaign Treasurer, dated November 29, 2023.

## **II. Texas Senate candidate qualifications**

The Texas Constitution provides in relevant part:

No person shall be a Senator, unless he be a citizen of the United States, and, at the time of his election a qualified voter of this State, and shall have been a resident of this State five years next preceding his election, and the last year thereof a resident of the district for which he shall be chosen, and shall have attained the age of twenty-six years.

Tex. Const. art. III, § 6.

## **III. Administrative declaration of ineligibility**

### **A. Power of filing authority**

A candidate may only be declared ineligible (a) as provided by TEX. ELEC. CODE § 145.003 or (b) by judicial action. *See* TEX. ELEC. CODE § 145.003. A Texas Senate candidate may be declared ineligible as provided by § 145.003 *only* if:

- (1) the information on the candidate's application for place on the ballot indicates that the candidate is ineligible for the office;
- (2) facts indicating that the candidate is ineligible are conclusively established by another public record; or
- (3) the candidate fails to pay the filing fee or submit a petition in lieu of a filing fee.

TEX. ELEC. CODE § 145.003(f). "When presented with an application for a place on the ballot or another public record containing information pertinent to a candidate's eligibility, the appropriate authority shall promptly review the record. If the authority determines that the record establishes

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<sup>2</sup> Mr. Yarbrough also filed a 202 petition in the 158<sup>th</sup> District Court, which was nonsuited on December 29, 2023.

ineligibility as provided by Subsection (f), the authority shall declare the candidate ineligible.” TEX. ELEC. CODE § 145.003(g).

## B. Candidate’s Residence

The Texas Election Code defines “residence” as follows:

- (a) In this code, “residence” means domicile, that is, one’s home and fixed place of habitation to which one intends to return after any temporary absence.
- (b) A person may not establish residence for the purpose of influencing the outcome of a certain election.
- (c) A person does not lose the person’s residence by leaving the person’s home to go to another place for temporary purposes only.
- (d) A person does not acquire a residence in a place to which the person has come for temporary purposes only and without the intention of making that place the person’s home.
- (e) A person who is an inmate in a penal institution or who is an involuntary inmate in a hospital or eleemosynary institution does not, while an inmate, acquire residence at the place where the institution is located.
- (f) A person may not establish a residence at any place the person has not inhabited. A person may not designate a previous residence as a home and fixed place of habitation unless the person inhabits the place at the time of designation and intends to remain.

TEX. ELEC. CODE § 1.015.<sup>3</sup>

The Texas Supreme Court has held that “residence” is an “elastic” term that is “extremely difficult to define.” *Mills v. Bartlett*, 377 S.W.2d 636, 637 (Tex. 1964). The meaning given to residence “depends upon the circumstances surrounding the person involved and largely depends upon the present intention of the individual.” *Id.* “Volition, intention and action are all elements to be considered in determining where a person resides and such elements are equally pertinent in denoting the permanent residence or domicile.” *Id.*; *McDuffee v. Miller*, 327 S.W.3d 808, 821 (Tex. App.—Beaumont 2010, no pet.) (noting that voter’s stated intent to live inside district on day of election is a factor to consider when determining residence). The Texas Supreme Court has not indicated a single or a combination of public records that conclusively establish residency.

If a person designates a homestead outside of the relevant voting district, that fact may be relevant to a determination of that person’s residence, but it is not conclusive. *McDuffee*, 327 S.W.3d at 820; see also *In re Peacock*, 421 S.W.3d 913, 918 (although homestead designation outside voting district may be relevant to determination of residence, “no one factor is dispositive on the question of one’s intended residence”).

A record of voting outside the particular voting district is a relevant and important fact to be considered. *In re Peacock*, 421 S.W.3d at 917. Other relevant factors include where the person

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<sup>3</sup> Senate Bill 1111 (87th R.S.) amended Tex. Elec. Code § 1.015. But, nothing in the amendment negatively impacts Texas caselaw interpreting residence under the previous Tex. Elec. Code § 1.015.

sleeps, stores personal possessions, and generally conducts day-to-day activities. See *In re Graham*, 251 S.W.3d at 851; see also *Woods v. Legg*, 363 S.W.3d 710, 715 (“Conduct such as where a person sleeps and keeps personal belongings may support factors such as presence and intent.”); *Slusher v. Streater*, 896 S.W.2d 239, 244 (Tex. App.—Houston [1st Dist.] 1995, no writ) (“In assessing presence, the cases have considered such conduct as where the voter sleeps and keep clothes and furniture, and the length of time spent in the alleged residence.”). “One element alone is insufficient to establish residency; the elements must form a nexus to fix and determine a residence.” *Woods*, 363 S.W.3d at 715 (citing *Mills*, 377 S.W.2d at 637).

Residence in a particular county is a question of fact. *In re Kelly*, 421 S.W. 3d, 913, 918 (Tex. App.—Tyler, 2014) citing *Jordan v. Overstreet*, 352 S.W. 2d, 296, 300 (Tex. App.—Beaumont 1961). The court in *In re Kelly* held that an individual’s voting history is not conclusive evidence of residence, but it is an important factor. 421 S.W.3d at 917. The court also held that a homestead exemption is equally inconclusive. The court held:

“A homestead designation may be relevant to resolution of a dispute concerning the person’s residence for purposes of the election code. However, no one factor is dispositive on the question of one’s intended residence. Therefore we cannot say that the document verifying Stone’s homestead exemption conclusively shows her ineligibility as a candidate for Judge. At most, Stone’s Williamson County voting history and the document verifying her 2014 Williamson County homestead exemption raise a fact issue concerning her residence for the relevant two-year period. These documents do not, either considered separately or read together conclusively establish that Stone is ineligible to be a candidate for Judge.”

#### **IV. Conclusion**

The fact that Mr. Hagenbuch has a homestead outside Senate District 30 (1504 Highland Circle, Little Elm, Texas 75068), has a voting history at that address, and listed his business address as his residence on his Application (2800 Shoreline Drive, Number 310), raises serious factual questions concerning his residency and, consequently, eligibility to run for State Senator in SD 30. However, given the state of the law in Texas on residency, it is not appropriate for the Republican Party of Texas to reject his Application on this record. There remain factual questions outside of the Application and what is conclusively established by the identified public records, which must be resolved by judicial action.

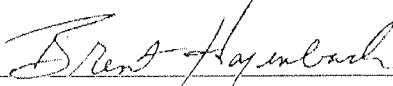
Yours truly,



Matt Rinaldi  
Chairman, Republican Party of Texas

# APPOINTMENT OF A CAMPAIGN TREASURER BY A CANDIDATE

FORM CTA  
PG 1

See CTA Instruction Guide for detailed instructions.		1 Total pages filed:
2 CANDIDATE NAME	MS / MRS / MR FIRST MI Mr. Brent	OFFICE USE ONLY Filer ID # 85712 Date Received <b>RECEIVED</b> JUL 06 2021 Texas Ethics Commission
	NICKNAME LAST SUFFIX Hagenbuch	
3 CANDIDATE MAILING ADDRESS	ADDRESS / PO BOX, APT / SUITE #, CITY, STATE, ZIP CODE 1504 Highland Circle, Little Elm, TX 75068	Date Hand-delivered or Postmarked 7/2/21
4 CANDIDATE PHONE	AREA CODE PHONE NUMBER EXTENSION (214 ) 674-4164	Receipt # Amount \$ Date Processed <b>PROCESSED JUL 08 2021</b>
5 OFFICE HELD (if any)		Date Imaged
6 OFFICE SOUGHT (if known)	Denton County Party Chairman	
7 CAMPAIGN TREASURER NAME	MS/MRS/MR FIRST MI NICKNAME LAST SUFFIX Mrs. Jean Hagenbuch	
8 CAMPAIGN TREASURER STREET ADDRESS (residence or business)	STREET ADDRESS, APT / SUITE #, CITY, STATE, ZIP CODE 1504 Highland Circle, Little Elm, TX 75068	
9 CAMPAIGN TREASURER PHONE	AREA CODE PHONE NUMBER EXTENSION ( 469 ) 441-5358	
10 CANDIDATE SIGNATURE	<p>I am aware of the Nepotism Law, Chapter 573 of the Texas Government Code.</p> <p>I am aware of my responsibility to file timely reports as required by title 15 of the Election Code.</p> <p>I am aware of the restrictions in title 15 of the Election Code on contributions from corporations and labor organizations.</p> <p> Signature of Candidate</p> <p>6-28-21 Date Signed</p>	
<b>GO TO PAGE 2</b>		

**CANDIDATE MODIFIED  
REPORTING DECLARATION**

**FORM CTA  
PG 2**

11 CANDIDATE  
NAME

12 MODIFIED  
REPORTING  
DECLARATION

**COMPLETE THIS SECTION ONLY IF YOU ARE  
CHOOSING MODIFIED REPORTING**

**\*\* This declaration must be filed no later than the 30th day before  
the first election to which the declaration applies. \*\***

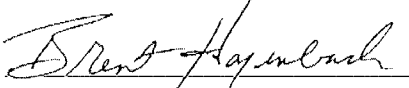
**\*\* The modified reporting option is valid for one election cycle only. \*\***  
(An election cycle includes a primary election, a general election, and any related runoffs.)

**\*\* Candidates for the office of state chair of a political party  
may NOT choose modified reporting. \*\***

I do not intend to accept more than \$930 in political contributions  
or make more than \$930 in political expenditures (excluding filing  
fees) in connection with any future election within the election  
cycle. I understand that if either one of those limits is exceeded, I  
will be required to file pre-election reports and, if necessary, a  
runoff report.

2022

Year of election(s) or election cycle to  
which declaration applies



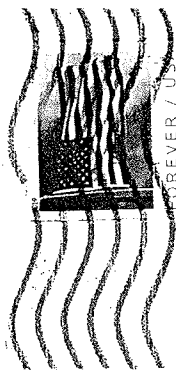
Signature of Candidate

**This appointment is effective on the date it is filed with the appropriate filing authority.**

TEC Filers may send this form to the TEC electronically at [treasappoint@ethics.state.tx.us](mailto:treasappoint@ethics.state.tx.us)  
or mail to  
Texas Ethics Commission  
P.O. Box 12070  
Austin, TX 78711-2070

Non-TEC Filers must file this form with the local filing authority  
**DO NOT SEND TO TEC**

For more information about where to file go to:  
<https://www.ethics.state.tx.us/filinginfo/QuickFileAReport.php>

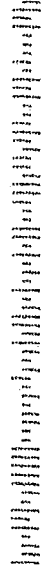


NORTH TEXAS TX P&DC  
DALLAS, TX 750  
2 JUL 2021 PM 9 L

**RECEIVED**  
JUL 06 2021  
Texas Ethics Commission

TEXAS ETHICS COMMISSION  
P.O. Box 12070  
AUSTIN, TX 78711

78711-207070



**EXHIBIT 2**

**AMENDMENT: APPOINTMENT OF A  
CAMPAIGN TREASURER BY A CANDIDATE**

**FORM ACTA  
PG 1**

1 CANDIDATE NAME <i>BRENT HAGENBUCK</i>	2 FILERID# <i>00085712</i>	3 Total pages filed: <i>2</i>
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See ACTA Instruction Guide for detailed instructions.  
Use this form for changes to existing information only. Do not provide information previously disclosed.

4 CANDIDATE NAME	<input type="checkbox"/> NEW MS / MRS / MR FIRST MI  NICKNAME LAST SUFFIX	<b>OFFICE USE ONLY</b>  Date Received  <div style="text-align: center; color: red; font-weight: bold;">NOV 29 2023</div>  Date Hand-delivered or Postmarked <div style="text-align: center; color: red; font-weight: bold;">by EMAIL</div> Receipt # Amount \$  Date Processed <div style="text-align: center; color: red; font-weight: bold;">prc'd 11.30.23</div> Date Imaged
5 CANDIDATE MAILING ADDRESS	<input type="checkbox"/> NEW ADDRESS / PO BOX; APT / SUITE #; CITY; STATE; ZIP CODE <div style="font-size: 1.2em; font-family: cursive;">2808 SHORELINE DRIVE DENTON, TX 76210</div>	
6 CANDIDATE PHONE	<input type="checkbox"/> NEW AREA CODE PHONE NUMBER EXTENSION  <div style="font-size: 1.5em; font-family: cursive;">( )</div>	

7 OFFICE HELD (if any)	<input type="checkbox"/> NEW
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8 OFFICE SOUGHT (if known)	<input type="checkbox"/> NEW	STATE SENATOR DISTRICT 30
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9 CAMPAIGN TREASURER NAME	<input type="checkbox"/> NEW MS / MRS / MR FIRST MI NICKNAME LAST SUFFIX
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10 CAMPAIGN TREASURER STREET ADDRESS (residence or business)	<input type="checkbox"/> NEW STREET ADDRESS (NO PO BOX PLEASE); APT / SUITE #; CITY; STATE; ZIP CODE
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11 CAMPAIGN TREASURER PHONE	<input type="checkbox"/> NEW AREA CODE PHONE NUMBER EXTENSION
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12 CANDIDATE SIGNATURE	<p>I am aware of the Nepotism Law, Chapter 573 of the Texas Government Code.</p> <p>I am aware of my responsibility to file timely reports as required by title 15 of the Election Code.</p> <p>I am aware of the restrictions in title 15 of the Election Code on contributions from corporations and labor organizations.</p> <div style="display: flex; justify-content: space-between; margin-top: 20px;"> <div style="text-align: center;">             Signature of Candidate         </div> <div style="text-align: center;"> <div style="font-size: 1.5em; font-family: cursive;">11/29/23</div>            Date Signed         </div> </div>
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**GO TO PAGE 2**



**AMENDMENT:  
CANDIDATE MODIFIED REPORTING DECLARATION**

**FORM ACTA  
PG 2**

13 CANDIDATE  
NAME

BRENT HAGENBUCH

14 MODIFIED  
REPORTING  
DECLARATION

NEW

**COMPLETE THIS SECTION ONLY IF YOU ARE  
CHOOSING MODIFIED REPORTING**

**\*\* This declaration must be filed no later than the 30th day before  
the first election to which the declaration applies. \*\***

**\*\* The modified reporting option is valid for one election cycle only. \*\***  
(An election cycle includes a primary election, a general election, and any related runoffs.)

**\*\* Candidates for the office of state chair of a political party  
may NOT choose modified reporting. \*\***

I do not intend to accept more than \$1,010 in political contributions  
or make more than \$1,010 in political expenditures (excluding filing  
fees) in connection with any future election within the election cycle. I  
understand that if either one of those limits is exceeded, I will be  
required to file pre-election reports and, if necessary, a runoff  
report.

\_\_\_\_\_  
Year of election(s) or election cycle to  
which declaration applies

\_\_\_\_\_  
Signature of Candidate

**This appointment is effective on the date it is filed with the appropriate filing authority.**

TEC Filers may send this form to the TEC electronically at [treasappoint@ethics.state.tx.us](mailto:treasappoint@ethics.state.tx.us)  
or mail to

Texas Ethics Commission  
P.O. Box 12070  
Austin, TX 78711-2070

**Non-TEC Filers must file this form with the local filing authority  
DO NOT SEND TO TEC**

For more information about where to file go to:  
<https://www.ethics.state.tx.us/filinginfo/QuickFileARReport.php>

## APPENDIX 2



January 3, 2024

*Via electronic mail (jstick@verislaw.net)*

Jack Stick  
VerisLaw, PLLC  
Suite E240-624  
3801 N Capital of Texas Hwy  
Austin, Texas 78746

*Via electronic mail (tdavis@jw.com)*

Tim Davis  
Jackson Walker LLP  
777 Main Street, Suite 2100  
Fort Worth, Texas 76102

Mr. Stick and Mr. Davis:

This correspondence is in response to Mr. Stick's December 12, 2023 letter and Mr. Davis's December 15, 2023 and December 30, 2023 letters.

### **I. Relevant Factual Background**

On November 17, 2023, Brent Hagenbuch filed an Application for a Place on the General Primary Ballot for Senate District 30 (the "Application"). The Republican Party of Texas is the filing authority for Senate District 30 because the district is comprised of voters of more than one county.<sup>1</sup> See TEX. ELEC. CODE § 172.022(a)(1) ("An application for a place on the general primary election ballot must be filed with the state chair, for an office filled by voters of more than one county."). On November 20, 2023, the Republican Party of Texas accepted the Application.

On December 12, 2023, Mr. Stick sent a letter on behalf of Dr. Carrie de Moor and Cody Clark, two candidates for Senate District 30. In the letter, Mr. Stick raised questions about Mr. Hagenbuch's residency qualifications and included seven exhibits:

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<sup>1</sup> Senate District 30 is comprised of voters from Archer, Clay, Collin, Cooke, Denton, Grayson, Jack, Montague, Parker, Wichita, and Young counties.

Exhibit 1: Mr. Hagenbuch's Application

Exhibit 2: City of Denton Certificate of Occupancy for 2800 Shoreline Drive, Number 310

Exhibit 3: Denton County Appraisal District information for 1504 Highland Circle, Little Elm, Texas 75068

Exhibit 4: Representation information for 1504 Highland Circle, Little Elm, Texas 75068

Exhibit 5: An image of Mr. Hagenbuch's Texas Voter Registration Application dated October 11, 2017

Exhibit 6: An image of Mr. Hagenbuch's Texas Voter Registration Application dated November 13, 2023

Exhibit 7: A purported record of Mr. Hagenbuch's voting history.

On December 15, 2023, Mr. Davis sent a letter on behalf of Jace Yarbrough, another candidate for Senate District 30. In the letter, Mr. Davis raised questions about Mr. Hagenbuch's residency qualifications and included eleven exhibits:

Exhibit 1: Image of Denton CAD Property Search dated December 6, 2023

Exhibit 2: A purported record of Mr. Hagenbuch's voter file with Denton County Election

Exhibit 3: Texas Legislative Council record dated January 19, 2023 and titled "Precincts by District"

Exhibit 4: An image of Mr. Hagenbuch's Texas Voter Registration Application dated October 11, 2017

Exhibit 5: A purported record of Mr. Hagenbuch's voter file with Denton County Election

Exhibit 6: Press Release from Senator Drew Springer, dated November 7, 2023

Exhibit 7: An image of Mr. Hagenbuch's Texas Voter Registration Application dated November 13, 2023

Exhibit 8: Deed of Trust recorded in the property records of Denton County on August 3, 2020

Exhibit 9: Mr. Hagenbuch's Application

Exhibit 10: City of Denton Certificate of Occupancy for 2800 Shoreline Drive, Number 310

Exhibit 11: An image of the check remitted to the Republican Party of Texas for Mr. Hagenbuch's filing fee.

On December 15, 2023, Mr. Stick filed a lawsuit on behalf of Dr. de Moor in the 431<sup>st</sup> District Court and, on December 28, 2023, Mr. Davis filed an original proceeding on behalf of Jace Yarbrough in the Second Court of Appeals, each challenging Mr. Hagenbuch's eligibility.<sup>2</sup>

On December 30, 2023, Mr. Davis sent the following supplemental material:

Exhibit 1: Mr. Hagenbuch's Appointment of a Campaign Treasurer, dated June 28, 2021

Exhibit 2: Mr. Hagenbuch's Amendment to Appointment of a Campaign Treasurer, dated November 29, 2023.

## **II. Texas Senate candidate qualifications**

The Texas Constitution provides in relevant part:

No person shall be a Senator, unless he be a citizen of the United States, and, at the time of his election a qualified voter of this State, and shall have been a resident of this State five years next preceding his election, and the last year thereof a resident of the district for which he shall be chosen, and shall have attained the age of twenty-six years.

Tex. Const. art. III, § 6.

## **III. Administrative declaration of ineligibility**

### **A. Power of filing authority**

A candidate may only be declared ineligible (a) as provided by TEX. ELEC. CODE § 145.003 or (b) by judicial action. *See* TEX. ELEC. CODE § 145.003. A Texas Senate candidate may be declared ineligible as provided by § 145.003 *only* if:

- (1) the information on the candidate's application for place on the ballot indicates that the candidate is ineligible for the office;
- (2) facts indicating that the candidate is ineligible are conclusively established by another public record; or
- (3) the candidate fails to pay the filing fee or submit a petition in lieu of a filing fee.

TEX. ELEC. CODE § 145.003(f). "When presented with an application for a place on the ballot or another public record containing information pertinent to a candidate's eligibility, the appropriate authority shall promptly review the record. If the authority determines that the record establishes

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<sup>2</sup> Mr. Yarbrough also filed a 202 petition in the 158<sup>th</sup> District Court, which was nonsuited on December 29, 2023.

ineligibility as provided by Subsection (f), the authority shall declare the candidate ineligible.” TEX. ELEC. CODE § 145.003(g).

## B. Candidate’s Residence

The Texas Election Code defines “residence” as follows:

- (a) In this code, “residence” means domicile, that is, one’s home and fixed place of habitation to which one intends to return after any temporary absence.
- (b) A person may not establish residence for the purpose of influencing the outcome of a certain election.
- (c) A person does not lose the person’s residence by leaving the person’s home to go to another place for temporary purposes only.
- (d) A person does not acquire a residence in a place to which the person has come for temporary purposes only and without the intention of making that place the person’s home.
- (e) A person who is an inmate in a penal institution or who is an involuntary inmate in a hospital or eleemosynary institution does not, while an inmate, acquire residence at the place where the institution is located.
- (f) A person may not establish a residence at any place the person has not inhabited. A person may not designate a previous residence as a home and fixed place of habitation unless the person inhabits the place at the time of designation and intends to remain.

TEX. ELEC. CODE § 1.015.<sup>3</sup>

The Texas Supreme Court has held that “residence” is an “elastic” term that is “extremely difficult to define.” *Mills v. Bartlett*, 377 S.W.2d 636, 637 (Tex. 1964). The meaning given to residence “depends upon the circumstances surrounding the person involved and largely depends upon the present intention of the individual.” *Id.* “Volition, intention and action are all elements to be considered in determining where a person resides and such elements are equally pertinent in denoting the permanent residence or domicile.” *Id.*; *McDuffee v. Miller*, 327 S.W.3d 808, 821 (Tex. App.—Beaumont 2010, no pet.) (noting that voter’s stated intent to live inside district on day of election is a factor to consider when determining residence). The Texas Supreme Court has not indicated a single or a combination of public records that conclusively establish residency.

If a person designates a homestead outside of the relevant voting district, that fact may be relevant to a determination of that person’s residence, but it is not conclusive. *McDuffee*, 327 S.W.3d at 820; see also *In re Peacock*, 421 S.W.3d 913, 918 (although homestead designation outside voting district may be relevant to determination of residence, “no one factor is dispositive on the question of one’s intended residence”).

A record of voting outside the particular voting district is a relevant and important fact to be considered. *In re Peacock*, 421 S.W.3d at 917. Other relevant factors include where the person

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<sup>3</sup> Senate Bill 1111 (87th R.S.) amended Tex. Elec. Code § 1.015. But, nothing in the amendment negatively impacts Texas caselaw interpreting residence under the previous Tex. Elec. Code § 1.015.

sleeps, stores personal possessions, and generally conducts day-to-day activities. See *In re Graham*, 251 S.W.3d at 851; see also *Woods v. Legg*, 363 S.W.3d 710, 715 (“Conduct such as where a person sleeps and keeps personal belongings may support factors such as presence and intent.”); *Slusher v. Streater*, 896 S.W.2d 239, 244 (Tex. App.—Houston [1st Dist.] 1995, no writ) (“In assessing presence, the cases have considered such conduct as where the voter sleeps and keep clothes and furniture, and the length of time spent in the alleged residence.”). “One element alone is insufficient to establish residency; the elements must form a nexus to fix and determine a residence.” *Woods*, 363 S.W.3d at 715 (citing *Mills*, 377 S.W.2d at 637).

Residence in a particular county is a question of fact. *In re Kelly*, 421 S.W. 3d, 913, 918 (Tex. App.—Tyler, 2014) citing *Jordan v. Overstreet*, 352 S.W. 2d, 296, 300 (Tex. App.—Beaumont 1961). The court in *In re Kelly* held that an individual’s voting history is not conclusive evidence of residence, but it is an important factor. 421 S.W.3d at 917. The court also held that a homestead exemption is equally inconclusive. The court held:

“A homestead designation may be relevant to resolution of a dispute concerning the person’s residence for purposes of the election code. However, no one factor is dispositive on the question of one’s intended residence. Therefore we cannot say that the document verifying Stone’s homestead exemption conclusively shows her ineligibility as a candidate for Judge. At most, Stone’s Williamson County voting history and the document verifying her 2014 Williamson County homestead exemption raise a fact issue concerning her residence for the relevant two-year period. These documents do not, either considered separately or read together conclusively establish that Stone is ineligible to be a candidate for Judge.”

#### **IV. Conclusion**

The fact that Mr. Hagenbuch has a homestead outside Senate District 30 (1504 Highland Circle, Little Elm, Texas 75068), has a voting history at that address, and listed his business address as his residence on his Application (2800 Shoreline Drive, Number 310), raises serious factual questions concerning his residency and, consequently, eligibility to run for State Senator in SD 30. However, given the state of the law in Texas on residency, it is not appropriate for the Republican Party of Texas to reject his Application on this record. There remain factual questions outside of the Application and what is conclusively established by the identified public records, which must be resolved by judicial action.

Yours truly,



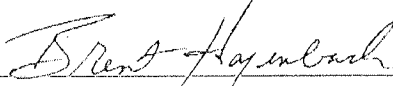
Matt Rinaldi  
Chairman, Republican Party of Texas

## APPENDIX 3



# APPOINTMENT OF A CAMPAIGN TREASURER BY A CANDIDATE

FORM CTA  
PG 1

See CTA Instruction Guide for detailed instructions.		1 Total pages filed:
2 CANDIDATE NAME	MS / MRS / MR FIRST MI Mr. Brent	OFFICE USE ONLY Filer ID # 85712 Date Received <b>RECEIVED</b> JUL 06 2021 Texas Ethics Commission
	NICKNAME LAST SUFFIX Hagenbuch	
3 CANDIDATE MAILING ADDRESS	ADDRESS / PO BOX, APT / SUITE #, CITY, STATE, ZIP CODE 1504 Highland Circle, Little Elm, TX 75068	Date Hand-delivered or Postmarked 7/2/21
4 CANDIDATE PHONE	AREA CODE PHONE NUMBER EXTENSION (214 ) 674-4164	Receipt # Amount \$
5 OFFICE HELD (if any)		Date Processed <b>PROCESSED JUL 08 2021</b>
6 OFFICE SOUGHT (if known)	Denton County Party Chairman	
7 CAMPAIGN TREASURER NAME	MS/MRS/MR FIRST MI NICKNAME LAST SUFFIX Mrs. Jean Hagenbuch	Date Imaged
8 CAMPAIGN TREASURER STREET ADDRESS (residence or business)	STREET ADDRESS, APT / SUITE #, CITY, STATE, ZIP CODE 1504 Highland Circle, Little Elm, TX 75068	
9 CAMPAIGN TREASURER PHONE	AREA CODE PHONE NUMBER EXTENSION ( 469 ) 441-5358	
10 CANDIDATE SIGNATURE	<p>I am aware of the Nepotism Law, Chapter 573 of the Texas Government Code.</p> <p>I am aware of my responsibility to file timely reports as required by title 15 of the Election Code.</p> <p>I am aware of the restrictions in title 15 of the Election Code on contributions from corporations and labor organizations.</p> <p> Signature of Candidate</p> <p>6-28-21 Date Signed</p>	
<b>GO TO PAGE 2</b>		

**CANDIDATE MODIFIED  
REPORTING DECLARATION**

**FORM CTA  
PG 2**

11 CANDIDATE  
NAME

12 MODIFIED  
REPORTING  
DECLARATION

**COMPLETE THIS SECTION ONLY IF YOU ARE  
CHOOSING MODIFIED REPORTING**

**\*\* This declaration must be filed no later than the 30th day before  
the first election to which the declaration applies. \*\***

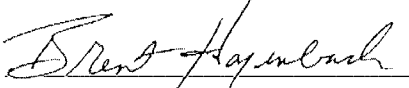
**\*\* The modified reporting option is valid for one election cycle only. \*\***  
(An election cycle includes a primary election, a general election, and any related runoffs.)

**\*\* Candidates for the office of state chair of a political party  
may NOT choose modified reporting. \*\***

I do not intend to accept more than \$930 in political contributions  
or make more than \$930 in political expenditures (excluding filing  
fees) in connection with any future election within the election  
cycle. I understand that if either one of those limits is exceeded, I  
will be required to file pre-election reports and, if necessary, a  
runoff report.

2022

Year of election(s) or election cycle to  
which declaration applies



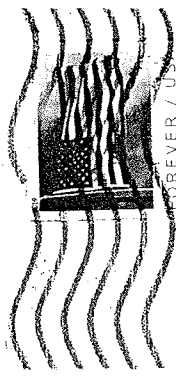
Signature of Candidate

**This appointment is effective on the date it is filed with the appropriate filing authority.**

TEC Filers may send this form to the TEC electronically at [treasappoint@ethics.state.tx.us](mailto:treasappoint@ethics.state.tx.us)  
or mail to  
Texas Ethics Commission  
P.O. Box 12070  
Austin, TX 78711-2070

Non-TEC Filers must file this form with the local filing authority  
**DO NOT SEND TO TEC**

For more information about where to file go to:  
<https://www.ethics.state.tx.us/filinginfo/QuickFileAReport.php>

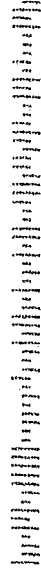


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DALLAS, TX 750  
2 JUL 2021 PM 9 L

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78711-207070



**APPENDIX 4**

**AMENDMENT: APPOINTMENT OF A  
CAMPAIGN TREASURER BY A CANDIDATE**

**FORM ACTA  
PG 1**

1 CANDIDATE NAME <i>BRENT HAGENBUCK</i>	2 FILERID# <i>00085712</i>	3 Total pages filed: <i>2</i>
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See ACTA Instruction Guide for detailed instructions.  
Use this form for changes to existing information only. Do not provide information previously disclosed.

4 CANDIDATE NAME	NEW	MS / MRS / MR	FIRST	MI	OFFICE USE ONLY		
					Date Received		
				NICKNAME	LAST	SUFFIX	<i>NOV 29 2023</i>
5 CANDIDATE MAILING ADDRESS	NEW	ADDRESS / PO BOX; APT / SUITE #; CITY; STATE; ZIP CODE				Date Hand-delivered or Postmarked	
	<i>2808 SHORELINE DRIVE DENTON, TX 76210</i>				<i>by EMAIL</i>		Receipt #
6 CANDIDATE PHONE	NEW	AREA CODE	PHONE NUMBER	EXTENSION	Date Processed		
	<i>( )</i>				<i>prc'd 11.30.23</i>		
				Date Imaged			

7 OFFICE HELD (if any)  NEW

8 OFFICE SOUGHT (if known)  NEW *STATE SENATOR DISTRICT 30*

9 CAMPAIGN TREASURER NAME  NEW MS / MRS / MR FIRST MI NICKNAME LAST SUFFIX

10 CAMPAIGN TREASURER STREET ADDRESS (residence or business)  NEW STREET ADDRESS (NO PO BOX PLEASE); APT / SUITE #; CITY; STATE; ZIP CODE

11 CAMPAIGN TREASURER PHONE  NEW AREA CODE PHONE NUMBER EXTENSION

12 CANDIDATE SIGNATURE

I am aware of the Nepotism Law, Chapter 573 of the Texas Government Code.

I am aware of my responsibility to file timely reports as required by title 15 of the Election Code.

I am aware of the restrictions in title 15 of the Election Code on contributions from corporations and labor organizations.

*Brent Hagenbuck*  
Signature of Candidate

*11/29/23*  
Date Signed

GO TO PAGE 2



**AMENDMENT:  
CANDIDATE MODIFIED REPORTING DECLARATION**

**FORM ACTA  
PG 2**

13 CANDIDATE  
NAME

BRENT HAGENBUCH

14 MODIFIED  
REPORTING  
DECLARATION

NEW

**COMPLETE THIS SECTION ONLY IF YOU ARE  
CHOOSING MODIFIED REPORTING**

**\*\* This declaration must be filed no later than the 30th day before  
the first election to which the declaration applies. \*\***

**\*\* The modified reporting option is valid for one election cycle only. \*\***  
(An election cycle includes a primary election, a general election, and any related runoffs.)

**\*\* Candidates for the office of state chair of a political party  
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I do not intend to accept more than \$1,010 in political contributions  
or make more than \$1,010 in political expenditures (excluding filing  
fees) in connection with any future election within the election cycle. I  
understand that if either one of those limits is exceeded, I will be  
required to file pre-election reports and, if necessary, a runoff  
report.

\_\_\_\_\_  
Year of election(s) or election cycle to  
which declaration applies

\_\_\_\_\_  
Signature of Candidate

**This appointment is effective on the date it is filed with the appropriate filing authority.**

TEC Filers may send this form to the TEC electronically at [treasappoint@ethics.state.tx.us](mailto:treasappoint@ethics.state.tx.us)  
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