

TEXAS ETHICS COMMISSION

IN THE MATTER OF

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BEFORE THE

THURMAN BILL BARTIE,

TEXAS ETHICS COMMISSION

RESPONDENT

SC-94020

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission ("commission") met on July 8, 1994, to consider sworn complaint SC-94020 filed against Thurman Bill Bartie (the "Respondent"). A quorum of the commission was present. Based on the investigation conducted by commission staff to date, the commission determined there was credible evidence of a violation of § 254.064 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 agreed resolution to Respondent.

II. Facts Supported by Credible Evidence

Credible evidence available to the commission would support the following findings of fact:

1. Respondent was a candidate for justice of the peace, precinct 8, Jefferson County, Texas, in an election scheduled for March 8, 1994.
2. Respondent filed an "Appointment of Candidate's Campaign Treasurer" form with the Jefferson County Clerk's office on December 3, 1993. Respondent did not execute the declaration to follow the modified reporting procedure on the appointment form.
3. Respondent filed a "Candidate/Officeholder Report of Contributions, Expenditures, and Loans" form with the Jefferson County Clerk's office on March 16, 1994. This report was the only report of contributions and expenditures filed by Respondent in connection with the March 8 election.

III. Conclusions of Law

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

1. Section 254.064 (Additional Reports of Opposed Candidate) of the Election Code provides in material part:
 - (a) *In addition to other required reports, for each election in which a person is a candidate and has an opponent whose name is to appear on the ballot, the person shall file two reports.*
 - (b) *The first report shall be filed not later than the 30th day before election day. The report covers the period beginning 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 chapter, as applicable, and continuing through the 40th day before election day.*

(c) The second report shall be filed not later than the eighth day before election day. The report covers the period beginning the 39th day before election day and continuing through the 10th day before election day.

2. Respondent violated § 254.064(b) of the Election Code by failing to timely file the report of contributions and expenditures required to be filed not later than 30 days before the election.
3. Respondent violated § 254.064(c) of the Election Code by failing to timely file the report of contributions and expenditures required to be filed not later than eight days before the election.

IV. Representations and Agreement by Respondent

By signing this ORDER and AGREED RESOLUTION and returning it to the commission:

1. Respondent neither admits nor denies the facts detailed under Section II and the commission's findings and conclusions of law detailed under Section III, and consents to the entry of this ORDER and AGREED RESOLUTION solely for the purpose of resolving and settling this sworn complaint.
2. Respondent consents to the entry of this Order before any adversarial evidentiary hearings or argument before the commission, and before any formal adjudication of law or fact by the commission. Respondent waives any right to a hearing before the commission or an administrative law judge appointed by the commission, and further waives any right to a post-hearing procedure established or provided by law.
3. Respondent acknowledges that § 254.064 of the Election Code requires an opposed candidate for public office to file additional reports of contributions and expenditures unless the candidate executes a declaration of intent to follow the modified reporting procedure by not exceeding \$500 in contributions or expenditures. Respondent agrees to fully and strictly comply with this requirement of the law.
4. Notwithstanding any other provisions of this ORDER and AGREED RESOLUTION, Respondent understands and agrees that the commission will consider the Respondent to have committed the violation detailed in Section III if it is necessary to consider a sanction to be assessed in any future sworn complaint proceedings against the Respondent.

V. Confidentiality

This ORDER and AGREED RESOLUTION describes an alleged violation that the commission has determined would be neither technical nor *de minimis*. Accordingly, this ORDER and AGREED RESOLUTION is not confidential under Texas Government Code § 571.140(b), and may be disclosed by members and staff of the Texas Ethics Commission.

VI. Sanction

After considering the seriousness of the violation described under Sections II and III, including the nature, circumstances, consequences, extent, and gravity of the violation; that no previous violations by this Respondent are known to the commission; and the sanction deemed necessary to deter future violations, the commission imposes a \$100.00 civil penalty for the violation described under Section III.

VII. Order

The Texas Ethics Commission hereby ORDERS:

1. that this proposed AGREED RESOLUTION be presented to Respondent;
3. that if Respondent consents to the proposed AGREED RESOLUTION, this ORDER and AGREED RESOLUTION is a final and complete disposition of SC-94020;
4. that Respondent may consent to the proposed AGREED RESOLUTION only by signing an original of this document and mailing the signed original together with payment for the \$100.00 civil penalty to the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711, no later than September 9, 1994; and
4. that the executive director shall promptly refer SC-94020 to an administrative law judge to conduct hearings on the commission's behalf and to propose findings of fact and conclusions of law to the commission in accordance with law if Respondent does not agree to the disposition of SC-94020 as proposed in this ORDER and AGREED RESOLUTION;

AGREED to by Thurman Bill Bartie on _____, 1994.

Thurman Bill Bartie, Respondent

EXECUTED ORIGINAL received by the commission on _____, 1994.

John Steiner, Executive Director
Texas Ethics Commission